

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Application of JAMMIE’S ENVIRONMENTAL, INC., For Authority to Operate as a Solid Waste Collection Company in Washington	DOCKET TG-220243 (<i>Consolidated</i>)
BASIN DISPOSAL, INC., Complainant, v. JAMMIE’S ENVIRONMENTAL, INC., Respondent.	DOCKET TG-220215 (<i>Consolidated</i>) ORDER 04 GRANTING MOTION TO COMPEL

BACKGROUND

- 1 On April 1, 2022, Jammie’s Environmental, Inc., (Jammie’s or Applicant) filed with the Washington Utilities and Transportation Commission (Commission) an application for authority to operate as a solid waste collection company in Washington (Application), and on April 6, 2022, the Commission issued a notice of pending application, allowing affected parties 30 days to protest the Application.
- 2 On April 20, 2022, Basin Disposal, Inc., (Basin Disposal) filed a protest to the Application. On April 25, 2022, the Washington Refuse and Recycling Association (WRRRA) petitioned to intervene in this matter. On May 18, 2022, the Packaging Corporation of America (PCA) filed a petition to intervene.
- 3 On May 24, 2022, the Commission convened a prehearing conference before Administrative Law Judge Michael Howard.
- 4 On June 8, 2022, the Commission entered Order 01, Consolidating Dockets; Granting Petitions to Intervene; Prehearing Conference Order; Notice of Hearing (Order 01). The Commission consolidated Docket TG-220243, the application proceeding, and Docket

TG-220215, the complaint proceeding. The Commission noticed an evidentiary hearing for November 15, 2022, at 9:30 a.m, and granted the petitions to intervene filed by WRRRA and PCA. Order 01 also made the Commission’s discovery rules available to the parties, setting the discovery end-date of October 31, 2022, “so that the parties have the benefit of the Commission’s discovery rules during the majority of the pendency of the case.”

5 On August 2, 2022, BDI filed a Motion to Compel (Motion). BDI argues that Jammie’s failed to respond to BDI’s Data Requests No. 10 and 11 in accordance with Commission rules and failed to resolve disputes in good faith. BDI notes that, while Jammie’s objected to these data requests as vague and ambiguous, Jammie’s did not contact BDI to clarify the data requests as required by Commission rules. BDI also challenges Jammie’s objection the the phrase “Solid Waste management services” used in both data requests. BDI notes that its data requests defined “solid waste” broadly and that Jammie’s Answer states that it “managed” or “manages” Old Corrugated Cardboard (OCC) Rejects for PCA. BDI attaches Jammie’s August 2, 2022, supplemental responses to Data Requests No. 10 and 11, but BDI maintains that these responses were evasive and insufficient. BDI’s arguments with respect to Jammie’s August 2, 2022, supplemental responses are discussed in greater detail below.

6 On August 9, 2022, Jammie’s filed a Response to BDI’s Motion to Compel. Jammie’s argues that it complied with the Commission’s discovery rules when responding to Data Requests No. 10 and 11 and that it produced relevant responses. Jammie’s argues that its attorney offered to meet and confer with BDI to discuss the data requests on July 15, 2022, and that BDI’s attorney did not agree to meet until later, on July 22, 2022. Jammie’s argues that it does not provide solid waste collection services for PCA and that it produced relevant documents in response to Data Requests No. 10 and 11.

DISCUSSION

7 We find that Jammie’s failed to comply with the Commission’s discovery rules, and we grant BDI’s Motion. We address BDI’s arguments in turn, below.

A. Whether Jammie’s violated the Commission’s discovery rules

8 Based on the materials filed in this Docket, we find that Jammie’s failed to comply with Commission discovery rules.

9 Pursuant to WAC 480-07-405(5), “[i]f a party to whom a data request is propounded finds the meaning or scope of a request unclear, the responding party must immediately contact the requesting party for clarification.” Furthermore, “[l]ack of clarity is not a

basis for objection to a data request unless the responding party has made a good faith effort to obtain clarification.”

