

Decision No. C14-1523

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14V-0959EC

IN THE MATTER OF THE PETITION OF NADER FALLAHI, DOING BUSINESS AS GENTLE AND QUICK LIMOUSINE SERVICE FOR AN ORDER OF THE COMMISSION AUTHORIZING A WAIVER OF THE RULES REGULATING TRANSPORTATION BY MOTOR VEHICLE.

**DECISION GRANTING APPLICATION FOR REHEARING,
REARGUMENT, OR RECONSIDERATION**

Mailed Date: December 31, 2014

Adopted Date: December 17, 2014

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of an Application for Rehearing, Reargument, or Reconsideration (RRR) of Decision No. C14-1363 filed on December 2, 2014, by Nader Fallahi, doing business as Gentle and Quick Limousine Service (Gentle and Quick Limousine).

B. Findings

2. On September 24, 2014, Gentle and Quick Limousine filed a petition for a waiver of Rule 6308(a)(II) of the Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* (CCR) 723-6 (Petition).

3. Gentle and Quick Limousine requested a waiver of Rule 6308(a)(II), 4 CCR 723-6, for a 2011 Toyota Avalon. The waiver was requested from September 1, 2013 through September 1, 2020.

4. The Commission noticed the Petition to all interested persons, firms, and corporations pursuant to § 40-6-108(2), C.R.S., on October 6, 2014. No petition to intervene or otherwise participate in the proceeding was filed. The proceeding was uncontested and was 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 6308, 4 CCR 723-6, identifies four categories of luxury limousines. The category relevant to this Petition is Rule 6308(a)(II) which reads:

(a) A luxury limousine is:

(II) Executive car, which is a motor vehicle that has four doors and is:

- (A) a sedan, crossover, or sport utility vehicle manufactured by: Acura, Audi, Bentley, BMW, Cadillac, Ferrari, Infiniti, Jaguar, Lexus, Lincoln, Maserati, Mercedes-Benz, Porsche, or Rolls Royce; or
- (B) one of the following: Chrysler 300, Hyundai Equus, Saab 9-5, Chevrolet Suburban, Chevrolet Tahoe, Ford Excursion, Ford Expedition, GMC Yukon, Hummer (all models, excluding sport utility truck version).

7. The Toyota Avalon is not named in Rule 6308(a)(II) as a vehicle that qualifies as a luxury limousine.

8. At the Commissioners' Weekly Meeting of November 12, 2014, the Commission found that although the 2011 Toyota Avalon named in Gentle and Quick Limousine's petition for a waiver was similar to other vehicles named in Rule 6308(a)(II), Gentle and Quick Limousine

did not provide sufficient or specific support to show that it would incur a financial hardship if the Petition is not granted and that good cause had not been shown to grant a waiver of Rule 6308 for the 2011 Toyota Avalon. Decision No. C14-1363 denying Gentle and Quick Limousine's request for a waiver was issued on November 14, 2014.

9. In the Application for RRR, Mr. Nader Fallahi states, "Please rehear my case. I need this vehicle to make a living. I have payments of \$410, a month for the next five years to pay off this vehicle. It will be a [tremendous] burden on my business and family income."

C. Conclusions

10. Gentle and Quick Limousine has chosen to operate as a luxury limousine carrier and must adhere to the standards required for this service. Rule 6308(a)(II), which identifies the types of vehicles that qualify as luxury limousines, does not include the Toyota Avalon.

11. Mr. Fallahi provided limited support for the petition for waiver and the RRR. He argues that it will be a tremendous financial burden on his business and family income if the waiver is not granted.

12. In consideration of the potential financial hardship, the Commission grants the RRR and grants a waiver of Rule 6308 for the Toyota Avalon for a period of one year from the Mailed Date of this Decision.

II. ORDER

A. The Commission Orders That:

1. The Application for Rehearing, Reargument, or Reconsideration of Decision No. C14-1363 filed on December 2, 2014 by Nader Fallahi, doing business as Gentle and Quick Limousine Service (Gentle and Quick Limousine), is granted.

2. The petition of Gentle and Quick Limousine for a waiver of Rule 6308(a)(II), 4 *Code of Colorado Regulations* 723-6, for the 2011 Toyota Avalon is granted for a one year period beginning on the Mailed Date of this Decision.

3. Gentle and Quick Limousine shall keep a copy of this Decision in the 2011 Toyota Avalon named in this petition. Gentle and Quick Limousine shall provide this Decision immediately on request by any Commission enforcement official.

4. Gentle and Quick Limousine shall have the 2011 Toyota Avalon 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. Gentle and Quick Limousine shall file with the Commission a copy of the completed inspection form within 30 days of the effective date of this Decision. If Gentle and Quick Limousine 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 6308(a)(II) shall be void. For good cause shown, the Commission may grant additional time for compliance if a request for additional time is filed within the 30 days.

5. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration begins on the first day following the effective date of this Decision.

6. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
December 17, 2014.**

(S E A L)



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

JOSHUA B. EPEL

PAMELA J. PATTON

GLENN A. VAAD

Commissioners