

Decision No. C14-1080

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14V-0783EC

IN THE MATTER OF THE PETITION OF ROBIN SHELDON, DOING BUSINESS AS A TOUCH WITH CLASS LIMOUSINE 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.

**COMMISSION DECISION
GRANTING WAIVER IN PART**

Mailed Date: September 8, 2014
Adopted Date: September 3, 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 (Petition) filed on July 18, 2014, by Robin Sheldon, doing business as A Touch With Class Limousine (A Touch With Class).

2. In its Petition, A Touch With Class requests 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). A Touch With Class, under limited regulation Permit No. LL-327,¹ may provide luxury limousine service between all points in Colorado.

3. The vehicles for which a waiver is requested are a 1999 Lincoln Town Car with a Vehicle Identification Number of 1L1FM81WXXY610691; a 2001 Ford Excursion with a Vehicle Identification Number of 1FMNU40L01EB18710; and a 2002 GMC Denali with a

¹ Permit No. LL-327 was issued to A Touch With Class on June 5, 1992.

Vehicle Identification Number of 1GKFK66U42J202231. The waivers are requested from July 15, 2014, through July 1, 2015.

4. The Commission noticed this Petition to all interested persons, firms, and corporations pursuant to § 40-6-108(2), C.R.S., on July 28, 2014.

5. 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.

6. 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.

7. 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.” The model years of these vehicles are: a) Lincoln Town Car - 16; b) Ford Excursion – 14; and c) GMC Denali – 13. Therefore, unless A Touch With Class is granted a waiver of Rule 6305(b) it will not be able to operate these vehicles as luxury limousines.

8. A Touch With Class submitted photographs of the three vehicles named in this Petition. The 1999 Lincoln Town Car and the 2001 Ford Excursion have been modified to be stretch limousines. The GMC Denali has not been modified to be a stretch limousine.

9. In support of the Petition for waiver, Ms. Robin Sheldon, the owner of A Touch

With Class states:

I would like to apply for an age of vehicle (Rule 6305) waiver for 3 of our vehicles, from the date of July 15, 2014, through July 1, 2015.

During our recent inspection, we were informed that a previous opinion about the age of our vehicle(s) was not correct. (The opinion was issued in 2011, from the PUC that our vehicles were grandfathered in.)

As a result of our misinformation, we now have three vehicles, out of the four in our fleet, that no longer qualify for the 10 year age rule. It is with extreme urgency, that I would ask for an age waiver for these vehicles, so that I may still operate our limousine company (one of the oldest in the state, established in 1992), and have the time necessary to sell and replace these 3 vehicles.

I would point out that the removal of 75% of my fleet, has placed me in an economic peril, and without the ability to finish our commitments to future bookings, and be able to sell and replace these vehicles, will result in the closing of our business.

10. Ms. Sheldon also provided the following in support for the waiver of the age rule

for each of the vehicles:

- a) Lincoln Town Car – This has been the backbone of our fleet, and is our most requested vehicle. It has been well maintained, showing only 129,xxx miles on the odometer. That is only 8 to 9,000 miles per year over its lifetime. I have recently replaced the vinyl top, and painted chipped or scratched locations on the body, and it has been mechanically maintained by our company.;
- b) 2001 Ford Excursion – This is also a very important vehicle in our fleet. As Grand Junction’s oldest, but smallest company, this was our approach to a stronger, more durable vehicle for groups of 10. This is also a “green” vehicle, as it has the ability to run on gasoline, and also on propane.; and
- c) GMC Denali – As one of the only companies in this area to offer “black car”, or sedan service, we have used this vehicle for our airport transfers, and weekend wine tours. As a regular vehicle in our fleet, this is the most utilitarian and frequently requested vehicle we have. It is 4 wheel drive, for when we transport to Aspen and Telluride, and offers safety features that limo’s do not.

11. A review of the petitions previously filed by A Touch With Class shows a petition for waiver was submitted on October 25, 2011, in Proceeding No. 11V-860EC. In this petition A Touch With Class requested a waiver of the age rule from October 21, 2011, through July 31, 2014, for the 2001 Ford Excursion and the 2002 GMC Denali. The waiver was granted from October 21, 2011, through October 20, 2013. Ms. Sheldon, in her statement that a PUC opinion in 2011 grandfathered in these vehicles, must be referring to Decision No. C11-1223 that was issued on December 20, 2011 and granted the waiver through October 20, 2013. However, Decision No. C11-1223 did not “grandfather in” these two vehicles.

12. In consideration of the support submitted by A Touch With Class, the Commission finds that good cause has been shown to grant a waiver of Rule 6305(b) for the 1999 Lincoln Town Car and the 2001 Ford Excursion named in this Petition. However, the Commission finds that good cause has not been shown to grant a waiver of Rule 6305(b) for the 2002 GMC Denali.

13. A Touch With Class is advised that the grant of the waiver of Rule 6305(b) for the 1999 Lincoln Town Car and the 2001 Ford Excursion 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 Robin Sheldon, doing business as A Touch With Class Limousine (A Touch With Class) for a waiver of Rule 6305(b) is granted in part.

2. The petition for a waiver of Rule 6305(b) for the 1999 Lincoln Town Car with a Vehicle Identification Number of 1L1FM81WXXY610691 and the 2001 Ford Excursion with a Vehicle Identification Number of 1FMNU40L01EB18710, is granted from the mailed date of this Decision through July 1, 2015.

3. The petition for a waiver of Rule 6305(b) for the 2002 GMC Denali with a Vehicle Identification Number of 1GKFK66U42J202231 is denied

4. A Touch With Class shall keep a copy of this Decision in the 1999 Lincoln Town Car and the 2001 Ford Excursion named in this petition. A Touch With Class shall provide this Decision immediately on request by any Commission enforcement official.

5. A Touch With Class shall have the 1999 Lincoln Town Car and the 2001 Ford Excursion 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. A Touch With Class shall file with the Commission a copy of the completed inspection forms within 30 days of the effective date of this Decision. If A Touch With Class 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.

6. 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.

7. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
September 3, 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