

**BEFORE THE WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION**

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

CASCADE RECYCLING INC.

DOCKET TG-210102

ORDER 01

INSTITUTING SPECIAL  
PROCEEDING; COMPLAINT  
SEEKING TO IMPOSE PENALTIES

and

NOTICE OF VIRTUAL HEARING  
(Set for July 19, 2021, at 1:30 p.m.)

**I. OVERVIEW**

1 The Washington Utilities and Transportation Commission (Commission) institutes a special proceeding to determine whether Cascade Recycling Inc. (Cascade Recycling or Company) should be classified as a solid waste collection company and complains against Cascade Recycling for violations of state law and Commission rules that prohibit the transportation of solid waste without the required authority from the Commission. Commission staff (Staff) seeks an order classifying Cascade Recycling as a solid waste collection company and assessing monetary penalties against the Company for violation of laws and rules enforced by the Commission.

**II. PARTIES**

2 The Washington Utilities and Transportation Commission is an agency of the State of Washington, authorized by state law to regulate the rates, services, facilities, and practices of public service companies, including solid waste collection companies, under the provisions of Title 81 Revised Code of Washington (RCW).

3 Cascade Recycling is a corporation doing business in the state of Washington. Cascade Recycling holds a common carrier permit issued by the Commission (Permit No. CC-62223) that authorizes the Company to transport general commodities within the state of Washington.

### III. JURISDICTION

4 The Commission has jurisdiction over this matter pursuant to RCW 80.01.040; RCW 81.01.010; Chapter 81.04 RCW including RCW 81.04.110, RCW 81.04.380, RCW 81.04.460, and RCW 81.04.510; Chapter 81.77 RCW including RCW 81.77.040; and Chapter 480-70 of the Washington Administrative Code (WAC).

### IV. FACTUAL ALLEGATIONS

5 Solid waste collection companies must obtain a certificate of convenience and necessity from the Commission before transporting solid waste for compensation within the state of Washington.

6 At all times relevant to this Complaint, Cascade Recycling held Commission authority under Chapter 81.80 RCW to transport general commodities as a motor common carrier within the state of Washington but did not possess a certificate issued under Chapter 81.77 RCW authorizing the transportation of solid waste.

7 Cascade Recycling operates as a transporter of recyclable materials. The Company transports commingled loads of recyclable materials and solid waste to a recycling and materials recovery facility (MRF) operated by Alpine Recycling, LLC (Alpine).

8 Cascade Recycling and Alpine are governed and operated by the same person, Daniel Dolmseth.

9 Cascade Recycling transports solid waste on behalf of Alpine from the MRF to Cowlitz County Solid Waste Facility (Cowlitz landfill) for disposal.

10 Company records show that between August 1, 2020, and August 15, 2020, Cascade Recycling collected 183 loads containing 641.28 tons of materials, which the Company transported to the Alpine MRF.

11 Between August 3, 2020, and August 14, 2020, Cascade Recycling transported 16 loads, with an aggregate weight of 376.59 tons, to the Cowlitz landfill.

12 Comparison of the weight of the materials received from Cascade Recycling at the Alpine MRF with the weight of materials disposed by Cascade Recycling at the Cowlitz landfill during the first two weeks in August 2020 show that Cascade Recycling collected loads of commingled materials with an aggregate content of approximately 59 percent solid waste.

## V. APPLICABLE LAWS AND REGULATIONS

- 13 Pursuant to RCW 81.77.040, 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.” See also WAC 480-70-081.
- 14 State law, codified at RCW 81.77.010, defines “solid waste collection company” [for the purposes of chapter 81.77 RCW] 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 . . . over any public highway in this state as a ‘common carrier’ or as a ‘contract carrier.’” See also WAC 480-70-041.
- 15 The Commission’s solid waste collection rules exempt certain operations from Commission regulation. WAC 480-70-011(1) provides that the collection and hauling operations of “a recycling company . . . collecting and transporting recyclable materials from a buy-back center, drop box, or from a commercial or industrial generator of recyclable materials *when those recyclable materials are being transported for use other than disposal or incineration*” are not regulated by the Commission (emphasis added). Pursuant to WAC 480-70-011(2), the collection and hauling operations of a permitted motor freight carrier “that *occasionally transports to a disposal site*, but whose primary business is not the collection of solid waste,” are not regulated by the Commission as solid waste transportation (emphasis added).
- 16 In the solid waste collection rules, the Commission provides guidance on the type of authority required to transport specific commodities or provide specific services. Pursuant to WAC 480-70-016(1), “[p]ersons holding permits issued by the commission under the provisions of chapter 81.80 RCW, whose primary business is not the collection of solid waste, normally will also need to obtain a certificate of public convenience and necessity if they *transport solid waste to a disposal site on more than an occasional basis*” (emphasis added). WAC 480-70-016(2) provides that “carriers may be required to hold both a solid waste certificate under the provisions of chapter 81.77 RCW and a motor carrier permit under the provisions of chapter 81.80 RCW in order to provide both services” and that “[i]n each case it is within the discretion of the commission to determine whether a carrier is required to hold both.” In WAC 480-70-016(4), the Commission sets forth factors to consider in determining whether operations require a solid waste certificate or a motor carrier permit, including the intent of the shipper, the destination of the shipment, and whether the carrier is primarily engaged in the business

