Agenda Date: January 31, 2019
Item Number: B2

Docket: **TG-190007**
Company Name: Waste Management of Washington d/b/a Waste Management of Spokane

Staff: Mike Young, Section Manager, Water and Transportation
John Cupp, Consumer Protection Staff

Recommendation:

Issue an order suspending the tariff pages filed on January 7, 2019, and revised on January 8, 2019, by Waste Management of Washington, d/b/a Waste Management of Spokane, and Spokane Valley Garbage Service Co.

Discussion

On January 7, 2019, Waste Management of Washington, d/b/a Waste Management of Spokane and Spokane Valley Service Co., (Waste Management or company) filed a petition for waiver of WAC 480-70-351(2), which requires companies to use the most recent 12 months to project revenue from the sale of recyclable materials, and requested *Less Than Statutory Notice* handling for the recycling commodity adjustment to become effective February 1, 2019. The company provides service to 22,000 recycling customers in Spokane County. The company's last general rate filing was for $992,000 additional annual revenue and became effective March 1, 2015.

The company also requests to retain 50 percent of the revenue received from the sale of recyclable commodities as allowed by RCW 81.77.185, and in accordance with a Revenue Sharing Plan (Plan) approved by Spokane County. The plan went into effect August 1, 2018, and runs until July 31, 2020. The company proposes retaining $130,702 out of a total revenue of $261,404 for Spokane County customers. This would result in a commodity adjustment of $1.03 per month credit to customers. Because the company utilizes an affiliate owned Materials Recovery Facility (MRF) the processing costs paid by customers are included in the company's monthly recycling collection rates providing some transparency in the costs passed on to regulated customers.

The commission reviewed the company's proposed Revenue Share plans approved by Spokane County in Docket TG-180531 which became effective August 1, 2018, and allowed the company to retain up to 50 percent of the revenue received from the sale of recyclable commodities as provided for in RCW 81.77.185(1) which states:

> The commission shall allow solid waste collection companies collecting recyclable materials to retain up to fifty percent of the revenue paid to the companies for the material if the companies submit a plan to the commission that is certified by the appropriate local government authority as being consistent with the local government

solid waste plan and that demonstrates how the revenues will be used to increase recycling. The remaining revenue shall be passed to residential customers.

For companies that do not utilize an affiliate MRF for processing recycling materials, customers receive an amount net of the commodity values and processing costs. The regulated hauler has little control over these transactions, which are all third party transactions based on market conditions. Commission staff (staff) argues that customers served by haulers utilizing third party MRFs are treated differently than customers served by haulers utilizing an affiliate MRF.

When a third party MRF is utilized, commodity adjustments are calculated on the commodity values net of processing costs (net revenue) but when an affiliate MRF is utilized the commodity adjustments are calculated on gross revenues before processing costs. In both cases, the hauler is made whole as to processing costs, however, in current market conditions where processing costs exceed the commodity values, customers under the affiliate MRF scenario do not receive the full benefit of the commodity value by virtue of the company retaining a portion. So customers must pay the full processing costs, and, in exchange, receive only a portion of the commodity values. Whereas customers in a third party MRF scenario receive the full benefit of the commodity value to offset processing costs.

Staff proposes a test for calculating the commodity adjustment when a company utilizes an affiliate MRF, and wishes to retain revenue under a revenue sharing agreement. This test would compare total commodity values for the period against total processing costs for the period, allowing the company to retain up to 50 percent of any positive difference. If the difference is negative, indicating processing costs exceed the value of the commodities, then staff would recommend that the company not retain any revenue from the sale of the commodities and instead be required to pass that entire amount back to customers to offset processing costs incurred by them. This ensures those customers would receive the full benefit of the commodity values and prevent them from subsidizing revenue sharing plan activities. Memo Attachment 1 illustrates how the test ensures customers would be treated similarly in several comparison scenarios.

Applying the test to the current filing staff finds that the company reported for the test period $261,404 in commodity values and estimates (based on most recent general rate case) $390,642 ($124.58 per ton, including current surcharges) in processing costs resulting in a negative difference (costs exceed revenue) of $129,238. Therefore staff would recommend the company not retain any of the $261,404 and instead pass that entire amount back to customers.

Because staff and the company have not agreed on the methodology to apply in calculating the commodity adjustment, staff recommends the commission suspend this filing until agreement can be reached.

Customer Comments

There were no customer comments received on this filing.

Conclusion

Staff believes customers should not be treated differently based on whether their recycling service provider participates in a county-supported revenue sharing plan, or whether the provider utilizes a third party processor or an affiliated processor. Revenue from the sale of recyclable commodities are the property of the customers generating those commodities and those customers should receive enough benefit that they are not harmed through having to pay additional amounts that in effect subsidize revenue share plan activities.

Staff further believes that the commission has authority under the law, RCW 81.77.185, to allow companies to retain *up to* 50 percent of the revenue received from the sale of recyclable commodities, and that the exact percentage to be retained should be determined by the commission. Staff proposes a simple test to support the commission's decision on the amount to be retained by companies in a revenue sharing situation. Waste Management does not agree with staff on this matter, and therefore the filing should be suspended until an agreement can be reached.

Recommendations:

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