

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

PROCEEDING NO. 19V-0541EC

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IN THE MATTER OF THE PETITION OF EVERETT SCOTT PROTHERO, DOING BUSINESS AS ESP CAR SERVICE FOR AN ORDER OF THE COMMISSION AUTHORIZING A WAIVER OF THE RULES REGULATING TRANSPORTATION BY MOTOR VEHICLE.

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**DECISION GRANTING WAIVER**

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Mailed Date: November 12, 2019

Adopted Date: November 6, 2019

**I. BY THE COMMISSION**

**A. Statement, Findings, and Conclusions**

1. This matter comes before the Commission for consideration of a petition filed on October 8, 2019 by Everett Scott Prothero, doing business as Esp Car Service (Esp Car Service).

2. Esp Car Service requests a waiver of Rule 6305(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 2014 Jeep Grand Cherokee.<sup>1</sup> The waiver is requested from October 4, 2019 through October 4, 2020. Esp Car Service purchased the 2014 Jeep Grand Cherokee on August 17, 2013.

4. The Commission noticed this application to all interested persons, firms, and corporations pursuant to § 40-6-108(2), C.R.S., on October 15, 2019, for a period of ten days.

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<sup>1</sup> The vehicle identification number of the 2014 Jeep Grand Cherokee is 1C4RJFCT2EC137752.

5. The ten-day notice period expired on October 25, 2019. No petition to intervene or otherwise participate in this proceeding has been filed. Therefore, the proceeding is uncontested. Under § 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. The owner of Esp Car Service, Everett Prothero, provided the following statement to support this petition for waiver:

The Commission should grant this petition for waiver for the excellent condition [of the] 2014 Grand Cherokee Overland. It is black on the outside, with no dents, dings, or scratches. The windows are tinted. The inside has [a] black premium leather-trimmed interior with real wood and leather-wrapped heated steering wheel. The vehicle has front and rear heated seats, and the front seats are also air conditioned. The vehicle has a panoramic sunroof. ... The Overland package in this Jeep makes the vehicle feel very luxurious, while also providing the sport utility the vehicle needs such as four wheel-drive to operate in the Colorado mountainous terrain. There is a shortage of available car services in the Evergreen/Conifer area, as noted by the frequent requests posted in the city's facebook pages, and the long waits for car ride services such as Uber and Lyft.

8. Commission Rule 6305(a) of the Rules Regulating Transportation by Motor Vehicle, 4 CCR 723-6 (Luxury Limousine) identifies the vehicles that may be operated as a luxury limousine. Rule 6305(a) states a "Luxury Limousine" means one of the following vehicles:

- (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, Land

Rover, Lexus, Lincoln, Maserati, Mercedes-Benz, Porsche, Rolls Royce, Tesla, or Volvo; or

- (B) Chrysler 300, Hyundai Equus, Toyota Avalon Livery Edition, Chevrolet Suburban, Chevrolet Tahoe, Ford Expedition, GMC Yukon, Hummer.

9. A Jeep Grand Cherokee is a four-door sports utility vehicle but is not named as a luxury limousine in Rule 6305(a). However, Commission Staff did review several websites in an attempt to determine if the Jeep Grand Cherokee is comparable to the other sport utility vehicles named in Rule 6305(a) as luxury limousines. The review of these websites did indicate that the Jeep Grand Cherokee is comparable in price, size, and seating capacity to these vehicles.

10. Therefore, in consideration of the support provided with this petition and the similarity of the Jeep Grand Cherokee to the other sport utility vehicles named in Rule 6305(a) as luxury limousines, the Commission will grant the petition for waiver<sup>2</sup> from October 24, 2019 through October 4, 2020.

## II. ORDER

### A. The Commission Orders That:

1. The petition of Everett Scott Prothero, doing business as Esp Car Service (Esp Car Service) for a waiver from Rule 6305(b) of the Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* (CCR) 723-6, is granted from October 29, 2019 through October 4, 2020.

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<sup>2</sup> Esp Car Service submitted an application to register as a luxury limousine carrier on October 4, 2019. The vehicle inspection submitted with the application was for a 2014 Jeep Grand Cherokee. After being advised that the 2014 Jeep Grand Cherokee was not named as a luxury limousine in Rule 6305(b), Esp Car Service filed the petition for a waiver of Rule 6305(b) on October 8, 2019. Esp Car Service's insurance carrier filed the appropriate proof of liability insurance on October 24, 2019. Staff of the Commission inadvertently issued Esp Car Service Luxury Limousine Permit No. LL-03544 on October 29, 2019. The waiver petition submitted by Esp Car Service was not granted until it was discussed at the Commissioners' weekly meeting of November 6, 2019. The waiver will be granted from the date, October 29, 2019, when Permit No. LL-03544 was issued.

2. Esp Car Service shall keep a copy of this Decision in the 2014 Jeep Grand Cherokee named in the petition and shall ensure that this Decision is provided immediately upon request by any Commission enforcement official.

3. Esp Car Service shall have the 2014 Jeep Grand Cherokee inspected pursuant to the requirements in Rule 6117(d) 4 CCR 723-6. Esp Car Service shall maintain copies of the completed inspection forms in the 2014 Jeep Grand Cherokee.

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 or serves this Decision.

5. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
November 6, 2019.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

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FRANCES A. KONCILJA

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JOHN GAVAN

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Commissioners