

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14V-0049EC

IN THE MATTER OF THE PETITION OF STELLAR ENTERPRISES AND LIMOUSINE SERVICES, INC. FOR AN ORDER OF THE COMMISSION AUTHORIZING A WAIVER OF RULE 6305(B) (AGE OF VEHICLES) OF THE RULES REGULATING TRANSPORTATION BY MOTOR VEHICLE, 4 CCR 723-6.

DECISION GRANTING WAIVER IN PART

Mailed Date: January 21, 2014

Adopted Date: January 15, 2014

I. BY THE COMMISSION

A. Statement, Findings, and Conclusions

1. This matter comes before the Commission for consideration of a Petition for Waiver/Variance of Limited Regulation Carrier Rules filed on December 12, 2013, by Stellar Enterprises and Limousine Service, Inc. (Stellar Enterprises).

2. We construe the petition as a request for a waiver of Rule 6305(b) of the Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* (CCR) 723-6 (Age of Motor Vehicles).

3. The vehicle for which a waiver is requested is a 2000 Lincoln Town Car, VIN No. 1L1FM81W5YY836364. The waiver is requested from December 1, 2013 through December 31, 2014.

4. Rule 1206(a) of the Rules of Practice and Procedure 4 CCR 732-1 (Notice – Generally) states:

Except as provided in paragraph (c) of this rule, the Commission shall, within 15 days of the date an application or petition is filed, provide notice of the

application or petition to any person who in the opinion of the Commission may be affected by the grant or denial of the application or petition.... [T]he Commission shall give notice of applications or petitions to all persons through the E-Filings System.

5. Rule 1206(d) states:

Unless shortened by Commission order or rule, the intervention period for notice mailed by the Commission shall expire 30 days after the mailing date.

6. This petition for waiver was filed by Stellar Enterprises on December 12, 2013.

Therefore, the petition should have been included in the Notice of Applications Filed that was mailed on December 16, 2013. However, through an administrative error, a proceeding number was not assigned to this petition by Commission Staff until January 14, 2014, and the petition has not been noticed to the public as required by Rule 1206(a).

7. Rather than requiring Stellar Enterprises to wait an additional 30 days for a decision on its petition for waiver, the Commission will, on its own motion, waive the requirements named in Rule 1206, 4 CCR 723-1.

8. Pursuant to Rule 1003 of the Rules of Practice and Procedure, 4 CCR 723-1, the Commission may grant waivers or variances from tariffs, Commission rules, and substantive requirements contained in Commission decisions and orders for good cause. In making a determination, the Commission may take into account, but is not limited to, considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.

9. Rule 6305(b), 4 CCR 723-6, states that “luxury limousine carriers shall not use vehicles older than ten model years as of July 1 of each year.”

10. The 2000 Lincoln Town Car named in this petition is older than the ten model years allowed by Rule 6305(b). Thus, unless Stellar Enterprises is granted a waiver of

Rule 6305(b) for the vehicle named in this petition, it may not provide luxury limousine service with this vehicle.

11. In support of this petition, Mr. John Kenyon, the owner of Stellar Enterprises states

Vehicle is in excellent condition inside and out. Engine has 10K miles on it. The entire front end, steering & suspension was replaced in 2012.

Replacing this vehicle at this time would cause a major financial hardship on the company & may cause insolvency of the same.

Vehicle is used on a limited basis for weddings & short mileage trips.

12. Stellar Enterprises did submit a picture of the exterior of the vehicle with the petition. The vehicle does appear to be in good physical condition. Stellar Enterprises also submitted a vehicle inspection report showing that the vehicle passed an annual inspection on February 16, 2013.

13. In consideration of the fact that the 2000 Lincoln Town Car is a stretch limousine and is in good condition, the Commission finds that good cause has been shown to grant a waiver of Rule 6305(b) for a period of one year from the mailed date of this Decision.

14. Stellar Enterprises is advised that the grant of the waiver of Rule 6305(b) for the vehicle named in this petition does not ensure that this vehicle will pass a future safety inspection by the Staff of the Commission.

II. ORDER

A. The Commission Orders That:

1. The petition of Stellar Enterprises and Limousine Service, Inc. for a waiver of Rule 6305(b) for the 2000 Lincoln Town Car, VIN No. 1L1FM81W5YY836364, is granted, in part, from the mailed date of this Decision through December 31, 2014.

2. The notice requirements named in Rules 1206(a) and 1206(d) of the Rules of Practice and Procedure 4 *Code of Colorado Regulations* 732-1 that are applicable to Proceeding No. 14V-0049EC are waived.

3. Stellar Enterprises and Limousine Service, Inc. shall keep a copy of this Decision in the 2000 Lincoln Town Car Executive, VIN No. 1L1FM81W5YY836364, named in this petition. Stellar Enterprises and Limousine Service, Inc. shall provide this Decision immediately on request by any Commission enforcement official.

4. Stellar Enterprises and Limousine Service, Inc. shall have the 2000 Lincoln Town Car named in this petition inspected pursuant to 49 *Code of Federal Regulations* (CFR) Part 396.17, as incorporated by Commission Safety Rules, by an inspector qualified in accordance with 49 CFR 396.19; and, the vehicle shall pass such an inspection. Stellar Enterprises and Limousine Service, Inc. shall file with the Commission a copy of the completed inspection form within 30 days of the effective date of this Decision. If Stellar Enterprises and Limousine Service, Inc. fails to comply with this requirement within 30 days of the effective date of this Decision or if the vehicle fails the inspection, then the waiver of Rule 6305(b) shall be void. For good cause shown, the Commission may grant additional time for compliance if the request for additional time is filed within the 30 days.

5. The 20-day time period provided by § 40-6-114(1), C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the Commission mails this Decision.

6. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
January 15, 2014.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

PAMELA J. PATTON

GLENN A. VAAD

Commissioners