

Decision No. R25-0302

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 25G-0051TO

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

JOSE GONZALEZ AND MELANIE PESOLA-GONZALEZ IN THEIR CAPACITIES AS OWNERS/OPERATORS OF TOW-PROS LLC,

RESPONDENTS.

**RECOMMENDED DECISION
DISMISSING CIVIL PENALTY ASSESSMENT NOTICE
WITHOUT PREJUDICE**

Issued Date: April 28, 2025

I. STATEMENT AND SUMMARY

1. This Decision grants the Colorado Public Utilities Commission Trial Staff's ("Staff") Unopposed Motion to Dismiss filed April 3, 2025 ("Motion to Dismiss" or "Motion"); dismisses Civil Penalty Notice Civil Penalty Assessment Notice ("CPAN") No. 143032 without prejudice; and closes this Proceeding.

II. PROCEDURAL HISTORY¹

2. On January 22, 2025, Staff initiated this Proceeding by filing CPAN No. 143032 against the above-named Respondents. The CPAN charges four Counts of statutory or Rule violations. Specifically, the CPAN alleges that on December 15, 2024, Respondents violated § 40-10.1-107(1), C.R.S., by failing to maintain and file proof of active financial responsibility with the

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

Commission; § 40-10.1-401(1)(a), C.R.S., by operating or offering to operate as a towing carrier in intrastate commerce without first having obtained a permit; § 40-10.1-405(4)(b), C.R.S., by failing to maintain signage at their storage facility or signage did not include all required information or language; and Rule 6005 of the Commission’s Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* 723-6, by failing to maintain or update the address and/or telephone number of their storage facility with the Commission.

3. During its weekly meeting held February 19, 2025, the Colorado Public Utilities Commission referred this matter for disposition to an administrative law judge (“ALJ”) by minute entry.

4. On March 14, 2025, Staff filed a “Notice of Intervention as of Right by Trial Staff . . . Entry of Appearance, Notice Pursuant to Rule 1007(a) and Rule 1401, and Request for Hearing.”

5. On March 24, 2025, the ALJ acknowledged Staff as a party; required Staff to confer with Respondents about a procedural schedule and about whether five other CPAN Proceedings (Nos. 25G-0042TO, 25G-0043TO, 25G-0052TO, 25G-0053TO, and 25G-0054TO (“related Proceedings”)) naming the same or substantially similar Respondents and charging the same or substantially similar violations should be consolidated; and to make a filing indicating the results of this conferral on or by April 4, 2025.² The ALJ also required that this filing address whether, and if so, when Staff will file a motion to amend CPAN No. 139529 in Proceeding No. 25G-0043TO to add Melanie Pesola-Gonzalez as a Respondent, who is a named Respondent in each of the other related Proceedings.³

² Decision No. R25-0208-I at 2-8 (issued March 24, 2025).

³ *Id.* at 8.

6. On April 3, 2025, Staff filed the Motion to Dismiss.

III. FINDINGS AND CONCLUSIONS

7. The Motion states that Staff determined that there were potential errors related to service of process and naming the correct Respondents in this and the related Proceedings.⁴ Based on these potential errors and Staff's interest in consolidating the relevant Proceedings, Staff does not wish to move forward with this and the related Proceedings, and therefore asks that the Proceedings be dismissed.⁵ Staff plans to reissue a single CPAN that includes the violations alleged in all the referenced Proceedings and properly serve the same against the correct Respondent(s).⁶

8. The Motion to Dismiss states that Respondent Jose Gonzalez does not take a position on it, and that Staff attempted to confer with Respondent Melanie Pesola-Gonzalez but was unable to reach her.⁷

9. The Motion to Dismiss establishes that Staff seeks to pursue the CPAN in this and the related Proceedings in a more efficient manner by correcting errors, ensuring proper service, and combining all counts into one CPAN. This serves administrative efficiency and may conserve the parties' resources. What is more, granting the Motion does not prejudice any party given that no procedural schedule has been established. For these reasons and those in the Motion, the ALJ finds that the Motion establishes good cause to dismiss the CPAN in this Proceeding without prejudice. As such, the ALJ grants the Motion to Dismiss.

10. In accordance with § 40-6-109, C.R.S., the ALJ transmits the record in this Proceeding and this Recommended Decision to the Commission and recommends that the Commission enter the following order.

⁴ Motion at 2-3.

⁵ *Id.* at 3. Staff filed similar Motions in each of the related Proceedings.

⁶ *Id.*

⁷ *Id.* at 1-2.

IV. ORDER

A. The Commission Orders That:

1. Consistent with the above discussion, Colorado Public Utilities Commission Trial Staff's Unopposed Motion to Dismiss filed April 3, 2025 is granted.

2. Civil Penalty Assessment Notice No. 143032 in this Proceeding is dismissed without prejudice.

3. This Proceeding is closed.

4. The 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.

5. As provided by § 40-6-106, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

- a. If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the recommended 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.
- b. If a party seeks to amend, modify, annul, or reverse a basic finding 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.

6. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded. Responses to exceptions are due within seven days of the date exceptions are served.

(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