

# LOUISIANA PUBLIC SERVICE COMMISSION

ORDER NUMBER T-35817

DAVIS ELITE ENERGY SERVICES, LLC,  
EX PARTE

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*Docket No. T-35817, In re: Application for a Common Carrier Certificate of non-hazardous oilfield waste, non-hazardous industrial solid waste & hazardous waste for disposal, statewide.*

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(Decided March 16, 2021)

## ORDER

### *Overview*

Davis Elite Energy Services, LLC (“Davis Elite,” “Company,” or “Applicant”) seeks from the Louisiana Public Service Commission (“LPSC” or “Commission”) a Common Carrier Certificate to allow for the transportation of non-hazardous oilfield waste, non-hazardous industrial solid waste, and hazardous waste for disposal, statewide without restrictions. Davis Elite is headquartered in Carthage, Texas, and is authorized by the Commission to transport saltwater utilized in oil well exploration or production.

### *Background*

On December 18, 2020, Davis Elite filed an application (“Application”) seeking authorization from the Commission to operate as a common carrier of 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 23, 2020. No interventions were filed during the intervention period or at any point thereafter.

At the initial status conference on January 25, 2021, representatives of the Applicant and the Commission Staff agreed to a procedural schedule with a hearing on April 8, 2021, during which the Applicant would have the burden of proving fitness under the Commission’s General Order dated January 23, 2018.<sup>1</sup> On March 1, 2021, Davis Elite and the Commission Staff filed a Joint Motion to Upset Procedural Schedule and Request Hearing, requesting a hearing date of March 9, 2021; the Tribunal granted the motion.

The Applicant filed and the Commission Staff both filed pre-hearing statements on March 2, 2021. The 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,

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<sup>1</sup> 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)).

and that the Company has no current Annual Report due nor any Inspection and Supervision Fees outstanding. In light of the Commission Staff's support of the Application and the lack of any intervenors, the Application is 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 March 9, 2021. At the hearing, appearances were made by Davis Elite and the Commission Staff. At the time of the hearing, the Application was unopposed.

### ***The Applicant's Request for Authority***

The Applicant currently holds a Certificate as a Common Carrier of Special Commodities Over Irregular Routes, authorizing it to transport saltwater utilized in oil well exploration and



production for disposal. Davis Elite does not currently hold authority from the Commission for transportation of non-hazardous oilfield waste, non-hazardous industrial solid waste, or hazardous waste for disposal. The Company now seeks a Common Carrier Certificate authorizing it to transport those kinds of waste statewide.

*Testimony and Evidence Presented by the Applicant*

In support of its Application, Davis Elite presented the testimony of Laura Wall and Cassidy Porter.

Testimony of Laura Wall

Ms. Wall is a Manager and one of the owners of Davis Elite, and she oversees all aspects of the Company's daily operations. Davis Elite is owned by three members: Jim L. Davis (70%); Micah Fenton (15%); and Laura D. Wall (15%). According to Ms. Wall, Davis Elite provides material transportation for oil and gas rigs and hazardous waste hauling service in Texas, and saltwater hauling service in Louisiana. Davis Elite operates one dispatch terminal and one disposal terminal, both located in Carthage, Texas.

Ms. Wall testified that she believes that Davis Elite has all necessary authorizations, permits and licenses from state and federal agencies to exercise the authority to transport and dispose of the types of waste requested. Further, Davis Elite intends to comply with all of the Commission's rules and regulations, including the filing of annual reports and inspection and supervision fee reports with the Louisiana Department of Revenue.

According to Ms. Wall, Davis Elite owns twenty-one (21) vacuum trailers, owns five (5) trucks, and leases sixteen (16) trucks. Davis Elite performs in-house preventative maintenance on its trucks and trailers every three hundred (300) hours, and its drivers perform pre-trip and post-trip inspections. Ms. Wall explained that Davis Elite has forty-eight (48) employees, six (6) of whom are in Louisiana, and has four (4) drivers in Louisiana. According to Ms. Wall, the Company does foresee hiring more employees if its Application is granted, but does not have plans to use owner-operators.

Ms. Wall explained Davis Elite's safety and hiring policies, and provided an overview of the Company's Safety Manual. According to Ms. Wall, Davis Elite's drug and alcohol policies comply with DOT requirements, including requirements to conduct pre-employment, random, on suspicion, and post-incident testing. The Company's cellphone policy also complies with DOT



standards and prohibits the use of handheld devices.

Testimony of Cassidy Porter

Ms. Porter is the CFO for Davis Elite, and in this capacity she oversees the Company’s accounting and finance activities. Ms. Porter testified that Davis Elite has an insurance policy which meets the Commission’s requirements, and covers the Company’s drivers and equipment. Ms. Porter believes that Davis Elite is in a good financial position, and confirmed that the Company has never filed for bankruptcy or been subject to a federal or state tax audit.

In support of the testimonies of Ms. Wall and Ms. Porter, the Applicant submitted the following exhibits into evidence at the hearing:

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| Exhibit A                  | A copy of the public version of Davis Elite Energy Services, LLC’s Common Carrier of Waste by Motor Vehicle Application, as received by the Commission on December 18, 2020, with attachments;   |
| Exhibit B, <i>in globo</i> | <p>Copies of the following documents <b>(admitted confidentially under seal)</b>:</p> <ul style="list-style-type: none"><li>• Consolidated Balance Sheet as of December 31, 2018, for Davis Elite Energy Services, LLC;</li><li>• Consolidated Statement of Operations as of December 31, 2018 for Davis Elite Energy Services, LLC;</li><li>• Consolidated Statement of Cash Flow as of December 31, 2018 for Davis Elite Energy Services, LLC;</li><li>• Consolidated Balance Sheet as of December 31, 2019, for Davis Elite Energy Services, LLC;</li><li>• Consolidated Statement of Operations as of December 31, 2019 for Davis Elite Energy Services, LLC;</li><li>• Consolidated Statement of Cash Flow as of December 31, 2019 for Davis Elite Energy Services, LLC;</li><li>• Consolidated Statement of Cash Flow as of November 30, 2020 for Davis Elite Energy Services, LLC;</li><li>• Consolidated Statement of Operations as of November 30, 2020 for Davis Elite Energy Services, LLC; and</li><li>• Consolidated Balance Sheet as of November 30, 2020, for Davis Elite Energy Services, LLC;</li></ul> |
| Exhibit C                  | A copy of Davis Elite Energy Services, LLC’s Safety Manual (submitted electronically on USB flash drive);  |
| Exhibit D                  | A copy of Davis Elite Energy Services, LLC’s Drug, Alcohol and Firearms and Cell Phone Use policies (submitted electronically on USB flash drive); and   |

Exhibit E, *in globo*

Copies of the following documents:

- LPSC Staff's First Set of Data Requests to Davis Elite Energy Services, LLC (as redacted in open hearing); and
- Applicant's Response to LPSC Staff's First Set of Data Requests to Davis Elite Energy Services, LLC (as redacted in open hearing).

*Commission Staff's Position*

The Commission Staff expressed its support for the Application, both in its Pre-Hearing Statement and verbally at the March 9, 2021 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 Davis Elite, and that Davis Elite has no current annual report due or outstanding Inspection and Supervision Fee reports or fees.

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## Conclusion

Having considered the application of Davis Elite Energy Services, 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 Davis Elite Energy Services, 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 Davis Elite Energy Services, LLC be issued a Common Carrier Certificate, authorizing operations in Louisiana intrastate commerce as a common carrier of non-hazardous oilfield waste, non-hazardous industrial solid waste, and hazardous waste over irregular routes, statewide.

**IT IS FURTHER ORDERED** that the issuance of the common carrier certificate is conditioned upon the full compliance of Davis Elite Energy Services, 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**  
March 16, 2021



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**BRANDON M. FREY**  
**SECRETARY**

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**DISTRICT II**  
**CHAIRMAN CRAIG GREENE**

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**DISTRICT I**  
**VICE CHAIRMAN ERIC F. SKRMETTA**

A handwritten signature in blue ink, appearing to read "Foster L. Campbell".

**DISTRICT V**  
**COMMISSIONER FOSTER L. CAMPBELL**

A handwritten signature in blue ink, appearing to read "Lambert C. Boissiere, III".

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

A handwritten signature in blue ink, appearing to read "Mike Francis".

**DISTRICT IV**  
**COMMISSIONER MIKE FRANCIS**