

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

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

BOBBY WOLFORD TRUCKING &  
SALVAGE, INC. d/b/a BOBBY  
WOLFORD TRUCKING &  
DEMOLITION, INC.

DOCKET TG-151573

ORDER 01

ORDER INSTITUTING SPECIAL  
PROCEEDING; COMPLAINT  
SEEKING TO IMPOSE PENALTIES

and

NOTICE OF BRIEF ADJUDICATIVE  
PROCEEDING  
(Set for April 27, 2016, at 9:30 a.m.)

**I. INTRODUCTION**

- 1 The Washington Utilities and Transportation Commission (Commission) institutes this special proceeding on its own motion, under Revised Code of Washington (RCW) 81.04.510, to determine whether Bobby Wolford Trucking & Salvage, Inc. d/b/a Bobby Wolford Trucking & Demolition, Inc. (Bobby Wolford Trucking or Company) is operating for the hauling of solid waste for compensation without a certificate of convenience and necessity (certificate) issued by the Commission under RCW 81.77.040. Operating for the hauling of solid waste for compensation includes advertising, soliciting, offering, or entering into an agreement to provide that service. RCW 81.77.040.
- 2 The Commission has information from which it believes and therefore alleges that on 170 separate occasions between August 24, 2015, and September 30, 2015, Bobby Wolford Trucking transported solid waste for compensation without the necessary certificate. Under RCW 81.04.510, upon proof of these allegations, the Commission may order Bobby Wolford Trucking to cease and desist from activities subject to regulation under Title 81 RCW.
- 3 Under RCW 81.04.110, the Commission may file a complaint on its own motion setting forth any act or omission by Bobby Wolford Trucking that violates any law, or any order or rule of the Commission. Under RCW 81.04.380, the Commission may impose penalties of up to \$1,000 for each violation.

- 4 The hearing in this special proceeding will be conducted under Part IV of the Administrative Procedure Act (APA), chapter 34.05 RCW. At the hearing, notice of which is given here, the Commission will also consider its Complaint against Bobby Wolford Trucking alleging the violations of law specified below. The Commission will decide whether Bobby Wolford Trucking should be penalized.

## II. ORDER AND NOTICE OF HEARING

- 5 The Commission has jurisdiction to institute this special proceeding to determine whether Bobby Wolford Trucking is conducting business requiring operating authority or has performed or is performing any act requiring Commission approval without securing such approval under RCW 80.01.040, RCW 81.01.010, and RCW 81.04.510. This matter also involves Title 81 RCW, including but not limited to RCW 81.04.020, RCW 81.77.010, RCW 81.77.040, and RCW 81.77.090. This matter also involves the administrative rules set forth in Washington Administrative Code (WAC) 480-07 and WAC 480-70.

- 6 **IT IS HEREBY ORDERED that Bobby Wolford Trucking appear before the Commission in this special proceeding under RCW 81.04.510 at 9:30 a.m., on Wednesday, April 27, 2016, in Room 206, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington, to give testimony and evidence under oath regarding its operations. Bobby Wolford Trucking shall appear at the time and place set forth above unless the Commission, by notice of hearing, specifies a different time and place. The Commission has subpoena power under RCW 34.05.446, RCW 80.01.060(1), and RCW 81.04.510.**

- 7 **IT IS FURTHER ORDERED** that at the hearing in this special proceeding Bobby Wolford Trucking has the burden to prove that its operations are not subject to regulation under Title 81 RCW.

- 8 **NOTICE IS GIVEN THAT ANY PARTY THAT 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.**

- 9 If a limited English-speaking or hearing-impaired party or witness needs an interpreter, a form is attached to this notice to be filled out and returned as indicated, so that a qualified interpreter may be appointed at no cost to the party or witness.

- 10 The names and mailing addresses of all parties and their known representatives are:

Company: Bobby Wolford Trucking & Salvage, Inc. d/b/a/ Bobby Wolford Trucking & Demolition, Inc.  
22014 W. Bostian Rd.  
Woodinville, WA 98072

Representative: Elizabeth Alvord  
In-House Counsel for Bobby Wolford Trucking & Demolition, Inc.  
22014 W. Bostian Rd.  
Woodinville, WA 98072

Commission: Washington Utilities and Transportation Commission  
1300 S. Evergreen Park Drive S.W.  
P.O. Box 47250  
Olympia, WA 98504-7250  
(360) 664-1160

Representative: Christopher M. Casey  
Assistant Attorney General  
Washington State Office of the Attorney General  
1400 S. Evergreen Park Drive S.W.  
P.O. Box 40128  
Olympia, WA 98504-0128  
(360) 664-1189

**III. COMPLAINT SEEKING PENALTIES**

**PARTIES**

- 11 Complainant, Washington Utilities and Transportation Commission, is an agency of Washington State, 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 RCW.
- 12 Respondent, Bobby Wolford Trucking & Salvage, Inc. d/b/a Bobby Wolford Trucking & Demolition, Inc. is a company that does business in Washington State.

**JURISDICTION**

- 13 The Commission has jurisdiction over this matter pursuant to RCW 80.01.040, RCW 81.01.010, RCW 81.04.110, RCW 81.04.160, RCW 81.04.460, and chapter 81.77 RCW.

**BACKGROUND**

- 14 The following facts, set forth in the Staff Investigation Report of this matter, establish probable cause for the Commission to complain against the activities of Bobby Wolford Trucking and to seek penalties under applicable laws.
- 15 At all relevant times, Bobby Wolford Trucking lacked certificate authority from the Commission to operate for the hauling of solid waste for compensation. The Company holds a common carrier permit from the Commission.
- 16 Under Washington law, a solid waste collection company may not advertise, solicit, offer, or enter into an agreement to haul solid waste for compensation without a Commission-issued certificate of convenience and necessity. RCW 81.77.040. In 2011, Commission staff (“Staff”) initiated an enforcement program targeting carriers advertising solid waste collection services without a certificate.
- 17 In January 2012, Staff sent Bobby Wolford Trucking a letter providing technical assistance regarding the Company’s website advertisement of residential drop box service. The letter included specific guidance on operations that require a certificate from the Commission. On January 30, 2012, the Company informed Staff that it would discontinue its residential drop box service. Staff responded to Bobby Wolford Trucking by explaining that as long as the Company, as opposed to the customer, loaded the container as part of its cleanup or site restoration service, it is considered private carriage and not regulated by the Commission as solid waste collection. Staff then closed its investigation.
- 18 In September 2014, Staff began another investigation into Bobby Wolford Trucking following an informal complaint from a certificated solid waste collection company alleging that Bobby Wolford Trucking was hauling demolition debris from the Everett Boeing Plant to the Snohomish County Airport Road Transfer Station (ARTS). Staff’s investigation found that Bobby Wolford Trucking transported solid waste for compensation on 191 occasions between September 2, 2014, and September 30, 2014, without the required certificate from the Commission. Consequently, on January 16, 2015, the Commission initiated Docket TG-143802 on its own motion by entering 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. The complaint alleged that Bobby Wolford Trucking 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 also issued a *Subpoena and Subpoena 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.

- 19 On February 11, 2015, Staff<sup>1</sup> notified the Commission that the parties had reached a settlement in principle. On February 25, 2015, Staff filed a settlement agreement on behalf of the parties. As part of the settlement, Bobby Wolford Trucking admitted that it violated RCW 81.77.040 on 191 occasions as alleged in the complaint. The parties agreed that the Commission should assess a penalty of \$41,186.20, equal to the amount the Company billed for the 191 unauthorized hauls. The parties also agreed that the Commission should suspend a \$21,186.20 portion of the penalty for a period of one year on the condition that the Company refrains from providing all solid waste services that require a permit from the Commission. On February 26, 2015, the Commission issued an initial order approving the settlement agreement without condition. The Commission ordered Bobby Wolford Trucking to immediately cease and desist from providing all forms of solid waste collection services that require a certificate from the Commission. The Commission also directed Staff to conduct a review of Bobby Wolford Trucking's operations within one year to determine the Company's compliance with the terms of the initial order.
- 20 In September 2015, Staff began a new investigation into the operations of Bobby Wolford Trucking due to an informal complaint from a certificated solid waste collection company, which alleged that Bobby Wolford Trucking was hauling pilings from the Mukilteo Pier demolition project from a Seattle dock to the Snohomish County Cathcart disposal facility. On September 24, 2015, Staff sent a letter to Bobby Wolford Trucking outlining the informal complaint and requesting information about the Company's operations with respect to the Mukilteo Pier demolition project.
- 21 October 6, 2015, Bobby Wolford Trucking responded to Staff via letter. The Company claimed Pacific Pile, the contractor for the Mukilteo Pier demolition project, approached it about hauling the pilings. Bobby Wolford Trucking claimed that the only safe and efficient means for transporting the pilings due to their massive size was to use specialized end dump trailers. The Company further claimed that Pacific Pile discovered that none of the certificated solid waste haulers in the area possessed these specialized end dump trailers, and that Bobby Wolford Trucking transported the pilings because an immediate, urgent, public interest need existed for a service that the Company was uniquely able to perform.

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<sup>1</sup> 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.

- 22 On October 7, 2015, Staff contacted Republic Services, which is the certificated solid waste hauler for the Seattle area. Staff asked whether Pacific Pile contacted Republic Services regarding the transportation and disposal of the pilings from the Mukilteo Pier demolition project. On October 8, 2015, Republic Services confirmed that neither Pacific Pile nor Bobby Wolford Trucking contacted Republic Services about the opportunity to provide solid waste collection service for the Mukilteo Pier demolition project. Subsequent to Staff inquiries, Pacific Pile terminated its arrangement with Bobby Wolford Trucking for the hauling of debris from the Mukilteo Pier demolition project. As of October 8, 2015, Pacific Pile began using Republic Services to collect and transport the pilings to a transfer station in King County.
- 23 On October 28, 2015, Staff sent a letter to Bobby Wolford Trucking explaining that it was continuing the investigation of the alleged solid waste hauling, and requested further information about the Company's operations with respect to the Mukilteo Pier demolition project. The Company responded to Staff with the requested information on November 16, 2015.
- 24 On November 3, 2015, Staff submitted a Request to Inspect Public Records to the Snohomish County Department of Public Works that requested the transaction details related to billing of Pacific Pile for loads hauled by Bobby Wolford Trucking from August 1, 2015, through November 1, 2015. Snohomish County provided the requested information by email on November 3, 2015. These records indicated that Bobby Wolford Trucking transported solid waste for compensation to the Cathcart facility for Pacific Pile on 170 occasions from August 24, 2015, through September 30, 2105.

