

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE RULE 12.3, SCHEDULE OF MINIMUM LIABILITY) DOCKET NO. 92R-411CP
LIMITS, AND RULE 20, INSURANCE RULE) COMMISSION DECISION
EXEMPTION, OF THE RULES AND REGULATIONS) PROPOSING REVISED
GOVERNING COMMON CARRIERS BY MOTOR VEHICLE) RULES
FOR HIRE, 4 CCR 723-8.)
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RE RULE 11.2, SCHEDULE OF MINIMUM INSURANCE) DOCKET NO. 92R-412BP
LIMITS, AND RULE 18, INSURANCE RULE) COMMISSION DECISION
EXEMPTION, OF THE RULES AND REGULATIONS) PROPOSING REVISED
GOVERNING CONTRACT CARRIERS BY MOTOR) RULES
VEHICLE FOR HIRE, 4 CCR 723-23.)
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Mailed date: August 28, 1992
Adopted date: August 12, 1992

STATEMENT, FINDINGS, AND CONCLUSIONS

BY THE COMMISSION:

The Public Utilities Commission for the State of Colorado hereby gives **NOTICE** that it proposes to:

- A) Repeal Rule 12.3, Schedule of Minimum Liability Limits, of the Rules and Regulations Governing Common Carriers by Motor Vehicle for Hire found at 4 CCR 723-8 and adopt a new rule that will change the minimum liability limits for passenger carriers only and require passenger carriers to post notice of liability limits in their vehicles;
- B) Repeal Rule 11.2, Schedule of Minimum Insurance Limits, of the Rules and Regulations Governing Contract Carriers by Motor Vehicle for Hire found at 4 CCR 723-23 and adopt a new rule that will change the minimum liability limits for passenger carriers only and require passenger carriers to post notice of liability limits

in their vehicles;

C) Adopt Rule 20.1, Insurance Rule Exemption, to the Rules and Regulations Governing Common Carriers by Motor Vehicle for Hire found at 4 CCR 723-8 that will set forth criteria for waiver of insurance liability limits; and

D) Adopt Rule 18.1, Insurance Rule Exemption, to the Rules and Regulations Governing Contract Carriers by Motor Vehicle for Hire found at 4 CCR 723-23 that will set forth criteria for waiver of insurance liability limits.

The proposed rules are attached to this decision as Appendix A (common) and Appendix B (contract). If the Commission adopts new rules, the existing Common Carrier Rule 12.3 and Contract Carrier Rule 11.2 will be concurrently repealed.

The purpose of these rules, if adopted, would be to modify the present insurance liability limits applicable to both common and contract carriers transporting passengers by motor vehicle. Effective March 3, 1991, the Commission adopted new rules governing common carriers by motor vehicle. The new rules raised the liability limits. Similarly, new rules affecting contract carriers became effective on January 30, 1991.

After the new rules became effective, the Commission received 18 applications seeking to waive the higher liability limits. The Applicants claimed the higher liability limits resulted in higher insurance premiums which caused hardship to the carriers and the traveling public. The Commission has granted only two of these waiver applications. On April 28, 1992, the Commission held a special open meeting on passenger carrier insurance issues. Representatives from the passenger carrier industry, the insurance industry, the Colorado State Insurance Commission, and the Staff of the Public Utilities Commission presented an overview of the insurance industry as it relates to the passenger carrier industry, data, background information, and opinions of the Commission's current liability limits.

The Commission is aware that there is no single "correct" liability limit that can be derived empirically. However, the Commission proposes consideration of a new rule which lowers the limits for carriers using smaller vehicles. Under the proposed rule, the highest limit, \$5,000,000, would be required for vehicles with a seating capacity of 32 or more. The present rule requires this limit when vehicles with seating capacity of more than 15 are used. This proposal is consistent with the statutory limits found in § 40-16-104, C.R.S., but is inconsistent with federal law applicable to interstate carriers. The Commission's proposed rule would retain the \$1,500,000

requirement but make it applicable to vehicles with seating capacity greater than 15 and less than 32. Under the proposal, the \$1,000,000 limit would apply to carriers using vehicles with seating capacity of 8 through 15 passengers. Vehicles with seating capacity of 7 or less would be subject to a \$500,000 limit, which is inconsistent with state statutes requiring \$1,000,000 insurance for luxury limousines found in § 40-16-104, C.R.S. Vehicles employed as luxury limousine are generally capable of transporting seven or fewer passengers at one time. However, the same one million dollar limit found in § 40-16-104 also applies to vehicles used under off-road-scenic charter permits issued by the Commission pursuant to § 40-16-103. These type of vehicles can be of any size, but are typically capable of transporting 15 or fewer passengers.

