

Decision No. C24-0604

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24V-0321EC

IN THE MATTER OF THE PETITION OF BLACK BEAR TRANSPORTATION LLC FOR AN ORDER OF THE COMMISSION AUTHORIZING A WAIVER OF THE RULES REGULATING TRANSPORTATION BY MOTOR VEHICLE, 4 CCR 723-6.

**COMMISSION DECISION DENYING PETITION FOR
RULE WAIVER**

Issued Date: August 21, 2024

Adopted Date: August 14, 2024

I. BY THE COMMISSION

A. Statement, Findings, and Conclusions

1. This matter comes before the Commission for consideration of a Petition for Waiver/Variance of Regulated Intrastate Carrier Rules filed on July 29, 2024, by Black Bear Transportation LLC (the "Petitioner").

2. The Petitioner requests a waiver of Rule 6305 of the Commission's Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* ("CCR") 723-6. This rule provides, in relevant part, the criteria for luxury limousine vehicles, including categories of vehicles that can be classified as a luxury limousine. Rule 6305(b), 4 CCR 723-6, provides, "A Person who believes that the Motor Vehicle that they have purchased or plan to purchase provides a luxurious and specialized transportation service may file a petition for waiver of paragraphs (a) or (c) of this rule, as set forth in rule 6003, explaining why the use of their vehicle of choice will effectively implement the Commission's policies of a luxury transportation

experience in the relevant market to be served." This rule allows for the Commission to exercise discretion regarding a particular vehicle's fitness to be operated as a luxury limousine.

3. The Petitioner requests a waiver for a 2022 Toyota Sienna XSE, VIN No. 5TDDSKFC9NS041241. The Petitioner requests a waiver for the period of July 30, 2024 through July 30, 2026.

4. The Commission noticed this Petition to all interested persons, firms, and corporations pursuant to § 40-6-108(2), C.R.S., on July 30, 2024. No petition to intervene or otherwise participate 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.

5. In accordance with Rule 1003 of the Commission's Rules of Practice and Procedure, 4 CCR 723-1, the Commission may grant a request to waive Commission rules for good cause shown. In rendering its decision, 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. In support of its request for rule waiver, the Petitioner states that the underlying vehicle was purchased for approximately \$45,000 in June 2024. However, the Petitioner notes that similarly equipped vehicles are listed with purchase prices well over \$50,000, which would have qualified the vehicle under Rule 6305(a)(VI), 4 CCR 723-6. The Petitioner states that the underlying vehicle is a deluxe three-row, seven passenger, all-wheel drive vehicle that is comparable, if not superior, to other qualified luxury limousine vehicles. The Petitioner describes the vehicle as sporty, sleek, luxurious, spacious, and comfortable. The Petitioner lists several luxury features, including an all-black exterior and black synthetic leather interior/stitching,

second row Captain Chairs, a powered sunroof, ample storage and multiple cupholders, four zone automatic climate control, and wireless smartphone charging. The Petitioner also lists several safety features, including pre-collision systems, automatic emergency braking, driver assist, lane departure alert, and pedestrian detection. The Petitioner describes the potential clientele as those needing private airport transportation, exploring shops in Steamboat Springs, weddings, concerts, wine festivals, and miscellaneous other events in Routt County.

7. For the underlying vehicle, the Petitioner submitted multiple photos, which show both the interior and exterior. Based on the submitted photos, the underlying vehicle appears to be in a good and clean condition. The interior also appears to include Captain Chairs, as described.

8. According to the Toyota website (<https://www.toyota.com>), the Sienna model is classified as a minivan. Given that Rule 6305(a)(III), 4 CCR 723-6, specifically excludes vehicles classified as a minivan, there is not sufficient support to grant a waiver for this type of vehicle. Therefore, the Commission finds that good cause has not been shown by the Petitioner and the request for a waiver of Rule 6305, 4 CCR 723-6, is denied.

II. ORDER

A. The Commission Orders That:

1. The Petition of Black Bear Transportation LLC for a waiver of Rule 6305 of the Commission's Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* 723-6, filed on July 29, 2024, is denied.

2. 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 issues this Decision.

3. This Decision is effective immediately on its Issued Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
August 14, 2024.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Rebecca E. White".

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

MEGAN M. GILMAN

TOM PLANT

Commissioners