#### **APPLICABLE LAW AND REGULATIONS**

- 25 Under state law, the definition of "solid waste collection company" includes every person "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.'" RCW 81.77.010(7).
- 26 The term "person" includes an individual, a firm or copartnership. RCW 81.04.010(6).
- 27 A "common carrier" is "any person who collects and transports solid waste for disposal by motor vehicle for compensation, whether over regular or irregular routes, or by regular or irregular schedules." RCW 81.77.010(3). "Contract carriers" are "all solid waste transporters not included under the terms 'common carrier' and 'private carrier,' as defined in [RCW 81.77.010], and further, includes any person who under special and

individual contracts or agreements transports solid waste by motor vehicle for compensation.” RCW 81.77.010(4).

- 28 Solid waste collection companies are common carriers. RCW 81.04.010(11). For purposes of Title 81 RCW, every common carrier is a public service company. RCW 81.04.010(16).
- 29 The term “solid waste collection” does not include collecting or transporting recyclable materials from a drop-box or recycling buy-back center, or collecting or transporting recyclable materials by or on behalf of a commercial or industrial generator of recyclable materials to a recycler for use or reclamation. Transportation of these materials is regulated under chapter 81.80 RCW. RCW 81.77.010(8).
- 30 For purposes of chapter 81.77 RCW, “solid waste” means the same as defined under RCW 70.95.030, but it does not include recyclable materials except for source separated recyclable materials collected from residences. RCW 81.77.010(9). Under RCW 70.95.030(22), “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.”
- 31 “A solid waste collection company shall not operate for the hauling of solid waste for compensation without first having obtained from the [C]ommission a certificate declaring that public convenience and necessity require such operation. Operating for the hauling of solid waste for compensation includes advertising, soliciting, offering, or entering into an agreement to provide that service.” RCW 81.77.040.
- 32 By law, every public service company that violates any Commission rule or provision of Title 81 RCW is subject to a penalty of up to \$1,000 for every such violation. RCW 81.04.380. In the case of a continuing violation, every day’s continuance thereof shall be and be deemed to be a separate and distinct offense. *Id.*
- 33 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.

### **COMPLAINT**

- 34 The Commission, through its Staff, re-alleges the allegations contained in paragraphs 14 through 33 above.

35 Bobby Wolford Trucking violated RCW 81.77.040 on 170 occasions by hauling solid waste for compensation without first having obtained from the Commission a certificate of public convenience and necessity.

#### **REQUEST FOR RELIEF**

36 Staff requests that the Commission, pursuant to its authority under RCW 81.04.380, assess penalties of up to \$1,000 against Bobby Wolford Trucking for each of the 170 violations alleged in this Complaint.

#### **PROBABLE CAUSE**

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

#### **IV. NOTICE OF BRIEF ADJUDICATIVE PROCEEDING**

38 Pursuant to RCW 34.05.482 and WAC 480-07-610, the Commission determines that a brief adjudicative proceeding is appropriate for determining whether the alleged violations occurred and, if so, the appropriate remedy for those violations.

39 **THE COMMISSION GIVES NOTICE THAT it will conduct a brief adjudicative proceeding concerning this Complaint concurrently with the special proceeding noticed above, which will commence at 9:30 a.m. on Wednesday, April 27, 2016, in Room 206, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.**

40 An Administrative Law Judge from the Utilities and Transportation Commission's Administrative Law Division, 1300 S. Evergreen Park Drive S.W., Olympia, Washington 98504-7250, will be designated to preside at the hearing of these matters.

DATED at Olympia, Washington, and effective February 22, 2016.

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GREGORY J. KOPTA  
Administrative Law Judge  
Administrative Law Division



Inquiries should be addressed to:

Executive Director and Secretary  
Washington Utilities and  
Transportation Commission  
Richard Hemstad Building  
1300 S. Evergreen Park Drive S.W.  
P. O. Box 47250  
Olympia, WA 98504-7250  
(360) 664-1160

**NOTICE**

PLEASE NOTE: The hearing facilities are accessible to interested people with disabilities; that smoking is prohibited; and, 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.

The information needed to provide an appropriate interpreter or other assistance should be stated below and returned to Washington Utilities and Transportation Commission, Attention: Steven V. King, 1300 S. Evergreen Park Drive SW, 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 No.: (\_\_\_\_\_)\_\_\_\_\_