

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

DOCKET NO. 04A-237CP-TA

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THE APPLICATION OF DENVER RAIL HERITAGE SOCIETY, INC. FOR TEMPORARY  
AUTHORITY TO CONDUCT OPERATIONS AS A COMMON CARRIER BY  
RAIL/TROLLEY CARS FOR HIRE.

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**COMMISSION ORDER GRANTING  
TEMPORARY AUTHORITY**

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Mailed Date: May 27, 2004  
Adopted Date: May 26, 2004

**I. BY THE COMMISSION:**

**A. Statement**

1. On May 5, 2004, Denver Rail Heritage Society, Inc. (Denver Rail), filed an application for temporary authority to conduct operations as a common carrier by motor vehicle for hire as follows: transportation of passengers by rail/trolley cars over (A) the West Side Line, beginning at 15th Street south to the connection point between the West Side Line and the Associated Line due south of old Colfax Avenue, Denver, Colorado; and (B) the Associated Line from its connection point with the West Side Line due south of Old Colfax Avenue west to Sheridan Boulevard, Denver, Colorado.

2. The Commission gave notice of the application on May 17, 2004.

3. There are no interventions opposing a grant of the 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. Denver Rail 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 Denver Rail fails to meet either test, the application must be denied.

**B. Findings of Fact**

6. Denver Rail was granted authority to operate as a transportation utility by rail/trolley cars by Decision No. R92-111 in Docket No. 90A-456RP on January 30, 1992. Denver Rail's operating authority was revoked for not filing the Commission required financial annual reports by Decision No. R03-0957 in Docket No. 03C-293R on August 21, 2003. Denver Rail states in this application that its operating authority was revoked "due to management error." Denver Rail filed the required financial annual reports on May 5, 2004. Denver Rail has stated it hopes to be able to start providing its trolley service by the upcoming Memorial Day weekend.

7. Robert Voltz, the General Manager of Recreational Equipment, Inc., 1416 Platte Street, Denver, Colorado, filed a letter in support of this application. Mr. Voltz states "I am writing to express my support of the trolley. Not only is the trolley of historic significance, it offers a very valuable service to its customers by providing transportation up and down the Platte River Valley. The trolley is a part of this neighborhood and we fully support its continued operations."

8. The information submitted with this application indicates that Denver Rail intends to provide an excursion type of passenger service over a limited length of railroad track in the downtown Denver area. The information submitted with this application also establishes that there currently is no existing comparable service.

**C. Conclusions**

9. The Commission finds that an immediate and urgent need for the requested transportation services exists, and there is no other carrier capable of providing the service.

10. Denver Rail has adequate equipment and financial resources to begin immediate service within the scope of the authority sought.

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

12. Denver Rail 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. Denver Rail is granted temporary authority to conduct operations as a common carrier by rail/trolley cars for hire for a period of 180 days commencing from the Mailed Date of this Order, with authority as set forth in the Appendix.

2. Denver Rail shall operate in accordance with all applicable Commission rules and regulations.

3. Denver Rail shall file the certificates of insurance required by Commission rules. Denver Rail shall also file the proper tariff and pay any fees required by Commission rules.

Denver Rail may not begin operations until it has met these requirements and it has received notice in writing from the Commission stating it is in compliance and may begin service.

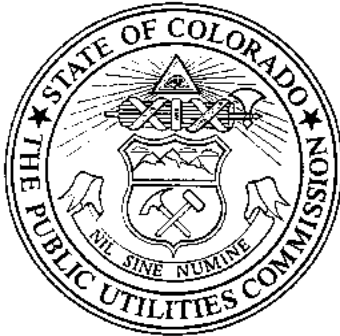
4. If Denver Rail does not comply with the requirements of this Order within 30 days of its effective date, then the temporary authority shall be void. For good cause shown, the Commission may grant additional time for compliance if the request for additional time is filed within the 30 days.

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 on its Mailed Date.

**B. ADOPTED IN THE COMMISSIONERS' WEEKLY MEETING  
May 26, 2004.**

(S E A L)



ATTEST: A TRUE COPY

*Bruce N. Smith*

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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Appendix  
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Decision No. C04-0529  
May 26, 2004

Transportation of passengers and their baggage by rail/trolley cars over (A) the West Side Line, beginning at 15th Street south to the connection point between the West Side Line and the Associated Line due south of old Colfax Avenue, Denver, Colorado; and (B) the Associated Line from its connection point with the West Side Line due south of Old Colfax Avenue west to Sheridan Boulevard, Denver, Colorado.