

Decision No. R23-0287-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23R-0085TO

IN THE MATTER OF THE PROPOSED AMENDMENTS TO THE COMMISSION'S RULES REGULATING TOWING CARRIERS, 4 CODE OF COLORADO REGULATIONS 723-6, TO IMPLEMENT HB 22-1314.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
ALENKA HAN
CONTINUING PUBLIC COMMENT HEARING,
SCHEDULING CONTINUED PUBLIC COMMENT
HEARING, AND SETTING DEADLINES FOR
ADDITIONAL WRITTEN COMMENTS**

Mailed Date: May 2, 2023

I. STATEMENT

A. Background

1. On February 22, 2023, the Colorado Public Utilities Commission (PUC or Commission) initiated this proceeding by issuing a Notice of Proposed Rulemaking (NOPR) to amend the Commission's Rules Regulating Towing Carriers, 4 Code of Colorado Regulations (CCR) 723-6.¹ The NOPR proposed changes to the aforementioned rules, described those changes in detail and the justification therefor, attached the proposed amended Rules in legislative (*i.e.*, strikeout/underline) format and in a clean version, established deadlines of March 24, 2023, and April 7, 2023, for initial comments and response comments concerning the proposed rules, respectively, and scheduled a remote public comment hearing for April 20, 2023,

¹ Decision No. C23-0118, issued February 22, 2023.

at 11:30 a.m. for oral comments regarding the proposed rules. The NOPR also referred this proceeding to an Administrative Law Judge (ALJ). The proceeding was subsequently assigned to the undersigned ALJ.

2. Towing and Recovery Professionals of Colorado, Wyatt's Towing, and several individuals filed initial comments.

3. The ALJ held the remote public comment hearing as scheduled on Thursday, April 20, 2023, at 11:30 a.m. Participants in the hearing offered their comments concerning the scope of terms defined in the proposed rules and the clarity of the proposed rules, suggested that the rules eliminate, as much as practicable, cross-references to statutory provisions, and discussed the application of the proposed rules in the field. Nathan Riley, an advisor with the Commission, addressed numerous concerns raised by participants and explained the proposed form and content of certain rules. Based on the extensive nature of the proposed changes to the rules and the desire for additional amendments to the rules, the ALJ proposed holding an additional public comment hearing. Several of the participants at the hearing agreed that an additional hearing is warranted, and others requested the opportunity to provide additional written comments.

4. Participants at the public comment hearing also requested the opportunity to submit additional written comments addressing the proposed amendments to the rules. No one objected to either proposal.

B. Continued Public Comment Hearing

5. Based on the robust conversation held at the April 20, 2023, public comment hearing, and participants' desire to continue the discussion, the ALJ finds that a second public comment hearing in this Proceeding is warranted and appropriate.

6. During the April 20, 2023, public comment hearing, the ALJ announced that the public comment hearing will be continued to May 30, 2023, at 11:30 a.m. This Interim Decision memorializes the continuance of this Proceeding and schedules the continuation of the remote public comment hearing for May 30, 2023, at 11:30 a.m. The ALJ notes that holding the second public comment hearing over the lunch hour is intended to provide those who are unable to participate or attend a public comment hearing held during regular business hours an opportunity to attend and/or participate in the hearing.

C. Additional Written Comments

7. At the April 20, 2023, participants discussed options for making the towing rules self-contained by minimizing cross-references to applicable statutory provisions. Mr. Riley agreed that such additional changes to the proposed rules could make the towing rules less complicated and easier for towing carriers to implement. Such additional changes could, however, necessitate substantial additional revisions to the towing rules.

8. Because participants to the April 20, 2023, public comment hearing expressed their desires to weigh in on additional changes to the towing rules, including the suggestion that certain rules be amended further to minimize cross-references, participants attending the April 20, 2023, public comment hearing in this Proceeding asked for the opportunity to submit additional written comments addressing the suggested changes. No Participants objected to this request.

9. The undersigned ALJ finds additional written comments are warranted and appropriate and therefore will permit interested persons or entities to file additional responsive comments on or before May 12, 2023. Any replies to the additional responsive comments must be filed no later than May 19, 2023.

D. Instructions for Remote Public Comment Hearing

10. The public comment hearing will be held using the web-hosted video-conferencing service, Zoom. This means that members of the public who wish to participate in the public comment hearing should not appear in person at the Commission's offices but should instead appear remotely via Zoom. Participants in the hearing should prepare in advance to use this platform. Attachment A to this Decision provides step-by-step technical instructions and requirements to participate by video-conference using a computer. This is intended to ensure that the remote hearing proceeds efficiently. Hence, it is important that video-conference participants carefully review and follow all requirements in this Decision and Attachment A.

