

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Determining the Proper)	DOCKET TG-143802
Carrier Classification of, and Complaint)	
for Penalties against:)	
)	ORDER 02
BOBBY WOLFORD TRUCKING &)	
SALVAGE, INC. d/b/a BOBBY)	
WOLFORD TRUCKING &)	INITIAL ORDER APPROVING
DEMOLITION, INC.)	SETTLEMENT AGREEMENT
)	
.....)	

BACKGROUND

1 On January 16, 2015, the Washington Utilities and Transportation Commission (Commission), entered Order 01, Order Instituting Special Proceeding and Notice of Hearing; Complaint Seeking to Impose Penalties; and Notice of Hearing pursuant to RCW 81.04.510, initiating this docket on its own motion. The Complaint alleges that Bobby Wolford Trucking & Salvage, Inc. d/b/a Bobby Wolford Trucking & Demolition, Inc. (Bobby Wolford Trucking or Company) violated RCW 81.77.040 191 times by hauling solid waste for compensation without first having obtained from the Commission a certificate of public convenience and necessity. The Commission issued a *Subpoena and Subpoenas Duces Tecum for Production of Documents* (Subpoenas) to the Company requiring Bobby Wolford Trucking to appear before the Commission at a special proceeding on February 18, 2015, at 1:30 p.m., and to bring the documents specified in the Subpoenas.

2 On February 11, 2015, the Commission’s regulatory staff (Staff)¹ notified the Commission that the parties had reached a settlement in principle and requesting the procedural schedule be suspended. On February 12, 2015, the Commission issued a Notice Suspending Procedural Schedule and Notice Requiring Filing of Settlement

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

Documents or Status Report by February 25, 2015. On February 25, 2015, Staff filed a settlement agreement on behalf of the parties (Settlement Agreement).

- 3 As part of the settlement, Bobby Wolford Trucking admits that it violated RCW 81.77.040 on 191 occasions. The parties agree that the Commission should assess a penalty of \$41,186.20, equal to the amount the Company billed for the 191 unauthorized hauls documented in Staff's investigation report. The parties also agree that the Commission should suspend a \$21,186.20 portion of the penalty for a period of one year on the condition that Bobby Wolford Trucking refrains from providing all forms of solid waste service that require a permit from the Commission. This includes, but is not limited to, transporting solid waste materials for compensation from a demolition project to a transfer station, unless such service is an incidental part of a clean-up or site restoration service provided by the Company. Staff will conduct a follow-up investigation within one year and provide a recommendation regarding whether the Commission should waive or impose the suspended portion of the penalty.
- 4 The parties agree that the Company will pay the \$20,000 penalty in 11 consecutive monthly installments of \$1,667, and a 12th monthly installment of \$1,663. The payments will be due on the 26th of each month, beginning on March 26, 2015. Bobby Wolford Trucking may make payments in advance of these due dates to discharge its payment obligation. If, however, the Company fails to pay any installment by its due date, the entire remaining balance, including the suspended portion of the penalty, will immediately become due and payable without further Commission order.
- 5 Christopher Casey, Assistant Attorney General, Olympia, Washington, represents the Staff. Elizabeth Alvord, Staff Attorney for Bobby Wolford Trucking & Demolition, Inc., Woodinville, Washington, represents Bobby Wolford Trucking.

DISCUSSION AND DECISION

- 6 WAC 480-07-750(1) states in part: "The commission will approve settlements when doing so is lawful, the settlement terms are supported by an appropriate record, and when the result is 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 Agreement 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.
- Whether the evidence supports the proposed elements of the Settlement Agreement as a reasonable resolution of the issue(s) at hand.

The Commission must determine one of three possible results:

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

- 7 We approve the Settlement Agreement 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. Bobby Wolford Trucking admits that it violated RCW 81.77.040 on 191 occasions. The \$41,186.30 penalty, \$21,186.30 of which is suspended, is reasonable, both in terms of the \$20,000 penalty the Company must pay now, and the suspended amount it must pay if it fails to comply with the Order.
- 8 The terms of the Settlement Agreement are not contrary to law or public policy and reasonably resolve all issues in this proceeding. The Settlement Agreement supports the Commission's goal of deterring illegal operations and permits the Company to pay a reduced penalty contingent on the Company refraining from prohibited operations for one year, which provides an incentive for ongoing compliance. Given these factors, we find the Settlement Agreement is consistent with the public interest and should be approved as filed.

ORDER

THE COMMISSION ORDERS:

- 9 (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 the disputed issues in this docket.

- 10 (2) Bobby Wolford Trucking & Salvage, Inc. d/b/a Bobby Wolford Trucking & Demolition, Inc. must immediately cease and desist from providing all forms of solid waste collection services that require a permit from the Commission.
- 11 (3) Bobby Wolford Trucking & Salvage, Inc. d/b/a Bobby Wolford Trucking & Demolition, Inc. is assessed a penalty of \$41,186.30, of which \$21,186.30 is suspended for a period of one year from the effective date of this Order conditioned on Bobby Wolford Trucking & Salvage, Inc. d/b/a Bobby Wolford Trucking & Demolition, Inc. complying with the terms of this Order. Bobby Wolford Trucking & Salvage, Inc. d/b/a Bobby Wolford Trucking & Demolition, Inc. must pay the \$20,000 that is not suspended in 12 consecutive monthly installments. The Company must pay 11 installments of \$1,667, followed by a final installment of \$1,663. The installment payments are due on the 26th of each month, beginning March 26, 2015. If Bobby Wolford Trucking & Salvage, Inc. d/b/a Bobby Wolford Trucking & Demolition, Inc. fails to pay any installment by the due date, the entire remaining balance, including the suspended portion of the penalty, will immediately become due and payable without further Commission order.
- 12 (4) Within one year from the date of this Order, Commission Staff shall conduct a review of the operations of Bobby Wolford Trucking & Salvage, Inc. d/b/a Bobby Wolford Trucking & Demolition, Inc. to determine its compliance with the terms of this Order. If Bobby Wolford Trucking & Salvage, Inc. d/b/a Bobby Wolford Trucking & Demolition, Inc. has complied, the Commission will waive the penalty. If Bobby Wolford Trucking & Salvage, Inc. d/b/a Bobby Wolford Trucking & Demolition, Inc. has not complied with the terms of this Order, the suspended \$21,186.30 penalty will become immediately due and payable.
- 13 (5) The Commission retains jurisdiction to effectuate the terms of this Order.

Dated at Olympia, Washington, and effective February 26, 2015.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

RAYNE PEARSON
Administrative Law Judge

NOTICE TO 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*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within ten (10) days after service of the Petition.

WAC 480-07-830 provides that before entry of 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 at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

RCW 80.01.060(3) 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.

One copy of any Petition or Answer filed must be served on each party of record with proof of service as required by WAC 480-07-150(8) and (9). An original and **five (5)** copies of any Petition or Answer must be filed by mail delivery to:

Attn: Steven V. King, Executive Director and Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, Washington 98504-7250

Exhibit A
Settlement Agreement