

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-069CP

IN THE MATTER OF THE APPLICATION OF MARY L. NELSON, D/B/A
K & A TRANSPORTATION, P.O. BOX 803, LAFAYETTE,
COLORADO 80026, FOR A CERTIFICATE OF NECESSITY TO
OPERATE AS A COMMON CARRIER BY MOTOR VEHICLE FOR HIRE.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
WILLIAM J. FRITZEL
GRANTING APPLICATION**

Mailed Date: May 21, 2004

I. STATEMENT, FINDINGS, AND CONCLUSIONS

1. On February 17, 2004, Applicant Mary L. Nelson, doing business as K & A Transportation filed an application for a certificate of public convenience and necessity to operate as a common carrier by motor vehicle for hire.

2. On February 23, 2004, the Commission issued notice of the application as follows:

For a certificate of public convenience and necessity to operate as a common carrier by motor vehicle for hire for the transportation of passengers and their baggage, in call-and-demand limousine service,

between all points within the Counties of Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, and Jefferson, State of Colorado.

RESTRICTIONS: This application is restricted as follows:

- (I) Against any transportation service that originates or terminates at Denver International Airport;
- (II) Against providing any transportation service that originates or terminates at any hotel or motel; and

(III) To the use of vehicles with a seating capacity of eight or more passengers.

3. Notices of Intervention were filed by Golden West Commuter, LLC (Golden West); Metro Taxi, Inc. (Metro Taxi); Boulder Shuttle, LLC (Boulder Shuttle); Denver Taxi, LLC (Denver Taxi); and Boulder Taxi, LLC (Boulder Taxi).

4. A hearing of this application was scheduled for May 6, 2004.

5. On March 22, 2004, Applicant and Golden West filed a Stipulation. Under the terms of the Stipulation Applicant proposed to restrictively amend the application as follows:

- (I) This authority is restricted against service to Denver International Airport from points in Jefferson County and that portion of Denver County lying on and west of Sheridan Boulevard;
- (II) This authority is restricted against service from Denver International Airport to points in Jefferson County and that portion of Denver County lying on and west of Sheridan Boulevard; and
- (III) This authority is restricted against all service to, from, or between points in Jefferson County, Colorado.

Golden West stated in the Stipulation that if the Commission accepted the above restrictive amendment, it would withdraw its intervention.

6. By Decision No. R04-0353-I (April 6, 2004), the restrictive amendment was accepted.

7. On April 9, 2004, Applicant and Metro Taxi filed a Stipulated Motion for Imposition of Restrictive Amendment and Conditional Withdrawal of Intervention. By the

pleading, Applicant moved to restrictively amend the application so that the complete authority requested would read:

For a certificate of public convenience and necessity to operate as a common carrier by motor vehicle for hire for the transportation of passengers and their baggage in call-and-demand limousine service:

- (I) Between all points in the Counties of Boulder and Broomfield; and
- (II) Applicant shall also have authority to originate trips from all points in the Counties of Boulder and Broomfield destined only to non-emergency medical appointments at locations in the Counties of Adams, Denver, and Douglas with the right to provide return transportation of the individual or individuals at the conclusion of the non-emergency medical appointment to points in the Counties of Boulder and Broomfield so long as the return trip is part of a same-day, roundtrip service.

RESTRICTIONS: Parts (I) and (II) of this authority are restricted as follows:

- (1) Against any transportation service that originates or terminates at Denver International Airport;
- (2) Against any transportation service that originates or terminates at any hotel or motel; and
- (3) To the use of vehicles with a seating capacity of eight (8) or more passengers, excluding the driver.

8. By Decision No. R04-0403-I (April 16, 2004), the restrictive amendment was accepted.

9. The hearing was called as scheduled. Appearances were entered by Applicant, Mary L. Nelson and Richard L. Fanyo, Esq., for Boulder Shuttle, Denver Taxi, and Boulder Taxi. As a preliminary matter, the parties indicated that they reached a stipulated motion for restrictive amendment and withdrawal of intervention. After orally stating on the record the substance of the proposed restrictive amendment, it was ordered that the parties prepare a written motion including the proposed restrictive amendment. The hearing was recessed.

