

Decision No. C23-0526

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23M-0355TO

IN THE MATTER OF THE PETITION OF S&R AFFORDABLE TOWING LLC TO REVERSE AN INITIAL TOWING PERMIT DENIAL PURSUANT TO 40-10.1-401(2)(B), C.R.S., AND RULE 6504(D).

COMMISSION DECISION DENYING PETITION

Mailed Date: August 8, 2023

Adopted Date: August 2, 2023

I. BY THE COMMISSION

A. Statement, Discussion, and Findings

1. On June 30, 2023, S&R Affordable Towing (S&R Towing) filed a letter requesting to appeal a denial of a towing permit application. As stated in S&R Towing's letter, its towing permit application 1018812 and 23AP-T-44324, attached to revoked PUT-T-04532, were denied through the Commission's denial letter dated April 13, 2023.

2. S&R Towing's letter states that its principals have not been convicted of any crimes. However, it states that there are current criminal charges pending. S&R requests a continuance on setting a hearing for its requested appeal until the pending cases are resolved.

3. S&R Towing's letter states that it is "aware of the 60-day window to appeal the application denial," which ended June 12, 2023, and explains that it experienced technical difficulties when it attempted to transmit a letter requesting appeal on June 12, 2023.

4. Section 40-10.1-401(b), C.R.S., allows the Commission to deny an application or refuse to renew a towing permit based on a determination there is good cause to believe the issuance of or renewal of the permit is not in the public interest, subject to appeal in accordance with Commission rules. Rule 6504 of the Commission's Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* (CCR), 723-4-6504, sets forth the Commission's provisions regarding criminal history checks for principals of a towing carrier. Rule 6504(d) provides that if a disqualifying criminal history record is found, the applicant may file a petition to qualify the applicant within 60 days of Commission staff's notification. Rule 6504(d)(II) states that the applicant bears the burden of proving that disqualification is not supported by law or fact.

5. Given the provisions set forth in statute and Commission Rule, we construe the letter filed by S&R Towing on June 30, 2023, as a Petition filed in accordance with Rule 6504(d).

6. In these circumstances, we deny S&R Towing's Petition. As S&R Towing acknowledges, it failed to file a petition requesting qualification within 60 days of the April 13, 2023 denial letter, as is required by Rule 6504(d). Further, the Petition states that criminal cases are still pending, giving no indication that the disqualification set forth in the April 13, 2023 denial letter was not supported by law or fact, and giving no expectation as to when the criminal cases may conclude. Rather than accepting the late-filed Petition and waiting to set a hearing until the criminal cases are resolved, we recognize that the applicant may file another application, if and when the pending criminal cases are resolved.

II. ORDER

A. It Is Ordered That:

1. The letter filed by S&R Affordable Towing on June 30, 2023, requesting appeal of a tow carrier permit application denial, is hereby construed as a Petition filed pursuant to Rule 6504(d) of the Commission's Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* (CCR), 723-4-6504.

2. The Petition is denied, consistent with the discussion above.

3. The 20-day period provided for 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.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
August 2, 2023.**

(SEAL)



ATTEST: A TRUE COPY

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

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

TOM PLANT

Commissioners