



Investigation Report

Daniel Stein

d/b/a Seabeck Waste & Recycle

TG-180181

Jason Hoxit
Compliance Investigations

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PURPOSE, SCOPE, AND AUTHORITY

Purpose

The purpose of this investigation is to determine if Daniel Stein d/b/a Seabeck Waste & Recycle (Seabeck Waste or company) is advertising, soliciting, offering, or entering into agreements to provide solid waste collection services over the public highways of the state of Washington without the necessary certificate required for such operations by RCW 81.77.040.

Scope

The scope of the investigation focuses on information obtained by staff of the Washington Utilities and Transportation Commission (Commission) relating to Seabeck Waste's operations.

Authority

Staff undertakes this investigation under the authority of the Revised Code of Washington (RCW) 81.01.010, which adopts RCW 80.01, which directs the Commission to regulate solid waste collection companies in the public interest, and to adopt such rules and regulations as may be necessary to do so. In addition, RCW 81.04.510 makes it clear that the Commission is authorized to conduct such an investigation. Appendix A includes copies of the appropriate laws and rules.

Staff

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BACKGROUND

The Commission regulates “solid waste collection companies.”¹ That term means a “person² ... [that uses] vehicles ... in the business of transporting solid waste for collection and/or disposal, or both, for compensation ... over any public highway in this state ...”³ Every solid waste collection company must have a Commission-issued certificate before operating,⁴ and they must comply with local solid waste management plans and related ordinances.⁵ For Commission purposes, “solid waste” includes what one would normally consider “trash,” as well as “source separated recyclables collected from residences.”⁶

On Jan. 8, 2015, Commission staff (staff) received a complaint from Kitsap County Public Works, Solid Waste Division, alleging that Seabeck Waste was advertising solid waste collection services by distributing flyers to prospective customers in Seabeck, WA.⁷ The Seabeck Waste flyer advertises bi-weekly trash and recycling pick up services and states, “Step 1. Discontinue your current service” and “Step 2. CALL (360) 328-6787.”⁸

On Jan. 9, 2015, staff contacted Seabeck Waste at phone number (360) 328-6787 and provided technical assistance pertaining to solid waste regulations in the state of Washington. During the phone call, Seabeck Waste’s representative refused to provide staff with both the address of the company and the name of the person with whom staff was speaking. During this phone call, Seabeck Waste’s representative stated that the company would not pursue the solid waste business model any further.⁹

On Feb. 10, 2015, staff contacted Seabeck Waste at phone number (360) 328-6787 and posed as a potential customer for solid waste collection service. During this phone conversation, the company offered to provide bi-weekly garbage service from a residence to a landfill for disposal. In addition, Seabeck Waste informed staff that existing garbage services with Waste

¹ RCW 81.77 is the primary source of the Commission’s regulatory authority. Other statutes clarify or restrict that authority.

² “‘Person’ includes individuals, firms, or copartnerships.” RCW 81.04.010(6).

³ RCW 81.77.010(7) (definition of “solid waste collection company”). The two types of Commission-regulated solid waste collection companies are “common carriers” and “contract carriers.” These terms are defined in RCW 81.77.010(3) and (4), respectively.

⁴ RCW 81.77.040.

⁵ RCW 81.77.030(5).

⁶ RCW 81.77.010(9) defines “solid waste” by referring to the definition of “solid waste” in RCW 70.95.030. We commonly use the term “trash” to cover the types of items described in RCW 70.95.030(22), which states: “solid waste ... means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge, demolition and construction wastes, abandoned vehicles or parts thereof, and recyclable materials.” The Commission’s definition of “solid waste” in RCW 81.77.010(9) also includes “source separated recyclables collected from residences”.

⁷ See Appendix A for a copy of the email from Kitsap County to staff, dated Jan. 8, 2015.

⁸ See Appendix B for a copy of the Seabeck Waste flyer.

⁹ See Appendix C for a copy of Pam Smith’s phone conversation notes, dated from Jan. 9, 2015, to Feb. 12, 2015.

Management (WM) would need to be cancelled prior to Seabeck Waste providing solid waste services.¹⁰

On Feb. 12, 2015, Kitsap County Solid Waste Division informed staff that the owner and operator of Seabeck Waste was Daniel Stein, and provided an address of 6070 Minnig NW, Seabeck, WA 98380.¹¹

On Feb. 17, 2015, staff sent Seabeck Waste a compliance letter informing the company that “Until and unless the commission grants a solid waste certificate, Seabeck must **immediately** cease advertising and providing all forms of solid waste collection services.”¹² Staff requested that the company respond in writing by March 4, 2015. Seabeck Waste failed to respond to staff.

