

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

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

DAVID THEODORE KUNTZ  
D/B/A DK DUMPERS

DOCKET TG-190969

DECLARATION OF  
KATHRYN MCPHERSON

- 1 I, Kathryn McPherson, under penalty of perjury under the laws of the state of Washington,  
declares as follows:
- 2 I am over 18 years of age, a citizen of the United States, a resident of the state of  
Washington, and competent to be a witness.
- 3 I am employed by the Washington Utilities and Transportation Commission (Commission)  
as a Compliance Investigator in the Transportation Safety Division. As a Compliance  
Investigator, my responsibilities include conducting investigations into the operations of  
regulated and unregulated transportation companies. As part of those duties, I investigate  
solid waste collection companies that may be operating without the required Commission  
issued certificate.
- 4 On January 22, 2020, the Commission entered Order 02, Stipulated Initial Order Classifying  
Respondent as Solid Waste Collection Company; Ordering Respondent to Cease and Desist;  
Imposing and Suspending Penalties on Condition of Future Compliance (Order 02).<sup>1</sup> Order  
02 assessed a penalty of \$2,000 against David Theodore Kuntz d/b/a DK Dumpers, (DK  
Dumpers or Company) for two violations of RCW 81.77.040 for operating as a solid waste  
collection company in the state of Washington without first obtaining a certificate.
- 5 In Order 02, the Commission suspended a \$1,900 portion of the penalty for a period of two  
years on the condition that DK Dumpers refrains permanently from further operations as a  
solid waste collection company in the state of Washington without first obtaining the  
required certificate from the Commission.
- 6 On February 11, 2020, the Commission received the transcript from the January 22, 2020,  
special proceeding.<sup>2</sup> In the transcript, DK Dumpers acknowledges that: (1) the Company  
reviewed and understood Order 02 in its entirety, (2) the Company was penalized \$2,000 for  
advertising and offering to conduct operations without first receiving a certificate, (3) if the  
Commission found DK Dumpers advertising or offering to provide solid waste collection  
services during the two year suspension period, the Company would have to pay the entire  
\$2,000 penalty, and (4) if the Commission found the Company operating in violation of the

---

<sup>1</sup> See Attachment A, Order 02 in Docket TG-190969 (January 22, 2020).

<sup>2</sup> See Attachment B, January 22, 2020 Hearing Transcript, pages 29-32.

**DOCKET TG-190969**

cease and desist order, Commission staff (Staff) may file a complaint in the superior court and seek additional penalties.

- 7 On October 14, 2020, I initiated a follow-up investigation of DK Dumpers to check for compliance with Order 02 in Docket TG-190969. On October 19, 2020, I searched Washington Department of Revenue's (DOR) Business Licensing Service, which produced records showing DK Dumpers as a closed sole proprietor under Unified Business Identifier: 604-429-549. These records listed the governing person as David Theodore Kuntz, a location address of 7520 128<sup>th</sup> St. E, Puyallup, Washington 98373, and a mailing address of 7520 128<sup>th</sup> St. E, Puyallup, Washington 98373.<sup>3</sup>
- 8 On October 19, 2020, I searched Commission records, which produced records showing that DK Dumpers was not a certificated solid waste collection company in the state of Washington.<sup>4</sup>
- 9 On October 14, 2020, under an assumed account name, using Facebook messenger, Staff requested that DK Dumpers pick up solid waste from a driveway. The Company confirmed it would collect and transport solid waste by responding, "Yes," and provided a phone number of (253) 754-4664, to text for more details. This phone number is known by Staff to be associated with DK Dumpers and is listed within Commission records as the contact phone number for the Company.<sup>5</sup> Staff sent text messages to the Company regarding solid waste collection services.<sup>6</sup> In these text messages with DK Dumpers, staff explained that it would like 15 standard kitchen garbage bags of solid waste hauled and asked for a price estimate. The Company responded to these text messages by offering to haul the solid waste for \$120.<sup>7</sup>
- 10 In response to the Company's failure to comply with the conditions of Order 02 in Docket TG-190969, specifically, the condition to refrain permanently from further operations as a solid waste collection company in the state of Washington without first obtaining the required certificate from the Commission, Staff recommends that the Commission impose the suspended penalty of \$1,900 against DK Dumpers.

