

Decision No. R24-0732-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24F-0365TO

ANTHONY SMITH,

COMPLAINANT,

V.

TOWING HOLDINGS, LLC DOING BUSINESS AS WYATT’S TOWING,

RESPONDENT.

**INTERIM DECISION
CONSTRUING FILING AS MOTION REQUESTING THE
HOLDING OF A PREHEARING CONFERENCE, WAIVING
RESPONSE TIME TO CONSTRUED MOTION, GRANTING
MOTION REQUESTING THE HOLDING OF A
PREHEARING CONFERENCE, SCHEDULING A
PREHEARING CONFERENCE, AND
ESTABLISHING PROCEDURES**

Issued Date: October 11, 2024

I. STATEMENT

A. Procedural History

1. This proceeding concerns the formal complaint filed by Anthony Smith (“Mr. Smith” or “Complainant”) on August 28, 2024, against Towing Holdings, LLC, doing business as Wyatt’s Towing (“Wyatt’s Towing” or “Respondent”).

2. On September 4, 2024, the Commission issued its Order Setting Hearing and Notice of Hearing (“Notice”), setting this matter for hearing on November 14, 2024, before an Administrative Law Judge (“ALJ”). The Notice also stated that the ALJ would establish the place and manner in which the hearing would be held.

3. On September 11, 2024, the Commission referred this proceeding to an ALJ by minute entry.

4. By Decision No. R24-0704-I, issued September 27, 2024, the ALJ provided the parties an opportunity to file a statement addressing their preference for a remote, hybrid, or in-person hearing.

5. On October 4, 2024, Respondent filed its Notice of Hearing Preference and Request for Status Conference (“Notice of Hearing Preference”). In the Notice of Hearing Preference, Respondent stated that it preferred an in-person hearing at the offices of the Commission and requested that a status conference be held to discuss the discovery protocol in this Proceeding.¹

B. Evidentiary Hearing

6. Given Respondent’s preference, as noted in the Notice of Hearing Preference, and the flexibility afforded to the parties by holding the evidentiary hearing in a hybrid format, the hearing that has been scheduled for November 14, 2024 by the Order Setting Hearing and Notice of Hearing filed September 4, 2024 will be held in hybrid format, as ordered below. A hybrid hearing involves the ALJ and at least one party and/or witness participating from a hearing room at the Commission in Denver, and the remaining party(ies) and witness(es) participating from one or more remote locations using the Zoom web conferencing platform.

¹ Notice at p. 1.

7. At the hybrid 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.

8. Attachment A to this Decision provides the information addressing how to use the Zoom platform for remotely participating in the hybrid hearing. Attachment B outlines procedures and requirements for marking and formatting exhibits to facilitate the efficient and smooth electronic evidence presentations at the hybrid hearing. It is extremely important that the parties carefully review and follow all requirements in this Decision and Attachments A and B.

9. To minimize the potential that the video-conference part of the hearing may be disrupted by non-participants, the link, meeting ID code, and passcode to attend the hearing will be provided to the participants by email before the hearing, and the participants will be prohibited from distributing that information to anyone not participating in the hearing.

C. Motion Requesting the holding of a Prehearing Conference

10. Given Respondent's request to hold a status conference regarding the discovery protocol in this Proceeding, the Notice of Hearing Preference is construed as Respondent's motion requesting the holding a prehearing conference to address discovery matters (hereinafter "Motion").

11. The ALJ finds and concludes that the no harm will come to the Complainant as a result of the granting of the Motion. Therefore, response time to the Motion will be waived, *sua sponte*, as ordered below.

12. The Motion states good cause for the request to hold a status conference regarding the discovery protocol in this Proceeding. Therefore, the ALJ will grant the Motion as ordered below.

13. Based on the foregoing, and pursuant to Rule 1409, *Code of Colorado Regulations* (“CCR”) 723-1, a remote prehearing conference will be held on October 21, 2024 at 2:00 p.m., as ordered below.

14. The remote prehearing conference will be conducted over the Zoom videoconferencing platform. The ALJ or a member of Commission Staff will email the log-in information to the parties in advance of the hearing.

15. All parties should appear at the remote prehearing conference. The parties are on notice that failure to attend or to participate in the remote prehearing conference may be deemed a waiver of any objection to any rulings made, or the procedures established during, or as a result of, the remote prehearing conference.

D. Discovery

16. Except as may be modified by future interim decisions in this proceeding, Rule 1405, 4 CCR 723-1 shall govern the discovery procedures in this Proceeding.

E. Additional Advisements

17. The parties are advised and are on notice that this proceeding is governed by the Rules of Practice and Procedure found at 4 *Code of Colorado Regulations* 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> and in hard copy from the Commission.

18. The parties are on notice that the ALJ will retain the discretion to change the method by which the hearing will be conducted (*i.e.*, from hybrid to remote or in-person).

II. ORDER

A. It Is Ordered That:

1. The evidentiary hearing is scheduled in hybrid format as follows:

DATE: November 14, 2024

TIME: 9:00 a.m.

WEBCAST: Hearing Room B

PLACE: In-person: Commission Hearing Room A, Suite 250, 1560 Broadway, Denver, Colorado

By video conference using Zoom at the link to be provided in an email from the Administrative Law Judge or Staff of the Colorado Public Utilities Commission²

2. The Notice of Hearing Preference and Request for Status Conference (“Motion”) is construed as a motion requesting the holding a prehearing conference to address discovery matters.

3. Based on the foregoing, response time to the Motion is waived *sua sponte*.

4. Consistent with the Discussion above, the Motion is granted.

5. A remote prehearing conference in this Proceeding is scheduled as follows:

DATE: October 21, 2024

TIME: 2:00 p.m.

WEBCAST: Hearing Room A

METHOD: Join by video conference using Zoom at the link to be provided in an email from the Administrative Law Judge or Staff of the Colorado Public Utilities Commission³

² Additional information about the Zoom platform and how to use the platform are available at: <https://zoom.us/>. All are strongly encouraged to participate in a test meeting prior to the scheduled hearing. See <https://zoom.us/test>.

³ See Footnote 2, above.

6. All participants must comply with the requirements in Attachments A and B to this Decision, which is incorporated into this Decision.
7. This Decision is effective immediately.

(S E A L)



ATTEST: A TRUE COPY

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

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

AVIV SEGEV

Administrative Law Judge