

Decision No. R24-0017-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23M-0473TO

IN THE MATTER OF THE PETITION OF RYDER TOWING & RECOVERY TO REVERSE AN INITIAL TOWING PERMIT DENIAL PURANT TO 40-10.1-401(2)(B), C.R.S., AND RULE 6504(D)

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
CONOR F. FARLEY
SCHEDULING REMOTE HEARING AND ESTABLISHING
PRE- AND POST-HEARING SCHEDULE**

Mailed Date: January 11, 2024

I. STATEMENT

A. Background

1. On September 25, 2023, Ryder Towing & Recovery (Ryder) filed the Petition described in the caption above (Petition).
2. On October 11, 2023, the Commission referred the proceeding by minute entry to an Administrative Law Judge (ALJ). The proceeding was subsequently assigned to the undersigned ALJ.
3. On October 26, 2023, Trial Staff of the Commission filed a Notice of Intervention by Right (Staff).
4. On December 15, 2023, the ALJ issued Decision No. R23-0842-I requiring the parties to confer about a schedule for the proceeding and for Staff to file a report of the conferral.

5. On December 22, 2023, Staff filed the Conferral Report requesting the ALJ to schedule the evidentiary hearing in this proceeding for February 13, 2023, and establishing February 6, 2024 and February 27, 2024 as the deadlines to file and serve exhibits and witness and exhibit lists, and to file Statements of Position, respectively. The parties also request that the hearing be conducted as a remote hearing.

B. Analysis

6. The parties have stated good cause to adopt the proposed schedule. The ALJ will make a determination at the conclusion of the hearing as to whether SOPs are necessary. However, if they are necessary, they will be due on February 27, 2023, as proposed by the parties.

C. Filing and Serving of Exhibits and Witness and Exhibit Lists

7. As referenced in this Decision, serving a party with any document (e.g., witness and exhibit lists and exhibits) means that the party is required to give the document to the other party or parties to the proceeding. Service must be accomplished pursuant to Rule 1205 of the Commission's Rules of Practice and Procedure.¹ The Commission's Rules (including Rule 1205) are available on the Commission's website and in hard copy from the Commission.

8. All parties must establish through a certificate of service that they have served a filed document on all other parties in the proceeding. A certificate of service is a statement indicating how and when a document was served on the other party (e.g., the filing was served by placing the document in the United States mail, first class postage-prepaid to an identified address on an identified date).²

¹ 4 Code of Colorado Regulations (CCR) 723-1.

² See Rule 1205(e), 4 CCR 723-1.

9. All exhibits shall be identified by sequential numbers (e.g., Exhibit 1, Exhibit 2, and Exhibit 3). Each exhibit shall include the following information: exhibit number, proceeding number, name of the witness who will testify to the exhibit's foundation, and the date of the hearing. The parties shall work together to ensure that there are no overlaps in the numbering of the exhibits.

10. The filing of an exhibit with the Commission does not, by itself, admit an exhibit into the evidentiary record of the hearing.

11. If any exhibit is longer than two pages, the party offering the exhibit shall sequentially number each page of the exhibit.

12. The parties are on notice that: (a) any witness may be prohibited from testifying, except in rebuttal, unless that witness is identified on the list of witnesses filed and served as required in this Decision; and (b) any exhibit may not be received in evidence, except in rebuttal, unless filed and served as required in this Decision.

D. Remote Evidentiary Hearing

13. As noted, the remote evidentiary hearing will be scheduled for February 13, 2024 at 9:00 a.m. as a remote hearing. At the remote 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.

14. Attachment A to this Decision provides instructions on how to use the Zoom platform for remotely participating in the remote hearing. 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.

15. 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 remote to hybrid or in-person).

E. Exhibits

16. Given that the hearing will be a remote hearing in which the parties, witnesses, attorneys, and the ALJ will remotely participate by video-conference, exhibits must be presented electronically. The Public Utilities Commission utilizes Box.com to manage exhibits in a remote hearing. Attachment B to this Decision provides detailed instructions for the preparation and presentation of exhibits at the hearing through Box.com.

17. Each party will receive an email containing an invitation to sign up for a free Box.com account. Once signed-up, each party will be invited to share a folder with (only) the staff in the Administrative Hearings Section, Commission advisors, and potentially Commissioners and Commission counsel. The party may share access to its Box.com account with others as they choose.

F. Additional Advisements

18. The parties are 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>) and in hard copy from the Commission.

II. ORDER

A. It Is Ordered That:

1. The pre-hearing and post-hearing schedule stated in paragraph 5 above is adopted.
2. A remote hearing in this proceeding is scheduled as follows:

DATE: February 13, 2024

TIME: 9:00 a.m. to 5:00 p.m.

METHOD: Join by videoconference using Zoom at the link to be provided in an email from the Administrative Law Judge³
3. Nobody should appear in-person for the remote hearing.

³ 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>.

4. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CONOR F. FARLEY

Administrative Law Judge

ATTEST: A TRUE COPY

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

Rebecca E. White,
Director