

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14R-0391TR

IN THE MATTER OF THE EMERGENCY RULES IMPLEMENTING CHANGES TO
RULE 6007(A)(1) OF THE RULES REGULATING TRANSPORTATION BY MOTOR
VEHICLE, 4 *CODE OF COLORADO REGULATIONS* (CCR) 723-6.

DECISION ADOPTING EMERGENCY RULES

Mailed Date: May 1, 2014
Adopted Date: April 30, 2014

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I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for adoption of emergency rules to amend Rule 6007(a)(I) of the Rules Regulating Transportation by Motor Vehicle, 4 Code of Colorado Regulations (CCR) 723-6. Our emergency rules decrease the minimum levels of insurance coverage for common carriers, contract carriers, and limited regulation carriers to reduce financial hardships resulting from high insurance premiums and ensure the continuation of important regulated transportation services. These amended minimum levels of insurance shall remain in effect until permanent rules become effective or for 210 days, whichever period is less. The Commission decreases these insurance minimums by way of emergency rules, rather than by

rule waiver, to ensure uniform treatment among carriers and avoid placing some carriers at a competitive disadvantage.

B. Background

2. By Decision No. R13-0943, issued on August 2, 2013 in Proceeding No. 13R-0009TR,¹ an Administrative Law Judge (ALJ) recommended changes to Rule 6007(a)(I) and other Rules. These changes raised minimum levels of liability coverage for common carriers, contract carriers, and limited regulation carriers. The Decision raised the minimum level of liability coverage for common and contract carriers for vehicles with a seating capacity of eight persons or less from \$500,000 to \$1,500,000. The Decision also raised the minimum level for some carriers for vehicles with a seating capacity of 16 persons or more from \$1,500,000 to \$5,000,000.

3. No interested party filed exceptions on the issue of minimum levels of insurance. The Commission did not modify these changes to Rule 6007(a)(I) in issuing later decisions in Proceeding No. 13R-0009TR.² The new rules went into effect on February 14, 2014.

4. Shortly after amended Rule 6007(a)(I) went into effect, the following carriers petitioned for waivers of the new minimum insurance levels: Ancel, Inc., doing business as Avi Limo (Avi Limo),³ Freedom Cabs, Inc. (Freedom),⁴ and Union Taxi Cooperative (Union).⁵ Metro Taxi and/or Taxis Fiesta and/or South Suburban Taxi and/or Northwest Suburban Taxi (Metro Taxi) and Colorado Cab Company, LLC (Colorado Cab) timely filed notices of interventions by right and alternative petitions to intervene by permission in the Freedom and Union proceedings.

¹ *In the Matter of the Proposed Rules Regulating Transportation by Motor Vehicle, 4 Code of Colorado Regulations (CCR) 723-6.*

² Decision No. C13-1259, Proceeding No. 13R-0009TR issued on October 10, 2013 (addressing exceptions to Decision No. R13-0943), and Decision No. C13-1480, Proceeding No. 13R-0009TR, issued on November 29, 2013 (addressing applications for rehearing, reargument, or reconsideration to Decision No. C13-1259).

³ Proceeding No. 14V-0171EC, commenced on February 24, 2014.

⁴ Proceeding No. 14V-0269CP, commenced on March 27, 2014.

⁵ Proceeding No. 14V-0283CP, commenced on March 31, 2014.

C. Petitions for Waiver

5. Union and Freedom, two of the taxicab carriers serving the Denver metropolitan area, request rule waivers due to the financial hardship resulting from the increased premiums necessary for \$1,500,000 in liability coverage. For Freedom, this coverage resulted in an annual increase of \$263,000 in premiums, or a 29 percent increase. For Union, the result was an annual increase of \$224,272 in premiums. Both taxicab companies argue that these increases are not sustainable in the long-term without increasing fares or driver lease rates, and they request the Commission to return their minimum insurance levels to \$500,000. Similarly, Avi Limo argues that the new \$5,000,000 liability coverage resulted in a financial hardship. Avi Limo states that its current insurance company does not offer a product with that amount of liability coverage.

6. To support their petitions for waiver, Union and Freedom attach an affidavit from the president of their insurance company, Research Underwriters, Inc. (Research Underwriters). This insurance company specializes in securing coverage for transportation providers throughout the United States, with a special emphasis on the taxicab industry. The affidavit states the \$1,500,000 liability coverage is unrealistically high and well above the coverage required for taxicab carriers in other medium and large cities, with the exception of San Francisco. Based on the affidavit from Research Underwriters and supporting information from its principal competitor, Union and Freedom state there has never been a judgment against a taxicab carrier of over \$500,000 in Colorado.⁶

7. Metro Taxi and Colorado Cab agree insurance is one of the most significant costs for transportation providers. They also argue the insurance rules are necessary to protect public safety, and any changes to the minimum limits should apply to all carriers, not just Union and Freedom.

⁶ No participant presented information on the financial impact of proposed insurance levels to the ALJ, except vague comment that did not quantify the impact or degree. Decision No. R13-0943, ¶ 23.

Thus, any revision to the minimum limits should be done in a rulemaking, including an emergency rulemaking.

D. Discussion

8. Based on the information provided by Union, Freedom, and Avi Limo, we find the new minimum insurance levels have resulted in substantial and immediate hardship to regulated transportation carriers. These requirements of increased insurance levels, if continued, threaten the sustainability of two of the four taxicab carriers presently serving the Denver metro area,⁷ and thus the affordability and availability of taxicab services to the public. The evidence before us shows that the new minimum levels of insurance coverage are not necessary to protect the public safety at present. The ALJ in Proceeding No. 13R-0009TR found policy guidance in the levels of insurance for federally regulated carriers to update Colorado rules that have not been changed in many years.

9. The Commission should reconsider the minimum insurance levels, and delaying relief until completion of a permanent rulemaking will cause substantial harm to regulated carriers and, indirectly, to the public. We also agree with Colorado Cab and Metro Taxi that the minimum insurance levels should be amended in a rulemaking to maintain uniform rules for competitors.

10. For these reasons, immediate adoption of proposed Rule 6007(a)(I) is imperatively necessary for the preservation of public health, safety, or welfare, pursuant to § 24-4-103(6)(a), C.R.S., and compliance with the public hearing and notice requirements set forth in §§ 24-4-103(3) and (4), C.R.S., would be contrary to the public interest.

11. The statutory authority for these emergency rules is found at §§ 40-2-108 and 40-10.1-107, C.R.S.

⁷ By Decision No. C14-0304, issued on March 21, 2014 in Proceeding No. 08A-407CP, the Commission granted a certificate of public convenience and necessity to Mile High Cab, Inc. (Mile High). As of the date of this Decision, Mile High does not have proof of insurance or an effective tariff on file with the Commission. Mile High filed a petition for waiver of the new Rule 6007(a)(I), in Proceeding No. 14V-0328CP. The Commission issued public notice of that proceeding and the deadline for interested parties to intervene has not yet expired.

12. The emergency rules shall be effective on the mailed date of this Decision and shall remain in effect until permanent rules become effective or for 210 days, whichever is less.

II. ORDER

A. The Commission Orders That:

1. The attached rules are adopted as emergency rules consistent with the discussion above.

2. The emergency rules shall be effective on the mailed date of this Decision.

3. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
April 30, 2014.**



Doug Dean

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GLENN A. VAAD

Commissioners