

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-409CP-LEASE-TA

THE APPLICATION OF MILL CREEK MANAGEMENT CO, LLC FOR TEMPORARY APPROVAL TO ALLOW DSC/PURGATORY, LLC. DOING BUSINESS AS MOUNTAIN TRANSPORT TO ASSUME OPERATIONAL CONTROL OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY PUC NO. 19788.

**COMMISSION ORDER GRANTING
TEMPORARY APPROVAL**

Mailed Date: August 30, 2004
Adopted Date: August 25, 2004

I. BY THE COMMISSION:

A. Statement

1. On August 4, 2004, Mill Creek Management Co, LLC (Mill Creek), filed an application for temporary approval to allow DSC/Purgatory, LLC, doing business as Mountain TranSport (Mountain TranSport), to assume operational control of Certificate of Public Convenience and Necessity (CPCN) PUC No. 19788.

2. The Commission gave notice of the application on August 9, 2004.

3. There are no interventions opposing the application.

4. Pursuant to § 40-6-120(2), C.R.S., the Commission may grant temporary approval of a certificate transfer "if it appears that failure to grant such temporary approval may result in destruction of or injury to such carrier or carrier properties sought to be acquired, or to interfere substantially with their future usefulness in the performance of adequate and continuous service to the public."

B. Findings of Fact

5. Mill Creek's CPCN PUC No. 19788 reads as follows: Transportation of passengers and their baggage: a.in call-and-demand limousine service, between the facilities of Cascade Village in San Juan County, State of Colorado, and the La Plata County Airport located southeast of Durango, Colorado; and b. in call-and-demand special bus service, between the facilities of Cascade Village in San Juan County, State of Colorado, on the one hand, and on the other hand, Purgatory Ski Area, Mesa Verde National Park, Durango, Colorado, Silverton, Colorado, and Ouray, Colorado. This Certificate is restricted as follows: A. Item (a) is restricted to the use of vehicles with a passenger capacity of 20 or less; and B. Items (a) and (b) are restricted against providing transportation service on unnumbered or unnamed roads.

6. Jason Greenstein, the Transportation Director of Mountain TransPort, filed a "Verified Statement" in support of this application. In this statement Mr. Greenstein states "Mountain TransPort has become the property manager for the resorts commonly known as Cascade Village and Tamarron. Cascade Village is located just north of Durango Mountain Resort. Tamarron is located several miles south of Durango Mountain Resort. Both Cascade and Tamarron have traditionally utilized their respective, independent, PUC authorities to provide transportation related to those resorts. As the current property manager, Mountain TransPort needs to lease the respective authorities in order to provide necessary transportation services. It is anticipated that Mountain TransPort will, at the appropriate time, file a permanent application with the PUC for the transfer of the Cascade certificate. Mountain Transport, under its existing authority for its operations at Durango Mountain Resort, would not be permitted to transport passengers to and from Cascade and Tamarron, to any location around La Plata County (except to

and from DMR). The failure to grant this temporary approval will result in destruction and injury to both the resort properties, and to the general public, if transportation services are interrupted.”

7. A “Verified Supplemental Statement of Need” was also filed in support of this application. In this statement, Duke Eggleston the attorney for Mountain TranSport, states “Mill Creek has sold all its vehicles to Durango Mountain Resort, effective August 1, 2004. Mill Creek no longer has any employees to operate the transportation portion of its former business. Mill Creek sold its assets in anticipation of being relieved of the obligation to operate the subject authority. Failure to grant the application will result in a stoppage of transportation services to and from Cascade Village. As the current manager of Cascade Village, Durango Mountain Resort is in the process of taking reservations for the winter season, as well as needing to fulfill the current transportation needs of the guests, residents and public at Cascade Village.”

8. In his statement, Mr. Eggleston refers to Durango Mountain Resort rather than Mountain TranSport. The Commission is aware that Durango Mountain Resort and Mountain Resort are the same entity.

C. Conclusions

9. A failure to grant temporary approval of an assumption of operational control could result in injury to CPCN PUC No. 19788 and ultimately affect service to the public.

10. Mountain TranSport, has adequate equipment and financial resources to begin immediate service within the scope of the authority sought.

11. This application for temporary approval is in the public interest.

12. Mill Creek and Mountain TranSport, are advised that the grant of temporary approval of an assumption of operational control creates no presumption that permanent lease approval will be granted.

II. ORDER

A. The Commission Orders That:

1. The application for temporary approval of an assumption of operational control filed by Mill Creek is granted.

2. Mountain TranSport is granted temporary approval to assume operational control of Certificate of Public Convenience and Necessity PUC No. 19788 for a period of 180 days commencing from the Mailed Date of this Order.

3. Mountain TranSport shall operate Certificate of Public Convenience and Necessity PUC No. 19788 in accordance with all applicable Commission rules and regulations.

4. Mountain TranSport shall not assume operational control until it has filed with the Commission certificates of insurance as required by Commission rules. Mountain TranSport shall also adopt the tariff of Mill Creek which shall become that of Mountain TranSport, until changed in accordance with the public utilities law. Mountain TranSport shall pay the appropriate vehicle identification fee. Mountain TranSport may not begin operations until these requirements have been met and it has received notice in writing from the Commission stating that it is in compliance and may begin service.

5. If Mountain TranSport does not comply with the requirements of this Order within 30 days of its effective date, then the temporary approval shall be void. For good cause shown, the

Commission may grant additional time for compliance if the request for additional time is filed within the 30 days.

6. 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.

7. This Order is effective on its Mailed Date.

**B. ADOPTED IN THE COMMISSIONERS' WEEKLY MEETING
August 25, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners