

LOUISIANA PUBLIC SERVICE COMMISSION

ORDER NUMBER T-35417

(Corrected)¹

WASTEWATER SPECIALTIES, LLC,
(SULPHUR, LOUISIANA), EX PARTE

Docket No. T-35417, In re: Application to amend Common Carrier Certificate No. 8221 to allow transportation of non-hazardous oilfield waste, non-hazardous industrial solid waste and hazardous waste for disposal, statewide.

(Decided December 10, 2020)

ORDER

Overview

In this proceeding, Wastewater Specialties, LLC (“Wastewater Specialties,” “Company,” or “Applicant”) seeks from the Louisiana Public Service Commission (“LPSC” or “Commission”) an amendment to Common Carrier Certificate Number 8221 such that all restrictions are removed and to allow for the transportation of non-hazardous oilfield waste, non-hazardous industrial solid waste and hazardous waste for disposal, statewide. Wastewater Specialties is headquartered in Sulphur, Louisiana and currently possesses authority to transport non-hazardous oilfield waste for disposal, statewide.

Background

On November 20, 2019, Wastewater Specialties filed an application (“Application”) seeking to amend Common Carrier Certificate No. 8221 such that the current restrictions on the certificate would be removed, and that the Company would be authorized to operate as a common carrier and 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 November 27, 2019, and republished on January 24, 2020.² No interventions were received during or after either of the intervention periods.

A status conference was set for December 26, 2019, but was continued to January 15, 2020. At the initial status conference, counsel for the Applicant and Commission Staff agreed to a hearing date of April 8, 2020, at which the Applicant would have the burden of proving fitness under the General Order dated January 23, 2018.³ On March 17, 2020, the Applicant filed a Motion to Reschedule Hearing, which was granted, and the hearing was rescheduled for April 30, 2020.

¹ This Order was reissued to add “non” to “hazardous industrial solid waste” in ordering paragraph 1 on page 7.

² An amended application was filed by the Applicant on January 8, 2020.

³ See GENERAL ORDER (Jan. 23, 2018), Docket No. R-34054, *In re: Rulemaking to examine the Commission’s Rules of Practice and Procedure related to a motor carrier of waste proving public convenience and necessity when applying for a common carrier certificate or contract carrier permit, as well as possible adoption of rules and regulations specific to applications for common carrier certificates or contract carrier permits as it relates to hauling waste* (repealing and reenacting Rule 33 and Rule 34 of the Rules of Practice and Procedure of the Louisiana Public Service Commission and superseding General Orders dated May 30, 2012 (R-30297) and October 18, 2017 (R-34054)).

On April 6, 2020, consistent with Proclamation Number JBE 41 2020, the Tribunal issued a Notice continuing the entire procedural schedule. On June 3, 2020, the Tribunal issued a Notice scheduling a status conference on June 12, 2020; during the status conference, the parties agreed to a hearing on July 28, 2020. On July 9, 2020, the Applicant filed an unopposed Motion to Reschedule Hearing, requesting a hearing date in August. The Tribunal granted the Motion on July 10, 2020, scheduling a hearing on August 25, 2020. On August 25, 2020, the Applicant filed an Unopposed Motion to Continue Hearing, requesting that the August 25, 2020 hearing be continued without date; the Tribunal granted the Motion. On September 29, 2020, the Applicant filed a motion requesting a status conference, and the Tribunal granted the motion and set a status conference on October 9, 2020. On October 9, 2020, due to inclement weather, Louisiana state offices were closed. Thus, on October 8, 2020, the Tribunal issued a Notice of Rescheduled Status Conference for October 21, 2020. During the status conference, the parties agreed to a new procedural schedule, with a hearing date of December 10, 2020.

The Applicant filed an initial Pre-Hearing Statement on August 18, 2020, and filed a second Pre-Hearing Statement on December 3, 2020. Commission Staff also filed two Pre-Hearing Statements – one on August 17, 2020, and one on December 3, 2020 – in which Commission Staff advised that it supports the Application and provided notice that there are no complaints, citations, or violations pending against the Company at the Commission. The Commission Staff’s support of the Application, along with a lack of intervenors, causes the Application to be uncontested.

Jurisdiction and Applicable Law

The Commission derives its jurisdiction over common carriers and public utilities from the Louisiana Constitution of 1974. Article IV, Section 21(B) of the Constitution provides, in pertinent part, that:

[t]he [C]ommission shall regulate all common carriers and public utilities 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 December 10, 2020. At the hearing, appearances were made by Wastewater Specialties and the Commission Staff. At the time of the hearing, the Application was unopposed.

The Applicant's Request for Authority

The Applicant currently possesses Common Carrier Certificate No. 8221, which authorizes the transportation of non-hazardous industrial solid waste, over irregular routes for disposal. The Applicant is seeking an amendment to its Common Carrier Certificate No. 8221 to allow for the transportation of non-hazardous oilfield waste, non-hazardous industrial solid waste and hazardous waste for disposal, statewide.

Testimony and Evidence Presented by the Applicant

In support of its Application, Wastewater Specialties presented the testimonies of Scott Walker, Troy Landreneau and Luke DeVillier.

Testimony of Scott Walker

Scott Walker is the former CFO of Wastewater Specialties, and is currently employed by its sister company, Denali Water Solutions. His role is the Director of Assets and Procurement for the parent company of Wastewater Specialties and Denali Water Solutions, Dispatch Acquisition Holdings, LLC ("Dispatch Acquisition"). According to Mr. Walker, Wastewater Specialties was formed as a Louisiana corporation, but was converted to a Delaware-based limited liability company owned entirely by Dispatch Acquisition. Wastewater Specialties is an industrial cleaning company and provides vacuum and chemical cleaning services to the petrochemical industry in Louisiana, Arkansas and Texas; in Louisiana, the Company operates from its terminal in Sulphur, Louisiana.

