

Decision No. R22-0774-I

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

PROCEEDING NO. 22G-0333TO

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COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

ERIC HOUSTON DOING BUSINESS AS CODE 3 TOWING,

RESPONDENT.

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**INTERIM DECISION OF  
ADMINISTRATIVE LAW JUDGE  
AVIV SEGEV  
SCHEDULING HEARING AND  
ESTABLISHING PROCEDURAL SCHEDULE**

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Mailed Date: December 1, 2022

**I. STATEMENT**

1. This proceeding concerns Civil Penalty Assessment Notice (CPAN) No. 131017 filed by Commission Staff on July 22, 2022 against Eric Houston doing business as Code 3 Towing (Code 3 Towing). The CPAN assessed Code 3 Towing a total penalty of \$17,020.00 for violation of Rules 6005(b), 6007(e)(II), 6508(b)(I), 6512(c), 4 *Code of Colorado Regulations* (CCR) 723-6, and §§ 40-10.1-107 and 40-10.1-401, C.R.S. The nature of the violations is listed in the CPAN as:

Failure to maintain accurate contact information with Commission.

Motor Carrier failed within two days to provide any records related to a complaint or investigation. (None Provided)

Failure to have proper authorization prior to the performance of a nonconsensual tow (Tow Invoice #NONE).

Failure of the towing carrier holding a motor vehicle in storage to make notifications required by statute (§42-4-1804 and/or §42-4-2103, C.R.S.) - (No Record Provided)

Failure to maintain and file evidence of financial responsibility in sums as required by the Public Utilities Commission.

Operating and/or offering to operate as a Towing Carrier in intrastate commerce without first having obtained a permit.

2. On November 9, 2022, the Commission referred this proceeding to an Administrative Law Judge (ALJ) by minute entry.

3. All parties are advised that this proceeding is governed by the Rules of Practice and Procedure found at 4 CCR 723-1. The ALJ expects the parties to comply with these rules. The rules are available on the Commission's website (<http://www.dora.colorado.gov/puc>) and in hard copy from the Commission.

4. Each party is specifically reminded that all filings with the Commission must also be served upon all other parties in accordance with Rule 1205 of the Rules of Practice and Procedure, 4 CCR 723-1.

**A. Procedures for a Remote Evidentiary Hearing.**

5. An evidentiary hearing will be scheduled in this proceeding. Due to the COVID-19 pandemic, remote participation will be accommodated upon at least one party and/or witness request.

6. The procedures developed for the remote evidentiary hearing are intended to replicate, as practicable, evidence presentation as it occurs when parties and witnesses are present in the hearing room. For example, participating by videoconference allows parties and witnesses to view exhibits on the video-conference screen while the exhibits are being offered into evidence and witnesses testify about them.

7. The evidentiary hearing will be conducted via video conference using the Zoom platform if at least one party or a party's witness chooses to participate remotely. Attachment A to this Decision provides information about the Zoom platform and how to use Zoom to participate in the remote hearing. To minimize the potential that the remote 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 approximately one week before the hearing, and the parties and witnesses will be prohibited from distributing that information to anyone not participating in the hearing.

8. At the hearing, the parties may call witnesses, present evidence, and make arguments in support of their position. Evidence includes documentary exhibits, testimony, and other tangible items that a party wishes the ALJ to consider in reaching a decision as to the allegations in this case. Given that the hearing will accommodate remote participation by video-conference, exhibits must be presented electronically.

9. The Public Utilities Commission Administrative Hearings Section uses [box.com](https://www.box.com) to receive and manage exhibits that are first presented at remote hearings.<sup>1</sup> As such, it is essential that the parties ensure they can access and use box.com before the hearing. The ALJ is entering orders to facilitate using box.com to manage exhibits during the hearing. To this end, the parties will be provided box.com links and instructions to: (a) upload documents and exhibits for use during the hearing; and (b) download documents and exhibits once they are presented during the hearing.

10. Each party must: (a) pre-mark all hearing exhibits with a hearing exhibit number within their assigned number block before uploading the exhibits to the party's designated box.com folder; (b) sequentially page-number each page of exhibits longer than two pages, with

the first page numbered as page 1, regardless of content before uploading the exhibits to the party's designated box.com folder; and (c) upload all pre-marked exhibits into each party's respective designated box.com folder prior to presenting them during the hearing.

11. Attachment B outlines procedures and requirements for marking and formatting exhibits aimed at facilitating efficient and smooth electronic evidence presentations at the remote hearing. It is very important that the parties carefully review and follow all requirements in this Decision and Attachments A and B.

12. Additional procedural requirements may be issued in future Interim Decisions.

**B. Informal Video-Conference Practice Session.**

13. The ALJ will hold an informal practice video-conference session if requested by either or both parties to give the parties an additional opportunity to practice using Zoom and box.com before the hearing.

14. The parties may contact a Commission Legal Assistant by email at [casey.federico@state.co.us](mailto:casey.federico@state.co.us) to schedule an informal practice video-conference session.

15. The parties will receive information and a link to participate in the informal practice session by email.

**II. ORDER**

**A. It Is Ordered That:**

1. A hearing in this matter shall be conducted at the following date, time, and place:

DATE: January 16, 2023  
TIME: 9:00 a.m.  
PLACE: Commission Hearing Room  
1560 Broadway, Suite 250  
Denver, Colorado

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<sup>1</sup> Box.com is a web-based document sharing service. When exhibits are first presented during the hearing, the Commission will receive them electronically from each party's box.com folder for display.

**Optionally**, any party may participate remotely by joining a video conference using Zoom at the link provided as to the established parties in an e-mail prior to the scheduled hearing, as addressed above.<sup>2</sup>

2. The parties and witnesses may not distribute the Zoom link and access code to anyone not participating in the remote hearing, if opted.

3. All participants in the hearing must comply with the requirements in Attachments A and B to this Decision, which are incorporated herein and in the discussion above.

4. **Video-Conference Participation.** Counsel for the parties, parties, and witnesses may attend in person or participate in the evidentiary hearing by videoconference using the Zoom platform.

5. **Evidence Presentation at the Evidentiary Hearing.** Because the hearing may accommodate remote participation by videoconference, all evidence must be presented electronically. Each party is responsible for ensuring that they and their respective witnesses: (a) have access to all pre-filed exhibits; and (b) can download and view documents available from box.com during the hearing.

6. The Administrative Law Judge will hold an informal Zoom practice session upon request.

7. The parties shall comply with the requirements established in this Interim Decision and shall make the filings as required by the adopted procedural schedule.

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<sup>2</sup> Instructions for using the Zoom videoconferencing platform are provided in Attachment A to this Decision.

8. This Decision shall be effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

AVIV SEGEV

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Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in black ink, appearing to read 'G. Harris Adams'.

G. Harris Adams,  
Interim Director