

(Decision No. R95-68)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

THE APPLICATION OF METRO TAXI, INC.)	DOCKET NO. 94A-349CP- Extension
THE APPLICATION OF DONALD W. FUCHS) AND RONALD D. OAKLEY, D/B/A PRES-) TIGE CAB SERVICE.)	DOCKET NO. 94A-351CP
THE APPLICATION OF TFG DENVER) TRANSPORTATION, INC., D/B/A UNITED) CAB, INC.)	DOCKET NO. 94A-352CP
THE APPLICATION OF FREEDOM CABS,) INC.)	DOCKET NO. 94A-354CP
THE APPLICATION OF DIANA LEZARK,) D/B/A EVERGREEN TAXI SERVICE.)	DOCKET NO. 94A-410CP
THE APPLICATION OF CABS, INC.,) D/B/A ZONE CAB, INC.)	DOCKET NO. 94A-422CP- Extension
THE APPLICATION OF MILE-HI TAXICAB) COMPANY, INC., D/B/A MILE HI CABS.)	DOCKET NO. 94A-424CP
THE APPLICATION OF COLORADO) TRANSPORTATION SERVICES, INC.,) D/B/A AMERICAN CAB COMPANY OF) DENVER, INC.)	DOCKET NO. 94A-436CP
THE APPLICATION OF ROCKIES CAB) COMPANY.)	DOCKET NO. 94A-472CP

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
WILLIAM J. FRITZEL
GRANTING THE APPLICATION OF
FREEDOM CABS, INC., AND DENYING
THE APPLICATIONS OF THE
REMAINING APPLICANTS**

Mailed Date: January 25, 1995

Appearances: Robert W. Nichols, Esq., and
Julie Tolleson, Esq., for Metro Taxi,
Inc.;

Joseph B. Wilson, Esq., and Paula M. Connelly, Esq., for Freedom Cabs, Inc.;

Kenneth L. Levinson, Esq., for Colorado Transportation Services, Inc., doing business as American Cab Company of Denver, Inc.;

Dale E. Isley, Esq., for Diana Lezark, doing business as Evergreen Taxi Service;

Malcolm D. Crawford, Esq., and Jon L. Holm, Esq., for Mile-Hi Taxicab Company, Inc.;

I. H. Kaiser, Esq., and Ken Kramer, Esq., for Cabs, Inc., doing business as Zone Cab Company;

Richard L. Corbetta, Esq., and Stephen Denman, for TFG Denver Transportation, Inc., doing business as United Cab, Inc.;

Richard J. Bara, Esq., for Yellow Cab Cooperative Association, doing business as Yellow Cab, Inc., Boulder Yellow Cab, Inc., and its Division Denver Airport Limousine Services, Inc., doing business as Denver Airport Shuttle;

Charles J. Kimball, Esq., for Black Hawk-Central City Ace Express, Inc., Gambler's Express, Inc., and Queen City Transportation, Inc.;

Mark Williams, Esq., for Boulder Airporter, Inc.;

James A. Beckwith, Esq., for Aspen Limousine Service, Inc., doing business as Vans to Vail, Inc.; and

Mana L. Jennings-Fader, Esq., and Jeffrey A. Froeschle, Esq., Assistant Attorneys General for Staff of the Colorado Public Utilities Commission.

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I. STATEMENT OF THE CASE

1. During July and August, 1994, the above captioned Applicants filed applications for certificates of public convenience and necessity to operate as common carriers for hire for the transportation of passengers and their baggage in taxi service point-to-

point in the six-county Denver metropolitan area, between these points, and all points within the State of Colorado.

2. On August 22, 1994, the Commission issued notices of the applications as follows:

COLORADO TRANSPORTATION SERVICES, INC.
DOING BUSINESS AS AMERICAN CAB COMPANY
OF DENVER, INC. (AMERICAN CAB)

For a certificate of public convenience and necessity to operate as a common carrier by motor vehicle for hire for the transportation of

- (1) Passengers and their baggage, in taxi service; and
- (2) Packages, parcels, messages, letters, papers, and documents, on call-and-demand,

between all points in the area comprised of the Counties of Adams, Arapahoe, Denver, Jefferson, Boulder, and Douglas, State of Colorado, and between said points, on the one hand, and all points within the State of Colorado, on the other hand.

RESTRICTION:

Part (2) of this application is restricted against transporting items which exceed 50 pounds in weight.

MILE-HI TAXICAB COMPANY, INC.,
DOING BUSINESS AS MILE HI CABS (MILE HI)

For a certificate of public convenience and necessity to operate as a common carrier by motor vehicle for hire for the transportation of

- (1) Passengers and their baggage, in taxi service; and
- (2) Packages and parcels

between all points within the area comprised of the Counties of Adams, Arapahoe, Boulder, Douglas, Denver, and Jefferson, State of Colorado, and between said points, on the one hand, and all points within the State of Colorado, on the other hand.

RESTRICTION:

This application is restricted against transporting items which weigh in excess of 100 pounds.

CABS, INC., DOING BUSINESS AS
ZONE CAB, INC. (ZONE)

For a certificate of public convenience and necessity authorizing an extension of operations under PUC No. 1221 to include the transportation of

- (1) Passengers and their baggage, in taxi service,

between all points within the base area bounded by an imaginary line running along 120th Avenue, as extended on the north; McIntyre Street as extended on the west; County Line Road, as extended on the south; and Tower Road, as extended on the east. Including in their entirety all cities and towns that are touched by said imaginary lines as said cities and towns exist today and as they will be comprised in the future, and between said points on the one hand, and all points within the State of Colorado, on the other hand; and

- (2) Packages, parcels, baggage, messages, letters, papers, and documents,

between all points within a 25-mile radius of 16th and Champa Streets in Denver, Colorado, and between said points, on the one hand, and those points within 85 miles of the outside perimeter of said 25-mile radius, on the other hand.

DIANA LEZARK, DOING BUSINESS AS
EVERGREEN TAXI SERVICE (EVERGREEN)

For a certificate of public convenience and necessity to operate as a common carrier by motor vehicle for hire for the transportation of

- (1) Passengers and their baggage, in taxi service; and

(2) Packages and parcels, on call-and-demand, between all points within the area comprised of the Counties of Adams, Arapahoe, Denver, Jefferson, Boulder, and Douglas, State of Colorado, and between said points, on the one hand, and all points within the State of Colorado, on the other hand.

FREEDOM CABS, INC. (FREEDOM)

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 taxi service,

between all points within the area comprised of the Counties of Adams, Arapahoe, Boulder, Denver, Douglas, and Jefferson, State of Colorado, and between said points on the one hand, and all points in the State of Colorado, on the other hand.

TFG DENVER TRANSPORTATION, INC.
DOING BUSINESS AS UNITED CAB, INC. (UNITED)

For a certificate of public convenience and necessity to operate as a common carrier by motor vehicle for hire for the transportation of

- (1) Passengers and their baggage, in taxi service; and
- (2) Packages, parcels, messages, letters, paper, and documents, on call-and-demand

between all points within the area comprised of the Counties of Adams, Arapahoe, Boulder, Denver, Douglas, and Jefferson, State of Colorado, (Applicant also seeks authority to serve points within ten miles of this area) and between said points, on the one hand, all points within the State of Colorado, on the other hand.

RESTRICTION:

Part (2) of this application is restricted against transporting items which weigh in excess of 50 pounds.

DONALD W. FUCHS AND RONALD D. OAKLEY
DOING BUSINESS AS PRESTIGE CAB SERVICE
(PRESTIGE)

For a certificate of public convenience and necessity to operate as a common carrier by motor vehicle for hire for the transportation of

- (1) Passengers and their baggage, in taxi service; and
- (2) Packages and parcels, on call-and-demand,

between all points within the area comprised of the Counties of Adams, Arapahoe, Boulder, Denver, Jefferson, and Douglas, State of Colorado, and between said points on the one hand, and all points within the State of Colorado, on the other hand.

RESTRICTION:

Part (2) of this application is restricted against the transportation of items weighing in excess of 40 pounds.

METRO TAXI, INC. (METRO)

For a certificate of public convenience and necessity authorizing an extension of operations under PUC No. 1481 to include the transportation of

- (1) Passengers and their baggage, in taxi service; and
- (2) Packages, parcels, messages, letters, papers, and documents, on call-and-demand,

between all points within the area comprised of the Counties of Adams, Arapahoe, Boulder, Denver, Jefferson, and Douglas, State of Colorado, and between said points, on the one hand, and all points within the State of Colorado, on the other hand.

Applicant also requests that the following restrictions be removed from the above-referenced certificate: (A), (B), (C), (D), (E), (F), (G), (H), (I), (J), (L), (M), (N), (O), (P), (Q), and (R).

ROCKIES CAB COMPANY (ROCKIES)

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 taxi service,

between all points within the area comprised of the Counties of Denver, Adams, Arapahoe, Jefferson, and Douglas, State of Colorado, and between said points, on the one hand, and all points within the State of Colorado, on the other hand.

3. Notices of Intervention were filed in either all of the applications or in certain applications by Yellow Cab Cooperative Association, doing business as Yellow Cab, Inc., and Denver Airport Limousine Service, Inc., doing business as Denver Airport Shuttle ("Yellow"); Aspen Limousine Service, Inc., doing business as Vans to Vail, Inc. ("ALS"); Cabs, Inc., doing business as Zone Cab ("Zone"); Evergreen Taxi Service ("Evergreen"); Metro Taxi, Inc. ("Metro"); Greater Colorado Springs Transportation Company, doing business as Yellow Cab Company of Colorado Springs; Black Hawk-Central City Ace Express, Inc. ("Ace"); Gambler's Express, Inc. ("Gambler's"); Queen City Transportation, Inc. ("Queen City"); Boulder Airporter; Dee Hive Tours; Viking Taxi; Longmont Taxi; Cowen Express ("Cowen"); Hy-Mountain Taxi; Rocky Mountain Shuttlines, Inc., doing business as Rocky Mountain Super Coach; Burt Green; City of Central; Sunshine Taxi; and Staff of the Colorado Public Utilities Commission ("Staff"). Some of the Interveners withdrew from all dockets such as Cowen, and Longmont Taxi either by unconditional withdrawals or as a result of restrictive amendments, while others withdrew in selected cases.

4. On September 30, 1994, the Commission in Decision No. C94-1420 ordered the consolidation of the applications. A prehearing conference was held on October 18, 1994, at which time various procedural and prehearing issues were resolved and a hearing schedule was established.¹ The hearing commenced on October 31, 1994, and each date thereafter with some exceptions, and ended on December 9, 1994. During the course of the hearing, numerous motions were ruled upon.² Testimony was received from over 70 witnesses. Ninety-three exhibits were marked for identification. All of the exhibits were admitted into evidence except Exhibit Nos. 4, 8, 24, 25, 46A, 81, 92, and portions of 80, which were rejected. Exhibit nos. 14 through 18, 39, 41, 72, 84, 88, 90, and 91 were not offered. Administrative notice was taken of various matters as indicated in the transcript. The parties were granted an opportunity to submit statements of position which were due no later than December 16, 1994. Statements of Position were submitted by Freedom Cabs, Inc. ("Freedom"), Metro, Yellow, Zone, Staff, ALS, American Cab Company of Denver, Inc. ("American Cab"), Evergreen, and Mile-Hi Taxi Company, Inc., doing business as Mile Hi Cabs ("Mile Hi").

5. On the first day of hearing, TFG Transportation, Inc., doing business as United Cab, Inc. ("United"), moved to withdraw its application. The motion was granted and the application of United, Docket No. 94A-352CP was dismissed without prejudice.

¹ See Interim Order Nos. R94-1330-I (October 12, 1992); R94-1399-I (October 27, 1994).

² See Decision Nos. R94-1444-I (November 10, 1994); R94-1495-I (November 22, 1994); and the transcript of the hearing.

6. In addition, the motions of ALS and Yellow to dismiss the applications of Prestige Cab Service, Docket No. 94A-351CP and Rockies Cab Company, Docket No. 94A-472CP were granted for the reason that these Applicants failed to comply with Rule 71 and Rule 77 (certification) and Rule 77 (discovery) of the Commission's Rules of Practice and Procedure.³

7. On December 6, 1994, ALS filed a Motion to Modify, Stay, or Set Aside a portion of Interim Order No. R94-1495-I (November 22, 1994), concerning the appropriate regulatory standard for the determination of proof of public need for service pursuant to § 40-10-105(2)(a)(b), C.R.S. (Senate Bill 113).⁴ In Decision No. R94-1495-I, the undersigned ruled that the regulatory standard pursuant to § 40-10-105, C.R.S., as amended by Senate Bill 94-113 in the consolidated proceeding would be the doctrine of regulated competition. It was ruled that the doctrine of regulated competition under the recently enacted amendments clearly applies to transportation in taxi service point-to-point within and between the six-county Denver metropolitan area, each with a population over 60,000, which is the primary thrust of the applications in this case. It was further ruled that the transportation of passengers in taxi service from points within the Denver metropolitan counties to counties of population under 60,000 would also be gov-

³ See transcript of the hearing on October 31, 1994, pages 11 through 15. Rockies did file a letter with the Commission on October 28, 1994, advising that it withdraw its application.

⁴ By Senate Bill 94-113 codified as § 40-10-105(2)(a)(b), C.R.S., effective July 1, 1994, the Colorado General Assembly changed the existing standard of regulated monopoly for the entry of new or extended taxi service in counties with a population of 60,000 or greater to regulated competition.

erned by the standard of regulated competition since this transportation would be considered incidental authority to the point-to-point service within the six-county Denver metropolitan area. ALS argues that the ruling is in error with respect to the transportation of passengers in taxi service from counties over 60,000 (the Denver metropolitan counties) to counties less than 60,000. ALS argues that the ruling should be modified, stayed, or set aside. ALS states that the appropriate standard governing taxi transportation between a point in an urban county to a point in a rural county remains regulated monopoly. Intervenors Ace, Gambler's, and Queen City in their Motion to Modify, Stay, or Set Aside, filed on December 13, 1994, agrees with the position of ALS. Staff also supports the Motions to Modify. Metro, Freedom, and American Cab filed responses on December 16, 1994, arguing that Interim Order No. R94-1495-I should not be modified, stayed, or set aside concerning this issue.

8. Having reviewed the motions to modify and the responses thereto, it is found and concluded that the motions to modify should be granted in part to clarify that any authority which is granted will include taxi transportation as incidental from points in the six-county Denver metropolitan counties to counties of under 60,000 population to permit transportation that originates **only** in the six-county Denver area and does not permit transportation originating in a county of less than 60,000 population to points in the Denver metropolitan counties. Thus any incidental authority granted to an Applicant in this consolidated case as an adjunct of

its point-to-point metro county authority will be confined only to drop-offs of passengers in counties of 60,000 or under.

9. On December 6, 1994, ALS filed a Motion to Dismiss the Applications in Part as related to service from the base six-county Denver metropolitan area to the Counties of Clear Creek, Summit, Eagle, Garfield, and Pitkin State of Colorado for the reason that Applicants have failed to establish a *prima facie* showing of public need. On December 9, 1994, Ace, Gambler's, and Queen City filed a Motion to Dismiss the Applications in Part with respect to service between the base Denver metropolitan counties to Black Hawk and Central City.

10. On December 23, 1994, Metro filed a Response in Opposition to the Motions to Dismiss. On December 16, 1994, Freedom and American Cab filed a Response in Opposition to the Motions to Dismiss.

11. Having read and considered the motions to dismiss and responses thereto, it is found and concluded that the motions to dismiss the applications for failure to establish a *prima facie* case are denied.

12. Pursuant to § 40-6-109, C.R.S., the record of this proceeding along with a written recommended decision are transmitted to the Commission.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. Public Witness Testimony

1. Thirty-eight public need witnesses testified at the hearing. In addition, written comments from the public in support

of expanded taxi service were submitted by various Applicants as part of their applications.⁵ The public witnesses who testified and the people who sign support letters represent a broad segment of the people who need and use taxis in the six-county Denver metropolitan area. These members of the public testified that there exists additional need for taxi service in the six-county Denver metropolitan area.

2. Robin Stephens of Denver who uses an electric wheelchair is a member of the Atlantis Community which is a disabled rights organization. She spoke on behalf of many in Denver who have the need to obtain taxi service in the Denver metropolitan area and from the airport to various other parts of Colorado such as the ski areas. She testified that approximately 30,000 mobility-disabled people live in the Denver metropolitan area. In addition, she is aware that other handicapped people who use electric wheelchairs are visitors to the Denver area and Colorado. Most of this community of citizens do not drive and therefore need transportation. Ms. Stephens testified that the three incumbent taxicab companies, in Denver, Yellow, Zone, and Metro, do not currently provide taxi service to the mobility impaired who use electric wheelchairs. Other forms of public transportation such as the Regional Transportation District ("RTD") are not always convenient and in some cases do not provide service to the areas that the mobility impaired need to travel. Ms. Stephens says that she and others of the community

⁵ Public need comments are incorporated in the record as Exhibit Nos. 5, 6, 13, 19, 21, 22, and 23.

have attempted to obtain the cooperation of the incumbent taxi companies to provide lifts to accommodate electric wheelchairs. She stated that none of these companies have provided the service by obtaining vans equipped with lifts to accommodate electric wheelchairs.⁶ Ms. Stephens stated that Freedom has agreed to provide taxi transportation which would be accessible to the mobility impaired by equipping a van or vans with electric wheelchair lifts.

3. There was considerable public testimony with respect to poor service and in some cases a lack of service to certain communities in Denver such as Five Points, North Park Hill, Montebello, and the near westside. Many of the witnesses who testified who either live or travel to these areas stated that response for taxi service is not prompt, that there are excessive waits for a taxi to arrive after a call for service, and in many instances, people have to call back asking the dispatcher why the cab has not arrived. In some cases the witnesses testified that they routinely call all three incumbent cab companies for service and hope that at least one company responds within a reasonable time. The service is particularly lacking with respect to pick-ups in these areas and service is the worst during the night. Many of the witnesses also testified that because people who live in these areas need to make short trips, such as visits to relatives, or to travel to the grocery store and other shopping areas, many taxi drivers are reluctant to take short trips. Some of the witnesses stated that they have had to wait up to an hour after calling for service in the

⁶ Metro Taxi stated during the course of the hearing that it intends to provide vans equipped with lifts to accommodate electric wheelchairs starting in February of 1995.

Five Points community. Some examples illustrative of the poor taxi service to certain communities such as Five Points include the testimony of Edem Archibong, an optician located at 2736 Welton Street in Denver. Mr. Archibong testified that he routinely calls for taxi service on behalf of his patients. He testified that on some occasions a cab will respond promptly, however, on many other occasions, he will need to call a second time if the taxi does not arrive within 30 minutes. Although many of his patients live in Five Points, there are other patients who live throughout the metropolitan area.

4. Another example of poor service to communities located in Northeast Denver is illustrated by the testimony of Charlotte McKinney. Ms. McKinney resides in Capital Hill and works in downtown Denver at 18th and California Streets. This witness uses taxis frequently since she does not own a car. She generally needs a taxi two to six times per week since she needs to take a taxi from her home and office to various points all over Denver. She generally does not have a problem obtaining prompt taxi service from the three existing taxi companies for pick-up at her home or office to points in the Denver area. She does, however, have a problem in obtaining taxi service to or from Northeast Denver. She has requested taxi service from a church located at 23rd and York Street. When she needs a taxi at this location she either is faced with an excessive wait after calling for taxi service or there will be a no show. She finds that there is a problem particularly at night. She stated that Metro has improved its service over the past year, however, the service of the other cab companies to and

from Northeast Denver is not good. Generally the service of the taxi companies has been excellent from her Capital Hill home and also at her office where she can obtain a cab at a hotel cab stand. She also testified to other examples of poor service, such as to and from the shopping center located at Alameda and Broadway. She also testified that at times some of the drivers have a bad attitude. Ms. McKinney stated that at times she has had to wait up to an hour for taxi service in Northeast Denver.

5. Other witnesses also testified to poor service in Northeast Denver. Some of these witnesses use taxis in other areas of the Denver core and have generally experienced very little problem contrasted with the problems they have encountered in Northeast Denver. One witness R. D. Thompson stated that he never has had a problem in obtaining taxi service from a pick-up point in downtown Denver but he does in Northeast Denver. Another witness, Pastor Dwight Short stated that when he lived in Southeast Denver he never had a problem in obtaining taxi service. He does, however, have a problem obtaining taxi service from his current home in the Five Points Community and other areas of Northeast Denver.

6. Other public witnesses testified to a need for additional taxis and improved service to and from various points within the Denver metropolitan area. The problems encountered were excessive waits for taxis to arrive, no shows, the need to call the taxi company to inquire concerning the whereabouts of a cab, and inaccurate statements by the dispatcher concerning estimated time for a cab's arrival.

7. Joseph Henslik resides on East Iliff Avenue and works at 7700 West Colfax in Lakewood. Mr. Henslik is a frequent user of taxi service particularly on the weekends in the evening between 9:00 and 10:00 p.m. and Sunday and Monday morning at approximately 6:00 a.m. This witness expects a cab to arrive within 30 minutes from the time that he calls for service. He has experienced waits for service of up to an hour long. This witness testified that on a percentage basis, he experiences a problem in obtaining timely taxicab service 90 percent of the time he requests service. This witness uses taxis at least four times a week. Mr. Henslik has experienced poor service from his home on Iliff to Littleton and he also is aware of excessive waits for a taxi at his employers office at 7700 West Colfax.

8. Katherine Copp testified that on one occasion she needed a cab to respond to 705 South Broadway in order to connect with an airline flight at Stapleton International Airport ("SIA"). She called Yellow at 2:00 p.m. requesting service. She then called again at 2:35 p.m. since the taxicab had not arrived. At approximately 2:45 p.m. she called again since no taxi had arrived. Because she was concerned that she would miss her flight, she requested a friend to pick her up and take her to the airport. This witness feels that the ideal response time would be 10 to 15 minutes from the time of the service request.

9. Julie Hinman, the Corporate Sales Manager of the Holiday Inn located at 7390 West Hampden Avenue has occasion to call for taxi service for hotel guests. She stated that it can take up to one hour for taxis to arrive at the hotel. She feels

there is a need for additional taxicab service in the Denver area. On cross-examination, this witness stated that 30 percent of the time, cabs arrive within 20 minutes of the call for service; that 40 percent arrive within 30 minutes; then that 80 percent arrive within 40 minutes. She was also unaware that Yellow maintains a cab stand within three blocks of the hotel.

10. Pierre Coleman testified that he believes there is a need for a new cab company in the Denver area. He will not use the existing service because of problems that he has experienced in the past. He cited three instances which he characterizes as poor service from the period of 1990 to February of 1993 at his residence located at Alameda and Havana Streets. During September and October of 1992, he needed taxi service from his residence. He called Metro for service. After 50 minutes had expired and still no taxi, he placed a second call and was told that the driver had been dispatched. Mr. Coleman waited another 15 minutes and decided to abandon his wait and called a friend to pick him up. In another instance, Mr. Coleman called Yellow at approximately 3:00 a.m. requesting pick-up at his residence at 4:00 to 4:15 a.m. At approximately 4:15 a.m., he called Yellow again and was informed that the driver was in route. The cab did not show, and as a result, this witness could not go to work that day. On another occasion, this witness was scheduled to work the 7:00 a.m. shift. He called Yellow at approximately 4:30 a.m. for a pick-up at 6:15 a.m. This witness waited until 6:20 a.m. and with no cab having shown, he decided to arrange transportation with a friend.

11. Witness Sandra Perez resides in Montbello. She has had occasion to call for taxi service for her husband from her home to the airport. Mrs. Perez usually calls all three existing companies for service to the airport the night before. She related instances where taxis failed to arrive for pick-up, which required her to drive her husband to the airport to meet his plane.

12. Ralph F. Wade, Jr., is a private investigator currently residing in Denver. This witness has a frequent need to use taxis for trips to all parts of the Denver metropolitan area including courts located in Adams and Jefferson Counties. This witness uses taxis between three to five times a week. He does not own his own vehicle. Because of service failures such as no shows, he has recently been using RTD buses. This witness is very critical of the service provided by the existing cab companies in Denver and he believes that a new cab company is needed.

13. Stephen M. Bailey is an attorney who uses taxicabs from four to eight times per month. Mr. Bailey lives in Littleton, and he works at his office in downtown Denver. This witness needs taxis to and from his office to the airport, to the Denver District Court, to the Supreme Court Library, from his home to the airport, and from his home to other parts of the Metro Area. The primary problem experienced by this witness with the use of taxicabs, is excessive delays for pick-up. He has waited up to an hour for a cab to arrive at an automobile dealership located in Southwest Denver (Jefferson County). On this occasion, after waiting an hour and the cab having not arrived, this witness made other arrange-

ments for transportation. This witness also has had problems in attempting to flag a cab.

14. The General Manager of the Denver Petroleum Club, Carol Harrison, supports the application of Zone's plan to operate new Cadillac Sedans as taxicabs. In her capacity as General Manager, Ms. Harrison has occasion to arrange events for members which includes transportation. She feels there is a need for an upscale taxi service such as the proposal of Zone to cater to her clients. She indicated that she would use Zone's service for transportation in the Denver metropolitan area and to other parts of the State of Colorado such as Vail and Glenwood Springs.⁷ Other witnesses who support Zone's proposal for upscale taxis or "black car service" are John Cling, a bellman at the Brown Palace Hotel and Lief Jensen the Managing General Partner at the Billiard Institute in Lakewood. The Brown Palace bellman testified that although the regular taxi service provided by the three incumbent operators is good at the Brown Palace, the hotel frequently has requests for upscale transportation such as the black car taxi proposal of Zone. Mr. Jensen also supports the concept of black car service in Denver and feels that there is a demand for the service. He schedules pool tournaments which are attended by people from all over the country. He stated that these professional players are accustomed to using upscale service in other cities, and they would use a similar serv-

⁷ See Exhibit No. 13.

ice in Denver for transportation within the Denver area and to other areas in the State of Colorado.⁸

15. Mark Hogan lives in Southeast Denver. Mr. Hogan is a real estate broker and developer. This witness uses taxicabs at least 40 times per year from his home, to SIA. Mr. Hogan operates his business from his home. He specializes in mountain brokerage particularly in the Vail Valley, Aspen, Central City, and Evergreen. His clients in many cases desire to take a taxi from SIA to Vail and other points in Colorado to view real estate offered by this witness. Mr. Hogan supports the request of Metro for an extension of its authority. He generally characterizes the service that he has personally received from the taxi companies in Denver as good.

16. Several witnesses called by Metro supported expanded taxi service in the City of Boulder and Boulder County. Bruce Ehrhart is the General Manager of the Boulder Inn, a hotel located in the City of Boulder. As General Manager, he has an occasion to observe hotel guests waiting in the lobby for taxi service. He stated that his guests usually wait at least 25 minutes or longer for taxis to arrive for service in Boulder. He also indicated that the existing taxi company in Boulder, Boulder Yellow Cab uses old taxicabs, and that the drivers are poorly dressed. He also indicated that he has had a difficult time obtaining cab service on the Boulder Mall.

⁸ See Exhibit No. 20 which are letters of support for Zone's luxury cab service.

17. Superior, Colorado resident, Lynn Dettmann works at a physician's office in Boulder. She has observed that the response time for the arrival of taxis to the doctor's office for patients who need service is poor. She is of the opinion that additional taxi service is needed in Boulder.

18. Patrick Koehn resides in Superior-Louisville. He works in downtown Denver. This witness has had an occasion to use taxicab service from his home to SIA and to various points in Boulder. He has had service problems with the Boulder taxi company, since they told him that they will not take reservations for next day pick-up to the airport. He also described an incident occurring in July 1994 when he had to wait 40 minutes for a taxi to respond to a business located on 28th Street in Boulder. This witness also has problems calling the existing cab company. He believes that additional taxi service is needed in Boulder and Boulder County.

19. Neil McClure lives in Denver and works in Louisville. He also has a part time residence in Louisville. About a year and a half ago this witness had a negative experience with Boulder Yellow Cab. Because he needed a taxi while his car was being repaired he called Boulder Yellow Cab. On this occasion, it took 45 minutes before the taxi arrived. This witness also knows the problems experienced by friends of his who work in a Boulder nightclub. His friends indicated that they have experienced slow response times at night for taxi service requests of customers at the nightclub.

20. Gary Roebel, a United Airlines Pilot who lives in Park Hill in Denver works at the United Airlines Flight Training Center located at SIA. This witness stated that he has had problems in obtaining service from his home, a short distance to the flight training center at the airport. He also indicated that sometimes he will request service with no response, which will require him to call back for service.

21. Gabe Yesho is the President of Mile Hi. He also owns a business on East Colfax and is involved at a computer training center in Northeast Denver. Mr. Yesho occasionally has a need to call a taxi company for his customers. He indicated that the response time is poor and that sometimes he needs to make three or four calls to the taxi company for service. He indicated that at the Five Points Training Center, taxi service is so poor that he has to take people to their destinations in his car. Mr. Yesho is of the opinion that service is poor in Northeast Denver due to short travel distances and the perceived danger of certain neighborhoods.

22. Duane and Richard Kamins, owners of American Cab conducted an informal test of taxicab response by the three incumbent Denver taxicab operators on Sunday afternoon, November 6, 1994. Mr. Duane Kamins selected three widely separated points in the Denver metropolitan area in which to call for taxicab service. The pick-up points are located at 10350 North Federal Boulevard in Adams County, 6215 Carr Street in Jefferson County, 8200 South Holly in Arapahoe County, and 1730 South Buckley in Aurora. Mr. Kamins called all three taxicab companies at all

addresses. At the North Federal Boulevard address, after waiting 35 minutes after the call, none of the three companies had arrived. Mr. Kamins testified that he and his brother then called back the taxi companies. Metro indicated that they could not find the order, Yellow indicated that they were still trying to locate a cab that would accept the trip, and Zone had not yet found a cab that would accept the trip. At the Carr Street address, Zone advised that it would take approximately one hour to respond to the service request and suggested that another cab company should be called. Yellow arrived at the Carr address 47 minutes from the time of the call for service and Metro arrived within 45 minutes of the call. At the 8200 South Holly address Zone advised Mr. Kamins that it would be approximately one and one half hour before a cab could be dispatched. Metro arrived at the Holly address 14 minutes after the call for service and Yellow arrived within 19 minutes of the call for service. At the South Buckley address, Metro, after 34 minutes advised that they were still unable to dispatch a cab to the location, Yellow informed Mr. Kamins that they could not assign a cab, and Zone advised that it would be at least one to one and a half hours before they could respond.

B. Operating Testimony and Fitness of Applicants

1. Freedom Cabs, Inc.

a. Freedom is a Colorado Subchapter S Corporation.⁹

The Board of Directors of the company are Leroy Jones, Ani Ebong,

⁹ Exhibit No. 29.

and Girma Molalegne. The board members are experienced in the taxicab industry, having worked for existing Denver cab companies.

b. Freedom requests authorization to serve the six-county Denver metropolitan area with a total of 100 taxicabs. It plans to start taxi service with a total of 30 taxicabs immediately if authority is granted and it will expand to a total of 100 taxicabs over a two-year period. The owners estimate that the company's break-even point will be reached with a total of 30 taxicabs. Freedom proposes to serve the six-county Denver metropolitan area with incidental transportation statewide at the request of passengers whose originating point is in the six-county area.

c. Freedom intends to use experienced independent contractors and owner-operators as taxi drivers. It also plans to use lease drivers. The company plans to extensively train its drivers. The company and its drivers will adhere to all Public Utilities Commission ("PUC") rules and regulations. As part of Freedom's plan to attract experienced taxicab drivers, it plans to institute a 21 percent reduction in the driver pay-off from the industry average of \$360 per week to \$284 per week. The company feels that with the reduced pay-off, experienced drivers will want to drive for Freedom. Freedom will provide dispatching, training, group insurance, and advertising.

d. The company will provide a Motorola dispatch system which will allow the dispatcher to reach all cabs simultaneously. The range of the dispatch system includes the entire six-county metropolitan area. Freedom will obtain the necessary radio licenses and plans to hire three dispatchers for 24-hour coverage.

The company will also install meters in all of the taxicabs. Freedom will obtain a computer in order to maintain records, record driver payoffs, reservations, and other necessary functions of a taxicab company.

e. Freedom will obtain the necessary insurance required by the PUC. The Board of Directors will insure that all rules and regulations are followed and that the proper tariffs are filed with the Commission. The company plans to inspect the taxicabs every two months in addition to the Commission's inspections.

f. Freedom plans to obtain a van equipped with a wheelchair lift in order to serve the transportation needs of the handicapped. This vehicle will be dedicated to serve the handicapped. It will also concentrate on service to areas of Denver which Freedom feels that are currently under served such as Northeast Denver. The company feels that it will be successful in serving areas such as Five Points and Park Hill since many of its drivers will be familiar with the needs of the people residing in these areas and some of the drivers will reside in Northeast Denver. Freedom plans to initiate its service by stationing taxicabs in all six counties in order to insure a response time for service within 30 minutes from the time of call for service.¹⁰

g. Freedom submitted as part of the record its business plan.¹¹ The business plan describes its corporate structure, products and services, and provides financials including a

¹⁰ See pages 123 through 125 of the transcript of the November 15, 1994, hearing.

¹¹ See Exhibit Nos. 27 and 28.

pro forma balance sheet for day one of operations which shows total assets in the amount of \$136,035, total liabilities of \$111,035, and stockholder's equity in the amount of \$25,000. The company will issue \$25,000 in corporate equity. Investors have agreed to invest in the company. An escrow account of \$15,000 is currently being held. There is also a \$10,000 certificate of deposit that is pledged to the company. The management of the company is also negotiating with the Colorado National Bank for a line of credit which would be dependent upon the company acquiring PUC authority and having a certain amount of cash on hand. Freedom is also pursuing possible funds available through the Mayor's Office of Economic Development and the Downtown Denver Partnership.

2. Evergreen Taxi Service

a. Evergreen is owned by Diana Lezark. The company operates from its base located in Evergreen, Colorado. Evergreen currently operates Certificate of Public Convenience and Necessity PUC No. 47049 which provides for transportation of passengers and their baggage in taxi service between all points within a 20-mile radius of Evergreen, Colorado and between said points and all points in the Counties of Denver, Jefferson, Arapahoe, Adams, Larimer, Boulder, Gilpin, Weld, Gunnison, Douglas, Teller, El Paso, Pueblo, Park, Clear Creek, Grand, Delta, Summit, Jackson, Route, Eagle, Lake, Pitkin, Moffat, Garfield, and Mesa, State of Colorado. The company also has authority to operate on schedule between SIA, Denver International Airport ("DIA"), and Evergreen serving inter-

mediate points, and between SIA and DIA and Bailey, Colorado, serving selected intermediate points.¹²

b. By its application, Evergreen proposes to provide 24-hour taxi service within the six-county Denver metropolitan area. It proposes to start service to points within the metropolitan area with 50 owner-operator taxicabs. It may expand up to 100 cabs if business warrants the expansion. Evergreen plans to recruit independent contractors/owner-operators from the six counties. These new drivers would initially be assigned to the six counties. The drivers will be carefully screened to assure that they have no points on their motor vehicle records and drug tests will be required. The owner-operator will furnish the automobile suitable for a taxicab, and the driver will be responsible for paying for gas and maintenance of the vehicle. The driver will keep all fares. Pay-off is estimated to be between \$275 and \$300 per week. In return, Evergreen will provide dispatching, advertising, radios, and the required liability insurance. Evergreen plans to secure office space on Parker Road which would be in addition to its office located in Evergreen. It plans to insure that its dispatch will reach all areas of the six-county metropolitan area. The company plans to provide driver training and a safety course. The taxicabs will be checked weekly. The company also plans to investigate the use of alternate fuels for possible conversion if economically feasible.

¹² Exhibit No. 30.

c. Evergreen plans to provide pick-up of customers within 15 to 30 minutes from the time the cab is dispatched. If there is a delay in the pick-up of a customer, Evergreen will call the customer and state the reason for the delay and the estimated arrival time. Taxi fares will be competitive and credit cards will be accepted. There will be an incentive for drivers to provide service to certain areas of the city where a driver may feel reluctant to travel. All drivers will be expected to comply with the standards established by Evergreen and the standards will be enforced by provisions written in the contract between the company and the owner-operators. The rules and regulations of the PUC will be adhered to and the proper tariffs will be filed. The necessary insurance required by the Commission will be maintained. Evergreen plans to dedicate a van equipped with a wheelchair lift within the first six months of operation with the possibility of a second van to be added later.

d. A balance sheet submitted in evidence by Evergreen¹³ indicates that the company has total assets in the amount of \$326,324, total long-term liabilities of \$57,500, and equity in the amount of \$268,824. Ms. Lezark testified that certain individuals have expressed an interest in lending \$200,000 to the company and that she is also considering a loan on commercial property in order to provide operating capital for the company.

¹³ See Exhibit No. 32.

3. American Cab Company of Denver, Inc.

a. American Cab is a Subchapter S Colorado corporation.¹⁴ Duane H. Kamins is the Chief Executive Officer and President of American Cab and Richard E. Kamins is the Executive Vice President of Operations and General Manager. Both men have extensive experience in the taxicab industry. Duane Kamins is the Executive Vice President and General Manager of Greater Colorado Springs Transportation Company, doing business as Yellow Cab Company of Colorado Springs. Richard Kamins serves as Vice President of Operations of Greater Houston Transportation Company, doing business as Yellow Cab Company of Houston, Vice President and General Manager of Fiesta Cab Company located in Houston, and Vice President and General Manager of Towne Car Company that provides luxury taxi service. Mr. Kamins also was involved in starting a successful new cab company, American Cab of Austin, Texas.

b. American Cab proposes to provide taxi service to points within the six-county Denver metropolitan area and from said points to all points in Colorado. The company plans to initiate its service with the use of 90 total vehicles. Eighty of the vehicles will be regular taxicabs and ten will be Lincoln Towne Car Sedans. It plans to provide service 24 hours a day, 7 days a week. American Cab estimates that 69 taxis will be needed to start in order to break even, but with this number of taxis, there will be a negative cash flow. The company believes that 90 taxi cabs are necessary to adequately serve the metropolitan area. The taxi drivers will be recruited from the Denver area. The company will

¹⁴ Exhibit Nos. 34 and 35.

seek drivers who have not previously driven cabs in order that American Cab can train these potential drivers in the operating philosophies of the company. The taxi drivers will be independent contractors. There will be three categories of drivers:

- (1) Owner-drivers who either own or are in the process of obtaining their own vehicles through lease purchase agreements with the company or other financial institutions. These drivers will pay a weekly lease fee.
- (2) Registered drivers who drive for an owner-operator. These drivers will pay the owner-operator an amount to be determined between the parties. American Cab will charge the owner-operator a weekly fee for each registered driver.
- (3) Day lease drivers who lease a company-owned vehicle on a day-to-day basis. A daily fee will be charged for the use of a vehicle.

