

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-115CP-ETA

THE APPLICATION OF EDWIN W. SIFFERLIN DOING BUSINESS AS DENVER EXPRESS 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 15, 2004, Edwin W. Sifferlin doing business as Denver Express Shuttle (Denver Express Shuttle), 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, in Denver, Colorado, on the one hand, and all points within a seven mile radius of the intersection of Colfax Avenue and Broadway, Denver, Colorado, on the other hand.

2. Metro Taxi, Inc. (Metro Taxi), SuperShuttle International Denver, Inc. (SuperShuttle), and Golden West Commuter, LLC (Golden West), filed interventions opposing a grant of this application.

3. 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."

4. Denver Express Shuttle 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 Denver Express Shuttle fails to meet either requirement, the application must be denied.

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

6. 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.

7. Golden West may provide, under CPCN PUC No. 14314, scheduled service between DIA and points in the western portion of the Denver metropolitan area. Golden West may provide scheduled service from a portion of the geographic area named in this application.

8. In support of this application Denver Express Shuttle states: "In the convention season of 2003 there were three PUC authority companies serving downtown Denver hotels. Two permanent and one temporary authority. Today there is only one permanent authority operating." The Commission believes that Denver Mountain Express, Inc., doing business as Amerishuttle and/or Blue Sky Shuttle (Amerishuttle), is the company that Denver Express Shuttle states is not serving downtown hotels. Denver Mountain Express 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. Amerishuttle, 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 15, 2004, by Denver Express Shuttle did not include any letters of support. Letters of support were submitted by Denver Express Shuttle 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. 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. 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 6:00a.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. In its intervention Golden West states “Golden West does not operate at full capacity and could handle additional business. Prior to September 11, 2001, for example, Golden West provided service every 30 minutes and still had extra capacity to meet peak needs for service. Although demand has slowly been increasing, Golden West finds that it is able to meet the public need for service every 60 minutes. Simply put, Golden West has the extra capacity to more than double its volume. There is no need for any additional carriers in Golden West territory now or in the foreseeable future.”

14. 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 between DIA and portions of the area named in this application. However, Metro Taxi, SuperShuttle, and Golden West are providing service to most of the area named in this application. Denver Express Shuttle has not shown that there is no carrier capable of providing the service requested in this application.

15. The Commission finds that an emergency need for the regulated transportation service that could be granted in this application has not been shown to exist.

II. ORDER

A. The Commission Orders That:

1. The application for emergency temporary authority filed by Denver Express Shuttle 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-115CP