DATED this 5th day of November, 2020, at Lacey, Washington.

  
KATHRYN MCPHERSON

---

<sup>3</sup> See Attachment C for a copy of DOR's Business Licensing Service records for DK Dumpers, captured on October 19, 2020.

<sup>4</sup> See Attachment D for a copy of Commission records documenting the Company's unregulated status, captured on October 19, 2020.

<sup>5</sup> Attachment D shows the contact phone number for DK Dumpers within Commission records.

<sup>6</sup> See Attachment E for a copy of Facebook Messenger communication with the Company on October 14, 2020.

<sup>7</sup> See Attachment F for a copy of text communication with the Company on October 14, 2020.

# Attachment A

## BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

DAVID THEODORE KUNTZ,  
D/B/A DK DUMPERS

DOCKET TG-190969

ORDER 02

STIPULATED INITIAL ORDER  
CLASSIFYING RESPONDENT AS SOLID  
WASTE COLLECTION COMPANY;  
ORDERING RESPONDENT TO CEASE  
AND DESIST; IMPOSING AND  
SUSPENDING PENALTIES ON  
CONDITION OF FUTURE COMPLIANCE

RECEIVED  
RECORDS MANAGEMENT

JAN 22 2020

STATE OF WASH.  
UTIL. & TRANSP. COMMISSION

### BACKGROUND

**Synopsis.** *This is an Administrative Law Judge's Initial Order that is not effective unless approved or allowed to become effective as described in the notice at the end of this Order. This Initial Order is based upon a stipulation presented by the parties. If this Initial Order becomes final, David Theodore Kuntz, d/b/a DK Dumpers, (DK Dumpers or Company) will be assessed a financial penalty in the amount of \$2,000 for two violations of RCW 81.77.040. A \$1,900 portion of the penalty will be suspended for a period of two years from the date of this order, then waived, subject to the condition that DK Dumpers refrains from further operation as solid waste collection company without first obtaining the required certificate from the Washington Utilities and Transportation Commission (Commission). In addition, if this Initial Order becomes final, DK Dumpers will be classified as a solid waste collection company and required to permanently cease and desist from operating as a solid waste collection company without first obtaining a certificate from the Commission.*

1 **Nature of Proceeding.** The Commission initiated this special proceeding to determine if DK Dumpers has engaged, and is engaging, in unlawful operations without first obtaining a solid waste collection company certificate.

2 **Procedural History.** On December 5, 2019, the Commission entered Order 01, Order Instituting Special Proceeding; Complaint Seeking to Impose Penalties; and Notice of

Mandatory Appearance at Hearing, pursuant to RCW 81.04.510, initiating this docket on its own motion. The Complaint alleges that DK Dumpers violated RCW 81.77.040 by:

- (1) offering on at least one occasion to provide solid waste collection service in the state of Washington; and
- (2) advertising solid waste collection services within the state of Washington on at least one occasion

without having a certificate required for such operations. On the same date, the Commission issued a *Subpoena and Subpoena Duces Tecum For Production of Documents* (Subpoenas) to the Company commanding David Theodore Kuntz, owner of DK Dumpers, to appear before the Commission at a special proceeding scheduled to convene at 9 a.m. on January 22, 2020, in the Commission's offices at 621 Woodland Square Loop SE, Lacey, Washington, and to bring the documents specified in the *Subpoenas*.

- 3 On December 15, 2019, the Commission personally served (via legal messenger) the Complaint and Order Instituting Special Proceeding and Subpoenas on DK Dumpers in Puyallup, Washington.
- 4 **Hearing.** On January 22, 2020, the hearing convened as scheduled in Lacey, Washington, before Administrative Law Judge Rayne Pearson.
- 5 **Appearances.** Kathryn McPherson, Compliance Investigator, Lacey, Washington, represents the Commission's regulatory staff (Commission Staff).<sup>1</sup> David Theodore Kuntz, Puyallup, Washington, represents the Company, *pro se*.

