

Decision No. R24-0469-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24G-0213TO

PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO,

COMPLAINANT,

V.

TOWING OPERATIONS, LLC DOING BUSINESS AS WYATT'S TOWING,

RESPONDENT.

**INTERIM DECISION REQUIRING PARTIES TO CONFER
AND
STAFF TO SUBMIT A
PROPOSED PROCEDURAL SCHEDULE**

Issued Date: July 1, 2024

I. STATEMENT, SUMMARY AND PROCEDURAL HISTORY

A. Statement and Summary

1. This Decision acknowledges Colorado Public Utilities Trial Staff ("Staff") as a party; requires Towing Operations, LLC, doing business as Wyatt's Towing ("Wyatt's" or "Respondent") to have counsel enter an appearance on its behalf or make a filing establishing that it may be represented by a non-attorney by July 16, 2024; requires the parties to confer on a procedural schedule; and directs Staff to file a proposed consensus procedural schedule on or by July 26, 2024.

B. Procedural History

2. On May 16, 2024, Staff initiated this matter by filing Civil Penalty Assessment Notice (“CPAN”) No. 138973 alleging that Respondent violated Rule 6007(j) and (l) and Rule 6508(b)(I) of the Commission’s Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* (CCR) 723-6.¹ The CPAN alleges that based on these three violations, Respondent should be assessed a civil penalty of up to \$3,795.² The CPAN states that it was personally served on Respondent on May 16, 2024.³

3. On June 12, 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” (“Intervention”).

4. On June 17, 2024 the Commission referred this matter by minute entry to an administrative law judge (“ALJ”) for disposition.

II. FINDINGS AND CONCLUSIONS**A. Staff’s Intervention**

5. Per Rule 1401(e), 4 CCR 723-1 of the Commission’s Rules of Practice and Procedure, Staff may intervene of right in any Commission proceeding. Based on this and its Intervention, Staff is acknowledged as a party to this Proceeding.

B. Respondent’s Representation

6. 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

¹ CPAN at 1.

² *Id.*

³ *Id.*

⁴ Rule 1201(a), 4 CCR 723-1.

attorney on behalf of a company after establishing the company's eligibility to be represented by a non-attorney.⁵ To be eligible 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 that person's authority to represent the company in the proceeding.⁶

7. Given that Wyatt's is a limited liability corporation, it must be represented counsel in this Proceeding or establish that it is eligible to be represented by a non-attorney. To date, no counsel has entered an appearance on Respondent's behalf, and it has not otherwise made a filing establishing that it may be represented by a non-attorney. As such, Respondent must either have counsel enter an appearance on its behalf or make a filing establishing that it may be represented by a non-attorney on or by July 16, 2024.

C. Need to Establish a Procedural Schedule

8. To move this matter forward, this Decision requires the parties to confer on a procedural schedule, and Staff to file a proposed consensus procedural schedule on or by July 26, 2024. The ALJ is providing considerable time for this filing to give Wyatt's ample opportunity to obtain counsel (should it choose to do so), and for such counsel to meaningfully contribute to a proposed procedural schedule.

9. The parties' conferral and resulting proposed schedule must address the following items, at minimum: the manner in which the hearing will be held (fully in-person, fully remote, or a combination of the two, that is, hybrid); a deadline to file and serve hearing exhibits, hearing

⁵ Rule 1201(b)(II), 4 CCR 723-1 and § 13-1-127, C.R.S.

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

exhibit lists, and witness lists; hearing dates; and statements of position (should the parties wish to submit these). When a hearing is fully in-person, all parties and witnesses appear for the hearing in-person at a hearing room at the Commission's office in downtown Denver. When a hearing is fully remote, all parties and witnesses appear from remote locations using the web-based platform, Zoom. And when a hearing is hybrid, parties and witnesses may appear in person or remotely, but at least one party must appear in person. If the parties select the hybrid option, the ALJ will establish a deadline to report if the parties have determined that none of them will appear in person, in which case, the hearing will be converted to a fully remote hearing. This deadline will be at least 14 days prior to the hearing date.

10. If the parties select a hybrid or fully remote hearing option, they must be prepared to present all documentary evidence in an electronic format. In such a case, the ALJ will establish procedures to facilitate this.

11. When identifying hearing dates, the parties should review the Commission's public calendar for available dates. In addition, the parties must contact casey.federico@state.co.us or stephanie.kunkel@state.co.us to confirm the ALJ's unavailability for the parties' preferred hearing date prior to submitting the proposed schedule.

12. ***The parties are on notice*** that if a proposed procedural schedule is not filed by the established deadline, the ALJ will set a hearing and establish procedures and deadlines without further input from the parties.

III. ORDER

A. It is Ordered That:

1. Consistent with the above discussion, Colorado Public Utilities Commission Trial Staff (“Staff”) is acknowledged as a party to this Proceeding.

2. The parties must confer on a proposed procedural schedule. This conferral must address the items discussed above.

3. **On or by 5:00 p.m. on July 16, 2024**, Towing Operations, LLC, doing business as Wyatt’s Towing (“Wyatt’s” or “Respondent”) must either have counsel enter an appearance on its behalf or make a filing establishing that it is eligible to be represented by a non-attorney; identifying the non-attorney it wishes to represent it; and establishing that the person identified is authorized to represent it here, consistent with legal standards discussed in ¶ 6 above.

4. **On or by 5:00 p.m. on July 26, 2024**, Staff must file a proposed consensus procedural schedule that addresses the items discussed above.

5. 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