

(Decision No. C95-728)

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

\* \* \*

THE APPLICATION OF EXPRESS )  
SHUTTLE, INC. FOR TEMPORARY )  
AUTHORITY TO CONDUCT OPERATIONS ) DOCKET NO. 95A-307BP-TA  
AS A CONTRACT CARRIER BY MOTOR )  
VEHICLE FOR HIRE. )  
)

**COMMISSION ORDER DENYING  
TEMPORARY AUTHORITY**

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Mailed date: August 3, 1995  
Adopted date: August 2, 1995  
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**I. BY THE COMMISSION:**

**A. Statement, Findings, and Conclusion**

1. On June 27, 1995, Express Shuttle, Inc. filed an application (Docket No. 95A-307BP-TA) for temporary authority to conduct operations as a contract carrier by motor vehicle for hire for the transportation of passengers and their baggage, between the offices of Time Warner Company, Scansco Management Company, Inc., and Antarctic Support Associates, all located in Englewood, Colorado, on the one hand, and, on the other hand, (1) Denver International Airport; and (2) other corporate offices of said companies located in the Counties of Denver, Adams, Arapahoe, Jefferson, and Boulder, State of Colorado, on the other hand. This

application is restricted to providing service for only Time Warner Company, Scansco Management Company, Inc., and Antarctic Support Associates.

2.The Commission gave notice of the application on July 10, 1995.

An intervention opposing a grant of the application was filed by Yellow Cab Cooperative Association, doing business as Yellow Cab, Inc. ("Yellow Cab"), and its division, Denver Airport Limousine Service, Inc., doing business as Denver Airport Shuttle ("DASH").

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 State Legislature has authorized 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."

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. The letters of support filed on behalf of this application indicate only that the companies supporting this

application would use the service if the permit were granted. The Commission finds that this does not satisfy the "immediate and urgent need" criteria demanded by the law. Further, the Commission cannot find that there is no other carrier service available in light of the intervention filed on behalf of Yellow Cab and DASH.

6. 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 August 2, 1995.

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

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ATTEST: A TRUE COPY

CHRISTINE E.M. ALVAREZ

Bruce N. Smith  
Director

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VINCENT MAJKOWSKI

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Commissioners

CHAIRMAN ROBERT J. HIX ABSENT.

ORDER-AEA

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:

Express Shuttle, Inc.  
No. 190  
3000 South Jamaica Court  
Aurora, CO 80014

ROUTE:

1  
2  
3  
4  
6-Docketing

INTERVENOR:

Yellow Cab Cooperative Association  
dba Yellow Cab, Inc.,  
and its division,  
Denver Airport Limousine  
Service, Inc.,  
dba Denver Airport Shuttle  
3455 Ringsby Court  
Denver, CO 80216

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ORDER-AEA

INTERVENOR'S ATTORNEY:

Richard J. Bara, Esq.  
Suite No. 315  
1155 Sherman Street  
Denver, CO 80203

WITNESS MY HAND AND THE SEAL OF  
THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

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BRUCE N. SMITH

DIRECTOR