

Decision No. C04-0313

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04M-102CP

IN THE MATTER OF THE MOTION OF THE MOUNTAIN GUIDES, INC., DOING BUSINESS AS SCENIC MOUNTAIN TOURS, TO REINSTATE CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY NO. 46968.

**ORDER CONSTRUING LETTER AS APPLICATION
FOR EXCEPTIONS AND GRANTING APPLICATION**

Mailed Date: March 26, 2004
Adopted Date: March 17, 2004

I. BY THE COMMISSION:

A. Statement, Findings and Conclusions

1. This matter comes before the Commission for consideration of a letter requesting the reinstatement of Certificate of Public Convenience and Necessity (CPCN) PUC No. 46968 filed by The Mountain Guides Inc., doing business as Scenic Mountain Tours (Scenic Mountain Tours), on March 9, 2004. In Decision No. R04-0187 (Recommended Decision) an Administrative Law Judge (ALJ), after a hearing on the matter, ordered that Scenic Mountain Tours' operating authority be revoked for failure to keep a currently effective Certificate of Insurance on file with the Commission. This request to reinstate CPCN PUC No. 46968 only pertains to that portion of the Recommended Decision that deals with Scenic Mountain Tours' operating authority (Case No. 06137-INS).

2. On January 12, 2004, the Commission received a Form K cancellation notice from Scenic Mountain Tours' insurance provider, National Indemnity Company. That cancellation was to become effective February 21, 2004. The Commission issued a Notice of Hearing and Order

to Show Cause for failure to keep a currently effective Certificate of Insurance on file with the Commission on February 10, 2004. After a hearing on February 23, 2004, the ALJ issued the Recommended Decision revoking Scenic Mountain Tours' CPCN PUC No. 46968. Decision No. R04-0187 was mailed on March 3, 2004.

3. Section 40-6-109(2), C.R.S., mandates that if no exceptions are filed to a recommended decision within 20 days, such decision shall become effective as the decision of the Commission by order of law. In this instance, Scenic Mountain Tours filed its letter requesting the reinstatement of CPCN PUC No. 46968 within the 20-day period. We therefore construe Scenic Mountain Tours' letter of March 9, 2004, as exceptions to Recommended Decision No. 04A-0187.

4. In this letter, Ronald Myers, the owner of Scenic Mountain Tours states he mailed a certified letter to the Commission on December 22, 2003. In this letter Mr. Myers requested the Commission change the address for Scenic Mountain Tours. Mr. Myers states he did receive a signed mail receipt from the certified letter. The receipt indicates the Commission received the letter on December 23, 2004. However, the address for Scenic Mountain tours was not changed in the Commission's records. Mr. Myers states that due to the fact the address was not changed by the Commission, the Notice of Hearing and Order to Show Cause letter was mailed to his previous address. Mr. Myer states he did not receive this letter and was unaware that a hearing was to be held on February 23, 2004.

5. The Commission received a Certificate of Insurance for Scenic Mountain Tours from National Indemnity Company on or around February 18, 2004. This Certificate of Insurance listed the new address for Scenic Mountain tours. This address was not the address

named in the Commission's records as required by Commission Rule (4 CCR) 723-31-12.3.1. This Certificate of Insurance was returned to the insurance carrier on February 21, 2004.

6. An additional Certificate of Insurance from National Indemnity Company was received by the Commission on February 27, 2004. This address named in this Certificate of Insurance matched the address shown in Commission's records. The effective date of this Certificate of Insurance was February 21, 2004. Therefore, Scenic Mountain Tours did not have a lapse in insurance coverage.

7. The Commission finds that Scenic Mountain Tours has shown good cause to reinstate Certificate of Public Convenience and Necessity No. 46968. We therefore grant Scenic Mountain Tours' exceptions to the Recommended Decision.

II. ORDER

A. The Commission Orders That:

1. The letter requesting reinstatement of common carrier Certificate of Public Convenience and Necessity PUC No. 46968 filed by Scenic Mountain Tours on March 9, 2004, is construed as exceptions to Decision No. R03-0187 pursuant to § 40-6-109, C.R.S.

2. Certificate of Public Convenience and Necessity No. 46968 is reinstated.

3. 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.

4. This Order is effective on its Mailed Date.

**B. ADOPTED IN THE COMMISSIONERS' WEEKLY MEETING
February 24, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

I/TRANS/ORDERS/04M-102CP