

Decision No. R03-0149

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 02A-639BP

IN THE MATTER OF THE APPLICATION OF BENJAMIN R. SAGENKAHN D/B/A PEAK
TRANSIT, P.O. BOX 4761, WOODLAND PARK, CO 80866, FOR AUTHORITY TO
OPERATE AS A CONTRACT CARRIER.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
KEN F. KIRKPATRICK
GRANTING CONTRACT CARRIER PERMIT**

Mailed Date: February 7, 2003

I. STATEMENT

1. This application was filed on December 4, 2002 by Applicant Benjamin R. Sagenkahn, doing business as Peak Transit. The Commission gave notice of the application on December 16, 2002. The application was noticed 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 a 50-mile radius of the intersection of U.S. Highway 24 and Colorado Highway 67, Woodland Park, Colorado, and between said points, on the one hand, and all points in the State of Colorado, on the other hand.

RESTRICTION:

This application is restricted to providing transportation service for Teller County, P.O. Box 959, Cripple Creek, Colorado 80813.

Timely interventions were filed by Greater Colorado Springs Transportation Company, doing business as Yellow Cab of Colorado Springs (YCCS) and Metro Taxi, Inc. (Metro Taxi), on December 31, 2002. On February 6, 2003, Metro Taxi, YCCS, and the Applicant filed their Stipulated Motion for Imposition of Restrictive Amendment and Conditional Withdrawal of

Interventions. By this motion the Applicant seeks to amend the application in a fashion which if accepted by the Commission, would cause the interventions of both Metro Taxi and YCCS to be withdrawn. The parties seek to amend the application to read 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 in Teller County, Colorado, and between said points, on the one hand, and all points in the State of Colorado, on the other hand. Restricted to providing transportation services for clients of the Teller County "Trip Buck Program" and administered through the Teller Senior Coalition, P.O. Box 6956, Woodland Park, Colorado 80866.

2. The proposed amendment is restrictive in nature, administratively enforceable, and it is accepted. The interventions of Metro Taxi and YCCS are dismissed.

3. The matter is now uncontested. A review of the file, including the application and the support letter, indicates that the service proposed is specialized and tailored to meet the customer's distinct needs. The applicant is fit, financially and otherwise, to perform the proposed service. The permit should be granted in its amended form.

4. In accordance with § 40-6-109, C.R.S., it is recommended that the Commission enter the following order.

II. ORDER**A. The Commission Orders That:**

1. Docket No. 02A-639BP, being an application of Benjamin R. Sagenkahn, doing business as Peak Transit, is granted in amended form. Applicant shall be granted a contract carrier permit as follows:

For the transportation of

passengers and their baggage,

between all points in Teller County, Colorado, and between all points in Teller County, Colorado, on the one hand, and all points in the State of Colorado, on the other hand.

RESTRICTION:

Restricted to providing transportation services for clients of the Teller County "Trip Buck Program" as administered through the Teller Senior Coalition, P.O. Box 6956, Woodland Park, Colorado 80866.

2. The hearing in this matter scheduled for February 20, 2003 is vacated.

3. Applicant shall cause to be filed with the Commission certificates of insurance as required by Commission rules. Applicant shall also file an appropriate tariff and pay the issuance fee and annual vehicle identification fee. Operations may not begin until these requirements have been met. If the Applicant does not comply with the requirements of this ordering paragraph within 60 days of the effective date of this Order, then the ordering paragraph granting authority to the Applicant shall be void. On good cause shown, the Commission may grant additional time for compliance.

4. 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.

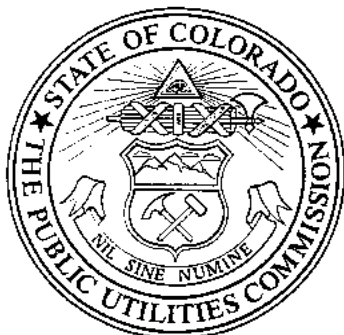
5. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

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.

6. 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

KEN F. KIRKPATRICK

Administrative Law Judge