

Decision No. C23-0231

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23V-0066EC

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.

**COMMISSION DECISION GRANTING
PETITION FOR RULE WAIVER, IN PART**

Mailed Date: April 4, 2023
Adopted Date: March 29, 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 2012 Hyundai Tucson, VIN No. KM8JUCAC9CU380340. 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. On March 10, 2023, the Commission issued a decision, which allowed Petitioner to file supplemental information to further assist the Commission in its evaluation of whether to grant or deny the underlying petition.¹ Petitioner was given an additional ten days to file supplemental information and, if Petitioner did not elect to submit any additional filings, the petition would be denied. On March 14, 2023, Petitioner filed supplemental information into the record.

6. 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.

¹ See Decision No. C23-0172.

7. 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.

8. The supplemental information submitted by Petitioner included a motor vehicle inspection, insurance declaration, and basic exterior photos of the underlying motor vehicle. In addition, Petitioner provided some additional information regarding their operation, including that their services would provide people with high-quality transportation to reach resources and services, including access to health care, work, learning, social activities, travel, and civic engagement opportunities.

9. Given all available information, the Commission finds that good cause has been shown to grant a waiver of Rule 6305(a), 4 CCR 723-6, for the 2012 Hyundai Tucson named in this petition. The requested waiver will be granted, in part, for a two-year period, which will coincide with the effective date of this Decision.

II. ORDER

A. The Commission Orders That:

1. 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 granted for the 2012 Hyundai Tucson, VIN No. KM8JUCAC9CU380340, for two years from the effective date of this Decision.

2. The waiver is conditional on the aforementioned vehicle passing a vehicle safety inspection, pursuant to Rule 6117(b), 4 CCR 723-6.

3. Ken’s Transportation Service, LLC shall keep a copy of this Decision and proof of inspection in the aforementioned vehicle, pursuant to Rule 6107(b), 4 CCR 723-6.

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 this Decision.

5. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS’ WEEKLY MEETING
March 29, 2023.**

(S E A L)



ATTEST: A TRUE COPY

G. Harris Adams,
Interim Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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Commissioners