Decision No. C23-0173

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

PROCEEDING NO. 23V-0067EC

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

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**COMMISSION DECISION: (1) REQUESTING SUPPLEMENTAL INFORMATION; AND (2) DENYING PETITION, WITHOUT PREJUDICE, IF SUPPLEMENTAL INFORMATION IS NOT TIMELY FILED**

Mailed Date: March 10, 2023
Adopted Date: March 8, 2023

## 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 Regulated Intrastate Carrier Rules filed on February 7, 2023, by Ken's Transportation Service, LLC (Petitioner).

2. Petitioner requests a waiver of Rule 6305 of the Commission's Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* (CCR) 723-6. This rule provides, in relevant part, the criteria for luxury limousine vehicles, including categories of vehicles that can be classified as a luxury limousine. Rule 6305(b), 4 CCR 723-6, provides, "A Person who believes that the Motor Vehicle that they have purchased or plan to purchase provides a luxurious and specialized transportation service may file a petition for waiver of paragraphs (a) or (c) of this rule, as set forth in rule 6003, explaining why the use of their vehicle

of choice will effectively implement the Commission's policies of a luxury transportation experience in the relevant market to be served." This rule allows for the Commission to exercise discretion regarding a particular vehicle's fitness to be operated as a luxury limousine.

3. Petitioner requests a waiver for a 2015 Hyundai Sonata, VIN No. KMHEC4A47FA132659. Petitioner requests a waiver for the period of February 1, 2023, through February 1, 2026.

4. The Commission noticed this petition to all interested persons, firms, and corporations pursuant to § 40-6-108(2), C.R.S., on February 13, 2023. 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.

5. 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 take into account, but is not limited to, considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.

6. In support of its request for rule waiver, the Petitioner states:

> The Commission should grant this petition for waiver because it would be a more efficient implementation of the overall policy. This vehicle is a four-door sedan. The passenger capacity of the vehicle is only four people, including the driver of the vehicle. It is operated by one person, the owner of the business, and it is operated strictly on a part time basis.
>
> The vehicle does not transport large parties; it is mainly utilized to transport people who live in the surrounding counties without means of transportation to the airport and other various locations. The people who utilize this service will be the only ones in the vehicle. The people who utilize this service are located many miles away from the airport and need

> transportation to finalize their trips. Some of the customers are very aged and cannot drive and unfortunately there are absolutely no other services that they can utilize in this area.

7. Petitioner did not submit any other information or documentation into the record. No photos of the vehicle were included in the petition, to ascertain its current state or its fitness to be classified as a luxury limousine, nor a periodic inspection or other maintenance-related information to verify the vehicle is safe to operate in a for-hire capacity. There was also no further 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.

8. Petitioner including additional supporting information would assist the Commission in its evaluation of whether to grant or deny the requested rule waiver.

9. Petitioner is permitted to file supplemental information in support of the petition. Supplemental information shall be filed no later than ten days from the effective date of this Decision, to supplement its petition by filing in this Proceeding the additional information, as identified above. If Petitioner does not provide this information within the allotted ten-day period, the petition is deemed denied.[1]

[1] Without supplemental information, the petition is deemed denied, without prejudice. In the event the petition is deemed denied, Petitioner may file future application(s) seeking authority, with appropriate support, through separate proceeding(s).

## II. ORDER

### A. The Commission Orders That:

1. Petitioner is permitted to file in this Proceeding additional information in support of the petition for rule waiver, consistent with the discussion above, within ten days of the effective date of this Decision.

2. If the requested supplemental information is not filed in this Proceeding, by the deadline specified above, the petition of Ken's Transportation Service, LLC for a waiver of Rule 6305 of the Commission's Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* (CCR) 723-6, filed on February 7, 2023, is denied.

3. 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.

4. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING March 8, 2023.**

(S E A L)

THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

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MEGAN M. GILMAN

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Commissioners

ATTEST: A TRUE COPY

G. Harris Adams,
Interim Director