

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

PROCEEDING NO. 24R-0431TR

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IN THE MATTER OF THE PROPOSED AMENDMENTS TO THE COMMISSION'S RULES REGULATING VEHICLE BOOTING COMPANIES, 4 CODE OF COLORADO REGULATIONS 723-6.

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**RECOMMENDED DECISION ADOPTING RULES AND  
CLOSING PROCEEDING**

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Issued Date: March 14, 2025

**I. STATEMENT**

**A. Background**

1. On October 8, 2024, the Public Utilities Commission (“Commission”) issued the Notice of Proposed Rulemaking (“NOPR”) that commenced this proceeding.<sup>1</sup> In the NOPR, the Commission proposed to amend the rules applicable to Vehicle Booting Companies. The purpose of the amendments is “to address issues that have been identified by Transportation Staff (“Staff”) since the Commission began regulating vehicle booting companies in May 2019, pursuant to Senate Bill (“SB”) 19-236.”<sup>2</sup> The NOPR scheduled a public comment hearing for November 18, 2024, at 11:00 a.m.

2. OnCall Patrol filed comments before the public comment hearing.

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<sup>1</sup> See Decision No. C24-0721.

<sup>2</sup> NOPR at p. 2 (¶ 1).

3. The Administrative Law Judge (“ALJ”) held the hearing on November 18, 2024, starting at 11:00 a.m. Representatives of two booting companies attended the hearing and provided oral comments.

4. On February 21, 2025, Samuel Retter filed a comment.

## **B. Discussion**

### **1. Introduction**

5. In rendering this Decision, the ALJ has carefully reviewed and considered all the comments filed in this Proceeding and provided at the public comment hearing, even if this Decision does not specifically address every comment made, or every nuance of each comment.

### **2. Proposed Rule 6812(a)(II) – Requirement of a Colorado-Issued Driver’s License or Identification Card to File a Permit Application**

6. Proposed Rule 6812(a)(II) states that each principal of an applicant “must possess a valid Colorado-issued driver’s license or identification card.”<sup>3</sup>

#### **a. Comments**

7. Kevin Vespia of OnCall Patrol stated at the public comment hearing that the proposed requirement in Proposed Rule 6812(a)(II) is onerous for companies like OnCall Patrol that operate in multiple states, including Colorado, and whose principals live and work outside of Colorado. OnCall Patrol has employees with Colorado-issued identification who manage the Company’s operations in Colorado, but their principals do not. Mr. Vespia does not believe that the proposed rule serves a useful purpose that outweighs the unfairness of the disparate treatment of in-state and out-of-state companies.

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<sup>3</sup> Decision No. C24-0721, Attachment A at p. 2.

8. Nathan Riley of the Commission's Transportation Staff stated that the requirement that principals of an applicant for a booting permit have Colorado-issued licenses or identification serves a useful purpose. Specifically, given the resources at their disposal, Transportation Staff are better able to investigate booting companies and their principals if they possess Colorado-issued driver's licenses or identification cards. Locally-based principals and employees of booting companies also aids Transportation Staff in engaging with their companies and working with them as issues arise.

9. Nevertheless, Mr. Riley stated that he would support changing "shall" in the proposed rule to "may" so that it would read "each principal of an applicant may possess a valid Colorado-issued driver's license or identification card." Such a change would make this rule consistent with recently amended Rule 6503(a)(IV) that establishes the application requirements for towing carriers. The change would also provide Transportation Staff with discretion to effectively waive this requirement depending on the circumstances. For example, if a booting company is based in a state adjacent to Colorado and has, or planned to have, operations in Colorado including management level employees, Transportation Staff would be more inclined to exercise its discretion to not require that a principal of the company have a Colorado-issued driver's license or identification card.

10. Mr. Vespia responded that Mr. Riley's proposed amendment to the proposed rule modification is reasonable and OnCall Patrol supports it.

**b. Analysis**

11. The ALJ will adopt the change proposed by Mr. Riley at the public comment hearing. The ALJ concludes that it make sense to provide flexibility to Transportation Staff regarding the question of when the principal(s) of an applicant should have Colorado-issued

driver's license or identification card. In so doing, the ALJ reminds Transportation Staff that it must ensure that it fairly and transparently exercises its discretion in applying Proposed Rule 6812(a)(II).

