

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Investigation of GARY’S GARBAGE SERVICES, LLC For Compliance with WAC 480-70	DOCKET TG-210719 ORDER 01 CANCELLING BRIEF ADJUDICATIVE PROCEEDING; APPROVING SAFETY MANAGEMENT PLAN; UPGRADING SAFETY RATING
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BACKGROUND

- 1 On October 4, 2021, the Washington Utilities and Transportation Commission (Commission) issued a Notice of Intent to Cancel and Notice of Brief Adjudicative Proceeding, Setting Time for Oral Statements in the Matter of the Investigation of Gary’s Garbage Services, LLC, (Gary’s Garbage or Company) for Compliance with Washington Administrative Code (WAC) 480-70 (Notice).
- 2 The Notice explained that Commission staff (Staff) conducted a compliance review of Gary’s Garbage’s operations in September 2021 and cited the Company for 42 violations of critical federal and state safety regulations, which resulted in a proposed unsatisfactory safety rating. Based on its review, Staff recommended the Commission cancel Gary’s Garbage’s solid waste collection certificate unless the Company obtains Commission approval of a safety management plan. The Notice directed Gary’s Garbage to file a proposed safety management plan by October 15, 2021. The Notice also set a brief adjudicative proceeding for October 28, 2021, at 1:30 p.m. to determine whether the Commission should cancel Gary’s Garbage’s solid waste collection certificate.¹
- 3 On October 15, 2021, Gary’s Garbage submitted a proposed safety management plan addressing each violation cited in Staff’s investigation report.
- 4 On October 18, 2021, Staff filed with the Commission its evaluation of the Company’s safety management plan (Evaluation). Staff indicated that the Company waived its right

¹ On October 5, 2021, the Commission issued a penalty assessment in the amount of \$600 in Docket TG-210720 for the violations discovered during Staff’s compliance review. Gary’s Garbage paid the penalty in full on October 13, 2021.

to a hearing and requested the Commission cancel the brief adjudicative proceeding and decide this matter on a paper record.

- 5 Based on its review of the Company’s proposed plan, Staff determined that the Company took all the required steps to bring its safety operations into compliance with Commission regulations. Staff recommends that the Commission upgrade the Company’s safety rating to conditional and allow the Company to maintain its solid waste collection certificate.

DISCUSSION AND DECISION

1. Hearing

- 6 Based on the parties’ agreement, the Commission cancels the brief adjudicative proceeding set for October 28, 2021, and resolves by this Order all issues raised in this Docket.

2. Safety Rating

- 7 Washington Law requires solid waste collection companies to comply with federal safety requirements and undergo routine safety inspections. Staff’s September 2021 compliance review of Gary’s Garbage found 42 violations of critical safety regulations, which resulted in a proposed unsatisfactory safety rating. Violations classified as “critical” are indicative of a breakdown in a carrier’s management controls. Patterns of noncompliance with a critical regulation are quantitatively linked to inadequate safety management controls and usually higher-than-average accident rates.
- 8 On October 15, 2021, the Company submitted its proposed safety management plan and requested the Commission upgrade its safety rating. Staff determined that Gary’s Garbage’s safety management plan addresses each violation, identifies how each violation occurred, describes the steps taken to correct each violation, and describes the controls put in place to ensure compliance going forward. Staff concludes that Gary’s Garbage’s safety management plan is acceptable and satisfies the legal requirements of 49 C.F.R. Part 385. We agree.
- 9 Based on Staff’s Evaluation, the Commission finds that the Company has achieved compliance with WAC 480-70 by correcting the violations that resulted in Staff’s recommendation to cancel the Company’s solid waste collection certificate. Accordingly, the Commission agrees with Staff’s recommendation and grants the Company’s request to upgrade its safety rating to conditional.

FINDINGS AND CONCLUSIONS

- 10 (1) The Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, practices, and accounts of public service companies, including common carriers such as solid waste collection companies, and has jurisdiction over the parties and subject matter of this proceeding.
- 11 (2) Gary's Garbage is a solid waste collection company subject to Commission regulation.
- 12 (3) Gary's Garbage cured the deficiencies that led to the proposed cancellation of its solid waste collection certificate. Accordingly, Gary's Garbage's safety rating should be upgraded to conditional, and the Company should be allowed to maintain its solid waste collection certificate.

ORDER

THE COMMISSION ORDERS THAT:

- 13 (1) The Brief Adjudicative Proceeding scheduled for October 28, 2021, is cancelled.
- 14 (2) The Commission approves Gary's Garbage Services, LLC's safety management plan.
- 15 (3) Gary's Garbage Services, LLC's safety rating is upgraded to conditional.

DATED at Lacey, Washington, and effective October 25, 2021.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Rayne Pearson
RAYNE PEARSON
Administrative Law Judge

NOTICE TO PARTIES

This is an Initial Order. The action proposed in this Initial Order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order and you would like the Order to become final before the time limits expire, you may send a letter to the Commission waiving your right to petition for administrative review.

WAC 480-07-610(7) provides that any party to this proceeding has 21 days after service of this initial order to file a petition for administrative review (Petition). Section (7)(b) of the rule identifies what you must include in any Petition as well as other requirements for a Petition. WAC 480-07-610(7)(c) states that any party may file a response to a Petition within 7 days after service of the Petition.

WAC 480-07-830 provides that before the Commission enters a final order any party may file a petition to reopen a contested proceeding to permit receipt of evidence that is essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. The Commission will give other parties in the proceeding an opportunity to respond to a motion to reopen the record, unless the Commission determines that it can rule on the motion without hearing from the other parties.

WAC 480-07-610(9) provides that an Initial Order will become final without further Commission action if no party seeks administrative review of the Initial Order and if the Commission does not exercise administrative review on its own motion.

Any Petition or response must be electronically filed through the Commission's web portal, as required by WAC 480-07-140(5).