

[Service Date February 11, 2003]

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In re Application No. GA-079086 of)	
)	DOCKET NO. TG-020856
J & M DISPOSAL, INC.)	
)	
For a Certificate of Public)	PREHEARING CONFERENCE
Convenience and Necessity to)	ORDER
Operate Motor Vehicles in)	
Furnishing Solid Waste Collection)	
Service)	
.....)	

1 **Proceeding.** Docket No. TG-020856 is an application (No. GA-079086) by J & M Disposal, Inc. for a certificate of public convenience and necessity to operate motor vehicles in furnishing solid waste collection service consisting of construction and demolition debris in King and Pierce Counties in the state of Washington.

2 **Conference.** The Commission convened a prehearing conference in this docket at Olympia, Washington on February 4, 2003, before Administrative Law Judge Karen M. Caillé.

3 **Appearances.** Nat Brazill, co-owner, represents J & M Disposal, Inc. David W. Wiley, attorney, Seattle, WA., represents Rabanco Companies, Murrey's Disposal Company, Inc., and American Disposal Company, Inc. James Sells, attorney, Silverdale, WA., represents Washington Refuse & Recycling Association, and University Place Refuse Service, Inc. Polly L. McNeill, attorney, Seattle, WA., represents Waste Management of Washington, Inc. Lisa Watson, Assistant Attorney General, represents the staff of the Washington Utilities and Transportation Commission. Contact information provided at the conference for the parties' representatives is attached as Appendix A to this order.

4 **Protestants.** The following companies filed timely protests to the docketed application: Washington Refuse & Recycling Association, University Place Refuse Service, Inc., Rabanco Ltd. & Rabanco Recycling, Inc. d/b/a Rabanco

Companies, Tri-County Disposal, Rananco Connections International, Inc. d/b/a Issaquah Division, Maltby Division, Fiorito Enterprises, Inc. and Rabanco Companies d/b/a Kent-Meridian Disposal Co., Murrey's Disposal Company, Inc., and American Disposal Company, Inc.

5 **Petition to Intervene.** The petition to intervene of Waste Management of Washington, Inc. was granted without objection.

6 **Discovery.** The parties do not anticipate a need to invoke the discovery rule, WAC 480-09-480.

7 **Hearing Schedule.** The parties agreed to the following schedule for the proceeding:

Evidentiary Hearing (9:30 a.m.)	March 25-26, 2003
Post hearing briefs	To be determined

8 **Document preparation and process issues.** Parties must file an original plus 13 copies of each document filed with the Commission. All filings must be made through the Commission Secretary either by mail to the Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 S. Evergreen Park Drive S.W., Olympia, WA 98504-7250, or by other means of delivery to the Commission's offices at the street address provided above. All filings of substance (e.g. testimony, briefs, motions, answers) must include an electronic copy on a 3.5" IBM-formatted, high density disc in your choice of Word 97 or later, or WordPerfect 6.0 or later. Service on all parties must be simultaneous with filing. The Commission does not accept filings by facsimile without prior permission from the presiding judge.

9 Parties must bring 3 copies for the bench of each document or exhibit they plan to offer at the hearing. In addition, parties must supply each other with copies of the exhibit or document.

10 Appendix B provides information relevant to a hearing for a certificate of authority to operate motor vehicles in furnishing solid waste collection in the state of Washington.

Dated in Olympia, Washington, and effective this ____ day of February 2003.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

KAREN M. CAILLÉ
Administrative Law Judge

NOTICE TO PARTIES: Any objection to the provisions of this Order must be filed within ten (10) days after the date of mailing of this statement, pursuant to WAC 480-09-460(2). Absent such objections, this prehearing conference order will control further proceedings in this matter, subject to Commission review.

Appendix A

DOCKET TG-020856 PARTIES' REPRESENTATIVES

For Applicant J & M Disposal, Inc.

