

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-434CP-LEASE-ETA

THE APPLICATION OF OWNER/DRIVER UNITED CORPORATION DOING BUSINESS AS BLUE SKY SHUTTLE FOR EMERGENCY TEMPORARY APPROVAL TO ALLOW GOLDEN WEST COMMUTER, LLC TO ASSUME OPERATIONAL CONTROL OF CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY PUC NOS. 50790, 52940, 55363, AND 55569.

**COMMISSION ORDER GRANTING
EMERGENCY TEMPORARY APPROVAL**

Mailed Date: September 1, 2004

Adopted Date: August 25, 2004

I. BY THE COMMISSION:

A. Statement

1. On August 17, 2004, Owner/Driver United Corporation doing business as Blue Sky Shuttle (Blue Sky Shuttle), filed an application for emergency temporary approval to allow Golden West Commuter, LLC (Golden West Commuter) to assume operational control of Certificates of Public Convenience and Necessity (CPCN) PUC Nos. 50790, 52940, 55363, and 55569, pending Commission consideration of the related application to permanently lease the certificates.

2. Blue Sky Shuttle also filed a Motion For Variance From Certain Common Carrier Rules on August 25, 2004. This Motion requests a variance from Common Carrier Rule 4 (CCR) 723-31-3.1.3.

3. Pursuant to § 40-6-120(2), C.R.S., the Commission may grant temporary approval of a lease of a certificate "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." Section 40-6-120(4), C.R.S., further states: "If the Commission is of the opinion that an emergency exists, it may issue emergency temporary authority or approval at once by making specific reference in its order to the circumstances constituting the emergency, in which case no notice need be given, but any such emergency authority or approval shall expire no later than thirty days after it was issued."

B. Findings of Fact

4. Schafer-Schoenewill & Associates, Inc. dba Englewood Express &/or Wolf Express Shuttle (Englewood Express) was granted the approval to lease CPCN PUC Nos. 50790, 52940, 55363, and 55519, to Blue Sky Shuttle by Decision No. C04-0519 in Docket No. 04A-163CP on May 27, 2004. These certificates allow Blue Sky Shuttle to provide the following transportation services: (A) CPCN PUC No. 50790 authorizes scheduled service between Denver International Airport (DIA) and points in the southwest portion of the Denver metropolitan area; (B) CPCN PUC No. 52940 authorizes (I) scheduled and call-and-demand limousine service between DIA and points in the Denver Tech Center area, and (II) scheduled and call-and-demand limousine between points in downtown Denver and DIA; (C) CPCN PUC No. 55363 authorizes call-and-demand limousine service between DIA and points in Douglas County, Colorado; and (D) CPCN PUC No. 55519 authorizes (I) scheduled service between points in downtown Denver and various Colorado ski areas; (II) scheduled service between points in Golden, Colorado, and various Colorado ski areas; (III) scheduled service between DIA and various Colorado ski areas; (IV) call-and-demand limousine service between all points in the Counties of Clear Creek and

Gilpin, State of Colorado; and (V) scheduled service between points in the Counties of Eagle and Summit, State of Colorado, and Black Hawk and Central City, Colorado.

5. Golden West Commuter is authorized to provide scheduled service between Denver International Airport and points in the western portion of the Denver metropolitan area. Golden West Commuter has had an airport customer and ticket counter at DIA since the airport opened in 1995.

6. Decision No. C04-0519 approved the lease of CPCN PUC Nos. 50790, 52940, 55363, and 55519, from Englewood Express to Blue Sky Shuttle for the period from April 5, 2004, through April 5, 2007. However, Englewood Express remains the owner of these certificates during the period of the lease.

7. Common Carrier Rule 4 (CCR) 723-31-3.1.3 states

Except with regard to foreclosures of encumbrances, executions in satisfactions of a judgement or claims, and transfers pursuant to a court order, only the owners of a certificate as shown in the official records of the Commission may transfer the certificate.

Therefore, only Englewood Express may file an application to lease CPCN PUC Nos. 50790, 52940, 55363, and 55519.

8. In support of this application Blue Sky Shuttle states “It is currently without a customer service and ticket counter at DIA. Passengers are forced to search out Blue Sky Shuttle on the outer rungs of the airport without assistance. This is impeding service to the public. Blue Sky Shuttle has a number of convention bookings coming up in the immediate future. It will be difficult to service these passengers adequately without the customer service and ticket counter these people rely on to assist them with their travel plans. No new service is being requested in

this application only the ability to more adequately serve passengers under an existing certificate.”

9. The information filed by Blue Sky Shuttle in support of this emergency temporary authority application is rather limited. The application does not include any statement regarding the status of Blue Sky Shuttle’s Public Liability and Property Insurance. Common Carrier Rule 4 (CCR) 723-31-12.2 requires every common carrier to obtain and keep in force the appropriate Public Liability and Property Insurance. The Commission has received notice from Blue Sky Shuttle’s insurance carrier, Lincoln General Insurance Company, that Blue Sky Shuttle’s liability insurance currently on file with the Commission will be cancelled as of September 4, 2004.

10. Therefore, the Commission will take into consideration that Blue Sky Shuttle may have to cease all operations as of September 4, 2004. The cessation of service by Blue Sky Shuttle could decrease the scheduled and call-and demand service that is presently available to the traveling public.

11. Granting this application will allow potential passengers to more easily find the services currently provided under the CPCNs to be leased by Golden West, thus preventing injury to the CPCNs

C. Conclusions

12. The Commission finds that Blue Sky Shuttle has shown that a failure to grant emergency temporary approval of an assumption of operational control to Golden West Commuter could result in injury to CPCN PUC Nos. 50790, 52940, 55363, and 55569, and ultimately affect service to the public.

13. Golden West Commuter has adequate equipment and financial resources to begin immediate service within the scope of the authority sought.

14. This application for emergency temporary approval is in the public interest.

15. Blue Sky Shuttle and Golden West Commuter are advised that the grant of temporary approval of an assumption of operational control creates no presumption that either temporary approval of an assumption operational control or permanent approval of the lease will be granted.

II. ORDER

A. The Commission Orders That:

1. The Motion For Variance From Certain Common Carrier Rules as filed by Blue Sky Shuttle is granted.

2. The application for emergency temporary approval of an assumption of operational control by Golden West Commuter of Certificates of Public Convenience and Necessity PUC Nos. 50790, 52940, 55363, and 55569, as filed by Blue Sky Shuttle is granted.

3. Golden West Commuter is granted emergency temporary approval to assume operational control of Certificates of Public Convenience and Necessity PUC Nos. 50790, 52940, 55363, and 55569, for a period of 30 days commencing from the Mailed Date of this Order.

4. Golden West Commuter shall operate Certificates of Public Convenience and Necessity PUC Nos. 50790, 52940, 55363, and 55569, in accordance with all applicable Commission rules and regulations.

5. Golden West Commuter shall not assume operational control of Certificates of Public Convenience and Necessity PUC Nos. 50790, 52940, 55363, and 55569, until it has

adopted the tariffs and time schedules of Blue Sky Shuttle and it has received notice in writing from the Commission stating that it is in compliance and may begin service.

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**

(S E A L)



ATTEST: A TRUE COPY

Bruce N. Smith

Bruce N. Smith
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

CARL MILLER

Commissioners