

Decision No. C14-1058

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14V-0793CP

IN THE MATTER OF THE PETITION OF MKBS, LLC, DOING BUSINESS AS METRO TAXI COOPERATIVE FOR AN ORDER OF THE COMMISSION AUTHORIZING A WAIVER OF THE AGE OF MOTOR VEHICLE RULE 6255 (B) (AGE OF VEHICLES) OF THE RULES REGULATING TRANSPORTATION BY MOTOR VEHICLE, 4 CCR 723-6.

DECISION GRANTING WAIVER IN PART

Mailed Date: September 2, 2014
Adopted Date: August 27, 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 Commission Rule 6255(b) of the Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* (CCR) filed on July 22, 2014, by MKBS, LLC, doing business as Metro Taxi (Metro Taxi).

2. Metro Taxi requests a waiver of Rule 6255(b) (Age of Motor Vehicles) for 45¹ vehicles it currently operates as taxis. The waiver is requested for a period from July 31, 2014 or date of approval through July 31, 2015.

3. The Commission noticed this petition to all interested persons, firms, and corporations pursuant to § 40-6-108(2), C.R.S., on August 11, 2014.

¹ The 45 vehicles are identified in Appendix A to this Decision.

4. No petition to intervene or otherwise participate in this proceeding has been filed. This proceeding is therefore uncontested. Pursuant to § 40-6-109(5), C.R.S., this matter may be determined without a hearing.

5. 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.

6. Rule 6225(b), 4 CCR 723-6 only applies to taxi companies that provide point to point service in the Counties of Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, El Paso, and Jefferson. Rule 6225(b) reads:

- (b) Age of motor vehicles. The maximum age of motor vehicles shall be eight model years. A taxicab carrier operating vehicles that are over eight model years old as of August 1, 2012, shall have until July 31, 2014, to comply with this paragraph for those specific vehicles.

7. Metro Taxi, under Certificate of Public Convenience and Necessity PUC No. 1481, may provide taxi service between all points within the area comprised of the Counties of Adams, Arapahoe, Boulder, Denver, Douglas, and Jefferson, State of Colorado, and between said points, on the one hand, and all points within an 85-mile radius of the intersection of 16th and Champa Streets in Denver, Colorado, on the other hand. Therefore, Metro Taxi is subject to the requirements named in Rule 6225(b) and as of July 31, 2014, may only operate vehicles that are eight model years old or less. On July 31, 2014, the eighth model year was a 2007 model.

8. The 45 vehicles named in this petition are 2004, 2005, and 2006 models. One of the vehicles is a 2004 model, 26 are 2005 models, and 18 are 2006 models.

9. In support of the petition, Metro Taxi states:

Traditionally, taxicab fleets have consisted primarily of Crown Victorias obtained from the police department. The Crown Victoria is no longer in production; therefore, Crown Victorias have become increasingly difficult to obtain as the police departments are holding onto these vehicles longer, and there is greater competition for Crown Victorias among the Denver taxicab companies. ...

Metro Taxi is also transitioning to a greener fleet. Metro Taxi has already purchased numerous hybrid vehicles, which are in high demand among Metro Taxi's drivers. However, there is [a] much higher financial outlay associated with purchasing new hybrid vehicles versus used Crown Victorias. Additionally, as gas prices increase, the cost of both new and used hybrids increases as well. Although Metro Taxi is in the process of purchasing new greener vehicles to replace older vehicles, and has purchased 50 new vehicles over the past few months, given the size of its fleet, Metro Taxi is unable to take all its older Crown Victorias out of service and immediately replace them with brand new hybrid vehicles without affecting drivers and the riding public.

If Metro Taxi is required to take all 2006 and earlier model-year vehicles out of service as of August 1, 2014, to comply with the 8-year age of vehicle rule, financial hardship will result, not only to Metro Taxi, but to its drivers who lease the subject vehicle.

10. In consideration of the support provided by Metro Taxi, the Commission finds that good cause has been shown to grant a waiver of Rule 6255(b) for the 45 vehicles named in this petition.

11. Metro Taxi is advised that the grant of the waiver of Rule 6255(b) for the vehicles named in this petition does not ensure that these vehicles will pass a future safety inspection by the Staff of the Commission.

II. ORDER

A. The Commission Orders That:

1. The petition of MKBS, LLC, doing business as Metro Taxi (Metro Taxi) for a waiver of Rule 6255(b) for the 45 vehicles named in Appendix A to this Decision is granted in part from the mailed date of the Decision through July 31, 2015.

2. Metro Taxi shall keep a copy of this Decision in each of the 45 vehicles named in this petition. Metro Taxi shall provide this Decision immediately on request by any Commission enforcement official.

3. Metro Taxi shall have each of the 45 vehicles 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 each vehicle shall pass such an inspection. Metro Taxi shall file with the Commission a copy of each completed inspection form within 30 days of the effective date of this Decision. If Metro Taxi 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 6255(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.

4. 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.

5. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
August 27, 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