---

<sup>1</sup> In adjudications the Commission's regulatory staff participates like any other party, while an administrative law judge or the Commissioners make the decision. To assure fairness, the Commissioners and the presiding administrative law judge do not discuss the merits of the proceeding with regulatory staff or any other party without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

**DISCUSSION**

- 6     **Applicable Law.** 81.77.010(7) defines “solid waste collection company” as:
- every person or his or her lessees, receivers, or trustees, owning, controlling, operating, or managing vehicles used in the business of transporting solid waste for collection or disposal, or both, for compensation.
- 7     RCW 70.95.030(23) defines “solid waste handling” as:
- the management, storage, collection, transportation, treatment, utilization, processing, and final disposal of solid wastes, including the recovery and recycling of materials from solid wastes, the recovery of energy resources from solid wastes or the conversion of the energy in solid wastes to more useful forms or combinations thereof.
- 8     RCW 81.77.040 defines “conduct any operations” as:
- Operating for the hauling of solid waste for compensation includes advertising, soliciting, offering, or entering into an agreement to provide that service.
- 9     WAC 480-70-081 requires a person to have a certificate of public convenience and necessity from the Commission before operating as a solid waste collection company in the state of Washington. Upon proof of unauthorized operations, RCW 81.04.510 authorizes the Commission to order the non-certificated company to cease and desist its activities. Additionally, RCW 81.04.110 authorizes the Commission to file a complaint on its own motion setting forth any act or omission by a company that violates any law, order, or rule of the Commission.
- 10    RCW 81.04.380 subjects persons who conduct operations as a solid waste collection company in violation of RCW 81.77.040 a penalty of up to \$1,000 for each violation.
- 11    **Stipulation Presented by Parties.** At hearing, David Theodore Kuntz agreed that the Company has conducted operations in the state of Washington prior to first obtaining the required certificate. The Company offered to provide solid waste collection on at least one occasion in the state of Washington and also advertised to operate as a solid waste collection company in the state of Washington on at least one occasion.

- 12 On October 3, 2019, DK Dumpers was notified by Commission Staff that a certificate of convenience and necessity is required to operate as a solid waste collection company. The letter informed DK Dumpers that it must cease all operations as a solid waste collection company without a certificate.
- 13 David Theodore Kuntz agreed to permanently shut down and cease operations as a solid waste collection company, as defined by RCW 81.77.010, without first obtaining a certificate from the Commission.
- 14 Under RCW 81.04.380, Commission Staff is authorized to seek a penalty of up to \$2,000 against the Company. Based upon the above-noted stipulation, Staff now seeks to have \$1,900 of the penalty suspended for two years, then waived, on the condition that the Company honors its pledge of future compliance by permanently staying out of the industry without first obtaining a certificate from the Commission.
- 15 The parties agree that the Company's expressed willingness to cease its unlawful operations is a positive factor, mitigating in favor of a lowered penalty amount to be paid now. The parties also agree that the Company's compliance history is a negative factor, making a penalty appropriate as a tool to ensure DK Dumpers does not re-enter the solid waste collection company business without first obtaining the required certificate.

#### FINDINGS AND CONCLUSIONS

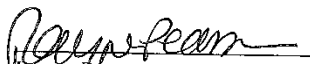
- 16 (1) The Commission is an agency of the state of Washington vested by statute with authority to regulate persons conducting operations as a solid waste collection company for compensation over public roads in Washington.
- 17 (2) The Commission has jurisdiction over the subject matter of this proceeding and over DK Dumpers.
- 18 (3) On at least one occasion, DK Dumpers offered to conduct operations prior to first obtaining a certificate from the Commission in violation of RCW 81.77.040.
- 19 (4) On at least one occasion, DK Dumpers advertised to conduct operations prior to obtaining a certificate from the Commission in violation of RCW 81.77.040.

