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1 BEFORE THE WASHINGTON

2 UTILITIES AND TRANSPORTATION COMMISSION

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4 In the Matter of Determining )DOCKET NO. TG-180181

the Proper Carrier Classification )

5 of, and Complaint for Penalties )

Against: )

6 )

DANIEL STEIN d/b/a SEABECK )

7 WASTE & RECYCLE )

)

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BRIEF ADJUDICATIVE PROCEEDING, VOLUME I

10

Pages 1-44

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ADMINISTRATIVE LAW JUDGE LAURA CHARTOFF

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13

November 29, 2018

14

1:30 P.M.

15

16 Washington Utilities and Transportation Commission

1300 South Evergreen Park Drive Southwest

17 Olympia, Washington 98504

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FOR SEABECK WASTE &

13 RECYCLE:

14 DANIEL STEIN

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16

17

ALSO PRESENT:

18

JASON HOXIT

19 Staff Witness

20

TENA HOPPER

21 Seabeck Waste & Recycle Witness

22

23 \* \* \* \* \*

24

25

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1 OLYMPIA, WASHINGTON; NOVEMBER 29, 2018

2 1:30 P.M.

3 --o0o--

4

P R O C E E D I N G S

5

6 JUDGE CHARTOFF: Okay. Let's be on the

7 record. Today is Thursday, November 29th, 2018, and the

8 time is a little after 1:30 p.m. This docket is

9 TG-180181, which is captioned In the Matter of

10 Determining the Proper Carrier Classification of, and

11 Complaint for Penalties Against Daniel Stein, doing

12 business as Seabeck Waste & Recycle.

13 My name is Laura Chartoff. I am the

14 administrative law judge presiding over today's brief

15 adjudicative proceeding.

16 Let's start by taking short appearances from

17 the parties starting with Staff.

18 MR. FUKANO: Good morning, Judge Chartoff.

19 I am Harry Fukano, Assistant Attorney General, with the

20 Utilities and Transportation Commission division here on

21 behalf of Commission Staff.

22 JUDGE CHARTOFF: Thank you.

23 And for the respondent, Daniel Stein, doing

24 business as Seabeck Waste & Recycle?

25 MR. STEIN: I am Daniel Stein, doing

0005

1 business as.

2 JUDGE CHARTOFF: Can you please also provide

3 your business address, phone number, and business email

4 if you have one?

5 MR. STEIN: I -- there is none. There was a

6 PO Box that I'd used. There was no website or -- yeah.

7 JUDGE CHARTOFF: Okay.

8 MR. STEIN: And I'm sorry, that was PO Box

9 480, Seabeck, Washington 98380. I'm sure that's kinda

10 what you were looking for.

11 JUDGE CHARTOFF: Thank you. Yeah, I assumed

12 it was the one that we had in the record.

13 Okay. So this a classification hearing that

14 was brought by the Commission based on Staff's finding

15 that Mr. Stein is operating as a solid waste collection

16 company without the required certificate from the

17 Commission. And if we determine today that Mr. Stein

18 was engaging in such conduct, we will issue an order

19 requiring him to cease and desist from engaging in such

20 conduct unless and until he obtains a certificate from

21 the Commission.

22 We also have a complaint for penalties, and

23 the complaint for penalties alleges that the business

24 violated RCW 81.77.040 on two occasions by operating as

25 a solid waste collection company without a certificate

0006

1 of public convenience and necessity. And Staff is

2 requesting penalties of up to $1,000 for each violation.

3 So at this time, I wanted to ask, Mr. Stein,

4 are you planning to admit the violations today or to

5 contest that they occurred? Just briefly.

6 MR. STEIN: Yeah, yeah, just briefly, I

7 just -- I want it to be known that I can see where I

8 went wrong. I didn't -- I do admit that I was outside.

9 I spoke a little bit with Jason Hoxit on the phone. I

10 clearly see when I was served this paperwork. So yes, I

11 was in violation of -- of that law, of the

12 RCW 81.77.040, so I was.

13 I don't know if it was -- I don't know if it

14 was gone about the right way with the seven days.

15 There's a seven calendar day. That's under

16 RCW 34.05.110 where there's a seven calendar day to

17 serve me of the violation to be corrected. But with all

18 of that aside, what I want to do is I don't want to

19 fight. So I would like to work with the UTC and with

20 the score hand in hand. That's my goal here today.

21 It's not to come down and raise my arms and, you know,

22 cry injustice. So I -- I do admit. So I'm not sure

23 exactly if I want to say that I'm guilty at this point

24 right now given the RCW stated.

25 JUDGE CHARTOFF: Okay.

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1 MR. STEIN: There's a procedure that's

2 supposed to be followed in these matters, but I -- I

3 don't want to fight. So I just want to be clear with

4 that. I can clearly see where I was wrong.

5 JUDGE CHARTOFF: Okay. Okay. I was asking

6 because I wanted to see if the respondent was willing to

7 stipulate to the facts of what occurred, but since -- it

8 sounds like perhaps you should go ahead and present your

9 case; does that sound...

10 MR. FUKANO: I think it does. I mean, it

11 sounds as though Mr. Stein is willing to acknowledge

12 what had occurred. But if the judge -- if you would

13 prefer, then we will proceed.

14 JUDGE CHARTOFF: We'll just go ahead and

15 have you present your case so I have it all on the

16 record.

17 So before you get started, so here's how

18 this will go. Staff will present their case first today

19 and then you will have the opportunity to present your

20 side of the story. When I call on each party to

21 testify, I will swear you in with the oath of witness so

22 that anything you tell the Court will be under oath and

23 can be considered sworn testimony.

