

Decision No. C03-1378

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

DOCKET NO. 03R-139TO

---

IN THE MATTER OF PROPOSED RULES REGULATING TOWING CARRIER  
TRANSPORTATION BY MOTOR VEHICLE 4 CCR 723-9.

---

**DECISION DENYING APPLICATION FOR REHEARING,  
REARGUMENT, OR RECONSIDERATION**

---

---

Mailed Date: December 9, 2003

Adopted Date: December 8, 2003

**I. BY THE COMMISSION**

**A. Statement**

1. This matter comes before the Commission for consideration of the Application for Rehearing, Reargument, or Reconsideration (RRR) by Eddie's Leaf Spring Shop & Towing, LLC. (Eddie's) filed on December 4, 2003. Eddie's requests reconsideration of Decision No. C03-1293 (Decision). In that Decision, we denied Eddie's Exceptions to Recommended Decision No. R03-1016 which set forth the Administrative Law Judge's (ALJ) recommended rules regulating towing carrier transportation by motor vehicle.

2. Having carefully considered the matter, we deny Eddie's application.

**B. Discussion**

**1. We Now Consider Eddie's Comments on Each Rule.**

3. With respect to proposed Rule 6500(b), Eddie's asserts that the Commission does not have the authority to extend its powers to other public or private entities, and the proposed rule does precisely that. Rule 6500(b) does not extend the Commission's authority. Rather it

justly acknowledges that law enforcement agencies may have their own independent authority to impose requirements upon tow carriers, if circumstances warrant.

4. We note that Eddie's does not find the definitions set forth in proposed Rule 6501 easy to read. However, we find them to be fair and clear, and note that many of the definitions have been in effect for a long time.

5. Eddie's believes that Rule 6502(b) does not fully set forth legal avenues available to regulated entities. We find proposed Rule 6502(b) to be clear and just. Carriers need an option to apply to the Commission when a situation arises that is not covered by the rules. The rule is designed to allow carriers with unforeseen problems to apply to the Commission. All a carrier must do is file an application.

6. Eddie's believes that the insurance level set forth in proposed Rule 6507(b)(1)(b) is too high. The ALJ found \$750,000 to be an appropriate level of protection, and we find that level is warranted. We note that there will be another rulemaking covering all of the transportation rules, and Eddie's may present evidence on towing carriers' insurance needs and risk during that proceeding. At this time, we find the level of insurance specified in the rule to be appropriate.

7. Eddie's states that proposed Rule 6508 is not flexible enough to allow summary suspensions due to some "bureaucratic requirement" to be cleared up quickly. We believe that proposed Rule 6508 is just, clear, protects the public, and is fair to towing carriers. Proper proof of insurance coverage can be filed with the Commission very easily, and upon filing, any order of summary suspension is immediately lifted without further Commission action.

8. Eddie's believes that Rule 6509 should require a complainant to present more evidence before a member of the public can obtain a towing carrier's insurance information. Proposed Rule 6509 protects the public. We agree that a dent in a vehicle does not mean that the tow carrier is at fault. However, this does not mean that the public should not have relatively easy access to insurance information. Historically, in cases where a carrier has damaged a vehicle, this information has been too difficult to obtain. Rule 6509 shall be enacted as it is currently drafted.

9. Eddie's objects to proposed Rule 6515(d) on the grounds that it puts towing carriers' physical safety at risk, and that compensation is not adequate. We believe our decision on proposed Rule 6515(d) is fair, and balances the need for the public to have access to their vehicles without overburdening the tow carrier. Citizens need to have access to their vehicles to conduct their lives. After the first 48 hours, the carrier need not be available upon an hour's notice. This is not an unreasonable requirement.

10. Eddie's believes the definitions set forth in proposed Rule 6516 to be unclear. We disagree. The definitions are clear and fair. There is nothing in the definitions of this rule, or in the definitions set forth in proposed Rule 6501 which infringes upon the authority of a towing carrier to accept a tow from a private property owner.

11. Eddie's objects to our decision on the fees set forth in proposed Rule 6519 which addresses the fees that tow carriers may collect from vehicle owners. The proposed rates are just, including the rates that towing carriers may charge for release prior to removal.

12. As we mentioned in our order denying Eddie's exceptions, implementation of a new system for monitoring non-consensual tows, as proposed by Eddie's, would require new

legislation. The Public Utilities Commission does not have authority to establish and fund this new system without such legislation.

13. We find Decision No. R03-1016 to be just and fair, and therefore deny Eddie's application for RRR. The arguments put forth by Eddie's in the application for RRR do not warrant overturning any portion of that decision. We note that there will be another round of rulemaking that will occur in 2004 that will adopt new towing rules. We encourage Eddie's to take part in that process, and to present complete and specific evidence on any rules that Eddie's believes should be changed.

## **II. ORDER**

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

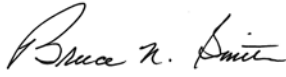
1. The Application for Rehearing, Reargument, or Reconsideration by Eddie's Leaf Spring Shop and Towing, LLC is denied.
  
2. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' DELIBERATIONS MEETING  
December 8, 2003.**

(SEAL)



ATTEST: A TRUE COPY



**Bruce N. Smith**  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

**GREGORY E. SOPKIN**

---

**POLLY PAGE**

---

Commissioners

COMMISSIONER JIM DYER  
ABSENT.