

LOUISIANA PUBLIC SERVICE COMMISSION

CORRECTED¹ ORDER NO. T-34299, T-34420, T-34421

LPSC V. WARHORSE VACUUM SERVICES, LLC (JOAQUIN, TX)

Docket No. T-34299 - Louisiana Public Service Commission vs. Warhorse Vacuum Services, LLC (Joaquin, Texas), In re: Alleged violation of La. R.S. 45:161 through 180.1, by operating Intrastate without LPSC authority occurring between April 1, 2016 through May 9, 2016, and by operating beyond the scope of authority granted in LPSC 8025 occurring between May 10, 2016 through July 31, 2016; on one-thousand six hundred and fifty-eight (1,658) counts.

Docket No. T-34420 - Louisiana Public Service Commission vs. Warhorse Vacuum Services, LLC (Joaquin, Texas), In re: Alleged violation of La. R.S. 45:161 through 180.1, by illegally operating under Contract Carrier Permit 1693 on one hundred twenty two (122) counts occurring November 15, 2016 through November 21, 2106.

Docket No. T-34421 - Louisiana Public Service Commission vs. Warhorse Vacuum Services, LLC (Joaquin, Texas), In re: Alleged violation of La. R.S. 45:161 through 180.1, by operating beyond the scope of authority in Common Carrier Certificate Number 8025 on four (4) counts occurring January 6, 2017 through January 7, 2017.

(Decided at the Commission's Business and Executive Session held April 19, 2017.)

Background & Summary of Violation

The Louisiana Public Service Commission ("LPSC" or "Commission") Staff issued three (3) citations to Warhorse Vacuum Services, LLC (Joaquin, Tx) ("Warhorse") for operating without authority, beyond the scope of its authority and illegally operating under a Contract Carrier Permit for a total of 1,784 counts across the three (3) citations. Warhorse holds a Commission saltwater certificate and currently has a pending application for a Common Carrier Certificate of non-hazardous oilfield waste for disposal statewide.

In response to 3 separate complaints, Staff opened investigations into Warhorse and its activities. As a result of those investigations, Staff found evidence that Warhorse was 1) operating without authority; 2) once it received its saltwater certificate, Warhorse was operating beyond the scope of its authority; and 3) Warhorse was illegally using another carrier's permit to haul waste. Staff issued 3 citations to Warhorse in Dockets T-34299, T-34420 and T-34421. These citations are the second, third and fourth offenses for Warhorse.

Jurisdiction

The Commission exercises jurisdiction over public utilities in Louisiana pursuant to Article IV, Section 21(B) of the Louisiana Constitution, which states:

The commission 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.

¹ The original Order had the wrong caption. This Corrected Order fixes the incorrect caption on the original order.

Further, Louisiana Revised Statute 45:164(A) and (B) state, in pertinent parts:

- (A) Except as provided by Subsection C of this Section, no motor carrier, ... shall operate as a common carrier without first having obtained from the commission a certificate of public convenience and necessity...
- (B) Except as provided by Subsection C of this Section, no motor carrier shall operate as a contract carrier without having had a public hearing and obtained from the commission a permit to do so.....

Stipulation

In response to the citations issued by Staff, Warhorse executed an Affidavit and Stipulation admitting to the violations and agreed to a fine of \$621,400 with \$459,400 suspended conditioned on Warhorse not being found guilty of any additional violations for transports occurring within one year after the issuance of the Order approving the instant Stipulation, together with a \$25.00 citation fee for a total fine of \$162,025. The total fine is to be paid in three (3) installments; one of \$54,025 and two of \$54,000. Those installments are due upon execution of the Stipulation, June 30, 2017 and September 30, 2017. Furthermore, as this is Warhorse's second, third and fourth offense, Warhorse is also responsible to pay the \$7,000 fine suspended from its first violation, which was part of the stipulation entered into in April 2016 and approved by the Commission at its April 28, 2016 Business and Executive Session.

Warhorse agreed to additional conditions as part of this Stipulation, including the following:

- Warhorse shall implement changes to the corporate training policy which provides that all employees will receive an orientation on LPSC-related statutes, rules, and orders upon employment, and thereafter on an annual basis. The policy will state that failure to comply with LPSC-related statutes, rules and orders shall be cause for dismissal;
- Warhorse shall continue to pursue its expansion of authority in Docket No. T-34316;
- Warhorse shall be responsible for immediately paying all amounts suspended pursuant to this Affidavit and Stipulation if Warhorse is determined to be guilty of any additional violations within one (1) year after the issuance of the Order in this proceeding or fails to make timely payment under its payment plan as provided for in the LPSC Order;
- Warhorse shall remit all payments due in certified funds.

Commission Consideration

On motion by Commissioner Campbell, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to exercise its original and primary jurisdiction under Rule 57 to consider the Stipulation. On motion by Vice Chairman Skrmetta, seconded by Chairman Angelle, and unanimously adopted, the Commission voted to approve the Affidavit and Stipulation executed on April 11, 2017 by Warhorse for fines and fees totaling \$162,025.00.

IT IS THEREFORE ORDERED THAT:

1. The Affidavit and Stipulation executed on April 11, 2017 by Warhorse for fines and fees totaling \$162,025.00 is approved; and
2. This Order is effective immediately.

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

May 3, 2017

/S/ SCOTT A. ANGELLE

DISTRICT II

CHAIRMAN SCOTT A. ANGELLE

/S/ ERIC F. SKRMETTA

DISTRICT I

COMMISSIONER ERIC F. SKRMETTA

/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/ MIKE FRANCIS

DISTRICT IV

COMMISSIONER MIKE FRANCIS