

Decision No. C04-1503

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

DOCKET NO. 04C-582-INS

---

IN THE MATTER OF THE MOTION OF MISHATA ENTERPRISES DOING BUSINESS AS  
HIGH VALLEY CENTER TO REINSTATE CERTIFICATE OF PUBLIC CONVENIENCE  
AND NECESSITY PUC NO. 53046S.

---

**ORDER AMENDING PRIOR DECISION AND GRANTING  
REINSTATEMENT**

---

Mailed Date: December 17, 2004  
Adopted Date: December 15, 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 Certificate of Public Convenience and Necessity (CPCN) PUC No. 53046S filed by Mishata Enterprises doing business as High Valley Center (High Valley Center), on December 8, 2004. In Decision No. R04-1320 (Recommended Decision) an Administrative Law Judge (ALJ), after a hearing on the matter, ordered that High Valley Center's operating authority be revoked for failure to keep a currently effective Certificate of Insurance on file with the Commission. The request to reinstate CPCN PUC No. 53046S only pertains to that portion of the Recommended Decision that deals with High Valley Center's operating authority (Case No. 07287-INS).

2. CPCN PUC No. 53046S authorizes High Valley Center to provide the following service: Transportation of passengers and their bicycles in call-and-demand limousine service between all points within a 25-mile radius of the intersection of U.S. Highway 285 and U. S.

highway 50 in Poncha Springs, Colorado. The certificate is restricted to providing service between the 1<sup>st</sup> day of May and the 31<sup>st</sup> day of October of each year.

3. On September 15, 2004 the Commission received a Form K cancellation notice from High Valley Center's insurance provider, Interstate Indemnity Company. That cancellation was to become effective October 31, 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 October 26, 2004. After a hearing on November 8, 2004, the ALJ issued the Recommended Decision revoking High Valley Center's CPCN PUC No. 53046S. Decision No. R04-1320 was mailed on November 12, 2004.

4. 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. R04-1320 became effective as a decision of the Commission on December 2, 2004. High Valley Center did not file its letter requesting the reinstatement of CPCN PUC No. 53406S within the 20-day period. We therefore construe High Valley Center's letter of December 8, 2004 as a request to amend Recommended Decision No. R04-1320 to show that CPCN PUC No. 53046S was not revoked.

5. In his letter, Robert Mishata, the owner of High Valley Center, states "When we received a letter, Order to Show Cause and Notice of Hearing, from your office dated October 26, 2004, we contacted our local agent, Don Porco, to have the insurance coverage confirmed through October 31. Don advised us that the insurance was covered through October 31, 12:00 midnight and our authority should not be canceled or revoked. Don said he would contact your office to advise that the insurance actually expired November 1, 12:01am. October 5 was our actual last date of operations due to conditions on the trail. Could you please consider reinstating

the permit because we are seasonal and we were not operating at that time due to weather conditions.”

6. Every common carrier is required by Commission Rule (4 CCR) 723-31-12.1 to file a Form E Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance with the Commission. This certificate of insurance must be kept in full force and effect at all times the common carrier may provide any transportation service.

7. High Valley Center is restricted to providing transportation services between the 1<sup>st</sup> day of May and the 31<sup>st</sup> day of October of each year. Therefore, High Valley Center is required to have a certificate of insurance on file and in effect between the 1<sup>st</sup> day of May and the 31<sup>st</sup> day of October of each year. The Form K that was filed with the Commission on September 15, 2004 by Interstate Insurance Company for High Valley Center indicates that the liability insurance for High Valley Center was canceled as of 12:01 a.m. on October 31, 2004. High Valley Center had a lapse in coverage from 12:01 a.m. on October 31, 2004 through 12:00 a.m. on November 1, 2004. However, High Valley Center states it actually ceased operations on October 5, 2004.

8. The nearly 24-hour lapse in insurance coverage appears to have occurred due to a misunderstanding by High Valley Center’s local insurance agent. The local agent may not have known that the Form K cancels a carrier’s liability insurance as of 12:01 a. m. not 12:01 p. m.

9. 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.”

10. The Commission finds that High Valley Center has shown good cause to amend Decision No. R04-1320 and reinstate CPCN PUC No. 53046S.

## **II. ORDER**

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

1. The letter requesting reinstatement of CPCN PUC No. 53046S filed by High Valley Center on December 8, 2004 is construed as a request to amend Decision No. R04-1320 pursuant to § 40-6-112, C.R.S. to show that CPCN PUC No. 53046S was not revoked.

2. That portion of Decision No. R04-1320 revoking High Valley Center's (Case No. 07287-INS) CPCN PUC No. 53046S is amended to show that the certificate was not revoked.

3. The practical effect of this amendment to Decision No. R04-1320 is that High Valley Center's CPCN PUC No. 53046S is reinstated.

4. The 20-day time period provided by § 40-6-114(1), C.R.S., to file an application for rehearing, re-argument, 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 15, 2004.**

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Commissioners