

Decision No. C24-0141

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23R-0085TO

IN THE MATTER OF THE PROPOSED AMENDMENTS TO THE COMMISSION'S RULES
REGULATING TOWING CARRIERS, 4 CODE OF COLORADO REGULATIONS 723-6, TO
IMPLEMENT HB 22-1314.

**COMMISSION DECISION DENYING APPLICATION FOR
REHEARING, REARGUMENT, OR RECONSIDERATION**

Mailed Date: March 12, 2024

Adopted Date: March 6, 2024

I. BY THE COMMISSION

A. Statement

1. Through this rulemaking, the Commission has adopted amendments to the Rules Regulating Towing Carriers, 4 Code of Colorado Regulations 723-6. By this Decision, we address the Application for Rehearing, Reargument, or Reconsideration (RRR) of Decision No. C24-0077, filed pursuant to § 40-6-114, C.R.S., on February 27, 2024, by Wyatts Towing. In its Application for RRR, Wyatts Towing requests the Commission postpone completion of this rulemaking in order to incorporate upcoming changes to Colorado statutes that are currently being considered by the legislature. As discussed below, the Commission denies the Application for RRR.

B. Discussion and Findings

2. Wyatts Towing requests that the Commission postpone completion of this rulemaking in order to incorporate what it describes as the significant upcoming changes to Colorado statutes that are now being considered by the legislature in House Bill 24-1051. Wyatts

Towing states that pending House Bill 24-1051 makes additional significant changes to the statutes impacting towing carriers and, and in some instances, directly contradicts the Commission's administrative rules adopted in this Proceeding. Wyatts Towing states the scenario of having new statutes that contradict a new regulatory framework put in place at nearly the exact same time will result in significant confusion on the part of vehicle owners, property owners, and towing carriers. Wyatts Towing states it believes these contradictions are not trivial and will significantly confuse consumers, resulting in increased and unnecessary frustrations for Coloradoans.

3. Wyatts Towing provides two examples of what it sees as direct contradictions between portions of House Bill 24-1051 and the rules adopted in this Proceeding. The first concerns contradictory signage requirements and the second concerns contradictory payment requirements.

4. The Commission denies this Application for RRR. Although we realize the legislature is indeed considering further changes to the statutory framework for towing in Colorado, we do not see cause to pause or re-start this rulemaking on the grounds alone that further statutory changes may be forthcoming. The rules adopted in this Proceeding duly implement the statutory changes enacted in a prior legislative session, specifically House Bill 22-1314, which took effect on August 10, 2022, and remains the currently effective law. To the extent any of the rules adopted here ultimately conflict with new statutory provisions enacted during the current legislative session, and in all other such cases, the conflicting rule would have no force and effect and the statute would control. § 24-4-103(8)(a), C.R.S. See *Hanlen v. Gessler*, 333 P.3d 41, 49 (Colo. 2014) (“A rule that conflicts with a statute is void.”) and *Colo. Consumer Health Initiative v. Colo. Bd. of Health*, 240 P.3d 525, 528 (Colo. App. 2010) (“A rule may not modify or contravene an existing statute, and any rule that is inconsistent with or contrary to a statute is void.”). If and

when new legislation is enacted, the Commission will open a rulemaking, as appropriate, to consider further amendments to its rules to reflect any changes in state law.

5. Because we deny the RRR, the rules previously adopted by Decision No. C24-0077 remain the adopted rules. For reference, the adopted rules are provided again as attachments to this Decision in legislative format (*i.e.*, strikeout/underline) as Attachment A to this Decision, and in final format as Attachment B to this Decision. These attachments are publicly available through the Commission's E-Filings system at:

https://www.dora.state.co.us/pls/efi/EFL.Show_Docket?p_session_id=&p_docket_id=23R-0085TO

II. ORDER

A. The Commission Orders That:

1. The Application for Rehearing, Reargument, or Reconsideration of Decision No. C24-0077, filed by Wyatts Towing on February 27, 2024, is denied.

2. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
March 6, 2024.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

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Commissioners