

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03A-233CP-TA

THE APPLICATION OF KYLE BUIS, DOING BUSINESS AS PEGASUS TRANSIT, FOR TEMPORARY AUTHORITY TO CONDUCT OPERATIONS AS A COMMON CARRIER BY MOTOR VEHICLE FOR HIRE.

**COMMISSION ORDER DENYING
TEMPORARY AUTHORITY**

Mailed Date: June 19, 2003
Adopted Date: June 11, 2003

I. BY THE COMMISSION:

A. Statement

1. On May 30, 2003, Kyle Buis, doing business as Pegasus Transit (Pegasus Transit), filed an application for temporary authority to conduct operations as a common carrier by motor vehicle for hire for the transportation of passengers and their baggage as follows: (I) In scheduled service: (1) Between the Greeley Mall, Greeley, Colorado, on the one, hand and 420 Centro, Ft. Collins, Colorado, on the other hand, with service to the intermediate points of the intersection of U. S. Highway 34 and 47th Avenue, Greeley, Colorado, the intersection of U. S. Highway 34 and 59th Avenue, Greeley, Colorado, and the Total Station at the intersection of U. S. Highway 34 and Colorado Highway 257; (2) Between the Harmony Road Park and Ride at the intersection of Harmony Road and I-25, Ft. Collins, Colorado, on the one hand, and the Transfer Station at Colorado State University, Ft. Collins, Colorado, on the other hand, with service to the intermediate point of the Foothills Mall, Ft. Collins, Colorado; (3) Between the Harmony Road Park and Ride at the intersection of Harmony Road and I-25, Ft. Collins, Colorado, on the one

hand, and the intersection of I-25 and the Colorado and Wyoming state lines, on the other hand, with service to the intermediate point of the Texaco Station at the intersection of I-25 and Colorado Highway 1, Wellington, Colorado; (4) Between the Greeley Mall, Greeley, Colorado, on the one hand, Denver International Airport, 8500 Pena Boulevard, Denver, Colorado, on the other hand, with service to the intermediate points of 3033 8th Street, Evans, Colorado, the intersection of U. S. Highway 85 and Main Street, La Salle, Colorado, the intersection of U. S. Highway 85 and Main Street, Gilcrest, Colorado, the intersection of Colorado Highway 66 and U. S. Highway 85, Platteville, Colorado, the intersection of Colorado Highway 52 and U. S. Highway 85, Ft. Lupton, Colorado, and the intersection of Bromley Road and U. S. Highway 85, Brighton, Colorado; (5) Between the Transfer Station at Colorado State University, Ft. Collins, Colorado, on the one hand, and the RTD Transfer Station at the intersection of 16th Street and Broadway, Denver, Colorado, on the other hand, with service to the intermediate points of the intersection of U. S. Highway 34 and I-25, Loveland, Colorado, the Longmont Park and Ride at the intersection of Colorado Highway 119 and I-25; (6) Between the intersection of Kiowa Street and Nevada Avenue, Colorado Springs, Colorado, on the one hand, and the RTD Transfer Station at the intersection of 16th Street and Broadway, Denver, Colorado, on the other hand, with service to the intermediate points of the Monument Park and Ride at the intersection of Colorado Highway 105 and I-25, Colorado Highway 86 and I-25, Castle Rock, Colorado, the Park Meadows Mall, Littleton, Colorado, and the Arapahoe Park and Ride at the intersection of Yosemite Street and I-25 Greenwood Village, Colorado; and (II) in charter service between all points in the Counties of Adams, Arapahoe, Denver, Douglas, El Paso, and Weld, State of Colorado.

2. The Commission gave notice of the application on June 2, 2003.

3. Greeley Airport Shuttle, Inc., doing business as Rocky Mountain Shuttle, Ltd. (Rocky Mountain Shuttle), RDS Transportation, Ltd., doing business as Yellow Cab Company of Colorado Springs (Yellow Cab Company of Colorado Springs), Metro Taxi, Inc., Shamrock Taxi of Fort Collins, Inc. (Shamrock Taxi), Shamrock Taxi of Fort Collins, Inc., doing business as Shamrock Shuttle, Inc. (Shamrock Shuttle), Ramblin' Express, Inc., doing business as Rocky Mountain Limousine, Inc. (Rocky Mountain Limousine), and SuperShuttle International Denver, Inc., filed interventions opposing the grant of this application.

4. Rocky Mountain Shuttle may provide scheduled service between Denver International Airport, in Denver, Colorado, on the one hand, and Greeley, Colorado, on the other hand, with service to the intermediate points of La Salle, Platteville, Fort Lupton, and Brighton, Colorado, under Certificate of Public Convenience and Necessity (CPCN) PUC No. 52483.

