

Decision No. R23-0616-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23F-0403TO

DANIEL CARRILLO,

COMPLAINANT,

V.

TOWING OPERATIONS, LLC DOING BUSINESS AS WYATTS TOWING,

RESPONDENT.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
G. HARRIS ADAMS
ESTABLISHING PROCEDURAL SCHEDULE, PROVIDING
INSTRUCTIONS CONCERNING EXHIBITS AND
PARTICIPATING IN REMOTE HEARINGS, AND
ADDRESSING RESPONDENT'S REPRESENTATION**

Mailed Date: September 15, 2023

I. STATEMENT

A. Procedural Background

1. On August 7, 2023, Complainant Daniel Carrillo (Complainant) filed a Formal Complaint (Complaint) against Towing Operations, LLC doing business as Wyatts Towing (Wyatts Towing or Respondent). The Complaint alleges that Respondent performed an unlawful tow of his vehicle on July 6, 2023 from an address in Parker, Colorado. Complainant's formal complaint requests that the Commission investigate the actions of Respondent regarding the towing of the

vehicle on July 6, 2023, and order a refund of the charges incurred by Complainant to retrieve the vehicle.¹ Complainant also seeks an apology from Respondent.²

2. Also on August 7, 2023, Complainant included five attachments: a copy of House Bill 22-1314; a Towing Operations LLC receipt dated July 7, 2023; two photographs of signage displayed on parking space 30 of the tow location; and a photograph of the lack of signage displayed on parking space 31 of the tow location.

3. On August 14, 2023, the Commission issued its Order Setting Hearing and Notice of Hearing (Notice), which set this matter for hearing on October 23, 2023, before an Administrative Law Judge (ALJ). The Notice also stated that the ALJ would establish the place and manner in which the hearing would be held.

4. Also on August 14, 2023, the Commission issued its Order to Satisfy or Answer, which ordered Respondent to satisfy the matters in the complaint or to answer the complaint in writing within 20 days from the service of the order.

5. On August 23, 2023, the Commission referred the matter to an ALJ by minute entry.

6. On August 25, 2023, Respondent filed its Response to Formal Complaint (Response) and denied the allegations of the Complaint. Respondent included four photographs of the vehicle and a transaction receipt to its Response.

7. Also on August 25, 2023, Respondent filed an exhibit, containing 17 photographs of signs around the property where the tow in the Complaint occurred.

¹ Complaint at 1.

² *Id.*

8. On August 28, 2023, Complainant filed an Official Response to Wyatt's Towing Amended Response.

II. FINDINGS AND CONCLUSIONS

A. Remote Evidentiary Hearing and Unified Numbering System for Hearing Exhibits

9. The evidentiary hearing scheduled for October 23, 2023, will be held remotely. This Decision, Attachment A, and Attachment B provide important information and instructions to facilitate holding the remote hearing, which all parties must follow.

10. The procedures developed for the remote evidentiary hearing are intended to replicate, as practicable, evidence presentation as it occurs when parties and witnesses are present in the hearing room. For example, participating by videoconference allows parties and witnesses to view exhibits on the video-conference screen while the exhibits are being offered into evidence and witnesses testify about them.

11. The evidentiary hearing will be conducted via video-conference using the Zoom platform. Attachment A to this Decision provides information about the Zoom platform and how to use Zoom to participate in the remote hearing. To minimize the potential that the remote hearing may be disrupted by non-participants, the link and meeting ID, or access code, to attend the hearing will be provided to the parties by email approximately one week before the hearing, and the parties and witnesses will be prohibited from distributing that information to anyone not participating in the hearing.

12. At the 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 proceeding. Given that the hearing will accommodate remote participation by video-conference, exhibits must be presented electronically.

13. The Public Utilities Commission Administrative Hearings Section uses box.com to receive and manage exhibits that are first presented in this type of remote evidentiary hearing.³ As such, it is essential that the parties ensure they are able to access and use box.com prior to the evidentiary hearing. To this end, the parties will be provided box.com links and instructions: (a) upload exhibits for use during the hearing; and (b) download exhibits once they are presented during the hearing.

14. Each party must (a) pre-mark all hearing exhibits with a hearing exhibit number within their assigned number block before uploading the exhibits to the party's designated box.com folder; (b) sequentially page-number each page of exhibits longer than two pages, with the first page number as page 1, regardless of content before uploading the exhibits to the party's designated box.com folder; and (c) upload all pre-marked exhibits into each party's respective designated box.com folder prior to presenting them during the hearing.

15. Attachment B outlines procedures and requirements for marking and formatting exhibits aimed at facilitating efficient and smooth electronic evidence presentations at the remote hearing. It is very important that the parties carefully review and follow all requirements in this Decision and Attachments A and B.

³ Box.com is a web-based document sharing service. When exhibits are first presented during the hearing, the Commission will receive them electronically from each party's box.com folder for display.

16. In order to efficiently organize the numbering and preparation of exhibits for the hearing, the parties shall use a unified numbering system for all hearing exhibits. Blocks of hearing exhibit numbers are assigned as follows:

- Complainant is assigned hearing exhibit numbers 100 to 199; and
- Respondent is assigned hearing exhibit numbers 200 to 299.

