

(Decision No. R94-243)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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IN THE MATTER OF MODIFICATIONS)
TO THE RULES AND REGULATIONS)
CONCERNING CIVIL PENALTIES FOR)
CARRIERS, FOR CCR 723-22.0)

DOCKET NO. 93R-699

RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
ARTHUR G. STALIWE

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Mailing Date: March 7, 1994
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APPEARANCES: Charles Benedetti Staff of the Commission.

STATEMENT

By notice of proposed rulemaking filed December 10, 1993, the Commission proposes to modifies certain existing rules to reflect statutory changes, as set forth in Decision C93-1527, December 10, 1993. Pursuant to notice the matter came on for hearing on February 18, 1994, at which time staff of the Commission explained the statutory changes and proposed modifications to the rules.

ORDER

THE COMMISSION ORDERS THAT:

1. The attached Appendix A reflects statutory changes for civil penalty assessment amounts as set forth in § § 40-7-112 through 116, C.R.S. The same are hereby adopted.

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. 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.

4. 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

ARTHUR G. STALIWE

Administrative Law Judge

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THE
PUBLIC UTILITIES COMMISSION
OF THE
STATE OF COLORADO

RULES AND REGULATIONS CONCERNING
CIVIL PENALTIES FOR CARRIERS
4 CCR 723-22

BASIS, PURPOSE, AND STATUTORY AUTHORITY

The basis and purpose of these rules is to amend certain penalties for the first, second and any subsequent occurrence within one year of a violation of these rules.

The statutory authority for these rules is found at §§40-7-112 through 116, C.R.S.

Rule 1 -- Application of Rules

These rules apply to any person identified in §§ 40-7-113(g) or 40-7-114, C.R.S.

Rule 2 -- Definition and Terms

- 2.1 Commission -- means the Colorado Public Utilities Commission.
- 2.2 Intentional Violation -- Any person shall be deemed to have committed an intentional violation, as set forth in paragraph (1)(g) of §§ 40-7-113 or 40-7-114, C.R. S., if, after having been issued a written notification of any violation, said person commits a violation of the same statute, rule, or regulation. The existence of an intentional violation within the meaning of this rule may also be shown by other facts, circumstances or conduct as may be provided by law.
- 2.3 Multiple offenses -- The violation of more than one statute, rule or regulation during the course of one 24-hour period shall constitute multiple offenses for which civil penalties may be assessed as set forth in these rules.
- 2.4 Person -- Means a person as defined in § 40-1-102(5), C.R.S.
- 2.5 Separate offense -- Each violation of a statute, rule or regulation within the scope of these rules shall constitute a separate offense for which a civil penalty may be assessed as set forth in these rules.

Rule 3 -- Violations of Title 40, C.R.S.
Civil Penalties - Fines

- 3.1 A violation of § 40-7-113(1)(a), or (b), or (c), or (d), or (e), or (f), C.R.S., shall result in the assessment of a penalty of \$400.00 per day.
- 3.2 A violation of §§ 40-10-106, or 40-10-117, or 40-10-120(2), or 40-11-104, or 40-11-105(2) or (3), or 40-11-115(2) shall result in the assessment of a penalty of \$400.00 per day.
- 3.3 A violation of any other provisions of Title 40, C.R.S., except as provided for in paragraphs (1)(a), (b), (c), (d), (e), (f), subsections (3) and (4) of § 40-7-113, C.R.S., and Rule 3.1 and 3.2 of these rules, shall result in the assessment of a penalty of \$200.00 per day.

Rule 4 -- Violations of Rules of Practice and Procedure
Civil Penalties - Fines

- 4.1 A violation of Rule 25(f) of the Commission's Rules of Practice and Procedure shall result in the assessment of a penalty of \$200.00 per day.
- 4.2 A violation of Rule 25(h) of the Commission's Rules of Practice and Procedure shall result in the assessment of a penalty of \$100.00 per day.

