

(Decision No. C95-674)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

THE APPLICATION OF ARTHUR L.)
SCHULTZ AND DEBORAH)
O'GARA-SCHULTZ, DOING BUSINESS)
AS KIDZ KARZ, FOR TEMPORARY) DOCKET NO. 95A-276CP-TA
AUTHORITY TO CONDUCT OPERATIONS)
AS A COMMON CARRIER BY MOTOR)
VEHICLE FOR HIRE.)

**COMMISSION ORDER DENYING
TEMPORARY AUTHORITY**

Mailed date: July 18, 1995
Adopted date: July 12, 1995

I. BY THE COMMISSION:

Statement, Findings, and Conclusion

1. On June 9, 1995, Arthur L. Schultz and Deborah O'Gara-Schultz, doing business as Kidz Karz, filed an application (Docket No. 95A-276CP-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 call-and-demand limousine service, between all points in the County of Boulder, State of Colorado. The application is restricted to only transporting passengers 18 years of age, or younger.

2.The Commission gave notice of the application on June 26, 1995.

An intervention opposing a grant of the application was filed by Just 4 Kids, Inc., doing business as Kids Kab, Inc. ("Kids Kab").

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. Although the Commission is sympathetic with the request of the Applicant and the supporting shippers, we cannot find that there is no other carrier service available in light of the intervention of Kids Kab.

6.The support filed on behalf of this application fails to prove that

there is an immediate and urgent need for the transportation services requested, and that there is no other carrier service available capable of providing the service.

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 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 July 12, 1995.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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ATTEST: A TRUE COPY

ROBERT J. HIX

Bruce N. Smith
Director

VINCENT MAJKOWSKI

Commissioners

COMMISSIONER CHRISTINE E.M. ALVAREZ
ABSENT.

BEFORE THE PUBLIC UTILITIES COMMISSION
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CERTIFICATE OF SERVICE

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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:

Arthur L. Schultz and
Deborah O'Gara-Schultz
dba Kids Karz
7474 Spring Drive
Boulder, CO 80303

ROUTE:

1
2
3
4
6-Docketing
9
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21
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40/5 copies
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Black Book
Text Management
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DMS (plus certificate)
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ORDER-ADS

INTERVENOR:

Just 4 Kids, Inc.
dba Kids Kab, Inc.
4290 Black Cherry Court
Boulder, CO 80301

INTERVENOR'S ATTORNEY:

Jon F. Kottke, Esq.
Suite No. 240
2975 Valmont Road
Boulder, CO 80301

WITNESS MY HAND AND THE SEAL OF

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

BRUCE N. SMITH
DIRECTOR