

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19M-0140TO

IN THE MATTER OF THE COMMISSION'S REVIEW OF ITS RULES REGULATING TOW CARRIERS, 4 CCR 723-6.

**COMMISSION DECISION
CLOSING REPOSITORY PROCEEDING**

Mailed Date: August 20, 2019
Adopted Date: August 14, 2019

I. BY THE COMMISSION

A. Statement

1. By this Decision, the Public Utilities Commission (Commission) closes this miscellaneous repository proceeding and directs Staff of the Commission (Staff) to prepare a proposed Notice of Proposed Rulemaking with proposed changes to the Commission's tow carrier rules, which comprise Rules 6500 to 6599 of the Commission's Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* 723-6.

B. Background

2. We opened this miscellaneous repository proceeding on March 28, 2019, to solicit input from stakeholders and other interested participants on whether to initiate a rulemaking to consider changes to our tow carrier rules. *See* Decision No. C19-0268, issued March 28, 2019, in this Proceeding No. 19M-0140TO. This decision followed a determination to deny a petition by the Towing and Recovery Professionals of Colorado (TRPC), filed on January 16, 2019, requesting that the Commission initiate a rulemaking to improve and clarify the tow carrier rules and increase towing rates. *See* Decision No. C19-0267, issued March 25, 2019, in Proceeding

No. 19M-0049TR. As we explained in Decision No. C19-0267, we denied TRPC's petition for rulemaking because we found further stakeholder engagement was needed before determining whether to commence a rulemaking and to help identify rules to consider amending.

3. On March 28, 2019, in Decision No. C19-0268, we explained this miscellaneous repository proceeding would serve as an information-gathering process to help the Commission determine whether to proceed with a rulemaking and, if so, which rules to consider amending. We directed Staff to lead this information-gathering process. We directed Staff to solicit input in the following areas: (1) whether it is appropriate to re-open the rules for amendment so soon after the last rulemaking; (2) whether and how to address the concerns underlying the recommendation in our Sunset Review that the Colorado Legislature (Legislature) prohibit the Commission from promulgating rules allowing property owners to grant agency to tow carriers; and (3) which rules require clarification in their application and which rules require an actual language change. We directed Staff to present at a future Commissioners' Weekly Meeting a summary of the comments received along with Staff's recommendation on whether to initiate a rulemaking and, if so, which rules to consider amending.

C. Findings and Conclusions

4. Staff received written comments from participants during this miscellaneous repository proceeding. These included comments from: the Apartment Association of Metro Denver; Mr. Christopher Cunningham, Esq., filing testimony he previously made to the Legislature on behalf of multi-family rental property owners; several members of the public raising specific concerns with tow carriers or past tows of their vehicles; and TRPC. In addition, Staff held a stakeholder workshop on May 23, 2019. Approximately 20 members of the towing industry attended the workshop.

5. At our August 14, 2019, Commissioners' Weekly Meeting, Staff presented a summary of the remaining areas of agreement, partial agreement, and disagreement concerning the issues raised in TRPC's petition for rulemaking and potential areas for rule change. Staff reported that the stakeholder discussions developed consensus regarding: tow carriers' notification of law enforcement of a tow occurring, a vehicle owner's refusal to sign for a vehicle, and types of payment accepted by the tow carrier. Staff reported the stakeholder discussions developed partial consensus regarding: required inventory of contents of an unlocked vehicle, template forms to be provided by the Commission, and changes to towing rates. Staff reported that no consensus was reached regarding: training to be provided or sponsored by the Commission, tow agreements between tow carriers and property owners, requirements for tow authorizations, required signage at property, release of personal effects to the vehicle owner, and civil penalty assessments.

6. Finally, Staff reported that it also discussed with stakeholders the concepts of pre-emptive revocation of a permit or prohibiting a permit under a new name, but that these changes may require a change in law prior to any rule change.

7. We find it appropriate at this time to close this miscellaneous repository proceeding. We direct Staff to prepare a Notice of Proposed Rulemaking for our consideration at a future Commissioners' Weekly Meeting. We ask Staff to include in its proposed notice a rule-by-rule analysis of the proposed rule changes along with specific questions to interested participants for further comment during the rulemaking.

II. ORDER

A. The Commission Orders That:

1. Proceeding No. 19M-0140TO is closed.

2. Staff of the Public Utilities Commission is ordered to prepare a proposed Notice of Proposed Rulemaking for the Public Utilities Commission's consideration at a future Commissioners' Weekly Meeting.

3. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
August 14, 2019.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

FRANCES A. KONCILJA

JOHN GAVAN

Commissioners