**ORDER**


THE COMMISSION ORDERS:

- 20 (1) David Theodore Kuntz, d/b/a DK Dumpers, is classified as a solid waste collection company within the state of Washington, pursuant to RCW 81.77.040 and WAC 480-70-081.
- 21 (2) David Theodore Kuntz, d/b/a DK Dumpers, is ordered to immediately cease and desist operations as a solid waste collection company within the state of Washington without first obtaining a certificate from the Commission.
- 22 (3) David Theodore Kuntz, d/b/a DK Dumpers, is assessed a penalty of \$2,000. The Commission suspends \$1,900 of the penalty for a period of two years from the date of this Order, and waives it thereafter, provided David Theodore Kuntz, d/b/a DK Dumpers, refrains permanently from further operations as a solid waste collection company in the state of Washington without first obtaining the required certificate from the Commission. The remainder of the penalty, \$100, is due and payable today.
- 23 (4) 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 January 22, 2020.

  
Rayne Pearson  
Administrative Law Judge

**Agreed for Entry:**

  
Kathryn McPherson  
Utilities and Transportation  
Commission

  
David Theodore Kuntz  
DK Dumpers

### NOTICE TO THE 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 (Petition). Section (2)(b) of the rule identifies what you must include in any Petition as well as other requirements for a Petition. WAC 480-07-825(2)(c) states that any party may file a response to a Petition within 10 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 essential to a decision, but unavailable and not reasonably discoverable with due diligence 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 480-07-825(1) 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. Any Petition or Response must be electronically filed through the Commission's web portal as required by WAC 480-07-140(5).



# Attachment B

1 JUDGE PEARSON: If you encounter some other  
2 additional hardship, like I said to Mr. Abdella, the key  
3 is communication and letting us know what's going on so  
4 that we can make arrangements.

5 MR. KUNTZ: Now, say I get \$40 extra and I  
6 want to just come down and put \$40 down, can I do  
7 that --

8 JUDGE PEARSON: Absolutely.

9 MR. KUNTZ: -- over the three months?

10 JUDGE PEARSON: I think what would probably  
11 be best is rather than set specific payment dates, just  
12 say that no later than April 22nd, 2020, you will pay a  
13 \$100 penalty in whatever amount installments in whatever  
14 time so long as that entire hundred dollars has been  
15 paid by April 22nd, 2020; does that work?

16 MR. KUNTZ: Yes.

17 JUDGE PEARSON: Okay.

18 MR. KUNTZ: And I can still call if for some  
19 reason --

20 JUDGE PEARSON: Yes.

21 MR. KUNTZ: Okay.

22 JUDGE PEARSON: If you need more time or,  
23 like I said, some other hardship or other circumstances  
24 come up, the most important thing is to let  
25 Ms. McPherson know and not to just let it blow by,

# Attachment B

1 because if that happens, then the 1900 will become due  
2 and payable.

3 MR. KUNTZ: Okay.

4 JUDGE PEARSON: Okay?

5 MR. KUNTZ: Thank you.

6 JUDGE PEARSON: So do we need to take a  
7 short break and you can --

8 MS. MCPHERSON: Short break and I can redo  
9 the documents.

10 JUDGE PEARSON: Okay.

11 (A break was taken from  
12 10:12 a.m. to 10:19 a.m.)

13 JUDGE PEARSON: Let's be back on the record.

14 So looks like there were also two violations in this  
15 case; one for offering solid waste hauling services and  
16 one for advertising; is that correct?

17 MS. MCPHERSON: That is correct, Your Honor.

18 JUDGE PEARSON: Okay. And the \$2,000  
19 penalty will be imposed. A \$1,900 portion of that will  
20 be suspended, and the company has agreed to make a \$100  
21 payment today; is that correct?

22 MS. MCPHERSON: That is correct.

23 JUDGE PEARSON: And for the record,  
24 Mr. Kuntz, you're agreeing to shut down or cease  
25 offering solid waste carrier services unless you get a

# Attachment B

1 certificate; is that correct?

2 MR. KUNTZ: Yes, Your Honor.

3 JUDGE PEARSON: So the \$1900 is suspended

4 for two years from today's date, which is

5 January 22nd, 2022, which means that if Staff finds an

6 advertisement or you offer solid waste collection

7 services during that time, you will have to pay the

8 entire \$1900 penalty, and you understand that?

