

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF HENDERSON HEAVY HAUL TRUCKING,)
INC. FOR TEMPORARY AUTHORITY TO) DOCKET NO. 92A-064CY-TA
CONDUCT OPERATIONS AS A COMMON)
CARRIER BY MOTOR VEHICLE FOR HIRE.)
- - - - -)

**COMMISSION ORDER GRANTING
TEMPORARY AUTHORITY**

Mailed date: March 17, 1992
Adopted date: March 11, 1992

STATEMENT, FINDINGS AND CONCLUSIONS

BY THE COMMISSION:

1. On February 11, 1992, Henderson Heavy Haul Trucking, Inc., filed Docket No. 92A-064CY-TA for temporary authority to operate as a common carrier by motor vehicle for hire for the transportation of construction machinery and equipment, road construction machinery and equipment and mining machinery and equipment between points in the County of Mesa, State of Colorado, and between said points, on the one hand, and points in Colorado located in and west of the Counties of Jackson, Grand, Summit, Lake, Chaffee, Saguache, Mineral and Archuleta, State of Colorado, on the other hand. This application is restricted as follows: (a) against the transportation of machinery, equipment, materials, and supplies used in or in connection with the discovery, development, production, refining, manufacturing, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and machinery, materials, equipment, and supplies used in or in connection with the construction, operation, repair, servicing, and dismantling of pipelines, including the stringing or picking up thereof; (b) to the use of low-boy and step-deck trailers with a rated load capacity of 80,000 pounds or more; (c) against the transportation of building materials and pipe; and (d) against service to or from points in Routt

or Moffat Counties, State of Colorado.

2. The Commission gave notice of the application on February 18, 1992. Interventions opposing the application were filed by Milt Hawks & Son, Inc. (Hawks), and J.C. Trucking, Inc. (J.C.), on a timely basis. An intervention was also received by fax on February 24, 1992, on behalf of Reams Construction Co. (Reams). The "hard" copy of that intervention was not filed within the time period provided for pursuant to Rule 7(a) of the Commission's Rules of Practice and Procedure. A motion to strike and request to shorten or waive response period directed to the intervention of Reams was filed by the Applicant. Stipulations restrictively amending the application and for withdrawal of interventions were filed between the Applicant and J.C. and the Applicant and Hawks.

3. By § 40-6-120, C.R.S., the application for temporary authority is under consideration for a Commission order. Section 40-6-120(1), C.R.S., authorizes the Commission 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."

4. The support filed on behalf of this application establishes an immediate and urgent need for the service proposed by the Applicant.

5. With respect to Reams' intervention, the Commission will deny the Applicant's motion to strike. However, the Commission finds, upon review of the intervention of Reams, that Reams presently has not shown it has a certificate enabling it to provide all the service requested by the Applicant. Reams' authority within Mesa County is extremely fragmented. It does not appear that Reams can meet the immediate and urgent needs of the witnesses supporting this application. Further, as amended, many parts of the application are uncontested. Reams did not address any of the transportation needs of any of the supporting witnesses nor did it show the amount and quantity of equipment available to it to transport any traffic.

6. The Commission finds that due to the above facts and others in the application, an immediate and urgent need exists for the services of Applicant and the Commission will grant the application as amended.

7. The Applicant has adequate equipment and financial resources to begin immediate service within the scope of authority sought and is willing, ready and able to operate under all Commission rules and regulations governing carriers by motor vehicle.

- 2 -

8. This application for temporary authority, as amended, is in the public interest and should be granted.

9. Applicant is advised that the granting of temporary authority creates no presumption that the corresponding application

for permanent authority will be granted.

THEREFORE THE COMMISSION ORDERS THAT:

1. Henderson Heavy Haul Trucking, Inc., is granted temporary authority for a period of 180 days commencing on the mailed date of this Order, with authority as set forth in the attached appendix.

2. Henderson Heavy Haul Trucking, Inc., shall not commence operations until all requirements have been met and notice, in writing, has been received from the Commission that the Applicant is in compliance and may begin service.

3. 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 or serves this decision.

4. This decision is effective on its date of mailing.

ADOPTED IN OPEN MEETING on March 11, 1992.

THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO

Commissioners

COMMISSIONER CHRISTINE E. M.
ALVAREZ ABSENT.

ORDER-DI

March 11, 1992

For the transportation of

I. construction machinery and equipment, road construction machinery and equipment and mining machinery and equipment between points in Mesa County, Colorado.

II. Construction machinery and equipment, road construction machinery and equipment, and mining machinery and equipment between points in Mesa County, Colorado, on the one hand, and, on the other, points in Colorado located in and west of the Counties of Jackson, Grand, Summit, Lake, Chaffee, Saguache, Mineral, and Archuleta, State of Colorado, on the other hand.

Items I and II are restricted as follows:

- (a) Restricted against the transportation of machinery, equipment, materials, and supplies used in or in connection with the discovery, development, production, refining, manufacturing, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and machinery, materials, equipment and supplies used in or in connection with the construction, operation, repair, servicing, and dismantling of pipelines, including the stringing or picking up thereof;
- (b) restricted to the use of low-boy and step-deck trailers with a rated load capacity of eighty thousand (80,000) pounds or more; and
- (c) restricted against the transportation of building materials and pipe.

Item II is restricted as follows:

- (a) Restricted against service to or from points in Routt and Moffat Counties, State of Colorado;
- (b) restricted against service to or from points within a radius of twenty miles of Salida, Colorado; and

(c) shipments to or from points within a 50-mile radius of Norwood and a 50-mile radius of Crawford, Colorado are limited to the transportation of shipments of self-propelled construction machinery and equipment, self-propelled road construction machinery and equipment, and self-propelled mining machinery and equipment of 15,000 pounds or greater or the transportation of shipments of non self-propelled items weighing 45,000 pounds or more.

ORDER-DI

APPLICANT:

Henderson Heavy Haul Trucking, Inc.
P. O. Box 40046
Grand Junction, CO 81504

APPLICANT'S ATTORNEY:

Charles M. Williams, Esq.
Dale E. Isley, Esq.
WILLIAMS & ISLEY, P.C.
1225 Mellon Financial Center
1775 Sherman Street
Denver, CO 80203

INTERVENOR:

Milt Hawks & Son, Inc.
P. O. Box 325
Montrose, CO 80142

INTERVENOR'S ATTORNEY:

Charles J. Kimball, Esq.
KIMBALL & NESPOR, P.C.
1775 Sherman Street
Suite No. 1500
Denver, CO 80203

INTERVENOR:

J.C. Trucking, Inc.
5085 Harlan Street
Denver, CO 80212

INTERVENOR'S ATTORNEY:

John J. Conway, Esq.
4704 Harlan Street, No. 300
Denver, CO 80212

INTERVENOR:

Reams Construction Co.
28490 Highway 141
Naturita, CO 81422

INTERVENOR'S ATTORNEY:

Stephen M. Mathis, Esq.
MATHIS & MASTERS, P.C.
121 North Park Avenue
P. O. Box 1487
Montrose, CO 81402

MISCELLANEOUS:

Brad Mallon, Director
Office of Policy & Research
Dept. of Regulatory Agencies
1560 Broadway, Suite No. 1550
Denver, CO 80202

ROUTE:

1 Bulletin Board
2 Text Management
3 Operating Rights
4 DMS (plus
6-Docketing certificate)
9
10 ORDER-DI
15
20
30
31 (5 copies)
40 (7 copies)
50