

(Decision No. C94-14)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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IN THE MATTER OF PROPOSED RULES)	
GOVERNING TAXICABS TRANSPORTING)	
PASSENGERS TO AND FROM DENVER)	DOCKET NO. 93R-420CP
INTERNATIONAL AIRPORT.)	

COMMISSION RULING ON EXCEPTIONS

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Mailing Date: January 7, 1994
Adopted Date: January 5, 1994
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BY THE COMMISSION:

By Decision No. C93-862, we initiated this rulemaking proceeding concerning the transportation of passengers by taxicab to and from Denver International Airport ("DIA"). Specifically, the rules proposed for adoption in this proceeding were intended to require taxicabs operating to and from DIA to provide shared ride service. ("Shared rides," according to the proposed rules, involved two or more parties traveling together in the same taxicab between DIA and any one of the zones specified in the rules. The charges for shared rides were to be set on a flat rate (depending on the zone), per-passenger basis.)

The rulemaking hearing in this case was conducted by an Administrative Law Judge ("ALJ") for the Commission on September 23, 1993. Based upon the oral and written comments, the ALJ issued Decision No. R93-1320 recommending adoption of certain

rules. See Appendix A to Decision No. R93-1320. Boulder Airporter Inc.; Southeast Airporter, Inc.; and Colorado PUC No. 191 Corp., all doing business as "Airporter" submitted exceptions to the Recommended Decision on November 12, 1993. Metro Taxi, Inc. ("Metro") submitted exceptions on November 26, 1993. Cabs, Inc, doing business as Zone Cab Co. ("Zone") has submitted a response to Airporter's exceptions. Now being duly advised in the matter, we deny the exceptions and adopt the rules set forth on Appendix A to Decision No. C93-1320. In considering the exceptions to the Recommended Decision, we are persuaded by the ALJ's findings and conclusions. We hereby adopt those findings and conclusions as our own.

The gist of the exceptions by Airporter are that the rules, which implement shared ride service by taxicab at per-passenger rates, unlawfully convert taxi service into limousine service. Airporter notes that "taxi service" involves service on a call-and-demand basis, and that the "first passenger shall have exclusive use of the vehicle unless he or she agrees to multiple loading." Rules and Regulations Governing the Operation of Taxicabs, 4 CCR 723-14, Rule 2.1. On the other hand, "limousine service" involves "the transportation of passengers charged at a per-person rate, and the use of the vehicle is not exclusive to any individual or group." Rules and Regulations Governing Common Carriers by Motor Vehicle, 4 CCR 723-8, Rule 19(D). According to Airporter's exceptions, the shared ride rules are a *de facto* grant

of limousine authority to taxicabs operating to and from DIA, without compliance with applicable statutes. We disagree.

We agree with Zone's response to Airporter's arguments as well as the ALJ's conclusion on this issue (page 2 of Recommended Decision). For example, the response points out that the proposed rules do not change the existing concept that taxi service is an exclusive use service, unless the first passenger engaging the taxicab agrees to a shared ride arrangement. The proposed rules are consistent with the existing definition of taxicabs found in Rule 2.1, 4 CCR 723-14. Moreover, the existing taxi rules expressly permitted multiple loading of passengers at reduced rates. Rule 4, 4 CCR 723-14. As for Airporter's assertion that taxi service may not be priced on a per-passenger, zone basis, the response points out the inaccuracies in this statement (e.g., some taxi companies, in the past, have charged a per-passenger, zone rate). In short, we disagree with Airporter's contentions that the rules convert taxi service to limousine service.

Metro's exceptions do not challenge the rules, but simply request certain clarifications or additions. First, Metro suggests that the rules set fares to allow for a total shared ride rate higher than the exclusive ride rate. We note that the rules do not prescribe specific rates for shared ride arrangements. Therefore, the taxi companies subject to the rules may propose whatever rates they find to be just and reasonable. The Commission encourages the

filing of shared ride rates that will offer financial incentives to both the driver and to the individuals in each shared ride party.

Second, Metro suggests that fares for ridesharing should be uniform for all providers, and that this requirement be set forth in the rules. While this suggestion may have some merit, such a rule may exceed the scope of the notice of rulemaking in this docket. Therefore, it would be more appropriate to investigate this proposal in a future rulemaking proceeding.

Last, Metro suggests that the rules establish a mechanism for changing the zones in the event modifications are necessary. Apparently, Metro is concerned that the rules establish zones which may only be changed through rulemaking. This assumption is incorrect. The Recommended Decision stated (page 5), and we agree, that the rules merely establish zones as an initial starting point. However, the zone descriptions shall be published in the carriers's respective tariffs. The taxi companies retain the right to modify the zones pursuant to the tariff filing procedure. Under that procedure, the Commission may approve changes to the zones as published in the tariffs of the subject companies. We clarify that it is the intent of the rules that any future modifications to the zones will apply to all taxi companies subject to the rules.

THEREFORE THE COMMISSION ORDERS THAT:

1. The Exceptions to Decision No. R93-1320 are denied.

2. The rules attached as Appendix A to Decision No. R93-1320 are adopted as Commission rules, subject to further order of the Commission.

3. The 20-day period provided for by section 40-6-114(1), C.R.S. (1993), within which to file applications for rehearing, reargument, or reconsideration begins on the first day following the mailing date of this decision.

4. Unless modified by further order of the Commission, this order adopting rules shall be effective 30 days following the mailing date of this decision.

This order is effective upon its Mailed Date.

ADOPTED IN OPEN MEETING January 5, 1994.

(SEAL)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Robert E. Temmer

Christine E. M. Alvarez
Commissioners

COMMISSIONER VINCENT MAJKOWSKI ABSENT.

ATTEST: A TRUE COPY

A handwritten signature in cursive script, appearing to read "Bruce N. Smith".

Bruce N. Smith
Director