

Decision No. R97-1309

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 97A-171CP

APPLICATION OF DENVER SHUTTLE, LLC, D/B/A SUPER SHUTTLE AIRPORT SHUTTLE, DENVER, COLORADO, FOR AUTHORITY TO EXTEND OPERATIONS UNDER CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY PUC NO. 2778 & I.

RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
KEN F. KIRKPATRICK
GRANTING A CERTIFICATE
OF PUBLIC CONVENIENCE
AND NECESSITY

Mailed Date: December 9, 1997

I. STATEMENT

A. This application was filed on April 15, 1997 by Applicant Denver Shuttle, LLC, doing business as Super Shuttle Airport Shuttle ("Denver Shuttle"). The Commission gave notice of the application on April 21, 1997 as follows:

For a certificate of public convenience and necessity authorizing an extension of operations under PUC No. 2778 & I to include the transportation of

passengers and their baggage, on schedule and in call-and-demand limousine service

between Denver International Airport, on the one hand, and on the other hand all transient hotels and motels located within two miles of that portion of U.S. Highway 36 between McCaslin Boulevard in Boulder County, and Pecos Avenue, in Adams County.

RESTRICTIONS: This application is restricted as follows:

(1) The scheduled portion of this application is restricted to providing service to only those points named within the carrier's filed schedule; and

(2) A transient hotel or motel is defined as a hotel or motel ordinarily reserving at least 50 rooms for the accommodation of the traveling public.

Timely interventions were filed on April 28, 1997 by Boulder Airporter, Inc. ("Airporter"); by North Denver Airport Shuttle, Inc., on April 28, 1997; by Mohammad Khan and Iftikhar Khan, doing business as Broomfield Transportation ("Broomfield Transportation") on April 28, 1997; and by Metro Taxi, Inc. ("Metro Taxi"), on May 21, 1997.

B. The intervention of North Denver Airport Shuttle, Inc., was unconditionally withdrawn on May 6, 1997. The intervention of Metro Taxi was withdrawn on June 17, 1997.

C. By Decision No. R97-736-I, July 24, 1997, the application was amended to add the following restriction:

Restricted against service to or from any points which are both east of Pecos Street and within a two-mile radius of the intersection of Pecos Street and U.S. Highway No. 36.

This amendment resulted in the intervention of Broomfield Transportation being dismissed.

D. This matter was originally scheduled for a hearing to be held on July 23, 1997, but that hearing was vacated and rescheduled at the request of the Applicant until September 23,

1997. The hearing was again rescheduled at the request of the Applicant until December 11, 1997. See Decision No. R97-954-I.

E. On December 4, 1997, Denver Shuttle and Boulder Air-
porter filed their Motion for Approval of Restrictive Amendment
and Request for Treatment as a Non-contested Proceeding Under
Rule 24. By this motion, the Applicant seeks to add certain
restrictive language to its request for authority which, if
accepted by the Commission, will result in Boulder Airporter
withdrawing its intervention. The proposed restrictive language
limits the section of U. S. Highway 36 referenced to that part

. . . starting at the intersection of U.S. Highway 36
and the Boulder County line . . .

and then south to Pecos Avenue. The Applicant also seeks to add
a restriction that the service being sought is restricted against
serving points in Boulder County.

F. It should be noted that U.S. Highway 36 intersects the
Boulder county line both on the north (the Boulder/Larimer county
line) and on the south (the Boulder/Jefferson county line). How-
ever, in view of the Applicant's stated attempt to narrow the
application and in view of the restriction against serving points
in Boulder County, it must be the intention of the Applicant to
refer to the intersection of U.S. Highway 36 and the
Boulder/Jefferson County line. Viewed as such, the proposed
amendment is restrictive in nature, administratively enforceable,

and it is accepted. The intervention of Boulder Airporter is dismissed.

G. The matter is now uncontested. A review of the file, including the verified application and the letters of support, indicates a public need for the proposed service. Any existing common carrier service within the scope of the application as amended is substantially inadequate. The Applicant is fit, financially and otherwise, to provide the proposed service. The application should be granted in its amended form.

H. In accordance with § 40-6-109, C.R.S., it is recommended that the Commission enter the following order.

II. ORDER

A. The Commission Orders That:

1. Docket No. 97A-171CP, being an application of Denver Shuttle, LLC, doing business as Super Shuttle Airport Shuttle, Denver, Colorado, is granted in its amended form. Henceforth Certificate of Public Convenience and Necessity PUC No. 2778 & I shall read as follows:

I. Transportation of
passengers, on schedule,

A. between Denver International Airport, on the one hand, and, on the other hand, all points located within a one-mile radius of the intersection of Colfax Avenue and Broadway, on the other hand;

