

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14V-0131CP

IN THE MATTER OF THE PETITION OF ERIK J. BARNES, FOR AN ORDER OF THE COMMISSION AUTHORIZING A WAIVER OF RULE 6102 (DRIVER) OF THE RULES REGULATING TRANSPORTATION BY MOTOR VEHICLE, 4 CCR-723-6.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
ROBERT I. GARVEY
DISMISSING PETITION WITHOUT PREJUDICE**

Mailed Date: March 4, 2014

I. STATEMENT, FINDINGS, AND CONCLUSIONS

1. On February 12, 2014, Mr. Erik J. Barnes (Petitioner) filed a Verified Petition for Waiver of Safety Regulations - Driver (Petition). The Petition included the following documents: (a) Confidential Driving Record; and (b) Confidential Medical Exam dated February 10, 2014.

2. The Petition requests a waiver of 49 *Code of Federal Regulations* § 391.41(b)(3), as made applicable in Colorado by Rule 4 *Code of Colorado Regulations* 723-6-6102 of the Commission Rules Regulating Transportation by Motor Vehicle.

3. This matter was referred to an Administrative Law Judge for disposition by minute entry during the Commission's Weekly Meeting held February 19, 2014.

4. By Decision No. R14-0188-I, issued February 19, 2014, a hearing was scheduled in this matter for March 4, 2014 at 9:00 a.m.

5. On February 25, 2014, the Petitioner filed a letter from a Ms. Kelly in support of the Petition.

6. On March 4, 2014 at 9:00 a.m. the hearing was convened. The Petitioner failed to appear. A recess was taken for 15 minutes and the hearing was reconvened. The Petitioner again failed to appear.

7. Since the Petitioner, who has the burden, failed to appear and prosecute his case, the Petition shall be dismissed.

8. In accordance with § 40-6-109, C.R.S., the Administrative Law Judge recommends that the Commission enter the following order.

II. ORDER

A. The Commission Orders That:

1. The Petition for an Order of the Commission Authorizing a Waiver of Rule 6102 Regulating Transportation by Motor Vehicle, filed by Erik J. Barnes on February 12, 2014, is dismissed without prejudice.

2. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

3. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

a) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

b) If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may

stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

4. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT I. GARVEY

Administrative Law Judge