

Decision No. C19-0741

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19G-0429TO

PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO,

PETITIONER,

V.

D.E.N. TOWING SPECIALISTS, LLC,

RESPONDENT.

**COMMISSION DECISION ACCEPTING
PAYMENT AND CLOSING PROCEEDING**

Mailed Date: September 9, 2019

Adopted Date: September 4, 2019

I. BY THE COMMISSION

A. Statement

1. On August 19, 2019, D.E.N. Towing Specialists, LLC (Respondent) made a check payment of \$316.25 regarding Civil Penalty Assessment Notice (CPAN) No. 123872. For the reasons discussed below, we accept the payment as payment in full to address the alleged violations in CPAN No. 123872 of 4 *Code of Colorado Regulations* 723-6-6509(a)(X) and 6512(a) of the Commission's Rules Regulating Transportation by Motor Vehicle, and close the proceeding.

B. Findings and Conclusions

2. This proceeding concerns CPAN No. 123872 issued by the Public Utilities Commission Staff on August 5, 2019 against Respondent. The CPAN assessed Respondent a

total penalty, including a 15 percent surcharge, of \$632.50 for two violations of Commission Rules: (1) Rule 6509(a)(X) regarding missing required information; and (2) Rule 6512(a) requiring immediate acceptance of payment of a drop charge, towing storage, and release charges.

3. Under the CPAN provisions, half of the assessed penalty – in this case \$316.25 – may be paid within ten days of the notice being issued. If that payment is submitted to the Commission within ten days, the CPAN states that the Respondent acknowledges liability for the violation and the Commission accepts the payment as payment in full for the violations at issue.

4. In accordance with § 40-7-113(2), C.R.S., the Commission “shall set the amount of the civil penalties to be assessed.” Under § 40-7-116(1)(d)(I), C.R.S., if the prescribed penalty is not paid within ten days after the issuance of the notice, the civil penalty assessment notice constitutes a complaint to appear before the Commission. In addition, if the person cited fails to contact the Commission on or before that time and date specified, the Commission shall set the complaint for hearing.

5. The ten days’ notice from the CPAN’s issuance expired on August 15, 2019. On August 19, 2019, the Respondent made a payment of \$316.25 via check to the Commission, accompanied by a note that read: “Sorry – found check on desk after mailing the citation.” The note included a contact number for the Respondent.

6. In these circumstances, by statute, the CPAN constitutes a “complaint” because payment was received after ten days’ notice. § 40-7-116(1)(d)(I), C.R.S. However, we find that no hearing is required in the circumstances given the admitted mistake, short timeframe from receipt of payment, and relatively small amount at issue. Further, we find that Respondent’s intent to address the CPAN, and acknowledge liability of the alleged violations, is evident by the

payment received on August 19, 2019. We therefore accept the payment from Respondent in the amount of \$316.25 as payment in full for the alleged violations, and as confirmation that the Respondent acknowledges and accepts liability for the violations cited in the CPAN.

7. We find that the acceptance of the payment and acknowledgement discussed above resolves this matter. Therefore we dismiss the complaint and close the proceeding.

II. ORDER

A. The Commission Orders That:

1. D.E.N. Towing Specialists, LLC, by payment of Civil Penalty Assessment Notice (CPAN) No. 123872 acknowledges liability for the violations listed in the CPAN.

2. The Commission accepts the payment of \$316.25 as payment in full for CPAN No. 123872.

3. The Commission closes the proceeding

4. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
September 4, 2019.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

FRANCES A. KONCILJA

JOHN GAVAN

Commissioners