

Decision No. R23-0007-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22G-0433TO

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

FREDDIE DICKEY AND STEVEN KNOT DOING BUSINESS AS ANYTIME TOWING,
INC., PREDATOR RECOVERY, INC., AND SURE SHOT RECOVERY, INC.,

RESPONDENTS.

PROCEEDING NO. 22G-0434TO

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

FREDDIE DICKEY AND STEVEN KNOT DOING BUSINESS AS PREDATOR
RECOVERY, INC., AND SURE SHOT RECOVERY, INC.,

RESPONDENTS.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
ALENKA HAN
CONSOLIDATING PROCEEDINGS
AND SETTING HEARING**

Mailed Date: January 6, 2023

TABLE OF CONTENTS

I. STATEMENT.....2

 A. Summary.....2

 B. Procedural Background of Proceeding No. 22G-0433TO2

 C. Procedural Background of Proceeding No. 22A-0434TO3

II. Consolidation.....5

 A. Legal Standards5

 B. Analysis5

III. Hearing schedule6

 A. Hearing Setting.....6

 B. Informal Video-Conference Practice Session7

IV. order.....7

 A. It Is Ordered That:7

I. STATEMENT

A. Summary

1. This matter comes before the Public Utilities Commission (Commission), on its own motion, to consolidate Proceeding Nos. 22G-0433TO and 22G-0434TO. For the reasons set forth below, consolidation of these two proceedings will be ordered.

2. An evidentiary hearing addressing the issues raised in this Proceeding will be held before the undersigned Administrative Law Judge (ALJ) on Monday, February 13, 2023.

B. Procedural Background of Proceeding No. 22G-0433TO

3. On October 11, 2022, the Commission issued Civil Penalty Assessment Notice (CPAN) No. 131546, against Freddie Dickey and Steven Knost, doing business as Anytime Towing, Inc., Predator Recovery, Inc., and Sure Shot Recovery, Inc. (collectively Respondents).

The CPAN asserted eleven violations of Commission rules, a violation of § 40-10.1-107(1), C.R.S., and a violation of § 40-10.1-401(1)(a) allegedly committed by Respondents on June 1, 2022 and assessed a total penalty amount of \$22,080.00.

4. Among the violations enumerated in CPAN No. 131546 against Respondents, the Commission asserted that Respondents had:

- Failed to maintain or update the address of their storage facility with the Commission;
- Permitted Mr. Dickey to drive for the company on June 1, 2022, despite the suspension of Mr. Dickey's drivers' license for non-payment of child support;
- Failed to include in a towing contract/agreement the physical address of the towing carrier;
- Failed to include in a towing contract/agreement the address and phone number of the storage facility where the towed vehicle's owner could retrieve it;
- Omitted the storage facility address on an invoice;
- Omitted the name and signature of the tow truck driver on an invoice;
- Failed to file with the Commission the tow carrier's address as listed on an invoice;
- Failed to provide an invoice to the owner of a towed vehicle; and,
- Failed to include requisite language in the towing contract/agreement.

5. Both Mr. Dickey and Mr. Knost signed copies of CPAN No. 131546 served on each of them, acknowledging receipt of the same.

6. The Commission designated CPAN No. 131546 as Proceeding No. 22G-0433TO.

7. Commission Staff entered its appearance and filed its Notice of Intervention as of Right in Proceeding No. 22G-0433TO on November 10, 2022.

C. Procedural Background of Proceeding No. 22A-0434TO

8. On October 11, 2022, the Commission also issued CPAN No. 132415, against the same Respondents. CPAN No. 132415 asserted ten violations of Commission rules allegedly

committed by Respondents on July 30, 2022. CPAN No. 132415 assessed a total penalty of \$7,273.75. Both Mr. Dickey and Mr. Knost signed copies of CPAN No. 132415 served on each of them, acknowledging receipt of the same.

9. Among the violations enumerated in CPAN No. 132415 against Respondents, the Commission asserted that Respondents had:

- Permitted Mr. Dickey to drive for the company on July 30, 2022, despite the suspension of Mr. Dickey's drivers' license for non-payment of child support;
- Failed to include the physical address of the towing carrier on a towing contract/agreement;
- Failed to disclose acceptable forms of payment to the owner of a towed vehicle, instead informing the owner that the vehicle could only be released if payment was made in cash;
- Failed to include the address and phone number of the storage facility where the towed vehicle's owner could retrieve it in a towing contract/agreement;
- Omitted the storage facility address on an invoice;
- Omitted the name and signature of the tow truck driver on an invoice;
- Omitted the destination address and storage facility address on an invoice;
- Failed to file with the Commission the tow carrier's address as listed on an invoice; and,
- Failed to include requisite language in the towing contract/agreement.

10. The Commission designated CPAN No. 132415 as Proceeding No. 22G-0434TO.

11. Commission Staff entered its appearance and filed its Notice of Intervention as of Right in Proceeding No. 22G-0434TO on November 10, 2022.

