

Decision No. C21-0180-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 21D-0098CP

IN THE MATTER OF THE PETITION OF ALC SCHOOLS, LLC FOR A DECLARATORY ORDER OR IN THE ALTERNATIVE PETITION FOR RULEMAKING.

**INTERIM COMMISSION DECISION:
(1) ACCEPTING PETITION FOR DECLARATORY ORDER; (2) ISSUING NOTICE; AND (3) REFERRING MATTER TO AN ADMINISTRATIVE LAW JUDGE**

Mailed Date: March 24, 2021

Adopted Date: March 24, 2021

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

I. BY THE COMMISSION

A. Statement

1. By this Decision the Commission accepts, issues notice of, and refers to an Administrative Law Judge (ALJ) the Petition for Declaratory Order or In the Alternative Petition for Rulemaking (Petition) filed by ALC Schools, LLC (ALC Schools) on March 2, 2021. This Decision establishes a 30-day period for notice, interventions, and any responsive briefs. Interventions and any responsive briefs must be filed by 5:00 p.m. on April 23, 2021.

B. Background

2. The Petition seeks a declaratory order that Transportation Network Companies (TNCs), as defined at § 40-10.1-602(3), C.R.S., may not engage in the transportation of students to and from school, school-related activities, and school-sanctioned activities as defined in § 40-10.1-105(1)(b), C.R.S., unless they submit to the jurisdiction of and comply with the Colorado Department of Education's (CDE) promulgated regulations for school transportation as

set forth in 1 *Code of Colorado Regulations* (CCR) 301-25 through 301-26 (as authorized by § 22-51-108, C.R.S., and § 42-4-1904, C.R.S.). The Petition asserts that the Commission should exercise its power to issue a declaratory order holding that TNCs that operate as the functional equivalent of school transportation providers should no longer qualify as TNCs under the statutory definition found at § 40-10.1-602(3), C.R.S., and are instead subject to the CDE's jurisdiction and regulations.

3. In the alternative, ALC Schools requests the Commission initiate a rulemaking to clarify when a TNC is acting as a school transportation provider and enact standards identical to those promulgated by the CDE as applicable to TNCs engaging in school transportation activities in Colorado.

C. Findings and Conclusions

4. The Commission may entertain a petition for declaratory order to terminate a controversy or remove an uncertainty regarding any tariff, statute, or Commission rule, regulation, or order. Rule 4 CCR 723-1-1304(f)(II), of the Commission's Rules of Practice and Procedure. If a petition meets those requirements, the Commission then exercises its discretion to accept or dismiss the petition. Rule 4 CCR 723-1-1304(f)(III).

5. We find that evaluating the question presented in the Petition will remove an uncertainty regarding TNC operations under applicable Colorado law. Therefore, we accept ALC Schools' Petition and issue notice of the Petition to interested persons, firms, and corporations by service of this Decision.

6. The Petition is available for public inspection by accessing the Commission's E-Filing system under the above proceeding number at Colorado.gov/dora/puc. **This Decision is the notice that ALC Schools' Petition has been filed with the Commission.**

7. The notice period for the Petition shall extend for 30 days from the mailed date of this Decision and, therefore, shall extend through and include **5:00 p.m. on April 23, 2021**. The intervention and response period will run concurrent with the notice period. Interventions and responses shall be due by **5:00 p.m. on April 23, 2021**.

8. All matters in this proceeding are referred to an ALJ for disposition including the pending Unopposed Motion for Leave to File Brief as Amicus filed by the Colorado Department of Education on March 3, 2021.

II. ORDER

A. It Is Ordered That:

1. The Petition for Declaratory Order or In the Alternative Petition for Rulemaking, filed by ALC Schools, LLC on March 2, 2021, is accepted.

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

3. The notice period for the Petition shall extend through and include **5:00 p.m. on April 23, 2021**.

4. 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 by **5:00 p.m. on April 23, 2021**.

5. Responsive briefs shall be due from all parties by **5:00 p.m. on April 23, 2021**.

6. Alternatively, persons who do not wish to intervene or become a party, but desire to file comments, may send written comments 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.

- 7. The Petition is referred to an Administrative Law Judge for disposition.
- 8. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
March 24, 2021.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads 'Doug Dean'.

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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JOHN GAVAN

MEGAN M. GILMAN

Commissioners