24 And for the court reporter's benefit, please

25 speak slowly and clearly, and also please be sure to use

0008

1 the microphone on the table in front of you. And once

2 you are sworn in, you can present your testimony.

3 MR. FUKANO: Judge, if I may, can I have a

4 brief moment to speak with Staff, just two minutes in

5 the hallway?

6 JUDGE CHARTOFF: Of course, yes. Yeah,

7 we'll take a brief recess.

8 (Recess taken from 1:38 p.m.

9 until 1:43 p.m.)

10 JUDGE CHARTOFF: We're back on the record.

11 MR. FUKANO: And, Judge, I have placed two

12 copies of our proposed Exhibit JH-1 on the bench, one

13 for you, one for records.

14 JUDGE CHARTOFF: Okay. And did you provide

15 a copy -- or you'll provide when you introduce the

16 exhibit?

17 MR. FUKANO: Yes, we will.

18 JUDGE CHARTOFF: Okay. Okay. You can

19 proceed when you're ready.

20 MR. FUKANO: RCW 81.77.010 states that --

21 defines a solid waste collection company as every person

22 owning, controlling, operating, or managing vehicles

23 used in the business of transporting solid waste for

24 collection or disposal or both for compensation, except

25 septic tank pumpers, over any public highway in the

0009

1 state. That same statute defines a common -- or excuse

2 me -- as a common carrier or as a contract carrier.

3 That same statute defines a common carrier as any person

4 who collects or transports solid waste or for disposal

5 by motor vehicle for compensation whether over regular

6 or irregular routes or by regular or irregular

7 schedules.

8 RCW 81.77.010 also states that solid waste

9 has the same meaning as in RCW 70.95.030, which in turn

10 defines solid waste in part as all putrescible and

11 nonputrescible solid and semisolid wastes including, but

12 not limited to, garbage, rubbish, ashes, industrial

13 waste, soil sewage sludge, demolition and construction

14 waste of any vehicle parts or vehicles or parts thereof.

15 Under RCW 81.77.020, no person shall engage

16 in the business of operating a solid waste company in

17 this state except in accordance with RCW 81.77. RCW

18 81.77.040 states that a solid waste company shall not

19 operate for the hauling of solid waste for compensation

20 without first having obtained from the Commission a

21 certificate declaring that public convenience and

22 necessity requires such operation.

23 The same statute further states that

24 operating for the hauling of solid waste includes

25 advertising, soliciting, offering, or entering into an

0010

1 agreement to provide that service.

2 Staff intends to present evidence that

3 Seabeck Waste & Recycling operated as a solid waste

4 collection company on two separate instances, by

5 advertising and/or soliciting solid waste collection

6 business and by offering to provide solid waste

7 collection services without authorization from the

8 Commission. Staff will present evidence through

9 Mr. Jason Hoxit, who will testify about Staff's

10 investigation of and determinations regarding Seabeck

11 Waste & Recycle. Thank you.

12 JUDGE CHARTOFF: Thank you.

13 MR. FUKANO: And I would like to call Jason

14 Hoxit.

15 (Jason Hoxit sworn.)

16 JUDGE CHARTOFF: Thank you. Please be

17 seated.

18

19 E X A M I N A T I O N

20 BY MR. FUKANO:

21 Q. Would you please state your name and spell your

22 last name for the record?

23 A. Jason Hoxit, H-o-x-i-t.

24 Q. And what is your current occupation?

25 A. Compliance investigator.

0011

1 Q. And how long have you been in that position?

2 A. Over four years.

3 Q. And what does that position involve?

4 A. It involves investigating the business practices

5 of permitted companies, but also into the business

6 practices of nonpermitted companies.

7 Q. I would like to discuss the matter that is at

8 issue at today's hearing. Are you familiar with the

9 matter involving Seabeck?

10 A. Yes, I am.

11 Q. And how are you familiar?

12 A. I was emailed a complaint by Waste Management in

13 December of 2017 alleging that Seabeck Waste was

14 distributing flyers in the Seabeck, Washington area

15 soliciting service for solid waste collection.

16 Q. And I'm showing you what has been labeled as

17 Exhibit JH-1.

18 MR. FUKANO: And, Judge, may I approach the

19 witness?

20 JUDGE CHARTOFF: Yes.

21 MR. FUKANO: Or approach opposing?

22 JUDGE CHARTOFF: Yes.

23 MR. FUKANO: This is JH-1.

24 BY MR. FUKANO:

25 Q. What is this exhibit, Mr. Hoxit?

0012

1 A. Which page are you referring to?

2 Q. Just the exhibit in general.

3 A. This is Staff's investigations report of Seabeck

4 Waste.

5 Q. And are you familiar with this exhibit?

6 A. Yes, I am.

7 Q. And how did you become familiar with this

8 exhibit?

9 A. I am the investigator that drafted this report.

10 Q. And do you agree with the information contained

11 in this report?

12 A. Yes, I do.

13 Q. And would you have any changes to make to this

14 report?

15 A. I would not.

16 MR. FUKANO: At this time, I would offer

17 proposed Exhibit JH-1 into evidence.

18 JUDGE CHARTOFF: Mr. Stein, do you have an

19 objection?

20 MR. STEIN: Yeah, I believe that this was

21 the same as what I was served with in the packet. So

22 there is some conflicting -- briefly if I may have a

23 moment?

24 JUDGE CHARTOFF: So you disagree with some

25 of the statements in there?