5. Yellow Cab Company of Colorado Springs may provide taxi service: (I) between all points within the Counties of El Paso and Teller, State of Colorado, and from said points, on the one hand, to all points within the State of Colorado, on the other hand; and (II) from all points in the City and County of Denver, to all points within the Counties of El Paso and Teller, State of Colorado, under CPCN PUC No. 109.

6. Metro Taxi, Inc., may provide taxi service: (I) between all points within the area comprised of the Counties of Adams, Arapahoe, Boulder, Denver, Douglas, and Jefferson, State of Colorado, and between said points, on the one hand, and all points within an 85-mile radius of the intersection of 16th and Champa Streets in Denver, Colorado, on the other hand; and (II) from all points in the City and County of Denver, to all points in the State of Colorado, lying outside

an 85-mile radius of the intersection of 16th and Champa Streets in Denver, Colorado, under CPCN PUC No. 1481.

7. Shamrock Shuttle may provide: (I) scheduled service between all points within a 13-mile radius of the intersection of Larimer County Road 32 and Larimer County Road 13 in Larimer County, Colorado, on the one hand, and Denver International Airport, Denver, Colorado, on the other hand; (II) call-and-demand limousine service from all points within a 13-mile radius of the intersection of Larimer County Road 32 and Larimer County Road 13 in Larimer County, Colorado, on the one hand, to Denver International Airport in Denver, Colorado, on the other hand; and (III) scheduled service between all points within a 13-mile radius of the intersection of Larimer County Road 32 and Larimer County Road 13 in Larimer County, Colorado, and between all points within Longmont, Colorado, and all points within one-half mile of the intersection of Interstate 25 and Colorado Highway 119, on the one hand, and Denver International Airport, on the other hand, under CPCN PUC No. 49759.

8. Shamrock Taxi may provide taxi service between all points in the City of Loveland, and from said points to points within a 50-mile radius of Fourth and Lincoln Streets in Loveland, Colorado, under CPCN PUC No. 9256. Shamrock Taxi may provide taxi service between all points located within a 16-mile radius of the intersection of U. S. Highway 287 and Colorado Highway 68, Ft. Collins, Colorado, under CPCN PUC No. 29934. Shamrock Taxi may provide taxi service between all points within a 20-mile radius of the intersection of College Avenue and Prospect Road in Ft. Collins, Colorado, on the one hand, and all points in the State of Colorado, on the other hand, under CPCN PUC No. 13043. Shamrock Taxi may provide taxi service between all points within a 17-mile radius of the courthouse at Greeley, Colorado, and to

and from said points, from and to points within the State of Colorado, under CPCN PUC No. 545&I.

9. Rocky Mountain Limousine may provide charter service between points in El Paso County, Colorado, and Teller County, Colorado, on the one hand, and on the other hand, all points within a 200-mile radius of the intersection of I-25 and U.S. Highway No. 24, Colorado Springs, Colorado, under CPCN PUC No. 45392. This charter service must originate in El Paso County or Teller County, Colorado. Rocky Mountain Limousine may provide call-and-demand limousine service between all points within Colorado Springs, Colorado, and between said points, on the one hand, and all points within the State of Colorado, on the other hand, under CPCN PUC No. 275. Rocky Mountain Limousine may provide: (I). charter service between Pueblo, Colorado, on the one hand, and on the other hand, all points in the State of Colorado; (II). call-and demand service, between points in El Paso County, State of Colorado, on the one hand, and on the other hand, points in Douglas County, State of Colorado, lying within one mile of the intersection of Interstate Highway I-25 and Interstate Highway C-470; (III). scheduled service between points in El Paso County, State of Colorado, on the one hand, and on the other hand, points in Douglas County, State of Colorado; (IV). call-and-demand limousine service between all points in the area comprised of the Counties of Pueblo, El Paso, and Douglas, State of Colorado, on the one hand, and Mile High Stadium, Coors Field, McNichols Arena, and the Pepsi Center, all located in Denver, Colorado, on the other hand; and (V). scheduled service between all points in El Paso County, Colorado, on the one hand, and the Colorado Springs Municipal Airport, on the other hand, under CPCN PUC No.47966.

10. SuperShuttle International Denver, Inc., may provide charter service between all points in the Counties of Adams, Arapahoe, Denver, and Jefferson, State of Colorado, and between said points, on the one hand, and all points in the State of Colorado, on the other hand.

