

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Determining the Proper  
Carrier Classification of, and Complaint for  
Penalties Against  
  
WESTSIDE WASTE, LLC

DOCKET TG-190672  
  
COMMISSION STAFF'S MOTION  
TO IMPOSE SUSPENDED  
PENALTIES

**I. INTRODUCTION**

1           In March 2020, the Commission entered Order 03 in this docket to approve a  
settlement resolving a classification complaint against Westside Waste, LLC (Westside).  
The settlement called for the imposition of a \$113,000 penalty on Westside for violations of  
RCW 81.77.040, with \$105,500 of that penalty suspended for a period of two years, and  
then waived after that, subject to Westside's compliance with a condition. That condition  
required Westside to cease providing solid waste collection services until it obtained a  
certificate of public convenience and necessity as required by RCW 81.77.040.

2           Westside has failed to comply with that condition. Accordingly, the Commission's  
motor carrier staff (Staff) respectfully requests that the Commission lift the suspension and  
order Westside to pay the \$105,500 remaining balance of the penalty.

**II. RELIEF REQUESTED**

3           Staff requests that the Commission determine that Westside has violated the  
condition of the suspension of a portion of the penalty imposed in Order 03 in this docket,  
lift the suspension of the penalty, and order Westside to pay the remaining \$105,500 balance  
of the penalty, with that amount immediately due and owing.

### III. STATEMENT OF FACTS

4 In November 2019, the Commission, through its Staff, complained against Westside  
in this docket, instituting a special proceeding to determine whether Westside was operating  
for the hauling of solid waste without the certificate of public convenience and necessity  
required by RCW 81.77.040.<sup>1</sup> The complaint alleged that Westside had so operated on 113  
occasions and sought penalties for the violations.<sup>2</sup>

5 In March 2020, Staff and Westside reached a settlement to resolve the issues raised  
by the complaint.<sup>3</sup> In the settlement, Westside admitted that it had violated RCW 81.77.040  
on 113 occasions and agreed to the entry of an order that classified it as a solid waste  
collection company and required it to cease and desist from further solid waste hauling  
operations until it obtained a certificate as required by RCW 81.77.040.<sup>4</sup> The parties agreed  
to a total penalty of \$113,000, with \$105,500 of that penalty suspended for two years, then  
waived, so long as Westside refrained from further violations of RCW 81.77.040 during the  
two-year period of suspension.<sup>5</sup>

6 In January 2022, Staff began reviewing Westside's compliance with the terms of the  
March 2020 settlement.<sup>6</sup> To do so, Staff asked Snohomish County's solid waste division for  
any records of Westside transporting solid waste by motor vehicle to the county's solid  
waste facilities in November or December of 2021.<sup>7</sup> Snohomish County's response shows  
that Westside did so 55 times in November 2021 and 47 times in December 2021.<sup>8</sup> Staff,

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<sup>1</sup> *In re Determining the Proper Carrier Classification of, and Complaint for Penalties Against, Westside Waste, LLC*, Docket TG-190672, Order 03, at 1 ¶ 1 (Mar. 25, 2020) (Order 03).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.* at 1-2 ¶ 3.

<sup>4</sup> *Id.* at 2 ¶ 4, 3 ¶¶ 13-14; *see id.* at 3 ¶ 9.

<sup>5</sup> *Id.* at 2 ¶ 5, 4 ¶ 15; *see id.* at 3 ¶¶ 10-11.

<sup>6</sup> Decl. of Kathryn McPherson at 1 ¶ 4.

<sup>7</sup> *Id.* at 1 ¶ 4.

<sup>8</sup> *Id.* at 1-2 ¶ 5.

accordingly, has determined that Westside violated the condition of the suspension of the portion of the penalty imposed by Order 03 in this docket.<sup>9</sup>

#### IV. STATEMENT OF ISSUES

7           Should the Commission order Westside to pay the \$105,500 portion of the penalty the Commission imposed, but then suspended, in this docket because of Westside’s failure to comply with the conditions of the suspension?

#### V. EVIDENCE RELIED UPON

8           Staff relies on the record in this docket as well as the Declaration of Kathryn McPherson, submitted concurrently with this motion.

#### VI. ARGUMENT

9           The Commission imposed but suspended the \$105,500 portion of the penalty in Order 03 to “provide[]” Westside “an incentive for ongoing compliance” with the provisions of chapter 81.77 RCW.<sup>10</sup> Specifically, Westside’s compliance with those provisions would allow it to avoid paying over one hundred thousand dollars in penalties.<sup>11</sup> That incentive has failed. Westside continues to operate for the hauling of solid waste with the requisite certificate in violation of both RCW 81.77.040 and the Commission’s order to cease and desist. The Commission should lift the suspension of penalties and order Westside to pay the remaining penalty balance.

#### VII. CONCLUSION

10           Commission Staff requests that the Commission grant its motion and require Westside to pay the \$105,500 portion of the penalty imposed but suspended by Order 03 in

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<sup>9</sup> *Id.* at 2 ¶ 12.

<sup>10</sup> Order 03 at 3 ¶ 11.

<sup>11</sup> Order 03 at 3 ¶ 11, 4 ¶ 15.

this docket for failure to comply with the terms of the suspension.

DATED this 22nd day of March 2022.

Respectfully submitted,

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