

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14V-0022EC

IN THE MATTER OF THE PETITION OF RALPH ELSELL DOING BUSINESS AS RALPH LIMOUSINE SERVICE, FOR AN ORDER OF THE COMMISSION AUTHORIZING A WAIVER OF RULE 6305(B) (AGE OF MOTOR VEHICLE) OF THE RULES REGULATING TRANSPORTATION BY MOTOR VEHICLE, 4 CCR 723-6.

DECISION DENYING WAIVER

Mailed Date: March 12, 2014

Adopted Date: March 5, 2014

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 Limited Regulation Carrier Rules filed on January 6, 2014, by Ralph A. Ellsall, doing business as Ralph Limousine Service (Petitioner).

2. Petitioner requests a waiver of Rule 6305(b) 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 1995 Lincoln Town Car Executive, VIN No. 1LNLM81W5SY685681. The waiver is requested from January 14, 2014 through January 14, 2015.

4. In response to a letter from Commission Staff (Staff), Petitioner supplemented the petition with certain information on January 21, 2014 which allowed the petition to be placed on public notice.

5. The Commission noticed this petition to all interested persons, firms, and corporations pursuant to § 40-6-108(2), C.R.S., on January 27, 2014.

6. 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.

7. In accordance with Rule 1003 of the *Rules of Practice and Procedure*, 4 CCR 723-1, the Commission may grant waivers or variances from tariffs, Commission rules, and substantive requirements contained in Commission decisions and orders 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.

8. Rule 6305(b), 4 CCR 723-6, states that “luxury limousine carriers shall not use vehicles older than ten model years as of July 1 of each year.”

9. The 1995 Lincoln Town Car Executive named in this petition is older than the ten model years allowed by Rule 6305(b). Thus, unless Petitioner is granted a waiver of Rule 6305(b) for the vehicle named in this petition, it may not provide luxury limousine service with this vehicle.

10. Petitioner operates as a limited regulation passenger carrier (luxury limousine) pursuant to PUC Permit No. LL-00836 in the Parker area. Petitioner states that it is unable to purchase another vehicle. Petitioner did not include photographs of the vehicle, despite the fact that both the Petition for Waiver form and Staff’s letter to Petitioner requested photographs.

11. The Commission finds that Petitioner has not satisfied the requirements of Rule 1003, 4 CCR 723-1. Specifically, Petitioner has not demonstrated how granting this waiver

would remedy hardship, enhance equity, or advance more effective implementation of policy. The Commission finds that the 1995 Lincoln Town Car Executive named in this petition does not at this time justify a waiver of Rule 6305(b), which was enacted to ensure public safety, consumer protection, and service quality pursuant to § 40-10.1-106(1), C.R.S. It is in the public interest to ensure that luxury limousine carriers utilize newer, safer, and more luxurious vehicles with less wear and tear on them. Therefore, the Commission concludes that Petitioner has not shown good cause to grant a waiver of Rule 6305(b) for the 1995 Lincoln Town Car Executive named in this petition.

II. ORDER

A. The Commission Orders That:

1. The petition of Ralph A. Elsell, doing business as Ralph Limousine for a waiver of Rule 6305(b) 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
March 5, 2014.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

PAMELA J. PATTON

GLENN A. VAAD

Commissioners