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BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.

STB Docket No. MC-F-21008

EAST WEST RESORT TRANSPORTATION, LLC.
AND TMS, LLC, d/b/a
COLORADO MOUNTAIN EXPRESS
-PETITION FOR DECLARATORY ORDER-
MOTOR CARRIER TRANSPORTATION OF PASSENGERS IN COLORADO



REPLY
OF
S&L TRAVEL PARTNERS, INC.

ENTERED
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Public Record

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S&L TRAVEL PARTNERS, INC.

Dated: June 1, 2005

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S&L Travel Partners, Inc. (“S&L”), pursuant to 49 C.F.R. 1104.13(a), replies to the Second Petition for Issuance of Subpoena to Appear at Deposition and Produce Documents, filed May 27, 2005, by the Colorado Public Utilities Commission (“CPUC”), as follows:

1. S&L is not a party to this proceeding. It is neither the Petitioners, East West Resort Transportation, LLC, and TMS, LLC, d/b/a Colorado Mountain Express (“CME”), nor the respondent, CPUC. It has not sought and does not seek leave to intervene as a party.
2. S&L, through its Vice President, Mr. Mark Uhlfelder, prepared a two-page supporting statement, attached to the Petition for Declaratory Order, filed by CME on September 24, 2004.
3. CPUC, on October 24, 2004, filed its petition for leave to intervene, granted by the Board by its Decision, served March 21, 2005. The Board’s Decision established a procedural schedule, pursuant to which CPUC’s Reply was due April 11, 2005. On April 1, 2005, CPUC

filed a Motion for Extension of Time so that it might pursue discovery in advance of filing its Reply. The Board, by its Decision, served April 8, 2005, partially granted CPUC's request and extended the due date of CPUC's Reply to June 10, 2005.

4. CPUC, therefore has known of S&L's supporting statement for eight months, since it was filed by CME on September 24, 2004, and CPUC has had more than two months, since its intervention in the proceeding was granted by the Board's Decision, served March 21, 2005, to file a petition with the Board seeking a Subpoena ad Testificandum and Duces Tecum compelling the appearance for deposition and the production of documents by Mr. Uhlfelder. CPUC, however, chose to wait until May 27, 2005, almost on the eve of the due date for CPUC's Reply, to file its Petition and then asked that the deposition and document production take place ten days later, on June 7, 2005, with the Memorial Day week-end intervening.

5. CPUC's extraordinary tactics do violence to the Board's rules of practice, as well as the Federal Rules of Civil Procedure after which they were patterned. Both anticipate that a potential deponent be given reasonable notice of the deposition and a reasonable time for responding to the document production request. In the Board's practice a party normally has 15 days for producing documents; pursuant to Rule 34(b) of the Federal Rules of Civil Procedure, 30 days.

6. S&L, in trying to be helpful to both parties to this proceeding, has agreed to make Mr. Uhlfelder available to have his depositions taken. The June 7, 2005, date, however, was not cleared in advance with counsel for CME. Counsel for CME will have minor surgery in Denver on June 6, 2005, and he, therefore, will be unable to attend a deposition in Aspen the following morning.

7. S&L strenuously objects to the document production request and respectfully asks that the Subpoena Duces Tecum not be issued. S&L, through Aspen Ski Tours, Inc., and Ski.com, puts together ski vacation packages which include lift tickets, hotel accommodations, airline tickets and ground transfers between the airports at Denver or Eagle and the hotels via CME.

8. CPUC has requested the production of 5,866 documents, that is, the booking arrangement for each of the guests for which Aspen Ski Tours, Inc., and Ski.com put together as ski vacation package during calendar year 2003 which included ground transfers via CME. For each, CPUC asks that S&K “identify the name of the customer/passenger, the date(s) CME provided ground transportation, the scheduled route of the van service (e.g., Denver International Airport to Summit, Eagle County Regional Airport to Vail, etc.), whether the customer/passenger acquired airline tickets directly from Aspen Ski Tours as part of a multi-element travel package, whether the customer/passenger acquired any non-air travel components (e.g., lodging, lift tickets, etc.) directly from Aspen Ski Tours as part of a multi-element travel package, and the pertinent flight number and arrival/departure information.”

9. On its face, CPUC’s document production request is overly broad, burdensome and oppressive and, accordingly, should not be ordered. See, STB Docket No. AB-124 (Sub-No. 2), Waterloo Railway Company–Adverse Abandonment–Lines of Bangor and Aroostook Railroad Company and Van Buren Bridge Company in Aroostook County, Maine, served May 6, 2003. Moreover, some of data, as for example, whether the customer/passenger acquired any non-air travel components (e.g., lodging, lift tickets, etc.) directly from Aspen Ski Tours as part of a multi-element travel package, are irrelevant to these proceedings, and their production should not be required. Id.

10. S&L understands that the data which CPUC seeks from S&L through its document production request either already has been provided or is more properly provided by CME in response to CPUC=s document production request of CME, and CME=s President, Mr. Jay Ufer, has been deposed by CPUC and answered questions relating to the ski packages arranged by S&L. Thus, CPUC has failed to demonstrate a need for the 5,866 documents which it seeks to have produced. See, STB Docket No. 42057, Public Service Company of Colorado d/b/a Xcel Energy v. The Burlington Northern and Santa Fe Railway Company, served February 1, 2002; STB Docket No. 42051, Wisconsin Power and Light Company v. Union Pacific Railroad Company, served June 21, 2000.

WHEREFORE, S&L Travel Partners, Inc., asks that the Petition of the Colorado Public Utilities Commission for the issuance of a Subpoena Duces Tecum be denied.

Respectfully submitted,

S&L TRAVEL PARTNERS, INC.

By its President



Harry Peisach
President
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210 AABC (Suite AA)
Aspen, CO 81611

Dated: June 1, 2005

CERTIFICATE OF SERVICE

I certify that I this day served the foregoing Reply upon each of the parties by facsimile transmitting copies thereof to their counsel, David A. Beckett, Esq. (303) 866-5395; Thomas J. Burke, Jr., Esq. (303) 893-6506 and Fritz R. Kahn (202) 331-8330.

Dated at Aspen, CO, this 1st day of June 2005.

A handwritten signature in black ink, appearing to read 'H. Peisach', written over a horizontal line.

Harry Peisach