

LOUISIANA PUBLIC SERVICE COMMISSION

ORDER NUMBER T-37060

XODUS INDUSTRIES L.L.C.
EX PARTE

Docket No. T-37060, In re: Application for a Common Carrier Certificate of non-hazardous oilfield waste, non-hazardous industrial solid waste and hazardous waste for disposal, statewide.

(Decided May 31, 2024.)

ORDER

Background

Xodus Industries L.L.C. (“Xodus” or “Applicant”) filed an application (“Application”) with attachments on December 5, 2023 seeking from the Louisiana Public Service Commission (“LPSC” or “Commission”) a common carrier certificate authorizing it to transport non-hazardous oilfield waste, non-hazardous industrial solid waste, and hazardous waste for disposal, statewide. Notice of the Application was published in the Commission’s *Official Bulletin* on December 8, 2023 for a 15-day intervention period. No interventions were filed.

At a status conference on January 17, 2024, representatives of the Applicant and the Commission Staff agreed to a procedural schedule that was included in the *Report of Status Conference* issued on the same day. On February 16, 2024, Xodus and Commission Staff filed their pre-hearing statements. On February 22, 2024, the Applicant filed an *Unopposed Motion to Convert Hearing to Status Conference* requesting that the hearing scheduled for February 26, 2024 be converted to a status conference. The motion was granted in a ruling issued that same day. At the status conference, the parties agreed to a revised schedule with a May 16, 2024 deadline for updated pre-hearing filings and a hearing on May 23, 2024, during which the Applicant would have the burden of proving fitness under the Commission’s *General Order* dated January 23, 2018. On May 16, 2024, Xodus and Commission Staff filed their respective pre-hearing statements.

Jurisdiction and Applicable Law

The Commission’s jurisdiction over common carriers is established by Article 4, Section 21 of the Louisiana Constitution of 1974, which provides in pertinent part:

The commission shall regulate all common carriers and have such other regulatory authority as provided by law. It shall adopt and enforce reasonable rules, regulations, and procedures necessary for the discharge of its duties, and shall have other powers and perform other duties as provided by law.

In addition, La. R.S. 45:163 provides that “[t]he [C]ommission has the power and authority necessary to supervise, govern, regulate, and control motor carriers...which transport household

goods, passengers, or waste intrastate and to fix reasonable and just rates, fares, tolls, or charges for the commodities furnished or services rendered by such motor carriers.” La. R.S. 45:164 states that “[n]o motor carrier of waste shall operate without first having obtained from the [C]ommission a common carrier certificate or contract carrier permit.” La. R.S. 45:164(B) provides that an applicant for a common carrier certificate, contract carrier permit, or expansion of authority granted in an existing certificate must prove fitness by proving all of the following:

- (1) The applicant holds, or is capable of acquiring, an insurance policy that complies with [C]ommission rules.
- (2) The applicant has the financial ability to provide the transportation of waste for disposal in a safe and efficient manner.
- (3) The applicant holds, or is capable of acquiring all the necessary authorizations required by any and all regulatory authorities for the transportation of waste for disposal.
- (4) The applicant holds, or is capable or [sic] acquiring for use, equipment and man power to provide transportation services in a safe and efficient manner.
- (5) The applicant has in place, or is capable of establishing, a safety program necessary for the safe and efficient transportation of waste for disposal.

The Commission’s *General Order* dated January 23, 2018 incorporated the above requirements into Rule 33 of the Commission’s *Rules of Practice and Procedure*, which now reads (in pertinent part) as follows:

- A. An applicant applying for a common carrier certificate, contract carrier permit, or expansion of authority granted in an existing certificate or permit authorizing the transportation of non-hazardous oilfield waste, hazardous waste or non-hazardous industrial solid waste shall prove fitness...in a hearing before an administrative law judge or hearing officer by proving that the applicant:
 1. holds, or is capable of acquiring, an insurance policy providing coverage of two hundred fifty thousand dollars for injury or death per person or five hundred thousand dollars per occurrence, and ten thousand dollars property damage,
 2. has the financial ability to provide the transportation of waste for disposal in a safe and efficient manner,
 3. holds, or is capable of acquiring, all of the necessary authorizations required by any and all regulatory authorities for the transportation of waste for disposal[,]
 4. holds, or is capable of acquiring for use, equipment and man power to provide transportation services in a safe and efficient manner, and
 5. has in place, or is capable of establishing, a safety program necessary for the safe and efficient transportation of waste for disposal.

