

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19R-0709TO

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

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
ROBERT I. GARVEY
AMENDING RULES**

Mailed Date: October 1, 2020

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I. STATEMENT

1. On December 13, 2019, the Public Utilities Commission (Commission or PUC) issued the Notice of Proposed Rulemaking (NOPR) to amend Rules 6500 through 6514 of the Commission's Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* 723-6 (Towing Carrier Rules). Decision No. C19-0994. The NOPR commenced this proceeding. Decision No. C19-0994 scheduled a hearing for February 24, 2020. The Commission referred the instant rulemaking proceeding to an Administrative Law Judge (ALJ).

2. Throughout this proceeding, the Commission received oral and written comments from, among others, 303 Towing, LLC, Ace Towing Enterprise, the Boulder Area Rental Housing Association (Boulder Rental Association), the Colorado Apartment Association, Colorado Auto Recovery, Inc., the Colorado Motor Carriers Association, the Colorado State Patrol (CSP), Connolly's Towing, Inc. (Connolly's Towing), Denver West Towing (Denver West), D&J Towing & Recovery, Inc. (D&J Towing), the Park Meadows Business Improvement District (Park Meadows), Towing Done Right, the Towing and Recovery Professionals of Colorado (TRPC), Western Group Insurance, and Wyatt's Towing (Wyatt's Towing).

3. The ALJ convened the hearing on February 24, 2020, and received oral comments from those in attendance.

4. By Decision No. R20-0503-I (mailed July 13, 2020), the ALJ determined that holding an additional public rulemaking hearing is necessary to gather additional information from participants and to help clarify certain issues, so that the ALJ may fully evaluate and consider the arguments and revised rules proposed by the participants. The ALJ scheduled the additional hearing for August 17, 2020. Consistent with emergency declarations and public health advisories to prevent the spread of the novel coronavirus, COVID-19, the ALJ found that it is in the best interests of the parties and Commission personnel to hold the hearing remotely by video conference.

5. Decision No. R20-0503-I also established August 7, 2020, as the deadline to provide additional written comments in this matter.

6. On August 17, 2020, the ALJ convened the hearing remotely by video conference and received oral comments from those in attendance.

7. The undersigned ALJ has reviewed the record in this proceeding to date, including the written and oral comments.

8. Not all modifications to the proposed rules are specifically addressed herein. Any changes incorporated into the redline version of the rules appended hereto are recommended for adoption. Similarly, not all comments are specifically addressed herein. Recommendations in comments not incorporated into the redline version of the rules appended hereto were considered, but are not recommended for adoption.

9. 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. FINDINGS, DISCUSSION, AND CONCLUSIONS

A. Background

10. The Commission opened this rulemaking following consideration of a petition for rulemaking filed by members of the towing industry and a robust stakeholder outreach effort through Staff of the Colorado Public Utilities Commission (Staff) in Proceeding No. 19M-0140TO (Stakeholder Outreach Proceeding).

B. Proposed Rules

1. Rule 6500. Applicability of Towing Carrier Rules

11. Rule 6500(a) is amended to better describe the applicability of the Towing Carrier Rules. Connolly's Towing comments that "tow truck drivers" should be struck from the proposed language in Rule 6500(a). This comment is reasonable and will be incorporated in the rule recommended for adoption.

12. Rule 6500(c) is amended to strike the outdated reference to rates established by written agreement prior to January 1, 2018. As of January 1, 2018, the rates established in these rules set the maximum permissible rates. A written agreement between a towing carrier and a property owner may set rates lower than, but not higher than, these rates. With respect to the last sentence of Rule 6500(c), TRPC comments that the proposed language is confusing, and this sentence should be in a different section. Specifically, TRPC comments that "[i]f the law enforcement officer orders a tow, and there is no written agreement between the [law enforcement officer's] agency and the tow carrier, then the Commission's rules should control."¹ The second to last sentence of Rule 6500(c) aligns with, and addresses, this comment. The

¹ Initial Comments of the TRPC, at 2.

language in Rule 6500(c) is found to be clear as proposed and will be recommended for adoption.

2. Rule 6501. Definitions

13. Rule 6501 is amended as follows to provide clarification of the defined terms in the Towing Carrier Rules.

a. Rule 6501(a) “Abandoned motor vehicle”

14. Rule 6501(a) is amended to clarify that different statutory provisions apply to vehicles abandoned on public versus private property and will be recommended for adoption.

b. Rule 6501(b) “Address”

15. Rule 6501(b) is amended to clarify that a full “address” includes and requires the physical location, including the street name, number, city, state, and zip code. It will be recommended for adoption.

c. Rule 6501(d) “Authorized agent of the owner of the motor vehicle”

16. Rule 6501(d) is amended to clarify that this defined term refers to the authorized agent of *the owner of* the motor vehicle and will be recommended for adoption. References throughout these rules have been updated to reflect this change.

d. Rule 6501(f) “Business hours”

17. Rule 6501(f) establishes the minimum business hours a towing carrier must offer – specifically, 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays. The proposed amendment to this rule was intended to establish that where a towing carrier advertises hours exceeding this minimum, the towing carrier’s business hours will be as advertised. Connolly’s Towing comments that the proposed amendment is not in the best interest of

consumers or towing carriers. Wyatt's Towing comments that the proposed language should be stricken. During the public comment hearing, Staff agreed to strike the proposed language. The second sentence of proposed Rule 6501(f) will be stricken, and only the first sentence of this rule will be recommended for adoption.

e. Rule 6501(g) "Completion of the tow"

18. Rule 6501(g) proposes a consistent defined term that refers to when a tow is completed.

19. The written comments filed by Connolly's Towing, D&J Towing, and Denver West do not support this rule as proposed, commenting that it is inaccurate, unreasonable, and insane.

20. The objections to the definition are reasonable. Rule 6501(g) will not be adopted. The letters identifying subsequent subsections of proposed Rule 6501 will be amended to reflect this deletion.

f. Rule 6501(i) "Law enforcement-ordered tow"

21. Rule 6501(i), initially referenced as Rule 6501(j) in the proposed rules, establishes a consistent defined term that refers to a tow that is ordered by a law enforcement officer. It also clarifies that a tow is not considered a law enforcement-ordered tow if the vehicle owner has the ability or opportunity to terminate the tow and contact a towing carrier of his or her choice. It will be recommended for adoption. Existing descriptions are replaced throughout these rules with this new defined term.

g. Rule 6501(k) “Name”

22. Rule 6501(k), initially referenced as Rule 6501(l) in the proposed rules, is added to clarify that the term “name” includes a person’s first and last name and must be printed in legible words and applies whenever the term “name” is used in these rules.

