

Service Date: January 27, 1986

DEPARTMENT OF PUBLIC SERVICE REGULATION  
BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MONTANA

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IN THE MATTER of the Application)	TRANSPORTATION DIVISION
of Betsy Van Schoonhoven, West )	
Yellowstone, Montana, for a Class )	DOCKET NO. T-8477
B Certificate of Public Convenience )	
and Necessity. )	ORDER NO. 5665

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FINAL ORDER

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APPEARANCES

FOR THE APPLICANT:

Betsy Van Schoonhoven, P.O. Box 818, West Yellowstone, Montana 59758

FOR THE PROTESTANT:

Jonathan Anderson, President of City Taxi, Inc., P.O. Box 3041, Bozeman, Montana 59772

FOR THE COMMISSION:

Robin A. McHugh, Staff Attorney, 2701 Prospect Avenue, Helena, Montana 59620

BEFORE:

JOHN B. DRISCOLL, Commissioner and Hearing Examiner

## BACKGROUND

1. On February 25, 1985, the Commission received an application from Betsy Van Schoonhoven, P.O. Box 818, West Yellowstone, Montana 59758. The Applicant sought a Certificate of Public Convenience and Necessity, Class B, to authorize the operation of a taxi service in Manhattan, Montana.

2. Following public notice of the application, the Commission received protests from Limo One, Inc., Karst Stage, Inc., and City Taxi, Inc., all of Bozeman. Limo One and Karst Stage subsequently withdrew their protests when the Applicant agreed to limit her service to a fifteen (15) mile radius of Manhattan and to restrict the number of passengers per vehicle to eight (8) or fewer.

3. A hearing was originally scheduled in this docket for September 5, 1985. It was continued, however, at the request of the Applicant. Thereafter, following issuance of proper notice, a public hearing was held, beginning at 9 a.m. on Thursday, January 9, 1986, in the Manhattan Community Center, Manhattan, Montana.

4. At the conclusion of the hearing the parties stipulated to a final order pursuant to ARM 38.2.4802(2) of the Commission's Procedural Rules.

## Summary of Testimony

5. Betsy Van Schoonhoven appeared and testified in support of the application. She stated that she believes there is a need for a taxi service in Manhattan. On one occasion while her car was being serviced in Manhattan she had difficulty finding transportation. Mrs. Van

Schoonhoven has not been contacted by residents of Manhattan concerning her proposed taxi service. She has, however, had several conversations with persons who have indicated that taxi service in Manhattan would be useful.

6. Mrs. Van Schoonhoven presently lives 50 miles south of Manhattan in the Gallatin Valley. She said that she would move to Manhattan should this application be granted. Mrs. Van Schoonhoven contemplates that the proposed service would be offered 24 hours a day, seven days a week and that she would be the sole employee; she would have a phone installed in the taxi-vehicle, a 1976 Lincoln Continental, in order that customers could contact her at all times. The Applicant was uncertain when she would begin service should the application be granted but hoped to be operating by the summer of 1986. Mrs. Van Schoonhoven has no previous experience in the transportation business.

7. Jonathan Anderson, President of City Taxi, Inc., testified in opposition to the application. City Taxi provides 24 hour a day taxi service in the Bozeman area. City Taxi is available to transport persons from Manhattan to the Bozeman Airport as well as within the environs of Manhattan proper. However, the distance from Bozeman to Manhattan makes it impractical for residents of Manhattan to utilize City Taxi for anything but airport transportation. Mr. Anderson estimated that service to the Manhattan area constitutes less than 1 percent of City Taxi's total business.

8. Mr. Anderson is primarily concerned that the Applicant has not carefully planned the proposed service. He questions whether Mrs. Van Schoonhoven has properly considered certain aspects of providing taxi service such as insurance, fares, market demand, and 24 hour a day service.

Mr. Anderson believes that these and other matters should be adequately considered before new entry is allowed into the taxi business.

### DISCUSSION, ANALYSIS & FINDINGS

9. The criteria the Commission must follow when considering an application for Class B authority are provided in Section 69-12-323(2)(a), MCA.

If after hearing upon application for a certificate, the commission finds from the evidence that public convenience and necessity require the authorization of the service proposed or any part thereof, as the commission shall determine, a certificate therefor shall be issued. In determining whether a certificate should be issued, the commission shall give reasonable consideration to the transportation service being furnished or that will be furnished by any railroad or other existing transportation agency and shall give due consideration to the likelihood of the proposed service being permanent and continuous throughout 12 months of the year and the effect which the proposed transportation service may have upon other forms of transportation service which are essential and indispensable to the communities to be affected by such proposed transportation service or that might be affected thereby.

The Commission has interpreted these criteria as requiring it to consider three issues prior to granting additional operating authority: 1) Whether there is public demand and need for the proposed service; 2) Whether the Applicant is fit, willing, and able to provide the proposed service; and 3) Whether the proposed service would have significant adverse impact on existing services.

10. It is the Applicant's burden to establish a public need for the proposed service. In this case the Applicant has failed completely to demonstrate demand or need. Not a single shipper witness was called to testify on behalf of the application. The only evidence of need on the record is the Applicant's own testimony that on one occasion she was unable to find transportation to

Bozeman while her car was being serviced in Manhattan. This single isolated example falls far short of establishing that there is a need for a taxi service in Manhattan. It is obvious that small towns lack many of the services that are taken for granted in large towns. But the lack of a given service, absent demonstrated demand and need for such a service, is insufficient reason for granting operational authority.

11. Because no public need was demonstrated in this application, it is not necessary to address the second and third issues stated in paragraph 9, above.

CONCLUSIONS OF LAW

1. The Montana Public Service Commission properly exercises jurisdiction over the parties and matters in this proceeding pursuant to Title 69, Chapter 12, MCA.

2. The Commission has provided adequate notice and opportunity to be heard to all interested parties in this matter.

3. Section 69-12-323(2), MCA, requires that "public convenience and necessity" be shown before the granting of additional operating authority.

4. Before "public convenience and necessity" can be shown the Commission requires that an applicant demonstrate that there is a public demand and need for the proposed service.

5. The Commission finds in this case that the Applicant failed to demonstrate public demand and need for the proposed service.

6. Following hearing on the application and based upon the evidence in the record the Commission concludes that public convenience and necessity has not been demonstrated in this Docket.

ORDER

NOW THEREFORE IT IS ORDERED that the application of Betsy Van Schoonhoven for a Certificate of Public Convenience and Necessity, Class B, Docket No. T-8477, be denied.

DONE AND DATED this 27th day of January, 1986 by a vote of

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

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CLYDE JARVIS, Chairman

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JOHN B. DRISCOLL, Commissioner

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HOWARD L. ELLIS, Commissioner

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TOM MONAHAN, Commissioner

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DANNY OBERG, Commissioner

ATTEST:

Trenna Scoffield  
Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See 38.2.4806, ARM.