

Decision No. R19-0862-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19G-0438HHG

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

ELEVATED MOVES,

RESPONDENT.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
STEVEN H. DENMAN
SHORTENING RESPONSE TIME TO
STAFF'S MOTION TO AMEND
THE CPAN PURSUANT TO C.R.C.P. 15(C)**

Mailed Date: October 23, 2019

I. STATEMENT AND FINDINGS

1. This Proceeding was commenced on August 8, 2019, when Trial Staff of the Colorado Public Utilities Commission (Staff) issued Civil Penalty Assessment or Notice of Complaint to Appear (CPAN) No. 123654 to Respondent Elevated Moves. Staff and Respondent are the only Parties to this Proceeding.

2. The procedural history of the above-captioned proceeding is set forth in Decisions previously issued and is repeated here as necessary to put this Decision into context.

3. Decision No. R19-0726-I (mailed August 30, 2019) set a hearing on this CPAN for October 8, 2019 at 9:30 a.m. in a Commission hearing room and adopted the procedural deadlines for the parties to file prehearing disclosures.

4. Pursuant to Decision No. R19-0726-I, on September 13, 2019, Staff filed and served on Mr. Oscar Ramirez, owner of Elevated Moves, its list of two witnesses, detailed summaries of the testimony of each witness, and copies of ten exhibits that it intends to offer into evidence at the hearing.

5. Decision No. R19-0790-I (mailed on September 24, 2019) granted Staff's Motion to Amend the Procedural Schedule, asking that the hearing be continued due to a pre-existing conflict with Staff counsel's hearing schedule. Staff's counsel attempted to confer with Mr. Ramirez about the requested continuance and alternative dates by email on September 18, 2019 and by telephone (*i.e.*, by voice mail) on the morning of September 20, 2019, but Mr. Ramirez failed to respond to either message. Staff asserted that Respondent would suffer no prejudice and the continuance will give Mr. Ramirez more time to prepare for hearing.¹ The hearing was rescheduled to October 22, 2019 at 9:30 a.m.²

6. Decision No. R19-0790-I also extended until October 8, 2019, the deadline for Elevated Moves to file, and to serve on Staff and its counsel, a list of its witnesses, detailed summaries of the testimony of each of its witnesses, and copies of the exhibits that it intends to offer into evidence at the hearing.³

¹ Staff's Motion, ¶¶ 1 through 5 at pages 1 and 2.

² The caption on Staff's Motion is different than the original Caption on previous decisions and pleadings. If Staff believes its caption is more correct, Staff was invited to file a motion to amend the caption. Decision No. R19-0790-I, Fn. 3 at page 3.

³ Decision No. R19-0790-I, Ordering Paragraph No. 6 at page 5.

7. The hearing was called to order on October 22, 2019 at 9:30 a.m. Although the Administrative Law Judge (ALJ) recessed the evidentiary portion of the hearing until 9:45 a.m. to give Mr. Ramirez an opportunity to appear, neither Mr. Ramirez nor any representative of Elevated Moves appeared for the hearing. Staff presented its case-in-chief through the testimony of Mr. Lloyd Swint, who sponsored nine exhibits, which were admitted. Mr. Swint testified that Mr. Ramirez and his moving company, Elevated Moves LLC, had violated the Colorado statutes charged in the CPAN. He requested that the remedies sought by Staff be assessed against both Mr. Ramirez and Elevated Moves LLC. The ALJ engaged in a colloquy with Staff's counsel about why Staff had not amended the caption to include both Mr. Ramirez and Elevated Moves.

8. During the afternoon of October 22, 2019, Staff filed Staff's Motion to Amend the CPAN Pursuant to C.R.C.P. 15(c) to the following: "Public Utilities Commission of the State of Colorado, Complainant v. Mr. Oscar Ramirez DBA Elevated Moves, LLC, Respondent." Staff asks that response time be waived, pursuant to Rule 1400(b), 4 *Code of Colorado Regulations* 723-1.

9. However, the ALJ will not waive response time, but will shorten it to seven days, or no later than October 29, 2019. This will give Mr. Ramirez an opportunity to respond, if he wishes.

II. ORDER

A. It Is Ordered That:

1. Pursuant to Rule 1400(b) of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1, response time to Staff's Motion to Amend the CPAN Pursuant to C.R.C.P. 15(c), filed by Trial Staff of the Colorado Public Utilities Commission on October 22, 2019, is shortened from 14 days to 7 days, or to no later than October 29, 2019.

2. This Decision shall be effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

STEVEN H. DENMAN

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director