

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04C-428CP

IN THE MATTER OF MOTOR VEHICLE COMMON AND CONTRACT CARRIERS
LISTED IN APPENDIX A TO THIS DECISION, RESPONDENTS.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
ANTHONY M. MARQUEZ
DISMISSING SOME RESPONDENTS
WITH PREJUDICE AND REVOKING
AUTHORITIES OF REMAINING RESPONDENTS**

Mailed Date: December 29, 2004

I. STATEMENT

1. The Commission commenced this proceeding by issuing its Order to Show Cause and Notice of Hearing for Transportation Utilities. *See* Decision No. C04-0969 (Mailed Date of August 19, 2004).

2. The Respondents to which Decision No. C04-0969 was directed are transportation carriers with contract or common carrier authority from the Commission and include: Abba's Limo Service, LLC; Airport Boulevard Co. &/or ABC Shuttle; American Spirit Shuttle; American Transit Express; Colorado Transportation; Corporate Transportation, Inc.; Cowen Enterprises; Dashabout Shuttle Co. &/or Roadrunner Express; Express Taxi/Express Airport Taxi; Mountain Goat Tours, Inc.; Out 'N' About, Inc.; Safe Ride Services, Inc.; and Stanley Brothers Taxi Company. *See* Attachment to Decision No. C04-0969.

3. Pursuant to the Notice of Hearing and Decision No. R04-1324-I (interim order of Administrative Law Judge (ALJ) Jennings-Fader establishing new hearing date), the undersigned

ALJ convened the hearing in this matter on December 15, 2004. Commission Staff (Staff), through its attorney, appeared and offered the testimony of Mr. Gary Gramlick. Staff also offered six exhibits into evidence and those exhibits were admitted into the record. No Respondent appeared at the hearing.

4. In his testimony, Mr. Gramlick recommended that the carriers listed on Exhibit 4 be dismissed from this proceeding, because those carriers had filed their Annual Reports for 2003 after the Commission issued the Notice of Hearing in this case. Those carriers include: American Spirit Shuttle; American Transit Express; Colorado Transportation; Dashabout Shuttle Co. &/or Roadrunner Express; Mountain Goat Tours, Inc.; and Stanley Brothers Taxi. In addition, Mr. Gramlick recommends that the two carriers listed on Exhibit 5 (Abba's Limo Services, LLC and Out 'N' About, Inc.) be dismissed because their authorities had been cancelled or revoked in other proceedings. The ALJ agrees with Staff's recommendations and the Respondents listed on Exhibits 4 and 5 will be dismissed from this case.

5. Staff recommends that only those carriers listed on Exhibit 6 remain as Respondents in this proceeding and that their authorities be revoked. Those carriers include: Airport Boulevard Co. &/or ABC Shuttle; Corporate Transportation, Inc.; Cowen Enterprises; Express Taxi/Express Airport Taxi; and Safe Ride Services, Inc.

6. The ALJ finds that each Respondent received notice of the hearing. Staff was the only party to appear and present evidence at the hearing, and this case will be decided based upon that evidence. Pursuant to Rule 80(c), Commission Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1, a case may be heard in a party's absence if, after notice, the party or its counsel fails to appear at the hearing.

7. Pursuant to § 40-6-109, C.R.S., the ALJ transmits to the Commission the record of this proceeding, this recommended decision containing findings of fact and conclusions thereon, and a recommended order.

II. FINDINGS AND CONCLUSIONS

8. Each Respondent holds authority from the Commission to operate as a common or contract carrier by motor vehicle. *See* Attachment to this Decision.

9. Each Respondent is required to file an annual report for the preceding calendar year on or before April 30 of each year. *See* Rule 25, Commission Rules of Practice and Procedure. The filing date for the Annual Report for Calendar Year 2003 was April 30, 2004.

10. Each Respondent received notice of this proceeding. *See* Decision No. C04-0969.

11. As of the date of the hearing, the Commission's records reflect that the Respondents remaining in this case had not filed an Annual Report for Calendar Year 2003. As noted above, the filing date for this report was April 30, 2004.

