

Towing Task Force Meeting Agenda Items
January 11th, 2023
2:00pm – 4:00pm

1. Roll Call
2. Discussion of Priorities and Requirements for 2023
3. Public comment time

Attachments:

Towing Task Force Meeting Agenda Items January 11, 2023, 2:00pm - 4:00pm

Meeting opened at 2:05 pm

Members present:

- Chiriboga-Flor, Andrea (rep for communities disproportionately affected by nonconsensual tows)
- Connolly, John (rep for a towing association with experience in consensual towing)
- Forbes, Trevor (rep for nonconsensual towing carriers)
- Hahn, John (appointed by Chief of Colorado State Patrol)
- Howes, James (rep for insurance companies that insure towing operations)
- Lawless, Nichole (rep for communities disproportionately affected by nonconsensual tows)
- Peirce, Michael (rep for mobile home owners)
- Rich, Charles (Brandon) (rep for consumers of tow services, private property owners)
- Riester, Jefferey (appointed by Attorney General, experience enforcing Consumer Protection Act)
- Riley, Nathan (rep for Public Utilities Commission)

Members not present:

- Bailey, Nicole (rep for common interest communities)
- Hill, Robert (Troy) (rep for an association of motor carriers as consumers of towing services)
- Prunsky, Gregory (rep for local law enforcement agencies)
- Ruscha, JoyAnn (rep for people with disabilities)

Also present:

Roberts, John (Attorney General)

Abdirahman, Hadija (PUC Staff)

Minutes not available for approval.

- Nate Riley discussed administrative items such as the annual training. A legal portion of the training will be handled by John Roberts in the second half. The first part will be handled by Nate Riley, who will provide a brief overview of the department, PUC, and TTF. The annual training is a law that requires members to do it annually.
- Nate Riley will also check with the department to see whether the compliance affidavit needs to be completed annually. If it is a requirement an email will be sent to all TTF members who have attend the meeting to re-sign the affidavit.
- Trevor Forbes mentioned that Nichole Lawless will be sending the members the minutes from October and December. **Approval of the minutes will be pushed to next month's meeting on February 8th.**

Training:

1. Nate Riley covered training topics the PUC/DORA and the Towing Task Force, including their duties and powers.

- Comment - Michael Peirce suggest if he could access information about the rulemaking hearing once it was scheduled.

Response - Nate Riley will notify all TTF members when the rulemaking has been filed.

2. Attorney General's Office -John Roberts covered the last section for the annual training of the Colorado open meetings law, best practices for running meetings, *ex parte* communication, conflicts of interest, and Colorado open records act (CORA).
 - Comment - Trevor Forbes commented on the PUC's rulemaking process. As stated in the statute, the commission shall consult with the towing task force for rulemaking regarding the rate setting. As this rulemaking does not directly affect rate settings, it indirectly reduces revenue and rates. The PUC is unlikely to consult TTF on it. Therefore, the task force shouldn't participate in the rulemaking, unless the commission specifically asks for inputs.

Response - Trevor Forbes comment/note is correct, according to John Roberts.

Questions:

Michael Peirce's asks the following questions:

- Is wondering where the legal source of requirement for *ex parte* advice comes from? Is it based on statute or legal advice? Michael Peirce was unclear about the extent to which members could have conversations with the constituents who they normally supposed to represent.
- Example: Trevor Forbes, and John Connolly having conversations with other tow owners as well as listening to their concerns etc.
- A second example could be Michael Peirce listening to manufacturing homeowners express their concerns. In their representatives' capacities', they could bring up this issue in the Towing Task Force discussions.
- According to Michael Peirce, it is restricted and forbidden because it was said in last year's annual training. It was suggested that all tow owners could hold a meeting where members of TTF could attend. This was a classic example of *ex parte*, which surprised Michael Peirce.

Response - John Roberts notes that the restriction on *ex parte* communication really depends on what the substance of the conversation is. If it is related to specific issues or matters that the TTF is handling. Obtaining information from constituents and distributing it to TTF members on behalf of constituents violates *ex parte* communication.

Question #2

- 1) Conflicts of interest: Michael Peirce believes that most members of the board are in violation of a conflict of interest based on the definition.

Response - John Roberts notes because the statute specifically created this board, it's understood that the general assembly understood that there was a potential for conflict

of interest. Members of boards and commissions as well as task forces are also expected to act in good faith when they are working for or within the state government. This is because they are supposed to look out for consumers.

Goals - Agenda Items for 2023:

Michael Peirce

- Thinking through the rate recommendation. To do a comprehensive analysis of the relationship between Public Utilities rates and market rates. One helpful starting point is in last year's towing report where John Connolly provided an analysis between the two as a task force.
- Work list - It would be more beneficial for TTF this year to research towing rates in other states instead of focusing exclusively on Utah's towing rates. The reason for this is that their rates are much lower than Utah's, which allows TTF to get a meaningful comparison of Colorado's.

Trevor Forbes

- Achievable goal could be to analyze the CPI print for the ability to adjust rates to determine if there is an alternative metric available.

Nate Riley commented - hoping to see members get involved with the TTF heavily going forward. Back in October's meeting, everyone had the interest to move and work as well as analyze issues. Maybe this year will be a bit better since there will be no statutory deadline to meet for any additional reports.

Discussion - Brain Exercise:

- Through a brain exercise dissecting complex industries, John Connolly proposes that the towing industry could be regulated as "free." By recommending a free non-consensual tow. If the service is free to the consumer, it does not need to be regulated.
- Michael Peirce states that towing owners must receive payment somehow to perform non-consensual towing.
- Nate Riley also questions what deterrent effect there is if they aren't paying for anything. Is there an incentive to follow parking policies?
- According to Brandon Rich, there is no built-in incentive for property owners to tow.

No public attendance, also no public comment.

Next meeting will be held February 8th, meeting adjourned 3:55pm.