0013

1 MR. STEIN: Just a few statements, yeah.

2 Everything in -- I'm gonna say 95 percent of this is 100

3 percent correct. There's a few things that it stated

4 that happened if this is the same that I'm looking at

5 that I don't -- I --

6 JUDGE CHARTOFF: Okay.

7 MR. STEIN: Yeah.

8 JUDGE CHARTOFF: I am going to admit Exhibit

9 JH-1; however, when it's your turn to provide testimony,

10 you can explain -- you will have the opportunity to

11 explain what parts -- what facts in there that you

12 disagree with.

13 MR. STEIN: Thank you.

14 JUDGE CHARTOFF: Okay.

15 (Exhibit JH-1 admitted.)

16 BY MR. FUKANO:

17 Q. Mr. Hoxit, I would like to ask you some

18 additional questions about the investigation detailed in

19 the report. You mentioned that you initially received a

20 complaint, do you recall what that complaint stated?

21 A. Yes, the complaint stated that customers in the

22 Seabeck area of Kitsap County brought this flyer,

23 referring to Appendix G -- sorry, let me -- which will

24 also be page 18 of the exhibit, to our attention. (As

25 read) It appears that a waste hauler is trying to

0014

1 provide service outside their jurisdiction.

2 And Waste Management goes on to say, (as read)

3 I'm not sure if they're trying to provide full service,

4 but I wanted to let you know of the possible infraction.

5 Q. And you mentioned an Appendix G, what is -- are

6 you familiar with Appendix G?

7 A. Yes, I am.

8 Q. And what is Appendix G?

9 A. This is the flyer that was provided to me at the

10 time of the complaint.

11 Q. And how do you know that this flyer pertains to

12 Seabeck?

13 A. It is titled "Seabeck Waste & Recycle" as well

14 as the PO Box address at the bottom location matches the

15 mailing address on Daniel Stein's driver's license as

16 reported by Department of Licensing.

17 Q. And what did Staff do in response to the

18 complaint that it received?

19 A. Staff contacted the company and posed as a

20 potential customer in the Seabeck, Washington area.

21 Q. And what did that -- what did that process

22 entail?

23 A. I called the phone number that's found on the

24 2015 flyer for Seabeck Waste, which is going to be page

25 12 of the exhibit, and the phone number on there, area

0015

1 code 360-328-6787, which is the number that is also

2 associated with Daniel Stein.

3 Q. And how did Seabeck respond?

4 A. Seabeck Waste answered the phone, and when I

5 posed as a potential customer, they offered me

6 originally two 45-gallon garbage containers at $32 per

7 month and that would be for every other week service.

8 Daniel Stein later inquired as to how large the family

9 was. I informed him of four members, and at that time,

10 he recommended that I have three 45-gallon containers at

11 a price of $40 a month, and that would also be for every

12 other week service.

13 Q. And did Staff determine who had answered the

14 phone call when you called Seabeck?

15 A. Yes.

16 Q. Who answered the phone?

17 A. The man identified himself as Daniel.

18 Q. Did Staff determine who runs or operates

19 Seabeck?

20 A. Yes.

21 Q. Who runs or operates Seabeck?

22 A. Daniel Stein.

23 Q. And how did Staff make that determination?

24 A. As addressed earlier, the PO Box on the 2017

25 flyer matches Daniel Stein's mailing address, and the

0016

1 phone number on the 2015 flyer matched the phone number

2 associated with Daniel Stein.

3 Q. And I'd like to talk a bit about the required

4 operating authority that one would need to operate a

5 solid waste collection company.

6 What does a company need in order to operate as

7 a solid waste collection company?

8 A. A certificate issued from the Commission.

9 Q. Does Seabeck Waste & Recycle have a certificate

10 from the Commission authorizing it to operate as a solid

11 waste collection company?

12 A. No, they do not.

13 Q. May a company operate as a solid waste

14 collection company without a Commission certificate?

15 A. No.

16 Q. Does Staff have a recommendation as to the

17 classification of Seabeck?

18 A. Yes, it does.

19 Q. And what is that recommendation?

20 A. Staff recommends that the Commission classify

21 the company as a solid waste collection company.

22 Q. Does Staff have a recommendation as to a

23 penalty?

24 A. Yes. Staff recommends a penalty of $1,000 per

25 violation, so for two violations a penalty of $2,000.

0017

1 Q. And is there any other conditions Staff would

2 attach to that recommendation?

3 A. Yes, if Mr. Stein, d/b/a Seabeck Waste & Recycle

4 agrees to cease and desist as a solid waste collection

5 company, Staff would recommend that we suspend 1,000 of

6 the $2,000 penalty on the conditions that the company

7 cease from operations.

8 Q. And to clarify for the record, which two

9 violations is Staff asserting?

10 A. One violation is for the advertisement for solid

11 waste collection and the other violation is for the

12 offer for solid waste service.

13 Q. And specifically, which advertisement would that

14 be?

15 A. The 2017 advertisement.

16 Q. And is that contained in JH-1?

17 A. Yes, it is, page 12. Oh, I apologize. Page 18.

18 MR. FUKANO: Thank you. No further

19 questions at this time.

20 JUDGE CHARTOFF: Okay. Mr. Stein, do you

21 have any questions for Mr. Hoxit?

22 MR. STEIN: I wish I were a lawyer. I wish

23 I had a better understanding of all this, but I'm going

24 to do my best here.

25 JUDGE CHARTOFF: And I'll -- I'll just

0018

1 explain since you're not a lawyer. So here you would --

2 this would be the time where you just ask him questions

3 about his testimony. Later on, you will have the

4 opportunity to just testify as to everything you want to

5 tell me.

6 MR. STEIN: Okay.

7 JUDGE CHARTOFF: So does that make sense?

8 MR. STEIN: It does.

9 JUDGE CHARTOFF: Okay.

10 MR. STEIN: Thank you.

11 I believe the only questions that I would

12 have for Mr. Hoxit at this time, (as read) On

13 February 17th, 2015 -- this is back to Exhibit JH-1.

14 This is a couple of pages in. It states in there, (as

15 read) On February 17th, 2015, Staff sent Seabeck Waste a

16 compliance letter informing the company that until and

17 unless the Commission grants a solid waste certificate,

18 Seabeck must immediately cease advertising, providing

19 all forms of solid waste collection service. Staff

20 requested that the company respond in writing by

21 March 4th, 2015. Seabeck Waste failed to respond to

22 Staff.

23 And I don't know if this is appropriate at

24 this time, Your Honor, but stop me if it is. I did not

25 receive that letter in the mail.

0019

1 The next line down, (as read)

2 March 16th, 2015, Staff sent the company a follow-up

3 letter explaining that Seabeck Waste failed to respond

4 to the February 17th compliance letter and that

5 operating as a solid waste collection company without

6 the Commission-issued certificate is illegal. Staff

7 enclosed a copy of the February 17th compliance letter.

8 Staff requested that Seabeck Waste respond no later than

9 March 26th, 2016, to explain how the company plans to

10 proceed. Seabeck Waste failed to respond to Staff.

11 Also did not receive that letter.

12 JUDGE CHARTOFF: Okay. So yeah, that's --

13 MR. STEIN: Okay. I apologize. I

14 apologize.

15 JUDGE CHARTOFF: I think we're -- yeah,

16 that's not a question.

17 MR. STEIN: Apologize.

18 JUDGE CHARTOFF: So -- okay.

19 MR. STEIN: Well, if I may, then, I

20 understand. Okay. I got it.

21

22 E X A M I N A T I O N

23 BY MR. STEIN:

24 Q. So, Mr. Hoxit, at this time, can you confirm

25 that you did, in fact, send two letters, both on

0020

1 February 17th, 2015, and the other letter on

2 March 16th, 2015?

3 A. On both instances, the investigator would have

4 been Pam Smith, who was the solid waste investigator at

5 the time and is no longer with the Commission. So I

6 can't speak directly to receiving any correspondence

7 back.

8 Q. Would there be any receipt or would there be any

9 way that you could prove that such a letter was sent?

10 A. I can say that in the records that Commission

11 Staff has, there was no record of a returned letter.

12 Q. Mr. Hoxit, are you aware of RCW 34.05.110(1),

13 basically here, the notice must be given to a small

14 business about violations and their provisions for

15 waiving any fines after proper notice is given,

16 specifically the relevant part of RCW 34.05.110?

17 A. I do not have that in front of me, and I do not

18 have recollection of that off the top of my head.

19 Q. RCW 34.05.110, it does state that there must be

20 at least seven calendar days of the agency as the UTC to

21 serve an individual performing outside of that law.

22 MR. FUKANO: Your Honor, I'm not quite sure

23 this is a question.

24 JUDGE CHARTOFF: Yeah, I -- I think that's

25 correct. I -- I think what you're trying to present may

0021

1 be better presented in -- as testimony when it's your

2 turn.

3 MR. STEIN: I apologize. I have no

4 questions for Mr. Hoxit.

5 JUDGE CHARTOFF: Okay. Do you have any

6 redirect?

7 MR. FUKANO: Not at this time, but I may

8 recall Mr. Hoxit.

9 JUDGE CHARTOFF: Okay. Okay. So -- okay.

10 So, Mr. Stein, it's your turn to present testimony. I

11 assume you're going to speak as a witness for -- so I

12 will swear you in.

13 (Daniel Stein sworn.)

14 JUDGE CHARTOFF: And who -- who do you

15 intend to call as a witness including yourself?

16 MR. STEIN: I intend to call a witness -- as

17 we can see, we have a pretty full room, and I don't want

18 to monopolize the entire Court's time here. I know

19 everyone's got things to do.

20 So if anybody that happened to have come

21 with me today would like to testify, if you would please

22 raise your hand.

23 UNIDENTIFIED SPEAKER: I actually have a

24 question, but maybe that can wait for another time.

25 UNIDENTIFIED SPEAKER: Are we allowed to ask

0022

1 questions?

2 JUDGE CHARTOFF: No.

3 Okay. So what -- what would be the content

4 of what they would want to present, just generally?

5 MR. STEIN: I believe the content of what

6 they would want to present today would be an urgent need

7 for somebody, just somebody, to come and pick up their

8 garbage. A lot of these people have an extremely hard

9 time, some of which are not able to pick up their

10 garbage at all and nobody will help them. And when

11 someone does show up to help them, then that person that

12 helps them asked them if they would come to Olympia with

13 them. So I guess it would be under maybe -- maybe a

14 small form of character witness, but also an urgent

15 need. These people have been kind of left -- left in

16 the dark.

17 JUDGE CHARTOFF: Okay. I'm not sure if

18 that's relevant to the legal issue, but this is what

19 I'll -- I'm going to suggest. I think you should give

20 your testimony first.

21 MR. STEIN: Sure.

22 JUDGE CHARTOFF: So we'll have you speak,

23 and then Staff will ask you questions, and then you'll

24 be able to speak a bit more. And then we'll take a

25 short recess, and I think you should choose one person

0023

1 who can speak for the group. And I'm going to give you,

2 you know, five, ten minutes to talk about that. Do you

3 think that would work?

4 MR. STEIN: I don't think it would work. I

5 think we could probably narrow the field down from the

6 amount of people that are here that would want to speak,

7 but -- and the reason for that is, is there are

8 different circumstances, yes, the common thread being

9 that people do have a hard time moving their garbage.

