

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22V-0404EC

IN THE MATTER OF THE PETITION OF DENVER SAM TRANSPORTATION FOR AN
ORDER OF THE COMMISSION AUTHORIZING A WAIVER OF THE RULES REGULATING
TRANSPORTATION BY MOTOR VEHICLE, 4 CCR 723-6.

**COMMISSION DECISION DENYING
PETITION FOR RULE WAIVER**

Mailed Date: October 28, 2022

Adopted Date: October 19, 2022

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 September 21, 2022 by Denver Sam Transportation (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 2022 Toyota Sienna, VIN No. 5TDYSKFC5NS054232. Petitioner requests a waiver for the period of October 1, 2022 through October 1, 2024.

4. The Commission noticed this petition to all interested persons, firms, and corporations pursuant to § 40-6-108(2), C.R.S., on September 26, 2022. 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. 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.

6. In support of its request for rule waiver, Petitioner states:

The vehicle is going to be used as a private car service to transport customers from and to the mountains. The vehicle is hybrid and fits up to 6 passengers which will help the company to offer reliable service while able to match the competition. This is a start-up business, and it cannot offer a more expensive vehicle due to a very competitive market and lack of funding. [*sic*]

7. In addition, Petitioner claims: 1) Toyota Sienna minivans are known for space to accommodate luggage and ski equipment; 2) Toyota Sienna minivans are budget and fuel friendly, which can help start-up businesses operate and keep costs down; 3) Petitioner is a start-up business and cannot afford vehicles that are more expensive and do not come with equivalent

space or do not fit into the business model; and 4) Petitioner's long term plan is to purchase a 17-passenger van, in order to provide shuttle services to the growing demand for mountain traveling. Petitioner also claims a competing luxury limousine company is using the same type of vehicle in their operation. Petitioner disclosed the purchase price of the underlying vehicle (approximately \$50,000), as well as other costs, such as insurance, periodic inspection, repairs, application fees, etc.

8. For the underlying vehicle, Petitioner submitted a periodic inspection and proof of insurance. Petitioner also submitted photos supporting their claim that another licensed luxury limousine company is operating the same type of vehicle.

9. According to the Toyota website (<https://www.toyota.com>), the Sienna model is classified as a minivan. Given that Rule 6305(a)(III), 4 CCR 723-6, specifically excludes vehicles classified as a minivan, there is not sufficient support to grant a waiver for this type of vehicle.

10. Furthermore, Petitioner previously filed a petition for waiver involving this same type of vehicle.¹ The Commission denied the petition for waiver, citing that the vehicle was classified as a minivan, in conflict with Rule 6305(a)(III), 4 CCR 723-6, and indicating that Petitioner was free to purchase a different vehicle make/model that adheres to Commission rules.²

11. Considering the Commission has already ruled on the use of this particular vehicle as a luxury limousine, as outlined in its previous ruling, the Commission finds that good

¹ See Proceeding No. 22V-0063EC.

² See Decision No. C22-0145, ¶p 8.

cause has not been shown by Petitioner and the request for a waiver of Rule 6305, 4 CCR 723-6, is denied.

II. ORDER

A. The Commission Orders That:

1. The petition of Denver Sam Transportation for a waiver of Rule 6305 of the Commission's Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* 723-6, filed on September 21, 2022, 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 October 19, 2022.

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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JOHN GAVAN

MEGAN M. GILMAN

Commissioners