...

- D. The provisions of this rule are applicable to all applications for common carrier certificates and contract carrier permits of waste and all applications for expansion of existing waste authority, including those applications which are presently pending before the Commission but have not yet gone to hearing on the merits.
- E. All restrictions on existing certificates or permits are valid until expansion of authority is applied for and a new certificate or permit is granted. However, any restrictive language in any existing common carrier certificate or any contract carrier permit of waste that prevents the carrier from applying for expanded authority for any period of time is null and void...
- F. Certificates or permits issued after the adoption of this rule shall not contain restrictions.

The Hearing

A hearing on the Application was convened on May 23, 2024, at which Xodus and the Commission Staff appeared through counsel.

Testimony and Evidence Presented by the Applicant

In support of its Application, Xodus presented the testimony of Kevin Guillory.

Testimony of Kevin Guillory

Mr. Guillory testified that as the CEO/Business Development Manager and co-owner of the Applicant, he is involved in all day-to-day operations. Mr. Guillory and Chad Farris each own 50 percent of Xodus. Mr. Guillory testified further that he has 30 years of experience in the oil and gas industry. Mr. Guillory has held (or currently holds) an ownership interest in multiple businesses in the oil and gas industry, including a Texas-based waste transport company he and Mr. Farris sold in 2023 after 12 years of ownership.

Xodus is a Louisiana limited liability company formed on January 17, 2023, with its office in Scott, Louisiana. Mr. Guillory explained that the Applicant is an oil and gas industry services company operating in Louisiana and Texas whose services include, but are not limited to, chemical production, mixing and supply; and, waste transportation for disposal. Xodus currently holds a waste hauling permit in Texas. The Applicant does not presently have any LPSC authority. Xodus is seeking LPSC authority to expand its waste transportation services into Louisiana at the request of existing customers. Mr. Guillory stated that Xodus also has a pending application with the LPSC for authority to transport saltwater. The Applicant has two terminal locations: Scott, Louisiana and Tenaha, Texas. Per Mr. Guillory, Xodus has eight employees, five of which are drivers; four of the drivers are based in Louisiana and one in Texas. Xodus plans to hire two additional drivers.

Mr. Guillory discussed the Applicant's insurance and financial condition. Mr. Guillory

identified proof of insurance for the Applicant and confirmed that those policies insure all of its equipment and drivers, meet or exceed the minimum requirements, and will be renewed on or before expiration. Mr. Guillory identified and discussed financial documents for Xodus, asserting that the Applicant is financially able to provide safe and efficient transportation of waste and there are no financial factors that would limit that ability. Mr. Guillory advised that the owners are willing and able to contribute capital to the Applicant if needed. According to Mr. Guillory, the Applicant has not filed for bankruptcy, has had no issues with payroll, has not been the subject of a tax audit, and is current on federal and state tax filings.

Mr. Guillory testified regarding the Applicant's equipment. Mr. Guillory stated that the Applicant currently owns five trucks and five trailers, all of which are financed. The Applicant plans to purchase two more trucks. Mr. Guillory stated that the Applicant does not plan to utilize owner/operators, but understands the Commission's requirements if it does so in the future. In addition, Mr. Guillory addressed the Applicant's maintenance policies and practices, including pre- and post-trip inspections, maintenance schedules, and maintenance documentation. The Applicant utilizes in-house mechanics for routine maintenance and repairs and utilizes Kenworth of Louisiana for warranty repairs and more extensive repairs. Mr. Guillory provided that all equipment to be used by the Applicant for transportation of LPSC-regulated waste is in good working order. The Applicant's trucks are equipped with GPS and in-cab video cameras and are governed to 68 miles per hour.

Mr. Guillory discussed the Applicant's driver hiring and training practices. Driver applicants must successfully complete several prerequisites, including a motor vehicle background check and pre-hire drug and alcohol screening. New drivers must have a minimum of three years' experience, ride along with an experienced driver, and complete a road test before being authorized to drive unaccompanied.

