

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04M-496CP

IN THE MATTER OF THE PETITION OF FREEDOM CABS, INC. FOR AN ORDER OF THE COMMISSION EXEMPTING DRIVER ABEDU MOHAMED SAID RAGU FROM THE REQUIREMENT OF PART 391.41 (B)(10)(EYESIGHT) OF THE RULES REGULATING SAFETY FOR MOTOR VEHICLE CARRIERS AND ESTABLISHING CIVIL PENALTIES, 4 CCR 723-15.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
KEN F. KIRKPATRICK
GRANTING WAIVER**

Mailed Date: October 19, 2004

I. STATEMENT

1. Freedom Cabs, Inc. (Freedom), filed this application on October 1, 2004. By this application Freedom and driver Abedu Ragu seek a waiver of Part 391.41(b)(10)(Eyesight) of the Rules Regulating Safety for Motor Vehicle Carriers and Establishing Civil Penalties, 4 *Code of Colorado Regulations* 723-15. A hearing was scheduled for October 18, 2004 at 9:00 a.m. in a Commission hearing room in Denver, Colorado. At the assigned place and time the undersigned Administrative Law Judge (ALJ) called the matter for hearing. Testimony was received from Max Sarr, Operations Manager of Freedom, and Abedu Ragu, the driver. At the conclusion of the hearing the ALJ indicated he would grant a waiver for a period of two years.

II. FINDINGS AND CONCLUSIONS

2. Ragu is a driver for Freedom. He obtained safety waivers in the past from this Commission which allow him to drive despite being blind in his right eye. Vision in his left eye

is 20/20 uncorrected. Ragu lost sight in his right eye when he was about two years old, over 40 years ago. He has adapted well to the use of only one eye.

3. Ragu has a good driving record. In the last two years since his previous waiver, he has one conviction for a defective or unsafe vehicle. That conviction was plea bargained down from a speeding ticket that Ragu received in Denver. Other than that, Ragu has had no convictions and no accidents.

4. Freedom considers Ragu to be an excellent driver. He has had one accident with Freedom, in approximately 1999, when Ragu was rear ended. Other than that he has had no accidents.

5. Since Ragu's last waiver over the last two years his vision has remained unchanged. He has 20/20 vision and full color perception in his left eye.

6. Driving for Freedom is Ragu's only job. He has two children, and failure to maintain his position as a cab driver would work a financial hardship on him and his family. Freedom has difficulty recruiting quality drivers, and considers Ragu to be a quality driver. It would also work a hardship on Freedom to have to recruit and replace a competent driver.

7. Ragu has been driving steadily since the grant of his last waiver without accident or unusual occurrence. He is not a threat in any way to the public safety. Granting the waiver is in the public interest in that it keeps a knowledgeable and safe driver on the street for a certificated common carrier. Therefore the waiver will be granted for a period of two years, subject to the condition that Freedom report to this Commission any accidents Ragu is involved in while driving for Freedom during the next two years.

8. In accordance with § 40-6-109, C.R.S., it is recommended that the Commission enter the following order.

III. ORDER

A. The Commission Orders That:

1. Freedom Cabs, Inc., and Abedu Mohamed Said Ragu are granted a waiver of Part 391.41(b)(10)(Eyesight) of the Rules Regulating Safety for Motor Vehicle Carriers and Establishing Civil Penalties, 4 *Code of Colorado Regulations* 723-15, for a period of two years from the effective date of this Order.

2. Freedom Cabs, Inc., shall report to this Commission in writing, within ten days of its occurrence, any accident that should occur involving Ragu when he is driving for Freedom Cabs, Inc.

3. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

4. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

a) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

b) If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the

administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

5. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge