

SECTION 1. GENERAL PROVISIONS

Rule 1.01 **Authority**

These rules are promulgated pursuant to, and in accordance with, the Transportation Network Company Services Act, as amended and codified in Ark. Code Ann. § 23-13-701 *et seq.*

Rule 1.02 **Applicability**

These Rules apply to Transportation Network Companies (TNCs) and Transportation Network Services (TNS) as defined in Ark. Code Ann. § 23-13-702. These Rules do not apply to taxicab services as defined in Ark. Code Ann. § 14-57-301 *et seq.*, motor carrier services pursuant to Ark. Code Ann. 23-13-201 *et seq.*, or Street Hail services.

Rule 1.03 **Purpose and Scope**

Consistent with the Transportation Network Company Service Act, these Rules are adopted to ensure the safety, reliability, and cost-effectiveness of TNS; and to preserve and enhance access to transportation options for the state's residents and visitors.

Rule 1.04 **Procedures**

Unless otherwise specified, the Commission's Rules of Practice and Procedure shall govern procedural matters initiated under these Rules.

Rule 1.05 **Definitions**

The following definitions shall apply throughout this Regulation except as otherwise required by context and any references to this Regulation shall include these definitions:

- (a) "Commission." Commissioners of the Arkansas Public Service Commission as defined in Ark. Code Ann. § 23-2-101 or a Presiding Officer designated to act on behalf of the Commission.
- (b) "Digital Network." Any online-enabled application, software, website, or system offered or utilized by a Transportation Network Company that enables the prearrangement of rides with Transportation Network Company Drivers.
- (c) "For-Hire Vehicle." A chauffeured vehicle which on a commercial basis provides shared transport of one or more passengers between locations of the passengers' choice for a fee paid to the driver of the vehicle.
- (d) "Grievance." A method whereby a person or entity may contact Staff for assistance in facilitating a resolution of an issue(s) regarding a Transportation Network Company or Transportation Network Services before the person or entity resorts to initiating a formal complaint docket with the Commission.

- (e) “Limousine.” A large sedan or other luxury vehicle made or modified to carry a large number of passengers and used for the transportation of persons for hire, but does not include any vehicle employed in transporting persons over regular routes having fixed termini or upon regular schedules of operation.
- (f) “Personal Vehicle.” A vehicle that is used by a Transportation Network Company Driver in connection with providing a Pre-Arranged Ride and is owned, leased, or otherwise authorized for use by the Transportation Network Company Driver, and is not a Taxi Cab, Limousine, or For-Hire Vehicle.
- (g) “Pre-Arranged Ride.” The provision of transportation by a Transportation Network Company Driver to a Rider, beginning when a Transportation Network Company Driver accepts a ride requested by a Rider through a Digital Network controlled by a Transportation Network Company, continuing while the Transportation Network Company Driver transports a requesting Rider, and ending when the last requesting Rider departs from the Personal Vehicle, but which does not include transportation provided using a Taxi Cab; Motor carrier service under the Arkansas Motor Carrier Act, 1955, § 23-13-201 et seq.; or Street Hail service.
- (h) “Staff.” Commission employees who may collectively participate in and appear as a Party in investigations at, and Dockets before, the Commission. Staff includes the Executive Director and the Tax Division Director of the Commission and employees who report to those directors. Staff does not include employees of the Commission who provide technical and legal support to the Commissioners.
- (i) “Street Hails.” A method whereby a person wishing transportation and has not pre-arranged the service, signals to an available transport driver by a physical gesture or vocally, or both, that the person wishes to engage that driver’s services.
- (j) “Taxi Cab.” As defined by Ark. Code Ann. § 14-57-301(1), a motor-driven vehicle having a seating capacity not in excess of 7 passengers and used for the transportation of persons for hire, but does not include any vehicle having a seating capacity in excess of 7 passengers and employed in transporting persons over regular routes having fixed termini or upon regular schedules of operation.
- (k) “Transportation Network Company” or “TNC.” A corporation, partnership, sole proprietorship, or other entity licensed under this Regulation and operating in this state that uses a Digital Network to connect Transportation Network Company Riders to Transportation Network Company Drivers who provide Pre-Arranged Rides, but which does not include a company that controls, directs, or manages the Personal Vehicles or Transportation Network Company Drivers that connect to the company’s Digital Network except when agreed to by written contract.
- (l) “Transportation Network Company Driver” or “Driver.” An individual who receives connections to potential passengers and related services from a Transportation Network Company in exchange for payment of a fee to the Transportation Network Company and uses a Personal Vehicle to provide services

for Riders matched through a Digital Network controlled by a Transportation Network Company.

