

Decision No. R24-0611-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24G-0084TO

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

SERGIO CORNEJO DOING BUSINESS AS MNS TOWING LLC,

RESPONDENT.

**INTERIM DECISION ADDRESSING REPRESENTATION,
SCHEDULING HYBRID HEARING, AND ESTABLISHING
PREHEARING SCHEDULE**

Issued Date: August 26, 2024

I. STATEMENT

A. Procedural History

1. On February 20, 2024, the Colorado Public Utilities Commission (Commission) filed Civil Penalty Assessment or Notice of Complaint to Appear No. 139039 (CPAN) against Sergio Cornejo doing business as MNS Towing LLC alleging 24 counts of violating § 40-10.1-401(1)(a), C.R.S. on January 20, 22, 23, 24, and 25, 2024, and 23 counts of violating Commission Rule 6007(e)(II) on February 13, 2024. The CPAN states that the civil penalty assessed for the alleged violations is \$59,455, but that if Respondent pays the civil penalty within ten calendar days of its receipt of the CPAN, the civil penalty will be reduced to \$29,727. Finally, the CPAN states that, if the Commission does not receive payment within ten days, the

CPAN will convert into a Notice of Complaint to Appear and a hearing will be scheduled at which the Commission Staff (Staff) will seek the “Total Amount” of \$59,455.¹ The CPAN also states that the Commission may order Respondent to cease and desist from violating statutes and Commission rules.²

2. The Commission served the CPAN by U.S. certified mail on February 20, 2024.

3. On April 12, 2024, Trial Staff of the Commission (Staff) entered its appearance in this proceeding.

4. Respondent has not paid any amount, much less the reduced civil penalty amount or the total civil penalty amount, of the CPAN.

5. On April 24, 2024, the Commission referred this proceeding by minute entry to an Administrative Law Judge (ALJ) for disposition. The proceeding was subsequently assigned to the undersigned ALJ.

6. On June 11, 2024, the ALJ issued Decision No. R24-0398-I that established a June 28, 2024 deadline for the parties to file one or more Statements Regarding Hearing identifying the filer’s preference for an in-person, remote, or hybrid hearing and, if a filer prefers an in-person hearing, the preferred location of the hearing with an explanation of why the hearing should be conducted at the filer’s preferred location.

7. On June 28, 2024, Staff filed a Statement Regarding Hearing in which it stated that it prefers a remote hearing. Staff further stated that it had conferred with Respondent about the method of the hearing and Respondent had stated: “I can come in person.”

¹ CPAN Nos. 135021 and 135131 at 3.

² *Id.*

8. On July 17, 2024, the ALJ scheduled a remote prehearing conference for August 13, 2024 at 1:00 p.m.

9. On August 13, 2024, the remote prehearing conference took place. Staff stated that the claims in the CPAN are asserted against Mr. Cornejo in his individual capacity, and not against MNS Towing LLC. After input from the parties, the ALJ scheduled a hybrid hearing and a deadline for Staff to file and serve witness and exhibit lists and exhibits.

10. The following memorializes the decisions made at that remote prehearing conference.

B. Representation

1. Sergio Cornejo appeared at the remote prehearing conference on behalf of Respondent. As noted, Staff confirmed at the remote prehearing conference that the CPAN is asserted against Mr. Cornejo in his individual capacity, not against MNS Towing LLC. As a result, the ALJ finds and concludes that, under Rule 1201(a) of the Commission's Rules of Practice and Procedure and § 13-1-127, C.R.S., Mr. Cornejo is permitted to represent his own personal interests in this proceeding if he so chooses. If he does so choose, Mr. Cornejo is on notice that he will be bound by, and held to, the same procedural and evidentiary rules that attorneys must follow. Mr. Cornejo will not be held to a lesser standard if he represents himself in this proceeding. Likewise, the ALJ will not provide any aid or legal advice to Mr. Cornejo if he represents himself in this proceeding. At the remote prehearing conference, Mr. Cornejo stated that he understood these admonitions.

C. Hybrid Hearing

2. The evidentiary hearing in this proceeding will be scheduled for January 8-9, 2025 at 9:00 a.m. At the remote prehearing conference, the ALJ stated that he would schedule

the hearing for November 13, 2024. However, the ALJ has a scheduling conflict on that date and, after further reflection, the ALJ believes that the hearing should be scheduled for two days given the high number of counts in the CPAN.

3. Based on the input of the parties, the hearing will be conducted as a hybrid hearing. This Decision and Attachments A and B provide critical information and instructions to facilitate holding the hybrid hearing, which all parties must follow.

4. To minimize the potential that the hybrid hearing may be disrupted by non-participants, the link, meeting ID code, and passcode to attend the hearing will be provided to the participants by email before the hearing, and the participants will be prohibited from distributing that information to anyone not participating in the hearing.

5. Attachment A to this Decision provides the information addressing how to use the Zoom platform for remotely participating in the hearing. Attachment B outlines procedures and requirements for marking and formatting exhibits to facilitate the efficient and smooth electronic evidence presentations at the hybrid hearing. It is extremely important that the parties carefully review and follow all requirements in this Decision and Attachments A and B.

11. The Commission will hold an informal practice video-conference session if requested by any party to give an opportunity to practice using Zoom before the hybrid hearing. The parties may contact a Commission Legal Assistant by email at casey.federico@state.co.us and stephanie.kunkel@state.co.us, to schedule an informal practice video-conference session. If an informal practice session is requested, the parties will receive an email with information and a link to participate in the informal practice session.

12. Any party with a scheduling conflict must file a motion to reschedule the hearing by September 20, 2024. Before filing the motion, the filing party must confer with the other

parties about whether any other party opposes the motion and the dates that all of the parties are available during January 15-16, and 22-23, 2025. The motion to reschedule must: (a) state whether it is opposed or unopposed; (b) identify the dates that all of the parties are available for a remote hearing during the identified days; and (c) identify the number of days that the parties anticipate the remote hearing will take.

D. Filing and Service of Witness and Exhibit Lists and Exhibits

13. On or before November 15, 2024, Staff will file and serve on Sergio Cornejo: (a) a list that identifies the witnesses Staff intends to call at the hearing and a summary of the anticipated testimony of each witness; and (b) copies of the exhibits Staff will present at the hearing.

E. Additional Advisements

14. The parties are advised and are on notice that this proceeding is governed by the Rules of Practice and Procedure found at 4 CCR 723-1. The ALJ expects the parties to be familiar with and to comply with these rules. The rules are available on the Commission's website (<http://www.dora.colorado.gov/puc>) and in hard copy from the Commission.

II. ORDER

A. It Is Ordered That:

1. A hybrid hearing in this proceeding is scheduled as follows:

DATE: January 8-9, 2025

TIME: 9:00 a.m. to 5:00 p.m.

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

By video conference: using the Zoom web conferencing platform at a link be provided to the participants by email.

2. The deadline to file any Motion to Reschedule Hearing is September 20, 2024.
3. Commission Staff shall file and serve its witness and exhibit lists and exhibits by the deadline stated above.

4. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CONOR F. FARLEY

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Rebecca E. White".

Rebecca E. White,
Director