

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03A-432CP

IN THE MATTER OF THE APPLICATION OF ROCKY MOUNTAIN POWDER, INC.,
4950 SOUTH YOSEMITE, F-2, #118, GREENWOOD VILLAGE, COLORADO 80111 FOR A
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AS A
COMMON CARRIER BY MOTOR VEHICLE FOR HIRE.

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
DALE E. ISLEY
GRANTING MOTION TO
VACATE HEARING**

Mailed Date: February 27, 2004

I. STATEMENT

1. The captioned application of Rocky Mountain Powder, Inc. (RMPI), was filed with the Colorado Public Utilities Commission on September 29, 2003, and is currently scheduled for hearing on March 4 and 5, 2004. *See*, Decision No. R04-0036-I.

2. There are two current intervenors in this proceeding; Denver Mountain Express, Inc. (DME), and David Carrel, doing business as Lift Ticket Limo (Lift Ticket).

3. On February 26, 2004, RMPI filed a Revised Motion to Vacate and Reschedule Hearing Pending Buyout Discussions and Settlement (Motion). The Motion requests that the March 4 and 5, 2004, hearings be continued to sometime in May 2004 in order to allow RMPI time to finalize a transaction to purchase authority currently held by Lift Ticket or to negotiate settlement agreements with opposing parties. RMPI indicates that the successful acquisition and transfer to it of Lift Ticket's authority would render this application moot. Pertinently, paragraph 5 of the Motion contains RMPI's waiver of the provisions of § 40-6-109.5(2), C.R.S.

4. In a prior pleading filed in this docket, DME expressed its desire that the hearing of this matter be continued to May of this year. Therefore, it is presumed that it has no objection to the relief requested by the Motion. Since Lift Ticket is apparently negotiating with RMPI for the purchase/sale of its Colorado authority, it is likewise assumed that it does not object to the requested continuance. Accordingly, response time to the Motion will be waived.

5. Since this proceeding may become moot if RMPI successfully acquires the Lift Ticket authority and since the Commission favors negotiated settlements of contested proceedings, good grounds exist for granting the Motion. Since RMPI has now waived the provisions of § 40-6-109.5(2), C.R.S., the hearing may be continued beyond the March 8, 2004, deadline previously established for hearing this matter. See, Decision Nos. R03-0003-I, R04-0036-I, and R04-0186-I. Accordingly, the March 4 and 5, 2004, hearing dates will be vacated.

6. The parties will advise the Commission, in writing, of their availability for a re-scheduled hearing in May of this year on or before March 8, 2004.¹

II. ORDER

A. It Is Ordered That:

1. The Revised Motion to Vacate and Reschedule Hearing Pending Buyout Discussions and Settlement filed in this matter by Rocky Mountain Powder, Inc., is granted.

2. The hearing of this matter, currently scheduled for March 4 and 5, 2004, is vacated.

¹ It will be presumed that any party filing to timely submit such an advisement will be available for hearing on any business day in May 2004.

3. All parties will advise the Commission, in writing, of their availability for a re-scheduled hearing in May of this year on or before March 8, 2004.

4. This Order shall be effective immediately.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge