

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14V-0538CP

IN THE MATTER OF THE PETITION OF AEX, INC., DOING BUSINESS AS ALPINE EXPRESS FOR AN ORDER OF THE COMMISSION AUTHORIZING A WAIVER OF THE RULES REGULATING TRANSPORTATION BY MOTOR VEHICLE.

DECISION GRANTING WAIVER IN PART

Mailed Date: July 21, 2014
Adopted Date: July 9, 2014

I. BY THE COMMISSION

A. Statement, Findings, and Conclusions

1. This matter comes before the Commission for consideration of a petition filed on May 27, 2014 by AEX, Inc., doing business as Alpine Express (Petitioner).

2. Petitioner requests a waiver of Rule 6213 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 1994 Ford F-350, VIN No. 2FTHF36H1RCA79846. This waiver is requested from July 30, 2014 through July 29, 2015.

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

6. 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.

7. Rule 6213(a), 4 CCR 723-6, states that intrastate regulated carriers operating vehicles with a seating capacity of 15 or less shall not use vehicles older than 12 model years as of July 1 of each year. Rule 6213(c) provides that if a regulated intrastate carrier had such vehicle in its fleet as of August 1, 2012, that carrier shall have until July 31, 2014, to comply with Rule 6213(a). Petitioner currently holds a number of authorities from the Commission to operate in the Gunnison and Crested Butte areas.

8. Mr. Stewart Johnson, Petitioner's President, submitted the following as support for the waiver: "Vehicle has been extensively modified to accommodate scenic summer tours. Vehicle is used for tours from mid-June to approximately the end of September... Replacement of vehicle is an economic hardship given the short time frame to generate revenue and the expense of modifications to a new vehicle." Mr. Johnson submitted pictures of the vehicle, and it does indeed reflect extensive modifications.

9. The Commission finds that good cause has been shown to grant in part a waiver of Rule 6213(a) for the 1994 Ford E-350 named in this petition.

10. Petitioner is advised that the grant of the waiver of Rule 6213(a) for the Ford E-350 named in this petition does not ensure that it will pass a future safety inspection by

the Staff of the Commission, nor that a future petition for waiver on this vehicle will be granted, in whole or in part.

II. ORDER

A. The Commission Orders That:

1. The petition of AEX, Inc. doing business as Alpine Express (Alpine Express) for a waiver of Rule 6213(b) for the 1994 Ford E-350 VIN No. 2FTHF36H1RCA79846. This waiver is granted in part from July 31, 2014 through October 15, 2014.

2. Alpine Express shall keep a copy of this Decision in the 1994 Ford E-350 named in this petition. Alpine Express shall provide this Decision immediately on request by any Commission enforcement official.

3. Alpine Express shall have the 1994 Ford E-350 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. Alpine Express shall file with the Commission a copy of the completed inspection form within 30 days of the effective date of this Decision. If Alpine Express 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 6213(a) 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
July 9, 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