On March 16, 2015, staff sent the company a follow-up letter explaining that Seabeck Waste failed to respond to the Feb. 17 compliance letter and that operating as a solid waste collection company without a Commission-issued certificate is illegal. Staff enclosed a copy of the Feb. 17 compliance letter.¹³ Staff requested that Seabeck Waste respond no later than March 26, 2015, to explain how the company plans to proceed. Seabeck Waste failed to respond to staff.

On Dec. 22, 2017, staff received a complaint from a certificated solid waste collection company alleging that Seabeck Waste was sending out flyers to prospective customers in the Seabeck, WA area advertising solid waste collection services.¹⁴ The Seabeck Waste flyer advertises bi-weekly garbage and recycling pick up services and states, “When you have garbage & recycling home pick up service with S.W.R., you never forget to take out the trash! ITS ALREADY OUT!”¹⁵ On the flyer the company provides an address of P.O. Box 480, Seabeck, WA 98380.

Daniel Stein d/b/a Seabeck Waste & Recycle

Seabeck Waste is not registered with the Department of Revenue (DOR), Department of Licensing (DOL), Secretary of State, or the Washington Business Licensing Service through DOR. The company’s location address of 6070 Minnig Lane NW, Seabeck, WA 98380 was provided by Kitsap County on Feb. 12, 2015, and is consistent with Daniel Stein’s registration through DOL.¹⁶ The company’s mailing address of PO Box 480, Seabeck, WA 98380 was provided on the Seabeck Waste flyer, and is registered as Daniel Stein’s current mailing address through DOL.¹⁷

Seabeck Waste does not currently hold a solid waste certificate from the Commission, nor has the company ever held such a certificate.

¹⁰ *Id.*

¹¹ *Id.*

¹² See Appendix D for a copy of the compliance letter sent to Seabeck Waste, dated Feb. 17, 2015.

¹³ See Appendix E for a copy of the follow-up letter sent to Seabeck Waste, dated March 16, 2015.

¹⁴ See Appendix F for a copy of the email from Waste Management to staff, dated Dec. 22, 2017.

¹⁵ See Appendix G for a copy of the Seabeck Waste flyer.

¹⁶ See Appendix H for a copy of Daniel Stein’s registration through Dept. of Licensing, dated Jan. 4, 2018.

¹⁷ *Id.*

INVESTIGATION

By law, a solid waste collection company may not operate for the hauling of solid waste for compensation without first obtaining a solid waste certificate from the Commission. Operating for the hauling of solid waste for compensation includes advertising, soliciting, offering, or entering into an agreement to provide that service. (RCW 81.77.040). Each advertisement reproduced, broadcast, or displayed via a particular medium constitutes a separate violation of the law. (RCW 81.77.090).

RCW 81.77.010(7) defines a solid waste collection company as “...every person...owning, controlling, operating, or managing vehicles used in the business of transporting solid waste for collection or disposal, or both, for compensation, over any public highway in this state...”

A traditional solid waste collection company collects and removes solid waste and recyclable materials from private homes, and/or removes solid waste from commercial establishments, industrial facilities, and other sites. A specialized solid waste collection company provides other than traditional solid waste collection service. Specialized companies generally haul specific waste products for specific customers, provide only on-call or nonscheduled service, or provide accessorial services not normally provided by traditional solid waste collection companies. Unless the company’s certificate is restricted against doing so, a traditional solid waste collection company may also perform specialized solid waste collection service. (WAC 480-70-041).

RCW 79.95.030(22) defines “solid waste” to mean “all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge, demolition and construction wastes, abandoned vehicles or parts thereof, and recyclable materials.” Under RCW 81.77.010(9), “‘solid waste’ means the same as defined under RCW 79.95.030, except for the purposes of this chapter [RCW 81.77] solid waste does not include recyclable materials except for source separated recyclable materials collected from residences.” Under WAC 480-70-041, which the Commission adopted to implement RCW 81.77.010(9), solid waste is defined as, but not limited to, all putrescible and non-putrescible solid and semisolid wastes including, but not limited to: garbage, rubbish, refuse, swill, ashes, industrial wastes, sewage sludge, demolition and construction wastes, and source-separated recyclable materials collected from single and multi-family residences.

