

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

PROCEEDING NO. 19R-0709TO

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

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

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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."<sup>1</sup> The second to last sentence of Rule 6500(c) aligns with, and addresses, this comment. The

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<sup>1</sup> 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.”<sup>2</sup> 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.

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<sup>2</sup> 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.”<sup>3</sup>

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

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<sup>3</sup> 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.<sup>4</sup>

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.

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<sup>4</sup> 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.<sup>5</sup>

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

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<sup>5</sup> 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."<sup>6</sup> 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.

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<sup>6</sup> 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.”<sup>7</sup>

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.

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<sup>7</sup> 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.<sup>8</sup>

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

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<sup>8</sup> 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.<sup>9</sup>

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

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<sup>9</sup> 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.<sup>10</sup> 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.<sup>11</sup>

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.

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<sup>10</sup> Transcript, at 148:12-16.

<sup>11</sup> 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.<sup>12</sup> 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.

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<sup>12</sup> 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](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

Decision No. C20-0744-I

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

PROCEEDING NO. 19R-0709TO

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

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**INTERIM DECISION CONSTRUING  
MOTION AS EXCEPTIONS AND REMANDING THIS  
MATTER TO THE ADMINISTRATIVE LAW JUDGE**

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Mailed Date: October 21, 2020

Adopted Date: October 21, 2020

**I. BY THE COMMISSION**

**A. Statement, Findings, and Conclusions**

1. This matter comes before the Commission for consideration of a motion filed by Towing and Recovery Professionals of Colorado (TRPC) on October 19, 2020. In the motion, TRPC requests the Administrative Law Judge (ALJ) clarify certain aspects of Recommended Decision No. R20-0688, issued October 1, 2020 (Recommended Decision). TRPC requests the Commission extend the deadline to file exceptions to the Recommended Decision so that interested rulemaking participants can file exceptions incorporating comments on the result of the motion for clarification.

2. We construe TRPC's motion as timely-filed exceptions to the Recommended Decision.

3. In the exceptions, TRPC identifies several instances of seeming inconsistency between the findings in the Recommended Decision and the recommended rules attached thereto. TRPC identifies that ¶ 27 of the Recommended Decision finds the phrase "in writing"

should be removed from the definition of “property owner,” but recommended Rule 6501(p)(II) does not reflect that change. TRPC identifies that ¶ 67 of the Recommended Decision adopts industry’s proposal to allow carriers to subcontract tows, but recommend Rule 6508(a)(I) does not reflect that change. TRPC identifies that ¶ 75 of the Recommended Decision adopts industry’s position that tow agreements should not be required to include the name of each tow truck driver permitted to authorize tows under the agreement, but recommended Rule 6508(a)(I)(D) still requires the name of each person allowed to authorize tows to be listed in tow agreements.<sup>1</sup>

4. TRPC also states the ALJ’s recommended Rule 6511 pertaining to rates requires clarification. Specifically, TRPC requests clarification that tow rates will be adjusted not only for base rates but also for drop fees, storage, and law enforcement tows. TRPC states the Recommended Decision does not indicate what the specific rates will be when the new system is implemented. TRPC suggests the Recommended Decision inadvertently omits adjustments to rates for law enforcement tows and storage of vehicles. TRPC adds that it believes drop charges should also be subject to the Consumer Price Index adjustment.

5. The Commission finds and agrees that the inconsistencies identified in TRPC’s exceptions may warrant clarification. We will therefore grant TRPC’s exceptions and remand the matter to the ALJ for further disposition.<sup>2</sup>

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<sup>1</sup> Regarding this potential inconsistency, the Commission notes the ALJ may have intended to treat differently, the terms in a tow agreement identifying each tow truck driver authorized to *perform* tows under the agreement, and each person allowed to *authorize* a tow under the agreement.

<sup>2</sup> Rulemaking participants will have opportunity to file exceptions to the ALJ’s recommended decision that issues following this remand. In such case, exceptions would be due 20 days from the issuance of the ALJ’s decision.

**II. ORDER**

**A. It Is Ordered That:**

1. The Motion for Clarification and Motion to Extend Exceptions Deadline filed by Towing and Recovery Professionals of Colorado on October 19, 2020, is construed as exceptions to Recommended Decision No. R20-0688. Response time is waived.

2. This matter is remanded to the Administrative Law Judge assigned to this case for further disposition consistent with the discussion above.

3. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
October 21, 2020.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

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JOHN GAVAN

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MEGAN M. GILMAN

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Commissioners

Decision No. R20-0791

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

PROCEEDING NO. 19R-0709TO

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

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**RECOMMENDED DECISION OF  
ADMINISTRATIVE LAW JUDGE  
ROBERT I. GARVEY  
GRANTING IN PART AND DENYING  
IN PART TRPC’S MOTION AND CLARIFYING  
RECOMMENDED DECISION NO. R20-0688**

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Mailed Date: November 6, 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. Between January 17, 2020 and February 16, 2020, the Public Utilities Commission received 16 different initial comments in this Proceeding from various stakeholders to include tow companies, private property managers, and owners and attorneys.

3. The ALJ convened the hearing on February 24, 2020, and received oral comments from representatives of the towing industry, property managers, and Staff of the PUC.

4. Pursuant to § 24-4-103(4)(d), C.R.S., the agency conducting the rulemaking proceeding shall adopt the rules within "one hundred eighty days after the last public hearing on the proposed rule[s]." In the case of this rulemaking that deadline is August 24, 2020.

5. 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.

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

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

8. On October 1, 2020, the ALJ issued Recommended Decision No. R20-0688 adopting the amended Towing Carrier Rules (Recommended Decision).

9. On October 19, 2020, Towing and Recovery Professionals of Colorado (TRPC) filed its Motion for Clarification and Motion to Extend Exceptions Deadline (Motion). Specifically, TRPC requests: (a) clarification of certain aspects of the Recommended Decision; and (b) extension of the deadline to file exceptions to the Recommended Decision so that interested rulemaking participants can file exceptions reflective of the clarifications.

10. On October 21, 2020, by Decision No. C20-0744-I, the Commission construed TRPC's Motion as timely-filed exceptions to the Recommended Decision and remanded this proceeding to the ALJ for further disposition consistent with the discussion in Decision No. C20-0744-I.

## **II. TRPC'S MOTION**

### **A. Motion for Clarification**

#### **1. Rule 6501(p)**

11. In its Motion, TRPC states the phrase "in writing" should be removed from the definition of "property owner" in Rule 6501(p)(II), consistent with paragraph 27 of the Recommended Decision.

12. The ALJ agrees and finds the phrase "in writing" should be deleted in Rule 6501(p), in accordance with paragraph 27 of the Recommended Decision.

**2. Rule 6508(a)(I)**

13. TRPC’s Motion states the second and third sentences of Rule 6508(a)(I) should be deleted, pursuant to paragraph 67 of the Recommended Decision, which permits carriers to subcontract when appropriate.

14. The ALJ agrees and finds the second and third sentences (*i.e.*, “Only . . . prohibited.”) should be struck from Proposed Rule 6508(a)(I), consistent with paragraph 67 of the Recommended Decision.

**3. Rule 6508(a)(I)(D)**

15. TRPC states Rule 6508(a)(I)(D) is not consistent with the Recommended Decision, which adopts the position that tow contracts should not be required to include the name of each tow truck driver permitted to authorize tows under the agreement. To fully conform with the Recommended Decision, TRPC states subsection (D) should exclude drivers, as follows:

(D) the name of each individual person who is authorized to sign the tow authorization except tow carrier drivers where the carrier is authorized to act as the property owner agent under this rule.<sup>1</sup>

16. The ALJ agrees and finds that Rule 6508(a)(I)(D) should be amended to reflect TRPC’s proposed language, which is consistent with the Recommended Decision.

**4. Rule 6511**

17. TRPC’s Motion states that while the Recommended Decision includes an annual automatic adjustment of rates, it does not indicate what the specific rates will be under the new

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<sup>1</sup> Motion at p. 2.

system proposed in Rule 6511(b). Specifically, TRPC states that amended Rule 6511(b) deletes the rate, but does not include a rate that will be adjusted by the Consumer Price Index (CPI).

18. TRPC further states the Recommended Decision inadvertently omits adjustments to rates for law enforcement tows and the storage of vehicles, and those rates should be subject to the CPI adjustment. TRPC asserts there is no logical reason to increase rates for Private Property Impound (PPI) tows, but not rates for law enforcement tows. TRPC makes similar assertions with respect to storage fees and drop charges.

19. Put simply, TRPC requests clarification that the rates proposed by Wyatt's Towing on August 17, 2020, be adopted not just for base rates, but also for drop fees, storage, and law enforcement tows.

20. With respect to PPI tows, Rule 6511(b)(I), as amended, expressly provides that the base rates will be published on the Commission's website. This will occur if and when the adopted Towing Carrier Rules become effective.

21. Rule 6511(b)(II) provides that the base rates will be adjusted annually based upon the CPI, and those rates will be effective on January 31 of each year. It further provides those rates will be published on the Commission's website no later than January 31 of each year. Once again, this will occur if and when the adopted Towing Carrier Rules become effective.

22. The ALJ clarifies that the initial base rates will be published on the Commission's website, rather than included in the amended Towing Carrier Rules, otherwise it would be necessary to open a rulemaking each year to reflect the annually-adjusted base rates.

23. To provide further clarification unless and until the adopted Towing Carrier Rules become effective, the ALJ provides below the base rates for PPI tows that will be published on the Commission’s website:

- (I) The maximum base rates are as follows:
  - (A) motor vehicles with a GVWR less than or equal to 10,000 pounds is \$200.00;
  - (B) motor vehicles with a GVWR greater than 10,001 pounds and less than or equal to 19,000 pounds is \$230.00;
  - (C) motor vehicles with a GVWR greater than 19,001 pounds and less than or equal to 33,000 pounds is \$310.00; and
  - (D) motor vehicles with a GVWR greater than 33,000 pounds is \$350.00.

24. With respect to the rates for law enforcement tows, as well as storage and drop charges, the ALJ finds that the Recommended Decision and adopted Towing Carrier Rules – including, Rule 6511 – are clear and understandable. Thus, clarification is not warranted.

25. For the foregoing reasons, the ALJ declines to modify Rule 6511. It will stand as amended and adopted in Attachments A and B to the Recommended Decision.

**B. Conclusion**

26. The modifications to Rules 6501(p)(II), 6508(a)(I), and 6508(a)(I)(D), discussed above, are reasonable and should be adopted.

27. Rule 6511 is clear as adopted and need not be modified.

28. TRPC’s Motion will be granted in part and denied in part, consistent with the discussion above.

29. Attachment A of this Recommended Decision represents rule amendments adopted by this Decision, and Recommended Decision No. R20-0688, with modifications to the prior rules being indicated in redline and strikeout format.

30. Attachment B of this Recommended Decision represents the rule amendments adopted by this Decision, and Recommended Decision No. R20-0688, in a clean/final format.

31. 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

### **III. ORDER**

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

1. The Motion for Clarification and Motion to Extend Exceptions Deadline filed by Towing and Recovery Professionals of Colorado on October 19, 2020, is granted in part and denied in part, consistent with the above discussion.

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

3. 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.

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

5. 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.

6. 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

## COLORADO DEPARTMENT OF REGULATORY AGENCIES

### PUBLIC UTILITIES COMMISSION

#### 4 CODE OF COLORADO REGULATIONS (CCR) 723-6

#### PART 6

#### RULES REGULATING TRANSPORTATION BY MOTOR VEHICLE

##### TOWING CARRIER RULES

###### 6500. Applicability of Towing Carrier Rules.

- (a) Rules 6500 through 6599 apply to all towing carriers, and to all Commission proceedings and operations concerning towing carriers, applicants for a towing carrier permit and employees of towing carriers, and drivers.
- (b) For a tow and storage of a motor vehicle performed under a written agreement between a towing carrier and ~~with~~ a municipal, county, state, or federal agency, nothing in these towing carrier rules shall be construed to prohibit such agency, to the extent permitted by law, from adopting and enforcing additional or more stringent requirements relating to towing carrier operations within their jurisdiction with regard to rules 6506; 6507(a), (c), (~~ed~~), and (~~fe~~); 6508; 6509; 6510; and 6512(a), (b), (~~ed~~), (~~fe~~), and (~~gf~~).
- (c) ~~Until January 1, 2018, with regard to rules 6511(a), (b), (c), (d), (e) and (f), any written agreement regarding a nonconsensual tow may set higher or lower maximum rates than are provided in such rules. On or after January 1, 2018, with regard to rules~~ A written agreement between a towing carrier and a property owner to perform a nonconsensual tow may set rates for the tow less than, but not higher than, the rates established in paragraphs 6511(a), (b), (c), (d), (e), and (f), ~~any written agreement regarding a nonconsensual tow may set lower maximum rates than are provided in such rules.~~ In the event rates are not set through a written agreement ~~does not set such rates~~, the Commission's rules will prevail and rates shall default to those established in these rules. For purposes of this rule, A written agreement setting rates for the tow does not include a tow authorization by a law enforcement officer ~~erial~~ given to a towing carrier with ~~which~~ whom the law enforcement officer ~~erial~~'s agency does not itself have a written agreement.

