

LOUISIANA PUBLIC SERVICE COMMISSION

ORDER NO. T-32955

LOUISIANA PUBLIC SERVICE COMMISSION V. DUAL TRUCKING, INC.
(SCOTT, LOUISIANA)

Docket Number T-32955 – Alleged violation of Louisiana Revised Statute Title 45:166 and LPSC Order 9901 as amended, by authorizing vehicles not affiliated with Dual Trucking, Inc. to utilize Common Carrier Certificate 5151-I on 50 counts; allegedly occurring on or about November 01, 2012 through November 30, 2012.

(Decided at the December 16, 2013 Business and Executive Meeting)

Background

On September 6, 2013, the Louisiana Public Service Commission (“Commission”) issued a citation to Dual Trucking, Inc. (“Dual” or the “Carrier”), directing the Carrier to show cause at a hearing to be held on November 7, 2013, why it should not be found guilty of violating Louisiana Revised Statutes Title 45:166 and LPSC Order 9901, by authorizing vehicles not affiliated with Dual to utilize the Carrier’s LPSC number, thus circumventing the LPSC regulation of the transportation of waste. Notice of this proceeding was published in the Commission’s Official Bulletin dated September 13, 2013.

In response to a complaint filed with the Commission, the Transportation Division initiated an investigation in order to determine whether Dual was authorizing vehicles not affiliated with the Carrier to use their LPSC number. Doing so would circumvent Commission regulation over the transportation of waste. At the disposal site, these vehicles displayed an LPSC number, therefore further investigation by Staff was necessary. Initially, UIC-28 manifests from the U.S. Liquids facility in Mermentau, Louisiana were provided by the Office of Conservation. In addition to the receipt of these documents, Staff requested information from the Louisiana Department of Motor Vehicles in order to cross-reference license plate numbers with trucks owned/operated by Dual. Upon review of the documentation Staff discovered fifty (50) violations occurring between November 1 and November 30, 2012. Dual was contacted by Staff as part of this investigation and documentation was provided to Staff and a meeting to discuss the outstanding issues was held.

The meeting was productive and lead to Staff dismissing nine (9) counts against the carrier as documentation was able to demonstrate the vehicles were owned and/or operated by Dual. Eleven (11) of the remaining counts were challenged by Dual and Staff agreed to a suspended fine of \$11,000.00 on these counts as Dual provided sworn testimony by Affidavit

that the information provided to the disposal site was not provided by anyone with a connection to Dual. The investigation supported a finding that third party carriers used Dual's LPSC number on these eleven (11) occasions without Dual's authorization. Further, as a result of the cooperation at the meeting, Staff and Dual agreed to a fine of \$8,000.00 for 16 violations related to improper leases which were never effective (nor on file) with the Commission. Lastly, Staff and the Carrier agreed to a fine of \$3,500.00 (\$250.00 per count for 14 counts) for providing improper license plate/registration information. This was the first set of violations for the Carrier. As a result, the Carrier was assessed a fine of \$22,500.00 with \$11,000.00 of the fine suspended for a total of \$11,525.00 (\$25 Citation fee) owed to the Commission.

By stipulation and agreement signed November 22, 2013, the Carrier agreed to plead guilty and admit that it had violated Louisiana Revised Statutes 45:166 and LPSC Order 9901 on 41 counts. Based upon the foregoing, the Carrier waived its right to a hearing and agreed to pay a fine of \$22,500.00 with \$11,000.00 suspended, conditioned on not committing any additional violations for one (1) year from the date of the agreement, along with a citation fee of \$25.00, for a total of \$11,525.00 to be paid over the course of four (4) months.

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 November 22, 2013, wherein the Carrier agreed to plead guilty and admit that it had violated Louisiana Revised Statutes 45:166 and LPSC Order 9901 on 41 counts. Further, Staff recommended that the Commission authorize and approve the fine of \$22,500 with \$11,000 suspended, conditioned on the Carrier not committing any additional violations for one (1) year from the date of the agreement, along with a citation fee of \$25.00, for a total of \$11,525.00 to be paid to the Commission over four (4) months.

Commission Action

This matter was considered by the Commission at the Business and Executive Session held on December 16, 2013. On motion of Commissioner Skrmetta, seconded by Commissioner Angelle, 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 Angelle, and unanimously adopted, the Commission voted to approve the agreement between Staff and the Carrier of November 22, 2013, wherein the Carrier agreed to plead guilty and admit that it had violated Louisiana Revised Statutes 45:166 and LPSC Order 9901 on 41 counts. Further, Staff recommends that the Commission authorize and approve the fine of \$22,500 with \$11,000 suspended, conditioned on the Carrier not committing any additional violations for one (1) year from the date of the agreement, along with a citation fee of \$25.00, for a total of \$11,525.00 to be paid to the Commission over four (4) months.

IT IS THEREFORE ORDERED:

That the Guilty Plea entered into by Dual Trucking to the allegations that it violated Louisiana Revised Statutes Title 45:166 and LPSC Order 9901, on forty-one (41) counts, is hereby accepted. Accordingly, all conditions of the stipulated agreement dated November 22, 2013, are hereby given effect.

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

January 14, 2014

/S/ ERIC F. SKRMETTA
DISTRICT I
CHAIRMAN ERIC F. SKRMETTA

/S/ CLYDE C. HOLLOWAY
DISTRICT IV
VICE CHAIRMAN CLYDE C. HOLLOWAY

/S/ FOSTER L. CAMPBELL
DISTRICT V
COMMISSIONER FOSTER L. CAMPBELL

/S/ LAMBERT C. BOISSIERE
DISTRICT III
COMMISSIONER LAMBERT C. BOISSIERE, III


EVE KAHAO GONZALEZ
SECRETARY

/S/ SCOTT A. ANGELLE
DISTRICT II
COMMISSIONER SCOTT A. ANGELLE