12. On November 23, 2022, the Commission referred both Proceeding No. 22G-0433TO and Proceeding No. 22G-0434TO to an ALJ for disposition.

II. CONSOLIDATION

A. Legal Standards

13. Commission Rule 1402 of the Rules of Practice and Procedure, 4 *Code of Colo. Regs.* (CCR) 723-1, states that: “[e]ither on its own motion or on the motion of a party, the Commission may consolidate proceedings where the issues are substantially similar, and the rights of the parties will not be prejudiced.” Whether to consolidate Proceedings is a determination within the Commission’s discretion.

B. Analysis

14. The violations asserted in Proceedings 22G-0433TO and 22G-0434TO involve the identical Respondents and allege similar circumstances. The described violations overlap in several respects, including that both proceedings contend that Respondents (1) failed to provide mandated and critical information to owners of towed vehicles; (2) failed to notify the Commission of the address of the storage facility where vehicles were towed; and (3) permitted Mr. Dickey to drive despite the suspension of his driver’s license for nonpayment of child support. The issues raised in the two Proceedings are therefore substantially similar.

15. Further, as Respondents are parties to both Proceedings and no other Respondents are named in these Proceedings, neither Respondent will be prejudiced by the consolidation of Proceeding Nos. 22G-0433TO and 22G-0434TO.

16. Consolidation of the Proceedings will serve administrative efficiency by conserving the resources of the Commission and the Parties, encourage the timely resolution of these Proceedings by necessitating that only one hearing be held and one decision issued, and limit any inconvenience to the Parties by requiring that they appear at one hearing rather than two hearings.

17. The ALJ therefore finds that consolidation of Proceeding Nos. 22G-0433TO and 22G-0434TO is appropriate.

18. Proceeding No. 22G-0433TO will be the primary Proceeding.

III. HEARING SCHEDULE

A. Hearing Setting

19. To facilitate the efficient litigation of this Proceeding, the undersigned will schedule a hybrid hearing. The Parties (Respondents and Staff) may request a different hearing format, if desired.

20. The ALJ notes that the Commission can conduct in-person, remote, or hybrid hearings. A remote hearing is one in which all of the participants appear and participate from remote locations over the Zoom web conferencing platform. A hybrid hearing involves the ALJ and at least one party and/or witness participating from one of the Commission's hearing rooms in Denver, and the remaining party(ies) and witness(es) participating from one or more remote locations using the Zoom web conferencing platform. An in-person hearing is one in which the ALJ and all parties and witnesses participate in the hearing at the same location.

21. If the Parties prefer a fully remote hearing or a fully in-person hearing, a motion to amend the hearing location and format may be filed.

22. The Parties are further 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>).

23. 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 Respondents.

B. Informal Video-Conference Practice Session

24. 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.

25. The Parties may contact the Commission Legal Assistant by email at casey.federico@state.co.us to schedule an informal practice video-conference session.

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

IV. ORDER

A. It Is Ordered That:

1. Proceeding Nos. 22G-0433TO and 22G-0434TO are consolidated. Proceeding No. 22G-0433TO is the primary Proceeding. All future filings in this matter shall be filed in Proceeding No. 22G-0433TO.

2. A **hybrid** hearing is scheduled as follows:

Date: **February 13, 2023**

Time: **9:00 a.m.**

Location: Commission Hearing Room
1560 Broadway, Suite 250
Denver, Colorado

METHOD: In-person and by videoconference using Zoom at the link to be provided to counsel and the parties via email prior to the hearing.

Optionally, any party may participate remotely by joining a video conference using Zoom at the link provided to the established parties in an e-mail prior to the scheduled hearing, as addressed above.¹

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

4. **Video-Conference Participation.** Counsel for the parties, parties, and witnesses may attend in person or participate in the evidentiary hearing by videoconference using the Zoom platform.

5. **Instructions for Remote Hearings Via Zoom:** Detailed instructions governing participation in and procedures for remote hearings conducted via Zoom are set out in Attachment A to this order, which is incorporated into and made part of this order.

6. **Evidence Presentation at the Evidentiary Hearing.** Because the hearing may accommodate remote participation by videoconference, all evidence must be presented electronically. Each party is responsible for ensuring that they and their respective witnesses: (a)

¹ Instructions for using the Zoom videoconferencing platform are provided in Attachment A to this Decision.

have access to all pre-filed exhibits; and (b) can download and view documents available from box.com during the hearing.

7. **Instructions for Preparation and Presentation of Exhibits at Hearing:** In addition to other requirements of the Commission’s Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1 (e.g., Rule 1202 regarding pre-filed testimony), detailed additional instructions governing the preparation and presentation of exhibits at the hearing are set out in Attachment B to this order, which is incorporated into and made part of this order.

8. **The ALJ will hold an informal Zoom practice session upon request.**

9. This Decision is effective immediately.

(S E A L)

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO



ALENKA HAN

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in black ink, appearing to read "G. Harris Adams".

G. Harris Adams,
Interim Director