

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

DTG ENTERPRISES, INC.,

Respondent.

DOCKET TG-240761

ORDER 02

PREHEARING CONFERENCE
ORDER; DENYING MOTION TO
CONSOLIDATE

- 1 **NATURE OF PROCEEDING.** On December 18, 2024, the Washington Utilities and Transportation Commission (Commission) issued a complaint against DTG Enterprises, Inc., (DTG or Company) for violations of state law and administrative rule and noticed a prehearing conference for February 6, 2025. On January 7, 2025, DTG filed an Answer and affirmative defenses to the Complaint and a Motion to Dismiss the Commission’s Complaint.
- 2 On January 17, 2025, Staff filed a response the Company’s Motion to Dismiss.
- 3 On January 27, 2025, the Commission denied the Company’s Motion to Dismiss.
- 4 **CONFERENCE.** The Commission convened a virtual prehearing conference on February 6, 2025, before Administrative Law Harry Fukano.
- 5 **APPEARANCES.** David A. Perez, Stephaine Olson, David Steele, and Jonathan Hawley, Perkins Coie, represent DTG Enterprises, Inc. Lisa Gafken, Assistant Attorney General, represents Commission staff (Staff).¹ Reid Johnson, Lukins & Annis, represents Torre Refuse Recycling LLC (Torre) and Rubatino Refuse Removal LLC (Rubatino). Rod Whittaker represents the Washington Refuse and Recycling Association (WRRRA).

¹ In formal proceedings such as this, the Commission’s regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners’ policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

Mark Lamb, Carney Badley Spellman, represents Lauts Inc. (Lauts). Michael Howard and David Wiley, Williams, Kastner & Gibbs, represent Bainbridge Disposal, Inc. (Bainbridge), Basin Disposal, Inc. (BDI), Rabanco Limited (Rabanco), Kent-Meridian Disposal Company (Kent-Meridian), Sanitary Service Company, Inc. (Sanitary Service) and Waste Connections of Washington, Inc. (Waste Connections). Rob Sykes, Assistant Attorney General, represents the Public Counsel Unit of the Attorney General’s Office (Public Counsel).

6 **MOTION TO CONSOLIDATE.** On January 21, 2025, Staff filed a Motion to Consolidate this docket with Docket TG-240584, which pertains to DTG’s application for state-wide solid waste collection authority. In support of its motion, Staff cites to *Jammie’s*, a prior Commission proceeding that involved a consolidated complaint and application for solid waste authority involving the same company, Jammie’s Environmental, Inc.² Staff argues that, similar to *Jammie’s*, DTG has filed an application for solid waste authority (TG-240584) and also faces a complaint for penalties (Docket TG-240761) and that consolidation is appropriate because the issues in both dockets are closely related and involve associated, judicial economy is best served by consolidation.³

7 On January 28, 2025, BDI, Rabanco, Kent-Meridian, Sanitary Service, Bainbridge, and Waste Connections (collectively “Protestants”) filed a response in support of Staff’s Motion to Consolidate. The Protestants assert that consolidation is appropriate because it will result in a single presiding officer adjudicating both the application and complaint dockets, thereby conserving administrative resources.⁴ Protestants further argue that the application and complaint dockets present closely related issues of fact and law that warrant consolidation, also citing *Jammie’s*, and that consolidation will not unduly delay the proceedings.⁵ Finally, the Protestants raise concerns that not consolidating the complaint and application dockets may result in further delay in resolving the application docket.⁶

8 Also on January 28, 2025, DTG filed a response opposing Staff’s Motion to Consolidate. DTG maintains that consolidation of the complaint and application dockets is not appropriate because, while there is some factual overlap between the two dockets, the

² Staff’s Motion to Consolidate at 3-4 ¶¶ 8-9.

³ Staff’s Motion to Consolidate at 3-4 ¶¶ 9-10.

⁴ Protestants’ Response to Motion to Consolidate at 2-3 ¶¶ 3-5.

⁵ Protestants’ Response to Motion to Consolidate at 2-3 ¶¶ 3-5.

⁶ Protestants’ Response to Motion to Consolidate at 3 ¶ 6.

application docket presents additional issues that are unrelated to the complaint docket.⁷ DTG states that while the complaint docket is focused on violations occurring within a single county, the application docket concerns service throughout the state and will likely require different evidentiary requirements, discovery needs, and motions practice.⁸ DTG further contends that consolidation will be prejudicial, as DTG will be required to defend itself in the complaint proceeding against multiple third parties that have protested its application.⁹ Finally, DTG argues that *Jammie's* is not analogous to the present circumstances and consolidation is not necessary to make the proceedings more efficient based on the fact that two different presiding officers were assigned to the application and complaint dockets.¹⁰

9 **Commission Determination.** Pursuant to WAC 480-07-320, the Commission, in its discretion, may consolidate two or more proceedings in which the facts or principles of law are related. As an initial observation, subsequent to the filing of Staff's Motion to Consolidate and the responses, the Commission reassigned the application docket to the same presiding officer assigned to the complaint docket, such that consolidation is not necessary to gain efficiencies related to having a single presiding officer in both dockets.

