

Decision No. C22-0792-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22V-0538TNC

IN THE MATTER OF HOPSKIPDRIVE, INC.'S CONFIDENTIAL VERIFIED PETITION FOR WAIVER FROM TEMPORARY RULES 6724(E) AND 6724(F) PROMULGATED IN PROCEEDING NO. 22R-0359TR PURSUANT TO COMMISSION RULES 1003 AND 6003(A)(I).

**INTERIM DECISION ISSUING NOTICE OF PETITION FOR
RULE WAIVERS AND SHORTENING PERIOD FOR NOTICE,
INTERVENTION, AND RESPONSE TO PETITION**

Mailed Date: December 7, 2022
Adopted Date: December 7, 2022

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

I. BY THE COMMISSION

A. Statement, Findings, and Conclusions

1. By this Decision, the Commission issues notice of, and establishes a shortened period **through December 14, 2022**, for notice, intervention, and response to, the petition filed by HopSkipDrive, Inc. (HopSkipDrive) on December 1, 2022, requesting waiver of certain Commission rules (Petition). Through the Petition, HopSkipDrive requests waiver of Rules 6724(e) and (f) within the Commission's Transportation Network Company Rules, 4 *Code of Colorado Regulations* (CCR) 723-6-6700 through 6724.

Rule 6724(e) requires, in relevant part:

A TNC shall not permit a person to act as a driver, when performing services provided under a contract with a school or school district, unless the driver has been medically examined and certified under the provisions of 49 C.F.R. 391.41.

Rule 6724(f) requires, in relevant part:

A TNC shall not permit the use of a personal vehicle, when performing services provided under contract with a school or school district, unless the individual performing the vehicle inspection, as outlined in 6714, is an Automotive Service Excellence (ASE) certified mechanic qualified to perform the inspection and employed by a company authorized to do business in Colorado.

2. Rules 6724(e) and (f) were adopted as temporary rules through Proceeding No. 22R-0359TR, effective September 19, 2022. The temporary rules adopted in Proceeding No. 22R-0359TR satisfy the immediate Commission rulemaking obligations enacted in Senate Bill 22-144, codified at §§ 40-10.1-605(1)(r), C.R.S. (requiring driver training rules); 40-10.1-608(3)(a), C.R.S. (requiring minimum safety standards rules); and 40-10.1-609(2)(a), C.R.S. (requiring reporting rules). As set forth in the Commission's order adopting the temporary rules (Decision No. C22-0552, issued September 19, 2022), the temporary rules remain in effect until permanent rules become effective or for 210 days, whichever period is less. *See* § 40-2-108(2), C.R.S. Through the Petition, HopSkipDrive seeks waiver of Rules 6724(e) and (f) until the sooner of either April 17, 2023, which is 210 days after the effective date of the temporary rules, or the date on which the Commission's permanent rules adopted in ongoing Proceeding No. 22R-0402TR become effective.

3. In Decision No. C22-0552 adopting the temporary rules, the Commission stated it expected transportation network companies engaging in subject services to immediately begin diligent efforts to update their operations and procedures to comply with the standards in the temporary rules; however, a reasonable allowance would be made in strict enforcement of the rules through December 31, 2022, recognizing it will take a period of time for such companies to reach full compliance with all the standards implemented through the temporary rules.

4. In the Petition, HopSkipDrive states that, although it immediately began diligent efforts to comply with the standards implemented through the temporary rules, it anticipates it will be unable to ensure compliance with Rules 6724(e) and (f) by the December 31, 2022, strict enforcement deadline established in Decision No. C22-0552. HopSkipDrive requests the Commission therefore proceed expeditiously in this Proceeding and render a decision on the Petition no later than December 31, 2022. To accommodate an expedited procedural schedule, HopSkipDrive requests the Commission shorten the notice and intervention period for the Petition to seven days.

5. Rule 4 CCR 723-1-1003(b) specifies that if a petition requests a waiver to be effective less than 40 days after the date of filing, the petition must include a request to waive or shorten the default 30-day period for Commission notice and intervention set forth in Rule 4 CCR 723-1-1206(d).

6. We find it appropriate in these circumstances to shorten the period for notice, intervention, and response to the Petition in order to accommodate an expedited procedural schedule that would allow us to reach a decision on the merits of the Petition by December 31, 2022. The Commission therefore establishes a shortened period of seven days, through December 14, 2022, for notice, intervention, and response to the Petition. We intend to then take up the merits of the Petition at the December 21 or 28, 2022 Commissioners' Weekly Meeting, to the extent schedules allow.

7. Finally, HopSkipDrive represents in the Petition that it conferred with the Colorado Department of Education (CDE) and is authorized to state that CDE supports the relief requested in the Petition. Recognizing that Senate Bill 22-144 instructs the Commission to coordinate with CDE in promulgating implementing rules and to periodically, in consultation with CDE, review and update the rules as reasonably necessary to ensure safe student transportation, the Commission requests that CDE make an appropriate filing in this Proceeding explaining its support for the Petition. Having

that relevant information in the record will assist the Commission in rendering a decision on the merits of the Petition.

8. 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 HopSkipDrive's Petition requesting waiver of certain Commission rules has been filed.**

II. ORDER

A. **It Is Ordered That:**

1. The Commission adopts a shortened period for notice, intervention, and response to the petition filed by HopSkipDrive, Inc. on December 1, 2022, seeking waiver of certain Commission rules (Petition).

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

3. 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, together with any response supporting or opposing the Petition, by **December 14, 2022**.

4. Alternatively, persons who do not wish to intervene or become a party, but desire to file comments, may send written comments by **December 14, 2022**, 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.

5. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
December 7, 2022.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script, appearing to read "G. Harris Adams".

G. Harris Adams,
Interim Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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JOHN GAVAN

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Commissioners