

LOUISIANA PUBLIC SERVICE COMMISSION

ORDER NUMBER T-34843

CALCASIEU RENTALS, INC.
(LAKE CHARLES, LOUISIANA), EX PARTE

Docket No. T-34843 In re: Application to amend Common Carrier Certificate No. 5538-F to allow for transportation of non-hazardous oilfield waste, non-hazardous industrial solid waste and hazardous waste for disposal, statewide.

(Decided August 30, 2018)

ORDER

Overview

In this proceeding, Calcasieu Rentals, Inc. (“CRI,” “Company,” or “Applicant”) seeks from the Louisiana Public Service Commission (“LPSC” or “Commission”) an amendment to its Common Carrier Certificate Number 5538-F. Common Carrier Certificate Number 5538-F currently authorizes the transportation of non-hazardous oilfield waste for disposal, statewide, subject to certain restrictions. CRI is seeking to remove all restrictions from Common Carrier Certificate Number 5538-F and to amend its certificate such that it is also authorized to transport non-hazardous industrial solid waste and hazardous waste for disposal, statewide. CRI is headquartered in Lake Charles, Louisiana and currently also possesses a Common Carrier Certificate authorizing the transportation of salt water utilized in oil well exploration or production.

Background

On May 15, 2018, CRI filed an application (“Application”) seeking to amend Common Carrier Certificate Number 5538-F such that the current restrictions on transporting non-hazardous oilfield waste for disposal are removed and its authority is expanded to allow for the transportation of non-hazardous industrial solid waste and hazardous waste for disposal, statewide. Notice of the Application was published in the Commission’s Official Bulletin on May 18, 2018. No interventions were received during the intervention period, or at any point thereafter.

At the initial status conference on June 25, 2018, counsel for Applicant and Commission Staff agreed to a procedural schedule with a hearing on August 29, 2018, during which the Applicant would have the burden of proving fitness under the General Order dated January 23, 2018.¹

¹ 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)).

The Applicant filed its Pre-Hearing Statement on August 22, 2018. Commission Staff also filed a Pre-Hearing Statement on August 22, 2018, in which Commission Staff advised that it supports CRI's Application. The Commission Staff's support of the Application, as well as the lack of intervenors, causes the Application of CRI 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 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.

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 (footnote omitted).
- F. Certificates or permits issued after the adoption of this rule shall not contain restrictions.

The Hearing

A hearing on the uncontested application was convened on August 29, 2018. At the hearing, appearances were made by CRI and Commission Staff.

The Applicant's Request for Authority

The Applicant currently possesses Common Carrier Certificate No. 7895, which authorizes the transportation of salt water utilized in oil well exploration or production. The Applicant also possesses Common Carrier Certificate No. 5538-F, which authorizes the transportation of non-hazardous oilfield waste for disposal, statewide, subject to the following restrictions:

- (1) CRI is restricted against opening any additional terminals or leasing vehicles to its fleet outside the seventy-five mile radius of Westlake, Louisiana, but is allowed to open additional terminals and leasing of vehicles in the parishes above a line drawn east to west along the northern borders of Vernon, Rapides, Avoyelles, and West Feliciana;
 - (2) CRI is restricted against the transportation of “regulated, non-hazardous solid waste and commodities,” via dump trucks originating in the parishes of St. John the Baptist, St. Charles, and St. James;
 - (3) CRI is restricted against the use of “roll-on/roll-offs”; and
 - (4) CRI is restricted against filing an application for additional or expanded authority for the period of two (2) years from the March 13, 2015 date of issuance of the certificate.
- The Applicant is seeking an amendment to its Common Carrier Certificate to remove the aforementioned restrictions on the transportation of non-hazardous oilfield waste for disposal and to allow for the transportation of non-hazardous industrial solid waste and hazardous waste for disposal, statewide.

Testimony and Evidence Presented by the Applicant

In support of its application, CRI presented the testimony of Shane Crochet, Vice President and Operations Manager of CRI. Mr. Crochet testified that he owns 25% of CRI, with Mr. Milton R. (“Ray”) Crochet, the President of CRI, owning 70%, and Ms. Melissa Carlson, owning 5%. Mr. Crochet testified that CRI has been in business for thirty (30) years and has a single terminal, located in Louisiana. In Louisiana, CRI presently engages in oil field and industrial services and equipment rental. Mr. Crochet also stated that CRI operates in Texas, and has the required authorizations from Texas state agencies. Mr. Crochet oversees CRI’s insurance requirements, finances, and regulatory compliance.

Mr. Crochet identified the Certificate of Liability Insurance naming CRI as the named insured and confirmed that it covers both the drivers and equipment of CRI and otherwise meets the Commission’s insurance requirements. Mr. Crochet testified that CRI is financially sound, and that he is willing to provide more capital to CRI should this be necessary. He further testified that CRI has never filed for bankruptcy, nor has it been audited by the IRS or any state taxing authority. CRI is seeking an expansion of its LPSC authority to pursue new sources of revenue. Mr. Crochet testified that CRI holds or is capable of acquiring all of the necessary regulatory authorizations and that CRI’s bookkeeper, Bruce Butts, who reports directly to Mr. Crochet, is responsible for ensuring that the Company meets its financial and regulatory

reporting requirements.

Mr. Crochet testified that CRI has approximately twelve (12) employees and approximately twenty-five (25) to thirty (30) owner-operator leases. CRI owns one (1) vehicle and approximately thirty (30) vacuum trailers. Mr. Crochet testified that the owner-operators conduct regular inspections and CRI conducts quarterly and yearly inspections as per United States Department of Transportation (“DOT”). Mr. Crochet testified that all of its equipment, whether leased or owned, is in good working order. CRI was the subject of a DOT audit approximately ten (10) years ago with a positive outcome.

Mr. Crochet testified that John Stebbins is CRI’s safety and compliance officer and in that capacity he oversees the safety of CRI’s operations. Mr. Crochet testified that Mr. Stebbins is certified to perform CRI’s drug testing and that CRI abides by the drug and alcohol policies required by the DOT, including pre-employment testing, post-incident testing, and testing on suspicion. Mr. Crochet also explained that CRI’s cell phone policy prohibits drivers from texting and driving, and require hands-free devices while operating equipment. Mr. Crochet testified that CRI is a member of multiple safety organizations, many of which are required by its customers and from which it has received satisfactory ratings. Mr. Crochet also stated that new drivers are required to read an abridged version of the safety manual prior to hiring, and that the full safety manual is available to all drivers for review.

In support of Mr. Crochet’s testimony, the Applicant submitted the following exhibits into evidence at the hearing:

- | | |
|----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|
| Exhibit A | A copy of Common Carrier Certificate No. 5538-F, as issued by the Commission on March 13, 2015; |
| Exhibit B | A copy of Common Carrier Certificate No. 7895, as issued by the Commission on July 24, 2014; |
| Exhibit C, <i>in globo</i> | A copy of the public version of Calcasieu Rentals, Inc.’s Application with attachments, filed with the Commission on May 15, 2018; |
| Exhibit D | A copy of an ACORD Certificate of Liability Insurance, dated June 18, 2018, listing Calcasieu Rentals, Inc. as the insured; |
| Exhibit E <i>in globo</i> | A copy of Calcasieu Rentals, Inc.’s Income Statements for March 1, 2015 through February 28, 2018 (admitted confidentially under seal); |
| Exhibit F | A copy of a Certificate of Good Standing for Calcasieu Rentals, Inc., issued by the Louisiana Secretary of State on August 27, 2018; |

Exhibit G, *in globo*

A copy of non-LPSC regulatory permits for Calcasieu Rentals, Inc., including the following attachments:

- A copy of the Hazardous Materials Certificate of Registration for Calcasieu Rentals, Inc., as issued by the United States Department of Transportation on July 1, 2018;
- A copy of correspondence evidencing the industrial waste transporter identification number of Calcasieu Rentals, Inc., issued by the Louisiana Department of Environmental Quality on August 7, 2014;
- A copy of a registry sheet evidencing the industrial and hazardous waste solid waste registration number of Calcasieu Rentals, Inc., issued by the Texas Commission on Environmental Quality; and
- A copy of the Oil and Gas Waste Hauler's Permit for Calcasieu Rentals, Inc., issued by the Texas Railroad Commission on February 27, 2018.

Exhibit H

A copy of Calcasieu Rentals, Inc.'s fleet of commercial trucks; and

Exhibit I

A digital copy of Calcasieu Rentals, Inc.'s Health and Safety Manual.

Commission Staff's Position

The Commission Staff expressed support for the Application, both in its Pre-Hearing Statement, filed on August 22, 2018, and verbally at the August 29, 2018 hearing. Commission Staff confirmed, both in its Pre-Hearing Statement and verbally at the hearing, that there are no complaints, citations, or violations pending against CRI and that CRI has no current Annual Report due or outstanding ISF reports or fees.

Conclusion

Having considered the application of Calcasieu Rentals, Inc., 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 Calcasieu Rentals, Inc. has established its fitness to operate, and that a common carrier certificate authorizing the transportation of non-hazardous oilfield waste, non-hazardous industrial solid waste and hazardous waste for disposal, statewide, should be issued to the Applicant without restrictions.

Accordingly, **IT IS HEREBY ORDERED** that the current restrictions on Common Carrier Certificate 5538-F be removed and that Calcasieu Rentals, Inc. 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 Calcasieu Rentals, Inc. 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**

September 4, 2018



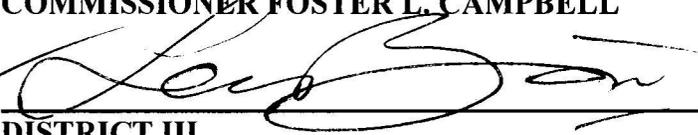
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