

Decision No. C04-0652

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04L-312CP

RE: IN THE MATTER OF RATES FILED IN PASSENGER TARIFF COLORADO PUC NO. 6 BY BEN SAGENKAHN DOING BUSINESS AS PEAK TRANSIT TO BECOME EFFECTIVE ON LESS-THAN-STATUTORY.

COMMISSION ORDER REJECTING PROPOSAL

Mailed Date: June 17, 2004
Adopted Date: June 16, 2004

I. BY THE COMMISSION:

A. Statement

1. On May 27, 2004, Ben Sagenkahn doing business as Peak Transit filed Passenger Tariff Number 6 to become effective on less-than-statutory notice.

2. Peak Transit proposes increases of up to 40 percent for limousine service within El Paso County and between points therein and Denver International Airport. Peak Transit has based the proposal only on the speculative cost of fuel in the Colorado Springs area. As of June 16, 2004 Peak Transit had not filed with the Commission evidence of notice publication, an affidavit attesting to such publication, nor current financial data and operating statistics indicating the actual cost of fuel experienced by Peak Transit to justify the rate proposal. Initially, Peak Transit published a notice of a 12 percent increase in the Woodland Park paper. No evidence of subsequent publishing in the Colorado Springs paper of a 40 percent increase had been received by June 16, 2004.

3. Rule 31 of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1 requires that rate increase proposals must be accompanied by statements setting forth all the circumstance, conditions, and data relied upon in justification of the proposed changes. In addition, Rule 31 also requires public notice through publication in local newspaper and submission of a copy of the newspaper notice with the Commission. If a less-than-statutory application is proposed then the notice and justification must be posted and filed concurrently with the proposed tariff.

4. The Commission finds that Ben Sagenkahn doing business as Peak Transit has not complied with the justification and notice requirements of Rule 31 and that the rate proposal must be rejected.

II. ORDER

A. The Commission Orders That:

1. The rate proposal of Ben Sagenkahn doing business as Peak Transit published in Passenger Tariff Colorado PUC NO. 6 is rejected.

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
JUNE 16, 2004.**

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

JIM DYER

Commissioners
COMMISSIONER POLLY PAGE ABSENT

ATTEST: A TRUE COPY

Bruce N. Smith
Director