

Decision No. R25-0046

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

PROCEEDING NO. 24F-0543TO

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VELVETINA D. MEYER,

COMPLAINANT,

V.

PHOENIX TOWING & RECOVERY, LLC,

RESPONDENT.

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**RECOMMENDED DECISION VACATING HEARING AND  
GRANTING COMPLAINT**

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Issued Date: January 22, 2025

**I. STATEMENT**

1. On December 12, 2024, Complainant Velvetina D. Meyer (“Ms. Meyer” or “Complainant”) filed a Complaint against Phoenix Towing & Recovery, LLC (“Phoenix Towing” or “Respondent”). Complainant states that on September 5, 2023, she parked her vehicle in its designated parking space but was forced to park slightly to the right and over the painted lines of the space because the vehicle next to hers was parked slightly in her designated space. She alleges that there were no signs warning of towing if parked slightly on the painted lines, but her vehicle was still towed by Phoenix Towing. She further alleges that she was not provided a 24-hour notice from Phoenix Towing or the property owner prior to the tow.

2. On December 23, 2024, the Public Utilities Commission (“Commission”) issued its Order Setting Hearing and Notice of Hearing, which set this matter for hearing on February 24, 2025, at 9:00 a.m., before an Administrative Law Judge (“ALJ”) and stated that the ALJ would establish the place and manner in which the hearing would be held.

3. Also on December 23, 2024, the Commission issued its Order to Satisfy or Answer, which ordered Phoenix Towing to satisfy the matters in the Complaint or to answer the Complaint in writing within 20 days from service of the Order.

4. On January 8, 2025, the Commission referred this proceeding to an ALJ by minute entry.

5. Respondent was served the Order to Satisfy or Answer (including a copy of the Complaint) and Order Setting Hearing and Notice of Hearing by the Commission via first-class mail to the last address furnished to the Commission, in accordance with §§ 40-6-108(1)(e) and 24-4-105, C.R.S. and Rule 1302 of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1. Respondent was ordered to satisfy the matters in the Complaint or to answer the complaint in writing within 20 days from service of the order and Complaint. *See* Order to Satisfy or Answer.

6. “The certificate of the director of the commission of such mailing shall be prima facie evidence that service has been obtained, and the time fixed in any order or notice shall commence to run from the date of mailing as shown in such certificate.” § 40-6-108(3), C.R.S.

7. As of the date of this Recommended Decision, Phoenix Towing has not filed an answer to the Complaint.

8. The Commission ordered that if Respondent failed to satisfy, or if adequate evidence of its satisfaction is not presented to the Commission, or if no Answer is filed within the

time required, the allegations of the Complaint may be deemed admitted, and the Commission may grant so much of the relief sought in the Complaint as is within its power and jurisdiction or may set the Complaint for Hearing. *See* Order to Satisfy or Answer.

9. Pursuant to § 40-6-109, C.R.S., the ALJ transmits to the Commission the record of this proceeding, this recommended decision containing findings of fact and conclusions thereon, and a recommended order.

## II. FINDINGS AND CONCLUSIONS

10. The Commission has jurisdiction over this Complaint and over Complainant, pursuant to § 40-6-108, C.R.S.

11. Respondent operated as towing carrier, as defined by Rule 6501(y) of the *Rules Regulating Transportation by Motor Vehicle*, 4 CCR 723-6 and is subject to this Commission's jurisdiction.

12. Respondent failed to respond to the Order to Satisfy or Answer in any manner whatsoever. Therefore, the allegations of the Complaint will be deemed admitted.

13. On September 5, 2023, Ms. Meyer parked her black 2011 Honda Pilot in her designated parking space number 2127B, located at 2127 Coronado Parkway North in Denver, Colorado. Ms. Meyer parked her vehicle slightly to the right side of her designated space such that her vehicle was partially parked on painted lines designating a walkway next to Ms. Meyer's designated parking space. There was no sign warning of towing if parked slightly on the lines.

14. Ms. Meyer states that Phoenix Towing violated Commission rules and Colorado law by towing her motor vehicle without her consent and failing to provide required notice necessary to authorize the nonconsensual towing of her motor vehicle.

