

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03A-466CP-EXTENSION

IN THE MATTER OF THE APPLICATION OF R & R TRANSPORTATION, INC., FOR A
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AUTHORIZING AN
EXTENSION OF OPERATIONS UNDER PUC NO. 55693.

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
GRANTING MOTION, GRANTING
REQUEST IN PART, AMENDING
APPLICATION, DISMISSING
INTERVENTION, AND WAIVING
RESPONSE TIME TO MOTION**

Mailed Date: January 26, 2004

I. STATEMENT

1. On October 23, 2003, R & R Transportation, Inc. (Applicant), filed its Application for an Extension of Certificate of Public Convenience and Necessity PUC Number 55693 (Application). That Application commenced this docket.

2. On October 27, 2003, the Commission gave public notice of the Application in the Notice of Applications Filed (Notice). *See* Notice, dated October 27, 2003, at 3. The Notice, *inter alia*, scheduled a hearing for January 7, 2004. Decision No. R03-1426-I vacated that hearing.

3. On November 12, 2003, Metro Taxi, Inc. (Metro), intervened of right. On November 14, 2003, Golden West Commuter, LLC (Golden West), intervened of right.

4. On December 10, 2003, Applicant filed a request that the Application be amended and expanded and that the Commission renote the Application, as amended.

5. On December 15, 2003, *inter alia*, the Commission gave public notice of the amended and expanded Application and scheduled a hearing in this matter. *See* Notice, dated December 15, 2003, at 1. Metro and Golden West again intervened and are the only intervenors.

6. The hearing is scheduled for January 30, 2004.

7. On January 13, 2004, as pertinent here, Applicant requested that the Application be amended to add Boulder and Douglas Counties to restriction no. (4) to Item (III). Specifically, Applicant requested that the restriction of Item (III) be amended to read (emphasis in original):

Item (III) of this Certificate is restricted as follows: (1) Against service to or from Denver International Airport; (2) Against service to or from all airports within a 25 mile radius of the intersection of Colfax Avenue and Broadway, in Denver, Colorado; (3) Against service to or from any casino and hotel located in Central City, and Black Hawk, Colorado; and (4) Against service to or from any hotel or motel with 50 or more rooms located in the Counties of Adams, Arapahoe, **Boulder**, Broomfield, Denver, and **Douglas**, State of Colorado.

8. This amendment is restrictive in nature, is clear, and is administratively enforceable. The request states good cause. No party has filed an objection to this restriction, and granting the request will not prejudice any party. The request will be granted, and the Application will be amended as set out above.

9. The January 13, 2004, filing contained a second proposed amendment: “Restrict to medicaid and medical based business, passengers whose fares will be paid by their insurance providers requesting transportation needs.” The scope of this proposed amendment is not clear,

is not obviously restrictive, and may not be administratively enforceable. As a result, the proposed amendment is not accepted at this time. If it wishes to do so, Applicant may raise, and provide testimony with respect to, this proposed amendment at hearing.

10. On January 21, 2004, Metro filed notice that the amendments proposed on January 13, 2004, would not satisfy Metro's interest in the Application that Metro still opposed the Application. Metro stated that it would appear at the January 30, 2004, hearing.

11. On January 23, 2004, Applicant and Golden West filed a Stipulation of the Parties (Stipulation) and Motion to Restrictively Amend Application and to Withdraw Intervention (Motion). In the Stipulation Applicant and Golden West agree that the authority sought by Applicant is "**only** that authority set forth in the December 15, 2003, PUC notice of applications filed." Stipulation at ¶ III (emphasis in original). In the Motion both Applicant and Golden West urge the Commission to accept the Stipulation; and Golden West agrees, upon the Commission's acceptance of the Stipulation, to withdraw its intervention in this proceeding.

12. To reconcile the Stipulation with the Application as amended by this Order, the undersigned Administrative Law Judge reads the Stipulation to incorporate the January 13, 2004, restriction discussed above. With that reconciliation, the Stipulation clarifies and limits the scope of this proceeding; is clear; and is administratively enforceable. The Motion states good cause. No party will be prejudiced by granting the Motion because the Stipulation simply clarifies and limits the scope of this proceeding in advance of the hearing, thus permitting the parties to prepare for hearing with a clear understanding of the authority which Applicant seeks. The Motion will be granted, the Stipulation will be accepted, and the intervention of Golden West will be dismissed.

13. As a result of the dismissal of Golden West's intervention, Metro and Applicant are the only parties remaining in this proceeding. Absent further Order, the hearing scheduled for January 30, 2004, will proceed as scheduled.

14. Pursuant to Rule 4 *Code of Colorado Regulations* 723-1-22, parties have 14 days within which to respond to motions unless the Commission shortens or waives that response time. In this case, the hearing is scheduled for January 30, 2004, and the parties need to know the scope of the proceeding as soon as possible. In view of these circumstances and the absence of prejudice to any party, response time to the Stipulation and Motion will be waived.

II. ORDER

A. It Is Ordered That:

1. R & R Transportation, Inc.'s January 13, 2004, request to amend the Application to add Boulder and Douglas Counties to restriction no. (4) to Item (III), is granted.
2. The Application is amended as set out in ¶ I.7, above.
3. To the extent not granted by this Order, R & R Transportation, Inc.'s January 13, 2004, request to amend the Application is denied without prejudice.
4. The Motion to Restrictively Amend Application and to Withdraw Intervention filed by R & R Transportation, Inc., and Golden West Commuter, LLC, is granted.
5. The Stipulation signed by R & R Transportation, Inc., and Golden West Commuter, LLC, is accepted.

6. The scope of the Application filed by R & R Transportation, Inc., is as set out in the Notice of Applications Filed issued by the Commission on December 15, 2003, at 1, as amended by this Order.

7. The intervention of Golden West Commuter, LLC, is withdrawn.

8. This Order is effective immediately.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge