

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19V-0370TNC

IN THE MATTER OF THE PETITION OF Wael Kaabi for a Waiver of Rule 6713(C) (Proof of Medical Fitness) of the Rules Regulating Transportation by Motor Vehicle, 4 CC R 723-6.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
ROBERT I. GARVEY
GRANTING PETITION**

Mailed Date: September 9, 2019

I. STATEMENT

1. On July 1, 2019, Petitioner, Mr. Wael Kaabi, filed a Petition for an Order of the Commission Authorizing a Waiver of Rule 6713 Regulating Transportation by Motor Vehicle.

2. On July 10, 2019, this matter was referred to an Administrative Law Judge (ALJ) for disposition.

3. After a review of the record, the undersigned ALJ does not believe a hearing in the above captioned matter is necessary.

4. The Petition requests a waiver of Rule 4 *Code of Colorado Regulations* (CCR) 723-6-6713(c)(IX) of the Commission Rules Regulating Transportation by Motor Vehicle.

5. Mr. Kaabi states that he suffers from a physical condition concerning his eyesight. He has taken the proper measures to control this condition.

6. Mr. Kaabi is not currently under the care of a physician. There is no evidence that his condition requires medical care or supervision.

7. The petition is supplemented by a letter from a physician stating that the condition does not limit his ability to operate a motor vehicle.

8. A review of Mr. Kaabi's driving record gives no indication that his condition has affected the safety of his driving.

9. Petitioner seeks the waiver to supplement his income.

10. The Petitioner seeks a two-year waiver of *Rule 6713(c)(IX) 4 CCR 723-6*.

11. The record establishes that: (a) Petitioner has a condition which limits his eyesight; (b) strict application of *Rule 6713(c)(IX) 4 CCR 723-6* would create a hardship on Petitioner; and (c) granting the requested waiver would not compromise the public safety or the public interest. In addition, as no one has sought to intervene, the Petition is unopposed.

12. Based on the record, the ALJ finds and concludes Petitioner has met his burden of proof in this matter and that, subject to conditions on the waiver and exemption, the Petition should be granted. The ALJ finds and concludes that, Mr. Wael Kaabi, subject to conditions, should be granted a waiver of, *Rule 6713(c)(IX) 4 CCR 723-6* and that the waiver and exemption should expire two years following the effective date of this Recommended Decision.

13. 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. Subject to the conditions stated below, the Petition for an Order of the Commission Authorizing a Waiver of *Rule 6113(c)(IX) Regulating Transportation by Motor Vehicle, 4 Code of Colorado Regulations (CCR) 723-6* filed by Mr. Wael Kaabi on July 1, 2019, is granted.

2. Subject to the conditions stated below, Mr. Kaabi is granted a waiver of *Rule 6713(c)(IX) 4 CCR 723-6*.

3. If this Recommended Decision becomes a decision of the Commission, the waiver and exemption granted by this Decision shall remain in effect through September 6, 2021, unless revoked before that date upon notice to Mr. Kaabi.

4. The waiver and exemption granted in Ordering Paragraph No. 2 are subject to this condition: Mr. Kaabi shall notify the Commission, in writing and within seven calendar days of the occurrence, if Mr. Kaabi is involved in a motor vehicle accident. This reporting requirement applies only to a motor vehicle accident that occurs while Mr. Kaabi is driving for a Transportation Network Company and applies irrespective of the party at fault for the accident. The written notice shall be in the form of a letter addressed to the Commission's Chief of Transportation.

5. The waiver and exemption granted in Ordering Paragraph No. 2 are subject to this condition: Mr. Kaabi shall comply with the Rules Regulating Transportation by Motor Vehicle as they may be applicable to him and with the terms of this Decision.

6. 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.

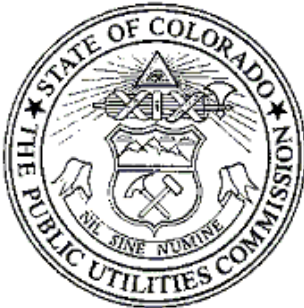
7. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

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.

8. 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