

Decision No. C04-1450

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04C-509-INS

IN THE MATTER OF THE MOTION OF FRED NNANA DOING BUSINESS AS
AMERICAN TRANSIT EXPRESS TO REINSTATE CONTRACT CARRIER PERMIT PUC
NO. B-9847.

**ORDER AMENDING PRIOR DECISION AND GRANTING
REINSTATEMENT**

Mailed Date: December 8, 2004

Adopted Date: December 1, 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-9874 filed by Fred Nnanna doing business as American Transit Express (American Transit Express), on November 15, 2004. In Decision No. R04-1182 (Recommended Decision) an Administrative Law Judge (ALJ), after a hearing on the matter, ordered that American Transit Express' 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-9847 only pertains to that portion of the Recommended Decision that deals with American Transit Express' operating authority (Case No. 07195-INS).

2. On August 5, 2004 the Commission received a Form K cancellation notice from American Transit Express' insurance provider, Stratford Continental Insurance Company. That cancellation was to become effective October 9, 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 September 29, 2004. After a hearing on October 12, 2004, the ALJ issued the Recommended Decision revoking American Transit Express' Contract Carrier Permit No. B-9847. Decision No. R04-1182 was mailed on October 15, 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. R04-1182 became effective as a decision of the Commission on November 4, 2004. American Transit Express did not file its letter requesting the reinstatement of Contract Carrier Permit No. B-9847 within the 20-day period. We therefore construe American Transit Express' letter of November 15, 2004 as a request to amend Recommended Decision No. R04-1182 to show that Contract Carrier Permit No. B-9847 was not revoked.

4. In the letter, Fred Nnanna, the owner of American Transit Express, states "The insurance for American Transit Express was provided by Stratford Insurance Company. I was informed by my insurance agent that he was informed in September 2004 that Stratford was moving out of Colorado and was not going to provide liability insurance within Colorado. The agent was also informed that Stratford was not going to insure vehicles that are wheelchair accessible. I have been searching for a new insurance carrier since September. It has been very difficult to locate an insurance company that will insure wheelchair accessible vehicles. I signed an agreement with Pyramid Financial & Insurance Services, Inc. on November 12, 2004. The Form E that is required by the PUC should be filed within a few days. Therefore, I am requesting that Permit B-9847 be reinstated after the proper insurance is filed."

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.

6. A proper Form E for American Transit Express, was filed with the Commission by the Progressive Insurance Company on November 29, 2004. This Form E has an effective date of November 13, 2004.

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 American Transit Express has shown good cause to amend Decision No. R04-1182 and reinstate Contract Carrier Permit No. B-9847.

II. ORDER

A. The Commission Orders That:

1. The letter requesting reinstatement of common carrier Contract Carrier Permit No. B-9847 filed by American Transit Express on November 15, 2004 is construed as a request to amend Decision No. R04-1182 pursuant to § 40-6-112, C.R.S. to show that Contract Carrier Permit No. B-9847 was not revoked.

2. That portion of Decision No. R04-1182 revoking American Transit Express’ (Case No. 07195-INS) Contract Carrier Permit No. B-9847 is amended to show that the permit was not revoked.

3. The practical effect of this amendment to Decision No. R04-1182 is that American Transit Express’ Contract Carrier Permit No. B-9847 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
December 1, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners
COMMISSIONER POLLY PAGE ABSENT.