

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-072CP

IN THE MATTER OF THE APPLICATION OF DOLLY'S MOUNTAIN SHUTTLE, LLC,
P.O. BOX 1841, CRESTED BUTTE, COLORADO 81224, FOR AUTHORITY TO OPERATE
AS A COMMON CARRIER BY MOTOR VEHICLE FOR HIRE.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
WILLIAM J. FRITZEL
GRANTING APPLICATION**

Mailed Date: May 17, 2004

I. STATEMENT, FINDINGS, AND CONCLUSIONS

1. On February 18, 2004, Dolly's Mountain Shuttle, LLC (Applicant) filed an application for a certificate of public convenience and necessity to operate as a common carrier by motor vehicle for hire.

2. On March 8, 2004, the Commission issued notice of the application as follows:

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 within a 30-mile radius of the intersection of Elk Avenue and Colorado State Highway 135 in Crested Butte, Colorado.

RESTRICTIONS: This application is restricted as follows:

- (1) Against any transportation service that originates and terminates within a one-mile radius of the intersection of Elk Avenue and Colorado State Highway 135 in Crested Butte, Colorado;
- (2) Against any transportation service that originates and terminates within a two-mile radius of the intersection of Main and Mill Streets in Aspen, Colorado;

(3) Against any transportation service that originates and terminates within a two-mile radius of the intersection of U.S. Highway 50 and Colorado Highway 135 in Gunnison, Colorado; and

(4) To providing service from June 1 through October 31, of the same year.

3. Notices of intervention were filed by Alpine Express, Inc. (Alpine Express); Snow Limousine, Inc. (Snow Limousine); and Hy-Mountain Transportation, Inc. (Hy-Mountain).

4. A hearing was scheduled for May 13, 2004 in Crested Butte, Colorado.

5. On April 12, 2004, Applicant filed a Motion to Amend Restriction of Authority No. 2 as noticed in the Commission's Notice of Application dated March 8, 2004. The restriction of authority as originally filed reads:

Against any transportation service that originates and terminates within a two-mile radius of the intersection of Main and Mill Streets in Aspen, Colorado.

Applicant requested to amend the application so that restriction no. 2 reads as follows:

Against any transportation service that originates and terminates within a four-mile radius of the intersection of Main and Mill Streets in Aspen, Colorado.

6. By Decision No. R04-0397-I, mailed on April 16, 2004, the restrictive amendment was accepted.

7. On May 10, 2004, Applicant and Alpine Express filed a Settlement Agreement and Stipulated Motion to restrictively amend the application, and for conditional withdrawal of intervenor's intervention. Applicant requested that its application be restrictively amended so that the full and complete authority would read as follows:

I. Transportation in call-and-demand limousine service of
passengers and their baggage:

between hiking trailheads in Gunnison and Pitkin Counties, Colorado, that are within a 30-mile radius of the intersection of Elk Avenue and Colorado

State Highway 135 in Crested Butte, Colorado, on the one hand, and all points in Gunnison and Pitkin Counties, Colorado, on the other hand, that are within a 30-mile radius of the intersection of Elk Avenue and Colorado State Highway 135 in Crested Butte, Colorado.

RESTRICTIONS: This authority is restricted as follows:

- (1) To the use of two (2) vehicles with a seating capacity of 15 passengers or less, excluding the driver;
- (2) To providing service from June 1 through October 31 of the same year;
- (3) Against any service to or from the airport at or near Gunnison, Colorado;
- (4) Against any service to or from the Crested Butte Airport;
- (5) Against any transportation service that originates and terminates within a one-mile radius of the intersection of Elk Avenue and Colorado State Highway 135 in Crested Butte, Colorado;
- (6) Against any transportation service that originates and terminates within a four-mile radius of the intersection of Main and Mill Streets in Aspen, Colorado; and
- (7) Against any transportation service that originates and terminates within a two-mile radius of the intersection of U.S. Highway 50 and Colorado Highway 135 in Gunnison, Colorado.

8. Alpine Express states in the Stipulation that if the Commission accepts the restrictive amendment, its interest in the application will be satisfied and its intervention will be withdrawn.

9. It is found that the proposed restrictive amendment contained in the Settlement Agreement and Stipulated Motion of Alpine Express, Inc., and Dolly's Mountain Shuttle, LLC is restrictive in nature, clearly stated, and enforceable. The restrictive amendment is accepted.

10. On May 10, 2004, Hy-Mountain filed a letter with the Commission withdrawing its intervention.

11. On May 12, 2004, Snow Limousine filed a letter with the Commission withdrawing its intervention.

12. Since this application is now noncontested, the application can be handled pursuant to the Commission's modified procedure under the provisions of § 40-6-109(5), C.R.S., and 4 *Code of Colorado Regulations* 723-1-24(a), without a formal oral hearing.

13. It is found that Applicant is financially and otherwise fit to provide the proposed transportation. It is also found that there is a public need for the proposed transportation. These findings are based upon the application, financial statement, and letters of support from the public.

14. 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. Dolly's Mountain Shuttle is granted a certificate of public convenience and necessity to operate as a common carrier by motor vehicle for hire for:

Transportation in call-and-demand limousine service of passengers and their baggage:

between hiking trailheads in Gunnison and Pitkin Counties, Colorado, that are within a 30-mile radius of the intersection of Elk Avenue and Colorado State Highway 135 in Crested Butte, Colorado, on the one hand, and all points in Gunnison and Pitkin Counties, Colorado, on the other hand, that are within a 30-mile radius of the intersection of Elk Avenue and Colorado State Highway 135 in Crested Butte, Colorado.

RESTRICTIONS: This authority is restricted as follows:

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- (4) Against any service to or from the Crested Butte Airport;
- (5) Against any transportation service that originates and terminates within a one-mile radius of the intersection of Elk Avenue and Colorado State Highway 135 in Crested Butte, Colorado;
- (6) Against any transportation service that originates and terminates within a four-mile radius of the intersection of Main and Mill Streets in Aspen, Colorado; and
- (7) Against any transportation service that originates and terminates within a two-mile radius of the intersection of U.S. Highway 50 and Colorado Highway 135 in Gunnison, Colorado.

2. The authority granted in the above paragraph is conditioned upon Applicant meeting the requirements contained in this Order and is not effective until these requirements have been met.

3. Applicant shall file certificates of insurance, tariffs, rates, rules, and regulations as required by the rules and regulations of the Commission, and shall pay the issuance fee, annual identification fee, and comply with any other requirements of the Commission. Operations may not begin until these requirements have been met and Applicant has been notified by the Commission that operations may begin. If Applicant does not comply with the requirements of this ordering paragraph within 60 days of the effective date of this Order, then ordering paragraph no. 1 which grants authority to Applicant shall be void and the authority granted shall then be void. On good cause shown, the Commission may grant additional time for compliance provided that the request is filed with the Commission within the 60-day time period. The right

of Applicant to operate shall depend upon Applicant's compliance with all present and future laws and regulations of the Commission.

4. The hearing scheduled for May 13, 2004 in Crested Butte, Colorado is vacated.

5. 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.

6. 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.

7. 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