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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

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COMMISSION

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In re Application TG-091026 of )

4 NORTHWEST LIQUID TRANSPORT I, )

INC. ) DOCKET NO. TG-091026

5 For a Certificate of Public ) Volume I

Convenience and Necessity to ) Pages 1 - 9

6 Operate Motor Vehicles in )

Furnishing Solid Waste )

7 Collection Service. )

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9 A prehearing conference in the above matter

10 was held on September 16, 2009, at 1:30 p.m., at 1300

11 South Evergreen Park Drive Southwest, Olympia,

12 Washington, before Administrative Law Judge PATRICIA

13 CLARK.

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15 The parties were present as follows:

16 WASHINGTON UTILITIES AND TRANSPORTATION

COMMISSION, by MICHAEL A. FASSIO, Assistant Attorney

17 General, 1400 South Evergreen Park Drive Southwest,

Post Office Box 40128, Olympia, Washington 98504;

18 telephone, (360) 664-1192.

19 NORTHWEST LIQUID TRANSPORT I, INC., by LESA

STARKENBURG-KROONTJE (via bridge), Attorney at Law, 313

20 Fourth Street, Post Office Box 231, Lynden, Washington

98264; telephone, (360) 354-7822.

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BLAINE-BAY REFUSE, INC.; SANITARY SERVICE

22 COMPANY, INC., by POLLY L. MCNEILL (via bridge),

Attorney at Law, Summit Law Group, 315 Fifth Avenue

23 South, Suite 1000, Seattle, Washington 98104;

telephone, (206) 676-7000.

24 Kathryn T. Wilson, CCR

25 Court Reporter

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1 P R O C E E D I N G S

2 JUDGE CLARK: Good afternoon. It's

3 approximately 1:30 p.m., September 16th, 2009, in the

4 Commission's hearing room in Olympia, Washington. This

5 is the time and the place set for a prehearing

6 conference in the matter of the application for solid

7 waste authority filed by Northwest Liquid Transport I,

8 Inc., given docket number TG-091026, Patricia Clark,

9 administrative law judge for the Commission presiding.

10 This matter came before the Commission on

11 June 26th, 2009, when Northwest Liquid Transport filed

12 an application for a certificate of public convenience

13 and necessity to operate motor vehicles in furnishing

14 solid waste collection services under contract with

15 Nature's Path Food, USA, Inc., located in Blaine,

16 Washington, to collect and transport for disposal a

17 mixture of sugar water and solids from the plant in

18 Whatcom County. Notice of the application was

19 published in the Commission's weekly docket of July

20 9th, 2009.

21 On August 7th, 2009, Vanderveen Family

22 Transport filed a protest to the application. On

23 August 10th, 2009, Sanitary Service Company,

24 Incorporated, and Blaine-Bay Refuse, Incorporated, each

25 filed a protest to the application. On August 18th,

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1 2009, the Commission issued a notice of prehearing

2 conference scheduling the conference for this date and

3 time.

4 At this juncture, I would like to take

5 appearances on behalf of the parties. I would like to

6 start first with Northwest Liquid Transport. Northwest

7 Liquid Transport is appearing telephonically for this

8 afternoon's prehearing conference, so I would like to

9 inform everyone that you might need to speak a little

10 more loudly and slowly than you would ordinarily speak.

11 MS. STARKENBURG-KROONTJE: Lesa

12 Starkenburg-Kroontje is appearing today on behalf of

13 Northwest Liquid Transport One, Inc.

14 JUDGE CLARK: Appearing on behalf of Sanitary

15 Service and Blaine-Bay Refuse?

16 MS. MCNEILL: Thank you, Your Honor. This is

17 Polly L. McNeill with Summit Law Group representing

18 Sanitary Service Company, Inc., and Blaine-Bay Refuse,

19 Inc. Would you like our addresses or phone or e-mail

20 for the record, or do you have that information

21 already?

22 JUDGE CLARK: Actually, I have all of that

23 information and can provide that to the court reporter

24 for including in the transcript of this afternoon's

25 proceeding, but thank you for the offer.

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1 The record should also reflect that on

2 September 9th, the Commission received from Vanderveen

3 Family Transport notice of the withdrawal of their

4 protest, and by an electronic e-mail from the presiding

5 officer, I advised Vanderveen Family Transport that

6 they need not enter an appearance at this afternoon's

7 prehearing conference.

8 The final party appearing this afternoon

9 would be the Commission's regulatory staff.

10 MR. FASSIO: Thank you, Your Honor. Michael

11 Fassio, assistant attorney general appearing on behalf

12 of Commission staff.

