

(Decision No. R93-1320)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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IN THE MATTER OF PROPOSED RULES)	DOCKET NO. 93R-420CP
GOVERNING TAXICABS TRANSPORTING)	
PASSENGERS TO AND FROM DENVER)	RECOMMENDED DECISION OF
INTERNATIONAL AIRPORT.)	ADMINISTRATIVE LAW JUDGE
)	KEN F. KIRKPATRICK

Mailed Date: October 26, 1993

STATEMENT

By Decision No. C93-862, July 27, 1993, the Commission instituted this rulemaking proceeding concerning the transportation of passengers by taxicabs to and from Denver International Airport (DIA). The purpose of the rules was stated as being "to insure the efficient use of taxicab service to and from Denver International Airport by requiring taxicabs to provide a shared ride program."

The notice of proposed rulemaking was published in the August 10, 1993, Colorado Register. A hearing was held on September 23, 1993, at 9:00 a.m. in a Commission hearing room in Denver, Colorado, in accordance with the notice. Written comments were filed by Boulder Airporter, Inc., Southeast Airporter, Inc., and Colorado PUC No. 191 Corp. (Airporter) on September 9, 1993; by Yellow Cab Cooperative Association, d/b/a Yellow Cab, Inc. (Yellow Cab), on September 15, 1993; by Zone Cab Company (Zone) on September 15, 1993; by Bankole Ademola Ogunwo on September 17, 1993; by Yellow Cab on September 22, 1993; and by Metro Taxi, Inc. (Metro), on September 23, 1993.

At the assigned place and time the undersigned called the matter for hearing. Oral presentations were made by Staff of the Commission; Yellow Cab; Metro; and Zone. At the hearing the undersigned authorized additional comments to be filed on or before October 4, 1993. Additional comments were filed by Zone and Yellow Cab on October 4, 1993.

In accordance with § 40-6-109, C.R.S., the undersigned now transmits to the Commission the record and exhibits of this proceeding along with a written recommended decision.

FINDINGS, CONCLUSIONS, AND DISCUSSION

1. Metro, Zone, and Yellow Cab are the three main taxicab companies operating in the metropolitan Denver area. All three

support in general a concept of a shared-ride, zone-fare system for transportation to and from DIA. Other commentators opposed the proposal as unlawfully blurring the distinction between limousine service and taxicab service. However, the Commission has always permitted zone fares for exclusive use of a taxicab vehicle. In addition, the Commission has mandated that taxicab companies provide for multiple loading in their tariffs. The combining of the two concepts together does not convert taxicab service into limousine service.

2. Two key concepts which all those supporting the zone fare, shared-ride proposal agree on are that the system must be simple and flexible. It must be simple for all involved, including the passengers, the drivers, and the taxicab companies. And it must be flexible to allow possible changes in zones as experience dictates.

3. There was also a recognition that there are many variables beyond the control of this rulemaking. For example, the cooperation and involvement of DIA personnel and contractors is essential. Yet the Commission has no authority over these individuals. The exact mechanism by which people wishing to share rides will be accommodated cannot be and is not specified by these rules.

RULE 1 - APPLICATION OF RULES AND REGULATIONS

This rule was proposed to read as follows:

These rules shall apply to any taxicab company whose certificate of public convenience and necessity includes zones described in these rules.

The rule should be adopted as proposed.

RULE 2 - DEFINITIONS

Rule 2 was proposed to read as follows:

A shared ride shall be defined as two or more passengers traveling together between Denver International Airport (DIA) and any of the zones described in these rules.

Many commentators found fault with this rule. For example, as written, a husband and wife could be defined as a shared ride with each being charged the shared ride rate. Zone proposes to clarify that a shared ride is two or more parties who are not traveling together who share a cab, with each party consisting of 1, 2, or 3 people who are traveling together. The rule should be rewritten to adopt Zone's suggestion.

ZONE 3 - DESIGNATION OF PICK-UP POINTS

Rule 3 was proposed to read as follows:

Each taxi company shall name at least one location in each of the designated zones to serve as a passenger drop-off or pick-up point.

This rule in Staff's proposal was essential in order to calculate maximum fares for the zone, and for movements between the designated location and the ultimate drop-off area. Since these concepts are not adopted, see *infra*, this rule is no longer necessary.

RULE 4 - REQUIREMENTS OF SERVICE

Rule 4 was proposed to read as follows:

Shared ride service shall be required in all instances unless the first passenger engaging the taxicab demands exclusive use of the vehicle.

This rule was an attempt to indicate that the "default" mode of transportation would be shared ride rather than exclusive, traditional taxicab transportation. This rule is in conflict with Rule 2.1 of the Commission's Rules and Regulations Governing the Operation of Taxicabs. In addition, as pointed out by some of the commentors, it goes against the generally understood notion of what taxicab service is. What the rule really raises is the education issue in that the traveling public, drivers, and airport contractors and personnel will need to be educated about the shared ride program. However, the presumption of traditional taxicab use should not be done away with as a substitute for that education effort. Therefore Rule 4 should not be adopted.

RULE 5 - TARIFF RATES AND CHARGES

Rule 5.1 was proposed to read as follows:

The charge for the shared ride shall be a per-person rate and shall not involve the use of the meter. The passengers shall not be charged waiting time.

This rule should be adopted, except that the phrase "per party rate" should be substituted for the phrase "per person rate" in order to conform with the definition of a shared ride as discussed above.

Rule 5.2 was proposed to read as follows:

The total fare for the shared ride, regardless of the number of passengers in the shared ride, between DIA and the designated location(s) in each zone shall not be greater than the existing fare of each taxi company for one passenger as determined by the taxi meter over the shortest route between DIA and the designated location.

This rule was strongly opposed by some commentators on the grounds that it removed driver incentive from participation in the shared ride program. In other words, if the driver has to make two or three stops and is paid as if only one stop were made under traditional service the driver's cooperation cannot be expected. Yet the drivers' cooperation is essential. The rule appears unnecessary and indeed it would discourage driver participation in the shared ride program. The rule should not be adopted.

Rule 5.3 was proposed to read as follows:

The fare for taxi service from or to the designated pick-up or drop-off location either prior to or subsequent to the movement between DIA and the designated pick-up or drop-off location shall be calculated at the existing tariff rate.

This rule as proposed does not mesh with the overarching goal of simplicity. It combined a zone system with a meter system which can only cause confusion and conflict between passengers and drivers. The rules as adopted should contain a pure zone system with transportation to a zone, anywhere in the zone, being a flat rate for those sharing a ride.

RULE 6 - DESCRIPTION OF ZONES

Rule 6 contains Staff's proposal of 23 zones generally covering the metropolitan Denver area. Yellow Cab originally proposed an alternative containing more than 130 rectangular shaped zones. Zone proposed an alternative to the Staff's proposal which contained 21 zones. Metro supported either the Staff or Zone proposal, leaning toward the Zone proposal.

An initial question to be answered is whether the rules should mandate uniform zones for all taxicab companies, or whether it should allow individual companies to adopt their own zones. The commentators differed on this. However, the undersigned is persuaded that in order for consumers to be informed and interested in using the shared ride system, the

number of zones must be small and they must be uniform. This will facilitate ride match up among potential users as well as self education. In its supplemental comments, Yellow Cab indicated it could tolerate a smaller number of zones and it proposed 34 zones. The main difference between the Yellow proposal and the Zone proposal is that the Yellow proposal uses a strictly rectangular grid, in other words, east-west streets and north-south streets to determine its zones. Zone's proposal utilizes major arterials such as Parker Road, C-470, and Wadsworth Boulevard, to form boundaries of its zones, which produce zones that are not necessarily rectangular. The undersigned is convinced that either system could work. However, on balance the Zone proposal, with its fewer zones, seems simpler. The Zone proposal is adopted with minor expansions to zones in the southern tier to include the Highlands Ranch area. The zones have also been renumbered.

REMAINING ISSUES

Several issues came to light at the hearing which were not addressed in the initial proposed rules. At the outset, all cab companies expressed a desire for an ability to change the zones once DIA opens if experience indicates this is necessary. The rule addresses this in that it requires that the taxicab companies affected make an initial tariff filing which utilizes the zones set out in the rules. If the zones prove unworkable, any company could file a tariff change proposing to change the zones, which the Commission, by prescription order, could apply to all taxicab companies. The rule only requires that the initial filing contain the zones set forth in the rule.

The question of uniform fares was raised at the hearing. Some commentators felt that uniform fares should also be mandated. However, this is beyond the scope of this rulemaking, although the Commission may wish to address it at some point in a rate proceeding.

The rules as proposed require zone fares for shared rides. Yellow Cab indicated that it proposed to have zone fares for trips which were not shared rides. The rules do not preclude this.

Finally, at least one cab company expressed a desire to use zone fares for shared rides to different zones. While the rules do not require this, they do not preclude it either. The rules only require that the taxicab companies offer zone fares for a shared ride to or from the same zone.

Finally, the rules should clarify that the fare to any drop-off point which is on the boundary of two zones shall be the lower of the two fares.

ORDER

THE COMMISSION ORDERS THAT:

1. The Rules and Regulations Governing Taxicabs Transporting Passengers to and From Denver International Airport, attached as Appendix A, are adopted.

2. The rules shall be effective 20 days after publication by the Secretary of State.

3. An opinion of the Attorney General of the State of Colorado shall be properly sought regarding the constitutionality and legality of the rules found in Appendix A to this Decision.

4. The Commission Director shall file with the Office of the Secretary of the State of Colorado, for publication in The Colorado Register, a copy of the rules found in Appendix A adopted by this Decision, and when obtained, a copy of the opinion of the Attorney General of the State of Colorado regarding the constitutionality and legality of these rules.

5. The rules found at Appendix A should be submitted by the Commission's Director to the appropriate committee of reference of the Colorado General Assembly, if the General Assembly is in session at the time this Order becomes effective, or to the Committee on Legal Services, if the General Assembly is not in session, for the opinion as to whether the adopted rules conform with § 24-4-103, C.R.S.

6. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

7. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

- a. IF NO EXCEPTIONS ARE FILED WITHIN 20 DAYS AFTER SERVICE OR WITHIN ANY EXTENDED PERIOD OF TIME AUTHORIZED, OR UNLESS THE DECISION IS STAYED BY THE COMMISSION UPON ITS OWN MOTION, THE RECOMMENDED DECISION SHALL BECOME THE DECISION OF THE COMMISSION AND SUBJECT TO THE PROVISIONS OF § 40-6-114, C.R.S.
- b. IF A PARTY SEEKS TO AMEND, MODIFY, ANNUL, OR REVERSE BASIC FINDINGS OF FACT IN ITS EXCEPTIONS, THAT PARTY MUST REQUEST AND PAY FOR A TRANSCRIPT TO BE FILED, OR THE PARTIES MAY STIPULATE TO PORTIONS OF THE TRANSCRIPT ACCORDING TO THE PROCEDURE STATED IN § 40-6-113, C.R.S. IF NO

TRANSCRIPT OR STIPULATION IS FILED, THE COMMISSION IS BOUND BY THE FACTS SET OUT BY THE ADMINISTRATIVE LAW JUDGE AND THE PARTIES CANNOT CHALLENGE THESE FACTS. THIS WILL LIMIT WHAT THE COMMISSION CAN REVIEW IF EXCEPTIONS ARE FILED.

8. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

KEN F. KIRKPATRICK

Administrative Law Judge

KFK:srs

RULES AND REGULATIONS GOVERNING TAXICABS
TRANSPORTING PASSENGERS TO AND FROM DENVER
INTERNATIONAL AIRPORT

STATEMENT OF BASIS AND PURPOSE

The purpose for these rules is to insure efficient use of taxicab service to and from Denver International Airport by requiring taxicabs to provide a shared ride program. The statutory basis for these rules is § 40-10-102, C.R.S.

RULE - 1 APPLICATION OF RULES AND REGULATIONS

These rules shall apply to any taxicab company whose certificate of public convenience and necessity includes the zones described in these rules.

RULE - 2 DEFINITIONS 2.1

Rule 2.1 A "party" is 1, 2, or 3 persons traveling together between Denver International Airport (DIA) and the same origination or destination in one of the zones described in these rules.

Rule 2.2 A "shared ride" shall be defined as two or more parties traveling in the same vehicle between DIA and any one of the zones described in these rules.

