

SERVICE DATE  
NOV - 9 1990

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,	)	
	)	
Complainant,	)	DOCKET NO. TG-900657
	)	
vs.	)	
	)	
SNO-KING GARBAGE CO., INC. G-126,	)	
	)	
Respondent.	)	
.....	)	
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,	)	
	)	
Complainant,	)	DOCKET NO. TG-900658
	)	
vs.	)	FOURTH SUPPLEMENTAL ORDER
	)	
NORTHWEST GARBAGE CO., INC. G-43,	)	COMMISSION ORDER
	)	SUSTAINING OBJECTION
Respondent.	)	TO DESIGNATION OF EXPERTS
.....	)	

On June 29, 1990, respondents filed with the Commission revisions of their respective tariffs which would increase rates and charges for solid waste collection services within their respective territories. By order dated July 30, 1990, the Commission suspended each filing, pending investigation.

By order dated August 15, 1990, the two cases were consolidated and set for hearing. At the opening hearing held September 10, 1990, the parties requested, among other things, that a protective order be issued by the Commission to assure that the confidentiality of certain exhibits and discovery material associated with these cases would be preserved.

On September 26, 1990, the protective order was issued by the Commission. At page 2, the order describes persons permitted access as follows:

No Confidential Information shall be made available to anyone other than counsel for the parties to this proceeding, including counsel for the Commission; provided; however, that access to any

Confidential Information may be authorized by said counsel, solely for the purposes of this proceeding, to those persons indicated by the parties as being their experts in this matter. No such expert may be an officer, director, direct employee, major shareholder, or principal of any party or any competitor of any party (unless this restriction is waived by the responding party). Any disputes concerning the above shall be brought before the Administrative Law Judge for a ruling.

On October 22, 1990, respondents filed a Motion Setting Forth Objections to Designation of Experts by Rabanco. The motion objects to two officers (Messrs. Ramsey and Glasgo) of Rabanco who have been designated by Rabanco as experts for purposes of these two cases. Respondents note that Rabanco is a party in this matter and is also a competitor of subsidiaries of Waste Management, Inc., e.g. Rabanco and Waste Management-Rainier, a sister company of the respondents, competed for a recycling and yard waste contract with the City of Bellevue in December, 1988. Respondents also point out that additional competition may develop when recycling services in unincorporated areas become the subject of competitive bidding under RCW 81.77.150 after July 1, 1991. Respondents ask that their objection be sustained based upon the clear language of the Protective Order.

Comments from the other parties were requested to be submitted to the Commission by October 31, 1990. At Rabanco's counsel's request, a one-day extension for comments was granted to November 1, 1990.

Only Rabanco submitted comments concerning the motion. Rabanco requests that the objection be overruled, contending that it has been the "long-standing practice" of the Commission to allow the parties to designate employees as experts. Rabanco asserts that a literal reading of the protective order could preclude Commission staff employees from being designated as experts to review confidential information since the staff employee is also employed by a party in the proceeding. In the alternative, Rabanco asks that the protective order be modified to allow a party to designate as experts employees who are involved with Rabanco's regulatory affairs but not with Rabanco's competitive marketing efforts.

COMMISSION DECISION

After review of the parties' comments, the Commission will sustain respondent's objection to the Rabanco experts based upon the clear prohibition set forth in the language of the

protective order. Rabanco's motion to amend the terms of the protective order will also be denied.

O R D E R

WHEREFORE, IT IS HEREBY ORDERED That Rabanco experts Messrs. Ramsey and Glasgo will be denied access to respondent's confidential information pursuant to the terms of the protective order; and

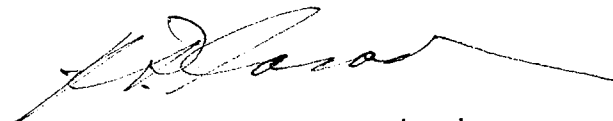
IT IS FURTHER ORDERED That Rabanco's motion to modify the protective order shall be, and the same is hereby, denied.

DATED at Olympia, Washington, and effective this 9<sup>th</sup> day of November, 1990.

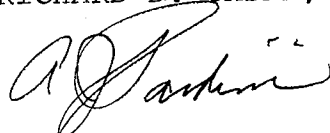
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION



SHARON L. NELSON, Chairman



RICHARD D. CASAD, Commissioner



A. J. PARDINI, Commissioner

**NOTICE TO PARTIES:**

This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-09-810, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-09-820(1).