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3 BEFORE THE WASHINGTON
4 UTILITIES AND TRANSPORTATION COMMISSION
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6 In the Matter of the Application of
7 JAMMIE’S ENVIRONMENTAL, INC.,
8 For Authority to Operate as a Solid Waste
9 collection company in Washington

DOCKET TG-220243

10 BASIN DISPOSAL, INC.

DOCKET TG-220215

11 Complainant,

12 v.

13 JAMMIE’S ENVIRONMENTAL, INC.

14 Respondent
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19 **PROTESTANT BASIN DISPOSAL, INC.’S**
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21 **RESPONSE TESTIMONY OF CHARLIE DIETRICH**

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23 **OCTOBER 14, 2022**
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PROTESTANT’S RESPONSE TESTIMONY OF
CHARLIE DIETRICH - i

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LIST OF EXHIBITS

- 1) Exhibit CD-13, a true and correct copy of JEI’s response to BDI’s Data Request No. 27;
- 2) Exhibit CD-14, a true and correct copy of an email JEI produced in discovery from Kathryn McPherson to Jammie Scott dated January 20, 2022;
- 3) Exhibit CD-15, a true and correct copy of an email JEI produced in discovery from Kathryn McPherson to Jammie Scott dated February 15, 2022;
- 4) Exhibit CD-16, a true and correct copy of emails between BDI’s representative and Kathryn McPherson commencing on February 2, 2022 and concluding on February 7, 2022;
- 5) Exhibit CD-17, a true and correct copy of emails produced by JEI in discovery between Kasey Markland and Owen Scott dated May 19, 2021;
- 6) Exhibit CD-18, a true and correct copy of emails produced by JEI in discovery between Mark Lowary and Kasey Markland dated May 21, 2021;
- 7) Exhibit CD-19, a true and correct printout of the “Our Services” page on JEI’s website as of October 10, 2022.
- 8) Exhibit CD-20, a true and correct copy of an email forward from Jammie Scott to Dawn Blancaflor of PCA dated January 31, 2022.

I. IDENTIFICATION OF WITNESS

Q. Please state your name, business address and role at Basin Disposal, Inc.

A. My name is Charlie Dietrich, Operations Analyst for Basin Disposal, Inc. (“Basin Disposal” or “BDI”) and my business address is 2021 N. Commercial Ave, Pasco, Washington 99031.

II. PURPOSE OF TESTIMONY

Q. What is the purpose of your response testimony?

A. I will be discussing a number of topics. First, I offer testimony regarding my evaluation of Jammie’s Environmental, Inc.’s (“Jammie’s” or “JEI”) application and fitness under Washington statute and rules including its financial and operational fitness to provide solid waste collection service in the applied-for territory. Second, I will respond to the testimony of Jammie Scott and Owen Scott, each of whom testified on behalf of JEI in its case-in-chief to support its application from the Commission. Regarding the latter topic, I and BDI’s Route Manager Andy Foxx will also address different aspects of Basin’s knowledge and experience collecting and transporting solid waste from industrial generators and, more specifically, Basin’s service in the territory for which JEI applied – which encompasses PCA’s paper mill near Wallula, Washington.

Q. Are you offering exhibits in addition to your testimony?

A. Yes, I am offering the exhibits below:

- 1) Exhibit CD-13, a true and correct copy of JEI’s response to BDI’s Data Request No. 27;
- 2) Exhibit CD-14, a true and correct copy of an email JEI produced in discovery from Kathryn McPherson to Jammie Scott dated January 20, 2022;
- 3) Exhibit CD-15, a true and correct copy of an email JEI produced in discovery from Kathryn McPherson to Jammie Scott dated February 15, 2022;
- 4) Exhibit CD-16, a true and correct copy of emails between BDI’s representative and Kathryn McPherson commencing on February 2, 2022 and concluding on February 7, 2022;
- 5) Exhibit CD-17, a true and correct copy of emails produced by JEI in discovery between Kasey Markland and Owen Scott dated May 19, 2021;

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- 6) Exhibit CD-18, a true and correct copy of emails produced by JEI in discovery between Mark Lowary and Kasey Markland dated May 21, 2021;
 - 7) Exhibit CD-19, a true and correct printout of the “Our Services” page on JEI’s website as of October 10, 2022.
 - 8) Exhibit CD-20, a true and correct copy of an email forward from Jammie Scott to Dawn Blancaflor of PCA dated January 31, 2022.

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III. EVALUATION OF JAMMIE’S APPLICATION

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Q. State law requires that the Commission consider certain criteria prior to issuing a certificate of public convenience and necessity. Do you anticipate that the Commission Staff will be offering testimony regarding its evaluation of JEI’s application under those criteria?

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A. No, I understand Staff has chosen not to be involved in these proceedings.

Q. Do you know why Staff has chosen not to be involved?

A. Not fully. BDI encouraged Staff’s involvement, but it is our understanding that Staff believed it was unnecessary that they be involved because BDI would be expected to offer its own testimony evaluating Jammie’s application and fitness to provide solid waste collection service. If the Staff has other reasons not to be involved they were not explained to us.

A. Minimum requirements under RCW 81.77 and WAC 480-70

Q. Are you indeed offering an evaluation of Jammie’s application and its fitness to provide solid waste collection service?

A. Yes. As I mentioned above, that is one of the purposes of my testimony.

Q. In performing that evaluation did you review the application criteria set forth in RCW 81.77.040 and Jammie’s application to reach an opinion as to whether Jammie’s application and case-in-chief met those requirements?

A. Yes I did. I reviewed both Jammie’s original application and the evidence it filed in its case-in-chief.

1 **Q. Did you also compare JEI’s application and supporting documents to the standards**
2 **applied to solid waste applications standards in Commission rules?**

3 A. Yes. I reviewed a number of Commission rules and evaluated Jammie’s application based
4 upon the requirements there.

