

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03A-433CP-EXTENSION-TA

THE APPLICATION OF SUPERSHUTTLE INTERNATIONAL DENVER, INC., FOR TEMPORARY AUTHORITY TO EXTEND OPERATIONS UNDER CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY PUC NO. 55686.

**COMMISSION ORDER DENYING
TEMPORARY AUTHORITY**

Mailed Date: October 31, 2003
Adopted Date: October 15, 2003

I. BY THE COMMISSION:

A. Statement

1. On October 1, 2003, SuperShuttle International Denver, Inc. (SuperShuttle), filed an application for temporary authority to extend operations under Certificate of Public Convenience and Necessity (CPCN) PUC No. 55686 to include the transportation of passengers and their baggage, in scheduled service, between Denver International Airport, on the one hand, and on the other hand, all points in the following described area: beginning at the intersection of Arizona Avenue and Colorado Boulevard, Denver, Colorado; then east on Arizona Avenue as extended, to its intersection with Holly Street; then north on Holly Street to its intersection with 6th Avenue; then west on 6th Avenue to its intersection with University Boulevard; then south on University Boulevard to its intersection with Evans Avenue; then east on Evans Avenue to its intersection with Colorado Boulevard; then north on Colorado Boulevard to the point of beginning. This application is restricted to providing service to points named in the carrier's filed time schedule.

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. SuperShuttle 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. *See Gambler's Express v. Public Utilities Comm'n*, 868 P.2d 405 (Colo. 1994). If SuperShuttle fails to meet either of these requirements, the application must be denied.

B. Findings of Fact

6. Six letters were filed in support of this application. The letters were filed by managers of the following hotels: Holiday Inn Select, 455 South Colorado Boulevard, Denver, Colorado, Four Points By Sheraton, 600 South Colorado Boulevard, Denver, Colorado, Loews Denver Hotel, 4150 East Mississippi Avenue, Denver, Colorado, Four Points By Sheraton, 1475 South Colorado Boulevard, Denver, Colorado, Marriott Fairfield Inn 1680 South Colorado Boulevard, Denver Colorado, and Hampton Inn & Suites, 4150 East Kentucky Avenue, Glendale, Colorado. The managers of these hotels generally express a desire to have SuperShuttle provide scheduled service between their hotel and Denver International Airport. The managers of the hotels also express a dissatisfaction with the service currently being provided by Airport Boulevard Co. &/or ABC Shuttle ("ABC Shuttle"). Specific statements made by the managers are "Our current service is not reliable. They miss stops and are frequently not on time. The professional appearance of uniformed SuperShuttle drivers will compliment the professional

environment of our hotel.” “Currently the authorized carrier cannot meet the needs of our customers.” “Currently we are served by only ABC Shuttle, and they seem limited in a number of areas. We need service from a larger shuttle fleet, allowing for fewer stops for our customers between our hotel and the airport.” “The current shuttle service is unreliable and rarely meets our customer’s needs. They have missed stops and are not always on schedule.” “Scheduled transportation arrangements for large groups are difficult to coordinate with the current shuttle service as well. We believe SuperShuttle is better suited to provide these services for our group needs.”

7. In its statement of support, SuperShuttle acknowledges that ABC Shuttle may provide scheduled service between Denver International Airport and the area named in this application. SuperShuttle states that five of the hotels filing support for this application are named as stops on the time schedule filed with the Commission by ABC Shuttle. Only the Hampton Inn & Suites is not named as a stop on the time schedule filed by ABC Shuttle.

8. ABC Shuttle may provide the following service under CPCN PUC No. 25810: Transportation on schedule of passengers and their baggage: (A) between Stapleton International Airport and Denver International Airport in Denver, Colorado on the one hand, and on the other hand, all hotels and motels in the following area: beginning at the intersection of Colorado Boulevard and I-70; thence east on I-70 to Chambers Road, thence south on Chambers Road (as extended) to east Hampden Avenue; thence west on Hampden Avenue to Parker Road; thence northwest on Parker Road to I-225; thence southwest on I-225 to I-25; thence northwest on I-25 to Evans Avenue; thence west on Evans Avenue to University Boulevard, thence north on University Boulevard to First Avenue; thence east on First Avenue to Colorado Boulevard; thence

north on Colorado Boulevard to the point of beginning; and (B) between Stapleton International Airport and Denver International Airport in Denver, Colorado, on the one hand, and on the other hand, Centennial Airport, Hampden Inn South, Days Inn South, the Landing Hotel and the Courtyard by Marriott Hotels, all located in Arapahoe County. Item I(A) of this Certificate is restricted as follows: (1) to providing service to only hotels and motels consisting of 50 or more units; (2) against serving the Marriott Hotel, located at I-25 and Hampden Avenue, Denver, Colorado; and (3) to the use of vehicles with a capacity of not less than eight passengers, nor more than 20 passengers. The geographic area named in this application is located within the geographic area of service named in CPCN PUC No. 25810.

9. The statements made by the managers of the hotels who filed support letters to this application raise significant questions regarding the scheduled service currently being provided to and from the hotels by ABC Shuttle. The managers of the hotels, however, do not name any specific dates or times on which ABC Shuttle did not provide reliable service to and from their hotels. The Commission makes its decision to grant or deny a temporary authority application based on the information submitted with the application. The hotel managers' claims that ABC Shuttle is not currently providing adequate and reliable service cannot be thoroughly evaluated by the Commission in this temporary authority application.

C. Conclusions

10. The Commission finds that SuperShuttle has not shown that there is an immediate and urgent need for the transportation services requested in this application, and has not shown that ABC Shuttle or other carriers are not capable of providing the service named in this application.

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

12. 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 SuperShuttle International Denver, Inc. 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

POLLY PAGE

JIM DYER

Commissioners

CHAIRMAN GREGORY E. SOPKIN
SPECIALLY CONCURRING.

III. CHAIRMAN GREGORY E. SOPKIN SPECIALLY CONCURRING:

1. It was only a few fortnights ago that SuperShuttle insisted that the Commission apply the anticompetitive transportation standards codified in Colorado law against Boulder Express, to maintain SuperShuttle's monopoly status within its certificated turf. See Docket No. 02A-412CP, Decision No. C03-1045 (September 15, 2003). Now, SuperShuttle finds itself at the receiving end of these standards when all it seeks to do is provide better service than the monopoly provider to hotels along Colorado Boulevard.

2. Once again, we must follow the law. Once again, legitimate needs of travelers, Colorado citizens, and Colorado businesses are being denied by an archaic, insidious scheme. I

look forward to SuperShuttle joining the legislative effort to invite competition to the transportation sector.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CHAIRMAN GREGORY E. SOPKIN

Commissioner