###### 6501. Definitions.

In addition to the general definitions in rule 6001, the following definitions apply to all towing carriers and to all Commission proceedings and operations concerning towing carriers, applicants for a towing carrier permit, employees of towing carriers, and tow truck drivers.

- (a) “Abandoned motor vehicle” means an “abandoned motor vehicle” as defined by §§ 42-4-1802(1), C.R.S., for motor vehicles left unattended on public property, and § 42-4-2102(1), C.R.S., for motor vehicles left unattended on private property.
- ~~(b)~~ “Address” means the particulars of the physical location of a business or residence including the street name, number, city, state, and zip code.
- ~~(bc)~~ “Authorized agent for the property owner” means a person acting as agent of a property owner.
- ~~(ed)~~ “Authorized agent of the owner of the motor vehicle” means a person, including a towing carrier, who has been given written or oral permission by the owner, lessee, lienholder, or insurance company of a motor vehicle to act as agent for the disposition of said motor vehicle.
- ~~(de)~~ “Authorized operator of a motor vehicle” means a person who has been given written or oral permission to drive a motor vehicle by the owner or lessee of said motor vehicle.
- ~~(ef)~~ “Business hours” means 8:00 AM to 5:00 PM, Monday through Friday, excluding legal holidays, and any additional hours and days the towing carrier may designate.
- ~~(fg)~~ “Gross vehicle weight rating” or “GVWR” is the maximum operating weight of a motor vehicle as specified by the manufacturer.
- ~~(gh)~~ “Law enforcement officer” means any sheriff, police officer, Colorado state patrol officer, municipal code enforcement officer, or other such person acting in his or her official governmental capacity for enforcement of motor vehicle laws.
- ~~(i)~~ “Law enforcement-ordered tow” means a tow ordered by a law enforcement officer. Law enforcement-ordered tows are subject to these rules, even when the owner or operator of the motor vehicle consents to a law enforcement officer ordering a tow. A tow shall not be considered a law enforcement-ordered tow if the motor vehicle owner or operator has the ability or opportunity to terminate the tow and contact a towing carrier of his or her own choosing.
- ~~(hj)~~ “Legal disability” means the condition of a trailer or semi-trailer that, due to its weight, height, or other size characteristics, is unable to be transported when attached to the motor vehicle that was pulling it.
- ~~(k)~~ “Name” means a word or phrase that constitutes the distinctive designation of a person or thing and includes printed, legible words and includes the first and last name, as applicable.
- ~~(il)~~ “Nonconsensual tow” means the transportation of a motor vehicle by tow truck, including a trailer, if such transportation is performed without the prior consent or authorization of the owner or operator of the motor vehicle. Law enforcement-ordered tows are considered nonconsensual tows and subject to these rules, even when the owner or operator of the vehicle consents to a law enforcement official ordering a tow.
- ~~(mj)~~ “Parking lot” means any place, lot, parcel, yard, structure, building or enclosure used in whole or in part for storing or parking five or more motor vehicles.

- (~~kn~~) “Private property” means any real property that is not public property.
- (~~lo~~) “Private Property Impound” (or “PPI”) means a nonconsensual tow from private property upon authorization of the property owner.
- (~~mp~~) “Property owner” means:
- (I) the owner or lessee of the private property or public property;
  - (II) a person who has been authorized ~~in writing~~ to act as an authorized agent for the property owner or lessee of the private property or public property; or
  - (III) a federal, state, county, municipal, or other government entity that is the owner or lessee of the private property or public property, or such entity’s employees responsible for such property.
- (~~ng~~) “Public property” means any real property having its title, ownership, use, or possession held by the federal government; this state; or any county, municipality, or other governmental entity of this state.
- (~~er~~) “Recovery” means winching, hoisting, up-righting, removing, or otherwise relocating a motor vehicle when the motor vehicle is found in such a location, state or position in which it could not be removed from the location, state or position using only the motor vehicle’s own power, even if it were in complete operating condition. Waiting and site clean-up time are included in recovery services.
- (~~s~~) “Signature” means the name of the person written in his or her own handwriting or entered by that person electronically.
- (~~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)(l) or by law enforcement.
- (~~pu~~) “Towing” is the act of transporting a motor vehicle or trailer on or behind a tow truck.
- (~~v~~) “Tow invoice” means a written invoice provided to the vehicle owner or authorized agent of the vehicle owner in accordance with rule 6509.
- (~~w~~) “Tow record” means a complete record of the tow as maintained by the tow carrier in accordance with rule 6509.
- (~~qx~~) “Tow truck” means a motor vehicle specially designed or equipped for transporting another motor vehicle by means of winches, cables, pulleys, or other equipment for towing, pulling, or lifting such other motor vehicle from one place to another.
- (~~fy~~) “Towing carrier” means a motor carrier that provides, as one of its primary functions, the towing of motor vehicles by use of a tow truck and may also provide storage of towed motor vehicles.

- (~~sz~~) “Towing carrier permit” means the permit issued by the Commission to a towing carrier pursuant to § 40-10.1-401, C.R.S.
- (~~taa~~) “Towing facility” means any place used for the storage of motor vehicles or records in conjunction with the operations of a towing carrier.
- (~~ubb~~) “Trailer” means any wheeled vehicle, without motive power, which is designed to be drawn by a motor vehicle and to carry its cargo load wholly, or in part, upon its own structure and that is generally and commonly used to carry and transport property over the public highways.
- (cc) “VIN” means the unique vehicle identification number used to identify a motor vehicle.

**6502. [Reserved].**

**6503. Towing Carrier Permit Application.**

- (a) In addition to completing the Commission-prescribed permit application form available on the Commission’s website, a person must:
- (I) pay an application fee of \$150.00;
  - (II) cause to be filed the required proof of financial responsibility; and
  - (III) pay the required annual fees or, if applicable, shall be in compliance with the UCR Agreement.

**6504. Criminal History Checks.**

- (a) This rule applies to principals of a towing carrier, including without limitation, directors and officers.
- (b) Qualification determination for towing carrier permit.
- (I) Upon the Commission’s receipt of results obtained from a criminal history record check, Commission staff shall make a qualification determination regarding the applicant’s qualification status. In making this determination, Commission staff is authorized to request from the applicant, and the applicant shall provide, additional information that will assist Commission staff in making the determination. If an applicant either does not provide such additional information requested by Commission staff, or explain why it is unavailable, within 15 days of the request, Commission staff may deny the application.
  - (II) An application for a towing carrier permit shall be denied, if the applicant has:
    - (A) a conviction in the state of Colorado, within the five years preceding the date the criminal history record check is completed, of any class 1, 2, or 3-felony under any Title of C.R.S.; or

~~(B) — a conviction in the state of Colorado, within the four years preceding the date the criminal history record check is completed, of any class 4, 5, or 6 felony under any Title of C.R.S.; or~~

~~(B)~~ an offense in any other state or in the United States that is comparable to any offense listed in subparagraphs (A) ~~through (B)~~ within the same time periods as listed in subparagraphs (A) ~~through (B)~~.

- (III) For purposes of this rule, a deferred judgment and sentence pursuant to § 18-1.3-102, C.R.S., shall be deemed to be a conviction during the period of the deferred judgment and sentence.
- (IV) The Commission and Commission staff may consult and use any commercially or governmentally available information source in conducting criminal history record checks.
- (c) Commission staff shall not issue a towing carrier permit to the applicant if a disqualifying criminal history record is found for a person subject to this rule.
- (d) If a disqualifying criminal history record is found for a person subject to this rule, the associated applicant may file a petition to qualify the applicant within 60 days of Commission staff's notification.
  - (I) Upon the filing of a petition for qualification, Commission staff shall be an indispensable party.
  - (II) The applicant shall bear the burden of proving that disqualification is not supported by fact or law.
- (e) If the Commission qualifies an applicant upon petition, paragraph (b) shall be waived as to qualification determinations for future applications regarding the events upon which Commission staff's disqualification was based.

**6505. [Reserved].**

**6506. Equipment and Accessories.**

In addition to complying with all applicable safety regulations, all tow ~~trucksing vehicles~~ shall meet the following minimum requirements.

- (a) Basic tow ~~trucking vehicle~~ requirements.
  - (I) A towing carrier shall equip its tow ~~truck(s)ing vehicles~~ with engines, transmissions, differentials, driveline components, brake systems, frames, steering components, and suspensions of sufficiently heavy construction to safely winch, lift, tow, load, and transport the towed motor vehicle.
  - (II) A towing carrier shall maintain its tow ~~truck(s)ing vehicles~~ in a manner ensuring the safe winching, lifting, towing, loading, and transporting of the towed motor vehicle.

- (III) A towing carrier shall ensure ~~that all~~ its tow truck(s)ing vehicles have each of the following:
- (A) a GVWR of at least 10,000 pounds;
  - (B) fender coverings for front and rear wheels;
  - (C) the following operational electric lights:
    - (i) one spotlight, mounted behind the cab, capable of lighting the scene of disability and the motor vehicle to be moved (reverse/back-up lights of the tow trucking vehicle shall not be used in lieu of the spotlight); and
    - (ii) one portable, combination light system capable of being securely attached on the rear of the towed motor vehicle; consisting of (with an equal number on each side) two tail lamps, two stop lamps, and two turn signals; and operated in conjunction with analogous lights on the tow trucking vehicle;
  - (D) one steering wheel tying device free from cracks, fraying, or deterioration; and
  - (E) ~~the following accessories~~ for any towing carrier that performs tows from accident scenes:
    - (i) one shovel; and
    - (ii) one broom.
- (b) Winching, lifting, towing, and carrying equipment shall be maintained in a manner to ensure the safe winching, lifting, towing, loading, and transporting of the towed motor vehicle, and shall include at least one of the following:
- (I) Winch and crane: A power-driven winch and crane with a capacity of not less than 6,000 pounds with a winch cable capable of withstanding a test of not less than 10,000 pounds at breaking point or hydraulic system vehicle lift and a cradle, with a tow plate or sling, equipped with safety chains and chains with J-hooks of sufficiently heavy construction to ensure the safe lifting of the motor vehicle;
  - (II) Wheel-lift system: A wheel-lift system with a stinger, L arm brackets, safety chains and tie-down straps, or a mechanical wheel retainer device forming an integral part of the L-arm bracket, of sufficiently heavy construction to secure the motor vehicle to the wheel-lift unit and to ensure the safe lifting and towing of the motor vehicle; or
  - (III) Rollback system: A rollback system with a winch and cable as described in subparagraph (I) of this paragraph, safety chains, tie-down equipment, and truck bed of sufficiently heavy construction to ensure the safe loading and transporting of the motor vehicle.

- (c) A towing carrier shall not tow a motor vehicle that is so extensively damaged as to be unmovable on its own wheels, unless the tow ~~trucking vehicle~~ is equipped with dollies, a wheel-lift system, or a rollback system of sufficiently heavy construction to ensure the safe loading and towing of the damaged motor vehicle.
- (d) A towing carrier shall not tow a motor vehicle without attaching required operational electric lights on the rear of the towed motor vehicle. This requirement does not apply to motor vehicles placed on a flatbed or trailer as long as the motor vehicle being towed does not extend four feet beyond the rear of the tow ~~trucking vehicle~~.

**6507. Storage Facilities.**

- (a) Disclosure of storage facility location. For nonconsensual tows of a motor vehicle, within 30 minutes of ~~having possession moving the towed motor vehicle from its location~~, or such lesser time as may be required by law, a towing carrier shall disclose the location of the storage facility by notifying the responsible law enforcement agency having jurisdiction over the place from which the motor vehicle was towed.
  - (I) Compliance with ~~this~~ paragraph (a) will be considered accomplished if the location of the storage facility was provided to the law enforcement agency in conjunction with obtaining authorization for the tow.
  - (II) If the towing carrier makes two or more documented attempts within the 30-minute time period to notify the responsible law enforcement agency, but is unsuccessful for reasons beyond the control of the towing carrier, the notice will not be considered late for purposes of paragraph (a).
- (b) Disclosure for abandoned motor vehicles. A towing carrier which places an abandoned motor vehicle in a storage facility shall also disclose the location of the storage facility by complying with the procedure for abandoned motor vehicles in Parts 18 and 21 of Article 4 of Title 42, C.R.S.
- (c) Disclosure for all towed motor vehicles. Upon request of the owner, authorized agentoperator, or authorized ~~operator-agent of the owner of the~~ of motor vehicle, a towing carrier which places a motor vehicle in a storage facility shall also disclose the location of the storage facility, the total amount of the charges, and accepted forms of payment, as provided in rule 6512.
- (d) Signage at storage facility.
  - (I) A towing carrier shall maintain a clearly visible sign at the entrance to any storage facility where a motor vehicle has been towed ~~without the prior consent or authorization of the owner or operator of the motor vehicle as a nonconsensual tow~~. Such sign shall state the name of the business, telephone number, and hours of operation.
  - (II) All signs posted to provide notice pursuant to this rule shall comply with any applicable municipal ordinance. To the extent not inconsistent with applicable ordinance, signs shall also at a minimum:
    - (A) be no less than two square ~~feet~~foot in size;

- (B) have lettering not less than two inches in height;
  - (C) have lettering that contrasts sharply in color with the background on which the letters are placed; and
  - (D) be printed in English.
- (e) Lighting for release. A towing carrier shall maintain an area at each storage facility location on file with the Commission with illumination levels during all hours adequate to inspect a motor vehicle for damage prior to its release from storage.
- (f) Carrier responsibility. After a nonconsensual tow, the A-towing carrier is responsible for the security and safety of the towed a-motor vehicle ~~towed without the prior consent or authorization of the owner or operator of the motor vehicle~~ until it is released in accordance with these rules. Evidence of the towing carriers' commercial liability insurance coverage including cargo liability coverage, garage keeper's liability coverage, if applicable, and motor vehicle liability coverage shall be provided, upon request, to the person to whom the motor vehicle is being released.