- (m) “Transportation Network Company Rider” or “Rider.” An individual or person who uses a Transportation Network Company’s Digital Network to connect with a Transportation Network Company Driver who provides a Pre-Arranged Ride to a Rider in the Driver’s Personal Vehicle between points chosen by the Rider.
- (n) “Transportation Network Services” or “TNS.” See Pre-Arranged Ride.

SECTION 2. PERMIT APPLICATION

Rule 2.01 **Permit Requirements**

- (a) An individual or entity shall not operate a TNC in the State of Arkansas without first having obtained a permit from the Commission.
- (b) A permit application shall be submitted in accordance with these rules and the Rules of Practice and Procedure. Failure to provide the required information, documents, or fees may result in the application's review being delayed or denied.
- (c) Each permit application must, at a minimum, demonstrate through testimony and exhibits, that procedures and methods have been implemented which will ensure that:
 - (1) the TNC has named an agent for service of process under the Model Registered Agents Act, Ark. Code Ann. §§ 4-20-101 *et seq.* and 23-13-705;
 - (2) the TNC will disclose to TNC Riders the following:
 - (A) the fare calculation method;
 - (B) the applicable rates charged for the TNS;
 - (C) the opportunity to indicate whether the Rider requires a wheelchair-accessible motor vehicle; and
 - (D) that if the TNC cannot arrange wheelchair-accessible TNS in any instance, that the TNC will direct the Rider to an alternate provider of wheelchair-accessible service, if any;
 - (3) the TNC will provide to the Rider the following information prior to the Rider entering the Driver's vehicle:
 - (A) the picture of the Driver;
 - (B) the license plate number of the motor vehicle being used by the Driver; and
 - (C) the option to receive an estimated fare;
 - (4) the TNC will transmit an electronic receipt to the Rider after the Pre-Arranged Ride which indicates:
 - (A) the origin and destination of the trip;
 - (B) the total time and distance of the trip; and

- (C) an itemization of the total fare paid, if any;
- (5) the insurance requirements of Ark. Code Ann. § 23-13-709 have been satisfied by demonstrating either:
- (A) the Driver maintains primary automobile insurance on the Driver's Personal Vehicle that:
 - (i) recognizes the Driver as a providing TNS;
 - (ii) provides coverage while the Driver is:
 - (1) logged on to the TNC Digital Network;
 - (2) engaged in a Pre-Arranged Ride; or
 - (3) otherwise using a Personal Vehicle to provide TNS; and
 - (iii) meets the coverage requirements of Ark. Code Ann. § 23-13-709(a)(1)(B)&(C); or
 - (B) the TNC, on the Driver's behalf, provides automobile coverage for the Driver's Personal Vehicle:
 - (i) in the amounts listed in Ark. Code Ann. § 23-13-709(a)(1)(B)&(C);
 - (ii) which becomes effective if the Driver's primary automobile insurance does not satisfy the requirements listed in Section (A), above,
 - (iii) begins with the first dollar of a claim;
 - (iv) which indicates that the insurer has the duty to defend the claim;
 - (v) is not dependent upon a personal automobile insurer's first denial of a claim nor requires a first denial of a claim; and
 - (vi) that has been placed with an insurer authorized to do business in this state or a surplus-lines insurer eligible under Ark. Code Ann. § 23-65-305;
- (6) the TNC will disclose, in writing, to the Driver prior to the Driver accepting a request for TNS, the following :