23. Connolly’s Towing comments that the proposed definition is dangerous and not applicable for consumer protection. Wyatt’s Towing further comments that the proposed definitions of “name” and “signature” (discussed below), when taken together, effectively requires a signature to be printed and legible, which is not true of many signatures, and that requiring driver names to be printed and legible on tow tickets is both unnecessary and dangerous. TRPC similarly comments that the proposed definition of “name” used throughout the rules is problematic as to the safety of towing carriers. Colorado Auto Recovery echoes the other comments, asserting that the proposed definition puts their staff and their staff’s family members at risk.

24. While the safety concerns expressed by the commenters are reasonable, Rule 6501 merely provides definitions for the terms used throughout these rules and is not the appropriate rule to address such substantive issues. Rule 6501(k) will be recommended for adoption.

h. Rule 6501(l) “Nonconsensual tow”

25. Rule 6501(l), initially referenced as Rule 6501(m) in the proposed rules, is amended to clarify that a nonconsensual tow includes the transportation of a trailer as well as of the towed vehicle and will be recommended for adoption.

i. Rule 6501(m) “Parking lot”

26. Proposed Rule 6501 struck the definition of “parking lot” in existing Rule 6501(j). During the public comment hearing, Staff recommended that the existing definition of “parking lot” be kept and included in amended Rule 6501. Wyatt’s Towing’s and TRPC’s comments support this recommendation. The existing definition of “parking lot” will be recommended for adoption as Rule 6501(m).

j. Rule 6501(p) “Property owner”

27. Rule 6501(p) defines “property owner.” Wyatt’s Towing comments that the phrase “in writing” should be removed from subsection (II) of this rule. During the public comment hearing, Staff agreed to this amendment, specifically requesting to “[r]emove the language in writing.”² This comment is reasonable and will be incorporated in the rule recommended for adoption.

k. Rule 6501(s) “Signature”

28. Rule 6501(s) is added to clarify that a “signature” means the name of the person written in his or her own handwriting or entered by that person electronically, recognizing the increasing use of electronic records. TRPC comments that the proposed definition of “signature” should be expanded to allow for an identifier to be used in lieu of requiring tow drivers and other tow authorizers to provide their names for safety reasons, as discussed above under Rule 6501(k) “name.” While the expressed safety concerns are reasonable, as discussed above, Rule 6501 merely defines the terms used in these rules and is not the appropriate rule to address such substantive issues. Rule 6501(s) will be recommended for adoption.

² Transcript, at 17:17.

l. Rule 6501(t) “Tow agreement”

29. Rule 6501(t) is added to establish a consistent defined term that refers to the agreement entered into between a towing carrier and a property owner to perform nonconsensual tows on the owner’s private property. Existing descriptions are replaced throughout these rules with this new defined term.

30. Connolly’s Towing comments that this rule needs to be rephrased because although law enforcement needs to be added to this definition, Rule 6508(a)(I) does not apply to law enforcement tow agreements.

31. During the public comment hearing, this comment was discussed and a consensus was reached as to the following definition for Rule 6501(t): “Tow agreement” means a written agreement between a towing carrier and a property owner or law enforcement authorizing the towing carrier to perform tows and meeting the minimum requirements for tow agreements set forth in subparagraph 6508(a)(1) or by law enforcement.

32. Rule 6501(t), as defined above, will be recommended for adoption.

m. Rule 6501(v) “Tow Invoice” and Rule 6501(w) “Tow Record”

33. Rule 6501(v) and (w) are added to establish the definition of a tow invoice and a tow record in accordance with Rule 6509, discussed below, and will be recommended for adoption.

n. Rule 6501(cc) “VIN”

34. Rule 6501(cc), initially proposed as Rule 6501(aa), simplifies references to a vehicle’s identification number throughout these rules and will be recommended for adoption.

3. Rule 6503. Towing Carrier Permit Application

35. This rule establishes basic requirements for obtaining a towing carrier permit.

36. As detailed in the NOPR, TRPC had suggested the Commission provide Commission-sponsored training and examination for new applicants seeking a towing carrier permit. Following discussion of this suggestion during the workshop in the Stakeholder Outreach Proceeding, Staff agreed that third-party training would be a viable option should funding become available. Accordingly, the NOPR did not propose a rule establishing Commission-sponsored training and examination for new applicants.

37. The Commission received no written or verbal comments concerning Rule 6503 as proposed in the NOPR. It will be recommended for adoption.

4. Rule 6504. Criminal History Checks

38. Rule 6504 is amended to establish a five-year timeframe for all felonies in conformity with the statutory requirement in § 40-10.1-401(2), C.R.S. The Commission received no written or verbal comments concerning Rule 6504 as proposed in the NOPR. It will be recommended for adoption.

5. Rule 6505. Driver Licensing Requirement

39. To address a safety concern, Rule 6505 was proposed to prohibit towing carriers from permitting a tow truck driver or operator to tow vehicles or operate a tow truck without a valid driver's license.

40. TRPC, Connolly's Towing, and Denver West each comment to the same effect – proposed Rule 6505 should be removed from these rules because it is impractical and compliance is effectively impossible for towing carriers.

41. During the public comment hearing, Staff agreed with the comments and further stated that proposed Rule 6505 is not under the purview of the PUC because driving any vehicle without a valid driver's license is a violation under Title 42 of the Colorado Revised Statutes.

42. Rule 6505 will not be recommended for adoption and will be “[Reserved]” as it is in the existing Towing Carrier Rules.

6. Rule 6506. Equipment and Accessories

43. Rule 6506 establishes minimum equipment and access requirements for tow trucks. It is amended with only minor edits for readability and consistency, including referring to the defined term “tow truck” instead of the term “towing vehicle.” The Commission received no written comments and minimal verbal comments concerning proposed Rule 6506. It will be recommended for adoption.