**6508. Authorization for Towing of Motor Vehicles.**

- (a) Towing carrier acting as authorized agent for the property owner.
- (I) A towing carrier may act as the authorized agent for the property owner under a written tow agreement to that effect, provided the tow agreement is compliant with this paragraph (a). The ~~tow agreement~~contract shall contain at least the following information in order for the tow to be properly authorized:
- (A) the name, physical address, telephone number, email address, ~~(if applicable)~~, and ~~PUC Towing Permit~~towing carrier permit number of the towing carrier;
  - (B) the name, address, email address, ~~(if applicable)~~, and telephone number of the property owner;
  - (C) the address of the property from which the tows will originate;
  - (D) the name of each individual person who is authorized to sign the tow authorization except tow carrier drivers where the carrier is authorized to act as the property owner agent under this rule;
  - (E) the address and phone number of the storage facility where the motor vehicle owner may retrieve the motor vehicle;
  - (F) the beginning date and ending date of the ~~contract~~tow agreement. Provisions that provide for automatic renewal of the tow agreement are permissible provided all signature parties on the original tow agreement remain the same and are still valid at the time of renewal;

- (G) a statement that “the maximum rates for a nonconsensual tow from private property, and the maximum drop charge if the motor vehicle is retrieved before removal from the private property, are set by rule of the Public Utilities Commission;”
  - (H) the name, title, phone number, and signature of the person ~~making entering into the tow agreement~~the contract on behalf of the property owner and on behalf of the towing carrier; and
  - (I) the date the ~~contract tow agreement~~ is signed.
- (II) Nothing in this paragraph (a) shall preclude a towing carrier ~~who, which towing carrier~~ has been paid for the tow by the property owner at proper rates, from collecting the towing charges from the motor vehicle owner and reimbursing said charges to the property owner.
- (III) No agency provided for in this paragraph ~~6508~~(a) shall affect any obligation, liability, or responsibility of the property owner to any third party. Any provision attempting to affect such obligation, liability, or responsibility shall be void.
- (IV) Nothing in this paragraph (a) shall preclude a towing carrier or property owner from adding addendums to the tow agreement that modify any term of the tow agreement, so long as the addendums are in compliance with these rules and agreed upon by both the tow company and the property owner. Each addendum must be signed by both the tow company and the property owner and are required to be maintained with the original tow agreement.
- (b) Authorization to perform nonconsensual tow.
- (I) A towing carrier shall not tow any motor vehicle unless one of the following conditions is met:
    - (A) the towing carrier is directed to perform a tow by a law enforcement officer;
    - (B) the towing carrier is requested to perform a tow by the owner, authorized operator, or authorized agent of the owner of athe motor vehicle; or
    - (C) the towing carrier is requested to perform a tow upon the authorization of the property owner.
  - (II) A towing carrier may not come in contact with, hook-up to, or tow a motor vehicle that is occupied, unless the towing carrier is performing rescue or recovery operations for said occupant(s).
  - ~~(III) A towing carrier may not perform a nonconsensual tow of a motor vehicle, other than an abandoned motor vehicle, from a parking lot unless:~~

~~(A) — notice of parking limitations, regulations, restrictions or prohibitions was provided at the time the vehicle was parked; and~~

~~(B) — notice is provided that anyone parking in violation of limitations, regulations, restrictions or prohibitions is subject to being towed at the vehicle owner's expense.~~

~~(IV) — Notice required by this rule is presumed to be met if:~~

~~(A) — a permanent sign is conspicuously posted near each entrance to the parking lot; and~~

~~(B) — if the parking lot is not provided for residential parking and has more than ten free-standing lampposts on the property, a number of signs equal to the number of lampposts must be posted. Such signs must be posted on each lamppost or posted upright in conspicuous locations which are evenly distributed across the parking lot.~~

~~(V) — All signs posted to provide notice pursuant to this rule shall comply with any applicable ordinance. To the extent not inconsistent with applicable ordinance, signs shall also at a minimum:~~

~~(A) — be no less than one square foot in size;~~

~~(B) — have lettering not less than one inch in height;~~

~~(C) — have lettering that contrasts sharply in color with the background on which the letters are placed;~~

~~(D) — state the restrictions enforced;~~

~~(E) — include the name and telephone number of towing carrier; and~~

~~(F) — be printed in English.~~

~~(III~~V~~)~~ Property owner authorization. The authorization from the property owner, or authorized agent ~~of for~~ the property owner, shall be in writing; shall identify, by make, ~~and~~ license plate number (if available), and VIN (if available) ~~(or in lieu thereof, by vehicle identification number)~~, the motor vehicle to be towed; and shall include the date, time, and place of removal.

(A) The authorization shall be filled out in full, signed by the property owner, and given to the towing carrier before the motor vehicle is removed from the property. The property owner may sign using a verifiable employee identification number or code name in lieu of the person's proper name. If the authorization is signed by the towing carrier as agent for the property owner, then a verifiable employee identification number or code name shall not be used. Documentation of such

authority must be carried in the towing truck at all times while performing the tow.  
At a minimum, such documentation shall contain:

- (i) the name, address, email address (if applicable), and telephone number of the property owner;
- (ii) the address of the property from which the tows will originate; and
- (iii) the name of each individual person who is authorized to sign the tow authorization.

- (B) A towing carrier shall not have in his or her possession, accept, or use blank authorizations pre-signed by the property owner.
- (C) The written authorization may be incorporated into the tow record/invoice required by rule 6509 or on any other document.
- (D) With the exception of law enforcement-ordered tows, a towing carrier that is requested to perform a tow upon the authorization of a property owner or authorized agent ~~for~~ the property owner must immediately deliver the towed motor vehicle that is being removed from the property to a storage facility location on file with the Commission without delay. No motor vehicle may be relocated off of the private property from which it is towed to a location other than to such a storage facility.

(E) 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.

(F) 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 purpose of transporting the vehicle to the tow carrier's storage lot.

(c) Expired vehicle registration. 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 the terms of §§ 42-3-114 and 42-3-203, C.R.S.

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

- (a) Towing carriers shall use and complete all applicable portions of a tow record/invoice form for all nonconsensual tows, whether the motor vehicle is removed from private property or retrieved before removal (commonly known as a drop). The tow record/invoice form shall contain the following information:
  - (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, the date and time notice was given to the appropriate law enforcement agency, the date and time the towed motor vehicle ~~is~~was placed in storage, and the date and time the towed motor vehicle ~~is~~was released from storage, as applicable;
  - (V) the make, model, year, complete VIN (if available) vehicle identification number, and ~~,~~if available, license plate number (if available) of the towed 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) unless incorporated into the authorization in subparagraph 6508(b)(~~III~~IV),
    - (A) the printed name, address, and telephone number of the person authorizing the tow; and
    - (B) the full, legal signature of the property owner authorizing ~~a~~the tow;
  - ~~(VIII) if the towed motor vehicle is unlocked, a list of its contents;~~
  - ~~(IXVIII)~~ the unit number or license number of the tow trucking vehicle;
  - (IX) the printed name and signature of the tow truck driver~~ing vehicle operator~~;
  - (XI) an itemized invoice of all towing charges assessed;
  - (XII) 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 record/invoice if the person to whom the motor vehicle is released is provided opportunity to sign the tow/record invoice but refuses to do so; and
  - (XII) 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.”; and
  - (XIII) 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).
- (b) The tow invoice, as provided to the vehicle owner or authorized agent of the vehicle owner, shall include, at a minimum, the items listed in subparagraphs 6509(a)(I) through (VIII) and (X) through (XII). The towing carrier shall retain the copy of the tow record/invoice bearing all required

original signatures for authorization and release, ~~without regard to~~ whether it is maintained in electronic or multi-copy paper form.

- (c) The tow record/invoice must be filled out to contain the information required in subparagraphs 6509(a)(I), (II), (III), (V), (VI), (VII), and (VIII) by the tow truck driver prior to the tow truck leaving the location of the tow origination with the towed motor vehicle, unless impracticable due to safety concerns.
- (ed) The towing carrier shall deliver a copy of the tow record/invoice to the owner, authorized operator, or authorized agent of the owner of the motor vehicle at the time of the release of the towed motor vehicle from a storage facility or where dropped for a drop fee, regardless of whether the towing carrier received in full payment of applicable charges ~~whether payment of towing charge, payment for release, payment for drop charge, or no charge occurred.~~
- (de) Towing carriers shall provide a charge notification card to the owner, authorized operator, or authorized agent of the owner of the motor vehicle to be towed if such person is on the property prior to or after commencement of the tow ~~of the vehicle~~ but before the motor vehicle has been towed off the property. The charge notification card shall contain all the information listed on the Commission-prescribed form ~~and content as~~ available on the Commission's website.
- (ef) A towing carrier may place a warning sign on the driver-side window of a motor vehicle to be towed or, if window placement is impracticable, in another location on the driver-side of the motor vehicle prior to ~~the~~ commencement of the tow. The tow-truck warning sign shall be at least eight inches by eight inches square or diameter, ~~is~~ yellow or orange in color, and ~~states~~ the following: "WARNING: This vehicle is in tow. Attempting to operate or operating this vehicle may result in criminal prosecution and may lead to injury or death to you or another person."

#### **6510. Disclosure of Rates and Charges.**

- (a) Prior to performing any tow, a towing carrier shall disclose to the owner, authorized operator, or authorized agent of the owner of the motor vehicle all rates and charges to be assessed. This rule does not apply to a nonconsensual tow authorized by the property owner ~~or~~, authorized agent for the property owner, ~~or a tow ordered by a law enforcement officer.~~ Rates for law enforcement-ordered tows must be disclosed to the motor vehicle 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.
- (b) This disclosure may either be written or oral and shall include, but is not limited to, the following information:
- (I) any extra charges made necessary because, at the time of the tow, the towing carrier would be unable to deliver the motor vehicle to a repair or body shop during the normal working hours of such repair or body shop;
  - (II) any extra charges made necessary because, at the time of the tow, the towing carrier would be unable to deliver the motor vehicle to a location and at a time agreed upon by

the owner, authorized operator, or authorized agent of the owner of the motor vehicle to take delivery of the motor vehicle and pay the tow charges; and

(III) estimated charges for mileage and storage.

#### 6511. Rates and Charges.

(a) Drop Charge. A towing carrier may assess a drop charge if ~~if~~ the owner, authorized operator, or authorized agent of the owner of a-the motor vehicle that is parked without the authorization of the property owner appears in person to retrieve the motor vehicle after the motor vehicle is hooked up to the tow truck ~~a tow truck is present and either backed up in alignment with such motor vehicle or tow equipment has come into contact with such motor vehicle~~, but before its-the motor vehicle is ~~remov~~ed from the property.:

(I) \_\_\_\_\_ ~~T~~the maximum drop charge ~~(whether motor vehicle is hooked up or not)~~ is:

- (A) \$70 for a motor vehicle with a GVWR less than or equal to 10,000 pounds;
- (B) \$90 for a motor vehicle with a GVWR greater than 10,000 pounds and less than or equal to 19,000 pounds;
- (C) \$120 for a motor vehicle with a GVWR greater than 19,001 pounds and less than or equal to 33,000 pounds; and
- (D) \$140 for a motor vehicle with a GVWR greater than 33,000 pounds.
- (E) Maximum drop charges may be less than these amounts if required by ~~per~~ municipal ordinance or by the tow agreement with the property owner and shall be enforced by the Commission pursuant to this rule.

(II) The minimum drop charge is \$0.00.

(III) The towing carrier shall halt any tow in progress, including preparation therefor, prior to removal from the private property, and advise the owner, authorized operator, or authorized agent of the owner of a-the motor vehicle that he or she may offer payment of the towing carrier's drop charge. The towing carrier shall concurrently advise the owner, authorized operator, or authorized agent of the owner of thea motor vehicle of acceptable forms of payment under rule 6512. Such advisements shall be provided via delivery of a charge notification card, in addition to any other means desired by the towing carrier.