RULE 3 - REQUIREMENTS OF SERVICE

Shared ride service shall be available on request at a flat rate, zone fare for each party when two or more parties are traveling to or from the same zone from or to DIA.

RULE 4 - TARIFF RATES AND CHARGES

4.1 The charge for the shared ride shall be a per party rate and shall not involve the use of the meter. The passengers shall not be charged waiting time. The fare for transportation to or from a point which is on the boundary of two zones shall be the lower zone fare.

4.2 Each taxicab company subject to these rules shall file tariffs to be effective on one day's notice, within ten days of

the effective date of these rules, which set forth zone fares to and from the zones established by these rules from and to DIA, and which use the zones set out in these rules.

RULE 5 DESCRIPTION OF ZONES

- Zone 1 Beginning at the intersection of McIntyre Street (as extended) and 88th Avenue (as extended), then north along McIntyre Street (as extended) to Dillon Road, then east along Dillon Road to U.S. Highway 287 (Wadsworth Boulevard), then south along U.S. Highway 287 (Wadsworth Boulevard) to 88th Avenue, then west along 88th Avenue (as extended) to the point of beginning.
- Zone 2 Beginning at the intersection of 88th Avenue and Wadsworth Boulevard, then north along Wadsworth Boulevard (U.S. Highway 287) to Dillon Road, then east along Dillon Road and 144th Avenue to Pecos Street (as extended), then south along Pecos Street (as extended) to 88th Avenue, then west along 88th Avenue (as extended) to the point of beginning.
- Zone 3 Beginning at the intersection of 88th Avenue and Pecos Street, then north along Pecos Street (as extended), to 144th Avenue, then east along 144th Avenue to Peoria Street (as extended), then south along Peoria Street (as extended) to Colorado Highway 2, then southwest along Colorado Highway 2 to 88th Avenue, then west along 88th Avenue to the point of beginning.
- Zone 4 Beginning at the intersection of 52nd Avenue and McIntyre Street, then north along McIntyre Street (as extended) to 88th Avenue (as extended), then east along 88th Avenue (as extended) to Wadsworth Boulevard, then south along Wadsworth Boulevard to 52nd Avenue, then west along 52nd Avenue (as extended) to the point of beginning.
- Zone 5 Beginning at the intersection of Wadsworth Boulevard and 52nd Avenue, then north along Wadsworth Boulevard to 88th Avenue, then east along 88th Avenue (as extended) to Pecos Street, then south along Pecos Street to 52nd Avenue, then west along 52nd Avenue to the point of beginning.

- Zone 6 Beginning at the intersection of 52nd Avenue and Pecos Street, then north along Pecos Street to 88th Avenue, then east along 88th Avenue to Colorado Highway 2, then southwest along Colorado Highway 2 to Quebec Street, then south along Quebec Street to 52nd Avenue (as extended), then west along 52nd Avenue to the point of beginning.
- Zone 7 Beginning at the intersection of Alameda Parkway and C-470, then north along C-470 to I-70, then northeast along I-70 to U.S. Highway 6, then west along U.S. Highway 6 to Colorado Highway 58, then northeast along Colorado Highway 58 to McIntyre Street, then north along McIntyre Street to 52nd Avenue, then east along 52nd Avenue to Kipling Street, then south along Kipling Street to Alameda Parkway, then west along Alameda Avenue (Parkway) to the point of beginning.
- Zone 8 Beginning at the intersection of 6th Avenue and Kipling Street, then north along Kipling Street to 52nd Avenue (as extended), then east along 52nd Avenue (as extended) to Federal Boulevard, then south along Federal Boulevard to 6th Avenue, then west along 6th Avenue to the point of beginning.
- Zone 9 Beginning at the intersection of Federal Boulevard and 13th Avenue, then north along Federal Boulevard to 52nd Avenue, then east along 52nd Avenue to Colorado Boulevard, then south along Colorado Boulevard to 13th Avenue, then west along 13th Avenue to the point of beginning.
- Zone 10 Beginning at the intersection of 13th Avenue and Colorado Boulevard, then north along Colorado Boulevard to 52nd Avenue, then east along 52nd Avenue (as extended), to Peoria Street, then south along Peoria Street to 13th Avenue, then west along 13th Avenue to the point of beginning.
- Zone 11 Beginning at the intersection of C-470 and U.S. Highway 285, then north along C-470 to Colorado Highway 26, then east along Colorado Highway 26 (Alameda Parkway) to Kipling Street, then north along Kipling Street to 6th Avenue, then east along 6th Avenue to Federal Boulevard, then south along Federal Boulevard to Hampden Avenue, then west along Hampden Avenue (U.S. Highway 285) to the point of beginning.

