

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

NOOKSACK VALLEY DISPOSAL,
INC.

Petitioner,

Seeking Exemption from the Provisions of
WAC 480-70-900(5)(b) Relating to
Request for Less than Statutory Notice

DOCKET TG-230869

ORDER 01

GRANTING EXEMPTION FROM
RULE; ALLOWING TARIFF
REVISIONS WITH LESS THAN
STATUTORY NOTICE

BACKGROUND

- 1 On November 15, 2023, Nooksack Valley Disposal, Inc. (Nooksack Valley or Company) filed with the Washington Utilities and Transportation Commission (Commission) a petition requesting an exemption from WAC 480-70-900(5)(b) (Petition).
- 2 WAC 480-70-900(5)(b) requires solid waste companies to request less than statutory notice (LSN) for customer notice at least seven business days prior to the open meeting in which it will be considered.
- 3 Nooksack Valley stated it was unaware of the need for the LSN in this Docket until Commission staff (Staff) contacted them on November 15, 2023, informing the Company of the need to file an LSN request to allow the commodity adjustment rate change to become effective December 1, 2023.
- 4 In addition to the rule waiver request, Nooksack Valley also requests the necessary LSN approval that would allow customers to be noticed on the first bill following the effective date as outlined in WAC 480-70-271(2)(a)(vi). Absent Commission approval of LSN, RCW 81.28.050 requires companies to provide notice to the public 45 days' notice in advance of any tariff changes.
- 5 Commission staff (Staff) reviewed the request and recommends granting Nooksack Valley's request for exemption, as well as its request for LSN.

DISCUSSION

6 We agree with Staff that both requests should be granted. WAC 480-70-271(2)(1)(vi) specifically allows the tariff revisions at issue to take effect on less than statutory notice, while RCW 81.28.050 requires that the Commission approve by order such shortened notice on a case-by-case basis. The Commission, through its rules, has thus made the policy choice to allow such shortened notice in certain circumstances, and this request falls within those circumstances. Additionally, the requirement that a request for less than statutory notice be filed at least seven days prior to the open meeting serves to ensure that Staff has sufficient time to review such requests, and the Commission may grant exemptions or modifications of its rules when consistent with the public interest, the purposes underlying regulation, and applicable statutes.¹

7 Here, Staff states it has reviewed the tariff revisions and the exemption request and recommends it be granted. We therefore find that granting the request for exemption and request for LSN is consistent with the public interest, the purposes underlying regulation and applicable statutes. However, solid waste collection companies should be aware that exemptions from the seven-day notice requirement in WAC 480-70-900(5)(b) may not be granted in future cases.

FINDINGS AND CONCLUSIONS

- 8 (1) The Commission is an agency of the State of Washington vested by statute with the authority to regulate the rates, rules, regulations, practices, accounts, and affiliated interests of public service companies, including solid waste collection companies.
- 9 (2) Nooksack Valley is engaged in the business of providing solid waste services within the state of Washington and is a public service company subject to Commission jurisdiction.
- 10 (3) Nooksack Valley is subject to RCW 18.28.050 which requires solid waste companies to provide the public 45 days' notice of any tariff changes unless the Commission orders otherwise.
- 11 (4) Nooksack Valley is subject to WAC 480-70-900(5)(b), which requires solid waste companies requesting less than statutory notice to file such request a least seven business days prior to the open meeting.

¹ WAC 480-07-110(1). *Accord* WAC 480-70-051.

- 12 (5) Under [WAC 480-70-051](#), the Commission may grant an exemption from the provisions of any rule in WAC 480-70, if consistent with the public interest, the purposes underlying regulation and applicable statutes. See also [WAC 480-07-110](#).
- 13 (6) This matter came before the Commission at its regularly scheduled meeting on November 22, 2023.
- 14 (7) After review of the petition filed in Docket TG-230869 by Nooksack Valley on November 15, 2023, and giving due consideration, the Commission finds that both the exemption and less than statutory notice treatment is in the public interest and is consistent with the purposes underlying the regulation and applicable statutes and should be granted.

ORDER

THE COMMISSION ORDERS:

- 15 (1) Nooksack Valley Disposal, Inc.'s request for an exemption from WAC 480-70-900(5)(b) for the purposes of the tariff revisions filed on October 13, 2023, in this Docket is GRANTED.
- 16 (2) Nooksack Valley Disposal, Inc.'s request for less than statutory notice for the tariff revisions filed on October 13, 2023, in this Docket is GRANTED. The tariff revisions will become effective on December 1, 2023.
- 17 (3) The Commission retains jurisdiction over the subject matter and Nooksack Valley Disposal, Inc. to effectuate the provisions of this Order.
- 18 The Commissioners, having determined this Order to be consistent with the public interest, directed the Secretary to enter this Order.

DATED at Lacey, Washington, and effective November 22, 2023.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

KATHY HUNTER
Acting Executive Director and Secretary