

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04M-157CP

IN THE MATTER OF THE MOTION OF RENZENBERGER, INC., TO REINSTATE
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY NO. 13485 AND
CONTRACT CARRIER PERMIT PUC NO. B-9524.

**ORDER AMENDING COMMISSION DECISION R04-0156
PURSUANT TO § 40-6-112, COLORADO REVISED
STATUTES**

Mailed Date: April 13, 2004
Adopted Date: April 13, 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 Public Convenience and Necessity (CPCN) PUC No. 13485 and Contract Carrier Permit No. B-9524 filed by Renzenberger, Inc. (Renzenberger), on April 2, 2004. In Decision No. R04-0156 (Recommended Decision) an Administrative Law Judge (ALJ), after a hearing on the matter, ordered that Renzenberger's operating authorities be revoked for failure to keep a currently effective Certificate of Insurance on file with the Commission. This request to reinstate CPCN PUC No. 13485 and Contract Carrier Permit No. B-9524 only pertains to that portion of the Recommended Decision that deals with Renzenberger's operating authority (Case No. 06105-INS and Case No. 06106-INS).

2. On January 21, 2004, the Commission received a Form K cancellation notice from Renzenberger's insurance provider, Lumbermens Mutual Casualty Company. That cancellation was to become effective February 9, 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 January 26, 2004. After a hearing on February 9, 2004, the ALJ issued the Recommended Decision revoking Renzenberger's CPCN PUC No. 13485 and Contract Carrier Permit No. B-9524. Decision No. R04-0156 was mailed on February 13, 2004. Decision No. R04-0156 became a decision of the Commission on March 4, 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, Renzenberger did not file its letter requesting the reinstatement of CPCN PUC No. 13485 and Contract Carrier Permit No. B-9524 within the 20-day period. Thus we cannot construe Renzenberger's letter of April 5, 2004, as exceptions to Recommended Decision No. 04A-0156.

4. In this letter, William M. Smith, the president of Renzenberger states

"For the five years prior to February 1, 2003, Lumbermens Mutual Casualty Company (Lumbermans) provided our insurance. Effective February 1, 2003, and continuing to the present time, Ace American Insurance Company (Ace) has provided our coverage. When Ace assumed liability on February 1, 2003, they did not file a new Form E with Colorado. At some time in 2003, Lumbermens apparently notified Colorado that the Form E was canceled. Lumbermans did not notify Renzenberger of that action. On approximately February 16, 2004, Renzenberger received in the mail Decision No. R04-0156 revoking our authorities. We immediately contacted our agent and requested Ace file a Form E to verify our continuous coverage. It was Renzenberger's understanding that by February 20, 2004, the required Form E had been filed with the Commission."

5. The Form E that Mr. Smith states was filed for Renzenberger on February 20, 2004, is the Form E, Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance, that is required by Commission Rule (4 CCR) 723-31-12.3. However,

this Form E was not filed in the exact address shown in Commission records for Renzenberger as required by Rule (4 CCR) 732-31-12.3.1. Another Form E was received by the Commission on March 18, 2004. This Form E named the address shown in Commission records for Renzenberger. The effective date on this Form E was February 1, 2003. Therefore, Renzenberger has not had any lapse in insurance coverage.

6. Pursuant to § 40-6-112 (1), C.R.S., the Commission may amend prior decisions, and such a decision shall have the same effect as an original decision. The Commission finds that Renzenberger has shown good cause to reinstate CPCN PUC No. 13485 and Contract Carrier Permit No. B-9524 because there has been no lapse in insurance coverage. We therefore amend Decision No. R04-0156 to show that Renzenberger's operating authorities were not revoked for failure to keep a currently effective Certificate of Insurance on file with the Commission.

7. We note that Renzenberger failed to follow Commission procedure with respect to Recommended Decision No. R04-0156. Exceptions to that Decision should have been filed within the deadlines established within that Decision. We also note that it is the responsibility of those who appear before the Commission to ensure that the information on file is accurate and complete. The reinstatement of the operating authorities in this matter should not be construed to mean that a failure to adhere to Commission procedural deadlines will be inconsequential.

II. ORDER

A. The Commission Orders That:

1. The letter requesting reinstatement of Certificate Public Convenience and Necessity PUC No. 13485 and Contract Carrier Permit No. B-9524 filed by Renzenberger on

April 5, 2004, is construed as an application to amend Decision No. R03-0156 pursuant to § 40-6-112, C.R.S.

2. That portion of Decision No. R04-0156 revoking Certificate Public Convenience and Necessity PUC No. 13485 and Contract Carrier Permit No. B-9524 (Case No. 06105-INS and Case 06106-INS) is amended such that those authorities are not revoked.

3. Certificate Public Convenience and Necessity PUC No. 13485 and Contract Carrier Permit No. B-9524 are reinstated.

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
April 13, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners
COMMISSIONER JIM DYER ABSENT

I/TRANS/ORDERS/04M-157BP