11. For those who wish to provide oral comments during the hearing, video-conference participation is preferred and encouraged because it allows for the hearing to be held in a manner most similar to in-person hearings. Nevertheless, interested persons have the option to participate by telephone. The link, access code, and call-in information to participate in the hearing will be available on the Commission's calendar of events for the date and time of the hearing at <https://puc.colorado.gov/puccalendar>.

12. Any member of the public participating in the public comment hearing by video-conference must use a computer, smart phone, or tablet that is connected to the internet and has an operational microphone, speaker, and camera. Participants are required to input their full name and any affiliation when prompted to do so. This will allow the ALJ to call on participants to provide oral comments in an orderly fashion.

13. During the public comment hearing, the ALJ will take action as necessary to facilitate a clear and understandable record, and to ensure the orderly progress of the hearing. For the same reasons, all participants are required to: (a) mute their microphone during the

hearing until called upon by the ALJ; (b) ensure they are participating from a location with minimal or no background noise; and (c) not connect to the hearing using multiple devices located in the same room (which will cause audio feedback). Participants are encouraged to use a headset to listen to the hearing, as this may also help avoid background noise and feedback when they speak.

14. The Commission will publicize the public comment hearing by press release, announce it on its public calendar, and make it known by other avenues to the extent resources are available.

15. The Commission strives to accommodate all members of the public at its hearings by providing services for foreign language users and persons with disabilities upon receipt of a reasonable accommodation request. Requests for such accommodations should be made at least one week prior to the event by completing the Language Access Form. Requests can also be made directly by contacting Holly Bise at (303) 894-2024 or by emailing holly.bise@state.co.us.

E. Observing the Public Comment Hearing

16. Consistent with Commission practice, the public comment hearing will be webcast on the Commission's website. Persons wishing to observe, but not participate in the hearing may do so by observing the webcast of the rulemaking hearing and need not join the hearing by telephone or video-conference. To observe the hearing by webcast, enter this link in the web browser <https://puc.colorado.gov/webcasts> and select the audio or video option for the assigned hearing room. The assigned hearing room will be identified on the Commission's public calendar for the date and time of the hearing, at the following link: <https://puc.colorado.gov/pucalendar>.

17. The ALJ encourages interested persons who do not wish to provide comments during the hearing to observe the hearing through the webcast because this will help minimize background noise during the hearing and may assist in the orderly progression of the hearing.

18. Methods to Submit Public Comment

19. Interested persons may provide written or oral comments. Although the Commission prefers written comments over oral comments, they are given the same weight.

20. Interested persons are encouraged to submit written comments through either: (a) the Commission’s Electronic Filing System at <https://www.dora.state.co.us/pls/efi/EFI.homepage> in this proceeding; or (b) the Commission’s website at <https://puc.colorado.gov/> by clicking on the “FILE A COMMENT OR COMPLAINT” link. Anyone using the latter option should ensure that their comments include this Proceeding number (Proceeding No. 23R-0085TO).

21. Oral comments can be provided during the scheduled public comment hearing, or by leaving a voice mail message at (303) 869-3490. Voice mail public comments will be placed in the record of this Proceeding and should likewise include a reference to this Proceeding number (Proceeding No. 23R-0085TO).

22. The Commission will equally consider public comments, regardless of the format in which they are submitted (verbal or in writing).

II. ORDER

A. It Is Ordered That:

1. The public comment hearing in Proceeding No. 23R-0085TO is continued.

2. The continued remote public comment hearing on the proposed revisions to the

Towing Rules is scheduled as follows:

DATE: May 30, 2023

TIME: 11:30 a.m.

PLACE: By video conference: using the Zoom web conferencing platform at a link in the calendar of events on the Commission's website, available at <https://puc.colorado.gov/>.

3. Interested persons may file additional or supplemental written comments in this matter. Additional responsive comments should be submitted no later than **May 12, 2023**. Any comments replying to the additional responsive comments should be submitted no later than **May 19, 2023**.

4. All participants in the public comment hearing must follow the requirements in Attachment A hereto, which is incorporated as if fully set forth herein.

5. Those wishing to observe but not participate in the above public comment hearing may do so by observing the Commission's webcast for the assigned hearing room at: <https://puc.colorado.gov/webcasts>.

6. Members of the public who wish to provide written or oral comments outside of the public comment hearing may do so by following the instructions in this Decision.

7. The Administrative Law Judge may schedule additional hearings if necessary.

8. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ALENKA HAN

Administrative Law Judge

ATTEST: A TRUE COPY

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

Rebecca E. White,
Director