

Decision No. C22-0674

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22V-0338EC

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

**COMMISSION DECISION GRANTING APPLICATION
FOR REHEARING, REARGUMENT, OR
RECONSIDERATION OF DECISION NO. C22-0542**

Mailed Date: October 28, 2022
Adopted Date: October 26, 2022

I. BY THE COMMISSION

A. Statement

1. Through this Decision, the Commission addresses the Application for Rehearing, Reargument, or Reconsideration (RRR), filed by Hash Cab, LLC (Hash Cab) on October 4, 2022, pursuant to § 40-6-114, C.R.S. Hash Cab requests reconsideration of Commission Decision No. C22-0542, issued September 13, 2022, which denied Hash Cab's request for a two-year waiver of Rules 6005(a) and 6302(b) of the Commission's Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* (CCR) 723-6. Upon review of the arguments and further explanation offered in the Application for RRR, in this unique circumstance, the Commission finds good cause to revise its previous findings and grant the requested rule waivers for the requested two-year period.

B. Background

2. On July 26, 2022, Hash Cab filed a Petition for Waiver/Variance of Regulated Intrastate Carrier Rules (Petition), requesting certain rule waivers to allow it to use the name

“Hash Cab, LLC” to operate a luxury limousine service as a mobile hospitality business (*e.g.*, a business providing a space in which patrons can publicly consume marijuana). Hash Cab needs authority from both the Colorado Department of Revenue’s Marijuana Enforcement Division and the Commission for its operations.

3. The Petition requests the Commission waive Rule 6005(a), 4 CCR 723-6, which provides, “No Person shall operate under a name or trade name that identifies a transportation service not currently authorized by its Certificate or Permit (*e.g.*, a Limited Regulation Carrier or a Common Carrier with only Call-and-Demand Shuttle Service, shall not have taxi in its name).” The Petition also requests waiver of Rule 6302(b), 4 CCR 726-6, which provides, “No Person shall request a Permit under a name or trade name that identifies a transportation service not requested or currently authorized (*e.g.*, a Limited Regulation Carrier shall not have taxi in its name.) If an application is filed in violation of this rule, the Commission shall not issue a Permit under such name.” The Petition requests the rule waiver be granted for the period of July 22, 2022 through July 22, 2024.

4. Through Decision No. C22-0542, the Commission denied the Petition. The Commission concluded that the purpose of these naming rules is to require transparency so that a carrier does not advertise itself, through its name, as eligible to provide types of transportation it has no authority to provide. The Commission also found unpersuasive Hash Cab’s argument that the word “Cab” in “Hash Cab” refers to the interior of the vehicle, rather than “taxicab” transportation service. The Commission concluded that potential consumers are unlikely to make this distinction between “cab” as an interior portion of a vehicle and “cab” as commonly used in the term “taxicab.” The Commission noted that Hash Cab could resolve the name issue

by either applying for additional permitting or authority to provide the services creating the problematic language or revising its name.

C. Application for RRR

5. In its Application for RRR, Hash Cab requests the Commission reconsider Decision No. C22-0542. As good cause for the Commission to grant the requested rule waivers, Hash Cab reiterates and further explains the arguments in the Petition and offers the following arguments and additional insight into its proposed operations and the strict limitations that it will be subject to as a mobile hospitality licensee.

6. Hash Cab explains, as a mobile hospitality licensee, it is subject to certain restrictions under Denver municipal code that are relevant to the concern of potential consumer confusion. First, it is prohibited from operating as an on-demand hailing service. Its customers must book their route at least 7 business days in advance and elect a prearranged route.¹ Second, it is prohibited from advertising on its vehicle that marijuana consumption is allowed within.² It concludes, since the word “Hash” is expressly in its name, it will not be able to advertise that name on the exterior of its vehicle and would thereby not be inviting people to hail the vehicle, like a taxicab.

7. Hash Cab also reiterates its argument that the word “Cab” in “Hash Cab” refers to the cabin space in a vehicle and not the type of service provided. Hash Cab argues the word “Cab” is not synonymous with taxicabs, but instead refers to a particular space within any motor vehicle.

¹ Application for RRR, p. 2 (stating D.R.M.C. § 2-617(c)(2) prohibits mobile hospitality licensees in Denver from operating as an on-demand hailing service and requires that patrons book their route at least 7 business days in advance of their trip and elect a prearranged route).

² Application for RRR, p. 3 (stating D.R.M.C. §§ 6-217(c)(4) and 6-201(1) prohibit mobile hospitality licensees from featuring any manner of advertising on their vehicles that identify that they allow consumption within).

8. Finally, Hash Cab argues that it has no intent to deceive consumers into believing it offers taxicab service and explains that, in any event, it is strictly prohibited from providing streetside hail on-demand taxicab service. Hash Cab maintains the name “Hash Cab” is a strong indicator that the business is a mobile hospitality business and not a taxicab service. It concludes that use of the term “Hash” in the name plainly indicates to consumers that the business is providing a mobile hospitality service, allowing hash to be consumed in the cabin of the vehicle. Hash Cab adds that its services will only be marketed to consumers 21 years and older and subject to advertising restrictions for mobile hospitality businesses, thus limiting the reach of any marketing to a small, sophisticated consumer base. Hash Cab believes that consumers seeking out such services will be well aware of the actual services provided and will not be deceived into believing that traditional taxicab services are being offered.

D. Findings and Conclusions

9. 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 consider, but is not limited to, considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.

10. Upon review of Hash Cab’s Application for RRR, in this unique circumstance, we find Hash Cab has now provided good cause to grant the requested waivers from the naming constraints implemented in Rules 6005(a) and 6302(b), 4 CCR 723-6. Most significantly, we find compelling the explanation from Hash Cab on RRR that it will provide its services strictly through a prearranged contract basis, at least 7 business days in advance, and that it will not advertise its name on its vehicle(s). We find these operational distinctions, which are unique to

this business as a mobile hospitality licensee, as represented by Hash Cab, will sufficiently mitigate the potential risk of consumer confusion, particularly the risk of a consumer attempting to “hail” a Hash Cab vehicle it sees in transit or otherwise mistaking this carrier and its services for traditional taxicab services.

11. We therefore grant the requested rule waivers until July 22, 2024 from the effective date of this Decision. After expiry of this period, Hash Cab will need to file a new petition for rule waiver in a separate proceeding.

II. ORDER

A. The Commission Orders That:

1. The Application for Rehearing, Reargument, or Reconsideration of Decision No. C22-0542, filed on October 4, 2022, by Hash Cab, LLC, is granted, from the effective date of this Decision until July 22, 2024.
2. This Decision shall be effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
October 26, 2022.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

MEGAN M. GILMAN

Commissioners

COMMISSIONER JOHN GAVAN DISSENTING.