

(Decision No. C95-491)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF ASPEN/SNOWMASS EXPRESS,)
INCORPORATED FOR TEMPORARY)
AUTHORITY TO CONDUCT OPERATIONS AS) DOCKET NO. 95A-179CP-TA
A COMMON CARRIER BY MOTOR VEHICLE)
FOR HIRE.)

**COMMISSION ORDER DENYING
TEMPORARY AUTHORITY**

Mailed date: May 24, 1995
Adopted date: May 17, 1995

I. BY THE COMMISSION:

Statement, Findings, and Conclusion

1. On April 18, 1995, Aspen/Snowmass Express, Incorporated filed an application (Docket No. 95A-179CP-TA) for temporary authority to conduct operations as a common carrier by motor vehicle for hire for the transportation of passengers and their baggage, in charter, sightseeing, and call-and-demand limousine service, between all points within the County of Pitkin, State of Colorado.

2. The Commission gave notice of the application on May 1, 1995. Interventions opposing a grant of the application were filed by Aspen Limousine Service, Inc., doing business

as Vans to Vail, Inc. ("ALS"); Snowmass Jeep Tours, Inc., doing business as Blazing Trails Jeep Tours, Inc. ("Blazing Trails"); and Hy-Mountain Transportation, Inc. ("Hy-Mountain"). Also, petitions for leave to intervene were filed by Jerald M. Barnett and Pitkin County Bank and Trust Company.

3. By § 40-6-120, C.R.S., the application for temporary authority is under consideration for a Commission order.

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."

5. The burden of proof created by this statute is indeed heavy. The Applicant must meet a two-fold test in order to satisfy the criteria demanded by the law. First, that there is an immediate and urgent need for the transportation services, and second, that there is no existing carrier capable of meeting the need. If the Applicant fails to meet either test, the application cannot be granted.

6. Although the Commission is sympathetic with the request of the Applicant and the members of the public supporting this application, the application does not meet the criteria outlined in paragraph 5 above. Many of the

support letters, upon which the Applicant relies to show an immediate and urgent need, are nearly a year old. Of the more recent letters of support, there are two letters which do cite examples of inadequate service to the public; however, both letters indicate a need for service to points not encompassed by the application. We cannot find that there is an immediate and urgent need for the proposed service.

Further, in light of the interventions of ALS, Blazing Trails, and Hy-Mountain we cannot find that there is no other carrier service available.

7. This application for temporary authority is not in the public interest and should be denied.

II. ORDER:

A. THE COMMISSION ORDERS THAT:

1. This application is denied.
2. The petitions for leave to intervene filed by Jerald M. Barnett and Pitkin County Bank and Trust Company are granted.

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.

B. This Order is effective on its Mailed Date.

ADOPTED IN OPEN MEETING May 17, 1995.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

COMMISSIONER VINCENT MAJKOWSKI
CONCURRING IN PART AND DISSENTING
IN PART.

COMMISSIONER VINCENT MAJKOWSKI CONCURRING IN PART AND DISSENTING
IN PART:

I respectfully dissent, in part, from the decision of the majority. I would have denied the petitions for leave to intervene filed by the petitioners, Jerald M. Barnett and the Pitkin County Bank and Trust Company. It is my position that neither party has established the fact that they have a substantial interest in this matter.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioner

ORDER-ADD

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CERTIFICATE OF SERVICE

DOCKET NO. 95A-179CP-TA
DECISION NO. C95-491
(Page 1 of 1 Page)

I, Bruce N. Smith, Director of The Public Utilities Commission of the State of Colorado, certify that I served a true and correct copy of the above Commission Decision -- entered in the above numbered matter of record -- upon each of the persons whose names and addresses appear below, by mailing the same in sealed envelopes properly addressed, with sufficient postage prepaid to carry the same to its destination on the date noted on this certificate at Denver, Colorado.

APPLICANT:

Aspen/Snowmass Express, Incorporated
Attn: Mr. Michael J. Buysse
39551 Highway 82, Unit No. 101
P. O. Box 10007
Aspen, CO 81612

INTERVENOR:

Aspen Limousine Service, Inc.
dba Vans to Vail, Inc.
330 7th Street
P. O. Box 1368
Glenwood Springs, CO 81602

INTERVENOR:

Snowmass Jeep Tours, Inc.
dba Blazing Trails Jeep Tours, Inc.
P. O. Box 5929
Snowmass Village, CO 81615

INTERVENORS (VANS & BLAZING) ATTORNEY:

James A. Beckwith, Esq.
Suite No. 7
7910 Ralston Road
Arvada, CO 80002

INTERVENOR:

Hy-Mountain Transportation, Inc.
Attn: David Hyman, President
111 C Airport Business Center
Aspen, CO 81611

ATTORNEY FOR INTERVENOR JERALD M. BARNETT:

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WILLIAMS & ISLEY, P.C.
1225 Mellon Financial Center
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Denver, CO 80203

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THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

BRUCE N. SMITH
DIRECTOR