

Decision No. R23-0436-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23G-0227TO

Civil Penalty Assessment Notice: 134998-CPAN

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

MELVIN TOLIVER, RAPID RESPONSE TOWING AND TRANSPORT, INC., DBA
FINAL NOTICE TOWING AND RECOVERY,

RESPONDENT.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
ALENKA HAN
PROVIDING OPPORTUNITY FOR PARTIES TO FILE
A STATEMENT ADDRESSING THEIR PREFERENCE FOR
A REMOTE, HYBRID, OR IN-PERSON HEARING**

Mailed Date: July 10, 2023

I. STATEMENT

A. Procedural history

1. On April 13, 2023, the Colorado Public Utilities Commission (Commission) filed Civil Penalty Assessment or Notice of Complaint to Appear No. 134998 (CPAN), which alleges that Melvin Toliver/Rapid Response Towing and Transport, Inc., doing business as Final Notice Towing and Recovery (Rapid Response Towing) violated § 40-10.1-407(1) (failure to maintain file evidence of financial responsibility) and § 40-10.1-401(1)(a) (operating and/or offering to

operate as a Towing Carrier in intrastate commerce without first having obtained a permit) on February 24, March 6, March 15, and March 20, 2023. Violation Nos. 1 through 4 each state that the civil penalty assessed for the alleged violation is \$11,000 plus a 15 percent surcharge of \$1,650, while the penalty assessed for each of the remaining violations (Violation Nos. 5 through 9) is \$1,100 plus a 15 percent surcharge of \$165, for a total penalty of \$56,925. However, the CPAN explains that if Rapid Response Towing pays the civil penalty within ten calendar days of its receipt of the CPAN, the civil penalty will be reduced by half to \$28,462.50. Finally, the CPAN states that, if the Commission does not receive payment within ten days, the CPAN will convert into a Notice of Complaint to Appear, and a hearing will be scheduled at which the Commission Staff will seek the “Total Amount” of \$56,925.¹ The CPAN also states that the Commission may order Rapid Response Towing to cease and desist from violating statutes and Commission rules.²

2. The CPAN states that it was personally served on Respondent Rapid Response Towing on May 4, 2023. A representative of Respondent Rapid Response signed the CPAN acknowledging receipt of it on May 12, 2023.

3. On May 30, 2023, Trial Staff of the Commission filed its Notice of Intervention as of Right and Entry of Appearance in this proceeding.

4. Rapid Response Towing has not paid any amount, much less the reduced civil penalty amount or the total civil penalty amount, of the CPAN.

¹ Civil Penalty Assessment or Notice of Complaint to Appear (CPAN) No. 134998, pp. 3-4.

² *Id.*

5. On June 7, 2023, the Commission referred this proceeding to an Administrative Law Judge (ALJ) for disposition by minute entry. The proceeding was subsequently assigned to the undersigned ALJ.

B. Hearing

6. 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.

7. The parties will be given the opportunity to file a Statement Regarding Hearing identifying the filer's preference for an in-person, remote, or hybrid hearing. If a filer prefers an in-person hearing, the filer must identify its preferred location and provide an explanation of why the hearing should be conducted at the filer's preferred location. Any additional information supporting a request for a particular method of conducting the hearing (*e.g.*, remote, hybrid, or in-person) can be included in a Statement Regarding Hearing.

8. The deadline for the filing of the Statements Regarding Hearing will be **July 24, 2023**. The parties are on notice that the ALJ will retain discretion to change the method by which the hearing will be conducted (*e.g.*, remote, hybrid, or in-person) and/or the location of the hearing.

C. Additional Advisements

9. The parties are advised and are on notice that this proceeding is governed by the Rules of Practice and Procedure found at 4 *Colorado Code of Regulations* (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 (<https://puc.colorado.gov/pucrules>) and in hard copy from the Commission.

II. ORDER**A. It Is Ordered That:**

1. The deadline to file any Statement Regarding Hearing containing the information described above is **5:00 p.m. on July 24, 2023**.

2. 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