

Service Date: January 9, 2025

**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 01

ORDER INSTITUTING SPECIAL
PROCEEDING; COMPLAINT
SEEKING TO IMPOSE PENALTIES

and

NOTICE OF PREHEARING
CONFERENCE
(Set for February 12, 2025, at 9:30
a.m.)

1 The Washington Utilities and Transportation Commission (Commission) on its own motion, and through its regulatory staff (Staff), alleges as follows:

I. PARTIES

2 The Commission is an agency of the state of Washington authorized by statute to regulate the rates, services, facilities, and practices of public service companies, including common carriers and solid waste collection companies.

3 Huesitos Company II, LLC (Huesitos) is a Washington limited liability company conducting business in the State of Washington as a common carrier under Commission-issued permit CC071002.

II. BACKGROUND

4 In August 2023, a Commission investigator observed a Huesitos vehicle disposing of construction debris at the Basin Disposal transfer station located at 1721 Dietrich Road, Pasco, Washington and also observed Huesitos drop boxes at various construction sites in the area managed by Hayden Homes. The drop-boxes were being used by contractors for the collection and disposal of construction debris. Staff subsequently initiated an investigation into Huesitos's operations and determined that the Company was operating

as a solid waste collection company without the required certificate of convenience from the Commission, in violation of RCW 81.77.040.

- 5 On August 24, 2023, Staff mailed a non-compliance letter to Huesitos at its registered mailing address at 1506 E Salt Lake Street, Pasco, Washington, with a Spanish translation also provided. Staff then spoke with Huesitos's owner, Silvestre Hueso, on September 6, 2023. With the aid of a translator, Staff explained to Mr. Hueso that his company's activities in providing drop boxes for construction debris disposal went beyond the scope of its common carrier permit and the Company was operating as a solid waste carrier without Commission approval. Mr. Hueso stated that he would cease these unauthorized activities by September 30, 2023.
- 6 On the same day, Staff also contacted Hayden Homes and local solid waste carrier, Basin Disposal, and arranged for Basin Disposal to take over Huesitos's services that were being provided at Hayden Homes sites.
- 7 On October 17, 2023, Staff determined that Huesitos had ceased providing the drop-box disposal service and closed this initial investigation.
- 8 On March 12, 2024, Basin Disposal informed Staff that Hayden Homes had terminated its business with Basin Disposal and replaced Basin Disposal's dumpsters with Huesitos's drop boxes. Staff then reopened its investigation to determine if Huesitos was again operating as a solid waste carrier without authority from the Commission.
- 9 On May 15, 2024, Basin Disposal provided Staff with two illegal hauler reports dated April 30, 2024, and May 1, 2024, containing details of Huesitos's solid waste disposal activities. The reports included photographs of Huesitos drop-boxes containing construction debris that were made available to contractors.
- 10 On July 23, 2024, Staff observed a Huesitos vehicle disposing construction debris at the Basin Disposal Transfer Station. The next day, a Staff investigator visited multiple area construction sites and observed 12 unsecured Huesitos drop-boxes being used for construction debris disposal by various contractors.
- 11 On October 28, 2024, Basin Disposal provided Staff information regarding 13 additional Huesitos drop-boxes via email. That same day, Staff obtained records from the Horn Rapids Landfill located at 3102 Twin Bridges Road, Richland, Washington that indicated that between March 12, 2024, and October 1, 2024, Huesitos disposed of at least 67 loads of materials classified as "NRCOMTON," or "non-Richland commercial construction/demo."

- 12 With this information, Staff completed its investigation and determined that Huesitos knowingly violated RCW 81.77.040 on at least 80 occasions by engaging in the business of transporting solid waste without obtaining the necessary certificate from the Commission.

III. JURISDICTION

- 13 The Commission has jurisdiction over the subject matter of this complaint under RCW 80.01.040, RCW 80.01.060, RCW 81.01.010, RCW 81.04.020, RCW 81.04.110, RCW 81.04.160, RCW 81.04.460, RCW 81.04.510, chapter 81.77 RCW, chapter 81.80 RCW, and chapter 34.05 RCW.

IV. APPLICABLE LAWS AND REGULATIONS

- 14 Motor freight carriers and solid waste collection companies are common carriers. RCW 81.04.010(11). For the purposes of Title 81 RCW, every common carrier is a public service company, RCW 81.04.010(16), and therefore subject to Commission regulation. *See* RCW 80.01.040(2); RCW 81.01.010.
- 15 Under state law, the definition of “solid waste collection company” includes “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, except septic tank pumpers, over any public highway in this state as a ‘common carrier’ or as a ‘contract carrier.’” RCW 81.77.010(9).
- 16 The term “person” encompasses corporations as well as individuals. RCW 81.04.010(6).
- 17 “Solid waste” is defined as “all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge, demolition and construction wastes, abandoned vehicles or parts thereof, and recyclable materials.” RCW 70A.205.015; RCW 81.77.010(9).
- 18 No person may engage in business as a solid waste collection company within the state of Washington without first obtaining a certificate of convenience and necessity from the Commission. RCW 81.77.040.
- 19 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). 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).

