

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PROOF OF SERVICE

DOCKET NO. TG-931585

KNOW ALL PERSONS BY THESE PRESENTS That the undersigned, an employee of the Washington Utilities and Transportation Commission at Olympia, Washington, hereby certifies that a copy of the document referred to below was served on the parties of record in said proceeding in the following manner:

On the 10TH day of MARCH, 1994, a true copy of S. MCLELLAN LTR TO PARTIES RE: DENYING THE PETITION FOR RECONSIDERATION

*(K. Killinger)*

in the above-entitled cause now pending before the Commission was enclosed in an envelope addressed to each of the parties of record as set forth below. Each envelope was addressed to the address shown in the official files attached hereto, sealed with the required first-class postage thereon, and deposited on said date in the United States mail in the City of Olympia, County of Thurston, State of Washington.

PARTIES OF RECORD AND OTHERS RECEIVING NOTICE

PAUL GLASGO  
KATHERYN KILLINGER (ALSO VIA FAX)  
MARY PERRY  
JAN GLICK  
ROBERT MANIFOLD  
ANNE EGELER  
REGULAR IN-HOUSE DISTRIBUTION  
SEE ATTACHED LIST

*Tommy Hunter*  
Tommy Hunter  
(NAME, TITLE)

FORMAL TRANSPORTATION ORDERS & LETTERS

Date served: 03-10-94

Docket No: TG-931595

Final Transp. Subscription  
 Regulatory Affairs  
 Public Affairs  
 Merton Lott  
 Comm. AAG's (3)  
 Policy Planning  
 Cathie Anderson  
 Paul Curl  
 Bob Colbo  
 Bob Boston/Don Lewis  
 Claire Hosea

Vicki Elliott  
 Alan Scott  
 Admin. Law Judges (7)  
 Gene Eckhardt  
 Pat Dutton  
 Field  
 J. Showman (Garbage only)  
 P&I Manager  
 Lead & Team

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

09-17-93

# MESSAGE CONFIRMATION

SESSION NO. = 587

03/10/94 16:21  
ID=WJTC

DATE	TIME	S,R-TIME	DISTANT STATION ID	MODE	PAGES	RESULT	
03/10	16:19	02'07"	206 296 0191	ECM-S	04	OK	0000

Sharon L. Nelson, Chairman  
Richard D. Casad, Commissioner  
A. J. "Bud" Pardini, Commissioner



STATE OF WASHINGTON

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250 • (206) 753-6423 • (SCAN) 234-6423

March 9, 1994

SERVICE DATE

MAR 10 1994

Kathryn A. Killinger  
Senior Deputy Prosecuting Attorney  
Office of the King County Prosecuting Attorney  
E550 King County Courthouse  
516 Third Avenue  
Seattle, Washington 98104

Re: In the Matter of the Tariff Filing of Seattle Disposal  
Company, Rabanco Ltd., d/b/a Eastside Disposal Service  
and Container Hauling Service, G-12  
Docket No. TG-931585

Dear Ms. Killinger:

The Commission has reviewed the King County PETITION FOR RECONSIDERATION AND, IN THE ALTERNATIVE, REHEARING AND AMENDMENT OR RESCISSION, filed with the Commission on February 18, 1994, and revised on February 23, 1994, in the above captioned and docketed matter. The Commission denies the petition for the reasons stated below.

The County seeks "reconsideration" of Commission action on the Eastside Disposal filing pursuant to WAC 480-09-810, which provides that a party to an adjudicative proceeding may file a petition for reconsideration of a final order of the Commission within ten days after the date the order is served; an "adjudicative proceeding" is defined in RCW 34.05.010. The County also seeks review of the Commission's action via the alternative remedies of "rehearing," "amendment," or "rescission." The remedies of rehearing/reopening in WAC 480-09-820, and amendment/rescission in WAC 480-09-815, may be addressed to any adjudicative order of the Commission.

The Commission considered the Eastside Disposal filing at its regularly-scheduled open public meeting of February 9, 1994, held pursuant to statutory requirements. The Commission heard the particulars of the Eastside Disposal filing; the Commission Staff's recommendation with regard to the company's costs and proposed rates for various levels of service; and the comments of other persons interested in the filing, including a representative of King County.



Letter to King County  
Docket No. TG-931585  
Page Two

The Commission, satisfied that the company had carried its burden of proof to show that the rate increase was just and reasonable, permitted the tariff changes to take effect as provided in RCW 81.04.130. Therefore, a Commission order was neither required nor entered.

The Administrative Procedure Act, the Commission's procedural rules, and Title 81 RCW contemplate that "reconsideration," "amendment," or "rescission" are available to review orders in adjudicative proceedings, but not discretionary actions of the Commission. The Commission has fully complied with the public service and open public meeting laws of this state in permitting Eastside's tariff filing to take effect by operation of law. The Commission, having determined that it must deny the County's petition for reconsideration, would be remiss if it did not comment upon several issues raised in the petition.

The County contends that the Commission has violated RCW 81.77.030 by not enforcing the solid waste management priorities set forth in RCW 70.95.010. The Commission vigorously rejects such assertions. The Commission and its Staff have devoted many hours to reviewing the provisions of, and offering constructive comment on, county solid waste management plans. The Commission and its Staff have assisted solid waste collection companies throughout the state in the costing and pricing of all types of recycling programs and all manner of solid waste collection service levels intended to meet county solid waste goals.

