

Decision No. R04-1248

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-391CP

IN THE MATTER OF THE APPLICATION OF ARTHUR LEE CLOUD, D/B/A ART'S HOME AND COMMERCIAL, 3336 OLIVE STREET, DENVER, COLORADO 80207, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AS A COMMON CARRIER BY MOTOR VEHICLE FOR HIRE.

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

Mailed Date: October 25, 2004

Appearances

Arthur Lee Cloud, doing business as Art's Home and Commercial,
Applicant, *pro se*;

Richard L. Fanyo, Esq., Denver, Colorado, for Denver Taxi, LLC
and Boulder Taxi, LLC;

Charles M. Williams, Esq., Denver, Colorado, for Casino
Transportation, Inc.; and

Charles J. Kimball, Esq., Arvada, Colorado, for CUSA BCCAE,
LLC and Colorado Coach Transportation, LLC.

I. STATEMENT, FINDINGS, AND CONCLUSIONS

1. On July 29, 2004, Arthur Lee Cloud, doing business as Art's Home and Commercial (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 August 9, 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 in the Counties of Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Gilpin, and Park, State of Colorado.

RESTRICTION:

This application is restricted against any transportation service that originates or terminates at Denver International Airport.

3. Interventions were filed by Colorado Coach Transportation, LLC; CUSA BCCAE, LLC (CUSA); Casino Transportation, Inc. (CTI); Denver Taxi, LLC; and Boulder Taxi, LLC.

4. The Commission set this matter for hearing for October 12, 2004.

5. The hearing was held as scheduled. As a preliminary matter, the motion of CTI to dismiss, first alternative motion *in limine*, request for shortened response time, and request for expedited action, filed on October 5, 2004 by CTI was denied. Testimony was received from Applicant's witnesses and Exhibit No. 1 was marked for identification and admitted into evidence.

6. At the conclusion of Applicant's case, the parties requested an opportunity to negotiate a possible resolution to this case. The request was granted.

7. After negotiation, Applicant, and the above named Intervenors reached a stipulation and agreement wherein Applicant moved to restrictively amend its application to remove transportation to Gilpin County, Colorado and to limit Applicant to the use of no more than three vehicles, with a seating capacity of eight passengers or more, excluding the driver.

8. It was orally found that Applicant's restrictive amendment was acceptable. Intervenor's then moved to withdraw their interventions which was granted.

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

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

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

II. ORDER

A. The Commission Orders That:

1. The restrictive amendment proposed by Applicant Arthur Lee Cloud, doing business as Art's Home and Commercial is accepted.

2. Arthur Lee Cloud, doing business as Art's Home and Commercial is granted 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 in the Counties of Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, and Park, State of Colorado.

RESTRICTIONS: This application is restricted as follows:

1. Restricted against any transportation service that originates or terminates at Denver International Airport; and
2. Restricted to the use of no more than three vehicles, with a seating capacity of eight passengers or more, excluding the driver.
3. The authority granted in ordering paragraph no. 2 is conditioned upon Applicant meeting the requirements contained in this Order and is not effective until these requirements have been met.
4. Applicant shall file certificates of insurance, tariffs, rates, rules, and regulations as required by the rules and regulations of the Commission, and Applicant 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 Decision, then ordering paragraph no. 2 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.
5. The right of Applicant to operate shall depend upon Applicant's compliance with all present and future laws and regulations of the Commission.
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