Rule 5 -- Violations of Rules Governing Common Carriers
by Motor Vehicle - Civil Penalties - Fines

- 5.1 A violation of any of the following rules of the Commission's Rules and Regulations Governing Common Carriers by Motor Vehicle shall result in the assessment of a penalty of \$400.00 per day: 2.1, 2.2 or 2.7; 4.1 or 4.2; 6; 12.1, 12.3 or 12.4; 13.1, 13.2, 13.3 or 13.4; 14.1, 14.2 or 14.3; and 16.1.
- 5.2 A violation of any of the following rules of the Commission's Rules and Regulations Governing Common Carriers by Motor Vehicle shall result in the assessment of a penalty of \$200.00 per day: 9.2; 16.2; 17; and 18.2.
- 5.3 Any violation of any other rule of the Commission's Rules and Regulations Governing Common Carriers by Motor Vehicle, except as provided for in Rules 5.1 or 5.2 of these rules, shall result in the assessment of a penalty of \$100.00 per day.

**Rule 6 -- Violations of Rules Governing Contract Carriers
by Motor Vehicle - Civil Penalties - Fines**

- 6.1 A violation of any of the following rules of the Commission's Rules and Regulations Governing Contract Carriers by Motor Vehicle shall result in the assessment of a penalty of \$400.00 per day: 2.1, 2.2 or 2.9; 4.1, 4.2 or 4.3; 11.1, 11.2 or 11.3; 12; 14; 15.1; and 16.1, 16.2, 16.3 or 16.4.
- 6.2 Any violation of any other rule of the Commission's Rules and Regulations Governing Contract Carriers by Motor Vehicle, except as provided for in Rule 6.1 of these rules, shall result in the assessment of a penalty of \$100.00 per day.

**Rule 7 -- Violations of Rules Governing Taxicabs
Civil Penalties - Fines**

- 7.1 A violation of Rule 6 or 8 of the Commission's Rules and Regulations Governing the Operations of Taxicabs shall result in the assessment of a penalty of \$150.00 per day.
- 7.2 Any violation of any other rule of the Commission's Rules and Regulations Governing the Operations of Taxicabs, except as provided for in Rule 7.1 of these rules, shall result in the assessment of a penalty of \$100.00 per day.

**Rule 8 -- Violations of Rules Governing Towing Carriers
Civil Penalties - Fines**

- 8.1 A violation of Rule 11.1 of the Commission's Rules and Regulations Governing Towing Carriers by Motor Vehicle shall result in the assessment of a penalty of \$400.00 per day.
- 8.2 A violation of Rule 14.2, 14.3.2, 14.3.3, 14.4 or 14.5 of the Commission's Rules and Regulations Governing Towing Carriers by Motor Vehicle shall result in the assessment of a penalty of \$150.00 per day.
- 8.3 Any violation of any other rule of the Commission's Rules and Regulations Governing Towing Carriers by Motor Vehicle, except as provided for in Rules 8.1 or 8.2 of these rules, shall result in the assessment of a penalty of \$100.00 per day.

**Rule 9 -- Violations of Rules and Regulations Governing
Registration of Interstate Motor Vehicle Carriers
Civil Penalties - Fines**

- 9.1 A violation of Rule 3(a) or (b) of the Commission's Rules and Regulations Governing Registration of Interstate Motor Vehicle Carriers shall result in the assessment of a penalty of \$400.00 per day.
- 9.2 A violation of any other rule of the Commission's Rules and Regulations Governing Registration of Interstate Motor Vehicle Carriers, except as provided for in Rule 9.1 of these rules, shall result in the assessment of a penalty of \$100.00 per day.

