

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

PROCEEDING NO. 19R-0709TO

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IN THE MATTER OF THE PROPOSED AMENDMENTS TO THE RULES REGULATING  
TOWING CARRIERS, 4 CODE OF COLORADO REGULATIONS 723-6.

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**ORDER DENYING MOTION TO ALLOW  
LATE FILED EXCEPTIONS**

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Mailed Date: December 9, 2020

Adopted Date: December 9, 2020

**I. BY THE COMMISSION**

**A. Statement, Findings, and Conclusions**

1. This matter comes before the Commission for consideration of a motion filed by Towing Recovery Professionals of Colorado (TRPC) on December 3, 2020, requesting leave to late file exceptions to Recommended Decision No. R20-0791, issued November 6, 2020, by Administrative Law Judge Robert I. Garvey (Recommended Decision).

2. Pursuant to § 40-6-109(2), C.R.S., and Rule 4 *Code of Colorado Regulations* (CCR) 723-1-1505(a) of the Commission's Rules of Practice and Procedure, any exceptions to the Recommended Decision were required to be filed within 20 days of issuance of the Recommended Decision, in this case, by November 30, 2020.<sup>1</sup>

3. In the motion, TRPC requests that it be allowed to late file exceptions due to what it describes as unusual circumstances. TRPC states it could not determine whether to file

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<sup>1</sup> Pursuant to rule 4 CCR 723-1-1203, because the 20-day deadline expired on November 26, 2020, a legal holiday, and the next day was a statewide furlough day on which the Public Utilities Commission was lawfully closed, the day for performance was continued until the next business day, in this case, November 30, 2020.

exceptions until the due date. TRPC states its counsel became faced with a conflict on the due date, when he learned a current client that is representing itself in this proceeding, although a member of TRPC, preferred not to file exceptions, while TRPC almost assuredly did want to file exceptions. TRPC states it makes sense to allow the towing industry to continue to address issues before the Commission because this rulemaking has in essence been a continuing conversation between the Commission, industry, and other stakeholders, the rulemaking has been continuing for some time, and new rates will not go into effect until after the new year, in any event.

4. We will deny the motion. Although § 40-6-109(2), C.R.S., and Rule 4 CCR 723-1-1505(a) allow for the Commission to extend the time period in which to file exceptions, any request for extension necessarily must be made within the original 20-day time period. After the 20-day period expires, unless the Commission has acted during that time to extend the time to file exceptions, the recommended decision becomes a decision of the Commission by operation of law and rule.<sup>2</sup> TRPC's motion to late file exceptions to the Recommended Decision is therefore denied because it was filed after the due date for exceptions and thus after the Recommended Decision had become a decision of the Commission.

## **II. ORDER**

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

1. The motion filed by Towing Recovery Professionals of Colorado on December 3, 2020, requesting leave to late file exceptions to Recommended Decision No. R20-0791, issued

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<sup>2</sup> See § 40-6-109(2), C.R.S. ("if no exceptions are filed within twenty days after service upon the parties, or within such extended period of time as the commission may authorize in writing ... such recommended decision shall become the decision of the Commission and subject to the provisions of section 40-6-115"); 4 CCR 723-1-1505(a) ("a recommended decision becomes the Commission's decision unless, within 20 days or such additional time as the Commission may allow, any party files exceptions to the recommended decision").

November 6, 2020, by Administrative Law Judge Robert I. Garvey, is denied. Any remaining response time to the motion is waived.

2. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
December 9, 2020.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

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JOHN C. GAVAN

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MEGAN GILMAN

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Commissioners