13 JUDGE CLARK: Thank you. The Commission has

14 before it at this juncture a proposed amendment filed

15 by Northwest Liquid Transport, and

16 Ms. Starkenburg-Kroontje, maybe we could start there

17 with the initial amendment that was proposed by the

18 applicant, and then perhaps we can discuss the

19 modification to that filed by Sanitary Services and

20 Blaine Bay.

21 MS. STARKENBURG-KROONTJE: Well, the initial

22 application that was submitted to the Commission

23 contained the language that you read into the record

24 just a few moments ago, and then on September 10th,

25 2009, through a transmittal to the Commission, we

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1 proposed on behalf of Northwest Liquid Transport to

2 amend the language in an effort to facilitate

3 withdrawal of the protests filed by Sanitary Service

4 Company and Blaine-Bay Refuse.

5 After further communication with their

6 counsel, we proposed a second amendment to the initial

7 filing which then would replace the amendment that we

8 proposed on September 10. That second amendment was by

9 letter dated September 15th, 2009. That second

10 amendment contains language -- I can either read the

11 whole thing into the record or just speak to the change

12 process, because the change first and then see if you

13 want me to read the entire thing into the record, but

14 basically the transport of the sugar water and the

15 solids would be by internal or external vacuum system

16 into a tanker truck, and so the authority request would

17 be limited to that loading and transport system. Would

18 you like me to read the entire amended language then

19 into the record?

20 JUDGE CLARK: I think that would be a good

21 idea.

22 MS. STARKENBURG-KROONTJE: The request for

23 authority would be amended to read as follows: Solid

24 waste collection services under contract with Nature's

25 Path Food, USA, Inc., located in Blaine, Washington, to

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1 collect and transport for disposal a mixture of sugar

2 water and solids using an internal or external vacuum

3 system to load and transport by tanker truck in Whatcom

4 County.

5 JUDGE CLARK: Thank you. Ms. McNeill?

6 MS. MCNEILL: Thank you, Your Honor, and

7 thank you to Ms. Starkenburg-Kroontje for reading that.

8 We have been in communication with the Applicant and

9 with Staff in the last couple of weeks to try to come

10 up with an amended authority that would provide

11 Northwest Liquids with the authority that they need to

12 perform the service and minimize the risk that any

13 future certificate holders could use it to transport

14 solid waste in a manner that would interfere and

15 overlap with my two client's authorities, and I

16 apologize to you, Your Honor, as well as to Staff, and

17 I thank very much the Applicant and Staff for working

18 with me while I was on vacation, and that is the only

19 reason, I think, that as of yesterday when I returned,

20 we were able to finally come up with some language that

21 does give Northwest Liquids the authority that they

22 need to perform the services and addresses any concerns

23 that my clients, Sanitary Service and Blaine-Bay

24 Refuse, have.

25 So if the Commission is willing to accept the

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1 amendment as proposed in the letter that was sent

2 yesterday, September 15th, then we are willing to

3 withdraw our protest as well.

4 JUDGE CLARK: That concluded your comments

5 regarding the amendment, Ms. McNeill?

6 MS. MCNEILL: That's correct.

7 JUDGE CLARK: Mr. Fassio?

8 MR. FASSIO: Thank you. The Staff did have

9 an opportunity to be privy to the discussions between

10 the Applicant and the Protestants here and did have an

11 opportunity to review the language that was proposed,

12 and the amendment is acceptable to Staff, and Staff has

13 no concerns and would support the request to amend.

14 JUDGE CLARK: So we now have an application

15 for the amended authority, which is unopposed by any

16 protest and which is amenable to Staff, so I believe

17 that we can handle this matter administratively without

18 having any evidentiary hearing or further proceedings

19 in this matter; is that correct?

20 MS. STARKENBURG-KROONTJE: That would appear

21 correct to the Applicant.

22 MS. MCNEILL: That's my understanding as

23 well, Your Honor.

24 MR. FASSIO: Staff's understanding as well,

25 Your Honor.

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1 JUDGE CLARK: Is there any further matter

2 that should be considered on the record this afternoon?

3 MS. STARKENBURG-KROONTJE: Not from the

4 Applicant.

5 MS. MCNEILL: Not from the Protestants

6 either.

7 MR. FASSIO: Your Honor, if you could maybe

8 perhaps clarify for the parties administratively, would

9 this be handled through an initial order? How would

10 this be resolved administratively, do you believe?

11 JUDGE CLARK: That's an excellent question,

12 Mr. Fassio, and I have to tell you honestly I'm not

13 really sure because this has never ever happened

14 before, so what I intend to do following this

15 afternoon's prehearing conference is to consult with

16 the director of the administrative law division, and I

17 was unable to do that this morning, and inquire what is

18 the best way for us to proceed, but in any event, it

19 appears, whether it's an initial order, exactly what

20 form that order would take, the Commission will be

21 issuing an order basically approving the application

22 based on the authority requested in the second

23 amendment, but procedurally exactly how I will effect

24 that particular process, I am unsure at this juncture.

25 Are there any other questions that I am

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1 unable to answer? If you have a question I know the

2 answer to, it is not appropriate to ask at this time.

3 Are there any other matters to consider, Mr. Fassio?

4 MR. FASSIO: No.

5 JUDGE CLARK: Hearing nothing, we are

6 adjourned.

7 (Prehearing adjourned at 1:42 p.m.)

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