

Decision No. R23-0579-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23G-0153TO

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

SLADE DICK, DOING BUSINESS AS S&R AFFORDABLE TOWING LLC

RESPONDENT.

PROCEEDING NO. 23G-0154TO

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

SLADE DICK, DOING BUSINESS AS S&R AFFORDABLE TOWING LLC

RESPONDENT.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
CONOR F. FARLEY
GRANTING ORAL MOTION FOR CONTINUANCE AND
RESCHEDULING REMOTE EVIDENTIARY HEARING**

Mailed Date: September 1, 2023

I. STATEMENT**A. Procedural history**

1. On March 31, 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 Slade Dick, doing business as S&R Affordable Towing LLC (S&R Affordable Towing) violated §§ 40-10.1-107(1), 401(1)(a), (C.R.S.) on February 24, 2023 and February 28, 2023, respectively. The CPANs each state that the civil penalty assessed for the alleged violations is \$13,915, 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 \$6,957.50. 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 \$13,915.¹ The CPAN also states that the Commission may order Skyline Towing to cease and desist from violating statutes and Commission rules.²

2. The CPAN states that the Commission personally served the CPANs on March 30, 2023.

3. S&R Affordable Towing has not paid any amount, much less the reduced civil penalty amount or the total civil penalty amount, of the CPAN.

4. On April 20, 2023, Trial Staff of the Commission (Staff) filed a Notice of Intervention and Entry of Appearance.

¹ CPAN Nos. 135021 and 135131 at 3.

² *Id.*

5. On April 26, 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 23, 2023, the ALJ issued Decision No. R23-0341-I that consolidated Proceeding Nos. 23G-0153TO and 23G-0154TO and provided the opportunity for the parties to file a statement addressing the preference for a remote, hybrid, or in-person hearing.

7. On May 30, 2023, Staff filed a Statement Regarding Hearing in which Staff stated that it prefers “either a remote or hybrid hearing to allow witnesses and counsel to appear virtually.”³ Staff also requested that the hearing not be scheduled during August 7-12, 2023, and August 14-18, 2023 due to the unavailability of witnesses or counsel.⁴

8. S&R Affordable Towing did not file a statement expressing a preference for a type of hearing.

9. On July 10, 2023, the ALJ issued Decision No. R23-0447-I that scheduled a remote evidentiary hearing for August 29, 2023, set a deadline of July 25, 2023 for a party to file a motion to reschedule the hearing, and provided instructions regarding exhibits and how to participate in the remote hearing.

10. On August 25, 2023, Staff filed the exhibits it anticipates introducing at the hearing.

11. On August 29, 2023, the ALJ convened the remote evidentiary hearing. Gregory M. Tucker entered his appearance on behalf of S&R Affordable Towing and made an oral motion

³ Staff’s Statement Regarding Hearing at 1.

⁴ *Id.* at 2 (¶ 2).

for continuance, claiming that he first learned of the hearing on August 28, 2023 and was not prepared to adequately represent S&R Affordable Towing at the hearing.

B. Oral Motion for Continuance

12. As noted, Mr. Tucker made a motion for continuance at the hearing (Motion). As support, he asserted that he only learned of the hearing on August 28, 2023 and thus was not prepared to represent S&R Affordable Towing at the hearing on August 29, 2023. He requested a two-to-four-week continuance.

13. Staff opposed the Motion, arguing that S&R Affordable Towing had more than enough time to retain counsel sufficiently in advance of the hearing to allow the counsel to be prepared for the hearing. Staff also stated that it understands that S&R Affordable Towing has performed tows without a permit during the pendency of this proceeding. Staff thus concluded that the public interest counsels against granting the Motion.

14. At the hearing, the ALJ granted the Motion. In short, while it is a close call, S&R Affordable Towing established good cause to grant the Motion.

C. Rescheduled Remote Evidentiary Hearing

15. The remote evidentiary hearing will be scheduled for September 27, 2023 at 9:00 a.m. as a remote hearing. At the remote 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.

16. Attachment A to Decision No. R23-0447-I that issued on July 10, 2023 provides the information addressing how to use the Zoom platform for remotely participating in the

remote hearing. 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.

17. 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 remote to hybrid or in-person).

D. Exhibits

18. Given that the hearing will be a remote hearing in which the parties, witnesses, attorneys, and the ALJ will accommodate remote participation by video-conference, exhibits must be presented electronically. The Public Utilities Commission utilizes Box.com to manage exhibits in a remote hearing. Attachment B to Decision No. R23-0447-I provides detailed instructions for the preparation and presentation of exhibits at the hearing through Box.com to facilitate the efficient and smooth electronic evidence presentations at the remote hearing.

19. 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.

E. Additional Advisements

20. It is extremely important that the parties carefully review and follow all requirements in this Decision and Attachments A and B to Decision No. R23-0447-I that issued on July 10, 2023.

21. 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 (<http://www.dora.colorado.gov/puc>) and in hard copy from the Commission.

II. ORDER

A. It Is Ordered That:

1. The oral Motion to Continue hearing made at the August 29, 2023 hearing by Respondent is granted.

2. The remote evidentiary hearing is rescheduled as follows:

DATE: September 27, 2023

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

PLACE: By video conference: using the Zoom web conferencing platform at a link be provided to the participants by email.⁵

⁵ 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)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CONOR F. FARLEY

Administrative Law Judge

ATTEST: A TRUE COPY

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

Rebecca E. White,
Director