

Decision No. R04-0617-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04F-219CP

RDSM TRANSPORTATION. LTD., D/B/A YELLOW CAB COMPANY OF COLORADO
SPRINGS,

COMPLAINANT,

V.

SAMJA'S ENTERPRISES, INC., D/B/A EXPRESS AIRPORT TAXI/EXPRESS TAXI,

RESPONDENT.

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
DALE E. ISLEY
DENYING REQUEST FOR
ISSUANCE OF SUBPOENAS DUCES TECUM**

Mailed Date: June 9, 2004

I. STATEMENT

1. On June 7, 2004, Complainant, RDSM Transportation, Ltd., doing business as Yellow Cab Company (RDSM), filed a pleading entitled "Complainant's Attorney Affidavit for Issuance of Subpoena Duces Tecums" (Affidavit) in the captioned matter.

2. The Affidavit requests that the Colorado Public Utilities Commission (Commission) issue Subpoenas Duces Tecum (Subpoenas) to one party representative and three non-party representatives requiring the production of documentary evidence at depositions to be scheduled and conducted in this matter by RDSM. Copies of the Subpoenas are attached to the Affidavit. Three of the Subpoenas specify a location for the subject depositions but do not specify the date the depositions are to be conducted. One of the Subpoenas does not specify

either the date or the location of the deposition. The Affidavit states that this information has not been provided since “Counsel for Complainant and Respondent have not yet been able to agree upon these essential elements for the taking of these depositions....”

3. Requests for issuance of subpoenas duces tecum in Commission proceedings are governed by Rule 85 of the Commission’s Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1-85. Rule 85 incorporates the provisions of Rule 45 of the Colorado Rules of Civil Procedure (CRCP). CRCP 45(a) provides that “[E]very subpoena shall state the name of the court, and the title of the action, and shall command each person to whom it is directed to attend and give testimony **at a time and place specified therein.**” (Emphasis added). Subsection (b) of CRCP 45 establishes deadlines for quashing/modifying subpoenas or conditioning the production of documents sought by subpoenas on the advancement of costs that are tied to “the time specified in the subpoena for compliance therewith.”

4. Since the Subpoenas fail to contain the above-described information they do not comply with the requirements of CRCP 45 and cannot be issued in their present form. Therefore, RDSM’s request for issuance of the Subpoenas must be denied at this time.¹

II. ORDER

A. **It Is Ordered That:**

1. The request for issuance of subpoenas duces tecum set forth in Complainant’s Attorney Affidavit for Issuance of Subpoena Duces Tecums filed by RDSM Transportation, Ltd., doing business as Yellow Cab Company, is denied.

2. This Order shall be effective immediately.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge

¹ RDSM may wish to resubmit its request (along with revised Subpoenas) once the time of and place for the subject depositions have been established.