- (A) the motor vehicle liability insurance coverage and limits of liability that the TNC provides while the Driver uses a Personal Vehicle in connection with a TNC's Digital Network;
 - (B) that the Driver's own motor vehicle liability insurance policy may not provide coverage while the Driver uses a Personal Vehicle for TNS;
 - (C) that the Driver should ensure that proof of insurance for the Personal Vehicle is in the Driver's possession at the time of providing TNS;
 - (D) in the event of an accident a TNC Driver will be required to:
 - (i) provide insurance coverage information required by any applicable statute or regulation; and
 - (ii) disclose to interested parties, automobile insurers, and investigating police officers whether the Driver was engaged in a Pre-Arranged ride at the time of the accident;
- (7) the TNC has a zero-tolerance policy prohibiting the use of drugs or alcohol while a Driver is providing TNS or is logged into the Digital Network, but is not providing TNS which:
- (A) has been published on the Digital Network;
 - (B) provides procedures:
 - (i) to report a complaint about a Driver whom a Rider or third party reasonably suspects was under the influence of drugs or alcohol during the time that the TNS were provided;
 - (ii) for immediately suspending the Driver's access to the Digital Network and conducting an investigation upon receipt of a Rider's or third party's complaint that that policy has been violated;
 - (iii) to maintain the suspension until such time as the investigation is complete; and
 - (iv) to maintain records relevant to a complaint for a period of 2 years from the date the complaint is received by the TNC;
- (8) prior to acting as a Driver, an individual must complete an application that requires, at a minimum, the applicant's:

- (A) address;
 - (B) age;
 - (C) driver's license ;
 - (D) driving history; and
 - (E) motor vehicle registration for the Personal Vehicle;
- (9) the information provided by a Driver applicant is verified by conducting a background check for each applicant that includes searching:
- (A) a multistate and multijurisdictional criminal records locator or other similar commercial nationwide database with validation of primary source searches;
 - (B) the National Sex Offender Registry database; and
 - (C) the Driver applicant's driving history;
- (10) an applicant will be barred from acting as a Driver who, at the time of submitting an application:
- (A) has had more than 3 moving violations or 1 major violation within the previous 3 years, including without limitation: attempting to evade the police, reckless driving, or driving on a suspended or revoked license;
 - (B) has been convicted within the past 7 years of:
 - (i) driving under the influence of drugs or alcohol;
 - (ii) fraud;
 - (iii) a sexual offense;
 - (iv) using a motor vehicle to commit a felony; or
 - (v) a crime involving:
 - (a) property damage;
 - (b) theft;
 - (c) acts of violence; or

- (d) acts of terror;
 - (C) is a match in the National Sex Offender Registry database;
 - (D) does not possess a valid driver's license;
 - (E) does not possess proof of registration for the motor vehicle or motor vehicles to be used to provide TNS;
 - (F) does not possess proof of motor vehicle liability insurance coverage for the motor vehicle or vehicles proposed to be used for TNS; or
 - (G) is not at least 19 years of age;
- (11) that the Personal Vehicle:
- (A) meets the state's motor vehicle safety and emissions requirements for a private motor vehicle or the requirements of the state where the vehicle is registered;
 - (B) has been inspected by or the inspection supervised by a mechanic certified by the National Institute for Automotive Service Excellence and the inspection includes a check of the equipment listed in Ark. Code Ann. § 23-13-714(b)(3);
 - (C) has been inspected within 90 days of beginning service; and
 - (D) is not a Taxi Cab or a For-Hire Vehicle;
- (12) the following activities are prohibited and the method for communicating the prohibitions to the Drivers:
- (A) Street Hails;
 - (B) solicitation or acceptance of cash payments from passengers;
 - (C) acceptance of any other form of electronic payment other than through the TNC's Digital Network;
 - (D) discrimination with respect to passengers, potential passengers, and service animals; and
 - (E) additional charges for providing services to a person with a physical disability because of the disability;

- (13) TNC drivers are made aware of their independent contractor status in accordance with Ark. Code Ann. § 23-13-719 and that this status has been communicated to TNC Drivers;
 - (14) customers complaints will be received and investigated and good faith efforts will be made by the TNC to resolve the issues raised by the complaint; and
 - (15) the recordkeeping of the TNC complies with the state's statutory and regulatory requirements governing TNCs.
- (d) Each permit application must be accompanied by supporting, written testimony and exhibits of a person or persons with actual knowledge of the facts alleged in the application.
 - (e) Any exhibits provided in support of the permit application shall be verified by the person sponsoring the exhibit and shall be submitted pursuant to the provisions of these Rules and the Commission's Rules of Practice and Procedure regarding confidential information, if applicable.
 - (f) Each application for a permit shall be accompanied by proof of service of a copy of the application on:
 - (1) the Arkansas State Highway and Transportation Department;
 - (2) the Department of Arkansas State Police; and
 - (3) the Arkansas Attorney General.
 - (g) Each permit application shall be accompanied by payment of a non-refundable \$200 application fee. Upon grant of the permit by the Commission and before commencing operation, the TNC shall submit its \$15,000 annual permit fee.

