

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against	DOCKET TG-180951
ADA-LIN WASTE SYSTEMS, INC. d/b/a SUNSHINE DISPOSAL & RECYCLING	ORDER 01
in the amount of \$3,400	GRANTING MITIGATION TO \$1,700

**BACKGROUND**

- 1 On December 6, 2018, the Washington Utilities and Transportation Commission (Commission) assessed a \$3,400 penalty (Penalty Assessment) against Ada-Lin Waste Systems, Inc. d/b/a Sunshine Disposal & Recycling (Sunshine Disposal or Company) for 30 violations of Washington Administrative Code (WAC) 480-70-201, which adopts by reference 49 C.F.R. Part 382 related to controlled substance and alcohol use testing, and Part 383 related to commercial driver's license standards.<sup>1</sup>
- 2 On December 19, 2018, Sunshine Disposal responded to the Penalty Assessment, admitting the violations and requesting mitigation of the penalty based on the written information provided. In its response, the Company explained that the violations occurred because a route supervisor failed to verify with human resources whether an employee was cleared to drive a refuse truck. The Company explained that the violations have been corrected and that it has updated its procedures to prevent repeat violations.
- 3 On December 27, 2018, Commission staff (Staff) filed a response recommending the Commission grant the Company's request for mitigation, in part. Because the violations are first-time offenses and the Company promptly remedied the violations and took steps to ensure compliance going forward, Staff recommends the Commission reduce the assessed penalty by half, to \$1,700.

**DISCUSSION AND DECISION**

- 4 Washington law requires solid waste collection carriers to comply with federal safety requirements and undergo routine safety inspections. In some cases, Commission

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<sup>1</sup> WAC 480-70-201 adopts by reference sections of Title 49 C.F.R. Accordingly, Commission safety regulations with parallel federal rules are hereinafter referenced only by the applicable provision of 49 C.F.R.

requirements are so fundamental to safe operations that the Commission will issue penalties for first-time violations.<sup>2</sup> Violations defined by federal law as “acute” or “critical” meet this standard.<sup>3</sup>

5 The Commission considers several factors when entertaining a request for mitigation, including whether the company introduces new information that may not have been considered in setting the assessed penalty amount, or explains other circumstances that convince the Commission that a lesser penalty will be equally or more effective in ensuring the company’s compliance.<sup>4</sup>

6 The Penalty Assessment includes a \$500 penalty for one violation of 49 C.F.R. Part 382.301(a) because the Company used a driver before receiving a negative pre-employment substance test result. The Penalty Assessment also includes a \$2,900 penalty for 29 violations of 49 C.F.R. Part 383.23(a) because the Company allowed an employee to drive on 29 occasions with an invalid commercial driver’s license.

7 Because these are first-time violations, Staff recommends the Commission reduce the penalty by half, to \$1,700. We agree with Staff’s recommendation. Mitigation of the penalty is appropriate for several reasons. First, the violations concerned a single employee, and do not appear to be systemic or widespread. Second, Sunshine Disposal corrected the violations prior to receiving the penalty assessment, and provided to Staff documentation of its corrective actions. Finally, the Company has implemented compliance measures to prevent the violations from reoccurring. In light of these factors, we assess a reduced penalty of \$1,700.

### FINDINGS AND CONCLUSIONS

8 (1) The Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, and practices of public service companies, including solid waste collection carriers, and has jurisdiction over the parties and subject matter of this proceeding.

9 (2) Sunshine Disposal is a solid waste collection carrier subject to Commission regulation.

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<sup>2</sup> Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission ¶12 (Jan. 7, 2013) (Enforcement Policy).

<sup>3</sup> 49 C.F.R. § 385, Appendix B.

<sup>4</sup> Enforcement Policy ¶19.

- 10 (3) Sunshine Disposal violated 49 C.F.R. Part 382.301(a) when it used a driver before receiving a negative pre-employment substance test result.
- 11 (4) The Commission should penalize Sunshine Disposal \$250 for one violation of 49 C.F.R. Part 382.301(a).
- 12 (5) Sunshine Disposal violated 49 C.F.R. Part 383.23(a) when it allowed an employee to drive on 29 occasions with an invalid commercial driver's license.
- 13 (6) The Commission should penalize Sunshine Disposal \$1,450 for 29 violations of 49 C.F.R. Part 383.23(a).
- 14 (7) Sunshine Disposal must pay the \$1,700 penalty within 10 days of the effective date of this Order.

**ORDER**

THE COMMISSION ORDERS:

- 15 (1) Ada-Lin Waste Systems, Inc. d/b/a Sunshine Disposal & Recycling's request for mitigation of the \$3,400 penalty is GRANTED, in part, and the penalty is reduced to \$1,700.
- 16 (2) Ada-Lin Waste Systems, Inc. d/b/a Sunshine Disposal & Recycling must pay the penalty within 10 days of the effective date of this Order.
- 17 The Secretary has been delegated authority to enter this order on behalf of the Commissioners under WAC 480-07-904(1)(h).

DATED at Olympia, Washington, and effective January 2, 2019.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK L. JOHNSON  
Executive Director and Secretary

**NOTICE TO PARTIES: This is an order delegated to the Executive Secretary for decision. As authorized in WAC 480-07-904(3), you must file any request for Commission review of this order no later than 14 days after the date the decision is posted on the Commission's website.**