

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03A-529CP

IN THE MATTER OF THE APPLICATION OF ALPINE SEDAN, INC., 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.

COMMISSION ORDER GRANTING WAIVER

Mailed Date: January 23, 2004
Adopted Date: January 21, 2004

I. BY THE COMMISSION:

A. Statement, Findings and Conclusions

1. By application filed December 11, 2003, Alpine Sedan, Inc. (Applicant), requested a waiver of Rule 2.3 (Discretionary vehicle), 4 *Code of Colorado Regulations* (CCR) 723-33, as it pertains to a 2004 Chrysler Pacifica 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 December 29, 2003. The Commission set this matter for hearing on February 11, 2004.

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

4. 4 CCR 723-33-10, allows the Commission to grant a waiver from 4 CCR 723-33-2.3, 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 §40-16-101(3)(a) C.R.S. as “a chauffer-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 of five different categories. The category relevant to the vehicle named in this waiver request is an executive sedan. Section 40-16-101 (3)(a)(IV)(B) C.R.S. defines an executive sedan as “a full-size, four-door, luxury sedan or sports utility vehicle with a seating capacity of at least five, not including the driver, that has not been altered from the manufacturer’s original specifications.” Applicant represents that the Chrysler Pacifica for which it requests this waiver has a seating capacity of six passengers and has not been altered from the manufacturer’s original specifications. Applicant further represents that the Chrysler Pacifica is marketed as a new type of vehicle described as a “Sports Tourer”. The Sports Tourer is advertised as combining the favorable attributes from several vehicle segments. These vehicle segments are represented to include executive sedans and sports utility vehicles.

6. Applicant states in its waiver application that it has been searching for an all wheel drive vehicle to compliment its fleet of Chevrolet Suburbans for some time. Applicant avers that it is not looking for a standard full size SUV that is merely a truck chassis with a SUV body on it. Rather, Applicant points out that it seeks a vehicle that has a specifically designed chassis to be more like a car than a truck. As part of its application, Applicant also submitted several documents it maintains support its claim that the Chrysler Pacifica meets all of the criteria

required by §40-16-101 (3)(a)(IV)(B) C.R.S., to qualify the Chrysler Pacifica as a luxury limousine.

7. Section 40-16-101(3)(a)(IV)(E), C.R.S., authorizes the Commission to determine what qualifies as a “discretionary vehicle”. 4 CCR 723-33-2.3 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 appears to be a combination of two types of vehicles and may or may not meet the definition of an executive sedan or a sports utility vehicle pursuant to §40-16-101(3)(a)(IV)(B), C.R.S. Therefore, we determine that waiver of 4 CCR 723-33-2.3 is necessary to allow the vehicle named in the application to be considered for registration as a luxury limousine.

8. The Commission finds that the Applicant states good cause to grant of its request for a waiver of 4 CCR 723-33-2.3.

9. However, Applicant is advised that the granting of the waiver for the vehicle named in this application is not a determination that Applicant’s vehicle is not required to be inspected by Commission Transportation Staff, nor that the vehicle will pass the inspection by Staff as required pursuant to 4 CCR 723-33-8.1.

II. ORDER

A. The Commission Orders That:

1. Alpine Sedan, Inc., is granted a waiver of 4 CCR 723-33-2.3.
2. The hearing set for February 11, 2004, 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 effective date of this Order.

4. This Order is effective on its Mailed Date.

**B. ADOPTED IN THE COMMISSIONERS' WEEKLY MEETING
January 21, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

