

Decision No. R18-0109

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

PROCEEDING NO. 17V-0838TNC

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IN THE MATTER OF THE PETITION OF DAVID T. LEE FOR A WAIVER OF RULE 6713 (PROOF OF MEDICAL FITNESS) OF THE RULES REGULATING TRANSPORTATION BY MOTOR VEHICLE, 4 CCR 723-6.

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**RECOMMENDED DECISION OF  
ADMINISTRATIVE LAW JUDGE  
STEVEN H. DENMAN  
GRANTING WAIVER WITH CONDITIONS**

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Mailed Date: February 12, 2018

**I. STATEMENT**

1. David T. Lee (Petitioner or Mr. Lee) filed the petition that commenced this proceeding on December 11, 2017. By this petition, Mr. Lee seeks a waiver of Rule 6713 (Proof of Medical Fitness) of the Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* 723-6 (2016). Specifically, he seeks a waiver of Rule 6713(c)(II), which provides that a “person is physically qualified to drive if, upon physical examination, the medical examiner determines that the person does not exhibit . . .” [REDACTED]

[REDACTED]

[REDACTED]

2. On December 20, 2017, by minute entry, the Commission referred this Proceeding to an Administrative Law Judge (ALJ) for disposition. Subsequently, the undersigned ALJ was assigned to preside over this Proceeding.

3. The ALJ scheduled a hearing for January 23, 2018 at 2:00 p.m. in a Commission hearing room in Denver, Colorado by Decision No. R18-0024-I issued January 9, 2018. At the

designated time and place, the undersigned Administrative Law Judge (ALJ) called the matter for hearing. Mr. Lee appeared *pro se* and testified in support of the waiver. His testimony was confidential. Mr. Lee offered Hearing Exhibits 1 through 4, all of which were admitted into evidence. Hearing Exhibits 1 through 4 are all Confidential.

4. At the conclusion of the hearing, the ALJ took the matter under advisement.

5. Pursuant to § 40-6-109, C.R.S., the ALJ now transmits to the Commission the record of the hearing, the hearing exhibits, and a written recommended decision in this matter.

## II. FINDINGS AND CONCLUSIONS

6. Petitioner wishes to drive part-time for UberX, a Transportation Network Company (TNC) holding a permit issued by the Commission. He has not yet driven for the TNC and is awaiting the results of this Petition for waiver before he can drive for them.

7. Mr. Lee was diagnosed with [REDACTED]

[REDACTED] At the time of the hearing, [REDACTED] Mr. Lee testified that since 2000 he has [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
(Confidential Hearing Exhibits 1 and 3.) Mr. Lee takes [REDACTED]

[REDACTED] (Confidential Hearing Exhibit 1.) Mr. Lee testified that [REDACTED]

[REDACTED]

8. Mr. Lee [REDACTED] (Confidential Hearing Exhibit 1, page 6.) He provided compliance documentation of [REDACTED] (Confidential Hearing Exhibit 4.)

9. Based upon the confidential medical evidence in the record, the ALJ finds that [REDACTED]

10. Mr. Lee has had a valid Colorado driver's license [REDACTED] [REDACTED] (Confidential Hearing Exhibit 3.) [REDACTED] [REDACTED]

11. Mr. Lee testified that, [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] He testified that, [REDACTED] [REDACTED] [REDACTED] [REDACTED]

12. Mr. Lee works as a salesman and wishes to drive part-time for a TNC [REDACTED] [REDACTED] He testified that [REDACTED] [REDACTED] The ALJ finds that [REDACTED] [REDACTED]

13. Petitioner has not received any prior waivers from the provisions of Rule 6713.

14. Mr. Lee has demonstrated that [REDACTED]

[REDACTED] Based on substantial evidence in the record, the ALJ finds that [REDACTED]

[REDACTED] Mr. Lee is a responsible driver and is not a threat to the public safety. Granting the waiver is in the public interest in that it will enable a responsible and safe driver on the streets for a TNC holding a permit from the Commission.

15. Because [REDACTED]

[REDACTED] the waiver of Rule 6713(c)(II) [REDACTED]

[REDACTED] will be granted for a period of two years. The term of the waiver will commence on the effective date of this Decision and will run for two years from that date.

16. As conditions of the grant of the Petition and waiver, Petitioner must [REDACTED]

[REDACTED]

Petitioner must also notify Commission Transportation Staff in writing within ten days of [REDACTED]

[REDACTED]

### III. ORDER

#### A. The Commission Orders That:

1. David T. Lee (Petitioner) is granted a waiver of Rule 6713(c)(II) ([REDACTED] [REDACTED]) of the Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* 723-6, for a period of two years from the effective date of this Decision.

2. The waiver of Rule 6713(c)(II) of the Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* 723-6, is subject to the following conditions:

- (1) Petitioner must [REDACTED]  
[REDACTED] (2) Petitioner must [REDACTED]  
[REDACTED] and (3) Petitioner must notify Commission Transportation Staff in writing within ten days of [REDACTED]  
[REDACTED]

3. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

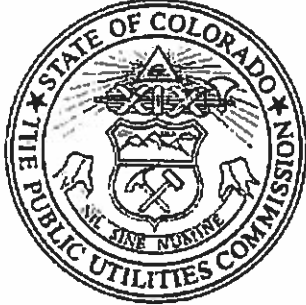
4. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

a) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

b) If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

5. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)



THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

STEVEN H. DENMAN

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,  
Director