

Decision No. C04-1161

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04G-266CP

COLORADO PUBLIC UTILITIES COMMISSION v. TOWN AND COUNTRY
TRANSPORTATION SERVICES, INC.

COMMISSION ORDER ISSUING NEW DECISION

Mailed Date: October 6, 2004

Adopted Date: October 6, 2004

I. BY THE COMMISSION:

A. Background and Conclusions

1. This matter comes before the Commission for consideration of replacement of Commission Decision No. C04-1126 with a new decision granting Town and Country's exceptions. Section 40-6-112(1), C.R.S. provides:

“The commission, at any time upon notice to the public utility affected, and after opportunity to be heard as provided in the case of complaints, may rescind, alter, or amend any decision made by it. Any decision rescinding, altering, or amending a prior decision, when served upon the public utility affected, shall have the same effect as original decisions.”

2. In Decision No.C04-1126, we construed Town and Country's exceptions as an application for rehearing, reargument or reconsideration (RRR) because we believed that Town and Country had filed its exceptions beyond the twenty-day deadline allowed by § 40-6-109(2), C.R.S.

3. We did not know that the Administrative Law Judge had issued an Interim Order in Decision No. R04-875-I granting Town and Country an extension of time in which exceptions could be filed. We note that Commission Rule 4 Code of Colorado Regulations, 723-1-86(a)

provides that “a presiding officer may at any time before entering a decision or recommended decision, may issue an interim order.” Although the interim order was issued after the recommended decision, the parties acted on the belief that the extension of time provided in the order was valid. We will honor the extension of time by issuing a new decision granting Town and Country’s exceptions rather than construing Town and Country’s exceptions as an application for RRR.

4. The new decision is attached as Appendix A and replaces in its entirety Decision No. C04-1126.

II. ORDER

A. The Commission Orders That:

1. Decision No. C04-1126 is replaced in its entirety by the decision attached as Appendix A.

2. 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.

3. This Order is effective on its Mailed Date.

**B. ADOPTED IN THE COMMISSIONERS' WEEKLY MEETING
October 6, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners