

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

DOCKET TG-190476

Complainant,
v.

ANSWER OF PENINSULA
SANITATION SERVICE, INC.

PENINSULA SANITATION SERVICE,
INC.,

Respondent.

1 COMES NOW Peninsula Sanitation Service, Inc. (“Peninsula”) by and through its counsel,
David W. Wiley and Williams, Kastner & Gibbs, PLLC, and Answers the Complaint brought
by the Washington Utilities and Transportation Commission (the “Commission”) pursuant to
WAC 480-07-370(2)(d):

I. PARTIES

2 In answering Paragraph 2, Peninsula admits the same.

3 In answering Paragraph 3, Peninsula admits the same.

II. BACKGROUND

4 In answering Paragraph 4, Peninsula observes that statements in Paragraph 4 recite
conclusions of law and/or allegations of violations of law and Commission rules to
characterize the alleged actions of Peninsula. Peninsula denies the remaining allegations in
Paragraph 4.

5 In answering Paragraph 5, Peninsula asserts that the provisions therein are recitation of
statutes and that those statutes speak for themselves, and require no response.

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- 6 In answering Paragraph 6, Peninsula denies the Investigation Report sets forth probable cause for the Commission to complain and seek penalties against Peninsula.
- 7 In answering Paragraph 7, Peninsula admits that the Commission initiated some form of investigation into Peninsula. Peninsula lacks specific knowledge about the scope or breadth of the Commission's investigation, and therefore denies the remaining allegations in Paragraph 7. In answering Footnote 1 to Paragraph 7, Peninsula again notes it lacks specific knowledge about the scope or breadth of the Commission's investigation, admits it agreed to discontinue the practice of requiring a deposit based on customer's service address, and denies the remaining allegations in Footnote 1 to Paragraph 7.
- 8 In answering Paragraph 8, Peninsula admits the Commission issued a data request for copies of Peninsula's procedures relating to customer deposits and customer refunds, a list of customers who had been charged a drive-in fee between June 1, 2016 and January 1, 2019, and a copy of Peninsula's customer complaint record between January 1, 2018 and January 1, 2019.
- 9 In answering Paragraph 9, Peninsula admits it prepared an Excel spreadsheet listing its customer deposit records from June 2017 through November 2019. Peninsula lacks specific knowledge about the scope or breadth of the Commission's investigation into the information provided by Peninsula, and additionally denies it failed to include accrued interest when refunding customer deposits.
- 10 In answering Paragraph 10, Peninsula admits it prepared an Excel spreadsheet documenting drive-in charges assessed by Peninsula. Peninsula asserts that the remaining assertions in

Paragraph 10 recites conclusions of law and/or allegations of violations of law and Commission rules to characterize the alleged actions of Peninsula. Peninsula denies that Peninsula's Tariff, Item 80, required Peninsula to charge customers drive-in fees according to a tiered rather than flat rate, and further asserts that Tariff, Item 75, which addresses what services Peninsula may charge using a flat rate, applies.

11 In answering Paragraph 11, Peninsula admits that in its service area roads designated as a "lane" are considered private roads maintained by the developer or homeowner, and that accordingly Peninsula appropriately charged drive-in fees.

12 In answering Paragraph 12, Peninsula asserts that quotations of statutes and rules speak for themselves and require no response.

13 In answering Paragraph 13, Peninsula admits that the Tariff does not define "drive-in," asserts that quotations of the Tariff speaks for itself and require no response, and that Peninsula lacks specific information about the scope or breadth of the Commission's investigation and therefore denies the remaining allegations in Paragraph 13.

14 In answering Paragraph 14, Peninsula lacks specific information about the scope or breadth of the Commission's investigation and therefore denies the same, and because Paragraph 14 is merely a recitation of the Commission Staff's conclusions of law and/or allegations of violations of law and Commission rules to characterize the alleged actions of Peninsula, Peninsula does not believe that a specific response is required, but in order to respond at this juncture of the proceeding, generally denies the assertions. Additionally, Peninsula denies that Peninsula improperly charges customers a drive-in fee, denies that Peninsula improperly

designates public roads as private roads, and asserts that because roads designated as “lanes” are maintained by homeowners or developers they are private roads eligible to be charged drive-in fees. Peninsula further denies it admitted to Commission staff that it has not measured any drive-in charges in accordance with the Peninsula Tariff.

III. JURISDICTION

15 In answering Paragraph 15, Peninsula asserts that the provisions therein are recitation of rules and statutes, and that those rules and statutes speak for themselves and requires no response.

IV. APPLICABLE LAWS AND REGULATIONS

16 In answering Paragraph 16, Peninsula admits that it is a solid waste collection company subject to regulation by the Commission. Peninsula further asserts that the cited rules and statutes speak for themselves and require no response.

17 In answering Paragraph 17, Peninsula asserts that the provision therein is a recitation of statute, and that the statute speaks for itself and requires no response.

18 In answering Paragraph 18, Peninsula asserts that the provision therein is a recitation of a rule, and that the rule speaks for itself and requires no response.

19 In answering Paragraph 19, Peninsula asserts that the provision therein is a recitation of a rule, and that the rule speaks for itself and requires no response.

20 In answering Paragraph 20, Peninsula asserts that the provision therein is a recitation of statute, and that the statute speaks for itself and requires no response.

21 In answering Paragraph 21, Peninsula asserts that the provision therein is a recitation of statute, and that the statute speaks for itself and requires no response.

V. COMPLAINT

22 In answering Paragraph 22, Peninsula restates and incorporates its prior denials and admission. To the extent, if any, this paragraph is construed to contain additional allegations requiring a response, Peninsula denies in their entirety the remaining allegations in Paragraph 22.

VI. REQUEST FOR RELIEF

23 In answer to Paragraph 23, Peninsula asks the Commission to find that Peninsula has not willfully, intentionally, or neglectfully violated RCW 81.28.080 and WAC 480-70-236(2), and therefore deny the request to assess the severe penalties sought by the Commission Staff.

24 In answer to Paragraph 24, Peninsula denies it is improperly billing customers drive-in fees as specified in its Tariff, and requests the Commission find the same.

25 In answer to Paragraph 25, Peninsula asks the Commission to deny the requested relief that Peninsula revise its Tariff on the basis that Peninsula has complied with the tariff, applicable laws and regulations, and properly assessed drive-in fees.

26 In answer to Paragraph 26, Peninsula asks the Commission to deny the overbroad and unduly burdensome request that Peninsula be ordered to file a general rate case to “socialize” current operating costs.

27 In answer to Paragraph 27, Peninsula asks the Commission to find that Peninsula has not willfully, intentionally, or neglectfully violated RCW 81.28.080 and WAC 480-70-411(6), and therefore deny the request to assess the sanctions sought by the Commission Staff.

28 In answer to Paragraph 28, Peninsula denies it improperly calculated interest payments, and requests the Commission to find the same.

29 In answer to Paragraph 29, Peninsula asks the Commission to find that no other relief is warranted or appropriate under the circumstances.

VII. PROBABLE CAUSE

30 In answer to Paragraph 30, Peninsula asks the Commission to find that probable does not exist to issue this Complaint.

VIII. ORDER AND NOTICE SETTING BRIEF ADJUDICATIVE PROCEEDING

31 In answering Paragraph 31, no response is required.

32 In answering Paragraph 32, no response is required.

33 In answering Paragraph 33, no response is required.

34 In answering Paragraph 34, no response is required.

35 In answering Paragraph 35, no response is required.

36 In answering Paragraph 36, no response is required.

37 In answering Paragraph 37, no response is required.

IX. REQUEST FOR RELIEF

38 Having answered and responded to all counts of the Complaint and the introduction, background and numerous subsumed arguments of law and fact of the Commission Staff in bringing this Complaint action, Peninsula asks that the Complaint be dismissed with prejudice.

39 Alternatively, and without waiving any of its above denials, in the event the Commission ultimately finds overcharging of customers has occurred, Peninsula asks that the Commission allow Peninsula to credit its customers the amounts of the pro rata established overcharges on prospective invoices, and that any penalties to be assessed by the Commission be significantly reduced from the extraordinary level recommended by the Staff based on the record to be established herein.

DATED this 6th day of August, 2019

RESPECTFULLY SUBMITTED,

WILLIAMS KASTNER & GIBBS, PLLC

By /s/ David W. Wiley

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CERTIFICATE OF SERVICE

I hereby certify I have provided to the Washington Utilities and Transportation Commission’s Secretary an official electronic file containing the foregoing document via the web portal to:

Mark L. Johnson, Executive Director and Secretary
Washington Utilities and Transportation Commission
Attn.: Records Center
P.O. Box 47250
621 Woodland Sq. Loop SE
Lacey, WA 98503

I further certify that on August 6, 2019, I also caused to be served a copy of the foregoing documents to the following via e-mail:

<i>Counsel for WUTC</i> Daniel J. Teimouri, WSBA # 47965 Assistant Attorney General PO Box 40128 Olympia, WA 98504-0128 (360) 664-1189 daniel.teimouri@utc.wa.gov	<i>Administrative Law Judge</i> Andrew J. O’Connell Washington Utilities and Transportation Commission PO Box 47250 Olympia, WA 98504-7250 (360) 664-1160 Andrew.j.oconnell@utc.wa.gov
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Signed at Seattle, Washington the 6th day of August, 2019.

/s/ Maggi Gruber
Maggi Gruber
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