

(Decision No. C92-399)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE APPLICATION OF RIVER RUNNERS,)
LTD. FOR AN ORDER OF THE COMMISSION)
GRANTING A WAIVER OF THE PROVISIONS)
OF RULE 12 (INSURANCE) GOVERNING) DOCKET NO. 91A-377CP-WAIVER
COMMON CARRIERS BY MOTOR VEHICLE FOR)
HIRE.)
- - - - -)

**COMMISSION ORDER
STAYING DECISION**

Mailed date: March 19, 1992
Adopted date: March 18, 1992

STATEMENT, FINDINGS OF FACT, AND CONCLUSIONS

BY THE COMMISSION:

By Recommended Decision No. R92-306, dated March 4, 1992, Administrative Law Judge John B. Stuelpnagel, granted River Runners, Ltd. (RR) a waiver of Rule No. 12.3, Rules and Regulations Governing Common Carriers by Motor Vehicle, thereby allowing RR to maintain \$300,000 combined single limit liability insurance for all its vehicles, instead of \$1,000,000 (7 passenger capacity, or less) or \$1,500,00 (8 to 15 passenger capacity) as required by Rule 12.3. The waiver was granted for a period of three years.

Judge Stuelpnagel finds that if RR is required to comply with Rule 12.3, its insurance premiums would increase from \$5,000 to \$18,000 (Findings ¶ 3, P 2), that sightseeing rates would increase from \$24.75 to approximately \$40.00 per person (Findings ¶ 4, P 2), and sightseeing service would be drastically curtailed or possibly eliminated (Findings ¶ 6, P 3), adversely impacting \$400,000 in annual tourist revenue to the Salida area (Findings ¶ 7, P 3). Also, the sightseeing service is interrelated with the rafting service and, together, serve the entire family (Findings ¶ 5, P 2). Therefore, a decline in the

sightseeing business would adversely impact the rafting business (Findings ¶ 6, P 3) resulting, presumably, in further harm to the Salida economy.

RR provides sightseeing service in the Salida area pursuant to its Certificate of Public Convenience and Necessity PUC No. 8570. The Commission notes that PUC No. 8570 is a "seasonal authority" which is restricted to providing service only between May 1 and September 30 of each year. RR is required to maintain insurance only for that period of time it is authorized to operate. Therefore, RR is not required to maintain insurance at this time.

The Commission is concerned that the four-wheel drive sightseeing business may be particularly dangerous, at least as compared to other passenger transportation services such as taxi, scheduled bus, etc. This concern appears to be supported by Findings ¶ 9, P 3 (in part):

Wayne Bolejack, General Manager of River Runners, Ltd., contacted 40 insurance companies seeking rates for the insurance to comply with Commission rules. Only their existing carrier would give any quote whatsoever. Applicant was advised that insurance companies are concerned about the high level of insurance for jeep tours for which they have no statistics or data to make accurate premium quotes. The insurance industry in general has advised Applicant that a three-year period would be necessary to accumulate sufficient data to make meaningful competitive premium rates.

Also, the Commission is concerned that the authorized \$300,000 liability limit and the three year time period waiver may not be appropriate.

The Commission has expressed many concerns regarding the level of insurance requirements set forth in Rule 12.3, the insurance industry practice of requiring all vehicles be insured at the same level, and the impact of these requirements on the public. The Commission has set a Special Open Meeting for April 28, 1992, for the purpose of discussing these issues.

The Commission has determined that it will reconsider this docket on its own motion under § 40-6-109, C.R.S., and therefore, Decision No. R92-306 is stayed pending final determination of this docket by the Commission.

THEREFORE THE COMMISSION ORDERS THAT:

1. The Commission, upon its own motion, will reconsider this docket and Recommended Decision No. R92-306 is stayed pending final determination of this matter by the Commission.

2. This Order is effective on its date of mailing.

ADOPTED IN OPEN MEETING on March 18, 1992.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

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