

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Application of:

SUPERIOR WASTE & RECYCLE LLC

**for Authority to Operate as a Solid Waste
Collection Company in Washington**

DOCKET TG-181023

**WASTE MANAGEMENT OF
WASHINGTON, INC. THIRD SET OF
DATA REQUESTS TO SUPERIOR
WASTE & RECYCLE LLC AND
RESPONSES THERETO**

Dated: July 29, 2019

Superior provides responses to these requests subject to the protective order entered in this matter. All applicable responses were provided by Mr. Daniel Stein.

GENERAL OBJECTIONS TO DATA REQUESTS

1. Superior objects to data requests to the extent they seek information or the production of documents protected by the attorney-client privilege or work product doctrine. Such documents or information shall not be produced. Any inadvertent production shall not be deemed a waiver of any privilege with respect to such information or documents, or of any work product doctrine which may attach thereto.

2. These responses to data requests are subject to such additional or different information as may be disclosed through further investigation of discovery. Superior reserves the right to make any use of, or to introduce at any hearing and at trial, any responsive information or documents discovered subsequent to the date of their initial answers and production, including but not limited to, any documents obtained in discovery.

3. Superior reserves the right to decide whether the documents produced for inspection will be produced as they are kept in the usual course of business.

4. Superior reserves all objections to the competency, relevance, materiality, privilege or admissibility as evidence in any subsequent proceeding in or trial of this or any other action.

5. Superior objects to the introductory definitions and instructions to data requests to the extent they purport to enlarge, expand or alter in any way the plain meaning and scope of any specific request, on the ground that such enlargement, expansion or alteration renders the data requests vague, ambiguous, unintelligible, unduly broad and uncertain.

6. Superior objects to data requests to the extent they purport to enlarge, expand or alter the obligation to provide amended or supplemental answers.

I. DATA REQUESTS

A. Superior Operations

0049 Does Superior ever hire or otherwise accept labor from anyone other than Mr. Stein in the performance of its operations? Please explain.

Response: Yes, Tammy Stein is a backup driver. Caroline Stein will be handling the USOA CPA work

0050 REQUEST FOR ADMISSION: Exhibit DS-7 to Mr. Stein's direct testimony is a Kitsap Sun article dated May 15, 2019. That article attributes a number of quotes to Mr. Stein. In this regard:

- a. Please admit that Mr. Stein made each of the statements attributed to him in the article. If your response is anything other than an unqualified admission, please state what you believe to be the truth of the matter, including identification of each statement Mr. Stein believes is incorrectly reported, how, and what he believes he actually said.

Response: I believe the statements that are quoting me are correct. However, the statements being referenced were made some time back, to the best of my knowledge.

- b. Please admit that Mr. Stein believed the truth of each statement attributed to him in the article when he made it. If your response is anything other than an unqualified admission, please identify each statement Mr. Stein did not believe true when he made it, explain why he made such statement despite not believing its truth, and state what he believed to be the truth of the matter at the time he made the statement.

Response: I believe the statements that are quoting me are correct. However, the statements being referenced were made some time back, to the best of my knowledge.

- c. Please admit that Mr. Stein currently believes the truth of each statement attributed to him in the article. If your response is anything other than an unqualified admission, please identify each statement Mr. Stein currently believes is not true, explain why he believes so, and state what he now believes to be the truth of the matter.

Response: I believe the statements that are quoting me are correct. However, the statements being referenced were made some time back, to the best of my knowledge.

0051 REQUEST FOR ADMISSION: Exhibit DS-7 to Mr. Stein's direct testimony is a Kitsap Sun article dated May 15, 2019. Please admit that all the information in the article is true

and correct to the best of Mr. Stein's knowledge. If your response is anything other than an unqualified admission, please identify any passage Mr. Stein knows or believes to be untrue or misleading and state what Mr. Stein believes to be the truth of the matter.

Response: I can't attest to the truth of quotes made by others.

