

(Decision No. R87-1577-I)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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| IN THE MATTER OF THE APPLICATION |) | |
| OF GREELEY COMMUTER SYSTEM, LTD. |) | |
| 609 8TH AVENUE, GREELEY, COLORADO |) | APPLICATION NO. 38586-Ext. |
| 80631, FOR AUTHORITY TO EXTEND |) | |
| OPERATIONS UNDER PUC CERTIFICATE |) | INTERIM ORDER OF |
| NO. 13309 AS A COMMON CARRIER BY |) | EXAMINER THOMAS F. DIXON |
| MOTOR VEHICLE FOR HIRE. |) | |

November 23, 1987

STATEMENT

This application was filed by Greeley Commuter System, Ltd., (Greeley Commuter) on September 2, 1987. Subsequent to notice issued by the Commission on September 8, 1987, petitions to intervene were by Trans-Western Express, Ltd., John R. Vaught d/b/a Longmont Taxi (Longmont Taxi), Betty J. Wittow, personal representative of the estate of Ruben L. Benson (Wittow), John Ellis, Jr., d/b/a Yellow Cab of Fort Collins (Yellow Cab), and Valera Lea Holtorf d/b/a Dashabout Shuttle Company and/or Roadrunner Express (Dashabout).

On October 16, 1987, Greeley Commuter filed a Motion to Strike Protest of John R. Vaught d/b/a Longmont Taxi on the basis a protest no longer confers party status on a carrier seeking to oppose an application. On October 30, 1987, Longmont Taxi filed a Response to Motion to Strike and Entry of Appearance and Notice of Intervention. In the response, the attorney representing Longmont Taxi stated that it was his error in filing a protest instead of a notice of intervention and requested the Commission accept the late-filed notice of intervention. The Motion to Strike Protest filed by Greeley Commuter should be denied on the basis that Greeley Commuter was placed on notice of Longmont Taxi's interest and any error caused by Longmont Taxi in filing a protest instead of notice of intervention is harmless at this stage of this proceeding. This motion argues form over substance. The Notice of Intervention filed by Longmont Taxi on October 30, 1987, should be accepted.

On October 16, 1987, Greeley Commuter filed a Reply in Opposition to Petition for Leave to Intervene sought by Wittow. Greeley Commuter argues that Wittow only holds a security interest in Certificate of Public Convenience PUC No. 545 & I (CPCN 545 & I) and does not have an interest worthy of protection by this Commission. A Rebuttal to Reply in Opposition to Petition for Leave to Intervene was untimely filed by Wittow on November 2, 1987. Although untimely filed, the rebuttal to

reply should be considered and states that J. C. Dale, the operator of Yellow Cab and Delivery Service authorized to perform services under CPCN 545 & I is in default upon its payments to Wittow and that Wittow is contemplating foreclosing on its security interest. Based upon the statements contained in these pleadings, Wittow has an interest worthy of protection by the Commission and should be granted intervention status in this application.

On October 27, 1987, Greeley Commuter filed a Motion to Strike Intervention of Valera Lea Holtorf d/b/a Dashabout Shuttle Company asserting that Dashabout had failed to timely file its intervention and had failed to serve a copy of its intervention upon applicant or its attorney. Commission records reflect that Dashabout failed to timely file its intervention. However, its intervention contains a certificate of mailing which reflects that a copy of the intervention was mailed to Greeley Commuter and its attorney on October 8, 1987. No response has been filed to the motion to strike the intervention. The notice that was issued by the Commission on September 8, 1987, states that petitions to intervene must be filed within 30 days from the date of the notice. The notice also provides that any person which desires to be a party to a proceeding may file a late written petition to intervene which must state substantial reasons and good cause for the late filing. Dashabout has failed to state substantial reasons and/or good cause for filing its petition to intervene late. Therefore, the motion to strike Dashabout's petition to intervene should be granted on the basis it was not timely filed.

On November 6, 1987, Greeley Commuter filed a Motion for an Extension of Time in which to Commence Discovery. Greeley Commuter asserts that it did not wish to initiate discovery until the actual number of parties in this application is finally determined and requests the time for initiating discovery be extended through December 11, 1987. This request should be granted.

Finally, this matter has not been set for hearing. Parties have submitted notices concerning hearing dates under Rule 71(B) of the Commission's Rules of Practice and Procedure.

O R D E R

THE EXAMINER ORDERS THAT:

1. The Motion to Strike Protest of John R. Vaught d/b/a Longmont Taxi is denied.
2. The Notice of Intervention filed by John R. Vaught d/b/a Longmont Taxi is accepted.
3. The Petition for Leave to Intervene filed on behalf of Betty J. Wittow, Personal Representative of the Estate of Ruben L. Benson, is granted.

4. The Motion to Strike Intervention of Valera Lea Holtorf d/b/a Dashabout Shuttle Company is granted.

5. The Motion for an Extension of Time in which to Commence discovery is granted.

6. This matter is set for hearing as follows:

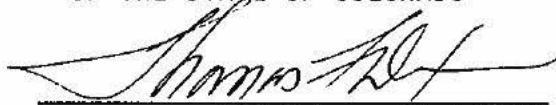
DATE: February 4 & 5, 1988

TIME: 9:00 a.m.

PLACE: Weld County Centennial Annex
915 - 10th Street, Room 339
Greeley, Colorado

7. This Order shall be effective immediately.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Examiner