

Decision No. R14-0622

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14F-0125TO

CHARLES SNYDER,

COMPLAINANT,

V.

RANDY'S HIGH COUNTRY TOWING, INC.,

RESPONDENT.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
PAUL C. GOMEZ
CONSTRUING REQUEST AS MOTION
TO VACATE AND RESET HEARING;
DENYING MOTION TO VACATE
AND RESET HEARING; AND,
DISMISSING COMPLAINT WITHOUT PREJUDICE**

Mailed Date: June 9, 2014

I. STATEMENT

1. The captioned proceeding was initiated on February 6, 2014, when Mr. Charles Snyder (Complainant) filed a Formal Complaint (Complaint) against Randy's High Country Towing, Inc. (Respondent).

2. On February 11, 2014, the Public Utilities Commission (Commission) issued an order to Respondent to answer or satisfy the Complaint. At the same time, the Commission scheduled the matter for an evidentiary hearing for March 24, 2014 at 9:00 a.m.

3. On February 19, 2014, the Commission referred this matter to an Administrative Law Judge (ALJ) for disposition. The matter was originally assigned to ALJ Mirbaba. The matter was subsequently assigned to the undersigned ALJ.

4. By Interim Decision No. R14-0399-I issued April 14, 2014, this matter was set for hearing for May 22, 2014. In addition to setting a hearing, the Interim Decision also denied Complainant's request to appear by telephone at the hearing because the sole reason for the request was that Complainant lived out of state.

5. Complainant again requested to appear at the hearing by telephone. Again, Complainant's only cited reason was that he lives out of state. By Interim Decision No. R14-0446-I, issued April 30, 2014, Complainant's request was denied. It was found that pursuant to Colorado Rule of Civil Procedure 43(i)(3), Complainant had not provided good cause to allow his absentee testimony in this proceeding.

6. By Interim Decision No. R14-0500-I, issued on May 12, 2014, Complainant's request to vacate the May 22, 2014 hearing date and reschedule the hearing "until sometime in late June or early July" was granted and the hearing was rescheduled for June 19, 2014.

7. Subsequently, on June 9, 2014, Complainant filed a request to vacate and reschedule the evidentiary hearing. According to that filing, Complainant's medical condition requires that the June 19, 2014 hearing be rescheduled for a later date. Complainant does not specify a date to reschedule the hearing.

8. Also filed on June 9, 2014 is a letter purported to be from Complainant's primary care physician dated June 3, 2014. According to the letter, due to a certain medical condition, Complainant must be evaluated and tested. Further, the letter indicates that Complainant has

been advised not to travel “until he is evaluated by the orthopedic clinic and given a diagnosis and plan of care.”

9. It is certainly understood that Complainant has certain medical issues which preclude him from traveling, and as relevant here, to prosecute his Complaint against Respondent. However, it is further noted that Complainant’s request to vacate and reset the hearing, as well as the letter purported to be from his primary care physician provide no date certain when Complainant’s medical condition will be resolved to the degree which would allow him to travel and participate in an evidentiary hearing in this proceeding. The evidentiary hearing in this matter has already been rescheduled three times. Therefore, rather than continuing to set hearing dates which may or may not require rescheduling, it is most appropriate and administratively efficient to dismiss this Complaint without prejudice. When Complainant’s medical condition is evaluated and Complainant has a higher degree of certainty as to when it is safe for him to travel and participate fully in a complaint proceeding, he may re-file his Complaint and the matter may be fully prosecuted and adjudicated at that time.

10. As a result, the request to vacate and reschedule the evidentiary hearing in this proceeding will be construed as a motion to vacate and reschedule and will be denied.

11. Based on the above findings, this complaint proceeding will be dismissed without prejudice. Complainant may file his formal complaint again at some time in the future.

12. In accordance with § 40-6-109, C.R.S., it is recommended that the Commission enter the following order.

II. ORDER

A. It Is Ordered That:

1. The June 9, 2014 request of Complainant, Mr. Charles Snyder to reschedule the evidentiary hearing in this proceeding is construed as a motion to vacate and reschedule the evidentiary hearing.

2. The motion to vacate and reschedule the evidentiary hearing is denied consistent with the discussion above.

3. This Formal Complaint is dismissed without prejudice consistent with the discussion above.

4. The evidentiary hearing scheduled for June 19, 2014 is vacated.

5. This Proceeding is now closed.

6. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

7. As provided by § 40-6-106, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

a.) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the recommended decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

b.) If a party seeks to amend, modify, annul, or reverse a basic finding of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the

administrative law judge; and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

8. If exceptions to this Recommended Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

PAUL C. GOMEZ

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director