Estimated driver pay-off will be established at \$300 per week for owner drivers which includes an insurance benefit package, \$145 per week for registered drivers, and \$70 per 24 hour shift for day lease drivers.

c. The company will maintain a facility most likely on Brighton Boulevard in Denver which will include a garage facility for the maintenance of taxicabs. American Cab will provide ASE certified mechanics and one body technician. Drivers will be encouraged to have maintenance performed at the company-owned shop. The company will have available financing for repairs. The taxicabs that are brought in for service will be inspected by the mechanics. In addition, there will be mandatory quarterly inspection of all vehicles.

d. American Cab proposes to provide a digital dispatch system. There will be a two-way radio in each cab and an in-cab

computer terminal and screen. A call for service will be dispatched to a cab assigned to the call. The on-board computer will have the capability of giving a driver instructions with respect to locating an address, which will minimize radio contact. The computer will have the capability of preventing drivers from accepting a new call until a customer arrives at the destination. Meters will be installed in all of the taxicabs including the upscale cabs. The Lincoln sedans will have a \$1 to \$3 fare higher than the regular cabs. American Cab will install six to eight incoming lines for service calls and four lines for other calls. All calls will be recorded. American Cab will have a computer including one that is capable of tracking calls. In addition, the computer will handle general office systems such as maintaining driver records, vehicle records, driver hours, and other matters. American Cab will adhere to all the rules and regulations of the Commission and provide the necessary liability insurance required by the Commission. They will carefully screen drivers. The company will receive safety inspections by American Cab mechanics. Repairs must be made within one week or the cab is removed for service. The taxicabs will also undergo PUC inspections.

e. American Cab intends to provide service within 15 minutes from the time the call is received. If a cab has not arrived to pick up a customer within 15 minutes, the company will call and advise the customer. The company will attempt to answer the telephone within three rings. Credit cards and reservations will be accepted. There will also be charge accounts available for corporations.

f. The company plans to provide wheelchair accessible vehicles possibly within one year of the time service is started. American Cab also will investigate the feasibility of using alternative fuels.

g. Operating capital will be provided by Duane and Ricky Kamins who will initially contribute \$350,000 cash and Omni Bank will provide a line of credit up to \$300,000. Other sources of capitalization can be made available. The *pro forma* balance sheet submitted in evidence¹⁵ indicates that the company has total assets in the amount of \$1,604,000, total liabilities of \$1,403,000, and total stockholder's equity of \$201,000.

4. Metro Taxi, Inc.

a. Metro is an existing taxicab company providing taxicab service in the Denver metropolitan area. It operates pursuant to the authority granted to it by this Commission under Certificate of Public Convenience and Necessity PUC No. 1481. It serves the Denver area with a total of 300 taxicabs. Metro has applied for an extension of its authority to expand its service territory including Boulder County, and portions of Douglas, Adams, and Jefferson Counties. It also seeks authority to transport passengers in taxi service from points within the six-county metropolitan Denver area to points in the State of Colorado by removing its present 85-mile territorial restriction, and other restrictions. Metro also seeks clarification of whether its existing authority permits it to provide a total of 300 cabs throughout its current authorized service

¹⁵ Exhibit No. 39

territory. Metro initially applied for a total of 150 additional taxicabs with an initial increase of 75 and an additional 75 to be added 18 months later. During the course of the hearing, Metro amended its total request for cabs to include only 75 additional cabs for a total authorized cab number of 375 to be phased in at the rate of seven cabs per month with the primary service focus in Boulder County. Metro proposes that the additional 75 taxicabs would serve Boulder County with a possibility of some service to Jefferson County.

b. Metro proposes to obtain mostly lease drivers for company-owned cars for service under its expanded authority request. Metro has been moving away from driver-owned vehicles in that it now owns 289 taxicabs system wide, with only 26 taxis which are owned by owner-operators. Metro proposes that the lease drivers will be hired in Boulder County. It anticipates that it will have extensive business from Boulder County to SIA and to DIA when it opens. There will be a salesperson hired in Boulder. Metro plans to obtain two new mini-vans which can accommodate electric wheelchairs by the end of February, 1995. Metro also has been active in investigating the feasibility of alternative fueled vehicles. Metro converted three taxicabs to natural gas fuel with the assistance of the Natural Fuels Corporation in May of 1994 as a demonstration. Metro will continue to investigate the feasibility of converting to alternate fuels. If conversion is feasible, both technically and financially, Metro plans to convert one third of its fleet to alternative fuels.

c. The company carefully screens its drivers and maintains training classes in the use of meters, radios, on-board computers, and safety. An extensive inspection program is maintained including the use of two off-duty Denver police officers to randomly inspect taxicabs operating on the street. Metro maintains a fully-automated dispatch system with an on-board computer in each taxicab. There are also two-way radios in each cab, however, because of the use of the on-board computer, vocal communications are generally unnecessary. The Computer has the capability of searching all zones for available cabs. Metro maintains a maintenance facility. Maintenance is scheduled for every 4,000 miles. The company has a telephone system which uses ten lines. All calls are recorded.

d. The stand fee is \$450 per week for an extended lease, \$346 per week for owner-operators, and \$68 for day lease drivers. The drivers keep the fares. Metro has a program to offer cash incentives to drivers who are willing to provide service to certain areas of the city that have a higher than average response time. Metro's system wide average response time is 14.8 minutes. This does not include cab stands at hotels and cabs in line at the airport. Metro accepts credit cards and reservations.

e. Metro's balance sheet¹⁶ shows that it has total assets of \$1,227,325, total current liabilities of \$883,348, long-term debt, less current portion of \$22,249, and total shareholder's equity of \$321,728. Metro has recently increased its market

¹⁶ Exhibit No. 40.

share. The financial prognosis according to Metro's accountant, Stephen Kurtz is favorable.

f. Metro has maintained the necessary insurance pursuant to Commission rules, and it has adhered to the Commission's rules and regulations. If extended authority is awarded, Metro will continue to maintain the necessary insurance and follow the Commission's rules and regulations.

g. As part of its application, Metro requests a clarification of the total number of taxicabs authorized under its current certificate PUC No. 1481. William Cotter, President of Metro testified that Metro has for some time operated with the maximum number of taxis permitted under its authority. Intervenors, Zone and Yellow, questioned Metro's interpretation of its authority, contending that Metro can not operate 300 cabs under both sections I and II of its authority, but rather only 150 cabs maximum for each portion of its authority. There was testimony to establish that Metro has operated under its interpretation, utilizing its maximum allotted number for both sections of the authority with knowledge of Staff. It is found that since Metro has operated for some time under the interpretation that it had the authority to use 300 cabs for both sections of its authority, with the knowledge of the Commission Staff and apparent acquiescence, the interpretation of Yellow and Zone should be rejected.

5. Mile-Hi Taxi

a. Mile Hi is a Colorado corporation. Its Board of Directors are Gabe Yeshe, President, Asegedew Tekle,

Abera K. Gebrayes, Rowland Nwankwo, John Adbeayo Fradeyi and Neguse Woldegiorgis. The proposed corporate structure is described in Mile Hi's business plan¹⁷ and testimony of its owner-witnesses. It is proposed that owner-drivers will own the company. Fifty-one percent of the ownership of the company will be composed of the owner-drivers, and outside investors will own the remaining percentage. Owner-drivers will be required to contribute a vehicle with clear title to the company. In return for the driver's contribution of a vehicle, the owner-driver will receive 3,000 shares of stock. In addition, owner-drivers will be required to invest \$1,000 with Mile Hi and in return, they will receive 1,000 shares of stock. The remaining stock will be available to outside investors. Mile Hi currently has over \$54,000 in an escrow account.

b. Mile Hi seeks authority to serve the six-county Denver metropolitan area and from points in the metro area, to points in the State of Colorado. The company has requested authorization for 200 taxicabs. It plans to start service with 47 taxicabs. It currently has commitments from 47 experienced drivers from existing Denver cab companies. These drivers have committed to drive for Mile Hi if the authority is granted. The weekly pay-off for owner-drivers will be \$250 per week, \$50 per day for associate drivers, and \$50 per day for part-time, day shift drivers.

c. Mile Hi plans to obtain a suitable office in a central location in Denver. No garage facility is planned to start. Mile Hi will pursue a contractual arrangement with a garage for the maintenance of vehicles. Mile Hi plans to install a computer

¹⁷ See Exhibit No. 46 page 4.

assisted dispatch system.¹⁸ Two-way radios will be provided in each car. The company will have a job bid system. A call for service is sent over the air, and a driver will bid for a call. The driver is given a pick-up point but not the destination. If there is no bidder for a particular service call, the call is sent out again. Mile Hi plans to hire a suitable number of dispatchers.

d. Mile Hi plans to have available group benefits for its drivers who pay into a fund. Mile Hi will provide the insurance required by the Commission. It will also provide dispatch, marketing, and training. It intends to provide comprehensive training of drivers, including topics relating to safety, defensive driving, courtesy, and the Commission's rules and regulations. The company and its drivers will adhere to all rules and regulations of the Commission.

e. Mile Hi plans to target service to the Five-Points and Northeast Denver communities. It will also concentrate on service to the elderly, Medicare, and Medicaid patients. The company also plans to be active in community affairs. Drivers will be given incentives to respond to requests for short trips.

f. Operating capital will be provided by the required driver contribution as described above. The company currently has over \$54,000 in an escrow account. The company is also exploring loans with the Small Business Administration, banks, and other possibilities. Mile Hi's business assets consist of \$54,000 cash in the escrow account and \$176,000 which is the market value for 47 vehicles pledged to the company by the drivers. During the

¹⁸ See Exhibit No. 47 for a description of the dispatch system.

course of the hearing, Mile Hi made several attempts to revise its financial projections and revenues, however, because of evidentiary problems, the revisions were rejected.

