

Decision No. C15-0407

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 15R-0250TR

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IN THE MATTER OF THE PROPOSED RULES REGULATING TRANSPORTATION  
NETWORK COMPANIES, 4 CODE OF COLORADO REGULATIONS 723-6.

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**NOTICE OF PROPOSED RULEMAKING**

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Mailed Date: April 30, 2015  
Adopted Date: April 16, 2015

**I. BY THE COMMISSION**

**A. Statement**

1. The Colorado Public Utilities Commission (Commission) issues this Notice of Proposed Rulemaking regarding proposed Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* (CCR) 723-6. The proposed rules generally describe the manner of regulation over Transportation Network Companies (TNCs) in the State of Colorado. More specifically, the purpose of Rules 6701-6724 is to preserve the health, safety, and welfare of Coloradans and visitors to our state who use TNC services.

2. For the reasons set forth in this Decision, we have the authority to adopt these rules under § 40-2-108, and 40-10.1.601 through 608, C.R.S.

3. The proposed rules are available as Attachment A through the Commission's E-Filings system in this proceeding (15R-0250TR) at:

[https://www.dora.state.co.us/pls/efi/EFI.Show\\_Docket?p\\_session\\_id=&p\\_docket\\_id=15R-0250TR](https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=15R-0250TR)

**B. Background**

4. On June 5, 2014, Senate Bill 14-125 became effective, authorizing TNCs to operate in Colorado. *See* §§ 40-10.1-601 to 608, C.R.S. (TNC Statute)<sup>1</sup> A TNC “uses a digital network to connect riders to drivers for the purpose of providing transportation.” § 40-10.1-602(3).

5. On July 8, 2014, we issued a Decision adopting temporary rules implementing Senate Bill 14-125.<sup>2</sup> *See* Rules 6700-6703 of the Rules Regulating Transportation by Motor Vehicle, 4 *Colorado Code of Regulations (CCR)* 723-6. These temporary rules were in effect through February 3, 2015. *See* § 40-2-108(2), C.R.S.

6. 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.<sup>3</sup> The TNCs operating in Colorado have experience operating in many parts of the nation and the world, and input received from industry members in this miscellaneous proceeding promoted 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.

7. Interested participants, including TNCs, taxicab companies, and Staff of the Commission, filed proposed rule language and comments on proposed language into that proceeding. After holding a hearing, the ALJ issued Recommended Decision, R15-0223,

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<sup>1</sup> 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.

<sup>2</sup> Decision No. C14-0773 in Proceeding No. 14R-0737TR.

<sup>3</sup> Decision C14-1246 in Proceeding No. 14M-1014TR.

which suggested rule language, posed questions to be answered in a future rule-making proceeding, and closed the proceeding.<sup>4</sup>

8. Because permanent rules would not be effective before the temporary rules expired, on January 29, 2015, the Commission issued new temporary rules to continue needed protections for the public health, safety and welfare.<sup>5</sup> The new temporary rules, rules 6700-6703, 4 CCR 723-6, became effective on February 4, 2015 and will remain in effect through September 2, 2015, or until permanent rules take effect.

### **C. Findings and Conclusions**

9. The TNC statute requires TNCs to obtain a permit from the Commission before operating in Colorado. § 40-10.1-606(1). “The Commission shall determine the form and manner of application for a Transportation Network Company permit.” § 40-10.1-606(3). The TNC Statute also contains important public safety provisions. For example, § 40-10.1-605(1)(d)(IV) requires TNCs to confirm that their drivers are medically fit to drive, pursuant to Commission rules. The TNC Statute 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). The TNC Statute 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). The TNC statute also imposes certain insurance and financial responsibility requirements upon TNC operations. § 40-10.1-604(2), (4).

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<sup>4</sup> Decision No. R15-0223 in Proceeding No. 14M-1014TR, issued March 10, 2015.

<sup>5</sup> Decision No. C15-0106 in Proceeding No. 15R-0062TR.

10. These matters and others require our continuing attention to protect public safety. We therefore issue this Notice of Proposed Rulemaking to address the public safety, health, and welfare of Coloradoans and visitors to our state who use TNC services.

11. The ALJ's suggested rules are the foundation for the proposed rules, but we propose certain changes, which include the following:

- a) Rule 6702(e) requires each TNC to annually reapply for a permit and pay the fee;
- b) Rule 6708(a) requires driver to be able to read and speak English sufficiently to communicate with passengers and enforcement officials;
- c) Rule 6708(b) clarifies that drivers must carry proof of TNC insurance;
- d) Rule 6712 requires that all criminal history record checks must be fingerprint-based, whether conducted pursuant to procedures set forth in Section 40-10.1-110 as supplemented by Commission rules or conducted through a privately administered national criminal history record check;
- e) Rule 6719 requires TNCs to ensure that a driver displays vehicle markings while logged in to the digital network;
- f) Rule 6720(b) requires TNCs to report annually to the Commission a record of discipline administered to drivers for violation of statutes or rules;
- g) Rules 6722(a)-(c) establish hours of service requirements and applies what is known as the "80 in 8" rule for common carriers, which sets the maximum number of hours a driver may be logged into the TNC's digital network at 80 in an 8-day period;<sup>6</sup>

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<sup>6</sup> The Commission is addressing the interpretation of the so called "80 in 8 rule," rule 6103(c), 4 CCR 723-6, in Proceeding No. 15D-0060CP. The outcome of that proceeding will necessarily affect any TNC rule addressing driver fatigue.

