

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 02A-531CP-LEASE-TA

THE APPLICATION OF OWNER/DRIVER UNITED CORPORATION, DOING BUSINESS AS BLUE SKY SHUTTLE, FOR TEMPORARY APPROVAL TO ALLOW BOULDER EXPRESS, LLC, DOING BUSINESS AS BOULDER EXPRESS SHUTTLE, TO ASSUME OPERATIONAL CONTROL OF TEMPORARY AUTHORITY.

**COMMISSION ORDER EXTENDING
TEMPORARY APPROVAL**

Mailed Date: April 16, 2003
Adopted Date: April 16, 2003

I. BY THE COMMISSION:

A. Statement

1. On March 24, 2003, Owner/Driver United Corporation, doing business as Blue Sky Shuttle (Blue Sky), and Boulder Express, LLC, doing business as Boulder Express Shuttle and/or Blue Sky Shuttle (Boulder Express) filed a motion to extend indefinitely the temporary approval of an assumption of operational control of the temporary authority issued in Docket No. 02A-531CP-Lease-TA pending final determination of the related permanent application proceeding in Docket No. 02A-531CP-Lease.

2. On October 3, 2002, Blue Sky filed an application for temporary approval to allow Boulder Express to assume operational control of the temporary authority granted to Blue Sky in

Docket No. 02A-412CP-TA by Decision No. C02-1003 on September 11, 2002, pending Commission consideration of the related application to permanently lease the certificate.¹

3. Golden West Commuter, LLC (Golden West), Schafer-Schonewill & Associates, Inc., doing business as Englewood Express &/or Wolf Express Shuttle (Englewood Express), and SuperShuttle International Denver, Inc. (SuperShuttle), filed interventions opposing the grant of this application.

4. Boulder Express was granted temporary approval by Decision No. C02-1195 in Docket No. 02A-531CP-Lease-TA to assume operational control of the temporary authority granted to Blue Sky in Docket No. 02A-412CP-TA for a period of 180 days from October 22, 2002, or until expiration of the subject temporary authority, whichever is lesser. The 180 day period will expire on April 20, 2003.

5. The hearing in Docket No. 02A-531CP was originally set for December 13, 2002. The hearing was rescheduled to May 29 and 30, 2003, by Decision No. R03-0239-I on March 5, 2003. Therefore, the temporary approval granted in Docket No. 02A-531CP-Lease-TA by Decision No. C02-1195 will expire prior to the hearing on the permanent lease of the authority granted to Blue Sky.

B. Findings of Fact

6. In support of this motion, Boulder Express states: “The extension of the temporary approval is necessary to avoid a lapse in Boulder Express’ ability to serve the public in the involved areas. The Commission found an immediate and urgent need for the approval

¹ The scope of the temporary authority granted in Decision No. C02-1003 was subsequently modified by Decision Nos. C02-1220, C02-1415, C03-0103, R03-0124-I, and R03-0301-I.

sought in the temporary authority. Boulder Express has provided service and continues to provide service under the temporary authority. The granting of this extension request would not disturb the status quo nor harm any carrier. Failure to grant the extension request would harm the travelling public, Boulder Express and Blue Sky.”

~~6.7.~~ None of the intervenors to Docket No. 02A-531CP-Lease-TA filed a response to this motion to extend the temporary approval to lease the temporary authority granted in Docket No. 02A-412CP-TA.

C. Conclusions

~~7.8.~~ If good cause is shown, Section 40-6-120(1), C.R.S., authorizes the Commission to extend a temporary authority beyond the initial 180-day grant of the temporary authority. The temporary authority may be extended until a final administrative decision is rendered in the corresponding permanent authority application.

~~8.9.~~ A failure to grant an extension of the temporary approval of an assumption of operational control of the temporary authority granted to Boulder Express in Docket No. 02A-531CP-Lease-TA by Decision No. C02-1195 on October 22, 2002, could result in destruction of or injury to Boulder Express or interfere substantially with its future usefulness in the performance of adequate and continuous service to the public.

~~9.10.~~ This application for an extension of the temporary approval is in the public interest.