Mr. Walker provided an overview of Wastewater Specialties' finances. While Wastewater Specialties had a decrease in revenue in the past year, Mr. Walker is optimistic about its growth in 2021. According to Mr. Walker, Dispatch Acquisition is willing and able to provide Wastewater Specialties with cash as necessary, Wastewater Specialties has never filed for bankruptcy, and is not subject to IRS or state tax audits.

Testimony of Troy Landreneau

Troy Landreneau is the Vice President of Operations for Wastewater Specialties. Mr. Landreneau testified that Wastewater Specialties has approximately 95 to a 100 employees in Louisiana, 18 of which are drivers. Wastewater Specialties also has two in-house mechanics, who perform most repairs; major repairs are outsourced to the manufacturer. According to Mr. Landreneau, Wastewater Specialties has four tanker trailers, three roll-off trailers, and four roll-off trucks ready to haul regulated waste in Louisiana, with more equipment in Texas and Arkansas that the Company can use if necessary.

Testimony of Luke DeVillier

Luke DeVillier is the manager in charge of the Company's safety and environmental procedures and policies. Mr. DeVillier identified Wastewater Specialties' insurance policy, and affirmed that the Company holds a current insurance policy that meets the requirements of the Commission. Mr. DeVillier further testified that Wastewater Specialties holds or is capable of holding all of the necessary authorizations required by any and all regulatory authorities for the authority it is seeking, and is in good standing with the Louisiana Secretary of State.

Mr. DeVillier outlined Wastewater Specialties' safety program. According to Mr. DeVillier, Wastewater Specialties conducts pre-employment, post-accident, and reasonable suspicion testing for drugs and alcohol, hires only experienced drivers, and has an extensive training program. Wastewater Specialties forbids the use of cellphones while driving, with the exception of hands-free devices.

Testimony of

In support of the testimonies of Scott Walker, Troy Landreneau and Luke DeVillier, the Applicant submitted the following exhibits into evidence at the hearing:

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| Exhibit A | A copy of the public version of the Common Carrier of Waste by Motor Vehicle Application, as received by the Commission on November 20, 2019; |
| Exhibit B | A copy of a letter from the Louisiana Public Service Commission to Wastewater Specialties, LLC, dated June 25, 2020; |
| Exhibit C, <i>in globo</i> | Copies of the following documents: <ul style="list-style-type: none">• Certificate of Conversion from a Corporation to a Limited Liability Company for Wastewater Specialties, LLC, executed by the State of Delaware Secretary of State on December 10, 2014;• Certificate of Formation for a Limited Liability Company for Wastewater Specialties, LLC, executed by |

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| | the State of Delaware Secretary of State on December 10, 2014; and |
| | <ul style="list-style-type: none"> Articles of Incorporation, Initial Report, Amendments and 2008 Annual Report of Wastewater Specialties, Inc., as filed with the Louisiana Secretary of State on August 15, 2008; |
| Exhibit D | Louisiana Secretary of State Certificate of Good Standing for Wastewater Specialties, LLC, dated October 30, 2019; |
| Exhibit E, <i>in globo</i> | <p>Copies of the following documents (admitted confidentially under seal)</p> <ul style="list-style-type: none"> Independent Auditor's Report and Consolidated Financial Statements for American Industrial Services Group, LLC, for December 31, 2019 and 2018; Independent Auditor's Report and Consolidated Financial Statements for American Industrial Services Group, LLC, for December 31, 2018; and Financial Statements with Independent Auditor's Report for Wastewater Specialties, LLC, for December 31, 2017 and 2016; |
| Exhibit F | A copy of an equipment list for Wastewater Specialties, LLC; |
| Exhibit G | A copy of an insurance policy for Wastewater Specialties, LLC, effective June 30, 2020; |
| Exhibit H | A copy of a letter from the Louisiana Department of Environmental Quality to Wastewater Specialties, LLC, dated August 10, 2010; |
| Exhibit I | A printout of the table of contents of Wastewater Specialties, LLC's Procedures Manual; and |
| | Exhibit I-1 A copy of Wastewater Specialties, LLC's Procedures Manual (admitted electronically on CD-ROM). |

Commission Staff's Position

The Commission Staff expressed its support for the Application, both in its Pre-Hearing Statement and verbally at the December 10, 2020 hearing. The Commission Staff confirmed, both in its Pre-Hearing Statement and verbally at the hearing, that there are no complaints, citations, or violations pending against Wastewater Specialties, LLC and that Wastewater Specialties, LLC has no current annual report due or outstanding ISF reports or fees.

Conclusion

Having considered the application of Wastewater Specialties, LLC, 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 Wastewater Specialties, LLC has established its fitness to operate, and that a common carrier certificate should be issued to the Applicant.

Accordingly, **IT IS HEREBY ORDERED** that Wastewater Specialties, LLC's existing Common Carrier Certificate No. 8221 be amended to authorize operations in Louisiana intrastate commerce as a common carrier of non-hazardous oilfield waste, non-hazardous industrial solid waste, and hazardous waste for disposal, statewide, without restrictions.

IT IS FURTHER ORDERED that the issuance of the common carrier certificate is conditioned upon the full compliance of Wastewater Specialties, LLC 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
January 25, 2021



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/ 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