

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND)	DOCKET TG-150233
TRANSPORTATION COMMISSION,)	
)	
Complainant,)	ORDER 03
)	
v.)	
)	
TOPSOILS INC. D/B/A UNITED)	INITIAL ORDER APPROVING
RECYCLING & CONTAINER,)	SETTLEMENT AGREEMENT
)	
Respondent.)	
.....)	

BACKGROUND

1 On April 9, 2015, the Washington Utilities and Transportation Commission (Commission), entered Order 01, Order Instituting Special Proceeding and Notice of Hearing; Complaint Seeking to Impose Penalties, and Notice of Hearing pursuant to RCW 81.04.510, initiating this docket on its own motion. The Complaint alleges that Topsoils Inc. d/b/a United Recycling & Container¹ (United Recycling or Company) violated RCW 81.77.040 two times by advertising and offering to haul solid waste for compensation without first having obtained from the Commission a certificate of public convenience and necessity. The Commission issued a *Subpoena and Subpoenas Duces Tecum for Production of Documents* (Subpoenas) to the Company requiring United Recycling to appear before the Commission at a special proceeding on May 29, 2015, at 9:30 a.m., and to bring the documents specified in the Subpoenas.

¹ The Settlement Agreement filed by the parties refers to the Company throughout the document as “Topsoil Inc. d/b/a United Recycling & Container,” which is a typographical error. The Company’s legal name is “Topsoils, Inc. d/b/a United Recycling & Container.”

- 2 On April 22, 2015, the Commission's regulatory staff (Staff)² notified the Commission that the parties had reached a settlement in principle. On May 19, 2015, Staff filed a settlement agreement on behalf of the parties (Settlement Agreement).
- 3 As part of the settlement, United Recycling admits that it violated RCW 81.77.040 on two occasions. The parties agree that the Commission should assess a penalty of \$2,000, which should be ordered due and payable within 10 days of the effective date of this Order.
- 4 Christopher Casey, Assistant Attorney General, Olympia, Washington, represents Staff. Mark Bartlett, Davis Wright Tremaine LLP, Seattle, Washington, represents United Recycling.

DISCUSSION AND DECISION

- 5 WAC 480-07-750(1) states in part: "The commission will approve settlements when doing so is lawful, the settlement terms are supported by an appropriate record, and when the result is consistent with the public interest in light of all the information available to the commission." Thus, the Commission considers the individual components of the Settlement Agreement under a three-part inquiry, asking:
- Whether any aspect of the proposal is contrary to law.
 - Whether any aspect of the proposal offends public policy.
 - Whether the evidence supports the proposed elements of the Settlement Agreement as a reasonable resolution of the issue(s) at hand.

The Commission must determine one of three possible results:

- Approve the proposed settlement without condition.

² In formal proceedings, such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners' policy and accounting advisors do not discuss the merits of the proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

- Approve the proposed settlement subject to conditions.
- Reject the proposed settlement.

6 We approve the Settlement Agreement without condition. United Recycling admits that its conduct violated RCW 81.77.040 and agrees to pay the full \$2,000 penalty sought by Staff in the Complaint. The terms of the Settlement Agreement are not contrary to law or public policy and reasonably resolve all issues in this proceeding. Accordingly, we find the Settlement Agreement is consistent with the public interest and should be approved as filed.

ORDER

THE COMMISSION ORDERS:

- 7 (1) The Settlement Agreement is approved without condition, is attached as Exhibit A to, and incorporated into, this Order, and is adopted as the final resolution of the disputed issues in this docket.
- 8 (2) Topsoils Inc. d/b/a United Recycling & Container must immediately cease and desist from providing all forms of solid waste collection services that require a permit from the Commission.
- 9 (3) Topsoils Inc. d/b/a United Recycling & Container is assessed a penalty of \$2,000, which is due and payable within 10 days of the effective date of this Order.
- 10 (4) The Commission retains jurisdiction to effectuate the terms of this Order.

Dated at Olympia, Washington, and effective May 21, 2015.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

RAYNE PEARSON
Administrative Law Judge

**DOCKET TG-150233
ORDER 03**

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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 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this Initial Order to file a *Petition for Administrative Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within ten (10) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order any party may file a Petition to Reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

RCW 80.01.060(3) 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 fails to exercise administrative review on its own motion.

One copy of any Petition or Answer filed must be served on each party of record with proof of service as required by WAC 480-07-150(8) and (9). An original and **five (5)** copies of any Petition or Answer must be filed by mail delivery to:

Attn: Steven V. King, Executive Director and Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, Washington 98504-7250

Exhibit A
Settlement Agreement