7. Rule 6507. Storage Facilities

44. Rule 6507 outlines the requirements for storage facilities, including required notice to law enforcement, disclosure for abandoned motor vehicles, signage, lighting, and safety and security.

a. Rule 6507(a). Disclosure of facility location

45. Rule 6507(a) is amended to change the triggering event that starts the 30-minute period within which to notify law enforcement of the location of the storage facility to which a vehicle is being towed for nonconsensual tows. Specifically, the triggering event is changed from when the towing carrier *has possession* of the vehicle to when the towing carrier *moves* the vehicle.

46. Rule 6507(a) is also amended to include a safe harbor to ensure towing carriers are not fined under the Commission’s rules for circumstances beyond their control. Specifically, notice to law enforcement will not be considered late for purposes of Rule 6507(a) if the towing carrier makes two or more documented attempts to notify the law enforcement agency but is unsuccessful for reasons beyond the towing carrier’s control. As detailed in the NOPR, this

addition is responsive to a concern raised by TRPC that towing carriers are often placed on lengthy holds by law enforcement after placing their required call, resulting in the call being completed after the 30-minute time period, which Staff in turn emphasized is a statutory requirement under § 42-4-2103(2), C.R.S. In the NOPR, Staff further emphasized that the towing carrier must continue to attempt to register the tow until successful to comply with these rules and applicable law.

47. The Commission received no written comments and negligible verbal comments concerning proposed Rule 6507(a). It will be recommended for adoption.

b. Rule 6507(f). Carrier responsibility

48. The second sentence of proposed Rule 6507(f) creates a requirement that upon request, towing carriers must provide evidence of their commercial liability insurance coverage to persons to whom a towed vehicle is being released.

49. Wyatt's Towing, Connolly's Towing, D&J Towing, TRPC, and Colorado Auto Recovery each filed written comments objecting to the second sentence of proposed Rule 6507(f). The commenters collectively assert that this proposed language creates a burdensome requirement and should be stricken.

50. Specifically, the commenters explain that because individuals are often agitated, hostile, and looking for revenge when retrieving their vehicle, towing carriers generally decline to provide their insurance information at that time, unless there is a valid claim warranting such response. Put simply, the commenters assert that if they were to provide their insurance information each and every time it is requested, the exponential increase in claims filed with their insurance companies – regardless of whether the claims are valid or fraudulent – will result

in higher insurance premiums and ultimately put them out of business due to non-renewal of their insurance.

51. The commenters further explain that most towing carriers have developed an internal process for handling claims of alleged damage and will often pay to repair the damage, rather than submitting an insurance claim.

52. Finally, the commenters assert that consumers always have the option of filing a complaint with the Commission to obtain a towing carrier's insurance information and this extra step effectively creates in a cooling down period that minimizes the filing of frivolous claims with the towing carrier's insurance company.

53. During the public comment hearing, there was extensive discussion concerning the commenter's objections to this rule. The commenters largely echoed the sentiment of their written comments.

54. During this discussion, Staff confirmed that the Commission routinely provides consumers with a towing carrier's insurance information after the consumer has contacted or filed a complaint with the Commission. In response to the concerns of the commenters, Staff asserted that because consumers are going to ultimately obtain the insurance information either way, towing carriers should provide it on the front end. Staff further asserted that consumers should not have to go through the extra step of contacting the Commission to obtain a towing carrier's insurance information, and that Commission Staff members should not have to take the time to research and respond to consumers with this information, when it could have been provided up front by the towing carrier.

55. While the ALJ understands the concerns of the commenters, the public deserves the insurance information and should not be required to go through extra steps to receive this

information. Nothing in this rule prevents a towing carrier from attempting to settle a dispute without the involvement of an insurance company. Nothing in this rule requires a tow company to provide this information unless requested by a person whose vehicle has been towed. These situations are often emotional on the part of the participants. The ALJ believes the refusal to provide this information, upon request, has a greater potential to heighten tensions than providing the information. Rule 6507(f) will be recommended for adoption.

8. Rule 6508. Authorization for Towing of Motor Vehicles

56. This rule sets forth the requirements for proper authorization of a tow.

57. As an initial matter, the term “contract” will be replaced with the new defined term “tow agreement” throughout this rule.

a. Rule 6508(a). Towing carrier acting as authorized agent for the property owner

58. Rule 6508(a) establishes the minimum requirements for a tow agreement between a towing carrier and a property owner to perform nonconsensual tows on private property.

59. As detailed in the NOPR, the proposed language in Rule 6508(a) is the result of comments received in the Stakeholder Outreach Proceeding expressing the importance of allowing this type of agency, while also ensuring this agency is properly delegated and exercised.

b. Rule 6508(a)(I)

60. In Proposed Rule 6508(a)(I), the second sentence provides that only the towing carrier named in the tow agreement may perform tows under that tow agreement and the third sentence expressly prohibits assignment of a tow agreement to another towing carrier.

61. Wyatt’s Towing, Connolly’s Towing, the Colorado Apartment Association, D&J Towing, TRPC, and Colorado Auto Recovery each filed written comments objecting to the

proposed language prohibiting a towing carrier from subcontracting with another towing carrier when acting as an authorized agent for a property owner.

62. Collectively, the commenters assert that this proposed language should be stricken because subcontract towing is an important and necessary part of the towing industry. The commenters specifically explain that the necessity for subcontract towing often arises when a towing carrier does not have a heavy-duty tow truck and needs to contract with another carrier that has the proper equipment to safely complete the tow.

63. Wyatt's Towing emphasizes that preventing towing carriers from working together to tow vehicles in the safest manner possible will create an unnecessary risk to the public. Wyatt's Towing also points out that this proposed language is nonsensical when multiple towing carriers are owned by the same company – specifically, it would prohibit the company from using the equipment of one of its carriers when another one of its carries is the authorized agent.

64. D&J Towing also asserts that this is an infringement of free enterprise if towing carriers are prohibited from subcontracting with other carriers with the consent of the property owner.

65. During the public comment hearing, Staff responded to the concerns of the commenters. Staff stated that its primary concern with subcontracting is liability issues – specifically, which towing carrier would be responsible for damage to a towed vehicle, *i.e.*, the tow company that contracted with the property owner or the towing carrier that was subcontracted to perform the tow. Put another way, Staff's concern is that because the subcontracted towing carrier is not on the contract with the property owner that authorized the tow, it could be construed as an unauthorized tow.

66. In past Commission Decisions regarding the adoption and amendment of Rule 6508, it has been stated that “[t]he potential proverbial bad apple need not dictate onerous burdens upon the entire industry.”³

67. Here, the undersigned ALJ finds persuasive the commenters’ concerns. The ALJ further finds that the public interest in allowing towing carriers to subcontract as needed to use proper equipment for tows outweighs the liability concerns expressed by Staff. The ALJ also finds that Staff’s concerns about bad actors are not necessarily eliminated, or even directly addressed, by the proposed language. Accordingly, the second and third sentences of Proposed Rule 6508(a)(I) will not be adopted.

c. Rule 6508(a)(I)(F)

68. The proposed language in Rule 6508(a)(I)(F) prohibits automatic renewal of a tow agreement. It is intended to clarify that, upon expiration of the end date of the tow agreement, the towing carrier must re-execute the tow agreement with the property owner with a new term length, as well as to balance the interests of property and vehicle owners with the burden placed on towing carriers to re-execute agreements. Notably, this proposed language does not limit the term of the tow agreement; thus a towing carrier is free to negotiate as long of a term as the property owner is willing to accept, *e.g.*, three years.

69. Connolly’s Towing, Wyatt’s Towing, TRPC, Boulder Rental Association, and Colorado Apartment Association collectively comment that automatic renewal provisions are industry standard and prohibiting such provisions creates a significant burden on towing carriers and property owners alike. Wyatt’s Towing emphasizes that because the tow agreements are

³ Decision No. R13-0943, issued August 2, 2013, at p. 23, Proceeding No. 13R-0009TR; Decision No. R10-0778, issued July 27, 2010, at p. 20, Proceeding No. 10R-036TR.

often with large, out-of-state corporations, such agreements are unlikely to be for a term of more than one year and annual renewal is impractical. Colorado Apartment Association asserts that allowing short-term automatic renewals will minimize the burden on rental property owners and managers. Specifically, it suggests the following alternative language: “Provisions that provide for automatic renewal of the tow agreement in excess of 30-day periods are prohibited.”

70. During the hearing, Staff responded that this rule is intended to ensure that new owners of apartment complexes are engaged in ensuring that there is a contract in place between the property owner and the towing carrier. Staff specifically explained that there have been instances where a towing carrier had an agreement with a property owner and continued towing vehicles after the property was sold to a new owner, making it unclear whether there is a tow agreement in effect authorizing the tows.

71. Both Staff and the commenters have valid points. In order to ease the administrative burden yet not have the contracts become stale and open the door for multiple contracts, automatic renewals shall be allowed as long as the parties to the agreement do not change. Rule 6508(a)(I)(F), as modified to reflect this discussion, will be recommended for adoption.

d. Rule 6508(a)(I)(J)

72. Rule 6508(a)(I)(J) is a new rule requiring the tow agreement to include the name of each specific tow truck driver who is authorized to perform tows under the tow agreement.

73. Wyatt’s Towing, D&J Towing, TRPC, Colorado Auto Recovery, Boulder Rental Association, and Colorado Apartment Association collectively comment that this proposed rule should be stricken because it is impractical, nonsensical, and arbitrary.

74. During the public comment hearing, Staff agreed to eliminate this proposed rule.⁴

75. The ALJ agrees with the commenters and Staff. Rule 6508(a)(I)(J) will not be recommended for adoption.

e. Rule 6508(a)(I)(K)

76. Rule 6508(a)(I)(K) is a new rule requiring the tow agreement include the reasons for which vehicles may be towed from the property to: (a) help ensure the tow agreement is adequately prescriptive in its delegation of agency to towing carriers; and (b) provide greater certainty for towing carriers in the event a vehicle owner complains that a vehicle was towed improperly.

77. Wyatt's Towing suggests amending this proposed rule to allow property owners to change in writing – *e.g.*, via email to towing carriers – the reasons for which vehicles may be towed from the property. Wyatt's Towing further asserts that this is the current practice and requiring such changes to be made in a formal addendum with the signature of both parties is impractical and burdensome.

78. During the hearing, Staff responded that the intent of this new rule is transparency and reducing the burden on Staff of the Commission to contact property owners and determine whether a tow was in fact authorized.

79. While the ALJ finds that there are valid reasons to require the reasons for a tow to be included in all agreements, there could be occasions that a vehicle is towed for a new or unique reason. Potentially valid tows could be found to be unauthorized for the simple reason that this new situation was not included in the agreement. Rule 6508(a)(I)(K) will not be adopted at this time.

⁴ Transcript, at 98:17

f. Rule 6508(a)(IV)

80. Rule 6508(a)(IV) is a new rule expressly allowing terms of a tow agreement to be amended through addenda signed by both the tow company and the property owner, rather than re-negotiating and executing of the entire agreement. This rule was proposed to alleviate some of the burden resulting from the proposed language in Rule 6508(a)(I)(F), which sought to require that tow agreements have a fixed end date.

81. Wyatt's Towing maintains its comments with respect to proposed Rule 6508(a)(I)(J) and (K), and asserts that this rule is only practicable and reasonable if those Rules are rejected and/or amended to address the comments.

82. Rule 6508(a)(IV) is a basic allowance of addendums to tow agreements and will be recommended for adoption.

g. Rule 6508(b). Authorization to perform nonconsensual tows

83. Proposed Rule 6508(b)(III) mirrors Existing Rule 6508(b)(VI), save for the additions discussed below.

h. Rule 6508(b)(III)

84. The proposed language in Rule 6508(b)(III) adds the requirement that a tow authorization from a property owner include the vehicle's license plate number *and* vehicle identification number (VIN), if available. Existing Rule 6508(b)(VI) permitted either the license plate number *or* VIN. The purpose of this additional requirement is for vehicle tracking. Rule 6508(b)(III) will be recommended for adoption.

i. Rule 6508(b)(III)(D)

85. Proposed Rule 6508(b)(III)(D) amends Existing Rule 6508(b)(VI)(D) by, among other things, striking the phrases "that is being removed from the property" and "off of the

private property from which it is towed” to prevent a practice known as “stashing,” or temporarily moving towed vehicles to a location other than a storage facility on file with the Commission.

86. Connolly’s Towing, Wyatt’s Towing, TRPC, Colorado Apartment Association, and Park Meadows collectively express concern that Proposed Rule 6508(b)(III)(D) prevents the common practice of towing vehicles from one spot to another spot within the same property, also known as “moves on property,” “space moves,” or “spot tows.” The commenters explain that such tows are often necessitated by emergency circumstances, such as a water line break, as well as by routine circumstances, such as vehicle owners failing to relocate their vehicles prior to noticed parking lot maintenance.

87. During the public comment hearing, Mr. Troy Porras, owner of Wyatt’s Towing, suggested, and Staff agreed, that it would be more accurate to expressly define and prohibit “stashing” in this rule.⁵

88. Based on the comments received and discussion during the public comment hearing, Proposed Rule 6508(b)(III)(D) will be recommended for adoption as follows: the phrases “that is being removed from the property” and “off of the private property from which it is towed” will not be deleted, and all other proposed amendments will be accepted.

j. Rule 6508(b)(III)(E)

89. Rule 6508(b)(III)(E) is a new rule that proposes allowing a towing carrier to relocate a vehicle to another location at the order of law enforcement *only after* the location has

⁵ Transcript, at 103:1-13.

been provided in writing by a law enforcement officer and has been documented on the tow record/invoice by the towing carrier.

90. Connolly's Towing and TRPC each oppose the proposed language stating: "but only after that location has been provided in writing by the law enforcement officer and has been documented on the tow record/invoice by the towing carrier." The commenters assert that because law enforcement officers often direct towing carriers to tow motor vehicles that are blocking lanes of traffic, this requirement is impractical and even dangerous.

91. During the public comment hearing, Staff agreed to strike everything after the word "officer."⁶ That is, Staff agrees to strike the proposed language of concern to the commenters.

92. Based on the comments received and Staff's response thereto, the proposed language "but only after that location has been provided in writing by the law enforcement officer and has been documented on the tow record/invoice by the towing carrier" will be rejected. Rule 6508(b)(III)(E) will be recommended for adoption as follows: "In the case of law enforcement-ordered tows, a towing carrier may relocate a motor vehicle to another location at the order of a law enforcement officer."

k. Rule 6508(b)(III)(F)

93. Rule 6508(b)(III)(F) is a new rule that codifies the requirement that a tow truck driver shall not commence a tow until the vehicle has been secured in accordance with applicable law.

⁶ Transcript, at 111:11-18.

94. TRPC comments that while this rule is reasonable overall, it ignores the practicalities of towing – specifically, that tow truck drivers often need to maneuver a vehicle a short distance without fully securing it, move the tow truck, and then permanently secure the vehicle to the tow truck before completing the tow. Alternatively, TRPC suggests the following proposed language: “A motor vehicle towed as a nonconsensual tow shall be secured to the tow truck in accordance with the C.R.S. and the Code of Federal Regulations for the purposes of transporting the vehicle to the tow carrier’s yard.”

95. During the hearing, the commenters reiterated that it is common practice to move vehicles a short distance without fully securing the vehicle on the tow truck – for instance, when moving a vehicle from the middle of the road to a parking lot, or when fulfilling a property owner’s request for “moves on property.” Staff, on one hand, responded that this proposed rule could be deleted, stating that an insurance claim would be justifiable if a towed vehicle is damaged after not being properly secured. On the other hand, Staff also expressed a consumer protection concern, stating that this proposed rule is intended to prevent both damage to nearby vehicles and “short move stashing.”⁷

96. The concerns of the commenters are valid. The rule will be adopted but with the language suggested by TRPC.

1. Rule 6508(c). Expired vehicle registration

97. Rule 6508(c) is a new rule specifying that a towing carrier may perform a nonconsensual tow for reason of an expired vehicle registration *only if* the registration has expired pursuant to § 42-3-114, C.R.S.

⁷ Transcript, 123:3-16.

98. Asserting that the only registration information a towing carrier has is the sticker on the license plate, and that vehicle owners do not always display their new registration stickers on their license plates, TRPC proposes the following alternative language: “A towing carrier may not perform a nonconsensual tow of a motor vehicle for reason of expired vehicle registration as reflected on the vehicle license plate, unless the vehicle registration has expired pursuant to § 42-3-114, C.R.S., and § 42-3-203, C.R.S.”

99. The comments received during the public comment hearing substantially mirrored TRPC’s written comment, summarized above.

100. The suggestion of TRPC will be recommended for adoption.

m. Rule 6509. Tow Record/Invoice, Charge Notification, and Warning Signage

101. Rule 6509 outlines the requirements for the tow record/invoice, charge notification, and warning signage.

n. Rule 6509(a) and (b)

102. Rule 6509(a) requires a “tow record/invoice form” to be completed for all nonconsensual tows. Subparagraphs (I) through (XV) of Rule 6509(a) identify all of the information that shall be contained in the tow record/invoice form. Rule 6509(b) requires tow drivers to maintain the copy of the “tow record/invoice” that bears all original signatures required for authorization and release.

103. The written comments of Wyatt’s Towing, Connolly’s Towing, TRPC, and Denver West express concern regarding the lengthy list of information required to be included on the tow invoice, which is given to the consumer upon release of the towed vehicle.

104. Wyatt's Towing specifically asserts that tow invoices have become crowded and difficult to read with all of the information required to be contained therein. Wyatt's Towing further states that much of this information should not be provided to consumers for safety reasons. For instance, disclosing to consumers the name and contact information of the person authorizing the tow, as well as the name of the tow driver, puts those individuals at risk. Wyatt's Towing also explains that towing industry software allows carriers to maintain a complete record of each tow while providing consumers with invoices containing only pertinent and necessary information.

