

Decision No. R06-0126

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 05R-517TR

IN THE MATTER OF THE PROPOSED REPEAL OF THE RULES REGULATING EXEMPT PASSENGER CARRIERS AND RULES REGULATING HOUSEHOLD GOODS MOVERS AND PROPERTY CARRIERS, AS FOUND IN 4 CCR 723-33 AND 4 CCR 723-35.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
WILLIAM J. FRITZEL
REPEALING RULES**

Mailed Date: February 14, 2006

I. STATEMENT

1. By Decision No. C05-1437, mailed on December 7, 2005, the Commission issued Notice of Proposed Rulemaking concerning its Rules Regulating Exempt Passenger Carriers and the Rules Regulating Household Goods Movers and Property Carriers. The Commission stated that the intent of the proposed rulemaking was to repeal the rules codified at 4 *Code of Colorado Regulations* (CCR) 723-33 and 4 CCR 723-35 since the Commission adopted new motor vehicle transportation rules, to be effective April 1, 2006, that include provisions governing the exempt passenger carriers and household goods movers and property carriers.

2. The Commission in its order referred the matter to an Administrative Law Judge and scheduled a hearing for February 14, 2006.

3. The hearing was held on the proposed repeal of the rules as scheduled. Appearances were entered by Dino Ioannides of the Staff of the Commission. No other interested party appeared. Mr. Ioannides orally commented on the reason for the repeal of the

rules. No other interested party made oral comments. No written comments were filed in this docket. At the conclusion of the hearing, the matter was taken under advisement.

4. Pursuant to § 40-6-109, C.R.S., the record of this proceeding and a written recommended decision are transmitted to the Commission.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

5. The statutory authority for the proposed repeal of the rules is found at § 40-2-108, C.R.S.

6. In Docket No. 03R-554TR, the Commission issued a Notice of Proposed Rulemaking to Repeal and Reenact all of the Commission's rules regulating transportation by motor vehicle. This docket was part of a comprehensive revision and recodification of all of the Commission rules.

7. New rules were adopted by the Commission as a result of Docket No. 03R-554TR, and the rulemaking is final. The new motor vehicle transportation rules that include provisions governing exempt passenger carriers, and household good movers and property carriers will become effective on April 1, 2006.

8. Since the current rules now codified in 4 CCR 723-33 and 4 CCR 723-35 were not completed prior to the issuance of the Notice of Proposed Rulemaking for the new Motor Vehicle Transportation Rules in Docket No. 03R-554TR, the Commission believes that the instant rulemaking will make it clear that there is no question that the current rules codified at 4 CCR 723-33 and 4 CCR 723-35 will be repealed in their entirety to be replaced by the new rules to be effective on April 1, 2006.

9. It is found and concluded that the current effective rules regulating exempt passenger carriers and the rules regulating household goods movers and property carriers, codified at 4 CCR 723-33 and 4 CCR 723-35 should be repealed.

10. Pursuant to the provisions of § 40-6-109, C.R.S., it is recommended the Commission repeal the rules attached to this Recommended Decision.

III. ORDER

A. The Commission Orders That:

1. The Rules Regulating Exempt Passenger Carriers codified at 4 *Code of Colorado Regulations* 723-33 and the Rules Regulating Household Goods Movers and Property Carriers, codified at 4 *Code of Colorado Regulations* 723-35, attached to this Recommended Decision are repealed.

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.

(SEAL)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

WILLIAM J. FRITZEL

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director

**THE
PUBLIC UTILITIES COMMISSION
OF THE
STATE OF COLORADO**

~~RULES REGULATING EXEMPT PASSENGER CARRIERS~~

~~4 CCR 723-33~~

[Notice of Omitted Material: All the rules found in 4 CCR 723-33 are being repealed. Therefore, the remaining pages of these rules are omitted.]

**THE
PUBLIC UTILITIES COMMISSION
OF THE
STATE OF COLORADO**

~~RULES REGULATING HOUSEHOLD GOODS MOVERS AND PROPERTY CARRIERS~~

~~4-CCR-723-35~~

[Notice of Omitted Material: All the rules found in 4 CCR 723-35 are being repealed. Therefore, the remaining pages of these rules are omitted.]