Additionally, the Commission proposes a new rule that would require all passenger carriers to post a notice in each vehicle that clearly states the liability in effect for that vehicle. The purpose of this proposed rule is to advise the traveling public of the limits of liability insurance coverage and allow them to make an informed choice whether or not to use the services of the motor carrier.

Also, the Commission is proposing a new rule that will detail the criteria necessary for an applicant to establish in order to obtain a waiver of the insurance limits. The purpose of this rule is to make it clear to carriers what will be required to prove hardship and obtain relief from the insurance liability limit rule.

The Commission solicits comments from all interested parties, including passenger motor carriers, insurance companies, and the public in general. Specifically, the Commission is seeking input that addresses the issues of: (1) what liability limits provide adequate protection to the traveling public; (2) financial impact on motor carriers of liability limits under the existing rule and under the proposed rule; (3) ability of carriers to pass on increased costs, or savings, under existing and proposed rules; (4) the public's acceptance of lower liability limits; (5) whether a notice of liability limits is needed and, if so, what constitutes appropriate notice; and (6) criteria for obtaining a hardship waiver of the liability limits. The Commission also welcomes suggestions for alternate rules, including varying levels of liability for rural and urban areas of the state.

The purpose of these rules, if adopted, would be to regulate common carriers by motor vehicle defined by § 40-10-101(4), C.R.S., and contract carriers by motor vehicle defined by § 40-11-101(3), C.R.S. These proposed rules are issued pursuant to § 40-2-108, § 40-10-110, and § 40-11-109, C.R.S.

The Commission will provide notice of this proceeding pursuant to § 24-4-103, C.R.S. Notice of the proposed rules should be given by the Secretary of State as required by § 24-4-103, C.R.S., on August 31, 1992. Notice of these proposed rules will be filed with the Office

of Regulatory Reform by August 31, 1992 in compliance with § 24-4-103.5, C.R.S. The hearing on the proposed rules will be held on October 15, 1992, at 9 a.m.

THEREFORE THE COMMISSION ORDERS THAT:

1. The Executive Secretary shall file with the Secretary of State the necessary documents to allow for notice of the proposed Rules and Regulations Governing Common Carriers by Motor Vehicle For Hire and the proposed Rules and Regulations Governing Contract Carriers by Motor Vehicle For Hire attached to this decision as Appendix A (common) and Appendix B (contract), respectively. The Executive Secretary shall also give notice to all persons who have requested notice.

2. The PUBLIC HEARING for these rulemaking proceedings is set as follows:

Date: October 15, 1992
Time: 9 a.m.
Place: Public Utilities Commission
Commission Hearing Room
1580 Logan Street, OL-2
Denver, Colorado 80203

3. Persons may file written comments to and proposed modifications of the proposed rules by October 1, 1992. The Commission requests that persons proposing modifications use the legislative drafting format. An original and ten copies of all documents shall be filed.

4. Persons shall have an opportunity to submit written data, views, and arguments, and to present the same orally unless the Commission deems oral presentations unnecessary, at the public hearing and the Commission will consider what changes, if any, should be made to these rules.

5. This Decision is effective upon its date of mailing.

DONE IN OPEN MEETING on August 12, 1992.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

ORDER-HA

Appendix A
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Decision No. C92-902
August 12, 1992

BASIS AND PURPOSE, AND STATUTORY AUTHORITY

THE BASIS AND PURPOSE OF THIS RULE AND REGULATION IS TO REPEAL RULE 12.3 OF THE RULES REGULATING COMMON CARRIERS BY MOTOR VEHICLE FOUND AT 4 CCR 723-8 AND ADOPT A NEW RULE TO GOVERN THE OPERATION AND ACTIVITIES OF COMMON CARRIERS BY MOTOR VEHICLE. THE COMMISSION'S STATUTORY AUTHORITY FOR THESE RULES AND REGULATIONS IS § 40-2-108 C.R.S.

