



STATE OF WASHINGTON

UTILITIES AND TRANSPORTATION COMMISSION

1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250

(360) 664-1160 • TTY (360) 586-8203

December 27, 2018

Mark L. Johnson, Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Dr. SW
P. O. Box 47250
Olympia, Washington 98504-7250

RE: *Washington Utilities and Transportation Commission v. Ada-Lin Waste Systems, Inc.
d/b/a Sunshine Disposal & Recycling*
Commission Staff's Response to Application for Mitigation of Penalties
Docket TG-180951

Dear Mr. Johnson:

On December 6, 2018, the Washington Utilities and Transportation Commission (Commission) issued a penalty assessment against Ada-Lin Waste Systems, Inc. d/b/a Sunshine Disposal & Recycling (Sunshine Disposal or Company) in the amount of \$3,400 for violation of WAC 480-70-201, Vehicle and Driver Safety Requirements, which requires solid waste collection companies to comply with Title 49 CFR Part 382 – Controlled Substances and Alcohol Use and Testing, as follows:

- **One violation of Title 49 CFR Part 382.301(a) – Using a driver before the motor carrier has received a negative pre-employment substance test result.** The Company allowed driver Dylan Cappel to drive on at least one occasion without having received a negative DOT pre-employment controlled substance test. Driver was tested under a non-DOT program.
- **Twenty-nine violations of Title 49 CFR Part 383.23(a) – Operating a commercial motor vehicle without a valid commercial driver's license.** The Company allowed its employee Dylan Cappel to drive on 29 occasions with a downgraded (invalid) commercial driver's license.

Respect. Professionalism. Integrity. Accountability.

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On December 19, 2018, Sunshine Disposal filed with the commission its application for mitigation of penalties (Mitigation Request). Marc B. Torre, president of Sunshine Disposal admitted the violations but asked that the penalties be reduced for the reasons set out in the response.

Mr. Torre explained that the violations were the result of a breakdown in communications between the company's route supervisor and human resources manager. The route supervisor assigned an employee to drive a refuse truck at a time that the employee had not completed DOT approved drug and alcohol testing and did not have a valid commercial driver's license because the driver failed to update their medical certification with the Department of Licensing. Subsequently, the company has corrected the violations and updated its procedures to prevent the violations from occurring again.

Staff appreciates the company's willingness to quickly acknowledge responsibility for and correct these safety violations, and recommends the Commission reduce the overall penalty amount from \$3,400 to \$1,700, as follows:

- One violation of Title 49 CFR Part 382.301(a) – Using a driver before the motor carrier has received a negative pre-employment controlled substance test result. The Commission assessed the statutory penalty of \$500 for this violation. Staff recommends the Commission reduce this penalty by half, to \$250.
- Twenty-nine violations of Title 49 CFR Part 383.23(a) – Operating a commercial motor vehicle without a valid commercial driver's license. The Commission assessed the statutory penalty of \$100 for each occurrence of this violation, for a total of \$2,900. Staff recommends the Commission reduce this penalty by half, to \$1,450.

Sunshine Disposal is a small company with four drivers and four commercial vehicles. In 2016, the company reported \$828,000 in gross revenue and 90,721 miles traveled.

If you have any questions, please contact Mike Turcott, Compliance Investigations Supervisor, Consumer Protection, at (360) 664-1174, or by email at mike.turcott@utc.wa.gov.

Sincerely,



Mathew Perkinson
Motor Carrier Safety Manager