

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 15R-0062TR¹

IN THE MATTER OF THE TEMPORARY RULES IMPLEMENTING SENATE BILL 14-125
CONCERNING THE REGULATION OF TRANSPORTATION NETWORK COMPANIES.

DECISION ADOPTING TEMPORARY RULES

Mailed Date: January 29, 2015
Adopted Date: January 28, 2015

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for adoption of temporary rules to preserve the health, safety and welfare of Coloradans and visitors to our state using the services of Transportation Network Companies. These temporary rules are effective for 210 days from February 4, 2015, or until the Commission issues permanent rules to implement portions of Senate Bill 14-125. For the reasons set forth in this Decision, we have the authority to adopt temporary rules under § 24-4-103(6), C.R.S.

B. Background

2. On June 5, 2014, Senate Bill 14-125 became effective, and it authorized Transportation Network Companies (TNCs) to operate in Colorado. *See* §§ 40-10.1-601 to -608, C.R.S.² A TNC “uses a digital network to connect riders to drivers for the purpose of providing transportation.” § 40-10.1-602(3), C.R.S.

¹ Proceeding number is corrected by Errata Notice 15R-0062TR.

² Senate Bill 14-125 also amended §§ 40-1-102, C.R.S., 40-7-112, C.R.S., 40-10.1-101, C.R.S., 40-10.1-103, C.R.S., and 40-10.1-117, C.R.S.

3. On July 8, 2014, we issued a Decision adopting temporary rules implementing Senate Bill 14-125.³ See Rules 6700-6703 of the Rules Regulating Transportation by Motor Vehicle, 4 *Colorado Code of Regulations (CCR)* 723-6. These temporary rules will remain in effect for 210 days or until permanent rules replace the temporary rules. See § 40-2-108(2), C.R.S.

4. On October 17, 2014, we opened a miscellaneous proceeding to allow interested participants to provide information to the Commission and to suggest permanent rules before the Commission issues a Notice of Proposed Rulemaking.⁴ The TNCs operating in Colorado have experience operating in many parts of the nation and the world, and a proceeding in which industry members provide advance input to proposed rules would promote the efficient use of the Commission's and participants' resources. We also referred the matter to an Administrative Law Judge (ALJ) and set a hearing date.

5. At the request of interested participants, including TNCs, taxicab companies, and Staff of the Commission (Staff), the ALJ continued the hearing twice to allow more time for negotiation, collaboration, and consensus, among the participants.⁵ Interested parties filed proposed rule language into this proceeding on January 16 and 23, 2015. The next hearing before the ALJ is set for February 17, 2015.

6. Because permanent rules will not be effective before the prior temporary rules expire, we find it necessary to issue temporary rules to ensure that rules promoting the public health, safety and welfare are in place until permanent rules become effective.

³ Decision No. C14-0773 in Proceeding No. 14R-0737TR.

⁴ Decision C14-1246 in Proceeding No. 14M-1014TR.

⁵ See Decision No. R14-1425-I issued on December 2, 2014; Decision No. R15-0049-I issued on January 14, 2014.

C. Findings and Conclusions

7. The Commission may adopt a temporary rule without engaging in the processes required for a permanent rule “only if the agency finds that immediate adoption of the rule is imperatively necessary to comply with a state or federal law or federal regulation or for the preservation of public health, safety, or welfare and compliance with the requirements of this section [to complete a permanent rulemaking] would be contrary to the public interest and makes such a finding on the record.” § 24-4-103(6), C.R.S. For the reasons stated below, we find that immediate adoption of these temporary rules is imperatively necessary to provide for a permitting process and to preserve public safety, health, and welfare.

8. Senate Bill 14-125 requires TNCs to obtain a permit from the Commission before operating in Colorado. § 40-10.1-606(1), C.R.S. “The Commission shall determine the form and manner of application for a Transportation Network Company permit.” § 40-10.1-606(3), C.R.S. The General Assembly made Senate Bill 14-125 immediately effective upon the Governor’s signature, thus indicating a policy of authorizing TNCs to operate and provide transportation services in Colorado as soon as practical. Awaiting the completion of a permanent rulemaking under Title 24 to provide the form and manner of a permit application would delay the process for any new TNCs wishing to operate in the state. Adoption of an immediate rule therefore promotes the General Assembly’s policy of authorizing TNC operations.