(IV) If the towing carrier does not advise the owner, authorized operator, or authorized agent of the owner of thea motor vehicle of the acceptable forms of payment under rule 6512 or accept such forms of payment, the towing carrier shall not charge or retain any fees or charges for the services it performs. Any money collected must be returned to the owner, authorized operator, or authorized agent of the owner of thea motor vehicle.

- (b) ~~Maximum-The~~ towing rates for PPI tows consists of up to four elements: a base rate for the tow; a mileage charge, including any applicable fuel surcharge; a charge for motor vehicle storage; and a charge for release from storage pursuant to paragraph 6511(f), if applicable.
- (I) The ~~maximum~~ base rates for PPI tows are as follows: published on the Commission's website for the following classifications:
- (A) motor vehicles with a GVWR less than or equal to 10,000 pounds ~~is \$180.00;~~
  - (B) motor vehicles with a GVWR greater than 10,001 pounds and less than or equal to 19,000 pounds ~~is \$210.00;~~
  - (C) motor vehicles with a GVWR greater than 19,001 pounds and less than or equal to 33,000 pounds ~~is \$275.00;~~ and
  - (D) motor vehicles with a GVWR greater than 33,000 pounds ~~is \$325.00.~~
- (II) The base rates shall be adjusted annually based upon the Consumer Price Index – Denver-Aurora-Lakewood, as published by the Colorado Department of Local Affairs. The adjusted rates shall be published on the Commission's website no later than January 31 of each year. The effective date of any rate change shall be January 31 of each year.
- (III) The maximum mileage charge a towing carrier may assess for a PPI tow of a motor vehicle is \$3.80 per mile for each mile that the motor vehicle is towed, subject to the following limits: The maximum mileage that may be charged for a PPI tow is 12 miles for tows within ten miles of either side of U.S. Interstate Highway 25, and 16.5 miles for mountain areas and eastern plains communities that lie farther than ten miles from U.S. Interstate Highway 25.
- (IV) An additional fuel surcharge may be assessed when the price per gallon of diesel fuel exceeds a base rate of \$2.60. The ~~Public Utilities~~ Commission shall, each month, adjust the maximum mileage charge when the price per gallon of diesel fuel exceeds the base rate. The surcharge shall be based on the United States Department of Energy "weekly retail on-highway diesel prices" for the Rocky Mountain region (DOE's Weekly Diesel Price). The fuel surcharge adjustment shall provide a one-percent increase in the mileage rate for every ten-cent increase in the DOE's Weekly Diesel Price, or a one-percent decrease in the mileage rate for every ten-cent decrease in the DOE's Weekly Diesel Price, but in no event decreasing below the base rate.
- (V) A towing carrier shall not charge or retain any additional fees not identified in these rules for the nonconsensual tow of a motor vehicle from private property.
- (c) Maximum towing rates for law enforcement ordered tows and recovery operations are to be calculated on an hourly basis, per required tow trucking or recovery vehicle, as follows, with no additional fees, charges, or surcharges permitted, ~~except as identified below:~~
- (I) Maximum hourly rates for tow truck and driver, billable in ¼ hour increments after the first hour, for the towing or recovery of:

- (A) motor vehicles with a GVWR less than or equal to 10,000 pounds is \$205.00 per tow truck;
  - (B) motor vehicles with a GVWR greater than 10,000 pounds and less than or equal to 19,000 pounds is \$245.00 per tow truck;
  - (C) motor vehicles with a GVWR greater than 19,001 pounds and less than or equal to 33,000 pounds is \$320.00 per tow truck; and
  - (D) motor vehicles with a GVWR greater than 33,000 pounds is \$370.00 per tow truck.
  - (E) The recovery of a motor vehicle requiring the use of a Heavy Rotator (60+ tons) shall not exceed \$585 per hour.
- (II) Mileage and fuel surcharges authorized elsewhere in rule 6511 do not apply to law enforcement-ordered tows or recovery operations.
- (III) Any towing carrier billing greater than one hour for any tow truck and driver for a given tow shall:
- (A) include, in addition to requirements of rule 6509, the following information on the tow record/invoice ~~form~~, recorded at the time of occurrence: the time of dispatch; the time the tow truck leaves the yard or other staging location; the time the tow truck arrives on scene; the time the tow truck leaves the scene, and the time the towed motor vehicle ~~towed~~ is unhooked from the tow truck;
  - (B) include an advisement on the tow record/invoice that documentation of costs billed in excess of one hour for any tow truck and driver for such tow are available upon request from the towing carrier;
  - (C) only begin billing from a time not earlier than the towing carrier leaves their yard or staging area en route to the scene of the requested tow until the towed motor vehicle ~~towed~~ is unhooked;
  - (D) not bill more than the reasonable time necessary to perform the tow at hourly rates for one tow truck and driver, plus the towing carrier's actual and reasonable cost of recovery equipment and labor in excess of one tow truck and driver, plus an additional twenty-five percent of those actual and reasonable costs;
  - (E) provide an owner, authorized operator, or authorized agent of the owner of a-the motor vehicle documentation of actual and reasonable costs billed in excess of one hour for any tow truck and driver for such tow upon request; and
  - (F) not, under any circumstances, bill rates and charges provided in paragraph (b) for a PPI tow.

- (d) The maximum rates for a tow from a storage facility, when directed by a law enforcement officer who is performing an accident reconstruction or stolen vehicle investigation, are as follows:
- (I) \$91.00 for one additional hookup;
  - (II) \$91.00 per hour waiting time; and
  - (III) mileage charges as provided in paragraph (b).
- (e) Storage for nonconsensual tows.
- (I) Storage charges may accrue from the time a motor vehicle is placed in storage and shall not exceed the following rates based on a 24-hour period or any portion of a 24-hour period:
    - (A) \$30.00 for motor vehicles having a GVWR of less than 10,000 pounds;
    - (B) \$37.00 for motor vehicles having a GVWR of 10,000 pounds or more; or
    - (C) in lieu of subparagraphs (A) and (B), and at the option of the towing carrier, storage may be charged according to the motor vehicle's length, including the tongue of a trailer, at \$1.50 per foot or portion thereof.
    - (D) For the purposes of this rule, the 24-hour time period commences when the motor vehicle enters the towing carrier's storage facility. The second day of storage, for the purposes of charges, shall not begin until 24 hours after the motor vehicle entered the towing carrier's storage facility.
  - (II) Storage charges shall not be charged, collected, or retained for any time during which garage keeper's liability insurance coverage is not kept in force.
  - (III) Maximum storage charges for abandoned motor vehicles towed from private property. Unless a hold order has been placed on the motor vehicle by a court, district attorney, or law enforcement agency, or unless extenuating circumstances have prevented a towing carrier from complying with the notice requirements of § 42-4-2103, C.R.S., s Storage charges after the tow and storage of an abandoned motor vehicle subject to Ppart 21 of Title 42, C.R.S., shall not be accumulated beyond 120 days after the mailing date of the report required by § 42-4-2103(4), C.R.S.
- (f) For a nonconsensual tow, the maximum additional charge for release of a motor vehicle from storage ~~or access to a motor vehicle in storage~~ at any time other than the towing carrier's business hours is \$66.00.
- (g) Noncompliance. If a tow is performed, or storage is provided, in violation of state statute or Commission rules, the towing carrier ~~shall~~ may not charge or retain any fees or charges for the services it performs. Any motor vehicle that is held in storage and that was towed without proper authorization ~~shall~~ may be released ~~to the owner, lienholder, or agent of the owner or lienholder~~ without charge to the persons authorized in paragraph 6512(a). Any money collected must be

returned to the owner, authorized operator, or authorized agent of the owner of thea motor vehicle.

(h) Abandoned motor vehicles.

(I) Notifications. The charges for notification(s) to the owner and the lien holder(s) of the motor vehicle held in storage shall be in accordance with §§ 42-4-1804 and 42-4-2103, C.R.S., and the rules of the Colorado Department of Revenue. For purposes of notification, any motor vehicle in possession of the towing carrier, including motor vehicles incidental to the tow (for example, loaded on a trailer when the trailer was towed) shall comply with the notification requirements of Parts 18 and 21 of Article 4 of Title 42, C.R.S., and § 42-5-109, C.R.S.

(II) Consequences of failure to notify. A towing carrier holding a motor vehicle in storage who cannot demonstrate that it has made a good faith effort, as set forth in §§ 42-4-1804 and 42-4-2103, C.R.S., to comply with the notification requirements of Parts 18 and 21 of Article 4 of Title 42, C.R.S., and § 42-5-109, C.R.S., shall not charge, collect, or retain storage fees any fees associated with the tow or storage of the motor vehicle.

(III) Sale of an abandoned motor vehicle to cover the outstanding towing and storage charges must be done in accordance with the notice and procedural requirements of Parts 18 and 21 of Article 4 of Title 42, C.R.S., and § 42-5-109, C.R.S.

(IV) Additional costs that may be charged when a stored motor vehicle is sold.

(A) When a stored motor vehicle is sold, a towing carrier may charge the costs of maintaining that motor vehicle while in storage in accordance with § 38-20-109, C.R.S.

(B) When a stored motor vehicle that does not come within the provisions of § 38-20-109, C.R.S., is sold, a towing carrier may charge the costs of maintaining that motor vehicle, up to a maximum of \$90.00.

(C) “Cost of maintaining a motor vehicle” means a documented cost that is incurred by the towing carrier and that keeps a motor vehicle in safe ~~or~~ and operable condition.

(D) Certified VIN verification procedure. When an abandoned motor vehicle that is less than five model years old and that the Colorado Department of Revenue cannot find in its records must be sold, the maximum rates that may be charged for a certified ~~vehicle identification number (VIN)~~ verification are as follows:

(i) rates as provided in paragraph (d); and

(ii) in addition, the towing carrier may charge for all other documented expenses of obtaining the VIN verification.

(i) Trailers.

- (I) No additional fees may be charged for the towing of a power unit and trailer in combination as a single motor vehicle.
- (II) A vehicle in or on a trailer is ~~cargo~~ considered in combination as a single unit.
- (III) No additional fees may be charged for the towing of cargo in combination; however, additional fees may be charged for towing a trailer when reasonably and actually conducted as a separate tow from a power unit.

**6512. Release of Motor Vehicle and Personal Property.**

- (a) The towing carrier shall immediately accept payment of the drop charge, towing, storage, and release charges if payment is offered in cash or by valid major credit card. Accepted forms of payment may be annotated on the tow record/invoice so long as the required options are offered to the person to whom the motor vehicle is being released. The towing carrier may accept other forms of payment, but must accept payment by both MasterCard and Visa. A towing carrier shall not require “cash only” for a drop charge or to release a motor vehicle from its storage facility. The towing carrier shall release the motor vehicle to:
  - (I) the motor vehicle owner, authorized operator, or authorized agent of the owner of the motor vehicle;
  - (II) the lienholder or agent of the lienholder of the motor vehicle; or
  - (III) the insurance company or agent of the insurance company providing coverage on the motor vehicle, if released to the insurance company by the owner.
- (b) A towing carrier that accepts for storage a motor vehicle that has been towed as a nonconsensual tow shall ~~be available to~~ provide access to or release of the motor vehicle ~~as provided in paragraph (a) to the~~ persons authorized for release of the motor vehicle in paragraph (a) of this rule ~~owner, authorized operator, or authorized agent of the owner of the motor vehicle~~ either:
  - (I) with one hour’s notice during all times other than the towing carrier’s business hours that occur within the first 24 hours of storage; or
  - (II) upon demand during the carrier’s business hours.
- (c) Failure to notify. A towing carrier holding a motor vehicle in storage who cannot demonstrate that it has made a good faith effort, as set forth in §§ 42-4-1804 and 42-4-2103, C.R.S., to comply with the notification requirements of Parts 18 and 21 of Article 4 of Title 42, C.R.S., and § 42-5-109, C.R.S., shall release the motor vehicle at no charge to the ~~owner, lien holder, or their agents~~ persons authorized for release of the motor vehicle in paragraph (a) of this rule.
- (d) The towing carrier may charge up to the maximum rate for a nonconsensual tow established in paragraph 6511(b) for the removal of personal property that is not attached to or part of the equipment of the motor vehicle. The towing carrier shall release such personal property upon request from the owner, authorized operator, or authorized agent of the owner of the motor

vehicle. This fee shall not be assessed for any of the items addressed under paragraphs 6512(g), (h), (i), and (j).

