

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 21V-0039EC

IN THE MATTER OF THE PETITION OF ABSOLUTE PRESTIGE LIMOUSINE SERVICE, LTD. FOR AN ORDER OF THE COMMISSION AUTHORIZING A WAIVER OF RULE 6117(C) (AGE OF VEHICLES) OF THE RULES REGULATING TRANSPORTATION BY MOTOR VEHICLE, 4 CCR 723-6.

**COMMISSION DECISION
DENYING WAIVER**

Mailed Date: February 11, 2021
Adopted Date: February 10, 2021

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 (Petition) filed on January 12, 2021 by Absolute Prestige Limousine Service, Ltd. (Petitioner).

2. Petitioner requests a waiver from Rule 6117(c) of the Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* (CCR) 723-6.

3. The vehicle for which a waiver is requested is a 2003 Hummer H2, VIN No. 5GRGN23U83H102645.¹ The waiver is requested from January 11, 2021 through January 11, 2023.

4. The Commission noticed this Petition to all interested persons, firms, and corporations pursuant to § 40-6-108(2), C.R.S., on January 19, 2021.

¹ A petition for waiver for this same vehicle was submitted in Proceeding No. 20V-0491EC. This petition was denied by Decision No. C20-0851, dated December 8, 2020.

5. 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.

6. In accordance with Rule 1003 of the Rules of Practice and Procedure, 4 CCR 723-1, the Commission may grant waivers from Commission rules 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, states that “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. Petitioner currently holds a permit from the Commission to operate as a luxury limousine carrier, Permit No. LL-01035.

9. In support of the waiver, when identifying the reason for the Petition, the Petitioner states:

“It should be noted that we have onsite mechanics that maintain our vehicles together with full time detailers to keep our vehicles in excellent condition. This vehicle is garaged at all times when not in use. The market area of Grand Junction, Mesa County, Colorado services all western slope communities. We are aware of only one other service provider for high end luxury transportation and that provider has only one (1) equivalent vehicle in its entire fleet that is comparable to this vehicle as demonstrated by their website. Presumably due to the overall expense including but not limited to full coverage insurance expense. Although this vehicle is not used on a daily basis, there are certain times of the year that special occasions such as Christmas Light Tours, Wine Tours, Weddings, Proms and other celebrations that may happen simultaneously on the same date explains the need to keep vehicles such as ours. Additionally, in spite of the COVID-19 pandemic, a need for executive transportation remains a necessity as well as the need for transportation for air travel diversions and medical transportations. Due to COVID-19 Absolute Prestige Limousine Service,

Ltd was unable to operate at or near capacity from March 10, 2020 until May 24, 2020 when Mesa County, Colorado was able to move to Phase II of the COVID-19 reopening plan. Additionally, this area and other areas of western Colorado have been hard hit by the COVID-19 pandemic which has also diminished our income making replacement of this vehicle to a newer, comparable vehicle unapproachable from a financial standpoint. Based on the year's operation of this vehicle prior to the COVID-19 pandemic (2019), the company should have expected to have income totaling approximately \$2,184 from this vehicle; however, that same time period netted zero dollars in early 2020. Subsequently the PUC's rules regarding aged vehicles also impacted this vehicle's earning ability, directly causing the overall earning capacity to be severely limited; again, making replacing the vehicle near impossible. Unfortunately, the pandemic continues to cause additional shutdowns in the area that have and may extend this distress in our business' earning capacity using other vehicles in our fleet. This vehicle is used to transport guests for Wine Tours, Christmas Light Tours, Weddings, Proms and other celebrations. In conclusion, we would submit that the loss of this vehicle will impact our company's financial status which in turn, impacts our employees. This will ultimately lead to a potential for layoffs and terminations. We would also submit that allowing the operational use of this vehicle would give us an ability to earn financially while we are diligently searching for a replacement vehicle that is comparable to this vehicle, and yet meets the criteria set forth by the PUC as well provide a safe mode of transportation for our customers."

10. Petitioner submitted six photographs of the vehicle's interior and exterior, the past three years of Annual Vehicle Inspection Forms, previous work orders, a valuation statement, safety features of the vehicle, proof of ownership, a revenue report and a loan status statement.

11. In consideration of the information submitted with this petition to support the request for a waiver of the age rule, the Commission finds that Absolute Prestige Limousine Service, Ltd. has not shown good cause to grant a waiver of Rule 6117(c) for the 2003 Hummer H2.

II. ORDER**A. The Commission Orders That:**

1. The petition of Absolute Prestige Limousine Service, Ltd. for a waiver from Rule 6117(c) of the Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* 723-6, is denied.

2. 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.

3. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
February 10, 2021.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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Commissioners