

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03A-204CP

IN THE MATTER OF THE APPLICATION OF NORM'S TRANSPORTATION SERVICE,
L.L.C., FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO
OPERATE AS A COMMON CARRIER BY MOTOR VEHICLE FOR HIRE.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
ACCEPTING STIPULATION,
GRANTING APPLICATION, AS
AMENDED, AND CLOSING DOCKET**

Mailed Date: January 6, 2004

I. STATEMENT

1. On May 2, 2003, Norm's Transportation Service, L.L.C. (Applicant or Norm's Transportation), filed the Application for a Certificate of Public Convenience and Necessity to Operate as a Common Carrier by Motor Vehicle for Hire (Application) which commenced this docket. In the Application, Norm's Transportation seeks authority to provide transportation service as a common carrier by motor vehicle as more specifically described in the Notice of Applications Filed (Notice), dated May 19, 2003.

2. By the Notice, the Commission gave public notice of the filing of the Application. *See* Notice dated May 19, 2003, at 1.

3. On June 18, 2003, Jose Arthur Martinez, doing business as Little Stinkers Taxi Cab Service, filed a timely intervention in this proceeding. On June 19, 2003, Robert Noga of

Twin Hearts Express & Transportation filed a timely intervention in this proceeding.¹ These are the only interventions filed.

4. The undersigned Administrative Law Judge (ALJ) scheduled the hearing for September 19, 2003. *See* Decisions No. R03-0776-I and No. R03-0937-I.

5. On September 19, 2003, pursuant to Decision No. R03-0937-I, the ALJ convened the hearing in this matter. As a preliminary matter, the ALJ heard argument on Applicant's oral motion to dismiss the interventions. The ALJ denied the motion. The Parties then were able to reach an agreement, and the ALJ directed the Parties to reduce their agreement to writing and to file the written agreement. No testimony was taken, and no exhibits were admitted, at the hearing on September 19, 2003.

6. On October 10, 2003, the Parties filed a Stipulation of Intervenor and Applicant. For the reasons stated in Decision No. R03-1291-I, the ALJ rejected that stipulation.

7. By Decision No. R03-1331-I, the ALJ set a new hearing date of January 13, 2004, for this proceeding.

8. On December 18, 2003, the Parties filed a Stipulation of Intervenor and Applicant (Stipulation).

9. On the motion of the Parties and in view of the Stipulation, the ALJ vacated the scheduled hearing. *See* Decision No. R03-1427-I.

¹ In this Order, Mr. Martinez and Mr. Noga are referred to collectively as the Intervenor; and Applicant and the Intervenor are referred to collectively as the Parties.

II. FINDINGS AND CONCLUSION

10. Norm's Transportation is a limited liability company organized in Colorado.

11. In the Application as filed, Applicant sought the following authority:

For a Certificate of Public Convenience and Necessity to operate as a common carrier by motor vehicle for hire for the transportation of

passengers and their baggage, in call-and-demand limousine service,

between all points in the Counties of Alamosa, Conejos, Costilla, Mineral, Rio Grande, and Saguache, State of Colorado, and between said points, on the one hand, and all points in the State of Colorado, on the other hand.

12. By the Application, as amended by the Stipulation, Norm's Transportation asks that the Commission issue to it a Certificate of Public Convenience and Necessity (CPCN) to operate as a common carrier by motor vehicle for hire. Applicant seeks a Letter of Authority (*i.e.*, a CPCN) to provide:

(I) Transportation of

passengers and their baggage in call-and-demand limousine service

between all points in the Counties of Alamosa, Conejos, Costilla, Mineral, Rio Grande, and Saguache, State of Colorado, and between said points, on the one hand, and all points in the State of Colorado, on the other hand.

(II) Transportation of

passengers and their baggage in call-and-demand limousine service

between all points in the Counties of Alamosa, Conejos, Costilla, Mineral, Rio Grande, and Saguache, State of Colorado, and between said points, on the one hand, and all points in the State of Colorado, on the other hand.

(III) Transportation of

passengers and their baggage in call-and-demand limousine service

between all points in the Counties of Alamosa, Conejos, Costilla, Mineral, Rio Grande, and Saguache, State of Colorado, and

between said points, on the one hand, and all points in the State of Colorado, on the other hand.

RESTRICTIONS:

A. Item (I) is restricted:

- (A) to providing transportation services for non-emergency medical passengers. A non-emergent medical condition is defined as a medical condition that requires urgent or routine medical attention. Non-emergent medical transportation is defined as transportation to or from medical treatment that is not emergent in nature. Each passenger may be accompanied by up to two escorts; and
- (B) any passenger eligible for transportation under Restriction (A) may also be transported to and from a non-medical transportation destination on the same trip. Non-medical transportation is defined as transportation that enables eligible clients to gain personal physical access to non-medical community services and resources. Non-medical transportation shall include, but not be limited to, transportation between the client's home and non-medical services or resources as adult day services, shopping, counseling sessions, and other services.