RULE 12 -- EVIDENCE OF PUBLIC LIABILITY, PROPERTY DAMAGE INSURANCE AND CARGO INSURANCE

12.3 The minimum insurance limits of combined single limit liability (CSL) for this rule is as follows:

SCHEDULE OF MINIMUM LIABILITY LIMITS

TYPE OF CARRIER

A M O U N T S

PASSENGER:

| CARRIERS USING VEHICLES ~~OF~~ WITH:

~~7 PASSENGERS OR LESS CAPACITY~~ ~~\$1,000,000~~

| SEATING CAPACITY OF 7 PASSENGERS \$500,000
OR LESS

~~BETWEEN 8 AND 15 PASSENGERS~~ ~~\$1,500,000~~
~~CAPACITY~~

| SEATING CAPACITY OF 8 THROUGH 15 \$1,000,000
PASSENGERS

~~16 PASSENGERS OR MORE CAPACITY~~ ~~\$5,000,000~~

| SEATING CAPACITY OF 16 THROUGH 31 \$1,500,000

PASSENGERS

SEATING CAPACITY OF 32 PASSENGERS \$5,000,000
OR MORE

FOR THE PURPOSE OF THIS RULE, "SEATING CAPACITY" IS DEFINED AS THE
NUMBER OF ADULT PASSENGERS THAT MAY BE COMFORTABLY SEATED WITHIN
THE MOTOR VEHICLE, AND DOES NOT INCLUDE THE DRIVER.

Appendix A
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Decision No. C92-902
August 12, 1992

PROPERTY:

CARRIERS REQUIRED TO OBTAIN A
HAZARDOUS, MATERIALS PERMIT
BY § 43-6-201 C.R.S. SEE § 43-6-202 (2) (a)

CARRIERS NOT REQUIRED TO OBTAIN
A HAZARDOUS MATERIALS PERMIT \$750,000

CARRIERS USING ONLY VEHICLES OF
10,000 POUNDS OR LESS GVWR \$300,000

12.3.1 ALL PASSENGER CARRIERS, EXCEPT THOSE COVERED BY RULE 12.3.2,
PROVIDING SERVICE UNDER A COMMON CARRIER CERTIFICATE SHALL POST
THE FOLLOWING NOTICE IN EACH OF ITS VEHICLES USED TO TRANSPORT
PASSENGERS:

NOTICE

THIS VEHICLE IS INSURED IN COMPLIANCE WITH COLORADO PUBLIC
UTILITIES COMMISSION REGULATIONS. THE AMOUNT OF
COMBINED SINGLE LIMIT LIABILITY INSURANCE IS
\$. THIS LIMIT MAY NOT COVER THE TOTAL AMOUNT
OF CLAIM IN THE EVENT OF A SERIOUS ACCIDENT.

THE CARRIER MUST ENTER THE APPROPRIATE AMOUNT OF INSURANCE REQUIRED
BY THIS RULE IN THE BLANK SPACE. THE NOTICE MUST BE PRINTED
IN LETTERS AT LEAST 3/8 INCHES HIGH WITH A 1/16 INCH STROKE.
IT MUST BE POSTED IN A MANNER THAT MAKES IT READILY VISIBLE
TO EACH PASSENGER.

12.3.2 PASSENGER CARRIERS OPERATING UNDER A WAIVER OF THE INSURANCE
LIMITS GRANTED BY THE COMMISSION SHALL POST THE FOLLOWING NOTICE
IN EACH OF ITS VEHICLES USED TO TRANSPORT PASSENGERS:

NOTICE

THE PUBLIC UTILITIES COMMISSION RULES REQUIRES \$
AMOUNT OF INSURANCE ON A VEHICLE OF THIS SIZE.
HOWEVER, THE PUBLIC UTILITIES COMMISSION HAS
AUTHORIZED THIS COMPANY TO OPERATE WITH \$
OF COMBINED SINGLE LIMIT LIABILITY INSURANCE. THIS
LIMIT MAY NOT COVER THE TOTAL AMOUNT OF CLAIM IN THE
EVENT OF A SERIOUS ACCIDENT.

