

**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. SECOND SET
OF DATA REQUESTS TO
SUPERIOR WASTE & RECYCLE
LLC AND RESPONSES THERETO**

Dated: June 13th, 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

0025 If the Commission were to grant Superior a certificate, does Superior expect to receive any compensation in the future for services provided prior to the effective date of such certificate? Please explain.

Response: Superior objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to discovery of admissible evidence, as the issues in this case relate to whether Superior's application meets requirement for public convenience and necessity and whether Waste Management is providing service to the satisfaction of the Commission.

If the Commission were to grant Superior a certificate, Superior does not expect payments from the customer base for previous work performed, nor will the customer be asked for payment.

0026 REQUEST FOR ADMISSION: Please admit that Superior is currently serving customers without immediate compensation in the expectation that those same customers may become paying customers in the future. If your response is anything other than an unqualified admission, please state what you believe to be the truth of the matter.

Response: Superior objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to discovery of admissible evidence, as the issues in this case relate to whether Superior's application meets requirement for public convenience and necessity and whether Waste Management is providing service to the satisfaction of the Commission.

Deny. Superior began serving these households due to their need. Superior would be happy to continue having them as customers once a certificate is granted.

0027 In response to Waste Management's Data Request Nos. 0001 and 0009 to Superior, you identified six Superior customer accounts whose service started since the Commission issued Order 02 in Docket TG-180181, the classification and complaint case against Mr. Stein d/b/a Seabeck Waste & Recycle. With respect to each of those customers:

a. Please describe the process by which the identified person(s) became customers of Superior.

Response: Superior objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to discovery of admissible evidence, as the issues in this case relate to whether Superior's application meets requirement for public convenience and necessity and whether Waste Management is providing service to the satisfaction of the Commission.

All customers knew Mr. Stein personally for many years or through recommendations from a family member or friend of a current customer.

- b. REQUEST FOR ADMISSION: Please admit that Superior accepted the identified person(s) as customers with the expectation that they might become paying customers in the future. If your response is anything other than an unqualified admission, please state what you believe to be the truth of the matter.

Response: Superior Objects to the request because it is unreasonably cumulative or duplicative. This request was previously asked in Data Request 0026.

- c. Please produce all documents, including communications, related to the identified customer account.

Response: Superior objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to discovery of admissible evidence, as the issues in this case relate to whether Superior's application meets requirement for public convenience and necessity and whether Waste Management is providing service to the satisfaction of the Commission.

Superior further objects to this request because WAC 480-70-421 strictly limits Superior's use of customer information and providing the requested information to Waste Management is not among the allowed uses.

0028 Exhibit DS-2 to Mr. Stein's direct testimony purports to be a declaration from Mr. Stein. Page 1 of Exhibit DS-2 says, "In fact, 'full size collection trucks' do travel on Larson Lane and spur roads including Glory Lane to empty dumpsters at two residences. These pickups are on a regular ongoing schedule- but the very people receiving these services are denied curbside pickup." In this regard, please:

- a. State the name and address of each person and residence to which the quoted passage refers.

Response: Superior objects to this request because WAC 480-70-421 strictly limits Superior's use of customer information and providing the requested information to Waste Management is not among the allowed uses.

- b. Describe in detail any personal knowledge Mr. Stein has with respect to the circumstances described in the quoted passage and/or in response to the foregoing subpart a.

Response:

1. Waste Management refuses curbside pickup, pack out service, and drive-in service on these roads. Superior's drive-in service is available to all residents of Superior.

2. In the Direct Testimony of Michael Weinstein, Exhibit No. MAW-1T on page 6, lines 16-20, it is stated: “Waste Management also offers drive-in service. Under that service, the collection vehicle will drive up to one mile off the public road to collect the customer’s waste.” In Mr. Weinstein’s Testimony, he reports Waste Management is not willing to travel down private roads or driveways that exceeds one (1) mile, which is a service that Superior offers. There are multiple residents in the area whom exceed 1-mile, which Superior can provide service to.

0029 In response to Waste Management’s Data Request Nos. 0006 and 0007 to Superior, Superior indicated that all its customers receive recycling service every other week. With regard to recycling:

- a. Are recyclables segregated from garbage by Superior’s customers prior to collection? Please explain.