5 **Q. Starting with your consideration of the statute, what did you find in your review?**

6 A. I found that Jammie’s failed to support its application with all of the information that is
7 required of an applicant for a certificate to provide solid waste collection service. The
8 applicable statute, RCW 81.77.040, states in part as follows:

9 Issuance of the certificate of necessity must be determined on, but
10 not limited to, the following factors: The present service and the
11 cost thereof for the contemplated area to be served; an estimate of
12 the cost of the facilities to be utilized in the plant for solid waste
13 collection and disposal, set out in an affidavit or declaration; a
14 statement of the assets on hand of the person, firm, association, or
15 corporation that will be expended on the purported plant for solid
16 waste collection and disposal, set out in an affidavit or declaration;
17 a statement of prior experience, if any, in such field by the
18 petitioner, set out in an affidavit or declaration; and sentiment in
19 the community contemplated to be served as to the necessity for
20 such a service.

16 Jammie’s application and direct case failed to supply any evidence from which the
17 Commission could consider a number of those factors.

18 **Q. Starting with the first factor, did Jammie’s supply evidence regarding “the present**
19 **service and the cost thereof for the contemplated area to be served” or “estimated**
20 **cost of the facilities to be utilized in the plant for solid waste collection and**
21 **disposal”?**

22 A. No. I reviewed all of the financial information JEI filed, which consists of a balance
23 sheet and profit and loss statements that were supplied by JEI in its initial application, as
24 well as an equipment list. The financial documents appear to be general financial
25 statements for JEI as opposed to information that is specific to the service it proposes to
26 provide if its application is granted.

1 **Q. Were you able to draw any conclusions regarding the cost of the service proposed by**
2 **Jammie's from those records?**

3 A. No. There isn't sufficient detail in the financial statements for anyone to reach
4 conclusions about Jammie's cost of service for the service at PCA. Nor is there any basis
5 for allocating costs between Jammie's other operations and its proposed services. Thus,
6 there is no way to reach any conclusions from the available information regarding
7 Jammie's costs.

8 **Q. What should the Commission conclude regarding the failure to supply that**
9 **information?**

10 A. For the Commission to conclude that Jammie's proposed service is in the public interest,
11 it would need to consider Jammie's financial fitness to perform the service. A review of
12 an applicant's financial fitness would include whether the proposed service can be
13 provided profitably. Although Jammie's may have other sources of revenue and assets as
14 indicated by its financial statements, there is another piece to the analysis that is missing
15 because Jammie's failed to provide information regarding its costs. As a result of
16 Jammie's omission, the Commission should conclude that it cannot find that Jammie's is
17 financially fit to provide solid waste collection service on the hearing record.

18 **Q. Were there other statutory criteria Jammie's failed to support through evidence?**

19 A. Yes. The statute requires the Commission to consider "sentiment in the community
20 contemplated to be served as to the necessity for such a service." I understand that
21 evidence of necessity for the applied-for service is to be provided by a shipper like PCA,
22 and that evidence should have been provided as a statement in Jammie's application and
23 through testimony from PCA in Jammie's case-in-chief. Jammie's initial testimony and
24 exhibits included only testimony from Jammie Scott and Owen Scott, who are
25 representatives of JEL.

26 **Q. What should the Commission conclude based on those gaps in evidence?**

1 A. The Commission should conclude that Jammie's application should be denied because it
2 failed to establish both the need for the additional service it proposes to provide and that
3 it is financially fit to provide that service.

4 **Q. What materials did Jammie's apply to collect and transport for disposal?**

5 A. The Commission's Docket Notice states that Jammie's is applying to provide the
6 following:

7 Specialized solid waste collection (as a class C company),
8 providing service to Packaging Corporation of America located at
9 31831 S Hwy 12 in Walulla, WA 99363. Collecting processed and
10 rejected corrugated cardboard waste, hazardous waste, dangerous
11 waste, special waste (e.g. any solid waste that requires additional
12 processing, special handling, special packaging, special
13 transportation and or additional disposal techniques due to its
14 quantity, concentration, physical or chemical characteristics or
biological properties, and other solid waste that is not hazardous,
dangerous or special, excepting (a) Non-hazardous solid waste
from residential customers, (b) Municipal solid waste and (c)
biomedical or biohazardous waste. Dropbox service may be
provided for Hazardous, Dangerous and/or special waste only.

15 **Q. By the way, did Jammie's attempt to support a need for transportation of hazardous**
16 **waste, dangerous waste or special waste in its application or through testimony in its**
17 **case-in-chief in any way?**

18 A. No. The only material Jammie's addressed in its application or self-serving testimony
19 was the OCC Rejects generated by PCA, and that waste stream is properly classified as
20 Municipal Solid Waste ("MSW").

21 **Q. Did Jammie's application and the Commission's docket notice include any**
22 **restrictions on carrying specific commodities?**

23 A. Yes. The application and docket notice specifically exclude from the applied-for
24 authority any municipal solid waste and biomedical or biohazardous waste.

25 **Q. Does that create any further defects with Jammie's application?**

26 A. Yes it does. OCC Rejects are MSW; they are a residual waste from recycling and are

1 neither hazardous waste nor a state dangerous waste. They can be transported directly to
2 the transfer station or landfill without special treatment or special handling. Although
3 Jammie's stated it was applying to provide service to PCA to collect and transport
4 rejected corrugated cardboard waste, its application also specifically excludes those
5 materials when they constitute MSW. Because PCA's OCC Rejects are MSW, even if
6 Jammie's were granted the authority it requested, it would not be authorized to haul
7 PCA's OCC Rejects because they would be excluded in Jammie's certificate restriction.

8 **Q. Both Jammie Scott and Owen Scott testified that OCC Rejects require special
9 handling. Isn't that how solid waste becomes classified as "Special Waste"?**

10 A. No. By Washington Administrative Code Section 183-303-040, the Department of
11 Ecology defined Special Waste as a state dangerous waste. Special Wastes must be tested
12 or analyzed to determine their designation, a Dangerous Waste Code is applied, and a
13 Special Waste billing of lading must accompany every load pursuant to Department of
14 Ecology Rules. Specifically, WAC 173 303-073 requires this process. And to my
15 knowledge, PCA's OCC Rejects have never been classified as a dangerous waste or
16 handled like Special Waste.

17 **Q. Do you know whether the classification of PCA's OCC Rejects has changed since
18 Jammie's began collecting and transporting it for disposal without authority from
19 the Commission?**

20 A. It has not changed. Basin continues to haul occasional loads of OCC Rejects for PCA,
21 and nothing about its character or classification has changed. Additionally, Jammie's
22 produced a waste profile generated by PCA for disposal of its OCC Rejects at the
23 Columbia Ridge Landfill. That record treated PCA's OCC Rejects as MSW as well.¹

24 **B. Jammie's Regulatory Fitness**

25 **Q. Did Jammie's demonstrate that it is fit to transport any solid wastes?**
26

¹ Exh. CD-09, p. 123-24.

1 A. No. For a variety of reasons, Jammie’s has demonstrated the converse: that the
2 Commission should find that it is unfit to provide regulated solid waste collection service.

3 **Q. Why should the Commission reach that conclusion?**

4 A. To start, Jammie’s has no relevant experience providing solid waste collection service.

5 **Q. But Jammie’s makes various claims regarding its experience in transporting solid**
6 **waste in its application. For example, Jammie’s application makes the following**
7 **assertion:**

8 **At times, our services include but are not limited to the**
9 **transportation and disposal of both solid and liquid processed**
10 **waste, hazardous waste, dangerous waste and/or special waste.**
11 **Generally, the service of transporting and disposal of waste is**
12 **incidental to the other services provided to our customers but**
13 **in certain circumstances, clients will ask for support in**
14 **managing their waste in conjunction with other services we**
15 **currently provide.²**

16 **Does this not support that Jammie’s has a wealth of experience transporting solid**
17 **waste from commercial or industrial generators?**

18 A. There is no way to determine from that statement whether Jammie’s transported one bag
19 of solid waste or 10,000 tons, or with what regularity, and by what equipment. Nor did
20 Jammie’s elaborate on the statement in its application or testimony to provide any level of
21 detail regarding its experience.

22 **Q. Does Jammie’s elaborate on its experience in the section of the Commission’s**
23 **application that requests the applicant to “tell us about your experience and**
24 **knowledge of transportation of solid waste”?**³

25 A. Not with specifics. Jammie’s claims it works at a variety of facilities, but it also says its
26 primary service is cleaning and that it also helps to “manage” the waste. Importantly, it
does not explain whether this means collection and transportation for disposal. Similarly,

² Jammie’s Application, p. 9.

³ Jammie’s Application, p. 10.

1 Jammie’s claims that it provides roll-off boxes, but simply spotting equipment by itself is
2 not solid waste collection service and JEI’s equipment list doesn’t even identify any roll-
3 off boxes that it owns.

4 **Q. Do either Jammie Scott or Owen Scott elaborate on the descriptions of JEI’s**
5 **experience in their written testimony?**

6 A. Not in a meaningful way. Ms. Scott describes JEI starting on page 3 of her initial prefiled
7 testimony, Exhibit JDS-1T and describes their business as an industrial cleaning
8 company. Starting on page 4, she then discusses JEI’s experience with solid waste.
9 There she states “if Jammie’s performs an industrial cleaning or cleanup service for a
10 customer, Jammie’s may be asked by the customer to also dispose of the waste associated
11 with that service.” Exhibit JDS-1T. 4; 14 – 16. She never elaborated on that with details
12 or specific examples and I can’t decipher from that statement whether she means.
13 Hypothetically, she could mean that if JEI cleans up a spill of liquid hazardous waste, it
14 then transports that material for disposal. But that kind of operation would not
15 demonstrate any experience relevant to the collection and disposal service for which JEI
16 seeks certificate authority.

17 **Q. Was Basin able to obtain additional information regarding Jammie’s experience in**
18 **providing solid waste collection service though discovery?**

19 A. Yes. We served Jammie’s with a data request to ask about experience it claimed to have
20 “disposing of industrial wastes” in its Answer to BDI’s formal complaint, and its response
21 provided only a single occasion on which it provided solid waste collection service. I am
22 providing JEI’s response to that data request as Exhibit CD-13.

23 **Q. If it turns out that Jammie’s does indeed have relevant experience collecting solid**
24 **waste for disposal in Washington, should that demonstrate its regulatory fitness?**

25 A. No. Jammie’s has never previously applied for a certificate of public convenience and
26 necessity authorizing solid waste collection service from the Commission and in my

1 understanding has never entered into a municipal franchise agreement with any
2 Washington municipality. Thus, any meaningful experience it may have obtained in
3 collecting and transporting solid waste would have been obtained as the result of conduct
4 that violated state law.

5 **Q. You previously addressed how JEI has been providing solid waste collection service**
6 **to PCA's paper mill near Wallula in your initial pre-filed testimony. What can be**
7 **concluded regarding JEI's fitness based on that conduct?**

8 A. The Commission should conclude that JEI is not interested in complying with
9 Commission rules or regulations until it has no other choice.

10 **Q. What do you mean by "no other choice?"**

11 A. As far as I can determine, Jammie's never reached out to the Commission Staff to inquire
12 about regulatory compliance regarding the OCC Rejects haul from PCA until after BDI
13 contacted Jammie's to inform it that hauling OCC Rejects violate state law. Only when
14 facing a potential complaint did JEI do anything at all in terms of compliance.

15 **Q. Do you have any records that establish when BDI informed Jammie's that hauling**
16 **solid waste for disposal violates state law?**

17 A. Yes. I am supplying an email chain wherein Richard Dietrich, a representative of BDI
18 contacted Owen Scott by email on January 17, 2022 and Jammie Scott's subsequent
19 email forwarding it to PCA, which confirms it was received by JEI. Exh. CD-20.

