

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

Docket TG-181023

In the Matter of the Application of Superior Waste & Recycle LLC for Authority to Operate as a Solid Waste Collection Company in Washington

RESPONSES TO SUPERIOR WASTE & RECYCLE LLC'S FIRST SET OF DATA REQUESTS TO WASTE MANAGEMENT OF WASHINGTON, INC.

Dated: May 15, 2019

Waste Management of Washington, Inc. ("Waste Management") responds to Superior Waste & Recycle, LLC's ("Superior") First Set of Data Requests (dated May 1, 2019) as follows.

I. General Objections to Data Requests

1. Waste Management objects to the Superior's data requests to the extent they seek information protected by the attorney-client privilege, the work product privilege, the privilege accorded settlement materials, or other applicable privileges. Any inadvertent production shall not waive any privilege with respect to such information or documents.
2. Waste Management objects to Superior's data requests to the extent they seek information or documents neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in this proceeding.
3. Waste Management objects to Superior's data requests to the extent they are overly broad and/or would impose an undue burden on Waste Management to review and/or produce requested communications, documents, documentary evidence, or other materials.
4. Waste Management objects to Superior's data requests to the extent they would require Waste Management to prepare new studies or analyses, compile data in a form or manner other than that in which it currently exists, or create any product specifically in response to a discovery request.
5. Waste Management objects to Superior's data requests to the extent they seek information that is publicly available.
6. Waste Management objects to Superior's data requests to the extent they seek information that is already in the possession of or readily available to the Superior from sources other than Waste Management, with a reasonable expenditure of effort on the part of Superior.

7. Waste Management reserves the right to supplement its responses, including the right to assert additional objections, as it conducts a good faith effort to respond to discovery requests and any review of potentially responsive documents or information.
8. Waste Management objects to Superior's data requests to the extent they seek the production of communications, documents, documentary evidence, or other materials beyond the possession, custody, or control of Waste Management.
9. Waste Management objects to Superior's data requests insofar as they are vague, ambiguous, overly broad, unduly burdensome, or use terms that are subject to multiple interpretations but are not properly defined or explained for purposes of these discovery requests. Any and all responses Waste Management provides to these data requests are subject to, and without waiving, this objection.
10. Waste Management objects to all of Superior's data requests to the extent that they relate to "the area Superior has applied to conduct business in," because that phrase and the territory to which it refers are not precisely defined or mapped, either in Superior's data requests or in the materials submitted with Superior's certificate application. Subject to this objection, Waste Management's responses to all such data requests reflect Waste Management's good-faith effort to understand Superior's data request.
11. Waste Management objects to Superior's data requests that seek "all documents," "all correspondence," and other similarly worded requests utilizing the terms "all" or "any." Such requests are overly broad and unduly burdensome, and fail to identify with sufficient specificity the information or material sought. Notwithstanding this objection, Waste Management will produce responsive, non-privileged materials sufficient to support its position or response.
12. Waste Management objects to Superior's "Definitions" and "General Instructions" or individual data requests to the extent they are inconsistent with or purport to require Waste Management to do anything not required by the procedures and requirements set forth in the Commission's discovery rules and Order No. 1 in this case, and to the extent that they purport to alter the plain meaning of any data request or render it vague, ambiguous, unintelligible, overbroad, or unduly burdensome.

II. Responses and Objections to Data Requests

A. Customers

- 0001 Please provide a complete listing of all current customers of Waste Management in the area Superior has applied to conduct business in, in its certificate application, including name, street address, telephone number(s), and e-mail address(es) (if known).

Response: Waste Management objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence, as the issues in this case are limited to whether Superior's application meets the requirements for a certificate of public convenience and necessity and whether Waste Management will provide service to the satisfaction of the Commission. *See RCW*

81.77.040. Waste Management further objects to this request because WAC 480-70-421 strictly limits Waste Management's use of customer information, and providing the requested information to Superior is not among the allowed uses. Waste Management further objects to this request because the request is overly broad and compiling the requested information on Waste Management's approximately 6,000 customers within Superior's proposed service area would be unduly burdensome in light of the narrow focus of this proceeding. Waste Management further objects to this request because the requested information includes confidential valuable commercial information (*see* WAC 480-07-160) and providing it would present a business risk to Waste Management, as Superior's sole proprietor has a history of soliciting and serving Waste Management customers in the requested area in violation of state law, Commission regulation, and Waste Management's exclusive right under its certificate to collect solid waste in the referenced area. *See In the Matter of Determining the Proper Carrier Classification Of, and Complain for Penalties Against: Daniel Stein d/b/a/ Seabeck Waste & Recycle*, Docket TG-180181, Order 02 (*Initial Order Classifying Respondent as a Solid Waste Collection Carrier; Ordering Respondent to Cease and Desist; Imposing and Suspending Penalties on Condition of Future Compliance*) (December 10, 2018).

Person Who Prepared the Response:

N/A

Witness Knowledgeable About the Response:

N/A

0002 For each customer, please identify their current frequency of service (i.e. weekly, every other week, or monthly).

Response: For the reasons explained in response to Superior's Data Request No. 0001, Waste Management objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence; providing the requested information is not among the allowed uses of customer information under WAC 480-70-421; the request is overly broad and unduly burdensome; and the request seeks confidential valuable commercial information.

Person Who Prepared the Response:

N/A

Witness Knowledgeable About the Response:

N/A

0003 For each customer, please identify their current level of service (i.e. 1 can; 2 cans; 3 cans or cart size if they have carts)

Response: For the reasons explained in response to Superior's Data Request No. 0001, Waste Management objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence; providing the requested information is not among the allowed uses of customer information under WAC 480-70-421; the request is overly broad and unduly burdensome; and the request seeks confidential valuable commercial information.

Person Who Prepared the Response:

N/A

Witness Knowledgeable About the Response:

N/A

0004 For the customers mentioned above, please provide all correspondences sent to Waste Management for the past twenty-four (24) months.

Response: For the reasons explained in response to Superior's Data Request No. 0001, Waste Management objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence; providing the requested information is not among the allowed uses of customer information under WAC 480-70-421; the request is overly broad and unduly burdensome; and the request seeks confidential valuable commercial information.

Person Who Prepared the Response:

N/A

Witness Knowledgeable About the Response:

N/A

0005 For the customers mentioned above, please provide list [sic] of all complaints sent to Waste Management for the past twenty-four (24) months.

Response: For the reasons explained in response to Superior's Data Request No. 0001, Waste Management objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence, except to the extent that it relates to complaints relevant to Waste Management's options for solid waste collection beyond standard collection points; providing the requested information is not among the allowed uses of customer information under WAC 480-70-421; the request is overly broad and unduly burdensome; and the request seeks confidential valuable commercial information. Subject to and without waiving the foregoing objections, Waste Management responds as follows:

In the past 24 months, Waste Management's records show only two customer service cases (a database category for complaint-type customer contacts) in Superior's proposed service territory related to Waste Management's carry-out or drive-in service or obviously related to a customer's ability to transport collection containers to Waste Management collection points. Those records reflect the following:

- In one case, with records from September 8 and September 11, 2017, a customer called about her solid waste container not being emptied. She said she was having a hard time getting her solid waste collected and getting her container down to the main road. Waste Management initially advised that carry-out service was unavailable at that location, but later modified its collection point to accommodate carry-out service, which she now receives.

- In the other case, with records from July 6 and 10, 2017, a customer receiving carry-out service called and said that his recycling was not being collected. It appears that a new Waste Management collection driver had been assigned to the customer's route and was not aware of the carry-out service.

Other than those two cases, Waste Management's records show only 110 customer service cases from 95 customers in the past 24 months, out of the approximately 6,000 Waste Management customers in Superior's proposed service territory. None of those 110 cases is associated with any of the Waste Management customers currently receiving carry-out or drive-in service within Superior's proposed service territory. Those cases are not relevant to the proceeding at hand, but Waste Management notes that they fall into the following general categories:

- Pickup issues including disputed reports that a customer container was not placed out for collection (but with no indication of relevance to the issues in this case): 67 cases
- Delivery, removal, swap, or repair of collection containers: 29 cases
- Reports of litter or other mess caused by Waste Management, including collection containers not placed neatly after collection: 10 cases
- Driver issues: 7 cases

These total to greater than 110 because a few cases fall into more than one category. Finally, it is important to note that the existence of a customer service case does not mean that Waste Management committed any error or was otherwise at fault.

Person Who Prepared the Response:

Mike Weinstein

Witness Knowledgeable About the Response:

Mike Weinstein

0006 For the customers mentioned above, please provide all list [sic] of all instances Waste Management has refused to provide service for the past twenty-four (24) months.