15. Ms. Meyer paid Phoenix Towing \$260.00 in fees for the return of her vehicle.

16. Complainant seeks relief in that Respondent be ordered to refund the amount she paid for the return of her vehicle.

17. Phoenix Towing's permit issued by the Commission authorizes performance of nonconsensual tows in accordance with Commission rules and Colorado law. As a regulated towing carrier, Phoenix Towing has an obligation to ensure that it performs a nonconsensual tow in compliance with the Commission's rules.

18. Commission rules define a non-consensual tow as "the transportation of a motor vehicle by tow truck, including a trailer, if such transportation is performed without the prior consent or authorization of the owner or operator of the motor vehicle." Rule 6501(1), 4 CCR 723-6.<sup>1</sup>

19. Section 40-10.1-405(b)(I), C.R.S., prohibits a towing carrier from non-consensually towing a motor vehicle without first providing the vehicle owner or operator twenty-four hours' written notice, except under enumerated circumstances.

20. Rule 6513(a), 4 CCR 723-6, also prohibits a towing carrier from non-consensually towing a motor vehicle without having first provided notice to the motor vehicle operator of the applicable parking limitations, regulations, restrictions, and prohibitions to the motor vehicle operator and that any motor vehicle parked in violation thereof is subject to tow at the motor vehicle owner's expense at the time the motor vehicle entered the private property and parked.

21. Remedies available in complaint proceedings are set out in § 40-6-119, C.R.S.:

(1) When complaint has been made to the commission concerning any rate, fare, toll, rental, or charge for any product or commodity furnished or service performed by any public utility and the commission has found, after

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<sup>1</sup> Part 4 of Article 10.1 of Title 40 of the Colorado Revised Statutes and the Towing Carrier Rules, Rule 6500 et. seq., 4 CCR 723-6, have both been amended since times relevant to this proceeding. All citations are to those statutes and rules in effect at times relevant to this proceeding.

investigation, that the public utility has charged an excessive or discriminatory amount for such product, commodity, or service, the commission may order that the public utility make due reparation to the complainant therefor, with interest from the date of collection, provided no discrimination will result from such reparation.

(2) If the public utility does not comply with the order for the payment of reparation within the specified time in such order, suit may be instituted in any court of competent jurisdiction to recover the same. All complaints concerning excessive or discriminatory charges shall be filed with the commission within two years from the time the cause of action accrues, and the petition for the enforcement of the order shall be filed in the court within one year from the date of the order of the commission. The remedy provided in this section shall be cumulative and in addition to any other remedy in articles 1 to 7 of this title provided in case of failure of a public utility to obey the order or decision of the commission.

22. Applied to a tow performed in violation of state statute or Commission rules:

the towing carrier may not charge or retain any fees or charges for the services it performs. Any motor vehicle that is held in storage and that was towed without proper authorization may be released without charge to the persons authorized in paragraph 6512(a). Any money collected must be returned to the owner, authorized operator, or authorized agent of the owner of the motor vehicle.

Rule 6511(g), 4 CCR 723-6.

23. Section 40-10.1-405(b)(I), C.R.S., requires a 24-hour written notice before a nonconsensual tow, subject to specific exceptions. Complainant has demonstrated that none of the exceptions § 40-10.1-405(3)(b)(I) apply herein, and Phoenix Towing failed to provide Ms. Meyer 24-hours advance notice as required by § 40-10.1-405(3)(b)(III).

24. The evidence of record establishes by a preponderance of the evidence that on September 5, 2023, Phoenix Towing performed a tow of Complainant's car in violation of Colorado law.

25. The Complaint will be granted.

26. In accordance with § 40-6-109, C.R.S., the ALJ recommends that the Commission enter the following Order.

**III. ORDER**

**A. The Commission Orders That:**

1. The Complaint filed by Velvetina D. Meyer against Phoenix Towing on December 12, 2024, is granted.

2. Within ten days following this Recommended Decision becoming a decision of the Commission, Phoenix Towing shall refund \$260.00 payable to Ms. Velvetina Meyer, 2127 Coronado Parkway North, Unit B, Denver, CO 80229-8012.

3. The hearing scheduled to commence in this matter on February 24, 2025, is vacated.

4. Proceeding No. 25F-0543TO is closed.

5. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

6. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

- a. If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.
- b. If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

7. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

\_\_\_\_\_  
Administrative Law Judge

A handwritten signature in cursive script that reads "Rebecca E. White".

Rebecca E. White,  
Director