10 But every person in every situation is specific, so I --

11 I do think that, you know, we've all traveled a long

12 way, and I do think that some people here would like to

13 speak. And I think that they could add -- they could

14 add something to this proceeding that I think would be

15 valuable.

16 JUDGE CHARTOFF: Okay. I -- I'm not -- I'm

17 pretty sure that what they are going to say is not going

18 to be relevant to the legal issue, but I will -- let's

19 go ahead and do your testimony and then you can -- I'll

20 allow you to call a witness and we'll -- we'll move on

21 from there.

22 MR. STEIN: Sure.

23 JUDGE CHARTOFF: Okay. So what is your

24 response to the allegations against you?

25 MR. STEIN: My response to the allegations

0024

1 before me today, the two counts of operating -- or

2 excuse me, for soliciting customers without the proper

3 certification is true. It is true. It's a hundred

4 percent true, and Jason's got it right and this Court

5 knows it. You know, I've -- as I've told even all my

6 customers, you know, or customers, yeah, I get it. I

7 was wrong. I got it. I see that clearly now.

8 As far as -- this -- this would be time to

9 bring up the procedural actions, correct? There are --

10 JUDGE CHARTOFF: Oh, sure.

11 MR. STEIN: This would be correct? Okay.

12 Thank you. As I stated before, RCW 34.05.110 clearly

13 states that there needs to be presentation to the small

14 business seven calendar days as to so the correction can

15 be corrected. And I was presented with nothing. So I'm

16 just throwing that out there.

17 JUDGE CHARTOFF: Are -- are you talking

18 about -- are you saying you were not served?

19 MR. STEIN: Correct. I got a phone -- so I

20 got a phone call -- I got a phone call how this all

21 started. It was from Pam Smith and it was kind of a

22 heated exchange. This is how it all started and I --

23 she identified herself as Pam Smith with the UTC. I had

24 no idea who Pam Smith was. I had no idea who UTC was.

25 This all sounds make up -- make-believe to me. It did.

0025

1 And that's not a -- that's not a cut against the UTC, it

2 just -- it sounded made up. What I thought it was, is I

3 thought it was Waste Management coming in and posing as

4 a certain way and trying to scare me off basically.

5 Then from there, it was stated in this

6 packet of JH where I was served all of -- all of these

7 packets of paperwork, I would assume, or letters, it

8 says letters. I have not received any of those. So if

9 procedure hasn't been followed on -- on the UTC side to

10 show evidence supporting that they followed

11 RCW 34.05.110, then we're kind of spinning our wheels

12 here.

13 So ultimately, yes, I was wrong. I see it.

14 I was served this packet that was set up brilliantly, if

15 I may add. I showed up to do a job, you know, and then

16 I got served paperwork. So it's kind of a mixed

17 blessing, though, because what it did was is, it showed

18 me in this intense packet that I was served it -- it --

19 it lined everything right out. It was what you need,

20 where you went wrong, and it was -- it was like having a

21 breath of fresh air.

22 So from there, I -- I -- I found empowerment

23 in this, being served all this information. I realized

24 then that the UTC is an actual thing, and yes, they're

25 definitely after my butt. There's no doubt about it.

0026

1 So from there, I put in action plans to counter

2 everything that has happened, basically, the damage that

3 I have done to myself, but more importantly to the

4 people that you see sitting behind me. These people

5 that you see sitting behind me -- this is my time to

6 give my testimony -- are so left in the dark, it's --

7 it's horrible.

8 I get calls, you know, because my name is --

9 is put out there, you know, Please would you come over

10 and help me move my garbage? I come over and there's

11 someone in a wheelchair and they got -- they're on chemo

12 and they're dying, you know. It's horrible. And here

13 they are and they've got 11-plus garbage cans sitting

14 outside their garage, and these are not -- I don't want

15 to be rude, these are not dirty, slobby people. These

16 are good people. And they got rats, and they look at me

17 and they said please help.

18 So I'm not going to say no. I'm going to do

19 it. So I did. This all started with my friend, Chris

20 Lane, who came down with cancer, was sick, he couldn't

21 move his garbage cans. He asked me if I'd help his

22 family, and I said, Of course. You know, it's no big

23 deal.

24 And then my friend down the street, Mike and

25 Tena Hopper, Mike came to me and said, Would you please

0027

1 help? We're having a hard time getting our garbage out.

2 I said, Absolutely. I said, No problem.

3 That's how it started. That's literally exactly how it

4 started.

5 And then from there, just knowing so many

6 people, and so many people knowing me, just well-known

7 in the community, it was -- it was brought out like,

8 Hey, you know, Dan will take your garbage, you know.

9 It's like oh, jeez, and before you knew it, you know --

10 you know, I wasn't going after anybody. You know, they

11 were coming after me like please do this. I said, Okay,

12 I will do it.

13 And then before I knew it, I saw that there

14 was a serious need. I saw that there was more -- there

15 was a whole group of people that -- and I knew nothing

16 about -- I knew nothing about this law, I knew nothing

17 about the UTC. I realized. So I was like, Okay. Well,

18 my goodness, I'm wanted. I'll do it. I'll help. I'll

19 help.

20 So I made up these flyers, and I put these

21 flyers out there, and I didn't really -- I didn't really

22 have the -- the goal wasn't really necessarily a

23 business. The goal was is to reach out there to the

24 community, people that I don't know that are suffering

25 and relieve them. So that I -- when I show up, you

0028

1 know, on the doorstep, you can't just be like, Hey, my

2 name's Dan and I want to take your garbage, you know.

