

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14M-1014TR

IN THE MATTER OF POSSIBLE RULE REVISIONS TO THE COMMISSION'S RULES
RELATING TO TRANSPORTATION NETWORK COMPANIES.

**DECISION: (1) OPENING MISCELLANEOUS
PROCEEDING; (2) REQUESTING
COMMENTS AND DRAFT OF PROPOSED RULES;
(3) SCHEDULING HEARING; AND (4) REFERRING THE
MATTER TO AN ADMINISTRATIVE LAW JUDGE**

Mailed Date: October 17, 2014

Adopted Date: October 15, 2014

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I. BY THE COMMISSION**A. Statement**

1. The Colorado Public Utilities Commission (Commission or PUC) opens this proceeding upon its own motion to consider revisions to 4 *Code of Colorado Regulations* (CCR) 723-6, Rules Regulating Transportation by Motor Vehicle. Section § 40-10.1-608, C.R.S., authorizes the Commission to promulgate rules concerning administration, fees, and safety requirements for Transportation Network Companies (TNCs), consistent with part 6 of title 40, article 10.1.

2. By this Decision we: (1) open this miscellaneous proceeding; (2) refer this matter to an Administrative Law Judge (ALJ); (3) invite and request the submission of comments and draft rule language from TNCs, providers of transportation, consumers, and other interested persons; and, (4) schedule a hearing for the discussion of those comments and submissions.

B. Temporary Rulemaking

3. In Proceeding No. 14R-0737TR, the Commission found it necessary to revise its Rules Regulating Transportation by Motor Vehicle, 4 CCR 723-6, to include temporary rules implementing the application process and requiring TNCs to provide necessary information before the issuance of a permit. Further, the temporary rules adopted safety standards applicable to TNCs and their drivers.¹

4. The temporary rules became effective, pursuant to §§ 40-2-108(2) and 24-4-103(6), C.R.S., on the mailed date of the Commission decision, July 8, 2014, and will remain in effect for 210 days or until permanent rules replace the temporary rules.

¹ See Decision No. C14-0773.

C. Miscellaneous Proceeding

5. Senate Bill 14-125 is landmark legislation recognizing TNCs and TNC services in Colorado, subject to limited regulation. This Commission historically has regulated motor carriers; however, TNCs represent a different model for providing transportation through digital networks and individuals using their personal vehicles. Due to the modernity of the TNC model, we believe that our proposals for permanent rules will be better informed if we undertake this miscellaneous proceeding and gather information and suggested rules from stakeholders prior to issuing a Notice of Proposed Rulemaking.

6. We ask that participants to this proceeding consider rule language that accounts for public safety and financial responsibility, the Commission Staff's need for concise and enforceable rules, and the legislative intent to promote innovative transportation services.

1. Timing and Formatting of Draft Rule Language

7. We request that all interested participants file comments in this proceeding, including draft rule language, by November 7, 2014. We find that the construction and formatting of 4 CCR 723-6 is best suited to the TNC rules being adopted in their own chapter, 6700, as we have done in the temporary rules. We request that all draft rule language follow this format.

8. Senate Bill 125 requires TNCs and their drivers to comply with several administrative and safety provisions; however, the legislation is not comprehensive and leaves several matters unanswered. The Commission therefore requests participants' input on the following issues:

Permitting Requirements

- Should the PUC adopt temporary Rule 6701 as a permanent rule, and if not, how should Rule 6701 be amended?

Insurance Requirements/Filing the Forms Tand P

- Which provisions within temporary Rule 6702 addressing financial responsibility should be adopted?
- What documentation should a TNC be required to file with the Commission to evidence that the TNC or its drivers have secured insurance required by § 40-10.1-604, C.R.S., and when should the documentation be filed?

Medical Fitness

- Should the PUC adopt temporary Rule 6703(c) as a permanent rule?
- What criteria should determine whether a person is medically fit to drive for a TNC, and how should medical fitness be proven or documented?

Street Hails

- What rules should be adopted to prevent street hails by TNC drivers?
- Should the permanent rules establish areas near established cab stands where TNCs should not be stationed?

Driver Fatigue

- Should the PUC adopt temporary Rule 6703(b) as a permanent rule?
- What should be the driver's period of rest after working 12 consecutive hours?
- Should the permanent rules account for consecutive hours driven less than 12 and allow a driver to work multiple shifts during the day, provided the driver rests for a set number of hours depending upon the hours worked?
- How should the permanent rules address driver fatigue resulting from several consecutive days of driving, such as driving up to 80 hours in 8 consecutive days?
- How should the permanent rules account for drivers working consecutive shifts for different TNCs and motor carriers?

Vehicle Inspection Standards

- What standards should the permanent rules implement for the inspection of vehicles providing TNC services so there is consistency between inspections?

- Should temporary Rule 6703, as addressed in Decision No. C14-1032, be adopted as the permanent rule?
- What should be the qualifications of vehicle inspectors?

Taxicab Conversion to TNC

- What regulations apply to a motor carrier providing taxicab services if it converts to a TNC and only partially suspends its certificate of public convenience and necessity?

Vehicle Markings

- Should the permanent rules require vehicle display markings?
- Should there be times when a personal vehicle used for TNC services should not display markings?
- If the rules require vehicle markings, what should be the visibility requirements?

Driving History Record Checks

- How often should a TNC be required to obtain and review driving history record checks of its drivers?

Administration of Rules

- Should the permanent rules require that if a TNC operates under a trade name, that the TNC be required to have the trade name on file with the Commission?
- Should the permanent rules impose obligations upon TNCs to retain its documentation of compliance with § 40-10.1-601, *et seq.*, and Commission rules, and if so, within what period of time should a TNC be required to provide documents requested by Commission Staff?

9. The Commission invites interested persons and participants to comment and address any other issues raised by Senate Bill 125.

10. The Commission requests comments on the manner in which the permanent rules should require TNCs to prove compliance with § 40-10.1-601, *et seq.*, C.R.S., and Commission rules through documentation or alternative means available to the PUC. Participants' comments should specify which rules do or do not require proof of compliance.

2. Hearing

11. A hearing will be held on December 2, 2014, to discuss all comments and draft language submitted and to engage in a collaborative effort with the goal of streamlining the permanent rulemaking. The ALJ assigned to this matter shall determine whether additional hearings are needed.

3. Referral to an Administrative Law Judge

12. We refer this proceeding to an ALJ. At the conclusion of the comment(s) and workshop(s) proceedings, the ALJ shall issue a recommended decision including a summary of comments and draft language received and a recommendation of draft language for the Commission to incorporate into a Notice of Proposed Rulemaking.

D. Findings and Conclusions

13. We find it is in the public interest to open this miscellaneous proceeding on our own motion for the purposes of soliciting input to inform a future permanent rulemaking regarding TNCs.

14. We refer this matter to an ALJ to evaluate comments for consideration, to hold a hearing, and to schedule other proceedings as necessary. The ALJ shall conduct an inquiry with the intent of providing recommendations as described above.

II. ORDER

A. The Commission Orders That:

1. A miscellaneous proceeding is opened for purposes of soliciting comment from interested persons and stakeholders on the matters described above, including proposed rules regulating Transportation Network Companies.

2. The Commission refers this matter to an Administrative Law Judge.

3. A hearing discussing the submitted comments and draft language will be held before an Administrative Law Judge at the following date, time, and location:

DATE: December 2, 2014
TIME: 9:00 a.m.
PLACE: Commission Hearing Room
1560 Broadway, Suite 250
Denver, Colorado

4. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
October 15, 2014.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

PAMELA J. PATTON

GLENN A. VAAD

Commissioners