

Decision No. R04-0735-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 MOTION FOR
PROTECTIVE ORDER, IN PART,
AND IMPOSING CONDITIONS ON DISCOVERY**

Mailed Date: July 2, 2004

I. STATEMENT

1. The captioned proceeding was initiated on April 30, 2004, when the Complainant, RDSM Transportation, Ltd., doing business as Yellow Cab Company (RDSM), filed a Formal Complaint (Complaint) with the Colorado Public Utilities Commission (Commission) against Respondent, Samja's Enterprises, Inc., doing business as Express Airport Taxi/Express Taxi (Express Taxi).

2. The Complaint alleges, in part, that Express Taxi has violated § 40-10-110, C.R.S., by failing to maintain the required liability insurance for all vehicles in its fleet. *See also, 4 Code of Colorado Regulations (CCR) 723-31-12.*

3. On June 28, 2004, Express Taxi filed a Motion for Protective Order (Motion) in connection with Supplemental Requests for Production of Documents (Discovery) served on it by RDSM on June 25, 2004.

4. The Discovery, a copy of which is attached to the Motion, requests that Express Taxi produce copies of all its driver trip sheets and dispatch records during the period of October 1, 2003 through March 31, 2004. The Motion contends that the Discovery is burdensome and oppressive, requests production of proprietary or confidential information, and is largely irrelevant to the issues raised in the Complaint. Express Taxi requests that it not be required to produce the requested documents.

5. On June 29, 2004, RDSM filed its Response to the Motion. The Response contends that the Discovery is in compliance with the Commission's discovery rules and that it seeks relevant, non-privileged information.

6. The Commission's discovery rules incorporate the discovery procedures set forth in Rules 26 through 37 of the Colorado Rules of Civil Procedure (CRCP). *See*, 4 CCR 723-1-77(b)(1). CRCP 26 authorizes the issuance of protective orders to protect a party from whom discovery is sought from annoyance, embarrassment, oppression, or undue burden or expense by, among other means, ordering that discovery be had only under specified terms and conditions and/or by ordering that confidential information not be revealed.

7. The Discovery is relevant to the claims raised in the Complaint or, at the least, is designed to lead to the discovery of admissible evidence. Therefore, Express Taxi will be required to produce the requested documents and, to that extent, the Motion will be denied.

8. However, the information contained in the Discovery is proprietary in nature. Therefore, the Discovery will be deemed to be confidential information as defined by the Commission's Confidentiality Rules, 4 CCR 723-16-3.1. Only RDSM's counsel and one designated RDSM representative may have access to the Discovery. The requirement that Express Taxi produce the same will be conditioned on the execution and filing of a Nondisclosure Agreement, in the form attached hereto as Appendix I, by RDSM's counsel and the designated RDSM representative.

9. Production of the Discovery may occur in one of two ways. Express Taxi may either make legible copies of the requested documents itself and supply them to RDSM's counsel, or it may make such documents available for inspection and copying by RDSM's counsel or RDSM's designated representative at its premises during normal business hours. In either event, production will be conditioned on Express Taxi being reimbursed by RDSM for any copying costs incurred at the rate of \$.20 per page. In either event, the Discovery will be produced no later than ten days after RDSM's counsel and its designated representative file executed Disclosure Agreements with the Commission.

II. ORDER

A. It Is Ordered That:

1. The Motion for Protective Order filed by Samja's Enterprises, Inc., doing business as Express Airport Taxi/Express Taxi, is denied, in part, consistent with the provisions of this Order.

2. This Order shall be effective immediately.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge