

**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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**RECOMMENDED DECISION OF  
ADMINISTRATIVE LAW JUDGE  
ALENKA HAN  
AMENDING RULES**

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Mailed Date:      October 24, 2023

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**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 (Towing Rules).<sup>1</sup> The Commission issued the 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.”<sup>2</sup> House Bill (HB) 22-1314, signed by Governor Jared Polis on June 7, 2022, “made

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<sup>1</sup> Decision No. C23-0118, issued February 22, 2023.

<sup>2</sup> *Id.* at ¶ 2, p. 3.

substantial changes to the towing industry in Colorado, most significantly as it pertains to nonconsensual tows originating from residential private properties.”<sup>3</sup>

2. On September 26, 2022, Wyatt’s Towing filed a Petition for Rulemaking and Request for Forbearance, requesting that the Commission promulgate rules necessitated by the enactment of HB 22-1314.<sup>4</sup> By Decision No. C22-0605-I, issued October 6, 2022, the Commission provided notice of the Petition filed by Wyatt’s Towing and established a comment period through October 20, 2022, during which interested persons could submit comments regarding whether to grant or deny the Petition, as well as provide comment on issues for consideration in the requested rulemaking and any specific proposed redline rule language.<sup>5</sup> Having received no comments concerning the Wyatt’s Towing Petition, the Commission granted the request to commence a rulemaking proceeding, but denied the concurrent request for forbearance.<sup>6</sup>

3. The Commission subsequently initiated this rulemaking proceeding through the NOPR at issue here. The NOPR proposed changes to the Towing Rules, described those changes in detail and the justification therefor, attached the proposed amended Towing Rules in legislative (*i.e.*, strikeout/underline) format and in a clean version, and scheduled a remote public comment hearing for April 20, 2023, at 11:30 a.m., for oral comments regarding the proposed Towing Rules. The NOPR also referred this proceeding to an Administrative Law Judge (ALJ). The proceeding was then assigned to the undersigned ALJ.

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<sup>3</sup> *Id.* at ¶ 5, p. 4.

<sup>4</sup> *Id.* at ¶ 6, p. 4; *see also* Petition for Rulemaking and Request for Forbearance, Proc. No. 22M-0412TO, filed Sept. 26, 2022.

<sup>5</sup> Decision No. C22-0605-I issued Oct. 6, 2022, in Proceeding No. 22M-0412TO.

<sup>6</sup> Decision No. C22-0705, issued Nov. 9, 2022, in Proceeding No. 22M-0412TO.

4. Prior to the first scheduled public comment hearing, the Commission received a number of written comments. Among the comments received were statements from members of the public, who shared their experiences engaging with the towing industry.<sup>7</sup> In addition, a report by the Towing Task Force was submitted into the record, in advance of the first public comment hearing<sup>8</sup>, as were comments submitted by towing carriers, including Wyatt's Towing<sup>9</sup> and Towing and Recovery Professionals of Colorado (TRPC).<sup>10</sup>

5. The ALJ held the remote public comment hearing on April 20, 2023, as scheduled. Participants at the first public comment hearing included towing carriers and Nathan Riley, Transportation Section Chief for the PUC. The proposed changes were discussed, and Mr. Riley explained the intent and scope of the proposed changes in detail.

6. At the conclusion of the public comment hearing on April 20, 2023, it was announced that the hearing would continue on May 30, 2023, at 11:30 a.m., as memorialized in Decision No. R23-0287-I, issued May 2, 2023. In the Decision, the undersigned ALJ invited interested persons to submit additional written comments, in advance of the May 30, 2023 public comment hearing.

7. Subsequent to the April 20, 2023, public comment hearing, Wyatt's Towing<sup>11</sup> and TRPC<sup>12</sup> each submitted their second set of written comments. Three sponsors of HB 22-1314 — State Senator Julie Gonzales; State Representative Naquetta Ricks; and Former State

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<sup>7</sup> See, e.g., Comment from Zachary Parchman, dated August 18, 2022, filed March 24, 2023; Comment from Tim Littrell, dated and filed March 23, 2023; Comment from Dan Prizner, dated September 8, 2022, filed March 24, 2023; Letter from George Miller, dated Jan. 29, 2022, filed Mar. 24, 2023.

<sup>8</sup> See Towing Task Force Report, dated October 26, 2022, filed Mar. 10, 2023.

<sup>9</sup> Wyatt's Towing's Initial Comments, filed March 24, 2023.

<sup>10</sup> Towing and Recovery Professionals of Colorado Initial Comments, filed March 24, 2023.

<sup>11</sup> Wyatt's Towing Second Comments, filed May 15, 2023.

<sup>12</sup> Towing and Recovery Professionals of Colorado Second Set of Comments, filed May 12, 2023.

Representative Edie Hooten — wrote letters to the Commission expressing concern that the proposed rules would not capture those individuals’ intent in supporting the passage of HB 22-1314.<sup>13</sup> Finally, several consumer advocacy groups submitted comments expressing concern that the rules, as proposed, would not adequately protect consumer interests: the Colorado Center on Law and Policy;<sup>14</sup> Community Economic Defense Project;<sup>15</sup> United for a New Economy Colorado;<sup>16</sup> 9to5 Colorado;<sup>17</sup> and the Colorado Office of the Attorney General, Consumer Protection Section.<sup>18</sup>

8. In anticipation of the second public comment hearing, the ALJ issued Decision No. R23-0354-I on May 25, 2023. Decision No. R23-0354-I attached and disseminated Hearing Exhibit 3 — the red-lined and clean versions of the proposed rules attached to the NOPR, with additional draft changes based upon the discussion and comments received at the April 20, 2023, public comment hearing.

9. The undersigned ALJ held the second public comment hearing on May 30, 2023, as scheduled. Hearing Exhibit 3, as well as Hearing Exhibits 1 and 2 — the red-lined and clean versions of the Towing Rules attached to the NOPR — were admitted into the record.

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<sup>13</sup> See Letter from State Senator Julie Gonzales to Colorado Public Utilities Commission, dated May 11, 2023, filed May 13, 2023; Letter from Former State Representative Edie Hooten, dated May 12, 2023, filed May 13, 2023; and Letter from State Senator Julie Gonzales and State Representative Naquetta Ricks, dated May 19, 2023, filed May 20, 2023.

<sup>14</sup> Letter from Ellen K. Giarratana, Interim Legal Director, Colorado Center on Law and Policy, dated May 12, 2023, filed May 13, 2023.

<sup>15</sup> Letter from Spencer Bailey & Zach Neumann, Community Economic Defense Project, dated May 11, 2023, filed May 13, 2023.

<sup>16</sup> Comment from Desiree Westlund, United for a New Economy, dated May 12, 2023, filed May 13, 2023.

<sup>17</sup> Comment from Cesiah Guadarrama Trejo, 9to5 Colorado, dated May 12, 2023, filed May 13, 2023.

<sup>18</sup> Letter from Nathan Blake, Deputy Attorney General, to Colorado Public Utilities Commission, dated and filed May 19, 2023.

10. The May 30, 2023, public comment hearing was attended by numerous individuals. Public comments were received from industry representatives, including Trevor Forbes and Troy Porras of Wyatt's Towing; John Connolly of Connolly's Towing; members of the general public who shared their personal towing experiences; representatives of the above-named consumer advocacy groups; as well as Representative Ricks and Former Representative Hooten. Mr. Riley also commented and provided clarifications regarding numerous issues posed by participants. The legislators and consumer advocates participating in the hearing pushed for a broader scope of individuals authorized under the proposed revised Towing Rules to retrieve nonconsensually towed vehicles from a towing carrier's storage facility. The towing carriers and their representatives attending the hearing did not voice significant objection to this proposal.

11. Because the discussion had been robust and resulted in additional proposed changes to the Towing Rules, at the end of the May 30, 2023, public comment hearing it was announced that the public comment hearing would continue on July 25, 2023, at 11:30 a.m., as memorialized in Decision No. R23-0393-I, issued June 12, 2023. Decision No. R23-0393-I also incorporated additional proposed draft changes to the Towing Rules and invited interested persons to submit written comments discussing the further proposed changes. In response, several interested persons and entities filed additional written comments.<sup>19</sup>

12. The ALJ held the public comment hearing, as scheduled, on July 25, 2023, at 11:30 a.m. Participants in the hearing, including industry representatives, consumer advocates, attorneys with the Office of the Attorney General, and Commission Staff, offered their comments

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<sup>19</sup> See, e.g., Comment from Linda Kilis, received Jun. 13, 2023, filed Jun. 14, 2023; Wyatt's Towing Third Comments, filed Jun. 14, 2023; and Letter from Nathan Blake, Deputy Attorney General, Colorado Office of the Attorney General, Consumer Protection Section, to Public Utilities Commission, dated and filed Jul. 17, 2023.

concerning the scope of terms defined in the proposed Towing Rules. The discussion during the July 25, 2023, public comment hearing focused on proposed revisions to the definitions of Private Property Impound (PPI), including “Commercial PPI” and “Residential PPI”, designed to simplify the terms; a limitation on the interest rate, if any, a towing carrier may seek to collect as part of the process to recover the unpaid balances due for a tow, after the vehicle has been retrieved by its owner or authorized operator; as well as a prohibition against the imposition of “compulsory loans” before a vehicle owner or authorized operator may retrieve the vehicle.

