

Decision No. R20-0237-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20G-0098TO

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

BIG DADDY TOWING AND RECOVERY LLC,

RESPONDENT.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
SCHEDULING HEARING**

Mailed Date: April 10, 2020

I. STATEMENT

1. On March 6, 2020, the Colorado Public Utilities Trial Staff (Trial Staff) issued Big Daddy Towing & Recovery LLC (Big Daddy) Civil Penalty Assessment Notice or Notice of Complaint to Appear No. 123824 (CPAN) alleging four counts of violating Rule 6508, two counts of violating Rule 6509, and one count of violating Rule 6511 of the Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* (CCR) 723-6.

2. The Commission referred this matter to an Administrative Law Judge (ALJ) for disposition on April 1, 2020. The undersigned ALJ is scheduling this matter for a hearing to address the merits of the CPAN. All parties must appear at the hearing, as noticed below.

3. Any party unable to appear at the hearing must file a motion before the hearing, asking to reschedule the hearing for another date. Such a motion must state the reason the party

is unable to attend the hearing, and must identify the dates the party is available for a hearing. The parties are on notice that as of the date this Decision is issued, the Commission is currently unable to process mailed filings, as the Commission's office building is closed. As such, the parties are encouraged to make filings using the Commission's free E-Filing system. Parties may register for the Commission's free E-Filing system at the following link: <https://www.dora.state.co.us/pls/efi/EFI.register>.

4. ***The parties are on notice*** that failing to appear at the hearing without filing a motion seeking to reschedule the hearing may result in a decision adverse to their interests, including granting the relief requested in the CPAN (if Big Daddy fails to appear), and dismissing the CPAN (if Trial Staff fails to appear).

5. ***Big Daddy is on notice*** that because it is a limited liability company, Commission Rules generally require that Big Daddy be represented by an attorney, and that if it wishes to be represented by a non-attorney, it must be prepared to establish that it is entitled to do so by the time of the hearing in this matter. *See* Rule 1201, 4 CCR 723-1, Rules of Practice and Procedure. Big Daddy may be represented by a non-attorney if it establishes: (a) that it has no more than three owners; (b) the amount at issue in the proceeding is less than \$15,000; and (c) that the person designated to represent Big Daddy has authority to do so. § 13-1-127, C.R.S., and Rule 1201(b), 4 CCR 723-1.

6. The ALJ is scheduling an in-person hearing to take place at the Commission's Office in late August 2020. The hearing date is chosen to allow enough time to pass to increase the likelihood that public health orders and related executive orders related to the COVID-19 pandemic may not be in place, and that in-person gatherings may not present public health risks sought to be avoided by those orders. Even so, it is uncertain whether conditions will improve

enough to allow for an in-person hearing as planned. As such, depending on how conditions develop, the ALJ may issue orders at a later date as necessary to manage the hearing and the forward movement of this proceeding.

7. At the hearing, the parties may call witnesses, present evidence, and make arguments in support of their position. Evidence includes documentary exhibits, testimony, and other tangible items that a party wishes the ALJ to consider in reaching a decision as to the allegations in this case.

II. ORDER

A. It Is Ordered That:

1. A hearing on the merits of the Civil Penalty Assessment Notice in this proceeding is scheduled as follows:

DATE: August 31, 2020
TIME: 9:00 a.m.
PLACE: Commission Hearing Room
1560 Broadway, Suite 250
Denver, Colorado

2. All parties must bring an original and four copies of each pre-marked exhibit that they intend to introduce at the hearing in support of their position in this case. Exhibits must be marked for identification using each parties' assigned hearing exhibit numbers before the hearing. Trial Staff is assigned Hearing Exhibit numbers 1 through 99 and Big Daddy Towing & Recovery LLC is assigned Hearing Exhibit numbers 100 through 199. Any exhibit longer than two pages must be sequentially page numbered on each page of the exhibit.

3. 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

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

Doug Dean,
Director