

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

DOCKET NO. 03A-153BP-TRANSFER-ETA

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THE APPLICATION OF EAGLE TRANSPORTATION, LLP FOR EMERGENCY TEMPORARY APPROVAL TO ALLOW P.O. TRANSPORTATION, LLP, TO ASSUME OPERATIONAL CONTROL OF PERMIT PUC NO. B-9830.

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**COMMISSION ORDER DENYING  
EMERGENCY TEMPORARY APPROVAL**

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Mailed Date: April 24, 2003

Adopted Date: April 23, 2003

**I. BY THE COMMISSION:**

**A. Statement**

1. On April 15, 2003, Eagle Transportation, LLP filed an application for emergency temporary approval to allow P.O. Transportation, LLP, to assume operational control of Contract Carrier Permit PUC No. B-9830 pending Commission consideration of the related application to permanently transfer the certificate.

2. Pursuant to § 40-6-120(2), C.R.S., the Commission may grant temporary approval of a certificate transfer "if it appears that failure to grant such temporary approval may result in destruction of or injury to such carrier or carrier properties sought to be acquired, or to interfere substantially with their future usefulness in the performance of adequate and continuous service to the public". If the Commission is of the opinion that an emergency exists, it may issue temporary authority or approval at once by making specific reference in its order to the circumstances constituting the emergency, in which case no notice need be given, but any such emergency authority or approval shall expire no later than thirty days after it was issued."

**B. Findings of Fact**

3. The support filed on behalf of this application consists of a two-page letter from Vitaliy Belyavskiy. Mr. Belyavskiy is named in the application as one of the partners of P.O. Transportation, LLP. In his letter, Mr. Belyavskiy states the emergency temporary approval is necessary because of a change of name from Eagle Transportation to P. O. Transportation. Mr. Belyavskiy also states P. O. Transportation filed proof of insurance with the PUC on March 13, 2003, and that the insurance for Eagle Transportation expired on March 14, 2003.

4. The three individuals named in this application as the partners of Eagle Transportation, LLP, did not file any statements in support of the emergency temporary authority application. Two of the individuals named as the partners in Eagle Transportation, LLP, in this application were also shown as partners in the original Application filed with the Commission by Eagle Transportation, LLP.

**C. Conclusions**

5. The limited information contained in the statement of Mr. Belyavskiy does not provide sufficient detail to allow the Commission to determine if an emergency need exists to transfer Permit No. B-9830. Further, the information required by the Commission to evaluate if an emergency need exists to transfer Permit No. B-9830 should be filed by the transferor, Eagle Transportation, LLP, and not by the transferee P. O. Transportation, LLP.

6. Destruction of or injury to Eagle Transportation, LLP or its properties will not result if the Commission denies temporary approval of an assumption of operational control.

7. There is no convincing record evidence showing that failure to grant temporary approval of an assumption of operational control will interfere substantially with the future

usefulness of CPCN PUC No. B-9830 in the performance of adequate and continuous service to the public.

8. This application for emergency temporary approval is not in the public interest.

9. The denial of this application for emergency temporary approval of an assumption of operational control creates no presumption about the final disposition of the permanent transfer application. The permanent transfer application will be determined on the evidence presented using the statutory criteria.

## **II. ORDER**

### **A. The Commission Orders That:**

1. The application for emergency temporary approval of an assumption of operational control with respect to Permit No. B-9830 filed by Eagle Transportation, LLP is denied.

2. 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.

3. This Order is effective immediately on its Mailed Date.

**B. ADOPTED IN THE COMMISSIONERS' WEEKLY MEETING April 23, 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

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POLLY PAGE

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JIM DYER

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Commissioners

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

**CERTIFICATE OF SERVICE**

DOCKET NO. 03A-153BP-Transfer-ETA

DECISION NO. C03-0420

(Page 1 of 1 Page)

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:

Eagle Transportation, LLP  
9031 East Colorado Drive  
Denver, CO 80231

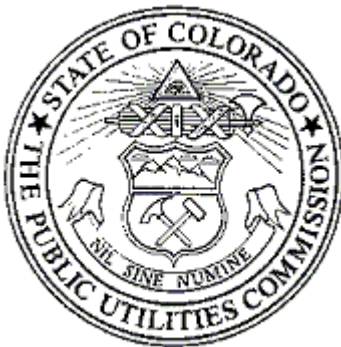
TRANSFeree:

P.O. Transportation, LLP  
5488 East Briarwood Circle  
Littleton, CO 80122

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

A handwritten signature in cursive script that reads "Bruce N. Smith".

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BRUCE N. SMITH  
Director