

Decision No. R24-0262-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24M-0091TO

IN THE MATTER OF THE PETITION OF RYDER TOWING & RECOVERY TO REVERSE AN INITIAL TOWING PERMIT DENIAL PURSUANT TO 40-10.1-401(2)(b), C.R.S. AND RULE 6504(d)

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
VACATING DEADLINES AND
SCHEDULING REMOTE PREHEARING CONFERENCE
FOR MAY 7, 2024**

Mailed Date: April 22, 2024

I. STATEMENT, SUMMARY AND PROCEDURAL HISTORY

A. Statement and Summary

1. This Decision vacates the deadline for Colorado Public Utilities Commission Staff (Staff) to file a proposed consensus procedural schedule and the deadline for Petitioner to have counsel enter an appearance or establish that Petitioner may be represented by a non-attorney; and schedules a fully remote prehearing conference for May 7, 2024 at 1:00 p.m.

B. Procedural History

2. On February 26, 2024, Ms. Renata Anson initiated this Proceeding by filing a Petition seeking to reverse a Staff decision initially denying a towing permit application.

3. On March 13, 2024, the Colorado Public Utilities Commission (Commission) referred this Proceeding by minute entry to an Administrative Law Judge (ALJ) for disposition.

4. On April 1, 2024, Staff filed a “Notice of Intervention as of Right [. . .] Entry of Appearance, Notice Pursuant to Rule 1007(a) and Rule 1401, and Request for Hearing” (Staff’s Intervention).

5. On April 10, 2024, the ALJ issued an order requiring Petitioner to make filing(s) on or by 5:00 p.m. on April 24, 2024 that:

- identifies the individual or entity whose towing permit Application was denied and which is the subject of the Petition, and the full legal name of any company or entity on whose behalf the Petition was filed (as applicable);
- explains the basis for the permit Application denial;
- explains the basis of the Petition’s appeal of the permit Application denial;
- if Ms. Anson is not the individual whose permit Application was denied, the basis for Ms. Anson’s legal authority to appeal the permit Application denial; and
- if the Petition is filed on behalf of a formally organized company, the filing must establish that the company can be represented by a non-attorney consistent with the requirements outlined in ¶ 12 of Decision No. R24-0224-I, or have counsel enter an appearance on the company’s behalf.¹

6. The ALJ also ordered the parties to confer on a procedural schedule and for Staff to make a filing on or by May 3, 2024 proposing a consensus procedural schedule.²

7. On April 22, 2024, Petitioner filed her “Response to Administrative Law Judge Melody Mirbaba” (Response).

II. FINDINGS, ANALYSIS AND CONCLUSIONS

8. In the Response, Petitioner filed a letter from Staff dated January 12, 2024 addressed to Ms. Anson as “Partner” and “Ryder Towing & Recovery” denying a towing permit Application; a letter dated December 26, 2023 addressed to Anson Enterprises, doing business as Ryder Towing & Recovery indicating that its towing permit Application is incomplete; a copy of the Petition (a letter) that initiated this Proceeding; and a Statement of Registration registering

¹ Decision No. R24-0224-I at 7-8 (mailed April 10, 2024).

² *Id.* at 8.

Anson Enterprises as a limited liability company (LLC).³ The Response also implies that the permit Application at issue was filed on behalf of Anson Enterprises, LLC (Anson Enterprises), which Petitioner, along with a Shawn Healy were planning to operate using a “dba” (doing business as) of Ryder Towing & recovery.⁴ Based on the Response, it appears that the Petition is filed on behalf of Anson Enterprises, a formally organized limited liability company.

9. Since Anson Enterprises is a formally organized limited liability company, as explained in detail in Decision No. R24-0224-I, Petitioner was required to either have counsel enter an appearance or make a filing establishing that it may be represented by a non-attorney.⁵ Petitioner’s filing does not address this issue. That said, the Petitioner’s deadline to meet this requirement is April 24, 2024. As such, this Decision does not conclude that Petitioner failed to satisfy the all the requirements in Decision No. R24-0224-I.

10. However, given Petitioner’s Response and the questions that it raises, the ALJ finds that holding a prehearing conference will better enable the ALJ to determine how best to move this Proceeding forward.⁶ During the prehearing conference, the ALJ will require Petitioner to address the issues surrounding legal representation for Anson Enterprises, if counsel does not enter an appearance by the time of the prehearing conference. If Anson Enterprises wishes to be represented by a non-attorney, it will be given an opportunity to establish that it meets the requirements outlined in Decision No. R24-0224-I to be represented by a non-attorney. ***Petitioner is on notice that*** if it fails to do so, and fails to have counsel enter an appearance on its behalf, the Petition may be dismissed without prejudice.

³ *Id.* at 2-11.

⁴ *Id.* at 1.

⁵ Decision No. R24-0224-I at 8.

⁶ See Rule 1409(a) of the Commission’s Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1.

11. During the prehearing conference, the ALJ will also address whether the caption in this Proceeding should be amended to refer to the Petition of Anson Enterprises, LLC, doing business as Ryder Towing & Recovery; establish deadlines to file and serve exhibits, witness and exhibit lists, and statements of position; schedule an evidentiary hearing on the Petition (including addressing the manner in which the hearing should be held, *i.e.*, remote, in person or a combination of the two). Other issues relevant to this Proceeding may be raised or addressed at the prehearing conference.

12. The parties are still required to confer on a procedural schedule as required by Decision No. R24-0224-I, but Staff is no longer required to make a filing proposing a procedural schedule, as that will be addressed during the prehearing conference. Likewise, the ALJ is vacating the deadline to make a filing establishing that Petitioner may be represented by a non-attorney, as that will also be addressed during the prehearing conference.

13. Participants will appear at the prehearing conference from remote locations by videoconference and may not appear in person for the prehearing conference. The remote prehearing conference will be held using the web-hosted service, Zoom. Attachment A hereto includes important technical information and requirements to facilitate holding the prehearing conference remotely. All those participating in the hearing must carefully review and follow all requirements in this Decision and Attachment A.

14. To minimize the potential that the videoconference hearing may be disrupted by non-participants, the link and meeting ID or access code 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. Parties will receive an email with information needed to join the hearing at the email addresses on file with the

Commission for this Proceeding. As such, it is important that all parties ensure that the Commission has the correct email address for them.

15. *Petitioner is on notice that failure* to appear at the prehearing conference may result in decisions adverse to Petitioner's interests, including dismissing the Petition without prejudice. The ALJ will deem any party's failure to appear at the prehearing conference to be a waiver of that party's objection to the rulings made during the prehearing conference.

III. ORDER

A. **It Is Ordered That:**

1. A fully remote prehearing conference in this Proceeding is scheduled as follows:

DATE: May 7, 2024

TIME: 1:00 p.m.

PLACE: Join by videoconference using Zoom

2. Participants in the hearing may not distribute the hearing link, access, or ID code to anyone not participating in the hearing. Participants may not appear in person at the Commission for the above-scheduled hearing. Instead, they must participate in the hearing from remote locations, consistent with the requirements of this Decision.

3. All participants must comply with the requirements in Attachment A to this Decision, which is incorporated into this Decision.

4. The parties must confer with each other prior to the prehearing conference consistent with the requirements in Decision No. R24-0224-I (mailed April 10, 2024).

5. The deadlines to file a proposed procedural schedule and to make a filing establishing that Petitioner may be represented by a non-attorney in Decision No. R24-0224-I are vacated, consistent with the above discussion.

6. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge

ATTEST: A TRUE COPY

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

Rebecca E. White,
Director