- (~~ee~~) The towing carrier, at its discretion, need not comply with paragraphs (a) through (d) to release a motor vehicle or allow for removal of personal property, ~~(b) or (c)~~ if:
- (I) the towing carrier is reasonably certain that, at the time the motor vehicle is to be released from storage, the driver of the motor vehicle is not capable of safely driving the motor vehicle due to the influence of drugs or alcohol;
  - (II) the towing carrier that is to remove the motor vehicle from storage does not have a valid towing carrier permit;
  - (III) a hold order is in place on the motor vehicle by a court, district attorney, law enforcement agency, or law enforcement officer;
  - (IV) the release of the motor vehicle does not comply with the release procedures agreed to, in writing, between the towing carrier and the applicable law enforcement agency; or
  - (V) the towing carrier, upon notification for the release of or access to a motor vehicle at other than the carrier's business hours, has immediately contacted an appropriate law enforcement agency and, in the interest of public order, has requested a law enforcement officer's presence during the release of the motor vehicle. This exception is applicable when the towing carrier has reason to believe that the ~~motor vehicle's owner, authorized operator, or authorized agent of the owner of the motor vehicle~~ person to whom the motor vehicle or personal property is to be released may disrupt the public order.
- (~~ef~~) A towing carrier shall release a motor vehicle held in storage to a person presenting a current driver's license who attests to being the authorized operator of the motor vehicle and produces two of the following: keys to the motor vehicle; proof of insurance; vehicle registration; VIN number; ~~and~~ knowledge of the location from where the motor vehicle was towed. Such attestation must be provided on the "Vehicle Release Form" form available from the Commission or the Commission's website.
- (~~fg~~) Whether on the ~~private~~ property where the tow originates or at the towing carrier's storage ~~facility~~, a towing carrier shall not refuse to relinquish, prescription medicines, medical equipment, medical devices, or any child restraint system. The towing carrier shall immediately relinquish such items to persons authorized for release of the motor vehicle in paragraph (a) of this rule, without requiring payment and without additional 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, without requiring payment and without additional charge.
- (~~gh~~) Whether on the ~~private~~ property where the tow originates or at the towing carrier's storage ~~facility~~, a towing carrier shall not refuse to relinquish credit cards and cash for immediate payment of the amount due to the towing carrier. The towing carrier shall immediately relinquish such items to persons authorized for release of the motor vehicle in paragraph (a) of this rule, without requiring payment and without additional charge, upon demand during business hours

~~and, during the first 24 hours after commencement of the tow, within one hour's notice during all other times and without additional charge outside of business hours.~~

- (h) Whether on the ~~private~~ property where the tow originates or at the towing carrier's storage ~~lot~~ facility, a towing carrier shall not refuse to relinquish state or federal issued identification to the owner of the identification or to persons authorized for release of the motor vehicle in paragraph (a) of this rule ~~to persons to whom the motor vehicle is released.~~ The towing carrier shall immediately relinquish such items, without requiring payment and without additional charge, upon demand during business hours and, during the first 24 hours after commencement of the tow, ~~or~~ within one hour's notice outside of business hours ~~during all other times. Access shall be without additional charge during business hours.~~
- (i) ~~Whether o~~ On the ~~private~~ property where the tow originates or at the towing carrier's storage facility, a towing carrier shall not refuse to relinquish a cellular telephone to persons authorized for release of the motor vehicle in paragraph (a) of this rule ~~persons to whom the motor vehicle can be released.~~ The towing carrier shall immediately relinquish such item, without requiring payment and without additional 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 ~~and without additional charge.~~
- (k) ~~A towing carrier shall not assess any additional fees or charges not specifically identified in these towing carrier rules.~~

**6513. ~~[Reserved]~~ Notice.**

- (a) ~~A towing carrier may not perform a nonconsensual tow of a motor vehicle, other than an abandoned motor vehicle, from private property unless:~~
- (I) ~~notice of the applicable parking limitations, regulations, restrictions, and prohibitions was provided to the motor vehicle operator at the time the motor vehicle entered the private property and parked; and~~
- (II) ~~notice that any motor vehicle parked in violation of the applicable parking limitations, regulations, restrictions, and prohibitions is subject to tow at the motor vehicle owner's expense was provided to the motor vehicle operator at the time the motor vehicle entered the private property and parked. The towing carrier must retain evidence that such notice was provided for three years from the date of completion of the tow and provide it to the Commission or an enforcement official upon request.~~
- (b) ~~Abandoned motor vehicles. A towing carrier may not perform a nonconsensual tow of an abandoned motor vehicle from private property unless the motor vehicle was left unattended for a period of 24 hours or more and is presumed to be abandoned pursuant to § 42-4-2102(1), C.R.S.~~
- (c) ~~The notice required in paragraph (a) is presumed to be met through signage if:~~
- (I) ~~a permanent sign is conspicuously posted visibly at each point of entrance to the private property; and~~

- (II) if the private property is not provided for residential parking and has more than ten free-standing lampposts on the property, a number of signs equal to the number of lampposts must be posted. Such signs must be posted on each lamppost or posted upright in conspicuous locations which are evenly distributed.
- (d) All signs posted to provide the notice required in paragraph (a) shall comply with any applicable municipal ordinance. To the extent consistent with applicable municipal ordinance, signs shall also, at a minimum:
  - (I) be no less than one square foot in size;
  - (II) have lettering not less than one inch in height;
  - (III) have lettering that contrasts sharply in color with the background on which the letters are placed;
  - (IV) state “Authorized Parking Only”;
  - (V) include the name and telephone number of the towing carrier authorized to perform tows from the private property;
  - (VI) be printed in English;
  - (VII) at the entrance to the private property, face outward toward the street and be visible prior to and upon entering the private property;
  - (VIII) inside the private property, face outward toward the parking area;
  - (IX) not be obstructed or placed in such a manner that prevents visibility; and
  - (X) not be placed higher than ten feet or lower than three feet from the surface closest to the sign’s placement.

**6514. Towing Violations and Civil Penalty Assessments.**

- (a) A violation of any of the following provisions may result in the assessment of a civil penalty of up to \$1,100.00 for each violation:
  - (I) § 40-10.1-401(1)(a), C.R.S.;
  - (II) subparagraph (a)(I), (b)(I), (b)(II), and (b)(III)(b)(IV)(B), or (b)(VI)(D) of rule 6508; or
  - (III) paragraph (g) of rule 6511.
- (b) A violation of paragraph (a), (b), (c), (d), (e), (f), (h), or (i) of rule 6511 may result in the assessment of a civil penalty as follows for each violation:
  - (I) up to \$275.00 for an overcharge \$25.00 or less;

- (II) up to \$550.00 for an overcharge greater than \$25.00 but less than or equal to \$150.00;  
and
  - (III) up to \$1,100.00 for an overcharge greater than \$150.00.
- (c) A violation of any of the following provisions may result in the assessment of a civil penalty of up to \$550.00 for each violation:
- (I) rule 6507;
  - (II) paragraph (c) of rule 6508;
  - (III) paragraph (a) of rule 6510;~~or~~
  - (IV) paragraph (e) of rule 6512; ~~or-~~
  - (V) rule 6513.
- (d) A violation of rule 6506 may result in the assessment of a civil penalty of up to \$100.00 for each violation.
- (e) Except as provided in paragraph (a) through (d) of this rule, a violation of any provision of Title 40, § 42-3-235.5, C.R.S., pertaining to towing carriers, or any provision of rules 6500 through 6513, may result in the assessment of a civil penalty of up to \$275.00 for each violation.
- (f) Civil penalty assessments are in addition to any other penalties provided by law.

**6515. - 6599. [Reserved].**

## COLORADO DEPARTMENT OF REGULATORY AGENCIES

### PUBLIC UTILITIES COMMISSION

#### 4 CODE OF COLORADO REGULATIONS (CCR) 723-6

#### PART 6

#### RULES REGULATING TRANSPORTATION BY MOTOR VEHICLE

##### TOWING CARRIER RULES

###### **6500. Applicability of Towing Carrier Rules.**

- (a) Rules 6500 through 6599 apply to all towing carriers and to all Commission proceedings and operations concerning towing carriers, applicants for a towing carrier permit and employees of towing carriers.
- (b) For a tow and storage of a motor vehicle performed under a written agreement between a towing carrier and a municipal, county, state, or federal agency, nothing in these towing carrier rules shall be construed to prohibit such agency, to the extent permitted by law, from adopting and enforcing additional or more stringent requirements relating to towing carrier operations within their jurisdiction with regard to rules 6506; 6507(a), (c), (e), and (f); 6508; 6509; 6510; and 6512(a), (b), (e), (f), and (g).
- (c) A written agreement between a towing carrier and a property owner to perform a nonconsensual tow may set rates for the tow less than, but not higher than, the rates established in paragraphs 6511(a), (b), (c), (d), (e), and (f). In the event rates are not set through a written agreement, the Commission's rules will prevail and rates shall default to those established in these rules. For purposes of this rule, a written agreement setting rates for the tow does not include a tow authorization by a law enforcement officer given to a towing carrier with whom the law enforcement officer's agency does not itself have a written agreement.

###### **6501. Definitions.**

In addition to the general definitions in rule 6001, the following definitions apply to all towing carriers and to all Commission proceedings and operations concerning towing carriers, applicants for a towing carrier permit, employees of towing carriers, and tow truck drivers.

- (a) "Abandoned motor vehicle" means an "abandoned motor vehicle" as defined by § 42-4-1802(1), C.R.S., for motor vehicles left unattended on public property, and § 42-4-2102(1), C.R.S., for motor vehicles left unattended on private property.
- (b) "Address" means the particulars of the physical location of a business or residence including the street name, number, city, state, and zip code.

- (c) “Authorized agent for the property owner” means a person acting as agent of a property owner.
- (d) “Authorized agent of the owner of the motor vehicle” means a person, including a towing carrier, who has been given written or oral permission by the owner, lessee, lienholder, or insurance company of a motor vehicle to act as agent for the disposition of said motor vehicle.
- (e) “Authorized operator of a motor vehicle” means a person who has been given written or oral permission to drive a motor vehicle by the owner or lessee of said motor vehicle.
- (f) “Business hours” means 8:00 AM to 5:00 PM, Monday through Friday, excluding legal holidays, and any additional hours and days the towing carrier may designate.
- (g) “Gross vehicle weight rating” or “GVWR” is the maximum operating weight of a motor vehicle as specified by the manufacturer.
- (h) “Law enforcement officer” means any sheriff, police officer, Colorado state patrol officer, municipal code enforcement officer, or other such person acting in his or her official governmental capacity for enforcement of motor vehicle laws.
- (i) “Law enforcement-ordered tow” means a tow ordered by a law enforcement officer. Law enforcement-ordered tows are subject to these rules, even when the owner or operator of the motor vehicle consents to a law enforcement officer ordering a tow. A tow shall not be considered a law enforcement-ordered tow if the motor vehicle owner or operator has the ability or opportunity to terminate the tow and contact a towing carrier of his or her own choosing.
- (j) “Legal disability” means the condition of a trailer or semi-trailer that, due to its weight, height, or other size characteristics, is unable to be transported when attached to the motor vehicle that was pulling it.
- (k) “Name” means a word or phrase that constitutes the distinctive designation of a person or thing and includes printed, legible words and includes the first and last name, as applicable.
- (l) “Nonconsensual tow” means the transportation of a motor vehicle by tow truck, including a trailer, if such transportation is performed without the prior consent or authorization of the owner or operator of the motor vehicle. Law enforcement-ordered tows are considered nonconsensual tows.
- (m) “Parking lot” means any place, lot, parcel, yard, structure, building or enclosure used in whole or in part for storing or parking five or more motor vehicles.
- (n) “Private property” means any real property that is not public property.
- (o) “Private Property Impound” (or “PPI”) means a nonconsensual tow from private property upon authorization of the property owner.
- (p) “Property owner” means:
  - (l) the owner or lessee of the private property or public property;

- (II) a person who has been authorized to act as an authorized agent for the property owner or lessee of the private property or public property; or
  - (III) a federal, state, county, municipal, or other government entity that is the owner or lessee of the private property or public property, or such entity's employees responsible for such property.
- (q) “Public property” means any real property having its title, ownership, use, or possession held by the federal government; this state; or any county, municipality, or other governmental entity of this state.
  - (r) “Recovery” means winching, hoisting, up-righting, removing, or otherwise relocating a motor vehicle when the motor vehicle is found in such a location, state or position in which it could not be removed from the location, state or position using only the motor vehicle’s own power, even if it were in complete operating condition. Waiting and site clean-up time are included in recovery services.
  - (s) “Signature” means the name of the person written in his or her own handwriting or entered by that person electronically.
  - (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)(l) or by law enforcement.
  - (u) “Towing” is the act of transporting a motor vehicle or trailer on or behind a tow truck.
  - (v) “Tow invoice” means a written invoice provided to the vehicle owner or authorized agent of the vehicle owner in accordance with rule 6509.
  - (w) “Tow record” means a complete record of the tow as maintained by the tow carrier in accordance with rule 6509.
  - (x) “Tow truck” means a motor vehicle specially designed or equipped for transporting another motor vehicle by means of winches, cables, pulleys, or other equipment for towing, pulling, or lifting such other motor vehicle from one place to another.
  - (y) “Towing carrier” means a motor carrier that provides, as one of its primary functions, the towing of motor vehicles by use of a tow truck and may also provide storage of towed motor vehicles.
  - (z) “Towing carrier permit” means the permit issued by the Commission to a towing carrier pursuant to § 40-10.1-401, C.R.S.
  - (aa) “Towing facility” means any place used for the storage of motor vehicles or records in conjunction with the operations of a towing carrier.
  - (bb) “Trailer” means any wheeled vehicle, without motive power, which is designed to be drawn by a motor vehicle and to carry its cargo load wholly, or in part, upon its own structure and that is generally and commonly used to carry and transport property over the public highways.

