

ALJ/GK1/cmf 7/14/2025



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K2405024

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Appeal of Tutor Time Learning Center,
LLC of Citation Number T. 24-04-004
in the amount of \$15,000 issued on
April 29, 2024 by the Consumer
Protection and Enforcement Division.

K.24-05-024

And Related Matter.

K.24-05-027

**E-MAIL RULING INCLUDING E-MAILS INTO THE RECORD AND
GRANTING OPPORTUNITY FOR SUR-REPLY BRIEF FROM TUTOR TIME**

Dated July 14, 2025, at San Francisco, California.

/s/ GERALD F. KELLY

Gerald F. Kelly

Administrative Law Judge

From: Kelly, Gerald F. <Gerald.Kelly@cpuc.ca.gov>
Sent: Monday, July 14, 2025 3:51 PM
To: TMacBride@DowneyBrand.com; Hill, Roderick <Roderick.Hill@cpuc.ca.gov>; Kelly, Gerald F. <Gerald.Kelly@cpuc.ca.gov>; Bruno, Kenneth <Kenneth.Bruno@cpuc.ca.gov>; Dilgassa, Bezawit <bezawit.dilgassa@cpuc.ca.gov>; Gallardo, Enrique <Enrique.Gallardo@cpuc.ca.gov>; Tran-Courney, Lana <lanea.Tran-Courney@cpuc.ca.gov>; Nera, Alexander E. <alexander.nera@cpuc.ca.gov>
Cc: ALJ Support ID <alj_supportid@cpuc.ca.gov>; ALJ Docket Office <ALJ_Docket_Office@cpuc.ca.gov>; ALJ Process <alj_process@cpuc.ca.gov>
Subject: K.24-05-024 et al Email Ruling Including Emails into the Record and Granting Opportunity for Sur-Reply Brief from Tutor Time

I issue this e-mail ruling in K.24-05-024 to advise of the following:

On June 23, 2025, Tutor Time requested the opportunity to file a Sur-Reply Brief in this matter. This e-mail ruling grants the request of Tutor Time to file a Reply Brief. This e-mail ruling also includes the e-mail chain from CPED and Tutor Time concerning this request into the record.

Tutor Time may file a Sur-Reply Brief not to exceed 10 pages. The Sur-Reply Brief shall be filed no later than August 1, 2025.

The Docket Office shall officially file this e-mail ruling.

Gerald F. Kelly

Administrative Law Judge

California Public Utilities Commission – Los Angeles Office

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From: MacBride, Thomas <tmacbride@DowneyBrand.com>

Sent: Tuesday, June 24, 2025 5:20 PM

To: Hill, Roderick <Roderick.Hill@cpuc.ca.gov>; Kelly, Gerald F. <Gerald.Kelly@cpuc.ca.gov>

Cc: ALJ Division Appeals Coordinator <ALJ_Div_Appeals_Coordinator@cpuc.ca.gov>; Gonzalez, Roscella <roscella.gonzalez@cpuc.ca.gov>; Bruno, Kenneth <Kenneth.Bruno@cpuc.ca.gov>; Dilgassa, Bezawit <bezawit.dilgassa@cpuc.ca.gov>; Gallardo, Enrique <Enrique.Gallardo@cpuc.ca.gov>; Tran-Courney, Lana <lana.Tran-Courney@cpuc.ca.gov>; Nera, Alexander E. <alexander.nera@cpuc.ca.gov>; ms8@cpuc.ca.gov

Subject: RE: [EXTERNAL] RE: K.24-05-024 et al CPED Reply Brief on Fines and Corrective Action

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Your Honor,

Tutor Time can only respond by noting the obvious. Your April 17 ruling was prompted by the recommendation of CPED witness Nera that:

“(T)he Commission also consider a penalty which will permanently bar Tutor Time Murrieta from receiving a permit or certificate from the Commission to engage in any charterparty carrier activities per Pub. Util. Code Section 5387 (c)(1).”

Mr. Nera indicated that the permanent bar would be predicated on Tutor Time’s alleged violation of Section 5387(c)(1)(A), because it “operate[d]..a bus without having been issued a permit or certificate from the commission.” (See, “INVESTIGATION REPORT”, P. 4 in COMPLIANCE FILING FOR CITATION NUMBER T.24-04-004.) (CPED’s brief indicates that CPED has not acknowledged the true import of Section 5387(c) and the extent to which it precludes adoption of some of CPED’s recommendations.)

Since (1) the ban under 5387(c)(1) is triggered by the operation of a “bus” and (2) California law defines a “bus” solely by reference to seating capacity, we have no idea how CPED reaches the conclusion that your Ruling was asking the parties to address some other issue but “not the seating capacity of the impounded Collins Chevrolet Bus as designated by the DMV.” CPED concedes that a vehicle that “had a seating capacity of 9, or less than 10 passengers including the driver” is “not a ‘Bus’ pursuant to Vehicle Code section 233 and Pub. Util. Code 5359....” (CPED Reply Brief, page 5.) Seating capacity is effectively the central issue raised by Your Honor’s April 17, 2025 Ruling.

CPED also apparently takes the view that material from a website is “self-authenticating” and thereby free from assessment under Rules 13.7 and 13.10. Had the material been introduced at the hearing or as a late filed exhibit approved by Your Honor, it might have been admitted and addressed by the parties in briefs. But CPED’s new material was not so admitted. It was simply produced by CPED for the first time in its Reply Brief. It is not tied to any exhibit in the record as required by Rule 13.12. “Factual statements must be supported by identified evidence of record...Citations to exhibits must indicate the exhibit number and exhibit page number...”