20 **Q. When did JEI contact Commission Staff?**

21 A. Based on emails Jammie's produced in discovery, it appears that JEI first contacted the
22 Commission Staff on January 20, 2022. I am supplying an email chain between Jammie
23 Scott and Katherine McPherson as Exhibit CD-14. This appears to be a confirmation of
24 their phone call discussion of the same date.

25 **Q. Do you know what was discussed during that call?**
26

1 A. No. I wasn't on the call and don't know what details Ms. Scott represented to Ms.
2 McPherson about Jammie's operations at PCA or whether they were accurate or not.

3 **Q. Did Ms. McPherson relay any informal opinions to JEI in a follow-up email?**

4 A. Yes, apparently based on the information that Jammie Scott represented to her, Ms.
5 McPherson informed Ms. Scott of her informal opinion that JEI needed a common carrier
6 certificate but was exempt from solid waste regulations.⁴

7 **Q. Did JEI not have a common carrier permit prior to the call?**

8 A. Apparently not.

9 **Q. Why should that matter to the Commission?**

10 A. According to Jammie Scott, JEI has been "performing the same services in essentially the
11 same manner for over twenty years."⁵ Either that is an inaccurate statement, or Jammie's
12 never made any efforts to comply with state common carrier certificate requirements.

13 **Q. Do you know whether Ms. McPherson did anything more to investigate JEI after
14 her January 20, 2022 email to Jammie Scott?**

15 A. Yes, she did. When BDI contacted Ms. McPherson separately to make an informal
16 complaint about JEI just a few days later, on February 2, 2022, she informed us that she
17 had already provided an informal opinion based on a phone call from Jammie Scott.
18 After we relayed our complaint, she took an investigatory trip out to PCA's paper mill to
19 assess the facts of how the OCC Rejects were being collected and transported for disposal
20 for herself.⁶

21 **Q. After her trip to PCA did she continue to opine that JEI's operations were exempt?**

22 A. No, after her investigatory trip to PCA's paper mill and consulting with the Attorney
23 General's office, she concluded that any loading activities JEI was performing at the mill
24 were incidental to the haul, not the other way around. And she relayed that informal
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26 ⁴ See Exh. CD-14.

⁵ Exh. JDS-1T, 6: 3-4.

⁶ Exh. CD-16.

1 opinion in an email to Lisa Cothren, a JEI employee, and Jammie Scott on February 15,
2 2022, which I am supplying as Exhibit CD-15.

3 **Q. Beyond Ms. McPherson’s informal opinion, are there any details that demonstrate**
4 **that loading was incidental to hauling and not the other way around?**

5 A. Yes there are. This can be readily demonstrated by the fact that when JEI first started
6 hauling OCC Rejects from PCA, PCA did the loading. I am supplying an email from
7 Kasey Markland to Mark Lowary, Lisa Cothren and Skyler Rachford dated May 19, 2021
8 where Mr. Markland relayed that PCA would provide the loader. Exh. CD-17.
9 According to Mark Lowary’s email to Mr. Markland on May 21, 2021, JEI only provided
10 a loader because PCA’s loader wasn’t large enough to reach over the side of the trailer
11 JEI planned to use. Exh. CD-18. Additionally, PCA’s purchase orders indicated that PCA
12 was loading its own waste into JEI’s trucks for several months. For example, in a
13 document that contains the description “Purchase Order to cover period 07/26/2021 to
14 08/10/2021” there is a description of the services as follows:

15 2 weeks of rejects hauling with Jammie’s belt trailer.
16 Cost Estimate for Transportation of OCC Waste [redacted] based
17 on a 12-hour day for 10 days includes mob demob
18 Landfill disposal Cost Per Ton
PCA will provide the loading of the dump truck and pup⁷

19 **Q. After Ms. McPherson performed her fact-finding mission and relayed her revised**
20 **opinion to JEI, did JEI cease hauling OCC Rejects from PCA’s paper mill?**

21 A. Not at all. Instead it has taken the position that its haul should be exempt, apparently
22 relying on Ms. McPherson’s original email, and it continues to this day to haul OCC
23 Rejects for disposal.

24 **Q. Has Jammie’s sought temporary authority from the Commission to transport solid**
25 **waste while its application for permanent authority has been pending?**

26 ⁷ Exh. CD-06, p. 4. (emphasis added).

1 A. No.

2 **Q. Did JEI apply for a declaratory order from the Commission as to whether its service**
3 **was subject to the Commission’s jurisdiction?**

4 A. No.

5 **Q. Did JEI continue to haul OCC Rejects from PCA anyway?**

6 A. Yes, again, it has. As shown in the disposal tickets I filed as Exhibit CD-08, JEI has
7 continued to regularly collect and transport thousands of tons of OCC Rejects to the
8 landfill since it was first advised to apply for a certificate.

9 **Q. Ms. Scott stated in pre-filed testimony that JEI does not hold itself out as a solid**
10 **waste collection company. Exh. JDS-1T, p. 30: 12-13. Have you found any evidence**
11 **that would demonstrate Ms. Scott is incorrect?**

12 A. Yes. I reviewed JEI’s website and found that among the services it describes there are
13 “Waste Transportation and Disposal” services. I am attaching a printout of a page from
14 Jammie’s website, which is located at <https://www.jammiesenviro.com/our-services/>, as
15 Exh. CD-19.

16 **Q. What should the Commission conclude based on JEI’s conduct?**

17 A. Again, as I stated earlier, the Commission should conclude that Jammie’s is not willing to
18 be forthcoming or abide by state law and thus is not fit to provide regulated solid waste
19 collection service in Washington.

20 **C. PUBLIC INTEREST**

21 **Q. I would now like to turn to the topic of whether the proposed service is in the public**
22 **interest. First, do you believe that permitting another carrier to transport solid**
23 **waste in Basin Disposal’s certificate area would benefit the public?**

24 A. Not at all. Permitting an additional carrier within BDI’s service territory will harm the
25 public.

26 **Q. On what do you base that statement?**

1 A. Seeking to serve a single generator in the way Jammie’s proposes is a classic “cream-
2 skimming” operation. Because industrial and commercial generators can generally be
3 served more efficiently than residential customers in a largely rural county like Walla
4 Walla County, permitting JEI to operate in Basin Disposal’s service territory removes a
5 significant source of revenue which adversely affects all other customers in Basin
6 Disposal’s service area.

7 **Q. How would that revenue loss impact the other customers in BDI’s service area?**

8 A. In my view, the loss of revenue from PCA to Jammie’s unlicensed solid waste disposal
9 operations ultimately results in higher rates to all other customers in BDI’s certificate
10 territory. Although losing PCA to an unlicensed hauler theoretically permitted BDI to
11 reduce variable operating expenses, BDI’s fixed costs cannot not be significantly
12 mitigated. These costs must still be recouped in regulated rates, and thus the loss of a
13 significant customer like PCA creates upward pressure on Basin’s overall rates.
14 Conversely, if the Commission denies JEI’s application and PCA’s revenue is restored to
15 BDI’s books going forward, it will help relieve the upward pressure that is already sky-
16 high as a result of the current inflationary trends.

17 **Q. Are there any other factors you believe the Commission should consider in**
18 **concluding that JEI’s application is against the public interest?**

19 A. Yes. I performed an analysis of the rates JEI has been charging PCA in comparison to the
20 rates that BDI was proposing to provide under its existing tariff for a direct-to-landfill
21 tractor-trailer haul. I concluded based on that analysis BDI would have achieved a lower
22 price per ton to PCA than Jammie’s experienced.

23 **Q. Why should that be relevant to the Commission’s consideration of the public**
24 **interest?**

25 A. It demonstrates that competition for the sake of competition does not always result in
26 economic benefits to the public. Although, as I mentioned earlier, we don’t know the

1 underlying cost of service for JEI, we know that Basin is able to take advantage of its
2 existing infrastructure to provide a more cost-efficient service than Jammie’s is
3 providing.

4 **Q. Would either allowing Jammie’s to continue to haul OCC Rejects from PCA as an**
5 **exempt operation or under a G-certificate harm the public interest in any other**
6 **ways?**

7 A. In my view, yes. Jammie’s has been providing solid waste collection services to PCA for
8 over a year without authority from the Commission. If the Commission allows the
9 experience JEI gained through that unlawful operation to justify granting its application,
10 it will incentivize other illegal haulers to continue operating outside the law.

11 Additionally, should the Commission find that JEI is permitted to haul truckloads of solid
12 waste on a daily basis as an “incidental” and therefore exempt operation, simply because
13 it also furnishes industrial cleaning and loading services, it would provide a roadmap to
14 completely diminishing the Commission’s jurisdiction to regulate in the public interest.
15 Any other company that wishes to provide solid waste collection service can simply add
16 on additional unregulated services after the fact in the way Jammie’s has to justify the
17 exemption.

18 **Q. Please explain what you mean by “additional unregulated services after the fact”?**

19 A. As I described earlier, and as demonstrated through Jammie’s own records, Jammie’s
20 agreed to provide service to PCA that was described by PCA as ‘Haul OCC Waste’⁸ and
21 by Jammie’s as “OCC Waste Trans.”⁹ PCA applied a similar variety of labels to the
22 service including “rejects hauling.”¹⁰ In fact, none of PCA’s purchase orders for OCC
23 Rejects transportation even mention industrial cleaning or loading by JEI. This
24

25 ⁸ Exhibit CD-06

⁹ Exhibit CD-17 [05-19-21 email]. *See also* CD-18 [05-21-21 email],

26 ¹⁰ Exh. CD-06 (Page 1: “Transportation of OCC Waste”; page 4: “2 weeks of rejects hauling with Jammie’s belt trailer”; page 7: “2 weeks of rejects hauling with Jammie’s belt trailer”; page 9: “2021 Blanket PO for Jammies to Haul OCC Waste”; and page 12 “2022 Blanket PO for Jammies to Haul OCC Waste”).

1 establishes that the service PCA requested and JEI is providing was always intended to be
2 the transportation and disposal of solid waste. Any other services, including
3 “management” and “cleaning” were afterthoughts or additions of unregulated accessorial
4 services. If the Commission were to permit JEI to justify providing solid waste service
5 under these circumstances, every single solid waste haul could be made incidental and
6 subject to the exemption simply by adding on other related activities like container
7 cleaning or loading.

8 **Q. You previously addressed whether OCC Rejects actually require specialized**
9 **handling in Exhibit CD-1Tr. Would it be in the public interest should the**
10 **Commission accept Ms. Scott’s arguments that JEI should be granted a Class C**
11 **certificate because of the special handling requirements?**

12 A. Put simply, no. The criteria Ms. Scott applies to assess what constitutes “special
13 handling” are superficial and easily manipulated to find in favor of granting a Class C
14 certificate when the material is just ordinary municipal solid waste generated in large
15 volumes.

16 **Q. Will you please elaborate on why you believe a “special quantity” does not require**
17 **“special handling”?**

18 A. Yes. The core service provided by a solid waste collection service company is the
19 collection, transportation and disposal of a waste material, whether it is generated by a
20 residential, commercial, or industrial customer. Jammie’s is providing that service by a
21 direct-to-landfill haul using tractor-trailers. Although Jammie’s is using tractor-trailers
22 rather than the drop box service PCA requested from BDI, the use of a belt-loaded trailer
23 for collection is not “special.” Basin and its affiliates offer similar services to haul solid
24 waste from other industrial generators in the state as part of our regular service.
25 Jammie’s also claims the service is special because the volume requires “full time, on-site
26 management.” Exh. JDS-1T. 24: 16-17. But that is not a description of solid waste

1 collection service. PCA chose to subcontract on-site management to JEI, but it could
2 have elected to do that without also hiring Jammie's to perform the haul. Those are two
3 distinct services, and other generators frequently choose to monitor their own waste
4 generation levels and coordinate directly with BDI's route manager to ensure timely
5 collection and transportation.

