

Decision No. R25-0538-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 25G-0171TO

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

REGINALD BERRY / PRECISION TOWING AND RECOVERY LLC

RESPONDENT.

**INTERIM DECISION
GRANTING MOTION TO AMEND CPAN AND
PROVIDING OPPORTUNITY FOR PARTIES TO FILE A
STATEMENT ADDRESSING THE PREFERENCE FOR A
REMOTE, HYBRID, OR IN-PERSON HEARING**

Issued Date: July 23, 2025

I. STATEMENT

A. Background

1. On April 21, 2025, the Colorado Public Utilities Commission (“Commission”) filed Civil Penalty Assessment or Notice of Complaint to Appear No. 142293 (“CPAN”) alleging that Reginald Berry / Precision Towing and Recovery LLC (“Precision Towing and Recovery”) violated: (a) Commission Rule 6008(a)(1)¹ and § 40-10.1-401(1)(a), C.R.S. on three separate occasions on February 7, 2025; and (b) §§ 40-10-107(1) & 40-10.1-401(1)(a), C.R.S., on

¹ 4 Code of Colorado Regulations 723-1.

October 14 and 17, 2025. The CPAN states that the civil penalty assessed for the alleged violations is \$69,575, but that if Precision Towing and Recovery pays the civil penalty within ten calendar days of its receipt of the CPAN, the civil penalty will be reduced to \$34,787.50. Finally, the CPAN states that, if the Commission does not receive payment within ten days, the CPAN will convert into a Notice of Complaint to Appear and a hearing will be scheduled at which the Commission Staff will seek the “Total Amount” of \$69,575.² The CPAN also states that the Commission may order Precision Towing and Recovery to cease and desist from violating statutes and Commission rules.³

2. The CPAN states that the Commission served the CPAN by certified mail on April 21, 2025.⁴

3. Precision Towing and Recovery has not paid any amount, much less the reduced civil penalty amount or the total civil penalty amount, of the CPAN.

4. On May 14, 2025, the Commission referred this proceeding by minute entry to an Administrative Law Judge (“ALJ”) for disposition. The proceeding was subsequently assigned to the undersigned ALJ.

5. On June 3, 2025, Trial Staff of the Commission (“Staff”) filed a Notice of Intervention as of Right and Entry of Appearance.

6. On July 3, 2025, Staff filed a Motion to Amend the CPAN and Waive Response Time (“Motion to Amend”).

² CPAN No. 142293 at 4.

³ *Id.*

⁴ *Id.* at 3.

B. Hearing

7. The Commission can conduct in-person, remote, or hybrid hearings. A remote hearing is one in which all of the participants appear and participate from remote locations over the Zoom web conferencing platform. A hybrid hearing involves the ALJ and at least one party and/or witness participating from one of the Commission's hearing rooms in Denver, and the remaining party(ies) and witness(es) participating from one or more remote locations using the Zoom web conferencing platform. An in-person hearing is one in which the ALJ and all parties and witnesses participate in the hearing at the same location.

8. Each party will be given the opportunity to file a Statement Regarding Hearing identifying the filer's preference for an in-person, remote, or hybrid hearing. If a filer prefers an in-person hearing, the filer must identify its preferred location and provide an explanation of why the hearing should be conducted at the filer's preferred location. Any additional information supporting a request for a particular method of conducting the hearing (remote, hybrid, or in-person) can be included in a Statement Regarding Hearing.

9. The deadline for the filing of the Statements Regarding Hearing will be **August 4, 2025**. The parties are on notice that the ALJ will retain discretion to change the method by which the hearing will be conducted (remote, hybrid, or in-person) and/or the location of the hearing.

C. Identification of Respondent(s)

10. In its Statement Regarding Hearing, Staff must also specify whether the CPAN is alleged against Mr. Berry in his individual capacity and Precision Towing and Recovery LLC, Mr. Berry in his individual capacity, or Precision Towing and Recovery LLC.

D. Motion to Amend

11. Staff seeks to amend the CPAN to: (a) amend the “Nature of Violation” for Claim 1 to read: “Failure to maintain and file evidence of financial responsibility in sums as required by the Public Utilities Commission. (At the time of this event, you did not have insurance on file with the PUC for towing the 2012 Mercedes GL450 CO Reg CJO259; the 2007 Toyota Corolla CO Reg BRJA66; and the 2015 Jeep Cherokee CO Reg DCNJ27; the 2011 Jeep Grand Cherokee DLJE52; and the 2001 Toyota Tundra unknown license plates). (Fine doubled, pursuant to C.R.S. §40-7-113(3) and 6019(a))”; (b) double the “Penalty” and “Penalty + Surcharge” for Claim 1 to \$22,000 and \$25,300, respectively; (c) dismiss Claims 2-5; (d) double the “Penalty” and “Penalty + Surcharge” for Claims 6-10 to \$2,200 and \$2,530, respectively; (e) add “(Fine doubled, pursuant to C.R.S. §40-7-113(3) and 6019(a))” to the “Nature of Violation” for Claims 6-10; and (f) amend the “Total Amount” on page 2 of the CPAN to \$37,950.

12. Section 40-7-116(2), C.R.S. states that “any defect in the content of a [CPAN] may be cured by a motion to amend the same filed with the commission prior to hearing on the merits. No such amendment shall be permitted if substantial rights of the person cited are prejudiced [by the amendment].”

13. Here, Staff filed the Motion to Amend before the hearing has even been scheduled. In addition, Staff seeks to amend the CPAN to allege fewer Claims against Respondent. While Staff seeks to increase the amount of the penalty and the penalty plus the 15 percent surcharge sought for each of the remaining claims, the sum or “Total Amount” of the penalties will be decreased if the amendment is granted. Based on the foregoing, the ALJ finds and concludes that Respondent will not be prejudiced by the amendment. Accordingly, the Motion to Amend will be granted.

14. However, the ALJ will give the Respondent ten (10) calendar days from the date of the service of this Interim Decision to pay \$18,975, which is 50 percent of the “Total Amount” sought by the amended CPAN. If Respondent does so, Respondent “will have acknowledged [] liability for all of the violations listed in the [amended] Civil Penalty Assessment Notice[,] . . . the PUC will accept [the] payment as payment in full, with surcharge, for all the violations,” the CPAN will have been resolved, and this Proceeding will be closed.⁵

E. Additional Advisements

15. The parties are advised and are on notice that this proceeding is governed by the Rules of Practice and Procedure found at 4 CCR 723-1. The ALJ expects the parties to be familiar with and 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.

II. ORDER

A. It Is Ordered That:

1. The deadline to file any Statement Regarding Hearing containing the information described above is **5:00 p.m. on August 4, 2025**.
2. The Motion to Amend the CPAN and Waive Response Time filed by Trial Staff of the Commission on July 3, 2025 is granted.
3. Civil Penalty Assessment or Notice of Complaint to Appear No. 142293 (“CPAN”) is amended consistent with the discussion above.
4. As described in paragraph 14 above, Respondent has ten calendar days from the service date of this Interim Decision to pay \$18,975 to the Commission, which is 50 percent of

⁵ CPAN at 4.

the “Total Amount” sought by the amended CPAN. If Respondent does so, the CPAN will have been resolved, and this Proceeding will be closed.

5. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CONOR F. FARLEY

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Rebecca E. White".

Rebecca E. White,
Director