

Decision No. R24-0777-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NOS. 24G-0347TO

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

PHOENIX TOWING & RECOVERY, LLC,

RESPONDENT.

PROCEEDING NO. 24G-0348TO

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

PHOENIX TOWING & RECOVERY, LLC,

RESPONDENT.

**INTERIM DECISION
CONSOLIDATING PROCEEDINGS; SCHEDULING
REMOTE HEARING; ADDRESSING EXHIBITS; SETTING
DEADLINE FOR MOTION TO RESCHEDULE REMOTE
HEARING AND PROVIDING OTHER ADVISEMENTS**

Issued Date: October 28, 2024

I. STATEMENT

1. Proceeding No 24G-0347TO concerns Civil Penalty Assessment Notice (“CPAN”) No. 140641 issued by Commission Staff (“Staff”) on August 14, 2024, against Respondent Phoenix Towing & Recovery LLC (“Respondent” or “Phoenix Towing”). The CPAN assessed a

total penalty of \$1,265.00 for one violation of Rule 6007(j) 4 *Code of Colorado Regulations* (CCR) 723-6, as more specifically listed in the CPAN.

2. Proceeding No 24G-0348TO concerns Civil Penalty Assessment Notice (“CPAN”) No. 140813 issued by Staff on August 14, 2024, against Respondent. The CPAN assessed a total penalty of \$1,265.00 for one violation of Rule 6007(e)(II) 4 *Code of Colorado Regulations* (CCR) 723-6, as more specifically listed in the CPAN

3. The CPANs indicate that they were personally served on August 14, 2024, and a representative of Phoenix Towing, upon service, signed the CPANs.

4. On October 3, 2024, Staff filed its Notice of Intervention as of Right and Entry of Appearance in both proceedings.

5. On October 16, 2024, the Commission referred both proceedings to an Administrative Law Judge (“ALJ”) by minute entry.

II. CONSOLIDATION OF PROCEEDINGS

6. Rule 4 *Code of Colorado Regulations* (CCR) 723-1-1402 governs consolidation. As pertinent here, the Rule provides that the Commission may, upon its own initiative or upon motion of a party, 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.

7. 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.

8. In considering administrative efficiency, the ALJ finds that consolidation of Proceeding No. 24G-0347TO with Proceeding No. 24G-0348TO is appropriate pursuant to

Rule 4 CCR 723-1-1402. It is found that the issues in these three dockets are substantially similar, and the rights of the parties will not be prejudiced.

III. REMOTE EVIDENTIARY HEARING

9. A hearing in the above captioned proceedings shall be scheduled for **December 12, 2024, at 9:00 a.m. as a remote hearing**. At the remote hearing, the parties may call witnesses, present evidence, and make arguments in support of their position. Evidence includes documentary exhibits, testimony, and other tangible items that a party wishes the ALJ to consider in reaching a decision as to the allegations in this case.

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

11. To minimize the potential that the video-conference part of the 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.

12. If a party cannot attend the remote hearing on December 12, 2024, the party with the scheduling conflict must file a motion to reschedule the remote hearing by November 21, 2024. Before filing the motion to reschedule, the filing party must confer with the other party about whether the other party opposes the motion and the dates that both parties are available for a hearing in December of 2024.

13. The motion to reschedule must: (a) state whether it is opposed or unopposed; (b) identify the dates that both parties are available for a remote hearing in December of 2024.

A. Unified Numbering System for Hearing Exhibits

14. The Public Utilities Commission Administrative Hearings Section uses box.com to receive and manage exhibits that are first presented in this type of remote evidentiary hearing.

15. As such, it is essential that the parties ensure they are able to access and use box.com prior to the evidentiary hearing. To this end, the parties will be provided box.com links and instructions to: (a) upload exhibits for use during the hearing; and (b) download exhibits once they are presented during the hearing.

16. Each party must (a) pre-mark all hearing exhibits with a hearing exhibit number within their assigned number block before uploading the exhibits to the party's designated box.com folder; (b) sequentially page-number each page of exhibits longer than two pages, with the first page number as page 1, regardless of content, before uploading the exhibits to the party's designated box.com folder; and (c) upload all pre-marked exhibits into each party's respective designated box.com folder prior to the presenting them during the hearing.

17. Attachment B outlines procedures and requirements for marking and formatting exhibits aimed at facilitating efficient and smooth electronic evidence presentations at the remote hearing. It is very important that the parties carefully review and follow all requirements in this Decision and Attachments A and B.

18. To efficiently organize the numbering and preparation of exhibits for the hearing, the parties shall use a unified numbering system for all hearing exhibits. Blocks of hearing exhibit numbers are assigned as follows:

- Staff is assigned hearing exhibit numbers 100 to 199; and

- Respondent is assigned hearing exhibit numbers 200 to 299.

B. Additional Procedural Notices and Advisements

19. The parties are on notice that the ALJ will retain the discretion to change the method by which the hearing will be conducted.

20. Additional procedural requirements may be addressed in future Interim Decisions.

21. The parties are advised that this proceeding is governed by the Rules of Practice and Procedure found at 4 CCR 723-1. The ALJ expects the parties comply with these rules.

22. The rules are available on the Commission's website (<http://puc.colorado.gov/pucrules>) and in hard copy from the Commission.

23. Each party is specifically advised that all filings with the Commission must also be served upon all other parties in accordance with Rule 1205 of the Rules of Practice and Procedure, 4 CCR 723-1.

24. The Parties are also on notice that failure to appear at the scheduled evidentiary hearing may result in decisions adverse to their interests, including the assessment of penalties against Respondent.

C. Informational Video Conference Practice Session

25. The ALJ will hold an informal practice video conference session if requested by any Party to give the Parties an additional opportunity to practice using Zoom and box.com before the hearing.

26. The Parties may contact the Commission Legal Assistants by email at casey.federico@state.co.us or stephanie.kunkel@state.co.us to schedule an informal practice video conference session.

27. The Parties request a practice video conference they will receive information and a link to participate in the informal practice session by email.

IV. ORDER

A. It is Ordered That:

1. Proceeding Nos. 24G-0348TO is consolidated with Proceeding No. 14G-0347TO.

Proceeding No. 24G-0347TO is the primary (or lead) proceeding.

2. All proceeding numbers and captions in the consolidated proceeding shall be listed on all future filings, as shown above on this Order. The primary or lead proceeding identified in Ordering Paragraph No. 1, and its caption, shall appear first.

3. Given the consolidation, documents shall be filed in Proceeding No. 24G-0347TO; and no documents shall be filed in Proceeding No. 24G-0348TO.

4. A remote hearing is scheduled as follows:

DATE: December 12, 2024

TIME: 9:00 a.m.

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

5. The deadline to file a Motion to Reschedule the Remote Hearing is November 21, 2024.

6. The parties and witnesses may not distribute the Zoom link and access code to anyone not participating in the remote hearing.

7. All participants in the hearing must comply with the requirements in Attachments A and B to this Decision, which are incorporated herein and, in the discussion above.

8. All evidence must be presented electronically. Each party is responsible for ensuring that they and their respective witnesses: (a) have access to all pre-filed exhibits; and (b) can download and view documents available from box.com during the hearing.

9. This Decision is effective immediately.

(S E A L)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT I. GARVEY

Administrative Law Judge

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

Rebecca E. White,
Director