13. Based on the extensive nature of the proposed changes to the Towing Rules and the desire expressed by participants, the undersigned ALJ announced at the end of the July 25, 2023, hearing that the hearing would continue on August 31, 2023, as memorialized in Decision No. R23-0502-I, issued August 2, 2023. In Decision No. R23-0502-I, the ALJ also solicited additional written comments to further address the proposed changes to the Towing Rules.

14. Further written comments were received from members of the public, detailing their experiences with the towing industry;<sup>20</sup> from the Office of the Attorney General, Consumer Protection Section, offering alternative language to address a suggested prohibition against compulsory loans;<sup>21</sup> and from a group of nineteen legislators voicing concern that proposed Towing Rules permitting flexibility in signage language and creating a window within which an

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<sup>20</sup> See, e.g., Comment from Aiden Greco, dated Aug. 29, 2023, filed Aug. 30, 2023; Comment from Margarita Ford, dated Aug. 29, 2023, filed Aug. 30, 2023.

<sup>21</sup> Letter from Nathan Blake, Deputy Attorney General, Colorado Office of the Attorney General, Consumer Protection Section, to Public Utilities Commission, dated and filed Aug. 11, 2023.

outstanding towing balance must be paid contradict their intent and the specific language of HB 22-1314.<sup>22</sup> The legislators suggested that the Commission would exceed its authority by amending the Towing Rules without an express finding of harm to the public interest. Therefore, the legislators proposed that this Rulemaking Proceeding be suspended or closed, to provide them the opportunity to further amend the towing statutes beyond the revisions implemented by HB 22-1314.

15. To facilitate discussion at the August 31, 2023, public comment hearing, the ALJ issued Decision No. R23-0559-I on August 22, 2023, which attached and disseminated Hearing Exhibit 4, a further draft revision to the Towing Rules that incorporated additional suggested modifications. Hearing Exhibit 4 was admitted into the record at the August 31, 2023, public comment hearing.

16. On August 31, 2023, the ALJ heard public comment from some of the legislators who signed the joint letter to the PUC. The following legislators participated in the hearing: Senator Julie Gonzales; Representative Steven Woodrow; Representative Naquetta Ricks; and Representative Andrew Boesenecker. In addition, industry representatives, Commission Staff, and representatives of consumer advocacy groups participated in the August 31, 2023, public comment hearing.

17. At the close of the August 31, 2023, public comment hearing, the undersigned ALJ concluded that she had received sufficient comment addressing the proposed changes to the Towing Rules and took the matter under advisement.

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<sup>22</sup> See Letter from Nineteen Members of the General Assembly, State of Colorado, to the Hon. Alenka Han, Aug. 30, 2023.

**B. Transmission of Record and Decision**

18. Being fully advised in this matter and consistent with the discussion below, in accordance with § 40-6-109, C.R.S., the ALJ now transmits to the Commission the record and exhibits in this proceeding, along with a written recommended decision.

**II. DISCUSSION, FINDINGS AND CONCLUSIONS**

**A. Introduction**

19. In rendering this Decision, the undersigned ALJ has carefully reviewed and considered all the comments filed in this Proceeding and provided at the four public comment hearings, even if this Decision does not specifically address every comment, or every nuance of every comment.

**B. General Comments**

20. The Commission received nearly thirty written comments, in addition to the comments offered during the four days of public comment hearings on April 20, May 30, July 25, and August 31, 2023.

21. Comments relevant to specific provisions of, or proposed changes to, the Towing Rules will be addressed below, in conjunction with the Rule to which the comments apply. Some comments, though, were of relevance to the Towing Rules generally.

**1. Jurisdiction**

22. In their joint letter to the undersigned ALJ, filed August 30, 2023, nineteen legislators contended that this Rulemaking Proceeding exceeds the Commission's jurisdiction

because no finding of public harm has been made.<sup>23</sup> In addition, the legislators contend, both in their letter and during the August 31, 2023, public comment hearing, that because the towing statutes will be reviewed again during the 2024 legislative session — they noted that a bill number has already been pulled indicating an intent to introduce a bill during the next legislative session — this Proceeding should be suspended or concluded, to allow the legislature space to further amend the statutory provisions. The ALJ is not persuaded to do so.

23. First, jurisdiction to initiate a Rulemaking Proceeding lies with the Commission. As the legislators note, the Commission is granted rulemaking authority under §§ 40-2-108, C.R.S.; 40-10.1-106(1), C.R.S.; and 40-10.1-410, C.R.S. The legislators point specifically to § 40-10.1-410, C.R.S., which provides that if the Commission finds “that a towing practice harms the public interest,” the Commission “may promulgate rules . . . to stop or change the towing practice that harms the public interest.” They contend that because the Commission did not make an express finding of public harm in the NOPR, the Commission lacks jurisdiction to proceed with this Rulemaking Proceeding.

24. However, the undersigned ALJ notes that the NOPR discusses the implementation of the statutes with respect to “certain consumer protection provisions” by extrapolating rules that protect “the safety and security of a towed motor vehicle” while in the towing carrier’s control to law-enforcement-ordered tows and nonconsensual tows from commercial private properties, even though the statutory amendments enacted by HB 22-1314 largely apply to

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<sup>23</sup> See Letter from Nineteen Members of the General Assembly, State of Colorado, to the Hon. Alenka Han, Aug. 30, 2023. See Letter from Nineteen Members of the General Assembly, State of Colorado, to the Hon. Alenka Han, Aug. 30, 2023.

nonconsensual tows from residential properties.<sup>24</sup> The Commission noted that it did “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. Thus, the Commission made an implicit finding that this Rulemaking is necessary to protect against a potential harm to the public.

25. Moreover, HB 22-1314 contains an explicit mandate to the Commission to “promulgate a rule defining what qualifies as a major credit card.”<sup>25</sup> Even if a rulemaking was not necessary to protect against a potential harm to the public, § 40-10.1-405(1)(b)(II), C.R.S., expressly directs the Commission to initiate a rulemaking proceeding to address the issue of payment options. As discussed below, with respect to Rule 6512(a), this Rulemaking includes the issue of payment options and acceptable credit cards, as mandated by the Legislature.

26. Second, even if it is argued that the above findings in the NOPR are inadequate to meet the public harm criteria implemented through § 40-10.1-410, C.R.S., the Commission is also granted general towing rulemaking authority under § 40-10.1-106, C.R.S. In particular, the Commission is authorized to adopt rules covering the operations of motor carriers as may be necessary for the effective administration of Article 10.1 of Title 40, including:

- (a) Ensuring public safety, financial responsibility, consumer protection, service quality, and the provision of services to the public; [and]
- (b) 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. In setting the rates and charges pursuant to this section, the commission may require

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<sup>24</sup> NOPR, ¶ 13, pp. 7-8.

<sup>25</sup> § 40-10.1-405(1)(b)(II), C.R.S.

towing carriers performing nonconsensual tows to submit financial statements or other financial information to determine the costs associated with the performance of nonconsensual towing and any motor vehicle storage incident thereto.<sup>26</sup>

Further, the legislative mandate in Article 10.1 of Title 40 states that the Commission “has the authority and *duty* to prescribe such reasonable rules covering the operations of motor carriers as may be necessary for the effective administration of this article.”<sup>27</sup> The Commission adhered to this existing statutory mandate when it issued the NOPR initiating this Rulemaking Proceeding.

27. Third, the statutory amendments made by the enactment of HB 22-1314 necessitated the initiation of this Rulemaking Proceeding. As the Commission noted in the NOPR, several provisions of the Towing Rules, in their currently-adopted form, do not comport with all the provisions of HB 22-1314. For example, the NOPR noted that the proposed Towing Rules include multiple amendments to the definitions in Rule 6501 “based on statutory changes,”<sup>28</sup> such as the addition of new definitions for “Authorized or interested person”, and “Common parking area,” which would be added “to reflect a new statutory definition for the same term.”<sup>29</sup> One of the Commission’s goals in initiating this Proceeding is to ensure the Towing Rules are “congruent” and consistent with the statutory changes adopted by HB 22-1314.<sup>30</sup>

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<sup>26</sup> § 40-10.1-106(1)(a) and (b), C.R.S.

<sup>27</sup> § 40-10.1-106(1), C.R.S. (emphasis added).

<sup>28</sup> NOPR, ¶ 18, p. 9.

<sup>29</sup> *Id.*, ¶¶ 21-22, p. 10.

<sup>30</sup> *Id.*, ¶ 2, p. 3.

28. Fourth, and as the Commission also noted in the NOPR, Wyatt's Towing requested the initiation of this Rulemaking Proceeding because they claimed that "certain provisions" of HB 22-1314 "could be interpreted in different ways."<sup>31</sup> With that in mind, the Commission stated that one goal of this Rulemaking Proceeding is to incorporate the statutory changes into the existing 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."<sup>32</sup> The ALJ notes that simplifying the Towing Rules to make them easier for towing carriers to put into practice, and to follow the new statutory provisions implemented through HB 22-1314, should have the net effect of improving public safety and rectifying a public harm by lessening the negative impact of nonconsensual tows.

29. Finally, to the extent commenting legislators intend to introduce further amendments to the towing statutes during the 2024 legislative session, the ALJ notes that the Commission's rules must be amended to reflect the law as currently in effect. Should the Legislature further amend the statutes, further rulemaking can occur to ensure the Commission fulfills the intent of any passed legislation. In the meantime, the Towing Rules must be brought into congruence with HB 22-1314, which has already been adopted and enacted.

## 2. Anecdotal Public Experiences

30. Although some written and verbal comments offered by the general public pertain to specific Towing Rules, many comprised general anecdotes describing an individual's interaction with the towing industry and expressed desire that certain towing practices be

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<sup>31</sup> *Id.*, ¶ 6, p. 4.

<sup>32</sup> *Id.*, ¶ 7, p. 5.

changed. A common thread running through many of these comments was the contention that a vehicle had been wrongly towed for failing to display a requisite permit or placard.

31. An example of comments of this nature were the verbal and written comments offered by Linda Kilis who described the circumstances leading to the towing of her husband's vehicle.<sup>33</sup> Ms. Kilis explained that her husband is memory compromised and on one occasion forgot to replace the handicapped placard on the rearview mirror of his vehicle. Ms. Kilis and her husband reside in an apartment complex. When Ms. Kilis' husband went outside to check the weather, he noted that his vehicle was not parked where he had left it, in a handicapped parking space on the complex's grounds. They later learned that the vehicle had been towed from the handicapped spot because it did not display the appropriate placard. Ms. Kilis stated that when they retrieved the vehicle, the placard was noticeably "sticking out from the visor." She questioned why the towing carrier failed to notice the placard and did not take the time to look in the vehicle to determine whether a placard had been misplaced. She emphasized that law enforcement, including her husband who served as a volunteer with the Colorado Springs Police Department, routinely take such steps before ticketing a vehicle parked in a handicapped spot without a placard and stated that, in those circumstances, the ticket is dismissed if the authorized operator of the vehicle demonstrates rightful possession of a handicapped placard. Ms. Kilis suggested that vehicle owners should be afforded the same courtesies before being towed from private property for failure to display a handicapped placard. Mr. Riley responded that, unfortunately, the Commission does not "really have any control over what the property owner does or doesn't do."

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<sup>33</sup>See written comments from Linda Kilis, dated Jun. 13, 2023, and filed Jun. 14, 2023, and verbal comments offered by Linda Kilis at the May 30, 2023, public comment hearing.

32. Verbal comments received from Michelle Clemons during the May 30, 2023 public comment hearing similarly addressed the towing of a vehicle that did not display a required permit. Ms. Clemons described how her vehicle was towed nonconsensually on four separate occasions from a parking lot in an apartment complex where her brother resides, while she was staying with him. Signage in the lot stated that a permit was required to park there, but the permits were hard to acquire because permits would be “sold out” and had to be obtained through a QR code posted on a sign in the lot or would have to be renewed overnight. She also relayed her impression that towing operators would circle parking lots looking for wrongfully parked vehicles to tow, such as hers. She conveyed that the expense and inconvenience of the tows had negatively impacted her budget — both because of the towing fees and the cost of rides to get to the towing lot —making it more difficult for her to save money for her own apartment.

33. The Commission also received written comments from individuals complaining specifically about Wyatt’s Towing. Aiden Greco submitted a written comment describing being towed from a lot, despite having made and paid for a parking reservation. However, Mr. Greco states a driver for Wyatt’s Towing informed him that his reservation was for an adjacent lot, even though the building serving the lots displayed the addresses of both lots. Margarita Ford wrote that Wyatt’s Towing “harassed” her son, even towing him while he was “dropping off items” for her “in the back where there are” no signs prohibiting parking.

### **3. Towing Task Force**

34. The Towing Task Force’s report, dated October 26, 2022, was also included as part of the record in this Proceeding. The Colorado Legislature created the Towing Task Force in 2014, pursuant to HB 14-1031, to make “comprehensive recommendations to the PUC about the maximum rates that may be charged for the recovery, towing, and storage of a vehicle that has

been towed without the owner’s consent.”<sup>34</sup> The Towing Task Force submitted its written recommendations before the commencement of this Rulemaking Proceeding, suggesting some overarching proposals that could be incorporated into the Towing Rules.

35. First, the Towing Task Force recommended the Commission consider the use of alternative indices — such as the Personal Consumption Expenditures; Producer Price Index; or Consumer Price Index-Transportation — when applying annual inflation adjustments.<sup>35</sup>

36. Second, the Towing Task Force expressly recommended against “any changes to nonconsensual tow rates based on consensual tow rates,” but did suggest additional research and analysis to determine “cost differences between consensual and nonconsensual tows.”<sup>36</sup>

37. Finally, the Towing Task Force recommended that the Commission begin collecting data from towing carriers to better analyze the cost differences between consensual and nonconsensual tows.<sup>37</sup>

#### **4. Public Comments Addressing Towing Policies**

38. The Commission also received comments and feedback asking that the Towing Rules address specific issues. Tim Littrell expressed concern that his vehicle was towed while his dog was inside. He suggested a policy mandating towing operators “check for dogs” before towing a vehicle.

39. Dan Prizner suggested the implementation of a hotline for voicing towing concerns and clarifying the statutory and regulatory requirements.

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<sup>34</sup> Towing Task Force Report, pp. 1-2, Oct. 26, 2022.

<sup>35</sup> *Id.* at p. 12.

<sup>36</sup> *Id.* at p. 13.

<sup>37</sup> *Id.*

40. George Miller recommended mandating towing operators clean up debris from the roadway before departing from an accident scene.

### **C. Proposed Changes to the Towing Rules**

41. Turning to the Towing Rules and the proposed amendments to specific rules, the undersigned ALJ will address the proposed changes in sequential order. However, edits to grammar, punctuation, and capitalization, as well as corrections of any typographical errors or minor language updating, will not be addressed. No discussion of such changes is warranted, considering such edits are minor, do not affect the substance of any rule, and were not raised by any commenter, either verbally or in writing. To review minor edits for grammar, punctuation, capitalization, and typographical errors, please see the attached red-lined version of the Towing Rules, appended as Attachment A.

#### **1. Rule 6001 — General Provisions — Definitions:**

42. The proposed amendments correct a statutory reference in Rule 6001(uuu), 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. No comments were received — either written or verbal — regarding this proposed change.

#### **2. Rule 6500 — Applicability of Towing Carrier Rules:**

43. Proposed changes to Rule 6500 included the addition of new terms and the amendment of some definitions to ensure internal language consistency as well as congruity with HB 22-1314.

**a. Rule 6500(a)**

44. It is proposed to update Rule 6500(a) by adding the phrase “and tow truck drivers” at the end of a series identifying to whom the Towing Rules apply. The addition clarifies that Rules 6500 to 6599 apply to “tow truck drivers”, in addition to towing carriers, applicants for a towing carrier permit, and employees of towing carriers.

**b. Rule 6500(c)**

45. The proposed change to Rule 6500(c) eliminates a reference to Rule 6511(f), to reflect a re-lettering of the subparagraphs addressing tow rates, which are now covered by Rule 6511(a) – (e), rather than 6511(a) – (f), in the prior version of the Towing Rules.

**3. Rule 6501 – Definitions**

46. The newly adopted Towing Rules include many changes and additions to the definitions. Each affected provision will be addressed below. Changes to the subparagraph lettering, which was affected by the addition of several new definitions, will not be addressed, but can be viewed in the attached red-lined and clean versions of the new Towing Rules. The subparagraphs referred to below reflect the newly-assigned subparagraph lettering.

47. The proposed changes to Rule 6501 did not elicit significant discussion or comments, either written or verbal, except as noted below.

**a. Rule 6501(e) – Definition of “Authorized Operator of a Motor Vehicle”**

48. The definition of “authorized operator” or “authorized operator of a motor vehicle” was expanded to include a reference to Rule 6512(f), which provides that an individual seeking to retrieve a nonconsensually-towed motor vehicle may demonstrate that they are authorized to operate the vehicle by producing any “two of the following”: keys to the vehicle,

proof of insurance, vehicle registration; the VIN number; and/or knowledge of the location from where the vehicle was towed. This expansion consequently expands the definition of “authorized operator” to include anyone who can show a right to drive the towed vehicle and codifies towing carriers’ asserted practice of requesting two of the above-listed criteria to establish entitlement to the vehicle.

49. Cross-referencing the definition of “authorized operator” with Rule 6512(f) lessens the burden on vehicle operators seeking to retrieve a nonconsensually towed vehicle by minimizing the documents necessary to establish entitlement to a vehicle, while still maintaining that proof of such entitlement be established.

50. Some commenters suggested that merely stating authority to retrieve a vehicle should be sufficient, but the undersigned ALJ disagrees. Requiring no proof whatsoever — other than the verbal statement of an individual attempting to retrieve a vehicle — exposes the vehicle owner or authorized operator to theft and the towing company to liability. Therefore, the ALJ concludes that the requirement of two forms of proof, establishing entitlement to retrieve a vehicle and status as an “authorized operator” of the vehicle, is appropriate.

**b. Rule 6501(f) – Definition of “Authorized or Interested Person”**

51. This is a new definition that has been added to Rule 6501. The definition was added to mirror the addition of a definition for “Authorized or interested person” incorporated into § 40-10.1-101(1.5), C.R.S., by HB 22-1314. Rule 6501(f) parrots the language of new subparagraph § 40-10.1-101(1.5), C.R.S. Absent the addition of Rule 6501(f), the Towing Rules would not comport with the statutory definitions applied to the towing industry by HB 22-1314.

**c. Rule 6501(h) – Definition of “Common Parking Area”**

52. Like Rule 6501(f), Rule 6501(h) incorporates a new definition and term into the Towing Rules. The definition of “common parking area” was added to mirror the definition of “common parking area” incorporated into § 40-10.1-101(4.5), C.R.S., by HB 22-1314. The new definition was necessitated by the introduction of the term into the statutory scheme by HB 22-1314. If this new definition were not incorporated into the newly-adopted Towing Rules, they would be in conflict with the applicable statutes, which could lead to confusion for towing carriers.

53. To remedy this discrepancy, the language of new Rule 6501(h) follows that adopted into § 40-10.1-101(4.5), C.R.S., but does not restate the statutory definition verbatim. Rather, the language of new Rule 6501(h) incorporates the concepts woven into § 40-10.1-101(4.5), C.R.S., while clarifying the language to eliminate the grammatical negatives adopted into the statute. A representative of TRPC, Mark Valentine, commented that clarifying the definition of “common parking area” in the Towing Rules would assist towing carriers in understanding which parking areas constitute “common parking areas.”

54. The undersigned ALJ concludes that Rule 6501(h), in its adopted form, reasonably achieves the commenter’s request for clarity, as well as the Commission’s stated goal of simplifying the Towing Rules wherever possible.

**d. Rule 6501(i) – Definition of “Drop Fee” or “Drop Charge”**

55. A new definition is proposed in the Towing Rules necessitated by the addition of a definition for “drop fee” added to the applicable statutes by HB 22-1314. This new definition in the Towing Rules precisely tracks the language adopted by HB 22-1314 to define “drop fee” in

§ 40-10.1-101(6.5), C.R.S. The new rule cross-references the statutory definition to clearly indicate that the definitions in the statute and in the Towing Rules comport.

56. Trevor Forbes, CEO of Wyatt's Towing, expressed his support for including a definition of "drop fee" in the Towing Rules at the April 20, 2023, public comment hearing. As Mr. Forbes noted, the term "drop fee" or "drop charge" appears several times in the applicable statutes and the Towing Rules. He suggested that, for clarity's sake and to aid towing carriers working in the field, a definition for "drop fee" or "drop charge" be included in the Towing Rules. The ALJ agrees that defining "drop fee" and/or "drop charge" in the Towing Rules is appropriate and warranted.

**e. Rule 6501(k) – Definition of "Insurance Company"**

57. Like the definitions of "drop fee," "common parking area," and "authorized or interested person" discussed above, the definition of "insurance company" is a new addition to the Towing Rules. The term was added to the definitions set out in Rule 6501 to clarify provisions contained in HB 22-1314.

58. HB 22-1314 expressly refers to "insurance company" in at least three statutory subsections: §§ 40-10.1-101(1.5)(c), 40-10.1-101(13)(c), and 40-10.1-405(5)(c)(II), C.R.S. However, HB 22-1314 did not include a definition for the term "insurance company." Examining § 40-10.1-405(5)(c)(II), C.R.S., illustrates why defining the term "insurance company" is crucial to ensuring the smooth application of the Towing Rules. Section § 40-10.1-405(5)(c), C.R.S., permits an "authorized or interested person" to retrieve a nonconsensually towed vehicle if the individual pays either fifteen percent of the tow fees or \$60.00 to the towing operator (whichever is less) and signs a form "affirming that the authorized or interested person owes the towing carrier payment for fees that comply with this article 10.1 . .

.”<sup>38</sup> But, § 40-10.1-405(c)(II) expressly excludes lienholders and insurance companies from the scope of “authorized or interested person,” thus explicitly excluding “insurance companies” from those individuals who may retrieve a nonconsensually towed vehicle by paying the statutory minimum. Although “insurance company” may commonly be understood to mean an entity that issues insurance policies, it is beneficial to precisely define the term “insurance company” to minimize confusion and conflict, as towing carriers apply the Towing Rules and HB 22-1314 in the field.

59. Therefore, the ALJ concludes that it is appropriate and reasonable to define “insurance company” in the newly-adopted Towing Rules.

**f. Rule 6501(m) – Definition of “Law Enforcement-Ordered Tow”**

60. A minor change was made to the language of the definition to comport with the statutory amendments enacted by HB 22-1314. The definition previously limited law enforcement tows to those tows which were ordered by a law enforcement officer and could not be terminated by the “owner or operator” of the vehicle. The rule will be amended to include any law enforcement-ordered tow that cannot be terminated by the “authorized or interested person” of the motor vehicle, reflecting the expansion of individuals with authority to retrieve a motor vehicle enacted by HB 22-1314.

**g. Rule 6501(o) – Definition of “Lienholder of the Motor Vehicle”**

61. The insertion of a definition for the term “lienholder of the motor vehicle” was necessitated by the inclusion of this term in HB 22-1314. As with the statutory exclusion of “insurance company[ies]” from individuals permitted to a retrieve a vehicle by paying the

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<sup>38</sup> § 40-10.1-405(5)(d), C.R.S.

minimum amount of \$60.00 or fifteen percent of the tow fees, § 40-10.1-405(5)(c)(II), C.R.S., also prohibits “lienholders” from retrieving a nonconsensually towed vehicle by paying the minimum amount of \$60.00 or fifteen percent. The addition of this term to the definitional section of the Towing Rules is intended to guide towing carriers in determining to whom they are required to release vehicles for the minimum statutory payment.

62. The ALJ finds and concludes that adding a definition for “lienholder of the motor vehicle” to the Towing Rules is reasonable and appropriate.

**h. Rule 6501(q) – Definition of “Nonconsensual Tow”, “Nonconsensual Towing”, “Towed Nonconsensually”, “Nonconsensually Tow”, or “Towed Without Consent”**

63. The definition of a nonconsensual tow, and similar terms, is amended to reflect changes propounded by the enactment of HB 22-1314. Rule 6501(q) was amended to reflect that nonconsensual tows originate on private property, to mirror the addition of this same condition to the statutory definition of “nonconsensual tow” by HB 22-1314 and codified at § 40-10.1-101(13), C.R.S. Unless Rule 6501(q) is amended to specify that “nonconsensual tows” originate on private property, the Rule would not comport with the current statutory definition. The ALJ finds and concludes that it is reasonable to amend Rule 6501(q) to ensure symmetry and consistency, rather than discrepancy, with the statutory definition of “nonconsensual tow.”

64. Rule 6501(q) was also amended to expand the scope of individuals who may consent to the towing of a vehicle. Specifically, § 40-10.1-101(13), C.R.S., defines “nonconsensual tow” as a tow that was not authorized by the owner or authorized operator of the vehicle, an agent of the owner, a lienholder of the vehicle, or an insurance company insuring the vehicle if the “owner signs a release authorizing an insurance company” to act on their behalf.

Rule 6501(q) has likewise been amended to mirror these changes to the statutory definition of “nonconsensual tow,” to broaden the scope of individuals and entities who may consent to a tow — authorized operators and agents, lienholders, and insurance companies — such that a “nonconsensual tow” is a tow that has *not* been authorized by any of these individuals or entities. The ALJ finds and concludes that this change is also reasonable to ensure consistency with the statutory definition as adopted by HB 22-1314.

**i. Rule 6501(t) – Definition of “Private Property Impound or ‘PPI’”**

65. Although existing Towing Rules define “private property impound,” or “PPI”, the definition has been substantially updated to maintain consistency in the Towing Rules. Other provisions of the Towing Rules, which refer to private property impounds, were amended to reflect statutory changes adopted by HB 22-1314. Under § 40-10.1-101(13), C.R.S., nonconsensual tows can only originate from private property. The changes to Rule 6501(t) reflect the reality that private property can be either commercial or residential, or possibly exhibit elements of both commercial and residential properties, either simultaneously or at different times of the day. The ALJ finds and concludes that a definition of the term “private property impound” will assist towing carriers in determining whether a property constitutes a commercial or residential property at the time of the tow. The distinction is essential because, under § 40-10.1-405(9), C.R.S., a towing carrier must follow different procedures for a tow originating on commercial versus residential private property.

66. A version of revised Rule 6501(t) was contained in the attachment to the NOPR. That version referred to the definition of “commercial real estate” set forth in § 38-22.5-102(2), C.R.S. However, the statutory cross-reference in this earlier version relied heavily on the

statutory reference, rather than describing the distinction between residential and commercial property in Rule 6501(t) itself.

67. During the public comment hearings, multiple commenters from the towing industry expressed concern that referring exclusively to the statutory provision, without additional explanation in the rule, could lead to confusion in the field. Troy Porras of Wyatt's Towing and Mr. Valentine, speaking on behalf of TRPC, urged the undersigned ALJ to adopt a definition of "private property impound" that did not rely upon a statutory cross-reference, but would instead offer a "self-contained" definition. Mr. Porras and Mr. Valentine both pointed out that towing carriers are unlikely to have the ability to search for a statutory provision, when out in the field. Instead, they argued, the Towing Rules, and in particular the definitions contained in the Towing Rules, should contain all the rules a towing carrier needs in order to comply with the towing statutes. Such a construction, they suggested, would further the Commission's stated goal of simplifying the Towing Rules.

68. The newly-adopted version of Rule 6501(t) achieves this goal by defining "Commercial PPI" as a nonconsensual tow from commercial private property that is not in a common parking area, while defining "Residential PPI" as a nonconsensual tow from residential private property that *can* include a common parking area. The ALJ finds and concludes that this iteration of the definition of "private property impound", contained in Rule 6501(t), adequately defines the term, comports with the statutory amendments enacted by HB 22-1314, and simplifies the Towing Rules. The ALJ finds and concludes that this amendment to the Towing Rules is warranted, appropriate, and reasonable.

**j. Rule 6501(u)(IV) – Addition to Definition of “Property Owner”**

69. Subparagraph (IV) was added to the definition of “property owner”, contained in Rule 6501(u), to reflect the inclusion of individuals subject to the “Colorado Common Interest Ownership Act” within the scope of persons who may give permission for the nonconsensual tow of a motor vehicle. Absent this addition to the Towing Rules, the Rules’ definition of “property owner” would be inconsistent with the statutory standards.

**k. Rule 6501(y) – Definition of “Storage Facility” or “Towing Facility”**

70. A definition of the term “storage facility” was added to align the Towing Rules with language changes adopted in HB 22-1314 and to clarify a term commonly used in the towing industry. HB 22-1314 references the term “storage facility” in several provisions: §§ 40-10.1-405(2)(d) and (4)(b), C.R.S.; 40-10.1-407(1)(c), C.R.S.; and 42-4-2103(2)(a)(I)(B) and (II)(A), C.R.S. However, the term is not defined in HB 22-1314. It was therefore necessary to add the definition to the Towing Rules to implement HB 22-1314 and to maintain consistency with the statutory provisions.

71. For convenience and ease of reference, Rule 6501(y) will be amended to define “towing facility.” The two terms are defined identically and, in order to minimize confusion, the separate definition of “towing facility,” in prior versions of the Towing Rules, specifically Rule 6501(aa), has been eliminated and instead combined with the definitional entry for “storage facility.”

**l. Rule 6501(bb) – Definition of “Tow Invoice”**

72. The definition of “tow invoice” in the Towing Rules has been updated to reflect that it is an invoice given to an “authorized or interested person,” rather than to the “vehicle

owner or authorized agent” of the owner. The amendment aligns the definition with language now incorporated into the towing statutes by HB 22-1314.

**m. Rule 6501(hh) – Definition of “Vehicle Owner”**

73. The definition of “vehicle owner” in the Towing Rules is new. The term was added to the definitional section to reflect the use of the term in the recently enacted towing statutes. “Vehicle owner” and/or “owner” appears several times in HB 22-1314, but most prominently in §§ 40-10.1-101(1.5) and (13), C.R.S., which refer to vehicle owners to define “authorized or interested person” and “nonconsensual tow,” respectively. The new definition set out in Rule 6501(hh) looks to the “vehicle’s registration, title,” or the State’s electronic vehicle registration information system, as described in § 42-4-2103(3)(c)(III), C.R.S, to identify the owner of a vehicle.

74. At the public comment hearing on May 30, 2023, several legislators voiced their concerns that the definition of “vehicle owner” was not broad enough to encapsulate all those individuals whom the legislators believed should have access to a towed vehicle. Nathan Blake, Deputy Attorney General with Colorado’s Attorney General’s Office, echoed this concern when he wrote that limiting “vehicle owner” to individuals who appear on the title or registration of a vehicle could impact “the lowest income Coloradans”, who may be using a car owned by someone else or may not have access to a vehicle’s title or registration for a variety of reasons.

75. The ALJ acknowledges these concerns but determined that an expansion of the definition of “vehicle owner” was not warranted for several reasons. To be the owner of a vehicle carries with it a particular meaning. While it is true that others may be authorized to operate or otherwise have access to a vehicle, such individuals are not “owners” within the plain meaning of that term. The ALJ believes that it is necessary to continue drawing a distinction

between “vehicle owners” and “authorized operators”, as those individuals may have different rights and relationships to a particular vehicle.

76. That said, the ALJ notes that the concerns expressed by legislators and the Consumer Protection Section of the Attorney General’s Office are addressed and assuaged by other provisions in the Towing Rules. The legislators explained that they wanted to ensure individuals with authority to retrieve a vehicle could do so. The adopted rule expands the scope of the definition of “authorized or interested person”, in Rule 6501(f), to allay those concerns. Under amended Rule 6501(f), as discussed above, an “authorized or interested person” includes the vehicle owner, any authorized operators of the vehicle, an authorized agent of the vehicle’s owner, a lienholder of the vehicle, or the insurance company. Amended Rule 6512(b) and (d), which covers the release of a motor vehicle and personal property, permits the release of a towed motor vehicle “to an authorized or interested person.” More importantly, amended Rule 6512(l) permits “the vehicle owner or authorized operator to retrieve” the towed vehicle by paying an amount less than the full cost of the tow and executing a Commission-approved form acknowledging additional payment is owed to the towing carrier. Thus, although the definition of “vehicle owner” was not expanded as suggested, the adopted rules achieve the legislators’ stated goal of ensuring that any “authorized or interested person” may retrieve a nonconsensually towed motor vehicle.

77. The ALJ finds and concludes that the addition of a definition of “vehicle owner” was reasonable, warranted, and appropriate to minimize confusion and to ensure towing carriers are aware that vehicle ownership can be established through several different documents.

#### 4. Rule 6503 – Towing Carrier Permit Application

78. The changes to this Rule are not extensive and did not garner any comments. The adopted rule specifies the actions an *applicant* must take to secure a towing permit, deletes the prior set application fee of \$150.00 and provides that the application fee will instead be set “administratively . . . by the Commission,” and adds a requirement that at least one of the applicant’s principals must have a valid Colorado driver’s license.

79. The ALJ finds these changes reasonable and adopts them.

#### 5. Rule 6504 – Criminal History Checks and Good Cause Determinations

80. In contrast to Rule 6503, the amendments to Rule 6504 garnered considerable discussion and comments. Representatives of the towing industry expressed concern that the scope of the rule’s application — to directors, officers, and/or principals of towing carriers — was unclear because the terms were inadequately defined. In addition, the representatives of towing carriers objected to the inclusion of a “good cause determination” as a basis for denying an application for a towing permit. For the reasons discussed below, however, the Towing Rules will be amended to incorporate both of these changes.

81. Rule 6504(a) clarifies the scope of its applicability, specifying that it applies to “principals” of a towing carrier, as that term is defined by Rule 6001(iii). Rule 6001(iii) defines “principal” as a person who:

- (I) participates directly or indirectly in a firm, partnership, corporation, company, association, joint stock association, or other legal entity taking an action as an entity;
- (II) is authorized to act on behalf of an entity;
- (III) participates in the election, appointment, or hiring of Persons that are authorized to act on behalf of an entity; and

- (IV) through his/her conduct or activity, directly or indirectly controls an entity subject to the Commission's jurisdiction, irrespective of his/her formal title or financial interest in the entity.

Examples of Principals include the owner of a sole proprietorship, a member or manager of a limited liability company, a partner in a partnership, and an officer, director, or shareholder of a corporation.

82. The incorporation by reference of this definition is intended to provide clarity and minimize any confusion that may arise, regarding which individuals may be considered the "principal" of a towing carrier.

83. TRPC, through its representative, Mr. Valentine, voiced concern that earlier drafts of Rule 6504(a) did not adequately clarify to whom the rule applied. The ALJ finds and concludes that cross-referencing to the definition of "principal", applicable to all transportation rules, addresses TRPC's expressed concern and minimizes the risk of confusion.

84. The addition of a "good cause determination" to Rule 6504(d) raised objections from the towing industry, including arguments that it grants too much leeway to the Commission to deny towing applications. However, Mr. Riley, speaking on behalf of Commission Staff, offered his view that including such a "catch all" provision in the Rule would give the Commission needed latitude to deny towing permit applications to problematic individuals or companies.

85. Public comments received from members of the public and the legislature describing the actions of certain towing carriers — some of which are described in detail above — support the notion that some towing carriers may not always act in the best interests of the public. If some bad actors can be screened from the towing industry, it could have the effect of lessening harm to the public, even if by only a small margin.

86. Indeed, the Legislature recognized the need for such a provision when it enacted HB 22-1314. Section 40-10.1-401(2)(b), C.R.S., which the Legislature added as part of HB 22-1314, the Commission now has the authority to “deny an application or refuse to renew a permit of a towing carrier . . . based on a determination that there is good cause to believe the issuance of or renewal of the permit is not in the public interest.” Amended Rule 6504(d) simply mirrors and incorporates into the Towing Rules authority now expressly granted to the Commission by the Legislature.

87. The ALJ believes that the Commission will not arbitrarily and unjustifiably invoke the good cause determination contained in Rule 6504(d) or § 40-10.1-401(2)(b), C.R.S. Moreover, the ALJ is persuaded that a good cause determination will give Commission Staff needed latitude to deny an application if, in their sound opinion, doing so would be in the best interests of the public. Further, in the event an applicant believes a towing permit was improperly denied, the applicant may seek review by the Commission. The ALJ therefore finds and concludes that the proposed changes to Rule 6504 are reasonable and appropriate.

#### **6. Rule 6505 – Kickbacks Prohibited**

88. Rule 6505 has been added to the Towing Rules to mirror the addition of a similar provision to the towing statutes, at § 40-10.1-408, C.R.S. The statutory prohibition against kickbacks — essentially a prohibition against “pay to play”— did not exist until the adoption of HB 22-1314, and, consequently, no such prohibition previously existed in the Towing Rules. The adopted rules have added this prohibition to ensure the Towing Rules align with the statute, and provide an additional regulatory basis, in addition to any statutory violation, upon which anyone wrongfully accepting or paying kickbacks can be pursued for violations or other enforcement actions.

89. Towing carriers commenting on this rule indicated that they “agree wholeheartedly” with the concept of prohibiting kickbacks. However, they expressed some confusion as to what constitutes a “kickback.” The language of the rule was amended from an earlier version to clarify that no towing carrier may accept “money or other valuable consideration including, but not limited to gifts and gratuities” from anyone for the “privilege of nonconsensually towing vehicles.” The ALJ is persuaded that this clarification is broad enough, while still allowing room for latitude and discretion, to make clear the types of activities that constitute kickbacks that are prohibited under Rule 6505 and § 40-10.1-408, C.R.S. The ALJ therefore finds that the inclusion of a rule prohibiting kickbacks is reasonable and appropriate.

**7. Rule 6506 – Equipment and Accessories**

**a. Rule 6506(a)(III)(C)(iii)**

90. A provision specifying the types, placement, and colors of warning and overhead lights on towing vehicles has been added to Rule 6506(a)(III)(C)(iii). Although some towing carriers expressed a desire to use red warning lights, such lights must be reserved for emergency vehicles. The rule further explains that only vehicles authorized by the Commission to serve as emergency vehicles will be recognized as emergency vehicles authorized to operate warning and overhead lights in any color(s) except “yellow, opaque white, or clear white.” No commenters objected to the inclusion of a provision specifying the color and location of warning and overhead lights on towing vehicles. The ALJ therefore finds and concludes that the inclusion of a rule setting standards for the color and location of warning and overhead lights on towing vehicles is reasonable and appropriate.

**b. Rule 6506(e)**

91. A version of this Rule 6506(e) — requiring that vehicles being towed be secured to the towing truck in accordance with applicable federal and state statutes — was previously contained in Rule 6508(b)(III)(F), which covers authorization for the towing of motor vehicles. Since Commission Staff determined that this provision fits more neatly with the provision governing tow truck equipment, this updated version was inserted at the end of Rule 6506. No objections to this move have been received. The amendment to Rule 6506(e) is reasonable and will be adopted.

**8. Rule 6507 – Storage Facilities****a. Rule 6507(a) – Disclosure of storage facility location**

92. Rule 6507(a) previously mandated disclosure of a storage facility’s location. The rule is amended to mandate that the disclosure include a full description of the towed vehicle, the location of the storage facility, and the name and permit number of the towing carrier. Notifying law enforcement of the location of the storage facility when the tow is authorized or making two or more “documented attempts” to contact law enforcement within thirty minutes of the nonconsensual tow satisfies the disclosure requirement.

93. Representatives of towing carriers pointed out that law enforcement does not always provide the towing carrier with all the details now mandated to fully describe the towed vehicle. However, as Commission Staff replied, requiring towing carriers to provide identifying vehicle information simply aligns Rule 6507 with § 42-4-2103(2)(a), C.R.S., as amended by HB 22-1314. Rule 6507(a) did not previously require the extensive identifying information now mandated by Rule 6507(a). Had the rule not been likewise amended, creating a discrepancy

between the statutory and regulatory provisions, confusion would have ensued. The ALJ finds and concludes that amending Rule 6507(a), to eliminate any discrepancy between the Rule and the statute, is reasonable and warranted.

**b. Rule 6507(d) – Signage at Storage Facility**

94. Rule 6507(d) is amended to incorporate a new signage requirement mandating that a storage facility housing vehicles nonconsensually towed from residential private property must display a sign notifying vehicle owners that they may retrieve the contents of their vehicle without paying any fee and may retrieve the vehicle itself “after paying a reduced fee.” The precise language to be included on the signs is set out in Rule 6507(d)(II)(E). Although some towing carriers expressed concern over the cost of ordering and displaying additional signs, the mandate to display such a sign, as well as the precise language that the sign must convey, is part of new statutory criteria under § 40-10.1-405(4)(b)(II), C.R.S, enacted by HB 22-1314. Because it is a statutory requirement, the Towing Rules must adhere to the precise language and display requirements. The ALJ acknowledges that although such new signage may impose additional costs on towing carriers, they are still statutorily required to comply with the signage requirements and the amended rule reasonably incorporates that requirement.

**9. Rule 6508 – Authorization for Towing of Motor Vehicles**

95. Significant amendments have been made to Rule 6508, most of which are necessary to comport with statutory changes enacted by HB 22-1314.

**a. Rule 6508(a)(I) and (V) – Prohibition Against Acting as Authorized Agents**

96. Section 40-10.1-405(3)(a)(IV)(C), C.R.S., essentially prohibits towing carriers from acting as agents of the private property owners, for the purposes of authorizing

nonconsensual tows. The statute states that a towing carrier may not act “as an agent with authority to grant permission under this subsection (3)(a)” to tow a vehicle. As the legislators explained their understanding in comments, the provision minimizes the circumstances in which a towing carrier acts as both the towing carrier and the authorizing agent, thereby effectively authorizing their own tows from private property.

97. Rule 6508(a)(V) was also added to the Towing Rules to expand on the intent behind this provision in HB 22-1314, by prohibiting “any company owned or operated by a towing carrier” or persons having “a controlling financial interest in a towing carrier” from acting as an authorized agent for a Residential PPI. As Commission Staff persuasively expressed, this expansion of the rule’s scope ensures that the legislative intent — to prohibit towing carriers from also authorizing tows — is accomplished.

98. Towing carriers voiced concern that an earlier version of Rule 6508(a)(I), attached to the NOPR, was unclear and ambiguous. In particular, the earlier draft referred to individuals “directly affiliated” with a property owner. In response to their concerns, Rule 6508(a)(I) was further amended to prohibit towing carriers from “acting as the authorized agent for the property owner for a Residential PPI.” “Authorized agent for the property owner” is defined by Rule 6501(c). This simplification of the language and cross-reference to a term defined by the Towing Rules reasonably addresses the concerns towing carriers raised about ambiguous or unclear terms. The ALJ finds and concludes that the current regulatory language adopted in Rule 6508(a)(I) and (V) carry out the intent of HB 22-1314, to bar towing carriers from acting as agents with authority to grant permission to tow vehicles.

**b. Rule 6508(c) – Expired vehicle registration**

99. A prohibition against towing any vehicle, solely on the basis of an expired license plate — unless so ordered by a law enforcement officer — was added to Rule 6508(c) to reflect a change enacted by HB 22-1314. Prior to the changes enacted by HB 22-1314, Rule 6508(c) permitted the towing of a vehicle for expired plates if certain statutory criteria, as set out in §§ 42-3-114, and 42-3-203, C.R.S., were met. HB 22-1314, codified at § 40-10.1-405(7), C.R.S., imposes a total prohibition against towing vehicles for expired plates on residential private property, unless ordered by a law enforcement officer. Unless the Towing Rules were updated to reflect this complete prohibition, Rule 6508(c) would not be in compliance with § 40-10.1-405(7), C.R.S. The ALJ finds and concludes that the amendment to Rule 6508(c) is therefore reasonable and appropriate.

**c. Rule 6508(d) – 24-Hour Notice**

100. The 24-hour notice provision is a new subsection added to mirror a similar provision added to § 40-10.1-405(3)(b), C.R.S., by HB 22-1314. Section 40-10.1-405(3)(b) mandates that, except in certain enumerated circumstances, the owner or operator of a vehicle must be given 24-hours' notice of an impending, nonconsensual tow. Because this was an entirely new statutory provision, the Towing Rules did not previously provide this notice requirement. No commenters objected to the inclusion of a 24-hour notice provision.

101. However, an earlier draft of Rule 6508(d) contained cross-references to the applicable statutory provisions, indicating the types of properties to which the 24-hour notice provision applied. Pursuant to comments received from towing carriers, concerned that such cross-references would be confusing in the field, Rule 6508(d) was further amended to specify that the 24-hour notice requirement applied to a Residential PPI, as that term is now defined in

Rule 6501(t). The towing carriers indicated that this further amendment adequately addressed their concerns.

102. Several members of the public commented about anecdotes that, although the 24-hour notice provision is now codified at § 40-10.1-405(3)(b), C.R.S., towing carriers were violating the statute by not giving 24-hours' notice before conducting a tow. While this anecdotal information could not be confirmed, the ALJ has no reason to doubt the commenters' veracity.

103. If true, the anecdotes highlight the importance of incorporating a 24-hour notice provision — and indeed to incorporate all the changes wrought by the adoption of HB 22-1314 — into the Towing Rules. The towing carriers commented that it is difficult and cumbersome for them to carry a copy of the applicable statutes with them in the field. Rather, they asked that the Towing Rules be updated to provide towing carriers with one resource on which to rely. Anecdotal evidence that towing carriers are ignoring the 24-hour notice requirement illustrates the need for a single, reliable source to which towing carriers and operators can turn to educate themselves on the applicable towing regulations and statutes.

104. Despite the implementation of this Rule, the ALJ acknowledges that towing carriers may nonetheless violate the 24-hour notice provision. In such circumstances, the Commission has the authority to seek penalties against towing carriers who violate this or any other provision of the Towing Rules. Rule 6508(d) will provide another ground, in addition to § 40-10.1-405(3)(b), C.R.S., upon which a civil penalty can be issued and assessed.

**d. Rule 6508(e) - Photographs**

105. Rule 6508(e) is likewise a completely new addition to the Towing Rules. In compliance with § 40-10.1-405(2)(a) – (c), C.R.S., also enacted as part of HB 22-1314, Rule 6508€ mandates that a towing carrier take several photographs of a towed vehicle, to establish the condition of the vehicle and the reason for the tow. No one objected to or offered comments about the proposed rule. Rule 6508(e) is reasonable and will be adopted.