10 Both Staff and the Protestants analogize to *Jammie's* in support of the request to consolidate DTG's complaint and application docket. In *Jammie's*, the Commission consolidated a complaint brought against *Jammie's* with an application submitted by *Jammie's*.¹¹ The complaint concerned *Jammie's* transportation of solid waste from a paper mill operated by Packaging Corporation of America (PCA) in Walla Walla County.¹² *Jammie's* application requested authority to operate between the same PCA facility in Walla Walla County to a landfill in Oregon.¹³ Thus in *Jammie's*, there was a substantial overlap between the facts and principles of law in the complaint against

⁷ DTG Response to Motion to Consolidate at 4-5 ¶ 10.

⁸ DTG Response to Motion to Consolidate at 4-5 ¶ 10, 8 ¶ 17.

⁹ DTG Response to Motion to Consolidate at 6 ¶ 12.

¹⁰ DTG Response to Motion to Consolidate at 7-8 ¶ 16, 18.

¹¹ *In re Application of Jammie's Environmental, Inc.*, Dockets TG-220243 and TG-220215 (consolidated), Order 01 ¶ 6 (June 8, 2022).

¹² *In re Application of Jammie's Environmental, Inc.*, Dockets TG-220243 and TG-220215 (consolidated), Complaint at 2-3 ¶¶ 5-10.

¹³ *In re Application of Jammie's Environmental, Inc.*, Dockets TG-220243 and TG-220215 (consolidated), Application at 8.

Jammie's and Jammie's application, as both were narrowly focused on Jammie's activity surrounding the same PCA paper mill.

- 11 Unlike *Jammie's*, the scope of DTG's application, which seeks authority to operate throughout the state, is substantially different from scope of the complaint, which alleges violations that occurred in Snohomish County. Although the investigation report associated with the complaint against DTG refers to other activity occurring elsewhere in the state, the complaint does not allege violations with respect to those activities. Furthermore, the application docket will likely involve substantial testimony and analysis regarding whether multiple incumbent solid waste providers protesting DTG's application are providing service to the satisfaction of the Commission, which is generally unrelated to the resolution of the issues presented in the complaint docket.¹⁴ Therefore, the Commission finds that *Jammie's* is distinguishable from the circumstances presented in DTG's application and the complaint against DTG.
- 12 Although the Protestants raise concerns that failing to consolidate the application docket and the complaint docket may unreasonably delay resolution of DTG's application, the Commission observes that keeping the complaint docket separate may result in greater administrative efficiency and judicial economy. Without prejudging the issues presented, resolution of the complaint proceeding will likely result in either: 1) a determination that DTG's service is subject to Commission regulation, in which case it will be subject to a cease and desist until it obtains operating authority from the Commission; or 2) a determination that DTG's service is not subject to Commission regulation, which would subsequently moot the issues presented in the application docket.¹⁵ To the extent that the Protestants are concerned about DTG's ongoing operations within the Protestants' service territories, if any, keeping the proceedings separate will likely result in a faster determination. Consequently, the Commission finds that administrative efficiency and judicial economy are best served by not consolidating the two proceedings, as the complaint proceeding may have a determinative effect on the application docket.
- 13 For the reasons stated above, the Commission finds that consolidating DTG's application docket with the complaint docket will not further judicial economy or administrative efficiency. Therefore, the Commission **DENIES** Staff's Motion to Consolidate.

¹⁴ *In re Application of Jammie's Environmental, Inc.*, Dockets TG-220243 and TG-220215 (consolidated), Order 06, 18 ¶¶ 63-65 (March 21, 2023).

¹⁵ *In re Application of Jammie's Environmental, Inc.*, Dockets TG-220243 and TG-220215 (consolidated), Order 06, 32 ¶ 120 (March 21, 2023)(citing RCW 81.04.510).

- 14 **PETITIONS FOR INTERVENTION.** As of the writing of this Order, the Commission has received petitions for intervention from Torre, Rubatino, WRRRA, Lauts, Bainbridge, BDI, Rabanco, Kent-Meridian, Sanitary Service, and Waste Connections.
- 15 Under RCW 34.05.443(1), a presiding officer may grant a petition for intervention at any time, upon determining that the petitioner qualifies as an intervenor under any provision of law and that the intervention sought is in the interests of justice and will not impair the orderly and prompt conduct of the proceedings. Pursuant to WAC 480-07-355(3), the presiding officer may grant a petition to intervene if the petitioner has a substantial interest in the subject matter of the hearing or if the petitioner’s participation is in the public interest. A substantial interest is established when there is a nexus between a petitioner’s stated purpose in seeking to intervene and an interest protected by a Washington statute within the Commission’s jurisdiction.¹⁶ Furthermore, “the extent to which [the Commission] allow[s] intervention depends upon the number, complexity, and newness of the issues before [the Commission], upon whether [the Commission] believes the intervenor will provide relevant facts and argument which are not cumulative and will contribute positively to [the Commission’s] understanding and evaluation of the issues, and upon the effect that allowing a particular intervention will have upon the orderly and prompt conduct of the proceedings.”¹⁷
- 16 As a threshold issue, the Commission notes that the Complaint contains a single cause of action related to alleged violations of RCW 81.77.040 between January 1, 2023, and June 30, 2023, based on transportation between DTG’s material recovery facility and Snohomish County solid waste facilities. With this in mind, the Commission turns to the arguments regarding intervention.
- 17 **WRRRA.** WRRRA argues that, as a trade association representing the vast majority of solid waste collection companies in Washington state, it has a substantial interest in this proceeding because the case has the potential to set policy for the solid waste industry.¹⁸ DTG does not oppose WRRRA’s intervention.¹⁹ Given WRRRA’s position as a solid waste industry trade association representative, and potential for the resolution of this case to further develop policy regarding whether service constitutes solid waste service subject to

¹⁶ *WUTC v. Avista Corporation*, Docket U-170970, Order 04, 12 ¶ 30 (January 25, 2018).

¹⁷ *In re: Petition of GTE Northwest Incorporated*, UT-961632, Third Supp. Order, ¶¶ 21-22 (March 28, 1997).

¹⁸ WRRRA Petition to Intervene at 1 ¶ 2.

¹⁹ DTG’s Response to Petitions to Intervene (DTG Response) at 2 ¶¶ 3-4. The Commission will address DTG’s request to limit intervenor participation later in this order.

Commission regulation, the Commission finds that WRRRA has a substantial interest in this proceeding and that WRRRA's participation in this proceeding is in the public interest. WRRRA is uniquely situated to provide an amalgamation of perspectives from its members regarding whether particular activity constitutes regulated solid waste collection. Therefore, the Commission **GRANTS** WRRRA's petition to intervene.

18 **Rubatino.** Rubatino contends that it has a substantial interest in this case because it was directly impacted by DTG's actions as alleged in the Complaint because they occurred within Rubatino's service area, it has direct knowledge of the solid waste collection market in that area, and the Complaint was predicated, in part, on information provided by Rubatino.²⁰ DTG does not oppose Rubatino's intervention.²¹ The Commission finds that Rubatino has a substantial interest in this proceeding and that its participation will be of assistance to the Commission in resolving this matter. Therefore, the Commission **GRANTS** Rubatino's petition to intervene.

19 **Rabanco.** Rabanco asserts that it has a substantial interest in this proceeding because it has an interest in defending its certificate territory from overlapping service and this case has the potential to affect what types of service constitute solid waste collection subject to Commission regulation.²² Rabanco further maintains that its participation is in the public interest because it will develop the record for the Commission's consideration.²³ DTG does not oppose Rabanco's intervention.²⁴ The Commission find that, as Rabanco holds authority to operate in Snohomish County, where the Complaint alleges the violations at issue in this proceeding occurred, Rabanco's participation in this proceeding will be of assistance to the Commission and is in the public interest.²⁵ Therefore, the Commission **GRANTS** Rabanco's petition to intervene.

20 **Lauts.** Lauts argues that it has a substantial interest in this proceeding because any matter involving the collection and/or processing of commercially generated construction and demolition and land clearing debris, and commercially generated industrial materials is

²⁰ Rubatino Petition to Intervene at 2-4 ¶¶ 4-6.

²¹ DTG Response at 2 ¶¶ 3-4. The Commission will address DTG's request to limit intervenor participation later in this order.

²² Rabanco and Kent-Meridian Petition to Intervene at 1-2 ¶¶ 3-4.

²³ Rabanco and Kent-Meridian Petition to Intervene at 3 ¶ 5.

²⁴ DTG Response at 2 ¶¶ 3-4. The Commission will address DTG's request to limit intervenor participation later in this order.

