

Decision No. R25-0011

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24R-0382TO

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 24-1051.

**RECOMMENDED DECISION
ADOPTING RULES**

Issued Date: January 9, 2025

I. STATEMENT

1. The Colorado Public Utilities Commission ("Commission") hereby issued a Notice of Proposed Rulemaking ("NOPR") on September 10, 2024, 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.

2. The NOPR largely addressed the incorporation of new statutory provisions pursuant to House Bill ("HB") 24-1051, enacted May 30, 2024, and effective August 7, 2024.

3. 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 2024 session. The proposed amendments reflected 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.

4. The proposed amendments to the towing rules were available for review as Attachment A (legislation/strikethrough) and Attachment B (clean) to Decision No. C24-0647 through the Commission's Electronic Filings website (Proceeding No. 24R-0382TO).

5. On October 21, 2024, a rulemaking hearing on the proposed rules and related matters was held.

6. On November 26, 2024, an additional hearing on the proposed rules was held.

II. BACKGROUND

7. On May 30, 2024, Governor Jared Polis signed HB 24-1051, Towing Carrier Regulation. 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 restriction on who is eligible to perform the tow authorization, a prohibition on towing carriers monitoring or patrolling private properties, a streamlined tow signage standard, and a requirement for towing carriers to return an improperly towed motor vehicle to where it was towed from, amongst others. The effective date of the statutory changes was August 7, 2024.

8. Transportation Staff ("Staff") thoroughly reviewed the Bill and created 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 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 spent considerable resources engaging with

stakeholders, property owners, and consumers to review, discuss, and share its expertise regarding the provisions of HB 24-1051.

9. Staff convened a public stakeholder workshop on July 31, 2024, which was attended by many members of the towing industry. During this workshop, the underlying legislation, HB 24-1051, was reviewed and discussed in detail. In addition, proposed rule amendments were discussed, to the extent they would impact the current regulatory framework for towing carriers. As a result, stakeholders identified topics they wished to see discussed further during the NOPR. These topics included: 1) the amended tow signage standard and whether or not the new requirement of posting the information in Spanish would be further clarified to identify which dialect of Spanish would be sufficient to meet the standard; and 2) clarification on what responsibilities the towing carrier actually has in regards to the posting of tow signage at a private property, considering § 40-10.1-405(3)(c), C.R.S., describes the signage as posted by the property owner. The stakeholders requested that the Commission further explore these issues, in addition to all other rule amendments discussed in this Decision.

10. Commission proposed rule revisions and additions that it found necessary to implement the legislative changes enacted in HB 24-1051. Pursuant to § 40-10.1-106(1)(b), C.R.S., the Commission has long had 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. The Commission has endeavored to incorporate the statutory changes into its existing rules, with minimal revision to the requirements for all types of tows.

11. Many of the new statutory requirements for nonconsensual tows originating from residential private properties, as enacted in HB 24-1051, expand upon the Commission's existing operational and safety standards. Since the legislature's focus was on enacting statutory requirements for tows from residential properties, some of these statutory standards apply only to that specific subset of tows.

12. The Commission envisioned HB 24-1051 as a policy determination by the legislature that these operational and safety standards must always be required for tows originating from residential private properties. The Commission does not see HB 24-1051 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. The Commission took a targeted approach in the proposed rules, whereby the changes required by HB 24-1051 were appropriately implemented, while at the same time, the necessary operational and safety standards already required in Commission rules were maintained, wherever possible.

13. However, as it pertains to certain consumer protection provisions previously enacted in state statute or already provided through Commission rules, the merging of the existing rules with the newly incorporated state statutes was not as seamless.

14. The Commission solicited 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 the NOPR. The Commission encouraged members of the transportation industry and other interested persons to participate in this Proceeding and to contribute to the rulemaking record.

III. HEARING OF OCTOBER 21, 2024

15. Initial written comments were requested to be filed no later than September 27, 2024, and any comments responsive to the initial comments were requested to be filed no later than October 11, 2024.

16. No written comments were filed prior to the October 21, 2024 hearing.

17. A rulemaking hearing on the proposed rules and related matters was held on October 21, 2024.

18. During the rulemaking hearing, concerns were expressed about Rules 6503(a)(IV), 6503(c), and 6513(d). There were no comments concerning any other proposed rule.

19. After the conclusion of the hearing, the undersigned Administrative Law Judge (“ALJ”) invited the participants to propose modifications to Rules 6503(a)(IV), 6503(c), and 6513(d).

IV. HEARING OF NOVEMBER 26, 2024

20. After the hearing on October 21, 2024, Staff and representatives of Towing & Recovery Professionals of Colorado (“TRPC”) filed comments and proposed modifications to Rules 6503(a)(IV), 6503(c), and 6513(d).

21. On November 14, 2024, by Decision No. R24-0826-I, an additional hearing was scheduled for November 26, 2024. This decision attached proposed amendments to the towing rules, which incorporated the proposed modifications of Staff and representatives of TRPC.

22. On November 26, 2024, a hearing was held on the proposed rules. There was no comment taken at the second hearing.

V. STATUTORY AUTHORITY

23. The Commission has general statutory authority to promulgate such rules as are necessary to administer and enforce title 40, Colorado Revised Statutes, per §§ 40-2-108 and 40-10.1-106, C.R.S. The Commission also has authority to promulgate rules consistent with part 4, article 10.1, title 40, Colorado Revised Statutes, under § 40-10.1-410, C.R.S.

24. As detailed in the NOPR, this Proceeding was prompted by the need to amend Commission Rules to align with legislative changes made during the 2024 Colorado legislative session through HB 24-1051.

VI. DISCUSSION

A. Rule 6503(a)(IV)

25. The modification of this rule from the initial proposed rule creates more flexibility, allowing for Transportation Staff to either require or not require a Colorado driver's license for towing permit applicants, depending on the circumstances.

26. Some towing carriers, especially those operating in adjacent states, may be owned and operated by individuals residing in another state. This modification allows for Transportation Staff to use its discretion and elect not to apply this standard, when appropriate.

B. Rule 6503(c)

27. The modification of this rule from the initial proposed rule delineates the information to be filed by a towing carrier each year.

28. The initial proposed rule was unclear as to the exact information to be provided. The modification clarifies the parameters of the operational information.

C. Rule 6513(d)

29. The modification of this rule from the initial proposed rule includes changing the term “post” to “verify.”

30. This change was made since towing carriers are not responsible for posting signage at a property, pursuant to recently amended § 40-10.1-405(3)(c), C.R.S. This change still ensures that proper signage has been posted before a nonconsensual tow can be conducted on private property.

D. Other Rules

31. No comments were received to any other rule changes proposed in the original NOPR and therefore they shall remain unchanged.

32. The ALJ appreciates the efforts of Staff, TRPC, and all other parties that contributed to the quick and efficient completion of this proceeding.

VII. ORDER

A. It is Ordered That:

1. The Commission's Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* 723-6, more specifically the Commission's Towing Carrier Rules (“Rules”), contained in final format attached to this Recommended Decision as Attachment B, are adopted.

2. The adopted Rules, in final and legislative format (Attachments A and B to this Recommended Decision), are also available through the Commission's E-Filings system at: https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=24R-0382TO

3. This Recommended Decision will 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 will be served upon the parties, who may file exceptions to it.

5. 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 will become the Decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

6. If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the Administrative Law Judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

7. If exceptions to this Recommended Decision are filed, they may not exceed 30 pages in length, unless the Commission, for good cause shown, permits this limit to be exceeded. Responses to exceptions are due within 14 days of service of exceptions.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT I. GARVEY

Administrative Law Judge

ATTEST: A TRUE COPY

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

Rebecca E. White,
Director