~~10.11.~~ Blue Sky and Boulder Express are advised that the grant of temporary approval of an assumption of operational control creates no presumption that permanent approval of the lease will be granted.

II. ORDER

A. The Commission Orders That:

1. The application for an extension of the temporary approval of an assumption of operational control of the temporary authority granted to Owner/Driver United Corporation, doing business as Blue Sky Shuttle, filed by Owner/Driver United Corporation, doing business as Blue Sky Shuttle, is granted.

2. The temporary approval to assume operational control of the temporary authority granted to Boulder Express, LLC, doing business as Boulder Express Shuttle, in Decision No. C02-1195 is extended until a final administrative decision is rendered in the corresponding permanent authority application. The scope of the temporary authority of which Boulder Express, LLC, doing business as Boulder Express Shuttle, is extending its operational control is set forth in the appendix of Decision No. R03-0301-I.

3. The 20-day time period provided by § 40-6-114(1), C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the Commission mails or serves this Order.

4. This Order is effective on its Mailed Date.

**B. ADOPTED IN THE COMMISSIONERS' WEEKLY MEETING ON
April 9, 2003**

(S E A L)



ATTEST: A TRUE COPY

Bruce N. Smith
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

Commissioners

COMMISSIONER JIM DYER RECUSED
HIMSELF FROM PARTICIPATING IN THIS
MATTER.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CERTIFICATE OF SERVICE

DOCKET NO. 02A-531CP-Lease-TA

DECISION NO. C03-0393

(Page 1 of 2 Pages)

I, Bruce N. Smith, Director of the Public Utilities Commission of the State of Colorado, certify that I served a true and correct copy of the above Commission Decision -- entered in the above numbered matter of record -- upon each of the persons whose names and addresses appear below, by mailing the same in sealed envelopes properly addressed, with sufficient postage prepaid to carry the same to its destination to the following:

TRANSFEROR:

Owner/Driver United Corporation
dba Blue Sky Shuttle
2020 S. Oneida Street, Ste 17
Denver, CO 80224

TRANSFEROR'S ATTORNEY:

Charles J. Kimball
Kimball & Nespor, P.C.
5400 Ward Road, Bldg. III, Suite No. 150
Arvada, CO 80002

TRANSFeree:

Boulder Express, LLC
dba Boulder Express Shuttle and/or Blue Sky Shuttle
1412 West 104th Avenue, Ste 114
Northglenn, CO 80234

TRANSFeree'S ATTORNEY:

Charles J. Kimball
Kimball & Nespor, P.C.
5400 Ward Road, Bldg. III, Suite No. 150
Arvada, CO 80002

INTERVENOR:

Golden West Commuter, LLC
P. O. Box 386
Golden, CO 80402-0386

SEAL



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

BRUCE N. SMITH
Director

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CERTIFICATE OF SERVICE

DOCKET NO. 02A-531CP-Lease-TA

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(Page 2 of 2 Pages)

I, Bruce N. Smith, Director of the Public Utilities Commission of the State of Colorado, certify that I served a true and correct copy of the above Commission Decision -- entered in the above numbered matter of record -- upon each of the persons whose names and addresses appear below, by mailing the same in sealed envelopes properly addressed, with sufficient postage prepaid to carry the same to its destination to the following:

INTERVENOR'S ATTORNEY:

Richard J. Bara
1155 Sherman Street, Suite No. 315
Denver, CO 80203

INTERVENOR:

Schafer-Schonewill & Associates, Inc.
dba Englewood Express &/or Wolf Express Shuttle
422 Broadway Unit A
Denver, CO 80203

INTERVENOR:

SuperShuttle International Denver, Inc.
4929 Ironton Street
Denver, CO 80239

INTERVENOR'S ATTORNEY:

Richard L Fanyo
Dufford & Brown, PC
1700 Broadway, Suite No. 1700
Denver, CO 80290

ROUTE:

6, 60, and all PUC staff, including staff that may be listed as parties, received this decision electronically.

SEAL



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

BRUCE N. SMITH
Director