10 BDI submits that it served the data requests at issue on Jammie’s on June 30, 2022, but that Jammie’s objected to Data Requests No. 10 and 11 on the grounds that they were “vague and ambiguous.” BDI submits that its attorney emailed Jammie’s on July 21, 2022, stating that this practice violated Commission rules and requested a supplemental response.¹

11 In response, Jammie’s submits that, “contemporaneous” with its service of narrative responses to Data Requests No. 10 and 11, it informed BDI’s attorney of its vagueness concerns and offered to meet and confer on the issue.²

12 Based on the Motion, Jammie’s Response, and the supporting materials filed in this Docket, it appears that Jammie’s did not immediately contact BDI to seek clarification of Data Requests No. 10 and 11. Although Jammie’s cites Exhibit 5 to BDI’s Motion in support of its assertion on this issue, the earliest email from Jammie’s attorney in this Exhibit is dated from July 25, 2022, well after the deadline for Jammie’s to respond to the data requests. The July 25, 2022, email is also concerned with BDI’s responses to Jammie’s data requests, and it does not reflect any attempt to clarify BDI’s data requests to Jammie’s. It therefore appears that Jammie’s did not comply with WAC 480-07-405(5).

13 BDI does not request that we award sanctions for this violation of the discovery rules, and we find that it would be premature to award any sanctions at this point in time. However, the Commission may consider sanctions in the future if discovery violations continue to occur.

B. Data Requests No. 10 and 11

14 We agree with BDI that Jammie’s raised an unsupported objection to Data Requests No. 10 and 11.

15 In Data Request No. 10, BDI asked Jammie’s to “[d]escribe all Solid Waste management services that Jammie’s has provided to PCA during the period of January 1, 2021 to the

¹ Declaration of Blair Fassburg ¶ 2.

² Jammie’s Response at 2:36-3:3 (citing BDI’s Motion, Exh. 5).

present.”³ In its supplemental response, provided on August 2, 2022, Jammie’s responded:

Following a meet and confer between the parties on July 22, 2022, Jammie’s understands BDI’s clarification of its meaning of “Solid Waste management services” to mean any disposal of solid waste for PCA. **During the meet and confer, Jammie’s objected to providing information or documents broader than the subject matter of this proceeding, which pertains only to Jammie’s work involving OCC Rejects.** Without waiving that objection and subject thereto, aside from the OCC Reject services in dispute in this case, Jammie’s restates its answer above that it does not provide solid waste management services to PCA.

As far as describing Jammie’s work involving OCC Rejects, please see Jammie’s Answer filed on April 25, 2022, paragraphs 19–27. Please see the document produced with Jammie’s Response to BDI Data Request No. 017 for a list of equipment Jammie’s uses to collect and dispose of the OCC Rejects for PCA.⁴

- 16 As BDI explains, “Jammie’s evasive response was limited to OCC rejects, while Basin is entitled to a response regarding any solid waste Jammie’s ‘manages’ and which answer is not obscured by unfounded objections.”⁵
- 17 We agree with BDI’s argument on this issue. BDI is the holder of a certificate for solid waste collection services in Walla Walla County, and BDI filed a Complaint against Jammie’s alleging that Jammie’s engaged in the collection of solid waste in the same service territory. Given the relevant issues in these consolidated proceedings, BDI should be allowed to fully explore whether Jammie’s transports other forms of solid waste

³ BDI’s Motion, Exh. 6.

⁴ *Id.*

⁵ BDI’s Motion at 8:1-3.

encompassed by BDI's solid waste carrier certificate and subject to Commission jurisdiction. We therefore overrule Jammie's objection to Data Request No. 10.

18 We arrive at the same finding with respect to Data Request No. 11. Jammie's raised the same objection to Data Request No. 11, attempting to limit the scope of BDI's discovery to Jammie's management of OCC Rejects.⁶ This objection is overruled.

19 We therefore grant BDI's Motion. Jammie's should fully answer both Data Requests No. 10 and 11 within 10 days of the entry of this Order.

20 **THE COMMISSION ORDERS that** BDI's Motion is GRANTED as explained in this order.

DATED at Lacey, Washington, and effective August 11, 2022.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Michael Howard
MICHAEL HOWARD
Administrative Law Judge

NOTICE TO PARTIES: This is an Interlocutory Order of the Commission. Administrative review may be available through a petition for review, filed within 10 days of the service of this Order pursuant to WAC 480-07-810.

⁶ See BDI's Motion, Exh. 6.