

(Decision No. C96-1147)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

THE APPLICATION OF FORGET-ME-NOT)
ADVENTURES, INC., FOR TEMPORARY)
AUTHORITY TO CONDUCT OPERATIONS) DOCKET NO. 96A-439CP-TA
AS A COMMON CARRIER BY MOTOR)
VEHICLE FOR HIRE.)

**COMMISSION ORDER DENYING
TEMPORARY AUTHORITY**

Mailed date: October 31, 1996
Adopted date: October 30, 1996

I. BY THE COMMISSION:

A. Statement, Findings, and Conclusion

1. On September 24, 1996, Forget-Me-Not Adventures, Inc., filed an application (Docket No. 96A-439CP-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 service, (1) between all points in Larimer County; and (2) between Estes Park, Colorado, on the one hand, and Denver International Airport, in Denver, Colorado, on the other hand.

2. The Commission gave notice of the application on October 7, 1996. A petition for leave to intervene was filed in opposition to the granting of the application by Charles W. and Susan A. Anfield, doing business as Estes Park Taxicab. Pursuant to Commission Decision C96-1115, Estes Park Taxicab was granted, on October 16, 1996, an emergency temporary authority to provide service which is duplicative of the authority requested herein. The petition for leave to

intervene shall be granted.

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.

In light of the authority recently granted to Estes Park Taxicab, we cannot find that there is no other carrier service available. In addition, the support filed on behalf of this application fails to prove that there is an immediate and urgent need for the transportation services requested.

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

II. ORDER

A. The Commission Orders That:

1. The petition for leave to intervene filed on behalf of Charles W. and Susan A. Anfield, doing business as Estes Park Taxicab, is granted.

2. This application is denied.

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.

C. ADOPTED IN OPEN MEETING October 30, 1996.

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ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT J. HIX

Bruce N. Smith
Director

VINCENT MAJKOWSKI

Commissioners

COMMISSIONER R. BRENT ALDERFER
ABSENT.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CERTIFICATE OF SERVICE

DOCKET NO. 96A-439CP-TA
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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:

Forget-Me-Not Adventures, Inc.
641 Columbine
Estes Park, CO 80517

INTERVENOR:

Charles W. and Susan A. Anfield
dba Estes Park Taxicab
P. O. Box 4373
Estes Park, CO 80517

INTERVENOR'S ATTORNEY:

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

ROUTE:

1, 2, 3, 4, 6-Docketing,
9, 10, 10.1, 20, 21, 30,
31 (2 copies), 40 (5 copies),
50, 60, Black Book, Operating
Rights Unit, DMS (plus
certificate)

ORDER-AKA

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

BRUCE N. SMITH
DIRECTOR