

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

FOR AUTHORITY TO TRANSFER)
CERTIFICATE OF PUBLIC CONVEN-)
IENCE AND NECESSITY PUC)
NO. 2378 & I, FROM KAREN J.)
MATHIS, RECEIVER FOR YELLOW CAB)
COOPERATIVE ASSOCIATION,)
D/B/A YELLOW CAB, INC., TO)
TFG DENVER TRANSPORTATION, INC.)

DOCKET NO. 93A-620CP-
Transfer

FOR AUTHORITY TO TRANSFER)
CERTIFICATE OF PUBLIC CONVEN-)
IENCE AND NECESSITY PUC)
NOS. 174 & I, 180 & I, 1198,)
150 & I, 4302, 177 & I, AND)
CONTRACT CARRIER PERMIT)
NO. B-8254 FROM KAREN J. MATHIS)
RECEIVER FOR YELLOW CAB)
COOPERATIVE ASSOCIATION,)
D/B/A BOULDER YELLOW CAB, INC.,)
TO BOULDER TRANSPORTATION, INC.)

DOCKET NO. 93A-621CP-
Transfer

FOR AUTHORITY TO TRANSFER)
CERTIFICATE OF PUBLIC CONVEN-)
IENCE AND NECESSITY PUC)
NOS. 174 & I, 180 & I, 1198,)
150 & I, 4302, 177 & I, AND)
CONTRACT CARRIER PERMIT)
NO. B-8254 FROM KAREN J. MATHIS)
RECEIVER FOR YELLOW CAB COOPERA-)
TIVE ASSOCIATION, D/B/A BOULDER)
YELLOW CAB, INC., TO BOULDER)
TRANSPORTATION, INC.)

DOCKET NO. 93A-622CP
Transfer

FOR AUTHORITY TO TRANSFER)
CERTIFICATE OF PUBLIC CONVEN-)
IENCE AND NECESSITY PUC)
NOS. 174 & I, 180 & I, 1198,)
150 & I, 4302, 177 & I, AND)
CONTRACT CARRIER PERMIT)
NO. B-8254 FROM KAREN J. MATHIS)
RECEIVER FOR YELLOW CAB COOPERA-)
TIVE ASSOCIATION, D/B/A BOULDER)
YELLOW CAB, INC., TO BOULDER)
TRANSPORTATION, INC.)

DOCKET NO. 93A-623CP-
Transfer

FOR AUTHORITY TO TRANSFER)
CERTIFICATE OF PUBLIC CONVEN-)
IENCE AND NECESSITY PUC)
NOS. 174 & I, 180 & I, 1198,)
150 & I, 4302, 177 & I, AND)
CONTRACT CARRIER PERMIT)
NO. B-8254 FROM KAREN J. MATHIS)
RECEIVER FOR YELLOW CAB COOPERA-)
TIVE ASSOCIATION, D/B/A BOULDER)
YELLOW CAB, INC., TO BOULDER)
TRANSPORTATION, INC.)

DOCKET NO. 93A-624CP-
Transfer

FOR AUTHORITY TO TRANSFER)
CERTIFICATE OF PUBLIC CONVEN-)
IENCE AND NECESSITY PUC)
NOS. 174 & I, 180 & I, 1198,)
150 & I, 4302, 177 & I, AND)
CONTRACT CARRIER PERMIT)
NO. B-8254 FROM KAREN J. MATHIS)
RECEIVER FOR YELLOW CAB COOPERA-)
TIVE ASSOCIATION, D/B/A BOULDER)
YELLOW CAB, INC., TO BOULDER)
TRANSPORTATION, INC.)

DOCKET NO. 93A-625CP-
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FOR AUTHORITY TO TRANSFER)
CERTIFICATE OF PUBLIC CONVEN-)
IENCE AND NECESSITY PUC)
NOS. 174 & I, 180 & I, 1198,)
150 & I, 4302, 177 & I, AND)
CONTRACT CARRIER PERMIT)
NO. B-8254 FROM KAREN J. MATHIS)
RECEIVER FOR YELLOW CAB COOPERA-)
TIVE ASSOCIATION, D/B/A BOULDER)
YELLOW CAB, INC., TO BOULDER)
TRANSPORTATION, INC.)

