

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

DOCKET NO. 03A-046CP-WAIVER

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IN THE MATTER OF THE APPLICATION OF BOB BURNS, DOING BUSINESS AS THE KMB CAR SERVICE, FOR AN ORDER OF THE COMMISSION AUTHORIZING A WAIVER OF RULE 2.3 (DISCRETIONARY VEHICLE) OF THE RULES AND REGULATIONS GOVERNING MOTOR VEHICLE CARRIERS EXEMPT FROM REGULATION AS PUBLIC UTILITIES AND ESTABLISHING CIVIL PENALTIES; 4 CCR-723-33.

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**COMMISSION ORDER GRANTING WAIVER**

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Mailed Date: March 4, 2003  
Adopted Date: February 26, 2003

**I. BY THE COMMISSION:**

**A. Statement, Findings and Conclusions**

1. By application filed January 31, 2003, Bob Burns, doing business as KMB Car Service (KMB Car Service), requested a waiver of Rule 2.3 (Discretionary vehicle), 4 *Code of Colorado Regulations* (CCR) 723-33, as it pertains to a 1997 Dodge B-250 conversion van it proposes to qualify and use as a luxury limousine under Article 16 of Title 40 *Colorado Revised Statutes* (C.R.S.).

2. The Commission noticed this application to all interested persons, firms, and corporations pursuant to § 40-6-108(2), C.R.S., on February 10, 2003. The Commission set this matter for hearing on March 7, 2003.

3. No petition to intervene or otherwise participate in this proceeding has been filed. This proceeding is therefore noncontested. Under Rules 24 and 59(g), *Rules of Practice and Procedure*, 4 CCR 723-1, this matter may be determined without a hearing.

4. Rule 10, 4 CCR 723-33, allows the Commission to grant a waiver from Rule 2.3, 4 CCR 723-33, to the extent authorized by applicable law, for good cause, and if it finds compliance to be impossible, impractical or unreasonable.

5. A luxury limousine is defined in Section §40-16-101(3)(a) C.R.S. as “a chauffeur-driven, luxury motor vehicle with a rear seating capacity of three or more, for hire on a chartered basis to transport passengers in luxury limousine service.” A vehicle may qualify for inclusion as a luxury limousine in one five different categories. The category relevant to the vehicle named in this waver request is the executive van. Section §40-16-101 (3)(a)(IV)(C) C.R.S., defines an executive van as “a van with a rear seating capacity of seven or more that may be of manufacturer’s specifications, but may have been altered from the manufacturer’s original specifications, and that meets applicable standards of the federal department of transportation.” The Dodge van for which KMB Car Service requested this waiver does not have a rear seating capacity of seven and therefore does qualify for inclusion as a luxury limousine in the executive van category.

6. KMB Car Service states in its waiver application “This vehicle will be used in state, specifically metro Denver and surrounding areas, upon request commonly by persons in need of transportation to and from airports, sports events or activities not easily accessible by public transportation. This vehicle was manufactured and bought for the above reasons as a luxury vehicle, and denial of such waiver would provide undue hardship both financially and physically.”

7. Section §40-16-101(3)(a)(IV)(E), C.R.S., allows the Commission to determine what qualifies as a “discretionary vehicle”. Rule 2.3, 4 CCR 723-33 states “A vehicle may be

qualified as a discretionary vehicle if the vehicle would have qualified as a luxury vehicle at the time the vehicle was new and if the vehicle is in exceptional physical condition at the time of registration.” The vehicle named in this waiver application would not have qualified as a luxury limousine under any of the definitions contained in §40-16-101(3)(a)(IV)(A)(B)(C) or (D), C.R.S., at the time it was new. Therefore, KMB Car Service must be granted a waiver of Rule 2.3, 4 CCR 723-33 to allow the vehicle named in the application to be considered for registration as a luxury limousine.

8. The Commission finds that the information submitted with this application warrants the granting of a waiver of Rule 2.3, 4 CCR 723-33.

9. However, KMB Car Service is advised that the granting of the waiver of Rule 2.3, 4 CCR 723-33 for the vehicle named in this application does not ensure that this vehicle will pass the inspection by staff of the Commission as required by Rule 8.1, 4 CCR 723-33.

## **II. ORDER**

### **A. The Commission Orders That:**

1. Bob Burns, doing business as KMB Car Service, is granted a waiver of Rule 2.3, 4 *Code of Colorado Regulations* 723-33; *Rules, Regulations, and Civil Penalties Governing Motor Vehicle Carriers Exempt From Regulation as Public Utilities*.

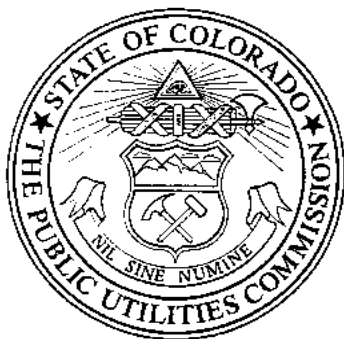
2. The hearing set for March 7, 2003, is vacated.

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 Order.

4. This Order is effective on its Mailed Date.

**B. ADOPTED IN THE COMMISSIONERS' WEEKLY MEETING  
February 26, 2003.**

(S E A L)



ATTEST: A TRUE COPY

Bruce N. Smith  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

JIM DYER

Commissioners

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

**CERTIFICATE OF SERVICE**

DOCKET NO. 03A-046CP-WAIVER  
Decision No. C03-0235  
(Page 1 of 1 Page)

I, Bruce N. Smith, Director of the Public Utilities Commission of the State of Colorado, certify that I served a true and correct copy of the above Commission Decision -- entered in the above numbered matter of record -- upon each of the persons whose names and addresses appear below, by mailing the same in sealed envelopes properly addressed, with sufficient postage prepaid to carry the same to its destination to the following:

APPLICANT:

Bob Burns dba  
KMB Car Service  
6209 W. 92<sup>nd</sup> Place  
Westminster, 80031

ROUTE:

6, 60, and all other PUC staff including staff that may be listed as parties, received this decision electronically.

S E A L



THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

A handwritten signature in cursive script that reads "Bruce N. Smith".

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BRUCE N. SMITH  
Director