

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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REVISED TARIFF AND CHARGES FOR)
THE TRANSPORTATION OF PASSENGERS)
BETWEEN POINTS IN EAGLE AND)
PITKIN COUNTIES FILED BY)
COLORADO MOUNTAIN EXPRESS, INC.,)
IN PASSENGER TARIFF NO. 1,)
COLORADO PUC NO. 17 SCHEDULED)
TO BECOME EFFECTIVE JANUARY 22,)
1996.)

DOCKET NO. 96S-017CP

RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
WILLIAM J. FRITZEL
GRANTING STAFF'S MOTION
TO TERMINATE DOCKET

Mailed Date: April 30, 1996

I. STATEMENT, FINDINGS, AND CONCLUSIONS

1. On December 18, 1995, Colorado Mountain Express, Inc. ("CME"), filed Passenger Tariff, Colorado PUC No. 17 to become effective on January 22, 1996. The proposed changes named in this tariff would result in increased and decreased rates for transportation of passengers in charter service between points in Eagle and Pitkin Counties.

2. On January 17, 1996, in Decision No. C96-73, the Commission suspended the tariff and scheduled a hearing for May 10, 1996.

3. On January 24, 1996, CME filed a Motion to Terminate Docket and to Discontinue Proceeding for lack of subject matter jurisdiction based upon the Interstate Commerce Commission Termination Act which became effective on January 1, 1996. The Staff of the Colorado Public Utilities Commission ("Staff") opposed the motion

on the basis that there was no clear manifestation of Congressional intent to preempt State regulation of charter transportation rates.

4. On March 25, 1996, in Decision No. R96-331-I, the motion of CME to terminate docket and to discontinue proceeding was denied.

5. On April 18, 1996, Staff filed a Motion to Terminate Docket. Staff states that it has had an opportunity to further investigate the matter and that it now believes that the effect of the Federal Act preempts the Commission from establishing rates for charter transportation in the State of Colorado. Staff therefore requests that this docket be terminated.

6. Pursuant to § 40-6-109, C.R.S., it is recommended that the Commission enter the following order.

II. ORDER

The Commission Orders That:

1. The motion of the Staff of the Colorado Public Utilities Commission to terminate docket filed on April 18, 1996 is granted.

2. Docket No. 96S-017CP is dismissed.

3. The hearing of this matter currently scheduled for May 10, 1996 is vacated.

4. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

5. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

- a. If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the Decision is stayed by the Commission upon its own motion, the recommended decision shall become the Decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.
- b. If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the Administrative Law Judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

6. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Administrative Law Judge

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