105. To address industry concerns, Wyatt's Towing proposes bifurcating and distinguishing between the tow invoice and the tow record. Specifically, Wyatt's Towing proposes the following requirements for the tow invoice and the tow record, respectively:

[Wyatt's Towing] recommend[s] that [the] following items be printed on the tow invoice:

- (I) the unique serial number of the tow record/invoice;
- (II) the name, address, towing carrier permit number, and telephone number of the towing carrier that is on file with the Commission;
- (III) the address of the storage facility used by the towing carrier that is on file with the Commission, including the telephone number for that storage facility if the number is different than the telephone number of the towing carrier;
- (IV) the date and time of the drop, the date and time of commencement of the tow, the date and time of completion of the tow, and the date and time the towed motor vehicle [was] released from storage, as applicable;
- (V) the make, model, year, complete VIN (vehicle identification number), and license plate number (if available) of the [] motor vehicle towed;
- (VI) the origin address of the tow, the destination address of the tow, and the one-way mileage between such addresses;
- (VII) an itemized invoice of all towing charges assessed;
- (VIII) the signature of the owner, authorized operator, or other authorized person to whom the motor vehicle is released. The towing carrier may write

“refused to sign” on the tow invoice if the person to whom the motor vehicle is released is provided opportunity to sign the Tow Invoice but refuses to do so; and

- (IX) on at least the customer’s copy of the tow record/invoice, the following notice in a font size of at least ten: “Report problems to the Public Utilities Commission at (303) 894- 2070.”

36. The following items would be required to be in the tow record. They must be maintained and available for inspection [by] the PUC, but may be on another invoice or kept in an electronic software system:

- (I) date and time notice was given to the appropriate law enforcement agency;
- (II) for all nonconsensual tows, the case report number or other identifiable entry provided by the law enforcement agency to which the tow was reported, in accordance with the requirements in § 42-4-2103(2) C.R.S., and paragraph 6507(a);
- (III) the date and time the towed motor vehicle [was] placed in storage;
- (IV) unless incorporated into the authorization in subparagraph 6508(b)(IIIIV), (A) the printed name, address, and telephone number of the person authorizing the tow;
- (V) the full, legal signature of the property owner or authorized agent authorizing the tow
- (VI) the unit number or license number of the tow trucking vehicle; [and]
- (VII) the printed name and signature of the tow truck driver.⁸

106. During the public comment hearing, Wyatt’s Towing, Connolly’s Towing, and other commenters reiterated the concerns expressed in the written comments. Connolly’s Towing further emphasized the importance of clarifying that, for practical reasons, the tow record need not be maintained in a single form. Wyatt’s Towing also stated that if the tow invoice and tow record are bifurcated, then the commenters’ concerns with respect to

⁸ Wyatt’s Towing Comments at pp. 13-15.

Rule 6509(a)(XI) are a nonissue because “the printed name and signature of the tow truck driver” will be contained in the tow record, but not on the invoice provided to vehicle owners.

107. With respect to what information should be included on the tow invoice, Staff stated that it agreed with Wyatt’s Towing and did not object to the clarification requested by Connolly’s Towing.⁹

108. Based upon the comments received and discussion during the hearing, the ALJ finds that the proposal by Wyatt’s Towing is reasonable and in the public interest. Rule 6509(a) and (b), collectively, will be amended to distinguish between the tow invoice, which is provided to consumers, and the tow record, which is retained by towing carriers and may be maintained in multiple documents or an electronic software system. Rule 6509(b) will also be amended to identify the particular information specified in Rule 6509(a) that is required to be contained within the tow invoice versus the tow record.

o. Rules 6509(a)(VIII) and (IX)

109. Proposed Rule 6509(a)(VIII) is a new rule requiring that the tow record/invoice indicate whether the vehicle was locked or unlocked when the tow truck hooked up to it. This new rule is intended to support the requirement in Proposed Rule 6509(a)(IX) (Existing Rule 6509(a)(VIII)), which requires an inventory of the contents in unlocked vehicles.

110. Proposed Rule 6509(a)(IX), which is identical to Existing Rule 6509(a)(VIII), requires a list or inventory of the contents in a towed motor vehicle if it is unlocked. Although TRPC and other participants in the Stakeholder Outreach Proceeding supported eliminating the

⁹ Transcript, at 141:17-144:15.

requirement due to practical considerations, the requirement was retained in the NOPR for purposes of consumer protection.

111. The commenters overwhelmingly object to these proposed rules due to safety concerns. To protect tow truck drivers from the perils associated with unnecessarily entering and then searching towed vehicles, the commenters request that these rules be rejected.

112. During the hearing, Staff stated that when Proposed Rule 6509(a)(IX) initially adopted years ago, it was intended to protect consumers and towing carriers alike.¹⁰ Staff did not articulate any specific consumer protection concerns or provide any additional rationale for these proposed rules.

113. Wyatt's Towing responded that "[a]s a practical matter, this rule has been ignored by Staff and towers for a decade at least" and that consumers can call the police if they believe something was stolen out of their vehicle.¹¹

114. Based upon the comments received and hearing discussion, the ALJ finds that the safety concerns of the towing industry outweigh the minimal consumer protection afforded by these rules. The ALJ further finds that Proposed Rule 6509(a)(IX) neither prevents a consumer from making a false claim of theft, nor prevents a towing carrier employee from taking something from a towed vehicle and failing to list it in the inventory of the contents. Accordingly, Proposed Rule 6509(a)(VIII) and (IX) will not be recommended for adoption.

p. Rule 6509(c)

115. Rule 6509(c) is a new rule that would require that certain portions of the tow record/invoice must be filled out before the tow truck leaves the location of the tow origination.

¹⁰ Transcript, at 148:12-16.

¹¹ Transcript, at 148:17-25.

It is intended to ensure that certain basic identifying information is captured prior to the towed vehicle moving from its original location.

116. TRPC and Colorado Auto Recovery filed comments expressing safety concerns. Specifically, the commenters are concerned about requiring tow truck drivers to remain on the scene of a tow to complete paperwork regardless of whether they feel safe in that location.

117. It is preferable that this paperwork is filled out before the tow truck leaves the location. There are, however, legitimate safety concerns. Rule 6509(c) will be amended to address these safety concerns and recommended for adoption.

9. Rule 6510. Disclosure of Rates and Charges

118. Rule 6510 sets forth requirements for disclosure to the vehicle owner or operator of all rates and charges. The proposed language in Rule 6510(a) specifies that rates for law enforcement-ordered tows must be disclosed to the operator prior to commencement of the tow, *except* where not feasible for reasons including, but not limited to, arrest, incapacitation, or order of a law enforcement officer.

