

**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

COMMISSION STAFF'S MOTION TO
IMPOSE SUSPENDED PENALTIES

I. INTRODUCTION

1 Commission Staff (Staff) of the Washington Utilities and Transportation
Commission (Commission) submits this Motion to Impose Suspended Penalties pursuant to
WAC 480- 07-375(1).

II. RELIEF REQUESTED

2 Staff requests that the Commission impose the \$1,900 suspended penalty amount
from 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) in Docket TG-190969 because David Theodore Kuntz,
d/b/a DK Dumpers (“DK Dumpers” or “Company”) has violated a condition of Order 02.

III. STATEMENT OF FACTS

3 On January 22, 2020, the Commission entered Order 02 that assessed a penalty of
\$2,000 against DK Dumpers 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.¹

4 Order 02 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

¹ TG-190969, Declaration of Kathryn McPherson at 3 (Attachment A).

collection company in the state of Washington without first obtaining the required certificate from the Commission.² Order 02 states that the effective date of the Order was January 22, 2020.³ DK Dumpers was personally served with Order 02 on January 22, 2020.⁴

5 On October 14, 2020, Staff initiated a follow-up investigation of DK Dumpers to check for compliance with Order 02.⁵ Staff's investigation found that the Company was in violation of Order 02 by continuing to operate as a solid waste collection company without first obtaining the required certificate from the Commission.⁶ In particular, Staff found that DK Dumpers operated as a solid waste collection company by offering to enter into an agreement to haul solid waste for compensation without the required certificate, within two years of the effective date of Order 02.⁷

6 In response to the Company's failure to comply with the conditions of Order 02 in this docket, 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.⁸

² *Id.* at 5 (Attachment A).

³ *Id.* (Attachment A).

⁴ TG-190969, Affidavit of Service (January 22, 2020).

⁵ TG-190969, Declaration of Kathryn McPherson at 2.

⁶ *Id.*

⁷ *Id.* RCW 81.77.040 prohibits a solid waste collection company from operating without first having obtained a certificate from the Commission. Operating as a solid waste collection company includes offering to enter into an agreement to provide services. RCW 81.77.040 states:

A solid waste collection company shall not operate for the hauling of solid waste for compensation without first having obtained from the commission a certificate declaring that public convenience and necessity require such operation. Operating for the hauling of solid waste for compensation includes advertising, soliciting, offering, or entering into an agreement to provide that service. . . .

(emphasis added).

⁸ TG-190969, Declaration of Kathryn McPherson at 2.

III. STATEMENT OF ISSUES

7 Should the Commission impose the \$1,900 penalty suspended in Order 02 given that
DK Dumpers has failed to meet a condition of the penalty suspension?

IV. EVIDENCE RELIED UPON

8 Staff relies upon the Declaration of Investigator Kathryn McPherson, which is filed
contemporaneously with this Motion.

V. ARGUMENT

9 On January 22, 2020, the Commission suspended \$1,900 in penalties against the
Company, on the condition that it 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. Staff recommends that the suspended penalties in Order 02
be imposed against DK Dumpers because the Company has continued to operate as a solid
waste collection company, without the required certificate from the Commission, within two
years of the effective date of Order 02.⁹

VI. CONCLUSION

10 Staff respectfully requests that the Commission grant its Motion to Impose
Suspended Penalties and impose the full \$1,900 suspended penalty against the Company.

DATED this 5th day of November 2020.

Respectfully submitted,

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⁹ *Id.*