

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Determining the Proper
Carrier Classification of, and Complaint
for Penalties Against

HUESITOS COMPANY II, LLC.

DOCKET TG-240590

ORDER 02

APPROVING SETTLEMENT
AGREEMENT

- 1 **Nature of Proceeding.** On January 9, 2025, the Washington Utilities and Transportation Commission (Commission) entered Order 01, Instituting Special Proceeding; Complaint Seeking to Impose Penalties; Notice of Prehearing Conference (Order 01). Order 01, among other things, alleged that Huesitos Company II, LLC (Huesitos or Company) violated Revised Code of Washington (RCW) 81.77.040 a total of 80 times between March 12, 2024, and October 28, 2024, by transporting solid waste for compensation over the public highways of Washington without first obtaining the certificate of public convenience and necessity required for such operation from the Commission.
- 2 **Procedural History.** On February 12, 2025, the Commission convened a prehearing conference in this docket before Administrative Law Judge (ALJ) Harry Fukano.
- 3 **Suspension of Procedural Schedule.** On March 3, 2025, Commission staff (Staff)¹ contacted the presiding ALJ on behalf of the parties to indicate they had reached a settlement in principle and requested that the procedural schedule be suspended to allow the parties time to memorialize their settlement. The parties further requested a deadline of March 28, 2025, to memorialize and file a settlement agreement and documents in support of the agreement. The presiding ALJ granted the request to suspend the procedural schedule.
- 4 On March 18, 2025, Staff contacted the presiding ALJ and stated that the parties were unable to formalize their settlement in principle and requested that the Commission

¹ 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 this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. See RCW 34.05.455.

establish a procedural schedule for adjudication. Subsequently on March 20, 2025, Staff contacted the presiding ALJ to indicate that the parties were able to memorialize their settlement in principle in writing and would submit both the settlement agreement and supporting documentation before the March 28, 2025, deadline.

5 **Settlement Agreement.** On March 20, 2025, Staff filed a settlement agreement (Settlement) on behalf of the parties that resolves all contested issues in this proceeding and testimony in support of the Settlement.

6 **Appearances.** Josephine R. K. Strauss, Assistant Attorney General, Olympia, Washington, represents Staff. Silvestre Hueso, Pasco, Washington, represents the Company, *pro se*.

DISCUSSION

7 **Applicable Law.** WAC 480-07-750(2) states in part “[t]he commission will approve a settlement if it is lawful, supported by an appropriate record, and 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 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; and
- Whether the record evidence supports the proposed elements of the proposal as a reasonable resolution of the issue(s) at hand.

In considering a settlement, the Commission must determine one of three possible results:

- Approve the proposed settlement without condition;
- Approve the proposed settlement subject to conditions; or
- Reject the proposed settlement.

8 **Settlement.** Pursuant to the Settlement, Huesitos admits that between March 12, 2024, and October 31, 2024, it hauled solid waste to Franklin and Benton County landfills for compensation without first obtaining a certificate of convenience and necessity from the Commission at least 80 times, and that this conduct constituted 80 violations of RCW 81.77.040.

- 9 The Settlement further provides that the Commission should enter an order classifying Huesitos as a solid waste collection company and requiring Huesitos to immediately cease and desist operating as a solid waste collection company within the state of Washington for compensation without a certificate of convenience and public necessity as required under RCW 81.77.040.
- 10 As part of the Settlement, the parties agree that the Commission should impose a total penalty of \$80,000 based on the 80 violations of RCW 81.77.040, with \$60,000 of the penalty suspended for a period of two years from the effective date of the order approving the Settlement. The \$20,000 payable portion of the penalty will be subject to a two-year payment plan of 24 equal monthly installments of \$833.33, the first of which shall be due on the first day of the first month following the effective date of the order approving the Settlement. Staff will recommend that the Commission waive the suspended portion of the penalty after the two-year period provided that the Company complies with the cease and desist order entered in this proceeding and all compliance reviews during the two-year suspension period. If the Company violates any term of the Settlement during the two-year suspension period, including the cease and desist order or other provision of Washington law governing solid waste transportation, Staff will seek to impose the \$60,000 suspended portion of the penalty.
- 11 The parties further agree that Huesitos will remove all improper bins from all worksites within 10 calendar days of the effective date of the order approving the Settlement. The Company acknowledges that failure to remove the bins within the specified time will result in Staff requesting the Commission to impose the suspended portion of the penalty.
- 12 Finally, the parties agree that Staff will conduct compliance reviews of the Company 6, 12, 18, and 24 months from the effective date of the order approving the Settlement. Huesitos agrees to cooperate with Staff in the execution of these compliance reviews, including providing Staff with full and complete lists of all current clients and the addresses where work for those clients takes place. The Company further acknowledges that if Staff determines that the Company is not in compliance, Staff will request that the Commission impose the suspended portion of the penalty.
- 13 **Supporting Testimony.** The testimony of Stevin Peters supports the Settlement. Peters describes Staff's investigation that resulted in the complaint against the Company and the terms of the Settlement, which fully resolve the issues raised in the complaint. He explains that the terms of the Settlement are in the public interest. In particular, Peters states that the Settlement penalty is in the public interest because it strikes a balance between voluntary compliance and ensuring that non-compliance results in meaningful consequences, thereby deterring future violations while ensuring fairness in enforcement