6. Zone Cab, Inc.

a. Zone is a corporation authorized by this Commission pursuant to PUC No. 1221, to provide taxicab service in the Denver area. Zone by this application, seeks an extension of operations under Certificate No. 1221 to expand its territory and to increase, as amended, the number of taxicabs authorized by 25 additional cabs. Zone currently is authorized 142 units. Zone currently has 35 unused permits.

b. By this application, Zone proposes to provide upscale taxi service or "black car service" with the use of new Cadillac Sedans. These Sedans will operate under the name of Centennial Sedans ("Centennial") which will be a subsidiary of Zone and under Zone's control. The drivers will be employees of Centennial. The drivers will not be recruited from the existing taxicab driver pool. The drivers will wear uniforms. There will be no meters in the Cadillacs; zone rates will be charged. The cars will only respond to calls and reservations. They will not be stationed at cab stands. It is estimated that the fare will be approximately \$4 more than regular cab fare. The company will own and maintain the cars and pay for fuel. Fares will be turned over to the company, however, the drivers will keep tips. Centennial will target customers who want upscale cars and service. There will be a reservation system. It will seek corporate accounts. The cars will

be available at the airport, downtown, the Denver Tech Center, and other business areas of the city. Centennial intends to provide 20-minute response time for customers who call for service.

c. The Operations Manager of Centennial is Brian Howard. Mr. Howard has extensive business experience. Mr. Howard has spent considerable time in observing the operations of O'Hare-Midway Limousine Service ("O'Hare-Midway") based in Chicago, a luxury cab operation. Centennial and O'Hare-Midway have a consulting contract. Centennial plans to model its operations in Denver after the Chicago company. Centennial has obtained an office in Wheat Ridge, Colorado. Centennial will provide a sophisticated reservation system modeled after the O'Hare-Midway operation. It will hire up to five people who will act as Reservations Specialists. Three telephone lines will be in place at the start-up of the business with future expansion of up to 10 to 13 lines. Centennial will have a computerized dispatch system. There will be up to four dispatchers. Some of the employees will undergo training at the offices of O'Hare-Midway.

d. Centennial will provide the necessary insurance coverage and licenses. Both the drivers and management of the company will follow the Commission's rules and regulations. Centennial will have separate insurance from that of Zone. Centennial has spent approximately \$125,000 for office expenses. It is projected that a total of \$500,000 will be needed for the start-up of this operation.

C. Intervenor and Staff Cases

1. The Intervenors who presented cases in this consolidated proceeding were concerned about the entry of new taxicab companies or extended service of existing companies. They generally were of the opinion that if a significant entry were allowed by this Commission, destructive competition would result, which conceivably could cause the inability of existing taxi companies and other authorized carriers to serve the public. Authorized passenger carriers such as ALS are concerned with the impact it would have on their service to the mountain counties along the I-70 corridor such as Clear Creek, Summit, Eagle, Garfield, and Pitkin.¹⁹ Other carriers such as Rocky Mountain Shuttlines, Inc., Ace, and Queen City who have authority to provide passenger transportation²⁰ are concerned with the taxi shared ride program of the applicants.

2. The incumbent taxicab companies, are authorized to provide transportation of passengers and their baggage in taxi service between points in the Denver metropolitan area, package and parcel authority, and in the case of Yellow, statewide authority. The managers of the companies testified that the taxi business has been declining in many parts of the United States, and Denver is no exception. There has been a six percent decrease in the number of trips in Denver since 1989 according to Metro president, William Cotter. This decline in the number of trips has also been experienced by Yellow and Zone. The use of teleconferencing by business, fax machines, Federal Express, and similar services,

¹⁹ Exhibit No. 63.

²⁰ See Exhibit Nos. 67, 69, and 71.

couriers and luxury limousines have all contributed to the decline in taxi trips. In addition, rental and private cars have exacerbated the problem of a declining customer base. The revenue derived from package delivery according to Zone witness, Mr. Ziegler, is down significantly from ten years ago. Management of Yellow and Metro also confirm this decline. The operating ratio, which is a ratio comparing operating expenses to revenues, is illustrative of the financial conditions of the three incumbent taxi operators. The operating ratio for Yellow for 1993 was 98.9 percent.²¹ All three existing taxi companies have had problems in obtaining drivers in the last two years. The managers of the companies testified that there is a limited taxi driver pool in Denver. There is considerable shifting of existing drivers between the various companies. Witness, Doris Shriver, testified that there is a limited pool of suitable taxicab drivers in the Denver area. The drivers move back and forth between the existing companies. The new companies would be selecting drivers from the same limited pool of drivers, thereby creating a loss of drivers for the existing companies. This would result in economic hardship to the existing companies. Some of the proposals of the new companies confirm that they would obtain drivers from existing companies. Mile Hi, if granted authority, would attract 47 drivers from the three incumbent taxicab companies.

3. Another problem that demonstrates the soft demand for taxis in the Denver area which results in inefficient operations for the incumbent companies, is the shift ratio. For exam-

²¹ See page 3 of Exhibit No. 76.

ple, Yellow has a shift ratio of .7.²² Another indicator of soft demand is the total number of cars a cab company is able to place on the street. Clark Trammell, the General Manager and Chief Executive Officer of Yellow testified that out of 600 total taxicabs authorized, approximately 290 taxicabs are being utilized today by the company.²³ All of the owner-managers of the three incumbent taxicab companies are of the opinion that additional taxicab service is unneeded and that if any significant number of new authorities are granted, it would create destructive competition in the Denver taxi market.

4. Staff witness, Randy Garrouette, Transportation Financial Analyst testified concerning automobile insurance coverage with respect to the taxicab industry. Mr. Garrouette indicated that the Commission's rules establish the minimum requirements of liability insurance for taxicab operators. The rules require a liability policy in the amount of \$500,000. Mr. Garrouette stated that SIA also requires a \$500,000 combined single limit liability policy for taxicabs operating at the airport. He also indicated that it is expected that DIA will require the same dollar coverage. Mr. Garrouette also testified concerning the insurance industry and factors upon which insurance companies rate taxicab companies. Included in his discussion was testimony concerning the self-insurance of taxicab companies under the Colorado Auto Accident Reparations Act and the requirements to be qualified as a self-

²² See page 129 of the transcript of the hearing of November 30, 1994.

²³ See direct testimony, page 8 of Clark Trammell, Exhibit No. 76.

insurer.²⁴ Mr. Garrouette testified that it was his belief that two Applicants, American Cab and Evergreen appear to underestimate the cost of obtaining the necessary liability insurance. He did, however, indicate that based on his review of the information in this docket, he did not think that any of the Applicants would be unable to obtain the necessary insurance. A portion of Mr. Garrouette's direct testimony concerning financial data regarding Applicants was rejected upon objection by Intervenors. Mr. Garrouette recommended that the Commission should continue to study and monitor the taxicab industry.

5. Terry L. Willert, Transportation Representative of the Commission's Safety and Compliance Section was called as a witness by Staff. The purpose of his testimony was to present a summary of the cases presented by Applicants in this docket including their testimony, discovery responses, and other sources. The direct testimony of Mr. Willert marked as Exhibit No. 81 by the Staff was rejected, upon objections by many of the parties, for the reason that a summary of evidence by a witness is not appropriate in a contested hearing, but rather is the ultimate responsibility of the finder of fact. This proposed exhibit is more appropriate for argument by Staff in its Statement of Position. Staff next presented the testimony of Dr. Neil Langland, Economist for the Commission, which will be discussed in the next section of this decision.

²⁴ See pages 6 and 7 of the direct testimony of Randy Garouette, Exhibit No. 80.

D. Economic and Transportation Issues

Dr. Roger F. Teal

1. Dr. Teal is a nationally recognized transportation expert who has extensively studied the taxicab industry in the United States.²⁵ He testified that between 1989 and 1993 there has been a 6 percent decline in the number of taxi passenger trips in Denver. Nationally, the industry has been in a state of decline for the last 20 years. Part of this trend is caused by the availability and the attractive cost of rental cars, private automobiles, and public transportation. Based on his study of the Denver market, Dr. Teal believes that the Denver taxicab market tracks with the national trend. Dr. Teal cited the Price Waterhouse Study²⁶ which concluded that in various cities across the United States where the entry for taxicab companies was deregulated, there was no expansion of the taxi market but rather the taxi companies were dividing the same revenue base. In the markets that were completely deregulated, the experience has been that taxi fares have increased. Dr. Teal indicated that in newly deregulated markets, there was an increase in the number of cabs serving a particular market. Existing companies suffered a diminution of revenues and ridership after relaxed entry. Because of the lack of name recognition, the new companies generally would serve the airports and cab stands where the new companies had a guaranteed pool of passengers. The existing companies had to primarily rely on the telephone market. Dr. Teal indicated that in cities or states that had

²⁵ Resume of Dr. Teal, Exhibit No. 50.