- h) Rules 6723(c)-(g) require that a TNC prohibit specified conduct by drivers, such as driving while intoxicated or texting while driving, the TNC is subject to civil penalties if it fails to prevent such behavior or take required actions against it;
- i) Rules 6723(c)-(i) require a TNC to disconnect a driver from the digital network if an enforcement official notifies the TNC that a driver has violated certain safety rules;
- j) Rules 6723(d) and (e) require a TNC to permanently disconnect a driver from the digital network if a driver violates a rule prohibiting driving under the influence of drugs or alcohol;
- k) Rule 6723(f) requires a TNC to disconnect a driver from the digital network for 30 days if a logged in driver is texting while operating a personal vehicle; and
- l) Rule 6724 modifies the civil penalty amounts for some violations making TNC penalties consistent with common carrier penalties for similar violations.

12. The Commission invites interested participants to comment and submit information on the attached proposed rules. We also invite comment on the following questions:

- a) Does the TNC Statute impose obligations upon drivers, or only TNCs? If the statute imposes obligations on drivers, what enforcement mechanisms may the Commission impose upon drivers? Is a TNC subject to a civil penalty for driver violations of the TNC Statute or Commission rules?
- b) Should these rules specify the location and size of the required exterior markings that identify a vehicle used to provide TNC services? Should these rules require that these exterior markings remain in place even though the driver is not logged into the digital network and not providing TNC services?

- c) Should TNC drivers be prohibited from stationing their personal vehicles at or near a recognized taxicab stand, a designated passenger pickup point at an airport, a hotel, or a motel without first being matched with a rider through a digital network?
- d) What is the correct length of time that a TNC must retain a driver's application after that person is no longer providing services for that TNC? Should the length of time correspond to statutes of limitation for any applicable civil or criminal complaints?
- e) Should the Commission require additional vehicle components or equipment be inspected for safety, in addition to the 19 items required to be inspected under § 40-10.1-605(g)(I)? What forms of experience and training qualify a person as capable of performing a vehicle inspection? Do the inspection standards in the proposed rules adequately promote safety?
- f) The fiscal note for Senate Bill 14-125 assumed that 50% of personal vehicles would be inspected by enforcement staff each year. What processes should the Commission implement to meet this expectation?
- g) What constitutes reasonable notice and request by an enforcement official to inspect a personal vehicle and interview TNC personnel and drivers? Should a TNC driver and the driver's vehicle be subject to inspection by an enforcement officer only when the driver is logged into a TNC's digital network, or should enforcement officials be able to investigate a vehicle that operates as a TNC vehicle, even when the driver is logged off? Should a driver be able to avoid a vehicle inspection by logging off?

13. Interested parties may file written comment, including data, views, or arguments, no later than **May 15, 2015**. We also request commenters to include proposed or alternate rule language, as necessary, with their comments. The Commission prefers and encourages interested

persons to submit comments through its Electronic Filing System in this proceeding (15R-0250TR). The Commission will consider all submissions, whether oral or written.

14. We refer this proceeding to an ALJ to hold a public hearing on **June 1, 2015**. Interested persons may provide oral comments at the public hearing unless the ALJ deems oral presentations unnecessary. The ALJ shall provide the record in this proceeding to the Commission for the Commission to issue an initial Commission Decision under § 40-6-109(6), C.R.S.

15. Under § 24-4-103(3)(a.5), C.R.S., the Commission is notifying the members of the General Assembly of the issuance of these proposed rules, because they contain increases in fees or fines. The Commission will place a copy of the notice to the General Assembly into the record of this proceeding.

## **II. ORDER**

### **A. The Commission Orders That:**

1. This Notice of Proposed Rulemaking shall be filed with the Colorado Secretary of State for publication in the May 10, 2015 edition of *The Colorado Register*.

2. A Hearing on the proposed rules and related matters shall be held before an Administrative Law Judge (ALJ) as follows:

DATE: June 1, 2015

TIME: 9:00 a.m.

PLACE: Commission Hearing Room  
Suite 250  
1560 Broadway  
Denver, Colorado

3. The ALJ may set additional hearings, if necessary.

4. Interested persons may file written comments on or before May 15, 2015. The Commission prefers and encourages interested persons to submit comments through its Electronic Filing System at <https://www.dora.state.co.us/pls/efi/EFI.homepage> in this proceeding (15R-0250TR). Interested persons may present comments orally at the hearing, unless the ALJ deems oral comments unnecessary.

5. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
April 16, 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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PAMELA J. PATTON

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GLENN A. VAAD

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Commissioners