(cc) “VIN” means the unique vehicle identification number used to identify a motor vehicle.

**6502. [Reserved].**

**6503. Towing Carrier Permit Application.**

(a) In addition to completing the Commission-prescribed permit application form available on the Commission’s website, a person must:

- (I) pay an application fee of \$150.00;
- (II) cause to be filed the required proof of financial responsibility; and
- (III) pay the required annual fees or, if applicable, shall be in compliance with the UCR Agreement.

**6504. Criminal History Checks.**

(a) This rule applies to principals of a towing carrier, including without limitation, directors and officers.

(b) Qualification determination for towing carrier permit.

- (I) Upon the Commission’s receipt of results obtained from a criminal history record check, Commission staff shall make a qualification determination regarding the applicant’s qualification status. In making this determination, Commission staff is authorized to request from the applicant, and the applicant shall provide, additional information that will assist Commission staff in making the determination. If an applicant either does not provide such additional information requested by Commission staff, or explain why it is unavailable, within 15 days of the request, Commission staff may deny the application.
- (II) An application for a towing carrier permit shall be denied, if the applicant has:
  - (A) a conviction in the state of Colorado, within the five years preceding the date the criminal history record check is completed, of any felony under any Title of C.R.S.; or
  - (B) an offense in any other state or in the United States that is comparable to any offense listed in subparagraph (A) within the same time periods as listed in subparagraph (A).
- (III) For purposes of this rule, a deferred judgment and sentence pursuant to § 18-1.3-102, C.R.S., shall be deemed to be a conviction during the period of the deferred judgment and sentence.
- (IV) The Commission and Commission staff may consult and use any commercially or governmentally available information source in conducting criminal history record checks.

- (c) Commission staff shall not issue a towing carrier permit to the applicant if a disqualifying criminal history record is found for a person subject to this rule.
- (d) If a disqualifying criminal history record is found for a person subject to this rule, the associated applicant may file a petition to qualify the applicant within 60 days of Commission staff's notification.
  - (I) Upon the filing of a petition for qualification, Commission staff shall be an indispensable party.
  - (II) The applicant shall bear the burden of proving that disqualification is not supported by fact or law.
- (e) If the Commission qualifies an applicant upon petition, paragraph (b) shall be waived as to qualification determinations for future applications regarding the events upon which Commission staff's disqualification was based.

**6505. [Reserved].**

**6506. Equipment and Accessories.**

In addition to complying with all applicable safety regulations, all tow trucks shall meet the following minimum requirements.

- (a) Basic tow truck requirements.
  - (I) A towing carrier shall equip its tow truck(s) with engines, transmissions, differentials, driveline components, brake systems, frames, steering components, and suspensions of sufficiently heavy construction to safely winch, lift, tow, load, and transport the towed motor vehicle.
  - (II) A towing carrier shall maintain its tow truck(s) in a manner ensuring the safe winching, lifting, towing, loading, and transporting of the towed motor vehicle.
  - (III) A towing carrier shall ensure its tow truck(s) have each of the following:
    - (A) a GVWR of at least 10,000 pounds;
    - (B) fender coverings for front and rear wheels;
    - (C) the following operational electric lights:
      - (i) one spotlight, mounted behind the cab, capable of lighting the scene of disability and the motor vehicle to be moved (reverse/back-up lights of the tow truck shall not be used in lieu of the spotlight); and
      - (ii) one portable, combination light system capable of being securely attached on the rear of the towed motor vehicle; consisting of (with an

equal number on each side) two tail lamps, two stop lamps, and two turn signals; and operated in conjunction with analogous lights on the tow truck;

- (D) one steering wheel tying device free from cracks, fraying, or deterioration; and
  - (E) for any towing carrier that performs tows from accident scenes:
    - (i) one shovel; and
    - (ii) one broom.
- (b) Winching, lifting, towing, and carrying equipment shall be maintained in a manner to ensure the safe winching, lifting, towing, loading, and transporting of the towed motor vehicle, and shall include at least one of the following:
- (I) Winch and crane: A power-driven winch and crane with a capacity of not less than 6,000 pounds with a winch cable capable of withstanding a test of not less than 10,000 pounds at breaking point or hydraulic system vehicle lift and a cradle, with a tow plate or sling, equipped with safety chains and chains with J-hooks of sufficiently heavy construction to ensure the safe lifting of the motor vehicle;
  - (II) Wheel-lift system: A wheel-lift system with a stinger, L arm brackets, safety chains and tie-down straps, or a mechanical wheel retainer device forming an integral part of the L-arm bracket, of sufficiently heavy construction to secure the motor vehicle to the wheel-lift unit and to ensure the safe lifting and towing of the motor vehicle; or
  - (III) Rollback system: A rollback system with a winch and cable as described in subparagraph (I) of this paragraph, safety chains, tie-down equipment, and truck bed of sufficiently heavy construction to ensure the safe loading and transporting of the motor vehicle.
- (c) A towing carrier shall not tow a motor vehicle that is so extensively damaged as to be unmovable on its own wheels, unless the tow truck is equipped with dollies, a wheel-lift system, or a rollback system of sufficiently heavy construction to ensure the safe loading and towing of the damaged motor vehicle.
- (d) A towing carrier shall not tow a motor vehicle without attaching required operational electric lights on the rear of the towed motor vehicle. This requirement does not apply to motor vehicles placed on a flatbed or trailer as long as the motor vehicle being towed does not extend four feet beyond the rear of the tow truck.

**6507. Storage Facilities.**

- (a) Disclosure of storage facility location. For nonconsensual tows of a motor vehicle, within 30 minutes of moving the towed motor vehicle from its location, or such lesser time as may be required by law, a towing carrier shall disclose the location of the storage facility by notifying the

responsible law enforcement agency having jurisdiction over the place from which the motor vehicle was towed.

- (I) Compliance with paragraph (a) will be considered accomplished if the location of the storage facility was provided to the law enforcement agency in conjunction with obtaining authorization for the tow.
  - (II) If the towing carrier makes two or more documented attempts within the 30-minute time period to notify the responsible law enforcement agency, but is unsuccessful for reasons beyond the control of the towing carrier, the notice will not be considered late for purposes of paragraph (a).
- (b) Disclosure for abandoned motor vehicles. A towing carrier which places an abandoned motor vehicle in a storage facility shall also disclose the location of the storage facility by complying with the procedure for abandoned motor vehicles in Parts 18 and 21 of Article 4 of Title 42, C.R.S.
  - (c) Disclosure for all towed motor vehicles. Upon request of the owner, authorized operator, or authorized agent of the owner of the of motor vehicle, a towing carrier which places a motor vehicle in a storage facility shall also disclose the location of the storage facility, the total amount of the charges, and accepted forms of payment, as provided in rule 6512.
  - (d) Signage at storage facility.
    - (I) A towing carrier shall maintain a clearly visible sign at the entrance to any storage facility where a motor vehicle has been towed as a nonconsensual tow. Such sign shall state the name of the business, telephone number, and hours of operation.
    - (II) All signs posted to provide notice pursuant to this rule shall comply with any applicable municipal ordinance. To the extent not inconsistent with applicable ordinance, signs shall also at a minimum:
      - (A) be no less than two square feet in size;
      - (B) have lettering not less than two inches in height;
      - (C) have lettering that contrasts sharply in color with the background on which the letters are placed; and
      - (D) be printed in English.
  - (e) Lighting for release. A towing carrier shall maintain an area at each storage facility location on file with the Commission with illumination levels during all hours adequate to inspect a motor vehicle for damage prior to its release from storage.
  - (f) Carrier responsibility. After a nonconsensual tow, the towing carrier is responsible for the security and safety of the towed motor vehicle until it is released in accordance with these rules. Evidence of the towing carriers' commercial liability insurance coverage including cargo liability

coverage, garage keeper's liability coverage, if applicable, and motor vehicle liability coverage shall be provided, upon request, to the person to whom the motor vehicle is being released.

**6508. Authorization for Towing of Motor Vehicles.**

- (a) Towing carrier acting as authorized agent for the property owner.
- (I) A towing carrier may act as the authorized agent for the property owner under a written tow agreement to that effect, provided the tow agreement is compliant with this paragraph (a). The tow agreement shall contain at least the following information in order for the tow to be properly authorized:
- (A) the name, physical address, telephone number, email address, if applicable, and towing carrier permit number of the towing carrier;
  - (B) the name, address, email address, if applicable, and telephone number of the property owner;
  - (C) the address of the property from which the tows will originate;
  - (D) the name of each individual person who is authorized to sign the tow authorization except tow carrier drivers where the carrier is authorized to act as the property owner agent under this rule;
  - (E) the address and phone number of the storage facility where the motor vehicle owner may retrieve the motor vehicle;
  - (F) the beginning date and ending date of the tow agreement. Provisions that provide for automatic renewal of the tow agreement are permissible provided all signature parties on the original tow agreement remain the same and are still valid at the time of renewal;
  - (G) a statement that "the maximum rates for a nonconsensual tow from private property, and the maximum drop charge if the motor vehicle is retrieved before removal from the private property, are set by rule of the Public Utilities Commission;"
  - (H) the name, title, phone number, and signature of the person entering into the tow agreement on behalf of the property owner and on behalf of the towing carrier; and
  - (I) the date the tow agreement is signed.
- (II) Nothing in this paragraph (a) shall preclude a towing carrier who has been paid for the tow by the property owner at proper rates from collecting the towing charges from the motor vehicle owner and reimbursing said charges to the property owner.

- (III) No agency provided for in this paragraph (a) shall affect any obligation, liability, or responsibility of the property owner to any third party. Any provision attempting to affect such obligation, liability, or responsibility shall be void.
  - (IV) Nothing in this paragraph (a) shall preclude a towing carrier or property owner from adding addendums to the tow agreement that modify any term of the tow agreement, so long as the addendums are in compliance with these rules and agreed upon by both the tow company and the property owner. Each addendum must be signed by both the tow company and the property owner and are required to be maintained with the original tow agreement.
- (b) Authorization to perform nonconsensual tow.
- (I) A towing carrier shall not tow any motor vehicle unless one of the following conditions is met:
    - (A) the towing carrier is directed to perform a tow by a law enforcement officer;
    - (B) the towing carrier is requested to perform a tow by the owner, authorized operator, or authorized agent of the owner of the motor vehicle; or
    - (C) the towing carrier is requested to perform a tow upon the authorization of the property owner.
  - (II) A towing carrier may not come in contact with, hook-up to, or tow a motor vehicle that is occupied, unless the towing carrier is performing rescue or recovery operations for said occupant(s).
  - (III) Property owner authorization. The authorization from the property owner, or authorized agent for the property owner, shall be in writing; shall identify by make, license plate number (if available), and VIN (if available), the motor vehicle to be towed; and shall include the date, time, and place of removal.
    - (A) The authorization shall be filled out in full, signed by the property owner, and given to the towing carrier before the motor vehicle is removed from the property. The property owner may sign using a verifiable employee identification number or code name in lieu of the person's proper name. If the authorization is signed by the towing carrier as agent for the property owner, then a verifiable employee identification number or code name shall not be used. Documentation of such authority must be carried in the tow truck at all times while performing the tow. At a minimum, such documentation shall contain:
      - (i) the name, address, email address (if applicable), and telephone number of the property owner;
      - (ii) the address of the property from which the tows will originate; and

- (iii) the name of each individual person who is authorized to sign the tow authorization.
  - (B) A towing carrier shall not have in his or her possession, accept, or use blank authorizations pre-signed by the property owner.
  - (C) The written authorization may be incorporated into the tow record/invoice required by rule 6509 or on any other document.
  - (D) With the exception of law enforcement-ordered tows, a towing carrier that is requested to perform a tow upon the authorization of a property owner or authorized agent for the property owner must immediately deliver the towed motor vehicle that is being removed from the property to a storage facility location on file with the Commission without delay. No motor vehicle may be relocated off of the private property from which it is towed to a location other than to such a storage facility.
  - (E) 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.
  - (F) 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 purpose of transporting the vehicle to the tow carrier's storage lot.
- (c) Expired vehicle registration. 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 the terms of §§ 42-3-114 and 42-3-203, C.R.S.

