

Decision No. C20-0083

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19R-0485TR

IN THE MATTER OF THE PROPOSED RULES REGULATING VEHICLE BOOTING COMPANIES, 4 CODE OF COLORADO REGULATIONS 723-6.

**DECISION GRANTING EXCEPTIONS
AND REMANDING THIS PROCEEDING
TO THE ADMINISTRATIVE LAW JUDGE**

Mailed Date: February 7, 2020

Adopted Date: February 5, 2020

I. BY THE COMMISSION

A. Statement

1. By this Decision, we grant the exceptions filed on December 23, 2019 by Colorado Booting LLC (Colorado Booting) and Towing Done Right so that the Administrative Law Judge (ALJ) may consider the arguments, comments, and attachments in the exceptions. While we express no opinion on the content of the exceptions, we recognize that stakeholders are seeking to participate in the design of this new regulatory scheme and believe that at this point further stakeholder participation may be valuable.

2. The history of the vehicle booting statute and the procedural history of this rulemaking is largely set forth in the ALJ's recommended decision.¹ After that decision issued, we adopted temporary rules so that vehicle booting companies could apply for and receive the operating permits the statute requires. And in late December, Colorado Booting and Towing Done Right each filed exceptions to the ALJ's decision that recommended permanent rules.

¹ Decision No. R19-0961 (issued December 3, 2019).

B. Exceptions

3. Towing Done Right filed exceptions that largely challenge the regulatory scheme and assert that the rates and charges authorized by the proposed rules are too low. It also provides additional information both in its exceptions and through the letters and calculations attached to its exceptions. Both the exceptions and attachments offer some information that is new to this proceeding.

4. In its exceptions, Colorado Booting disagrees with three of the rules the ALJ recommends. First, it asserts that the rates and charges set by the recommended rule are too low. Second, it raises a concern about the rule governing booting “occupied vehicles.” And third, it argues that the time within which vehicle booting companies must release a boot should be increased from 90 minutes to 120 minutes. For each of these three contentions, Colorado Booting provides reasons to support its position. It also appended pages 3 through 10 of Towing Done Right’s exceptions to its own exceptions.

5. These exceptions and attachments provide some additional information and argument that could be valuable as we develop this new regulatory scheme. Because the ALJ is in the best position to consider these new data points in the context of the record and rulemaking, we think it best to grant the exceptions and remand the proceeding so that the ALJ can consider the information and arguments presented in the exceptions. And, while the ALJ was able to fight the snow and roads to hold the public comment hearing in this proceeding on October 28, 2019, as he points out, state offices were on a delay that morning, and it was perhaps a busy workday for many of the stakeholders to this proceeding. In light of all this we direct the ALJ to hold an

additional public comment hearing to discuss the issues and information presented in these exceptions.²

II. ORDER

A. The Commission Orders That:

1. The exceptions filed by Colorado Booting LLC and Towing Done Right on December 23, 2019 are granted so that the Administrative Law Judge may consider the information and arguments raised in exceptions and the attachments.

2. This proceeding is remanded to the Administrative Law Judge who is directed to hold an additional public comment hearing as discussed above.

3. The 20-day period provided in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration, begins on the first day following the effective date of this Decision.

4. This Decision is effective upon its Mailed Date.

² We also ask the ALJ to consider the 180-day statutory clock by which time the Commission must have a decision on the proposed rules. If no additional public comment hearing is scheduled, the Commission must issue its decision by April 27, 2020.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
February 5, 2020.**

(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