9. Senate Bill 14-125 also contains important public safety provisions. Section 40-10.1-605(1)(d)(IV), C.R.S., requires TNCs to confirm that their drivers are medically fit to drive, pursuant to Commission rules. Senate Bill 14-125 limits the number of consecutive hours a driver may offer or provide services to 12; however, it does not address the length of time after a 12-hour consecutive driving period that a driver is not permitted to resume the offering or

provisioning of TNC services. § 40-10.1-605(1)(e), C.R.S. The bill requires TNCs to conduct safety inspections on a vehicle before use for TNC services; but, it does not prescribe the standards applicable to these inspections. § 40-10.1-605(1)(g)(I), C.R.S. This legislation also imposes certain insurance and financial responsibility requirements upon TNC operations. § 40-10.1-604(2), (4), C.R.S.

10. These matters require our immediate and continuing attention to protect public safety. We also find that the time that will transpire before completing a permanent rulemaking on these issues risks the safety of Colorado consumers and visitors to our state. Further, in part due to industry participants and Staff working in good faith to develop and propose sound safety rules for the state of Colorado, the Commission has not been able to complete a permanent rulemaking before the expiration of the prior temporary rules. Thus, immediate adoption of temporary rules addressing certain safety requirements is imperatively necessary to preserve public health, safety, and welfare.

11. We therefore adopt the following temporary rules:

a) Rules providing for the application process and requiring TNCs to provide necessary information before the issuance of a permit. *See* § 40-10.1-606, C.R.S. The Commission will address permit renewals in our permanent rulemaking.

b) Rules clarifying the filing of proof of financial responsibility, as applicable under § 40-10.1-604, C.R.S.

c) Rules clarifying the length of time after a 12-hour consecutive period a driver must not be permitted to resume providing services to the public. Consistent with existing Commission rules, we pattern these rules on the federal hours of service rules found in 49 C.F.R. 393. The Commission has incorporated these federal rules for other transportation

services, and they provide practical and clear standards to drivers, transportation providers, and Commission Staff.

- d) Rules clarifying the requirement that drivers are medically fit to drive.
- e) Rules for vehicle inspection requirements.

12. Senate Bill 14-125 addresses numerous administrative and safety issues in addition to those forming the basis of temporary rules, and we have selected for these temporary rules provisions from Senate Bill 14-125 requiring our immediate attention. In our permanent rulemaking, we will revisit these temporary rules and other provisions of Senate Bill 14-125.

13. The temporary rules shall be effective on February 4, 2015, and shall remain in effect until permanent rules become effective or for 210 days, whichever period is less.

14. The temporary rules issued here are patterned after the temporary rules we adopted on July 8, 2015. The new temporary rules add the applicable sections of the Code of Federal Regulations, as adopted in our Decision granting, in part, an application for rehearing, reargument, or reconsideration of our July 8, 2015, temporary rulemaking.⁶

15. The temporary rules in legislative (strikeout and underline) format, the temporary rules in final version format, and a copy of Senate Bill 14-125 are available through the Commission's E-Filings system⁷ at:

www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=15R-0062TR.

⁶ Decision No. C14-1032, Proceeding No. 14R-0737TR

⁷ From the *Electronic Filings* (E-Filings) system page (<https://www.dora.state.co.us/pls/efi/EFI.homepage>), the rules can also be accessed by selecting "Search" and entering this docket number (15R-0062TR) in the "Proceeding Number" box and then selecting "Search".

II. ORDER

A. The Commission Orders That:

1. The rules in final version format available in this proceeding through the Commission’s E-Filings system are hereby adopted as temporary rules consistent with the above discussion.

2. The temporary rules shall be effective on February 4, 2015.

3. The 20-day period provided in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration, begins on the first day following the effective date of this Decision.

4. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS’ WEEKLY MEETING
January 28, 2015.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

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Commissioners