

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-447CP-SUSPENSION

IN THE MATTER OF THE APPLICATION OF SAMJA'S ENTERPRISES, INC., DOING BUSINESS AS EXPRESS AIRPORT TAXI/EXPRESS TAXI, FOR AN ORDER OF THE COMMISSION AUTHORIZING A SUSPENSION OF OPERATIONS UNDER CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY PUC NO. 55670.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
DALE E. ISLEY
DISMISSING APPLICATION**

Mailed Date: November 12, 2004

Appearances:

Duane H. Kamins, Esq., Houston, Texas, for Intervenor,
RDSM Transportation, Ltd., doing business as Yellow Cab
Company of Colorado Springs

I. STATEMENT, FINDINGS AND CONCLUSIONS

1. The captioned application of Samja's Enterprises, doing business as Express Airport Taxi/Express Taxi (Express Taxi), was filed with the Colorado Public Utilities Commission (Commission) on September 1, 2004, and was published in the Commission's "Notice of Applications Filed" on September 7, 2004.

2. The application seeks an order of the Commission authorizing a suspension of operations under Certificate of Public Convenience and Necessity (CPCN) PUC No. 55670 from August 26, 2004 to January 5, 2005.

3. A timely intervention was filed in this matter by RDSM Transportation, Ltd., doing business as Yellow Cab Company of Colorado Springs (RDSM).

4. On October 12, 2004, the Commission issued its Order Setting Hearing and Notice of Hearing (Hearing Notice) setting this matter for hearing on November 10, 2004, at the Commission's offices in Denver, Colorado. The Certificate of Service accompanying the Hearing Notice indicates that a copy of the same was mailed to Express Taxi at the address set forth in its application; namely, 1812 East St. Vrain, Colorado Springs, Colorado.

5. On October 26, 2004, RDSM filed a pleading entitled "Intervenor's Motion for Sanctions" (Motion for Sanctions). The Motion for Sanctions requests that sanctions be imposed against Express Taxi as a result of its alleged failure to respond to discovery propounded to it by RDSM.

6. The matter was called for hearing by the undersigned administrative law judge (ALJ) at the assigned time and place.¹ An appearance was entered on behalf of RDSM by its legal counsel. Express Taxi did not appear.² During the course of the hearing Exhibit 1 was identified, offered, and admitted into evidence.³

7. As a result of Express Taxi's failure to appear, RDSM moved to dismiss the application on the ground that Express Taxi had failed to prosecute the same. The ALJ granted the motion to dismiss. Granting the motion to dismiss rendered the Motion for Sanctions moot.

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

¹ The hearing commenced at approximately 10:10 a.m. instead of 9:00 a.m. as set forth in the Hearing Notice as a result of a delay incurred in securing a court reporter.

² The ALJ monitored the hearing room and reviewed the Commission's sign-in sheet to confirm that no Express Taxi representative appeared for the hearing between the time it was scheduled to commence and the time it actually commenced.

³ Exhibit 1 consists of a record obtained by RDSM from the Colorado Secretary of State's office on September 24, 2004, indicating that, as of that date, Express Taxi, a Colorado corporation, had been administratively dissolved.

II. ORDER

A. The Commission Orders That:

1. The application of Samja's Enterprises, doing business as Express Airport Taxi/Express Taxi, is dismissed, and Docket No. 04A-447CP-Suspension is closed.

2. The Motion for Sanctions filed by RDSM Transportation, Ltd., doing business as Yellow Cab Company of Colorado Springs, is denied as moot.

3. 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.

4. 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.

5. 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

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