

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

THE APPLICATION OF J.B.J.)
BUILDERS CORP., DOING BUSINESS)
AS CASINO EXPRESS, INC., FOR) DOCKET NO. 95A-607CP-TA
TEMPORARY AUTHORITY TO CONDUCT)
OPERATIONS AS A COMMON CARRIER)
BY MOTOR VEHICLE FOR HIRE.)

**COMMISSION ORDER DENYING
TEMPORARY AUTHORITY**

Mailed date: January 17, 1996
Adopted date: January 10, 1996

I. BY THE COMMISSION:

Statement, Findings, and Conclusion

1. On December 13, 1995, J.B.J. Builders Corp., doing business as Casino Express, Inc., filed an application (Docket No. 95A-607CP-TA) for temporary authority to conduct operations as a common carrier by motor vehicle for hire for the transportation of passengers and their baggage, on schedule, between points within a five-mile radius of Gilpin County Court House in Central City, Colorado, on the one hand, and, on the other hand, points within the following described area: Beginning at the inter-section of Sheridan Boulevard and Colfax Avenue; thence north along

Sheridan Boulevard to its inter-section with 44th Avenue; thence west along 44th Avenue to a point one-half mile west of Interstate 70; thence south along an imaginary line to its intersection with U. S. Highway 40 (Colfax Avenue); thence east along Colfax Avenue to the point of beginning.

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

Interventions by right opposing a grant of the application were filed by Queen City Transportation, Inc., Casino Transportation, Inc. ("CTI"), Golden West Commuter, LLC, and Four Winds, Inc., doing business as People's Choice Transportation, Inc. A petition to intervene was also filed on behalf of Black Hawk Central City Ace Express, Inc. ("BHCC").

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.The requested base area in this application lies completely within that territory authorized to be served by the intervenor CTI. A review of Commission records indicates that CTI is currently providing scheduled service to locations within and very near to the boundaries of the requested base territory. Also, a vast majority of the support letters filed on behalf of this application do not speak to a need for new services within the territory requested by this application. The Applicant has failed to prove that there is an immediate and urgent need for the transportation services requested, or that there is no other carrier service available capable of providing the service.

7.Petitioner, BHCC, is a certificated motor carrier authorized to provide scheduled and call-and-demand service between points in and near to points described in this application, and as such, it has a substantial interest in the subject matter and outcome of this application. Accordingly, its petition to intervene should be granted. The response time to said petition

should also be waived.

8.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 petition to intervene filed on behalf of Black Hawk Central City Ace Express, Inc. is granted, and the response time to said petition is waived.
- 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 January 10, 1996.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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ATTEST: A TRUE COPY

ROBERT J. HIX

Bruce N. Smith
Director

CHRISTINE E.M. ALVAREZ

VINCENT MAJKOWSKI

Commissioners

ORDER-AGB

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CERTIFICATE OF SERVICE

DOCKET NO. 95A-607CP-TA
DECISION NO. C96-37
(Page 1 of 2 Pages)

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:

J.B.J. Builders Corp.
dba Casino Express, Inc.
Suite No. 305
3060 East Bridge Street
Brighton, CO 80601

APPLICANT'S ATTORNEY:

James F. Frost, Esq.
4251 Kipling, No. 560
Wheat Ridge, CO 80033

INTERVENOR:

Queen City Transportation, Inc.
5974 Marion Drive, Unit A
Denver, CO 80216

INTERVENOR'S (QUEEN) ATTORNEY:

Dale E. Isley, Esq.
1225 Mellon Financial Center
1775 Sherman Street
Denver, CO 80203

INTERVENOR:

Casino Transportation, Inc.
251 Rooney Road
Golden, CO 80402

INTERVENOR'S (CASINO) ATTORNEY:

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

INTERVENOR:

Golden West Commuter, LLC
P. O. Box 1171
Golden CO 80401

INTERVENOR'S (GOLDEN) 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

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CERTIFICATE OF SERVICE

DOCKET NO. 95A-607CP-TA
DECISION NO. C96-37
(Page 2 of 2 Pages)

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INTERVENOR:

Four Winds, Inc.
dba People's Choice
Transportation, Inc.
5455 East 52nd Avenue
Commerce City, CO 80022

INTERVENOR:

Black Hawk Central City Ace
Express, Inc.
P. O. Box 132
Black Hawk, CO 81402

INTERVENORS' (FOUR WINDS & ACE)

ATTORNEY:

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

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BRUCE N. SMITH
DIRECTOR