

Decision No. R22-0779-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22G-0257EC

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

STYLE CAR SERVICE LLC,

RESPONDENT.

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

Mailed Date: December 5, 2022

I. STATEMENT, BACKGROUND, FINDINGS, AND CONCLUSIONS

A. Statement and Summary

1. For the reasons discussed below, this Decision converts the December 12, 2022 hearing in this matter 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. By Decision No. R22-0526-I, on September 7, 2022, Administrative Law Judge (ALJ) G. Harris Adams scheduled this matter for a hybrid evidentiary hearing on the merits of the Civil Penalty Assessment Notice (CPAN) No. 129862 against Respondent Style Car Services, LLC (Style Car) for November 2, 2022.² A hybrid hearing is one in which the ALJ and at least one party appears in person, while others choose to appear remotely.³ Because hybrid hearings accommodate remote participation, ALJ Adams directed the parties to present their evidence electronically during the hearing and established specific procedures and requirements for the parties to follow to facilitate the smooth presentation of electronic evidence during the hybrid hearing.⁴

3. After ALJ Adams scheduled the hybrid November 2, 2022 hearing, Style Car filed two Motions seeking to reschedule the hearing.⁵ ALJ Adams denied the first motion but granted the second one and rescheduled the matter for a hybrid hearing on December 12, 2022.⁶ In doing so, ALJ Adams specifically noted that the requirements and procedures to facilitate video-conference participation established by Decision No. R22-0526-I continue to apply and that the parties must follow those requirements.⁷

4. This Proceeding was recently transferred to the undersigned ALJ. The ALJ has evaluated the manner in which the hearing is scheduled to take place, that is, as a hybrid hearing.

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

² Decision No. R22-0526-I at 4-5 (mailed September 7, 2022).

³ See Decision No. R22-0526-I at 2.

⁴ *Id.* at 2-4; and Attachments A and B to Decision No. R22-0526-I.

⁵ See Motion to Vacate and Reschedule Hearing filed on October 7, 2022 and Unopposed Motion to Reschedule hearing filed on October 26, 2022.

⁶ Decision Nos. R22-0629-I (mailed October 19, 2022) and R22-0679-I (mailed November 1, 2022).

⁷ See Decision No. R22-0679-I at 4.

For the reasons discussed below, the ALJ finds that the current circumstances warrant converting the hearing from a hybrid hearing to a fully remote hearing where all parties and witnesses appear via video-conference from remote locations.

5. 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, which was lifted 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.

6. 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 12, 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.

7. 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. The ALJ also finds that converting the hearing to a fully

remote hearing does not prejudice any party, particularly given that doing so does not result in any changes to the procedures already established for the hearing.

8. The procedures and requirements established for the hearing in Decision No. R22-0526-I and Attachments A and B thereto continue to apply. Nonetheless, for the parties' convenience, the ALJ restates those procedures and requirements, and includes identical Attachments A and B to this Decision that the parties must follow.

9. Given that all parties will appear remotely by videoconference, exhibits must be presented electronically. The Public Utilities Commission Administrative Hearings Section uses box.com to receive and manage exhibits that are first presented at remote hearings.⁸ 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.

10. 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.

11. 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.

⁸ 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.

12. 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.

13. The parties must pay special attention to Attachments A and B to this Decision, which, other than the Decision number, are identical to Attachments A and B to Decision No. R22-0526-I. Attachment A to this Decision provides information about the Zoom platform and how to use Zoom to participate in the remote hearing.

14. 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. Failing to follow the requirements in Attachments A and B will negatively impact the smooth progress of the evidentiary hearing.

15. 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 before the hearing, and the parties and witnesses 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 has the necessary Zoom information to do so.

16. As noted, in Decision R22-0526-I, the parties may participate in an informal practice video-conference session. This option remains available to the parties, but either or both parties must request this. The parties may contact a Commission Legal Assistant by email at casey.federico@state.co.us to schedule an informal practice video-conference session.

II. ORDER

A. It Is Ordered That:

1. As discussed, the evidentiary hearing scheduled for December 12, 2022 at 9:00 a.m. is converted to a fully remote hearing with all parties and witnesses appearing remotely using Zoom at the link provided to the parties in an email prior to the hearing.

2. No parties or witnesses may appear in person at the Commission's offices for the December 12, 2022 hearing. The parties and witnesses may not distribute the Zoom link and access code to anyone not participating in the remote hearing.

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

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

G. Harris Adams,
Interim Director