

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-032CP-WAIVER

IN THE MATTER OF THE APPLICATION OF ISAMADDIN RAHAMAN DOING BUSINESS AS ALL NATIONS LIMOUSINE SEDAN SERVICE, FOR AN ORDER OF THE COMMISSION AUTHORIZING A WAIVER OF RULE 2.3 (DISCRETIONARY VEHICLE) OF THE RULES AND REGULATIONS GOVERNING MOTOR VEHICLE CARRIERS EXEMPT FROM REGULATION AS PUBLIC UTILITIES AND ESTABLISHING CIVIL PENALTIES; 4 CCR-723-33.

COMMISSION ORDER GRANTING WAIVER

Mailed Date: February 17, 2004
Adopted Date: February 11, 2004

I. BY THE COMMISSION:

A. Statement, Findings and Conclusions

1. By application filed January 20, 2004, Isamaddin Rahaman doing business as All Nations Limousine Sedan Service, (Applicant), requested a waiver of Rule 2.3 (Discretionary vehicle), 4 *Code of Colorado Regulations (CCR) 723-33*, as it pertains to a 1994 Chevrolet Gladiator it proposes to qualify and use as a luxury limousine under Article 16 of Title 40 Colorado Revised Statutes (C.R.S.).

2. The Commission noticed this application to all interested persons, firms, and corporations pursuant to § 40-6-108(2), C.R.S., on January 26, 2004. The Commission set this matter for hearing on March 8, 2004.

3. No petition to intervene or otherwise participate in this proceeding has been filed. This proceeding is therefore uncontested. Under 4 CCR 723-1-24 and 59(g), this matter may be determined without a hearing.

4. 4 CCR 723-33-10, allows the Commission to grant a waiver from 4 CCR 723-33-2.3, to the extent authorized by applicable law, for good cause, and if it finds compliance to be impossible, impractical or unreasonable.

5. A luxury limousine is defined in §40-16-101(3)(a) C.R.S. as “a chauffer-driven, luxury motor vehicle with a rear seating capacity of three or more, for hire on a chartered basis to transport passengers in luxury limousine service.” A vehicle may qualify for inclusion as a luxury limousine in one of five different categories. The category relevant to the vehicle named in this waiver request is an executive van. Section 40-16-101 (3)(a)(IV)(C) C.R.S. defines an executive van as “a van with a rear seating capacity of seven or more that may be of standard manufacturer’s specifications, but may have been altered from the manufacturer’s original specifications, and that meets applicable standards of the federal department of transportation.”

6. Applicant states in its waiver application that “This vehicle is registered in the state of Wyoming and is used for transporting passengers from Laramie and Cheyenne to Denver International Airport. I would like to use this vehicle in the state of Colorado, as it is part of my fleet of vehicles used in my limousine business. At the time of purchase, I didn’t understand there was a difference between the rules of Colorado and Wyoming. The vehicle was purchased as part of an expansion of my limousine service.”

7. An inspection of this vehicle by Commission staff indicates that the interior of the van contains four captains chairs located behind the driver. A bench seat is located at the rear of the van. The bench seat faces the rear doors of the van and can seat three passengers. There are no seat belts installed for the bench seat. The Applicant is concerned that the lack of any seat belts for the bench seat and the fact that the bench seat faces the rear of the van may prevent the seating capacity of the bench seat from being included with the four captains chairs to bring the

overall seating capacity of the Chevrolet Gladiator to the total number required by Section 40-16-101 (3)(a)(IV)(C) C.R.S.

8. Section 40-16-101(3)(a)(IV)(E), C.R.S., authorizes the Commission to determine what qualifies as a “discretionary vehicle”. 4 *CCR* 723-33-2.3 states, “[a] vehicle may be qualified as a discretionary vehicle if the vehicle would have qualified as a luxury vehicle at the time the vehicle was new and if the vehicle is in exceptional physical condition at the time of registration.” The fact that the bench seat faces the rear and not the front of the van is somewhat unusual but does not preclude the bench seat from being included in the overall seating capacity of the rear of the van. As required by §42-4-237(2) C.R.S., only the driver of the van and the front seat passenger in the van are required to wear a fastened safety belt. Therefore, the lack of seat belts is not a factor in determining if this vehicle qualifies as a luxury limousine as defined in §40-16-101(3)(a)(IV)(C), C.R.S. Therefore, a waiver of 4 *CCR* 723-33-2.3 may not be necessary to allow the vehicle named in the application to be considered for registration as a luxury limousine. However, to ensure that the vehicle named in this waiver request is eligible for inspection by the appropriate Commission staff, the Commission finds that the Applicant has shown good cause to grant its request for a waiver of 4 *CCR* 723-33-2.3.

9. However, Applicant is advised that the granting of the waiver for the vehicle named in this application is not a determination that Applicant’s vehicle will pass the inspection by Staff as required pursuant to 4 *CCR* 723-33-8.1.

II. ORDER

A. The Commission Orders That:

1. Isamaddin Rahaman doing business as All Nations Limousine Sedan Service, is granted a waiver of 4 *CCR* 723-33-2.3.

2. The hearing set for March 8, 2004, is vacated.

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 effective date of this Order.

4. This Order is effective on its Mailed Date.

**B. ADOPTED IN THE COMMISSIONERS' WEEKLY MEETING
February 11, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

