

Decision No. C22-0813

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22V-0411EC

IN THE MATTER OF THE PETITION OF LEGEND INNOVATION LAB & DESIGN
STUDIO LLC FOR AN ORDER OF THE COMMISSION AUTHORIZING A WAIVER OF
THE RULES REGULATING TRANSPORTATION BY MOTOR VEHICLE, 4 CCR 723-6.

**COMMISSION DECISION DENYING APPLICATION FOR
REHEARING, REARGUMENT, OR RECONSIDERATION
OF DECISION NO. C22-0669**

Mailed Date: December 15, 2022

Adopted Date: December 14, 2022

I. BY THE COMMISSION

A. Statement

1. Through this Decision, the Commission addresses the Application for Rehearing, Reargument, or Reconsideration (Application for RRR), filed by Legend Innovation Lab & Design Studio LLC (Petitioner) on November 18, 2022, pursuant to § 40-6-114, C.R.S. Petitioner requests reconsideration of Decision No. C22-0669, issued October 28, 2022, which denied Petitioner's request for a two-year waiver of Rule 6305 of the Commission's Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* (CCR) 723-6. Upon review of the filing, it is determined that § 40-6-114(1), C.R.S., statutorily precludes the Commission from accepting an Application for RRR that is filed out of time. Therefore, the Commission denies Petitioner's untimely filed Application for RRR, in its entirety. The Commission did not consider the substance of the Application for RRR.

B. Findings and Conclusions

2. On September 26, 2022, Petitioner filed a Petition for Waiver/Variance of Regulated Intrastate Carrier Rules (Petition), requesting a rule waiver to allow it to use a 2018 Kia Stinger vehicle for luxury limousine service. The Petition requested the rule waiver be granted for the period of September 26, 2022 through October 1, 2024.

3. Through Decision No. C22-0669, the Commission denied the Petition. The Commission concluded that there was insufficient support to grant the waiver for the underlying vehicle, considering the limited amount of information submitted by Petitioner. Furthermore, it was noted that Petitioner did not provide sufficient explanation as to why the underlying vehicle provides a luxurious and specialized transportation service, consistent with the Commission's policies of a luxury transportation experience and befitting of the relevant market to be served, as specified in Rule 6305(b), 4 CCR 723-6.

4. Since Decision No. C22-0669 was issued on October 28, 2022, the period to timely file an Application for RRR was within 20 days, pursuant to § 40-6-114, C.R.S. This time period expired on November 17, 2022. The underlying Application for RRR was filed by Petitioner on November 18, 2022, after the statutory 20-day deadline had lapsed.¹

5. The Commission finds that it has no choice but to deny Petitioner's untimely filed Application for RRR, in its entirety. The language of § 40-6-114(1), C.R.S., is clear: "After a decision has been made by the commission ... any party thereto may *within twenty days* thereafter,

¹ Pursuant to Commission Rule 1204(b) of the Commission's Rules of Practice and Procedure, 4 CCR 723-1, all filings must be received at the Commission's office during normal business hours, 8:00 a.m. to 5:00 p.m. Mountain Time, Monday through Friday. Any document received for filing after normal business hours shall be deemed filed as of 8:00 a.m. Mountain Time, the following business day.

or within such additional time as the commission may authorize upon request *made within such period*, make application for [RRR]” (emphasis added). Therefore, the time period to file an Application for RRR, or seek an extension of time to file an Application for RRR, is statutory.²

6. While the Commission may occasionally waive its rules, it may not waive statutory requirements. In this instance, there are no exceptions to the 20-day requirement, and the Commission may not create one where none exists. By statute, a party wishing to file an Application for RRR outside of the 20-day period must request an extension of time during the 20-day period.

7. Due to Petitioner’s untimely filing, the Commission must deny the Application for RRR.

8. The Commission notes, however, the Application for RRR contains substantially more support for the requested waiver than was initially filed in the Petition. The Commission would be open to Petitioner refiling the petition, in a new proceeding, having included this additional supportive information.

II. ORDER

A. It Is Ordered That:

1. The Application for Rehearing, Reargument, or Reconsideration of Decision No. C22-0669, filed on November 18, 2022, by Legend Innovation Lab & Design Studio LLC, is denied, consistent with § 40-6-114(1), C.R.S., and the discussion above.

² In response to an argument that *pro se* parties should be treated with leniency, the Commission noted in a 2004 Decision that: “[w]hile the Commission may occasionally waive its rules, it may not waive statutory requirements. In this instance, there are no exceptions to the 20-day requirement, and the Commission may not create one where none exists.” See Decision No. C04-973, Proceeding No. 04A-120CP-Extension, issued August 17, 2004 at paragraph 5.

2. This Decision shall be effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
December 14, 2022.**

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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JOHN GAVAN

ATTEST: A TRUE COPY

MEGAN M. GILMAN

Commissioners

A handwritten signature in cursive script, appearing to read 'G. Harris Adams'.

G. Harris Adams,
Interim Director