

Decision No. R25-0208-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 25G-0051TO

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

JOSE GONZALEZ AND MELANIE PESOLA-GONZALEZ IN THEIR CAPACITIES AS
OWNERS/OPERATORS OF TOW-PROS LLC,

RESPONDENT.

**INTERIM DECISION
ACKNOWLEDGING INTERVENTION,
REQUIRING PARTIES TO CONFER, AND
REQUIRING STAFF TO MAKE FILING**

Issued Date: March 24, 2025

I. STATEMENT AND SUMMARY

1. This Decision acknowledges Trial Staff of the Colorado Public Utilities Commission (“Staff”) as a party; requires Staff to confer with Jose Gonzalez and Melanie Pesola-Gonzalez (“Respondents”) about a procedural schedule and whether this matter should be consolidated with Proceeding Nos. 25G-0042TO, 25G-0043TO, 25G-0052TO, 25G-0053TO, and 25G-0054TO; and to make a filing by April 4, 2025 with the results of that conferral, among other information.

II. PROCEDURAL HISTORY

A. This Proceeding (No. 25G-0051TO)

2. On January 22, 2025, Staff initiated this Proceeding by filing Civil Penalty Assessment Notice (“CPAN”) No. 143032 against the above-named Respondents. The CPAN charges four Counts of statutory or Rule violations. Specifically, the CPAN alleges that on December 15, 2024, Respondents violated § 40-10.1-107(1), C.R.S., by failing to maintain and file proof of active financial responsibility with the Commission; § 40-10.1-401(1)(a), C.R.S., by operating or offering to operate as a towing carrier in intrastate commerce without first having obtained a permit; § 40-10.1-405(4)(b), C.R.S., by failing to maintain signage at their storage facility or signage did not include all required information or language; and Rule 6005 of the Commission’s Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* (“CCR”) 723-6, by failing to maintain or update the address and/or telephone number of their storage facility with the Commission.

3. During its weekly meeting held February 19, 2025, the Colorado Public Utilities Commission (“Commission”) referred this matter for disposition to an administrative law judge (“ALJ”) by minute entry, which was later assigned to the undersigned ALJ.

4. On March 14, 2025, Staff filed a “Notice of Intervention as of Right by Trial Staff . . . Entry of Appearance, Notice Pursuant to Rule 1007(a) and Rule 1401, and Request for Hearing.”

B. Proceeding No. 25G-0042TO

5. On January 15, 2025, Staff initiated Proceeding No. 25G-0042TO by filing CPAN No. 143042 against both the above-named Respondents. The CPAN charges two Counts of statutory violations. Specifically, the CPAN alleges that on December 24, 2024, Respondents

violated § 40-10.1-107(1), C.R.S., by failing to maintain and file proof of active financial responsibility with the Commission; and § 40-10.1-401(1)(a), C.R.S., by operating or offering to operate as a towing carrier in intrastate commerce without first having obtained a permit.

6. During its weekly meeting held February 12, 2025, the Commission referred this matter for disposition to an ALJ by minute entry. This matter was assigned to the undersigned ALJ.

7. On March 14, 2025, Staff filed a “Notice of Intervention as of Right by Trial Staff . . . Entry of Appearance, Notice Pursuant to Rule 1007(a) and Rule 1401, and Request for Hearing.”

C. Proceeding No. 25G-0043TO

8. On January 15, 2025, Staff initiated Proceeding No. 25G-0043TO by filing CPAN No. 139529 against Respondent Jose Gonzalez. The CPAN does not name Melanie Pesola-Gonzalez as a Respondent. The CPAN charges three Counts of statutory or Rule violations. Specifically, the CPAN alleges that on March 6, 2024, Respondent Jose Gonzalez violated § 40-10.1-107(1), C.R.S., by failing to maintain and file proof of active financial responsibility with the Commission; § 40-10.1-401(1)(a), C.R.S., by operating or offering to operate as a towing carrier in intrastate commerce without first having obtained a permit; and Rule 6508, 4 CCR 723-6.