Response: Superior objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to discovery of admissible evidence, as the issues in this case relate to whether Superior’s application meets requirement for public convenience and necessity and whether Waste Management is providing service to the satisfaction of the Commission.

Yes. In most cases, the customer has more than one trash can. This allows for recyclables to be segregated from garbage. In the case the customer only has one trash can, the recyclables and the garbage are segregated by liners. Mr. Stein and his customer base have developed this method for customers who want one trash can. For example, a large 45-gallon trash can liner can be partially filled with garbage and the other liner filled with recyclables. On the day of the pickup, the customer either ties or simply folds the top of trash can liner and places a separate trash can liner containing recyclables on the top of the trash can liner containing garbage, with a separate liner for glass, if applicable and flattened cardboard next to the trash can.

- b. Are recyclables sorted by material type by Superior’s customers prior to collection? Please explain.

Response: Superior objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to discovery of admissible evidence, as the issues in this case relate to whether Superior’s application meets requirement for public convenience and necessity and whether Waste Management is providing service to the satisfaction of the Commission.

Yes, co-mingled materials are sorted by the customer segregating glass by liner and large cardboard boxes are flattened by the customer and placed next to the can.

- c. If your response to subpart a. and/or subpart b. is affirmative, does Superior keep recyclables and garbage separated after collection? If so, please describe how and until what point.

Response: Superior objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to discovery of admissible evidence, as the issues in this case relate to whether Superior's application meets requirement for public convenience and necessity and whether Waste Management is providing service to the satisfaction of the Commission.

Yes, garbage goes in the trailer and recyclables go in the truck. If a trailer is not available and only the truck is available, the garbage will go all the way forward in the truck and the recyclables are put in the back of the truck due to the close quarters of the residential driveways.

Mr. Stein uses a tool and technique that he developed and calls it the "wedge". This tool and technique segregate the two types of materials. Additionally, it is essential to note the importance of liners used for garbage and recyclables as another technique, which ensures no cross-contaminations. Superior developed this system to meet the needs of the public that were denied service by Waste Management.

- d. Do customers place their recyclable materials in plastic bags for collection by Superior? Please explain.

Response: Superior objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to discovery of admissible evidence, as the issues in this case relate to whether Superior's application meets requirement for public convenience and necessity and whether Waste Management is providing service to the satisfaction of the Commission.

Yes, the customer puts the recyclable materials in liners.

- 0030 In response to Waste Management's Data Request No. 0015 to Superior, Superior indicated that recyclable material collected from customers is segregated. Please describe how Superior keeps recyclable material segregated after collection.

Response: Superior Objects to the request because it is unreasonably cumulative or duplicative. This request was previously asked in Data Request 0029.

- 0031 In response to Waste Management's Data Request No. 0016 to Superior, Superior indicated that recyclables collected from its customers are taken either to Olympic View transfer station or the central Kitsap recycling and garbage facility on Dickey Road in Silverdale. In this regard:

- a. REQUEST FOR ADMISSION: Please admit that recycling at both of the listed facilities requires sorting recyclables by material type. If your response is

anything other than an unqualified admission, please state what you believe to be the truth of the matter.

Response: Superior objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to discovery of admissible evidence, as the issues in this case relate to whether Superior's application meets requirement for public convenience and necessity and whether Waste Management is providing service to the satisfaction of the Commission.

Yes.

- b. REQUEST FOR ADMISSION: Please admit that plastic bags may not be included with recyclables accepted at either of the listed facilities. If your response is anything other than an unqualified admission, please state what you believe to be the truth of the matter.

Response: Superior objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to discovery of admissible evidence, as the issues in this case relate to whether Superior's application meets requirement for public convenience and necessity and whether Waste Management is providing service to the satisfaction of the Commission.

Yes.

- c. Please describe in detail how Superior handles the recyclable materials it disposes of. Your response should include, but not be limited to:
- i. Whether Superior removes recyclables from any bags before disposal at the stated locations.
 - ii. Whether and how Superior sorts recyclables by material for disposal at the stated locations.
 - iii. Whether recyclables collected from Superior's customers are in fact disposed of as recycling, as opposed, for example, to being disposed of as garbage without un-bagging or sorting.
 - iv. How long it takes Superior to process and dispose of the recyclable materials it collects.

