

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

DOCKET NO. 04C-341-INS

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IN THE MATTER OF THE MOTION OF WASHINGTON & ASSOCIATES HOMEHEALTH CARE NETWORK, INC. TO REINSTATE CONTRACT CARRIER PERMIT PUC NO. B-9838.

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**ORDER AMENDING PRIOR DECISION AND GRANTING  
REINSTATEMENT**

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Mailed Date: September 15, 2004

Adopted Date: September 8, 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-9838 filed by Washington & Associates Home Health Care Network, Inc., (Washington & Associates), on August 30, 2004. In Decision No. R04-0712 (Recommended Decision) an Administrative Law Judge (ALJ), after a hearing on the matter, ordered that Washington & Associates' 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-9838 only pertains to that portion of the Recommended Decision that deals with Washington & Associates' operating authority (Case No. 06958-INS).

2. On May 10, 2004, the Commission received a Form K cancellation notice from Washington & Associates' insurance provider, National Indemnity Company. The cancellation became effective June 20, 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 June 15, 2004. After a hearing on June 28, 2004, the ALJ issued the Recommended Decision revoking Washington & Associates' Contract Carrier Permit No. B-9838. Decision No. R04-0712 was mailed on July 2, 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. R04-0712 became effective as a decision of the Commission on July 22, 2004. Washington & Associates missed this 20 day deadline by not filing its letter requesting the reinstatement of Contract Carrier Permit No. B-9838 within the 20-day period. We therefore construe Washington & Associates' letter of August 30, 2004, as a request to amend Recommended Decision No. R04-0712 and to reinstate Contract Carrier Permit No. B-9838.

4. Washington & Associates' Certificate of Insurance that was cancelled by National Indemnity Company on June 20, 2004, had been in effect since June 21, 2003. The Certificate of Insurance filed by National Indemnity Company was therefore up for renewal in June of 2004.

5. In support of the request to reinstate Permit B-9838, Phyllis Radney the owner of Washington & Associates, states "When we submitted our vehicle information on renewing our policy, it was submitted to the same underwriter that had written the policy the previous year. Upon receipt of that information the underwriter believed that we were attempting to insure a vehicle that we had stated that we had taken off the past policy. We were able to provide the required documents showing that the vehicle in question was a different one than they (the underwriter) had thought. During this time our new agent sought other insurance companies. We had always felt that the underwriters from our past policy would renew us but our time period took us past our renewal time period. Thanks to the hard work of our new agent, we have valid

insurance on our vehicles at this time from a different company. This letter is requesting that we not be revoked. We strongly believe that this situation was out of our control and that we took the proper steps to rectify the situation.”

6. 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 American Casualty Company filed the proper Certificate of Insurance on July 30, 2004. This Certificate of Insurance had an effective date of July 29, 2004.

7. Therefore, Washington & Associates had a lapse in insurance coverage from June 20, 2004, through July 28, 2004. The appropriate Commission staff may investigate the operations, if any, of Washington & Associates during the period which the carrier had no insurance.

8. 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.”

9. The Commission finds that Washington & Associates has shown good cause to amend Decision No. R04-0712 and reinstate Contract Carrier Permit No. B-9838.

10. This Decision should not be construed as approval of Washington & Associates actions. We expect carriers to abide by deadlines set by Commission orders and rules.

## **II. ORDER**

### **A. The Commission Orders That:**

1. The letter requesting reinstatement of common carrier Contract Carrier Permit No. B-9838 filed by Washington & Associates on August 30, 2004, is construed as a request to amend Decision No. R04-0712 pursuant to § 40-6-112, C.R.S.

2. That portion of Decision No. R04-0712 revoking Washington & Associates' (Case No. 06958-INS) Contract Carrier Permit No. B-9838 is amended to show that Contract Carrier Permit No. B-9838 is not revoked.

3. The practical effect of this amendment to Decision No. R04-0712 is that Washington & Associates' Contract Carrier Permit No. B-9838 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  
September 8, 2004.**

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

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Commissioners

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