

Decision No. C20-0346-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20D-0161CP

IN THE MATTER OF THE APPLICATION OF UNION TAXI COOPERATIVE DOING BUSINESS AS UNION TAXI SEEKING A DECLARATORY ORDER PURSUANT TO THE COMMISSION'S RULE OF PRACTICE AND PROCEDURE 4 CODE OF COLORADO REGULATIONS 723-1304(1).

**INTERIM DECISION ACCEPTING PETITION
FOR DECLARATORY ORDER, ISSUING
NOTICE, AND REFERRING PETITION
TO AN ADMINISTRATIVE LAW JUDGE**

Mailed Date: May 6, 2020
Adopted Date: May 6, 2020

TO THE PARTIES IN THIS MATTER AND ALL INTERESTED PERSONS, FIRMS, OR CORPORATIONS:

I. BY THE COMMISSION

A. Statement

1. By this Decision the Commission accepts, issues notice of, and refers to an Administrative Law Judge (ALJ), the Petition for Declaratory Order (Petition) filed by Union Taxi Cooperative (Union Taxi) on April 9, 2020. The Petition requests the Commission enter an order declaring that the Regional Transportation District's (RTD) actions in imposing a liability insurance requirement that differs from the Commission's minimum liability insurance requirements, in order for Union Taxi to participate in RTD's Access-a-Cab program, constitutes a breach of due process, the usurping of the constitutional and legislative powers of the Commission, and an action against public policy and public interest.

2. This Decision establishes a 14-day period for notice, interventions, and any responsive briefs. Interventions and any responsive briefs, including from Commission Staff, must be filed by 5:00 p.m. on May 20, 2020.

B. Background

3. On April 9, 2020, Union Taxi filed its Petition seeking a declaratory order pursuant to Rule 4 *Code of Colorado Regulations* (CCR) 723-1-1304(i) of the Commission's Rules of Practice and Procedure.

4. In its Petition, Union Taxi states that it is subject to regulation by the Commission and that its liability insurance policy limit of \$500,000 per occurrence meets the financial responsibility requirements mandated by the Commission's rules.

5. Through its April 9, 2020 filing, Union Taxi indicates that prior to January 1, 2020, it was a party to an agreement with RTD that allowed Union Taxi to provide service to riders using RTD's Access-a-Cab program. The Access-a-Cab program provides cab service to riders who have disabilities preventing them from using buses or light rail. RTD pays a portion of a rider's fare when they use the Access-a-Cab program. Late in 2019, RTD amended the Access-a-Cab Operating Agreement (Operating Agreement) effective January 1, 2020. The Operating Agreement effective January 1, 2020, would require Union Taxi to maintain liability insurance with a policy limit of \$1,000,000 per occurrence and that the insurer have at least an AM Best Key Rating of A-. Union Taxi indicates that its liability insurance does not meet these new requirements, and that as a result, it is no longer eligible to provide Access-a-Cab service.

6. In its Petition, Union Taxi contends that the Commission has the sole power to regulate the taxicab industry in Colorado, including financial responsibility requirements, and

that RTD's requirement of a liability insurance policy limit that is greater than the requirement prescribed by the Commission is legally unsupported.

7. Union Taxi requests that the Commission enter an order declaring that RTD's actions in imposing a liability insurance requirement that differs from the Commission's liability insurance requirements in order for Union Taxi to participate in RTD's Access-a-Cab program, constitutes a breach of due process, the usurping of the constitutional and legislative powers of the Commission, and an action against public policy and public interest.

8. Union Taxi also requests a shortened notice and intervention period of seven days, pursuant to Rule 1206(d), 4 CCR 723-1, due to the financial impact of being ineligible to provide Access-a-Cab service.

C. Findings and Conclusions

9. The Commission may entertain a petition for declaratory order to terminate a controversy or remove an uncertainty regarding any tariff, statute, or Commission rule, regulation, or order. Rule 4 CCR 723-1-1304(i)(II). If a petition meets those requirements, we then exercise our discretion to accept or dismiss the petition.

10. We find that evaluating the question presented in the Petition will remove uncertainty surrounding the legality of the liability insurance requirements contained in the Operating Agreement effective January 1, 2020.

11. The Commission accepts Union Taxi's Petition and issues notice of the Petition to interested persons, firms, and corporations by service of this Decision.

12. We find a shortened procedural timeline is appropriate due to Union Taxi's assertion of the financial impact of being ineligible to provide Access-a-Cab service. To that end, we establish a 14-day period for notice, interventions, and any responsive briefs.

Interventions and any responsive briefs, including from Commission Staff, must be filed by May 20, 2020. This timing allows for the merits of the Petition to be considered within a shortened timeframe, while at the same time allowing appropriate time for interested persons to consider the Petition, and potentially, make necessary filings.

13. The Petition is available for public inspection at the Commission office located at 1560 Broadway, Suite 250, Denver, Colorado 80202, between 8:00 a.m. and 5:00 p.m., excluding weekends and state holidays, or by accessing the Commission's E-Filing system under the above proceeding number at Colorado.gov/dora/puc. **This Decision is the notice that Union Taxi's Petition seeking a declaratory order related to the liability insurance policy requirements contained in RTD's Access-a-Cab Operating Agreement effective January 1, 2020, has been filed.**

14. Commission notice period for the Petition shall extend for 14 days from the mail date of this Decision and, therefore, shall extend through and include **5:00 p.m. on May 20, 2020**. The intervention and response period will run concurrent with the notice period. Interventions and responses, including those filed by Commission Staff, shall be due by **5:00 p.m. on May 20, 2020**.

15. All matters in this proceeding are referred to an ALJ for disposition.

II. ORDER

A. It Is Ordered That:

1. The Petition for Declaratory Order (Petition) filed by Union Taxi Cooperative on April 9, 2020, is accepted.

2. Service of this Decision will provide notice of the Petition to all interested persons, firms, and corporations.

3. The notice period for the Petition shall extend through and include **5:00 p.m. on May 20, 2020.**

4. Any person desiring to intervene or participate as a party in this proceeding shall file a petition for leave to intervene or, pursuant to the Commission's Rules of Practice and Procedure, other appropriate pleadings to become a party by **5:00 p.m. on May 20, 2020.**

5. Responsive briefs shall be due from all parties by **5:00 p.m. on May 20, 2020.**

6. Alternatively, persons who do not wish to intervene or become a party, but desire to file comments, may send written comments addressed to the Public Utilities Commission, 1560 Broadway, Suite 250, Denver, Colorado 80202, or by accessing the Commission's E-Filing system under the above proceeding number at Colorado.gov/dora/puc.

7. The Petition is referred to an Administrative Law Judge.

8. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
May 6, 2020.**

(S E A L)



ATTEST: A TRUE COPY

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

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

JOHN GAVAN

MEGAN M. GILMAN

Commissioners