Response: Superior objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to discovery of admissible evidence, as the issues in this case relate to whether Superior's application meets requirement for public convenience and necessity and whether Waste Management is providing service to the satisfaction of the Commission.

After collecting all the recyclable materials from the customer base, Mr. Stein likes to utilize the Dickey Road collection facility as it is less busy than the Olympic View transfer station. Mr. Stein starts with flattened clean dry cardboard as that is furthest back in the truck. Next is usually segregated glass moving onto co-mingled materials. Mr. Stein does not sort co-mingled materials; he only segregates the pre-segregated co-mingled recyclable material sourced from the customer.

- 0032 Exhibit DS-2 to Mr. Stein's direct testimony purports to be a declaration from Mr. Stein. Page 1 of Exhibit DS-2 says, "I have been helping people to the point that I have inadvertently harmed myself in different ways." In this regard, please describe each way in which Mr. Stein has harmed himself with respect to Superior's operations or proposed operations.

Response: Superior objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to discovery of admissible evidence, as the issues in this case relate to whether Superior's application meets requirement for public convenience and necessity and whether Waste Management is providing service to the satisfaction of the Commission.

Stress being one way that has harmed Mr. Stein.

- 0033 Exhibit DS-2 to Mr. Stein's direct testimony purports to be a declaration from Mr. Stein. Page 1 of Exhibit DS-2 says, "My privacy has also been compromised" In this regard:

- a. **REQUEST FOR ADMISSION:** Please admit that in this passage, Mr. Stein means that his privacy has been compromised in the course of Superior's operations and/or its involvement before the Commission related to such operations. If your response is anything other than an unqualified admission, please state what you believe to be the truth of the matter.

Response: Superior objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to discovery of admissible evidence, as the issues in this case relate to whether Superior's application meets requirement for public convenience and necessity and whether Waste Management is providing service to the satisfaction of the Commission.

Deny. The proceedings following Waste Management's objections have led to constant inquiries by others in regards to how they are coming along, to include even the interest of the local paper taking interest in what was happening.

- b. Please describe how Mr. Stein believes his privacy has been compromised.

Response: Superior Objects to the request because it is unreasonably cumulative or duplicative. This request was previously asked in Data Request 0033.

- c. Please state Mr. Stein's understanding of the privacy rights of a solid waste collection company with respect to its services under UTC jurisdiction.

Response: WAC Chapters 480-70 and 480-07 governs regulations relating to solid waste collection companies under UTC jurisdiction.

- d. Please state Superior's understanding of the privacy rights of a solid waste collection company with respect to its services under UTC jurisdiction.

Response: Superior Objects to the request because it is unreasonably cumulative or duplicative. This request was previously asked in Data Request 0033.

0034 The second page of Superior's business plan (which lacks page numbers) filed with its application in this docket 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." In this regard:

- a. REQUEST FOR ADMISSION: Please admit that Superior's budget and statement of estimated annual business expenses do not include any expenditures for professional services, including but not limited to accounting, financial, and legal advice. If your response is anything other than an unqualified admission, please state what you believe to be the truth of the matter.

Response: Superior objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to discovery of admissible evidence, as the issues in this case relate to whether Superior's application meets requirement for public convenience and necessity and whether Waste Management is providing service to the satisfaction of the Commission.

Deny. A CPA is clearly defined as an annual business expenditure in Superior's business expense.

- b. REQUEST FOR ADMISSION: Please admit that the financial analysis and testimony by UTC Staff in this docket assumes Superior has no costs for professional services, including but not limited to accounting, financial, or legal advice. If your response is anything other than an unqualified admission, please state what you believe to be the truth of the matter.

Response: Superior objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to discovery of admissible evidence, as the issues in this case relate to whether Superior's application

meets requirement for public convenience and necessity and whether Waste Management is providing service to the satisfaction of the Commission.

Superior is unable to provide an answer on the assumptions made by UTC Staff in this docket.

- c. Does Superior expect to incur any costs for professional services? Please explain, including a statement of your best estimate of costs per year for each type of professional services and the basis of each estimate.