119. Some commenters, including CSP, express concern about safety and the lack of necessity for the proposed language.

120. The ALJ finds that because of the exception provided for in the proposed language, Rule 6510(a) does not contravene the public interest and will be recommended for adoption.

10. Rule 6511. Rates and Charges

121. This Rule establishes the maximum rates and charges that may be assessed by a towing carrier.

a. Rule 6511(a)

122. In Rule 6511(a), the NOPR proposed to change the point at which a towing carrier may assess a drop charge. It was proposed that a drop charge may be assessed only after the vehicle has been hooked up to the tow truck. It was proposed in an effort to strike a balance between the interest in ensuring that towing carriers can recover the cost of their time spent preparing for a tow and the Commission's interest in protecting consumers from excessive charges.

123. In Rule 6511(a)(I)(E), the proposed language clarifies that the maximum drop charge amounts set by the Commission or municipal code are enforced by the Commission.

124. Rule 6511(a)(IV) establishes that no charges may be assessed if the towing carrier fails to advise the vehicle owner or operator of the acceptable forms of payment.

125. This is contrary to the request in TRPC's Petition to eliminate this requirement. TRPC reasoned that requiring a full refund in this circumstance was too susceptible to dispute. TRPC further reasoned that Rule 6512(a) already requires towing carriers to accept specific forms of payment.

126. These changes are acceptable and shall be recommended for adoption.

b. Rule 6511(e)(I)(D)

127. Rule 6511(e)(I)(D) proposes a new provision clarifying the 24-hour period for calculating storage charges commences when the vehicle enters the storage facility. The second day of storage thus begins 24 hours after the vehicle enters the storage facility. This rule will be recommended for adoption.

c. Request to Consider Rate Increase

128. In its Petition, TRPC requested that the Commission increase rates for towing and storage. TRPC proposed that the Commission allow rates to “float” with the Consumer Price Index (CPI). TRPC suggested rates could be posted on the Commission’s website, as most recently adjusted per this selected index. TRPC reasoned there was too much regulatory lag between rulemakings to maintain rates at appropriate levels for towing carriers. In his comments supporting the Petition, Mr. Joel Perri, owner of Towing Done Right, supported this proposal. He commented that a towing rate increase was needed to account for the realities in the market, and a storage rate increase was needed due to rising property values resulting from dispensaries, apartments, and other large users utilizing the available industrial properties. Mr. Porras, owner of Wyatt’s Towing, Lone Star Towing, Klaus Towing, and Aaliyah’s Towing and Recovery, also agreed a rate increase was needed to account for the changing economy in Colorado.

129. In responses filed to the Petition, some commenters objected to re-opening rates so soon after the last rulemaking. Most significantly, the Colorado Motor Carriers Association commented that TRPC’s proposal would change rates substantially from the rates and process agreed to by the Towing Task Force in the previous rulemaking and could have substantial impacts on the association’s member companies and other consumers.

130. Participants at the workshop in the Stakeholder Outreach Proceeding supported the proposal to increase rates and to tie them to an index, such as the CPI. Participants pointed to the current fuel surcharge provided for in the Towing Carrier Rules as an example of how rates could be adjusted between rulemakings to account for market changes.

131. In comments filed after the workshop, Staff responded that any change to the existing rates would first require a rule change. Staff stated that if the Commission were to

consider this proposal, the Commission would have to carefully review additional economic factors before any final determination could be made of whether to allow this type of automatic adjustment.

132. The existing rates in the Towing Carrier Rules were established by Decision No. R17-0273, issued April 11, 2017, in Proceeding No. 16R-0095TO. By Decision No. R17-0273, the Commission adopted statewide maximum rates for nonconsensual recovery, towing, and storage. These rates comprised a fixed fee for tows from private property (*i.e.*, private property impounds) and an hourly rate for law enforcement-ordered tows and recovery. In each case, rates are set at increasing levels corresponding with the weight of the towed vehicle. The rulemaking followed a legislative change in 2014. House Bill 14-1031, codified at §§ 42-4-1809(2)(a) and 40-10.1-403, C.R.S., expanded the Commission's rate regulation to all towed vehicles, regardless of weight, and established a statutory towing Task Force to make recommendations to the Commission about maximum rates for nonconsensual recovery, towing, and storage.

133. In Proceeding No. 16R-0095TO, the Task Force made rate recommendations based on a study performed of the towing industry in Utah, as adapted by the Task Force to identify reasonable costs for an average-sized Colorado towing carrier. For private property impounds, the Task Force recommended four vehicle-weight rate tiers with maximum hourly rates for each tier. For law enforcement-ordered tows, the Task Force recommended five vehicle-weight rate tiers, again with maximum hourly rates for each tier based on the Task Force's cost model. In Decision No. R17-0273, the ALJ identified a number of problems with the recovery and hours assumptions in the Task Force's cost model. These problems included that the components of the model's towing rates did not actually recover many of the costs the

Task Force identified, the model assumed an average tow lasts one hour, the model was based on one scenario and thus made several overarching assumptions (*e.g.*, all classes operate full-time and no overhead costs are allocated to other lines of business such as automotive repair or consensual towing), and the model did not include all sources of revenues and costs. In Decision No. R17-0273, after remand and further analysis of the Task Force's cost model, the ALJ ultimately concluded that, despite his many concerns with the model, adoption of the recommended rates strikes a reasonable balance in the towing carrier's appropriate recovery of costs versus the potential for abuse due to the inability to objectively determine or verify billing elements. The ALJ noted the recommended rates were supported by both Task Force members and Staff and there was a need to adopt rates sooner rather than later due to the lack of any governing regulation for the larger vehicle tows.

134. Through this NOPR, the Commission directed the ALJ to create a full record concerning this request by the industry. Through written comments and two separate hearings, this issue has been fully examined.

135. Commenters have pointed out that unlike any other industry regulated by the Commission, any rate increase is required to be done by a rulemaking procedure. The ALJ agrees that this method is not easy or convenient to the industry. Yet it is vital that the consumers are protected. Commenters fail to realize that customers of most other Commission regulated transportation have the ability to choose who to engage. Most customers of a tow operation do not have the ability to shop for the best or least expensive tow.