B. between Denver International Airport, on the one hand, and, on the other hand, all transient hotels and motels and all bus stations and railway stations,

within an area bounded as follows: commencing at 20th Street and Broadway; thence northwest along 20th Street to Wynkoop Street; thence southwest along Wynkoop Street to Speer Boulevard; thence northwest on Speer Boulevard to Alcott Street; thence south on Alcott Street to 26th Avenue; thence east on 26th Avenue to Zuni Street; thence north on Zuni Street to Speer Boulevard; thence southeast along Speer Boulevard to West Colfax Avenue; thence east on West Colfax Avenue to Broadway; thence south on Broadway to 10th Avenue; thence east on 10th Avenue to Logan Street; thence north on Logan Street to 20th Avenue; thence west on 20th Avenue to Broadway; thence north on Broadway to the point of beginning;

C. between Denver International Airport, on the one hand, and, on the other hand, all transient hotels and motels located in the following described area: beginning at the intersection of East Arizona Avenue and Colorado Boulevard; thence south along Colorado Boulevard, as extended, to its intersection with County Line Road; thence east along County Line Road, as extended, to its intersection with Tower Road, as extended; thence north along Tower Road, as extended, to its intersection with 56th Avenue; thence west along 56th Avenue to its intersection with Havana Street; thence south along Havana Street to its intersection with East Arizona Avenue; thence west along East Arizona Avenue to the point of beginning;

D. between Denver International Airport, on the one hand, and, on the other hand, all transient hotels and motels located in the following described area: beginning at the intersection of Martin Luther King Boulevard and Quebec Street; thence west on Martin Luther King Boulevard to its intersection with Holly Street; thence north on Holly Street, as extended, to its intersection with 56th Avenue; thence east along 56th Avenue, as extended, to Quebec Street; thence south along Quebec Street to the point of beginning;

E. between all hotels and motels within the City and County of Denver, State of Colorado, on the one hand, and, on the other hand, the Colorado Springs Municipal Airport, Colorado Springs, Colorado, on the other hand, serving all intermediate points on and within two miles of that portion of Interstate 25, between Denver and the Colorado Springs Municipal Airport, and serving all points located on and within one mile of Interstate 225 as off-route points; and

F. between Denver International Airport and Lowry Air Force Base, in Denver, Colorado.

II. Transportation of

passengers and their baggage, in call-and-demand limousine service,

A. between all points within the City and County of Denver, State of Colorado, on the one hand, and Denver International Airport, on the other hand;

B. between Denver International Airport, on the one hand, and, on the other hand, all transient hotels and motels and all bus stations and railway stations, within an area bounded as follows: commencing at 20th Street and Broadway; thence northwest along 20th Street to Wynkoop Street; thence southwest along Wynkoop Street to Speer Boulevard; thence northwest on Speer Boulevard to Alcott Street; thence south on Alcott Street to 26th Avenue; thence east on 26th Avenue to Zuni Street; thence north on Zuni Street to Speer Boulevard; thence southeast along Speer Boulevard to West Colfax Avenue; thence east on West Colfax Avenue to Broadway; thence south on Broadway to 10th Avenue; thence east on 10th Avenue to Logan Street; thence north on Logan Street to 20th Avenue; thence west on 20th Avenue to Broadway; thence north on Broadway to the point of beginning;

C. between Denver International Airport, on the one hand, and, on the other hand, all transient hotels and motels located in the following described area: beginning at the intersection of East Arizona Avenue and Colorado Boulevard; thence south along Colorado Boulevard, as extended, to its intersection with County Line Road; thence east along County Line Road, as extended, to its intersection with Tower Road, as extended; thence north along Tower Road, as extended, to its intersection with 56th Avenue; thence west along 56th Avenue to its intersection with Havana Street; thence south along Havana Street to its intersection with East Arizona Avenue; thence west along East Arizona Avenue to the point of beginning;

D. between Denver International Airport, on the one hand, and, on the other hand, all transient hotels and motels located in the following described area: beginning at the intersection of Martin Luther King Boulevard and Quebec Street; thence west on Martin

Luther King Boulevard to its intersection with Holly Street; thence north on Holly Street, as extended, to its intersection with 56th Avenue; thence east along 56th Avenue, as extended, to Quebec Street; thence south along Quebec Street to the point of beginning; and

E. between all points within the City and County of Denver, State of Colorado.

III. Transportation of

passengers and their baggage, in charter service,

A. between all points in the area comprised of the Counties of Denver, Adams, Arapahoe, and Jefferson, State of Colorado, and between said points, on the one hand, and all points in the State of Colorado, on the other hand;

B. between all points within the City and County of Denver, State of Colorado, and between said points, on the one hand, and all points within the State of Colorado, on the other hand; and

C. between all points within the City and County of Denver, State of Colorado.

IV. Transportation of

passengers, in sightseeing service,

between Denver, Colorado and the following points: Estes Park, Colorado; Pikes Peak; The Georgetown Loop; Echo Lake and Mount Evans; The Denver Mountain Parks; Nederland, Colorado; Central City, Colorado; Idaho Springs, Colorado; Jarre Canyon, Colorado; Leadville, Colorado; Fairplay, Colorado; Longs Peak; Mesa Verde; Colorado Springs, Colorado; and points on Colorado's Western Slope.