10. On May 17, 2004, Applicant and Boulder Shuttle, Denver Taxi, and Boulder Taxi filed a written Stipulated Motion for Restrictive Amendment and Withdrawal of Intervention. Applicant states in the Stipulation that it moves to amend the application as restricted by two previous restrictive amendments contained in Decision Nos. R04-0353-I and R04-0403-I to include additional restrictions as follows:

- (1) Parts (I) and (II) of the authority are restricted to operation of no more than five vehicles; and
- (2) Parts (I) and (II) of the authority are restricted to transportation of passengers who are less than 18 years old, and their parents, guardians, or other supervising adults.

Boulder Shuttle, Denver Taxi, and Boulder Taxi stated in the Stipulation that if the Commission accepts the restrictive amendment, they would withdraw their interventions.

11. It is found that the proposed restrictive amendments contained in the May 17, 2004 Stipulated Motion are acceptable.

12. Since this application is now noncontested, the applicant can be handled pursuant to the Commission's modified procedure under the provisions of § 40-6-109(5), C.R.S., and 4 *Code of Colorado Regulations* 723-1-24(a), without a formal oral hearing.

13. It is found that Applicant is financially and otherwise fit to provide the proposed transportation. It is also found that there is a public need for the proposed transportation. These findings are based upon the application, and attachments including the financial statement and letters of support from the public.

14. Pursuant to § 40-6-109, C.R.S., it is recommended that the Commission enter the following order.

II. ORDER**A. The Commission Orders That:**

1. Mary L. Nelson, doing business as K & A Transportation is granted a certificate of public convenience and necessity to operate as a common carrier by motor vehicle for hire for the transportation of:

Passengers and their baggage in call-and-demand limousine service:

- (I) Between all points in the Counties of Boulder and Broomfield;
- (II) Applicant shall also have authority to originate trips from all points in the Counties of Boulder and Broomfield destined only to non-emergency medical appointments at locations in the Counties of Adams, Denver, and Douglas with the right to provide return transportation of the individual or individuals at the conclusion of the non-emergency medical appointment to points in the Counties of Boulder and Broomfield so long as the return trip is part of the same-day, roundtrip service.

RESTRICTIONS: Parts (I) and (II) of this certificate are restricted as follows:

- (1) Against any transportation service that originates or terminates at Denver International Airport;
- (2) Against any transportation service that originates or terminates at any hotel or motel;
- (3) To the use of vehicles with a seating capacity of eight (8) or more passengers excluding the driver;
- (4) To operation of no more than five vehicles; and
- (5) To the transportation of passengers who are less than 18 years old, and their parents, guardians, or other supervising adults.

2. The authority granted in the above paragraph is conditioned upon Applicant meeting the requirements contained in this Order and is not effective until these requirements have been met.

3. Applicant shall file certificates of insurance, tariffs, rates, rules, and regulations as required by the rules and regulations of the Commission, and shall pay the issuance fee, annual identification fee, and comply with any other requirements of the Commission. Operations may

not begin until these requirements have met and Applicant has been notified by the Commission that operations may begin. If Applicant does not comply with the requirements of this ordering paragraph within 60 days of the effective date of this Order, then ordering paragraph no. 1 which grants authority to Applicant shall be void and the authority granted shall then be void. On good cause shown, the Commission may grant additional time for compliance provided that the request is filed with the Commission within the 60-day time period. The right of Applicant to operate shall depend upon Applicant's compliance with all present and future laws and regulations of the Commission.

4. 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.

5. As provided by § 40-6-109, 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 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 basic findings 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.

6. If exceptions to this 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

Administrative Law Judge