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THE CARRIER MUST ENTER THE APPROPRIATE AMOUNT OF INSURANCE REQUIRED
BY THIS RULE AND THE AMOUNT AUTHORIZED BY COMMISSION WAIVER IN
THE APPROPRIATE BLANK SPACES. THE NOTICE MUST BE PRINTED IN
LETTERS AT LEAST 3/8 INCHES HIGH WITH A 1/16 INCH STROKE. IT
MUST BE POSTED IN A MANNER THAT MAKES IT READILY VISIBLE TO EACH
PASSENGER.

20.1 INSURANCE RULE EXEMPTION

FOR THE PURPOSES OF OBTAINING A WAIVER OF THE INSURANCE LIABILITY
LIMITS FOUND IN RULE 12.3 OF THESE RULES AND REGULATIONS,
"HARDSHIP" MAY INCLUDE BUT WILL NOT BE LIMITED TO THE
FOLLOWING:

20.1.1 THE COMMUNITY OR MARKET THAT THE APPLICANT SERVES WILL BE
LEFT WITHOUT SERVICE IF THE WAIVER REQUEST IS NOT
GRANTED; OR

20.1.2 THE APPLICANT IS UNABLE TO RECOVER THE COST OF INSURANCE FROM
RATE INCREASES DUE TO COMPETITION FROM OTHER CARRIER
SERVICES.

BASIS AND PURPOSE, AND STATUTORY AUTHORITY

THE BASIS AND PURPOSE OF THIS RULE AND REGULATION IS TO REPEAL RULE 11.2 OF THE RULES REGULATING CONTRACT CARRIERS BY MOTOR VEHICLE FOUND AT 4 CCR 723-23 AND ADOPT A NEW RULE TO GOVERN THE OPERATION AND ACTIVITIES OF CONTRACT CARRIERS BY MOTOR VEHICLE. THE COMMISSION'S STATUTORY AUTHORITY FOR THESE RULES AND REGULATIONS IS § 40-2-108 C.R.S.

RULE 11 -- EVIDENCE OF BODILY INJURY AND PROPERTY DAMAGE LIABILITY INSURANCE

11.2 THE MINIMUM INSURANCE LIMITS OF COMBINED SINGLE LIMIT LIABILITY (CSL) ARE AS FOLLOWS:

TYPE OF CARRIER

A M O U N T S

PASSENGER:

| CARRIERS USING VEHICLES ~~OF~~ WITH:

~~7 PASSENGERS OR LESS CAPACITY~~ ~~\$1,000,000~~

| SEATING CAPACITY OF 7 PASSENGERS \$500,000
| OR LESS

~~BETWEEN 8 AND 15 PASSENGERS~~ ~~\$1,500,000~~
~~CAPACITY~~

| SEATING CAPACITY OF 8 THROUGH 15 \$1,000,000
| PASSENGERS

| SEATING CAPACITY OF 16 THROUGH 31 \$1,500,000
| PASSENGERS

~~16 PASSENGERS OR MORE CAPACITY~~ ~~\$5,000,000~~

| SEATING CAPACITY OF 32 PASSENGERS \$5,000,000
| OR MORE

| FOR THE PURPOSE OF THIS RULE, "SEATING CAPACITY" IS DEFINED AS THE
| NUMBER OF ADULT PASSENGERS THAT MAY BE COMFORTABLY SEATED WITHIN

THE MOTOR VEHICLE, AND DOES NOT INCLUDE THE DRIVER.

Appendix B
Page 2 of 3 Pages
Decision No. C92-902
August 12, 1992

PROPERTY:

CARRIERS REQUIRED TO OBTAIN A
HAZARDOUS, MATERIALS PERMIT BY
§ 43-6-201 C.R.S.

SEE § 43-6-202(2)(a),
C.R.S.

CARRIERS NOT REQUIRED TO OBTAIN
A HAZARDOUS MATERIALS PERMIT \$750,000

CARRIERS USING ONLY VEHICLES OF
10,000 POUNDS OR LESS GVWR \$300,000

11.2.1 ALL PASSENGER CARRIERS, EXCEPT THOSE COVERED BY RULE 11.2.2,
PROVIDING SERVICE UNDER A CONTRACT CARRIER PERMIT SHALL POST
THE FOLLOWING NOTICE IN EACH OF ITS VEHICLES USED TO TRANSPORT
PASSENGERS:

NOTICE

THIS VEHICLE IS INSURED IN COMPLIANCE WITH COLORADO PUBLIC
UTILITIES COMMISSION REGULATIONS. THE AMOUNT OF
COMBINED SINGLE LIMIT LIABILITY INSURANCE IS
\$. THIS LIMIT MAY NOT COVER THE TOTAL AMOUNT
OF CLAIM IN THE EVENT OF A SERIOUS ACCIDENT.