DOCKET NO. 93A-626CP-
Transfer

FOR AUTHORITY TO TRANSFER)
CERTIFICATE OF PUBLIC CONVEN-)
IENCE AND NECESSITY PUC NOS. 82,)
13175, AND 278 & I FROM DENVER)
AIRPORT LIMOUSINE SERVICE, INC.,)
D/B/A DENVER AIRPORT SHUTTLE,)
INC., ACTING THROUGH KAREN J.)
MATHIS, ITS RECEIVER, TO DENVER)
AIRPORT EXPRESS, INC.)

DOCKET NO. 93A-627CP-
Transfer

FOR AUTHORITY TO TRANSFER)
CERTIFICATE OF PUBLIC CONVEN-)
IENCE AND NECESSITY PUC NO. 82)
TO DENVER AIRPORT EXPRESS, INC.,)
FROM DENVER AIRPORT LIMOUSINE)
SERVICE, INC., ACTING THROUGH)
KAREN J. MATHIS, ITS RECEIVER)
AND FOR AUTHORITY TO ENCUMBER)
THE CERTIFICATE IN FAVOR OF)
YELLOW CAB COOPERATIVE ASSOCIA-)
TION.)

DOCKET NO. 93A-628CP-
Transfer

FOR AUTHORITY TO TRANSFER)
CERTIFICATE OF PUBLIC CONVEN-)
IENCE AND NECESSITY PUC)
NO. 13175 FROM DENVER AIRPORT)
LIMOUSINE SERVICE, INC.,)
D/B/A DENVER AIRPORT SHUTTLE,)
INC., ACTING THROUGH KAREN J.)
MATHIS, ITS RECEIVER, TO DENVER)
AIRPORT EXPRESS, INC., AND FOR)
AUTHORITY TO ENCUMBER THE)
CERTIFICATE IN FAVOR OF YELLOW)
CAB COOPERATIVE ASSOCIATION.)

DOCKET NO. 93A-629CP-
Transfer

FOR AUTHORITY TO TRANSFER)
CERTIFICATE OF PUBLIC CONVEN-)
IENCE AND NECESSITY PUC NO. 277)
& I FROM DENVER AIRPORT)
LIMOUSINE SERVICE, INC.,)
D/B/A DENVER AIRPORT SHUTTLE,)
INC., ACTING THROUGH KAREN J.)
MATHIS, ITS RECEIVER TO DENVER)
AIRPORT EXPRESS, INC., AND FOR)
AUTHORITY TO ENCUMBER THE)
CERTIFICATE IN FAVOR OF YELLOW)
CAB COOPERATIVE ASSOCIATION.)

DOCKET NO. 93A-630CP-
Transfer

RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
MICHAEL R. HOMYAK
DISMISSING APPLICATIONS

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Mailed Date: April 12, 1994
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STATEMENT, FINDINGS, AND CONCLUSIONS

On March 22, 1994, Interim Order No. R94-316-I was entered granting the Motion to Vacate Hearing and Amendment to Motion to Vacate Hearing filed on February 17, 1994, and February 23, 1994, by Metro Taxi, Inc. (Metro). By the motion and amendment to motion, Metro also sought to dismiss the applications. So much of Metro's motion and amendment to motion, seeking to dismiss applications will be considered and ruled upon in this order.

Also pending are: Motion to Request Copies of Transferor's Exhibits in an Expedited Manner, filed on February 23, 1994, by Metro; Motion to Compel Discovery, filed on February 4, 1994, by Boulder Airporter, Inc., and Colorado PUC No. 191 Corp.; and Stipulated Motion: (1) for Substitution of Applicant; (2) to Vacate Hearing Date; (3) to Deem Waived the Time Limits of § 40-6-109.5, C.R.S.; and (4) to Enter Order Authorizing Indefinite Postponement of Proceedings, filed on March 7, 1994, by proposed Transferor, Yellow Cab Cooperative Association (YCCA), debtor-in-possession and Transferees (TFG Companies). Response to the stipulated motion was filed on March 11, 1994, by Metro.

