

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

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

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

**COMMISSION ORDER DENYING
TEMPORARY AUTHORITY**

Mailed Date: May 27, 2004
Adopted Date: May 26, 2004

I. BY THE COMMISSION:

A. Statement

1. On May 10, 2004, San Miguel Mountain Ventures, LLC doing business as Telluride Express (Telluride Express), filed an application for temporary authority to extend operations under Certificate of Public Convenience and Necessity PUC No. 1648 by: (1) eliminating the following restriction to Item (I)(A): Restricted against providing taxi service 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) would 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 portion of Item (II)(A) would 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. Restricted (1) against providing service to, from, or between points located within a ten-mile radius of the intersection of Elk Avenue and Colorado State Highway 135 in Crested Butte, Colorado; (2) against providing service to, from, or between points in Aspen and Snowmass, Colorado; (3) operations to or from Montrose County are restricted to pick-up or discharge of passengers and their baggage at the Montrose County Airport and/or the bus terminal; (4) (A) against providing service between points in Mesa County, Colorado; and (B) against pick-up of passengers and their baggage within a ten-mile radius of the intersection of 12th Street and North Avenue in Grand Junction, Colorado; and (5) against providing service to, from, or between points in San Juan, Archuleta, and La Plata Counties, Colorado.

2. The Commission gave notice of the application on May 17, 2004.

3. Alpine Express, Inc. (Alpine Express) filed an intervention opposing 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. Telluride Express 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 Telluride Express fails to meet either test, the application must be denied.

B. Findings of Fact

6. John DeVore, the Executive Director of the Gunnison Valley Rural Transportation Authority, filed a letter in support of this application. This letter is dated May 3, 2004. 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.”

7. The Commission received another letter from Mr. Devore on May 18, 2004. In this letter Mr. Devore states “I want to clarify that my support was intended to be for the period of May 10th through July 18th while the Gunnison/Crested Butte Regional Airport is closed do to runway reconstruction and not intended to imply support for a permanent modification to their (Telluride Express) permit. Also I do not support Telluride Express receiving approval for transportation between Gunnison and Crested Butte.”

8. Mr. DeVore’s letters do 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 in either letter that show any immediate or urgent need does or will exist during the closure of the airport. Mr. Devore’s second appears to lessen his support for the need for the service named in this temporary authority application.

9. Telluride Express may currently provide, under CPCN PUC No. 1648, call-and-demand limousine service between the Montrose Airport and points in the cities of Gunnison and Crested Butte. Telluride Express is restricted against providing call-and-demand limousine service between points in the city of Gunnison and points in the city of Crested Butte

10. Alpine Express 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 may provide the transportation services requested in this application.

C. Conclusions

11. 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.

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

13. 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 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 26, 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