

Decision No. R14-0790-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14G-0552TO

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

WILLIAM WEIHTROUCH, DOING BUSINESS AS DENVERPARKING.COM,

RESPONDENT.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
SCHEDULING EVIDENTIARY HEARING,
ESTABLISHING PROCEDURAL SCHEDULE,
SHORTENING RESPONSE TIME TO
DISCOVERY, SHORTENING RESPONSE
TIME TO MOTIONS PERTAINING TO
DISCOVERY, AND CONTAINING ADVISEMENTS**

Mailed Date: July 9, 2014

I. STATEMENT

1. On May 27, 2014, the Commission appears to have served, by certified mail (return receipt requested), Civil Penalty Assessment Notice or Notice of Complaint No. 108765 (the CPAN) on William Weihrouch. The CPAN commenced this Proceeding.

2. The CPAN states that Mr. Weihrouch, doing business as denverparking.com, holds PUC Authority No. T-03312. The CPAN names Mr. Weihrouch, doing business as denverparking.com (Weihrouch or Respondent), as the Respondent.

3. On June 18, 2014, counsel for Trial Staff of the Commission (Staff) entered their appearance in this Proceeding. In that filing and pursuant to Rule 4 *Code of Colorado Regulations* (CCR) 723-1-1007(a),¹ Staff counsel identified the trial Staff and the advisory Staff in this Proceeding.

4. Staff and Respondent, collectively, are the Parties. Staff appears through legal counsel. Respondent appears *pro se*.²

5. On June 18, 2014, by Minute Order, the Commission assigned this Proceeding to an Administrative Law Judge (ALJ).

6. On June 23, 2014, by Decision No. R14-0678-I, the ALJ ordered Staff to make a filing that contained a list of three proposed hearing dates, each of which is agreeable to the Parties. On July 9, 2014, Staff timely made its Filing Regarding Proposed Hearing Dates. In that filing at ¶ 2, Staff states that the Parties propose September 9, 10, or 11, 2014 as the hearing date.

7. The ALJ will schedule the evidentiary hearing for **September 10, 2014**, which is one of the proposed dates.

8. The ALJ will order the following procedural schedule: (a) **not later than July 18, 2014**, Staff will file its list of witnesses in its direct case and complete copies of the exhibits that it will offer in its direct case; (b) **not later than August 13, 2014**, Respondent will file its list of witnesses and complete copies of the exhibits that it will offer in its case; (c) **not later than August 22, 2014**, each party will file (if necessary to correct an error in the previously-filed list

¹ This Rule is found in the Rules of Practice and Procedure, Part 1 of 4 *Code of Colorado Regulations* 723.

² In Decision No. R14-0678-I at ¶ 11, the ALJ advised Mr. Weihrouch of the standards to which he will be held. This Decision was issued on June 23, 2014.

of witnesses) corrected copies of its lists of witnesses and will file (if necessary to correct an error in a previously-filed exhibit) corrected complete copies of the exhibits that it will offer at hearing; (d) ~~not~~later than **August 9, 2014**, each party will file its prehearing motions, including motions *in limine*;³ and (e) ~~not~~later than **noon on September 5, 2014**, the Parties will file any settlement agreement ~~or~~ stipulation that they have reached.

9. Each witness who will be called to testify (except a witness called in Staff's rebuttal case) *must be* identified on the list of witnesses that ¶ 8 requires each party to file. The list of witnesses *must contain* the following information for each listed witness: (a) the name ~~of~~the witness; (b) the address of the witness; (c) the business telephone number ~~or~~daytime telephone number of the witness; and (d) ~~a~~detailed summary of the testimony that the witness is expected to give.

10. **The Parties are advised, and are on notice, that** no person -- *including Respondent William Weihrouch* -- will be permitted to testify on behalf of a party (except in Staff's rebuttal case) unless the person is identified on the list of witnesses filed in accordance with ¶¶ 8 and 9 of this Interim Decision.

11. Complete copies of all exhibits (except an exhibit offered in Staff's rebuttal case or to be used in cross-examination) must be filed as required by ¶ 8.

12. **The Parties are advised, and are on notice, that** no document -- *including the CPAN* -- will be admitted into evidence (except in Staff's rebuttal case or when used in cross-examination) unless that document is filed in accordance with ¶¶ 8 and 11 of this Interim Decision.

