

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In re. Application TG-081725 of)	
)	DOCKET TG-081725
NORTHWEST INDUSTRIAL SERVICES, LLC)	
d/b/a American On Site Services)	PETITIONER'S
)	RESPONSE TO
)	PROTESTANT'S
For a Certificate of Public Convenience and)	REPLY TO
Necessity to Operate Motor Vehicles in)	PETITIONER'S
Furnishing Solid Waste Collection Service)	MOTION RE.
_____)	DISCOVERY.

This is the response of Petitioner to the Reply by Protestant to Petitioner's Motion for Leave to Pursue Discovery.

Protestant asserts that Petitioner's motion to allow discovery does not fall under WAC 480-07-400 (2) (b). It is true that it does not fall under WAC 480-07-400 (2) (b) (i), (ii) or (iii). Instead, it falls under WAC 480-07-400 (2) (b) (iv) and is accordingly addressed to the sound discretion of the Commission.

Protestant acknowledges that the Data which Petitioner seeks to discover will properly be part of Petitioner's case in chief but asserts that it could be elicited by cross examination of Protestant. But the Data sought is, generally speaking, not information which Protestant could reasonably be expected to have at his fingertips or at the tip of his tongue. Thus his honest answer on cross-examination could easily be that he does not have that information immediately available. And even if he did have it Petitioner would have no reasonable opportunity to challenge it or analyze its significance. The Data sought is Data which Protestant could readily derive from his records but apparently does not want to.

The real issue, when we get beyond the skirmishing, is whether rolloff collection in North Pend Orielle County will be done by the Petitioner or the Protestant. Petitioner has submitted an application in which it has proposed a tariff for the service. Protestant has, for how long we still don't know, been performing such services without having an approved tariff. We might have expected that once the issue was raised Protestant would have made a tariff filing which Petitioner would have protested, and that the issue before the Commission would have been whether Petitioner or Protestant would better serve the needs of customers in North Pend Orielle County and thus would be authorized to perform that service.

If the Protestant wants to know more about Petitioner's history, experience, equipment, financial capability, personnel or anything else that is relevant to the issues before the Commission, Petitioner has no objection to providing any such requested data. It is our belief that the hearing can be most effectively, expeditiously and economically conducted if discovery is allowed.

Respectfully submitted this 10th day of March, 2009.

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