

LOUISIANA PUBLIC SERVICE COMMISSION

ORDER NO. T-32796

LOUISIANA PUBLIC SERVICE COMMISSION V. BERRY BROS. GENERAL CONTRACTORS, INC. (BERWICK, LOUISIANA)

Docket Number T-32796 – In Re: Alleged violation of Louisiana Revised Statutes Title 45:161 through 180.1 as amended, by operating Intrastate without LPSC authority on five (5) counts; allegedly occurring on or about December 10, 2012 through December 19, 2012.

(Decided at the August 21, 2013 Business and Executive Meeting)

Background

On May 15, 2013, the Louisiana Public Service Commission (“Commission”) issued a citation to Berry Bros. General Contractors, Inc. (“Berry Bros.” or the “Carrier”), directing the Carrier to show cause at a hearing to be held on August 8, 2013, why it should not be found guilty of violating Louisiana Revised Statutes 45:161 through 180.1 as amended, by operating intrastate without authority on five (5) counts; allegedly occurring on or about December 10, 2012 through December 19, 2012. Notice of this proceeding was published in the Commission’s Official Bulletin dated May 24, 2013.

As part of a routine audit completed by the LPSC Transportation Division of UIC-28 manifests provided by the Office of Conservation for the U.S. Liquids facility in Elm Grove, Louisiana, Staff discovered five (5) loads of regulated non-hazardous oilfield waste hauled by Berry Bros. in violation of Louisiana Revised Statutes 45:161 through 180.1. Berry Bros. is not authorized to haul regulated waste within the state of Louisiana. As a result of the audit, a Citation was issued. The Carrier cooperated throughout the investigation. During the course of the investigation, the Carrier voluntarily presented Staff with two (2) additional violations in an effort to resolve all known violations.

By stipulation and agreement signed July 2, 2013, the Carrier agreed to plead guilty and admit that it had violated Louisiana Revised Statutes 45:161 through 180.1 as amended, by operating intrastate without authority on five (5) counts. As this was a second offense, the Carrier waived its right to a hearing and agreed to pay a fine of \$2,000 per count with \$500 per count suspended on the initial five (5) violations and \$2,000 per violation with \$1,250 suspended on the two (2) violations that were self reported, conditioned on not committing any additional violations for twelve (12) months from the date of the agreement, along with a citation fee of

\$25.00, for a total of \$9,025.00. The Carrier has complied with the terms of the agreement and paid \$9,025.00 to the Commission.

Staff Recommendation

Commission Staff recommended that the Commission exercise its original and primary jurisdiction herein under Rule 57 and approve the agreement between Staff and the Carrier of July 2, 2013, wherein the Carrier agreed to plead guilty and admit that it had violated Louisiana Revised Statutes Title 45:161 through 180.1, as amended, on five (5) counts and further self reported two (2) violations. Further, Staff recommended that the Commission authorize and approve the fine of \$2,000 per count with \$500 per count suspended on the initial five (5) violations and a fine of \$2,000 per violation with \$1,250 suspended on the two (2) self reported violations, conditioned on the Carrier not committing any additional violations for twelve (12) months from the date of the agreement, along with a citation fee of \$25.00, for a total of \$9,025.00 to be paid to the Commission.

Commission Action

This matter was considered by the Commission at the Business and Executive Session held on August 21, 2013. On motion of Commissioner Skrmetta, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to assert its original and primary jurisdiction and take this matter up pursuant to Rule 57.

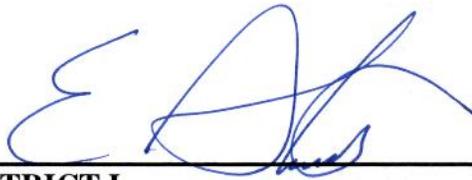
On motion of Commissioner Skrmetta, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to approve the agreement between Staff and the Carrier of July 2, 2013, wherein the Carrier agreed to plead guilty and admit that it had violated Louisiana Revised Statutes Title 45:161 through 180.1, as amended, on five (5) counts and further self reported two (2) violations. Further, the Commission approved the fine of \$2,000 per count with \$500 per count suspended on the initial five (5) violations and a fine of \$2,000 per violation with \$1,250 suspended on the two (2) self reported violations, conditioned on the Carrier not committing any additional violations for twelve (12) months from the date of the agreement, along with a citation fee of \$25.00, for a total of \$9,025.00 to be paid to the Commission.

IT IS THEREFORE ORDERED:

That the Guilty Plea entered into by Berry Bros. General Contractors, Inc. to the allegations that it violated Louisiana Revised Statutes Title 45:161 through 180.1 as amended, by operating without authority, is hereby accepted. Accordingly, all conditions of the stipulated agreement dated July 2, 2013, are hereby given effect.

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

September 12, 2013



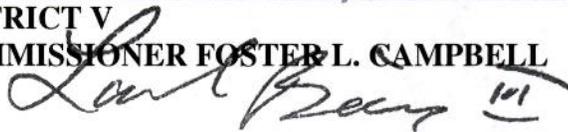
**DISTRICT I
CHAIRMAN ERIC F. SKRMETTA**



**DISTRICT IV
VICE CHAIRMAN CLYDE C. HOLLOWAY**



**DISTRICT V
COMMISSIONER FOSTER L. CAMPBELL**



**DISTRICT III
COMMISSIONER LAMBERT C. BOISSIERE, III**



**EVE KAHAO GONZALEZ
SECRETARY**

**DISTRICT II
COMMISSIONER SCOTT A. ANGELLE**