Response: Superior objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to discovery of admissible evidence, as the issues in this case relate to whether Superior's application meets requirement for public convenience and necessity and whether Waste Management is providing service to the satisfaction of the Commission. Superior further objects as this request asks for confidential valuable commercial information, see WAC 480-07-160).

0035 WAC 480-70-361 includes various office and administrative obligations of solid waste collection companies subject to the UTC's jurisdiction. In this regard:

- a. Please describe how Superior will meet each requirement of the referenced regulation.

Response: Superior objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to discovery of admissible evidence, as the issues in this case relate to whether Superior's application meets requirement for public convenience and necessity and whether Waste Management is providing service to the satisfaction of the Commission.

Superior intends to comply with each requirement of WAC 480-70-361.

- b. Please describe the estimated cost Superior expects to incur for compliance with each requirement of the referenced regulation, the basis for each such expectation, and whether and how each such cost is reflected in Superior's business plan and financial projections.

Response: Superior objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to discovery of admissible evidence, as the issues in this case relate to whether Superior's application meets requirement for public convenience and necessity and whether Waste Management is providing service to the satisfaction of the Commission. Superior further objects as this request asks for confidential valuable commercial information, see WAC 480-07-160.

- c. Please identify the location of Superior's business office.

Response: Superior objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to discovery of admissible evidence, as the issues in this case relate to whether Superior's application meets requirement for public convenience and necessity and whether Waste Management is providing service to the satisfaction of the Commission.

15384 Seabeck Hwy, Seabeck, WA 98380

- d. Please state the regular business hours during which Superior is open for business.

Response: Superior objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to discovery of admissible evidence, as the issues in this case relate to whether Superior's application meets requirement for public convenience and necessity and whether Waste Management is providing service to the satisfaction of the Commission.

8am – 5pm

- e. Please produce copies of all documents Superior would be required to produce or distribute under the referenced regulation, including superseded versions, drafts, and versions that have not yet taken effect, etc.

Response: Superior objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to discovery of admissible evidence, as the issues in this case relate to whether Superior's application meets requirement for public convenience and necessity and whether Waste Management is providing service to the satisfaction of the Commission.

All original printings and duplications of UTC materials are currently under review or in process.

- 0036 Please provide a map of Superior's proposed service territory that meets the standards described in WAC 480-70-056.

Response: Superior objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to discovery of admissible evidence, as the issues in this case relate to whether Superior's application meets requirement for public convenience and necessity and whether Waste Management is providing service to the satisfaction of the Commission. Superior further objects as this request is unreasonably cumulative or duplicative or is obtainable from some other source that is more convenient, less burdensome, or less expensive.

0037 Please describe how Superior¹ 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 & Recycle).

Response: Superior objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to discovery of admissible evidence, as the issues in this case relate to whether Superior's application meets requirement for public convenience and necessity and whether Waste Management is providing service to the satisfaction of the Commission.

No such record of activity. All records destroyed pursuant to the order of docket TG-180181.

0038 Please describe how Superior maintains its finances, accounts, and records.

Response: Superior objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to discovery of admissible evidence, as the issues in this case relate to whether Superior's application meets requirement for public convenience and necessity and whether Waste Management is providing service to the satisfaction of the Commission.

Electronic filing is required by the UTC and such practices will take place also to include a paper back-up on file to ensure continuity of good record keeping.

0039 Please describe how Superior maintains its finances, accounts, and records separate from the personal affairs of Mr. Stein.

Response: Superior objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to discovery of admissible evidence, as the issues in this case relate to whether Superior's application meets requirement for public convenience and necessity and whether Waste Management is providing service to the satisfaction of the Commission.

Using separate bank accounts, credit cards, and ensuring nothing is commingled.

0040 Please describe how Superior determined each rate in its proposed tariff.

Response: Superior objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to discovery of admissible evidence, as the issues in this case relate to whether Superior's application meets requirement for public convenience and necessity and whether Waste Management is providing service to the satisfaction of the Commission.

¹ As a reminder, under Definition **Error! Reference source not found.** above, "Superior" is defined to include operations under other names or business entities.

Because of the special nature of this service plan where the customers are located. Space is of the greatest importance and volume of materials is the basis on which pricing rates are developed.

