

LOUISIANA PUBLIC SERVICE COMMISSION

ORDER NO. T-32152

LOUISIANA PUBLIC SERVICE COMMISSION VERSUS MACRO, INCORPORATED (BROUSSARD, LOUISIANA)

Docket Number T-32152 - Louisiana Public Service Commission vs. Macro, Incorporated (Broussard, Louisiana). In re: Alleged violation of Louisiana Revised Statutes Title 45:161 through 180.1 as amended, by operating beyond the scope of authority granted under LPSC No. 7279 on one hundred thirty-five (135) counts; allegedly occurring on or about January 01, 2011 through February 28, 2011.

(Decided at the December 14, 2011 Business and Executive Meeting)

OVERVIEW:

On November 21, 2011, the Louisiana Public Service Commission issued a citation to Macro, Incorporated (Broussard, Louisiana), directing the Carrier to show cause at a hearing to be held on January 05, 2012, why it should not be found guilty of violating Louisiana Revised Statutes Title 45:161 through 180.1 as amended, by operating beyond the scope of authority granted under LPSC No. 7279 on one hundred thirty-five (135) counts; allegedly occurring on or about January 01, 2011 through February 28, 2011. Notice of this proceeding was published in the November 25, 2011 edition of the Commission's Official Bulletin.

Macro, Incorporated has authority under LPSC No. 7279. However, on the dates in question Marco transported by dump truck, E&P waste, namely soil contaminated by an oil spill. Macro did not have dump truck authority, nor did it have authority to transport waste from an oilfield location. A complaint was made by another LPSC certificated carrier. Staff contacted Macro and it immediately ceased working on the project. In negotiating a guilty plea, Macro provided the invoices for the illegal loads. Macro grossed \$89,496.00 on the project. It paid its drivers \$17,899.00 and a commission of \$8,950.00. In addition, it paid \$17,550.00 in fuel expenses. Macro provided proof that it had paid a total of \$2,174.00 in TCT taxes and ISF fees. Macro netted \$42,923.00 on the illegal loads. Staff and Macro agreed that a fine of \$30,000.00, with half suspended would be fair under the circumstances, resulting in a payment of \$15,025.00 to the Commission. Macro currently has an application pending to expand its authority. The application is set for hearing on January 12, 2012.

A stipulation and agreement was reached between Staff and the Carrier on November 29, 2011, wherein the Carrier agreed to plead guilty. By Affidavit and Stipulation dated December 1, 2011, the Carrier entered a plea of guilty to the alleged violations, waived its right to a hearing and agreed to pay a

fine of \$30,000.00, with \$15,000.00 of the fine, being suspended, conditioned on Macro, Incorporated not committing any additional violations within the following 12 months, from the date of the Stipulation entered into with the Commission. It was agreed that the unsuspended portion of the fine and the citation fee, for a total of \$15,025.00, would be paid within 15 days of the issuance of the Order herein. Staff also agreed not to prosecute any additional violations which may have occurred prior to the date of the Stipulation, but have not yet been revealed through ongoing compliance audits.

The Carrier agreed that it had violated Louisiana Revised Statutes Title 45:161 through 180.1 as amended, by operating beyond the scope of authority granted under LPSC No. 7279 on one hundred thirty-five (135) counts; allegedly occurring on or about January 01, 2011 through February 28, 2011. The Carrier is a first offender and the plea agreement and fine are consistent with other recent pleas and fines approved by the Commission. The fine and citation fee has been paid by the carrier in anticipation of the stipulation and plea being approved by the Commission.

STAFF RECOMMENDATION:

That the Commission exercise its original and primary jurisdiction herein under Rule 57 and accept the agreement between Staff and the Carrier, wherein the Carrier agreed to plead guilty, and agreed to pay agreed a fine of \$30,000.00, with \$15,000.00 of the fine, being suspended, conditioned on not committing any additional violations within 12 months of the date of the Stipulation and further agreed to pay a citation fee of \$25.00 with the unsuspended portion of the fine and the citation fee, for a total of \$15,025.00, to be paid within 15 days of the issuance of the Order herein and whereby Staff agreed not to prosecute any additional violations which may have occurred prior to December 01, 2011, but have not yet been revealed through ongoing compliance audits.

COMMISSION ACTION:

On motion of Commissioner Field, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to exercise its original and primary jurisdiction and take this matter up pursuant to Rule 57.

On motion of Commissioner Field, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the agreement between Staff and the Carrier, wherein the Carrier agreed to plead guilty, and agreed to pay a fine of \$30,000.00, with \$15,000.00 of the fine, being suspended, conditioned on not committing any additional violations

within 12 months of the date of the Stipulation and further agreed to pay a citation fee of \$25.00 with the unsuspended portion of the fine and the citation fee, for a total of \$15,025.00, to be paid within 15 days of the issuance of the Order herein and whereby Staff agreed not to prosecute any additional violations which may have occurred prior to December 01, 2011, but have not yet been revealed through ongoing compliance audits.

IT IS THEREFORE ORDERED:

That the Guilty Plea entered into by the Carrier, Macro, Incorporated, to the allegations that it had violated Louisiana Revised Statutes Title 45:161 through 180.1 as amended, by operating beyond the scope of authority granted under LPSC No. 7279 on one hundred thirty-five (135) counts, with said violations allegedly occurring on or about January 01, 2011 through February 28, 2011, be and is hereby accepted and that a fine of \$30,000.00, with \$15,000.00 of the fine, being suspended, conditioned on not committing any additional violations within 12 months of the date of the Stipulation is hereby imposed and Marco, Incorporated is further ordered to pay a citation fee of \$25.00 with the unsuspended portion of the fine and the citation fee, for a total of \$15,025.00, to be paid within 15 days of the issuance of the Order herein and the agreement whereby Staff agreed not to prosecute any additional violations which may have occurred prior to December 01, 2011, but have not yet been revealed through ongoing compliance audits is hereby also accepted.

**BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA**

February 7, 2012

/S/ FOSTER L. CAMPBELL
DISTRICT V
CHAIRMAN FOSTER L. CAMPBELL

/S/ JAMES M. FIELD
DISTRICT II
VICE CHAIRMAN JAMES M. FIELD

/S/ ERIC F. SKRMETTA
DISTRICT I
COMMISSIONER ERIC F. SKRMETTA

/S/ LAMBERT C. BOISSIERE
DISTRICT III
COMMISSIONER LAMBERT C. BOISSIERE, III


EVE KAHAO GONZALEZ
SECRETARY

/S/ CLYDE C. HOLLOWAY
DISTRICT IV
COMMISSIONER CLYDE C. HOLLOWAY