- 20 Under RCW 81.04.380, the Commission may penalize a public service company that violates any provision of Title 81 RCW up to \$1,000 for each and every offense. Every violation is a separate and distinct offense.
- 21 The Commission is authorized to file a complaint on its own motion setting forth any act or omission by any public service company that violates any law or any order or rule of the Commission. RCW 81.04.110.
- 22 Where the Commission believes that a person is engaged in operations without the necessary permit or certificate, it may institute a special proceeding to adjudicate the issue. RCW 81.04.510.
- 23 If the Commission institutes a special proceeding and determines that a person is operating without the necessary permit or certificate, it is authorized and directed to order the person to cease and desist from such operations. RCW 81.04.510.

V. CAUSE OF ACTION

- 24 The Commission, through its Staff, realleges the allegations contained in paragraphs 2 through 13 above.
- 25 The Commission alleges that Huesitos violated RCW 81.77.040 a total of 80 times by operating for the hauling of solid waste on more than an occasional basis without first having obtained from the Commission a certificate of public convenience and necessity. Specifically, Huesitos disposed of 67 loads of commercial construction and demolition materials at the Horn Rapids Landfill in Richland, Washington between the dates of March 12, 2024, and October 1, 2024. Huesitos additionally provided 13 drop-boxes at residential construction sites for contractors to self-load construction debris for disposal.

VI. REQUEST FOR RELIEF

- 26 Staff requests the Commission institute a classification proceeding under RCW 81.04.510 and order Huesitos cease and desist its solid waste collection activities.

27 Staff further requests that the Commission assess a penalty of \$1,000 for each of the 80 violations of RCW 81.77.040, totaling \$80,000, pursuant to its authority under RCW 81.04.380.

28 Finally, Staff requests that the Commission order such other or additional relief as is appropriate under the circumstances.

VII. PROBABLE CAUSE

29 Based on a review of the Staff Investigation Report documenting the violations alleged above, and consistent with RCW 80.01.060 and WAC 480-07-307, the Commission finds probable cause exists to issue this Complaint.

VIII. NOTICE OF PREHEARING CONFERENCE

30 The Commission will hear this matter under the Administrative Procedure Act (APA), particularly Part IV of RCW 34.05 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.

31 **THE COMMISSION GIVES NOTICE That it will hold a virtual prehearing conference in this matter at 9:30 a.m. on February 12, 2025. To participate by phone, call (253) 215-8782 and enter the Meeting ID: 842 6879 4722 # and Passcode 040151 #. To attend via Zoom, please use the following link: [Click to join meeting](#).**¹

32 The purpose of the prehearing conference is to consider requests for intervention, resolve scheduling matters including establishing dates for distributing evidence, identify the issues in the proceeding, and determine other matters to assist the Commission in resolving the matter, as listed in WAC 480-07-430.

33 **INTERVENTION:** Persons who wish to intervene should file a petition to intervene in writing at least three business days before the date of the prehearing conference. *See* WAC 480-07-355(a). The Commission will consider oral petitions to intervene during the conference, but strongly prefers written petitions to intervene. Party representatives must file a notice of appearance with the Commission no later than the business day before the conference. *See* WAC 480-07-345(2). Parties with more than one representative must

¹ <https://utc-wa-gov.zoom.us/j/84268794722?pwd=tu2S8g9EeMdlLYDfkOq6gwfsCwHNE8.1>

identify one individual as the “lead” for purposes of official service. Any party or witness in need of an interpreter or other assistance should fill out the form attached to this notice and return it to the Commission. The Commission will set the time and place for any evidentiary hearings at the prehearing conference, on the record of a later conference or hearing session, or by later written notice.

34 **THE COMMISSION GIVES NOTICE** that any party who fails to attend or participate in the prehearing conference 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.

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

Carrier: Huesitos Company II, LLC
1506 E Salt Lake St.
Pasco, WA 99301

Registered Agent Esmeralda Perez
1506 E Salt Lake St.
Pasco, WA 99301

Representative Unknown

Complainant: Washington Utilities and Transportation Commission
621 Woodland Park Loop SE
Lacey, WA 98504

Representatives: Liam Weiland
Assistant Attorney General
PO Box 40128
Olympia, WA 98504
liam.weiland@atg.wa.gov

36 Administrative Law Judge Harry Fukano, from the Commission’s Administrative Law Division, will preside during this proceeding.²

² Judge Fukano can be reached at 360-664-1258 or harry.fukano@utc.wa.gov.

37 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 January 9, 2025.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ James Brown II
JAMES BROWN II
Director, Administrative Law Division

NOTICE

Hearings are accessible to persons with disabilities and persons who do not speak English as a first language. If limited English-speaking or 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 provide the information requested below via email to Stacey Brewster, paralegal, at stacey.brewster@utc.wa.gov.

(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: _____

