

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23V-0404EC

IN THE MATTER OF THE PETITION OF ROGER THAT INCORPORATED FOR AN ORDER
OF THE COMMISSION AUTHORIZING A WAIVER OF THE RULES REGULATING
TRANSPORTATION BY MOTOR VEHICLE, 4 CCR 723-6.

**COMMISSION DECISION GRANTING PETITION FOR
RULE WAIVER, IN PART**

Mailed Date: September 12, 2023
Adopted Date: August 30, 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 filed on August 8, 2023, by Roger That Incorporated (Petitioner).

2. Petitioner requests a waiver of Rule 6305 of the Commission's Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* (CCR) 723-6. This rule provides, in relevant part, the criteria for luxury limousine vehicles, including categories of vehicles that can be classified as a luxury limousine. Rule 6305(b), 4 CCR 723-6, provides, "A Person who believes that the Motor Vehicle that they have purchased or plan to purchase provides a luxurious and specialized transportation service may file a petition for waiver of paragraphs (a) or (c) of this rule, as set forth in rule 6003, explaining why the use of their vehicle of choice will effectively implement the Commission's policies of a luxury transportation

experience in the relevant market to be served.” This rule allows for the Commission to exercise discretion regarding a particular vehicle’s fitness to be operated as a luxury limousine.

3. Petitioner requests a waiver for a 2021 Buick Enclave, VIN No. 5GAEVCKW3MJ142788. Petitioner requests a waiver for a period beginning on August 7, 2023, and continuing indefinitely.

4. The Commission noticed this petition to all interested persons, firms, and corporations pursuant to § 40-6-108(2), C.R.S., on August 14, 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.

5. 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.

6. In support of its request for rule waiver, Petitioner states that the Buick Enclave interior and seating configuration is almost identical to a GMC Yukon, which is a Commission approved luxury limousine vehicle. The vehicle also has an MSRP of approximately \$60,000.00 and has been meticulously maintained. Petitioner states that their passengers have been impressed with the vehicle and even prefer it over a GMC Yukon. Petitioner claims that the vehicle has a smooth ride, and the turning radius is convenient in mountain communities during winter months. Petitioner also believes that their services provide an important safety function for passengers who are under the influence.

7. For the underlying vehicle, Petitioner submitted multiple photos, as well as a copy of the bill of sale and a safety inspection from August 2023. Based on the submitted photos, the underlying vehicle appears to be in a good and clean condition. The interior also appears to include captain's chairs, leather upholstery, and expanded seating (supporting six total passengers) within a compact vehicle frame. According to the bill of sale, the underlying vehicle was purchased by Petitioner on April 14, 2021. The selling price of the vehicle is listed as \$53,311.00, meaning it likely would have qualified as a luxury limousine vehicle, pursuant to Rule 6305(a)(VI), 4 CCR 723-6, had it been purchased more recently. Also, the submitted safety inspection form for the underlying vehicle was passed, indicating that it is safe for passenger transportation.

8. Given all available information, the Commission finds that good cause has been shown to grant a waiver of Rule 6305(a), 4 CCR 723-6, for the 2021 Buick Enclave named in this petition. However, the requested period for the waiver, beginning on August 7, 2023, and continuing indefinitely, is inappropriate. Waivers of this type are typically granted for two years or less, depending on the circumstances. As such, the requested waiver will be granted, in part, for a two-year period, which will coincide with the effective date of this Decision.

II. ORDER

A. The Commission Orders That:

1. The petition of Roger That Incorporated for a waiver of Rule 6305 of the Commission's Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* (CCR) 723-6, filed on August 8, 2023, is granted, in part, for the 2021 Buick Enclave, VIN No. 5GAEVCKW3MJ142788, for two years from the effective date of this Decision.

2. The waiver is conditional on the aforementioned vehicle passing a vehicle safety inspection, pursuant to Rule 6117(b), 4 CCR 723-6.

3. Roger That Incorporated shall keep a copy of this Decision and proof of inspection in the aforementioned vehicle, pursuant to Rule 6107(b), 4 CCR 723-6.

4. 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.

5. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
August 30, 2023.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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Commissioners