

January 13, 2012

**NOTICE OF OPPORTUNITY TO COMMENT
(Initial Comments due Thursday, February 9, 2012;
Responses due Thursday, February 23, 2012)**

RE: Recycling Revenue Sharing, Docket TG-112162

TO ALL INTERESTED PERSONS:

On January 9, 2012, the Washington Utilities and Transportation Commission (Commission) conducted a workshop on recycling revenue sharing programs operated by regulated solid waste collection companies. The Commission is contemplating issuing an interpretive or policy statement on such programs¹ and may initiate a rulemaking to address specific concerns if requested by the industry and interested persons.

As a follow-up to the workshop, the Commission is seeking written comments from interested persons on recycling revenue sharing programs. While the Commission does not want to unduly limit comments,² responses to the following questions would be most helpful:

I. Recycling Revenue Sharing Plans

A. What is the meaning of “increase recycling” under RCW 81.77.185?

1. Please identify and describe all ways a solid waste collection company could “increase recycling” within the meaning of the statute.

¹ The Commission is authorized to issue interpretive and policy statements pursuant to RCW 34.05.230.

² Interested persons should not comment on specific issues or recycling revenue sharing plans that currently are before the Commission for an individual determination in other dockets, including Dockets TG-111672, TG-111674 & TG-111681 (consolidated), TG-111813, TG-111814, TG-111815, TG-111991, TG-111992, and TG-111993.

2. For each way identified, please identify or suggest quantifiable measures for determining whether a recycling revenue sharing program could demonstrate that the plan will increase recycling in that way.
 3. If the measure is inherently difficult to quantify due to being a new program or a program intended to modify consumer behavior, please suggest a framework by which the Commission can assess results using objective criteria, or perhaps refer to assessment models that have been used in other industries.
- B. Should companies be required to prepare a budget of anticipated retained revenues and expenditures under the recycling revenue sharing plan?
1. If actual revenues materially differ from those anticipated, should the company, in consultation with the County, independently manage and prioritize expenditures on plan activities to reflect actual revenues, or can and should the company and the County formally modify the budget and revenue sharing plan during the plan period?
 2. If plans are modified during the plan period to accommodate unanticipated circumstances, to what extent should the company be required to seek, and the Commission be obligated to grant, approval of such modifications?
- C. What are permissible expenditures under recycling revenue sharing plans?
1. What general types of expenditures (*e.g.*, annually recurring expenses, equipment costs, cash payments to affiliates or third parties to be used for recycling related activities, personnel, advertising, etc.) can and should be funded with retained recycling revenues, rather than included in general base rates for recycling service, and why?
 2. What types of performance incentives (*i.e.*, funds a company may retain in excess of amounts spent on plan activities) are acceptable?
 - a. Should a company be entitled to a performance incentive bonus solely for completing activities required under the plan?
 - b. Should performance incentives be limited to achieving or exceeding plan goals or objectives?
 - c. Should the amount of performance incentives be limited to a fixed dollar amount or percentage of revenues, and if so, what level or range would be most appropriate?
 3. Is a general return on plan expenditures permissible?

- a. Under what circumstances, if any, should the company be granted a general return on its expenditures under the plan?
- b. Should the amount of any general return be limited to a fixed dollar amount or percentage of revenues, and if so, what level or range would be most appropriate?
- c. Do companies have incentives to participate in recycling revenue sharing programs other than earning a return on plan expenditures (*e.g.*, complying with county solid waste plans, using retained revenues to finance equipment or other costs, as a means of experimenting with different recycling techniques, etc.)?

II. Process Issues

- A. What is the role of the Counties under RCW 81.77.185?
 1. How should Counties consider or negotiate financial conditions in the plan?
 2. Are there ways in which the Counties and the Commission could collaborate on development and approval of plans, rather than have each governmental entity conduct its own independent process?
- B. What is the role of Commission Staff in development and County review of plans?
 1. Should Staff participate in negotiations between a County and a company in the development of a plan?
 2. Should the County and/or the company seek Staff input on drafts of the plan and, if so, at what point(s) in the process, and how much time should be allowed for Staff to review the draft(s)?
 3. Should the Commission formalize such a consultative process either in a policy statement or rule, or should Staff and County officials be authorized to establish processes on a case-by-case basis?
- C. When and what must companies file with the Commission?
 1. Must companies file the final plan and County certification as part of the original filing seeking approval of the plan?
 2. What supporting documentation should companies include in their filings to make the requisite demonstration of how the retained revenues will be used to increase recycling?

3. Should all companies be required to use the same plan period (*e.g.*, a calendar year)?
 4. When should companies make their filings to enable Staff and the Commission to review and make a determination on those filings?
- D. Which of the issues in Sections I and II A-C above would be appropriate for resolution in a policy or interpretive statement to be issued by the Commission?
- E. Are there any other issues that the Commission should address in a policy or interpretive statement?
- F. Should the Commission conduct a rulemaking?
1. Should the Commission promulgate a rule on filing requirements for recycling revenue sharing plans?
 2. Should the Commission revise its existing customer notification rules to enable County input on the content and frequency of notices on recycling?
 3. Are there other aspects of recycling revenue sharing programs that the industry or Counties request that the Commission address through a rulemaking?

WRITTEN COMMENTS

Written comments to the above questions regarding recycling revenue sharing programs must be filed with the Commission no later than **5:00 p.m., Thursday, February 9, 2012**. Interested persons may file written responses with the Commission no later than **5:00 p.m., Thursday, February 23, 2012**. The Commission requests that comments be provided in electronic format to enhance public access, for ease of providing comments, to reduce the need for paper copies, and to facilitate quotations from the comments. You may submit comments via the Commission's Web portal at www.utc.wa.gov/e-filing or by electronic mail to the Commission's Records Center at records@utc.wa.gov. Please include:

The docket number of this proceeding (TG-112162).

The commenting party's name.

The title and date of the comment or comments.

An alternative method for submitting comments is by mailing or delivering an electronic copy to the Commission's Records Center on a 3 ½ inch, IBM-formatted, high-density disk, in .pdf Adobe Acrobat format or in Word 97 or later. Include all of the information requested above. The Commission will post on its web site all comments that are provided in electronic format. The web site is located at www.utc.wa.gov.

If you are unable to file your comments electronically or to submit them on a disk, the Commission will accept a paper document.

WORKSHOP

The Commission will schedule a workshop to discuss these issues, by separate notice, in due course.

If you have questions regarding this Notice, you may contact David Gomez, by email at dgomez@utc.wa.gov or by calling (360) 664-1240.

Sincerely,

DAVID W. DANNER
Executive Director and Secretary