

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03M-203CP

IN THE MATTER OF THE TRANSFER OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY PUC 7321 FROM COLORADO MOUNTAIN EXPRESS, LLC TO RESORT EXPRESS LLC, AND THE SIMULTANEOUS LEASE OF CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY PUC NOS. 7321 AND 13123 FROM RESORT EXPRESS LLC TO COLORADO MOUNTAIN EXPRESS, LLC.

**ORDER RECOGNIZING TRANSFER OF
CERTIFICATE OF PUBLIC CONVENIENCE AND
NECESSITY PUC NO. 7321 AND SIMULTANEOUS LEASE
OF CERTIFICATES OF PUBLIC CONVENIENCE AND
NECESSITY PUC NOS. 7321 AND 13123**

Mailed Date: June 4, 2003
Adopted Date: May 16, 2003

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of the notification of the transfer of Certificate of Public Convenience and Necessity (CPCN) PUC No. 7321 from Colorado Mountain Express, LLC (CME) to Resort Express, LLC (RE), and the simultaneous lease of PUC Nos. 7321 and 13123 by RE to CME. The notification was filed jointly by CME and RE on May 7, 2003.

2. CME and RE formally consummated their merger and related transfer and lease transactions on February 24, 2003 through the completion of a federal review process by the United States Surface Transportation Board (USSTB) pursuant to 49 U.S.C. § 14303. Because the CPCNs at issue here were issued by the Commission, this notification and request for acknowledgment is required. Based on the material presented, the Commission will

acknowledge the merger and subsequent CPCN transfer and lease subject to the conditions set forth in this order.

3. Prior to the USSTB approved merger, CME was a wholly owned subsidiary of East West Resorts Transportation, LLC, a Delaware limited liability company (EWRT I). RE was, a wholly owned subsidiary of East West Resorts Transportation II, LLC, also a Delaware limited liability company (EWRT II).

4. EWRT I, EWRT II, CME, and RE jointly filed an application with the USSTB to merge EWRT I and EWRT II, with EWRT I as the surviving entity. This merger eliminated EWRT II as one of the holding companies that previously held CME and RE as wholly owned carrier subsidiaries. According to the terms of the merger, CME and RE comprise two separate entities wholly owned as subsidiaries of EWRT. Incident to the merger, the parties sought the transfer of the operating authorities of CME to RE followed by the lease of all the Commission-granted operating authorities of RE (consisting of PUC Nos. 7321 and 13123) by CME.

5. According to the parties, by virtue of this series of transactions, CME will have become the sole operating entity actively providing carrier service, although RE will have remained a carrier subject to the jurisdiction of the Commission as a result of its status as owner and lessor of the two CPCNs identified previously.

6. The parties lastly sought the following name changes: (1) Colorado Mountain Express, LLC to East West Resort Transportation, LLC, doing business as Colorado Mountain Express, and/or CME Premier, and/or Premier VIP Transportation, and/or Resort Express; and (2) Resort Express, LLC to Transportation Management Systems, LLC. The parties represent that they will file notification of the entity name changes pursuant to our Rule 4 *Code of*

Colorado Regulations 723-1-52 “substantially contemporaneously with the filing of this notification.”

7. The Commission construes the request for acknowledgment as an abbreviated application for approval of a CPCN transfer. The primary purpose for considering the parties’ request is to ensure that the entity operating the CPCNs and the name of the insured entity are accurately reflected in the Commission’s records.

8. The Commission finds that CME must file a certificate of insurance in its name. This standard requirement of all jurisdictional transportation utilities, as well as the other standard requirements described in the ordering paragraphs below, must be fulfilled in order for CME to conduct lawful operations under the CPCNs leased from RE.

II. ORDER

A. The Commission Orders That:

1. The merger of East West Resorts Transportation, LLC, a Delaware Limited Liability Company, into East West Resorts Transportation II, LLC, a Delaware Limited Liability Company, with East West Resorts Transportation, LLC as the surviving entity, and Colorado Mountain Express, LLC and Resort Express, LLC as wholly owned subsidiaries of the surviving entity is hereby acknowledged.

2. The subsequent name changes of Colorado Mountain Express, LLC to East West Resort Transportation, LLC, doing business as Colorado Mountain Express and/or CME Premier, and/or Premier VIP Transportation, and/or Resort Express; and Resort Express, LLC to Transportation Management Systems, LLC is hereby acknowledged.

3. The transfer of Certificate of Public Convenience and Necessity PUC No. 7321 from Colorado Mountain Express, LLC to Resort Express, LLC and the simultaneous lease of Certificates of Public Convenience and Necessity PUC Nos. 7321 and 13123 by Resort Express, LLC to Colorado Mountain Express, LLC is hereby acknowledged.

4. Colorado Mountain Express, LLC, now known as East West Resort Transportation, LLC, doing business as Colorado Mountain Express, and/or CME Premier, and/or Premier VIP Transportation, and/or Resort Express, shall be granted the authority to provide transportation services as described in Certificate of Public Convenience and Necessity PUC Nos. 7321 and 13123.

5. The right of Colorado Mountain Express to operate under this Decision shall depend upon its compliance with all present and future laws and Commission rules and regulations, and the prior filing by Colorado Mountain Express, LLC, now known as East West Resort Transportation, LLC, doing business as Colorado Mountain Express, and/or CME Premier, and/or Premier VIP Transportation, and/or Resort Express, and Resort Express, LLC, now known as Transportation Management Systems, LLC of any delinquent reports, if any, covering operations under their respective certificates up to the completion of all filing requirements set forth in this Decision.

6. Colorado Mountain Express, LLC, now known as East West Resort Transportation, LLC, doing business as Colorado Mountain Express, and/or CME Premier, and/or Premier VIP Transportation, and/or Resort Express shall cause certificates of insurance to be filed with the Commission as required by Commission rules.

7. Colorado Mountain Express, LLC, now known as East West Resort Transportation, LLC, doing business as Colorado Mountain Express, and/or CME Premier, and/or Premier VIP Transportation, and/or Resort Express shall pay any vehicle identification fees.

8. The tariffs or rates, rules, and regulations of Colorado Mountain Express, LLC, now known as East West Resort Transportation, LLC doing business as Colorado Mountain Express, and/or CME Premier, and/or Premier VIP Transportation, and/or Resort Express, and Resort Express, LLC, now known as Transportation Management Systems, LLC pertaining to Certificate of Public Convenience and Necessity PUC Nos. 7321 and 13123 shall, upon adoption notice, become and remain those of Colorado Mountain Express, LLC, now known as East West Resort Transportation, LLC doing business as Colorado Mountain Express, and/or CME Premier, and/or Premier VIP Transportation, and/or Resort Express, until changed in accordance with controlling law and applicable Commission rules and regulations.

9. The joint applicants shall comply with the requirements of the preceding paragraphs within 60 days of the effective date of this Decision. On good cause shown, the Commission may grant additional time for compliance, if the request is filed within 60 days of the effective date of this Decision.

10. The 20-day period provided for in § 40-6-114(1), C.R.S., within which to file applications for rehearing, reargument, or reconsideration begins on the first day following the effective date of this Decision.

11. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
May 16, 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

JIM DYER

Commissioners