

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

DOCKET NO. 04A-106CP-TRANSFER-ETA

---

THE APPLICATION OF DENVER MOUNTAIN EXPRESS, INC., DOING BUSINESS AS AMERISHUTTLE &/OR BLUE SKY SHUTTLE, FOR EMERGENCY TEMPORARY APPROVAL TO ALLOW BENJAMIN R. SAGENKAHN., DOING BUSINESS AS PEAK TRANSIT, TO ASSUME OPERATIONAL CONTROL OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY PUC NO. 55275.

---

**COMMISSION ORDER GRANTING  
EMERGENCY TEMPORARY APPROVAL**

---

---

Mailed Date: March 10, 2004

Adopted Date: March 10, 2004

**I. BY THE COMMISSION:**

**A. Statement, Findings and Conclusions**

1. On March 10, 2004, Denver Mountain Express, Inc., doing business as Amerishuttle &/or Blue Sky Shuttle, (Denver Mountain Express), filed an application for emergency temporary approval to allow Benjamin R. Sagenkahn, doing business as Peak Transit, (Peak Transit), to assume operational control of Certificate of Public Convenience and Necessity (CPCN) PUC No. 55275 pending Commission consideration of the related application to permanently transfer the certificate.

2. Pursuant to § 40-6-120(2), C.R.S., the Commission may grant temporary approval of a certificate transfer "if it appears that failure to grant such temporary approval may result in destruction of or injury to such carrier or carrier properties sought to be acquired, or to interfere substantially with their future usefulness in the performance of adequate and continuous service to the public." Section 40-6-120(4), C.R.S., further states: "If the Commission is of the opinion

that an emergency exists, it may issue temporary authority or approval at once by making specific reference in its order to the circumstances constituting the emergency, in which case no notice need be given, but any such emergency authority or approval shall expire no later than thirty days after it was issued."

3. Benjamin R. Sagenkahn, doing business as Peak Transit, was authorized to transfer a portion of CPCN PUC No. 55275 to Hotels of Denver Mountain Carrier, Inc., doing business as Denver Mountain Express, by Decision No. R03-0973 in Docket No. 03A-199CP on August 27, 2003. Hotels of Denver Mountain Carrier, Inc., doing business as Denver Mountain Express changed its name to Denver Mountain Express, Inc., doing business as Amerishuttle &/or Blue Sky Shuttle on September 17, 2003.

4. Mr. Sagenkahn, the former owner of CPCN PUC No. 55275, filed a letter in support of this transfer application. In his letter, Mr. Sagenkahn states that since the completion of the transfer of CPCN PUC No. 55275 "I have experienced problems with payment for the permit and the performance of Denver Mountain Express' daily operations." Mr. Sagenkahn claims that Denver Mountain Express has recently suspended daily operations under CPCN PUC No. 55275. Mr. Sagenkahn also states "Due to financial constraints I am not in a position to resume full operations under PUC No. 55275. However, I am working with a reputable buyer that would take over and enhance service under this permit. Restoration of this permit would allow me to initiate sale or lease of this permit within several days to resume operations again with minimal adverse effect on the public."

5. The Commission has been advised that Denver Mountain Express is currently undergoing financial difficulties that have severely limited its ability to provide the transportation service named in CPCN PUC No. 55275.

6. The Commission finds that a failure to grant emergency approval of an assumption of operational control could result in injury to CPCN PUC No. 55275 and ultimately affect service to the public.

7. This application for emergency temporary approval is in the public interest.

8. Denver Mountain Express and Peak Transit are advised that the grant of emergency temporary approval of an assumption of operational control creates no presumption that either temporary approval of an assumption of operational control or permanent approval of the transfer will be granted.

## **II. ORDER**

### **A. The Commission Orders That:**

1. The application filed by Denver Mountain Express is granted.
2. Peak Transit is granted emergency temporary approval to conduct operations under Certificate of Public Convenience and Necessity PUC No. 55275 for a period of 30 days commencing from the Mailed Date of this Order.
3. Peak Transit shall operate in accordance with all applicable Commission rules and regulations.
4. Peak Transit shall cause to be filed with the Commission certificates of insurance as required by Commission rules. Peak Transit shall also adopt the tariff of Denver Mountain

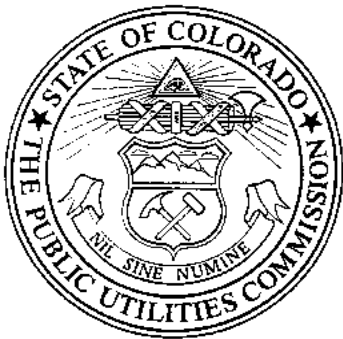
Express, which shall become that of Peak Transit until changed in accordance with the public utilities law. Peak Transit shall pay the appropriate vehicle identification fee. Peak Transit shall not assume operational control until it has met these requirements, and notice in writing has been received from the Commission stating that it is in compliance and may begin service.

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 on its Mailed Date.

**B. ADOPTED IN THE COMMISSIONERS' WEEKLY MEETING  
March 10, 2004.**

(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