

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 18R-0915TR

IN THE MATTER OF THE PROPOSED RULES REGULATING LARGE-MARKET
TAXICAB SERVICES, 4 CODE OF COLORADO REGULATIONS 723-6.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
ROBERT I. GARVEY
ADOPTING RULES**

Mailed Date: May 14, 2019

I. STATEMENT

1. On January 11, 2019, the Colorado Public Utilities Commission (Commission) issued a Notice of Proposed Rulemaking regarding proposed Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* 723-6.¹

2. The Commission proposed these rules in order to permanently implement House Bill (HB) 18-1320. HB18-1320 defines the manner in which Large-Market Taxicab (LMT) Service carriers may operate in the State of Colorado. The purpose of Rules 6800 through 6899 is to preserve the health, safety, and welfare of the traveling public who may have occasion to use Large-Market Taxicab Service carriers.

3. The statutory authority for the proposed rules is found in §§ 24-4-104(4), 40-2-108, 40-2-110.5, 40-7-113(2), 40-10.1.101 through 116, and 40-10.1-701 *et seq.*, C.R.S.

¹ Decision No. C19-0037.

A. Background

4. HB18-1320 became effective on August 8, 2018. It adds Part 7 to Article 10.1 of Title 40, and amends §§ 40-1-102, 40-1-103, 40-7-113, 40-10.1-101, 40-10.1-108, 40-10.1-109, 40-10.1-110, 40-10.1-111, and 40-10.1-203, C.R.S.

5. HB18-1320 significantly modified potential taxicab services that may be authorized in Colorado. The stated purpose of the bill is “a reduction in regulation of Large-Market Taxicab Service from regulation as a common carrier to regulation as a motor carrier of passengers.”² For example, § 40-10.1-702, C.R.S., requires that a person obtain a permit rather than a certificate of public convenience and necessity, to operate LMT Service.

6. LMT Service is defined as:

indiscriminate passenger transportation for compensation in a taxicab on a call-and-demand basis, within and between points in the counties of Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, El Paso, Jefferson, Larimer, and Weld, and between those points and all points within the state of Colorado, with the first passenger in the taxicab having exclusive use of the taxicab unless the passenger agrees to multiple loadings.

See, § 40-10.1-101(9.5), C.R.S.

7. In addition to requiring a permit for LMT Service, the new scheme requires that: (1) a motor carrier providing LMT Service in the Counties of Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, and Jefferson must have at least 25 vehicles in its fleet at all times; and (2) a motor carrier operating in El Paso, Larimer, and Weld Counties must have at least 10 vehicles in its fleet. *See*, § 40-10.1-702(4), C.R.S.

² *See*, HB18-1320 attached to this Decision as Attachment B at p. 1.

8. Although these LMT Service carriers will no longer have tariffs on file with the Commission,³ they are nonetheless required to file a schedule showing the rates that will be charged. *See*, § 40-10.1-704, C.R.S. Further, “the commission shall by rule determine the maximum rate that a motor carrier providing large-market taxicab service may charge its passengers” in each county. *See*, § 40-10.1-702(5), C.R.S.

B. Description of Rules

9. Rule 6800 indicates that Rules 6800 *et seq*, apply to LMT Service carriers. This rule also makes clear that the Commission’s general rules, safety rules, and taxicab service rules apply to LMT carriers.

10. Rule 6801 adopts the definition of “large-market taxicab service” pursuant to the language of § 40-10.1-101(9.5), C.R.S.

11. Proposed Rule 6802 concerned the safety and operations of LMT Service carriers as motor carriers pursuant to §§ 40-10.1-106 and 40-10.1-108, C.R.S., while Rules 6000 through 6258 were pending due to changes in Proceeding No. 17R-0796TR. Those rules will become effective May 15, 2019 and apply to motor carriers in general or taxicab carriers specifically. Either way, LMT Service carriers must abide by those rules without reference to them in Rule 6802. Therefore, Rule 6802 only addresses the minimum number of vehicles required in an LMT carrier’s fleet.

12. Rule 6803 establishes the application process for obtaining a permit to provide LMT Service pursuant to § 40-10.1-702, C.R.S.

³ Notably, starting January 1, 2019, the law requires the Commission to remove LMT authority currently authorized by certificates of public convenience and necessity. § 40-10.1-203(2)(c)(III). *See*, Decision No. C19-0205, mailed on February 28, 2019 in Proceeding No. 19M-0103TR.

13. Rule 6804 sets the maximum rates for each county served by a motor carrier providing LMT Service in accordance with § 40-10.1-702(5), C.R.S. The rate established is based on the highest charge for the different rate components currently charged by the taxicab companies operating in the Counties of Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, El Paso, Jefferson, Larimer, and Weld.

14. Rule 6805 establishes the process for the filing of rate schedules as required by § 40-10.1-705, C.R.S.

15. Rule 6806 imposes the immediate revocation of a permit to provide LMT Service for the failure to pay a civil penalty in accordance with § 40-10.1-704, C.R.S.

C. Rulemaking Comments and Hearing

16. No comments were filed before or after the rulemaking hearing held on March 7, 2019.

17. On March 7, 2019, the Staff of the Commission (Staff) appeared at the hearing. No other party appeared.

18. The undersigned Administrative Law Judge (ALJ) questioned Staff about Commission concerns that the rules contained an additional regulatory burden. Staff pointed out that the regulation that concerned the Commission is contained in the statute and would not be an additional burden. The ALJ confirmed that the Rules contained no additional regulatory burdens.

