

Decision No. R25-0249-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 25F-0104TO

JOHNNIE WILLIAMS,
COMPLAINANT,

V.

AMERI TOWING,
RESPONDENT

**INTERIM DECISION
CONTINUING HEARING TO JUNE 3, 2025,
ESTABLISHING PROCEDURES, AND
PROVIDING ADVISEMENTS**

Issued Date: April 9, 2025

I. STATEMENT AND SUMMARY

1. This Decision continues the May 27, 2025 evidentiary hearing in this matter to June 3, 2025; determines that hearing will be fully remote; establishes procedures relating to the hearing; provides information to facilitate the parties' participation in the hearing; sets an April 23, 2025 deadline for the parties to file a motion establishing good cause to convert the hearing to an in person or hybrid hearing; and provides the parties important advisements, including reminding the parties of their obligations, such as Respondent Ameri Towing's ("Respondent") obligation to address issues relating to its legal representation at or before the hearing in this matter (as explained in Section III(B)(2) of this Decision).

II. PROCEDURAL HISTORY

2. On March 5, 2025, Complainant Johnnie Williams (“Complainant”) initiated this matter by filing the above-captioned Complaint (“Complaint”).

3. On March 13, 2025, the Public Utilities Commission (“Commission”) Director served the Complaint and attachments on Respondent by mail; issued an Order to Satisfy or Answer (“Order to Satisfy”) and a Notice of Hearing (“Notice”) scheduling an evidentiary hearing on the Complaint for May 27, 2025; served the Order to Satisfy and Notice on the parties; and provided Complainant procedural information on this case.¹

4. During its weekly meeting held March 26, 2025, the Commission referred this matter for disposition to an administrative law judge (“ALJ”) by minute entry.

5. Also on March 26, 2025, Respondent made a filing disputing the Complaint’s allegations (“Answer”).

III. FINDINGS AND CONCLUSIONS

A. Hearing

6. Because Respondent’s Answer disputes the Complaint’s allegations, this matter must proceed to an evidentiary hearing. The Notice sets an evidentiary hearing for May 27, 2025 at 9:00 a.m.² This Decision continues the hearing to June 3, 2025 to allow additional time for Respondent to hire counsel, should it determine this is necessary based on the issues discussed in Section III(B)(2) below.

7. A fully remote hearing provides parties and witnesses flexibility to appear from remote locations, which improves access, and creates opportunities for parties and witnesses to

¹ See Correspondence from PUC filed March 13, 2025; Notice of Hearing and Order to Satisfy filed March 13, 2025.

² See Notice.

conserve resources (*e.g.*, time savings). The Commission has been holding remote evidentiary hearings for many years, which has allowed it to refine its processes to the point where parties with varying levels of experience and comfort with technology have been readily able to fully participate in hearings without difficulty. For all these reasons, the June 3, 2025 hearing will be a fully remote evidentiary hearing using the web-hosted service, Zoom. Should the parties deem it necessary, they may contact Commission Legal Assistants by email at casey.federico@state.co.us or stephanie.kunkel@state.co.us to schedule an informal Zoom practice session.

8. Although a fully remote hearing does not prejudice any party, and instead offers flexibility that improves access, the parties may request that the hearing be converted to an in person hearing or a hybrid hearing. At in person hearings, all parties and witnesses must appear in person at a hearing room in the Commission's offices in downtown Denver, Colorado. Hybrid hearings allow parties and witnesses to appear in person at a Commission hearing room or remotely, but *at least one party must appear in person* for the matter to be a hybrid hearing. On or on or by 5:00 p.m. on April 23, 2025, any party that objects to the hearing be fully remote must file a motion establishing good cause for the hearing to be held in person or as a hybrid hearing. The parties must confer with each other prior to filing such a motion and include a statement in their motion indicating whether the other party agrees or objects to the relief sought in the motion, as required by Commission Rule 1400(a), 4 CCR 723-1.

9. Because the hearing requires remote participation, the parties must present all non-testimonial evidence³ in electronic format. Non-testimonial evidence are referred to as exhibits, and can come in numerous forms, such as documentation, printed text messages, video recordings,

³ This is distinguished from witness testimony (*i.e.* testimonial evidence), which is a different form of evidence.

photographs, and the like. This Decision establishes procedures to help the parties prepare and present their exhibits electronically and to appear remotely. These procedures replicate, as practicable, evidence presentation as it occurs when parties and witnesses are present in a hearing room.⁴

10. The Public Utilities Commission Administrative Hearings Section uses box.com to receive and manage exhibits that are first presented in this type of remote evidentiary hearing. To this end, it is the Commission's practice to email the parties instructions and links for box.com. Similarly, it is the Commission's practice to email the parties the information needed to join the Zoom hearing, which minimizes the potential that a non-participant will disrupt the hearing. As such, the parties must ensure that they have provided accurate email addresses to the Commission and must regularly check their email. The Complaint provides the following email address for Complainant: Johnnie@graspyouth.org.⁵ The Answer provides the following email address for Respondent: ameritowin@gmail.com.⁶ Unless and until the parties make a filing indicating they should be served at different email addresses, the Commission will use the above email addresses to serve the parties with decisions or other filings, Zoom information to join the hearing, and box.com information.⁷

11. Attachment A to this Decision provides information about the Zoom platform and how to use Zoom to participate in the remote hearing. All those participating in the hearing must carefully review and follow all requirements in this Decision and Attachment A. Attachment B to this Decision includes vital information and requirements relating to presenting evidence

⁴ For example, participating by videoconference allows parties and witnesses to view exhibits (*i.e.*, evidence), on the video-conference screen while the exhibits are being offered into evidence and witnesses testify about them.

⁵ Complaint at 1.

⁶ Answer at 1.

⁷ See Rule 1205(a) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* ("CCR") 723-1.

electronically at the hearing, and thus, it is extremely important that all parties review and follow Attachment B's requirements.

12. In addition to requirements in Attachments A and B, the ordering paragraphs include additional requirements to facilitate the evidentiary hearing.

B. Important Advisements

1. General Advisements

13. Complainant is on notice that he carries the burden of proof to establish by a preponderance of the evidence that his requested relief should be granted.⁸ Because Complainant has the burden of proof, he will be permitted to present his evidence first during the hearing. Respondent will be permitted to cross-examine any witnesses that Complainant presents. Once Complainant rests his direct case (*i.e.*, finishes presenting his evidence), Respondent will be given an opportunity to present evidence, and Complainant will be permitted to cross-examine any witnesses that Respondent presents. Both parties will be permitted to offer exhibits during the hearing; the parties should plan to confer with each other about whether they will stipulate that each other's exhibits should be admitted into evidence.

14. All parties must be familiar with and follow the Commission's Rules of Practice and Procedure, 4 CCR 723-1, and the Commission's Rules Regulating Transportation by Motor Vehicle, 4 CCR 723-6. The parties may obtain a copy of these rules from the Commission in hard copy or on the Commission's website at <https://www.colorado.gov/pacific/dora/pucrules>.

⁸ Rule 1500, 4 CCR 723-1. The preponderance standard requires the fact finder to determine whether the existence of a contested fact is more probable than its non-existence. *Swain v. Colorado Dept. of Revenue*, 717 P.2d 507 (Colo. App. 1985). The preponderance of the evidence standard requires substantial evidence, which is such evidence as a reasonable person's mind might accept as adequate to support a conclusion. *See, e.g., City of Boulder v. Pub. Utilis. Comm'n.*, 996 P.2d 1270, 1278 (Colo. 2000).

15. The parties are on notice that all filings they make in this Proceeding *must be served* upon all other parties in accordance with Rule 1205 of the Rules of Practice and Procedure, 4 CCR 723-1.

16. The parties are on notice that failing to appear at the scheduled evidentiary hearing may result in the Commission granting the complete relief requested by the opposing party, including granting all relief sought in the Complaint, such relief as the Commission deems appropriate, or dismissing the Complaint without prejudice.

17. The parties are encouraged to register for the Commission's free E-Filing System, accessible at: <https://www.dora.state.co.us/pls/efi/EFI.homepage>. Registering for the E-Filing System allows parties to make filings and be served with filings in this Proceeding electronically through the E-Filing System. This allows parties to receive notice of filings in near real-time, almost immediately after they are filed.

2. Issues Relating to Legal Representation

18. Generally, parties appearing before the Commission must be represented by an attorney authorized to practice law in Colorado.⁹ There are several relevant exceptions to this. First, a non-attorney individual may represent his or her own interests in Commission proceedings.¹⁰ Second, an individual may appear on behalf of a business formally organized under the laws of a state after establishing the company's eligibility to be represented by a non-attorney, and that the designated representative has authority to represent the company.¹¹ For a formally organized company to be represented by a non-attorney, all the below conditions must be met:

⁹ Rule 1201(a), 4 CCR 723-1.

