

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 06A-664CP-EXTENSION-ETA

THE APPLICATION OF LEVTZOW, LLC, DOING BUSINESS AS MOUNTAIN LIMO FOR EMERGENCY TEMPORARY AUTHORITY TO EXTEND OPERATIONS UNDER CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY PUC NO. 47426.

**COMMISSION ORDER DENYING
EMERGENCY TEMPORARY AUTHORITY**

Mailed Date: January 5, 2007
Adopted Date: December 28, 2006

I. BY THE COMMISSION:

A. Statement, Findings and Conclusions

1. On December 20, 2006 Levitzow, LLC doing business as Mountain Limo (Mountain Limo), filed an application for emergency temporary authority to extend operations under Certificate of Public Convenience and Necessity PUC No. 47426 to include the transportation of passengers and their baggage, in call-and-demand limousine service, between all points within a ten-mile radius of the San Miguel County Courthouse in Telluride, Colorado, on the one hand, and all points within a ten mile radius of the Montrose Regional Airport, 2100 Airport Road, Montrose, Colorado on the other hand.

2. San Miguel Mountain Ventures, LLC doing business as Telluride Express (Telluride Express) filed an intervention on December 22, 2006 opposing a grant of this application.

3. Telluride Express may, under Item (II)(A) of CPCN PUC No. 1648, provide call-and-demand limousine service between all points within a 100-mile radius of the United States Post

Office of Telluride, Colorado. Therefore, this portion of CPCN PUC No. 1648 allows Telluride Express to provide call-and-demand limousine service between points in Telluride, on the one hand, and the Montrose County Airport, on the other hand.

4. Pursuant to § 40-6-120(1), C.R.S., the Commission is authorized to grant temporary authority when "there appears to be an immediate and urgent need to any point or within a territory having no carrier service capable of meeting such need." Section 40-6-120(4), C.R.S., further states: "If the Commission is of the opinion that an emergency exists, it may issue temporary authority or approval at once by making specific reference in its order to the circumstances constituting the emergency, in which case no notice need be given, but any such emergency authority or approval shall expire no later than thirty days after it was issued."

5. Mountain Limo must meet a two-fold test: first, that there is an emergency need for the transportation services, and second, that there is no existing carrier capable of meeting the need. If Mountain Limo fails to meet either test, the application must be denied.

6. In support of this application, Darcy Levtzow, the manager of Mountain Limo, states: "Last week Sid Brotman, the 74 year old principal owner and day-to-day manager of Telluride Express died unexpectedly of a coronary failure. He was the only person in his company with any overall managerial experience during ski season and the only person with experience over Christmas/New Year holidays. Mountain Limo has a great concern, based on its own company estimates of traffic and on projections from its hotel and lodging clientele that without granting Mountain Limo emergency authority and extended authority through this ski season to incorporate call and demand limousine service, the Telluride-Montrose market will suffer from severe shortages of ground transport capacity at peak periods. A major snowstorm in either the December 22-25 or December 29-January 2 date could turn the possibility of crisis into

near certainty, with resultant severe economic damage to the entire Telluride-Montrose visitor industry and the thousands of Coloradoans whose source of support is that industry.”

7. Seven letters were also filed in support of this application. The author of each letter is identified as a resident of the Telluride, Colorado area. Five of the letters are identical in that they each contain the same statements. Each of these five letters includes the following statement: “The recent death of Sid Brotman, a principal owner and the chief operating officer of Telluride Express, one of the two major companies which provide ground transportation in our market, is a source of concern to me and to others in our business and visitor community. With Mr. Brotman’s passing and with the resultant lack of experienced management at his company, there is a real question whether or not we can get through the crises which the upcoming Christmas-New Year holiday is certain to bring.”

8. In its intervention, Telluride Express states that “it has invested substantial sums of money in facilities, equipment, and personnel necessary to serve the public under its operating rights. Intervenor is experienced in the transportation of passengers and their baggage, and upon information and belief, Telluride Express advises the PUC that it adequately and satisfactorily services passengers being transported between Telluride, CO, and Montrose, CO. Telluride Express’ experienced staff of 38 drivers, plus management, office, and reservationists, is capable of continuing Telluride Express’ superior service to the public.”

9. Ms. Sue Rovito, the general manager of Telluride Express submitted an Affidavit with Telluride Express’ intervention. In this Affidavit, Ms. Rovito states: “I have been with Telluride Express since October 2002. My duties include, but are not limited to, managing all of the Telluride Express personnel, scheduling for the busiest days (such as holidays), overseeing scheduling for the remaining days, overseeing Telluride Express financial obligations and

overseeing the bookkeeping for the company. I served as General Manager while Sid Brotman was alive, and am continuing to do so now. I am working with the owners of the company to ensure that Telluride Express continues to meet all of its service obligations under its PUC authority.”

10. Mountain Limo bases the emergency need for the extension of its certificate on the inability of Telluride Express to continue to provide adequate transportation services to the public traveling between Telluride and Montrose, Colorado. Mountain Limo is of the opinion that the death of Mr. Brotman will result in such a loss of managerial experience that Telluride Express will not be able to meet the challenges faced by a transportation carrier operating in the Telluride and Montrose area.

11. Ms. Letzvow and the individuals who submitted letters with this application believe the loss of Mr. Brotman will seriously lessen Telluride Express’ ability to continue to provide the transportation services required by the public traveling between Montrose and Telluride. Ms. Rovito states that Telluride Express has the managerial experience and the necessary vehicles and staff to more than adequately meet the needs of the traveling public.

12. While the loss of Mr. Brotman may have a possible detrimental effect on the operations of Telluride Express, Mountain Limo’s view of the seriousness of this effect is based on speculation not fact.

13. Therefore, the Commission finds that an emergency need for the transportation services requested in this application has not been shown to exist, and it has not been shown that no other carrier is capable of providing the service.

14. This application for emergency temporary authority is not in the public interest.

15. The denial of this application creates no presumption about the final disposition of the permanent authority application. The permanent authority application will be determined on the evidence presented using the statutory criteria.

II. ORDER

A. The Commission Orders That:

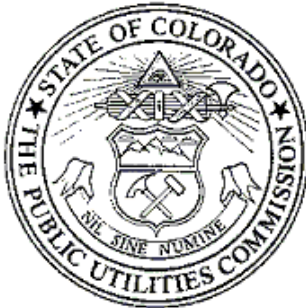
1. The application for emergency temporary authority filed by Levtzow, LLC, doing business as Mountain Limo is denied.

2. The 20-day time period provided by § 40-6-114(1), C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the Commission mails this Order.

3. This Order is effective on its Mailed Date.

B. **ADOPTED IN THE COMMISSIONERS' WEEKLY MEETING December 28, 2006.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

CARL MILLER

Commissioners