

Decision No. R04-0772-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04G-192CP

PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO,

COMPLAINANT,

V.

RONALD SCOTT DILLER,

RESPONDENT.

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
DALE E. ISLEY
GRANTING MOTION FOR
CONTINUANCE AND
RE-SCHEDULING HEARING**

Mailed Date: July 14, 2004

I. STATEMENT

1. The captioned proceeding was initiated on or about April 7, 2004, when the Staff of the Colorado Public Utilities Commission (Staff) issued Civil Penalty Assessment Notice (CPAN) No. 28499 to the Respondent, Ronald Scott Diller (Diller).

2. On May 11, 2004, the Commission issued an Order Setting Hearing and Notice of Hearing scheduling this matter for hearing on June 14, 2004, at the Commission's offices in Denver, Colorado. That hearing date was vacated and the hearing was re-scheduled for July 15, 2005, at Diller's request. *See*, Decision No. R04-0603-I.

3. On July 9, 2004, Diller filed a pleading entitled "Entry of Appearance, Request for Discovery and Request for Rescheduling of Hearing" (Motion) through legal counsel, Janet D. Zimmerman, Esq. The Motion requests that the July 15, 2004, hearing date be vacated in order to provide Diller an opportunity to conduct discovery and to allow his counsel an opportunity to adequately prepare for hearing.

4. A forthwith hearing in connection with the Motion was held via telephone conference call on July 13, 2004. Appearances were entered by the parties through their respective counsel. Ms. Zimmerman stated that she had only recently been retained as Diller's attorney and, as a result, needed additional time to prepare for the hearing. She also indicated a desire to conduct discovery as part of that preparation.

5. Staff opposed the Motion. It pointed out that Diller has been aware of this proceeding since April 9, 2004, the date he was served with CPAN No. 28499. It also pointed out that Diller has already been granted one hearing continuance. Staff contended, therefore, that Diller has had more than adequate time to secure counsel and prepare for the July 15, 2004, hearing.

6. At the conclusion of the hearing, the administrative law judge (ALJ) indicated that Diller's request to continue the hearing would be granted. While the ALJ is sympathetic to Staff's arguments, it is important to ensure that Diller is afforded all reasonable due process rights. Postponing the hearing for approximately one month will accomplish that purpose without unduly delaying the prosecution of this matter. No further requests by Diller to continue the hearing will be granted.

7. The parties indicated that they are available for a re-scheduled hearing on August 10, 2004. The order that follows sets the re-scheduled hearing at that time.

8. Discovery in this matter shall be governed by Rule 77(c) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1-77(c), unless otherwise ordered by the Commission for good cause shown. The parties shall conduct any desired discovery in a timely manner so that such discovery is completed prior to the August 10, 2004, hearing date.

9. Requests for the issuance of subpoenas in this matter will be governed by 4 CCR 723-1-85.

II. ORDER

A. It Is Ordered That:

1. The hearing of this matter scheduled for July 15, 2004, is vacated.

2. This matter is re-scheduled for hearing as follows:

DATE: August 10, 2004

TIME: 10:00 a.m.

PLACE: Commission Hearing Room
1580 Logan Street, Office Level 2
Denver, Colorado

3. Discovery in this matter shall be governed by Rule 77(c) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1-77(c), unless otherwise ordered by the Commission for good cause shown.

4. Requests for the issuance of subpoenas in this matter will be governed by 4 *Code of Colorado Regulations* 723-1-85.

5. This Order shall be effective immediately.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge

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