9. During its weekly meeting held February 12, 2025, the Commission referred Proceeding No. 25G-0043TO for disposition to an ALJ by minute entry, which was later assigned to the undersigned ALJ.

10. On March 14, 2025, Staff filed a “Notice of Intervention as of Right by Trial Staff . . . Entry of Appearance, Notice Pursuant to Rule 1007(a) and Rule 1401, and Request for

Hearing”) (“Intervention” or “Intervention in 25G-0043TO”). Although the CPAN does not name Melanie Pesola-Gonzalez as a Respondent, Staff’s Intervention lists her as a Respondent.

D. Proceeding No. 25G-0052TO

11. On January 22, 2025, Staff initiated Proceeding No. 25G-0052TO by filing CPAN No. 143098 against both above-named Respondents. The CPAN charges two Counts of statutory violations. Specifically, the CPAN alleges that on January 10, 2025, Respondents violated § 40-10.1-107(1), C.R.S., by failing to maintain and file proof of active financial responsibility with the Commission; and § 40-10.1-401(1)(a), C.R.S., by operating or offering to operate as a towing carrier in intrastate commerce without first having obtained a permit.

12. During its weekly meeting held February 19, 2025, the Commission referred Proceeding No. 25G-0052TO for disposition to an ALJ by minute entry, which was later assigned to the undersigned ALJ.

13. On March 14, 2025, Staff filed a “Notice of Intervention as of Right by Trial Staff . . . Entry of Appearance, Notice Pursuant to Rule 1007(a) and Rule 1401, and Request for Hearing.”

E. Proceeding No. 25G-0053TO

14. On January 22, 2025, Staff initiated Proceeding No. 25G-0053TO by filing CPAN No. 143099 against both above-named Respondents. The CPAN charges two Counts of statutory violations. Specifically, the CPAN alleges that on January 8, 2025, Respondents violated § 40-10.1-107(1), C.R.S., by failing to maintain and file proof of active financial responsibility with the Commission; and § 40-10.1-401(1)(a), C.R.S., by operating or offering to operate as a towing carrier in intrastate commerce without first having obtained a permit.

15. During its weekly meeting held February 19, 2025, the Commission referred Proceeding No. 25G-0053TO for disposition to an ALJ by minute entry, which was later assigned to the undersigned ALJ.

16. On March 14, 2025, Staff filed a “Notice of Intervention as of Right by Trial Staff . . . Entry of Appearance, Notice Pursuant to Rule 1007(a) and Rule 1401, and Request for Hearing.”

F. Proceeding No. 25G-0054TO

17. On January 22, 2025, Staff initiated Proceeding No. 25G-0054TO by filing CPAN No. 143100 against both above-named Respondents. The CPAN charges two Counts of statutory violations. Specifically, the CPAN alleges that on December 18, 2024, Respondents violated § 40-10.1-107(1), C.R.S., by failing to maintain and file proof of active financial responsibility with the Commission; and § 40-10.1-401(1)(a), C.R.S., by operating or offering to operate as a towing carrier in intrastate commerce without first having obtained a permit.

18. During its weekly meeting held February 19, 2025, the Commission referred Proceeding No. 25G-0054TO for disposition to an ALJ by minute entry, which was later assigned to the undersigned ALJ.

19. On March 14, 2025, Staff filed a “Notice of Intervention as of Right by Trial Staff . . . Entry of Appearance, Notice Pursuant to Rule 1007(a) and Rule 1401, and Request for Hearing.”

III. FINDINGS AND CONCLUSIONS

20. Per Rule 1401(e), of the Commission's Rules of Practice and Procedure, 4 CCR 723-1, Staff may intervene of right in any Commission proceeding. As such, Staff is acknowledged as a party to this Proceeding.