B. Item (II) is restricted:

- (A) against providing any service that originates within the city limits of Alamosa, Colorado;
- (B) to transporting a maximum of 10 passengers per trip;
- (C) to providing service only with at least a 12 hour advance reservation for each trip; and
- (D) against providing service to any airport located in the State of Colorado, except the airport at Alamosa, Colorado.

C. Item (III) is restricted to the transportation of passengers with some type of mobility impairment. Mobility impairment is defined as impairment in a person's ability to ambulate without an assistive device including oxygen and oxygen equipment, a cane, a walker, or the intermittent use of a wheelchair, or assistance from an escort. Each passenger may be accompanied by up to two escorts.

13. The Application amendments set out in the Stipulation are restrictive in nature, are clear and understandable, and are administratively enforceable.

14. The ALJ finds that the Stipulation is just, is reasonable, and is in the public interest. The ALJ concludes that the Stipulation will be accepted.

15. The verified Application establishes that Applicant is familiar with the Rules, Regulations, and Civil Penalties Governing Common Carriers of Passengers by Motor Vehicle for Hire, 4 *Code of Colorado Regulations* 723-31, and agrees to be bound by, and to comply with, those Rules. The verified Application and its supporting documentation also establish that Applicant has sufficient equipment with which to render the proposed service and is financially fit to conduct operations under the authority requested. Therefore, Applicant is fit, financially and otherwise, to provide the proposed service.

16. Review of the verified Application and its supporting documentation indicates a need for the proposed service.

17. In accordance with § 40-6-109, C.R.S., the ALJ recommends that the Commission enter the following order.

III. ORDER

A. The Commission Orders That:

1. The Stipulation of Intervenor and Applicant is accepted.
2. The Application for a Certificate of Public Convenience and Necessity to Operate as a Common Carrier by Motor Vehicle for Hire filed by Norm's Transportation Service, L.L.C., as that Application has been amended by the Stipulation of Intervenor and Applicant, is granted.

3. Norm's Transportation Service, L.L.C., is granted a Letter of Authority to read as follows:

- (I) Transportation of
passengers and their baggage in call-and-demand limousine service
between all points in the Counties of Alamosa, Conejos, Costilla,
Mineral, Rio Grande, and Saguache, State of Colorado, and
between said points, on the one hand, and all points in the State of
Colorado, on the other hand.
 - (II) Transportation of
passengers and their baggage in call-and-demand limousine service
between all points in the Counties of Alamosa, Conejos, Costilla,
Mineral, Rio Grande, and Saguache, State of Colorado, and
between said points, on the one hand, and all points in the State of
Colorado, on the other hand.
 - (III) Transportation of
passengers and their baggage in call-and-demand limousine service
between all points in the Counties of Alamosa, Conejos, Costilla,
Mineral, Rio Grande, and Saguache, State of Colorado, and
between said points, on the one hand, and all points in the State of
Colorado, on the other hand.
- A. Item (I) is restricted:
- (A) to providing transportation services for non-emergency
medical passengers. A non-emergent medical condition is
defined as a medical condition that requires urgent or
routine medical attention. Non-emergent medical
transportation is defined as transportation to or from
medical treatment that is not emergent in nature. Each
passenger may be accompanied by up to two escorts; and
 - (B) any passenger eligible for transportation under Restriction
(A) may also be transported to and from a non-medical
transportation destination on the same trip. Non-medical
transportation is defined as transportation that enables
eligible clients to gain personal physical access to non-
medical community services and resources. Non-medical
transportation shall include, but not be limited to,
transportation between the client's home and non-medical

services or resources as adult day services, shopping, counseling sessions, and other services.

B. Item (II) is restricted:

- (A) against providing any service that originates within the city limits of Alamosa, Colorado;
- (B) to transporting a maximum of 10 passengers per trip;
- (C) to providing service only with at least a 12 hour advance reservation for each trip; and
- (D) against providing service to any airport located in the State of Colorado, except the airport at Alamosa, Colorado.

C. Item (III) is restricted to the transportation of passengers with some type of mobility impairment. Mobility impairment is defined as impairment in a person's ability to ambulate without an assistive device including oxygen and oxygen equipment, a cane, a walker, or the intermittent use of a wheelchair, or assistance from an escort. Each passenger may be accompanied by up to two escorts.

4. Norm's Transportation Service, L.L.C., shall file an appropriate tariff with the Commission.

5. Norm's Transportation Service, L.L.C., shall cause to be filed with the Commission certificates of insurance as required by Commission rules.

6. Norm's Transportation Service, L.L.C., shall pay the issuance fee and annual vehicle identification fees.

7. Norm's Transportation Service, L.L.C., may not begin operations until it has met the requirements set out in Ordering Paragraphs 4 through and including 6, above.

8. If Norm's Transportation Service, L.L.C., does not comply with the requirements of Ordering Paragraphs 4 through and including 6, above, within 60 days of the effective date of this Order, then Ordering Paragraphs 2 and 3, above, shall be void. On good cause shown, the Commission may grant additional time for compliance.

9. Docket No. 03A-204CP is closed.

10. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

11. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

a) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

b) If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

12. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge