

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04M-366CP

RE: MOTOR VEHICLE OPERATIONS OF CB TOWN TAXI, INC., OWNER AND
OPERATOR OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
PUC NO. 43503, REVOKED BY RECOMMENDED DECISION NO. R04-0038.

**COMMISSION ORDER DENYING MOTION
FOR REHEARING, REARGUMENT, OR
RECONSIDERATION**

Mailed Date: August 6, 2004

Adopted Date: July 27, 2004

I. BY THE COMMISSION

A. Background

1. This matter comes before the Commission for consideration of a letter from the attorneys for Community First National Bank (CFNB) asking the Commission to reconsider its decision to revoke Certificate of Public Convenience and Necessity (CPCN) PUC No. 43503, formerly held by CB Town Taxi, Inc. (Town Taxi), as set forth in Commission Decision No. R04-0038. This letter was received on July 14, 2004. We construe the letter as an application for rehearing, reargument, or reconsideration (RRR) of Decision No. R04-0038.

2. On December 22, 2003, Town Taxi was served an Order to Show Cause issued by the Commission Director. The hearing was set for January 12, 2004. Town Taxi failed to appear at the hearing and provided no reason for this failure. Pursuant to § 40-10-110, C.R.S., and the rules and regulations of the Commission, every common carrier of passengers must keep a currently effective certificate of public convenience and necessity on file with the Commission. At the hearing, the Administrative Law Judge (ALJ) found that Town Taxi failed to maintain a

currently effective certificate of insurance on file with the Commission as required by statute and Commission rule.

3. Section 40-16-103, C.R.S., provides:

No person may offer services pursuant to this article unless he is registered with the public utilities commission of this state. Such registration shall include the name and address of the registrant and proof of insurance as required by section 40-16-104. The public utilities commission shall revoke the registration of any person not complying with the insurance and safety requirements of this article until the person attains such compliance.

4. In Recommended Decision No. R04-0038, issued January 16, 2004, the ALJ found that Town Taxi had not maintained proof of insurance, and recommended revoking CPCN PUC No. 43503 as required by statute.

5. No exceptions were filed to the Decision, and it became the Decision of the Commission pursuant to § 40-6-109(2), C.R.S., on February 6, 2004. Under § 40-6-114, C.R.S., a party may file an application for RRR within 20 days after a decision has become the decision of the Commission. Neither Town Taxi, nor CFNB filed applications for RRR within the statutory time period.

6. In its letter dated July 12, 2004, CFNB asks the Commission to reconsider its decision revoking Town Taxi's CPCN and to change its status to suspended. CFNB asserts that it held a first lien security interest in the CPCN issued to Town Taxi. CFNB was unaware that Town Taxi had failed to file the required insurance form, and asserts that it received no notice of the revocation hearing.

7. Alpine Express, Inc. (Alpine), has filed a petition to have the Commission accept its response to CFNB's application for RRR.

II. DISCUSSION

8. We construe CFNB's letter as an application for RRR under § 40-6-114, C.R.S., although it was not in the form of a formal pleading. The provisions allowing RRR as set forth in § 40-6-114, C.R.S., are applicable only to parties. CFNB and Alpine were not parties to the initial proceeding before the ALJ.

9. CFNB states that it received no notice of the revocation hearings. Under § 40-5-105, C.R.S., the rights obtained under a CPCN may be sold, assigned, or leased as any other property other than in the normal course of business, "but only upon authorization by the commission and upon such terms and conditions as the commission may prescribe." *Id.* Commission Rule 4 *Code of Colorado Regulations* (CCR) 723-1-50 governs applications concerning the sale, lease, assignment, or other transfer of operating authorities. The Commission has no record of any application from either CFNB, or Town Taxi to assign all or any portion of CPCN PUC No. 43503 to CFNB as collateral for a loan. Neither CFNB nor Town Taxi has met Commission requirements for assignment of a CPCN. For this reason, the Commission was unable to provide notice to CFNB, and had no obligation to do so.

10. In addition, CFNB's letter of July 12, 2004 is months past the deadline for RRR. Even if, as asserted by CFNB, a similar letter was sent in May, the deadline for RRR would have been months before. We believe that those who negotiate sales, leases, or assignments of regulated instruments, in this case Commission-issued CPCNs, have an obligation to be aware of the regulatory principles and rules applying to the certificates.

11. Because CFNB and Town Taxi failed to come before the Commission to obtain approval of the assignment of CPCN PUC No. 43503, the deadline for RRR passed months ago,

and only parties to a Commission decision are allowed to apply for RRR, we deny CFNB's motion for RRR and Alpine Taxi's application to have its reply received by the Commission.

III. ORDER

A. The Commission Orders That:

1. Community First National Bank's letter of July 12, 2004, construed as an application for rehearing, reargument, or reconsideration, is denied consistent with the discussion above.

2. Alpine Express Inc.'s application to submit a reply to Community First National Bank's motion is also denied.

3. 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.

4. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
July 27, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners