

Decision No. R23-0288-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23G-0034TO

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

SUE STEINBERGER, DOING BUSINESS AS GARY’S COLLISION & ALIGNMENT INC.,

RESPONDENT.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
ALENKA HAN
SETTING EVIDENTIARY HEARING**

Mailed Date: May 2, 2023

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I. STATEMENT

A. Summary

1. This decision sets a hybrid evidentiary hearing addressing the issues raised in this Proceeding before the undersigned Administrative Law Judge (ALJ) for Thursday, June 22, 2023.

B. Procedural Background

2. On January 13, 2023, the Public Utilities Commission (PUC or Commission) issued Civil Penalty Assessment Notice (CPAN) No. 133264 against Sue Steinberger, doing business as Gary's Collision and Alignment Inc. (Gary's Collision or Respondent). The CPAN asserted eight violations of Commission rules allegedly committed by Respondent on September 6, 2022, and assessed a total penalty amount of \$2,846.25.

3. CPAN No. 133264 asserted that Respondent had violated Rules 6509 and 6511 of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-6 by failing to include certain required information in a tow record/invoice, including omission of the following information:

- Date and time indicating when the tow was completed, when the vehicle was placed in storage, or when the vehicle was released;
- Tow truck driver's signature;
- Unit number and license plate number of the tow truck;
- Mandatory notice language on customer's copy advising customer to report problems to the PUC;
- The time of dispatch, time of tow truck's departure to scene, time of arrival at scene, time of departure from scene, and the time the towed vehicle was unhooked from the tow truck, as required of billed tows exceeded one hour; and,
- Mandatory language advising that documentation of costs billed in excess of one hour are available upon request.

In addition, the CPAN asserted that Respondent had violated Rule 6511(c)(IV)(D), 4 CCR 723-6, by assessing an improper fee for a law-enforcement-ordered tow.

4. United States Postal Service (USPS) tracking information indicates that a copy of the CPAN was delivered to Respondent's last known address and left with an individual, but the CPAN is not signed by Respondent.

5. The Commission designated CPAN No. 133264 as Proceeding No. 23G-0034TO.

6. Commission Staff entered its appearance and filed its Notice of Intervention as of Right in Proceeding No. 23G-0034TO on February 17, 2023.

II. HEARING SCHEDULE

A. Hearing Setting

7. To facilitate the efficient litigation of this Proceeding, the undersigned will schedule a hybrid hearing. The Parties (Respondent and Staff) may request a different hearing format, if desired.

8. The ALJ notes that the Commission can conduct in-person, remote, or hybrid hearings. A remote hearing is one in which all of the participants appear and participate from remote locations over the Zoom web conferencing platform. A hybrid hearing involves the ALJ and at least one party and/or witness participating from one of the Commission's hearing rooms in Denver, and the remaining party(ies) and witness(es) participating from one or more remote locations using the Zoom web conferencing platform. An in-person hearing is one in which the ALJ and all parties and witnesses participate in the hearing at the same location.

9. If the Parties prefer a fully remote hearing or a fully in-person hearing, a motion to amend the hearing location and format may be filed.

10. The Parties are further advised and are on notice that this proceeding is governed by the Rules of Practice and Procedure found at 4 CCR 723-1. The ALJ expects the Parties to be familiar with and to comply with these rules. The rules are available on the Commission's website (<http://www.dora.colorado.gov/puc>).

11. The Parties are also on notice that failure to appear at the scheduled evidentiary hearing may result in decisions adverse to their interests, including the assessment of penalties against Respondents.

B. Informal Video-Conference Practice Session

12. The ALJ will hold an informal practice video-conference session if requested by any Party to give the Parties an additional opportunity to practice using Zoom and box.com before the hearing.

13. The Parties may contact the Commission Legal Assistant by email at casey.federico@state.co.us or stephanie.kunkel@state.co.us to schedule an informal practice video-conference session.

14. The Parties will receive information and a link to participate in the informal practice session by email.

III. ORDER

A. It Is Ordered That:

1. A **hybrid** hearing is scheduled as follows:

DATE: June 22, 2023
TIME: 9:00 a.m.
LOCATION: Commission Hearing Room
1560 Broadway, Suite 250
Denver, Colorado 80202

METHOD: In-person and by videoconference using Zoom at the link to be provided to counsel and the parties via email prior to the hearing.

Optionally, any party may participate remotely by joining a video conference using Zoom at the link provided to the established parties in an e-mail prior to the scheduled hearing, as addressed above.¹

2. The parties and witnesses may not distribute the Zoom link and access code to anyone not participating in the remote hearing.

3. **Video-Conference Participation.** Counsel for the parties, parties, and witnesses may attend in person or participate in the evidentiary hearing by videoconference using the Zoom platform.

4. **Instructions for Remote Hearings Via Zoom:** Detailed instructions governing participation in and procedures for remote hearings conducted via Zoom are set out in Attachment A to this order, which is incorporated into and made part of this order.

5. **Evidence Presentation at the Evidentiary Hearing.** Because the hearing may accommodate remote participation by videoconference, all evidence must be presented electronically. Each party is responsible for ensuring that they and their respective witnesses: (a) have access to all pre-filed exhibits; and (b) can download and view documents available from box.com during the hearing.

¹ Instructions for using the Zoom videoconferencing platform are provided in Attachment A to this Decision.

6. **Instructions for Preparation and Presentation of Exhibits at Hearing:** In addition to other requirements of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1 (e.g., Rule 1202 regarding pre-filed testimony), detailed additional instructions governing the preparation and presentation of exhibits at the hearing are set out in Attachment B to this order, which is incorporated into and made part of this order.

7. **The ALJ will hold an informal Zoom practice session upon request.**

8. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ALENKA HAN

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Rebecca E. White".

Rebecca E. White,
Director