

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

DOCKET NO. 03A-515BP-ETA

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THE APPLICATION OF DOUGLAS EBY DOING BUSINESS AS HIGH COUNTRY TRANSPORTATION SERVICES OF COLORADO FOR EMERGENCY TEMPORARY AUTHORITY TO CONDUCT OPERATIONS AS A CONTRACT CARRIER BY MOTOR VEHICLE FOR HIRE.

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**COMMISSION ORDER DENYING  
EMERGENCY TEMPORARY AUTHORITY**

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Mailed Date: December 19, 2003  
Adopted Date: December 17, 2003

**I. BY THE COMMISSION:**

**A. Statement, Findings and Conclusions**

1. On December 5, 2003, Douglas Eby doing business as High Country Transportation Services of Colorado (High Country Transportation Services of Colorado), filed an application for emergency temporary authority to conduct operations as a contract carrier by motor vehicle for hire for the transportation of passengers and their baggage, between the Lodge and Spa at Cordillera, 2205 Cordillera Way, Edwards, Colorado 81632, on the one hand, and (I) the Beaver Creek Ski Resort, Beaver Creek, Colorado; and (II) the Lionshead Parking Structure at 395 South Frontage Road, Vail, Colorado, on the other hand. This emergency temporary application is restricted to providing transportation service for the Lodge and Spa at Cordillera.

2. The Commission received an intervention by facsimile from East West Resort Transportation, LLC, doing business as Colorado Mountain Express, and/or CME Premier, and/or Premier VIP Transportation, and/or Resort Express (Colorado Mountain Express) on December 15, 2003. Colorado Mountain Express may provide charter service between all points

within a 50-mile radius of Vail, Colorado, under Certificate of Public and Necessity PUC No. 7321. The Lodge and Spa at Cordillera falls within this 50-mile radius.

3. 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." Section 40-6-120(4), C.R.S., further states: "If the Commission is of the opinion that an emergency exists, it may issue emergency temporary authority or approval at once by making specific reference in its order to the circumstances constituting the emergency, in which case no notice need be given, but any such emergency authority or approval shall expire no later than thirty days after it was issued."

4. High Country Transportation Services of Colorado must meet a two-fold test: first, it must demonstrate that there is an emergency need for the transportation services, and second, that there is no existing carrier capable of meeting the need. If High Country Transportation Services of Colorado fails to meet either part of the test, the application must be denied.

5. The support filed on behalf of this application consists of a letter from Paul Pastoor, the general manager of The Lodge & Spa at Cordillera. Mr. Pastoor names the following four reasons in his letter as support for the service requested by High Country Transportation Services of Colorado in this application: (I) Last minute cancellations. No other company in the Vail Valley is able to provide us with last minute cancellations. (II) High Country Transportation Services of Colorado is more personable toward our clients and is familiar with our clientele. (III) Our drop-off and pick-up points are unique and the drivers need to be aware of the rules as well as familiar with the areas in order to provide timely service. (IV) High Country

Transportation Services of Colorado provides luxury suburbans to make the passengers feel more comfortable and well taken care of.

6. The reasons named by Mr. Pastoor do provide significant support for the grant of the permanent authority requested in this application. However, the support provide by Mr. Pastoor does not indicate a specific emergency exists for the service requested in this application or that no other carrier is capable of providing the requested service.

7. The Commission finds that an emergency need for the requested transportation services has not been shown to exist, and it has not been shown that no other carrier is capable of providing the service.

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

## **II. ORDER**

### **A. The Commission Orders That:**

1. The application for emergency temporary authority filed by Douglas Eby doing business as High Country Transportation Services of Colorado 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  
December 17, 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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