

Decision No. R24-0580-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24G-0213TO

PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO,

COMPLAINANT,

V.

TOWING OPERATIONS, LLC DOING BUSINESS AS WYATT'S TOWING,

RESPONDENT.

**INTERIM DECISION SCHEDULING HEARING AND
ESTABLISHING PROCEDURAL SCHEDULE**

Issued Date: August 13, 2024

I. STATEMENT, SUMMARY AND PROCEDURAL HISTORY

A. Statement and Summary

1. This Decision schedules an in-person evidentiary hearing on the merits of Civil Penalty Assessment Notice No. 138973 ("CPAN") in this Proceeding for October 24, 2024, and establishes procedures and a procedural schedule relating to that hearing.

B. Procedural History¹

2. On May 16, 2024, Colorado Public Utilities Trial Staff ("Staff") Staff initiated this matter by filing the CPAN alleging that Towing Operations, LLC, doing business as Wyatt's Towing ("Wyatt's" or "Respondent") violated Rule 6007(j) and (l) and Rule 6508(b)(I) of the

¹ Only the procedural history necessary to understand this Decision is included.

Commission's Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* 723-6.²

3. On June 17, 2024 the Commission referred this matter by minute entry to an administrative law judge ("ALJ") for disposition.

4. On July 1, 2024, by Decision No. R24-0467-I, the ALJ ordered the parties to confer on a proposed procedural schedule, and required Staff to file a proposed consensus procedural schedule by July 26, 2024.³ Decision No. R24-0467-I also ordered Respondent to have counsel enter an appearance on its behalf or make a filing establishing that it is eligible to be represented by a non-attorney by July 16, 2024.

5. On July 23, 2024, counsel entered an appearance on behalf of Respondent.

6. On July 25, 2024, Staff filed a Proposed Consensus on Procedural Schedule ("Motion").

II. FINDINGS AND CONCLUSIONS

7. The Motion states that the parties agree to the proposed schedule therein.⁴ The Motion proposes that the parties file exhibits, and exhibit and witness lists by October 17, 2024; that the evidentiary hearing be held in person on October 24, 2024; and that the parties file Statements of Position (SOPs) by November 14, 2024, if requested.⁵

8. The ALJ finds that the proposed schedule is reasonable in light of the circumstances, and therefore, will approve it. As to SOPs, at this time, the ALJ cannot say with certainty whether SOPs will be necessary. Thus, in an abundance of caution, the ALJ will require SOPs, but will modify this as appropriate once it becomes evident whether SOPs will be helpful.

² CPAN at 1.

³ Decision No. R24-0467-I at 5 (issued July 1, 2024).

⁴ Motion at 1-3.

⁵ *Id.* at 4.

9. The ALJ finds that because counsel entered an appearance on Respondent's behalf, the issues surrounding Respondent's legal representation outlined in Decision No. R24-0467-I are resolved.

III. ORDER

A. It is Ordered That:

1. Consistent with the above discussion, the Proposed Consensus on Procedural Schedule filed on July 25, 2024 is approved.

2. An in-person evidentiary hearing on the merits of Civil Penalty Assessment Notice No. 138973 is scheduled as follows:

DATE: October 24, 2024
TIME: 9:00 a.m.
PLACE: Commission Hearing Room
1560 Broadway, Suite 250
Denver, Colorado 80202

3. **Deadline to File Exhibits and Exhibit and Witness Lists.** On or by October 17, 2024, the parties must file and serve any exhibits they intend to offer into evidence at the hearing, and exhibit and witness lists. Witness lists must include a brief description of the witnesses' anticipated testimony, and the witnesses' contact information. Exhibit lists must identify the hearing exhibit number and the full substantive title of each hearing exhibit the party intends to offer into evidence during the hearing. Any party may offer any exhibit sponsored by another party and is not required to include such an exhibit on their own exhibit list. The parties are only required to prefile and serve exhibits that they intend to offer into evidence during the evidentiary hearing. The parties may offer each other's exhibits into evidence without filing them or listing them on

their own exhibit lists. Nothing in this Decision requires the parties to prefile exhibits that may be used solely to impeach a witness's testimony, to refresh a witness's recollection, or on rebuttal.

4. **Deadline to File Statements of Position.** On or by November 14, 2024, the parties must file and serve their Statements of Position.

5. **Identification Requirements for Hearing Exhibits.** To ensure a clear record, all parties must use a unified numbering system for all hearing exhibits that they offer into evidence. To this end, Colorado Public Utilities Commission Trial Staff ("Staff") is assigned hearing exhibit numbers 1 to 99 and Towing Operations, LLC, doing business as Wyatt's Towing ("Respondent") is assigned hearing exhibit numbers 100-199. The parties must physically mark their hearing exhibits as a "Hearing Exhibit" using an exhibit number within their assigned exhibit block prior to filing them. For example, Staff must mark its first exhibit as "Hearing Exhibit 1" and Respondent must mark its first exhibit as "Hearing Exhibit 100." To be clear, any document that a party offers into evidence *must be marked* with a hearing exhibit number, including documents that a party asks to be admitted via administrative notice. Any attachments to hearing exhibits must be identified as an attachment with an alphabetical identifier to the hearing exhibit to which it is connected. For example, if Respondent's first exhibit includes an attachment, the attachment must be marked as "Hearing Exhibit 100, Attachment A." The parties may not mark attachments to exhibits as an appendix or any other similar iteration.

6. 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