²⁵ Rabanco and Kent-Meridian Petition to Intervene, Exhibit A at 9.

significant to its operations.²⁶ At the prehearing conference, DTG indicated that it opposed Lauts' intervention in this proceeding, arguing that Lauts had not identified its position with respect to the issues in controversy and that Lauts' participation would unduly broaden the issues presented in this case.²⁷ The record before the Commission does not support an inference that Lauts participation will unreasonably broaden the issues presented in the proceeding, and Lauts indicates in its petition for intervention that it does not presently intend to call any witnesses.²⁸ Turning to Lauts' position on the issues, the Commission discerns that Lauts intends to observe whether the proceeding will involve further development of what services are subject to Commission regulation as solid waste collection, similar to WRRRA.²⁹ As with Rabanco, the Commission finds that insofar as Lauts has authority to operate in Snohomish County, where the violations alleged in the Complaint occurred, Lauts' participation in this proceeding will be of assistance to the Commission and is in the public interest.³⁰ Therefore, the Commission **GRANTS** Lauts' petition to intervene.

21 **Torre.** Torre argues that it has a substantial interest in this proceeding because "DTG's application [in Docket TG-240584] seeks the right to operate as a solid waste certificate holder throughout the entire state of Washington and based on [DTG's] 'ongoing' operations" which will impact Torre's service area.³¹ Torre further contends that "[t]hrough the Complaint is silent as to what other regions are affected at this time," it anticipates that discovery will seek and likely reveal evidence regarding DTG's operations in other geographical areas as this action progresses."³² Torre maintains that its intervention in this case will prevent the need for further adjudication and streamline the resolution of this case, particularly with respect to DTG's fitness to operate.³³ Finally, Torre asserts that its participation is in the public interest because DTG's statewide operations impact the businesses of multiple certificate holders throughout the state and

²⁶ Lauts Petition to Intervene at 1-2 ¶ 2.

²⁷ Docket TG-240761, Transcript Vol. I at 7:1-21, 9:1-11.

²⁸ Lauts Petition to Intervene at 2 ¶ 4.

²⁹ Docket TG-240761, Transcript Vol. I at 7:25 – 8:24.

³⁰ Docket TG-240761, Transcript Vol. I at 39:11-15.

³¹ Torre Petition to Intervene at 2-3 ¶ 5.

³² Torre Petition to Intervene at 3 ¶ 6.

³³ Torre Petition to Intervene at 3-4 ¶ 7.

the resolution of the Complaint may lead to further refinement of what services constitute solid waste collection subject to regulation.³⁴

22 While legitimate, the interests asserted by Torre are not implicated by the subject matter of this proceeding. Rather, the interests asserted by Torre are more properly addressed in the related application proceeding involving DTG in Docket TG-240584. As noted by Torre, the allegations in the Complaint are primarily focused on Snohomish County, and the Complaint is silent as to what other regions are presently affected. If allowed to intervene, Torre's participation would likely unreasonably expand the issues before the Commission by exploring for violations in service territories that are not pled in the Complaint. Although Torre also contends that it has an interest in exploring DTG's general fitness for service, DTG's fitness for service is relevant with respect to an application for Commission solid waste authority, not a complaint for penalties.³⁵ Similarly, insofar as these issues will need to be litigated in the related application proceeding in Docket TG-240584, allowing Torre to participate in this complaint proceeding will not further judicial economy. Finally, Torre does not explain how its participation would not be cumulative of other participants with direct knowledge of the county in which the alleged violations occurred or broader access to the solid waste collection industry as a whole. The Commission finds that Torre has not shown that it has a substantial interest in the subject matter of this proceeding and has not demonstrated that its participation is in the public interest. Therefore, the Commission **DENIES** Torre's petition to intervene.

23 **Kent-Meridian.** Kent-Meridian filed its petition to intervene jointly with Rabanco and advances the same arguments noted above with respect to Rabanco. It is not immediately clear whether Kent-Meridian seeks intervenor status separate from that of Rabanco, as the two companies were distinguished from each other during the prehearing conference. To the extent that Kent-Meridian is seeking intervenor status separate from Rabanco, its positions are the same as those identified by Rabanco. For the same reasons discussed above regarding Torre, the Commission finds that Kent-Meridian has not shown that it has a substantial interest in the subject matter of this proceeding. The Commission also finds that Kent-Meridian has not demonstrated that its participation is in the public interest because its participation is likely to be cumulative of Rabanco's participation and

³⁴ Torre Petition to Intervene at 4-5 ¶¶ 9-10.