³ As a preliminary matter on the day of hearing, the ALJ will hear argument on pending prehearing motions and will rule on those motions.

13. Rules 4 CCR 723-1-1100 and 723-1-1101 will govern the treatment of information claimed to be confidential.

14. Except as modified by this Interim Decision, Rule 4 CCR 723-1-1405 will govern discovery in this Proceeding.

15. Responses to discovery requests will be served within *five business days from the date of service of the requests*.⁴ Discovery served after 3:00 p.m. Mountain Time on a Friday will be deemed served on the next business day.

16. Motions pertaining to discovery may be filed at any time.⁵ Unless otherwise ordered, responses to motions pertaining to discovery will be written and will be filed within *three business days of service of the motion*.⁶ If necessary, the ALJ will hold a hearing on a discovery-related motion as soon as practicable after the motion is filed.

17. **The Parties are advised, and are on notice, that** it is the responsibility of each party to have, at the evidentiary hearing, a sufficient number of copies of each document that it wishes to offer as an exhibit.⁷ **The Parties are advised, and are on notice, that** the fact that exhibits are prefiled in accordance with this Interim Decision does *not* alter the requirement set out in this paragraph.

18. **The Parties are advised, and are on notice, that** if the number of copies available at hearing is insufficient to meet the requirements of ¶ 17, the document will not be marked as an exhibit.

⁴ By this Interim Decision, the ALJ will shorten response time to discovery.

⁵ The prefiling procedures in Rule 4 CCR 723-1-1405 apply.

⁶ By this Interim Decision, the ALJ will shorten response time to motions pertaining to discovery.

⁷ This means that, at the hearing, a party must have at least four copies of each document: one to be marked and retained by the Commission as the hearing exhibit; one to be given to the opposing party; one to be given to the ALJ; and one to be retained by the party offering the exhibit.

19. The Parties are advised, and are on notice, that the Commission will *not* make copies of documents that are offered as exhibits.

20. The Parties are reminded that, in previous Interim Decisions, the ALJ advised the Parties that the ALJ will hold the Parties to the requirements of the Rules of Practice and Procedure, Part 1 of 4 CCR 723.

II. ORDER

A. It Is Ordered That:

1. The evidentiary hearing in this matter shall be held on the following date, at the following time, and in the following location:

DATE: September 10, 2014

TIME: 9:00 a.m.

PLACE: Commission Hearing Room
1560 Broadway, Suite 250
Denver, Colorado

2. The following procedural schedule is adopted: (a) ~~not~~later than July 18, 2014, Staff of the Commission (Staff) shall file its list of witnesses in its direct case and complete copies of the exhibits that it will offer in its direct case; (b) ~~not~~later than August 13, 2014, Respondent William Weihrouch, doing business as denverparking.com, shall file his list of witnesses and complete copies of the exhibits that he will offer in its case; (c) ~~not~~later than August 22, 2014, each party shall file (if necessary to correct an error in the previously-filed list of witnesses) corrected copies of its lists of witnesses and shall file (if necessary to correct an error in a previously-filed exhibit) corrected complete copies of the exhibits that it will offer at hearing; (d) ~~not~~later than August 29, 2014, each party shall file its prehearing motions, including

motions *in limine*; and (e) not later than noon on September 5, 2014, the Parties shall file any settlement agreement or stipulation that they have reached.

3. No person shall testify on behalf of a party (except in Staff's rebuttal case) unless the person is identified on the list of witnesses filed in accordance with this Interim Decision.

4. No document shall be admitted into evidence (except in Staff's rebuttal case or when used in cross-examination) unless that document is filed in accordance with this Interim Decision.

5. Rules 4 *Code of Colorado Regulations* 723-1-1100 and 723-1-1101 shall govern the treatment of information claimed to be confidential.

6. Except as modified by this Interim Decision, Rule 4 *Code of Colorado Regulations* 723-1-1405 shall govern discovery.

7. Response time to discovery is shortened to five business days from the date of service of the discovery.

8. Discovery served after 3:00 p.m. Mountain Time on a Friday is deemed served on the next business day.

9. Response time to a discovery-related motion is shortened to three business days from the date of service of the motion.

10. The Parties are held to the advisements in the Interim Decisions issued in this Proceeding.

11. This Interim Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MANA L. JENNINGS-FADER

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director