

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

PROCEEDING NO. 23R-0085TO

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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.

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**NOTICE OF PROPOSED RULEMAKING**

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Mailed Date: February 22, 2023

Adopted Date: February 15, 2023

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**I. BY THE COMMISSION****A. Statement**

1. The Colorado Public Utilities Commission (Commission) hereby issues this Notice of Proposed Rulemaking (NOPR) to consider amendments to the Commission's Rules Regulating Towing Carriers, 4 *Code of Colorado Regulations* (CCR) 723-6. The statutory authority for adoption of these rules is set forth in §§ 40-2-108, 40-10.1-106, and 40-10.1-410, C.R.S. This NOPR largely addresses the incorporation of new statutory provisions pursuant to House Bill (HB) 22-1314, enacted June 7, 2022, and effective August 10, 2022.

2. The Commission issues this NOPR to review, examine, and consider revisions to its rules regarding towing carriers, as it pertains mostly to legislative and statutory changes incorporated by bills passed by the Colorado Legislature during the 2022 session. The proposed amendments reflect the Commission's intent to amend and update its towing rules to make them congruent with the recent statutory changes and to expand upon certain operational standards, where appropriate.

3. The proposed amendments to the towing rules are available for review as Attachment A (redline) and Attachment B (clean) to this Decision, through the Commission's Electronic Filings website (Proceeding No. 23R-0085TO) at [https://www.dora.state.co.us/pls/efi/EFI.Show\\_Docket?p\\_session\\_id=&p\\_docket\\_id=23R-0085TO](https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=23R-0085TO).

4. The Commission welcomes comments from interested rulemaking participants, regarding the amendments proposed in this NOPR. To the extent a participant disagrees with the

proposed amendments, they are encouraged to submit comments that include any suggested revisions to the rule language in legislative (*i.e.*, *strikeout*) format.

## **B. Background**

5. On June 7, 2022, Governor Jared Polis signed HB 22-1314, Towing Carrier Nonconsensual Tows. This bill, in majority part, amended Part 4, § 40-10.1, C.R.S., which made substantial changes to the towing industry in Colorado, most significantly as it pertains to nonconsensual tows originating from residential private properties. Such changes included new operational standards for towing carriers engaging in these types of tows, including a new 24-hour notice requirement, a prohibition on towing carriers acting as the authorizing agent for private property owners, an obligation for towing carriers to release towed motor vehicles without full payment, and a restriction on towing carriers applying a drop fee for tows that had not yet been completed, amongst others. In addition, there were amendments to other statutory measures, such as § 42-4-2103, C.R.S., which the Commission also applies to regulated towing carriers. The effective date of the statutory changes was August 10, 2022.

6. On September 26, 2022, Wyatt's Towing filed a Petition for Rulemaking and Request for Forbearance. Wyatt's Towing requested the Commission promulgate rules that address the entirety of HB 22-1314, certain provisions of which they claimed could be interpreted in different ways. On November 9, 2022, the Commission granted the petition for rulemaking and directed Commission Staff (Staff) to initiate a NOPR as soon as possible.<sup>1</sup> However, the Commission denied the request for forbearance, stating that while numerous provisions in the new

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<sup>1</sup> See Decision No. C22-0705, Proceeding No. 22M-0412TO.

statutes would benefit from official Commission review and analysis, “there are also many provisions in the statutes that can be read, and followed, based on a plain reading of the language.”<sup>2</sup>

7. Since the passing of HB 22-1314, Staff has thoroughly reviewed the bill and has been methodically creating draft amendments to the current towing rules, which incorporate all applicable standards and requirements, while at the same time remaining simplistic and easy to understand. Staff has, necessarily, expended much time and effort into this process in order to revise, as little as possible, the existing language and framework in the current towing rules, with the goal that the resulting rules will be easier and less confusing for towing carriers to incorporate into their established practices and operations, once adopted. In addition, the Commission has spent considerable resources engaging with stakeholders to review, discuss, and share its expertise regarding the provisions of HB 22-1314.

8. In keeping with the aforementioned stakeholder outreach, Staff convened a public stakeholder workshop on December 19, 2022, which was attended by many members of the towing industry. During this workshop, the proposed rule amendments attached to this Decision were reviewed and discussed in detail. As a result, stakeholders identified several topics they wished to see discussed further during the NOPR. These topics included 1) temporary towing permits, so that the Commission can verify if authenticity of towing applicants, including their possession of trucks capable of engaging in towing operations; 2) clarification on appropriate safety/overhead lighting for tow trucks; 3) additional standards for the new statutory provision for releasing a towed motor vehicles without full payment; and 4) clarification on Commission jurisdiction over towing carriers engaging in motor vehicle transport, such as for the purposes of insurance and/or auction.

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<sup>2</sup> See Decision No. C22-0705, Proceeding No. 22M-0412TO, ¶ 7, 10.

The stakeholders requested that the Commission further explore these issues, in addition to all other rule amendments discussed in this Decision.

9. It should be noted that, while the Commission proposes rule revisions and additions that it finds necessary to implement the legislative changes enacted in HB 22-1314, the Commission also has existing rules that provide operational and safety standards to ensure the safe and reasonable operation of towing carriers operating in this state and the protection of consumers. Pursuant to § 40-10.1-106(1)(b), C.R.S., the Commission has the authority, and the duty, to prescribe rules covering the operations of motor carriers, including rules setting forth the circumstances under which a towing carrier may perform a nonconsensual tow of a motor vehicle, the responsibilities and facilities of the towing carrier for the care or storage of the motor vehicle and its contents, and the minimum and maximum rates and charges to be collected by the towing carrier for the nonconsensual towing and storage of the motor vehicle. As a result, the Commission has endeavored to incorporate the statutory changes into existing rules, with minimal revision to the requirements already set forth therein, for all types of tows.

10. Many of the new statutory requirements for nonconsensual tows originating from residential private properties, as enacted in HB 22-1314, simply codify in law the Commission's existing operational and safety standards. Since the legislature's focus was on enacting statutory requirements for tows from residential properties, most of these statutory standards apply only to that specific subset of tows. The Commission sees HB 22-1314 as a policy determination by the legislature that these operational and safety standards must always be required for tows originating from residential private properties. Conversely, the Commission does not see HB 22-1314 as a determination by the legislature that the Commission cannot, or should not, continue to require the same, or similar, operational and safety standards for other types of tows that the Commission

determines necessary and appropriate, under its general authority, to regulate and prescribe rules for towing carriers. As a result, the Commission takes a targeted approach in the proposed rules, whereby the changes required by HB 22-1314 are appropriately implemented, while at the same time, the necessary operational and safety standards already required in Commission rules are maintained, wherever possible.

11. For example, HB 22-1314 enacted a new policy that requires 24 hours' notice to the motor vehicle owner or authorized operator before a tow can occur from residential private property, with certain exceptions. Proposed Rule 6508(d) implements this new operational requirement with a targeted rule, specifying in new paragraph (d) that this notice must be given for the residential tows identified in HB 22-1314. Likewise, Proposed Rule 6508(e) implements the legislature's new operational requirement that, for tows from residential private property, towing carriers must document certain motor vehicle conditions through photographs at the time of the tow.

12. On the other hand, in some instances, HB 22-1314 simply codifies a standard already required by current Commission rules. For example, existing Rule 6509(a)(XII), 4 CCR 723-6, requires a towing carrier's tow record or invoice form to state, in at least font size ten, that consumers can report problems to the Commission and provides the Commission's telephone number. HB 22-1314 added the requirement that, for tows from residential private property, this notice must be in a font no smaller than any other information on the document. Proposed Rule 6509(a)(XII) maintains the requirement for this notice already in rule but adds these additional criteria, as outlined in HB 22-1314, for tows from residential private property.

13. However, as it pertains to certain consumer protection provisions currently outlined in Commission rules, the merging of the rules with the newly incorporated state statutes is not as

seamless. For example, existing Rule 6507(f) describes the towing carrier's responsibility for the safety and security of a towed motor vehicle until such time as it has been released. While this pairs well with the newly created § 40-10.1-405(8), C.R.S., which contains almost identical language, this statutory provision does not apply to law enforcement-ordered tows or nonconsensual tows originating from commercial private properties.<sup>3</sup> The Commission does not believe it was the legislature's intent to strip such a critical consumer protection from other forms of regulated tows, so it could be applied only to residential private property tows. Similarly, existing Rule 6512(a) prohibits a towing carrier from requiring a "cash" payment for a drop charge or to release a motor vehicle from storage. HB 22-1314 expressly requires towing carriers to accept either credit card or cash payments for tows from residential private property. This statutory amendment required no change to the substance of the Commission's current rule, which already required towing carriers, for any type of tow, to accept credit card or cash payments. In such instances, the Commission has elected to retain these established regulations, most of which are very beneficial to consumers of towing services, to the greatest extent possible. These are specifically noted in the proposed amendments discussed below.

### **C. Discussion of Proposed Amendments to Towing Rules**

14. The proposed amendments to the towing rules are shown in Attachment A (redline) and Attachment B (clean) to this Decision. These changes are described in this section, along with discussion of the statutory and policy reasons associated with the proposed amendments.

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<sup>3</sup> See § 40-10.1-405(9), C.R.S.

**(i) Rule 6001 – Definitions (General)**

15. The proposed amendments include a correction to reflect the appropriate statute referenced in Rule 6001(uuu) for the definition of “Towing Carrier”. The rule currently reads, “...pursuant to part 4 of Article 10.5 of Title 40, C.R.S. and rule 6500, et seq.” The proposed amendment is to update the referenced statute to correctly reflect “Article 10.1”. This is a simple language error correction.

**(ii) Rule 6500 – Applicability of Towing Carrier Rules**

16. The proposed amendments include an expansion of Rule 6500(a) for the applicability of towing carrier rules, to include tow truck drivers. This matches the applicability standard outlined in Rule 6501. This is a simple language consistency change.

17. The proposed amendments include an update to the rules cross-referenced in Rule 6500(c), specifically the reference to Rules 6511(a)-(f). Based on the proposed elimination of Rule 6511(d), these citations were updated to reflect Rules 6511(a)-(e). This is a simple language consistency change.

**(iii) Rule 6501 – Definitions (Towing)**

18. The proposed amendments include multiple changes and additions to Rule 6501 for towing carrier definitions, based on statutory changes and other considerations. Based on these amendments, the remaining definitions in Rule 6501 have also been re-numbered, where appropriate, to accommodate the changes and newly added definitions.

**(a) Address**

19. The proposed amendments to Rule 6501(b) for the definition of “Address” include grammatical fixes. These are simple grammatical changes.

**(b) Authorized Operator of a Motor Vehicle**

20. The proposed amendments to Rule 6501(e) for the definition of “Authorized operator of a motor vehicle” include an expanded definition, to include the condensed term “authorized operator”, which is found in other definitions and rules. This is a simple expansion of the terms used to encapsulate this current definition.

**(c) Authorized or Interested Person**

21. The proposed new definition of “Authorized or interested person” has replaced current Rule 6501(f), which formerly held the definition for “Business hours”. This new definition is added to reflect a new statutory definition for the same term, pursuant to § 40-10.1-101(1.5), C.R.S. It should be noted that this is a consolidated definition, which encapsulates other definitions, and will be used in many other proposed definitions and rules.

**(d) Common Parking Area**

22. The proposed new definition of “Common parking area” has replaced current Rule 6501(h), which formerly held the definition for “Law enforcement officer”. This new definition is added to reflect a new statutory definition for the same term, pursuant to § 40-10.1-101(4.5), C.R.S.

**(e) Drop Fee or Drop Charge**

23. The proposed new definition of “Drop fee” or “drop charge” has replaced current Rule 6501(i), which formerly held the definition for “Law enforcement-ordered tow”. This new definition is added to reflect a new statutory definition for “Drop fee”, pursuant to § 40-10.1-101(6.5), C.R.S., as well as an expanded definition, to include “drop charge”, which is found in other rules and statutes.

**(f) Gross Vehicle Weight Rating or GVWR**

24. The proposed amendments to Rule 6501(j), formerly Rule 6501(g), for the definition of “Gross vehicle weight rating” or “GVWR” include grammatical fixes. These changes match other definitions that include corresponding acronyms. These are simple grammatical changes.

**(g) Insurance Company**

25. The proposed new definition of “Insurance company” has replaced current Rule 6501(k), which formerly held the definition for “Name”. This new definition is necessarily added to reflect terminology found in the new statutory definition for “Authorized or interested person”, pursuant to § 40-10.1-101(1.5), C.R.S., amongst other statutes and proposed rules.

**(h) Law Enforcement Officer**

26. The proposed amendments to Rule 6501(l), formerly Rule 6501(h), for the definition of “Law enforcement officer” include grammatical fixes. These are simple grammatical changes.

**(i) Law Enforcement-Ordered Tow**

27. The proposed amendments to Rule 6501(m), formerly Rule 6501(i), for the definition of “Law enforcement-ordered tow” replace existing language with the new definition for “Authorized or interested person”, pursuant to proposed Rule 6501(f). These are simple language consistency changes.

**(j) Lienholder of the Motor Vehicle**

28. The proposed new definition of “Lienholder of the motor vehicle” has replaced current Rule 6501(o), which formerly held the definition for “Private Property Impound” or “PPI”. This new definition is necessarily added to reflect terminology found in the new statutory definition for “Authorized or interested person”, pursuant to § 40-10.1-101(1.5), C.R.S., amongst other statutes and proposed rules.

**(k) Nonconsensual Tow, Nonconsensual Towing, Towed Nonconsensually, Nonconsensually Tow, or Towed Without Consent**

29. The proposed amendments to Rule 6501(q), formerly Rule 6501(l), for the definition of “Nonconsensual tow” include expanded definitions, consisting of the terms “nonconsensual towing”, “towed nonconsensually”, “nonconsensually tow”, and “towed without consent”. These expansions, as well as various other language updates, reflect a new statutory definition for the same terms, pursuant to § 40-10.1-101(13), C.R.S.

**(l) Parking Lot**

30. The proposed amendments to Rule 6501(r), formerly Rule 6501(m), for the definition of “Parking lot” include grammatical fixes. These are simple grammatical changes.

**(m) Private Property Impound or PPI**

31. The proposed amendments to Rule 6501(t), formerly Rule 6501(o), for the definition of “Private property” include grammatical fixes. These changes match other definitions that include corresponding acronyms. These are simple grammatical changes.

**(n) Property Owner**

32. The proposed amendments to Rule 6501(u), formerly Rule 6501(p), for the definition of “Property owner” include updated language to reflect new statutory language, pursuant to §§ 40-10.1-405(3)(a)(IV)(B), (C), C.R.S. These changes will support instances when a person subject to the Colorado Common Interest Ownership Act may authorize applicable nonconsensual tows from private property.

**(o) Recovery**

33. The proposed amendments to Rule 6501(w), formerly Rule 6501(r), for the definition of “Recovery” include grammatical fixes. These are simple grammatical changes.

**(p) Signature**

34. The proposed amendments to Rule 6501(x), formerly Rule 6501(s), for the definition of “Signature” includes a language change that will allow more flexibility for tow authorization signatures, given the increased volume of digital communications. This proposed change is based on stakeholder feedback.

**(q) Storage Facility or Towing Facility**

35. The proposed updated definition of “Storage facility” or “towing facility” has replaced current Rule 6501(y), which formerly held the definition for “Towing carrier”. It is

proposed that the definition for “Towing facility”, which currently resides in Rule 6501(aa), be eliminated, and replaced with the proposed updated definition, which also includes an expanded definition, consisting of the term “Storage facility”, which is the more widely used term, both in practice and in rule.

**(r) Tow Invoice**

36. The proposed amendments to Rule 6501(bb), formerly Rule 6501(v), for the definition of “Tow invoice” replace existing language with the new definition for “Authorized or interested person”, pursuant to proposed Rule 6501(f). These are simple language consistency changes.

**(s) Tow Record**

37. The proposed amendments to Rule 6501(cc), formerly Rule 6501(w), for the definition of “Tow record” include grammatical fixes. These are simple grammatical changes.

**(t) Towing Carrier Permit**

38. The proposed amendments to Rule 6501(ff), formerly Rule 6501(z), for the definition of “Towing carrier permit” include grammatical fixes. These are simple grammatical changes.

**(u) Vehicle Owner**

39. The proposed new definition of “Vehicle owner”, under Rule 6501(hh), is necessarily added to reflect terminology found in the new statutory definition for “Authorized or interested person”, pursuant to § 40-10.1-101(1.5), C.R.S., amongst other statutes and proposed rules.

**(iv) Rule 6503 – Towing Carrier Permit Application**

40. The proposed amendments include grammatical fixes to Rule 6503(a), specifically changing the term “person” to “applicant”. These are simple grammatical changes.

41. The proposed amendments include updated language to Rule 6503(a)(I) to reflect updated statutory language, pursuant to § 40-10.1-111(1)(c)(I), C.R.S., which allows the Commission to administratively set the application fees for towing carriers.

42. The proposed amendments include the new requirement, under Rule 6503(a)(IV), for towing carrier applicants to have at least one principal who possesses a valid Colorado driver’s license. This change will assist with the required criminal history background checks, pursuant to Rule 6504, and ensure there is at least one responsible party, as it pertains to the towing carrier, who is locally accessible.

**(v) Rule 6504 – Criminal History Checks and Good Cause Determinations**

43. The proposed amendments include a change to the title of Rule 6504, to add “Good Cause Determinations”. This change is based on new statutory language, pursuant to § 40-10.1-401(2)(b), C.R.S., which allows the Commission to deny towing permit applications based on a good cause determination.

44. The proposed amendments include the elimination of language under Rule 6504(a). The language to be removed is redundant, considering the general definition of “Principal”, pursuant to Rule 6001(iii).

45. The proposed amendments include updated language to Rule 6504(b)(II)(A) to reflect new statutory language, pursuant to § 40-10.1-401(2)(a), C.R.S. The updated language

addresses a disqualifier for towing permit applicants convicted of towing-related offenses within the previous five years.

46. The proposed amendments include a new standard, replacing Rule 6503(d), which formerly held the standard for appealing disqualifications for towing permit applications. The new standard includes language to reflect new statutory language, pursuant to § 40-10.1-401(2)(b), C.R.S., which allows the Commission to deny towing permit applications based on a good cause determination.

47. The proposed amendments include updated language to Rule 6504(e), formerly Rule 6504(d), to add “good cause determination” to the standard for appealing disqualifications for towing permit applications. These changes are consistent with § 40-10.1-401(2)(b), C.R.S.

48. Based on these amendments, the remaining rules in Rule 6504 have also been re-numbered, where appropriate, to accommodate the changes and newly added rules.

**(vi) Rule 6505 – Kickbacks Prohibited**

49. The proposed amendments add new rules to Rule 6505, previously held as Reserved. This new rule reflects new statutory language, pursuant to § 40-10.1-408, C.R.S., which addresses the prohibition on kickbacks for towing carriers engaging in nonconsensual towing. The rules further identify what constitutes “valuable consideration”, to include gifts and gratuities. While this clarification does not limit the term to only these specific types of items, it does allow for a basic understanding that things like installing “free” tow signage at a private property the towing carrier has contracted with does not fall into this prohibition. This fits with the intent of the statute.

**(vii) Rule 6506 – Equipment and Accessories**

50. The proposed amendments update language for Rule 6506(a)(III)(C)(i), to reflect the definition of “Legal disability” more accurately, under updated Rule 6501(n), as well as a grammatical fix. These are simple language consistency and grammatical changes.

51. The proposed amendments to Rule 6506(d) include grammatical fixes. These are simple grammatical changes.

52. The proposed new rule, under Rule 6506(e), replaces current Rule 6508(b)(III)(F), which will be eliminated as a result. This rule, which has to do with motor vehicle load securement, is better suited under Rule 6506 (Equipment and Accessories) than under Rule 6508 (Authorization for Towing of Motor Vehicles). The rule language has also been broadened, so that it may be applied to all types of regulated tows, as opposed to solely nonconsensual tows.

**(viii) Rule 6507 – Storage Facilities**

53. The proposed amendments update language for Rule 6507(a) to reflect updated statutory language, pursuant to § 42-4-2103(2)(a), C.R.S., which addresses the law enforcement notification standards for nonconsensual tows from private property.

54. The proposed amendments update language for Rule 6507(c) to replace existing language with the new definition for “Authorized or interested person”, pursuant to proposed Rule 6501(f). These are simple language consistency changes. It should also be noted that Rule 6507(c), which requires towing carriers to disclose basic information to individuals whose motor vehicles have been towed, does not seamlessly integrate with the new towing statutes, specifically § 40-10.1-405(4)(d), C.R.S.

55. The proposed amendments update language for Rule 6507(d)(II) to reflect new statutory language, pursuant to § 40-10.1-405(4)(b), C.R.S., which addresses the removal of language that constitutes a municipal code override, as this no longer appears to be allowed.

56. The proposed new rule, under Rule 6507(d)(II)(E), adds language to reflect new statutory language, pursuant to § 40-10.1-405(4)(b)(II), C.R.S. This rule, which addresses storage facility signage requirements, includes references to the new standard allowing for motor vehicle release without full payment, as addressed in § 40-10.1-405(5)(c), C.R.S., and proposed Rule 6512(l). The rule also clarifies that there is an exemption to this rule, pursuant to the provisions of § 40-10.1-405(9), C.R.S.

57. Even though Rule 6507(e) is not identified as a rule to be amended, it should be noted that this rule, which requires towing carriers to maintain adequate lighting at their storage facilities so individuals can inspect their motor vehicles for damage, does not seamlessly integrate with the new towing statutes, specifically § 40-10.1-405(2)(d), C.R.S.

58. The proposed amendments to Rule 6507(f) include grammatical fixes. In addition, this rule is expanded to include applicability for law enforcement-ordered tows, which is necessary based on the updated statutory definition for “Nonconsensual tow” and other related terms, pursuant to § 40-10.1-101(13), C.R.S. Finally, this rule replaces existing language with the new definition for “Authorized or interested person”, pursuant to proposed Rule 6501(f) and in accordance with §§ 40-10.1-405(4)(a), (8), C.R.S. It should also be noted that Rule 6507(f), which addresses a towing carrier’s responsibility over a motor vehicle in their possession and requires the release of insurance related information, does not seamlessly integrate with the new towing statutes, specifically §§ 40-10.1-405(4)(a), (8), C.R.S.

**(ix) Rule 6508 – Authorization for Towing of Motor Vehicles**

59. Before discussing the proposed amendments to Rule 6508, it is important to review aspects of a related Commission proceeding that addresses some of the provisions currently contained within this rule.

**(a) Commission Declarations in Proceeding No. 22D-0560TO**

60. In recent Proceeding No. 22D-0560TO, the Commission issued certain declarations resolving controversy over interpretation of §§ 40-10.1-405(3)(a), (b), C.R.S. Through Decision No. C23-0112, issued in this proceeding on February 21, 2023, the Commission granted, in part, the petition filed by Transportation Staff of the Commission (Staff) requesting certain legal determinations regarding the provisions of these statutes. The Commission determined that § 40-10.1-405(3)(a), C.R.S., addresses the required *authorization* standard for a nonconsensual tow from private property, while § 40-10.1-405(3)(b), C.R.S., addresses the 24 hours' *notice* standard for a nonconsensual tow from private property. The Commission ruled that these subsections work in concert to identify who may authorize a nonconsensual tow from private property and whether or not 24 hours' written notice is required to be given prior to performing a nonconsensual tow from private property. The Commission declined to adopt the interpretation advocated for through comments filed by stakeholders, including the Colorado Apartment Association (CAA); Donald Coy for Fort Collins Towing, LLC; Wyatt's Towing; Towing and Recovery Professionals of Colorado (TRPC); Heather Schlegel for Dedicated Towing and Recovery, LLC; and Robert Mooney for Denver West Towing. However, the Commission concluded that the issues raised in Staff's pleading and the filed comments brought to light certain distinctions and nuances that may warrant further consideration in rulemaking. Among other issues, the Commission noted that § 40-10.1-405(3)(a) and (b), C.R.S., apply only to tows

originating from residential private property, given the applicability provision in § 40-10.1-405(9), C.R.S., and further that the 24-hour notice provisions in § 40-10.1-405(3)(b), C.R.S. apply only to a residential “parking space” or “common parking area.” Subject to the Commission’s legal determinations already issued in Proceeding No. 22D-0560TO, the Commission solicits comment from rulemaking participants on proposed rule revisions or additions that participants believe may be helpful or appropriate to implement these statutes.

**(b) Proposed Rule Amendments**

61. The proposed amendments update language for Rule 6508(a)(I) to reflect new statutory language, pursuant to § 40-10.1-405(3)(a)(IV)(C), C.R.S., which addresses the prohibition on towing carriers acting as the authorized agent for private property owners, when subject to the provisions of the new § 40-10.1-405, C.R.S., statutes.

62. The proposed amendments update language for Rule 6508(a)(I)(E) to match the new definition of “Vehicle owner”, pursuant to proposed Rule 6501(hh). These are simple language consistency changes.

63. The proposed amendments update language for Rule 6508(a)(I)(G) to eliminate the rigidity of this requirement for tow agreements. These changes will allow for more flexibility for the purposes of enforcement.

64. The proposed amendments update language for Rule 6508(a)(II) to match the new definition of “Vehicle owner”, pursuant to proposed Rule 6501(hh). These are simple language consistency changes.

65. The proposed new rule, under Rule 6508(a)(V), expands the new statutory language, pursuant to § 40-10.1-405(3)(a)(IV)(C), C.R.S. While this statute establishes a

prohibition on towing carriers acting as the authorized agent for private property owners, when subject to the provisions of the new § 40-10.1-405, C.R.S., statutes, this new rule expands the prohibition to include any company owned or operated by, or directly affiliated with, a towing carrier. The purpose of this expanded prohibition is to give full effect to the statutory prohibition and ensure that towing carriers do not to have a perceived conflict of interest regarding the authorization of nonconsensual tows.

66. The proposed amendments update the title of Rule 6508(b) to expand the applicability for all different types of tows, including consensual, nonconsensual, and law enforcement-ordered tows. This is appropriate based on the current language of Rule 6508(b)(I) and the updated statutory definition for “Nonconsensual tow” and other related terms, pursuant to § 40-10.1-101(13), C.R.S.

67. The proposed amendments update language for Rule 6508(b)(I)(B) to replace existing language with the new definition for “Authorized or interested person”, pursuant to proposed Rule 6501(f). These are simple language consistency changes.

68. The proposed amendments to Rule 6508(b)(III)(D) include grammatical fixes. These are simple grammatical changes.

69. The proposed amendments update language for Rule 6508(c) to reflect new statutory language, pursuant to § 40-10.1-405(7), C.R.S., which addresses restrictions on the towing of motor vehicles for reason of expired vehicle registration.

70. The proposed new rules, under Rule 6508(d), reflect new statutory language, pursuant to §§ 40-10.1-405(3)(b), (c), C.R.S., which addresses the 24-hour notice standard and accompanying exemptions. Proposed Rule 6508(d)(I) expands the statutory language, pursuant to

§§ 40-10.1-405(3)(b)(I)(A), (3)(b)(IV), C.R.S., to specify that the exemption to the 24-hour notice standard for multiple notices is restricted to those that occur within the previous six months. Proposed Rule 6508(e) expands the statutory language, pursuant to § 40-10.1-405(3)(c), C.R.S., to clarify that the towing of motor vehicles for the reasons described in proposed Rules 6508(d)(V) and (VI), would require 24 hours' notice if additional signage is not present, pursuant to § 40-10.1-405(3)(c), C.R.S. Proposed Rule 6508(f) expands the statutory language, pursuant to § 40-10.1-405(3)(b)(II), C.R.S., to allow towing carriers to place the 24-hour notice on other areas of the motor vehicle, so long as it is in addition to the windshield placement, in accordance with the statute. Finally, the new rules clarify that there is an exemption to these rules, pursuant to the provisions of § 40-10.1-405(9), C.R.S.

71. The proposed new rules, under Rule 6508(g), reflect new statutory language, pursuant to §§ 40-10.1-405(2)(a), (b), (c), C.R.S., which addresses the criteria for photographs of a motor vehicle's condition and reason for the tow. Proposed Rule 6508(g)(II)(E), (g)(III)(D), and (g)(IV) expand the statutory language to include criteria for date/time stamps on photographs, a prohibition on assessing any fees for releasing copies of the photographs and allowing the photographs to be released in either physical or digital format. Finally, the new rules clarify that there is an exemption to these rules, pursuant to the provisions of § 40-10.1-405(9), C.R.S.

(x) **Rule 6509 – Tow Record/Invoice, Charge Notification, and Warning Signage**

72. The proposed amendments to Rule 6509(a) include expanding the rule to include applicability for law enforcement-ordered tows. This is appropriate based on the updated statutory definition for “Nonconsensual tow” and other related terms, pursuant to § 40-10.1-101(13), C.R.S. The proposed amendments also include simple grammatical changes. Proposed Rule

6509(a)(VII)(A) updates language to match the definition of “Property owner”, under updated Rule 6501(u), which is also consistent with Rules 6508(b)(I)(C) and 6509(a)(VII)(B). Proposed Rule 6509(a)(XI) replaces existing language with the new definition for “Authorized or interested person”, pursuant to proposed Rule 6501(f), which is done for language consistency purposes, and contains grammatical changes. Proposed Rule 6509(a)(XII) replaces existing language with the new definition for “Authorized or interested person”, pursuant to proposed Rule 6501(f), which is done for language consistency purposes, and includes new language to reflect new statutory language, pursuant to § 40-10.1-405(4)(e), C.R.S., which is subject to exemption, pursuant to § 40-10.1-405(9), C.R.S.

73. The proposed amendments to Rule 6509(b) include language consistency changes, which correspond with Rules 6509(a), (c), and (d). This rule also replaces existing language with the new definition for “Authorized or interested person”, pursuant to proposed Rule 6501(f), which is done for language consistency purposes. In addition, new language was added to reflect new statutory language, pursuant to § 40-10.1-407(3), C.R.S., which addresses the retention period for tow records/invoices.

74. The proposed amendments to Rule 6509(c) include updated language to reflect new statutory language, pursuant to § 40-10.1-407(2), C.R.S., which addresses how and when a tow record/invoice needs to be completed, including delays related to safety.

75. The proposed amendments to Rule 6509(d) include replacing existing language with the new definition for “Authorized or interested person”, pursuant to proposed Rule 6501(f), which is done for language consistency purposes. The rule also updates language to reflect new statutory language, pursuant to § 40-10.1-407(4), C.R.S., which addresses when the tow record/invoice is required to be released, and pursuant to § 40-10.1-405(4)(c), C.R.S., which

addresses the requirement for charges/rates for each fee to be included for each nonconsensual tow, subject to the exemption provisions under § 40-10.1-405(9), C.R.S.

76. The proposed amendments to Rule 6509(e) include language consistency changes, which correspond with Rule 6511(a). The rule also replaces existing language with the new definition for “Authorized or interested person”, pursuant to proposed Rule 6501(f), which is done for language consistency purposes. In addition, the rule clarifies that there is an exemption to this rule, pursuant to § 40-10.1-405(9), C.R.S., which is consistent with the provisions of § 40-10.1-405(6), C.R.S. There are also some simple grammatical changes.

77. The proposed amendments to Rule 6509(f) include language consistency changes, corresponding with other parts of the underlying rule, and grammatical fixes.

**(xi) Rule 6510 – Disclosure of Rates and Charges**

78. The proposed amendments to Rule 6510(a) include replacing existing language with the new definition for “Authorized or interested person”, pursuant to proposed Rule 6501(f), and other language consistency changes, in accordance with updated Rule 6501(u). There are also some simple grammatical changes.

79. The proposed amendments to Rule 6510(b) include replacing existing language with the new definition for “Authorized or interested person”, pursuant to proposed Rule 6501(f), which is done for language consistency purposes. There are also some simple grammatical changes.

80. The proposed new rule, under Rule 6510(c), reflects new statutory language, pursuant to § 40-10.1-405(1)(a), C.R.S., which addresses the requirement for displaying maximum

rates at a towing carrier's place of business and websites. The rule clarifies that there is an exemption to this rule, pursuant to the provisions of § 40-10.1-405(9), C.R.S.

**(xii) Rule 6511 – Rates and Charges**

81. The proposed amendments to Rule 6511(a) reflect new statutory language, pursuant to § 40-10.1-405(6), C.R.S., which addresses a prohibition against assessing a drop fee/charge, in certain circumstances, pursuant to the provisions of § 40-10.1-405(9), C.R.S. This rule also replaces existing language with the new definition for “Authorized or interested person”, pursuant to proposed Rule 6501(f), and other language consistency changes, in accordance with updated Rule 6509(e). Proposed Rule 6511(a)(I)(C) includes updated language, which eliminates an issue with the towing of vehicles that are exactly 19,001 pounds. Proposed Rules 6511(a)(IV), (V), replace existing language with the new definition for “Authorized or interested person”, pursuant to proposed Rule 6501(f), which is done for language consistency purposes.

82. The proposed amendments to Rule 6511(b) include updated language that eliminates the restrictive terms regarding the different elements/fees associated with a PPI tow and clarifies that other fees may be allowed by state statute or Commission rule, such as statutory notification, after hours release, credit card surcharges, etc. Proposed Rules 6511(b)(I)(B), (C), include updated language, which eliminates an issue with the towing of vehicles that are exactly 10,001 pounds or 19,001 pounds, respectively. Proposed Rule 6511(b)(V) clarifies that other fees may be allowed by state statute or Commission rule, which is done for language consistency purposes.

83. The proposed amendments to Rule 6511(c) include grammatical fixes, which are consistent with the definition of “Law enforcement-ordered tow”, pursuant to updated Rule

6501(m), and eliminates restrictive terms regarding fees associated with law enforcement-ordered tows, clarifying that other fees may be allowed by state statute or Commission rule, such as statutory notification, after hours release, credit card surcharges, etc. Proposed Rule 6511(c)(I)(C) includes updated language, which eliminates an issue with the towing of vehicles that are exactly 19,001 pounds. Proposed Rule 6511(c)(IV)(B) includes simple grammatical fixes. Proposed Rule 6511(c)(IV)(E) replaces existing language with the new definition for “Authorized or interested person”, pursuant to proposed Rule 6501(f), which is done for language consistency purposes, and includes simple grammatical fixes.

84. The proposed amendments to Rule 6511(d) include a complete elimination of the current rule, as written. This would eliminate the specific rates associated with tows directed by law enforcement, for the purposes of accident reconstruction or stolen vehicle investigation. These rates have remained static for many years. This change, which is based on stakeholder feedback, would result in such tows defaulting to the standard rates for law enforcement-ordered tows, consistent with Rule 6511(c). Based on these amendments, the remaining rules in Rule 6511 have also been re-numbered, where appropriate, to accommodate the elimination of Rule 6511(d).

85. The proposed amendments include updated language to the rule title of Rule 6511(d), formerly Rule 6511(e), to allow for applicability for law enforcement-ordered tows, which is necessary based on the updated statutory definition for “Nonconsensual tow” and other related terms, pursuant to § 40-10.1-101(13), C.R.S. Proposed Rule 6511(d)(I), formerly Rule 6511(e)(I), includes updated language to allow for the use of the same storage rate structure for law enforcement-ordered tows and PPIs originating from commercial private property, consistent with §§ 40-10.1-405(1)(c)(I), (9), C.R.S., and includes updated language for consistency with language in other rules. Proposed Rules 6511(d)(I)(A), (B), formerly Rules 6511(e)(I)(A), (B),

includes updated language for consistency with other rules. Proposed Rule 6511(d)(I)(D), formerly Rule 6511(e)(I)(D), includes updated language to reflect new statutory language, consistent with §§ 40-10.1-405(1)(c)(I), (9), C.R.S., which addresses the storage rate structure for law enforcement-ordered tows and PPIs originating from commercial private property, and includes simple grammatical fixes. The proposed new rule, under Rule 6511(d)(I)(E), reflects new statutory language, pursuant to § 40-10.1-405(1)(c)(I), C.R.S., which addresses a new prorated storage rate structure for PPIs originating from residential private property, including towing carriers applying an hourly prorated structure, when applicable, the combined total of which cannot exceed the daily rate, under updated Rule 6511(d)(I). Proposed Rule 6511(d)(IV), formerly Rule 6511(e)(IV), eliminates the previously language in this rule, which served no real function, and adds new language to reflect updated statutory language, pursuant to § 42-4-2103, C.R.S., which prohibits a towing carrier from charging greater than the first 24 hours of storage for private property tows, until such time as the statutory notification process has been completed. Proposed Rule 6511(d)(V), formerly 6511(e)(V), updates language for consistency with updated Rule 6511(d)(IV).

