

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20V-0056TNC

IN THE MATTER OF THE PETITION OF MATTHEW D. KARGES FOR A
WAIVER OF RULE 6713 (PROOF OF MEDICAL FITNESS) OF THE RULES
REGULATING TRANSPORTATION BY MOTOR VEHICLE, 4 CCR 723-6.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
G. HARRIS ADAMS
ORDERING PETITIONER TO SHOW CAUSE**

Mailed Date: February 27, 2020

I. STATEMENT

1. On February 11, 2020, Matthew D. Karges (Petitioner) filed a verified Petition for Waiver/Variance of Safety Regulations – TNC Driver (Form PFW-TNC-1, Revised 5/15/2019) (Petition). Petitioner requests a waiver of the specific subparagraph(s) of Rule 6713(c) of the Transportation Network Company Rules: “(I) – Defect, loss of limb or impairment, Describe: below knee amputee/left leg”; and “(V) – High blood pressure.” Petition at 1. In support, Petitioner filed a Medical Examiner’s Certificate, a Medical Examination Report Form, a Certified Official Colorado Driver Record, and a copy of Petitioner’s Colorado driver’s license.

2. Petitioner seeks a one-year waiver of Commission Rule 6713(a) of the Commission’s Rules Regulating Transportation by Motor Vehicle, to allow Petitioner to drive for a Transportation Network Company (TNC).¹

¹ 4 Code of Colorado Regulations (CCR) 723-6.

3. This proceeding was referred to an Administrative Law Judge for disposition by minute entry during the Commission's weekly meeting held on February 26, 2020.

4. The form Petition filed states:

THIS PETITION INCLUDES THE FOLLOWING ADDITIONAL INFORMATION:

1. The Medical Examiner's Certificate, signed by the medical examiner.
2. A copy of all of the completed pages of the TNC Medical Examination Report.
3. A copy of the my Colorado Driver's Record from the Colorado Department of Motor Vehicles (which can be obtained online at www.colorado.gov/dmv/motor-vehicle-record) and a Driver Record *for the past three years* in any other state that I was issued a Driver's License (if any).
4. A copy of my current Driver's License.

Petition at 2 (emphasis added).

5. Based upon a review of Petitioner's filing, he failed to file information that was represented to be included in the Petition.

6. First, Petitioner failed to file a current copy of his Official Colorado Driver Record. The Official Colorado Driver Record filed in this proceeding is dated October 15, 2019, which is more than four months old and fails to provide a Driver Record for the past three years.

7. On or before **close of business on March 13, 2020**, Petitioner will be ordered to:

- a) supplement the Petition by filing a current copy of his Colorado Driver's Record from the Colorado Department of Motor Vehicles (which can be obtained online at www.colorado.gov/dmv/motor-vehicle-record); **OR**
- b) otherwise show cause why this matter should not be dismissed without prejudice.

8. Second, the filed Medical Examiner's Certificate (Version Date: 5/15/2018) states "This person is medically fit to drive for a transportation network company, subject to the condition(s) listed below. HTN[.]" However, the Medical Examiner's Certificate does not establish that Petitioner "is medically fit to drive for a transportation network company, only if accompanied by a [specified] waiver (i.e. PUC Vision Waiver, etc.)." Nor does it provide that in the Medical Examiner's "medical opinion, based upon all circumstances known to [him or her] including the medical condition(s) requiring an accompanying waiver, the established medical history or clinical diagnosis is not likely to interfere with the [Petitioner's] ability to control and drive a motor vehicle safely for a Colorado transportation network company."

9. Petitioner is largely free to select the manner of presenting his case and is not bound to use Commission-provided forms. However, the filed Medical Examiner's Certificate does not certify that Petitioner is medically fit to drive only if accompanied by the waivers sought in the Petition. Further, the Medical Examiner's Certificate expresses no qualified medical opinion whatsoever in support of the requested relief as to Petitioner's ability to safely operate a motor vehicle of the type the driver intends to operate while driving for a TNC.

10. On or before **close of business on March 13, 2020**, Petitioner will be ordered to:

- a) supplement the petition by filing a Medical Examiner's Certificate (Version Date: 5/15/2018) certifying whether the driver is medically fit to drive for a transportation network company, only if accompanied by the waiver(s) specified, and expressing a qualified medical opinion as to whether the Medical Examiner feels the driver could safely operate a motor vehicle of the type the driver intends to operate while driving for a TNC; **OR**
- b) supplement the petition by filing a signed and dated letter from a medical professional/doctor expressing a qualified medical opinion as to whether the Medical Examiner feels the driver could safely operate a motor vehicle of the type the driver intends to operate while driving for a TNC coupled with a short description of the reason for the physical disqualification; **OR**

- c) otherwise show cause why this matter should not be dismissed without prejudice.

11. **Petitioner is advised that failure to make one of the filings described in ¶ 7 above and one of the filings described in ¶ 10 above on or before March 13, 2020, will result in dismissal of the Petition without prejudice.**

II. ORDER

A. It Is Ordered That:

- 1. Matthew D. Karges must supplement the Petition for Waiver/Variance of Safety Regulations – Driver to cure the deficiencies in the Petition **or** show cause why this matter should not be dismissed without prejudice (*e.g.*, it may be then be refiled later) on or before **close of business on March 13, 2020.**
- 2. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

G. HARRIS ADAMS

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director