

MAY 10 1991

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

vs.

RUBATINO REFUSE, INC.,
G-58,

Respondent.
.)

DOCKET NO. TG-900635
THIRD SUPPLEMENTAL ORDER

PROCEEDINGS: Rubatino Refuse, Inc. ("Respondent" or "the company") filed certain tariff revisions with the Washington Utilities and Transportation Commission on June 27, 1990, to become effective August 1, 1990. The revisions were designed to recover costs associated with increased disposal fees and recycling service.

The Commission suspended the tariff revisions by order effective July 30, 1990. On the same day it authorized interim rate increases subject to refund pending a determination of permanent rates.

HEARINGS: The Commission convened a hearing in Olympia on February 21, 1991. The Commission held a hearing to receive public testimony in Everett, Washington, on March 15, 1991.

This docket number was consolidated for purposes of hearing by the Commission on February 21, 1991, with the following matters: WUTC v. William Vos d/b/a Bill's Disposal Service, G-74, Docket No. TG-900604; WUTC v. Seattle Disposal Co., Rabanco Ltd., et al., Lynnwood Disposal Service Area, G-12, Docket No. TG-900660; WUTC v. Bayside Waste Hauling and Transfer, Inc., d/b/a Sunset Disposal, G-140, Docket No. TG-900888; and WUTC v. Bayside Waste Hauling and Transfer, Inc., d/b/a Skyway Disposal, G-140, Docket No. 900889. The Commission reserved the right to issue separate orders in these proceedings. This order will address only the matter of WUTC v. Rubatino Refuse, Inc., G-58, Docket No. TG-900635.

APPEARANCES: The staff of the Utilities and Transportation Commission was represented by Robert E. Simpson and Anne Egeler, Assistant Attorneys General, Olympia.

SUMMARY: The Commission accepts the agreed recommendation.

MEMORANDUM

I. BACKGROUND

The company filed revisions to its current tariffs on June 27, 1991. The tariffs were to effect a general rate increase based upon increased disposal fees and the costs of a recycling program. The recycle component was included in the rates to recover the cost of the Snohomish County mandated residential curbside recycling program. The rates apply to all customers whether or not they use the recycling program.

The tariffs were filed to become effective August 1, 1990. The Commission suspended the tariffs on July 30, 1990. The Commission authorized interim rate increases subject to refund or credit pending review of the suspended tariff provisions. The interim rates went into effect on July 31, 1990. On February 22, 1991, the Commission entered an order allowing amendment of the interim rates. The company waived the March 1, 1991 suspension date by letter dated December 10, 1990.

The company was required to report operating results and supporting statistics for the recycle program to staff. Staff was then to determine whether any revisions should be made to the interim rates. Staff has analyzed the operating results for the last five months of 1990.

Hearing was held on February 21, 1991, in Olympia. Layne C. Demas, Revenue Requirements Specialist for Commission staff, and Ed Rubatino, testified. The company stipulated to staff's recommendations by letter dated February 4, 1991. Hearing was held to take public testimony on March 15, 1991, in Everett, Washington. One public witness gave testimony in support of the staff's recommendations.

II. STAFF RECOMMENDATIONS

Commission staff tracked the operating results of the company for the last five months of 1990. Staff applied the Lurito/Gallagher methodology to the results of the separated recycle operations. The result was an operating ratio target of 88.13% for the recycle portion which represents approximately five percent of total company operations.

Customer service levels did not change as much as originally estimated by staff. The result is that the company overearned on the recycle portion of total company operations. Disposal fee savings were not as great as originally estimated. The offsetting effect of these two events was to keep the company's total operating ratio very close to the recommended level of 95.95%.

Staff recommends that the minican rate be lowered from \$11.20 to \$10.10 per month. This revised rate will reflect the cost to serve a minican customer with no recycle component included in the rate. Staff recommends that the remaining rates be allowed as originally approved. The recommended rates are as follows:

	<u>-Monthly Rates-</u>
Minican	\$10.10
One Can	\$13.10
Two Cans	\$17.40
Three Cans	\$22.95

The rate element reflecting increased disposal fees is included as part of the staff's recommended rates.

III. COMMISSION DISCUSSION

After the close of the record, the Commission asked for additional information regarding a possible affiliated interest transaction. Based on the entire record, including post-hearing submissions to the record from the company and from the staff, the Commission determines that the staff proposal is acceptable and should be adopted for rates that are fair, just and reasonable.