86. The proposed amendments include updated language to Rule 6511(e), formerly Rule 6511(f), to allow for applicability for law enforcement-ordered tows, which is necessary based on the updated statutory definition for “Nonconsensual tow” and other related terms, pursuant to § 40-10.1-101(13), C.R.S.

87. The proposed amendments include updated language to Rule 6511(f), formerly Rule 6511(g), to allow for the rule to require release of a motor vehicle held in storage, if/when violations of state statute or Commission rule are found. This change no longer limits applicability for motor vehicle releases to instances when there are violations related to authorization. The

language has also been updated to replace existing language with the new definition for “Authorized or interested person”, pursuant to proposed Rule 6501(f), which is done for language consistency purposes.

88. The proposed amendments include updated language to Rule 6511(g)(I), formerly Rule 6511(h)(I), for consistency with the new definitions for “Lienholder of the motor vehicle”, pursuant to proposed Rule 6501(o), and “Vehicle owner”, pursuant to proposed Rule 6501(hh), as well as some simple grammatical fixes. Proposed Rule 6511(g)(IV)(D), formerly Rule 6511(h)(IV)(D), updates language to remove reference to eliminated Rule 6511(d), including subparagraphs (i) and (ii) of the underlying rule, and allow towing carriers to assess fees for all documented expenses related to a certified VIN verification.

**(xiii) Rule 6512 – Release of Motor Vehicle and Personal Property**

89. The proposed amendments to Rule 6512(a) include updated language to eliminate the narrow references to specific fees associated with tows, which currently excludes fees involving statutory notification, credit card surcharges, etc. The rule also replaces existing language with the new definition for “Authorized or interested person”, pursuant to proposed Rule 6501(f), which is done for language consistency purposes. This includes the elimination of subparagraphs (I), (II), and (III) of the underlying rule. In addition, the rule includes updated language to reflect new statutory language, pursuant to § 40-10.1-405(1)(b), C.R.S., which addresses accepted forms of payment. There are also some simple grammatical fixes. It should also be noted that Rule 6512(a), which requires towing carriers to accept specific forms of payment, does not seamlessly integrate with the new towing statutes, specifically § 40-10.1-405(1)(b), C.R.S.

90. The proposed amendments to Rule 6512(b) include updated language to allow for applicability for law enforcement-ordered tows, which is necessary based on the updated statutory definition for “Nonconsensual tow” and other related terms, pursuant to § 40-10.1-101(13), C.R.S. The rule also replaces existing language with the new definition for “Authorized or interested person”, pursuant to proposed Rule 6501(f), which is done for language consistency purposes.

91. The proposed amendments to Rule 6512(c) replace existing language with the new definition for “Authorized or interested person”, pursuant to proposed Rule 6501(f), which is done for language consistency purposes.

92. The proposed amendments to the rule title of Rule 6512(d) allow for applicability for law enforcement-ordered tows, which is necessary based on the updated statutory definition for “Nonconsensual tow” and other related terms, pursuant to § 40-10.1-101(13), C.R.S. The rule also includes updated language to reflect new statutory language, pursuant to § 40-10.1-405(5)(b), C.R.S., which addresses the release of personal property from a towed vehicle. In addition, the rule clarifies the term “personal property” and outlines different standards for the release of personal property for PPIs and law enforcement-ordered tows.

93. The proposed amendments to Rule 6512(e) include updated language for consistency with other rules.

94. The proposed amendments to Rule 6512(g) replace existing language with the new definition for “Authorized or interested person”, pursuant to proposed Rule 6501(f), which is done for language consistency purposes.

95. The proposed amendments to Rule 6512(h) replace existing language with the new definition for “Authorized or interested person”, pursuant to proposed Rule 6501(f), which is done for language consistency purposes.

96. The proposed amendments to Rule 6512(i) replace existing language with the new definition for “Authorized or interested person”, pursuant to proposed Rule 6501(f), which is done for language consistency purposes.

97. The proposed amendments to Rule 6512(j) replace existing language with the new definition for “Authorized or interested person”, pursuant to proposed Rule 6501(f), which is done for language consistency purposes.

98. The proposed amendments to Rule 6512(k) include updated language that specifies applicability for nonconsensual and law enforcement-ordered tows, eliminates the restrictive terms regarding fees associated with a tow, and clarifies that other fees may be allowed by state statute or Commission rule.

99. The proposed new rule, under Rule 6512(l), reflects new statutory language, pursuant to §§ 40-10.1-405(5)(c), (d), C.R.S., which addresses the requirement for vehicle release without full payment. The proposed rule language largely mirrors the statutory language.

**(xiv) Rule 6513 – Notice**

100. The proposed amendments to Rule 6513(a)(II) include updated language for consistency with the new definition for “Vehicle owner”, pursuant to proposed Rule 6501(hh). It should also be noted that Rule 6513(a), which identifies notice criteria for nonconsensual tows from private property, excluding those that are deemed to be abandoned motor vehicles, does not seamlessly integrate with the new towing statutes, specifically §§ 40-10.1-405(4)(f)(I), (g), C.R.S.

101. The proposed amendments to Rule 6513(c) include updated language to simplify the rule, including the removal of additional criteria for larger, non-residential private properties, due to the potential applicability conflict, pursuant to §§ 40-10.1-405(4)(f)(III)(H), (9), C.R.S. These changes are also based on stakeholder feedback.

102. The proposed amendments to Rule 6513(d) include updated language to reflect new statutory language, pursuant to § 40-10.1-405(4)(f)(III), C.R.S., which addresses signage on private property, when a tow agreement is in place, including the removal of language that constitutes a municipal code override, as this no longer appears to be allowed. Proposed Rule 6513(d)(IV) updates language to provide more flexibility for tow signage, such as those that display “No Unauthorized Parking”, which has the same meaning as “Authorized Parking Only” and is the language that currently exists on the majority of tow signage at private properties. Proposed Rule 6513(d)(X) updates language to reflect new statutory language, pursuant to § 40-10.1-405(4)(f)(III)(J), C.R.S., which addresses criteria for signage placement. It should also be noted that Rule 6513(d), which identifies criteria for signage on private property, does not seamlessly integrate with the new towing statutes, specifically §§ 40-10.1-405(4)(f)(III), C.R.S.