Rule 2.02 **Notice**

- (a) Notice of the application for a permit shall be given by the applicant in the following manner, unless the Commission otherwise provides:
 - (1) Be published at least twice in a newspaper the applicant chooses; and
 - (2) Be published on the applicant's website or any other form of electronic application controlled by the applicant, or both.
- (b) Notice shall include at a minimum a brief description of the permit application and the ability to intervene or comment on the application in accordance with the Commission's Rules of Practice and Procedure.

Rule 2.03 **Basis for Denial**

The application for permit may be denied by the Commission if the applicant fails to verify and demonstrate to the Commission's satisfaction that the procedures and methods provided by the applicant in response to Rule 2.01(c) will ensure statutory compliance or for any other just cause as determined pursuant to the Commission's authority.

Rule 2.04 **Annual Fee Requirement**

- (a) In accordance with Ark. Code Ann. § 23-13-704, on or before October 1 annually, the TNC shall pay to the Secretary of the Commission an annual fee of \$15,000.
- (b) With payment of the annual fee, the TNC shall submit a report, verified under oath by an officer of the TNC, that:
 - (1) the procedures and methods required by the TNC's permit application are being maintained and followed;
 - (2) outlines any changes in the TNC's procedures and methods currently on file with the Commission; and
 - (3) provides a copy of any changed procedures and methods.

SECTION 3. PENALTIES AND REVOCATION

Rule 3.01 Penalties and Revocation

The Commission may assess a penalty in accordance with Ark. Code Ann. § 23-13-721 and these Rules or revoke the permit of the TNC, or both, if:

- (a) The TNC fails to timely pay its annual fees or file its annual report in accordance with these Rules.
- (b) The report submitted with the TNC's annual fees pursuant to Rule 2.04 indicates that the change of information would disqualify the TNC from receiving a permit as an initial application.
- (c) The TNC commits a violation of the provisions of the Transportation Network Company Services Act or these Rules as determined by the Commission.

SECTION 4. COMPLAINT PROCEDURES

Rule 4.01 **Filing Prerequisites**

- (a) Before a person or entity files either a Grievance with Staff pursuant to Rule 4.02 or formal complaint with the Commission pursuant to Rule 4.03 *et seq.*, that person or entity must make a good faith attempt to resolve the issue(s) with the TNC.
- (b) When seeking a resolution of an issue through either a Grievance or a formal complaint, the person or entity seeking resolution must provide a description of what good faith efforts were made in the attempt to resolve the issue(s) with the TNC.

Rule 4.02 **Grievance**

Before filing a formal complaint docket with the Commission, a person or entity may initiate a Grievance with Staff. Grievances will be investigated by the Staff in the normal course of its activities and shall not be formally docketed.

Rule 4.03 **Notice to File Formal Complaint**

- (a) A Complainant shall, no less than 10 days before filing a formal complaint with the Commission, file a Notice of Intent with the Commission. The Secretary of the Commission shall docket the Notice of Intent as a Complaint Docket in accordance with the rules governing such dockets.
- (b) Within 5 days of receipt of the Notice of Intent, the Commission shall issue a Protective Order of Non-Disclosure pursuant to the Commission's Rules of Practice and Procedure for any records to be filed pertaining to TNS, Drivers, or Personal Vehicles.
- (c) A party is not precluded from requesting a Protective Order of Non-Disclosure pursuant to the Commission's Rules of Practice and Procedures for information not covered by a Protective Order of Non-Disclosure issued pursuant to this section.

Rule 4.04 **Formal Complaint – Filing Requirements**

- (a) A complaint shall be filed within 10 days of the issuance of the Protective Order of Non-Disclosure pursuant to Rule 4.03 and in accordance with the Commission's Rules of Practice and Procedure.
- (b) The complaint shall be accompanied by supporting written testimony and exhibits of a person or persons with actual knowledge of the facts and any exhibits provided in support of complaint testimony shall be verified by the person

providing the exhibit.