³⁵ See, e.g., *In re Application of Freedom 2000*, Dockets TG-081579 & TG-091687 (consolidated), Order 05/02 at 15 ¶ 35 (January 27, 2010) ("In addition, we must determine whether an applicant is fit, willing and able to provide the service for which it seeks authorization – including regulatory and financial fitness.").

Kent-Meridian, unlike Rabanco, does not operate in Snohomish County.³⁶ Therefore, the Commission **DENIES** Kent-Meridian's petition to intervene insofar as it is distinct from Rabanco.³⁷

24 **BDI.** BDI argues that it has a substantial interest in this proceeding because the case has the potential to affect what types of service are subject to Commission regulation as solid waste collection.³⁸ BDI also contends that its participation will assist the Commission by developing the record.³⁹ Finally, BDI maintains that its participation will not broaden the issues in this proceeding because the Commission should consider DTG's potential violations of RCW Title 81 throughout the state in the context of its overall operations.⁴⁰

25 With respect to the potential policy issue regarding what service constitutes regulated solid waste collection, BDI does not explain how its participation will be meaningfully distinct from that of other intervenors or how it would be particularly affected by such a determination. It appears to the Commission that WRRRA, which has already been granted intervenor status, will be in a better position as an industry representative to identify potential policy implications related to whether particular service constitutes regulated solid waste collection. While BDI argues that its participation will help develop the record for the Commission, it does not indicate how it intends to do so, and BDI does not operate in the county in which the alleged violations occurred. Relatedly, although BDI states that its participation in this case would not broaden the issues in this matter, it also asks that the Commission consider potential violations of Title 81 RCW throughout the state. Therefore, BDI's has not demonstrated that it has a substantial interest that is already represented in this proceeding or that its participation is otherwise in the public interest.⁴¹ Granting BDI's petition would broaden the issues in this proceeding beyond the scope of the complaint by exploring for unpled violations of Title 81 RCW and would

³⁶ Rabanco and Kent-Meridian Petition to Intervene, Exhibit A at 12-13.

³⁷ If Rabanco and Kent-Meridian intend to participate as a single, collective entity, then they may do so pursuant to the grant of Rabanco's petition to intervene discussed above.

³⁸ BDI Petition to Intervene at 2 ¶ 4.

³⁹ BDI Petition to Intervene at 2-3 ¶ 5.

⁴⁰ BDI Petition to Intervene at 3 ¶ 6.

⁴¹ *In re Application of Puget Sound Energy*, Docket UE-200115, Order 04, 4 ¶ 15 (September 10, 2020)("We find that [petitioner] failed to establish a substantial interest that is not already adequately represented in this proceeding[.]")(interlocutory review denied by *In re Application of Puget Sound Energy*, Docket UE-200115, Order 05, 4 ¶ 14 (October 12, 2020)("[Petitioner]'s interests are adequately represented by other parties to the extent those interests are within the scope of this proceeding.")).

be cumulative of other parties, thereby impairing the orderly and prompt conduct of the proceeding.⁴² Therefore, the Commission **DENIES** BDI's petition.

- 26 **Bainbridge Disposal.** Bainbridge Disposal argues that it has a substantial interest in this proceeding because the case has the potential to affect what types of service are subject to Commission regulation as solid waste collection.⁴³ Bainbridge Disposal also contends that its participation will assist the Commission by developing the record.⁴⁴ Finally, Bainbridge Disposal maintains that its participation will not broaden the issues in this proceeding because the Commission should consider DTG's potential violations of RCW Title 81 throughout the state in the context of its overall operations.⁴⁵
- 27 Bainbridge Disposal's arguments in favor of intervention are nearly identical to those advanced by BDI. For the same reasons discussed above with respect to BDI, the Commission **DENIES** Bainbridge Disposal's petition.
- 28 **Sanitary Service.** Sanitary Service argues that it has a substantial interest in this proceeding because the case has the potential to affect what types of service are subject to Commission regulation as solid waste collection.⁴⁶ Sanitary Service also contends that its participation will assist the Commission by developing the record.⁴⁷ Finally, Sanitary Service maintains that its participation will not broaden the issues in this proceeding because the Commission should consider DTG's potential violations of RCW Title 81 throughout the state in the context of its overall operations.⁴⁸
- 29 Sanitary Service's arguments in favor of intervention are nearly identical to those advanced by BDI. However, at the prehearing conference, counsel for Sanitary Service asserted that the Commission should allow Sanitary Service to intervene because it had knowledge of DTG's prior operations in Ferndale, which are discussed in Staff's

⁴² *BNSF Railway Company v. City of Mount Vernon*, Docket TR-070696, Order 01, 5 ¶ 15 (“[Petitioner] does not express a sufficiently specific substantial interest in the subject matter of the hearing, nor does it further the public interest. . . . Granting this petition would be cumulative and therefore impair the orderly and prompt conduct of the proceedings. Therefore, this petition to intervene must be denied.”)(emphasis omitted).