**(xv) Rule 6514 – Towing Violations and Civil Penalty Assessments**

103. The proposed amendments to Rule 6514(a)(II) adds proposed Rule 6505 to the \$1,100.00 fine schedule. Based on these changes, the remaining rules in Rule 6514(a) have also been re-numbered, where appropriate, to accommodate the change made to Rule 6514(a)(II). Proposed Rule 6514(a)(III), formerly Rule 6514(II), adds new provisions to the \$1,100.00 fine schedule, based on new and updated Rules 6508(a)(V), 6508(c), and 6508(d)(I). The proposed new rule, under Rule 6514(a)(IV), includes an updated rule code, to accommodate the elimination of Rule 6511(d).

104. The proposed amendments to Rule 6514(b) include updated rule codes, to accommodate the elimination of Rule 6511(d).

105. The proposed amendments to Rule 6514(c)(II) replaces the reference to Rule 6508(c), which was moved to Rule 6514(a)(III), with proposed new Rule 6508(e), which addresses photographs. Proposed Rule 6514(c)(IV) adds new and updates Rules 6512(d) and 6512(l) to the \$550.00 fine schedule.

#### **D. Questions for Stakeholders**

106. Given the nature of some of the proposed amendments to current rules, as well as the proposed new rules, the Commission solicits additional information and comments from stakeholders. Interested persons are encouraged to submit written comments and participate in the rulemaking hearing convened in this matter.

107. As applicable to the proposed amendments to Rule 6503 (Towing Carrier Permit Application), the Commission requests that stakeholders provide information and comments related to the feasibility and potential value of temporary towing permits.

108. As applicable to current Rule 6506 (Equipment and Accessories), the Commission requests that stakeholders provide information and comments related to possible clarifications on safety and overhead lighting for tow trucks.

109. As applicable to the proposed new rule, under Rule 6512(l), having to do with motor vehicle release without full payment, the Commission requests that stakeholders provide information and comments related to the specifics of the process and what additional rules may be helpful in allowing both towing carriers and consumers navigate this new standard in a constructive manner.

110. While the Commission acknowledges the concerns regarding clarification on jurisdiction over towing carriers engaging in motor vehicle transport, it is also acknowledged that the Commission's authority over towing carrier operations is fairly clear, when considering the permitting requirements, pursuant to § 40-10.1-401(1)(a), C.R.S., and the accompanying definition of a towing carrier, pursuant to § 40-10.1-101(20), C.R.S. Any concerns or disputes regarding the Commission's jurisdiction over specific types of towing operations are typically handled on a case-by-case basis.

**E. Towing Task Force**

111. Pursuant to § 40-10.1-403(4)(a), C.R.S., the Commission is required to consult with the Towing Task Force when promulgating or amending rules concerning rate regulation of towing carriers. Given that some of the proposed amendments identified in this NOPR either directly or indirectly involve changes to certain aspects of rate regulation for towing carriers, the Commission encourages the Towing Task Force to participate in the rulemaking process.

112. The Commission also acknowledges that the Towing Task Force submitted a report, which contained miscellaneous conclusions and recommendations, to the Commission on November 1, 2022. A copy of this report currently resides in a repository Commission proceeding.<sup>4</sup> So that the recommendations in the report can be considered within this rulemaking, it is requested that the Towing Task Force also file a copy of this report into the record in this proceeding, during the public comment period, as identified below. Participants are encouraged to review the report and provide comment on potential related rule changes for consideration in this rulemaking.

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<sup>4</sup> See Proceeding No. 22M-0480TO.

## **F. Conclusion**

113. Through this NOPR, the Commission solicits comments from interested persons and stakeholders on whether to adopt, revise, or not adopt, some or all of the proposed amendments to the towing rules, as set forth in the attachments to this Decision and discussed above. The Commission encourages members of the transportation industry and other interested persons to participate in this Proceeding and to contribute to the rulemaking record, on which the Commission will base its decision on whether to adopt rule amendments.

114. The Commission refers this matter to an Administrative Law Judge (ALJ) for the issuance of a recommended decision. The ALJ will hold a hearing on the proposed rules at the below-stated time and place. In addition to submitting written comments, participants will have an opportunity to present comments orally at the hearing, unless the ALJ deems oral presentations unnecessary. The Commission will consider all comments submitted in this Proceeding, whether oral or written.

## **II. ORDER**

### **A. The Commission Orders That:**

1. This Notice of Proposed Rulemaking, including attachments, shall be filed with the Colorado Secretary of State for publication in the March 10, 2023, edition of *The Colorado Register*.

2. The Commission invites comments from interested persons on the proposed amendments to the Commission's Rules Regulating Towing Carriers, 4 *Code of Colorado Regulations* (CCR) 723-6, as described in this Decision and its attachments. The Commission

prefers and encourages interested persons to file comments through the Commission’s Electronic Filings website (Proceeding No. 23R-0085TO) at:

<https://www.dora.state.co.us/pls/efi/EFI.homepage>.

3. This matter is referred to an Administrative Law Judge (ALJ) for the issuance of a recommended decision.

4. The rulemaking hearing on the proposed rules and related matters shall be held before an ALJ, as follows:

DATE: April 20, 2023

TIME: 11:30 a.m. until concluded but not later than 5:00 p.m.

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

5. The ALJ will set procedures for a remote hearing, if necessary, by a separate decision issued in this Proceeding.

6. The ALJ may set additional hearings, if necessary.

7. Written comments may be filed at any time in this Proceeding. Initial written comments are requested to be filed no later than March 24, 2023, and any comments responsive to the initial comments are requested to be filed no later than April 7, 2023, so that the initial comments and responsive comments may be considered at the hearing.

8. At the time set for hearing, interested persons may submit written comments and may present these orally, unless the ALJ deems oral comments unnecessary. The Commission will consider all comments, whether written or oral.

9. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
February 15, 2023**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script, appearing to read "G. Harris Adams".

G. Harris Adams,  
Interim Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

ERIC BLANK

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MEGAN M. GILMAN

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TOM PLANT

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Commissioners