3 It's kind of a hard sell. I had to put something kind

4 of to it so people wouldn't look at me like just some

5 dude getting garbage. I had to present it in such a way

6 that they felt comfortable and they felt safe with it.

7 And they -- they might not know who I am, but it was

8 very clear that like, okay. All right.

9 So then from there, it -- it just -- it kind

10 of bloomed. It did bloom. And then I was served with

11 this packet of paperwork, and I realized, okay.

12 Getting, you know, kind of back to where I kind of

13 started this, the UTC is a real organization. I

14 actually started reading the law and digested this to

15 the best of my understanding. I can't afford an

16 attorney. So I just do it to the best of my ability.

17 And through all this, I knew that this -- it

18 says right in here cease and desist, you know. Problem

19 is, is that they can't move their garbage. So what do

20 you do. So I continued on after the cease and desist

21 order, after I was served this, and I did this as stated

22 before by Jason Hoxit in RCW 81.77.1 -- or excuse me,

23 010, and RCW 81.77.010 and 81.77.040, it all states the

24 same. It has a common -- commonality to it, that no

25 solid waste company individual entity of any kind -- if

0029

1 I may read it. (As read) The term common carrier in the

2 context of solid waste collection means any person who

3 collects and transports solid waste for disposal by

4 motor vehicle for compensation whether over regular or

5 irregular routes or by regular or irregular schedules.

6 So basically what I've been doing for the

7 last two months is I have been collecting garbage as I

8 historically have; however, there has been no exchange

9 of compensation. I have not collected any money, nobody

10 has given me any form of compensation except for

11 cookies, because I've gotten some cookies and they're

12 pretty awesome.

13 So I -- I can't stress enough to you, I'll

14 do whatever it takes. I don't want to say the UTC has

15 failed to meet their obligation of meeting the public's

16 best interest, but I will inform the UTC now, here, on

17 the record, that there is a serious public need out

18 there. It's really bad. We start having rodents come

19 in and health and public is -- is in jeopardy, and I see

20 it. I'm here to just tell you that.

21 I would like for the record further, one

22 more time, and if I haven't beat on this enough, that

23 procedure was not followed by the UTC under

24 RCW 34.05.110. I don't know who I want to call up here.

25 JUDGE CHARTOFF: Okay. Well, before then, I

0030

1 have a couple of questions and then Mr. Fukano may have

2 some questions for you.

3

4 E X A M I N A T I O N

5 BY JUDGE CHARTOFF:

6 Q. I'm just looking at the letter in Exhibit JH-1,

7 it looks like the letter, the February 17th letter, was

8 mailed to 6070 Minnig Northwest, Seabeck, Washington;

9 was that your address at the time?

10 A. No, that was my mailing -- or excuse me, that

11 was my physical but not my mailing address.

12 Q. And you don't receive mail at your physical?

13 A. Correct.

14 Q. Okay.

15 A. I have problems with break-ins.

16 Q. Okay. And the phone call that Mr. Hoxit

17 testified about, do you recall that phone call?

18 A. Yeah, I -- I -- I do remember numerous phone

19 calls. I -- I have had a chance to read through this

20 previously, and I remember pretty much all of these

21 conversations. I don't think there was a one

22 conversation that's -- that didn't happen. I do contest

23 to little bit on the Pam Smith initial conversation, the

24 one that started all of this, but, you know -- but it

25 happened. It did happen.

0031

1 JUDGE CHARTOFF: Okay. Mr. Fukano, do you

2 have any questions for Mr. Stein?

3 MR. FUKANO: Just briefly.

4

5 E X A M I N A T I O N

6 BY MR. FUKANO:

7 Q. So, Mr. Stein, I would just like to clarify, you

8 had said earlier that you would admit that the

9 allegations in the complaint were true, in that there

10 was nothing wrong with that aside from the issue

11 involving 34.05.110?

12 A. Correct.

13 MR. FUKANO: Okay. Thank you. No further

14 questions for cross on Staff.

15

16 E X A M I N A T I O N

17 BY JUDGE CHARTOFF:

18 Q. Okay. And did -- so you said you continued to

19 provide -- you are continuing to provide the service --

20 A. Correct.

21 Q. -- at this point for compensation or --

22 A. For no compensation.

23 Q. For no compensation.

24 And Staff mentioned in their recommendation that

25 they would be willing to recommend waiving or suspending

0032

1 a portion of the penalty if you agreed to cease

2 operating; is that something you're willing to do? Or

3 is that -- sounds like you need to think about it?

4 A. There's really nothing too much to think about.

5 It's -- I mean, don't tell me to cease and desist.

6 Don't look at me and ask me to do that, look at them.

7 Q. Okay. Please direct your comments --

8 A. I -- I'm directing it -- I'm directing it

9 accordingly.

10 JUDGE CHARTOFF: Okay. Okay. So I will

11 allow you to call -- so we'll take -- in a minute, we'll

12 take a short recess. I will allow you to call two

13 people for a maximum of ten minutes, so five minutes per

14 person. But I do want to caution you that each person

15 who speaks is probably going to provide evidence of

16 another violation for which, you know, are violations

17 are -- for which you may be subject to penalties. So

18 you need to -- you should think about that, but if you

19 want to get their -- and I have concerns about whether

20 they're relevant to the legal issue. I know they're

21 important to you.

22 MR. STEIN: Sure.

23 JUDGE CHARTOFF: And so I'm going to -- I'm

24 willing to let you get this on the record. So do you

25 have a --

0033

1 MR. FUKANO: I just had a -- one follow-up

2 cross-question that occurred to me if you would permit.

