

**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

ORDER 01

ORDER INSTITUTING SPECIAL
PROCEEDING and NOTICE OF
HEARING; COMPLAINT SEEKING
TO IMPOSE PENALTIES and
NOTICE OF HEARING
(Set for February 18, 2015, at
1:30 p.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 191 separate occasions between September 1, 2014, and September 30, 2014, Bobby Wolford Trucking transported solid waste for disposal 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 **1:30 p.m., on February 18, 2015**, 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: Unknown

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, 81.04.160, and 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 the Company 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 by explaining to Bobby Wolford Trucking 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 Staff began an investigation into Bobby Wolford Trucking in September 2014 following a 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). The complaint claimed that the Company was hired by PCI Democon to pick up the demolition debris and transport it to ARTS for disposal.
- 19 Staff contacted Bobby Wolford Trucking on September 17, 2014, by email, outlining the complaint and requesting information about the alleged operations. On October 3, 2014, Staff sent a letter to the Company providing a summary of Staff’s investigation and further technical assistance. On October 16, 2014, the Company responded to Staff’s letter through its legal representative, explaining that it received orders from PCI Democon to haul demolition waste materials for disposal. The Company represented that it immediately stopped hauling from the Everett site to the ARTS,

and had “begun the process of applying for a solid waste collection certificate.” As of December 10, 2014, no application has been filed with the Commission.

- 20 Staff received information from Snohomish County Department of Public Works (Public Works) on October 28, 2014, in response to a public records request, which showed 191 charges posted to the PCI Democon account by Bobby Wolford Trucking for hauls to the ARTS between September 2 and September 30, 2014. Each of these charges represented a haul. Commission Staff clarified with Public Works staff that Bobby Wolford Trucking did all the trucking for PCI Democon, and all the hauls were identified to vehicles belonging to Bobby Wolford Trucking.

APPLICABLE LAW AND REGULATIONS

- 21 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).
- 22 The term “person” includes an individual, a firm or copartnership. RCW 81.04.010(6).
- 23 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).
- 24 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).
- 25 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).

- 26 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.”
- 27 “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.
- 28 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.*
- 29 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

- 30 The Commission, through its Staff, re-alleges the allegations contained in paragraphs 14 through 29 above.
- 31 Bobby Wolford Trucking has violated RCW 81.77.040 at least 191 times by hauling solid waste for compensation without first having obtained from the Commission a certificate of public convenience and necessity.

REQUEST FOR RELIEF

- 32 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 191 violations alleged in this Complaint.

PROBABLE CAUSE

33 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 HEARING

34 **THE COMMISSION GIVES NOTICE THAT it will conduct a hearing
concerning this Complaint concurrently with the special proceeding noticed
above, which will commence at 1:30 p.m. on February 18, 2015, in Room 206,
Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia,
Washington.**

35 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 January 13, 2015.

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.: (_____)_____