

Decision No. C20-0058

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19V-0733CP

IN THE MATTER OF THE PETITION OF CONTROL GROUP PRODUCTIONS FOR AN ORDER OF THE COMMISSION AUTHORIZING A WAIVER OF RULE 6117(C) (AGE OF VEHICLES) OF THE RULES REGULATING TRANSPORTATION BY MOTOR VEHICLE, 4 CCR 723-6.

DECISION DENYING WAIVER

Mailed Date: January 28, 2020

Adopted Date: January 22, 2020

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 Common/Contract Carrier Rules filed on December 23, 2019, by Control Marketing Productions.

2. Control Marketing Productions 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).

3. The vehicle for which a waiver is requested is a 1986 Blue Bird School Bus, VIN No. 1BAB1BXA9GF072977. The waiver is requested from May 1, 2020 through October 30, 2020.

4. The Commission noticed this petition to all interested persons, firms, and corporations pursuant to § 40-6-108(2), C.R.S., on January 6, 2020. Any person desiring to intervene in this Petition was required to file an appropriate pleading by January 16, 2020.

5. 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.

6. Pursuant to 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.

7. Rule 6117(c), 4 CCR 723-6, states that “[w]ith 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.”

8. In support of this petition, Patrick Mueller, the artistic director of Control Marketing Productions, states:

Control Group Productions is seeking a waiver of standard carrier rules in order to fulfill a unique arts & culture goal.

We are a small non-profit arts organization specializing in immersive and experiential performance created site specifically for indoor and outdoor sites. We have just applied for Common Carrier operating authority¹ in order to execute a performance production in 2020 that uses a school bus to transport audiences through Denver on a “bus tour of Denver in the apocalypse.”

¹ Control Marketing Productions filed an application with the Commission on December 23, 2019, to operate as a common carrier by motor vehicle for hire. The application was assigned Proceeding No. 19A-0731CP. In the application, Control Marketing Productions requests authority to transport passengers in call-and-demand shuttle service between all points in the Counties of Adams, Broomfield, Denver, and Jefferson, State of Colorado. The Commission noticed this application to all interested persons, firms, and corporations pursuant to § 40-6-108(2), C.R.S., on January 6, 2020. Any person desiring to intervene in this Petition is required to file an appropriate pleading by February 6, 2020.

Control Group is a small non-profit with an operating budget that has just surpassed \$100K/year for the first time in 2019. Most of our budget for this project (\$92K total) comes from grants and donations that are earmarked for contributing to the public good, so we [are] working to keep the cost of purchasing and customizing the bus as low as possible.

We do not yet own a bus, and are seeking a waiver in advance of a purchase. We realize that this places our Waiver Permission request out of compliance with requirements for three years of ownership, and accompanying paperwork on the history of the vehicle.

9. The 1986 Blue Bird School Bus named in this petition is obviously significantly older than the 15 years allowed by Rule 6117(c). Thus, unless Control Marketing Productions is granted a waiver of Rule 6117(c) for the vehicle named in this petition, it may not provide any common carrier service with this vehicle.

10. If Control Marketing Productions is granted the authority as requested in Proceeding No. 19A-0731CP, it could provide common carrier shuttle service between any points in the Counties of Adams, Broomfield, Denver, and Jefferson. Therefore, the Commission is concerned with the safety of the passengers transported in a school bus that is 34 years old.

11. The Commission is aware that a small non-profit arts organization as Control Marketing Productions depends on grants and donations for a majority of its funding and may have a limited yearly budget for purchasing a vehicle to transport a large number of passengers. However, in consideration that the 1986 Blue Bird was manufactured as a school bus and is 34 model years old, the Commission finds that Control Marketing Productions has not shown good cause to grant a waiver of Rule 6117(c) for this vehicle.

II. ORDER

A. The Commission Orders That:

1. The petition of Control Marketing Productions for a waiver of Rule 6117(c) for the 1986 Blue Bird School Bus, VIN No. 1BAB1BXA9GF072977, 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
January 22, 2020.**

(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