

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-115CP-TA

THE APPLICATION OF EDWIN W. SIFFERLIN, DOING BUSINESS AS DENVER EXPRESS SHUTTLE, FOR TEMPORARY AUTHORITY TO CONDUCT OPERATIONS AS A COMMON CARRIER BY MOTOR VEHICLE FOR HIRE.

**COMMISSION ORDER DENYING
TEMPORARY AUTHORITY**

Mailed Date: April 22, 2004
Adopted Date: March 31, 2004

I. BY THE COMMISSION:

A. Statement

1. On March 15, 2004, Edwin W. Sifferlin, doing business as Denver Express Shuttle (Denver Express Shuttle), filed an application for temporary authority to conduct operations 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 all points within a seven-mile radius of the intersection of Colfax Avenue and Broadway, Denver, Colorado, on the other hand.

2. The Commission gave notice of the application on March 22, 2004.

3. 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.

4. 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."

5. Denver Express Shuttle must meet a two-fold test: first, that there is an immediate and urgent 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 test, the application must be denied

B. Findings of Fact

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 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. 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.

9. 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 one of the companies that Denver Express Shuttle is referring to as not currently providing service to downtown hotels.

10. 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-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 was granted by the Commission on March 31, 2004. However, the Commission is aware that Amerishuttle is not currently providing any scheduled or call-and-demand transportation service to or from DIA.

11. Denver Express Shuttle filed 9 letters of support for this temporary authority application on March 16, 2004. Denver Express Shuttle’s temporary authority application was published in the Commission’s Notice of Applications Filed on March 22, 2004. Denver Express Shuttle subsequently filed an additional 7 letters in support of the temporary application on March 30, 2004. Rule 50(i)(10) of the Commission’s Rules of Practice and Procedure 4 CCR 723-1 states that “[s]upport for a temporary authority application received after notice of the

application filed has been issued by the Commission shall not be considered by the Commission.” Therefore, the 7 support letters filed on March 30, 2004, cannot be considered by the Commission as support for the temporary authority application filed by Denver Express Shuttle.

12. The 9 letters filed on March 16, 2004, are form letters signed by individual travelers or employees of hotels located in the Denver metropolitan area. The letters signed by the 8 hotel employees state: “AmeriShuttle has stopped providing service to our hotel. With the convention and conference season fast approaching, we need more than one shuttle service providing transportation in Denver. With the past service Denver Express Shuttle has provided to the city of Denver, I feel they have the experience to provide transportation service for Denver.” However, none of these hotel employees include any reference to a specific instance in which service was inadequately provided to or from DIA. The letter signed by the individual traveler is the same form letter signed by the hotel employees. In this letter the signer states: “I rode with Denver Express Shuttle after being turned down by SuperShuttle because they were overbooked.” The signer of this letter does not name the date on which she rode Denver Express Shuttle.

13. Metro filed a Motion To Strike Late-Filed Support Letters on March 30, 2004.

14. SuperShuttle filed a Motion To Strike Late-Filed Support Letters on March 30, 2004.

15. 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.”

16. 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%.”

17. 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.”

18. 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.

C. Conclusions

19. The Commission finds that an immediate and urgent need for the requested transportation services has not been shown to exist, and it has not been shown that there are no other carriers capable of providing the service.

20. This application for temporary authority is not in the public interest.

21. The denial of this application creates no presumption about the final disposition of the permanent authority application. The permanent authority application will be determined on the evidence presented using the statutory criteria.

II. ORDER

A. The Commission Orders That:

1. The application for temporary authority filed by Denver Express Shuttle is denied.
2. The Motion To Strike Late-Filed Support Letters filed by Metro is denied as moot.
3. The Motion To Strike Late-Filed Support Letters filed by SuperShuttle is denied as moot.
4. 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.

5. 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

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Commissioners

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