Respectfully,

Tom MacBride

Thomas J. MacBride

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From: Hill, Roderick <Roderick.Hill@cpuc.ca.gov>

Sent: Tuesday, June 24, 2025 4:17 PM

To: Kelly, Gerald F. <Gerald.Kelly@cpuc.ca.gov>

Cc: ALJ Division Appeals Coordinator <ALJ_Div_Appeals_Coordinator@cpuc.ca.gov>; MacBride, Thomas <tmacbride@DowneyBrand.com>; Gonzalez, Roscella <roscella.gonzalez@cpuc.ca.gov>; Bruno, Kenneth <Kenneth.Bruno@cpuc.ca.gov>; Dilgassa, Bezawit <bezawit.dilgassa@cpuc.ca.gov>; Gallardo, Enrique <Enrique.Gallardo@cpuc.ca.gov>; Tran-Courney, Lana <lane.Tran-Courney@cpuc.ca.gov>; Nera, Alexander E. <alexander.nera@cpuc.ca.gov>; ms8@cpuc.ca.gov; Hill, Roderick <Roderick.Hill@cpuc.ca.gov>

Subject: RE: [EXTERNAL] RE: K.24-05-024 et al CPED Reply Brief on Fines and Corrective Action

Dear Judge Kelly,

On behalf of CPED, Tutor Times below email of June 23, 2025 is incorrect.

Your email ruling of April 17, 2025 directs a briefing schedule “to address a permanent ban on Tutor Time from receiving a permit or certificate from the Commission”, not the seating capacity of the impounded Collins Chevrolet Bus as designated by the DMV.

CPED stated in its Opening Brief of May 19, 2025 and Reply Brief of June 13, 2025, rather than a permanent ban, Tutor Time should be ordered to pay all fines due under the Citations, become licensed or face additional enforcement actions.

CPED, which has the burden of proof in both proceedings, was compelled to respond to Tutor Times “9 passenger” argument since it is false and misleading as was its Exhibit 2.

CPED's Reply Brief referenced self-authenticating (online) Collins sales brochures which rebuts Tutor Times seating capacity assertions as found in its Opening Brief of May 19, 2025.

If any further briefing is allowed in this proceeding, CPED requests an opportunity to respond.

Very Truly Yours,

Roderick D. Hill | Staff Counsel | California Public Utilities Commission
505 Van Ness Avenue, SF, CA 94102 | W: 415.703.4478

From: MacBride, Thomas <tmacbride@DowneyBrand.com>

Sent: Monday, June 23, 2025 4:10 PM

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Cc: ALJ Division Appeals Coordinator <ALJ_Div_Appeals_Coordinator@cpuc.ca.gov>; Hill, Roderick <Roderick.Hill@cpuc.ca.gov>

Subject: [EXTERNAL] RE: K.24-05-024 et al CPED Reply Brief on Fines and Corrective Action

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Dear Judge Kelly,

I recently returned from a trip out of town and reviewed CPED's June 13 Reply Brief in response to your ruling of April 17, 2025.

Tutor Time must respectfully ask for an opportunity to file a brief sur-reply. The basis for our request is briefly described below.

Most of the arguments in CPED's Reply Brief are advanced in detail for the first time in its Reply Brief in order to deny Tutor Time the opportunity to reply to them in detail. Your April 17 2025 Ruling clearly raised the central issue of whether the Tutor Time vehicles in question were "buses" under California law. CPED devoted about one-fourth of a page in its Opening Brief (bottom of page 3) to that question, saving all of its detailed argument for its Reply Brief. Again, the plain purpose is to deny Tutor Time the opportunity to respond in detail to the detailed arguments in the CPED Reply Brief.

Compounding the prejudice to Tutor Time is the fact that much of the detailed argument in CPED's Reply Brief relies on material (websites) outside of the record (CPED Reply Brief Part II.D.) Prior to the hearings last November, CPED distributed similar material as its Exhibit 7 but elected at the last minute not to introduce Exhibit 7 into evidence. (The exhibit number was instead employed for a CPED cross-examination exhibit on another subject.) (RT 1:158 (lines 3-7.)) Again, the factual representations and argument were saved for the Reply Brief to deny Tutor Time the opportunity to reply to them in detail. CPED's tortured construction of the import of the word "designed" is also raised for the first time in its Reply Brief. The Commission cannot evaluate CPED's arguments if Tutor Time has no opportunity to respond to them.

Finally, CPED's asserts that the Navarro/Hagerman Report (CPED EX 2; Attachment 2); "states 3 times...that the Impounded Vehicle could seat up to (sic) a 14 people". (See footnote 20 of the CPED Reply Brief and related text.) Since a word search belies CPED's description of the report, Tutor Time believes CPED is relying on material outside of that report but not so stating. A sur-reply would permit Tutor Time to explore that critical issue.

Tutor Time is amenable to a page limit and a short deadline. Thank you in advance for your consideration.

Best wishes,

Tom MacBride

Thomas J. MacBride

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Sent: Friday, June 13, 2025 4:38 PM

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Cc: ALJ Division Appeals Coordinator <ALJ_Div_Appeals_Coordinator@cpuc.ca.gov>; Hill, Roderick <Roderick.Hill@cpuc.ca.gov>

Subject: K.24-05-024 et al CPED Reply Brief on Fines and Corrective Action

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Serving Party: Consumer Protection and Enforcement Division

In case of problems with the e-mail or the attached document, contact the following person:

Name: Roscella V. Gonzalez

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Note: Parties should notify the Process Office (alj_process@cpuc.ca.gov), of any change of contact information to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

Thank you

Roscella V. Gonzalez

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