of providing solid waste collection or is primarily engaged in the business of providing a service other than the collection of solid waste.

- 17 The Commission may institute a “special proceeding” under RCW 81.04.510 “[w]henver the Commission believes that any person or corporation is engaged in operations without the necessary approval or authority required by any provision of [Title 81 RCW].”
- 18 Pursuant to RCW 81.04.110, the Commission, on its own motion, may make a complaint in writing, “setting forth any act or thing done or omitted to be done by any public service company . . . in violation . . . of any provision of law or of any order or rule of the Commission.”
- 19 Under RCW 81.04.380, the Commission may penalize a public service company that violates any provision of Title 81 RCW or any rule of the Commission up to \$1,000 for each and every offense. Every violation is a separate and distinct offense.

## VI. CLASSIFICATION PROCEEDING

- 20 The Commission, pursuant to RCW 81.04.510, institutes this special proceeding on its own motion to determine whether Cascade Recycling is engaged in operations as a solid waste collection company without the authority required by RCW 81.77.040.
- 21 The Commission has information from which it believes and therefore alleges that Cascade Recycling transports solid waste for compensation within the state of Washington without having obtained a certificate of convenience and necessity from the Commission authorizing operation as a solid waste collection company.
- 22 Pursuant to RCW 81.04.510, upon proof of these allegations, the Commission is authorized to enter an order declaring the operations of Cascade Recycling to be subject to regulation by the Commission as a solid waste collection company under Chapter 81.77 RCW and directing Cascade Recycling to cease and desist from operations as a solid waste collection company.
- 23 At the hearing in this special proceeding, which will be conducted pursuant to Part IV of the Administrative Procedure Act, chapter 34.05 RCW, and the Commission’s procedural rules, Chapter 480-07 WAC, the Commission will also consider its Complaint against Cascade Recycling alleging violations of laws and rules as specified below and will decide whether the Company should be penalized.

24 **THE COMMISSION ORDERS that Cascade Recycling appear before the Commission in this special proceeding, conducted under the authority of RCW 81.04.510, at the time and place noticed below, to give testimony and evidence under oath as to its operations.**

25 The burden of proving that the alleged operations are not subject to regulation by the Commission as a solid waste collection company under the provisions of Title 81 RCW shall be upon Cascade Recycling, as provided by RCW 81.04.510.

## VII. COMPLAINT FOR PENALTIES

26 The Commission, on its own motion, and through its Staff, alleges as follows.

### A. CLAIMS AND CAUSES OF ACTION

#### **Violation of RCW 81.77.040 and WAC 480-70-081 – Certificate of convenience and necessity required**

27 The Commission, through its Staff, re-alleges the allegations contained in paragraphs 1 through 25, above.

28 RCW 81.77.040 and WAC 480-70-081 require a company to obtain a certificate of public convenience and necessity from the Commission before operating as a solid waste collection company in the state of Washington. Under WAC 480-70-011 and WAC 480-70-016, a company with a motor carrier permit from the Commission under the provisions of Chapter 81.80 RCW whose primary business is not the collection of solid waste must also obtain a certificate of public convenience and necessity under chapter 81.77 RCW if it transports solid waste to a disposal site on more than an occasional basis.

29 During the first two weeks of August 2020, Cascade Recycling collected approximately 376.59 tons of solid waste and transported it for disposal in the course of 16 trips to the Cowlitz landfill. Cascade Recycling did not then and does not now hold a certificate of convenience and necessity from the Commission authorizing the Company to conduct operations as a solid waste collection company.

30 When Cascade Recycling collected and transported solid waste for disposal 16 times, over a two-week period, it committed at least 16 violations of RCW 81.77.040 and WAC 480-70-081.

