City of Seattle

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Finance and Administrative Services

Fred Podesta, Director

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Director's Rule: FHDR-5, Interest Arbitration	Code and Section Reference: SMC 6.310.735.I	
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	Ordinance Authority: SMC 6.310.735.M.1.a	

Approved:

Fred Podesta — Fred Podesta, Director

5/25/2017 — Date

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Rule FHDR-5, Interest Arbitration (SMC 6.310.735.I)

This Rule establishes the scope of and challenges to interest arbitration as authorized by the Seattle Municipal Code (SMC).

Scope

If a Driver Coordinator and an Exclusive Driver Representative (EDR) fail to reach an agreement within 90 calendar days of the EDR's certification by the Director (or, in the case of a successor agreement, within 90 calendar days of the expiration of the existing agreement), then upon the request of the other, either party must submit to interest arbitration with the following exception: if the Director finds that a party failed to negotiate in good faith or otherwise violated the SMC during the 90-day negotiation process and the complaining party requests an extension, the Director may establish a new deadline after which interest arbitration may be requested. Regardless of the 90-day deadline, if both parties elect to keep negotiating in good faith, they may continue to do so without any new deadline for reaching an agreement.

Nothing in Ordinance 124968 or the Director's Rules will preclude the parties from agreeing to use mediation or some other form of assistance to reach an agreement before proceeding to interest arbitration.

The only type of interest arbitration permitted between an Exclusive Driver Representative (EDR) and Driver Coordinator is "open" or "conventional" interest arbitration, whereby the arbitrator considers the criteria set forth in SMC 6.310.735.I.2 and the parties' proposals offered during collective negotiations, resolves any areas of dispute and adopts the most fair and reasonable provisions that promote the provision of safe, reliable and economical for-hire transportation services and the public policy goals outlined in Ordinance 124968. The arbitrator may adopt provisions that were proposed by the parties in negotiations or arbitration, but is not required to do so.

At the end of the arbitration process, after consideration of the evidence presented by the EDR and Driver Coordinator, the arbitrator will propose an agreement with a term of two years or less.

Selection of an Arbitrator

The interest arbitrator will be selected in accordance with procedures outlined in the SMC and within 15 calendar days of the request for arbitration. If the parties do not reach agreement on an arbitrator, and either the EDR or the Driver Coordinator refuses to engage in striking names from a list of arbitrators as provided for in the SMC (with the party requesting arbitration striking the first name) or fails to strike names in a timely manner, then the Director may issue a notice of violation to the refusing party.

The cost of interest arbitration will be divided equally between the EDR and Driver Coordinator.

Steps in Interest Arbitration
Upon discussion with both parties, the arbitrator will confirm procedures and a schedule to complete the following:

1. Pre-hearing conference (within 30 calendar days of selection of arbitrator)

2. Pre-hearing submissions (within 30 calendar days of a pre-hearing conference)

3. Hearing, which may include presentation of oral testimony and evidence (within 15 calendar days of pre-hearing submissions)

4. Post-hearing submissions (if any) (within 15 calendar days of a hearing)

5. Proposed agreement and arbitrator report transmitted to the EDR, Driver Coordinator and Director upon issuance of a proposed agreement (within 30 calendar days of post-hearing submissions)

The parties have the flexibility to extend any of these deadlines by mutual agreement, or the Director has the authority to do so for good cause. If a deadline is extended by mutual agreement, then both parties must inform the Director of that change.

Approval of a Proposed Agreement
For the Director's process to approve all agreements proposed, including those reached through interest arbitration (which involves a determination as to whether the agreement promotes safe, reliable and economical for-hire transportation services), please refer to the process outlined in Director's Rule *FHDR-6, Approval of an Agreement, Changes to an Existing Agreement and Withdrawal of an Existing Agreement*.

Challenging a Proposed Agreement
In addition to the Director's approval process set forth under Director's Rule *FHDR-6*, an EDR or a Driver Coordinator may challenge a proposed agreement reached through interest arbitration on the following grounds:

1. The arbitrator was biased,

2. The arbitrator exceeded the authority granted by the SMC and/or

3. A provision of the proposed agreement is arbitrary and capricious.

In order to promote efficiency and the timely resolution of all issues, the Director may determine whether to consider objections or issues raised under Director's Rule *FHDR-6* and this Rule through a single consolidated process or through separate processes.

Written objections on the grounds set forth in this Rule, along with any documentary support for those objections, may be submitted to the Director by U.S. mail, personal delivery or e-mail within 10 calendar days of the Director (and EDR and Driver Coordinator) receiving the proposed agreement from the arbitrator. The Director will not accept a written objection submitted prior to the Director receiving a proposed agreement from the arbitrator.

If such objections are filed, the Director will notify the EDR and the Driver Coordinator of the nature of the objections, and will provide public notice online of the same. Any responses to such objections must be filed in writing by U.S. mail, personal delivery or e-mail within 10 calendar days of the date of such notice. The Director may consider the nature of the challenge, documents received, procedural history and other relevant factors in deciding whether a hearing to receive live testimony would be helpful in resolving any issues and so whether to hold such a hearing.

The Director will issue a written ruling on any objections under this Rule within 30 calendar days of the deadline for filing written responses or the date of the hearing, whichever is later. The Director may extend this deadline for good cause.

1. If after consideration of the objections, the Director concludes that the arbitrator was not biased, the arbitrator did not exceed the authority granted by the SMC and the provisions of the proposed agreement are not arbitrary and capricious, the Director will provide written notice of that finding to the parties and the agreement may be reviewed pursuant to Director's Rule *FHDR-6* for a decision as to whether it will be approved and become final and binding on all parties.

2. If after consideration of the objections, the Director concludes that the arbitrator was biased, the Director will remand the agreement with a written explanation of the conclusion and recommendations as to any to remedy, including the possible selection of a new arbitrator so that the parties may conduct a new interest arbitration per the process outlined in the SMC and this Rule.

3. If after consideration of the objections, the Director concludes that the arbitrator exceeded the authority granted by the SMC, the Director will remand the agreement to the interest arbitrator with a written explanation of the conclusion(s) and, at the Director's discretion, recommendations as to any remedy.

4. If after consideration of the objections, the Director concludes that a provision of the proposed agreement was arbitrary and capricious, the Director will remand the agreement to the interest arbitrator with a written explanation of the conclusion(s) and, at the Director's discretion, recommendations as to any remedy.