



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

621 Woodland Square Loop S.E. • Lacey, Washington 98503

P.O. Box 47250 • Olympia, Washington 98504-7250

(360) 664-1160 • TTY (360) 586-8203

RE: **MANDATORY APPEARANCE BEFORE ADMINISTRATIVE LAW JUDGE**
Unlawful Activity as a Solid Waste Carrier in Violation of RCW 81.77.040
Docket TG-190969

Dear David Theodore Kuntz, d/b/a DK Dumpers:

It has come to the Washington Utilities and Transportation Commission's (Commission) attention that you continue to engage in business as a solid waste collection carrier without applying for or receiving a certificate of public convenience and necessity from the Commission. Revised Code of Washington (RCW) 81.77.040 states that "a solid waste collection company shall not 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."

The Commission is initiating an enforcement action against you and your company. This letter and its attachments are the Commission's formal demand that you cease operating until you obtain the required certificate for the transportation of solid waste. Until you obtain that certificate, you must also stop all advertising of your company's solid waste service. Failure to do so may result in a serious financial penalty.

Please be aware that operating as a solid waste company without the required certificate is illegal and subject to a penalty of up to \$1,000 per violation. The penalty for advertising for solid waste services without a certificate is also up to \$1,000 per advertisement.

As the attached documents explain, you are now **REQUIRED TO APPEAR** in Lacey before one of the Commission's Administrative Law Judges on **January 22, 2020, at 9 a.m.** The basis for the Commission's enforcement action is explained in the attached Order and the supporting Declaration of Kathryn McPherson. The subpoena details the requirement for you to appear at the preliminary hearing about your unauthorized business.

At your hearing, the judge will explain the laws and rules governing the solid waste carrier industry and explain your rights under the Commission's enforcement process. When you appear before the judge, you should be prepared to take one of the following actions:

Option A- Cease Operating as a Solid Waste Collection Carrier

The Administrative Law Judge will allow you to testify, under oath, that you have shut down your business. You should be prepared to explain specific actions you have taken to dissolve your company and to discontinue any advertising you may have previously arranged (websites, phone books, newspapers, etc.). This does not stop you from applying for a solid waste carrier certificate. It simply means that you will cease illegal operations until you do so. Should you choose to apply for a certificate in advance of the hearing and the Commission deems you eligible to receive a temporary certificate, you may present that information at the hearing.

Option B- Contest the Applicability of RCW 81.70.260 to Your Company

The Administrative Law Judge will schedule a formal evidentiary hearing. At that time, you will be required to present proof that your business is *not* within the regulatory jurisdiction of the Commission. If you win your case, the judge will dismiss the Commission's complaint against you. If you lose your case, you will need to proceed under Option A or risk further enforcement action by the Commission.

As you prepare for your preliminary hearing, you may find the Commission's informational handouts included in this packet to be helpful. You might also wish to review the laws and related rules governing your business. These include:

- RCW Chapter 81.77
- Washington Administrative Code (WAC) Chapter 480-70

These legal resources and other helpful items can be found on the Commission's website: www.utc.wa.gov. If you have any questions about the certificate application, the Commission's Licensing Services staff are available at (360) 664-1222.

If you have any questions about your obligations under the law and your mandatory appearance, Kathryn McPherson, Compliance Investigator, is available at (360) 664-1108 or Kathryn.McPherson@utc.wa.gov.

Thank you for your cooperation.

Sincerely,

Mark L. Johnson
Executive Director and Secretary

Attachments:

- 1) Order 01- *Order Instituting Special Proceeding; Complaint Seeking to Impose Penalties; Notice of Mandatory Appearance at Hearing (set for January 22, 2020)*
- 2) Subpoena

- 3) Declaration of Kathryn McPherson
- 4) Application Packet for Solid Waste certificate
- 5) UTC Informational Handouts
 - a. Motor Carrier Overview
 - b. Transportation Fact Sheet
 - c. Motor Carrier Insurance Requirements