

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-470CP-EXTENSION

IN THE MATTER OF THE APPLICATION OF EAST WEST RESORT
TRANSPORTATION, LLC, DOING BUSINESS AS COLORADO MOUNTAIN
EXPRESS AND/OR CME PREMIER AND/OR PREMIER VIP TRANSPORTATION
AND/OR RESORT EXPRESS FOR AN EXTENSION OF OPERATIONS UNDER
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY PUC NO. 7321.

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

Mailed Date: December 7, 2004

I. STATEMENT, FINDINGS, AND CONCLUSIONS

1. On September 3, 2004, East West Resort Transportation, LLC, doing business as Colorado Mountain Express and/or CME Premier, and/or Premier VIP Transportation, and/or Resort Express filed an application for an extension of operations under Certificate of Public Convenience and Necessity PUC No. 7321 by consolidating Certificate of Public Convenience and Necessity PUC No. 13123 into PUC No. 7321; and canceling PUC No. 13123.

2. On September 20, 2004, the Commission issued notice of the application.

3. On September 30, 2004, Deanna R. Cline (Intervenor) intervened in the case.

4. On October 22, 2004, the Commission issued an order scheduling a hearing for November 24, 2004.

5. On November 16, 2004, Intervenor filed a Motion for Leave to Withdraw Intervention by Right. Intervenor states that after further review of the application it is satisfied

that no new authority is being requested, but rather the application merely requests a consolidation of two certificates into one certificate.

6. The hearing scheduled for November 24, 2004 was vacated.

7. Since this matter 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* 723-1. The matter will be determined without a formal oral hearing.

8. It is found and concluded that the application is in the public interest and should be granted.

9. 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 application of East West Resort Transportation, LLC, doing business as Colorado Mountain Express and/or CME Premier and/or Premier VIP Transportation and/or Resort Express for an extension of operations under Certificate of Public Convenience PUC No. 7321 by consolidating Certificate of Public Convenience and Necessity PUC No. 13123 into PUC No. 7321 and canceling PUC No. 13123 is granted.

2. The entire authority under PUC No. 7321 after consolidation will read as follows:

I. Transportation of

passengers and their baggage in scheduled service:

- (A) Between Denver Union Station and points within a two-mile radius thereof, on the one hand, and all points located within the County of Eagle, State of Colorado on the other hand;

- (B) Between Denver, Colorado and Rifle, Colorado via I-70 and U.S. Highway No. 6 serving all intermediate points; and in addition serving all off-route points within one mile of said routes located west of a line drawn north and south through Empire, Colorado; and serving the off-route point of Beaver Creek, Colorado;
- (C) Between Glenwood Springs, Colorado, and Aspen, Colorado via Colorado State Highway No. 82 and Brush Creek Road serving all intermediate points, all off-route points located within one mile of said route and serving the off-route points of Snowmass Village and Snowmass Ski Resort;
- (D) Between Frisco, Colorado, and Blue River, Colorado via Colorado State Highway No. 9 serving all intermediate points and all off-route points located within one mile of said route and serving the off-route point of Keystone, Colorado;
- (E) Between Grand Junction, Colorado (including Grand Junction Municipal Airport, Walker Field), on the one hand, and ski areas located in Colorado west of the Continental Divide, on the other hand.

RESTRICTIONS:

- (1) Item (A) is restricted:
 - (i) To service that originates or terminates within the County of Eagle, State of Colorado;
 - (ii) Against maintaining an office at any other place in Vail, Colorado;
 - (iii) To operations and service only between November 1 of each year and April 30 of the following year; and
 - (iv) To the use of vehicles having a capacity of 20 persons or less, including the driver.
- (2) Item (B) is restricted against providing service between Denver Union Station and points within a two-mile radius thereof, on the one hand, and all points located within the County of Eagle, State of Colorado, on the other hand.
- (3) Authority is expressly granted to tack Items (B), (C), and (D) with each other to provide a through transportation service.
- (4) Item (E) is restricted against the use of four-wheel drive vehicles.

II. Transportation of

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

- (A) Between Denver International Airport and Denver Union Station and points within a two-mile radius of Denver Union Station, on the one hand, and all points located within the County of Eagle, State of Colorado, on the other hand;
- (B) Between all points located within a 60-mile radius of the intersection of Mill and Main Streets in Aspen, Colorado and between said points, on the one hand, and all points in the State of Colorado, on the other hand;
- (C) Between points lying within a one-mile radius of the Denver International Airport in Denver, Colorado, on the one hand, and all points in the counties of Pitkin, Garfield, Eagle, Summit, and Clear Creek, on the other hand;
- (D) Between all points in the County of Park, State of Colorado, on the one hand, and all points in the County of Summit, State of Colorado, on the other hand;
- (E) From Rubey Park bus stop in Aspen, Colorado or upper bus stop at Snowmass Mall in Snowmass, Colorado, or Pitkin County Airport in Pitkin County, Colorado, to Glenwood Springs, Colorado, or to the transportation center in Vail, Colorado; and
- (F) Between Grand Junction, Colorado (including Grand Junction Municipal Airport, Walker Field), on the one hand, and ski areas located in Colorado west of the Continental Divide, on the other hand.

