

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-140CP-TRANSFER-ETA

THE APPLICATION OF DENVER MOUNTAIN EXPRESS, INC., DOING BUSINESS AS AMERISHUTTLE &/OR BLUE SKY SHUTTLE, FOR EMERGENCY TEMPORARY APPROVAL TO ALLOW SCHAFFER-SCHONEWILL & ASSOCIATES, INC., DOING BUSINESS AS ENGLEWOOD EXPRESS &/OR WOLF EXPRESS SHUTTLE, TO ASSUME OPERATIONAL CONTROL OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY PUC NOS. 50790, 52940, 55363, AND 55519.

**COMMISSION ORDER GRANTING
EMERGENCY TEMPORARY APPROVAL**

Mailed Date: April 12, 2004

Adopted Date: April 7, 2004

I. BY THE COMMISSION:

A. Statement, Findings and Conclusions

1. On March 24, 2004, Denver Mountain Express, Inc., doing business as Amerishuttle &/or Blue Sky Shuttle (Amerishuttle), filed an application for emergency temporary approval to allow Schaffer-Schonewill & Associates, Inc., doing business as Englewood Express &/or Wolf Express Shuttle (Englewood Express), to assume operational control of Certificates of Public Convenience and Necessity (CPCN) PUC Nos. 50790, 52940, 55363, and 55519, pending Commission consideration of the related application to permanently transfer the certificate.

2. 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." 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. Mr. Khalil Laleh, president of Englewood Express, filed a Verified Statement of Facts in support of this application. In this document Mr. Laleh states that "On April 1, 2004, Denver Mountain Express, Inc., doing business as Amerishuttle and/or Blue Sky defaulted on its obligations¹ under the Asset Purchase and Sale Agreement, and a related Promissory Note, causing my company to begin undertaking to repossess all collateral, including Certificates of Public Convenience and Necessity, PUC Nos. 50790, 52940, 55363, and 55519. Englewood Express entered into an agreement to lease these CPCN's to Owner/Driver United Corporation dba Blue Sky Shuttle on April 5, 2004. However, in the event the PUC does not approve the proposed lease transaction to Blue Sky Shuttle, it is my company's intent to attempt to sell the subject operating rights to a third party, failing which my company will undertake to secure the appropriate insurance and vehicles to begin operations under the subject Certificates in the near future. Currently my company is in no position to immediately begin providing service under the subject Certificates because we no longer have the equipment to do so, nor have we arranged to secure drivers or insurance necessary to provide such operations."

4. Amerishuttle filed an application with the Commission on March 12, 2004, to suspend operations under CPCN PUC Nos. 50790, 52940, 55363, and 55519, from March 11,

¹ Englewood Express was granted authority to permanently transfer CPCN PUC Nos. 50790, 52940, and 55363, to Amerishuttle by Decision No. R03-0623 on June 5, 2003, in Docket No. 03A-055CP. Englewood Express was also granted an encumbrance against CPCN PUC Nos. 50790, 52940, 55363, and 55519 in accordance with the

2004, to June 11, 2004. The application, Docket No. 04A-116CP-Suspension, filed by Amerishuttle was published in the Commission's Notice of Applications Filed on March 22, 2004. Amerishuttle, on March 24, 2004, filed a request to withdraw its suspension application. The request by Amerishuttle to withdraw the suspension application filed in Docket No. 04A-116CP-Suspension was granted by the Commission on March 31, 2004. However, the Commission is aware that Amerishuttle has ceased all operations and is not currently providing any transportation service under CPCN PUC Nos. 50790, 52940, 55363, and 55519.

5. Rule (4 CCR) 723-31-12 requires each carrier to obtain and keep in force at all times the appropriate Public Liability and Property Damage Insurance. The Commission has received the proper notification from Amerishuttle's insurance company that the insurance coverage currently on file with the Commission for Amerishuttle will be canceled on April 8, 2004. If the proper insurance is not filed by Amerishuttle for CPCN PUC Nos. 50790, 52940, 55363, and 55519, or these CPCN's are not transferred to Englewood Express, these CPCN's may be revoked pursuant to the Commission's show cause procedures.

6. The Commission finds that a failure to grant emergency approval of an assumption of operational control could result in injury to CPCN'S PUC Nos. 50790, 52940, 55363, and 55519, and ultimately affect service to the public.

7. This application for emergency temporary approval is in the public interest.

8. Amerishuttle and Englewood Express are advised that the grant of emergency temporary approval of an assumption of operational control creates no presumption that either

temporary approval of an assumption of operational control or permanent approval of the transfer will be granted.

II. ORDER

A. The Commission Orders That:

1. The application for emergency temporary approval of an assumption of operational control by Englewood Express filed by Amerishuttle is granted.

2. Englewood Express is granted emergency temporary approval to conduct operations under Certificate of Public Convenience and Necessity PUC Nos. 50790, 52940, 55636, and 55519, for a period of 30 days commencing from the Mailed Date of this Order.

3. Englewood Express shall operate in accordance with all applicable Commission rules and regulations.

4. Englewood Express shall not assume operational control until it has adopted the tariffs of Amerishuttle and paid the appropriate vehicle identification fee. Englewood Express shall also file the appropriate Certificates of Insurance as required by Commission rules. Englewood Express shall not assume operational control until it has met these requirements, and notice in writing has been received from the Commission stating that it is in compliance and may begin service.

5. 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.

6. This Order is effective on its Mailed Date.

**B. ADOPTED IN THE COMMISSIONERS' WEEKLY MEETING
March 31, 2004.**

(S E A L)



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