

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03C-293R

IN THE MATTER OF RAIL TRANSPORTATION UTILITIES LISTED IN ATTACHMENT A
TO THIS DECISION, RESPONDENTS. IN THE MATTER OF NON-COMPLIANCE WITH
THIS COMMISSION'S ANNUAL REPORT FILING REQUIREMENTS.

**ORDER TO SHOW CAUSE AND NOTICE OF HEARING
FOR RAIL TRANSPORTATION UTILITIES**

Mailed Date: July 9, 2003
Adopted Date: July 9, 2003

I. BY THE COMMISSION

A. Statement

1. Those entities listed on Attachment A provide transportation services by rail within the State of Colorado. Therefore, they are required to submit an Annual Report for the preceding calendar year on or before April 30 of each year. *See 4 Code of Colorado Regulations (CCR) 723-1-25.*

2. An Annual Report form was mailed to those entities listed on Attachment A in February 2002 and February 2003.

3. Pursuant to § 40-10-112 C.R.S., the Commission may suspend, revoke, alter, or amend any Certificate of Public Convenience and Necessity or Permit issued by the Commission for failure to observe any of the proper orders, rules, or regulations of the Commission. Pursuant to § 40-7-104, C.R.S., the Commission may seek remedy in the District Court for failure to observe any of the proper orders, rules, or regulations of the Commission.

II. DISCUSSION

A. Findings of Fact

1.4. The Staff of the Commission (Staff) has reviewed Commission records and data submitted by those entities listed on Attachment A. Staff has determined that as of May 30, 2003, those entities listed on Attachment A have not submitted the Annual Report that was due on April 30, 2002 and 2003, and thereby have failed to comply with the reporting requirements of Rule 25, 4 CCR 723-1. On June 6, 2003, Commission Director Bruce N. Smith contacted the entities by letter, and advised them of their current status and of remedies available to them to correct the matter. Those entities listed in Attachment A failed to file the annual reports required to remedy this matter.

B. Conclusions

1.5. Sufficient cause exists to ~~show cause and~~ hold a hearing to determine the facts of the matter, to hear material arguments, to receive evidence and testimony, and to determine what penalty or remedy, if any, shall be imposed by order of the Commission.

2.6. If the Commission determines that it is appropriate to do so, the Commission may issue a decision that revokes the entities' Certificate of Public Convenience and Necessity or metes out other sanctions against those entities.

III. ORDER

A. The Commission Orders That:

1. Those entities listed in Attachment A shall appear before the Commission, as set forth below, to show cause why the Commission should not take action and enter a decision, including but not limited to an order revoking the entities' Certificate of Public Convenience and Necessity.

4.2. This docket is set for hearing before an Administrative Law Judge for the Colorado Public Utilities Commission:

Date: August 18, 2003

Time: 9:00 a.m.

Place: Colorado Public Utilities Commission
Logan Tower, Office Level 2
1580 Logan Street
Denver, Colorado

2.3. The Staff of the Public Utilities Commission shall file, at least 30 days before hearing: (1) two copies of a list containing the name, address, and title of each of its witnesses; and (2) two copies of each of the exhibits which it plans to present at the hearing. Copies of the witness list and exhibits shall be served upon all parties to the proceeding.

3.4. All entities listed on Attachment A shall file, at least 20 days before hearing: (1) two copies of a list containing the name, address, and title of each of its witnesses; and (2) two copies of each of the exhibits which it plans to present at the hearing. Copies of the witness list and exhibits shall be served upon all parties to the proceeding.

4.5. No witness shall be permitted to testify nor shall any document be received in evidence, except in rebuttal, unless filed and served as provided in this Order.

5.6. If Commission Staff or any Attachment A entity fails to meet the above requirements, the Commission may dismiss the proceeding or any defense, upon motion filed by any other party, unless good cause for non-filing is shown.

6.7. No motion for continuance shall be granted if filed within 20 days before the first day of the hearing, except for good cause shown.

7.8. No exception to the procedure in the Order shall be made except upon timely motion showing good cause.

8.9. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
July 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

JIM DYER

Commissioners

Annual Report Show

Attachment A
Annual Report Show Cause
July 9, 2003
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Rail Utility

Case

Denver Rail Heritage Society
P.O. Box 481244
Denver, CO 80248

CPCN

AR2002-1

Rock & Rail, Inc.,
(a.k.a. Rock And Rail Railroad)
31 North Tejon Street, Suite 400
Colorado Springs, CO 80903

Corporation

AR2002-2