

Decision No. R25-0549-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 25F-0278TO

CHRISTOPHER J. MCNOLDY,

COMPLAINANT,

V.

1ST RESPONSE AUTO & TRUCK REPAIR LLC DOING BUSINESS AS JH MOUNTAIN
AUTO SERVICES AND KAMIL PETRIK AND GINA ANZUETO,

RESPONDENT.

**INTERIM DECISION
CONTINUING HEARING,
ESTABLISHING PROCEDURES, AND
PROVIDING ADVISEMENTS**

Issued Date: July 28, 2025

I. STATEMENT AND SUMMARY

1. This Decision continues the September 8, 2025 evidentiary hearing in this matter to October 7, 2025 at 11:00 a.m.; determines that hearing will be fully remote; establishes procedures relating to the hearing; provides information to facilitate the parties' participation in the hearing; provides the parties important advisements; and requires Respondent 1st Response Auto & Truck Repair LLC doing business as JH Mountain Auto Services ("JH Mountain") to make one or more filings as detailed herein by September 8, 2025.

II. PROCEDURAL HISTORY

2. On June 26, 2025, Complainant Christopher J. McNoldy (“Complainant”) initiated this matter by filing the above-captioned Complaint (“Complaint”) with the Colorado Public Utilities Commission (“Commission”) against JH Mountain and its Registered Agents Kamil Petrik and Gina Anzueto (“Respondent”).

3. On July 2, 2025, the Commission’s Director issued an Order to Satisfy or Answer (“Order to Satisfy”) requiring Respondent to satisfy or answer the Complaint within 20 days; scheduled an evidentiary hearing on the Complaint for September 8, 2025 via a Notice of Hearing (“Notice”); served the Complaint, Order to Satisfy and Notice on the parties; and provided Complainant procedural information.

4. During its weekly meeting held July 9, 2025, the Commission referred this matter by minute entry for disposition by an administrative law judge (“ALJ”).

5. On July 2, 2025, Respondent filed its Response to Formal Complaint (“Answer”).

III. FINDINGS AND CONCLUSIONS

A. **Hearing**

6. The timely-filed Answer disputes the Complaint’s allegations.¹ Because the Complaint is disputed and the parties have not otherwise indicated that they have reached an agreement resolving the Complaint, this matter must proceed to an evidentiary hearing.² The Notice sets an evidentiary hearing for September 8, 2025 at 9:00 a.m.³ To allow the parties time to prepare for a hearing and Respondent additional time to address requirements discussed later in this Decision, the hearing is continued to October 7, 2025 at 11:00 a.m.

¹ See Answer at pp. 8-9.

² Unless the parties resolve their dispute outside the hearing process, this Proceeding will proceed to an evidentiary hearing.

³ See Notice.

7. The hearing will be a fully remote hearing with all parties and witnesses appearing remotely by videoconference. A fully remote hearing provides parties and witnesses flexibility to appear from remote locations, which improves access, and creates opportunities for parties and witnesses to conserve resources (*e.g.*, time savings). The Commission has been holding remote evidentiary hearings for many years, which has allowed it to refine its processes to the point where parties with varying levels of experience and comfort with technology have been readily able to fully participate in hearings without difficulty. The hearing will use the web-hosted service, Zoom. Should the parties deem it necessary, they may contact Commission Legal Assistants by email at casey.federico@state.co.us or stephanie.kunkel@state.co.us to schedule an informal Zoom practice session.

8. Because the hearing requires remote participation, the parties must present all non-testimonial evidence⁴ in electronic format. Non-testimonial evidence is referred to as exhibits, and can come in numerous forms, such as documentation, printed text messages, video recordings, photographs, and the like.⁵ This Decision establishes procedures to help the parties prepare and present their exhibits electronically and to appear remotely. These procedures replicate, as practicable, evidence presentation as it occurs when parties and witnesses are present in a hearing room.⁶

9. The Commission's Administrative Hearings Section uses box.com to receive and manage exhibits in this type of remote evidentiary hearing. To this end, it is the Commission's

⁴ This is distinguished from witness testimony (*i.e.* testimonial evidence), which is a different form of evidence.

⁵ Respondent attached over 65 pages of documents to its Answer. These documents must be provided as discussed in this Decision and are currently not evidence in this Proceeding.