19. The ALJ did not believe further hearings were necessary and adjourned the hearing.

20. Being fully advised in this matter and consistent with the discussion below, in accordance with § 40-6-109, C.R.S., the ALJ now transmits to the Commission the record and exhibits in this proceeding along with a written recommended decision.

21. With no comments either filed or presented at the hearing besides from Staff, the proposed rules shall be adopted with minor changes as outlined above.

II. **ORDER**

A. **The Commission Orders That:**

1. The Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* 723-6-6800 through 6899 contained in final format attached to this Recommended Decision as Attachment A are adopted.

2. The rules in final format (Attachment A), are available through the Commission's E-Filings system at:

https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=18R-0915TR.

3. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

4. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

5. If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

6. If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the

administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

7. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT I. GARVEY

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-6

PART 6

RULES REGULATING TRANSPORTATION BY MOTOR VEHICLE

* * * *

[indicates omission of unaffected rules]

6800. Applicability of Large-Market Taxicab Service (LMT) Carriers.

Rules 6800 through 6899 apply to all Large-Market Taxicab Service carriers and to all Commission proceedings and operations concerning Large-Market Taxicab Service (LMT) carriers permit holders, employees, and drivers. (The general rules, the safety rules, and the taxicab service rules also apply to LMT carriers.)

6801. Definitions.

In addition to the definitions in rule 6001, the following definition(s) apply to LMT:

- (a) "Large-Market Taxicab Service" means indiscriminate passenger transportation for compensation in a taxicab on a call-and-demand basis, within and between the counties of Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, El Paso, Jefferson, Larimer and Weld, and between those points and all points within the state of Colorado, with the first passenger in the taxicab having exclusive use of the taxicab unless the passenger agrees to multiple loadings.

6802. Operations.

- (a) A Large-Market Taxicab Service carrier must have a minimum number of vehicles in its fleet at all times, as described below:
 - (I) 25 vehicles for operations in the counties of Adams, Arapahoe, Broomfield, Boulder, Denver, Douglas, and Jefferson; and
 - (II) ten vehicles for operations in the counties of El Paso, Larimer, and Weld.

6803. Application.

- (a) A person seeking a permit to operate as a Large-Market Taxicab Service carrier shall:
 - (I) file with the Commission, the prescribed application;
 - (II) cause to be filed the required proof of financial responsibility;
 - (III) file a Schedule of Rates pursuant to the requirements of rule 6805;
 - (IV) pay the annual filing fee;

- (V) provide proof that each vehicle operated under the permit has been inspected within the preceding twelve months by a qualified mechanic; and
- (VI) pay or provide proof of previous payment of required vehicle identification fee for each vehicle to be operated.

(b) A permit is valid for one year from the date of issuance.

6804. Maximum Rates for the counties of Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, El Paso, Jefferson, Larimer and Weld.

(a) Maximum Rates

Flag drop	\$3.50
Per mile	\$2.80
Traffic Delay	\$0.40
Waiting time per minute after five mins	\$0.50
Additional passenger fee	\$1.00
Additional baggage fee after three bags	\$1.00

- (b) Traffic delay may not be charged while a vehicle is moving at a speed greater than 15 miles per hour.
- (c) Waiting time will only be charged for the time in excess of five minutes that the taxicab driver is required to wait for the passenger. The calculation of waiting time begins after the taxicab has arrived at the passenger's point of origin, and the passenger has been contacted by telephone or e-mail and advised the taxicab is at the requested pickup location.
- (d) Maximum rates for Large-Market Taxicab Service in the zones identified in paragraph 6255(a) are the rates set forth in paragraphs 6255(c) and (d).
- (e) The maximum rate for each passenger in a multiple loading situation shall be no more than 80 percent of the schedule of rates on file with the Commission.

6805. Schedule of Rates, Filing, and Notice.

- (a) A Large-Market Taxicab Service carrier shall keep on file with the Commission, at all times, a schedule of rates, charges and collections to be assessed for all transportation services provided by the carrier. Rates must be equal to or below the maximum rates set forth in rule 6804.
- (b) Filing a schedule of rates.
 - (I) Rates must be filed on a Commission prescribed form and all applicable fields must be completed.
 - (II) The initial schedule of rates shall be submitted with the application.

- (III) After the initial schedule of rates is filed, the carrier may change its rates by filing the schedule of rates into the proceeding designated by the Commission to receive such schedules using the Commission's E-Filings System. Carriers shall file the schedule of rates concurrently or prior to the date and time the rate change is implemented.
 - (IV)) All Drivers operating a vehicle under a carrier's Large-Market Taxicab Service permit shall charge the current rate that is on file with the Commission for that carrier in that county.
 - (V) In the event a rate is changed while Driver is providing a ride to a passenger, the rate in effect when the ride initiated shall apply.
- (c) Carriers shall post the maximum rates in each vehicle operated to provide service.

6806. Revocation of Large-Market Taxicab Service Permits for Failure to Pay Civil Penalty.

When a Motor Carrier operating under a Large-Market Taxicab Service Permit issued pursuant to Part 7 of Title 40, Article 10.1, C.R.S., fails to pay a Civil Penalty imposed by a final decision of the Commission within the time prescribed for payment, the Permit is revoked immediately. The Motor Carrier, any owner, Principal, officer, member, partner, or director of the Motor Carrier; and any other entity owned or operated by that owner, Principal, officer, member, partner, or director are disqualified from applying for a Permit for 24 months after the date of the Permit revocation.

6807. – 6899. [Reserved].