

Decision No. C20-0744-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19R-0709TO

IN THE MATTER OF THE PROPOSED AMENDMENTS TO THE RULES REGULATING
TOWING CARRIERS, 4 CODE OF COLORADO REGULATIONS 723-6.

**INTERIM DECISION CONSTRUING
MOTION AS EXCEPTIONS AND REMANDING THIS
MATTER TO THE ADMINISTRATIVE LAW JUDGE**

Mailed Date: October 21, 2020

Adopted Date: October 21, 2020

I. BY THE COMMISSION

A. Statement, Findings, and Conclusions

1. This matter comes before the Commission for consideration of a motion filed by Towing and Recovery Professionals of Colorado (TRPC) on October 19, 2020. In the motion, TRPC requests the Administrative Law Judge (ALJ) clarify certain aspects of Recommended Decision No. R20-0688, issued October 1, 2020 (Recommended Decision). TRPC requests the Commission extend the deadline to file exceptions to the Recommended Decision so that interested rulemaking participants can file exceptions incorporating comments on the result of the motion for clarification.

2. We construe TRPC's motion as timely-filed exceptions to the Recommended Decision.

3. In the exceptions, TRPC identifies several instances of seeming inconsistency between the findings in the Recommended Decision and the recommended rules attached thereto. TRPC identifies that ¶ 27 of the Recommended Decision finds the phrase "in writing"

should be removed from the definition of “property owner,” but recommended Rule 6501(p)(II) does not reflect that change. TRPC identifies that ¶ 67 of the Recommended Decision adopts industry’s proposal to allow carriers to subcontract tows, but recommend Rule 6508(a)(I) does not reflect that change. TRPC identifies that ¶ 75 of the Recommended Decision adopts industry’s position that tow agreements should not be required to include the name of each tow truck driver permitted to authorize tows under the agreement, but recommended Rule 6508(a)(I)(D) still requires the name of each person allowed to authorize tows to be listed in tow agreements.¹

4. TRPC also states the ALJ’s recommended Rule 6511 pertaining to rates requires clarification. Specifically, TRPC requests clarification that tow rates will be adjusted not only for base rates but also for drop fees, storage, and law enforcement tows. TRPC states the Recommended Decision does not indicate what the specific rates will be when the new system is implemented. TRPC suggests the Recommended Decision inadvertently omits adjustments to rates for law enforcement tows and storage of vehicles. TRPC adds that it believes drop charges should also be subject to the Consumer Price Index adjustment.

5. The Commission finds and agrees that the inconsistencies identified in TRPC’s exceptions may warrant clarification. We will therefore grant TRPC’s exceptions and remand the matter to the ALJ for further disposition.²

¹ Regarding this potential inconsistency, the Commission notes the ALJ may have intended to treat differently, the terms in a tow agreement identifying each tow truck driver authorized to *perform* tows under the agreement, and each person allowed to *authorize* a tow under the agreement.

² Rulemaking participants will have opportunity to file exceptions to the ALJ’s recommended decision that issues following this remand. In such case, exceptions would be due 20 days from the issuance of the ALJ’s decision.

II. ORDER

A. It Is Ordered That:

1. The Motion for Clarification and Motion to Extend Exceptions Deadline filed by Towing and Recovery Professionals of Colorado on October 19, 2020, is construed as exceptions to Recommended Decision No. R20-0688. Response time is waived.

2. This matter is remanded to the Administrative Law Judge assigned to this case for further disposition consistent with the discussion above.

3. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
October 21, 2020.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

JOHN GAVAN

MEGAN M. GILMAN

_____ Commissioners