21. The Commission may consolidate proceedings where the issues are substantially similar, and the parties' rights will not be prejudiced.¹

22. Except for Proceeding No. 25G-0043TO, all the Proceedings discussed above involve all the same parties. Proceeding No. 25G-0043TO names only Jose Gonzalez as a Respondent; he is a Respondent in all the Proceedings discussed above. The CPANs in each Proceeding charge violations of §§ 40-10.1-107(1), and § 40-10.1-401(1)(a), C.R.S. For these reasons, the ALJ finds that the issues in each of the referenced Proceedings are substantially similar, as contemplated by Rule 1402, 4 CCR 723-1. For the foregoing reasons and authorities, the ALJ is inclined to consolidate the Proceedings. Consolidation serves administrative efficiency by conserving Commission resources and may also conserve the parties' resources. The ALJ sees no prejudice to the parties should the matters be consolidated but will wait to hear from the parties before deciding whether to consolidate.

23. For the reasons discussed, Staff is directed to confer with Respondents on whether the above-referenced Proceedings should be consolidated and make a filing indicating the results of this conferral.

24. Since Staff's Intervention in 25G-0043TO names both Jose Gonzalez and Melanie Pesola-Gonzalez even though the CPAN only names Respondent Jose Gonzales, it is possible that the CPAN inadvertently failed to name both Respondents. Given that § 40-7-116(2), C.R.S., allows

¹ Rule 1402, 4 CCR 723-1.

Staff to amend a CPAN prior to a hearing to address defects, Staff's filing must also indicate whether, and if so, when it will file a motion to amend the CPAN in Proceeding No. 25G-0043TO to add Melanie Pesola-Gonzalez as a Respondent.

25. In anticipation of a hearing, Staff is also directed to confer with Respondents on a procedural schedule and make a filing outlining a proposed consensus procedural schedule. If Staff agrees that the Proceedings should be consolidated, the proposed schedule should contemplate this. The parties' conferral and resulting proposed schedule must address the following items, at minimum: the manner in which the hearing will be held (fully in-person, fully remote, or a combination of the two, that is, hybrid); several options for evidentiary hearing date(s); deadlines to file and serve hearing exhibits, hearing exhibit and witness lists, and statements of position (should the parties wish to submit these). When a hearing is fully in-person, all parties and witnesses appear for the hearing in-person at a hearing room at the Commission's office in downtown Denver. When a hearing is fully remote, all parties and witnesses appear from remote locations using the web-based platform, Zoom. And when a hearing is hybrid, parties and witnesses may appear in person or remotely, but at least one party must appear in person at a hearing room at the Commission's office in Denver.²

26. If the parties select a hybrid or fully remote hearing option, they must be prepared to present all documentary evidence in an electronic format. In such a case, the ALJ will establish procedures to facilitate this.

27. When identifying a hearing date, the parties should review the Commission's public calendar for available dates.

² If the parties select the hybrid option, the ALJ will establish a deadline to report if the parties have determined that none of them will appear in person, in which case, the hearing will be converted to a fully remote hearing. This deadline will be at least 14 days prior to the hearing date.

28. *The parties are on notice* that if the required filing is not submitted by the established deadline, the ALJ will consolidate the above-referenced Proceedings and establish a procedural schedule, including a fully remote hearing, without further input from the parties.

29. Contemporaneous with this Decision, the ALJ is issuing similar Decisions in each of the above-referenced Proceedings. This ensures a clear record in each Proceeding regardless of whether the matters are consolidated.

IV. **ORDER**

A. **It Is Ordered That:**

1. Trial Staff of the Colorado Public Utilities Commission (“Staff”) is acknowledged as a party.

2. Staff must confer with Respondents Jose Gonzalez and Melanie Pesola-Gonzalez about whether this matter should be consolidated with Proceeding Nos. 25G-0042TO, 25G-0043TO, 25G-0052TO, 25G-0053TO, and 25G-0054TO and about a procedural schedule, consistent with the requirements in ¶¶ 22, 23 and 25 above. Staff must make a filing on or by close of business on **April 4, 2024** indicating whether the parties agree that the Proceedings should be consolidated; proposing a consensus procedural schedule addressing the matters in ¶ 25 above; and addressing whether, and if so, when it will file a motion to amend Civil Penalty Assessment Notice No. 139529 in Proceeding No. 25G-0043TO to add Melanie Pesola-Gonzalez as a Respondent.

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 "Rebecca E. White".

Rebecca E. White,
Director