²⁶ Exhibit No. 52.

relaxed regulation of taxis, there was not any significant improvement to the service to the public. The new entrants, as indicated above, were concentrating on serving the airport and cab stands. In addition, the new companies used older and dirtier taxicabs since they could not afford newer vehicles.

2. Dr. Teal testified that if there was a 20 to 25 percent increase in the number of taxicabs in the Denver metropolitan area, it would cause considerable economic impact upon the existing cab companies. The three existing Denver cab companies currently have 707 taxicabs on the street. If all of the Applicants in this docket were granted authority to serve the Denver area, approximately 521 new taxicabs could be placed on the street in addition to the 707 existing cabs. This would be a 75 percent increase in the number of taxicabs serving the Denver metropolitan region. Dr. Teal was of the opinion that if there was a 75 percent increase in the number of taxicabs on the street, the existing taxicab companies would face "disastrous financial circumstances".²⁷

3. Dr. Teal had an occasion to review the operating ratios of Yellow, Zone, and Metro for the years 1989 through 1993. Dr. Teal stated that during this period of time, the average operating ratio for the companies was 99 percent which means that the companies were barely able to meet expenses based on their revenue. Dr. Teal concludes that there is very little room for any revenue losses for the companies. He feels that any large increase in

²⁷ See the testimony of Dr. Teal, page 47 of the transcript of the hearing, November 30, 1994.

additional taxicabs in Denver would create financial problems for the companies.

4. Dr. Teal is of the opinion that additional service cannot stimulate demand for taxis. While price reductions and improved service may be a competitive advantage for a particular company resulting in more market share for the company, Dr. Teal does not believe this changes the demand curve. Dr. Teal has not seen any studies that indicate relaxed entry would result in long-term price reduction to the public. There is some speculation that when DIA opens, the airport may create a need for more taxicabs. Dr. Teal believes that the opening of DIA may not have much of an impact on the taxi market since Denver air traffic is declining and there are competitive modes of transportation competing for the taxi dollar such as rental cars, shuttles, and public transportation. However, Dr. Teal indicates that because DIA is located further from the downtown Denver area and other commercial centers than SIA, there may be a need for more taxis since the travel time will increase. The impact of DIA's opening, however, cannot be measured at this time with any precision.

5. Dr. Teal testified that a shift ratio of .7 which is the ratio of shifts per day of Yellow indicates that the company is having a serious problem with demand for its service. The witness testified that a cab company wants to maximize the number of shifts per day in utilizing its fleet since this is how a company derives its revenues. Dr. Teal does not believe that any taxi company could sustain two shifts per day in the Denver market. He believes

that the shift ratio of Yellow is indicative of the soft demand for taxi service in Denver.

6. Dr. Teal believes that in the process of determining the number of taxicabs that are needed in an urban area, it is important to determine the overall demand for transportation in a particular metro area and how the demand is being satisfied by existing modes of transportation. Dr. Teal recommends that the Commission should proceed cautiously and with moderation in determining the number of new permits for taxicabs in the Denver area. Dr. Teal recommends that the Commission in its decision process should consider three important factors: (1) the impact of the airport relocation to DIA; (2) whether there are under-served market niches which would provide room for expansion; and (3) the available taxi driver pool. Dr. Teal recommends that the Commission should monitor the impacts of any new entry and further that if the Commission determines that additional taxicabs are required, that the Commission should consider phasing-in the number of cabs to be authorized.

Dr. Paul Stephen Dempsey

1. Dr. Dempsey is a nationally recognized transportation expert. He currently is a Professor of Law and Director of the Transportation Law Program at the University of Denver College of Law.²⁸ Dr. Dempsey presented testimony before the Commission concerning Colorado law relevant to this docket, the economic char-

²⁸ Exhibit No. 61.

acteristics of the taxi market, the impacts of excessive competition and recommendations for the Commission.²⁹

2. Professor Dempsey stated that taxicab services are divided into distinct areas and demand characteristics: (1) The transportation disadvantaged; (2) non-residents; and (3) affluent residents.³⁰ Dr. Dempsey described the transportation disadvantaged as the elderly, unemployed, handicapped, children, and low-income persons. He stated that people in this category compose a large segment of persons who use taxicab services. Non-residents include business people, persons attending conventions, and vacationers. Affluent residents, are described as the wealthy who regularly use taxicab services because of the convenience, particularly in densely populated eastern United States cities.

3. Professor Dempsey is of the opinion that the competitive market does not exist in the traditional sense for taxicab services. For example, at the cab stands, shopping for the taxicab offering the lowest fare is impractical and discouraged. Professor Dempsey believes that the Commission must act prudently in determining whether additional taxicab service is needed in Denver. An appropriate balance of the number of taxicabs to customers must be obtained. This witness feels that a 23 percent increase in the number of taxicabs which in Denver would be 155 new taxis would result in destructive competition. Professor Dempsey believes that the number of taxis in Denver, as well as in any city, should be based upon the transportation needs of the individual city. This is

²⁹ See the direct testimony of Dr. Dempsey, Exhibit No. 62.

³⁰ Exhibit No. 62, pages 18 through 24.

determined by the density of its population, street congestion, the number of automobiles per capita, and factors such as air pollution, price and unavailability of downtown parking, the number of hotel rooms, the distance of the airport from downtown, and the volume of passenger traffic at the airport. Dr. Dempsey recommends that if the Commission makes the determination that additional taxicab permits are warranted, that it should choose an Applicant or Applicants that are solidly capitalized and possess an experienced managerial team. They should also have an adequate fleet size with centralized dispatching in order to adequately serve the city, experienced drivers, adequate insurance, and a fleet of relatively new taxicabs that will not exacerbate pollution. Dr. Dempsey also recommends that the Commission should consider phasing-in any additional taxicabs over a period of time and monitoring the result. The monitoring should include an investigation of the price, safety, and service impacts of the additional service.

Dr. Neil E. Langland

1. Dr. Neil E. Langland is a Staff Economist with the PUC. Dr. Langland testified as an expert on behalf of the Staff of the Commission. Dr. Langland presented an economic analysis of the taxicab market in the Denver metropolitan area with emphasis on the topics of the need for taxicab service and issues of destructive competition of the taxicab industry.³¹ Dr. Langland applied economic concepts to the taxi market to derive an estimate of the number of taxicabs needed in the Denver metropolitan area. Dr. Lang-

³¹ Exhibit No. 82, direct testimony of Dr. Langland.

land conducted an analysis which included an investigation of the ratios between taxicabs currently in service and several economic factors in the Denver area. While he would have liked to conduct a regression analysis for taxi demand, he concluded that a regression analysis would not be suitable since there was insufficient data. Dr. Langland stated that the investigation of the Denver metro economic activity and demographics are helpful in determining the number of cabs needed. Two key factors used in this analysis were the number of wage and salary workers in metro Denver and the dollars spent on lodging. Wage and salary workers are a surrogate to represent population and economic activity. The number of dollars spent on lodging is a proxy for business, travel, and tourism.³² Based on this analysis, Dr. Langland recommended that the Commission authorize 200 to 250 new taxicabs by granting certificates to two to four new Applicants. Dr. Langland suggests that it may be appropriate to phase-in the number of newly authorized taxicabs and that it is appropriate to monitor the results of the introduction of additional cabs and companies in the Denver market. Dr. Langland believes that an evaluation should be made after a one year period in order to assess the impact of any additional taxicabs authorized and the impact of the opening of DIA.

III. DISCUSSION, FINDINGS, AND CONCLUSIONS

1. The Colorado General Assembly amended § 40-10-105, C.R.S., (Senate Bill 94-113), changing the existing standard for

³² See the direct testimony of Dr. Langland, Exhibit No. 82 pages 3 through 8 of the direct testimony of Dr. Langland.

the entry of passenger carriers in the State of Colorado from regulatory monopoly to regulated competition. The relevant portion of § 40-10-105, C.R.S., as amended reads:

- (2) (a) The granting of any certificate of public convenience and necessity to operate a motor vehicle for hire as a taxicab within and between counties with a population of 60,000 or greater based on the federal census conducted in 1990 or for the transportation of property shall not be deemed to be an exclusive grant or monopoly, and the doctrine of regulated competition shall prevail.
- (b) The Commission has authority to grant more than one certificate of public convenience and necessity to operate motor vehicles as taxicabs within and between counties with a population of 60,000 or greater based on the federal census conducted in 1990 or for the transportation of property over the same route or a part thereof or within the same territory or a part thereof if the Commission finds that the present or future public convenience and necessity requires or will require such operation.

2. Under the doctrine of regulated competition, the controlling factor is the public need for the service. C. M. Morey v. Public Utilities Commission, 196 Colo. 153, 582 P.2d 685 (1978) (Morey I); C. M. Morey v. Public Utilities Commission, 629 P.2d 1061 (1981, Morey II); Trans-Western Express, Ltd. v. Public Utilities Commission, 877 P.2d 350 (1994). An Applicant has the burden of establishing by a preponderance of evidence that there is a need for service. The public need encompasses the needs of the public as a whole. Morey II at 1067. The Commission may consider the adequacy of existing services in its determination of the public need. Trans-Western Express, Ltd., v. Public Utilities Commission, 877 P.2d 350 (1994).

