

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23M-0075HHG

IN THE MATTER OF THE PETITION OF MOVER,Z LLC FOR AN ORDER OF THE COMMISSION AUTHORIZING A WAIVER OF THE RULES REGULATING TRANSPORTATION BY MOTOR VEHICLE, 4 CCR 723-6, AND STATE STATUTE.

**COMMISSION DECISION DENYING
PETITION FOR RULE WAIVER**

Mailed Date: April 5, 2023
Adopted Date: March 29, 2023

I. BY THE COMMISSION

A. Statement, Findings, and Conclusions

1. This matter comes before the Commission for consideration of a Petition for Waiver/Variance of Regulated Intrastate Carrier Rules and State Statute filed on February 13, 2023, by Mover,z LLC (Petitioner).

2. Petitioner requests a waiver of § 40-10.1-502(3), C.R.S., which states, “Except as otherwise provided in subsection (2) of this section and section 40-10.1-112(4), the commission shall issue a permit to a mover upon completion of the application and compliance with the financial responsibility requirements of this article.”

3. In addition, Petitioner requests a waiver of Rules 6607(a)(I), (II), of the Commission’s Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* (CCR) 723-6. However, these are rules that do not exist. As a result, a deficiency letter was issued to Petitioner on February 17, 2023, requesting that Petitioner file an amendment

to the petition, including the correct rule(s) Petitioner is requesting to be waived. The deadline for Petitioner to submit the requested amendment was February 27, 2023.

4. On February 17, 2023, Petitioner filed an amendment to the petition, clarifying that the rule they are requesting to be waived is Rule 6008, 4 CCR 723-6.

5. Rule 6008, 4 CCR 723-6, provides the financial responsibility (*i.e.*, insurance) criteria for motor carriers, including Household Goods (HHG) movers. Pursuant to Rule 6008(a)(I), 4 CCR 723-6, each motor carrier is required to obtain, and keep in force at all times, commercial motor vehicle liability (Form E) insurance coverage for bodily injury and property damage. In addition, HHG movers are required to obtain, and keep in force at all times, cargo liability (Form H or Form J) and general liability (Form GL) insurance coverage, pursuant to Rules 6008(a)(III), (VI), 4 CCR 723-6.

6. Petitioner requests a waiver for the aforementioned rules and statutes for the period of February 13, 2023, through February 13, 2024.

7. The Commission noticed this petition to all interested persons, firms, and corporations pursuant to § 40-6-108(2), C.R.S., on February 21, 2023. No petition to intervene or otherwise participate in this Proceeding has been filed. This Proceeding is therefore uncontested. Pursuant to § 40-6-109(5), C.R.S., this matter may be determined without a hearing.

8. In accordance with Rule 1003 of the Commission's Rules of Practice and Procedure, 4 CCR 723-1, the Commission may grant a request to waive Commission rules for good cause shown. In rendering its decision, the Commission may take into account, but is not

limited to, considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.

9. In support of its request for rule waiver, the Petitioner states:

We would like the commission to grant this petition for waiver of variance for sending vehicle insurance and cargo insurance in order to receive a movers permit, because we do not own our own vehicle yet. We would like to rent uhauls, who offers insurance options for the truck rented (vehicle insurance) and for the contents of the truck (cargo insurance). Both truck and cargo will be insured at the time of the truck rental and for the totality of the time that the truck is rented out to us each and every time. We will commit to buying the indicated insurance plan requirements for the financial minimum responsibility each time a truck is rented and keep records of these as well. We will also be buying our own truck as soon as we are able and will be able to provide our own vehicle and cargo insurance in the near future. We have obtained genereal liability coverage and have sent that over, but would like to be excused from sending vehicle insurance and cargo insurance in order to receive our permit since we do not own our own vehicle and would like to rent uhauls, but will buy insurance through uhaul each time a truck is rented. Thank you! [sic]

10. After reviewing all available information, there are several concerns related to the underlying petition for waiver. First of all, given the narrative provided by Petitioner and their description of what they are attempting to accomplish through the filing of this petition, it does not appear that Petitioner has properly cited all applicable Commission rules that are related to their specific circumstances, as described. For example, Rule 6603(a)(I), 4 CCR 723-6, requires HHG movers to file proof of financial responsibility as part of the permitting process. Also, based on the scenario described by Petitioner, the rented motor vehicles to be used by Petitioner would still be subject to the motor vehicle inspection requirements, pursuant to Rule 6100(b), 4 CCR 723-6. While logistically possible, these requirements may cause an undue burden on Petitioner, as they would be expected to obtain new inspections for each rented motor vehicle, prior to it being used for HHG service, in accordance with the standards outlined in 49 Code of

Federal Regulations (C.F.R.) 396.17, assuming the rented motor vehicles meet the definition of a commercial motor vehicle, pursuant to 49 C.F.R. 390.5. This may end up being very costly to Petitioner, considering it is likely they will be renting different motor vehicles each time, to accommodate their described format of renting the motor vehicles on an “as needed” basis.

11. In addition, Petitioner’s request may run afoul of § 40-10.1-107(3), C.R.S., which states, “An insurance policy, surety bond, or self-insurance pursuant to subsection (2) of this section shall be kept continuously effective during the life of a certificate or permit and the commission shall require such evidence of continued validity as the commission deems necessary.” Based on the specific scenario proposed by Petitioner, they would only use and insure the rented motor vehicles on an “as needed” basis. This does not fit well with the Commission’s adopted process of maintaining the required insurance coverage at all times, based on the language in statute and Commission rules. Also, the Commission requires insurance coverage to be filed with the Commission through the appropriate insurance agent(s) providing such coverage. This ensures that filed policies are valid and maintained, in accordance with the Commission’s standards. Petitioner’s own statements indicate that they will maintain the proof of insurance, as purchased through the motor vehicle rental company, which suggests that the rental company would not be filing these forms of insurance on behalf of Petitioner. This is inconsistent with current Commission practices that have been put in place to safeguard against void and/or subsequently canceled insurance policies.

12. Furthermore, while the Commission may occasionally waive its rules, it may not waive statutory requirements. Based on how Petitioner proposes to operate, it would require the aforementioned statutes, including § 40-10.1-502(3), C.R.S., and § 40-10.1-107(3), C.R.S., to be waived.

13. It is clear that the intention of the underlying petition for waiver is to alleviate the need for Petitioner to purchase or lease their own motor vehicles, while still being able to provide licensed moving services. However, this scenario appears to be an unworkable solution, from a logistical standpoint, given all the different statutes and Commission rules that overlay such circumstances.

II. ORDER

A. The Commission Orders That:

1. The petition of Mover,z LLC for a waiver of Rule 6008 of the Commission's Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* (CCR) 723-6, and § 40-10.1-502(3), C.R.S., filed on February 13, 2023, is denied.

2. The 20-day time period provided by § 40-6-114(1), C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the Commission mails this Decision.

3. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
March 29, 2023.**

(S E A L)



ATTEST: A TRUE COPY

G. Harris Adams,
Interim Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

MEGAN M. GILMAN

TOM PLANT

Commissioners