**3. Proposed Rule 6812(b)(III) – Notice to Booting Company of Inquiry to Insurance Company**

12. Proposed Rule 6812(b)(III) states that “[f]ailure on the part of an insurance company to respond to a Commission inquiry for verification of insurance coverage within 60 days shall be treated as a cancellation of insurance.”<sup>4</sup>

**a. Comments**

13. Mr. Vespia stated in OnCall Patrol's written comments, and reiterated at the public comment hearing, that it would be beneficial to booting companies to be notified when the Commission contacts an insurance company for verification that a booting company has the proper insurance required by law. According to OnCall Patrol, such notification “will then put the burden on the company to ensure this requirement is being met.”<sup>5</sup> Based on the foregoing, Mr. Vespia requested that language be added to the proposed rule as follows (with underling showing the additional language): “Failure on the part of an insurance company to respond to a Commission inquiry for verification of insurance coverage within 60 days shall be treated as a cancellation of insurance, upon the effected company also being notified of such cancellation within 30 days of the cancellation date.”<sup>6</sup> The addition of the language would also minimize the likelihood of the suspension of a booting permit due to an insurance company's failure to respond to an inquiry by Transportation Staff when, in fact, the booting company had the appropriate insurance at all times. Such an outcome is an inefficient use of the resources of both the affected booting company and

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<sup>4</sup> Decision No. C24-0721, Attachment A at p. 2.

<sup>5</sup> OnCall Patrol's Comments at 2.

<sup>6</sup> *Id.*

the Commission. However, no examples of such an outcome have been cited either in written comments or at the public comment hearing.

**a. Analysis**

14. The ALJ will not make any changes to Proposed Rule 6812(b)(III) proposed by OnCall Patrol. The ALJ understands and appreciates Mr. Vespia's comments and concerns. However, the ALJ concludes that the notice and process safeguards already built into Proposed Rule 6812(b) are sufficient to protect the interests of booting companies from the consequences of a factually-unsupported suspension and revocation of a permit. The process proposed in Proposed Rule 6812(b)(III) replicates the process used for all entities regulated by the Commission's Transportation Staff that are required to have insurance to obtain, and act under, a Commission-issued permit or authority. This process has worked well over the years and no examples have been cited of the outcome referenced by OnCall Patrol. The ALJ declines to add an additional notice requirement to that process based on the record in this proceeding. Accordingly, the ALJ will not make any changes to Proposed Rule 6812(b)(III).

**4. Proposed Rule 6816(a)(II) – Address of Booting Company on Booting Invoice**

15. Proposed Rule 6816(a)(II) states: "Vehicle booting companies shall use and complete all applicable portions of a boot record/invoice form for all booting of motor vehicles. The boot record/invoice may be maintained electronically or in hard-copy. It shall contain the following information: . . . (II) the name, address, booting permit number, and telephone number of the vehicle booting company that is on file with the Commission."<sup>7</sup>

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<sup>7</sup> Decision No. C24-0721, Attachment A at p. 5.

**a. Comment**

16. A participant in the public comment hearing (Mr. Harmon), who owns a booting company, commented that including the address of the booting company on the boot record/invoice left with the booted vehicle could lead to retaliation against the booting company. Further, because the address of a booting company can be the home address of the owner of the company, the fear of retaliation is magnified. Mr. Harmon inquired as to whether putting a Post Office Box address on the invoice would satisfy the rule.

17. In response, Mr. Riley stated that he understands the concern and that, in his view, because the proposed rule does not specify the physical address of the booting company must be included on the invoice, a Post Office Box address would suffice.

**a. Analysis**

18. The ALJ declines to make any changes to Proposed Rule 6816(a)(II). The ALJ understands the concern of Mr. Harmon and finds that it is legitimate. However, the ALJ concludes that the language of Proposed Rule 6816(a)(II) provides the latitude necessary for booting companies to mitigate the risk of retaliation against booting companies by the owners of booted vehicles.

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

**II. ORDER**

**A. It Is Ordered That:**

1. The Rules Regulating Vehicle Booting Companies contained in 4 *Code of Colorado Regulations* 723-6-6810 through 6819, attached to this Recommended Decision as Attachment B, are adopted.

2. The rules in legislative/strikeout format (showing changes to the originally proposed rules issued with the Notice of Proposed Rulemaking) and in final format are attached to this Recommended Decision as Attachments A and B, respectively. They are also available in the Commission's E-Filings system at:

[https://www.dora.state.co.us/pls/efi/EFI.Show\\_Docket?p\\_session\\_id=&p\\_docket\\_id=24R-0431TR](https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=24R-0431TR).

3. Proceeding No. 24R-0431TR is closed.

4. 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.

5. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be made available to all parties in the proceeding, 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.

6. If exceptions to this Decision are filed, they shall not exceed 30 pages in 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 "Rebecca E. White".

Rebecca E. White,  
Director