12. The responsibility for filing an annual report is on the holder of Commission authority. Nonetheless, Respondents received written notifications from Staff of their obligation to file the Annual Report for Calendar year 2003. On February 26, 2004, Staff sent a letter to all common and contract carriers by motor vehicle reminding them of their obligation to file the Annual Report for Calendar year 2003 on or before April 30, 2004. On July 20, 2004, Staff sent a second letter to each Respondent reminding it of its obligation to file the annual report and informing it that a show cause proceeding would be commenced against it if it failed to file as required. *See* Exhibits 1 and 2. Included with the July 20, 2004 letter as an enclosure was a copy of a draft order to show cause. *See* Exhibit 2. Through those notifications, each

Respondent had knowledge that, although required to do so, it had not filed its Annual Report for Calendar Year 2003.

13. In addition, each Respondent had actual knowledge that its Commission-issued authority could be revoked in the event an Annual Report for Calendar Year 2003 was not filed as required. *See* Exhibit 2, at ¶ 3 and Ordering Paragraph 1 of attachment.

14. Respondents failed to appear for the hearing as ordered by the Commission and have not shown good cause for that failure or their failure to file the required annual report.

15. Sections 40-10-112 and 40-11-110, C.R.S., provide that an authority issued by the Commission may be suspended, revoked, altered, or amended if it is established to the satisfaction of the Commission that the holder of that authority has violated any rule, regulation, or order of the Commission.

16. Because Respondent Airport Boulevard Co. &/or ABC Shuttle, despite its actual knowledge of the obligation to file, has failed to file an Annual Report for Calendar Year 2003, the authority of Respondent Airport Boulevard Co. &/or ABC Shuttle should be revoked.

17. Because Respondent Corporate Transportation, Inc., despite its actual knowledge of the obligation to file, has failed to file an Annual Report for Calendar Year 2003, the authority of Respondent Corporate Transportation, Inc., should be revoked.

18. Because Respondent Cowen Enterprises, despite its actual knowledge of the obligation to file, has failed to file an Annual Report for Calendar Year 2003, the authority of Respondent Cowen Enterprises should be revoked.

19. Because Respondent Express Taxi/Express Airport Taxi, despite its actual knowledge of the obligation to file, has failed to file an Annual Report for Calendar Year 2003, the authority of Respondent Express Taxi/Express Airport Taxi should be revoked.

20. Because Respondent Safe Ride Services, Inc., despite its actual knowledge of the obligation to file, has failed to file an Annual Report for Calendar Year 2003, the authority of Respondent Safe Ride Services, Inc., should be revoked.

III. ORDER

A. The Commission Orders That:

1. Respondent American Spirit Shuttle is dismissed with prejudice from this docket.
2. Respondent American Transit Express is dismissed with prejudice from this docket.
3. Respondent Colorado Transportation is dismissed with prejudice from this docket.
4. Respondent Dashabout Shuttle Co. &/or Roadrunner Express is dismissed with prejudice from this docket.
5. Respondent Mountain Goat Tours, Inc., is dismissed with prejudice from this docket.
6. Respondent Stanley Brothers Taxi is dismissed with prejudice from this docket.
7. Respondent Abba's Limo Service, LLC is dismissed with prejudice from this docket.
8. Respondent Out 'N' About, Inc., is dismissed with prejudice from this docket.
9. The operating authority of Respondent Airport Boulevard Co. &/or ABC Shuttle is revoked as of the effective date of this Order.
10. The operating authority of Respondent Corporate Transportation, Inc., is revoked as of the effective date of this Order.

11. The operating authority of Respondent Cowen Enterprises is revoked as of the effective date of this Order.

12. The operating authority of Respondent Express Taxi/Express Airport Taxi is revoked as of the effective date of this Order.

13. The operating authority of Respondent Safe Ride Services, Inc., is revoked as of the effective date of this Order.

14. 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.

15. 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.

16. 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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