

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03A-515BP-TA

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

**COMMISSION ORDER GRANTING
TEMPORARY AUTHORITY**

Mailed Date: January 6, 2004
Adopted Date: December 30, 2003

I. BY THE COMMISSION:

A. Statement

1. On December 5, 2003, Douglas Eby, doing business as High Country Transportation Services of Colorado (High Country Transportation), filed an application for 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 temporary application is restricted to providing transportation service for the Lodge and Spa at Cordillera, 2205 Cordillera Way, Edwards, Colorado 81632.

2. The Commission gave notice of the application on December 15, 2003.

3. Vail Valley Transportation, Inc., and Vail Valley Taxi, Inc., have filed interventions opposing the grant of this application.

4. 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."

5. High Country Transportation must meet a two-fold test: first, that there is an immediate and urgent need for the transportation services, and second, that there is no existing carrier capable of meeting the need. If High Country Transportation fails to meet either test, the application must be denied.

B. Findings of Fact

6. Vail Valley Transportation, Inc., under Certificate of Public Convenience and Necessity (CPCN) PUC No. 9745, may provide call-and-demand passenger service between points within a five-mile radius of the Eagle County Airport, on the one hand, and all points in the State of Colorado, on the other hand. Therefore, the geographic area named in CPCN PUC No. 9745 does not overlap the geographic authority named in this temporary authority application.

7. Vail Valley Transportation, Inc., was granted the approval to lease CPCN PUC No. 22485 to Denver Mountain Express, Inc. (Denver Mountain Express), doing business as Amerishuttle &/or Blue Sky Shuttle from September 25, 2001, until November 7, 2007, by Decision No. C01-0981, in Docket No. 01A-356CP. The only portions of CPCN PUC No. 22485 that overlap the geographic area requested in this application are Item (I)(b) and Item (III). Item (I)(b) allows Denver Mountain Express to provide "Transportation, in charter service, of passenger and their baggage between all points located within six miles of that portion of I-70 between the intersection of Colorado State Highway 131 and U. S. Highway 6 and the Summit of

Vail Pass located in Eagle County, and between said points, on the one hand, and all ski areas in the State of Colorado, on the other hand.” Item (III) allows Denver Mountain Express to provide “Transportation of passengers in sightseeing service between all points in Eagle County, State of Colorado, and between said points, on the one hand, and all points in the State of Colorado, on the other hand. Therefore, the geographic areas named in Item (I)(b) and Item (III) of CPCN PUC No. 22485 do overlap the geographic authority named in this temporary authority application.

8. Vail Valley Taxi, Inc., under CPCN PUC No. 40920, may provide taxi service from points in Eagle County to all points in the State of Colorado; and also from all points in Denver County to all points in Eagle County. However, the type of contract carrier service authority requested in this application appears to be a type of service not normally provided under a taxi certificate as issued by this Commission.

9. The support filed on behalf of this application consists of a letter from Paul Pastoor, the general manager of The Lodge & Spa at Cordillera. In his letter Mr. Pastoor states, “Transportation to the ski resorts is critical to our business, as we are not a ski-in/ski-out location. This service is guaranteed to all guests of the Lodge upon making reservations at The Lodge.” We have chosen to contract with High Country Transportation, which would provide transportation to and from The Lodge and Spa at Cordillera to Vail and Beaver Creek Resorts.” Mr. Pastoor also 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. All other companies need at least a 2 to 3 day notice for cancelation. (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 provides luxury suburbans to make the passengers feel more comfortable and well taken care of.”

10. The reasons named by Mr. Pastoor do provide significant support for the grant of the temporary authority requested in this application. The Commission is aware that the ski season has begun and normally continues only to March or April. Therefore, the grant of the temporary authority requested in this application will allow High Country Transportation to provide transportation service to the Lodge and Spa at Cordillera for the remainder of this ski season.

C. Conclusions

11. An immediate and urgent need for the requested transportation services has been shown to exist, and no other carrier has been shown to be capable of providing the service.

12. High Country Transportation has adequate equipment and financial resources to begin immediate service within the scope of the authority sought.

13. This application for temporary authority is in the public interest.

14. High Country Transportation is advised that the grant of a temporary authority creates no presumption that a permanent authority will be granted.

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

1. Douglas Eby, doing business as High Country Transportation Services of Colorado, is granted temporary authority to conduct operations as a contract carrier for a period of 180 days commencing from the Mailed Date of this Order, with authority as set forth in the Appendix.

2. High Country Transportation shall operate in accordance with all applicable Commission rules and regulations.

3. High Country Transportation shall not begin operations until it has filed certificates of insurance with the Commission as required by Commission rules. In addition, High Country Transportation shall file the proper tariff and pay the appropriate vehicle identification fee. High Country Transportation may not begin service until it has met these requirements and notice in writing has been received from the Commission stating that it is in compliance and may begin service.

4. If High Country Transportation does not comply with the requirements of this Order within 30 days of its effective date, then the temporary authority shall be void. For good cause shown, the Commission may grant additional time for compliance if the request for additional time is filed within the 30 days.

5. 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.

6. This Order is effective immediately on its Mailed Date.

**B. ADOPTED IN THE COMMISSIONERS' WEEKLY MEETING
December 30, 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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