9 MR. KUNTZ: Yes. I got one question.

10 JUDGE PEARSON: Sure.

11 MR. KUNTZ: So like I've advertised a lot on

12 a lot of different Facebook groups over the months, and

13 I think I -- because I'm not good with that, I had

14 someone come help me go back and try to find all those

15 old posts and erase them, and I think we got all of

16 them, but what if an old one pops up?

17 JUDGE PEARSON: I think if an old one pops

18 up, Ms. McPherson will recognize it as one that she's

19 already seen.

20 MR. KUNTZ: Okay.

21 JUDGE PEARSON: And like I explained to you

22 earlier, maybe it was Mr. Abdella, that if you get

23 somebody asking for those services --

24 MR. KUNTZ: Yeah.

25 JUDGE PEARSON: -- you need to say no.

# Attachment B

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. KUNTZ: I heard that.

JUDGE PEARSON: That's the most important thing because you never know if it will be Ms. McPherson posing as someone else.

MR. KUNTZ: I totally understand the rules now.

JUDGE PEARSON: Okay. Okay. And then the cease and desist order is permanent, it never expires. Just like I explained to Mr. Abdella, that even if after two years, we were to find that you were still offering or advertising those services, Staff can go straight to superior court and ask for much higher penalties. So it's very important that you follow the law.

And let's see, I think that's it because you've made your payment or you will be making your payment today. And unless you have any additional questions, we've all three already signed the order so you will get a copy of it before you leave here today. Is there anything else?

MR. KUNTZ: No, that's it.

JUDGE PEARSON: Okay. Thank you so much for coming today.

MR. KUNTZ: Thank you.

JUDGE PEARSON: All right.

MR. KUNTZ: So I just go out here and...

# Attachment C

Washington State Department of Revenue

< Business Lookup

## Tax Information

[New search](#) [Back to results](#)

**Entity name:** KUNTZ, DAVID THEODORE

**Entity type:** [Sole Proprietor](#)

**DBA name:** DK DUMPERS

**Excise tax account ID #:** 604-429-549

**UBI #:** 604-429-549

**Opened:** April 1, 2019

**Closed:** December 31, 2019

**Mailing address:** 7520 128TH ST E  
# 98373  
PUYALLUP WA 98373-5381

**NAICS:** 562119 - Other Waste Collection

**Reseller permit:** None

## Business License Locations



Business name	License account ID #	Location address
<a href="#">DK DUMPERS</a>	604429549-001-000	7520 128TH ST E PUYALLUP WA 9

# Attachment D

SharePoint

Newsfeed

OneDrive

Sites

McPherson, Kathryn (UTC) ▾



Companies

Cases

Search Company Name



History	Contacts	Industries	Cases
Cancel	Permits & Insurance		

View Version History

Company Name\* David Theodore Kuntz

DBA Names DK Dumpers

Company Legacy ID

Unified Business Identifier 604429549

Regulatory Status Unregulated

Contact Name David Theodore Kuntz

Contact Title

Contact Phone (253)754-4664

Contact E-Mail Address

Contact Fax

Address Change Date

Physical Address Street 7520 128th St E

Physical Address City Puyallup

Physical Address State WA

Physical Address Zip 98373

Mailing Address Street 7520 128th St E

Mailing Address City Puyallup

Mailing Address State WA

Mailing Address Zip 98373

Website

Comments

Company ID 20,564

Version: 2.0

Created at 10/1/2019 6:40 AM by  Chiles, Pam (UTC)

Last modified at 10/1/2019 6:40 AM by  Chiles, Pam (UTC)

Cancel

## Attachment E



**Jake · JUNK REMOVAL FREE ESTIMATES!!!**

11:38 AM

📌 You named the group Jake · JUNK REMOVAL FREE ESTIMATES!!!

🖼️ You changed the group photo.

Hey there, My garage flooded and I had to bag up a bunch of old clothes and wet books and stuff before I could clean and dry the garage out. They're currently sitting in my driveway, is that something you can grab and get rid of? Thanks! Jake

Dk Fam Hauler

Yes 2537544664 call or text me on there please and we can talk



## Attachment F

