

Decision No. R04-1352

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04C-452CP

RE: MOTOR VEHICLE OPERATIONS OF VAIL SUMMIT RESORTS, INC., DOING
BUSINESS AS KEYSTONE RESORTS, INC., UNDER CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY PUC NO. 20195.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
DALE E. ISLEY
DISMISSING SHOW CAUSE PROCEEDING**

Mailed Date: November 15, 2004

I. STATEMENT, FINDINGS AND CONCLUSIONS

1. The captioned proceeding was initiated on September 8, 2004, when the Colorado Public Utilities Commission (Commission) issued an Order to Show Cause and Notice of Hearing (Show Cause Order) directing Vail Summit Resorts, Inc., doing business as Keystone Resort, Inc. (Vail Summit), to show cause why the Commission should not take certain actions in connection with Vail Summit Tariff No. 4 (Tariff No. 4).¹ *See*, Decision No. C04-1066. The Show Cause Order set this matter for hearing on November 16, 2004, and established a procedural schedule for filing witness lists and exhibits.

2. The requests of Craig S Suwinski (Suwinski) and Molly A. Tourtelot (Tourtelot) to intervene in this matter were granted on October 1 and 27, 2004. *See*, Decision Nos. R04-1149-I and R04-1252-I.

¹ Tariff No. 4 was filed with the Commission on August 13, 2004, and became effective the next day. It was filed for the purpose of implementing rates and charges for transportation service authorized by Decision Nos. R04-0490 and C04-0722.

3. On November 12, 2004, the Staff of the Commission (Staff) filed a Motion to Dismiss Show Cause, to Vacate Hearing and Close Docket and for Waiver of Response Time (Motion). In support of the Motion, Staff states that Vail Summit filed a new tariff (Tariff No. 5) canceling Tariff No. 4 on November 12, 2004, pursuant to and in accordance with Decision No. C04-1299. Tariff No. 5, effective November 13, 2004, implements a free scheduled shuttle service between points within a three-mile radius of the intersection of U.S. Highway 6 and West Keystone Road in Summit County, Colorado, as opposed to the fee-based system implemented for this service by Tariff No. 4. The Motion indicates that this change, coupled with Vail Summit's representation that it will make whole any customers who may have been charged under Tariff No. 4, renders the issues involved in this proceeding moot.

4. The Motion also indicates that Vail Summit and Suwinski support granting the relief requested therein. Tourtelot's counsel has advised the administrative law judge that she also supports the Motion. Therefore, the Motion is unopposed.

5. Good grounds having been shown, the Motion will be granted.

6. 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. The Motion to Dismiss Show Cause, to Vacate Hearing and Close Docket and for Waiver of Response Time filed by the Staff of the Commission is granted.

2. The captioned proceeding is dismissed, and Docket No. 04C-452CP is closed.

3. The hearing of this matter, currently scheduled for November 16, 2004, is vacated.

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

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