

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-165CP-EXTENSION

IN THE MATTER OF THE APPLICATION OF LEVTZOW, LLC, D/B/A MOUNTAIN LIMO,
P.O. BOX 1662, TELLURIDE, COLORADO 81435, FOR AN EXTENSION OF ITS
AUTHORITY UNDER CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
NO. 47426.

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

Mailed Date: June 22, 2004

I. STATEMENT, FINDINGS, AND CONCLUSIONS

1. On April 7, 2004, Applicant Levtzow, LLC, doing business as Mountain Limo (Applicant) filed an application for an extension of its authority under Certificate of Public Convenience and Necessity PUC No. 47426.

2. On April 19, 2004, the Commission issued notice of the application as follows:

For an order of the Commission authorizing an extension of operations under Certificate of Public Convenience and Necessity PUC No. 47426 to include the transportation of

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

between all points within a five-mile radius of the intersection of Colorado Highway 145 and Colorado Avenue in Telluride, Colorado, on the one hand, and all points within a five-mile radius of the intersection of U.S. Highway 50 and Colorado Highway 550 in Montrose, Colorado, on the other hand.

3. Interventions were filed by Delta Transit Company (DTC) and San Miguel Mountain Ventures, LLC, doing business as Telluride Express (Telluride Express).

4. The Commission scheduled this matter for hearing for July 8, 2004 in Telluride, Colorado.

5. On May 28, 2004, Applicant and Telluride Express filed a Stipulated Motion for Imposition of Restrictive Amendment and Conditional Withdrawal of Intervention. By this pleading, Applicant moves to restrictively amend its application so that the authority after amendment will read as follows:

Transportation of

passengers and their baggage in taxi service

only between points within a five-mile radius of the intersection of Colorado Highway 145 and Colorado Avenue in Telluride, Colorado, on the hand, and all points within a five-mile radius of the intersection of U.S. Highway 50 and Colorado Highway 550 in Montrose, Colorado, on the other hand.

Applicant by this restrictive amendment essentially requests to delete call-and-demand limousine service from the authority requested in the application as noticed. Telluride Express states that if the restrictive amendment is accepted, it will withdraw its intervention.

6. It is found that the proposed restrictive amendment is clearly stated, restrictive in nature, and enforceable. The restrictive amendment is accepted.

7. On May 28, 2004, DTC filed a Withdrawal of Intervention. DTC states in this pleading that Applicant has stated that it will not transport any customers point-to-point locally in Montrose, nor will it pick-up at any point in Montrose to transport passengers to Ridgeway, Colorado or Ouray, Colorado. DTC states that with this agreement, it withdraws its intervention.

8. On June 7, 2004, Applicant filed a pleading that confirms this agreement.

9. 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.

10. 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.

11. 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. Applicant Levtzow, LLC, doing business as Mountain Limo is granted an extension of operations under certificate of public convenience and necessity, PUC No. 47426 to include the transportation of passengers and their baggage in taxi service only between points within a five-mile radius of the intersection of Colorado Highway 145 and Colorado Avenue in Telluride, Colorado, on the one hand, and all points within a five-mile radius of the intersection of U.S. Highway 50 and Colorado Highway 550 in Montrose, Colorado on the other hand.

2. The authority granted in the above ordering 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 on the extended authority 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 extended 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 full and complete authority, including the extension authorized by this Recommended Decision contained in Applicant's Certificate No. 47426 shall read as follows:

Transportation of

passengers and their baggage:

- (1) In taxi service between all points within the Town of Telluride, Colorado, on the one hand, and all points located within a 30-mile radius of Telluride, Colorado, on the other hand;
- (2) On schedule between Telluride Regional Airport, on the one hand, and the Town of Telluride or the Telluride Mountain Village, on the other hand;
- (3) In call-and-demand charter service, to or from: the Grand Junction Regional Airport, also known as Walker Field; Montrose Regional Airport; and train station or bus terminal in Mesa County; and any bus terminal in Montrose County, on the one hand and the area within a 15-mile radius of the intersection of Colorado Avenue and Oak Street in Telluride, Colorado, on the other hand; and
- (4) In taxi service only between points within a five-mile radius of the intersection of Colorado Highway 145 and Colorado Avenue in Telluride, Colorado, on the one hand, and all points within a five-mile radius of the intersection of U.S. Highway 50 and Colorado Highway 550 in Montrose, Colorado, on the other hand.

RESTRICTIONS: This authority is restricted as follows:

- (A) Items (1) and (2) are restricted to the use of vehicles having a capacity of no more than seven (7) passengers excluding the driver, and their baggage;
- (B) Items (1) and (2) are restricted to the use of taxi vehicles only;
- (C) Item (1) is restricted against providing any type of taxi service to or from points in the Counties of Montrose, San Juan, Hinsdale, Montezuma, and La Plata, Colorado;
- (D) Items (1) and (2) are restricted against providing service, to, from, or between points in the Towns of Durango, Gunnison, Aspen, Crested Butte, and Snowmass, Colorado;
- (E) Item (3) is restricted to providing service only in the event of diverted aircraft otherwise destined for the Telluride Regional Airport or scheduled to depart from the Telluride Regional Airport located near Telluride, Colorado. Diverted aircraft include: (1) all diverted aircraft and/or (2) all flights canceled which require the passengers and/or baggage to be reloaded onto another aircraft, due to weather, mechanical, economical/financial, or schedule related reasons;
- (F) Item (3) is restricted to operations to or from the Grand Junction Regional Airport, a/k/a Walker Field, to pick-up or discharge of baggage only; and
- (G) Item (3) is restricted to the use of vehicles having a seating capacity of no more than 14 passengers and their baggage excluding the driver.

5. The hearing currently scheduled for July 8, 2004 in Telluride, Colorado 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