

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14V-0234EC

IN THE MATTER OF THE PETITION OF ON DEMAND TRANSPORTATION FOR AN ORDER OF THE COMMISSION AUTHORIZING A WAIVER OF RULE 6305(B) (AGE OF VEHICLES) OF THE RULES REGULATING TRANSPORTATION BY MOTOR VEHICLE, 4 CCR 723-6.

DECISION GRANTING WAIVER IN PART

Mailed Date: May 5, 2014
Adopted Date: April 30, 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 March 17, 2014 by On Demand Transportation (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 (Age of Motor Vehicles).

3. The vehicle for which a waiver is requested is a 2003 Hummer H2, VIN No. 5GRGN23U13H148219. This waiver is requested from March 17, 2014 through November 30, 2014.

4. The Commission noticed this petition for a period of 30 days to all interested persons, firms, and corporations pursuant to § 40-6-108(2), C.R.S., on March 24, 2014.

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. Pursuant to 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.

7. 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.”

8. Petitioner holds Commission Luxury Limousine Permit No. LL-01468. Petitioner operates in the Denver area. Petitioner states the following as the reason for the waiver: “Our company needs to be able to run this vehicle during our busy season. ... [N]ot having this vehicle to help us would be detrimental to our business.” Petitioner submitted pictures of the interior and exterior of the vehicle. It is a large, stretched limousine with a luxurious interior.

9. The Commission finds that good cause has been shown to grant a waiver of Rule 6305(b) for the 2003 Hummer H2 named in this petition. However, the Commission finds that it would not be prudent to grant a waiver *nunc pro tunc* as this would encourage the use of vehicles with pending waiver requests when that waiver request may well be denied. Therefore this waiver will only be granted in part, from the mailing date of this Decision through November 30, 2014.

10. Petitioner is advised that the grant of the waiver of Rule 6305(b) for the vehicle named in this petition does not ensure that this vehicle will pass a future safety inspection by the Staff of the Commission.

II. ORDER

A. The Commission Orders That:

1. The petition of On Demand Transportation for a waiver of Rule 6305(b) for the 2003 Hummer H2, VIN No. 5GRGN23U13H148219, is granted in part from the mailing date of this Decision through November 30, 2014.

2. On Demand Transportation shall keep a copy of this Decision in the Hummer H2, VIN No. 5GRGN23U13H148219 named in this petition. On Demand Transportation shall provide this Decision immediately on request by any Commission enforcement official.

3. On Demand Transportation shall have the 2003 Hummer H2 named in this petition inspected pursuant to 49 *Code of Federal Regulations* (CFR) Part 396.17, as incorporated by Commission Safety Rules, by an inspector qualified in accordance with 49 CFR 396.19; and, the vehicle shall pass such an inspection. On Demand Transportation shall file with the Commission a copy of the completed inspection form within 30 days of the effective date of this Decision. If On Demand Transportation fails to comply with this requirement within 30 days of the effective date of this Decision or if the vehicle fails the inspection, then the waiver of Rule 6305(b) shall be void. For good cause shown, the Commission may grant additional time for compliance if the request for additional time is filed within the 30 days.

4. 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.

5. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
April 30, 2014.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

PAMELA J. PATTON

GLENN A. VAAD

Commissioners