

Decision No. R03-0012-I

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

DOCKET NO. 02A-412CP

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IN THE MATTER OF THE APPLICATION OF BOULDER EXPRESS, LLC, D/B/A BLUE SKY SHUTTLE (FORMERLY OWNER/DRIVER UNITED CORP., D/B/A BLUE SKY SHUTTLE), 1412 WEST 104TH AVENUE, SUITE 114, NORTHGLENN, COLORADO 80234 FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AS A COMMON CARRIER BY MOTOR VEHICLE FOR HIRE.

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DOCKET NO. 02A-410CP

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IN THE MATTER OF THE APPLICATION OF FLYING EAGLE EXPRESS SHUTTLE SERVICE, INC., 13024 EAST ALASKA PLACE, AURORA, COLORADO 80012 FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AS A COMMON CARRIER BY MOTOR VEHICLE FOR HIRE.

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DOCKET NO. 02A-471CP

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IN THE MATTER OF THE APPLICATION OF OVERSEAS EMPORIUM, INC., 16740 EAST ILIFF AVENUE, AURORA, COLORADO 80013 FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AS A COMMON CARRIER BY MOTOR VEHICLE FOR HIRE.

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**INTERIM ORDER OF  
ADMINISTRATIVE LAW JUDGE  
DALE E. ISLEY  
DENYING SUPERSHUTTLE INTERNATIONAL  
DENVER, INC.'S MOTION TO DISMISS, OR  
ALTERNATIVE MOTION *IN LIMINE***

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Mailed Date: January 3, 2003

**I. STATEMENT**

1. On December 30, 2002, SuperShuttle International, Inc. (SuperShuttle), filed its Motion to Dismiss, or Alternative Motion *In Limine* Regarding Applicant, Overseas Emporium,

Inc. (Motion), in the captioned proceedings. The Motion contends that Overseas Emporium, Inc. (OE), failed to properly respond to discovery.<sup>1</sup> It requests that the OE application be dismissed or, in the alternative, that it be precluded from offering any evidence at the hearing on the issues of its financial fitness, its shareholders, and its operational or managerial experience in transportation.

2. OE's response to the Motion was due on January 2, 2003, under the provisions of Decision No. R02-1450-I. OE did not file a response.

3. A review of the discovery requests referenced in the Motion and OE's responses thereto reveal that, indeed, the responses are less than complete. However, they are not so defective as to warrant the relief requested by the Motion. OE's responses appear to evidence confusion over its burden of proof with regard to its financial fitness to conduct the proposed operations. That confusion must be resolved, if at all, at the hearing of this matter in the event OE attempts to introduce evidence on this issue. The responses it has provided to the subject discovery requests may inhibit OE's ability to bear that burden of proof or afford SuperShuttle the ability to successfully impeach evidence presented by OE in connection with that issue.

## **II. ORDER**

### **A. It Is Ordered That:**

1. The Motion to Dismiss, or Alternative Motion *In Limine* Regarding Applicant, Overseas Emporium, Inc., filed by SuperShuttle International, Inc. is denied.

2. This Order shall be effective immediately.

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<sup>1</sup> Copies of SuperShuttle's discovery directed to OE on December 20, 2002, and OE's responses dated December 27, 2002, were attached to the Motion as Exhibits A and B, respectively.

(S E A L)



ATTEST: A TRUE COPY

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Bruce N. Smith  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

DALE E. ISLEY

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Administrative Law Judge

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