6 **Q. Ms. Scott also claims that PCA's OCC Rejects require "special processing." Exh.**
7 **JDS-1T. 24: 14 – 25: 6. Do you agree with her contentions?**

8 A. No. A waste material might require special processing here if, for example, after it was
9 collected by a solid waste collection company, it was first delivered to a processing
10 facility for necessary treatment prior to disposal. All of the "special" processing at PCA
11 is simply the efforts used by the generator or its subcontractor to dry the material before it
12 is placed in a solid waste collection bin for disposal. Once dry OCC Rejects are placed in
13 a collection container or trailer, they can safely be transported directly to the landfill for
14 disposal. Think about it this way: we don't consider source separation of recyclable
15 materials to be "special processing." This is simply a requirement placed on the
16 generator to increase the waste diversion rate. Similarly, PCA and other generators must
17 take steps to ensure that the solid waste they place in a container for collection can be
18 transported to a landfill. And if the Commission started treating every step that must be
19 taken by the generator to deposit solid waste in a container or trailer for disposal as
20 "special processing" then every additional step a generator can concoct would qualify
21 their hauler for an exemption or overlapping certificate. This would be a very slippery
22 slope.

23 **Q. Do you agree with Jammie Scott that loading OCC Rejects by a five-yard wheel**
24 **loader constitutes "special handling"? Exh. JDS-1T. 25: 7 – 10.**

25 A. No. Once again, this is the type of contention that, if accepted, could be easily exploited
26 and lead to every solid haul being deregulated. What Ms. Scott is describing, the use of a

1 hydraulic loader to fill containers, is a common practice among industrial and
2 commercial generators who load solid waste into drop boxes and trailers alike. Even
3 automated collection vehicles use hydraulic loading arms. Thus there is nothing
4 “special” about this particular accessorial service.

5 **Q. What is your reaction to her premise that using tractor-trailers to haul directly to**
6 **landfill is “special transportation.” Exh. JDS-1T. 25: 11-16,**

7 A. Ms. Scott’s statement demonstrates that she doesn’t have much knowledge or experience
8 in how solid waste collection companies ordinarily transport large volumes of waste from
9 industrial generators. As noted above, BDI has considerable experience hauling
10 industrial waste from generators and from the transfer station to landfill. When dealing
11 with large enough volumes, it is more efficient for haulers to use tractor-trailer
12 combinations with a direct-to-landfill haul. This is nothing special at all; it is what we do
13 just about every day for numerous other industrial customers.

14 **Q. Finally, do you agree with Ms. Scott’s contention that if the Commission concludes**
15 **that hauling regular daily truckloads of solid waste from an industrial generator**
16 **requires a certificate that the decision would “muddy the water” as to what**
17 **constitutes solid waste collection? Exh. JDS-1T. 5: 6 – 18.**

18 A. I think the converse is true. Ms. Scott presented absolutely zero evidence of the nature of
19 the solid waste collection activities in which these other industrial cleaning companies to
20 which she referred are engaged. If the Commission were to assume that the numerous
21 companies named by Ms. Scott all collect tons of municipal solid waste and transport
22 them over public roads for disposal on a daily basis as Jammie’s is doing, then the
23 Commission’s conclusions that a G-certificate is required in this case would actually
24 clarify whether a certificate is required for those companies. If conversely, their activities
25 bear no resemblance to Jammie’s unlicensed solid waste collection service at PCA,
26 nothing about the Commission’s conclusions in this case would impact their ability to

1 transport minimal waste quantities generated incidentally by their cleaning activities.
2 Either way, reaching a clear conclusion that a G-certificate is required for Jammie's
3 activities, and denying Jammie's application to obtain one, would serve the public
4 interest.

5 **D. BASIN DISPOSAL'S SATISFACTORY SERVICE**

6 **Q. Jammie Scott contends in her pre-filed testimony that Basin failed to provide**
7 **satisfactory service to PCA. I would like to ask you some questions on that topic.**
8 **First, Has BDI ever refused to provide service requested by PCA?**

9 A. Not at all. As I addressed in my initial pre-filed testimony on BDI's Complaint, the only
10 times BDI was unable to haul loads of OCC Rejects from PCA were when they had been
11 loaded wet by PCA and could not be legally transported. And JEI would similarly refuse
12 to haul wet OCC Rejects from PCA.

13 **Q. Did BDI refuse to provide accessorial services like loading or cleaning?**

14 A. No. Although PCA never requested unregulated accessorial services like loading or
15 cleaning from Basin, we proposed to provide loading services multiple times. As I
16 addressed in my initial pre-filed testimony in the Complaint case, Exhibit CD-1T, PCA
17 rejected our initial suggestions and simply ignored or failed to respond to our written
18 proposals.

19 **Q. Ms. Scott states in her initial pre-filed testimony that "BDI seemed to lack a plan**
20 **that was tailored for the particular waste stream at issue and instead, treated the**
21 **OCC Rejects like normal garbage." Exh. JDS-1T. 11: 27-28. What is your response**
22 **to that statement?**

23 A. As I addressed in my own initial pre-filed testimony, and as Andy Foxx is addressing in
24 his response testimony, this statement demonstrates a fundamental misunderstanding of
25 the history and relationship between BDI and PCA. Specifically, PCA initially
26 approached BDI and requested that we provide multiple drop boxes for it to load and for

1 BDI to haul. It was only on February 19, 2021, days before PCA started generating OCC
2 Rejects for disposal, that our input was invited at all. If we didn't create the plan, BDI
3 could hardly be blamed for its shortcomings.

4 **Q. When BDI's input was eventually invited, did PCA accept recommendations from**
5 **BDI?**

6 A. Again, no it did not. PCA decided to stick with the plan that it had developed and to take
7 a "wait and see" approach. I then reached out to PCA's representatives again and again to
8 remain proactive and offer to find solutions. Those offers fell on deaf ears.