3. The potential impact of new service on existing common carriers must also be considered. It is not in the public interest, notwithstanding the legislative change to regulated competition, to allow destructive competition. (Morey II). The Colorado Supreme Court in Morey II stated in its discussion of potential destructive competition:

. . . the Commission may consider the impact additional competition may have, not only on the conflicting economic interests of competing carriers, but also on the ability of existing carriers to provide their customers and the public generally with safe, efficient, and economical transportation services. The obligation to safeguard the general public against the impaired services and/or higher rates accompanying destructive or excessive competition is at the heart of the policy of regulated competition.

4. The evidence of record establishes, and it is found, that there exists a public need for additional taxicab service in the six-county Denver metropolitan area. Almost 40 public witnesses, representing a broad cross-section of citizens in the six-county Denver metropolitan area, testified that there exists a broad public need for additional taxi service. The witnesses' testimony did not merely establish preferences of individual customers, but rather consisted of genuine need for additional service. Much of the testimony disclosed the lack of adequacy of taxi service with respect to various Denver metropolitan communities and particularly focused on the unduly long response time for service. It is clear from the testimony of the witnesses that certain areas of the six-county metropolitan region are underserved, such as Five Points, North Park Hill, Montebello, and Westside communities of Denver. In addition, the record establishes that existing taxi service for

handicapped persons who use electric wheelchairs is virtually non-existent. While the handicapped and citizens of Northeast Denver need additional taxi service, the testimony of witnesses and the numerous letters of support establish that there is a public need for virtually all areas of the six-county Denver metropolitan area. In addition, there is sufficient evidence of record to establish that people also need to travel by taxi from the Denver metro area (particularly from the airport) to other parts in the State of Colorado, including the ski and recreation areas along the I-70 corridor west of Denver. In addition to the public witnesses who testified at the hearing, the support letters submitted as part of the record confirms the broad public need for additional taxicab service.

5. Having found and concluded that Applicants have established the public need for additional taxicab service, it is necessary to consider whether the entry of additional service would cause destructive competition to existing taxicab companies serving the Denver metropolitan region. The evidence of record produced by the three incumbent intervening taxicab companies, Metro, Yellow, and Zone, establishes that all three companies' financial condition is precarious. The evidence was convincing that there exists a delicate balance with respect to the profitability or non-profitability of the companies, which could affect their ability to render safe and efficient taxicab service. The testimonies of Dr. Teal and Professor Dempsey were persuasive with respect to the taxicab industry, and the need for this Commission to carefully consider the effects any new entry would have on the incumbent

taxicab companies, and ultimately, and most importantly, upon the service to the public. The testimony of these experts establish that the number of taxicab trips in Denver in the last five years has declined approximately six percent. Both experts indicated that any substantial addition of taxicabs operating in Denver would result in destructive competition. Since there is a finite market for taxi service in Denver, as demonstrated by the experiences of Denver and other cities across the country, new entry would not stimulate new demand, but rather there would be a shifting of market share. Exacerbating the problem to existing cab companies would be the reality that Denver as well as other cities have a limited taxi driver pool. The operation managers of Yellow, Metro, and Zone testified that they have had considerable trouble in obtaining qualified taxi drivers in Denver. Substantial entry of new taxicab providers would only worsen this reality. Dr. Teal and Professor Dempsey testified that if the Commission finds it appropriate to authorize additional taxicab service, the Commission should take a cautious and measured approach, and that the Commission should closely monitor the effects of any new entry. Dr. Langland in his analysis of the taxicab market in Denver also testified that monitoring of the effects of new entry is important. Dr. Teal, and Professor Dempsey testified that a 23 percent increase in the number of new taxicabs in the Denver area could create destructive competition. While Dr. Langland's analysis established that the Denver market could absorb additional taxi service, he too had an upper limit of the number of cabs and urged that there should be close monitoring of the effects of new entry.

6. Reconciling the finding that the record establishes that there is a public need for additional taxicab service and the real potential for destructive competition, it is found and concluded that limited, additional taxicab service should be authorized in the six-county Denver metropolitan region. The question of which applicant or applicants should be chosen for an award of authority is rather difficult given each company's unique and rather innovative proposals for service. Each individual Applicant's proposal for service has merit when viewed in isolation from the other. However, since this is a consolidated proceeding, the Commission must compare the strengths of the Applicants' proposals and select among the Applicants. Carroll Broadcasting v. FCC, 258 F.2d 440, 442 (D.C. CIR. 1958); Ashbacker Radio Corp. v. FCC, 326 U.S. 327, 66 S.Ct. 148 (1945). It is found and concluded in a comparative analysis of the operating proposals and fitness of the Applicants, that Freedom is best positioned to serve the public need. Freedom proposes to address the underserved communities as reflected in the evidence of record. Freedom proposes to start immediate service to the handicapped community by obtaining a van equipped with lifts to accommodate electric wheelchairs. Freedom also will emphasize service to the underserved communities of the Denver area including Five Points, North Park Hill, and Montbello. In addition, Freedom plans to hire and station taxi drivers in each of the six counties, including Boulder County where the need for additional taxi service has been established by the record. By proposing to provide taxicabs in each of the six counties of the Denver metropolitan area, Freedom should be able to provide acceptable response times.

7. The evidence of record establishes that Freedom is fit to hold taxicab authority. It is found that the owners of Freedom have extensive experience in the taxicab industry in Denver. It is further found and concluded that Freedom has established sufficient evidence of financial fitness. Freedom has also established that it will follow all of the rules and regulations of the Commission in its taxicab operations.

8. Freedom requests that it be authorized to operate a total of 100 taxicabs in the six-county Denver metropolitan area. It plans to start operations with 30 taxicabs. In order to avoid destructive competition, the recommendations of Dr. Teal and Professor Dempsey should be adopted. Accordingly, it is recommended that the Commission authorize Freedom to operate a total of 100 vehicles to be phased-in over a two-year period with a maximum of 50 to be placed in service during Freedom's first year of operation and an additional 50 during Freedom's second year of operation. It is also recommended that the Staff closely monitor the effects of introducing additional taxicabs in the Denver market. It is strongly believed that a conservative and measured approach be taken by the Commission since the effects on the public are unknown and uncertain due to many variables that cannot be measured with any precision.³³

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

³³ One unknown factor is the impact that the opening of DIA will have on the need for taxicab service.

IV. ORDER

THE COMMISSION ORDERS THAT:

1. The application of Freedom Cabs, Inc., Docket No. 94A-354CP is granted. Freedom Cabs, Inc., 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 taxi service,

between all points within the area comprised of the Counties of Adams, Arapahoe, Boulder, Denver, Douglas, and Jefferson, State of Colorado, and between said points on the one hand, and all points in the State of Colorado, on the other hand.

RESTRICTIONS:

- (1) Restricted against opening an office within the scope of operation of Evergreen Shuttle Service, contained in Certificate of Public Convenience and Necessity PUC No. 47049;
- (2) Restricted against providing point-to-point taxi service within the County of Lake, State of Colorado;
- (3) Restricted against the establishing of an office within the County of Lake, State of Colorado; and
- (4) Against taxi service originating in the County of Lake, State of Colorado.

2. The applications of Metro Taxi, Inc., Docket No. 94A-349CP-Extension, Evergreen Taxi Service, Docket No. 94A-410CP, Zone Cab, Inc., Docket No. 94A-422CP-Extension, Mile Hi Taxicab Company, Docket No. 94A-424CP, and American Cab Company of Denver, Inc., Docket No. 94A-436CP are denied and dismissed.

3. Freedom Cabs, Inc., is authorized a total of 100 taxicabs to be phased-in one year increments. Freedom Cabs, Inc., is authorized a maximum total of 50 taxicabs for its first year of

operation, the one year period beginning at the commencement of its operations. Freedom Cabs, Inc., shall be authorized 50 additional taxicabs during the second year of its operation. The total number of authorized taxicabs shall not exceed 100 vehicles.

4. The authority granted in ordering paragraph no. 1 is conditioned upon Freedom Cabs, Inc., meeting the requirements contained in this Order and is not effective until these requirements have been met.

5. Freedom Cabs, Inc., shall file certificates of insurance, tariffs, rates, and rules and regulations as required by the rules and regulations of the Commission, and shall pay the issuance fee, annual identification fee, and any other requirements of the Commission. Operations may not begin until these requirements have been met and Freedom Cabs, Inc., has been notified by the Commission that operations may begin. If Freedom Cabs, Inc., 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 Freedom Cabs, Inc., 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.

6. The right of Freedom Cabs, Inc., to operate shall depend upon its compliance with all present and future laws and regulations of the Commission.

7. The Staff of the Commission shall monitor taxicab operations in the Denver metropolitan area and report to the Commission

in writing concerning the state of the taxicab industry in metropolitan Denver no later than April 15, 1996 and 1997. Particular emphasis shall be placed upon the impact upon the public and the taxicab companies by expanded taxi service authorized in this Decision.

8. The motions to modify, stay, or set aside a portion of Interim Order No. R94-1495-I filed by Aspen Limousine Service, Inc., doing business as Vans to Vail, Inc.; Black-Hawk Central City Ace Express, Inc.; Gambler's Express, Inc.; and Queen City Transportation are granted in part consistent with this Decision.

9. The motions to dismiss for the failure of Applicants to establish *prima facie* cases are denied.

10. Any pending motions that have not been ruled upon either at the hearing, by previous interim order, or in this Decision are denied.

11. 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.

12. 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.

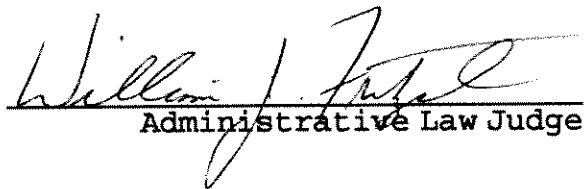
a. If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the Decision is stayed by the Commission upon its own motion, the recommended decision shall become the Decision of the Commis-

sion 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.

13. 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

349CP.WJF