⁴³ Bainbridge Disposal Petition to Intervene at 2 ¶ 4.

⁴⁴ Bainbridge Disposal Petition to Intervene at 2-3 ¶ 5.

⁴⁵ Bainbridge Disposal Petition to Intervene at 3 ¶ 6.

⁴⁶ Sanitary Service Petition to Intervene at 2 ¶ 4.

⁴⁷ Sanitary Service Petition to Intervene at 2-3 ¶ 5.

⁴⁸ Sanitary Service Petition to Intervene at 3 ¶ 6.

investigation report.⁴⁹ Staff's investigation report associated with the Complaint does refer to a complaint submitted by Sanitary Service based on DTG activity in Ferndale.⁵⁰ However, the investigation report also states that DTG provided information indicating that the materials it collected were processed for recycling, does not indicate that technical assistance was provided to the Company, and notes that the complaint was closed.⁵¹ As such, Sanitary Service has not shown that this reference in the Staff investigation report establishes that Sanitary Service has a substantial interest in this proceeding or that its participation would be in the public interest. Consequently, and for the same reasons discussed above with respect to BDI, the Commission **DENIES** Sanitary Services' petition.

30 **Waste Connections.** Waste Connections argues that it has a substantial interest in this proceeding because the case has the potential to affect what types of service are subject to Commission regulation as solid waste collection.⁵² Waste Connections also contends that its participation will assist the Commission by developing the record.⁵³ Finally, Waste Connections maintains that its participation will not broaden the issues in this proceeding because the Commission should consider DTG's potential violations of RCW Title 81 throughout the state in the context of its overall operations.⁵⁴

31 Waste Connections' arguments in favor of intervention are nearly identical to those advanced by BDI. For the same reasons discussed above with respect to BDI, the Commission **DENIES** Waste Connections' petition.

32 As noted above with respect to consolidation, the complaint proceeding will generally result in either a finding that DTG is providing solid waste collection services subject to Commission regulation or a finding that it is not subject to regulation. In the former case, the Company will be subject to a cease and desist until it obtains the required operating authority, and in the later case, the Company's application docket will become moot. Consequently, the Commission determines that more limited intervention, with a particular focus on the violations alleged in the complaint, will best promote the orderly and prompt conduct of the proceeding, particularly given that all of the parties that have

⁴⁹ Docket TG-240761, Transcript Vol. I at 25:5-15.

⁵⁰ *WUTC v. DTG Enterprises, Inc.*, Docket TG-24076, Staff Investigation Report at 6-7.

⁵¹ *WUTC v. DTG Enterprises, Inc.*, Docket TG-24076, Staff Investigation Report at 6-7.

⁵² Waste Connections Petition to Intervene at 2-3 ¶ 4.

⁵³ Waste Connections Petition to Intervene at 3 ¶ 5.

⁵⁴ Waste Connections Petition to Intervene at 3 ¶ 6.

been denied intervention are participants in the related application docket. Furthermore, although the Commission determines that several petitioners have not demonstrated that full party status in this proceeding is warranted, those petitioners may still submit comments to this docket for the Commission's consideration.

33 **Limitations on Intervenor Participation.** DTG requests that the Commission limit intervenor participation in this proceeding. Specifically, DTG asks that the Commission: 1) Limit the intervenor's participation to designated issues in which the intervenor has a particular interest demonstrated by the petition; 2) Limit the intervenor's use of discovery, cross-examination, and other procedures so as to promote the orderly and prompt conduct of the proceedings; and 3) Require two or more intervenors to combine their presentations of evidence and argument, cross-examination, discovery, and other participation in this proceeding.⁵⁵

34 The Commission declines to impose DTG's requested limitations on the intervenors at this juncture. Several of the Commission's grants of intervention are based on the determination that a petitioner's participation in the proceeding is in the interest of justice, therefore limiting an intervenor's participation solely to an intervenor's particular interest is not appropriate. Second, although WRRRA expresses interest predominately in the possible policy issue presented by this proceeding, the Commission observes that factual discovery and possible testimony may be necessary to fully develop an ultimate policy argument.⁵⁶ Consequently, DTG's second limitation is unduly restrictive. Third, the Commission disagrees that the fact that some Intervenor may share a similar view of RCW 81.77.040 provides a sufficient basis to require the intervenors to combine their participation and briefing before the Commission.⁵⁷ The Commission expects that all intervenors will participate in a reasonable manner and not seek to unduly expand the scope of this proceeding by searching for other unpled violations unrelated to the cause of action in this complaint. However, the Commission retains the authority to reevaluate whether an intervenor's participation in this proceeding is warranted at any time, should it become apparent that an intervenor has no substantial interest in the proceeding and the public interest will not be served by the intervenor's continued participation.⁵⁸

⁵⁵ DTG's Response at 5 ¶ 13.

