

Decision No. R23-0004-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22G-0257EC

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

STYLE CAR SERVICE LLC,

RESPONDENT.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
EXTENDING DEADLINE TO FILE STATEMENTS OF
POSITION, MEMORIALIZING BENCH RULINGS, AND
ESTABLISHING DEADLINE TO FILE EXHIBITS**

Mailed Date: January 4, 2023

I. STATEMENT AND SUMMARY

A. Statement and Summary

1. For the reasons discussed below, this Decision extends the deadline to file Statements of Position (SOPs) to February 6, 2023; memorializes several bench rulings made during the December 12, 2022 hearing; and establishes a deadline by which Respondent Style Car Services, LLC (Style Car) must make certain filings.

II. PROCEDURAL HISTORY, FINDINGS, ANALYSIS AND CONCLUSIONS¹

2. Trial Staff of the Colorado Public Utilities Commission (Staff) initiated this matter on June 8, 2022 by filing Civil Penalty Assessment Notice No. 129862 (CPAN) against Respondent Style Car alleging 30 counts of alleged violations of Commission rules or relevant statutes.²

3. On December 2, 2022, Style Car filed a Partial Motion to Dismiss and Request to Shorten Response Time (Motion to Dismiss), seeking to dismiss CPAN Counts 1 through 8, and 11 through 29.

4. On December 9, 2022, Staff filed a Motion to Amend seeking to amend CPAN Counts 5 and 8.³

5. On December 12, 2022, Staff filed a Response in Objection to Partial Motion to Dismiss.

6. On December 12, 2022, the ALJ held a duly noticed remote evidentiary hearing on the merits of the CPAN in this Proceeding.⁴ All parties appeared. Before beginning the evidentiary portion of the hearing, the ALJ heard argument on, and addressed the Motion to Amend. Style Car argued that allowing Staff to amend the CPAN just before the start of the evidentiary hearing may prejudice it given that it prepared to defend against the CPAN as originally styled.

¹ Only the procedural history necessary to understand this Decision is included.

² As discussed in this Decision, those counts are referred to by the count number shown in the CPAN.

³ Motion to Amend at 2-3.

⁴ See Decision Nos. R22-0526-I (mailed September 7, 2022) and R22-0779-I (mailed December 5, 2022).

The ALJ initially granted Staff's Motion to Amend the CPAN but agreed that late amendment may prejudice Style Car. To address this, the ALJ offered Staff the option of continuing the hearing entirely or setting a separate hearing just to address the two amended counts at a later date. Staff declined both options, and instead asked to dismiss CPAN Count 5, and opted to move forward on Count 8 without amending the CPAN. The ALJ dismissed CPAN Count 5, rendering the request to amend that Count moot, and deemed Staff's request to amend CPAN Count 8 withdrawn.

7. In addition, the ALJ informed the parties that she will address the merits of Style Car's Motion to Dismiss as part of the anticipated Recommended Decision in this matter, and established January 9, 2023 as the deadline for the parties to file SOPs in lieu of verbal closing argument.

8. During the hearing, numerous confidential and nonconfidential exhibits were admitted into evidence. Style Car failed to present a confidential and unredacted version of Hearing Exhibit 201, instead only offering a public version of that exhibit (which was admitted into evidence). Likewise, Style Car failed to provide a public and redacted version of Hearing Exhibit 207C, instead only offering a confidential version of that exhibit (which was admitted into evidence). To ensure compliance with the Commission's confidentiality rules,⁵ the ALJ directed Style Car to submit a confidential version of Hearing Exhibit 201, *to be identified and admitted as Hearing Exhibit 201C* (unredacted), and a public version of Hearing Exhibit 207C, *to be identified and admitted as Hearing Exhibit 207* (redacted). The ALJ offered opportunities for Style Car to provide these exhibits during the hearing, but ultimately, Style Car asked, and

⁵ Rule 1101(a) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1.

Staff agreed, that Style Car would submit the exhibits shortly after the hearing (on or about December 13, 2022). The parties agreed this approach was reasonable and that since the confidential and non-confidential versions of the exhibits were already admitted, that the to-be-filed exhibits would also be admitted into evidence. The ALJ approved this with the expectation that Style Car would file the exhibits without delay.

9. On December 15, 2022, Style Car's counsel filed a redacted (public) and unredacted (confidential) Notice of Correction of Record (Notice), and a Motion to Withdraw as counsel for Style Car. In the Motion to Withdraw, counsel promises to file the two exhibits discussed above. To date, Style Car has not filed either of the exhibits. As such, Style Car is directed to file the exhibits as soon as possible, but no later than January 9, 2023, or to make a filing showing cause why the exhibits cannot be submitted. Counsel must pay special attention to identify and mark the exhibits *in the exact manner directed above* (Hearing Exhibit 201C and Hearing Exhibit 207).

10. The ALJ will not grant counsel's Motion to Withdraw until after counsel ensures that the two referenced exhibits are filed or makes a filing showing cause why the exhibits cannot be submitted. If that is the case, the ALJ may take such other action as necessary to address this issue, including possibly scheduling a hearing.

11. On January 3, 2023, Staff filed an Unopposed Motion for Enlargement of Time (Motion) seeking to extend the deadline to file SOPs to January 30, 2023. In support, Staff cites the lack of a complete evidentiary record, that is, the two missing exhibits discussed above. Staff also relies on counsel's Notice which Staff was only recently able to access in unredacted form on December 29, 2022, and that Staff was only able to obtain the transcript from the hearing on

December 30, 2022.⁶ Staff argues that delaying the SOP deadline does not prejudice any party. For the reasons in Staff's Motion, the ALJ finds good cause to modify the deadline to file SOPs. However, in light of the numerous issues relating to the record, and the potential withdrawal of Style Car's current counsel, the ALJ will provide slightly more time than requested for the parties to file SOPs, as set forth below.

III. ORDER

A. It Is Ordered That:

1. Staff's Motion to Amend filed on December 9, 2022 is deemed partially moot and withdrawn, consistent with the above discussion. Count 5 of Civil Penalty Assessment Notice No. 129862 is dismissed.

2. As soon as possible but no later than the close of business on January 9, 2023, Style Car Service LLC must file Hearing Exhibits 201C and 207, marked and identified as such, consistent with the above discussion, or make a filing showing cause why such exhibits cannot be filed.

3. The deadline to file Statements of Position is modified to close of business on February 6, 2023.

⁶ Motion at 2.

4. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script, appearing to read "G. Harris Adams".

G. Harris Adams,
Interim Director