

Decision No. R14-1002-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.

PROCEEDING NO. 14G-0739TO

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

WILLIAM WEIHTROUCH, DOING BUSINESS AS DENVERPARKING.COM,

RESPONDENT.

PROCEEDING NO. 14G-0744TO

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

WILLIAM WEIHTROUCH, DOING BUSINESS AS DENVERPARKING.COM,

RESPONDENT.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
ROBERT I. GARVEY
CONSOLIDATING PROCEEDINGS; VACATING
PROCEDURAL SCHEDULE; AND SETTING HEARING**

Mailed Date: August 20, 2014

I. STATEMENT

1. On May 27, 2014, the Colorado Public Utilities Commission (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 William 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) of the Commission's Rules of Practice and Procedure, Staff counsel identified the trial Staff and the advisory Staff in this Proceeding.

4. On June 18, 2014, by Minute Order, Proceeding No. 14G-0552TO was referred to an administrative law judge (ALJ) by minute entry of the Commission.

5. By Interim Decision No. R14-0790-I, issued on July 9, 2014, a procedural schedule was adopted and an evidentiary hearing was scheduled for September 10, 2014 in Proceeding No. 14G-0552TO .

6. On July 16, 2014, Staff filed their Motion to Stay Deadlines Pending the Filing of Motion to Consolidate.

7. By Interim Decision No. R14-0843-I, issued on July 17, 2014, the Motion to Stay Deadlines Pending the Filing of Motion to Consolidate was granted.

8. On July 24, 2014, Staff filed their Motion to Consolidate Proceeding No. 14G-0552TO with Proceeding Nos. 14G-0739TO and 14G-0744TO and to Waive Response Time (Motion to Consolidate).

9. On July 24, 2014, counsel for Staff entered their appearance in Proceeding Nos. 14G-0739TO and 14G-0744TO. Staff also filed the identical Motion to Consolidate Proceeding No. 14G-0552TO with Proceeding Nos. 14G-0739TO and 14G-0744TO and to Waive Response Time in these proceedings as was filed in Proceeding No. 14G-0552TO.

10. On July 25, 2014, ALJ Jennings-Fader issued Interim Decision No. R14-0891-I in Proceeding No. 14G-0552TO, in which she denied the Motion to Waive Response Time and allowed Mr. Weihrouch until August 15, 2014 to file a written response to the Motion to Consolidate.

11. On July 30, 2014, by Minute Order, Proceeding Nos. 14G-0739TO and 14G-0744TO were referred to an ALJ by minute entry of the Commission.

II. MOTION TO CONSOLIDATE

12. Mr. Weihrouch has failed to file any response to the Motion to Consolidate. Mr. Weihrouch's response to the Motion to Consolidate was due on August 15, 2014. No response was filed on or before that date. In addition, Mr. Weihrouch did not file a request for an extension of time to respond to the Motion to Consolidate.

13. Respondent's failure to so respond to the Motion to Consolidate shall be deemed a confession of the Motion to Consolidate. *Rule 1400 of the Rules of Practice and Procedure*, 4 CCR 723-1.

14. Rule 4 CCR 723-1-1402 governs consolidation. As pertinent here, the Rule provides that the “Commission may consolidate proceedings where the issues are substantially similar and the rights of the parties will not be prejudiced.” Whether to grant consolidation is within the Commission's discretion.

15. The ALJ finds that consolidation of the above captioned proceedings would minimize or eliminate the risk of inconsistent decisions, as well as serve administrative efficiency and economy and would minimize the need for parties to submit duplicative evidence.

16. In considering administrative efficiency, the ALJ finds that consolidation of Proceeding No. 14G-0552TO with Proceeding Nos. 14G-0739TO and 14G-0744TO is appropriate pursuant to Rule 4 CCR 723-1-1402. It is found that the issues in these three proceedings are substantially similar, and the rights of the parties will not be prejudiced.

III. PROCEDURAL SCHEDULE AND EVIDENTIARY HEARING

17. Pursuant to Interim Decision No. R14-0790-I, issued July 9, 2014 in Proceeding No. 14G-0552TO, a procedural schedule was adopted and an evidentiary hearing was scheduled for September 10, 2014.

18. By Interim Decision No. R14-0843-I, issued on July 17, 2014, the Motion to Stay Deadlines Pending the Filing of Motion to Consolidate was granted and the procedural schedule adopted in Interim Decision No. R14-0790-I was stayed.

19. On July 25, 2014, ALJ Jennings-Fader issued Interim Decision No. R14-0891-I and the evidentiary hearing scheduled for September 10, 2014 was vacated.

20. With the granting of the Motion to Consolidate, it is appropriate to address the procedural schedule and to set a new date for an evidentiary hearing in the consolidated proceeding.

21. The undersigned ALJ shall vacate the procedural schedule established in Interim Decision No. R14-0790-I. The parties shall not be required to file exhibits or a witness list prior to the evidentiary hearing.

22. The evidentiary hearing shall be scheduled for October 16, 2014.

IV. ORDER

A. It Is Ordered That:

1. The Motion to Consolidate Proceeding No. 14G-0552TO with Proceeding Nos. 14G-0739TO and 14G-0744TO filed by the Staff of the Colorado Public Utilities Commission on July 24, 2014 is granted.

2. Proceeding Nos. 14G-00739TO and 14G-0744TO are consolidated with Proceeding No. 14G-0552TO. **Proceeding No. 14G-0552TO is the primary (or lead) proceeding.**

3. All proceeding numbers and captions in the consolidated proceeding shall be listed on all future filings, as shown above on this Decision. The primary or lead proceeding identified in Ordering Paragraph No. 2, and its caption, shall appear first.

4. Given the consolidation, documents shall be filed in Proceeding No. 14G-0552TO; and no document shall be filed in Proceeding Nos. 14G-00739TO and 14G-0744TO.

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

DATE: October 16, 2014
TIME: 9:00 a.m.
PLACE: Commission Hearing Room
1560 Broadway, Suite 250
Denver, Colorado

6. The procedural schedule as stated in Interim Decision No. R14-0790-I, issued July 9, 2014 in Proceeding No. 14G-0552TO, is vacated.

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

8. This Interim Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT I. GARVEY

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director