⁵⁶ The Commission further notes that WRRRA has indicated that it does not presently intend to call any witnesses as part of this proceeding. WRRRA Petition to Intervene at 2 ¶ 4.

⁵⁷ DTG's Response at 6 ¶ 17.

⁵⁸ RCW 34.05.443(2), WAC 480-07-355(4).

35 Contact information for the parties' representatives is attached as Appendix A to this Order.

36 **DISCOVERY.** The parties agreed that formal discovery is necessary in this case. Discovery shall be conducted under the Commission's discovery rules, WAC 480-07-400 – 425. The Commission urges the parties to work cooperatively together to avoid having to bring discovery matters forward for formal resolution. Prior to bringing a discovery matter to the presiding officer's attention, the parties shall first consult with one another. The Commission will issue a separate protective order at the request of the parties. Response times to data requests are adjusted as set forth in Appendix B, below.

37 Additionally, the Commission believes it will aid discovery in this case if all responses to data requests are shared with all parties. No party objected to the Commission making the exchange of data request responses with all parties a requirement for discovery in this proceeding. Accordingly, the Commission requires the parties to share every data request response with all parties, subject to any confidentiality limitations contained in Commission rule and the protective order issued in this docket. To clarify, data requests and responses are not shared with the presiding officer unless those responses are offered as exhibits to be admitted into the record.

38 **PROCEDURAL SCHEDULE.** Following the prehearing conference, the parties submitted several proposed procedural schedules. The Commission adopts the schedule proposed by the Intervenors, which generally affords additional time relative to Staff's proposed schedule but is not as lengthy as the schedule proposed by the Company. However, the Commission modifies the hearing date and briefing deadlines to allow the Commissioners to participate in the adjudication of this case. The procedural schedule is attached to this Order as Appendix B. The parties may reschedule the settlement conference without seeking to modify the schedule if the parties agree, but the parties must provide notice to the presiding officer of the rescheduled date.⁵⁹ However, the Commission notes that the proposed schedule does not indicate how many days of hearing should be scheduled in this matter. The parties are directed to confer with each other and email the presiding officer with a proposed hearing length no later than **March 28, 2025**.

39 The Commission reminds all parties that substantive arguments about this proceeding should not be communicated to the presiding officer as part of procedural communications. The Commission expects that any substantive disagreements or

⁵⁹ WAC 480-07-700(5)(a).

arguments pertaining to this proceeding will be filed with the Commission consistent with the Commission's procedural rules. Given the sophistication of the parties, the presiding officer will not construe arguments contained in procedural emails as motions.

40 **DOCUMENT FILING AND SERVICE REQUIREMENTS.** Parties must file and serve all pleadings, motions, briefs, and other pre-filed materials in compliance with all of the following requirements:

- (a) Parties must submit electronic copies of all documents by 5 p.m. on the filing deadline established in the procedural schedule (or other deadline as applicable) unless the Commission orders otherwise. Parties must comply with WAC 480-07-140(6) in formatting, organizing, and identifying electronic files.
- (b) The Commission accepts only electronic versions of documents for formal filing. Parties must submit documents electronically through the Commission's web portal (www.utc.wa.gov/e-filing). If a party is unable to use the web portal to submit documents for filing, the Commission will accept a submission via email to records@utc.wa.gov provided that the email: (1) explains the reason the documents are not being submitted via the web portal, and (2) complies with the requirements in WAC 480-07-140(5)(b).
- (c) Parties must electronically serve the other parties and provide courtesy electronic copies of filings to the presiding administrative law judge (harry.o.fukano@utc.wa.gov) by 5 p.m. on the filing deadline unless the Commission orders otherwise. If parties are unable to email copies, they may furnish electronic copies by delivering them on a flash drive only.

41 **EXHIBITS FOR CROSS-EXAMINATION.** Parties are required to file with the Commission and serve all proposed cross-examination exhibits by **5 p.m. on Tuesday, November 5, 2025**. The Commission requires electronic copies in searchable PDF (Adobe Acrobat or comparable software). If any of the exhibits contain information designated as confidential, parties must file an electronic copy of the redacted version in searchable PDF (Adobe Acrobat or comparable software) of each such exhibit. The exhibits must be grouped according to the witness the party intends to cross-examine with the exhibits.

