

Decision No. R22-0707-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22F-0381TO

KEVIN MCCLUSKY,

COMPLAINANT,

V.

TOWING DONE RIGHT LLC,

RESPONDENT.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
CONVERTING HYBRID HEARING TO
FULLY REMOTE HEARING**

Mailed Date: November 9, 2022

I. STATEMENT, BACKGROUND, FINDINGS AND CONCLUSIONS

A. Statement and Summary

1. This Decision converts the December 6, 2022, hearing from a hybrid hearing where parties and witnesses may choose to appear in person to a fully remote hearing where all parties and witnesses must appear remotely.

B. Procedural History,¹ Findings, and Conclusions

2. A hybrid evidentiary hearing on the merits of Mr. McClusky's above-captioned Complaint against Respondent Towing Done Right LLC (Towing Done Right) is scheduled for December 6, 2022.² As explained in Decision No. R22-0614-I, a hybrid hearing allows for parties and witnesses to appear remotely via video-conference, or in person at a hearing room at the Commission's Office.

3. It is well known that the state and the nation have been in the midst of the global coronavirus (COVID-19) pandemic for some time. Indeed, on March 10, 2020, Colorado Governor Jared Polis declared a state of emergency over the COVID-19 pandemic. The Governor lifted the state of emergency by executive order on July 8, 2021. Throughout the COVID-19 pandemic, the Commission has acted to minimize any disruption of its services while maximizing access to its services. The Commission continues to mitigate the risks of infection to State employees and the public.

4. Since the hearing was scheduled as a hybrid hearing, circumstances have changed. Statistics from the Colorado Department of Public Health & Environment indicate that COVID-19 is once again spreading and circulating more widely. In addition, the state has seen significant spread of influenza and respiratory illnesses, including RSV (respiratory syncytial virus). Allowing for in-person appearances at the December 6, 2022, hearing risks increasing the spread of these viruses. The Commission recognizes that further spread of these viruses at the hearing could jeopardize the health and safety of the parties, Commission, and Commission staff.

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

² Decision No. R22-0614-I (mailed October 12, 2022).

5. Given the circumstances, the ALJ is converting the hybrid hearing to a fully remote hearing at which the participants will appear from remote locations, as provided below. The ALJ finds that holding a fully remote hearing is consistent with current public health situation and is intended to prevent the further spread of COVID-19 or other viruses identified above. The ALJ concludes that it is in the best interest of all affected to hold the hearing in this proceeding as a fully remote hearing.

6. Other than requiring parties and witnesses to appear remotely, converting the hearing to a fully remote hearing does not impact any of the procedures established for the hearing. Indeed, Decision No. R22-0614-I already requires the parties to present their documentary evidence electronically and establishes procedures to enable that. For example, parties are required to upload exhibits into their respective box.com folders for presentation during the hearing; to mark each exhibit for identification prior to uploading them into box.com; and to ensure that all parties and witnesses have access to all exhibits and will be able to download and view documents from box.com during the hearing. Those procedures, as outlined in Attachment B to Decision No. R22-0614-I remain in full force and effect. Attachment A to Decision No. R22-0614-I includes instructions and directions on using Zoom. The parties should review Decision No. R22-0614-I, and Attachments A and B thereto to ensure they are prepared to present evidence electronically and to appear via video-conference for the December 6, 2022, hearing.

7. The parties must pay special attention to Attachment B to Decision No. R22-0614-I, as it includes information and requirements to facilitate electronic evidentiary presentations at the hearing. Failing to follow the requirements in Attachment B will negatively impact the smooth progress of the evidentiary hearing.

8. Parties are encouraged to do a Zoom test session to ensure they are prepared to appear remotely using Zoom. Commission staff may assist with a test session, (schedule permitting), if the parties contact staff as soon as possible to schedule a test session. Parties wishing to work with staff to do a test session should contact Ms. Casey Frederico at casey.frederico@state.co.us.

9. As noted in Decision No. R22-0614-I, the Commission uses Zoom (a web-hosted service) to hold remote hearings. To minimize the potential that the video-conference hearing may be disrupted by non-participants, the Zoom information to remotely attend the hearing will be provided to the parties and counsel approximately one week before the scheduled hearing at the email addresses on file for this Proceeding. For the same reason, the parties will be prohibited from distributing that information to anyone not participating in the hearing. The parties are responsible for ensuring that anyone participating in the hearing remotely has the necessary Zoom information to do so.

II. ORDER

A. It Is Ordered That:

1. As discussed, the evidentiary hearing scheduled for December 6, 2022, at 9:00 a.m. is converted to a fully remote hearing with all parties and witnesses appearing from remote locations via Zoom.

2. No parties or witnesses may appear in person at the Commission's offices for the December 6, 2022 hearing.

3. The requirements in Attachments A and B to Decision No. R22-0614-I continue to apply; the parties must follow those requirements.

4. 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 "Doug Dean".

Doug Dean,
Director