

Decision No. R20-0839

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20V-0377TO

IN THE MATTER OF THE PETITION OF TUMBLEWEED RECOVERY LLC FOR AN ORDER OF THE COMMISSION AUTHORIZING A WAIVER OF THE RULES REGULATING TRANSPORTATION BY MOTOR VEHICLE 4 CCR 723-6.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
CONOR F. FARLEY
GRANTING JOINT MOTION FOR LEAVE TO
WITHDRAW PETITION AND CLOSING PROCEEDING**

Mailed Date: December 4, 2020

I. BY THE COMMISSION

1. On September 10, 2020, Tumbleweed Recovery LLC (Tumbleweed Recovery) filed a Petition for Waiver/Variance of Rule 6506(a)(III)(A) of the Commission's Rules Regulating Transportation by Motor Vehicle (Petition). The Petition identified Tumbleweed recovery's sole vehicle as a 1997 Lexus LX450.

2. On September 14, 2020, the Commission issued notice of the Application.

3. On October 21, 2020 Trial Staff of the Commission (Staff) filed a notice of intervention by right and entry of appearance.

4. On November 4, 2020, the Commission issued a minute order referring the proceeding to an Administrative Law Judge (ALJ) for disposition. The proceeding was subsequently assigned to the undersigned ALJ.

5. On November 13, 2020, the ALJ issued Decision No. R20-0805-I that scheduled a remote evidentiary hearing for December 2, 2020 at 1:30 p.m. Attachments to Decision No. R20-

0805-I provided instructions for participating in the remote evidentiary hearing using the GoToMeeting platform and for how exhibits would be introduced at the hearing using box.com.

6. On December 2, 2020, the remote evidentiary hearing took place starting at 1:30 p.m. During the hearing, the owner of Tumbleweed Recovery (Jacob Gefell) testified that Tumbleweed Recovery would not transport any motor vehicles or trailers on or behind Tumbleweed Recovery's vehicle and would only provide recovery services (as opposed to towing services) on Forest Service roads in remote locations that towing companies could not reach. Based on this testimony, the parties requested a recess to discuss the Petition in light of Mr. Gefell's testimony.

7. Upon returning from the recess, the parties orally made a Joint Motion for Leave to Withdraw the Petition (Joint Motion). Staff also stated that it would not oppose dismissal of this proceeding without prejudice.

8. Based on the foregoing, the ALJ finds and concludes that there is good cause to grant the Joint Motion and that no party shall be prejudiced by the withdrawal. Accordingly, pursuant to Rule 1309(d) of the Commission's Rules of Practice and Procedure,¹ the ALJ shall grant the Joint Motion and close the proceeding.

9. In accordance with § 40-6-109, C.R.S., the ALJ recommends that the Commission enter the following order.

¹ 4 *Code of Colorado Regulations* 723-1.

II. ORDER

A. The Commission Orders That:

1. The Joint Motion for Leave to Withdraw the Petition stated by Tumbleweed Recovery LLC (Tumbleweed Recovery) and Intervenor Trial Staff of the Commission at the hearing on December 2, 2020 is granted.

2. The Petition for Waiver/Variance of Rule 6506(a)(III)(A) of the Commission's Rules Regulating Transportation by Motor Vehicle filed by Tumbleweed Recovery on September 10, 2020 is withdrawn.

3. Proceeding No. 20V-03770TO is closed.

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

CONOR F. FARLEY

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director