

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-110CP-ETA

THE APPLICATION OF OWNER/DRIVER UNITED CORPORATION DOING BUSINESS AS BLUE SKY SHUTTLE FOR EMERGENCY TEMPORARY AUTHORITY TO CONDUCT OPERATIONS AS A COMMON CARRIER BY MOTOR VEHICLE FOR HIRE.

**COMMISSION ORDER DENYING
EMERGENCY TEMPORARY AUTHORITY**

Mailed Date: March 26, 2004

Adopted Date: March 17, 2004

I. BY THE COMMISSION:

A. Statement, Findings and Conclusions

1. On March 5, 2004, Owner/Driver United Corporation doing business as Blue Sky Shuttle (Owner/Driver United), filed an application for emergency temporary authority for a Certificate of Public Convenience and Necessity to operate as a common carrier by motor vehicle for hire for the transportation of passengers and their baggage, in scheduled and call-and-demand limousine service, between Denver International Airport, on the one hand, and on the other hand, all points in the following described area: beginning at the intersection of Interstate 70 and Colorado Boulevard, Denver, Colorado; then west along Interstate 70 to its intersection with Lowell Boulevard; then south along Lowell Boulevard to its intersection with Alameda Avenue; then east along Alameda Avenue, as extended, to its intersection with Colorado Boulevard; then north along Colorado Boulevard, to the point of beginning.

2. 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." Section 40-6-120(4),

C.R.S., further states: "If the Commission is of the opinion that an emergency exists, it may issue temporary authority or approval at once by making specific reference in its order to the circumstances constituting the emergency, in which case no notice need be given, but any such emergency authority or approval shall expire no later than thirty days after it was issued."

3. Owner/Driver United must demonstrate two things: first, that there is an emergency need for the transportation services, and second, that there is no existing carrier capable of meeting the need. If Owner/Driver United fails to meet either requirement, the application must be denied.

4. Nemarda Corporation, doing business as Airport Boulevard Co. and/or ABC Shuttle (Airport Boulevard Co.), Metro Taxi, Inc. (Metro Taxi), and SuperShuttle International Denver, Inc. (SuperShuttle), filed interventions to this application.

5. Airport Boulevard Co. may provide, under Certificate of Public Convenience and Necessity No. 25810 (CPCN), scheduled service between Denver International Airport (DIA) and points in the central and southeastern portions of the Denver metropolitan area. The western boundary of CPCN PUC No. 25810 is the portion of Colorado Boulevard between First Avenue and I-70. The eastern boundary of the area requested in this application is the portion of Colorado Boulevard between Alameda Avenue and I-70. Therefore, the geographic area of CPCN PUC No. 25810 does not overlap with the area requested in this application.

6. Metro Taxi may provide taxi service, under CPCN PUC No. 1481, between all points in the Counties of Adams, Arapahoe, Boulder, Denver, and Douglas, State of Colorado. CPCN PUC No. 1481 allows Metro Taxi to provide taxi service between DIA and all points in

each of these five counties. Metro Taxi may provide taxi service between DIA and all points in the geographic area named in this application.

7. SuperShuttle may provide, under CPCN PUC No. 55686, scheduled and call-and-demand limousine service between DIA and points in the downtown Denver area, and many other points in the central and southeastern portions of the Denver metropolitan area. Super Shuttle may provide scheduled service between DIA and a portion of the geographic area named in this application. Super Shuttle may provide call-and-demand limousine service between DIA and all points in the geographic area named in this application.

8. In support of its application Owner/Driver United states: “Denver Mountain Express, Inc./Amerishuttle, Certificate number 52940, is unable to service their downtown Denver authority.” Owner/Driver United uses the apparent recent cessation of scheduled and call-and-demand limousine service by Amerishuttle as the indicator that there is an emergency need for the transportation services named in this application.

9. Denver Mountain Express, Inc., doing business as Amerishuttle and/or Blue Sky Shuttle, under CPCN PUC No. 52940, may provide scheduled and call-and-demand limousine service between DIA and a portion of the geographic area named in this application. Amerishuttle filed an application with the Commission on March 12, 2004, to suspend operations under CPCN PUC No. 52940 from March 11, 2004, to June 11, 2004. The application, Docket No. 04A-016CP-Suspension, filed by Amerishuttle will be published in the Commission’s Notice of Applications Filed on March 22, 2004. However, the Commission is aware that Amerishuttle is not currently providing any scheduled or call-and-demand transportation service to or from DIA.

10. The application, as filed on March 5, 2004, by Owner/Driver United, did not include any letters of support. Letters of support were submitted by Owner/Driver United late in the afternoon of March 16, 2004. These letters were not provided in time to allow the Commission to reasonably review them prior to its meeting at 9:00 a.m. on March 17, 2004.

11. Metro Taxi may provide taxi service between DIA and the area named in this application. In its intervention Metro Taxi states: "Metro Taxi advises that it has cabs staged around the Denver Metro area and at the holding lot at DIA and has available capacity. Thus existing vehicles are not being used to full capacity or efficiency. Metro Taxi believes that there is more than sufficient unused capacity with existing carriers, including Metro Taxi, to meet the current need for passenger transportation."

12. SuperShuttle may provide scheduled and call-and-demand limousine service between DIA and the area named in this application. In its intervention SuperShuttle states: "SuperShuttle is currently operating a fleet of 63 vans. It is currently providing 127 scheduled runs making an average of two one-way trips per day between DIA and all of the major downtown hotels, at 15-minute intervals from about 5:00a.m. to about 6:00p.m. SuperShuttle also provides 13 call-and-demand limousine runs making an average of five one-way trips each per day between DIA and points of passenger demand in the metro area. With 3200 passenger seats available per day in the downtown area and a total of 4170 per day available in the metro area, SuperShuttle only carried an average of 698 passengers per day in January and February, 2004, for an overall load factor of just under 17%."

13. 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." The Commission is

aware that Amerishuttle has recently stopped providing any transportation service to the area named in this application. However, Metro Taxi and SuperShuttle are providing service to the area named in this application. Owner/Driver United has not shown that there is no carrier capable of providing the service requested in this application.

14. The Commission finds that an emergency need for the regulated transportation service has not been shown to exist. Therefore we deny Owner/Driver United's application.

II. ORDER

A. The Commission Orders That:

1. The application for emergency temporary authority filed by Owner/Driver United is denied.

2. 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.

3. This Order is effective on its Mailed Date.

**B. ADOPTED IN THE COMMISSIONERS' WEEKLY MEETING
March 17, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

I/TRANS/ORDERS/04A-110CP