

Decision No. R04-1497-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-501CP-EXTENSION

IN THE MATTER OF THE APPLICATION OF VAGABOND ENTERPRISES, INC., DOING BUSINESS AS SAFE+WAY MEDICAL TRANSPORTATION, INC., FOR AN ORDER OF THE COMMISSION AUTHORIZING AN EXTENSION OF OPERATIONS UNDER CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY PUC NO. 55696.

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
ANTHONY M. MARQUEZ
REQUIRING INFORMATION
REGARDING REPRESENTATION**

Mailed Date: December 15, 2004

I. STATEMENT

1. This docket concerns the Application for an extension of a certificate of public convenience and necessity by Applicant Vagabond Enterprises, Inc. (Vagabond). Vagabond filed this Application on September 29, 2004. After notice of the Application, RDSM Transportation, LTD, doing business as Yellow Cab Company of Colorado Springs, and Shamrock Taxi of Fort Collins, Inc., doing business as Shamrock Shuttle, Inc. intervened in this matter. Hearing is now set in this case for December 22, 2004 (9:00 a.m.).

2. The Application indicates that Vagabond is a corporation, and is being represented in this proceeding by Gregory Van Dell, apparently a non-attorney. According to the Application, Mr. Van Dell appears to be the President and sole director of Vagabond.

3. Rule 21(a), Commission Rules of Practice and Procedure,¹ provides that, except for those circumstances listed in Rule 21(b), a party to a Commission proceeding may be represented only by an attorney at law currently in good standing before the Supreme Court of Colorado (or, with Commission permission, before the highest tribunal of another state). Rule 21(b) lists those circumstances in which a non-attorney may represent the interests of another party before the Commission. Since the present docket concerns a contested Application for common carrier authority, the only apparent circumstance that might permit Mr. Van Dell to represent Vagabond in this proceeding is that specified in Rule 21(b)(2).

4. Rule 21(b)(2) permits a non-attorney to appear on behalf of a closely held corporation, but only as provided in § 13-1-127, C.R.S. Section 13-1-127(a), C.R.S., defines “closely held entity”—this includes a closely held corporation—as an entity with no more than three owners. And according to § 13-1-127(2), C.R.S., a closely held entity may be represented by an “officer” of such entity (even if that officer is not an attorney) if: (a) the amount in controversy in the case does not exceed \$10,000; and (b) the officer provides the agency (*i.e.*, the Commission) with satisfactory evidence of the officer’s authority to appear on behalf of the closely held entity. Under § 13-1-127(2.3), C.R.S., it is presumed that an officer of a corporation has authority to appear on behalf of a closely held corporation upon providing evidence of the person’s holding of that status.

5. At the December 22, 2004 hearing, the Administrative Law Judge will consider Mr. Van Dell’s authority to represent Vagabond in this proceeding as a preliminary matter. From the Application, it appears that Vagabond is a closely held corporation and that Mr. Van Dell is an officer of Vagabond who is entitled to appear on its behalf in legal proceedings (assuming other

¹ 4 *Code of Colorado Regulations* 723-1.

requirements of § 13-1-127, C.R.S., are met). Mr. Van Dell shall be prepared to confirm or deny these assumptions.

6. In addition, Mr. Van Dell shall be prepared to address at the hearing the question of whether the amount in controversy in this case is less than \$10,000. Mr. Van Dell shall be prepared to give a detailed explanation for his conclusion.²

II. ORDER

A. It Is Ordered That:

1. At the hearing now scheduled in this case, the Applicant Vagabond Enterprises, Inc., through Mr. Van Dell, shall be prepared to address those matters discussed above.

2. This Order is effective immediately.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge

² Of course, Vagabond has the option of appearing at the hearing with an attorney. This would render moot the question whether Mr. Van Dell is authorized to represent Vagabond.