

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03A-080CP-SUSPENSION

THE APPLICATION OF JON S. NICHOLLS, UNITED STATES BANKRUPTCY TRUSTEE, FOR AND ON BEHALF OF THE MOUNTAIN MEN, INC., DOING BUSINESS AS BEST MOUNTAIN TOURS, FOR AN ORDER OF THE COMMISSION AUTHORIZING A SUSPENSION OF OPERATIONS UNDER CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY PUC NO. 7010&I AND CONTRACT CARRIER PERMIT NO. B-9404.

**COMMISSION ORDER GRANTING
TEMPORARY APPROVAL**

Mailed Date: September 15, 2003
Adopted Date: September 10, 2003

I. BY THE COMMISSION

A. Statement

1. On September 2, 2003, Jon S. Nicholls, United States Bankruptcy Trustee (Bankruptcy Trustee) for and on behalf of The Mountain Men, Inc., doing business as Best Mountain Tours (Best Mountain Tours), filed a motion to extend the suspension of Certificate of Public Convenience and Necessity (CPCN) PUC No. 7010&I and Contract Carrier Permit No. B-9404 as granted by Decision No.R03-0721 on July 2, 2003. Best Mountain Tours requests an additional six months through and including March 31, 2004. In the alternative, Best Mountain Tours, requests that this motion be treated as an application to suspend operations under CPCN PUC No. 7010&I and Contract Carrier Permit No. B-9404 together with a request for a 10-day notice.

B. Findings of Fact

2. Best Mountain Tours filed a petition for Chapter 7 bankruptcy in the U.S. Bankruptcy Court on October 28, 2002. Best Mountain Tours filed an application with the

Commission to suspend operations under CPCN PUC No. 7010&I and Contract Carrier Permit No. B-9404 on December 16, 2002. The Commission granted the suspension of operations under CPCN PUC No. 7010&I and Contract Carrier Permit No. B-9404 from September 30, 2002, through March 31, 2003, by Decision No. C03-0138 in Docket No. 02A-670CP. Best Mountain Tours subsequently filed an application with the Commission to continue the suspension of operations under CPCN PUC No. 7010&I and Contract Carrier Permit No. B-9404 on March 3, 2003. The Commission granted the suspension of operations under CPCN PUC No. 7010&I and Contract Carrier Permit No. B-9404 from March 31, 2003, through September 30, 2003, on July 2, 2003, by Decision No. R03-0721 in Docket No. 03A-080CP. Ordering Paragraph II.A.3. of Decision No. R03-0721 orders the Bankruptcy Trustee to file a written request either to reinstate CPCN PUC No. 7010&I and Contract Carrier Permit No. B-9404 or to extend the suspension period.

3. CPCN PUC No. 7010&I was sold on July 31, 2003, at a public auction conducted by the U.S. Bankruptcy Trustee. Colorado Tour Lines, LLC, doing business as Gray Line of Denver (Gray Line), was the highest bidder for a portion of CPCN PUC No. 7010&I. Argo Enterprises, L.L.C. (Argo Enterprises), was the highest bidder for the remaining portion of CPCN PUC No. 7010&I.

4. In its letter, Best Mountain Tours states that Contract Carrier Permit B-9404 was also sold at the July 31, 2003, bankruptcy sale. The Commission has not received an application requesting the transfer of Contract Carrier Permit B-9404.

5. The Bankruptcy Trustee filed an application on August 7, 2003, for temporary approval to allow Gray Line to assume operational control of a portion of CPCN PUC No.

7010&I and to permanently transfer a portion of the certificate. Gray Line was granted temporary approval to assume operational control of the portion of CPCN PUC No. 7010&I it purchased at the auction by Decision No. C03-0945, in Docket No. 03A-345CP, on September 4, 2003.

6. The Bankruptcy Trustee filed an application on August 29, 2003, for temporary approval to allow Argo Enterprises to assume operational control of the remaining portion of CPCN PUC No. 7010&I and to permanently transfer this portion of the certificate. The Bankruptcy Trustee's application for temporary approval to allow Argo Enterprises to assume operational control of the remaining portion of CPCN PUC No. 7010&I was noticed on September 8, 2003, in Docket No. 03A-382-Transfer.

C. Conclusions

7. The Bankruptcy Trustee has filed an application for temporary approval to allow Gray Line to assume operational control of a portion of CPCN PUC No. 7010&I and to permanently transfer a portion of the certificate. Gray Line has been granted temporary approval to assume operational control of this portion of CPCN PUC No. 7010&I.

8. The Bankruptcy Trustee has also filed an application for temporary approval to allow Argo Enterprises to assume operational control of the remaining portion of CPCN PUC No. 7010&I and to permanently transfer this portion of the certificate. The Commission finds that the above identified applications to transfer all of CPCN PUC No. 7010&I meet the requirement of Ordering Paragraph II.A.3. of Decision No. R03-0721 that ordered the Bankruptcy Trustee to file a written request either to reinstate CPCN PUC No. 7010&I or to extend the suspension period.

9. However, as of the mailed date of this order, the Commission has not received an application to transfer Contract Carrier Permit PUC No. B-9404. Therefore, the Bankruptcy Trustee, as ordered in Paragraph II.A.3. of Decision No. R03-0721, must either request the reinstatement of Contract Carrier Permit PUC No. B-9404 or extend the suspension period.

II. ORDER

A. The Commission Orders That:

1. The motion filed by Jon S. Nicholls, United States Bankruptcy Trustee for and on behalf of The Mountain Men, Inc., doing business as Best Mountain Tours to extend the suspension of Certificate of Public Convenience and Necessity PUC No. 7010&I as granted by Decision No.R03-0721 on July 2, 2003, and the alternative request to treat this motion as a new application to suspend operations under Certificate of Public Convenience and Necessity PUC No. 7010&I together with a request for a 10-day notice are denied.

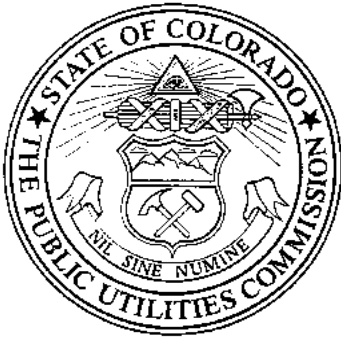
2. The motion filed by Jon S. Nicholls, United States Bankruptcy Trustee for and on behalf of The Mountain Men, Inc., doing business as Best Mountain Tours to extend the suspension of Contract Carrier Permit PUC No. B-9404 as granted by Decision No.R03-0721 on July 2, 2003, is denied. The alternative request filed by Jon S. Nicholls, United States Bankruptcy Trustee for and on behalf of The Mountain Men, Inc., doing business as Best Mountain Tours to treat this motion as a new application to suspend operations under Contract Carrier Permit PUC No. B-9404 together with a request for a 10-day notice is granted.

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 COMMISSIONERS' WEEKLY MEETING
September 10, 2003.**

(S E A L)



ATTEST: A TRUE COPY

Bruce N. Smith

**Bruce N. Smith
Director**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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JIM DYER

Commissioners
CHAIRMAN GREGORY E. SOPKIN
ABSENT