

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03A-546CP-XFER

IN THE MATTER OF THE APPLICATION OF SAMJA'S ENTERPRISES, INC.,
D/B/A EXPRESS AIRPORT TAXI/EXPRESS TAXI TO TRANSFER CERTIFICATE
OF PUBLIC CONVENIENCE AND NECESSITY PUC NO. 55670 TO
RDSM TRANSPORTATION, LTD., D/B/A EXPRESS TAXI.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
WILLIAM J. FRITZEL
GRANTING STIPULATED MOTION
AND GRANTING APPLICATION TO
TRANSFER CERTIFICATE NO. 55670**

Mailed Date: February 6, 2004

I. STATEMENT, FINDINGS, AND CONCLUSIONS

1. On December 18, 2003, Samja's Enterprises, Inc. (Transferor), and RDSM Transportation, Ltd. (Transferee) (collectively, Applicants) filed a Joint Application for Authority to Transfer Assets Including Operating Authority from Transferor to Transferee.

2. On December 29, 2003, the Commission issued notice of the application as follows:

For authority to transfer Certificate of Public Convenience and Necessity PUC No. 55670 from Samja's Enterprises, Inc., doing business as Express Airport Taxi/Express Taxi, 1812 E. St. Vrain, Colorado Springs, Colorado 80909 to RDSM Transportation, Ltd., doing business as Express Taxi, 4625 Town Center Drive, Colorado Springs, Colorado 80916.

3. On January 7, 2004, Metro Taxi, Inc. (Metro), intervened in the case.

4. The Commission scheduled a hearing in this matter for March 4, 2004.

5. On January 26, 2004, Metro and Applicants filed a Stipulated Motion to Cancel a Portion of Certificate No. 55670, as a condition to approving the transfer of the remaining portions of Certificate No. 55670 and conditional withdrawal of intervention.

6. Under the terms of the Stipulation, Applicants and Metro agree that the portion of Certificate No. 55670 that authorizes service in Douglas County, Colorado, north of a line drawn east and west through Exit No. 172 of Interstate Highway 25 at or near Larkspur, Colorado, to the intersection with the Elbert/Douglas county line on the east and the Douglas/Jefferson county line on the west is dormant and said portion of the certificate should be canceled as a condition of the approval of the transfer of the certificate.

7. Applicants and Metro state in the Stipulation that the authority for Douglas County contained in Certificate No. 55670 if the cancellation is approved would read:

That portion of Douglas County, Colorado lying on and south of a line drawn east and west through Exit No. 172 on I-25 at or near Larkspur, Colorado, to the intersection with Elbert/Douglas county line on the east and the Douglas/Jefferson county line on the west.

8. The parties state if the Stipulated Motion to Cancel a Portion of the Douglas County Authority Contained in Certificate No. 55670 is approved as a condition of the transfer, the interest of Metro, will be satisfied and its intervention can be deemed withdraw.

9. The Stipulated Motion to Cancel a Portion of Certificate No. 55670 filed on January 26, 2004 is found to be acceptable and will be accepted. The portion of Certificate No. 55670 that authorizes service in Douglas County, Colorado, north of a line drawn east and west through Exit No. 172 of Interstate Highway 25 at or near Larkspur, Colorado, to the intersection with the Elbert/Douglas county line on the east and the Douglas/Jefferson county line on the west is dormant and will be canceled as part of the transfer of the certificate.

10. Since this application is now noncontested, the matter may be handled by the Commission pursuant to its modified procedure under the provisions of § 40-6-109(5), C.R.S., and Rule 24(a) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1-24.

11. Rule 4 CCR 723-31-3.5 establishes standards applicable to transfer of certificates.

The rule that requires that:

723-31-3.5.1 The transferee will engage in *bona fide* common carrier operations under the certificate.

723-31-3.5.2 The transferor of a certificate has been engaged in, and now is engaged in, *bona fide* common carrier operations under its certificate; and, further, that neither the certificate nor any part thereof has been abandoned or allowed to become dormant.

723-31-3.5.3 All rights held under each certificate are sought to be transferred or that a split of the certificate is in the public interest.

723-31-3.5.4 The transfer will not result in the common control or ownership of duplicating or overlapping operating rights, unless it is agreed by the parties that the Commission may cancel any overlapping or duplicating operating rights, or unless the Commission finds that the duplication or overlap is in the public interest or is immaterial
...

12. It is found that based upon the application and attachments contained in the official file of the Commission and the Stipulated Motion to Cancel filed by the parties on January 26, 2004 that the application to transfer should be granted. The Transferee will engage in *bona fide* common carrier operations; the Transferor has been engaged in and now is engaged in *bona fide* common carrier operations and that all rights except the portion of Douglas County authority found to be dormant are sought to be transferred. It is further found that the transfer will not result in the common control or ownership of duplicating or overlapping operating rights. It is further found that the portion of Certificate No. 55670 that authorizes service in

Douglas County, Colorado, north of a line drawn east and west through Exit No. 172 of Interstate Highway 25 at or near Larkspur, Colorado, to the intersection with Elbert/Douglas county line on the east and the Douglas/Jefferson county line on the west is dormant and will be canceled. It is also found that Transferee is financially and otherwise fit to provide transportation authorized in certificate of public convenience and necessity, PUC No. 55670.

13. Pursuant to § 40-6-109, C.R.S., it is recommended that the Commission enter the following order.

II. ORDER

A. The Commission Orders That:

1. The Stipulated Motion to Cancel a Portion of Certificate No. 55670 filed on January 26, 2004 by Transferor Samja's Enterprises, Inc., doing business as Express Airport Taxi/Express Taxi; Transferee RDSM Transportation, Ltd., doing business as Express Taxi and Metro Taxi, Inc., is granted.

2. The portion of certificate of public convenience and necessity, PUC No. 55670 which authorizes service in Douglas County, Colorado, north of a line drawn east and west through Exit No. 172 of Interstate Highway 25 at or near Larkspur, Colorado, to the intersection with the Elbert/Douglas county line on the east and the Douglas/Jefferson county line on the west is canceled.

3. Samja's Enterprises, Inc., doing business as Express Airport Taxi/Express Taxi is authorized to transfer Certificate of Public Convenience and Necessity PUC No. 55670 to

RDSM Transportation, Ltd., doing business as Express Taxi. The authority authorized to be transferred of Certificate No. 55670 reads as follows:

Transportation of

passengers and their baggage, in taxi service,

between all points in the Counties of El Paso and that portion of Douglas County, Colorado lying on and south of a line drawn east and west through Exit No. 172 on I-25 at or near Larkspur, Colorado, to the intersection with the Elbert/Douglas county line on the east and the Douglas/Jefferson county line on the west, and between said points on the one hand, and all points in Colorado, on the other hand.

4. The tariff of rates, rules, and regulations of the Transferor shall, upon proper adoption notice, become and remain those of the Transferee until changed according to law and rules and regulations of the Commission. Transferee shall cause to be filed with the Commission certificates of insurance as required by Commission rules. Transferee shall also file an appropriate tariff and pay the issuance fee and annual vehicle identification fee. Operations may not begin until these requirements have been met. Applicants shall file an acceptance of transfer, signed by the Transferee and Transferor, and a terminating annual report of the Transferor. If the Applicants do not comply with the requirements of this ordering paragraph within 60 days of the effective date of this Order, then ordering paragraph no. 3 above which grants approval of the transfer shall be void and the approval granted shall be void. On good cause shown, the Commission may grant additional time for compliance, provided the request is filed within the 60 day time period.

5. The hearing scheduled for March 4, 2004 is vacated.

6. 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.

7. 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.

8. 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