Mr. Guillory addressed Xodus' safety policies and practices. Mr. Guillory provided an overview of the safety manual, titled *Environmental Health & Safety, Xodus Industries Safety Manual*, stating that it is comprehensive and provided to all employees who must sign an acknowledgment. Xodus utilizes a third-party safety consultant, Dayries Consulting Services. Mr. Guillory detailed the Applicant's zero-tolerance drug and alcohol and cell phone policies. Xodus conducts job-specific, weekly, monthly, and quarterly safety meetings at which attendance is required and documented. The Applicant has recently become a member of the ISNetworld safety

network.

Mr. Guillory testified regarding Xodus’ regulatory compliance. Mr. Guillory confirmed that the Applicant is in good standing with state and federal regulatory agencies. Mr. Guillory stated that the Applicant holds or is capable of acquiring all necessary authorizations required by all regulatory authorities for the transportation of waste for disposal. Mr. Guillory confirmed his understanding of myriad Commission rules and regulations, including filing annual reports, paying inspection and supervision fees, and maintaining current insurance documents on file with the Commission. Per Mr. Guillory, the Applicant intends to fully comply with all of the Commission’s regulations. Mr. Guillory indicated that the Applicant has the necessary permits, equipment, finances, and personnel for the transportation of LPSC-regulated waste in a safe, efficient, and LPSC-compliant manner.

In connection with his testimony, Mr. Guillory identified the following exhibits which were admitted:

Exhibit 1, <i>in globo</i>	A copy of the <i>Waste by Motor Vehicle Application</i> with public attachments filed by Xodus Industries L.L.C. on December 5, 2023.
Exhibit 2	A copy of Xodus Industries L.L.C.’s <i>Vehicle Preventative Maintenance</i> policy.
Exhibit 3, <i>in globo</i>	Copies of the following insurance documents for Xodus Industries L.L.C.: <ul style="list-style-type: none">• <i>Accord Certificate of Liability Insurance</i> dated May 14, 2024• <i>Form E, Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance</i>, with an effective date of May 14, 2024 (two duplicate copies).
Exhibit 4, <i>in globo</i>	Copies of the following financial documents for Xodus Industries L.L.C. (admitted confidentially under seal): <ul style="list-style-type: none">• 1/1/23 – 11/13/23 Balance Sheet, and• 1/1/23 – 11/13/23 Profit & Loss Statement.
Exhibit 5	A copy of <i>Environmental Health & Safety, Xodus Industries Safety Manual</i> (admitted electronically on a thumb drive); and
Exhibit 6	A copy of <i>Xodus Industries L.L.C.’s Transportation of Hazardous Materials Policy</i> .

Commission Staff’s Position

The Commission Staff expressed its support for the Application in its pre-hearing statement and confirmed at the hearing that there are no regulatory issues with the Applicant and that it supports the Application.

Conclusion

Having considered the Application of Xodus, the testimony and evidence presented in support of the Application, the directives of the Commission's *General Order* dated January 23, 2018, Rule 33 of the Commission's *Rules of Practice and Procedure*, and other applicable law, we find that Xodus has established its fitness to operate and that a common carrier certificate should be issued to the Applicant as requested.

Accordingly, **IT IS ORDERED** that Xodus Industries L.L.C. be issued a common carrier certificate authorizing operation in Louisiana intrastate commerce as a common carrier of non-hazardous oilfield waste, non-hazardous industrial solid waste, and hazardous waste for disposal, statewide.

IT IS FURTHER ORDERED that the issuance of the common carrier certificate is conditioned upon the full compliance of Xodus Industries L.L.C. with the laws of the State of Louisiana and the rules and regulations of the Louisiana Public Service Commission.

BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA
May 31, 2024



A handwritten signature in blue ink, appearing to read "Brandon M. Frey".

BRANDON M. FREY
SECRETARY

/S/ MIKE FRANCIS

DISTRICT IV
CHAIRMAN MIKE FRANCIS

/S/ DAVANTE LEWIS

DISTRICT III
VICE CHAIRMAN DAVANTE LEWIS

/S/ FOSTER L. CAMPBELL

DISTRICT V
COMMISSIONER FOSTER L. CAMPBELL

/S/ ERIC F. SKRMETTA

DISTRICT I
COMMISSIONER ERIC F. SKRMETTA

/S/ CRAIG GREENE

DISTRICT II
COMMISSIONER CRAIG GREENE