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

- (a) Towing carriers shall use and complete all applicable portions of a tow record/invoice form for all nonconsensual tows, whether the motor vehicle is removed from private property or retrieved before removal (commonly known as a drop). The tow record/invoice form shall contain the following information:
- (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, the date and time notice was given to the appropriate law enforcement agency, the date and time the towed motor vehicle was placed in

- storage, and the date and time the towed motor vehicle was released from storage, as applicable;
- (V) the make, model, year, complete VIN (if available), and license plate number (if available) of the towed motor vehicle;
  - (VI) the origin address of the tow, the destination address of the tow, and the one-way mileage between such addresses;
  - (VII) unless incorporated into the authorization in subparagraph 6508(b)(III),
    - (A) the printed name, address, and telephone number of the person authorizing the tow; and
    - (B) the full, legal signature of the property owner authorizing the tow;
  - (VIII) the unit number or license number of the tow truck;
  - (IX) the printed name and signature of the tow truck driver;
  - (X) an itemized invoice of all towing charges assessed;
  - (XI) 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 record/invoice if the person to whom the motor vehicle is released is provided opportunity to sign the tow/record invoice but refuses to do so;
  - (XII) 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”; and
  - (XIII) 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).
- (b) The tow invoice, as provided to the vehicle owner or authorized agent of the vehicle owner, shall include, at a minimum, the items listed in subparagraphs 6509(a)(I) through (VIII) and (X) through (XII). The towing carrier shall retain the copy of the tow record/invoice bearing all required original signatures for authorization and release whether it is maintained in electronic or multi-copy paper form.
- (c) The tow record/invoice must be filled out to contain the information required in subparagraphs 6509(a)(I), (II), (III), (V), (VI), (VII), and (VIII) by the tow truck driver prior to the tow truck leaving the location of the tow origination with the towed motor vehicle, unless impracticable due to safety concerns.
- (d) The towing carrier shall deliver a copy of the tow record/invoice to the owner, authorized operator, or authorized agent of the owner of the motor vehicle at the time of the release of the towed

motor vehicle from a storage facility or where dropped for a drop fee, regardless of whether the towing carrier received in full payment of applicable charges.

- (e) Towing carriers shall provide a charge notification card to the owner, authorized operator, or authorized agent of the owner of the motor vehicle to be towed if such person is on the property prior to or after commencement of the tow but before the motor vehicle has been towed off the property. The charge notification card shall contain all the information listed on the Commission-prescribed form available on the Commission's website.
- (f) A towing carrier may place a warning sign on the driver-side window of a motor vehicle to be towed or, if window placement is impracticable, in another location on the driver-side of the motor vehicle prior to commencement of the tow. The tow-truck warning sign shall be at least eight inches by eight inches square or diameter, yellow or orange in color, and state the following: "WARNING: This vehicle is in tow. Attempting to operate or operating this vehicle may result in criminal prosecution and may lead to injury or death to you or another person."

**6510. Disclosure of Rates and Charges.**

- (a) Prior to performing any tow, a towing carrier shall disclose to the owner, authorized operator, or authorized agent of the owner of the motor vehicle all rates and charges to be assessed. This rule does not apply to a nonconsensual tow authorized by the property owner or authorized agent for the property owner. Rates for law enforcement-ordered tows must be disclosed to the motor vehicle 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.
- (b) This disclosure may either be written or oral and shall include, but is not limited to, the following information:
  - (I) any extra charges made necessary because, at the time of the tow, the towing carrier would be unable to deliver the motor vehicle to a repair or body shop during the normal working hours of such repair or body shop;
  - (II) any extra charges made necessary because, at the time of the tow, the towing carrier would be unable to deliver the motor vehicle to a location and at a time agreed upon by the owner, authorized operator, or authorized agent of the owner of the motor vehicle to take delivery of the motor vehicle and pay the tow charges; and
  - (III) estimated charges for mileage and storage.

**6511. Rates and Charges.**

- (a) Drop Charge. A towing carrier may assess a drop charge if the owner, authorized operator, or authorized agent of the owner of the motor vehicle that is parked without the authorization of the property owner appears in person to retrieve the motor vehicle after the motor vehicle is hooked up to the tow truck, but before the motor vehicle is removed from the property.
  - (I) The maximum drop charge is:

- (A) \$70 for a motor vehicle with a GVWR less than or equal to 10,000 pounds;
  - (B) \$90 for a motor vehicle with a GVWR greater than 10,000 pounds and less than or equal to 19,000 pounds;
  - (C) \$120 for a motor vehicle with a GVWR greater than 19,001 pounds and less than or equal to 33,000 pounds; and
  - (D) \$140 for a motor vehicle with a GVWR greater than 33,000 pounds.
  - (E) Maximum drop charges may be less than these amounts if required by municipal ordinance or by the tow agreement with the property owner and shall be enforced by the Commission pursuant to this rule.
- (II) The minimum drop charge is \$0.00.
- (III) The towing carrier shall halt any tow in progress, including preparation therefor, prior to removal from the private property, and advise the owner, authorized operator, or authorized agent of the owner of the motor vehicle that he or she may offer payment of the towing carrier's drop charge. The towing carrier shall concurrently advise the owner, authorized operator, or authorized agent of the owner of the motor vehicle of acceptable forms of payment under rule 6512. Such advisements shall be provided via delivery of a charge notification card, in addition to any other means desired by the towing carrier.
- (IV) If the towing carrier does not advise the owner, authorized operator, or authorized agent of the owner of the motor vehicle of the acceptable forms of payment under rule 6512 or accept such forms of payment, the towing carrier shall not charge or retain any fees or charges for the services it performs. Any money collected must be returned to the owner, authorized operator, or authorized agent of the owner of the motor vehicle.
- (b) The towing rates for PPI tows consists of up to four elements: a base rate for the tow; a mileage charge, including any applicable fuel surcharge; a charge for motor vehicle storage; and a charge for release from storage pursuant to paragraph 6511(f), if applicable.
- (I) The base rates for PPI tows are published on the Commission's website for the following classifications:
- (A) motor vehicles with a GVWR less than or equal to 10,000 pounds;
  - (B) motor vehicles with a GVWR greater than 10,001 pounds and less than or equal to 19,000 pounds;
  - (C) motor vehicles with a GVWR greater than 19,001 pounds and less than or equal to 33,000 pounds; and
  - (D) motor vehicles with a GVWR greater than 33,000 pounds.

- (II) The base rates shall be adjusted annually based upon the Consumer Price Index – Denver-Aurora-Lakewood, as published by the Colorado Department of Local Affairs. The adjusted rates shall be published on the Commission’s website no later than January 31 or each year. The effective date of any rate change shall be January 31 of each year.
  - (III) The maximum mileage charge a towing carrier may assess for a PPI tow of a motor vehicle is \$3.80 per mile for each mile that the motor vehicle is towed, subject to the following limits: The maximum mileage that may be charged for a PPI tow is 12 miles for tows within ten miles of either side of U.S. Interstate Highway 25, and 16.5 miles for mountain areas and eastern plains communities that lie farther than ten miles from U.S. Interstate Highway 25.
  - (IV) An additional fuel surcharge may be assessed when the price per gallon of diesel fuel exceeds a base rate of \$2.60. The Commission shall, each month, adjust the maximum mileage charge when the price per gallon of diesel fuel exceeds the base rate. The surcharge shall be based on the United States Department of Energy “weekly retail on-highway diesel prices” for the Rocky Mountain region (DOE’s Weekly Diesel Price). The fuel surcharge adjustment shall provide a one-percent increase in the mileage rate for every ten-cent increase in the DOE’s Weekly Diesel Price, or a one-percent decrease in the mileage rate for every ten-cent decrease in the DOE’s Weekly Diesel Price, but in no event decreasing below the base rate.
  - (V) A towing carrier shall not charge or retain any additional fees not identified in these rules for the nonconsensual tow of a motor vehicle from private property.
- (c) Maximum towing rates for law enforcement ordered tows and recovery operations are to be calculated on an hourly basis, per required tow truck, as follows, with no additional fees, charges, or surcharges permitted.
- (I) Maximum hourly rates for tow truck and driver, billable in ¼ hour increments after the first hour, for the towing or recovery of:
    - (A) motor vehicles with a GVWR less than or equal to 10,000 pounds is \$205.00 per tow truck;
    - (B) motor vehicles with a GVWR greater than 10,000 pounds and less than or equal to 19,000 pounds is \$245.00 per tow truck;
    - (C) motor vehicles with a GVWR greater than 19,001 pounds and less than or equal to 33,000 pounds is \$320.00 per tow truck; and
    - (D) motor vehicles with a GVWR greater than 33,000 pounds is \$370.00 per tow truck.
    - (E) The recovery of a motor vehicle requiring the use of a Heavy Rotator (60+ tons) shall not exceed \$585 per hour.

- (II) Mileage and fuel surcharges authorized elsewhere in rule 6511 do not apply to law enforcement-ordered tows or recovery operations.
- (III) Any towing carrier billing greater than one hour for any tow truck and driver for a given tow shall:
  - (A) include, in addition to requirements of rule 6509, the following information on the tow record/invoice, recorded at the time of occurrence: the time of dispatch; the time the tow truck leaves the yard or other staging location; the time the tow truck arrives on scene; the time the tow truck leaves the scene, and the time the towed motor vehicle is unhooked from the tow truck;
  - (B) include an advisement on the tow record/invoice that documentation of costs billed in excess of one hour for any tow truck and driver for such tow are available upon request from the towing carrier;
  - (C) only begin billing from a time not earlier than the towing carrier leaves their yard or staging area en route to the scene of the requested tow until the towed motor vehicle is unhooked;
  - (D) not bill more than the reasonable time necessary to perform the tow at hourly rates for one tow truck and driver, plus the towing carrier's actual and reasonable cost of recovery equipment and labor in excess of one tow truck and driver, plus an additional twenty-five percent of those actual and reasonable costs;
  - (E) provide an owner, authorized operator, or authorized agent of the owner of the motor vehicle documentation of actual and reasonable costs billed in excess of one hour for any tow truck and driver for such tow upon request; and
  - (F) not, under any circumstances, bill rates and charges provided in paragraph (b) for a PPI tow.
- (d) The maximum rates for a tow from a storage facility, when directed by a law enforcement officer who is performing an accident reconstruction or stolen vehicle investigation, are as follows:
  - (I) \$91.00 for one additional hookup;
  - (II) \$91.00 per hour waiting time; and
  - (III) mileage charges as provided in paragraph (b).
- (e) Storage for nonconsensual tows.
  - (I) Storage charges may accrue from the time a motor vehicle is placed in storage and shall not exceed the following rates based on a 24-hour period or any portion of a 24-hour period:
    - (A) \$30.00 for motor vehicles having a GVWR of less than 10,000 pounds;

- (B) \$37.00 for motor vehicles having a GVWR of 10,000 pounds or more; or
  - (C) in lieu of subparagraphs (A) and (B), and at the option of the towing carrier, storage may be charged according to the motor vehicle's length, including the tongue of a trailer, at \$1.50 per foot or portion thereof.
  - (D) For the purposes of this rule, the 24-hour time period commences when the motor vehicle enters the towing carrier's storage facility. The second day of storage, for the purposes of charges, shall not begin until 24 hours after the motor vehicle entered the towing carrier's storage facility.
- (II) Storage charges shall not be charged, collected, or retained for any time during which garage keeper's liability insurance coverage is not kept in force.
  - (III) Maximum storage charges for abandoned motor vehicles towed from private property. Storage charges after the tow and storage of an abandoned motor vehicle subject to Part 21 of Title 42, C.R.S., shall not be accumulated beyond 120 days after the mailing date of the report required by § 42-4-2103(4), C.R.S.
- (f) For a nonconsensual tow, the maximum additional charge for release of a motor vehicle from storage at any time other than the towing carrier's business hours is \$66.00.
  - (g) Noncompliance. If a tow is performed, or storage is provided, in violation of state statute or Commission rule, the towing carrier may not charge or retain any fees or charges for the services it performs. Any motor vehicle that is held in storage and that was towed without proper authorization may be released without charge to the persons authorized in paragraph 6512(a). Any money collected must be returned to the owner, authorized operator, or authorized agent of the owner of the motor vehicle.
  - (h) Abandoned motor vehicles.
    - (I) Notifications. The charges for notification(s) to the owner and the lien holder(s) of the motor vehicle held in storage shall be in accordance with §§ 42-4-1804 and 42-4-2103, C.R.S., and the rules of the Colorado Department of Revenue. For purposes of notification, any motor vehicle in possession of the towing carrier, including motor vehicles incidental to the tow (for example, loaded on a trailer when the trailer was towed) shall comply with the notification requirements of Parts 18 and 21 of Article 4 of Title 42, C.R.S., and § 42-5-109, C.R.S.
    - (II) Consequences of failure to notify. A towing carrier holding a motor vehicle in storage who cannot demonstrate that it has made a good faith effort, as set forth in §§ 42-4-1804 and 42-4-2103, C.R.S., to comply with the notification requirements of Parts 18 and 21 of Article 4 of Title 42, C.R.S., and § 42-5-109, C.R.S., shall not charge, collect, or retain any fees associated with the tow or storage of the motor vehicle.