V. Transportation of

passengers and their baggage, in taxi service, in one vehicle,

between all points within the City and County of Denver, State of Colorado.

VI. Transportation of

passengers and their baggage, in special taxicab and special bus service,

between all points within the City and County of Denver, State of Colorado, and between said points, on the one hand, and all points within the State of Colorado, on the other hand.

VII. Transportation of

passengers and their baggage, on schedule and in call-and-demand limousine service,

between Denver International Airport, on the one hand, and on the other hand, all transient hotels and motels located within two miles of that portion of U.S. Highway 36 between the intersection of U.S. Highway 36 and the Boulder/Jefferson County line and the intersection of U.S. Highway 36 and Pecos Avenue.

RESTRICTIONS: This Certificate is restricted as follows:

A. To the extent that Items I(A) and I(B) authorize duplicating authority, only one operating right exists.

B. Items I(A) and II(A) are restricted to the use of vehicles with a passenger capacity of not less than nine passengers, including the driver, nor more than 12 passengers, excluding the driver.

C. Items I(B), I(C), I(D), II(B), II(C), and II(D) are restricted to the use of vehicles having a seating capacity of 20 or less, excluding the driver.

D. Item I(C) is restricted against providing service to the following named hotels and motels:

1. the Hilton Inn South at or near I-25 and Orchard Road;

2. Sheraton Denver Tech Center at or near I-25 and Bellevue Avenue;

3. the Rodeway Inn located at 5111 South Valley Highway in Greenwood Village, Colorado;

4. the Denver Marriott Southeast at I-25 and Hampden Avenue;

5. the Doubletree Hotel located near I-225 and East Iliff Avenue;

6. the Hyatt Regency, or successor hotel, located at 7800 East Tufts Avenue near I-225 and Tamarac Parkway;

7. the Ramada Republic, or successor hotel, located at or near Clinton Street and Arapahoe Road near I-25 and Arapahoe Road; and

8. the Holiday Inn Southeast, or successor hotel, located at 9009 East Arapahoe Road near I-25 and Arapahoe Road.

E. Transient hotels or motels referenced in Items I(B), I(C), I(D), II(B), II(C), and II(D) are defined as a hotel or motel ordinarily reserving at least 50 or more rooms for the accommodation of the traveling public.

F. Item I(E) is restricted as follows:

1. against traffic originating at or terminating at Denver International Airport;

2. against serving intermediate points in Douglas County;

3. against serving intermediate points in El Paso County; and

4. to serving only those points named in the carrier's filed schedule.

G. Item II(A) is restricted against providing service to and from transient hotels and motels, defined as a hotel or motel ordinarily reserving at least 50 or more rooms for the accommodation of the traveling public, and bus stations and railway stations located within the areas described in Items II(B), II(C), and II(D).

H. Item III(A) is restricted as follows:

1. to the use of vehicles with a seating capacity of not less than eight, excluding the driver, nor more than 12, excluding the driver.

2. against providing service into or out of points in the Counties of Boulder and Weld, State of Colorado.

I. Item III(B) is restricted as follows:

1. to the use of vehicles with a seating capacity of 20 or less, excluding the driver.

2. against providing service to or from Fort Collins and Loveland, Colorado.

3. against providing service to or from points in El Paso County where the charter is arranged or paid for by an airline.

4. against the use of four-wheel drive vehicles.

J. Item III(C) is restricted to the use of vehicles with a seating capacity of not less than 21, excluding the driver, nor more than 31, excluding the driver.

K. To the extent that Items III(A), III(B) and III(C) authorize duplicating authority, only one operating right exists.

L. Item IV is restricted to providing round-trip service.

M. Item VII is restricted as follows:

- (1) The scheduled portion of Item VII is restricted to providing service to only those points named within the carrier's filed schedule;

- (2) A transient hotel or motel is defined as a hotel or motel ordinarily reserving at least 50 rooms for the accommodation of the traveling public;

- (3) Restricted against service to or from any points which are both east of Pecos Street and

within a two-mile radius of the intersection of Pecos Street and U.S. Highway No. 36; and

(4) Restricted against service to or from points in Boulder County.

2. The hearing in this matter scheduled for December 12, 1997 is vacated.

3. Applicant shall cause to be filed with the Commission certificates of insurance as required by Commission rules. Applicant shall also file an appropriate tariff and pay the issuance fee and annual vehicle identification fee. Operations may not begin until these requirements have been met. If the Applicant does not comply with the requirements of this ordering paragraph within 60 days of the effective date of this Order, then the ordering paragraph granting authority to the Applicant shall be void. On good cause shown, the Commission may grant additional time for compliance.

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.

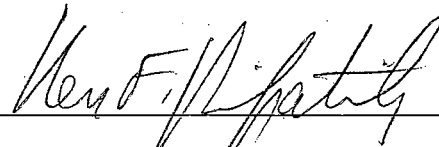
a. If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own

motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-115, 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

A handwritten signature in dark ink, appearing to read "Ken F. Lipatky", is written over a horizontal line.

Administrative Law Judge