0052 At Page 7 of his response testimony, Mr. Stein testifies that he has backup drivers in place. In this regard:

- a. Please identify each such driver and state their qualifications to provide Superior's proposed service.

Response: Tammy Stein has knowledge and access to customers' route and contact information.

- b. How much will Superior pay such drivers? How are those amounts reflected in its financial information in this proceeding?

Objection: This question seeks privileged financial information of Superior's. This is also not relevant to the issue at hand of whether Waste Management is providing adequate service to its customers.

Response: Any Superior employees will be paid in accordance to Federal and State mandated laws.

- c. What is the nature of the legal relationship between Superior and its backup drivers? For example, will they be employees, independent contractors, or some other arrangement?

Objection: This question seeks privileged financial information of Superior's. This is also not relevant to the issue at hand of whether Waste Management is providing adequate service to its customers.

Response: Superior will have workers in various different legal relationships.

- d. Please describe the worker's compensation arrangements for Superior's intended backup drivers.

Objection: This question seeks privileged financial information of Superior's. This is also not relevant to the issue at hand of whether Waste Management is providing adequate service to its customers.

Response: Any Superior employees will be paid in accordance to Federal and State mandated laws.

- e. Please produce proof of insurance covering the operations of all Superior drivers, including but not necessarily limited to Mr. Stein and each backup driver identified in response to (a).

Objection: This question seeks privileged financial information of Superior's. This is also not relevant to the issue at hand of whether Waste Management is providing adequate service to its customers.

Response: Superior plans to have adequate insurance covering its operations and operations of all drivers once the certificate is granted.

- f. Please produce each current insurance policy applicable to Superior's operations.

Objection: This question seeks privileged financial information of Superior's. This is also not relevant to the issue at hand of whether Waste Management is providing adequate service to its customers.

Response: Superior plans to have adequate insurance covering its operations and operations of all drivers once the certificate is granted.

0053 Superior's response to Waste Management's Data Request 0029(c) indicates that when Superior picks up customers' waste, "garbage goes in the trailer and recyclables go in the truck." In this regard:

- a. Please describe the trailer Superior refers to and how it is used in Superior's operations.

Response: It has four sides and is complete with two tires.

- b. Please describe who owns the referenced trailer and the terms of, and factors influencing, its availability to Superior.

Response: Mr. Stein own the trailer and it is available whenever needed for the operations of solid waste collection.

- c. Superior's response goes on to explain what happens "[i]f a trailer is not available" Please explain what determines whether a trailer is available.

Response: The use of a trailer is dependent on if the turnaround area at the customer pickup location allows enough area to turn around. Otherwise, the truck alone is utilized.

- d. Please state any Superior assets, liabilities, and/or cash flows related to the referenced trailer.

Response: The trailer is owned by Mr. Stein free and clear.

- e. Please identify and describe each and every item in Superior's financial information in this proceeding that includes any assets, liabilities, and/or cash flows related to the referenced trailer.

Objection: This question seeks duplicate information that has previously been provided.

Response: The trailer is owned by Mr. Stein free and clear.

0054 In response to Waste Management's Data Request 0031(c), Superior indicated that "Mr. Stein does not sort co-mingled [recyclable] materials; he only segregates the pre-segregated co-mingled recyclable material sourced from the customer." In this regard:

- a. Please describe how Superior handles and disposes of co-mingled recyclable materials that Mr. Stein does not sort.

Objection: This question seeks duplicate information that has previously been provided in Waste Management's previous data requests.

Response: It's kept segregated by liners and put into the proper bins at the county recycling center.

- b. When Superior collects co-mingled recyclable materials that Mr. Stein does not sort, are they disposed of as garbage? If not, how are such materials disposed of?

Objection: This question seeks duplicate information that has previously been provided.

Response: No, it is placed in the proper bins and the county recycling center.

0055 REQUEST FOR ADMISSION: The second page of Superior's business plan (which lacks page numbers) filed with its application in this proceeding says, "Hiring outside, professional help (CPA, Financial Advisors, Legal Assistance, etc.) with shared Faith Based values is a clear direction this organization [that is, Superior] aims for." Please admit that Superior's budget and statement of estimated annual business expenses do not include any expenditures for professional services other than CPA expenses. If your response is anything other than an unqualified admission, please state what you believe to be the truth of the matter.

