

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

DOCKET NO. 03A-525CP

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IN THE MATTER OF THE APPLICATION OF SERGEJ PACHOMOW, DOING BUSINESS AS POWDERLINE SHUTTLE, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AS A COMMON CARRIER BY MOTOR VEHICLE FOR HIRE.

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**RECOMMENDED DECISION OF  
ADMINISTRATIVE LAW JUDGE  
MANA L. JENNINGS-FADER  
ACCEPTING STIPULATION;  
DISMISSING INTERVENTION;  
GRANTING APPLICATION, AS  
AMENDED, UNDER MODIFIED  
PROCEDURE; VACATING HEARING  
AND PROCEDURAL SCHEDULE;  
AND CLOSING DOCKET**

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Mailed Date: January 28, 2004

**I. STATEMENT**

1. By his Application for a Certificate of Public Convenience and Necessity to Operate as a Common Carrier by Motor Vehicle for Hire (Application), Sergej Pachomow, doing business as Powderline Shuttle (Applicant), seeks Commission authority to provide transportation service as more specifically described in the Notice of Application Filed (Notice). The Application, filed on December 10, 2003, commenced this docket.

2. On December 15, 2003, the Commission gave public notice of the Application. *See* Notice, dated December 15, 2003, at 2.

3. On December 19, 2003, Alpine Taxi/Limo, Inc. (Alpine Taxi or Intervenor), intervened of right. This is the only intervention in this proceeding.

4. On January 13, 2004, Applicant filed a statement that he was “eliminating Steamboat Springs” from the Application.

5. On January 26, 2004, the Commission issued an Order Setting Hearing and Notice of Hearing. The Order sets the hearing in this matter for February 19, 2004. On the same date, the Commission deemed the Application to be complete.

6. On January 26, 2004, Applicant and Intervenor (collectively, the Parties) filed a Stipulated Motion to Restrictively Amend Application, and for Conditional Withdrawal of Intervenor’s Intervention (Motion). In this filing Applicant amends the Application to remove Steamboat Springs, Colorado, from the geographic area sought to be served; Intervenor states that, if the Commission accepts the amendment, Intervenor will withdraw its intervention; and the Parties ask the Commission to accept the amendment.

7. The proposed amendment is restrictive in nature, is clear and understandable, and is administratively enforceable. The Motion states good grounds, and granting the Motion will not prejudice any party. The Motion will be granted. The amendment to the Application will be accepted.

8. Accepting the amendment has two impacts. First, the Application will be amended to conform with the restrictive amendment. Second, the intervention of Alpine Taxi will be deemed withdrawn.

9. In view of the absence of an intervention, the hearing in this docket scheduled for February 19, 2004, will be vacated.

10. In view of the absence of an intervention, the procedural schedule established for this docket in the Notice will be vacated.

11. The Application, as amended, is now uncontested. Pursuant to § 40-6-109(5), C.R.S., and Rule 4 *Code of Colorado Regulations* (CCR) 723-1-24, the Application will be decided without hearing under the Commission's modified procedure.

12. In accordance with § 40-6-109, C.R.S., the undersigned Administrative Law Judge (ALJ) now transmits to the Commission the record in this proceeding along with a written recommended decision.

## **II. FINDINGS AND CONCLUSIONS**

13. By the Application, as amended, Applicant seeks Commission approval of its request for a Certificate of Public Convenience and Necessity. Applicant seeks authority to provide:

Transportation of

passengers and their baggage in call-and-demand limousine service and in charter service

between all points within a five-mile radius of the intersection of Colorado Highway 9 and I-70, Frisco, Colorado, on the one hand, and (I) all points within a five-mile radius of the intersection of U. S. Highway 40 and Old Town Drive, Winter Park, Colorado; and (II) all points in Eagle County, State of Colorado, on the other hand.

14. The verified Application establishes that Applicant is familiar with the Rules, Regulations, and Civil Penalties Governing Common Carriers of Passengers by Motor Vehicle for Hire, 4 CCR 723-31, and agrees to be bound by, and to comply with, those Rules. The verified Application and its supporting documentation also establish that Applicant has sufficient equipment with which to render the proposed service and is financially fit to conduct operations

under the authority requested. Therefore, Applicant is fit, financially and otherwise, to provide the proposed service.

15. Review of the verified Application and its supporting documentation indicates a need for the proposed service.

16. In accordance with § 40-6-109, C.R.S., the ALJ recommends that the Commission enter the following order.

### **III. ORDER**

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

1. The Stipulated Motion to Restrictively Amend Application, and for Conditional Withdrawal of Intervenor's Intervention is granted.

2. The restrictive amendment to the Application for a Certificate of Public Convenience and Necessity to Operate as a Common Carrier by Motor Vehicle for Hire filed by Sergej Pachomow, doing business as Powderline Shuttle, is accepted.

3. The Application for a Certificate of Public Convenience and Necessity to Operate as a Common Carrier by Motor Vehicle for Hire filed by Sergej Pachomow, doing business as Powderline Shuttle, is amended.

4. The intervention filed by Alpine Taxi/Limo, Inc., is deemed withdrawn.

5. The Application for a Certificate of Public Convenience and Necessity to Operate as a Common Carrier by Motor Vehicle for Hire filed by Sergej Pachomow, doing business as Powderline Shuttle, as that Application has been amended, is granted.

6. Sergej Pachomow, doing business as Powderline Shuttle, is granted a Certificate of Public Convenience and Necessity to operate as a common carrier by motor vehicle for hire, to read as follows:

Transportation of

passengers and their baggage in call-and-demand limousine service and in charter service

between all points within a five-mile radius of the intersection of Colorado Highways 9 and I-70, Frisco, Colorado, on the one hand, and (I) all points within a five-mile radius of the intersection of U. S. Highway 40 and Old Town Drive, Winter Park, Colorado; and (II) all points in Eagle County, State of Colorado, on the other hand.

7. Sergej Pachomow, doing business as Powderline Shuttle, shall file an appropriate tariff with the Commission.

8. Sergej Pachomow, doing business as Powderline Shuttle, shall cause to be filed with the Commission certificates of insurance as required by Commission rules.

9. Sergej Pachomow, doing business as Powderline Shuttle, shall pay the issuance fee and annual vehicle identification fees.

10. Sergej Pachomow, doing business as Powderline Shuttle, may not begin operations under its extended authority until he has met the requirements set out in Ordering Paragraphs 7 through and including 9, above.

11. If Sergej Pachomow, doing business as Powderline Shuttle, does not comply with the requirements of Ordering Paragraphs 7 through and including 9, above, within 60 days of the effective date of this Order, then Ordering Paragraphs 5 and 6, above, shall be void. On good cause shown, the Commission may grant additional time for compliance.

12. The hearing scheduled for February 19, 2004, is vacated.
13. The procedural schedule established in the Notice is vacated.
14. Docket No. 03A-525CP is closed.
15. 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.
16. As provided by § 40-6-106, 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 recommended 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 a basic finding 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.
17. If exceptions to this Recommended Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

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Administrative Law Judge