

Decision No. R25-0804

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 25F-0278TO

CHRISTOPHER J. MCNOLDY,

COMPLAINANT,

V.

1ST RESPONSE AUTO & TRUCK REPAIR LLC DOING BUSINESS AS JH MOUNTAIN
AUTO SERVICES AND KAMIL PETRIK AND GINA ANZUETO,

RESPONDENT.

**RECOMMENDED DECISION DISMISSING COMPLAINT
WITHOUT PREJUDICE**

Issued Date: November 12, 2025

I. RELEVANT PROCEDURAL HISTORY

1. On June 26, 2025, Complainant Christopher J. McNoldy (“Complainant”) initiated this matter by filing the above-captioned Complaint with the Colorado Public Utilities Commission (“Commission”) against 1st Response Auto & Truck Repair LLC, doing business as JH Mountain Auto Services, and its Registered Agents Kamil Petrik and Gina Anzueto (“Respondent”).

2. On July 18, 2025, Respondent filed its Response to Formal Complaint.

3. On July 28, 2025, the undersigned Administrative Law Judge (“ALJ”) issued Decision No. R25-0549-I in which the ALJ set this matter for hearing for October 7, 2025 at 11:00 a.m.

4. On October 7, 2025, at approximately 10:00 a.m., the ALJ became aware through informal communication from Commission Staff that Complainant was unable to appear to the scheduled hearing because of extraordinary circumstances.

5. By Decision No. R25-0728-I, issued October 7, 2025, the ALJ required Complainant to file a document in the Commission’s E-Filings system by 5:00 p.m. on October 21, 2025 stating the first date he would be available to participate in a fully remote evidentiary hearing.

6. The ALJ advised Complainant that if Complainant did not provide the required information by October 21, 2025, the ALJ may issue a decision adverse to Complainant’s interests.¹ Complainant received Decision No. R25-0728-I in the Commission’s e-filing system.

7. Complainant did not file the required document by October 21, 2025. To date, Complainant has not filed such a document.

8. On October 28, 2025, Respondent filed its New Inquiry (“Motion to Dismiss”), wherein Respondent noted that Complainant had not made the required filing and inquired whether the Proceeding had been closed as a result.² The ALJ construes the filing as a Motion to Dismiss. Complainant received the Motion to Dismiss in the Commission’s e-filing system. Complainant did not file a response.

¹ Decision No. R25-0718-I (issued October 7, 2025) at p. 1.

² Motion to Dismiss at p. 1.

II. DISCUSSION AND FINDINGS

9. Complainant failed to comply with the ALJ's order to file a document that clarifies the earliest date on which Complainant can participate in a hearing. The ALJ expressly advised Complainant that if Complainant failed to provide the required filing, the ALJ may issue a decision adverse to Complainant's interests.³

10. Respondent remains potentially subject to sanctions and needs certainty regarding this Proceeding, including a need to know when the evidentiary hearing will occur. It is unreasonable to expect Respondent to wait indefinitely for Complainant to alert the ALJ when he will be able to participate in a hearing. Pursuant to Rule 1304(a) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1, the ALJ may dismiss a complaint when the complainant fails to prosecute or comply with a lawful order. Accordingly, the ALJ will dismiss the Complaint without prejudice. Complainant can refile his complaint later if he chooses to.

III. ORDER

A. The Commission Orders That:

1. The Motion to Dismiss filed by 1st Response Auto & Truck Repair LLC, doing business as JH Mountain Auto Services, and its Registered Agents Kamil Petrik and Gina Anzueto ("Respondent") on October 28, 2025 is granted, consistent with the discussion above.

2. Complainant Christopher J. McNoldy's June 26, 2025 Complaint against Respondent is dismissed without prejudice, consistent with the discussion above.

3. Proceeding No. 25F-0278TO is closed.

³ Decision No. R25-0728-I at p. 2.

4. The Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

5. As provided by § 40-6-106, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

- a. If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the recommended decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.
- b. If a party seeks to amend, modify, annul, or reverse a basic finding of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge; and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

6. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded. Responses to exceptions are due within seven days of the date exceptions are served.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

KELLY A. ROSENBERG

Administrative Law Judge

ATTEST: A TRUE COPY

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

Rebecca E. White,
Director