Response: That is true, however I have financial advisors that are free to me and I am confident in such an endeavor as this that those legal needs will continue to be met.

0056 In response to Data Request 0035(c), Superior identified its business office location as "15384 Seabeck Hwy, Seabeck, WA 98380." In this regard:

- a. Waste Management understands that to be the business address for the Seabeck Landing General Store. Is that correct? If not, please explain.

Response: Yes, that will be the new business address for Superior.

- b. Please describe the nature of Superior's business relationship(s) under which it proposes to use that location and address as its business office.

Response: Superior has secured an office space within the Seabeck Landing general store.

- c. Please describe the physical space at that address that Superior proposes to use as its business office location, including how customers would access the office.

Response: Superior has secured an office space within the Seabeck Landing general store. Customers will have access to that office space.

0057 In response to Data Request 0035(d), Superior identified its regular business hours as 8am – 5 pm. In that regard:

- a. Would Superior be open for business during the stated hours every day of the year? If not, please describe which days (days of the week, holidays, particular dates, etc.) Superior would not be open for regular business.

Response: Superior is open Monday through Friday, 8am to 5pm, except Christmas Eve, Christmas Day, and New Year's Day.

- b. Would Superior be open for business *at its stated business office location*, 15384 Seabeck Hwy, Seabeck, WA 98380, during all hours identified in response to (a) above and Data Request 0035(d)? Please explain.

Response: Yes, Superior's doors are open from 8am to 5pm.

0058 In Data Request 0037, Waste Management asked how Superior "billed its customers and collected and accounted for payment before the Commission's cease and desist order, Order 02 in Docket TG-180181 (the classification and complaint case against Mr. Stein d/b/a Seabeck Waste and Recycle)." Superior responded: "No such record of activity. All records destroyed pursuant to the order of docket TG-180181." In this regard:

- a. Waste Management has reviewed both orders entered in the referenced proceeding and cannot identify any provision requiring or recommending destruction of any records. Please indicate precisely which order(s) and which paragraph(s) thereof Superior understands to have directed destruction of records and, if not obvious on the face of such paragraphs, explain why Superior interpreted them to require destruction of records.

Response: A cease and desist order is some pretty scary stuff. I never want to go through that again. From what I understood, the order meant just that – cease and desist. I had writings that pertained to notes about roads, potential customers, ideas, advertisements, concerns, solutions, notebooks of amazing stuff that I did not in any way want to throw away. But the way I understood the order to be, I had to shut it all down. That is exactly what I did. It was my desire to comply with the lawful order I was served, to move forward with new knowledge, to the liking of the commission.

- b. Please describe the records that Superior indicates were destroyed.

Response: I had writings that pertained to notes about roads, potential customers, ideas, advertisements, concerns, solutions, notebooks of amazing stuff that I did.

- c. Regardless of the existence of any records, please *describe* how Superior billed its customers and collected and accounted for payment before the Commission's cease and desist order, Order 02 in Docket TG-180181 (the classification and complaint case against Mr. Stein d/b/a Seabeck Waste and Recycle).

Objection: This question is regarding *Seabeck Waste & Recycle's* financial information. The matter at hand is in regard to *Superior Waste & Recycle's* application.

Response: To the best of my knowledge, no activity occurred.

- 0059 REQUEST FOR ADMISSION: In response to Waste Management Data Request 0044, Superior admits that it "has no experience maintaining accounts consistent with the UTC's Uniform System of Accounts for solid waste collection companies." In response to Data Request 0045, Superior admits that it "has no experience maintain accounts consistent with any Uniform System of Accounts." Superior qualified both admissions: "however, Superior plans to hire a CPA that does." In response to Data Request 0034(a), Superior claims that "[a] CPA is clearly defined as an annual business expenditure in Superior's business expense."

