

Decision No. R14-1171-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14G-0552TO

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,
V.

WILLIAM WEIHTROUCH, DOING BUSINESS AS DENVERPARKING.COM,
RESPONDENT.

PROCEEDING NO. 14G-0739TO

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,
V.

WILLIAM WEIHTROUCH, DOING BUSINESS AS DENVERPARKING.COM,
RESPONDENT.

PROCEEDING NO. 14G-0744TO

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,
V.

WILLIAM WEIHTROUCH, DOING BUSINESS AS DENVERPARKING.COM,
RESPONDENT.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
ROBERT I. GARVEY
GRANTING MOTION TO AMEND
CIVIL PENALTY ASSESSMENT NOTICE
NO. 108765 AND RESCHEDULING HEARING**

Mailed Date: September 22, 2014

I. STATEMENT

1. On May 27, 2014, the Colorado Public Utilities Commission (Commission) served, Civil Penalty Assessment Notice or Notice of Complaint No. 108765 (CPAN) on William Weihrouch. The CPAN commenced this Proceeding.

2. The CPAN states that Mr. Weihrouch, doing business as denverparking.com, holds PUC Authority No. T-03312. The CPAN names Mr. Weihrouch, doing business as denverparking.com (Weihrouch or Respondent), as the Respondent.

3. On June 18, 2014, counsel for Trial Staff of the Commission (Staff) entered their appearance in this Proceeding. In that filing and pursuant to Rule 4 *Code of Colorado Regulations* (CCR) 723-1-1007(a) of the Commission's Rules of Practice and Procedure, Staff counsel identified the trial Staff and the advisory Staff in this Proceeding.

4. On June 18, 2014, by Minute Order, Proceeding No. 14G-0552TO was referred to an administrative law judge (ALJ) by minute entry of the Commission.

5. By Interim Decision No. R14-0790-I, issued on July 9, 2014, a procedural schedule was adopted and an evidentiary hearing was scheduled for September 10, 2014 in Proceeding No. 14G-0552TO .

6. On July 16, 2014, Staff filed their Motion to Stay Deadlines Pending the Filing of Motion to Consolidate.

7. By Interim Decision No. R14-0843-I, issued on July 17, 2014, the Motion to Stay Deadlines Pending the Filing of Motion to Consolidate was granted.

8. On July 24, 2014, Staff filed their Motion to Consolidate Proceeding No. 14G-0552TO with Proceeding Nos. 14G-0739TO and 14G-0744TO and to Waive Response Time (Motion to Consolidate).

9. On July 24, 2014 counsel for Trial Staff of the Commission (Staff) entered their appearance in Proceeding Nos. 14G-0739TO and 14G-0744TO. Staff also filed the identical Motion to Consolidate Proceeding No. 14G-0552TO with Proceeding Nos. 14G-0739TO and 14G-0744TO and to Waive Response Time in these proceedings as was filed in Proceeding No. 14G-0552TO.

10. On July 25, 2014, ALJ Jennings-Fader issued Interim Decision No. R14-0891-I, in which she denied the Motion to Waive Response Time and allowed Mr. Weihrouch until August 15, 2014 to file a written response to the Motion to Consolidate.

11. On July 30, 2014, by Minute Order, Proceeding Nos. 14G-0739TO and 14G-0744TO were referred to an ALJ by minute entry of the Colorado Public Utilities Commission.

12. By Interim Decision No. R14-1002-I, issued on August 20, 2014, Proceeding Nos. 14G-0739TO and 14G-0744TO were consolidated with Proceeding No. 14G-0552TO and an evidentiary hearing was scheduled for October 16, 2014.

II. MOTION TO AMEND

13. On August 28, 2014, Staff filed its Motion to Amend Civil Penalty Assessment Notice No. 108765 (Motion). As grounds, Staff states that after serving the CPAN an errata was

discovered in the CPAN. Staff requests to amend the date of alleged violation 2 to state December 14, 2013 instead of December 12, 2013.

14. Under § 40-7-116(2) C.R.S.:

A civil penalty assessment notice shall not be considered defective so as to provide cause for dismissal solely because of a defect in the content of such civil penalty assessment notice. Any defect in the content of a civil penalty assessment notice . . . may be cured by a motion to amend the same filed with the commission prior to hearing on the merits. No such amendment shall be permitted if substantial rights of the person cited are prejudiced.

15. Response to the Motion was due on September 11, 2014. As of the date of this Decision, the Respondent has failed to file a response to the Motion.

16. Respondent's failure to so respond will be deemed a confession of the Motion to Amend. Rule 1400 of the Rules of Practice and Procedure, 4 CCR 723-1.

17. Good cause is found to grant the Motion.

III. EVIDENTIARY HEARING

18. Due to unforeseen circumstances, the undersigned ALJ will be unavailable for the evidentiary hearing scheduled for October 16, 2014.

19. The undersigned ALJ shall *sua sponte* reschedule the evidentiary hearing for November 13, 2014.

IV. ORDER

A. It Is Ordered That:

1. The Motion to Amend Civil Penalty Assessment Notice (CPAN) No. 108765 filed by the Staff of the Public Utilities Commission on August 28, 2014 is granted.

2. The alleged violation date of the second violation listed on CPAN No. 108765 is amended to read December 14, 2013.

3. The evidentiary hearing in this consolidated matter scheduled for October 16, 2014 is vacated.

4. The evidentiary hearing in this consolidated matter shall be rescheduled to be held on the following date, at the following time, and in the following location:

DATE: November 13, 2014
TIME: 9:00 a.m.
PLACE: Commission Hearing Room
1560 Broadway, Suite 250
Denver, Colorado

5. This Interim Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT I. GARVEY

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director