Response: For the reasons explained in response to Superior's Data Request No. 0001, Waste Management objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence, except to the extent that it relates to Waste Management's options for solid waste collection beyond standard collection points; providing the requested information is not among the allowed uses of customer information under WAC 480-70-421; the request is overly broad and unduly burdensome; and the request seeks confidential valuable commercial information. Subject to and without waiving the foregoing objections, Waste Management responds as follows:

Waste Management has received only three *total* requests for carry-out or drive-in service in the proposed Superior service territory in the last two years. In one case, Waste Management is now providing the requested drive-in service, and in another case we were able to change a customer's pickup location as requested without adding any

additional service or charges. In just one case, Waste Management was unable to provide requested drive-in service due to lack of turnaround room for the collection truck.

Person Who Prepared the Response:

Mike Weinstein

Witness Knowledgeable About the Response:

Mike Weinstein

- 0007 For each customer, please estimate the distance from the point of collection to the public street, and describe any access or safety issues that have in the past, currently do, or may in the future affect service at such location.

Response: For the reasons explained in response to Superior's Data Request No. 0001, Waste Management objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence; providing the requested information is not among the allowed uses of customer information under WAC 480-70-421; the request is overly broad and unduly burdensome; and the request seeks confidential valuable commercial information. In addition, Waste Management objects to the request because it seeks information Waste Management does not regularly track.

Person Who Prepared the Response:

N/A

Witness Knowledgeable About the Response:

N/A

- 0008 Please indicate how long you have been servicing each of the customers mentioned above.

Response: For the reasons explained in response to Superior's Data Request No. 0001, Waste Management objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence; providing the requested information is not among the allowed uses of customer information under WAC 480-70-421; the request is overly broad and unduly burdensome; and the request seeks confidential valuable commercial information.

Person Who Prepared the Response:

N/A

Witness Knowledgeable About the Response:

N/A

- 0009 Please provide the total amount you have billed each customer for the last twenty-four months

Response: For the reasons explained in response to Superior's Data Request No. 0001, Waste Management objects to this request because it seeks information that is neither

relevant nor reasonably calculated to lead to the discovery of admissible evidence; providing the requested information is not among the allowed uses of customer information under WAC 480-70-421; the request is overly broad and unduly burdensome; and the request seeks confidential valuable commercial information.

Person Who Prepared the Response:

N/A

Witness Knowledgeable About the Response:

N/A

B. Witnesses

0010 Please indicate all witnesses you intend to call at hearing in this matter. In that regard:

- a. Please identify each person you expect to call as a witness (see definitions above as to the meaning of “identify”).

Response:

Full name: Michael Weinstein

Employer: Waste Management of Washington, Inc.

Job title: Senior Pricing Manager, Pacific NW Area

Duties: Provide financial and rate analysis for WM operations in Washington, Oregon, and Idaho; prepare rate filings for WUTC; perform financial analysis on municipal bids, proposals, and acquisitions.

Business address: 720 3th Ave, Suite 400
Kirkland, WA 98033

Full name: Robert Rutledge

Employer: Waste Management of Washington, Inc.

Job title: District Manager, Brem-Air Disposal

Duties: Oversee day-to-day operations of Waste Management d/b/a Brem-Air Disposal.

Business address: 9300 SW Barney White Rd.
Bremerton, WA 98312

Person Who Prepared the Response:

Mike Weinstein; Rob Rutledge

Witness Knowledgeable About the Response:

Mike Weinstein; Rob Rutledge

- b. For each person identified, please state the subject matter on which the person is expected to testify.

Response:

Mr. Weinstein is expected to testify about Waste Management's history of providing solid waste service to the satisfaction of the Commission; its willingness to provide the service proposed by Superior to the Commission's satisfaction; and doubts about Superior's application and its fitness to provide the proposed service.

Mr. Rutledge is expected to testify about safety and logistical aspects of any needed expansion of Waste Management's service, as well as Waste Management's and Superior's respective backup plans in case personnel or equipment are unavailable.

Person Who Prepared the Response:

Mike Weinstein; Rob Rutledge

Witness Knowledgeable About the Response:

Mike Weinstein; Rob Rutledge

- c. For each person identified, please state whether the witness will testify based on personal knowledge or as an expert opinion.

Response: Both Mr. Weinstein and Mr. Rutledge are expected to testify in part on personal knowledge and in part on the basis of their expert opinions.

Person Who Prepared the Response:

Mike Weinstein; Rob Rutledge

Witness Knowledgeable About the Response:

Mike Weinstein; Rob Rutledge