- 0041 Please identify and provide all documents related to Superior's proposed rates and the process by which they were determined.

Response: Superior objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to discovery of admissible evidence, as the issues in this case relate to whether Superior's application meets requirement for public convenience and necessity and whether Waste Management is providing service to the satisfaction of the Commission. Superior further objects as this request asks for confidential valuable commercial information, see WAC 480-07-160.

- 0042 REQUEST FOR ADMISSION: Please admit that Superior does not offer separate rates for garbage and recycling collection. If your response is anything other than an unqualified admission, please state what you believe to be the truth of the matter.

Response: Superior objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to discovery of admissible evidence, as the issues in this case relate to whether Superior's application meets requirement for public convenience and necessity and whether Waste Management is providing service to the satisfaction of the Commission.

Admit.

- 0043 REQUEST FOR ADMISSION: Please admit that Superior does not separately track its costs for garbage and recycling collection. If your response is anything other than an unqualified admission, please state what you believe to be the truth of the matter.

Response: Superior objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to discovery of admissible evidence, as the issues in this case relate to whether Superior's application meets requirement for public convenience and necessity and whether Waste Management is providing service to the satisfaction of the Commission.

Admit.

- 0044 REQUEST FOR ADMISSION: Please admit that Superior has no experience maintaining accounts consistent with the UTC's Uniform System of Accounts for solid waste collection companies. If your response is anything other than an unqualified admission, please state what you believe to be the truth of the matter.

Response: Superior objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to discovery of admissible evidence, as the issues in this case relate to whether Superior's application meets requirement for

public convenience and necessity and whether Waste Management is providing service to the satisfaction of the Commission.

Admit, however Superior plans to hire a CPA that does.

- 0045 REQUEST FOR ADMISSION: Please admit that Superior has no experience maintaining accounts consistent with any Uniform System of Accounts. If your response is anything other than an unqualified admission, please state what you believe to be the truth of the matter.

Response: Superior objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to discovery of admissible evidence, as the issues in this case relate to whether Superior's application meets requirement for public convenience and necessity and whether Waste Management is providing service to the satisfaction of the Commission.

Admit, however Superior plans to hire a CPA that does.

- 0046 Please state the amount of income reported on tax returns by Mr. Stein and/or Superior from solid waste collection services for each tax year from 2015 to present.

Response: Superior objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to discovery of admissible evidence, as the issues in this case relate to whether Superior's application meets requirement for public convenience and necessity and whether Waste Management is providing service to the satisfaction of the Commission.

No money was collected for transporting solid waste.

- 0047 Please describe and state the amount of any expenses reported on tax returns by Mr. Stein and/or Superior related to providing solid waste collection services for each tax year from 2015 to present.

Response: Superior objects to this request because it seeks information that is neither relevant nor reasonably calculated to lead to discovery of admissible evidence, as the issues in this case relate to whether Superior's application meets requirement for public convenience and necessity and whether Waste Management is providing service to the satisfaction of the Commission.

No expenses were reported for transportation of solid waste.

- 0048 At page 3 of his direct testimony, Mr. Stein offers as Exhibit DS-6 a 2007 Kitsap Sun article as "support" of Waste Management's purported "failure to provide service." In this regard:

- a. REQUEST FOR ADMISSION: Refer to Exhibit DS-6 at 2. Please admit that the issue that gave rise to the article was the "new 50-foot limit for 'pack-out'"

service” by Waste Management d/b/a Brem-Air Disposal. If your response is anything other than an unqualified admission, please state what you believe to be the truth of the matter.

Response: Superior is not in a position to interpret the author’s intentions or motivations.

- b. Please state your understanding of the current distance limit for pack-out service under the current Brem-Air tariff covering Superior’s proposed service territory.

Response: Carryout over 5 feet not to exceed 100 feet.

- c. Please state your understanding of when the current distance limit for pack-out service took effect under the current Brem-Air tariff covering Superior’s proposed service territory.

Response: November 2018.

- d. Please state as accurately as possible the date when Mr. Stein first read the 2007 Kitsap Sun article in Exhibit DS-6.

Response: On or around November 2018.

DATED this 13th day of June 2019.

SEATTLE LITIGATION GROUP, PLLC

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