

Decision No. R25-0063

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24G-0533TO

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

SWFT TOWING LLC,

RESPONDENT.

**RECOMMENDED DECISION
GRANTING MOTION TO DISMISS, DISMISSING
CIVIL PENALTY ASSESSMENT NOTICE, VACATING
HEARING, AND CLOSING PROCEEDING**

Issued Date: January 29, 2025

I. STATEMENT

1. This proceeding concerns Civil Penalty Assessment Notice (“CPAN”) No. 142298 issued by Commission Staff on December 6, 2024 (“CPAN No. 142298”), against Respondent swft towing llc (“Respondent” or “SWFT”). CPAN No. 142298 assessed SWFT a total penalty of \$1,265.00 for four violations of Rules 6509(a)(IV), 6509(a)(XII), 6509(a)(XIII), and 6512(a), 4 *Code of Colorado Regulations* (“CCR”) 723-6., as more specifically listed in CPAN No. 142298. CPAN No. 142298 further states that if Respondent makes a payment to the Colorado Public Utilities Commission (“Commission” or “PUC”) within ten calendar days of Respondent’s receipt of CPAN No. 142298, the amount due by respondent would be \$632.50.¹

¹ CPAN No. 142298 at 2

2. The CPAN was personally served on SWFT on December 6, 2024, via certified mail, return receipt requested.²

3. On December 30, 2024, the Commission referred this proceeding by minute entry to an Administrative Law Judge (“ALJ”).

4. On January 10, 2025, the Notice of Intervention as of Right by Trial Staff of the Commission, Entry of Appearance, Notice Pursuant to Rule 1007(a) and Rule 1401, and Request for Hearing was filed by the Trial Staff of the Colorado Public Utilities Commission (“Staff”).

5. By Decision No. R25-0018-I, issued January 13, 2025, the ALJ, among other things, scheduled an evidentiary hearing in this matter for March 12, 2025 at 2:15 p.m.

6. On January 17, 2024, the Commission’s staff filed Receipt No. 76385, confirming receipt of \$623.50 from the Respondent and noting that the parcel containing the payment was postmarked December 10, 20204 (the “Receipt”).³

7. On January 27, 2025, Staff filed its Unopposed Motion to Dismiss (“Motion to Dismiss”), requesting the ALJ to dismiss Proceeding No. 24G-0533TO, vacate the Hearing scheduled for March 25, 2024⁴, and waive response time to the Motion to Dismiss. In the Motion to Dismiss, Staff states that the Commission “received Respondent’s payment postmarked December 10, 2024 in the amount of \$632.50 that satisfied the amount due if paid within 10 calendar days of the CPAN’s service[;]”⁵ “[a]s a result of the payment of the penalty and to avoid an unnecessary hearing, Staff moves to dismiss the case, vacate the hearing scheduled for

² See *id.*.

³ See Receipt.

⁴ Respondent requested that the hearing scheduled for March 25, 2025 be vacated. Motion to Dismiss at p. 2. However, Decision No. R25-0018-I scheduled a hearing in this matter for March 12, 2025 and no hearing in this Proceeding has been scheduled for March 25, 2025. Therefore, the ALJ vacates herein the hearing scheduled for March 12, 2025.

⁵ Motion to Dismiss at p. 2.

March 25, 2025,⁶ and close this proceeding[;]”⁷ and “[b]ecause this Motion is unopposed, Staff requests a waiver of the response time to this Motion under Commission Rule 1400(b).”⁸

II. FINDINGS AND CONCLUSIONS

8. Because response time to the Motion to Dismiss is unopposed and no harm will come to the Respondent as a result of the granting of Staff’s request to waive response time, Staff’s request to waive response time will be granted pursuant to Rule 1308(c) of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (“CCR”) 723-1, as ordered below.⁹

9. Paragraph 1. on page 3 of CPAN No. 142298 states:

Within ten calendar days of this receipt of this Civil Penalty Assessment Notice, you may pay the reduced amount shown in the ‘Total Amount if Paid Within 10 Calendar Days’ section. If you choose this option, you will have acknowledged your liability for all of the violations listed in the *Civil Penalty Assessment Notice* and the PUC will accept your payment as payment in full, with surcharge, for all of the violations. If you choose this option, the *Civil Penalty Assessment Notice* will have been resolved, without further action by you.¹⁰

10. As the Receipt makes evident, Respondent fully complied with the requirements set forth in ¶1 on p. 3 of CPAN No. 142298. Therefore, Staff’s request to dismiss this Proceeding will be granted, as ordered below.

11. Because a hearing in this matter is no longer necessary, Staff’s request to vacate the hearing that was scheduled by Decision No. R25-0018-I for March 25, 2025 will be granted, as ordered below.

⁶ See footnote 4, above.

⁷ Motion to Dismiss at p. 2.

⁸ *Id.*

⁹ Staff requested that response time to the Motion to Dismiss be waived “under Commission Rule 1400(b).” Motion to Dismiss at p. 2. However, the appropriate Rule pursuant to which the Staff’s request to waive response time is granted herein is Rule 1308(c) of the Rules of Practice and Procedure, 4 CCR 723-1.

¹⁰ CPAN No. 142298 at p. 3, emphasis in the original.

12. In accordance with § 40-6-109, C.R.S., the ALJ now transmits to the Commission the record in this proceeding and recommends that the Commission enter the following order.

III. ORDER

A. It Is Ordered That:

1. Consistent with the discussion above, Response time to the Trial Staff of the Commission's Unopposed Motion to Dismiss, filed January 27, 2024 ("Motion to Dismiss") is waived.

2. The Motion to Dismiss is granted.

3. Consistent with the discussion above, Civil Penalty Assessment Notice No. 142298, issued by Commission Staff on December 6, 2024 ("CPAN No. 142298"), against Respondent swift towing llc is dismissed with prejudice.

4. Consistent with the discussion above, the hearing in this matter that was scheduled for March 12, 2025 is vacated.

5. Proceeding No. 24A-0533TO is closed.

6. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

7. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

8. If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

9. If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

10. If exceptions to this Recommended Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

AVIV SEGEV

Administrative Law Judge

ATTEST: A TRUE COPY

Rebecca E. White,
Director