- Zone 12 Beginning at the intersection of Federal Boulevard and Iliff Avenue (as extended), then north along Federal Boulevard to 13th Avenue (as extended), then east along 13th Avenue (as extended) to Broadway, then south along Broadway to Alameda Avenue, then east along Alameda Avenue to University Boulevard, then south along University Boulevard to Iliff Avenue (as extended), then west along Iliff Avenue (as extended) to the point of beginning.
- Zone 13 Beginning at the intersection of Iliff Avenue (as extended) and University Boulevard, then north along University Boulevard to Alameda Avenue, then west along Alameda Avenue to Broadway, then north along Broadway to 13th Avenue, then east along 13th Avenue to Monaco Parkway, then south along Monaco Parkway to Leetsdale Drive, then southeast along Leetsdale Drive and Parker Road to Iliff Avenue (as extended), then west along Iliff Avenue (as extended) to the point of beginning.
- Zone 14 Beginning at the intersection of Iliff Avenue and Parker Road, then northwest along Parker Road to Monaco Parkway, then north along Monaco Parkway to 13th Avenue, then east along 13th Avenue to Peoria Street, then north along Peoria Street to Montview Boulevard, then east along Montview Boulevard (as extended) to Sable Boulevard, then south along Sable Boulevard to Iliff Avenue, then west along Iliff Avenue to the point of beginning.
- Zone 15 Beginning at the intersection of Iliff Avenue and Sable Boulevard, then north along Sable Boulevard to Montview Boulevard (as extended), then east along Montview Boulevard (as extended) to Gun Club Road, then south along Gun Club Road to Iliff Avenue (as extended), then west along Iliff Avenue (as extended) to the point of beginning.
- Zone 16 Beginning at the intersection of Federal Boulevard and Orchard Road, then west along Orchard Road to Platte Canyon Road, then south along Platte Canyon Road to C-470, then west and northwest along C-470 to Highway 285, then east along Highway 285 and Hampden Avenue to Federal Boulevard, then south along Federal Boulevard to Orchard Road.

- Zone 17 Beginning at the intersection of Federal Boulevard and Orchard Road (as extended), then north along Federal Boulevard to Iliff Avenue (as extended), then east along Iliff Avenue (as extended) to University Boulevard, then south along University Boulevard to Orchard Road, then west along Orchard Road (as extended) to the point of beginning.
- Zone 18 Beginning at the intersection of Orchard Road and University Boulevard, then north along University Boulevard to Iliff Avenue, then east along Iliff Avenue (as extended) to Parker Road, then south along Parker Road to Orchard Road (as extended), then west along Orchard Road (as extended) to the point of beginning.
- Zone 19 Beginning at the intersection of Parker Road and Arapahoe Road, then north along Parker Road to Iliff Avenue, then east along Iliff Avenue (as extended) to Gun Club Road, then south along Gun Club Road to Arapahoe Road (as extended), then west along Arapahoe Road (as extended) to the point of beginning.
- Zone 20 Beginning at the intersection of North Highlands Ranch Parkway and U.S. Highway 85, then north along U.S. Highway 85 to C-470, then west along C-470 to Platte Canyon Road, then north along Platte Canyon Road to Orchard Road as extended, then east along Orchard Road to Colorado Boulevard, then south along Colorado Boulevard to University Boulevard, then northwest along University Boulevard to North Highlands Ranch Parkway, then west along North Highlands Ranch Parkway to the point of beginning.
- Zone 21 Beginning at the intersection of South University Boulevard and Colorado Boulevard, then north along Colorado Boulevard to Orchard Road, then east along Orchard Road (as extended) to Parker Road, then south along Parker Road to Lincoln Avenue, then west along Lincoln Avenue and South University Boulevard to the point of beginning.