106. Based on the above discussion, the ALJ finds the amendments to Rule 6508 warranted, appropriate, and reasonable.

**10. Rule 6509 – Tow Record/Invoice, Charge Notification, and Warning Signage**

107. Rule 6509 provides that a towing carrier shall include certain, specific information and notices in a tow invoice, shall retain copies of invoices bearing original signatures, shall deliver a copy of the invoice to the towed vehicle’s authorized operator within 48 hours of a request for a copy, and shall itemize the charges incurred for nonconsensual tows from Residential PPIs or a charge notification card for tows from Commercial PPIs.

108. Like Rule 6501(t) previously amended Rule 6509, as attached, the NOPR incorporated statutory cross-references to indicate which tows required itemized charge disclosure and which required a charge card. After towing carriers voiced concerns about the clarity of Rule 6509, and the possible confusion caused by statutory cross-references to § 40-10.1-405(6) and (9), C.R.S., Rule 6509 was further amended to remove those statutory citations and instead refer to the defined terms “Residential PPI” and “Commercial PPI.” The changes were made in conjunction with the further revisions to the definition of private property

impound in Rule 6501(t). The towing carriers expressed their approval of the additional amendments to Rule 6509 and no further comments were received about this rule.

109. As found above with respect to Rule 6501(t), this further revision is reasonable and appropriate and advances the Commission's stated goal of simplifying the Towing Rules for use by towing carriers in the field.

#### **11. Rule 6510 – Disclosure of Rates and Charges**

110. Rule 6510 mandates the disclosure of rates and charges to the authorized operator of a motor vehicle before any tow is performed. Rule 6510(c) also specifies the precise language that a towing carrier must “prominently display” current maximum rates at the business location of any towing carrier performing Residential PPIs. With a further revision incorporating the term “Residential PPIs” — rather than cross-references to § 40-10.1-405(1)(a), C.R.S., similar to the earlier version of Rule 6509 — towing carriers voiced their approval of Rule 6510, as adopted. No other commenters addressed the provision of Rule 6510. Rule 6510, as amended, is reasonable and will be adopted.

#### **12. Rule 6511 – Rates and Charges**

111. Rule 6511 sets forth the maximum amounts that can be charged for various towing services. The rates set out in Rule 6511 remain largely unchanged. Towing rates were not within the scope of the NOPR. However, some minor changes were made to other portions of Rule 6511.

##### **a. Rule 6511(a) – Drop Charge**

112. Drop charges were prohibited by HB 22-1314, codified at § 40-10.1-405(6), C.R.S., when towing from residential private property. As with several subsections discussed above, the Towing Rules had to be amended to reflect the Legislature's

prohibition against “drop charges.” Some towing carriers expressed confusion as to the meaning of “drop charges,” but the ALJ notes that the term is defined in Rule 6501(i), as “a fee a towing operator charges to unhook a vehicle from a tow truck.” The inclusion of a definition for “drop fee” or “drop charge” adequately addresses any concerns about the meaning of the term, as expressed by the towing industry.

**b. Rule 6511(d) – Storage for Nonconsensual and Law Enforcement-Ordered Tows**

113. Rule 6511(d) was likewise revised to reflect statutory changes enacted by HB 22-1314, which distinguishes between the storage charges assessed for Residential PPIs versus Commercial PPIs and law enforcement tows. The version of Rule 6511(d) contained in the current Towing Rules is replaced in its entirety by this newly-adopted Rule 6511(d). Section 40-10.1-405(1)(c)(I), C.R.S., adopted by HB 22-1314, permits a towing carrier to charge a prorated storage fee for “any part of a twenty-four-hour period the towing carrier stored the vehicle.” Towing carriers may not, however, charge for a full twenty-four-hour period, if the vehicle was not stored for that amount of time.

114. To implement this statutory amendment, the Towing Rules create a distinction between Commercial PPIs and law enforcement-ordered tows on the one hand, and Residential PPIs on the other. For Commercial PPIs and law enforcement-ordered tows, Rule 6511(d)(I)(D) specifies that storage charges may be assessed for each “24-hour period or any portion of a 24-hour period.” In contrast, Rule 6511(d)(I)(E) provides that storage charges for Residential PPIs “must be prorated, on an hourly basis, with the combined hourly rate not to exceed the maximum rate for an entire 24-hour period.” No commenters objected to this distinction and, indeed, stated on the record that the revised Rule seems “clear.”

115. Finally, Rule 6511(d)(IV) carves out an exception to the applicability of Rule 6511(d) for tows from private property that subject to a “hold” imposed by a court, district attorney, law enforcement agency, or law enforcement officer.

116. Rule 6511 is reasonable and will be adopted, as revised.

### **13. Rule 6512 – Release of Motor Vehicle and Personal Property**

117. Rule 6512 was substantially amended to reflect changes resulting from the enactment of HB 22-1314. In particular, Rule 6512 encapsulates the principal change brought by HB 22-1314: the requirement that a towed vehicle be released to the vehicle owner or an authorized operator of the vehicle, if the individual seeking to retrieve the vehicle fills out a Commission-approved form and pays either fifteen percent of the overall towing fees or \$60.00, whichever amount is less. Rule 6512 was the subject of considerable discussion and comments from the towing industry, legislators, and the Attorney General’s Office. The various comments will be addressed in conjunction with the subpart of Rule 6512, to which they pertain.

#### **a. Rule 6512(a) (Payment Options)**

118. Rule 6512(a) identifies the forms of payment a towing carrier must accept as payment — in full or in part — for a tow. Section 40-10.1-405(1)(b), C.R.S., specifies that a towing carrier must accept as payment “cash,” “major credit cards,” and any other forms of payment required by the Towing Rules. Adhering to the options enumerated in § 40-10.1-405(1)(b), Rule 6512(a) likewise permits payments in cash or by “major credit cards.”

119. In compliance with § 40-10.1-405(1)(b)(II), C.R.S., and at the legislature’s direction, Rule 6512(a) also clarifies that a “major credit card includes MasterCard and Visa.”

120. Finally, Rule 6512(a) requires towing carriers to release a towed vehicle to an “authorized or interested person.” Legislators and the representatives of the Attorney General’s Office both expressed concern related to this provision, commenting that any provision which restricts release of a vehicle to the “vehicle owner” violates the intent and scope of HB 22-1314. However, Rule 6512(a), as adopted, does not impose such a limit. Rather, it mandates the release of a nonconsensually towed motor vehicle to any “authorized or interested person.” As that term is defined by Rule 6501(f), it encompasses the vehicle owner, an authorized operator of the vehicle, an authorized agent of the vehicle’s owner, a lienholder, or an insurance company. Rule 6501(f) and Rule 6512(a), when read together, effectively mandate the release of a motor vehicle to anyone who can establish entitlement to drive the vehicle.

**b. Rule 6512(b) (Timing of Release)**

121. Rule 6512(b) fleshes out the release mandate contained in Rule 6512(a) by requiring a towing carrier to release a nonconsensually towed vehicle to “an authorized or interested person” on demand during a towing carrier’s normal business hours or within one hour of a request to release the vehicle outside of the towing carrier’s normal business hours. No commenters objected to or addressed this Rule. Rule 6512(b) is reasonable and will be adopted.

**c. Rule 6512(d) (Release of Personal Property)**

122. Rule 6512(d) has been amended to comport with § 40-10.1-405(5)(b), C.R.S., as enacted by HB 22-1314. Like § 40-10.1-405(5)(b), C.R.S., Rule 6512(d) requires towing carriers to release any personal property contained in a towed vehicle “to an authorized or interested person,” “upon request,” if the request is made within thirty (30) days of a towing carrier’s notification requirements, pursuant to § 42-4-2103, C.R.S.

123. Rule 6512(d) also addresses the charges a towing carrier can impose, if any, for retrieving personal property from a vehicle. Specifically, Rule 6512(d)(II) clarifies that no fees can be charged for the retrieval of personal property related to a Residential PPI, but permits a towing carrier to charge a fee for retrieval of personal property related to a Commercial PPI. Also, under Rule 6512(d)(III), a towing carrier may charge the base hourly rate “for the removal of personal property” from a vehicle towed under a law enforcement order.

124. Thus, Rule 6512(d) aligns with § 40-10.1-405(5)(b), C.R.S., and is intended to alleviate concerns and reports of individuals unable to retrieve items contained in towed vehicles. This Rule, as amended, appropriately achieves this goal and its adoption is therefore reasonable and appropriate.

**d. Rule 6512(l) (Immediate Retrieval of Vehicle Upon Payment of Reduced Fee)**

125. Rule 6512(l) garnered the most discussion of any subsection of the Towing Rules. Legislators submitted written comments and offered verbal comments at two of the public comment hearings, expressing their respective deep reservations about the effect of Rule 6512(l). The legislators unequivocally stated that it was their personal intent, when supporting adoption of HB 22-1314, to enable an “authorized or interested person” to retrieve a towed vehicle with the payment of fifteen percent of the overall tow charges or \$60.00, whichever amount is less, and the execution of the Commission-approved form entitled “Towed Vehicle Release Notice: Retrieval with Payment Owed,” and *nothing else*.

126. Proposed Rule 6512(l), attached to the NOPR, stated that a towing carrier must permit “a vehicle owner” to retrieve a nonconsensually towed vehicle if “the vehicle owner” paid

the applicable fees and completed the form. This language adhered to the language of § 40-10.1-405(5)(c), C.R.S., which expressly states that:

The towing carrier shall immediately retrieve a vehicle that has been nonconsensually towed or allow *the owner* to retrieve the vehicle if:

(I) *The owner* pays fifteen percent of the fees, not to exceed sixty dollars, owed the towing carrier for the nonconsensual tow; and

(II) The authorized or interested person is not a lienholder or insurance company.