42 **EXHIBIT LISTS.** With each submission of pre-filed testimony and exhibits, the party making the submission must include a preliminary exhibit list that identifies each submitted exhibit in the format the Commission uses for exhibit lists it prepares for evidentiary hearings. Commission Staff will prepare its preliminary exhibit list and

circulate it to the parties. Each party must file and serve a final list of all exhibits the party intends to introduce into the evidentiary record, including all pre-filed testimony and exhibits, as well as cross-examination exhibits by **5 p.m., Tuesday, November 5, 2025.**

43 **CROSS-EXAMINATION TIME ESTIMATES.** Each party must provide a list of witnesses the party intends to cross-examine at the evidentiary hearing and an estimate of the time that party anticipates the cross-examination of that witness will take. Parties should not file witness lists or cross-examination time estimates but must provide them to the administrative law judge (harry.o.fukano@utc.wa.gov) and the other parties via email by **5 p.m., Tuesday, November 5, 2025.**

44 **PUBLIC COMMENT HEARING.** No party requested a public comment hearing, and the Commission does not find such a hearing is necessary in this case.

45 **ALTERNATE DISPUTE RESOLUTION.** The Commission supports the informal settlement of matters before it. Parties are encouraged to consider means of resolving disputes informally. The Commission has limited ability to provide dispute resolution services. If you wish to explore those services, please contact Connor Thompson, Interim Director, Administrative Law Division (360-664-1346).

46 **NOTICE TO PARTIES: A party who objects to any portion of this Order must file a written objection within ten (10) calendar days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. The service date appears on the first page of this Order in the upper right-hand corner. Absent such objection, this Order will control further proceedings in this docket, subject to Commission review.**

DATED at Lacey, Washington, and effective March 18, 2025.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Harry Fukano

Harry Fukano

Administrative Law Judge

APPENDIX A
PARTIES' REPRESENTATIVES
DOCKET TG-240761

PARTY	REPRESENTATIVE	PHONE	E-MAIL
DTG Enterprises Inc.	David A. Perez David S. Steele Stephanie Olsen Johnanthan P. Hawley Perkins Coie LLP 1201 Third Ave., Suite 4900 Seattle, WA 98101	(206) 359-8000	DPerez@perkinscoie.com DSteele@perkinscoie.com SOlsen@perkinscoie.com JHawley@perkinscoie.com
Commission Staff	Lisa W. Gafken Office of the Attorney General Utilities and Transportation Division P.O. Box 40128 Olympia, WA 98504-7250	(206) 714-3551	lisa.gafken@atg.wa.gov
Public Counsel	Robert D. Sykes Washington Attorney General's Office Public Counsel Unit 800 Fifth Avenue, Suite 2000 Seattle, WA 98104-3188	(206) 254-0570	robert.sykes@atg.wa.gov
Washington Refuse and Recycling Association	Rod Whittaker WRRRA 4169 6th Ave. SE, Ste. 205 Lacey, WA 98503	(360) 943-8859	rod@wrra.org
Rubatino Refuse Removal LLC	Reid G. Johnson Lukins & Annis, P.S. 717 W. Sprague Ave. Ste. 1600 Spokane, WA 99201	(509) 455-9555	rjohnson@lukins.com
Rabanco LTD	David W. Wiley Michael S. Howard Williams, Kastner & Gibbs PLLC 601 Union Street, Ste. 4100 Seattle, WA 98101	(206) 628-6652	dwiley@williamskastner.com mhoward@williamskastner.com
Lauts Inc.	Mark C. Lamb Carney Badley Spellman, P.S. 701 5th Ave. Ste. 3600 Seattle, WA 98104	(206) 607-4101	mlamb@carneylaw.com

**APPENDIX B
PROCEDURAL SCHEDULE
DOCKET TG-240761**

EVENT	DATE
Entry of Complaint	December 18, 2024
Prehearing Conference	February 6, 2025
Staff Testimony	April 29, 2025
Response Testimony	June 30, 2025⁶⁰
Settlement Conference	August 18, 2025
Rebuttal and Cross-Answering Testimony	October 1, 2025⁶¹
Discovery Deadline	October 31, 2025
Cross Exhibits, Cross-Examination Time Estimates, Exhibit Lists, and Errata	November 5, 2025
Evidentiary Hearing	TBD (Week of Nov. 17, 2025, excluding Nov. 20, 2025)
Simultaneous Post-hearing Briefs	December 19, 2025
Reply Briefs	February 2, 2026

⁶⁰ Response times to data requests are reduced to 7 business days as of this date.

⁶¹ Response times to data requests are reduced to 5 business days as of this date.