9 **Q. Ms. Scott also attributes a giant mess of OCC Rejects scattered through PCA's yard**
10 **to BDI's poor management of OCC Rejects. Exh. JDS-1T. 12: 6 – 13: 2. What is**
11 **your reaction to Ms. Scott's statement?**

12 A. I think that's an unreasonable and inaccurate statement. First, as the photos I filed in
13 Exh. CD-03, pages 6-9, show, when Jammie's had taken over loading from PCA in
14 January 2022, and had largely assumed PCA's (unauthorized) solid waste collection
15 service provider role, there was solid waste scattered throughout the yard. Thus, Ms.
16 Scott's criticisms of BDI appear to be the pot calling the kettle black. But in this case, the
17 "kettle" was actually PCA, who had been performing its own loading and cleaning at the
18 times that Ms. Scott blames BDI for creating a mess.

19 **Q. Ms. Scott also claims that there was a simple solution to the problem of water**
20 **leaking from drop boxes that JEI employed through mixing dry and wet OCC waste**
21 **before loading the materials for transportation and disposal, and that BDI's failure**
22 **to take similar steps reflects "its inexperience in handling industrial wastes." Exh.**
23 **JDS-1T. 13: 13 – 14: 3. What is your response to that testimony?**

24 A. As with many of her statements, Ms. Scott conveniently blames BDI for things over
25 which we had no control in an effort to paint BDI as inexperienced and unqualified to
26 provide collection services to industrial generators. This is far from accurate. First, as I

1 have stated repeatedly, BDI made the recommendation that PCA use a bunker to dry its
2 OCC Rejects prior to loading on a number of occasions. Rather than accepting that
3 proposal, PCA rejected use of a bunker as being a fire hazard and relayed that it was
4 working on its own internal solution. But PCA never did anything significant to reduce
5 water content until after it started using Jammie's.

6 Moreover, Ms. Scott is only telling part of the story, while leaving out significant
7 details. According to the emails JEI produced in discovery, it had no such solution when
8 it first start operating at PCA. In the purchase order included in Exhibit CD-09, p. 39 for
9 July 24, 2021 to August 26, 2021 it clearly states "PCA will providing the loading of the
10 dump truck and pup." If PCA was still loading, JEI had not employed this method for
11 some time after it first started hauling OCC Rejects for disposal.

12 Additionally, although both Ms. Scott and Mr. Scott describe having provided a
13 complete solution to the excess water issues, as recently as April 2022, JEI's own
14 employees confirmed it was still having issues with the water content of PCA's OCC
15 Rejects. In an email from Mark Lowary to Kasey Markland on May 9, 2022, he Mr.
16 Lowary explained that JEI was invoicing PCA for work it performed on April 3, 2022 to
17 remove standing water from PCA's lot, stating:

18 State law won't allow us or BDI to have water dripping out of the
19 loads we haul. We have already gotten a ticket trying to haul rejects
20 that were too wet. We tried pushing the water off the lot with the
21 wheel loader but Paul Gibson stopped that fast. So we held a vac
hose over the pond out front and took out 7 or 8 vac trucks of water
off your lot and dumped around back at the de-watering bunker.

22 **Q. What do you believe this email means regarding JEI's experience and process for**
23 **removing water from OCC Rejects?**

24 A. It suggests that despite the rosy testimony about how great its solutions have been, JEI
25 had not resolved all issues with wet OCC Rejects waste for at least 11 months after it
26 started hauling OCC Rejects from PCA.

1 **Q. Did PCA give BDI 11 months to find solutions to PCA's moisture problems?**

2 A. Hardly, no. BDI started hauling OCC Rejects from PCA in March 2021, and PCA started
3 using Jammie's for that service just two months after we started hauling. PCA then
4 switched to Jammie's for all but an occasional load only a short while after that. During
5 that time, PCA never attempted to use any of BDI's suggestions to resolve the moisture
6 issues, and Paul Cova was still insisting on using a compactor to haul OCC Rejects well
7 after Jammie's was involved.

8 **Q. By the way, you previously testified that the idea of using a bunker was first raised**
9 **at a meeting with PCA on February 19, 2021 and was repeated in later**
10 **conversations. Where did that idea originate?**

11 A. The proposal was based on experience with handling OCC Rejects for disposal.

12 **Q. But Ms. Scott claimed that BDI has zero experience with OCC Rejects before its**
13 **work with PCA. Exh. JDS-1T. 23: 25-26. Is she correct that BDI doesn't have**
14 **experience with collecting and transporting OCC Rejects for disposal?**

15 A. No, that is yet another misstatement. Ms. Scott relies upon a narrow data request and
16 response seeking the identity of other paper mill customers for which BDI hauled OCC
17 Rejects to draw broad and improper conclusions.

18 **Q. Is it true that there are no other paper mills in BDI's service territory?**

19 A. Yes. There are no other paper mills in BDI's service territory, so there were no paper
20 mills to identify in response to the specific data request Jammie's issued. That does not
21 mean, however, that BDI lacks experience in serving paper mills.

22 **Q. How could that be possible if there are no other paper mills in BDI's service**
23 **territory?**

24 A. Like any service entity, BDI's operational experience comes from the collective
25 knowledge of its employees. In our case, BDI shares some of its operations and
26 managerial employees with multiple affiliated entities who have a wealth of experience

1 operating in collecting and transporting solid waste from industrial generators. Some of
2 those industrial generators are served by our affiliates, and others were served by our
3 employees prior to the time they joined BDI.

4 **Q. Do any of BDI's current employees have experience hauling OCC Rejects from**
5 **other paper mills?**

6 A. Yes. Among others, one of our employees, Richard Dietrich, has decades of experience
7 collecting and transporting OCC Rejects from paper mills for other companies that he
8 brought with him to BDI when he joined the company.

9 **Q. How has that experience been applied with respect to BDI's service at PCA?**

10 A. First, Richard provided input on the PCA haul before it even commenced. His
11 experience was the reason we suggested using a bunker to store OCC Rejects while they
12 dry and belt-loaded trailer to haul OCC Rejects. That same service model has been
13 successfully used by other companies with whom Richard worked prior to the time PCA
14 commenced its operations at issue here. Additionally, it informed our proposal to PCA to
15 use a trailer rather than drop boxes. In our experience, the way to reduce the price per ton
16 of solid waste is to haul larger loads direct to the landfill, rather than more frequent
17 smaller loads to the transfer station.