THE CARRIER MUST ENTER THE APPROPRIATE AMOUNT OF INSURANCE REQUIRED
BY THIS RULE IN THE BLANK SPACE. THE NOTICE MUST BE PRINTED
IN LETTERS AT LEAST 3/8 INCHES HIGH WITH A 1/16 INCH STROKE.
IT MUST BE POSTED IN A MANNER THAT MAKES IT READILY VISIBLE TO
EACH PASSENGER.

11.2.2 PASSENGER CARRIERS OPERATING UNDER A WAIVER OF THE INSURANCE
LIMITS GRANTED BY THE COMMISSION SHALL POST THE FOLLOWING NOTICE
IN EACH OF ITS VEHICLES USED TO TRANSPORT PASSENGERS:

NOTICE

THE PUBLIC UTILITIES COMMISSION RULES REQUIRES \$
AMOUNT OF INSURANCE ON A VEHICLE OF THIS SIZE.
HOWEVER, THE PUBLIC UTILITIES COMMISSION HAS
AUTHORIZED THIS COMPANY TO OPERATE WITH
\$ OF COMBINED SINGLE LIMIT LIABILITY
INSURANCE. THIS LIMIT MAY NOT COVER THE TOTAL AMOUNT
OF CLAIM IN THE EVENT OF A SERIOUS ACCIDENT.

THE CARRIER MUST ENTER THE APPROPRIATE AMOUNT OF INSURANCE REQUIRED BY THIS RULE AND THE AMOUNT AUTHORIZED BY COMMISSION WAIVER IN THE APPROPRIATE BLANK SPACE. THE NOTICE MUST BE PRINTED IN LETTERS AT LEAST 3/8 INCHES HIGH WITH A 1/16 INCH STROKE. IT MUST BE POSTED IN A MANNER THAT MAKES IT READILY VISIBLE TO EACH PASSENGER.

18.1 INSURANCE RULE EXEMPTION

FOR THE PURPOSES OF OBTAINING A WAIVER OF THE INSURANCE LIABILITY LIMITS FOUND IN RULE 11.2 OF THESE RULES AND REGULATIONS, "HARDSHIP" MAY INCLUDE BUT WILL NOT BE LIMITED TO THE FOLLOWING:

18.1.1 THE COMMUNITY OR MARKET THAT THE APPLICANT SERVES WILL BE LEFT WITHOUT SERVICE IF THE WAIVER REQUEST IS NOT GRANTED; OR

18.1.2 THE APPLICANT IS UNABLE TO RECOVER THE COST OF INSURANCE FROM RATE INCREASES DUE TO COMPETITION FROM OTHER CARRIER SERVICES.

NOTICE

THIS VEHICLE IS INSURED
IN COMPLIANCE WITH
COLORADO PUBLIC
UTILITIES COMMISSION
REGULATIONS. THE
AMOUNT OF COMBINED
SINGLE LIMIT LIABILITY
INSURANCE IS \$500,000.

Armadillo Express
1193 Granite Springs Road
Cheyenne, WY 82007

Command Control Systems, Inc.
P. O. Box 11889
Pueblo, CO 81001

Kenneth D. Jackson
26787 West Highway 50
La Junta, CO 81050

Jones Facilities Maintenance, Inc.
5550 Tech Center Drive
Colorado Springs, CO 80919

Renzenberger, Inc.
5 North Silver
Paola, KS 66071

Tamarron, Inc.
P. O. Box 3131
Durango, CO 81302

NOTE: Notice of Proposed
Rulemaking published in
NOTICE OF APPLICATIONS
FILED on August 31, 1992.
(See attached list for
mailing list.)

ROUTE:

1	31 (5 copies)
2	40 (7 copies)
3	50
4	60
6-Docketing	Black Book
9	Text Management
10	Operating Rights Unit
15	DMS (plus certificate)
20	ORDER-HA
30	