

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-017CP-TRANSFER-TA

THE APPLICATION OF ARLEN BAUMERT, DOING BUSINESS AS BOULDER COUNTY EXPRESS, FOR TEMPORARY APPROVAL TO ALLOW MATHEW TITCHENAL, DOING BUSINESS AS BOULDER COUNTY CASINO EXPRESS, TO ASSUME OPERATIONAL CONTROL OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY PUC NO. 54379.

**COMMISSION ORDER GRANTING
TEMPORARY APPROVAL**

Mailed Date: February 4, 2004
Adopted Date: February 4, 2004

I. BY THE COMMISSION:

A. Statement

1. On January 8, 2004, Arlen Baumert, doing business as Boulder County Express (Boulder County Express), filed an application for temporary approval to allow Mathew Titchenal, doing business as Boulder County Casino Express (Boulder County Casino Express), to assume operational control of Certificate of Public Convenience and Necessity (CPCN) PUC No. 54379 pending Commission consideration of the related application to permanently transfer the certificate.
2. The Commission gave notice of the application on January 26, 2004.
3. There are no interventions opposing a grant of the application.
4. Pursuant to § 40-6-120(2), C.R.S., the Commission may grant temporary approval of a certificate transfer "if it appears that failure to grant such temporary approval may result in destruction of or injury to such carrier or carrier properties sought to be acquired, or to interfere

substantially with their future usefulness in the performance of adequate and continuous service to the public."

B. Findings of Fact

5. Arlen Baumert, the owner of Boulder County Express, filed a statement in support of this temporary authority application. In this letter, Mr. Baumert states "I have purchased a business and property in Grand Island, Nebraska, which closed on December 31, 2003. I am currently in the process of moving to Nebraska to take over this business. The move will be made upon approval of the grant of the temporary authority to Mathew Titchenal."

C. Conclusions

6. The Commission finds that the information submitted by Mr. Baumert does indicate that a failure to grant temporary approval of an assumption of operational control could result in injury to CPCN PUC No. 54379 and ultimately affect service to the public.

7. Boulder County Casino Express, has adequate equipment and financial resources to begin immediate service within the scope of the authority sought.

8. This application for temporary approval is in the public interest.

9. Boulder County Express and Boulder County Casino Express are advised that the grant of temporary approval of an assumption of operational control creates no presumption that permanent transfer approval will be granted.

II. ORDER**A. The Commission Orders That:**

1. The application for temporary approval of an assumption of operational control filed by Boulder County Express is granted.

2. Boulder County Casino Express, is granted temporary approval to assume operational control of Certificate of Public Convenience and Necessity PUC No. 54379 for a period of 150 days commencing from the Mailed Date of this Order.

3. Boulder County Casino Express shall operate in accordance with all applicable Commission rules and regulations.

4. Boulder County Casino Express shall cause to be filed with the Commission certificates of insurance as required by Commission rules. Boulder County Casino Express shall also adopt the tariff of Boulder County Express, which shall become that of Boulder County Casino Express until changed in accordance with the public utilities law. Boulder County Casino Express shall pay the appropriate vehicle identification fee. Boulder County Casino Express shall not assume operational control until it has met these requirements, and it has received notice in writing from the Commission stating that it is in compliance and may begin service.

5. If Boulder County Casino Express does not comply with the requirements of this Order within 30 days of its effective date, then the temporary approval shall be void. For good cause shown, the Commission may grant additional time for compliance if the request for additional time is filed within the 30 days.

6. 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 Order.

7. This Order is effective immediately on its Mailed Date.

**B. ADOPTED IN THE COMMISSIONERS' WEEKLY MEETING
February 4, 2004.**

(SEAL)



ATTEST: A TRUE COPY

Bruce N. Smith
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

JIM DYER

Commissioners