

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-143802

COMMISSION STAFF'S
MOTION TO CONSOLIDATE
PROCEEDINGS

I. RELIEF REQUESTED

1 On February 26, 2015, in this docket the Washington Utilities and Transportation Commission (Commission) assessed penalties on Bobby Wolford Trucking & Salvage, Inc. d/b/a Bobby Wolford Trucking & Demolition, Inc. (Bobby Wolford Trucking or Company) for operating for the hauling of solid waste for compensation without the required certificate from the Commission. Specifically, the Commission assessed a penalty of \$41,186.30, of which it suspended \$21,186.30 for a period of one year on the condition that Bobby Wolford Trucking complies with the terms of the Commission's order, including that the Company cease and desist from providing all forms of solid waste collection services that require a certificate from the Commission. Commission staff (Staff) alleges that Bobby Wolford Trucking violated this condition on 170 occasions between August 24, 2015, and September 30, 2015. These 170 alleged solid waste hauls are the subject of a new classification proceeding and complaint for penalties in Docket TV-151573. Staff requests that the Commission schedule a brief adjudicative proceeding in this docket to determine whether to impose the suspended penalties against Bobby Wolford Trucking. Staff further requests that the Commission consolidate this

proceeding with Docket TG-151573 because both proceedings involve common questions of fact and law.

II. STATEMENT OF FACTS

2 On February 26, 2015, the Commission entered Order 02, Initial Order Approving Settlement Agreement (Initial Order).¹ The Initial Order became final by operation of law on March 18, 2015, pursuant to WAC 480-07-825. In the Initial Order, the Commission approved without condition a settlement agreement between Staff and Bobby Wolford Trucking, and ordered the Company to immediately cease and desist from providing solid waste collection services that require a Commission-issued certificate. In addition, the Commission assessed Bobby Wolford Trucking a penalty of \$41,186.30, of which it suspended \$21,186.30 for a period of one year on the condition that the Company complies with the terms of the Initial Order. The Commission further directed Staff to conduct a review of the operations of Bobby Wolford Trucking within one year from the effective date of the Initial Order to determine the Company's compliance. The Commission ordered: "If [Bobby Wolford Trucking] has not complied with the terms of this Order, the suspended \$21,186.30 penalty will become immediately due and payable." Initial Order ¶ 12.

3 Within one year of the effective date of the Initial Order, Staff began a new investigation into the operations of Bobby Wolford Trucking after receiving an informal complaint from a certificated solid waste collection company. After a full investigation,

¹ In this docket, the Commission issued Order 02 on two different occasions—the first Order 02 is a subpoena and subpoena duces tecum issued on January 16, 2015; the second is the Initial Order approving the settlement agreement issued on February 26, 2015. To clarify the record, Staff suggests that the Initial Order be renamed Order 03. For the purposes of this filing, Staff will refer to the latter Order 02, issued on February 26, 2015, as "Initial Order."

Staff determined that Bobby Wolford Trucking violated the terms of the Initial Order because it did not cease and desist from providing all forms of solid waste collection services that require a certificate from the Commission. Specifically, Staff found that Bobby Wolford Trucking transported solid waste generated from the Mukilteo Pier demolition project from a Seattle dock to the Snohomish County Cathcart disposal facility on 170 occasions between August 24, 2015, and September 30, 2015, without the necessary certificate from the Commission. Staff detailed its findings in an Investigation Report, which is attached hereto.

4 On February 22, 2016, in Docket TG-151573, the Commission issued Order 01, Order Instituting Special Proceeding and Notice of Hearing; Complaint Seeking to Impose Penalties and Notice of Hearing, based on a review of Staff's Investigation Report. In Order 01, the Commission instituted a special proceeding on its own motion to determine whether Bobby Wolford Trucking is operating for the hauling of solid waste for compensation without a certificate issued by the Commission. Consistent with RCW 80.01.060 and WAC 480-07-307, the Commission also found probable cause exists to issue a complaint and to seek penalties under applicable laws. The Commission gave notice that it will conduct a hearing concerning the complaint concurrently with the special proceeding on April 27, 2016, at 9:30 a.m.

III. STATEMENT OF ISSUES

5 The issues in this matter are: (1) whether the Commission should schedule a brief adjudicative proceeding in Docket TG-143802 to allow receipt of evidence necessary to determine whether to impose the suspended penalty on Bobby Wolford Trucking for failing to comply with the terms of its Initial Order; and (2) whether the Commission should consolidate Dockets TG-143802 and TG-151573 because the two proceedings present related questions of fact and law.

IV. EVIDENCE

6 Staff relies on the following evidence:

- Initial Order in Docket TG-143802;
- Staff Investigation Report (attached); and
- Order 01 in Docket TG-151573: Order Instituting Special Proceeding and Notice of Hearing; Complaint Seeking to Impose Penalties and Notice of Hearing.

V. ARGUMENT

A. **The Commission Should Schedule a Brief Adjudicative Proceeding in Docket TG-143802.**

7 The Commission should schedule a brief adjudicative proceeding in this docket to allow receipt of evidence necessary to determine whether to impose the suspended penalty of \$21,186.30 on Bobby Wolford Trucking for failing to comply with the terms of the Initial Order. In the Initial Order, the Commission directed Staff to conduct a follow-up investigation within one year of the effective date of the Initial Order. After conducting the investigation as directed, Staff determined Bobby Wolford Trucking

transported solid waste for compensation on 170 occasions between August 24, 2015, and September 30, 2015, without first having obtained a certificate from the Commission, and therefore the Company failed to comply with the Commission's conditions for mitigating the full penalty amount. Staff thus requests that the Commission schedule a brief adjudicative proceeding to allow receipt of evidence necessary to determine whether to impose the suspended penalties against Bobby Wolford Trucking.

B. The Commission Should Consolidate Dockets TG-143802 and TG-151573.

8 Under WAC 480-07-320, the Commission may consolidate two or more proceedings in which the facts or principles of law are related. Staff requests consolidation of Dockets TG-143802 and TG-151573 because the two proceedings present common questions of fact and law. Specifically, both proceedings concern whether Bobby Wolford Trucking transported solid waste for compensation on 170 occasions between August 24, 2015, and September 30, 2015, without first having obtained a certificate from the Commission. Consolidation of these two proceedings will promote judicial efficiency by enabling the Commission to resolve both dockets by means of the brief adjudicative proceeding already set for April 27, 2016, at 9:30 a.m. in Docket TG-151573.

VI. CONCLUSION

9 In conclusion, Staff requests the Commission schedule a brief adjudicative proceeding to determine whether to impose the suspended penalties against Bobby Wolford Trucking. Staff further requests that the Commission consolidate this proceeding with Docket TG-151573 so that the Commission can resolve the common questions of

fact and law presented by the two dockets at the brief adjudicative proceeding set for April 27, 2016, at 9:30 a.m.

DATED this 4th day of March 2016.

Respectfully submitted,

ROBERT W. FERGUSON
Attorney General

A handwritten signature in black ink, appearing to read "Christopher M. Casey", written over a horizontal line.

CHRISTOPHER M. CASEY
Assistant Attorney General
Counsel for Utilities and
Transportation Commission Staff