

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14V-0885CP

IN THE MATTER OF THE PETITION OF MARKETING SERVICES INC. OF PUEBLO DOING BUSINESS AS ADVENTURES OUT WEST INC., FOR AN ORDER OF THE COMMISSION AUTHORIZING A WAIVER OF RULES REGULATING TRANSPORTATION BY MOTOR VEHICLE.

DECISION GRANTING WAIVER IN PART

Mailed Date: October 17, 2014
Adopted Date: October 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 Common/Contract Carrier Rules filed on August 22, 2014 by Marketing Services Inc. of Pueblo, doing business as Adventures Out West Inc. (Petitioner). An amendment to the petition was submitted on August 26, 2014.

2. Petitioner is requesting a waiver of Rule 6213(a) 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 1968 Cadillac Series 75, VIN No. R8242820. The waiver is requested from August 1, 2014 through August 1, 2017.

4. The Commission noticed this petition to all interested persons, firms, and corporations pursuant to § 40-6-108(2), C.R.S., on September 8, 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. In accordance with 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 6213(a), 4 CCR 723-6, states that “[i]ntrastate regulated carriers operating vehicles with a seating capacity of 15 or less shall not use vehicles older than 12 model years as of July 1 of each year.”

8. Petitioner operates pursuant to Certificate of Public Convenience and Necessity PUC No. 55737. In support of the waiver, the president of Petitioner states, in part:

This vehicle is a new addition to our business. We will be using it for our classic city tours in [sightseeing] service. The vehicle is a unique style that is part of the spirit that we sell. ... Total miles driven per tour are about 25 and total miles per year are about 2000. ...

This vehicle is used in Colorado Springs and never leaves the county in [sightseeing] service. It is used for [sightseeing] tours on mixed use roads. The vehicle is in use for about three months a year.

9. Petitioner submitted pictures of the interior and exterior of the vehicle. Petitioner also submitted an annual vehicle inspection report showing that the vehicle passed inspection on June 23, 2014. The petition states that the vehicle has a total mileage of 52,000 miles.

10. In consideration that the 1968 Cadillac Series 75: a) did recently pass an annual vehicle inspection; b) is only operated a few months per year; c) projects an image valued by

Petitioner; and d) is not easily or inexpensively replaceable, the Commission finds that Petitioner has shown good cause to grant a waiver of Rule 6213(a) for the vehicle named in this petition.

11. Petitioner is advised that the grant of the waiver of Rule 6213(a) 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 Marketing Services Inc. of Pueblo, doing business as Adventures Out West Inc., for a waiver of Rule 6213(a) for the 1968 Cadillac Series 75, VIN No. R8242820, is granted, in part, from the Mailed Date of this Decision through August 1, 2017.

2. Marketing Services Inc. of Pueblo, doing business as Adventures Out West Inc., shall keep a copy of this Decision in the 1968 Cadillac Series 75, VIN No. R8242820, named in this petition. Marketing Services Inc. of Pueblo, doing business as Adventures Out West Inc., shall provide this Decision immediately on request by any Commission enforcement official.

3. 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.

4. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
October 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