Nat Brazill, Co-Owner
599 Industry Drive, Bldg 5
Tukwila, WA 98188
Phone: (206) 575-4913
Facsimile: (206) 575-6315
Email: jmdinc@gte.net

**For Protestants Washington Refuse & Recycling Association, and
University Place Refuse Service, Inc.**

James Sells
Attorney at Law
Ryan Sells Uptegraft, Inc. P.S.
9657 Levin Road N.W., Suite 240
Silverdale, WA. 98383
Phone: (360) 307-8860
Facsimile: (360) 307-8865
Email: jimsells@rsulaw.com

For Protestants **Rabanco Ltd. & Rabanco Recycling, Inc. d/b/a Rabanco Companies, Tri-County Disposal Rabanco Connections International, Inc. d/b/a Issaquah Division, Maltby Division Fiorito Enterprises, Inc. and Rabanco Companies d/b/a Kent-Meridian Disposal Co. Murrey's Disposal Company, Inc. American Disposal Company, Inc.**

David W. Wiley, Attorney at Law
Williams, Kastner & Gibbs, PLLC
Two Union Square
601 Union Street, Suite 4100
Seattle, WA 98101-2380
Phone: (206) 233-2895
Facsimile: (206) 628-6611
Email: dwiley@wkg.com

For Commission Staff

Lisa Watson
Assistant Attorney General
1400 S. Evergreen Park Drive S.W.
P.O. Box 40128
Olympia, WA 98504-0128
Phone: (360) 664-1186
Facsimile: (360) 586-5522
Email: lwatson@wutc.wa.gov

For Intervenor **Waste Management of Washington, Inc.**

Polly L. McNeill
Summit Law Group PLLC
315 Fifth Ave. South, Suite 1000
Seattle, WA 98104
Phone: (206) 676-7040
Facsimile: (206) 676-7041
Email: pollym@summitlaw.com

Appendix B

The Commission may issue a certificate of authority to operate motor vehicles in furnishing solid waste collection in the state of Washington if the applicant satisfies the requirements that are set out in chapter 81.77 RCW and chapter 480-70 WAC. The procedures the Commission uses in its hearings are in chapter 480-09 WAC. Copies of the statutes and rules are available from the Commission's record center, or in local libraries.

The Commission provides the information in this Appendix to inform the parties of the hearing process and the type of information the Commission will need to make a decision in this case. The parties and any interested persons should not use this Appendix as a substitute for review of the applicable statutes and rules, which may contain additional requirements applicable in this matter.

A solid waste applicant needs to provide information including, but not necessarily limited to, the following:

- (1) A description of any present service provided by the Applicant, and the cost of that service for the area proposed in the application to be served;
- (2) An estimate of the cost of the facilities to be used in providing solid waste collection and disposal service;
- (3) The condition of the equipment and the program for equipment maintenance;
- (4) A statement of the assets available to the person, firm, association or corporation that will be expended to provide solid waste collection and disposal;
- (5) The Applicant's prior experience, if any.
- (6) The Applicant's familiarity with the statutes and rules that govern the operations it proposes;

- (7) The public need for the service that the applicant proposes, including the sentiment in the community that the applicant proposes to serve as to the necessity for service;

The applicant must come to the hearing prepared to present the above information through documents or the testimony of witnesses.

Hearing

During the hearing, the Applicant will need to present testimony and documents establishing:

- (1) That there is a public need for the service proposed by the applicant.
 - Need for new service must be established by the testimony of members of the public who actually require the service. The Commission does not accept statements of an applicant that the authority is needed. The applicant must support its application with independent witnesses knowledgeable about the need for service in the territory in which the applicant seeks authority.
 - If the application is protested, the Commission will not consider written statements of witnesses whom the applicant has not made available for cross examination at hearing; the Commission will generally only consider live testimony.
- (2) That the applicant is fit, willing, and able to provide the proposed service.
 - The applicant must show that it has sufficient financial resources and assets to conduct the proposed operations.
 - The applicant must show that it is willing and able to comply with the applicable laws and the Commission's rules.

- (3) If the applicant requests a certificate to operate in a territory already served by another certificate holder, the applicant must also show that the existing transportation company or companies will not provide service in that territory to the satisfaction of the Commission