

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-228CP-EXTENSION-ETA

THE APPLICATION OF SAN MIGUEL MOUNTAIN VENTURES, LLC, DOING BUSINESS AS TELLURIDE EXPRESS, FOR EMERGENCY TEMPORARY AUTHORITY TO EXTEND OPERATIONS UNDER CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY PUC NO. 1648.

**COMMISSION ORDER DENYING
EMERGENCY TEMPORARY AUTHORITY**

Mailed Date: May 14, 2004
Adopted Date: May 12, 2004

I. BY THE COMMISSION:

A. Statement, Findings and Conclusions

1. On May 10, 2004, San Miguel Mountain Ventures, LLC, doing business as Telluride Express (Telluride Express), filed an application for emergency temporary authority to extend operations under Certificate of Public Convenience and Necessity (CPCN) PUC No. 1648 by: (1) eliminating the following restriction to Item (I)(A): Restricted against providing taxi between points within Montrose County, on the one hand, and that portion of Gunnison County within a 100-mile radius of the United States Post Office at Telluride, Colorado. The revised Item (1)(A) will read as follows: Transportation, in taxi service, of passengers and their baggage: between all points within a 100-mile radius of the United States Post Office at Telluride Colorado. Restricted against providing taxi service between points within Montrose County, on the one hand, and on the other hand, all points within the Counties of Ouray, San Juan, and Hinsdale; and (2) eliminating the following restriction to the call-and-demand limousine portion of Item (II)(A): Restricted against providing service between Gunnison, Colorado and Crested Butte, Colorado.

The revised Item (II)(A) will read as follows: Transportation of passengers and their baggage in call-and-demand limousine service between all points within a 100-mile radius of the United States Post Office of Telluride, Colorado.

2. 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."

3. Telluride Express must meet a two-fold test: first, that there must be an emergency need for the transportation services, and second, that there must be no existing carrier capable of meeting the need. If Telluride Express fails to meet either test, the application must be denied.

4. John DeVore, the Executive Director of the Gunnison Valley Rural Transportation Authority, filed the only letter in support of this application. In this letter, Mr. DeVore states "In connection with the closing of the Gunnison Airport for repairs beginning May 10, 2004, we are working with Telluride Express to transfer passengers arriving at the Montrose Airport and going to Gunnison or Crested Butte. We also anticipate there will be the need for them to transfer passengers between Gunnison and Crested Butte. Because of the closing of the Gunnison Airport and the anticipation that we will have the need to transfer passengers between Gunnison and Crested Butte, we support and encourage the Telluride Express application to remove this restriction."

5. Alpine Express, Inc., under CPCN PUC No. 12750 may provide call-and-demand limousine service and taxi service between all points located within a 10-mile radius of the intersection of Elk Avenue and Colorado State Highway 135 in Crested Butte, Colorado, and between said points on the one hand, and all points within a 10-mile radius of the intersection of U. S. Highway 50 and Colorado State Highway 789 in Montrose, Colorado, and all points in the County of Gunnison, State of Colorado, on the other hand. Therefore, Alpine Express, Inc., may provide the transportation services requested in this application.

6. Mr. DeVore's letter does indicate that some type of additional transportation service may be needed during the time the Gunnison County Airport is closed. However, Mr. Devore does not name any specific circumstances that show any emergency need does or will exist during the closure of the airport.

7. The Commission finds that Telluride Express has not shown that an emergency need for the regulated transportation service exists or that no other carrier is capable of providing the service requested in this application.

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

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

II. ORDER**A. The Commission Orders That:**

1. The application for emergency temporary authority filed by Telluride Express 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
May 12, 2004.**

(S E A L)



ATTEST: A TRUE COPY

Bruce N. Smith
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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Commissioners