



Sunshine Disposal & Recycling

April 1, 2011

David Danner, Executive Director and Secretary
Washington Utilities & Transportation Commission
1300 South Evergreen Park Drive SW
PO Box 47250
Olympia, WA 98504-7250

Re: Docket T-101661 Comments on behalf of Torre Refuse & Recycling (G-260), Ada-Lin Waste Systems (G-104) and Sunshine Disposal (G-199) d/b/a Sunshine Disposal & Recycling

Background

Sunshine Disposal & Recycling is a rural refuse company based near Spokane, Washington. In our operating environment, fuel is a more significant portion of our revenue than more urban haulers and we also have less purchasing power than a large national company to negotiate agreements that may mitigate overall fuel costs.

UTC staff begins its discussion with an attempt to provide perspective on how the current Lurito-Gallagher methodology treats fuel expense. Ada-Lin Waste Systems (our most rural operation) is represented as having fuel at 9.8% of revenue. This number is incorrect. The actual figure is 10.5%. We also highly question the figure that says we have a 6.7% return on fuel expense. We ran the L-G curve with fuel in the equation and fuel not in the equation and the resulting extra return is roughly 2.5% of fuel expense.

The net impact to ALWS is the LG curve offers us an extra \$1,276 on pro forma fuel expense of \$51,047. This added revenue translates to an extra 7 cents per gallon. By comparison, the 1% dead band requires ALWS to absorb 28 cents per gallon before any relief is available.

Staff goes on to make some stunning statements about the LG methodology, most notably that it is a "black box and underscores the need for the Commission to review whether the LG model is still appropriate for the purpose of establishing revenue requirement."

The LG methodology was advocated by staff, approved by the Commissioners after extensive hearings. Most importantly, it was implemented by staff after consultation with Dr. Richard Lurito who was a consultant employed by the UTC. In fact, there are members of the staff still currently employed at the UTC who participated in this process.

While the embedded formulas of the LG curve require some advanced math skills to comprehend, the behavior of the curve is very transparent to both staff and haulers. A review of the transcripts of the 1990 consolidated case make very clear that Dr. Lurito believed strongly that the greater operating expenses are in relationship to investment, the greater the risk of fluctuations of cost on return on investment. While stated returns on equity may appear to be large, companies with relatively low capital in relationship to operating expense can see those returns degrade with a much smaller fluctuation in anticipated costs.

Any rate of return methodology, whether it is in the solid waste or utility industries, is primarily focused on providing incentive for private business owners to invest capital and operate in an efficient manner. The reason LG has held fast for such a long period of time is that it has been very successful at doing both. Companies have succeeded over the past 20 plus years, investing tens of millions of dollars in capital to implement recycling programs, improve employee safety,, and navigate the myriad of state and local requirements aimed at ensuring garbage and recycling is handled in a safe and effective manner.

In staff's proposal there are various attempts to paint companies as attempting to leverage fuel price fluctuations to increase "profits". On page 4, the industry's thoughts on modifying the 1% threshold are dismissed because they would result in "more revenue and higher profits". These kinds of statements are in direct contradiction to the intent of a rate-making environment which is not intended to provide profits, but to provide a return commensurate with the risks associated with a private business owner's capital investment.

Current Methodology

Staff continues its discussion on the current methodology by stating that a surcharge isn't really a surcharge. Its reasoning is that a few haulers have been on a constant surcharge for many years. At the November and January forums, the solid waste industry proposed various ways to prevent these situations. For example, if a test year is more than five years old, or if the company has experienced significant operational changes, then staff should request more information before recommending a surcharge be approved.

Staff states that the surcharge is somehow ineffective because it is voluntary in nature, given that companies don't file for negative surcharges when fuel prices drop suddenly. This argument ignores the purpose of the surcharge, which is to implement quick relief for the one component of costs that can spike suddenly. It should be noted that the Companies already bear the risk of 1% of revenue.

The statement "surcharges are not a means to subsidize or offset cost increase" makes no sense. If fuel drops there is no surcharge. Nobody in the industry has proposed surcharges for any other cost component or suggested that a fuel surcharge covers any other cost than fuel. The only point that's been made is that the risk to the hauler of fuel going up far outweighs any prospective benefit haulers may experience by fuel dropping below the rate case baseline. In addition, if fuel does drop slightly below the baseline, the Company has potentially foregone 1% of its revenue in the dead band. Staff feels the current method is flawed because it has no update mechanism and that it applies uniformly to all rates, including pass-through disposal fees. Staff also points out discrepancies in how the methodology is implemented in relation to hauler's billing cycles and tariff publication. While there may be a few minor flaws, these can be easily corrected once we complete the discussion of whether or not any surcharge methodology is appropriate.

Sharing of Risk

Currently the 1% revenue threshold to qualify for a fuel surcharge is the same for solid waste, auto transportation and ferry companies. This is true despite the fact that the operating methodology provides auto transportation companies a significantly higher return on fuel costs (7.5% vs. 2.5% in the case of Ada-Lin). Also, since disposal fees usually represent between 40 to 60% of total revenue, auto transportation companies qualify for a surcharge with a much lower increase in fuel costs. In order for the methodology to be more fair, we propose that disposal fees be excluded from the surcharge calculation.

Deferred Accounting

Staff has proposed a deferred accounting methodology despite universal opposition from the solid waste industry. In fact, Waste Management participated in a two year pilot program. Despite this fact, staff dismisses most of Waste Management's concerns and insists on this method., Without any agreement at this time, we are provided a detailed outline with an implementation schedule that includes most (but not all) current solid waste haulers.

Deferred accounting replaces a temporary methodology with a permanent methodology. Ironically, this method is geared to serve only a few companies that staff has identified as abusers of the current system. Companies who have simply used the current methodology to protect against sudden and dramatic spikes in fuel costs will be forced to either subscribe to a permanent and compulsory system, or hold off until a general rate case can be prepared. I believe this will create a substantially higher work load for both the company and WUTC staff.

Solutions/Conclusion

This entire process, since the days leading up to the September 30, 2010 Open Meeting has been arduous, contentious, and lacking in clear intention. This matter was placed on the 9/30 Open Meeting, seemingly for Commission action, with little discussion and without proper notification to affected companies.

Since then, we've met for two lengthy discussion sessions, including an Open Meeting with the Commissioners on January 13, 2011. We left that meeting with the impression that some form of surcharge method would remain and that deferred accounting was not a desirable outcome. In the meantime, diesel prices have continued to rise.

We believe all the elements for a reasonable solution are on the table. We request the Commissioners retain the fuel surcharge methodology, with a few simple modifications to fix the perceived abuses and administrative inconsistencies. A refined process could include added checks and balances but maintain the central purpose: temporary relief from dramatic spikes in fuel costs.

We appreciate this opportunity to comment and look forward to healthy and productive discussion as we conclude this matter.

Sincerely,



John Lloyd
Chief Financial Officer
Sunshine Disposal & Recycling