

{PRIVATE }

(Decision No. C93-1381)

BEFORE THE PUBLIC UTILITIES COMMISSION{PRIVATE }
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION TO)
TRANSFER CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY PUC)
NO. 48716 FROM MOUNTAIN DELIVERY)
SHUTTLE SERVICE, INC., 1761 WEST 82ND)
PLACE, DENVER, COLORADO 80002, TO)
FOUR WINDS, INC., D/B/A PEOPLE'S CHOICE)
TRANSPORTATION, INC., 5455 EAST 52ND)
AVENUE, COMMERCE CITY, COLORADO)
80022)
)

DOCKET NO.
93A-388CP-TRANSFER-TA

**COMMISSION DECISION DENYING APPLICATION FOR
REARGUMENT AND RECONSIDERATION**

Mailing Date: November 5, 1993
Adopted Date: November 3, 1993

BY THE COMMISSION

This matter comes before the Colorado Public Utilities Commission ("Commission") on the Application for Reargument and Reconsideration ("Application") filed by Gambler's Express, Inc. ("Gambler's") to Decision No. C93-1224. The Application will be denied.

DISCUSSION

Gambler's requests that the Commission reconsider and reverse its Decision No. C93-1224 ("Decision") granting applicant temporary authority to assume operational control of Certificate of Public Convenience and Necessity PUC No. 48716. Gambler's offers three arguments in its Application, all of which have been considered and rejected by this Commission in reaching its Decision.

Gambler's first argues that denial of the authority would not destroy the subject authority. It does not offer any rationale or facts to support this conclusory contention. Having failed to support its claim, the Commission will reject it.

Next, Gambler's argues that it is ready and willing to operate the authority, but that the bankruptcy trustee would not allow it to execute a contract to operate the authority. The Commission staff advises that the trustee's action is apparently based on Gambler's failure to submit a bid for the authority in the bankruptcy proceeding. Gambler's offers no argument or citation of authority which indicates that this Commission has the authority in this proceeding to issue an order overturning the trustee's decision. Therefore, the Commission will reject this contention.

Moreover, the argument that Gambler's, not applicant, is willing to operate this authority is not persuasive. Gambler's does not have before this Commission an application for temporary authority to operate under PUC No. 48716. The only application before the Commission to operate this authority is that of the applicant which was approved by Decision No. C93-1224. Therefore, the Commission is not in a position to deny the application of applicant and to grant the authority to Gambler's. The Commission further finds that it is not in the public interest to deny this application based on the prospect that Gambler's will file an application at a later date. This might risk the possibility that the certificate will be injured or destroyed due to a lapse in operations.

The third and final argument of Gambler's is that applicant is not fit to operate the authority "as shown at the hearing in Docket No. 93A-175BP-TA on September 20, 1993." Gambler's did not provide the Commission with the transcripts of the September 20, 1993 hearing. Moreover, Gambler's offers no explanation of its position other than an allegation in its Application. The Commission concludes that Gambler's contention is unsupported and should be denied.

THEREFORE THE COMMISSION ORDERS THAT:

1. Gambler's Express, Inc.'s Application for Reargument and Reconsideration is denied.
2. This order is effective upon its Mailed Date.

ADOPTED IN SPECIAL OPEN MEETING November 3, 1993.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

CHAIRMAN ROBERT E. TEMMER ABSENT