

(Decision No. 78719)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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IN THE MATTER OF THE APPLICATION OF)	APPLICATION NO. 25089
ROCKY MOUNTAIN WHITE WATER EXPEDITIONS;)	
INC., P.O. BOX 339, NEDERLAND, COLORADO,)	
FOR A CERTIFICATE OF PUBLIC CONVENIENCE)	RECOMMENDED DECISION OF
AND NECESSITY TO OPERATE AS A COMMON)	ROBERT L. PYLE, EXAMINER
CARRIER BY MOTOR VEHICLE AND RIVER BOAT)	
FOR HIRE.)	DISMISSING APPLICATION

September 23, 1971

Appearances: Nolan V. Frederick, Boulder,
Colorado, President, and
Robert George, Nederland,
Colorado, Agent and
Accountant of Applicant
corporation, pro se.
Robert G. Frederickson,
Esq., Canon City,
Colorado, for Paul O.
Clifton and Dorothy G.
Clifton, doing business
as "Skyline Taxi Service,"
Protestants.

PROCEDURE AND RECORD

Under date of June 28, 1971, Rocky Mountain White Water Expeditions, Inc., hereinafter referred to by full corporate name or as Applicant, filed the above-entitled application with this Commission requesting the issuance of a certificate of public convenience and necessity to conduct operations as a common carrier by motor vehicle and river boat for hire for the transportation service as specifically set forth in said application.

The Commission assigned Docket No. 25089 to the application and gave due notice in accordance with the provisions of 115-6-8 (2), CRS 1963, as amended.

On July 30, 1971, Paul O. Clifton and Dorothy G. Clifton, doing business as "Skyline Taxi Service," filed a protest to the granting of the herein application.

Pursuant to law, the Commission assigned the application to Robert L. Pyle, Examiner, for the purpose of conducting a hearing and, after due and proper notice to all interested persons, firms, or corporations, set the herein matter for a hearing to be held in the Hearing Room of the Commission, Columbine Building, 1845 Sherman Street, Denver, Colorado, on Friday, September 17, 1971, at 10 a.m. The hearing was held at the said time and place.

Upon Applicant's assertions that it would not render a for-hire motor carrier service of any kind nor even a courtesy motor carrier service to anyone other than its boat-concession customers, Protestants withdrew from the proceedings.

Exhibits A, B, C, and D were tendered and admitted into evidence.

At the conclusion of the hearing, the subject matter was taken under advisement.

Pursuant to the provisions of Chapter 115, Article 6, Colorado Revised Statutes (1963), as amended, Examiner Robert L. Pyle now transmits herewith to the Commission the record and exhibits of this proceeding together with a written recommended decision which contains his findings of fact and conclusions thereon, together with the recommended order or requirement.

FINDINGS OF FACT

Based upon all the evidence of record, the following is found as fact that:

1. Applicant is a Colorado corporation who, by this application, seeks a certificate of public convenience and necessity authorizing operation as a common carrier by motor vehicle and river boat, for hire, for the transportation of passengers to and from that portion of the Arkansas River situated between the City of Salida to Canon City, State of Colorado.

2. The application was not protested.

3. Applicant seeks common carrier authority for the transportation of passengers by river boat in the operation of a river floating concession

on the Arkansas River from Salida to Canon City. It would then propose to furnish automobile transportation from a passenger's river boat destination to his point of embarkation along U.S. Highway No. 50. Applicant would charge a certain fare for the entire package, including at least one meal and would make no specific charge or allocation of a charge for the motor vehicle land surface transportation back to the point of embarkation. Further, Applicant would not furnish land surface transportation to anyone who did not hold a ticket for the river boat trip.

4. The land surface transportation is incidental to the river boat transportation; it is not "for-hire carriage," and no authority or certificate would be required.

5. As to the river boat operation, it is admittedly a pleasure or entertainment ride; and although it goes from one point to another, the passenger, in practically all instances, is returned to the very point of embarkation. Fares would range from \$15 for the short 2-hour trip to \$35 for the longer trips and the trip through the Royal Gorge.

6. In view of the above and foregoing findings of fact and under the definitions given in 115-1-2 (5) and 115-1-3, CRS 1963, as amended, Applicant's proposed operation is not a common carrier transportation service and is not a public utility under the jurisdiction of this Commission.

CONCLUSIONS ON FINDINGS OF FACT

Based on the aforesaid findings of fact, it is concluded that:

1. The Commission has no jurisdiction over the Applicant or the subject matter of this proceeding.
2. Application No. 25089 should be dismissed.
3. Pursuant to 115-6-9 (2), CRS 1963, as amended, it is recommended by the Examiner that the Commission enter the following Order.

O R D E R

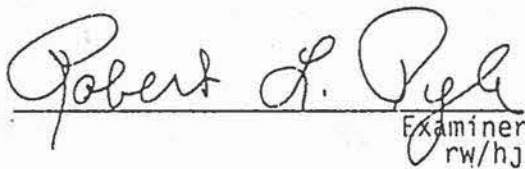
THE COMMISSION ORDERS THAT:

1. Application No. 25089, being an application of Rocky Mountain White Water Expeditions, Inc., P.O. Box 339, Nederland, Colorado, for a certificate of public convenience and necessity to operate as a common carrier by motor vehicle and river boat for hire, be, and hereby is, dismissed for lack of jurisdiction by this Commission.

2. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if such be the case, and is entered as of the date hereinabove set out.

3. As provided by 115-6-9 (2), CRS 1963, as amended, copies of this Recommended Decision shall be served upon the parties, who may file exceptions thereto; but if no exceptions are filed within twenty (20) days after service upon the parties or within such extended period of time as the Commission may authorize in writing (copies of any such extension to be served upon the parties), or unless such Decision is stayed within such time by the Commission upon its own motion, such Recommended Decision shall become the Decision of the Commission and subject to the provisions of 115-6-14, CRS 1963, as amended.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Examiner
rw/hj