and leniency if the Company remains in compliance over the next two years. Peters further testifies that the payment plan is in the public interest because it prevents the financial consequences of past violations from causing undue hardship to the Company, which could lead to further non-compliance or cause otherwise legitimate landscaping operations to cease. Peters also maintains that requiring the Company to remove bins from work sites promotes the public interest by reducing the risks of future violations and aligning with public health and environmental regulations. Finally, Peters contends that compliance reviews are in the public interest because such reviews provide for ongoing oversight and an opportunity for corrective action before further penalties are imposed and protect customers and legal operators via increased transparency.

- 14 **Decision.** The Commission approves the Settlement without condition. The parties made concessions relative to their respective litigation positions to arrive at end results that are supported by the evidence in the record. Huesitos admits that its conduct violated Commission statutes and has agreed to cease and desist all unpermitted operations unless and until it obtains a certificate from the Commission. The Settlement supports the Commission's goal of compliance by assessing a penalty of \$80,000 for 80 statutory violations and by permitting the Company to pay \$20,000 of that amount and suspending, then waiving, the \$60,000 remainder of the penalty if the Company complies with the terms of this Order.
- 15 The terms of the Settlement are lawful, supported by the record, and consistent with the public interest in light of all of the information available to the Commission. Accordingly, the Commission should approve the Settlement as filed.

FINDINGS AND CONCLUSIONS

- 16 (1) The Commission is an agency of the state of Washington vested by statute with authority to regulate persons engaged in the business of transporting solid waste for compensation over public roads in Washington.
- 17 (2) The Commission has jurisdiction over the subject matter of this proceeding and over Huesitos.
- 18 (3) The Settlement proposed by the parties is not complex and is unopposed.
- 19 (4) The Settlement is not contrary to law or public policy, is supported by the record developed in this proceeding, is consistent with the public interest, and reasonably resolves all issues in this proceeding.

- 20 (5) The Commission should approve the Settlement without condition and order the penalty amount, conditions, and other terms as proposed by the parties in the Settlement.

ORDER

THE COMMISSION ORDERS:

- 21 (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 all issues in this proceeding.
- 22 (2) Huesitos Company II, LLC is classified as a solid waste carrier within the state of Washington.
- 23 (3) Huesitos Company II, LLC is ordered to immediately cease and desist operations as a solid waste collection company within the state of Washington without first obtaining the required certificate from the Commission.
- 24 (4) Huesitos Company II, LLC is ordered to remove all improper bins from all worksites within 10 days of the effective date of this Order.
- 25 (5) The Commission assesses a penalty of \$80,000 against Huesitos Company II, LLC for 80 violations of RCW 81.77.040. A \$60,000 portion of the penalty is suspended for a period of two years from the effective date of this Order, and waived thereafter, provided that: (1) the Company refrains from operations as a solid waste collection company in the state of Washington without first obtaining the required certificate from the Commission; (2) the Company timely pays the portion of the penalty that is not suspended; and (3) the Company otherwise complies with the terms of this Order and incorporated Settlement Agreement. The portion of the penalty that is not suspended is due and payable in 24 consecutive monthly installments of \$833.33 on the first day of each month (or first business day thereafter) beginning on the first of the first month following the effective date of this Order.
- 26 (6) The Commission retains jurisdiction over the subject matter and the parties to this proceeding to effectuate the terms of this Order.

DATED at Lacey, Washington, and effective April 1, 2025.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Harry Fukano

HARRY FUKANO

Administrative Law Judge