B. Respondent's Representation in this Proceeding

17. Respondent is advised and on notice that generally, parties appearing before the Commission must be represented by an attorney authorized to practice law in Colorado.⁴ However, an individual may appear without an attorney on behalf of a company after establishing it is eligible to do so.⁵ To be represented by a non-attorney, all the below conditions must be met:

- The company must not have more than three owners;
- The amount in controversy must not exceed \$15,000; and
- The non-attorney individual seeking to represent the company must provide the Commission with satisfactory evidence demonstrating his or her authority to represent the company in the proceeding.⁶

18. It is presumed that a corporation's officers, a partnership's partners, a limited partnership's members, and persons authorized to manage a limited liability company have authority to represent the company in the proceeding.⁷ A written resolution from a company

⁴ Rule 1201(a) of the Commission's Rules of Practice and Procedure, 4 Code of Colorado Regulations (CCR) 723-1.

⁵ § 13-1-127, C.R.S.; Rule 1201(b)(II), 4 CCR 723-1. Another exception is that an individual is permitted to represent his or her interests in a Commission proceeding without an attorney. This applies to the Complaint here. Rule 1201(b)(I), 4 CCR 723-1.

⁶ § 13-1-127(2) and (2.3)(c), C.R.S.; Rule 1201(b)(II), 4 CCR 723-1.

⁷ § 13-1-127(2) and (2.3)(c), C.R.S.

specifically authorizing the individual to represent the company's interests in the proceeding may also be relied upon as evidence of the individual's authority to represent the company.⁸

19. Should Respondent wish to be represented by a non-attorney in this Proceeding moving forward, it must **either** submit a filing in advance of hearing **or** be prepared to demonstrate as a preliminary matter at hearing, that it is permitted to be represented by a non-attorney. Respondent is on notice that the hearing will proceed as scheduled and it must either demonstrate that it may be represented by a non-attorney or be represented by an attorney. Failing to comply may result in Respondent's filings in this Proceeding being disregarded.

C. Additional Procedural Notices and Advisements

20. The parties are on notice that the ALJ will retain the discretion to change the method by which the hearing will be conducted.

21. Additional procedural requirements may be addressed in future Interim Decisions.

22. The parties are advised that this proceeding is governed by the Rules of Practice and Procedure found at 4 CCR 723-1. The ALJ expects the parties comply with these rules. The rules are available on the Commission's website (<http://puc.colorado.gov/pucrules>) and in hard copy from the Commission.

23. Each party is specifically advised that all filings with the Commission must also be served upon all other parties in accordance with Rule 1205 of the Rules of Practice and Procedure, 4 CCR 723-1.

⁸ § 13-1-127(3), C.R.S.

24. The Parties are also on notice that failure to appear at the scheduled evidentiary hearing may result in decisions adverse to their interests, including the assessment of penalties against Respondent.

D. Informational Video-Conference Practice Session

25. The ALJ will hold an informal practice video-conference session if requested by any Party to give the Parties an additional opportunity to practice using Zoom and box.com before the hearing.

26. The Parties may contact the Commission Legal Assistants by email at casey.federico@state.co.us or stephanie.kunkel@state.co.us to schedule an informal practice video-conference session.

27. The Parties will receive information and a link to participate in the informal practice session by email.

III. ORDER

A. It Is Ordered That:

1. Respondent, Towing Operations, LLC doing business as Wyatts Towing, must either: demonstrate that it is entitled to be represented by a non-attorney or have a licensed attorney enter an appearance on its behalf.⁹

2. The evidentiary hearing scheduled for October 23, 2023, at 9:00 a.m. will be held remotely via Zoom.¹⁰

3. No one should appear in-person for the evidentiary hearing.

⁹ See ¶¶ 17-19 above.

¹⁰ Instructions for using Zoom platform are provided in Attachment A to this Decision.

4. The parties and witnesses in the evidentiary hearing may not distribute the Zoom link and access code to anyone not participating in the remote evidentiary hearing.

5. All participants in the hearing must comply with the requirements in Attachments A and B to this Decision, which are incorporated herein.

6. **Video-Conference Participation.** Counsel for the parties, parties, and witnesses, as applicable, may attend the evidentiary hearing by video-conference using the Zoom platform.

7. **Evidence Presentation at the Evidentiary Hearing.** Because the participation in the evidentiary hearing will be via video-conference, all evidence must be presented electronically. Each party is responsible for ensuring that they and their respective witnesses: (a) have access to all pre-filed exhibits; and (b) can download and view documents available from box.com during the hearing.¹¹

8. The Administrative Law Judge will hold an informal Zoom practice session upon request.

9. The parties shall comply with the requirements established in this Interim Decision and shall make the filings as required by the adopted procedural schedule.

10. This Decision shall be effective immediately.

¹¹ Instructions for using the Box.com platform are provided in Attachment B to this Decision.

(S E A L)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

G. HARRIS ADAMS

Administrative Law Judge

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

Rebecca E. White,
Director