- (c) Any documentation supporting the allegations contained in the complaint shall be provided to all parties at the time of the filing of the complaint subject to any Protective Order entered.
- (d) The complainant shall state with specificity the section(s) of these Rules or Ark. Code Ann. § 23-13-701 *et seq.* that is(are) claimed to be violated.

Rule 4.05 **Response**

- (a) Respondent shall have 30 days from the date the complaint is filed to file a response.
- (b) The response shall address each of the complainant's allegations.
- (c) Responses shall be supported by written testimony of a person or persons with actual knowledge of the facts and any exhibits provided in support of response testimony shall be verified by the person providing the exhibit.
- (d) Any documentation supporting the Response shall be provided to all parties at the time of the filing of the response subject to any Protective Order entered.
- (e) The response shall include:
 - (1) The date the TNC was first notified of the alleged violation;
 - (2) The steps taken by the TNC to achieve compliance with the alleged violation after notification; and
 - (3) A brief history of previous violations of the Transportation Network Company Services Act by the TNC as determined by the Commission.

Rule 4.06 **Reply**

- (a) Complainant shall have 20 days from the date the response is filed to file a reply.
- (b) The complainant's reply shall address each of the respondent's responses.
- (c) The reply shall be supported by written testimony of a person or persons with actual knowledge of the facts and any exhibits provided in support of reply testimony shall be verified by the person providing the exhibit.
- (d) Any documentation supporting the reply shall be provided to all parties at the time of the filing of the reply subject to any Protective Order entered.

SECTION 5. COMPLIANCE PROCEDURES

Rule 5.01 **Verification**

After the grant of a permit to operate by the Commission, a TNC shall file with the Commission on or before March 31; June 30; September 30; and December 31 each year, verification in the form of written proof that the TNC is:

- (a) providing to the Rider prior to the Rider entering the Driver's Personal Vehicle the picture of the Driver and the license plate number of the Personal Vehicle;
- (b) transmitting an electronic receipt to the Rider of the services after the end of the service which indicates:
 - (1) the origin and destination of the trip;
 - (2) the total time and distance of the trip; and
 - (3) an itemization of the total fare paid, if any.
- (c) verifying that the TNC and its Drivers have complied with the motor vehicle liability insurance coverage requirements of Ark. Code Ann. § 23-13-709;
- (d) maintaining a list of Drivers and a description of their Personal Vehicles, indicating whether each is covered by the motor vehicle liability insurance as required by Ark. Code Ann. § 23-13-709 and whether the background checks for each Driver and motor vehicle safety and emissions checks required by Ark. Code Ann. §§ 23-13-709 and 23-13-714, respectively, have been completed.

SECTION 6. REPORTING REQUIREMENTS

Rule 6.01 Records

Individual trip records and Driver records must be maintained for a period of 1 year respectively, from the date each trip was provided and each Driver was active on the TNC's Digital Network.

Rule 6.02 Inspections

- (a) In accordance with Ark. Code Ann. § 23-13-718(b), Staff may inspect records held by a TNC that are needed to investigate or resolve a Grievance or formal complaint.
- (b) No more than annually, Staff may conduct an audit, in a mutually agreed upon setting, of TNC records which are necessary to ensure public safety. If inspection is not feasible, the TNC may provide copies of the necessary records.
- (c) Any Commission employee or agent participating in any inspection of TNC records pertaining to TNS, Drivers, or Personal Vehicles shall execute an Affidavit of Non-Disclosure pursuant to the Commission's Rules of Practice and Procedure, Rule 4.04(f) in the form prescribed by the Commission.
- (d) Affidavits of Non-Disclosure executed regarding a Grievance, shall be maintained by the Secretary of the Commission's Office. Affidavits of Non-Disclosure executed regarding formal complaints shall be filed in the Docket assigned to the complaint. Neither Affidavit need be served on the other parties to the matter.
- (e) Information provided by the TNC pertaining to TNS, Drivers, or Personal Vehicles shall comply with the Commission's Rules of Practice and Procedure concerning form requirements for protected information.
- (f) The person or entity challenging the status of any information claimed as protected has the burden of establishing by a preponderance of the evidence that the information does not pertain to TNS, Drivers, or Personal Vehicles.

Rule 6.03 Maintenance

The TNC is responsible for maintaining and providing for inspection the records requested by the Commission in accordance with this section whether or not said records are maintained or held by a third party.