

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03A-435CP-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: October 21, 2003
Adopted Date: October 15, 2003

I. BY THE COMMISSION:

A. Statement

1. On October 3, 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 in scheduled service: (1) between the Colorado and Wyoming state lines, on the one hand, and the Harmony Road Park and Ride at the intersection of Harmony Road and I-25, Ft. Collins, Colorado, on the other hand, with service to the intermediate points of the Transfer Station at Colorado State University, Ft. Collins, Colorado; and The Square, 420 Centro Way, Ft. Collins, Colorado; (2) between the Transfer Station at Colorado State University, Ft. Collins, Colorado, on the one hand, and 3033 8th Avenue (31st Street and U. S. Highway 85), Evans, Colorado, on the other hand, with service to the intermediate points of The Square, 420 Centro Way, Ft. Collins, Colorado; the Harmony Road Park and Ride at the intersection of Harmony Road and I-25, Ft. Collins, Colorado; the Total Station at the intersection of I-25 and U. S. Highway 34; the

intersection of U. S. Highway 34 and 47th Avenue, Greeley, Colorado, the Greeley Mall, Greeley, Colorado; (3) between the Transfer Station at Colorado State University, Ft. Collins, Colorado, on the one hand, and the intersection of Colfax Avenue and Broadway, Denver, Colorado, on the other hand, with service to the intermediate points of The Square, 420 Centro Way, Ft. Collins; the Harmony Road Park and Ride at the intersection of Harmony Road and I-25, Ft. Collins, Colorado; the Park and Ride at the intersection of I-25 and U. S. Highway 34, 1701 Bryant Street, Denver, Colorado; 1000 Chopper Drive, Denver, Colorado; and 2001 Blake Street, Denver, Colorado; (4) between the intersection of Colfax Avenue and Broadway, Denver, Colorado, on the one hand, and the intersection of Kiowa Street and Nevada Avenue, Colorado Springs, 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; the intersection of Rio Grande and Wilcox, Castle Rock, Colorado; the Park Meadows Mall, Littleton, Colorado; the Arapahoe Park and Ride at the intersection of Yosemite Street and I-25, Greenwood Village, Colorado; 1701 Bryant Street, Denver, Colorado; and 1000 Chopper Drive, Denver, Colorado; (5) between the Transfer Station at Colorado State University, Ft. Collins, Colorado, on the one hand, and the Budweiser Event Center, at the Larimer County Fairgrounds, on the other hand, with service to the intermediate points of The Square, 420 Centro Way, Ft. Collins; the Harmony Road Park and Ride at the intersection of Harmony Road and I-25, Ft. Collins, Colorado; and the Park and Ride at the intersection of I-25 and U. S. Highway 34; and (6) between points on either side of Harmony Road, Ft. Collins, Colorado, that are between JFK Parkway and the Harmony Road Park and Ride.

2. The Commission gave notice of the application on October 6, 2003.

3. There are no interventions opposing a grant of the application.

4. Pursuant to § 40-6-120(1), C.R.S., the Commission is authorized to grant temporary authority for carrier service 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."

5. Pegasus Transit must demonstrate two things: 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 requirement, the application must be denied.

B. Findings of Fact

6. Four pages of support in the form of a petition were submitted in support of this application. Each page contains four petitions. Four of the petitions were signed by residents of Ft. Collins, Colorado. However, only a copy of each petition was submitted with this application. The original petitions with the original signatures were not submitted with the application. The petitions also do not include the date the signer completed the petition. 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 indicate they would ride between Ft. Collins, Colorado, downtown Denver, Colorado, and Denver International Airport. However, this application did not request service to or from Denver International Airport. None of the petitions include any specific information that indicates an immediate and urgent needs exists for the services requested in this application.

7. Twelve other petitions were also submitted in support of this application. None of these petitions include the signature of the individual identified by name as the person filing the support for this application. The petitions indicate that Pegasus Transit received these contacts by telephone. Without the signature of the individual filing the petition in support of this application or the date Pegasus Transit apparently received the telephone contact, the Commission cannot determine if these letters provide verifiable support for this application. Eight other letters of support, not in the form of a petition, were also submitted with this application. Each of these eight these letters is a copy and not the original document. Five of these letters do not include the author's signature. One letter does include a signature but does indicate the date it was submitted to Pegasus Transit. The remaining two letters were submitted by the Transit Services Manager and the City Manager of Greeley, Colorado. However, these letters are dated May 29, 2003, and June 10, 2003, respectively, and may not express the type or level of support that the authors of these letters currently have for this application. The authors of several of the letters express a dissatisfaction with certain carriers currently providing service between Denver International Airport and Ft. Collins, Greeley, or Colorado Springs, or the carriers providing service between points in Ft. Collins, Greeley, or Colorado Springs. However, the authors of these letters do not identify the carriers that are supposedly not providing adequate service. Therefore, the Commission cannot determine if these unidentified carriers are providing inadequate service.

C. Conclusions

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

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

10. The denial of this application creates no presumption about the final disposition of the permanent authority application. The permanent authority application will be judged on its own merits.

II. ORDER

A. The Commission Orders That:

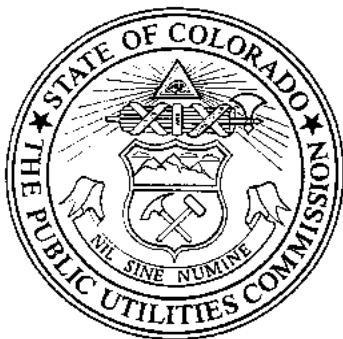
1. The application for temporary authority filed by Kyle Buis doing business as Pegasus Transit is denied.

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
October 15, 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

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