

Decision No. R23-0448-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23G-0183TO

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

TOWING OPERATIONS, LLC DOING BUSINESS AS WYATT'S TOWING

RESPONDENT.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
CONOR F. FARLEY
SCHEDULING HYBRID HEARING, ADDRESSING
EXHIBITS, SETTING DEADLINE FOR MOTIONS TO
RESCHEDULE, AND PROVIDING OTHER
ADVISEMENTS**

Mailed Date: July 12, 2023

I. STATEMENT

A. Procedural history

1. On April 1, 2023, the Colorado Public Utilities Commission (Commission) filed Civil Penalty Assessment or Notice of Complaint to Appear (CPAN) No. 135021 and 135131 (CPANs), which each allege that Towing Operations, LLC, doing business as Wyatt's Towing (Wyatt's Towing) violated Rules 6511(i)(I) and (III) on December 26, 2022. The CPANs each state that the civil penalty assessed for the alleged violations is \$2,530, but that if Skyline Towing pays the civil penalty within ten calendar days of its receipt of the CPAN, the civil

penalty will be reduced to \$1,265. Finally, the CPANs each state 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 \$2,530.¹ The CPAN also states that the Commission may order Wyatt’s Towing to cease and desist from violating statutes and Commission rules.²

2. The CPAN states that the Commission served the CPANs by U.S. certified mail on April 1, 2023.

3. On April 27, 2023, Trial Staff of the Commission entered its appearance in this proceeding.

4. Wyatt’s Towing has not paid any amount, much less the reduced civil penalty amount or the total civil penalty amount, of the CPAN.

5. On May 10, 2023, the Commission referred this proceeding to an Administrative Law Judge (ALJ) for disposition. The proceeding was subsequently assigned to the undersigned ALJ.

6. On May 26, 2023, the ALJ issued Decision No. R23-0356-I that provided an opportunity for each party to file a statement addressing the party’s preference for a remote, hybrid, or in-person hearing.

7. On June 5, 2023, Trial Staff of the Commission filed a Statement Regarding Hearing in which it stated that it “does not have a specific preference about the hearing format and will agree to either a remote or hybrid hearing so that witnesses and counsel can appear

¹ CPAN Nos. 135021 and 135131 at 3.

² *Id.*

virtually.”³ Staff also requested that “the Administrative Law Judge avoid scheduling the hearing before July 29, 2023 and during the weeks of August 7, 2023, August 14, 2023, September 25, 2023, the days between October 11 and 17, 2023 and the week of November 20, 2023 because the undersigned counsel and/or certain witnesses are unavailable.”⁴

8. On June 6, 2023, Wyatt’s Towing filed an Entry of Appearance and Request for an In-Person Hearing (Request). Wyatt’s Towing also requested that the hearing be scheduled “in late August or September.”⁵

B. Hearing

9. The hearing will be scheduled for September 7, 2023 at 9:00 a.m. as a hybrid hearing. 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.

10. 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.

11. 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

³ Staff’s Statement Regarding Hearing at 1 (¶ 4).

⁴ *Id.* at 2 (¶ 5).

⁵ Request at 1.

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.

12. 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.

13. If a party cannot attend the hybrid hearing on September 7, 2023, the party with the scheduling conflict must file a motion to reschedule the hybrid hearing by July 25, 2023. Before filing the motion to reschedule, the filing party must confer with the other party about whether the other party opposes the motion and the dates that both parties are available in September 2023, except for September 8, 2023 and September 20 through September 22, 2023. The motion to reschedule must then: (a) state whether it is opposed or unopposed; (b) identify the dates that both parties are available for a hybrid hearing in September 2023 (other than the dates noted above); and (c) identify the number of days that the parties anticipate the hybrid hearing will take.

14. 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).

C. Exhibits

15. Given that the hearing will be a hybrid hearing in which the parties, witnesses, and attorneys can participate remotely or in-person, exhibits must be presented electronically. The Public Utilities Commission utilizes Box.com to manage exhibits in hybrid hearings. Attachment B to this Decision provides detailed instructions for the preparation and presentation of exhibits at the hearing through Box.com.

16. 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.

D. 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 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. A hybrid hearing is scheduled as follows:

DATE: September 7, 2023

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

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

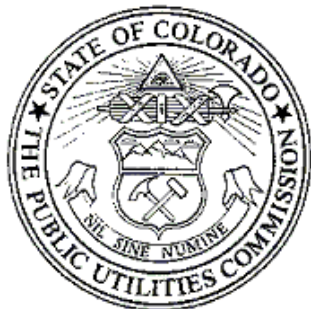
By video conference: using the Zoom web conferencing platform
at a link to be provided to the participants by email.⁶

2. The deadline to file a Motion to Reschedule the Hybrid Hearing is July 25, 2023.

⁶ Additional information about the Zoom platform and how to use the platform are available at: <https://zoom.us/>. All participants are strongly encouraged to participate in a test meeting prior to the scheduled hearing. See <https://zoom.us/test>.

3. 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

CONOR F. FARLEY

Administrative Law Judge