

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19V-0373EC

IN THE MATTER OF THE PETITION OF PALI-TOURS, LTD FOR AN ORDER OF THE COMMISSION AUTHORIZING A WAIVER OF THE RULES REGULATING TRANSPORTATION BY MOTOR VEHICLE.

DECISION GRANTING WAIVER

Mailed Date: July 30, 2019
Adopted Date: July 25, 2019

I. BY THE COMMISSION

A. Statement, Findings, and Conclusions

1. This matter comes before the Commission for consideration of a petition filed on July 3, 2019 by Pali-Tours, LTD (Pali-Tours). In this petition, Pali-Tours requests a waiver of Rule 6117(c) of the Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* (CCR) 723-6 (Age of Motor Vehicles).

2. The vehicle for which a waiver is requested is a 1976 Steyr-Puch Pinzgauer (Pinzgauer) 712M¹ with 33,065 miles. The waiver is requested from July 1, 2019 through June 30, 2020.

3. The Commission noticed this petition to all interested persons, firms, and corporations pursuant to § 40-6-108(2), C.R.S., on July 8, 2019, for a period of ten days. The ten-day notice period expired on July 18, 2019. No petition to intervene or otherwise participate

¹ The Pinzgauer 712M was manufactured by Steyr-Puch in Graz, Austria from 1971 through 2000 and is described as a high-mobility all terrain military transport vehicle.

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.

4. 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.

5. The owner of Pali-Tours, Dave Smith, provided the following statement to support this petition for waiver:

This vehicle offers a safe, unique, open air, safari-style experience. It's unique 6x6 capabilities provides performance & safety features above & beyond the typical off-road vehicle, as it was designed specifically for the transport of people across rugged terrain. By granting this waiver, Pali-Tours, Ltd. will be able to provide Off-Road-Scenic excursions to Passengers desiring this type of experience, on a Charter Basis, to scenic points within the Western Slope of Colorado.

6. Pali-Tours is not currently registered with the Commission to provide any type of regulated transportation service. However, Pali-Tours did submit an application on June 13, 2019, to register as a limited regulation off-road scenic charter permit as defined in § 40-10.1-301(12), C.R.S.

7. Rule 6117(c), 4 CCR 723-6 (Age and Condition of Passenger Carrying Motor Vehicles) states:

With the exception of a Luxury Limousine which meets the definition of a "Collector's Vehicle" in subparagraph 6305(a)(IV), no Motor Vehicle operated under a Certificate or Permit shall be more than 15 years old regardless of condition or mileage.

8. The Pinzgauer 712M named in this petition is 28 model years older than allowed by Rule 6117(c). Therefore unless Pali-Tours is granted a waiver of Rule 6117(c)² for the 1976 Pinzgauer 712M, it may not provide off-road scenic charter service with this vehicle.

9. The review completed by Commission Staff (Staff) of Pinzgauer vehicles did verify they were manufactured as high-mobility all-terrain military vehicles and have been purchased by the armies of numerous countries for use as military transport vehicles. Staff is also aware that two existing off-road scenic charter carriers in the Telluride area are currently using Pinzgauer's for off-road transportation in the southwest Colorado mountains. Therefore, based on the information provided in this petition and the use of similar Pinzgauer vehicles by two other off-road scenic charter carriers, the Commission finds that good cause has been shown to grant a waiver of Rule 6117(c) for a period of one year from the mailed date of this Decision.

10. Pali-Tours is advised that Rule 6117(d) states "A Motor Carrier operating any Motor Vehicle shall cause the vehicle to have the periodic safety inspection, as set forth in rules 6103 and 6104, to be completed semi-annually for vehicles that are over eight model years old and/or have more than 150,000 miles. After a Motor Vehicle reaches 225,000 miles, regardless of the age of the vehicle, the inspections set forth in rules 6103 and 6104 must occur every three months."

² The Commission, on November 30, 2017 by Decision No. C17-0976, in Proceeding No. 17R-0796TR, issued a Notice of Proposed Rulemaking regarding proposed Rules Regulating Transportation by Motor Vehicle. Recommended Decision R18-0968 adopting the proposed rules was issued on October 31, 2018. Commission Decision No. C18-1150 issued on December 24, 2018, adopted the proposed rules with certain modifications. The rules proposed in Decision No. C18-1150 became effective on May 15, 2019. Rule 6117(c) states "With the exception of a Luxury Limousine which meets the definition of "Collector's Vehicle" in subparagraph 6305(a)(IV), no Motor Vehicle operated under a Certificate or Permit shall be more than 15 years old regardless of condition or mileage." Pursuant to § 40-10.1-302(1)(a), C.R.S. "A person shall not operate or offer to operate a charter bus, children's activity bus, fire crew transport, luxury limousine, medicaid client transport, or off-road scenic charter in intrastate commerce without first having obtained a permit therefor from the commission in accordance with this part 3." Therefore prior to May 15, 2019, an off-road charter carrier was not subject to an age of vehicle restriction.

II. ORDER

A. The Commission Orders That:

1. The petition of Pali-Tours, LTD (Pali-Tours) filed on July 3, 2019, for 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) for a 1976 Steyr-Puch Pinzgauer 712M (1976 Pinzgauer) is granted for a period of one year beginning on the mailed date of this Decision.

2. Pali-Tours shall keep a copy of this Decision in the 1976 Pinzgauer named in the petition and shall ensure that this Decision is provided immediately upon request by any Commission enforcement official.

3. Pali-Tours shall have the 1976 Pinzgauer inspected pursuant to the requirements in Rule 6117(d) 4 CCR 723-6, and the vehicle must pass each inspection in order for this waiver to be valid. Pali-Tours shall maintain copies of the completed inspection forms in the 1976 Pinzgauer.

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
July 25, 2019.**

(S E A L)



ATTEST: A TRUE COPY



Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

FRANCES A. KONCILJA

JOHN GAVAN

Commissioners