

Decision No. R23-0377-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23G-0034TO

Civil Penalty Assessment Notice: 133264-CPAN

PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO,

COMPLAINANT,

V.

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

RESPONDENT.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
ALENKA HAN
ESTABLISHING PROCEDURAL SCHEDULE AND
VACATING AND RESETTING EVIDENTIARY HEARING**

Mailed Date: June 6, 2023

I. STATEMENT

A. Summary

1. This decision vacates the hybrid evidentiary hearing scheduled for Thursday, June 22, 2023, before the undersigned Administrative Law Judge (ALJ), and resets it for Friday, July 14, 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 exceeding 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. On March 1, 2023, the Commission referred the Proceeding to an ALJ by minute order for disposition. Thereafter, the Proceeding was assigned to the undersigned ALJ.

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

7. On May 1, 2023, the ALJ issued Interim Decision No. R23-0288-I establishing a hearing schedule and setting this Proceeding for a hybrid evidentiary hearing to be held on Thursday, June 22, 2023.

8. Due to a clerical error, Decision No. R23-0288-I may not have been served on Respondent. Therefore, the evidentiary hearing in this matter will be vacated and rescheduled as ordered below.

9. Each party is specifically reminded that all filings with the Commission must also be served upon all other parties in accordance with Rule 1205 of the Rules of Practice and Procedure, 4 CCR 723-1.

II. HEARING SCHEDULE

A. Hearing Setting and Procedures

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

11. 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.

12. 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.

13. Parties, witnesses, and counsel attending the scheduled hybrid evidentiary hearing in this Proceeding may appear in person or remotely. Attachment A to this Decision provides information about the Zoom platform and how to use Zoom to participate in the hearing remotely. To minimize the potential that the remote hearing may be disrupted by non-participants, the link and meeting ID, or access code, to attend the hearing will be provided to the parties by email approximately one week before the hearing, and the parties and witnesses will be prohibited from distributing that information to anyone not participating in the hearing.

14. At the hearing, the parties may call witnesses, present evidence, and make arguments in support of their position. Evidence includes documentary exhibits, testimony, and other tangible items that a party wishes the ALJ to consider in reaching a decision as to the allegations in this case. Given that the hearing will accommodate remote participation by video-conference, exhibits must be presented electronically.

15. The Public Utilities Commission Administrative Hearings Section uses box.com to receive and manage exhibits that are first presented at remote hearings.¹ As such, it is essential that the parties ensure they can access and use box.com before the hearing. The ALJ is entering orders to facilitate using box.com to manage exhibits during the hearing. To this end, the parties

¹ Box.com is a web-based document sharing service. When exhibits are first presented during the hearing, the Commission will receive them electronically from each party's box.com folder for display.

will be provided box.com links and instructions to: (a) upload documents and exhibits for use during the hearing; and (b) download documents and exhibits once they are presented during the hearing.

16. Each party must: (a) pre-mark all hearing exhibits with a hearing exhibit number within their assigned number block before uploading the exhibits to the party's designated box.com folder; (b) sequentially page-number each page of exhibits longer than two pages, with the first page numbered as page 1, regardless of content before uploading the exhibits to the party's designated box.com folder; and (c) upload all pre-marked exhibits into each party's respective designated box.com folder prior to presenting them during the hearing.

17. Attachment B outlines procedures and requirements for marking and formatting exhibits aimed at facilitating efficient and smooth electronic evidence presentations at the remote hearing. It is *very important* that the parties carefully review and follow all requirements in this Decision and Attachments A and B.

18. Additional procedural requirements may be issued in future Interim Decisions.

19. 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>).

20. 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 Respondent.

B. Informal Video-Conference Practice Session

21. 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.

22. 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.

23. 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. The hearing scheduled for June 22, 2023, at 9:00 a.m. is vacated.
2. A **hybrid** evidentiary hearing is scheduled as follows:

Date: **July 14, 2023**

Time: **9:00 a.m.**

Location: Commission Hearing Room
1560 Broadway, Suite 250
Denver, Colorado

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.²

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

4. **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.

5. **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.

6. **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.

7. **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.

² Instructions for using the Zoom videoconferencing platform are provided in Attachment A to this Decision.

- **Commission Staff is assigned exhibit numbers 100-199** and should number its exhibits accordingly.
 - **Respondent, Sue Steinberger, doing business as Gary's Collision and Alignment Inc. is assigned exhibit numbers 200-299** and should number its exhibits accordingly.
8. **The ALJ will hold an informal Zoom practice session upon request.**
9. 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

Rebecca E. White,
Director