Three comments are appropriate. First, the Commission requests that any affiliated transaction be clearly disclosed to the Commission in material presented to it. Here, none of the exhibits and none of the direct testimony disclosed that an affiliated interest transaction was involved. The Commission prefers to learn that at the outset of its consideration of a proceeding, rather than at the conclusion.

Second, the Commission considers an affiliated interest transaction to require close scrutiny. Here, the amount of the transaction is slight in comparative terms but, at about \$25,000, is more than insubstantial. The Commission needs reasonable assurances in the information presented to it not only that the transaction exists, but that it meets relevant, reasonable standards for such transactions. Here, the carrier is paying an affiliated handler to receive recyclable materials. Other carriers are receiving some revenues from recyclables. The justification presented on the record, that the consumer benefits from overall lower costs in this arrangement, appears to be supported. We prefer in such situations to have the benefit of some underlying data to support the conclusions.

Finally, the other recycler which is paid to accept Rubatino recyclable materials is a sheltered workshop. While the Commission strongly supports use of that sort of resource, the Commission also needs objective reassurance that the price is commercially justified and that there is no impermissible charitable contribution involved.

While the Commission accepts the proposed tariff levels, the Commission requests that the staff closely monitor Rubatino's recycling rates in future proceedings, and that the company verify, and that it support in future presentations to the Commission, any contention that payments to recyclers are preferable financially to the sale of recyclables; that affiliated interest transactions exist and are cost-supported; and that transactions with a charitable entity do not involve a charitable contribution funded by a regulated entity's ratepayers.

FINDINGS OF FACT

The Commission has discussed the evidence and stated findings and conclusions. The Commission now makes the following findings of ultimate facts. The preceding detailed findings pertaining to the ultimate facts are incorporated by this reference.

1. The Washington Utilities and Transportation Commission is an agency of the state of Washington with statutory authority to regulate rates, rules, regulations, practices, accounts, securities, and transfers of public service companies, including companies providing solid waste collection service.

2. Respondent is engaged in the business of furnishing solid waste collection service within the state of Washington and is a public service company subject to the jurisdiction of the Commission.

3. The company filed revisions to its tariffs with the Commission which would increase rates and charges for solid waste collection services within its territories. The stated effective date of the proposed revisions was August 1, 1990. The revised rates reflected increased disposal fees and the costs of implementing a curbside recycling collection program. The operation of the tariff revisions was suspended for hearing. An investigation was instituted into the justness and reasonableness of the tariff revisions. The Commission authorized interim rates, subject to refund pending the outcome of this proceeding.

4. The Commission held a hearing on February 21, 1991, to receive testimony from the parties. Commission staff submitted evidence to which respondent stipulated. The

Commission convened a hearing to receive public testimony on March 15, 1991 in Everett, Washington.

5. The tariff revisions originally filed by the company should be rejected. The rates recommended by staff should be accepted. The company should be authorized to file rates consistent with staff's recommended rates. The rates should be filed no later than May 20, 1991, with a stated effective date of June 1, 1991.

CONCLUSIONS OF LAW

1. The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of this proceeding and the parties thereto.

2. The tariff revisions originally filed reflect rates which are not fair, just and reasonable for the services provided by the company.

3. The rates recommended by staff and accepted by the company are fair, just and reasonable.

4. The tariff revisions to rates filed by Rubatino Refuse, Inc., which are currently under suspension, should be denied. The company should file tariff revisions consistent with the staff's recommendations no later than May 20, 1991, with an effective date of June 1, 1991.

On the basis of the foregoing analysis of evidence, findings and conclusions, the Washington Utilities and Transportation Commission enters the following order.

O R D E R

WHEREFORE, IT IS HEREBY ORDERED That:

1. The tariff revisions filed herein by Rubatino Refuse, Inc., now under suspension and docketed in Docket No. TG-900635, are rejected entirely. The company is authorized to file tariff revisions consistent with staff's recommendations no later than May 20, 1991, with an effective date of June 1, 1991.

2. Jurisdiction is retained by the Washington Utilities and Transportation Commission to effectuate the provisions of this order.

DATED at Olympia, Washington, and effective this 10th day of May, 1991.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

Sharon L. Nelson

SHARON L. NELSON, Chairman

Richard D. Casad

RICHARD D. CASAD, Commissioner

A. J. Pardini

A. J. PARDINI, Commissioner

NOTICE TO PARTIES:

This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-09-810, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-09-820(1).