

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24M-0111TO

IN THE MATTER OF THE PETITION OF DEBONAIR LIMITED TO REVERSE AN INITIAL TOWING PERMIT DENIAL PURSUANT TO 40-10.1-401(2)(A), C.R.S., AND RULE 6504(D).

**INTERIM DECISION
VACATING EVIDENTIARY HEARING, AND
SCHEDULING PREHEARING CONFERENCE**

Issued Date: July 16, 2024

I. STATEMENT, SUMMARY, AND PROCEDURAL HISTORY

A. Summary

1. This Decision vacates the evidentiary hearing that had been scheduled for July 25, 2024, and instead schedules a prehearing conference for Thursday, July 25, 2024, at 11:00 a.m.

B. Procedural History¹

2. This Proceeding concerns the above-captioned Petition instituted by Debonair Limited, doing business as Debonair Limited Towing (“Debonair” or “Petitioner”) seeking to reverse a Commission decision denying it a towing permit.

3. On March 27, 2024, the Commission referred this proceeding by minute entry to an Administrative Law Judge (ALJ) for disposition.

4. On April 10, 2024, Trial Staff of the Colorado Public Utilities Commission (“Staff”) filed a Notice of Intervention of Right [...], Entry of Appearance, Notice Pursuant to Rule 1007(a) and Rule 1401, and Request for Hearing.

¹ Only the procedural history necessary to understand this Decision is included.

5. By Decision No. R24-0389-I, issued June 6, 2024, the undersigned ALJ scheduled this matter for an evidentiary hearing to be held July 25, 2024.

6. Decision No. R24-0389-I also ordered Petitioner to provide the Commission with proof that it could be represented in this Proceeding by a non-attorney — its owner/operator Cournell Fannings — within two weeks of the issuance of the Decision, or on or before June 20, 2024.

7. Subsequently, on June 28, 2024, Staff filed a Motion for Summary Judgment requesting that the Petition be dismissed on the grounds that Petitioner is barred from obtaining a towing permit under Rule 6504(b)(II) of the Commission’s Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* (“CCR”) 723-6, which expressly prohibits the Commission from granting a towing permit “if the applicant has: (A) a conviction in the state of Colorado, within the five years preceding the date the criminal history record check is completed, of any felony under any Title of [the Colorado Revised Statutes] or any towing-related offense.”

8. Under Rule 1400(b) of the Commission’s Rules of Practice and Procedure, 4 CCR 723-1, a response to a motion is due “14 days after service of the motion.” Thus, Petitioner’s response to Staff’s Motion for Summary Judgment was due on or before July 12, 2024.

9. To date, Petitioner has not responded to either the undersigned ALJ’s request for additional information verifying Petitioner’s ability to be represented by a non-attorney, or Staff’s Motion for Summary Judgment.

10. However, the undersigned ALJ is concerned that Debonair may not have been properly served with Decision No. R24-0389-I or with Staff’s Motion for Summary Judgment. Several issues have arisen in attempting to serve Petitioner, including that electronic service could not be completed because the email address for Petitioner was no longer accepting emails, that

Petitioner did not include a current mailing address with its Petition, and that the mailing addresses located for Petitioner may not be accurate.

II. VACATION OF EVIDENTIARY HEARING

11. Service of pleadings on litigants is crucial to ensure parties are notified of litigation events. To ensure Petitioner has a fair opportunity to present its Petition and to ensure that all reasonable steps have been taken to serve Petitioner with pleadings in this Proceeding, the undersigned ALJ finds and concludes that the evidentiary hearing scheduled for July 25, 2024, commencing at 9:00 a.m., should be vacated.

12. Vacating the evidentiary hearing should allow additional time to ensure pleadings and decisions pertaining to this Proceeding have been served on Petitioner.

13. The additional time garnered from vacating the evidentiary hearing will also afford Petitioner time to file responsive pleadings and prosecute this Petition before the commencement of the evidentiary hearing.

14. Therefore, the evidentiary hearing scheduled for July 25, 2024, will be vacated.

III. PREHEARING CONFERENCE

15. Instead, on **Thursday, July 25, 2024, commencing at 11:00 a.m.** the ALJ will hold a fully remote prehearing conference. At the prehearing conference, Petitioner will be given the opportunity to explain why it should be represented by a non-attorney, Mr. Fannings.

16. In addition, at the prehearing conference, the undersigned ALJ will reschedule the evidentiary hearing. Petitioner and Staff are instructed to have their calendars available at the prehearing conference for the purpose of scheduling the evidentiary hearing.

17. **All parties are on notice that failure to appear at the prehearing conference may result in decisions adverse to their interests**, including granting the complete relief the opposing

party seeks, and **dismissing the Petition**. 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.

18. Finally, parties are referred to Decision No. R24-0389-I for information on the Commission's requirements for representation at Commission proceedings and for the preparation of exhibits for the evidentiary hearing. With the exception of the vacation of the July 25, 2024, evidentiary hearing, the mandates of Decision No. R24-0389-I remain in effect.

IV. ORDER

It is Ordered That:

1. The fully-remote evidentiary hearing scheduled for July 25, 2024, commencing at 9:00 a.m. is vacated.

2. A fully-remote prehearing conference is scheduled as follows:

DATE: July 25, 2024

TIME: 11:00 a.m.

PLACE: Join by video-conference using Zoom

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

4. All participants in the prehearing conference must comply with the requirements in this Decision and those in Attachment A to this Decision, which is incorporated as if fully set forth.

5. **Videoconference Participation.** Counsel for the parties, the parties, and witnesses must participate in the prehearing conference by videoconference using the Zoom platform and may not appear in person at the Commission's office for the hearing.

6. 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 cursive script that reads 'Rebecca E. White'.

Rebecca E. White,
Director