

Decision No. R03-0131

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 02A-602BP

IN THE MATTER OF THE APPLICATION OF MICHAEL M. DAVIS, I, DOING BUSINESS AS STARS AND STRIPES TRANSPORTATION FOR AUTHORITY TO OPERATE AS A CONTRACT CARRIER BY MOTOR VEHICLE FOR HIRE.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
WILLIAM J. FRITZEL
GRANTING APPLICATION**

Mailed Date: February 3, 2003

Appearances:

Michael M. Davis, I, Applicant, (*Pro Se*); and

Beverly S. Braton, Kids Wheels, LLC (*Pro Se*).

I. STATEMENT, FINDINGS, AND CONCLUSIONS

1. On November 13, 2002, Michael M. Davis, I, doing business as Stars and Stripes Transportation (Applicant) filed an application to operate as a contract carrier by motor vehicle for hire.

2. On November 18, 2002, the commission issued notice of the application as follows:

For authority to operate as a contract carrier by motor vehicle for hire for the transportation of

passengers and their baggage,

between all points within the area: beginning at the intersection of Gun Club Road and Quincy Avenue, in Arapahoe County; then west along Quincy Avenue to its intersection with Havana Street, as extended; then north along Havana Street, as extended, to its intersection with 56th Avenue; then east along

56th Avenue to its intersection with Gun Club Road, as extended; and between said points, on the one hand, and all points in the Counties of Adams, Arapahoe, Denver, and Jefferson, State of Colorado, on the other hand.

RESTRICTIONS: This application is restricted as follows:

- (1) To providing transportation service for:
 - (A) Developmental Pathways, Inc., 11111 E. Mississippi Avenue, Aurora, Colorado, 80012; and
 - (B) Children's Haven of Hope Foster Care and Adoption Agency, P.O Box 473541, Aurora, Colorado 80047; and
- (2) Against providing any transportation service that originates or terminates at Denver International Airport, Denver, Colorado.
3. On November 25, 2002, Kids Wheels, LLC (Intervenor) filed a Notice of

Intervention.

4. The Commission set this matter for hearing for January 28, 2003.

5. At the scheduled time, the matter was called to hearing. As a preliminary matter, Applicant moved to restrictively amend the application against the transportation of Medicaid recipients and Medicaid clients who have Medicaid benefits.

6. Intervenor stated that if the Commission accepts the restrictive amendment proposed by Applicant, it withdraws its intervention.

7. It was found at the hearing and is found herein that the proposed restrictive amendment is administratively acceptable.

8. The application was ordered to be handled pursuant to the Commission's modified procedure pursuant to the provisions of § 40-6-109(5), C.R.S., and Rule 24(a) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723.

9. It is found that Applicant is financially and otherwise fit to perform the specialized service needed by its customers. These findings are based upon Applicant's application, attached balance sheet, support letters, and other documents attached to the application.

10. Pursuant to § 40-6-109, C.R.S., it is recommended that the Commission enter the following order.

II. ORDER

A. The Commission Orders That:

1. The restrictive amendment filed by Applicant, Michael M. Davis, I, doing business as Stars and Stripes Transportation Services on January 28, 2003 is accepted.

2. Michael M. Davis, I, doing business as Stars and Stripes Transportation Services is granted a permit to operate as a contract carrier by motor vehicle for hire for:

The transportation of
passengers and their baggage,

between all points within the following area: beginning at the intersection of Gun Club Road and Quincy Avenue, in Arapahoe County; then west along Quincy Avenue to its intersection with Havana Street, as extended; then north along Havana Street, as extended, to its intersection with 56th Avenue; then east along 56th Avenue to its intersection with Gun Club Road, as extended; and between said points on the one hand, and all points in the Counties of Adams, Arapahoe, Denver, and Jefferson, State of Colorado, on the other hand.

RESTRICTIONS: This application is restricted as follows:

- (1) To providing transportation service for:
 - (A) Developmental Pathways, Inc., 11111 E. Mississippi Avenue, Aurora, Colorado 80012; and
 - (B) Children's Haven of Hope Foster Care and Adoption Agency, P.O. Box 473541, Aurora, Colorado 80047;

- a. Against providing any transportation service that originates or terminates at Denver International Airport, Denver, Colorado; and
 - b. Against the transportation of Medicaid recipients and clients who have Medicaid benefits.
3. The authority granted in ordering paragraph no. 2 is conditioned on Applicant meeting the requirements contained in this Order and is not effective until these requirements have been met.
4. All operations shall be strictly contract operations, the Commission retaining jurisdiction to make such amendments to this permit as deemed advisable.
5. Applicant shall file the necessary tariffs, required insurance, and any other requirement of the Commission. Operations may not begin until these requirements have been met and the Applicant has been notified by the Commission that operations may begin. If Applicant does not comply with the requirements of this ordering paragraph within 60 days of the mailing date of this Order, then ordering paragraph no. 2 which grants authority to the Applicant will be void, and the authority granted will then be void. On good cause shown, the Commission may grant additional time for compliance provided the request is filed with the Commission within the 60-day period.
6. The right of Applicant to operate shall depend upon its compliance with all present and future laws and regulations of the Commission.
7. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.
8. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

a) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

b) If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

9. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)



ATTEST: A TRUE COPY

Bruce N. Smith
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

WILLIAM J. FRITZEL

Administrative Law Judge

