

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In re Application No. GA-079289 of)	DOCKET NO. TG -041186
)	
RUSSELL VANDERVEEN d/b/a)	ORDER NO. 03
VANDERVEEN FAMILY)	
TRANSPORT)	
)	FINAL ORDER
For a Certificate of Public)	
Convenience and Necessity to)	GRANTING APPLICATION FOR
Operate Motor Vehicles in Furnishing)	A CERTIFICATE OF PUBLIC
Solid Waste Collection Service)	CONVENIENCE AND
)	NECESSITY
.....)	

1 **Synopsis.** *The Commission grants Vanderveen Family Transport’s application for a certificate of public convenience and necessity to operate as a carrier of solid waste consisting of leachate from the Cedarville Landfill to the City of Ferndale waste water treatment plant.*

I. INTRODUCTION

2 **Proceeding.** Docket No. TG-041186 is an application by Russell Vanderveen, doing business as Vanderveen Family Transport for authority to collect leachate,¹ a solid waste, from the Cedarville landfill and transport it to the City of Ferndale Waste Water Treatment plant in Whatcom County, under contract with Whatcom County, pursuant to Chapters 81.77 RCW and 480-70 WAC.

¹ Leachate is defined as a product or solution formed by leaching, especially a solution containing contaminants picked up through the leaching of the soil. *The American Heritage Dictionary of the English Language, Third Edition.*

3 **Appearances.** Russell Vanderveen, owner, represents himself. James Lyons, Manager, appeared on behalf of Sumas Transport, Inc. Lisa Watson, Assistant Attorney General, Olympia, Washington, represents the Commission's regulatory staff ("Commission Staff" or "Staff").

4 **Procedural Background.** On June 30, 2004, Mr. Vanderveen filed an application (Number GA-079289) for a Certificate of Public Convenience and Necessity to collect solid waste in the form of leachate from the Cedarville Landfill to the City of Ferndale Waste Water Treatment Plant in Whatcom County, under contract with Whatcom County. Sumas Transport, Inc., (Sumas) filed a protest to the application on July 27, 2004. The administrative law judge dismissed the Sumas protest in an order entered November 9, 2004, because Sumas did not have authority to conduct the service proposed in this application and therefore Sumas' interests would not be adversely affected by a grant of the requested authority.² The order indicated that since the application was no longer protested, the Commission would hear the application based on a written record and directed Mr. Vanderveen to submit written evidence in support of its application.

5 Mr. Vanderveen waived entry of an Initial Order in this proceeding, and stipulated to entry of a Final Order based on a paper record.

6 **Standard for Determination.** To grant an application for solid waste authority, the Commission must determine that the service sought in the application is required by the public convenience and necessity.³ RCW 81.77.040 requires the Commission to consider the following factors in making its decision:

² Order No. 2, paragraphs 8-10. Sumas did not seek review of the order.

³ RCW 81.77.040 reads in part as follows: "No solid waste collection company shall hereafter 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."

- 1) The present service and cost for the area to be served;
- 2) The estimated cost of the facilities to be used to provide the service;
- 3) A statement of the Applicant's assets on hand that would be used to provide the service;
- 4) A statement of the Applicant's prior experience;
- 5) The sentiment in the community as to the need for the service.

7 In support of his application, the applicant submitted an executed contract for the transportation of solid waste with Whatcom County dated October 28, 2004. The contract extends to December 2005 and identifies the rate of compensation applicable to hauling leachate from the Cedarville Landfill. The applicant also submitted a statement of his current assets and liabilities showing that he operates a tractor-trailer combination and has total assets of \$21,000 and total liabilities of \$1,997. Applicant provided a statement that he has maintenance records for his vehicle and maintains driver records. Applicant also stated that he has been driving a truck for twenty years. In addition, Whatcom County supplied a statement supporting the service provided by the applicant.

8 The Commission may not grant solid waste authority in territory where an existing carrier provides service unless it finds that any existing carrier will not provide service to the satisfaction of the Commission.⁴ In this proceeding, no existing carrier offered evidence to the record demonstrating that it has the authority to provide the proposed service, or that it is willing to provide the proposed service. We find no evidence that any existing carrier with authority to

⁴ RCW 81.77.040 reads in part as follows: "[W]hen an applicant requests a certificate to operate in a territory already served by a certificate holder under this chapter, the commission may, after hearing, issue the certificate only if the existing solid waste collection company or companies serving the territory will not provide service to the satisfaction of the commission."

conduct the service is willing to provide it; we conclude that no existing carrier will provide service to the Commission's satisfaction.

- 9 The applicant meets the requirements governing applications for the collection of solid waste. The applicant identified the type of service to be provided, the contractual compensation he will receive, the cost of the facilities (his truck and trailer) that he will use to perform the service; a statement of his current assets and liabilities; a statement identifying his lengthy experience in driving a truck, his regulatory fitness (maintenance of vehicle and driver records) and support from Whatcom County showing a need for his service. The application should be granted.

II. FINDINGS OF FACT

- 10 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington that has the responsibility under statute to regulate the transportation of solid waste for collection or disposal within the state of Washington.
- 11 (2) Russell Vanderveen is an applicant for authority to transport solid waste consisting of leachate between the Cedarville landfill and the Ferndale waste water treatment plant, in Whatcom County, Washington.
- 12 (3) The Commission published the application, which allowed all affected carriers to protest a grant of authority, and conducted a prehearing conference that afforded all interested persons the opportunity to participate. The only protest was dismissed in a prehearing order of which no review was sought.

- 13 (4) The applicant has sufficient funds and sufficient experience to conduct the proposed operation. A need exists for the proposed services and sentiment in the community favors a grant of authority.
- 14 (5) There is no evidence of record demonstrates that any existing carrier will perform the services to the satisfaction of the Commission.

III. CONCLUSIONS OF LAW

- 15 (1) The Washington Utilities and Transportation Commission has jurisdiction over the application and the parties to this proceeding.
- 16 (2) The applicant, Russell Vanderveen, is fit, willing, and able to perform the proposed services.
- 17 (3) The proposed services are required by the public convenience and necessity.
- 18 (4) The Commission should grant this application.

IV. ORDER

- 19 The Commission grants the application of Russell Vanderveen, d/b/a Vanderveen Family Transport, for a certificate of public convenience and necessity permitting it to transport leachate from the Cedarville landfill to the

Ferndale waste water treatment plant in accord with the authority set forth in Appendix A, attached to this order and incorporated herein by this reference.

Dated at Olympia, Washington, and effective this 1st day of February, 2005.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner

NOTICE TO PARTIES: This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-07-870.

APPENDIX A

Solid Waste Collection Service consisting of Leachate from the Cedarville landfill to the City of Ferndale Waste Water Treatment Plant in Whatcom County under contract with Whatcom County.