3 JUDGE CHARTOFF: Okay. I'll let you do your

4 cross-question.

5 Then we'll take a short recess where you can

6 decide who -- what witnesses to call, and then we'll

7 move on.

8 Okay. So go ahead.

9

10 E X A M I N A T I O N

11 BY MR. FUKANO:

12 Q. Mr. Stein, in addition to the information in the

13 complaint, would you agree with the information

14 contained in Mr. Hoxit's narrative of your phone

15 conversation on page 21, I believe?

16 A. What specifically?

17 Q. I was asking if you agreed with all the

18 information in the complaint -- or in the -- excuse me,

19 in the narrative on page 21. As you had -- you had

20 agreed with the complaint, and so I wanted to just make

21 sure.

22 A. I believe so. No, no, I don't agree with all of

23 that.

24 Q. And what parts do you not agree with?

25 A. In the opening line, in the opening line, says,

0034

1 (as read) Called from the UTC, called phone number

2 360 -- oh, used a cell number of 810-1281 [sic], okay,

3 and spoke with David Stein, so clerical error there.

4 Q. Yes.

5 A. Would be Daniel Stein.

6 Q. Apologies, yes.

7 A. I don't recollect. I can't say for sure exactly

8 if everything in this is stated correctly. So I can't

9 say out of recollection.

10 Q. So you're -- you're not quite sure?

11 A. I can't -- yeah, I can't say --

12 Q. Does -- oh, sorry.

13 A. Yeah, if it is word for word, I mean...

14 Q. But nothing jumps out to you as being wrong

15 aside from the clerical error?

16 A. Other than my name.

17 Q. Okay. Thank you.

18 A. But I'm not sure.

19 JUDGE CHARTOFF: Okay. So at this time,

20 we'll take a short recess, and I'll give you a chance to

21 think about who you want to call as a witness. And we

22 will take five minutes; is that acceptable?

23 MR. FUKANO: Acceptable to Staff.

24 MR. STEIN: Yes.

25 JUDGE CHARTOFF: Okay. All right. We are

0035

1 in recess.

2 (Recess taken from 2:28 p.m.

3 until 2:39 p.m.)

4 JUDGE CHARTOFF: Okay. So we are back on

5 the record. Would you like to call a witness?

6 MR. STEIN: Yes, I'd like to call a witness

7 pertaining to acquiring without -- without giving an

8 advertisement basically. I know -- I know that we're

9 here for two charges for advertising. So I'd like to

10 call Tena Hopper.

11 JUDGE CHARTOFF: Okay. Ms. Hopper, please

12 come forward and I'll swear you in.

13 (Tena Hopper sworn.)

14 JUDGE CHARTOFF: Thank you. Please have a

15 seat. Make sure your microphone is turned on.

16 MS. HOPPER: Are we good?

17 JUDGE CHARTOFF: Oh, yeah, you're good.

18 So please state your name, spelling your

19 last name for the court reporter.

20 MS. HOPPER: Tena Hopper. It's T-e-n-a,

21 H-o-p-p-e-r.

22 JUDGE CHARTOFF: And so you can ask her

23 questions or she can just --

24 You can just speak.

25 MR. STEIN: You want to just go?

0036

1 MS. HOPPER: Hmm?

2 MR. STEIN: You want to just go?

3 MS. HOPPER: Daniel -- my husband came down

4 with cancer and passed away in 2015, and Daniel's been

5 picking up my trash for me at no charge ever since. I

6 give him cookies, that's it. He's a good man. That's

7 pretty much it in a nutshell, because I can't do it

8 myself.

9 MR. STEIN: Would it be okay if I asked Tena

10 some questions?

11 JUDGE CHARTOFF: Mm-hmm.

12

13 E X A M I N A T I O N

14 BY MR. STEIN:

15 Q. Tena, have I ever approached you for garbage

16 service?

17 A. Have you what?

18 Q. Have I approached you for garbage service?

19 A. Approached me, no.

20 Q. Did you come to me because you had heard about

21 me through just the friend group or through the

22 grapevine so to speak?

23 A. No.

24 Q. So --

25 A. I'm having a hard time hearing you. I got

0037

1 hearing issues.

2 Q. I'm sorry.

3 So did I -- did I give -- did I give you any

4 flyers or --

5 A. No.

6 Q. -- or any advertisements --

7 A. No.

8 Q. -- of any kind? Okay.

9 A. A Christmas card and some trash bags.

10 Q. Oh, yeah.

11 A. Does that count?

12 MR. STEIN: I have no further questions.

13 JUDGE CHARTOFF: Okay.

14 THE WITNESS: That's -- that's it?

15 JUDGE CHARTOFF: Mr. Fukano, do you have any

16 questions for Ms. Hopper?

17 MR. FUKANO: Just a brief -- very brief

18 question.

19

20 E X A M I N A T I O N

21 BY MR. FUKANO:

22 Q. Before Mr. Stein was -- began helping you with

23 waste disposal services, were you served or had waste

24 disposal services through another company?

25 A. No, no.

0038

1 Q. So who removed your waste prior to Mr. Stein?

2 A. My husband.

3 Q. And --

4 A. Used our vehicle, drove to the waste site.

5 Q. I see. Thank you.

6 A. The one on Dickey Road.

7 MR. FUKANO: No further questions.

8 THE WITNESS: It was a long time ago.

9 MR. FUKANO: Thank you.

10 JUDGE CHARTOFF: Okay. Thank you.

11 THE WITNESS: Is that it?

12 JUDGE CHARTOFF: Don't have anything

13 further. Do you have another witness?

