

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19V-0403EC

IN THE MATTER OF THE PETITION OF RAMBLIN' EXPRESS, INC. FOR AN ORDER OF THE COMMISSION AUTHORIZING A WAIVER OF THE RULES REGULATING TRANSPORTATION BY MOTOR VEHICLE, 4 CCR 723-6.

DECISION GRANTING WAIVER

Mailed Date: August 9, 2019

Adopted Date: August 7, 2019

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of a petition filed on July 19, 2019, by Ramblin' Express, Inc. (Ramblin' Express). Ramblin' Express requests a waiver of Rule 6117(c) of the Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* (CCR) 723-6 (Age of Motor Vehicles) regarding a 1998 Gillig Phantom.¹ The waiver is requested from May 15, 2019, through May 14, 2021.

2. Consistent with the discussion below, on our own motion, we will waive Rule 6117(g)(VIII), 4 CCR 723-6, that requires proof of ownership for three years for a vehicle to be eligible for waiver of the age requirements, and grant the requested waiver.

B. Findings and Conclusions

3. The Commission noticed this application to all interested persons, firms, and corporations pursuant to § 40-6-108(2), C.R.S., on July 22, 2019, for a period of ten days. The ten-day notice period expired on August 1, 2019. No petition to intervene or otherwise

¹ The vehicle identification number of the 1998 Gillig Phantom is 15GCD2116W1089248.

participate in this proceeding has been filed. Therefore, the proceeding is uncontested. Under § 40-6-109(5), C.R.S., this matter may be determined without a hearing.

4. In accordance with Rule 1003 of the Rules of Practice and Procedure, 4 CCR 723-1, the Commission may grant waivers or variances from tariffs, Commission rules, and substantive requirements contained in Commission decisions and orders for good cause. In making a determination, 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.

5. Rule 6117(c), 4 CCR 723-6 (Age and Condition of Passenger Carrying Motor Vehicles) states:

With the exception of a Luxury Limousine which meets the definition of “Collector’s Vehicle” in subparagraph 6305(a)(IV), no Motor Vehicle operated under a Certificate or Permit shall be more than 15 years old regardless of condition or mileage.

6. The Gillig Phantom named in this petition is six model years older than allowed by Rule 6117(c). Therefore unless Ramblin’ Express is granted a waiver of Rule 6117(c) for the 1998 Gillig Phantom, it may not continue to provide common carrier or charter bus service with this vehicle.

7. A copy of the State of Colorado Certificate of Title for the 1998 Gillig Phantom was submitted with the petition for waiver. The Certificate of title indicates the 1998 Gillig Phantom was purchased by Ramblin Express on September 8, 2016.

8. Rule 6117(g)(VIII), 4 CCR 723-6 states:

No vehicle is eligible for a waiver of the age requirements of this rule unless the petitioner has owned the vehicle for three full years and establishes proof of ownership for the three years with a title or registration from the Colorado Department of Revenue.

9. Ramblin' Express will not have owned this vehicle for three full years until September 7, 2019. The petition was filed on July 19, 2019, which is 51 days before Ramblin' Express will have owned the Gillig Phantom for the required three years. Therefore, unless Ramblin' Express is granted a waiver of Rule 6117(g)(VIII), the Gillig Phantom is not eligible for a waiver of the age requirement. Ramblin' Express, in this petition, did not request a waiver of Rule 6117(g)(VIII).

10. The owner of Ramblin' Express, Todd Holland, provided the following statement to support this petition for waiver of the age rule:

Ramblin Express is requesting a waiver of the "15 years or newer" rule, specifically for 3 older Shuttle Buses we currently operate in limited local charter service, ...

These buses are unique in the market, in that they are actually Transit Style Buses that we offer for local shuttle services (charters) where there is need to transport large groups of people short distances. In those applications, they are much more effective and cost-effective [than] using typical charter buses or Motorcoaches. These buses have 40 to 45 seats, along with wide center aisles and passenger grab rails and bars to accommodate additional "standees", as [designed].

... We have historically justified keeping these buses in our fleet, as they are fully paid for, and have low maintenance and operating expenses. We could not justify replacing these buses, based on the low demand we have for them.

11. A letter in support of this petition for waiver was submitted by Hector Lobo, the senior manager of Standard Parking. In this letter, Mr. Lobo states:

We have chartered buses from Ramblin Express since 2002, specifically for local parking lot shuttle service at Coor's Field for all Colorado Rockies home baseball games and other events at Coor's Field.

The high-capacity transit buses used by Ramblin Express are ideal for our needs, as they afford the opportunity to serve the maximum number of people between the stadium and the outer parking lots in the quickest and most efficient manner. Their Transit buses are built for carrying more people than traditional forward seating only buses, as the center aisle is wider with

reinforced flooring, and there are grab rails to safely accommodate “standees” in addition to the 40-45 seated passengers.

12. In consideration of the information provided by Ramblin’ Express and Mr. Lobo’s statement in support of the waiver, the Commission finds that good cause has been shown to grant a waiver of Rule 6117(c) for a period of two years from the mailed date of this Decision. The Commission, on its own Motion, finds good cause to waive Rule 6117(g)(VIII) in these circumstances and allow the requested age of motor vehicle waiver.

II. **ORDER**

A. **The Commission Orders That:**

1. The petition of Ramblin’ Express, Inc. (Ramblin’ Express) filed on July 19, 2019, for a waiver from Rule 6117(c) of the Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* (CCR) 723-6, is granted for a period of two years beginning on the mailed date of this Decision.

2. On its own Motion, the Commission waives Rule 6117(g)(VIII), 4 CCR 723-6.

3. Ramblin’ Express shall keep a copy of this Decision in the 1998 Gillig Phantom named in the petition and shall ensure that this Decision is provided immediately upon request by any Commission enforcement official.

4. Ramblin’ Express shall have the 1998 Gillig Phantom inspected pursuant to the requirements in Rule 6117(d) 4 CCR 723-6 within 30 days of the effective date of this Decision, and the vehicle shall pass such inspection in order for this waiver to be valid. Ramblin’ Express shall maintain copies of the completed inspection forms in the 1998 Gillig Phantom.

5. 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 or serves this Decision.

6. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
August 7, 2019.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

FRANCES A. KONCILJA

JOHN GAVAN

Commissioners