(Emphasis added).

127. However, legislators and counsel with the Colorado Attorney General’s Office correctly pointed out that limiting the application of Rule 6512(l) to “the vehicle owner” would not allow anyone entitled to operate the vehicle to retrieve it.

128. In response to their voiced concerns, Rule 6512(l) has been further amended to permit “the vehicle owner or authorized operator to retrieve the motor vehicle if” the vehicle owner or authorized operator pays the applicable statutory amount and completes the Commission-approved form. This change ensures that, even though § 40-10.1-405(5)(c), C.R.S., contains language that appears to limit retrieval to the vehicle owner, authorized operators will now also be granted that opportunity by the corresponding Rule. At the final public comment hearing on August 31, 2023, a representative of a consumer advocacy group, Zach Neumann of Community Economic Defense Project, stated that he “appreciates this change” and is “happy with it.” The ALJ is persuaded by the legislators’ verbal and written comments that any “authorized operator” — not just a vehicle’s owner — be able to retrieve a vehicle by paying the applicable statutory amount and completing the Commission-approved form. The ALJ finds and concludes that further modifications to proposed Rule 6512(l) are reasonable and will be adopted, consistent with the aforementioned discussion.

e. **Rule 6512(1)(III) (Time Period to Pay Balance)**

129. Section § 40-10.1-405(5)(d), C.R.S., sets the framework for the Commission-approved form titled “Towed Vehicle Release Notice: Retrieval with Payment Owed.” Under § 40-10.1-405(5)(d), the legislature provided that “an authorized or interested person” seeking to retrieve a nonconsensually towed vehicle “must sign a form affirming that the authorized or interested person owes the towing carrier payment for fees” that comprise the balance of the towing fees due, over the applicable statutory amount the “authorized or interested person” paid to retrieve the towed vehicle. By incorporating this subsection, the legislature acknowledged, in part, that the applicable statutory fees paid to retrieve a vehicle is not the full amount owed for a nonconsensual tow.

130. Proposed Rule 6512(1), attached to the NOPR, included no provision addressing how or when the remaining balance was due to be paid. Towing carriers expressed frustration with this omission from the Towing Rules and § 40-10.1-405(5)(d), C.R.S. They explained that without a set deadline by which the remaining balance is due, the remaining debt is essentially uncollectable. No collection agency can go after a debt unless the debt is actually past due. The net result, towing carriers pointed out, was that the Legislature had effectively and unintentionally created “the \$60 tow.” To make matters worse, they expounded, unless some time frame is incorporated into the Towing Rules, bad towing actors may attempt to take advantage of consumers by demanding payment of the remaining balance within a very short period of time, such as a week to ten days. A payment timeframe would, they said, ameliorate these perceived deficiencies in the statute.

131. Commission Staff proposed addressing towing carriers’ concerns by incorporating a “payment window” of sixty-to-ninety days, within which remaining balances should be paid.

In other words, under Commission Staff's proposed version of Rule 6512(1)(III), towing carriers could not demand payment of the balance until thirty days after a vehicle is retrieved, but the balance should be fully paid within ninety days.

132. However, legislators who sponsored and/or supported HB 22-1314 vehemently objected to Commission Staff's proposal. In their August 30, 2023, comments, a group of nineteen legislators opined that the bill "did not establish any payment deadline" and urged the undersigned ALJ to reject any payment timeframe. They reiterated these concerns at the August 31, 2023, public comment hearing.

133. During the ensuing discussion at the August 31, 2023, public comment hearing, John Connolly, a representative of the towing industry, offered a third option: incorporating a minimum of ninety days before any remaining balance could be made due. As Mr. Connolly explained, such a provision would prohibit "bad actor" towing carriers from demanding payment of any balance sooner than ninety days, while effectively building into the Towing Rules a debt deadline to assist towing carriers in collecting any unpaid balance.

134. The ALJ is persuaded that Mr. Connolly's compromise proposal adequately and effectively addresses the legislators' concerns, while also paving an avenue by which towing carriers can collect any unpaid debt. Rule 6512(1)(III), as adopted, strikes an appropriate balance by specifying that any "remaining balance owed to the towing carrier shall be due *no sooner than* 90 days after the motor vehicle has been released to the vehicle owner or authorized operator."(Emphasis added.) The ALJ finds and concludes that the inclusion of Rule 6512(1)(III), in its revised form, is reasonable and warranted to provide towing carriers with an avenue by which to collect any remaining balance, but banning the potential practice of seeking to collect a debt in a burdensomely short time frame.

**f. Rule 6512(I)(IV) (Prohibition Against any Other Obligations)**

135. Nathan Blake, Deputy Attorney General with the Colorado Attorney General's Office, also submitted several comments and suggestions to address "compulsory loans." Mr. Blake conveyed reports of towing carriers refusing to release towed vehicles for less than the full amount due, unless the owner or authorized operator seeking to retrieve the vehicle signed a "compulsory loan" to pay for the outstanding balance. He argued that such "compulsory loans" violated both the language and the spirit of HB 22-1314.

136. To address this issue, Mr. Blake suggested adding language expressly prohibiting towing carriers from requiring "a consumer to enter into a loan or lending agreement as a condition of releasing a vehicle."<sup>39</sup> The ALJ agrees that such conditions may not be imposed upon consumers seeking to retrieve vehicles but is concerned that the language proposed by Mr. Blake is too narrowly focused.

137. Instead, the ALJ has determined that a better approach — one that should minimize the risk of other burdens being improperly foisted on those retrieving a nonconsensually towed vehicle — is to broadly state that no obligations or requirements beyond the two enumerated in Rule 6512(I)(I) and (II) are permitted. To achieve this goal, an additional provision, Rule 6512(I)(IV), has been added, which states that a "towing carrier must strictly comply with this rule and shall not impose any additional obligations or requirements, as a condition of releasing a motor vehicle, on the vehicle owner or authorized operator."

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<sup>39</sup> July 17, 2023, letter from Mr. Blake to the Commission, p. 2.

138. The ALJ finds and concludes that the inclusion of Rule 6512(1)(IV) addresses the concerns Mr. Blake raised about compulsory loans and, indeed, takes protections a step further than even Mr. Blake proposed by setting forth, in explicit terms, that no other obligations are permitted. With the inclusion of this broad subsection, any towing carrier who imposes any obligations, other than payment of the applicable statutory amount and completion of the Commission-approved form, will be violating the Commission's rules. The inclusion of this subsection is therefore both reasonable and appropriate.

139. The ALJ finds and concludes that Rule 6512(1), as further modified, is reasonable and appropriate and will be adopted.

#### **14. Rule 6513 – Notice**

140. Rule 6513 previously required the posting of signage and notices on private property, from which vehicles could be nonconsensually towed. HB 22-1314 codified many of those existing regulatory provisions at § 40-10.1-405(4)(f)(III), C.R.S. Most of the requirements were not controversial and generated little to no discussion. However, a provision in Rule 6513(d)(IV), which provided that a displayed sign could state "Authorized Parking Only" or display "a similar statement" garnered legislators' ire.

141. As legislators correctly pointed out, § 40-10.1-405(4)(f)(III)(D), C.R.S., directs towing carriers to post signs at properties, from which they are permitted to nonconsensually tow vehicles, to read "Authorized Parking Only." The statute does not provide for any other related or similar language. Instead, signs complying with § 40-10.1-405(f)(III)(D), C.R.S., must read "Authorized Parking Only."

142. Having reviewed the statute carefully, at the legislators' urging, the undersigned ALJ agrees that the plain language of § 40-10.1-405(4)(f)(III)(D), C.R.S., leaves no room for towing carriers to incorporate any statements similar to "Authorized Parking Only." Rather, towing carriers' signs must use that language.

143. The undersigned ALJ has therefore further amended Rule 6513(d)(IV) to permit the display of "Authorized Parking Only," but no other similar language. The change is reasonable and appropriate to ensure that Rule 6513 aligns with HB 22-1314.

### **15. Rule 6514 – Towing Violations and Civil Penalty Assessments**

144. Rule 6514 underwent minor revisions to ensure regulatory references in the rule correspond to the subsection designations of the amended rules. No commenters addressed or objected to these changes. The amendments to Rule 6514 are found to be reasonable, appropriate, and warranted and will therefore be adopted.

#### **D. Conclusion**

145. Attachment A to this Recommended Decision represents the rule amendments adopted by this Recommended Decision, with modifications to the prior rules being indicated in red-lined and strikeout format (including modifications in accordance with this Recommended Decision). Attachments A and B are available through the Commission's E-Filings system in this proceeding (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).

146. Attachment B to this Recommended Decision represents the amendments to the Towing Rules adopted by this Recommended Decision in final form.

147. It is found and concluded that the proposed Towing Rules, as modified by this Recommended Decision, are reasonable and should be adopted.

148. Pursuant to the provisions of § 40-6-109, C.R.S., it is recommended that the Commission adopt the attached rules.

### III. ORDER

#### A. It Is Ordered That:

1. The Commission's Rules Regulating Towing Carriers, 4 *Code of Colorado Regulations* (CCR) 723-6, contained in red-lined and strikeout format, attached to this Recommended Decision as Attachment A, and in final format, attached as Attachment B, are adopted.

2. Proceeding No. 23R-0085TO is closed.

3. 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.

4. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon interested persons, 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.

5. 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)



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