

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20V-0040EC

IN THE MATTER OF THE PETITION OF LAZY K COACH, LLC FOR AN ORDER OF THE COMMISSION AUTHORIZING A WAIVER OF THE RULES REGULATING TRANSPORTATION BY MOTOR VEHICLE.

DECISION GRANTING WAIVER IN PART

Mailed Date: February 21, 2020
Adopted Date: February 19, 2020

I. BY THE COMMISSION

A. Statement, Findings, and Conclusions

1. This matter comes before the Commission for consideration of a petition filed on January 27, 2020 by Lazy K Coach, LLC (Lazy K Coach).

2. Lazy K Coach 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). Lazy K Coach was issued Permit No. CSB-00166 by the Commission on April 15, 2003 to provide charter bus service as a limited regulation charter scenic bus carrier.

3. The vehicle for which a waiver is requested is a 1989 Eagle Model 15 bus¹ with a total of 942,395 miles. The petition filed by Lazy K Coach on January 27, 2020 requested a waiver of Rule 6117(c) from January 27, 2020 through an indefinite date.

4. The Commission noticed this application to all interested persons, firms, and corporations pursuant to § 40-6-108(2), C.R.S., on February 3, 2020, for a period of ten days.

¹ The vehicle identification number of the 1989 Eagle Model 15 is 1EUBN8A16KB070339.

5. The ten-day notice period expired on February 13, 2020. No petition to intervene or otherwise 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.

6. 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.

7. 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.

8. The Eagle Model 15 named in this petition is 16 model years older than allowed by Rule 6117(c). Therefore, unless Lazy K Coach is granted a waiver of Rule 6117(c) for the 1989 Eagle Model 15, it may not continue to provide charter bus service with this vehicle.

9. In support of this petition, Roger Karspeck, the manager of Lazy K Coach, states:

We are asking for a variance-waver for our 1989 Eagle Model 15 also. When we purchased the coach in 2009, it had 789,390 miles on the coach. It now has 942,395 miles on it. It had a new engine and was a very sharp looking coach. When we brought the coach home, we could see things that needed corrected to bring it up to our standards. It took us almost a month to do so. We have invested much time and money on this coach - new interiors, many electrical improvements, all new brake components, shoes, drums, air chambers, air lines, even lug bolts and nuts, steering tie rods and joints, and wheel bearings to name a few. ...

We also cannot financially afford to purchase newer coaches. Buying a coach that is just 10 to 15 years old is price prohibitive for us. We could never cash flow those payments with our limited revenue. Our main occupation is farming and ranching in far eastern Colorado and along the Kansas state line. We do not operate the coaches on a full-time basis. Our clients are mainly senior citizens which prefer to travel with us or are not able to drive themselves. Many were once our teachers, family friends, neighbors and even our own family members. They count on us to do the driving for them on tours across the United States, or day trips to the Front Range area for dinner theaters and other such venues. ...

Age does not mean it is not safe or unreliable. Our personal vehicles and farm equipment are all over 15 years old. They all look good and perform well. We have a knack, and enjoy the challenge to keep things running like new, including our coaches.

10. Lazy K Coach submitted 24 maintenance reports for mechanical service on the Eagle Model 15 with the petition. The vehicle maintenance described in 20 of the reports was completed by staff of Lazy K Coach from November 17, 2017 through January 23, 2020.² The vehicle maintenance described in the other four reports was completed from August 22, 2018 through October 1, 2019 by equipment repair locations in Burlington and Denver, Colorado, and Colby, Kansas.

11. In consideration of the information contained in the maintenance reports and the additional support provided by Lazy K Coach for this petition, the Commission finds that good cause has been shown to grant in part a waiver of Rule 6117(c). However, a waiver for the indefinite period requested in this petition may be excessive. Therefore, the waiver period shall be granted through February 28, 2022.

² The Eagle Model 15 had been driven 28,415 miles from November 17, 2017 through January 23, 2020.

II. ORDER

A. The Commission Orders That:

1. The petition of Lazy K Coach, LLC (Lazy K Coach) filed on January 27, 2020, for a waiver from Rule 6117(c) of the Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* 723-6, for the 1989 Eagle Model 15 is granted in part from the mailed date of this Decision through February 28, 2022.

2. Lazy K Coach shall keep a copy of this Decision in the 1989 Eagle Model 15 and shall ensure that this Decision is provided immediately upon request by any Commission enforcement official.

3. Lazy K Coach shall have the 1989 Eagle Model 15 inspected pursuant to the requirements in Rule 6117(d) and the vehicle shall pass such inspection in order for this waiver to be valid. Lazy K Coach shall maintain copies of the completed inspection forms in the 1989 Eagle Model 15.

4. 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.

5. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
February 19, 2020.**

(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

JEFFREY P. ACKERMANN

FRANCES A. KONCILJA

JOHN GAVAN

Commissioners