⁶ For example, participating by videoconference allows parties and witnesses to view exhibits (*i.e.*, evidence), on the video-conference screen while the exhibits are being offered into evidence and witnesses testify about them.

practice to email the parties instructions and links for box.com. Similarly, it is the Commission's practice to email the parties the information needed to join the Zoom hearing, which minimizes the potential that a non-participant will disrupt the hearing. As such, the parties must ensure that they have provided accurate email addresses to the Commission and must regularly check their email. The Complainant has not provided an email address and thus will be required to provide one by a date certain. Failing to do so will negatively impact Complainant's ability to participate in the hearing, including presenting evidence and joining the remote hearing via Zoom. Future decisions and filings, box.com information, and the Zoom information to join the hearing will be sent to the email address that Complainant provides.⁷

10. Attachment A to this Decision provides information about the Zoom platform and how to use Zoom to participate in the remote hearing. All those participating in the hearing must carefully review and follow all requirements in this Decision and Attachment A. Attachment B to this Decision includes vital information and requirements relating to presenting evidence electronically at the hearing, and thus, it is extremely important that all parties review and follow Attachment B's requirements.

11. In addition to requirements in Attachments A and B, the below ordering paragraphs include additional requirements to facilitate the evidentiary hearing.

B. Issues Relating to Legal Representation

12. Respondent's Answer and the attachments thereto appear to be filed on behalf of a company, JH Mountain. Kamil Petrik, owner of JH Mountain, provided a Power of Attorney, authorizing Erick Luna and Jesus Carmona to represent the company in a variety of ways,

⁷ See Rule 1205(a) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* ("CCR") 723-1.

including representing the company before the Commission.⁸ The Power of Attorney does not clarify whether Erick Luna and/or Jesus Carmona are attorneys licensed to practice in Colorado.

13. Generally, parties appearing before the Commission must be represented by an attorney authorized to practice law in Colorado.⁹ There are several relevant exceptions to this. First, a non-attorney individual may represent his or her own interests in Commission proceedings.¹⁰ Second, an individual may appear on behalf of a business formally organized under the laws of a state after establishing the company's eligibility to be represented by a non-attorney, and that the designated representative has authority to represent the company.¹¹ For a formally organized company 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 satisfactory evidence demonstrating his or her authority to represent the company in the proceeding.¹²

14. 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 a proceeding.¹³ A written resolution from a company 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.¹⁴

15. For the foregoing reasons and authorities, Respondent is required to make a filing clarifying whether either Erick Luna and/or Jesus Carmona are attorneys licensed to practice in

⁸ See Answer, p. 11.

⁹ Rule 1201(a), 4 CCR 723-1.

¹⁰ Rule 1201(b)(I), 4 CCR 723-1.

¹¹ § 13-1-127, C.R.S.; Rule 1201(b)(II), 4 CCR 723-1.

¹² § 13-1-127(2) and (2.3)(c), C.R.S.; Rule 1201(b)(II), 4 CCR 723-1.

¹³ § 13-1-127(2) and (2.3)(c), C.R.S.

¹⁴ § 13-1-127(3). C.R.S.

Colorado by September 8, 2025. If neither individual is a licensed attorney, the filing must establish that JH Mountain is eligible to be represented by an authorized non-attorney, consistent with the above legal authority, or counsel must enter an appearance on JH Mountain's behalf.¹⁵ Continuing the hearing allows additional time to obtain counsel, if necessary. If Erick Luna and/or Jesus Carmona are not licensed attorneys, and if Respondent does not provide information that establishes that an individual non-attorney can represent the company in its filing, Respondent will not be given more time to obtain legal counsel.

C. Important Advisements

16. Complainant is on notice that he carries the burden of proof to establish by a preponderance of the evidence that his requested relief should be granted.¹⁶ Because Complainant has the burden of proof, he will be permitted to present his evidence first during the hearing. Respondent will be permitted to cross-examine any witnesses that Complainant presents.¹⁷ Once Complainant rests his direct case (*i.e.*, finishes presenting his evidence), Respondent will be given an opportunity to present evidence, and Complainant will be permitted to cross-examine any witnesses that Respondent presents. Both parties will be permitted to offer exhibits during the hearing; the parties should plan to confer with each other about whether they agree that each other's exhibits should be admitted into evidence. At this time, none of the attachments included with

¹⁵ If Respondent can establish that it can be represented by a non-attorney in this Proceeding, the ALJ will only authorize one individual to do so; multiple non-attorneys will not be allowed to represent JH Mountain in this Proceeding.

