

COLORADO HIGH PERFORMANCE TRANSPORTATION ENTERPRISE TOLL COLLECTION, EVASION AND ADMINISTRATIVE ADJUDICATION POLICY

This policy is promulgated by the Board of Directors (“Board”) of the Colorado High Performance Enterprise (“HPTE”), a division of the Department of Transportation of the State of Colorado, to supplement the HPTE Rules Governing the Administrative Toll Enforcement Process, 2 CCR 606-1 (“Toll Enforcement Rules”) and pursuant to § 43-4-808, et seq., C.R.S. (“Tolling Law”) in connection with the use of all HPTE toll lanes including, but not limited to, the I-25 HOT Lanes (collectively, the “Toll Lanes”). It is the intention of the HPTE to align this policy with the Toll Enforcement Rules, effective April 14, 2013. Any capitalized term not specifically defined herein shall have the same meaning as any term defined in the Toll Enforcement Rules.

Section 1.0 – Delegation and Instruction to E-470 Public Highway Authority (“Authority”)

The Board has delegated and instructed the HPTE Director to contract with the Authority to establish, organize and operate an administrative adjudication system for the determination of alleged toll evasion on Toll Lanes, which system shall be consistent with constitutional protections of due process, the State Administrative Procedure Act, § 24-4-205, C.R.S. (“APA”), the Tolling Law, Toll Enforcement Rules and such policies and actions as may be adopted by the Board.

1.1 – Administrative Hearing Officers

Administrative Hearing Officers shall be attorneys at law admitted to the practice of law in good standing in the courts of the State of Colorado and shall not be employees of the Authority. The arrangements and contracts therefore shall state that the Authority has granted to the hearing officers the same degree of independence as is granted by the State to its administrative law judges and, to the extent that grant of independence by the State is stated in writing, that same express grant shall be made part of the Authority arrangements and contracts.

1.2 – Hearing Facilities

The Authority, on behalf of the HPTE, shall establish and maintain hearing facilities, in the nature of a courtroom or courtrooms, for the conduct of toll enforcement hearings. The facilities shall be located in the Denver Standard Metropolitan Statistical Area and may be facilities of other public entities or of the Authority.

Section 2.0 – Civil Penalties

The Board has established and, from time to time, may change tolls to be paid for use of Toll Lanes by any motor vehicle. The HPTE, with Board approval, has contracted with the Authority to manage customer account establishment, billing functions and Toll Evasion processing using

the Authority's Toll Collection System, including EXpressToll. The Board has properly published notice of a public meeting during which it has discussed a Toll Evasion Civil Penalty structure. In accordance with the Toll Enforcement Rules, the Board desires to adopt the following Civil Penalty structure.

2.1 – Civil Penalty Structure

“Civil Penalty” shall have the same meaning as set forth in the Toll Enforcement Rules. The Board hereby establishes a Civil Penalty in the amount of twenty-five dollars (\$25.00) for each Toll Evasion. Additionally, the Board hereby establishes a Civil Penalty in the amount of ten dollars (\$10.00) for each person who has failed to pay the full amount of the first Toll Statement within the time specified therein (which amount shall be assessed once per Toll Evasion cycle, not per toll). The Authority, in its discretion, may charge an amount less than ten dollars (\$10.00) for each person who has failed to pay the full amount of the first Toll Statement within the time specified therein (which amount shall be assessed once per Toll Evasion cycle, not per toll). The Board also hereby establishes a Civil Penalty of twenty dollars (\$20.00) for each person who has failed to pay in the full amount of a subsequent Toll Statement within the time specified therein and has been referred to a collection agency (which amount shall be assessed once per Toll Evasion cycle, not per toll). The Board authorizes and directs its Director to contract with the Authority to make and process such Civil Penalties, through its administrative adjudication process, and assess the Civil Penalties as approved, and which, from time to time, may be changed by the Board; provided, however, that the Director, in the interest of efficiency in billing and collection and the programs thereof, may systematically waive the assessment of such Civil Penalties. All Civil Penalties exclude an adjudication fee in the amount of twenty dollars (\$20.00) assessed by the Administrative Hearing Officer for costs arising from an adjudication to each person who has been found liable for an unpaid toll and/or Civil Penalty or who has failed to appear at a hearing on liability for an unpaid toll or Civil Penalty (“Adjudication Fee”) (which Adjudication Fee is assessed per hearing officer’s final order, not per toll).

Section 3.0 – Conduct of Adjudication Proceeding Hearing

The following is intended to clarify and supplement the Toll Enforcement Rules outlining the conduct of an adjudication proceeding hearing and shall apply to all such hearings:

3.1 – A Hearing Officer shall render a decision based upon the evidence presented at the hearing. The Hearing Officer may exclude evidence which is irrelevant, immaterial or repetitious and may admit evidence commonly relied upon by reasonably prudent persons in the conduct of their affairs. Evidence shall be under oath and may be oral, written or recorded by electronic means.

3.2 – Neither party must, but either party may, be represented by an attorney. The HPTE may be represented by an employee or the employee of a toll collection contractor. A Respondent may represent himself, herself or itself or be represented by a duly authorized

agent. Either party may proceed on oral, written or recorded evidence tendered to the Hearing Officer without a representative present.

3.3 – Each party may make opening and closing statements, call, examine and cross-examine witnesses and evidence and otherwise offer evidence. The Hearing Officer may examine witnesses.

3.4 – Statements, including admissions, made during settlement discussions shall not be admitted into evidence.

3.5 – Written stipulations of the parties shall be submitted at the commencement of a hearing and shall become part of the record of the proceeding.

3.6 – Objections to offers of evidence shall be noted in the record, as shall rulings thereon.

3.7 – Each party shall have written discovery of documents the other party intends to introduce and of the identity of witnesses the other party intends to call at hearing.

Section 4.0 – Effective date

This HPTE policy shall be effective as of April 14, 2013 and all prior versions hereof shall be rendered null and void and replaced by this policy.