18 **Q. Are there other circumstances in which BDI's management has experience with**
19 **transporting the type of volumes generated by PCA?**

20 A. Absolutely. As I mentioned, there are multiple affiliates of BDI and we collectively
21 handle industrially generated solid waste for numerous generators with considerable
22 volumes of solid waste. Moreover, we handle loads from the transfer station in Pasco to
23 the landfill. Although moisture is not a primary concern at the transfer station, we
24 manage the loading and haul direct-to-landfill using tractor-trailers as we proposed using
25 at PCA.

1 **Q. Limiting your response to just BDI's service territory, does Basin Disposal handle**
2 **any other industrial customers' solid waste?**

3 A. Absolutely. In fact 35% of BDI's route hours are spent on industrial customers.
4 Contrary to the uninformed assertions of Ms. Scott, BDI handles far more than just
5 neighborhood residential solid waste, which accounts for just 47% of our total route
6 hours.

7 **E. DIRECT RESPONSE TO JAMMIE SCOTT AND OWEN SCOTT**

8 **Q. I would like you to address some of the specific statements made by Jammie Scott**
9 **and Owen Scott in their pre-filed testimony. Ms. Scott testified that she believes**
10 **BDI lacked the resources to address the water content of OCC Rejects. Exh. JDS-**
11 **1T. P. 11: 25-26. Do you agree with her premise?**

12 A. I disagree with it for a couple of reasons. First, it assumes it would always be the
13 responsibility of the carrier to resolve issues for the generator. Although BDI is a
14 customer-oriented company and strives to provide excellent service, ultimately the
15 responsibility for reducing the water content of OCC Rejects must fall on PCA as the
16 generator. But it is also important to note that she is simply incorrect that Basin Disposal
17 lacks the resources to address the issues with water content.

18 **Q. What resources does Basin Disposal have to address water content?**

19 A. As I addressed above, BDI has representatives with experience in handling OCC Rejects
20 at other paper mills and the knowledge of how to create a work flow that will allow the
21 material to be dried before it is loaded for transportation. We also have the equipment or
22 the ability to acquire the equipment needed to move substantial volumes of waste
23 generated by industrial facilities.

24 **Q. Ms. Scott also claims that BDI could not provide the service PCA needs now because**
25 **it "does not have all the equipment that would be needed" and "has not made all the**
26

1 **tariff changes it would need to provide the service.” Exh. JDS-1T. 28: 25 – 29: 4.**

2 **What is your response to Ms. Scott’s claims?**

3 A. Once again, Ms. Scott is attempting to draw a broad conclusion based upon a misreading
4 of limited information in her possession. With respect to the equipment that Basin has
5 available, Ms. Scott bases her incorrect assertion on a data request that asked the
6 following:

7 Does BDI currently own, lease or otherwise have in its possession
8 any of the equipment that BDI identified in its August 2021 or
9 January 2022 proposals to PCA for OCC Rejects disposal
10 services? If yes, describe which equipment BDI owns, leases or
11 other otherwise has in its possession and when it acquired the
12 equipment.¹¹

11 Basin responded to that request to state that the proposals called for tractor-trailers, 53-
12 foot belt trailers, a loader, and a tink bucket. BDI owns the tink bucket, multiple power
13 units, and arranged to lease or acquire all of the other equipment, including additional
14 power units. BDI in fact did lease a trailer to service PCA, but after PCA ignored BDI’s
15 proposals, the trailer was returned to avoid wasted expense.

16 **Q. Is there a reason that BDI would want to avoid the additional expense of acquiring**
17 **extra equipment that would not be immediately put into service?**

18 A. Absolutely there is. As a regulated solid waste carrier, our rates are set by the
19 Commission. The Commission expects us to operate efficiently and to incur only
20 expenses that are reasonable, which could not be said of contingent hauling projects.

21 **Q. Could any of that equipment be readily acquired if the Commission ordered**
22 **Jammie’s to cease hauling solid waste?**

23 A. All of it could be readily acquired and Basin could commence the haul from PCA once
24 again very quickly. In fact the loader is owned by a BDI affiliate and would have been
25

26

¹¹ Exh. JDS-13.

1 officially sold to BDI had it been put in use at PCA's paper mill. The additional power
2 units and trailers can also be acquired by lease or purchase.

3 **Q. What about Ms. Scott's claims that BDI did not have the appropriate tariff charges**
4 **in place to haul from PCA?**

5 A. First, the irony of Ms. Scott's claims that Basin could not haul from PCA without a
6 specific tariff item is not lost on us here. JEI has no certificate much less a tariff. But
7 more importantly, Ms. Scott once again attempts to craft a narrow data request and
8 response into something they are not, and ignores the answer that was provided in her
9 characterization. Specifically, JEI asked BDI:

10 Describe with specificity which of BDI's tariffs (including specific
11 tariff page and provision) would apply to OCC Rejects service to
12 PCA. If BDI submitted a new or revised tariff for services relating
to PCA's OCC Rejects since December 1, 2020, describe with
specificity when BDI submitted the new tariff and why.¹²

13 In characterizing BDI's response to the request, Ms. Scott selectively addresses only the
14 part responding to whether BDI submitted a new or revised tariff. She conveniently
15 ignored our explanation of how BDI's tariff was applied to PCA for drop box service,
16 and how it would have been applied for a direct-to-landfill haul under our proposals. As
17 we explained in our response, BDI has current tariff charge items that can be applied to
18 PCA's facility both under the operations PCA previously requested, and under our
19 written proposals for a direct-to-landfill tractor-trailer haul. Thus, there is no reason
20 Basin could not resume fully satisfactory service at PCA once Jammie's has been ordered
21 to cease its unlicensed solid waste collection service.

22 **Q. Does this conclude your testimony at the present time?**

23 A. Yes it does.
24
25
26

¹² Exh. JDS-14.