



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 1-800-833-6384 or 711

RE: **MANDATORY APPEARANCE BEFORE ADMINISTRATIVE LAW JUDGE**
Unlawful Activity as Solid Waste Collection Carrier in Violation of RCW 81.77.040
Docket TG-210898

Dear David Mulholland:

It has come to the attention of the Washington Utilities and Transportation Commission (Commission) that your company, Make A Way LLC, is engaging in business activity requiring a certificate under Washington state law. Revised Code of Washington (RCW) 81.77.077 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 your company. Until you obtain that certificate, you must also stop all advertising of your company’s solid waste services. Failure to do so may result in a serious financial penalty.

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

As the attached documents explain, you are now **REQUIRED TO VIRTUALLY APPEAR** before one of the Commission’s Administrative Law Judges on March 29, 2022, at 9:30 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 hearing to testify about your unpermitted business.

You have the option to work with Commission Staff in advance of the hearing to negotiate an agreed outcome. If you wish to explore this option, please contact Kathryn McPherson at (360) 522-6121 or kathryn.mcpherson@utc.wa.gov and schedule a time to meet via telephone or Zoom. Staff will explain the laws and rules governing the solid waste industry and advise you of your options to agree to cease and desist unpermitted operations and pay a lesser penalty or to

contest the allegations at hearing. If you agree to cease operating as an unpermitted solid waste carrier unless and until you receive a certificate from the Commission, you will be offered the option to pay a reduced penalty. If you and Staff agree to a penalty amount, you may sign a settlement agreement that explains your commitment to cease and desist unpermitted operations and sets out the terms of any payment plan.

If you fail to contact Staff in advance of the hearing date, you will be expected to appear and take one of the following actions at the hearing:

Option A- Cease Operating as a Solid Waste 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 certificate. It simply means that you will cease illegal operations until you do. 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 81.77.040 to Your Company

The Administrative Law Judge will allow you to testify, under oath, that RCW 81.77.040 does not apply to your company. At that time, you will be required to present proof that your business is *not* within the regulatory jurisdiction of the Commission. If the Judge decides in your favor, the Commission will dismiss the complaint against you. If the Judge rules against you, you will need to proceed under Option A or risk further enforcement action by the Commission.

If you fail to appear at the hearing, you will be held in default, which means the Commission will enter an order classifying you as a solid waste carrier and imposing the maximum penalty.

As you prepare for your 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 permit application, the Commission's Licensing Services staff is 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) 522-6121 or kathryn.mcpherson@utc.wa.gov.

Thank you for your cooperation.

Sincerely,

AMANDA MAXWELL
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 March 29, 2022, at 9:30 a.m.)*
- 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
- 6) Pro Se Litigants Information – Representing Yourself in Proceedings before the Washington Utilities and Transportation Commission