11. An overlap exists between all or a portion of the authorities held by each of the above mentioned intervenors, and the authority requested by Pegasus Transit in this application.

12. Pursuant to § 40-6-120(1), C.R.S., the Commission is authorized to grant temporary authority when "there appears to be an immediate and urgent need to any point or within a territory having no carrier service capable of meeting such need."

13. Pegasus Transit must meet a two-fold test: first, that there is an immediate and urgent need for the transportation services, and second, that there is no existing carrier capable of meeting the need. If Pegasus Transit fails to meet either test, the application must be denied.

B. Findings of Fact

14. Four letters in the form of a petition were submitted in support of this application. Three of the petitions are signed by residents of Greeley, Colorado. The remaining petition is signed by a resident of Evans, Colorado. The petition lists twenty locations between Laramie, Wyoming, and Colorado Springs, Colorado. The person completing the petition is asked to indicate how they would use the service. The individuals who completed the petitions generally indicate they would ride between Ft. Collins, Colorado, Greeley, Colorado, Evans, Colorado, Denver, Colorado, and Denver International Airport. However none of the petitions include any information that indicates an immediate and urgent needs exists for the services requested in this application. Four letters are also submitted in support of this application. The authors of three of the letters express a need for transportation between Ft. Collins, Colorado, Greeley, Colorado,

Evans, Colorado, and Denver International Airport. The author of the fourth letter expresses a need for transportation between Colorado Springs, Colorado, the Denver Technological Center, and other points in Denver, Colorado. The authors of these letters also do not include sufficient information to indicate an immediate and urgent need exists for the services requested in this application or that no other carrier is capable of providing the service named in this application.

C. Conclusions

15. An immediate and urgent need for the requested transportation services does not exist, and it has not been shown that no other carrier is capable of providing the service.

16. This application for temporary authority is not in the public interest.

17. The denial of this application creates no presumption about the final disposition of the permanent authority application. The permanent authority application will be determined on the evidence presented using the statutory criteria.

II. ORDER

A. The Commission Orders That:

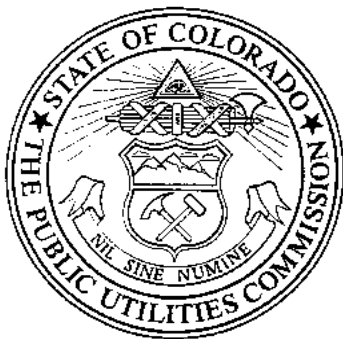
1. The application for temporary authority filed by Kyle Buis, doing business as Pegasus Transit, is denied.

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
June 11, 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

I/TRANS/ORDERS/03A-233CPF

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CERTIFICATE OF SERVICE
DOCKET NO. 03A-233CP-TA

DECISION NO. C03-0636
(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:

APPLICANT:

Kyle Buis
dba Pegasus Transit
2503 49th Avenue
Greeley, CO 80634

INTERVENOR:

Greeley Airport Shuttle, Inc.
dba Rocky Mountain Shuttle, Ltd.
213 6th Avenue
Greeley, CO 80631

INTERVENOR'S ATTORNEY:

Jack P. Wolfe
512 North Terry Street
Longmont, CO 80501

INTERVENOR:

RDS Transportation, Ltd.
dba Yellow Cab Co. of Colorado Springs
4625 Town Center Drive
Colorado Springs, CO 80916

INTERVENOR'S ATTORNEY:

Isaac H. Kaiser
370 - 17th Street, Suite No. 2600
Denver, CO 80202

INTERVENOR:

Metro Taxi, Inc.
5909 East 38th Avenue
Denver, CO 80207

INTERVENOR'S ATTORNEY:

Charles M. Williams
CHARLES M. WILLIAMS, P.C.
303 E. 17th Avenue, Suite No. 888
Denver, CO 80203

INTERVENOR:

Shamrock Taxi of Fort Collins, Inc.
dba Shamrock Shuttle, Inc.
P. O. Box 88
Windsor, CO 80550



WITNESS MY HAND
AND THE SEAL OF THE
PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO



DIRECTOR

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CERTIFICATE OF SERVICE
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(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:

INTERVENOR'S ATTORNEY:

Isaac H. Kaiser
BERENBAUM, WEINSHIENK & EASON
370 - 17th Street, Suite No. 2600
Denver, CO 80202

INTERVENOR:

Ramblin' Express, Inc.
dba Rocky Mountain Limousine, Inc.
3465 Astrozon Place
Colorado Springs, CO 80910-1028

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

ROUTE:

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

INTERVENOR'S ATTORNEY:

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



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DIRECTOR