

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-237CP

THE APPLICATION OF DENVER RAIL HERITAGE SOCIETY, INC. FOR PERMANENT
AUTHORITY TO CONDUCT OPERATIONS AS A COMMON CARRIER BY
RAIL/TROLLEY CARS FOR HIRE.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
KEN F. KIRKPATRICK
GRANTING PERMANENT AUTHORITY**

Mailed Date: July 23, 2004

I. STATEMENT

1. On May 5, 2004, Denver Rail Heritage Society, Inc. (Denver Rail), filed an application for permanent authority to conduct operations as a common carrier for hire as follows: transportation of passengers by rail/trolley cars over (A) the West Side Line, beginning at 15th Street south to the connection point between the West Side Line and the Associated Line due south of old Colfax Avenue, Denver, Colorado; and (B) the Associated Line from its connection point with the West Side Line due south of Old Colfax Avenue west to Sheridan Boulevard, Denver, Colorado.

2. The Commission gave notice of the application on May 17, 2004.

3. There are no interventions opposing a grant of the application.

II. FINDINGS OF FACT

4. Denver Rail was granted authority to operate as a transportation utility by rail/trolley cars by Decision No. R92-111 in Docket No. 90A-456RP on January 30, 1992.

Denver Rail's operating authority was revoked for not filing the Commission required financial annual reports by Decision No. R03-0957 in Docket No. 03C-293R on August 21, 2003. Denver Rail states in this application that its operating authority was revoked "due to management error." Denver Rail filed the required financial annual reports on May 5, 2004. Denver Rail has stated it hopes to be able to start providing its trolley service by the upcoming Memorial Day weekend.

5. Robert Voltz, the General Manager of Recreational Equipment, Inc., 1416 Platte Street, Denver, Colorado, filed a letter in support of this application. Mr. Voltz states "I am writing to express my support of the trolley. Not only is the trolley of historic significance, it offers a very valuable service to its customers by providing transportation up and down the Platte River Valley. The trolley is a part of this neighborhood and we fully support its continued operations."

6. The information submitted with this application indicates that Denver Rail intends to provide an excursion type of passenger service over a limited length of railroad track in the downtown Denver area. The information submitted with this application also establishes that there currently is no existing comparable service.

III. CONCLUSIONS

7. The Administrative Law Judge finds that there is a public need for the requested transportation services, and there is no other carrier capable of providing the service.

8. Denver Rail has adequate equipment and financial resources to begin immediate service within the scope of the authority sought.

9. This application for permanent authority is in the public interest.

IV. ORDER

A. The Commission Orders That:

1. Denver Rail is granted permanent authority to conduct operations as a common carrier by rail/trolley cars for hire with authority as set forth in the Appendix.

2. Denver Rail shall operate in accordance with all applicable Commission rules and regulations.

3. Denver Rail shall file the certificates of insurance required by Commission rules. Denver Rail shall also file the proper tariff and pay any fees required by Commission rules. Denver Rail may not begin operations until it has met these requirements and it has received notice in writing from the Commission stating it is in compliance and may begin service.

4. If Denver Rail does not comply with the requirements of this Order within 30 days of its effective date, then ordering paragraph no. 1 above shall be void. For good cause shown, the Commission may grant additional time for compliance if the request for additional time is filed within the 30 days.

5. 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.

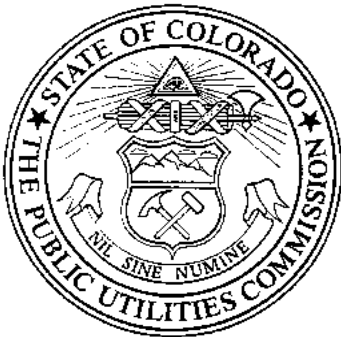
6. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

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.

7. 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.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

KEN F. KIRKPATRICK

Administrative Law Judge

ATTEST: A TRUE COPY

Bruce N. Smith
Director