¹⁰ Rule 1201(b)(I), 4 CCR 723-1.

¹¹ § 13-1-127, C.R.S.; Rule 1201(b)(II), 4 CCR 723-1.

- 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 satisfactory evidence demonstrating his or her authority to represent the company in the proceeding.¹²

19. It is presumed that a corporation's officers, a partnership's partners, a limited partnership's members, and persons authorized to manage a limited liability company have authority to represent the company in a proceeding.¹³ A written resolution from a company specifically authorizing the individual to represent the company's interests in the proceeding may also be relied upon as evidence of the individual's authority to represent the company.¹⁴

20. Here, Complainant is an individual appearing on his own behalf. As a result, Complainant is not required to have counsel represent him in this Proceeding.

21. It is unclear whether Respondent is a business formally organized under the laws of a state (*e.g.*, a corporation, partnership, or limited liability company); a trade name for a business formally organized under the laws of a state; or a trade name or the like for an individual(s) operating an unincorporated business (*i.e.*, one that is not formally organized under the laws of a state). Unless Respondent falls in the last category, it must either have counsel enter an appearance on its behalf or establish that it may be represented by a duly authorized non-attorney, consistent with the above legal authority.

22. For all these reasons, if counsel does not enter an appearance on Respondent's behalf by the time of the evidentiary hearing, at the start of the hearing: (a) Respondent will be required to provide information clarifying this issue; and (b) if that information indicates that

¹² § 13-1-127(2) and (2.3)(c), C.R.S.; Rule 1201(b)(II), 4 CCR 723-1.

¹³ § 13-1-127(2) and (2.3)(c), C.R.S.

¹⁴ § 13-1-127(3). C.R.S.

Respondent is a business formally organized under the laws of a state, is a trade name for a business formally organized under the laws of a state, or is otherwise required to have counsel, Respondent will be required to establish that it is eligible to be represented by a non-attorney, and that the designated non-attorney has authority to represent it, consistent with the above legal authority.

23. As such, Respondent must determine whether it must be represented by an attorney based on the above legal authority, and if so, hire counsel to represent it. If Respondent fails to have counsel enter an appearance before the hearing without establishing good cause for this failure and the ALJ determines at the time of the hearing that Respondent is not eligible to be represented by a non-attorney or that Respondent failed to provide sufficient evidence establishing that its designated representative has authority to represent it, the ALJ may not allow Respondent to present evidence, including documentary evidence or witness testimony.

IV. **ORDER**

A. **It is Ordered That:**

1. The May 27, 2025 hearing in this matter is continued to June 3, 2025, as set forth below. No hearing will be held on May 27, 2025.

2. A fully remote evidentiary hearing on the merits of the Complaint in this Proceeding is scheduled as follows:

DATE: June 3, 2025

TIME: 9:00 a.m.

PLACE: Join by videoconference using Zoom

3. To minimize the potential that the hearing may be disrupted by non-participants, the link and meeting ID or access code to attend the hearing will be provided to the parties by

email before the hearing, and participants in the hearing are prohibited from distributing that information to anyone not participating in the hearing.

4. On or on or by **5:00 p.m. on April 23, 2025**, any party that objects to the hearing be fully remote must file a motion establishing good cause for the hearing to be held either fully in person at a hearing room in the Commission's offices in downtown Denver, or as a hybrid hearing. The motion must meet the requirements discussed above. The filing must be received by the Commission by the above time and date, or it will be considered untimely and may be rejected for that reason.

5. The parties will be held to the advisements and related obligations discussed above. This includes that Respondent Ameri Towing ("Respondent") must comply with the requirements relating to its legal representation, consistent with the above discussion.

6. **Hearing Exhibit Block Assignments.** To ensure a clear record, the parties must identify their exhibits using a unified numbering system for all their hearing exhibits. This means that the parties must physically mark their exhibits and electronically save their exhibits with the exhibit number as the document name, using exhibit numbers within their assigned exhibit number blocks. Complainant Johnnie Williams is assigned hearing exhibit numbers 100 to 199 and Respondent is assigned hearing exhibit numbers 200 to 299. Additional instructions on preparing exhibits are included in Attachment B to this Decision.

7. Attachments A and B to this Decision are incorporated as if fully set forth. The parties must comply with all requirements in Attachments A and B.

8. 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