The Motion to Dismiss Applications filed on February 17, 1994, and Amendment to Motion to Dismiss Applications filed on February 23, 1994, by Metro will be granted. Consequently, the stipulated motion filed on March 7, 1994, by YCCA, and TFG Companies, the Motion to Compel Discovery, filed on February 4, 1994, by Boulder Airporter, Inc., and Colorado PUC No. 191 Corp., and the Motion to Request Copies of Transferor's Exhibits in an Expedited Manner, filed on February 23, 1994, by Metro will be dismissed as moot.

Metro, by its Motion and Amendment to Motion to Dismiss Applications, states that the current Transferor (Karen J. Mathis, as Receiver) is no longer a real party in interest in these proceedings, because the United States Bankruptcy Court for the District of Colorado (Bankruptcy Court) entered an order granting YCCA's Motion to Compel Turnover of Estate Property. This order required that the property and assets of YCCA be turned over to its Board of Directors, thereby divesting the Receiver, Karen J. Mathis, of control over the assets, property, and business affairs of YCCA.

Metro, YCCA, and the TFG Companies, agree that the present Transferor, Karen J. Mathis as Receiver for the various entities Transferor, has been divested of authority to act for the Transferors, by the above order of the Bankruptcy Court.

By the above referenced stipulated motion, YCCA, and the TFG Companies, seek to substitute the YCCA, as the Transferor, for Karen J. Mathis, Receiver, and to indefinitely postpone these proceedings, pending the YCCA's determination to affirm the agreements between itself and the TFG Companies. As support for this motion, YCCA and the TFG Companies argue that it would be extremely wasteful for these applications to be dismissed, because of the substantial effort and expense undertaken in their preparation. YCCA states that the work and expense of preparing the pending applications would be duplicated if dismissal is entered, and if new applications must be filed. However, it is found that the refileing of these applications is dependent on YCCA's determination to affirm agreements between itself and the TFG Companies, an eventuality which may or may not occur.

All parties agree that these applications cannot proceed with the Receiver as Transferor. It is found that if the YCCA were substituted as Transferor and, if YCCA affirms its agreements with the TFG Companies, so that this matter may proceed, the prefiled documents would require substantial, if not total revision, and discovery would also be required. It is therefore concluded that there will be no advantage to the parties, or to these proceedings by granting the stipulated motion. It is therefore concluded that Metro's Motion and Amendment to Motion to Dismiss Applications should be granted.

It is concluded that an order should be entered dismissing the pending applications, and dismissing the stipulated motion. The Motion to Request Copies of Transferor's Exhibits in an Expedited Manner, and the Motion to Compel Discovery, will also be dismissed as moot.

Pursuant to § 40-6-109, C.R.S., the records and documents of this proceeding are transmitted to the Commission along with this recommended decision containing findings of fact, conclusions thereon, and a recommended order.

ORDER

THE COMMISSION ORDERS THAT:

1. The Motion to Dismiss Applications filed on February 17, 1994, and Amendment to Motion to Dismiss Applications, filed on February 23, 1994, by Metro Taxi, Inc., is granted. Docket Nos. 93A-620CP-Transfer, 93A-621CP-Transfer, 93A-622CP-Transfer, 93A-623CP-Transfer, 93A-624CP-Transfer, 93A-625CP-Transfer, 93A-626CP-Transfer, 93A-627BY-Transfer, 93A-628CP-Transfer, 93A-629CP-Transfer, and 93A-630CP-Transfer, are dismissed, and these applications are closed.
2. The Motion to Request Copies of Transferor's Exhibits in an Expedited Manner, filed on February 23, 1994, the Motion to Compel Discovery, filed on February 4, 1994, by Boulder Airporter, Inc., and Colorado PUC No. 191 Corp., and the Stipulated Motion: (1) for Substitution of Applicant; (2) to Vacate Hearing Date; (3) to Deem Waived the Time Limits of § 40-6-109.5, C.R.S.; and (4) to Enter Order Authorizing Indefinite Postponement of Proceedings, are dismissed as moot.
3. 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.
4. 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.

5. 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

MRH:srs