**B. REQUEST FOR RELIEF**

- 31 Staff requests that the Commission classify Cascade Recycling as a solid waste collection company.
- 32 Staff further requests that the Commission find that Cascade Recycling committed at least 16 violations of state law and Commission rule as set forth in the allegations above.
- 33 For these violations, Staff requests that the Commission impose monetary penalties on Cascade Recycling under RCW 81.04.380 of up to \$1,000 for each violation.
- 34 Staff requests also that the Commission order Cascade Recycling to immediately cease transporting solid waste for collection or disposal for compensation within the state of Washington unless and until it obtains a certificate of convenience and necessity from the Commission authorizing operation as a solid waste collection company.
- 35 Finally, Staff requests that the Commission order such other or further relief as appropriate under the circumstances.

**VIII. PROBABLE CAUSE**

- 36 Based on a review of Commission Staff's investigation report, and consistent with RCW 80.01.060 and WAC 480-07-307, the Commission finds probable cause exists to institute a classification proceeding and issue this Complaint.

**IX. NOTICE OF HEARING**

- 37 The Commission will hear this matter under the Administrative Procedure Act (APA), particularly Part IV of chapter 34.05 RCW relating to adjudications. The provisions of the APA that relate to this proceeding include, but are not limited to RCW 34.05.413, RCW 34.05.422, RCW 34.05.431, RCW 34.05.440, RCW 34.05.449, and RCW 34.05.452. The Commission will also follow its procedural rules in WAC 480-07 in this proceeding.
- 38 **THE COMMISSION GIVES NOTICE That it will hold a virtual hearing in this matter at 1:30 p.m. on July 19, 2021. To attend by phone, call (253) 372-2181 and enter the Conference ID: 781 944 765#. To participate via Microsoft Teams, please use the following link: [Click here to join the meeting.](#)**
- 39 In accordance with WAC 480-07-460, parties must file and serve exhibits that they intend to submit or use in the hearing on or before July 12, 2021.

40 **THE COMMISSION GIVES NOTICE that any party who fails to attend or participate in the hearing set by this Notice, or any other stage of this proceeding, may be held in default under RCW 34.05.440 and WAC 480-07-450.**

41 The names and mailing addresses of all known parties and their known representatives are as follows:

Complainant: Washington Utilities and Transportation  
Commission  
621 Woodland Square Loop SE  
P.O. Box 47250  
Olympia, WA 98504-7250  
(360) 664-1160

Representative: Jennifer Cameron-Rulkowski  
Office of the Attorney General  
621 Woodland Square Loop SE  
P.O. Box 40128  
Olympia, WA 98504-0128  
(360) 664-1186  
[Jennifer.cameron-rulkowski@utc.wa.gov](mailto:Jennifer.cameron-rulkowski@utc.wa.gov)

Respondent: Cascade Recycling Inc.  
3504 112th St. E  
Tacoma, WA 98446-3516  
dan@cascaderecyclinginc.com

Representative: Daniel J. Dolmseth  
Cascade Recycling Inc.  
3504 112th St. E  
Tacoma, WA 98446-3516  
(253) 606-4039  
[dan@cascaderecyclinginc.com](mailto:dan@cascaderecyclinginc.com)

42 Administrative Law Judge Samantha Doyle, from the Commission's Administrative Law Division, will preside during this proceeding.<sup>1</sup>

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<sup>1</sup> Judge Doyle can be reached by email at [samantha.doyle@utc.wa.gov](mailto:samantha.doyle@utc.wa.gov) or by phone at (360) 664-1164.

43 The Commission will give parties notice of any other procedural phase of the proceeding in writing or on the record, as appropriate during this proceeding.

DATED at Lacey, Washington, and effective June 22, 2021.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

*/s/ Rayne Pearson*  
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RAYNE PEARSON  
Administrative Law Judge  
Director, Administrative Law Division

Inquiries may be addressed to:

Mark L. Johnson  
Executive Director and Secretary  
621 Woodland Square Loop SE  
P.O. Box 47250  
Olympia, WA 98504-7250  
(360) 664-1160

**NOTICE**

Hearing facilities are accessible to persons with disabilities. Smoking is prohibited. If limited English-speaking, hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

If you need an interpreter, or have other special needs, please fill out and return this form to:

Washington Utilities and Transportation Commission  
Attention: Mark L. Johnson  
P.O. Box 47250  
Olympia, WA 98504-7250

(PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket: \_\_\_\_\_

Case Name: \_\_\_\_\_

Hearing Date: \_\_\_\_\_ Hearing Location: \_\_\_\_\_

Primary Language: \_\_\_\_\_

Hearing Impaired: (Yes) \_\_\_\_\_ (No) \_\_\_\_\_

Do you need a certified sign language interpreter:

Visual \_\_\_\_\_ Tactile \_\_\_\_\_

Other type of assistance needed: \_\_\_\_\_

English-speaking person who can be contacted if there are questions:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone (\_\_\_\_\_) \_\_\_\_\_