RESTRICTIONS:

- (1) Item (A) is restricted:
 - (i) To service that either originates or terminates within the County of Eagle, State of Colorado;
 - (ii) Against maintaining an office at any other place than Vail, Colorado;
 - (iii) To operations and service only between November 1 of each year and April 30 of the following year; and
 - (iv) To the use of vehicles having a capacity of 20 persons or less, including the driver.

- (2) Item (B) is restricted:
 - (i) To the use of vehicles with a passenger capacity of 14 or less excluding the driver;
 - (ii) Against any service which originates or terminates in the County of Eagle, State of Colorado; and
 - (iii) such that any service to points in Eagle, Summit, or Lake counties, must originate or terminate within a 15-mile radius of the intersection of Mill and Main Streets in Aspen;
- (3) To the extent that Item (B) and Item (C) overlap, only one operating right exists;
- (4) Item (F) is restricted against the use of four-wheel drive vehicles.

III. Transportation, in charter service, of
passengers and their baggage:

- (A) Between all points located within a 50-mile radius of the intersection of Mill and Main Streets in Aspen, Colorado;
- (B) Between all points in the County of Park, State of Colorado, on the one hand, and all points in the County of Summit, State of Colorado, on the other hand;
- (C) Between all points located within a 50-mile radius of Vail, Colorado;
- (D) Between points lying within a one-mile radius of the Denver International Airport in Denver, Colorado, on the one hand, and all points in the counties of Pitkin, Garfield, Eagle, Summit, and Clear Creek, on the other hand;
- (E) From Rubey Park bus stop in Aspen, Colorado, or upper bus stop at Snowmass Mall in Snowmass, Colorado, or Pitkin County Airport in Pitkin County, Colorado, to Glenwood Springs, Colorado, or to the transportation center in Vail, Colorado;
- (F) From Pitkin County Airport in Pitkin County, Colorado, to Walker Field, at Grand Junction, Colorado;
- (G) Between Grand Junction, Colorado (including Grand Junction Municipal Airport, Walker Field), on the one hand, and ski areas located in Colorado west of the Continental Divide, on the other hand.

RESTRICTIONS:

- (1) Item (A) is restricted:
 - (i) Against the use of four-wheel drive vehicles;
 - (ii) To providing service that both originates and terminates within a 15-mile radius of the intersection of Main and Mill Streets in Aspen, Colorado; and
 - (iii) To the use of vehicles with a passenger capacity of 15 or more, excluding the driver.
- (2) Item (C) is restricted:
 - (i) To providing service that must either originate or terminate within the County of Eagle, State of Colorado; and
 - (ii) Against providing service that originates or terminates within a 15-mile radius of the intersection of Main and Mill Streets in Aspen, Colorado;
- (3) Items (E) and (F) are restricted to providing service only between the dates of November 1 of each year and May 1 of the following year;
- (4) Item (G) is restricted against the use of four-wheel drive vehicles.

IV. Transportation of

passengers and their baggage in special bus service:

- (A) Between all points within the County of Eagle, State of Colorado, and between said points, on the one hand, and all points located within Leadville, Colorado and a ten-mile radius thereof, on the other hand;
- (B) Between all points located within a 50-mile radius of the intersection of Mill and Main Streets in Aspen, Colorado;
- (C) Between points lying within a one mile-radius of the Denver International Airport in Denver, Colorado, on the one hand, and all points in the counties of Pitkin, Garfield, Eagle, Summit, and Clear Creek, on the other hand;
- (D) From Rubey Park bus stop in Aspen, Colorado, or upper bus stop at Snowmass Mall in Snowmass, Colorado, or Pitkin County Airport in Pitkin County, Colorado, to Glenwood Springs, Colorado, or to the transportation center in Vail, Colorado;
- (E) From Pitkin County Airport to Pitkin County, Colorado, to Walker Field, at Grand Junction, Colorado;

- (F) Between Grand Junction, Colorado (including Grand Junction Municipal Airport, Walker Field), on the one hand, in ski areas located in Colorado west of the Continental Divide, on the other hand.

RESTRICTIONS:

- (1) Item (A) is restricted to service that either originates or terminates within the County of Eagle, State of Colorado.
- (2) Item (B) is restricted:
- (i) Against the use of four-wheel drive vehicles;
 - (ii) To providing service that both originates and terminates within a 15-mile radius of the intersection of Main and Mill Streets in Aspen, Colorado;
 - (iii) To the use of vehicles with a passenger capacity of 15 or more, excluding the driver;
- (3) Items (D) and (E) are restricted to providing service only between the dates of November 1 of each year and May 1 of the following year.
- (4) Item (F) is restricted against the use of four-wheel drive vehicles.

V. Transportation of

passengers and their baggage in scheduled and in call-and-demand limousine service

between all points in the County of Summit, State of Colorado.

3. Certificate of Public Convenience and Necessity, PUC No. 13123 is canceled on the effective date of this Decision and Order.

4. 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.

5. 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.

6. 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