

Decision No. C04-0920

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04C-260-INS

IN THE MATTER OF THE MOTION OF TF TRANSPORTATION, LLC, TO REINSTATE
CONTRACT CARRIER PERMIT PUC NO. B-9824.

**ORDER AMENDING PRIOR DECISION AND GRANTING
REINSTATEMENT**

Mailed Date: August 6, 2004
Adopted Date: August 3, 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 Contract Carrier Permit No. B-9824 filed by TF Transportation, LLC, (TF Transportation), on July 23, 2004. In Decision No. R04-0530 (Recommended Decision) an Administrative Law Judge (ALJ), after a hearing on the matter, ordered that TF Transportation's operating authority be revoked for failure to keep a currently effective Certificate of Insurance on file with the Commission. The request to reinstate Contract Carrier Permit No. B-9824 only pertains to that portion of the Recommended Decision that deals with TF Transportation's operating authority (Case No. 06904-INS).

2. On April 7, 2004, the Commission received a Form K cancellation notice from TF Transportation's insurance provider, National Continental Insurance Company. That cancellation was to become effective May 11, 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 May 11, 2004. After a hearing on May 24, 2004, the ALJ issued the Recommended Decision revoking TF Transportation's Contract Carrier Permit No. B-9824. Decision No. R04-0530 was mailed on May 28, 2004.

3. Section 40-6-109(2), C.R.S., mandates that if no exceptions are filed to a recommended decision within 20 days, the recommended decision shall become effective as the decision of the Commission. Decision No. R04-0530 became effective as a decision of the Commission on June 17, 2004. TF Transportation did not file its letter requesting the reinstatement of Contract Carrier Permit No. B-9824 within the 20-day period. We therefore construe TF Transportation's letter of July 23, 2004, as a request to amend Recommended Decision No. R04-0530 and to reinstate Contract Carrier Permit No. B-9824.

4. In the letter, Mark Fefer, the general manager of TF Transportation, states "The insurance company filed the wrong form on 5-25-04. I have attached two confirmation faxes that my insurance agent faxed to the PUC to have this matter corrected (6-21-04 and 7-23-04). Please reinstate the authority to an active status due to the above mistake."

5. Every contract carrier is required by Commission Rule (4 CCR) 723-23-12.2 to file a Form E Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance with the Commission. Records of the Commission indicate that Commission staff returned an insurance filing to National Continental Insurance Company on May 21, 2004. The filing that was returned to the insurance carrier provided coverage for the transportation of hazardous materials and not Bodily Injury and Property Damage Liability. This insurance filing also did not contain the exact address shown in Commission records as required by Rule (4 CCR) 732-23-12.2.1.

6. A proper Form E, that included the correct address for TF Transportation, was filed with the Commission by National Continental Insurance Company on July 23, 2004. This Form E has an effective date of May 11, 2004. Therefore, TF Transportation did not have any lapse in coverage, and its operating authority should not have been revoked.

7. Pursuant to Section 40-6-112, C.R.S., “[t]he Commission, at any time upon notice to the public utility affected...may rescind, alter, or amend any decision made by it. Any decision rescinding, altering, or amending a prior decision, when served upon the public utility affected, shall have the same effect as original decisions.”

8. The Commission finds that TF Transportation has shown good cause to amend Decision No. R04-0530 and reinstate Contract Carrier Permit No. B-9824.

II. ORDER

A. The Commission Orders That:

1. The letter requesting reinstatement of common carrier Contract Carrier Permit No. B-9824 filed by TF Transportation on July 23, 2004, is construed as a request to amend Decision No. R04-0530 pursuant to § 40-6-112, C.R.S.

2. That portion of Decision No. R04-0530 revoking TF Transportation’s (Case No. 06904-INS) Contract Carrier Permit No. B-9824 is amended to show that TF Transportation’s permit was not revoked.

3. The practical effect of this amendment to Decision No. R04-0530 is that TF Transportation’s Certificate of Public Contract Carrier Permit No. B-9824 is 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
August 3, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

I/TRANS/ORDERS/04C-260-INS