¹⁶ Rule 1500, 4 CCR 723-1. The preponderance standard requires the fact finder to determine whether the existence of a contested fact is more probable than its non-existence. *Swain v. Colorado Dept. of Revenue*, 717 P.2d 507 (Colo. App. 1985). The preponderance of the evidence standard requires substantial evidence, which is such evidence as a reasonable person's mind might accept as adequate to support a conclusion. *See, e.g., City of Boulder v. Pub. Utilis. Comm'n.*, 996 P.2d 1270, 1278 (Colo. 2000).

¹⁷ To reiterate, Respondent must meet the requirements detailed in Section III(B) above.

Respondent's Answer are evidence; Respondent must provide all proposed exhibits as discussed herein, including those attached to the Answer.

17. All parties must be familiar with and follow the Commission's Rules of Practice and Procedure, 4 CCR 723-1, and the Commission's Rules Regulating Transportation, 4 CCR 723-6. The parties may obtain a copy of these rules from the Commission in hard copy or on the Commission's website at <https://www.colorado.gov/pacific/dora/pucrules>.

18. The parties are on notice that all filings they make in this Proceeding *must be served* upon all other parties in accordance with Rule 1205 of the Rules of Practice and Procedure, 4 CCR 723-1.

19. The parties are on notice that failing to appear at the scheduled evidentiary hearing may result in the Commission granting the complete relief requested by the opposing party, including granting all relief sought in the Complaint, such relief as the Commission deems appropriate, or dismissing the Complaint.

20. The parties are encouraged to register for the Commission's free E-Filing System, accessible at: <https://www.dora.state.co.us/pls/efi/EFI.homepage>. Registering for the E-Filing System allows parties to make filings and be served with filings in this Proceeding electronically through the E-Filing System. This allows parties to receive notice of filings almost immediately after they are filed.

IV. ORDER

A. It is Ordered That:

1. The September 8, 2025 hearing in this matter is continued to October 7, 2025, as set forth below. No hearing will be held on September 8, 2025.

2. A fully remote evidentiary hearing on the merits of the Complaint in this Proceeding is scheduled as follows:

DATE: October 7, 2025

TIME: 11:00 a.m.

PLACE: Join by videoconference using Zoom

3. To minimize the potential that the 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 before the hearing, and participants in the hearing are prohibited from distributing that information to anyone not participating in the hearing.

4. On or by **5:00 p.m. on September 8, 2025**, Respondent 1st Response Auto & Truck Repair LLC doing business as JH Mountain Auto Services and Kamil Petrik and Gina Anzueto (“Respondent” or “JH Mountain”) must make a filing in this Proceeding that: (a) provides a valid email address at which Respondent may be served with box.com information, Zoom information, and decisions or filings in this Proceeding; and (b) clarifies whether Erick Luna and/or Jesus Carmona is an attorney licensed to practice law in Colorado. If neither Erick Luna and/or Jesus Carmona is an attorney licensed to practice law in Colorado, the same filing must establish that Respondent is eligible to be represented by one non-attorney by demonstrating that JH Mountain does not have more than three owners, the amount in controversy does not exceed \$15,000, and that the single, specifically identified non-attorney who will represent JH Mountain has authority to represent JH Mountain in this Proceeding consistent with the above legal authority; *or* Respondent must cause counsel to enter an appearance on behalf of JH Mountain (by the same deadline above). The required filing(s) must be received by the Commission by the above deadline.

5. **Hearing Exhibit Block Assignments.** To ensure a clear record, the parties must identify their exhibits using a unified numbering system for all their hearing exhibits. This means that the parties must physically mark their exhibits and electronically save their exhibits with the exhibit number as the document name, using exhibit numbers within their assigned exhibit number blocks. Complainant is assigned hearing exhibit numbers 100 to 199 and Respondent is assigned hearing exhibit numbers 200 to 299.

6. Additional instructions on preparing exhibits are included in Attachment B to this Decision. Attachments A and B to this Decision are incorporated as if fully set forth. The parties must comply with all requirements in Attachments A and B.

7. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

KELLY A. ROSENBERG

Administrative Law Judge

ATTEST: A TRUE COPY

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

Rebecca E. White,
Director