

Decision No. R04-0729

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04G-330CP

PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO,

V.

VAIL SUMMIT RESORTS, INC., D/B/A KEYSTONE RESORT, INC.,

RESPONDENT.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
WILLIAM J. FRITZEL
CLOSING DOCKET**

Mailed Date: June 30, 2004

I. STATEMENT, FINDINGS, AND CONCLUSIONS

1. On June 18, 2004, Staff of the Public Utilities Commission (Staff) issued Civil Penalty Assessment Notice (CPAN) No. 28444 to Vail Summit Resorts, Inc., doing business as Keystone Resort, Inc. (Respondent). Respondent was charged with 60 violations of operating without a certificate of public convenience and necessity pursuant to the provisions of § 40-10-104(1), C.R.S. The violations allegedly occurred during the period of January 1, 2004 through February 29, 2004. The total penalty assessed is \$24,000, with the provision that if Respondent elected to acknowledge liability of the violations within ten days of service of the CPAN, the total amount of the penalty would be reduced to \$12,000.

2. On June 22, 2004, Respondent elected to acknowledge liability on all of the charged violations and paid the reduced penalty of \$12,000 to the Commission.

3. In addition to paying the reduced penalty, Respondent filed a Supplement to Civil Penalty Assessment Notice wherein Respondent explained that it currently holds and has held for a number of years Certificate of Public Convenience and Necessity PUC No. 20195 from this Commission. Respondent states that because of several changes in personnel, it was unaware that it was conducting common carrier operations beyond the scope of its certificate. After learning of Staff's investigation that resulted in the charges contained in CPAN No. 28444, Respondent filed an application to extend its certificate to add the transportation of passengers and their baggage in the area where it improperly provided transportation. The extension was granted by the Commission in Decision No. R04-0490, mailed on May 11, 2004.

4. It is found and concluded that Respondent addressed the violations charged in CPAN No. 28444 by applying for, and receiving the extension of its certificate. Respondent's payment of \$12,000 within ten days of the issuance of the CPAN is in full satisfaction of the complaint and civil penalty assessment notice. This docket will be closed.

5. 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. Docket No. 04G-330CP is closed.
2. 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.
3. 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.

4. 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