**Rule 10 -- Violations of Safety Rules
Civil Penalties - Fines**

- 10.1 Penalty assessments per day for violating the Commission's Safety Rules for Common Carriers, Contract Carriers, Carriers of Household Goods by Motor Vehicle and Motor Carriers Exempt from Regulation as Public Utilities shall be as follows:

10.1.1	Rule 1.2	Section 390.11	\$100.00
10.1.2	Rule 1.2	Section 390.13	\$100.00
10.1.3	Rule 1.2	Paragraphs 390.35(a), (b) or (c)	\$ 75.00
10.1.4	Rule 1.3	Subparagraphs 391.11(b) (6) or (7)	\$100.00
10.1.5	Rule 1.3	Paragraph 391.15(a)	\$150.00
10.1.6	Rule 1.3	Section 391.25	\$100.00
10.1.7	Rule 1.3	Paragraph 391.41(a)	\$150.00
10.1.8	Rule 1.3	Paragraph 391.87(h)	\$100.00
10.1.9	Rule 1.3	Paragraphs 391.93(b) or (c)	\$200.00
10.1.10	Rule 1.3	Subparagraphs 391.93(e) (1), (2) or (3)	\$200.00
10.1.11	Rule 1.3	Paragraph 391.95(a) or (b)	\$200.00
10.1.12	Rule 1.3	Paragraph 391.103(a)	\$150.00
10.1.13	Rule 1.3	Subparagraphs 391.119(a) (1), (2) or (3)	\$100.00
10.1.14	Rule 1.3	Subparagraphs 391.121(b) (3) or (c)	\$100.00
10.1.15	Rule 1.4	Section 392.3	\$200.00
10.1.16	Rule 1.4	Subparagraphs 392.4(a) (1), (2), (3) or (4)	\$200.00
10.1.17	Rule 1.4	Paragraph 392.4(b)	\$200.00
10.1.18	Rule 1.4	Subparagraphs 392.5(a) (1), (2) or (3)	\$200.00

10.1.19	Rule 1.4	Subparagraphs 392.5(b) (1) or (2)	\$200.00
10.1.20	Rule 1.4	Section 392.6	\$100.00
10.1.21	Rule 1.4	Section 392.42	\$100.00
10.1.22	Rule 1.5	Section 393.1	\$150.00
10.1.23	Rule 1.5	Paragraph 393.42(a)	\$100.00
10.1.24	Rule 1.5	Paragraph 393.48(a)	\$150.00
10.1.25	Rule 1.5	Paragraph 393.51(a)	\$150.00
10.1.26	Rule 1.5	Paragraphs 393.75(b), (c) or (d)	\$ 75.00
10.1.27	Rule 1.7	Subparagraphs 395.3(a) (1) or (2)	\$150.00
10.1.28	Rule 1.7	Subparagraphs 395.3(b) (1) or (2)	\$150.00
10.1.29	Rule 1.7	Paragraph 395.8(a)	\$150.00
10.1.30	Rule 1.7	Subparagraph 395.8(a) (1)	\$150.00
10.1.31	Rule 1.7	Subparagraph 395.8(f) (7)	\$100.00
10.1.32	Rule 1.7	Paragraph 395.8(k)	\$100.00
10.1.33	Rule 1.7	Subparagraph 395.8(k) (2)	\$100.00
10.1.34	Rule 1.8	Subparagraph 396.9(c) (2)	\$150.00
10.1.35	Rule 1.8	Subparagraph 396.9(d) (2)	\$100.00

10.2 Any violation of any other rule of the Commission's Safety Rules for Common Carriers, Contact Carriers, Carriers of Household Goods by Motor Vehicle and Motor Carriers Exempt from Regulation as Public Utilities, except as provided for in Rule 10.1 of these rules, shall result in the assessment of a penalty of \$50.00 per day.

**Rule 11 -- Repeat Violations of Statutes or Rules
Listed in Rules 3 through 10 - Civil Penalties - Fines**

11.1 Any person who receives a second civil penalty assessment for a repeat violation of the statutes or rules listed in Rule 3, 4, 5, 6, 7, 8, 9, or 10 of these rules within one year after the first violation, may be assessed two times the amount specified in the applicable rule for such second violation.

11.2 Any person who receives more than two civil penalty assessments for a repeat violation of the statutes or rules listed in Rule 3, 4, 5, 6, 7, 8, 9, or 10 of these rules within one year may be assessed three times the amount specified in the applicable rule for each such subsequent violation.