136. Therefore, a rate that is fair to the tow operators but also uniform to prevent gouging of a captive customer is vital. The proposal to tie rates to the CPI achieves these goals.

Rule 6511(b)(II) provides that the rates for tows shall be set to the CPI and annually adjusted for any changes. This rule is recommended for adoption.

11. Rule 6512. Release of Motor Vehicle and Personal Property

137. Rule 6512 governs the release of a vehicle and the private property within it. The proposed language specifies that a towing carrier may charge for removal of personal property not attached to the towed vehicle and clarifies that certain critical personal items must be released without payment or charge upon demand during business hours and, during the first 24 hours after commencement of the tow, within one hour's notice outside of business hours.

138. After considering the comments received in writing and during the hearing, the ALJ finds that the potential critical need persons may have for these items outweighs the practical considerations raised by commenters and there should be no fee for retrieval to ensure access to these critical items, even outside of business hours. Proposed Rule 6512, particularly subsection (g), appropriately balances the potential urgent need a person may have for one of these items with the financial and practical considerations associated with the afterhours release of these items raised by TRPC and other participants during the Stakeholder Outreach Proceeding, as well as by the commenters in this proceeding. Rule 6512 will be recommended for adoption.

12. Rule 6513. Notice

139. Proposed Rule 6513 is a new rule containing the notice requirements previously contained in Existing Rule 6508. In response to concerns raised before and during the Stakeholder Outreach Proceeding, Proposed Rule 6513 includes new provisions, as well as clarifications to existing provisions, to more clearly identify the notice requirements.

140. For instance, per TRPC's suggestion, Proposed Rule 6513(d)(VIII) codifies the standard that a posted sign is not "conspicuous" unless it is facing outward at the entrance to the private property because drivers are most likely to be attentive to signage when entering the property.

141. Additionally, to address its concern that posted signs are often removed, defaced, or destroyed by upset vehicle owners, TRPC proposed allowing a safe harbor. Specifically, if a towing carrier can demonstrate signs were posted within the last six months, there is a presumption the signs remained there at the time of the tow, unless proven otherwise. Participants in the Stakeholder Outreach Proceeding supported this concept and suggested pictures of signage prior to the tow should be accepted as rebuttable proof. Staff, however, opposed this proposed safe harbor, reasoning that notification to the vehicle owner must be given prior to a nonconsensual tow, whether by ticket placed on the car or through signage.

142. No such safe harbor was included in Proposed Rule 6513. Balancing the concerns of sign tampering raised in the Stakeholder Outreach Proceeding with the need for vehicle owners and operators to be adequately notified of the enforced parking restrictions, Staff concluded that the need for notice through properly posted signs is too important to allow for any sort of safe harbor.

143. During the hearing in this matter, TRPC and Mr. Porras, owner of Wyatt's Towing, maintained the request for a safe harbor provision. Other commenters expressed similar concerns.

144. Additionally, Wyatt's Towing and TRPC filed written comments with respect to Rule 6513(d)(IV), asserting that the proposed requirement is impractical and requesting that it be clarified to permit general language, such as "authorized parking only." During the hearing,

the commenters reiterated their concerns and maintained their request. Staff agreed.¹² Rule 6513(d)(IV) will be amended as follows: “state ‘authorized parking only.’”

145. Further, Rule 6513 will be recommended for adoption without a “safe harbor provision.” The ALJ understands the concerns of the commenters. There are people who will tear down signs after getting towed and make a claim that there was never a sign in a private parking lot, but these people are the exception. Nothing in this rule prevents a tow operator taking photos periodically, or at the time of a tow, of the signs in a private parking lot and presenting that either to a Commission investigator or as evidence in any hearing before the Commission. It is the hope of the ALJ that investigators would take this evidence into consideration and use discretion before issuing a civil penalty or requesting that a tow fee be refunded. All parties should look to the intent of this rule, properly and effectively informing the public that parking is prohibited, rather than worry about small technical issues concerning signage.

13. Rule 6514. Towing Violations and Civil Penalty Assessments

146. During the Stakeholder Outreach Proceeding, TRPC proposed that the time period for which a civil penalty may be assessed for a particular violation be limited, suggesting that Staff has in practice reached too far back when issuing civil penalties, including for tows where no complaints were filed. Staff opposed any restrictions that would limit its ability to investigate a potential rule violation. No such restrictions were proposed in the NOPR, which emphasizes that the requirements established in the Towing Carrier Rules are designed to protect consumers, even where no complaint is filed.

¹² Transcript, at 267:19.

147. D&J Towing comments that Rule 6514 should be amended to provide more guidelines and options for penalties assessed by Staff. For instance, D&J Towing suggests that there should be a determination of culpability and each culpable state should have its own set of penalties. D&J Towing further suggests that there should be consideration of whether the towing carrier has previously broken the same rules.

148. During the hearing, the commenters suggested a statute of limitations of six months or one year from the date of the tow for certain violations. Staff maintained its objection to any such restrictions, citing a limited number of enforcement staff and the need for discretion to enforce these rules and protect consumers.

149. Balancing the concerns articulated by the commenters in proposing a statute of limitations with Staff's need for discretion and limited resources, the ALJ finds that Rule 6514 is in the public interest. It will be recommended for adoption as amended in the NOPR.

C. Conclusion

150. Attachment A of this Recommended Decision represents the rule amendments adopted by this Decision with modifications to the prior rules being indicated in redline and strikeout format (including modifications in accordance with this Recommended Decision).

151. Attachment B of this Recommended Decision represents the rule amendments adopted by this Decision in a clean/final format.

152. It is found and concluded that the proposed rules as modified by this Recommended Decision are reasonable and should be adopted.

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

III. **ORDER**

A. **The Commission Orders That:**

1. The Towing Carrier Rules, 4 *Code of Colorado Regulations* 723-6, attached to this Recommended Decision in legislative/strikeout format as Attachment A, and in final format attached as Attachment B, are adopted. The adopted rules are also available through the Commission's Electronic Filings system at:

https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=19R-0709TO.

2. 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.

3. If this Recommended Decision becomes a Commission Decision, the relevant rules are adopted on the date the Recommended Decision becomes a final Commission Decision.

4. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the participants and the representative group of participants, 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

ROBERT I. GARVEY

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director