

Decision No. R03-0064-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 02F-505CP

DAVID J. ARCHULETA AND KEITH L. NIETERT,

COMPLAINANTS,

V.

BROADMOOR HOTEL, INC., D/B/A BROADMOOR HOTEL GARAGE,

RESPONDENT.

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
DENYING REQUEST FOR
ISSUANCE OF SUBPOENAS**

Mailed Date: January 16, 2003

I. STATEMENT

1. On January 14, 2003, David J. Archuleta and Keith L. Nietert (Complainants) filed a Request for Information by Subpoena and Subpoena Duces Tecum (request).¹ The request seeks issuance of subpoenas to require six individuals to appear to testify during and, in some cases, to bring documents to the hearing in this matter scheduled for January 28, 2003.² The request will be denied without prejudice.

2. Section 40-6-103(1), C.R.S., authorizes issuance of a subpoena only if there is a showing of good cause. Good cause is shown by “an affidavit stating with specificity the

¹ Messrs. Archuleta and Nietert served a copy of the request and the attachments on counsel for Respondent Broadmoor Hotel, Inc.

² The subpoenas were attached to the request.

testimony, records, or documents sought and the relevance of such testimony, records, or documents to the proceedings of the commission.” *Id.* If the prerequisites are met, a subpoena “shall issue.” Rule 4 *Code of Colorado Regulations* 723-85(a).

3. Review of the request establishes the relevance of the information (both testimony and documents) sought. Thus, the first inquiry is satisfied.

4. The second prerequisite is not met. The request is not notarized. No affidavit accompanies the request. For this reason alone, the request does not establish good cause for issuance of the subpoenas. Because the request does not establish good cause, the request for issuance of a subpoena will be denied without prejudice.³

II. ORDER

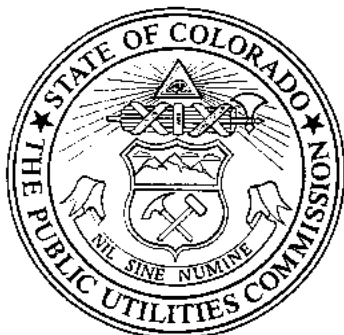
A. It Is Ordered That:

1. The Request for Information by Subpoena and Subpoena Duces Tecum filed by David J. Archuleta and Keith L. Nietert is denied without prejudice.

2. This Order shall be effective immediately.

³ If Complainants wish to do so, they may amend their request by submitting an affidavit in support of the request. If Complainants were to amend their request, the Administrative Law Judge would consider the amended request.

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script, appearing to read "Bruce N. Smith".

Bruce N. Smith
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MANA L. JENNINGS-FADER

Administrative Law Judge

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