- (III) Sale of an abandoned motor vehicle to cover the outstanding towing and storage charges must be done in accordance with the notice and procedural requirements of Parts 18 and 21 of Article 4 of Title 42, C.R.S., and § 42-5-109, C.R.S.
- (IV) Additional costs that may be charged when a stored motor vehicle is sold.
  - (A) When a stored motor vehicle is sold, a towing carrier may charge the costs of maintaining that motor vehicle while in storage in accordance with § 38-20-109, C.R.S.
  - (B) When a stored motor vehicle that does not come within the provisions of § 38-20-109, C.R.S., is sold, a towing carrier may charge the costs of maintaining that motor vehicle, up to a maximum of \$90.00.
  - (C) “Cost of maintaining a motor vehicle” means a documented cost that is incurred by the towing carrier and that keeps a motor vehicle in safe and operable condition.
  - (D) Certified VIN verification procedure. When an abandoned motor vehicle that is less than five model years old and that the Colorado Department of Revenue cannot find in its records must be sold, the maximum rates that may be charged for a certified VIN verification are as follows:
    - (i) rates as provided in paragraph (d); and
    - (ii) in addition, the towing carrier may charge for all other documented expenses of obtaining the VIN verification.
- (i) Trailers.
  - (I) No additional fees may be charged for the towing of a power unit and trailer in combination as a single motor vehicle.
  - (II) A vehicle in or on a trailer is considered in combination as a single unit.
  - (III) No additional fees may be charged for the towing of cargo in combination; however, additional fees may be charged for towing a trailer when reasonably and actually conducted as a separate tow from a power unit.

**6512. Release of Motor Vehicle and Personal Property.**

- (a) The towing carrier shall immediately accept payment of the drop charge, towing, storage, and release charges if payment is offered in cash or by valid major credit card. Accepted forms of payment may be annotated on the tow record/invoice so long as the required options are offered to the person to whom the motor vehicle is being released. The towing carrier may accept other forms of payment, but must accept payment by both MasterCard and Visa. A towing carrier shall not require “cash only” for a drop charge or to release a motor vehicle from its storage facility. The towing carrier shall release the motor vehicle to:

- (I) the motor vehicle owner, authorized operator, or authorized agent of the owner of the motor vehicle;
  - (II) the lienholder or agent of the lienholder of the motor vehicle; or
  - (III) the insurance company or agent of the insurance company providing coverage on the motor vehicle, if released to the insurance company by the owner.
- (b) A towing carrier that accepts for storage a motor vehicle that has been towed as a nonconsensual tow shall provide access to or release of the motor vehicle to the persons authorized for release of the motor vehicle in paragraph (a) of this rule either:
- (I) with one hour's notice during all times other than the towing carrier's business hours that occur within the first 24 hours of storage; or
  - (II) upon demand during the carrier's business hours.
- (c) Failure to notify. A towing carrier holding a motor vehicle in storage who cannot demonstrate that it has made a good faith effort, as set forth in §§ 42-4-1804 and 42-4-2103, C.R.S., to comply with the notification requirements of Parts 18 and 21 of Article 4 of Title 42, C.R.S., and § 42-5-109, C.R.S., shall release the motor vehicle at no charge to the persons authorized for release of the motor vehicle in paragraph (a) of this rule.
- (d) The towing carrier may charge up to the maximum rate for a nonconsensual tow established in paragraph 6511(b) for the removal of personal property that is not attached to or part of the equipment of the motor vehicle. The towing carrier shall release such personal property upon request from the owner, authorized operator, or authorized agent of the owner of the motor vehicle. This fee shall not be assessed for any of the items addressed under paragraphs 6512(g), (h), (i), and (j).
- (e) The towing carrier, at its discretion, need not comply with paragraphs (a) through (d) to release a motor vehicle or allow for removal of personal property if:
- (I) the towing carrier is reasonably certain that, at the time the motor vehicle is to be released from storage, the driver of the motor vehicle is not capable of safely driving the motor vehicle due to the influence of drugs or alcohol;
  - (II) the towing carrier that is to remove the motor vehicle from storage does not have a valid towing carrier permit;
  - (III) a hold order is in place on the motor vehicle by a court, district attorney, law enforcement agency, or law enforcement officer;
  - (IV) the release of the motor vehicle does not comply with the release procedures agreed to, in writing, between the towing carrier and the applicable law enforcement agency; or
  - (V) the towing carrier, upon notification for the release of or access to a motor vehicle at other than the carrier's business hours, has immediately contacted an appropriate law

enforcement agency and, in the interest of public order, has requested a law enforcement officer's presence during the release of the motor vehicle. This exception is applicable when the towing carrier has reason to believe that the person to whom the motor vehicle or personal property is to be released may disrupt the public order.

- (f) A towing carrier shall release a motor vehicle held in storage to a person presenting a current driver's license who attests to being the authorized operator of the motor vehicle and produces two of the following: keys to the motor vehicle; proof of insurance; vehicle registration; VIN; and knowledge of the location from where the motor vehicle was towed. Such attestation must be provided on the "Vehicle Release Form" available on the Commission's website.
- (g) Whether on the property where the tow originates or at the towing carrier's storage facility, a towing carrier shall not refuse to relinquish prescription medicines, medical equipment, medical devices, or any child restraint system. The towing carrier shall immediately relinquish such items to persons authorized for release of the motor vehicle in paragraph (a) of this rule, without requiring payment and without additional 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.
- (h) Whether on the property where the tow originates or at the towing carrier's storage facility, a towing carrier shall not refuse to relinquish credit cards and cash for immediate payment of the amount due to the towing carrier. The towing carrier shall immediately relinquish such items to persons authorized for release of the motor vehicle in paragraph (a) of this rule, without requiring payment and without additional 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.
- (i) Whether on the property where the tow originates or at the towing carrier's storage facility, a towing carrier shall not refuse to relinquish state or federal issued identification to the owner of the identification or to persons authorized for release of the motor vehicle in paragraph (a) of this rule. The towing carrier shall immediately relinquish such items, without requiring payment and without additional 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.
- (j) Whether on the property where the tow originates or at the towing carrier's storage facility, a towing carrier shall not refuse to relinquish a cellular telephone to persons authorized for release of the motor vehicle in paragraph (a) of this rule. The towing carrier shall immediately relinquish such item, without requiring payment and without additional 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.
- (k) A towing carrier shall not assess any additional fees or charges not specifically identified in these towing carrier rules.

**6513. Notice.**

- (a) A towing carrier may not perform a nonconsensual tow of a motor vehicle, other than an abandoned motor vehicle, from private property unless:

- (I) notice of the applicable parking limitations, regulations, restrictions, and prohibitions was provided to the motor vehicle operator at the time the motor vehicle entered the private property and parked; and
  - (II) notice that any motor vehicle parked in violation of the applicable parking limitations, regulations, restrictions, and prohibitions is subject to tow at the motor vehicle owner's expense was provided to the motor vehicle operator at the time the motor vehicle entered the private property and parked. The towing carrier must retain evidence that such notice was provided for three years from the date of completion of the tow and provide it to the Commission or an enforcement official upon request.
- (b) Abandoned motor vehicles. A towing carrier may not perform a nonconsensual tow of an abandoned motor vehicle from private property unless the motor vehicle was left unattended for a period of 24 hours or more and is presumed to be abandoned pursuant to § 42-4-2102(1), C.R.S.
- (c) The notice required in paragraph (a) is presumed to be met through signage if:
- (I) a permanent sign is conspicuously posted visibly at each point of entrance to the private property; and
  - (II) if the private property is not provided for residential parking and has more than ten free-standing lampposts on the property, a number of signs equal to the number of lampposts must be posted. Such signs must be posted on each lamppost or posted upright in conspicuous locations which are evenly distributed.
- (d) All signs posted to provide the notice required in paragraph (a) shall comply with any applicable municipal ordinance. To the extent consistent with applicable municipal ordinance, signs shall also, at a minimum:
- (I) be no less than one square foot in size;
  - (II) have lettering not less than one inch in height;
  - (III) have lettering that contrasts sharply in color with the background on which the letters are placed;
  - (IV) state "Authorized Parking Only";
  - (V) include the name and telephone number of the towing carrier authorized to perform tows from the private property;
  - (VI) be printed in English;
  - (VII) at the entrance to the private property, face outward toward the street and be visible prior to and upon entering the private property;
  - (VIII) inside the private property, face outward toward the parking area;

- (IX) not be obstructed or placed in such a manner that prevents visibility; and
- (X) not be placed higher than ten feet or lower than three feet from the surface closest to the sign's placement.

**6514. Towing Violations and Civil Penalty Assessments.**

- (a) A violation of any of the following provisions may result in the assessment of a civil penalty of up to \$1,100.00 for each violation:
  - (I) § 40-10.1-401(1)(a), C.R.S.;
  - (II) subparagraph (a)(I), (b)(I), (b)(II), and (b)(III) of rule 6508; or
  - (III) paragraph (g) of rule 6511.
- (b) A violation of paragraph (a), (b), (c), (d), (e), (f), (h), or (i) of rule 6511 may result in the assessment of a civil penalty as follows for each violation:
  - (I) up to \$275.00 for an overcharge \$25.00 or less;
  - (II) up to \$550.00 for an overcharge greater than \$25.00 but less than or equal to \$150.00; and
  - (III) up to \$1,100.00 for an overcharge greater than \$150.00.
- (c) A violation of any of the following provisions may result in the assessment of a civil penalty of up to \$550.00 for each violation:
  - (I) rule 6507;
  - (II) paragraph (c) of rule 6508;
  - (III) paragraph (a) of rule 6510;
  - (IV) paragraph (f) of rule 6512; or
  - (V) rule 6513.
- (d) A violation of rule 6506 may result in the assessment of a civil penalty of up to \$100.00 for each violation.
- (e) Except as provided in paragraph (a) through (d) of this rule, a violation of any provision of Title 40, § 42-3-235.5, C.R.S., pertaining to towing carriers, or any provision of rules 6500 through 6513, may result in the assessment of a civil penalty of up to \$275.00 for each violation.
- (f) Civil penalty assessments are in addition to any other penalties provided by law.

**6515. - 6599. [Reserved].**

Decision No. C20-0875

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

PROCEEDING NO. 19R-0709TO

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

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**ORDER DENYING MOTION TO ALLOW  
LATE FILED EXCEPTIONS**

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Mailed Date: December 9, 2020

Adopted Date: December 9, 2020

**I. BY THE COMMISSION**

**A. Statement, Findings, and Conclusions**

1. This matter comes before the Commission for consideration of a motion filed by Towing Recovery Professionals of Colorado (TRPC) on December 3, 2020, requesting leave to late file exceptions to Recommended Decision No. R20-0791, issued November 6, 2020, by Administrative Law Judge Robert I. Garvey (Recommended Decision).

2. Pursuant to § 40-6-109(2), C.R.S., and Rule 4 *Code of Colorado Regulations* (CCR) 723-1-1505(a) of the Commission's Rules of Practice and Procedure, any exceptions to the Recommended Decision were required to be filed within 20 days of issuance of the Recommended Decision, in this case, by November 30, 2020.<sup>1</sup>

3. In the motion, TRPC requests that it be allowed to late file exceptions due to what it describes as unusual circumstances. TRPC states it could not determine whether to file

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<sup>1</sup> Pursuant to rule 4 CCR 723-1-1203, because the 20-day deadline expired on November 26, 2020, a legal holiday, and the next day was a statewide furlough day on which the Public Utilities Commission was lawfully closed, the day for performance was continued until the next business day, in this case, November 30, 2020.

exceptions until the due date. TRPC states its counsel became faced with a conflict on the due date, when he learned a current client that is representing itself in this proceeding, although a member of TRPC, preferred not to file exceptions, while TRPC almost assuredly did want to file exceptions. TRPC states it makes sense to allow the towing industry to continue to address issues before the Commission because this rulemaking has in essence been a continuing conversation between the Commission, industry, and other stakeholders, the rulemaking has been continuing for some time, and new rates will not go into effect until after the new year, in any event.

4. We will deny the motion. Although § 40-6-109(2), C.R.S., and Rule 4 CCR 723-1-1505(a) allow for the Commission to extend the time period in which to file exceptions, any request for extension necessarily must be made within the original 20-day time period. After the 20-day period expires, unless the Commission has acted during that time to extend the time to file exceptions, the recommended decision becomes a decision of the Commission by operation of law and rule.<sup>2</sup> TRPC's motion to late file exceptions to the Recommended Decision is therefore denied because it was filed after the due date for exceptions and thus after the Recommended Decision had become a decision of the Commission.

## II. ORDER

### A. The Commission Orders That:

1. The motion filed by Towing Recovery Professionals of Colorado on December 3, 2020, requesting leave to late file exceptions to Recommended Decision No. R20-0791, issued

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<sup>2</sup> See § 40-6-109(2), C.R.S. ("if no exceptions are filed within twenty days after service upon the parties, or within such extended period of time as the commission may authorize in writing ... such recommended decision shall become the decision of the Commission and subject to the provisions of section 40-6-115"); 4 CCR 723-1-1505(a) ("a recommended decision becomes the Commission's decision unless, within 20 days or such additional time as the Commission may allow, any party files exceptions to the recommended decision").

November 6, 2020, by Administrative Law Judge Robert I. Garvey, is denied. Any remaining response time to the motion is waived.

2. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
December 9, 2020.**

( S E A L )



ATTEST: A TRUE COPY

Doug Dean,  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

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JOHN C. GAVAN

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MEGAN GILMAN

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Commissioners