

Decision No. C14-0014

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 13G-0913TO

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

COLLINS TOWING INC.,

RESPONDENT.

**DECISION DENYING EXCEPTIONS TO
RECOMMENDED DECISION NO. R13-1459**

Mailed Date: January 7, 2014

Adopted Date: January 2, 2014

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of the exceptions to Recommended Decision No. R13-1459 filed by Collins Towing Inc. (Respondent) on December 12, 2013. Being fully advised in this matter and consistent with the discussion below, we deny the exceptions.

B. Background

2. Respondent was served with the Civil Penalty Assessment Notice or Notice of Complaint to Appear (CPAN) No. 106307 for allegedly violating 4 *Code of Colorado Regulations* (CCR) 723-6-6508(b)(I) of the Commission's Rules Regulating Transportation by

Motor Vehicle on March 8, 2013 (Count 1), and 4 CCR 723-6-6508(c) on August 1, 2013 (Count 2). Respondent requested a hearing.

3. On October 23, 2013, an administrative law judge (ALJ) held a hearing in which Commission Trial Staff (Staff) appeared through counsel and Respondent appeared through Mr. David Collins.

4. On November 25, 2013, the ALJ issued Decision No. R13-1459 (Decision). In ¶ 57 of the Decision, the ALJ found that Respondent should be assessed a civil penalty for the proven violations detailed in Counts 1 and 2. Although the maximum civil penalty for these violations is \$2,420.00, the ALJ found some mitigating factors in the case and ultimately assessed a total civil penalty in the amount of \$1,100.00 for Counts 1 and 2 of the CPAN (¶¶ 58-61 of the Decision). The ALJ also ordered the Respondent to issue a refund to Mr. Joel McVay (the owner of the vehicle that was towed) in the amount of \$370.00 (Ordering ¶ 2 of the Decision). Finally, the ALJ ordered Respondent to cease and desist from performing tows in the State of Colorado without authorization (Ordering ¶ 5 of the Decision).

5. On December 12, 2013, Respondent submitted a letter requesting “a review and/or appeal” of the proceeding. On December 26, 2013, Staff submitted a response to this filing.

C. Discussion

6. Rule 1505(a) of the Rules of Practice and Procedure, 4 CCR 723-1, states that “[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....” Subparagraph (b) of Rule 1505 states that “[a] party wishing to file exceptions shall

request a transcript within seven days of the mailed date of the recommended decision, unless the party's exceptions dispute only issues of law."

7. In the filing submitted on December 12, 2013, Mr. Collins simply states that he "would like to request a review and/or appeal of Docket No. 13G-0913[T]O."

8. In its response, Staff states the following:

To the extent this filing is construed by the Commission as exceptions, Staff respectfully requests that they be denied. This filing provides no basis, argument or justification for modifying the Recommended Decision. No transcript was ordered, so under Commission Rule 1505, the exceptions can only dispute issues of law. However, since the exceptions provide no argument whatsoever, they must be denied accordingly.

9. The Commission finds that the December 12th filing by Respondent was timely submitted as exceptions to the Decision. However, the Commission agrees with Staff and concludes that Respondent did not state good cause for altering the Decision. The Commission concludes that the ALJ acted within her discretion in rendering the Decision.

II. ORDER

A. The Commission Orders That:

1. Consistent with the discussion above, the exceptions to Recommended Decision No. R13-1459 filed by Collins Towing Inc. on December 12, 2013 are denied.

2. The 20-day time period provided by § 40-6-114(1), C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the Commission mails orders this Decision.

3. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
January 2, 2014.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

JAMES K. TARPEY

Commissioners

COMMISSIONER PAMELA J. PATTON ABSENT.