

LOUISIANA PUBLIC SERVICE COMMISSION

ORDER NUMBER T-37230

EQUIPMENT TRANSPORT, LLC OF PENNSYLVANIA
EX PARTE

Docket No. T-37230, In re: Application for a Common Carrier Certificate of non-hazardous oilfield waste for disposal, statewide.

(Decided September 27, 2024.)

ORDER

Background

Equipment Transport, LLC of Pennsylvania (“Equipment Transport”, the “Applicant” or the “Company”) filed an application (“Application”) with attachments on June 5, 2024, seeking from the Louisiana Public Service Commission (“LPSC” or “Commission”) a common carrier certificate authorizing it to transport non-hazardous oilfield waste for disposal, statewide. Notice of the Application was published in the Commission’s *Official Bulletin* on June 21, 2024, for a 15-day intervention period. On August 14, 2024, Equipment Transport filed an amended application with attachments (“Amended Application”). Notice of the Amended Application was published in the Commission’s *Official Bulletin* on August 16, 2024, for a 15-day intervention period. No interventions were filed during either intervention period.

At a status conference on July 24, 2024, representatives of the Applicant and the Commission Staff agreed to the procedural schedule included in the *Report of Status Conference* issued on the same day. Pursuant to the schedule, Commission Staff filed its pre-hearing statement on September 10, 2024 and Equipment Transport filed its pre-hearing statement on September 13, 2024. As there are no intervenors and Commission Staff supports the Application, the Application is considered unopposed.

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 part:

[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 was convened on September 19, 2024, at which Equipment Transport and the Commission Staff appeared through counsel.

Testimony and Evidence Presented by the Applicant

In support of its Application, Equipment Transport presented the testimonies of Patrick Knapp and Richard Taylor.

Testimony of Patrick Knapp

Mr. Knapp testified that he oversees legal and administrative support as General Counsel of Vivakor, Inc. through a shared services agreement with the Applicant. Mr. Knapp explained that Vivakor, Inc. is owned by an exempt single-family office, controlled by James Ballengee. Mr. Knapp testified that he has been employed with Vivakor, Inc. since June 2024. Further, Mr. Knapp testified that Equipment Transport was formed as a Pennsylvania limited liability company on October 3, 2007, with its office in Dallas, Texas.

Mr. Knapp explained that the Applicant currently operates in Texas and New Mexico. Equipment Transport holds LPSC authority to transport saltwater through Common Carrier Certificate No. 8608. The Company or its affiliates currently has 202 employees and more than 250 drivers. Mr. Knapp identified proof of insurance for the Applicant and confirmed that the policies insure all of its equipment and drivers, meet or exceed the minimum requirements, and will be renewed on or before expiration.

Testimony of Richard Taylor

Mr. Taylor testified that he is the Senior Director of Operations for Equipment Transport. Mr. Taylor testified that he has been employed with Equipment Transport since February 2024.

Mr. Taylor testified regarding the Applicant's driver hiring and training. Driver applicants

must complete prerequisites including a drug and alcohol screening. The Company requires its drivers to have at least two years of commercial driving experience and each new driver undergoes a five-day training program. Additionally, Mr. Taylor testified that Equipment Transport conducts weekly and monthly safety meetings. Mr. Taylor discussed the Company's drug, alcohol, and cell phone policies. The Applicant is a member of the Veriforce and ISNetworld safety networks.

Mr. Taylor stated that all of the Company's equipment is financed. The Applicant will utilize owner-operators, with Mr. Taylor stating he understands the LPSC rules regarding owner-operators.

Mr. Taylor addressed the Applicant's maintenance policies and practices, including pre- and post-trip inspections and maintenance schedules. Regular maintenance is performed by in-house mechanics with some additional maintenance being done by outside mechanics. Mr. Taylor provided that all equipment used by the Applicant for LPSC-regulated waste transportation is in good working order. The Applicant's trucks are equipped with GPS, both forward-facing and cab-facing cameras, and are governed to a set speed.

Mr. Taylor testified regarding Equipment Transport's regulatory compliance, confirming that it is in good standing with the Louisiana Office of the Secretary of State and all applicable state and federal regulatory agencies. Further, Mr. Taylor confirmed his understanding of and intention to comply with all Commission rules and regulations including the requirements to file annual reports, pay inspection and supervision fees, and maintain current insurance documents on file with the Commission. Mr. Taylor indicated that the Applicant has or is willing to acquire the necessary permits, equipment, finances, and personnel for the transportation of LPSC-regulated waste in a safe, efficient, and LPSC-compliant manner.

Mr. Taylor testified 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. He identified the Company's financial statements and testified that he is willing and able to contribute capital if needed. According to Mr. Taylor, Equipment Transport is financially stable, has not filed for bankruptcy, has had no issues meeting payroll, and has not been subject to a tax audit.

In connection with the above testimonies, the following exhibits were admitted:

Exhibit 1, in globo

A copy of the Waste by Motor Vehicle Application filed by Equipment Transport, LLC of Pennsylvania on June 5, 2024, with public attachments.

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|----------------------------|--|
| Exhibit 2 | Copies of the following financial documents for Equipment Transport, LLC of Pennsylvania (admitted confidentially under seal): <ul style="list-style-type: none"> • Balance Sheet as of April 30, 2024 • Profit and Loss Sheet, January- April 2024 |
| Exhibit 3, <i>in globo</i> | A copy of the amended <i>Waste by Motor Vehicle Application</i> filed by Equipment Transport, LLC of Pennsylvania on August 14, 2024, with public attachments. |
| Exhibit 4 | A copy of <i>LPSC Common Carrier Certificate No. 8608</i> issued to Equipment Transport, LLC of Pennsylvania. |
| Exhibit 5 | A copy of an organizational chart of Ballengee family holdings (admitted confidentially under seal). |
| Exhibit 6 | A copy of Equipment Transport, LLC of Pennsylvania's Employee Organizational Chart as of Q3 2024 (admitted confidentially under seal). |
| Exhibit 7 | Copies of preliminary internal financial documents of Equipment Transport, LLC of Pennsylvania (admitted confidentially under seal). |
| Exhibit 8 | A copy of <i>Equipment Transport New Driver Orientation</i> for Equipment Transport, LLC of Pennsylvania. |
| Exhibit 9 | A copy of a <i>June 2023 - Monthly HSE Topic</i> for Equipment Transport, LLC of Pennsylvania. |
| Exhibit 10 | A copy of <i>Applicant Equipment Transport, LLC's Responses and Objections to LPSC Staff's First Set of Data Requests</i> (with attachments). |
| Exhibit 11 | A copy of <i>Applicant Equipment Transport, LLC's Responses and Objections to LPSC Staff's Second Set of Data Requests</i> . |
| Exhibit 12 | A copy of the Louisiana Department of Natural Resources list of approved disposal sites for Equipment Transport, LLC of Pennsylvania. |

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 LPSC regulatory issues with Equipment Transport and that it supports the Application.

Conclusion

Having considered the Application of Equipment Transport, 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 laws, we find that Equipment Transport 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 Equipment Transport, LLC of Pennsylvania 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 Equipment Transport, LLC of Pennsylvania 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
October 1, 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