

LOUISIANA PUBLIC SERVICE COMMISSION

ORDER NO. T-35767

LOUISIANA PUBLIC SERVICE COMMISSION

VS.

CLEAN TANK, LLC

Docket No. T-35767, In Re: Alleged violation of La. R.S. 45:161 through 180.1, by operating beyond the scope of authority granted in LPSC 1666 for failure to operate under contracts filed with the Commission and alleged violation of General Order 9901 as amended for failure to comply with leasing rules; on eleven (11) counts; allegedly occurring on or about August 01, 2020 to September 08, 2020.

(Decided at the **January 27, 2021** Business and Executive Session)

I. Background

The Louisiana Public Service Commission (“LPSC” or “Commission”) Staff issued a citation to Clean Tank, LLC (“Clean Tank”) for operating beyond the scope of authority granted in LPSC 1666 by failing to operate under contracts on file with the Commission and violating General Order 9901, as amended, by failing to comply with the Commission’s leasing rules on eleven counts.

Staff conducted an audit of Exploration & Production manifests maintained by the Office of Conservation of the Louisiana Department of Natural Resources and found that Clean Tank, a contract carrier, had violated La. R.S. 45:161 through 180.1 by hauling waste pursuant to unauthorized agreements with waste generators not on file with the Commission. Staff further found that Clean Tank had violated General Order 9901 as amended by operating under owner-operator leases not filed with the Commission. Staff issued a single citation to Clean Tank for both operating beyond its authority and for the owner-operator leasing violations on October 22, 2020. Notice of the citation was published in the Commission’s Official Bulletin No. 1231, dated October 30, 2020, for a 25-day intervention period which elapsed without intervention.

II. Jurisdiction

The Commission exercises jurisdiction over motor carriers and public utilities in Louisiana pursuant to Article IV, Section 21(B) of the Louisiana Constitution, which states:

The commission shall regulate all common carriers and public utilities and have such other 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, the Louisiana Legislature, in La. R.S. 45:163, delegates certain authority to the Commission over motor carriers operating intrastate in Louisiana. More specifically, the Louisiana Legislature has declared, in La. R.S. 45:180.1, that the “use and operation of wreckers and towing services should be the subject of regulation by the Louisiana Public Service Commission,” and that the Commission has “the power and authority necessary to supervise, govern, regulate, and control the business of the operation and use of wreckers and towing services...[and] to fix reasonable and just rates, fares, tolls, charges for storage services[.]”

Pursuant to these delegations of authority, the Commission issued the General Order dated September 7, 1972 (“General Order 9901”), which requires the registration of a motor carrier’s operating authority with the LPSC.

III. Stipulation

In response to the citation, Mr. Adrian Rios, General Manager of Clean Tank, signed an Affidavit and Stipulation entering a plea of “No Contest” to the violation of La. R.S. 45:161 through 180.1 for operating beyond the scope of its authority. Staff agreed to dismiss the eleven alleged violations of General Order 9901, as those violations were found to be authorized under the “7-mile exemption” of the Commission’s leasing rules. Clean Tank further agreed to the imposition of a fine totaling \$11,000 with \$5,500 of the fine suspended, condition on the following:

- Clean Tank not being found guilty of, entering a plea of guilty to, or entering a plea of no contest to violating any of the rules and regulations of the Commission for a period of one year from the date of the executed agreement;
- Clean Tank operating only for entities authorized under its contracts on file with the Commission when operating pursuant to Contract Carrier Permit No. 1666 as outlined in the executed stipulated agreement;
- Clean Tank implementing changes to its corporate training policy that provide that all employees will receive an orientation on LPSC-related statutes, rules, and Orders upon employment and thereafter on a regular basis;
- Dismissal of the eleven alleged violations of General Order 9901 dated April 3, 1968, as amended, for allegedly failing to comply with leasing rules and acknowledgement that transportation of waste under Contract Carrier Permit No. 1666 beyond the 7-mile radius of a town or village or its post office requires compliance with the Commission’s leasing rules, including the hiring of an LPSC Certificated Carrier.
- Remittance of all payments due in certified funds, and submission of the executed Affidavit and Stipulation with the payment and citation fee in the amount of \$5,525.00.
- Failure to comply with any of the provisions of the Affidavit and Stipulation will result in the \$5,500.00 suspended portion of the fine becoming immediately due.

IV. Commission Action

On motion of Vice Chairman Skrmetta, seconded by Chairman Greene, and unanimously adopted, the Commission voted to assert its original and primary jurisdiction and take the matter up pursuant to Rule 57 of the Commission’s Rules of Practice and Procedure.

On motion of Vice Chairman Skrmetta, seconded by Chairman Greene, and unanimously adopted, the Commission voted to accept the Affidavit and Stipulation executed on January 14, 2021.

IT IS THEREFORE ORDERED THAT:

1. The Affidavit and Stipulation executed January 14, 2021, for fines and fees totaling \$5,525.00 is accepted, and the 11 alleged violations of General Order 9901 are hereby dismissed.
2. This Order is effective immediately.

BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA
February 24, 2021



/S/ MIKE FRANCIS

DISTRICT IV
CHAIRMAN MIKE FRANCIS

/S/ CRAIG GREENE

DISTRICT II
VICE CHAIRMAN CRAIG GREENE

/S/ FOSTER L. CAMPBELL

DISTRICT V
COMMISSIONER FOSTER L. CAMPBELL

/S/ LAMBERT C. BOISSIERE, III

DISTRICT III
COMMISSIONER LAMBERT C. BOISSIERE, III

/S/ ERIC F. SKRMETTA

DISTRICT I
COMMISSIONER ERIC F. SKRMETTA

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

BRANDON M. FREY
SECRETARY