Please admit that Superior's statement of estimated annual business expenses filed in this proceeding assumes an expenditure of \$300 per year for CPA services. If your response is anything other than an unqualified admission, please state what you believe to be the truth of the matter.

Response: I did not state and estimate, I stated a fact of record that I would give a business allowance of \$300.00 for a CPA or a cost to be incurred to set that up.

B. Scope of Proposed Certificate

- 0060 Superior's response to Waste Management Data Request 0028 reads in part, "Superior's drive-in service is available to all residents of Superior." Please explain what is meant by "all residents of Superior."

Response: To clarify, "drive in/pack out service" would be available to all residential residents living inside the territory Superior Waste & Recycle LLC has applied for.

- 0061 Page 7 of Mr. Stein's response testimony asks, "Waste Management believes you are seeking general authority to provide municipal solid waste and recycling within its proposed territory. Is that correct?" Mr. Stein replies: "I am applying for a certificate to serve customers that require pack-out and drive-in service." In this regard:
- a. Please explain how Superior proposes to determine whether a customer "requires" the service Superior seeks to offer.

Response: The customer would be (required) to utilize the service of Superior if said customer was seeking a service that would require WM from leaving the public roadways at WM's predetermined pickup points. Speaking directly to WM's existing tariff when the application was submitted by Superior.

- b. Please explain how Superior proposes to determine whether its requested certificate allows it to serve any given potential customer.

Response: The resident must be inside the territory of Superior. Pickup of the cans Superior provides must not encroach on what WM classifies its curbside service to be. This means Superior may not contract service for a customer if the customer plans on placing its cans within the limits of WM's acceptable curbside requirements. In the event the customer does choose to place their cans and it is beyond the acceptable terms of WM's curbside pickup point stated in their tariff, that would then classify such service as pack-out or drive-in service under WM's current tariff when Superior's application was submitted. This would then make such potential customers, with their elevated service needs, applicable to Superior Waste & Recycle LLC. Although this is what Superior proposes, it waits for the finalization of these details to the liking of the commission and staff.

- 0062 At page 7 of his response testimony, Mr. Stein testifies that pack-out service "require [sic] special vehicles." Please describe the special vehicles Mr. Stein refers to.

Response: A vehicle that is capable of the task at hand. Unlike WM's "future planning" of purchasing two collection vehicles that cannot meet the needs of all their customers currently and likely future customers, Superior has chosen its collection vehicle to be fully capable of even the tightest, roughest roads, ensuring the needs of the public are met.

- 0063 At page 8 of his response testimony, Mr. Stein testifies that "Superior is only attempting to gain a certificate and provide pack out and specialized services to its customers." In this regard:

- a. Please indicate each passage in Superior's application and proposed tariff that indicates the limits on the "specialized" services that Superior proposes to offer.

Response: Superior's service plan of focusing on pack-out drive-in service is its specialty. Specializing in the aspect of this narrow field is the specialty. No curbside service, no roll off service, no dumpster service, etc.

- b. Please explain how Superior would determine whether a resident is eligible for Superior's proposed service.

Objection: This question seeks duplicate information that has previously been provided.

Response: This question was already answered in Superior's response to Data Request 0061(b).

- c. Does Superior intend to offer any services to customers who are currently eligible for the same service from Waste Management under the Brem-Air tariff? Please explain.

Response: It was explained to me that this is the only way to accomplish serving those who are not being served by WM. It would involve a transfer of authority. Unless provisions can be drawn up, the answer is yes. Pack-out and drive-in service go hand-in-hand and I service the public in this realm that WM has intentionally wrote themselves out of and admits their current plans cannot match that of Superior.

0064 REQUEST FOR ADMISSION: Please admit that to the best of Superior's knowledge, no map of Superior's proposed service territory exists that meets the standards described in WAC 480-70-056. If your response is anything other than an unqualified admission, please state what you believe to be the truth of the matter and produce any such map.

Response: Superior's proposed map was already accepted by the commission.

DATED this 29th day of July 2019.

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