14 THE WITNESS: I make great cookies too by

15 the way.

16 MR. STEIN: She does make great cookies.

17 I have no other witnesses.

18 JUDGE CHARTOFF: No further witnesses.

19 Okay. Is there anything further?

20 MR. FUKANO: I would like to call, recall

21 Mr. Hoxit to the stand for a brief question.

22 JUDGE CHARTOFF: Okay. Go ahead.

23 /////

24 /////

25 /////

0039

1 E X A M I N A T I O N

2 BY MR. FUKANO:

3 Q. Mr. Hoxit, do you know whether a company

4 currently serves the general Seabeck area for solid

5 waste collection services?

6 A. Yes.

7 Q. And what company would that be?

8 A. Waste Management.

9 MR. FUKANO: Thank you. No further

10 questions.

11 MR. STEIN: Would I have the ability to

12 answer -- or excuse me, question Mr. Hoxit on the same

13 line of questioning?

14 JUDGE CHARTOFF: Yes.

15 MR. STEIN: Thank you.

16

17 E X A M I N A T I O N

18 BY MR. STEIN:

19 Q. Mr. Hoxit, are you familiar with the tariff for

20 Waste Management for -- about pack out service in

21 particular?

22 A. No, I'm not.

23 Q. Were you aware of their 50-foot rule as far as

24 walking goes?

25 A. Not specific to that service territory, no.

0040

1 MR. STEIN: Thank you.

2 JUDGE CHARTOFF: Okay. So is there anything

3 further from either party?

4 MR. STEIN: I would like to add, if I could,

5 what my intentions are moving forward.

6 JUDGE CHARTOFF: Okay.

7 MR. STEIN: Would that be okay?

8 MR. FUKANO: Perhaps in closing.

9 JUDGE CHARTOFF: Okay. Why don't you make a

10 closing statement and then Mr. Fukano can make one if he

11 chooses.

12 MR. STEIN: Number one, my apologies to the

13 Court. I know this hasn't gone as smoothly as I'm sure

14 these things go. I'm not a lawyer obviously, and I -- I

15 would like to thank you, Your Honor, for allowing all of

16 the support to stay in the room. I know it's -- it's a

17 little bit uncomfortable, so I would like to thank you

18 personally.

19 My intentions moving forward, since I've

20 been served this packet of information from the UTC, it

21 has lined out everything that needs to be done. I went

22 to the UTC website, I have obtained the tariff form that

23 is a part of the application process. I understand what

24 the application is. This will be a big bombshell for

25 the WRRA in the back room, but I plan on applying for a

0041

1 G certificate under special conditions as stated in the

2 UTC website that it can be done. I want to work hand in

3 hand with the UTC. I want to be transparent a hundred

4 percent.

5 Knowing now moving into this that I can

6 plainly see why these rules exist. As silly as they

7 might be at first, they make a lot of sense, and it is

8 for the public's best interest. And I believe the UTC,

9 I believe that they -- they want to take care of the

10 public. They want to fulfill what -- what their -- what

11 their job description is. I do firmly believe that. I

12 really do.

13 I have gotten a DOT number for my truck,

14 I've obtained an LLC, I've obtained a business license.

15 I have obtained so much knowledge probably being the

16 most and a clearer understanding. I want to help

17 people, and a lot of these people are behind me right

18 now. There's a real need out there. This isn't just

19 make-believe, and I would like that to be on the record

20 that there's human beings involved here, you know.

21 So I will do whatever it takes. I will work

22 with the UTC happily to change, and I -- I know that the

23 WRRA is present, I know that this could go either way

24 with them, and I know that I'm exposing myself to a lot

25 of not so nice things to come down the pike as far as a

0042

1 court battle with Waste Management. I know that that's

2 coming. Of course they're going to -- they're going to

3 fight me, but I'm willing to -- I am willing to do it.

4 It's going to help others, number one, and in the end,

5 it'll help myself. Thank you.

6 JUDGE CHARTOFF: Thank you.

7 MR. FUKANO: So you've heard today from

8 Mr. Stein that he agrees with the information contained

9 in the complaint and he agrees that violations that are

10 alleged there did occur. And I wanted to follow up on

11 the reference to RCW 34.05.110. Mr. Stein has cited

12 Subsection 1, and I would also like to cite Subsection 6

13 of that same statute which states, (as read) Nothing in

14 this section may be construed to diminish the

15 responsibility for any citizen or business to apply for

16 and obtain a permit, license, or authorizing document

17 that is required to engage in a regulated activity or

18 otherwise comply with State and Federal law.

19 That -- notwithstanding that, Staff is --

20 would welcome further cooperation from Mr. Stein, and we

21 would encourage Mr. Stein to speak with Staff to further

22 along these developments. Therefore, based on the

23 evidence presented to your Honor, Staff would ask --

24 Staff asks that the Commission classify Seabeck Waste &

25 Recycle as a solid waste collection company subject to

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1 the Commission's authority and to impose a $2,000

2 penalty with $1,000 suspended pending further compliance

3 with this Commission's order. Thank you.

4 JUDGE CHARTOFF: Thank you.

5 Okay. With that, I will take this under

6 advisement. I will issue a decision within ten days,

7 and we are off the record and in recess. Thank you.

8 (Adjourned at 2:51 p.m.)

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3 STATE OF WASHINGTON

4 COUNTY OF THURSTON

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6 I, Tayler Garlinghouse, a Certified Shorthand

7 Reporter in and for the State of Washington, do hereby

8 certify that the foregoing transcript is true and

9 accurate to the best of my knowledge, skill and ability.

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Tayler Garlinghouse, CCR 3358

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