Complaint - Operations

On Dec. 22, 2017, staff received a complaint from a certificated solid waste collection company that Seabeck Waste was advertising solid waste collection services by distributing flyers to prospective customers in the Seabeck, WA area.

Staff Contact with Seabeck Waste

On Jan. 4, 2018, staff contacted Seabeck Waste at phone number (360) 328-6787 and posed as a potential customer on NW Eagles View Dr. in Seabeck, WA that had received the company’s flyer. Staff requested the company’s pricing, and Seabeck Waste stated that garbage and

recycling services at the location would be \$32 per month for two company-provided collection bins, and stated that pick up service would be bi-weekly.¹⁸ Page 7 of 10

In the same phone conversation, Seabeck Waste inquired about how many people reside in the home. When staff answered that a family of four reside at the location, Seabeck Waste then recommended that staff sign up for bi-weekly garbage and recycling service with three company-provided collection bins for \$40 per month.

Towards the end of the phone conversation, staff explained that it would need to review the most recent WM bill to make sure that signing up for solid waste service with Seabeck Waste would not overlap with any existing service provided by WM. Staff stated that when the billing period with WM has ended, it will cancel the existing service and sign up for garbage and recycling services through Seabeck Waste.

Seabeck Waste explained to staff that when it contacts WM to cancel existing solid waste services, staff should not inform WM that the reason for cancellation is due to finding a different solid waste company. Seabeck Waste advised staff to inform WM that staff will be self-hauling the garbage and recycling to the dump. Staff thanked Seabeck Waste for the information and asked with the company representative for his name. The individual identified himself as Daniel.

¹⁸ See Appendix I for a copy of Jason Hoxit's phone conversation notes, dated Jan. 4, 2018.

STAFF FINDINGS & RECOMMENDATION

Staff has determined that Seabeck Waste operated for the hauling of solid waste for compensation without first obtaining a solid waste certificate from the Commission.

According to RCW 81.77.040, no company may operate for the hauling of solid waste for compensation without first obtaining a solid waste certificate from the commission. Operating for the hauling of solid waste for compensation includes advertising, soliciting, offering, or entering into an agreement to provide that service. (RCW 81.77.040)

RCW 81.04.510 Engaging in business or operating without approval or authority — Procedure, states, in part:

“Whenever the commission believes that any person or corporation is engaged in operations without the necessary approval or authority required by any provision of this title, it may institute a special proceeding requiring such person or corporation to appear before the commission at a location convenient for witnesses and the production of evidence and bring with him books, records, accounts and other memoranda, and give testimony under oath as to his operations or acts, and the burden shall rest upon such person or corporation of proving that his operations or acts are not subject to the provisions of this chapter.”

RCW 81.04.010(11) states that a common carrier “... includes ... solid waste collection companies...”

RCW 81.04.010(16) states that a public service company “... includes every common carrier.”

RCW 81.04.380 Penalties – Violations by public service companies states, in part:

“Every public service company ... shall obey, observe and comply with every order, rule, direction or requirement made by the commission under authority of this title Any public service company which shall violate or fail to comply with any provision of this title, or which fails, omits or neglects to obey, observe or comply with any order, rule, or any direction, demand or requirement of the commission, shall be subject to a penalty of not to exceed the sum of one thousand dollars for each and every offense ...”

The Commission is authorized to file a complaint on its own motion setting forth any act or omission by any public service company that violates any law or any order or rule of the Commission. RCW 81.04.110.

Commission staff believes that Seabeck Waste violated RCW 81.77.040 on two separate occasions by advertising, soliciting, and offering to transport solid waste for compensation without first having obtained a certificate from the Commission. Specifically, Seabeck Waste first violated RCW 81.77.040 when it distributed flyers advertising solid waste collection

services, and again violated RCW 81.77.040 when it offered to provide solid waste collection service to staff on Jan. 4, 2018.

Seabeck Waste knew or should have known that these were violations of Commission rules based on previous technical assistance provided by staff.

Recommendation

Commission staff recommends that the Commission institute a special proceeding under RCW 81.04.110 on its own motion to determine whether Seabeck Waste operated as a solid waste collection company without the necessary certificate required for such operations by RCW 81.77.040.

Staff also recommends that the commission assess a total penalty up to \$2,000 for two violations of RCW 81.77.040 pursuant to its authority under RCW 81.04.380.

Appendices