Additionally, the Commission and its Staff conducted a thorough investigation, through the Notice of Inquiry process, to analyze and recommend how best to ensure compliance with RCW 81.77.030. The NOI was initiated in November 1990 and concluded in July 1992, after two written reports and a two-day workshop of interested persons, which included participation by King County.

Overall, the NOI found that the majority of respondents supported incentive rate design, with "avoided cost" pricing as the preferred methodology. The largest single cost factor in the solid waste system is disposal. The Commission (excluding "affiliated interest" company review) does not regulate the landfill operations in the state. As a result, the Commission does not have a clear mechanism to factor into solid waste rates the avoided costs of landfills, unless these costs are already included in tip fees assessed when the solid waste haulers empty their trucks at the landfill site.

It was determined through the NOI that the cost of service methodology was an adequate surrogate for avoided cost pricing so long as additional service levels, and the frequency of solid waste collection, were also implemented. The Commission published a final report of all of the NOI findings.

The County further contends, in support of its assertion that the Commission has violated RCW 81.77.030, that the Snohomish County yard-waste programs were seriously impaired when the Commission decided, in late 1993, to make those programs voluntary rather than mandatory. The Commission rejects that claim. Contrary to the information provided by the County, consultation among companies serving the Snohomish County area and Commission Staff has indicated that participation levels have decreased only slightly.

Overall, the programs remain strong. The Commission believes the voluntary rate ensures that 1) these companies are collecting revenue only for services actually rendered, 2) those customers needing the service continue to use it, 3) customers are able to make informed economic decisions about the services they need, 4) local government bans against yard-waste disposal are effective incentives to regulate behavior, and 5) consumers have choices including such alternatives as to compost and to contract with a landscape company to remove the yard-waste.

In Exhibit B, the County states that the effect of the recently approved Eastside Disposal rates will be detrimental to the life expectancy of the Cedar Hills Landfill. The Commission believes the rates in effect in Eastside's service territory continue to encourage customers to separate recyclables from trash. Not doing so would require customers to use a higher, more expensive level of service, and customers would still be required to pay for recycling service which is a mandatory component of solid waste rates in King County.

The Commission believes the most appropriate and most effective way for King County to combat the landfill prematurely reaching capacity is to ensure that the tipping fee at the King County facility adequately reflects the avoided cost of keeping the landfill open longer. As the tip fee increases, a solid waste company's cost of serving its customers increases, most notably for levels of service beyond the mini-can and one can.

The County asserts that rate incentives are essential to encouraging waste reduction and recycling behaviors. However,

Letter to King County  
Docket No. TG-931585  
Page Four

even the County's exhibits show that mini-can service has only had a seven percent participation level at best. The Commission has allowed mini-can rates to be set below the actual cost of providing service. In other words, the service has been subsidized to keep the rate low and make the service more attractive. (The Eastside Disposal filing clearly indicates the degree of the subsidy built into this service.)

The Commission takes very seriously the Legislature's goals and objectives as set forth in chapter 431, Laws of 1989. In a proper proceeding, the Commission would be better able to evaluate and consider legitimate policy arguments regarding incentive rate design.

The Commission denies the petition for reconsideration filed by King County for the reasons cited above. However, the Commission notes that the County may further pursue the issues raised in its petition by filing a formal complaint against Eastside Disposal's rates pursuant to RCW 81.04.110 and WAC 480-09-400.

Sincerely,

  
Steve McLellan  
Secretary



MAR-09-'94 WED 17:26

P-9999

OK	NG
05	00

DEFINITION

MAR-09-'94 WED 17:21

TERM ID:

P-9999

TEL NO:

TEL TYPE	10	DEPT CODE	OK	NG
05/03/94	209 268 7173		05	00

DEFINITION

MAR-09-'94 WED 17:17

TERM ID:

P-9999

TEL NO:

TEL TYPE	10	DEPT CODE	OK	NG
05/03/94	209 268 7173		05	00



MESSAGE CONFIRMATION

MAR-09-'94 WED 17:13

TERM ID:

P-9999

TEL NO:

NO.	DATE	ST. TIME	TOTAL TIME	ID	DEPT CODE	OK	NG
354	03-09	17:11	00'03"06	JMPTF40147		05	00

MESSAGE CONFIRMATION

MAR-09-'94 WED 17:05

TERM ID:

P-9999

TEL NO:

NO.	DATE	ST. TIME	TOTAL TIME	ID	DEPT CODE	OK	NG
353	03-09	17:00	00'03"21	205 736 7103		05	00

MESSAGE CONFIRMATION

MAR-09-'94 WED 17:06

TERM ID:

P-9999

TEL NO:

NO.	DATE	ST. TIME	TOTAL TIME	ID	DEPT CODE	OK	NG
352	03-09	17:02	00'03"17	206 733 4210		05	00

# MESSAGE CONFIRMATION

SESSION NO. = 567

03/09/94 17:16  
ID=WUTC

DATE	TIME	S,R-TIME	DISTANT STATION ID	MODE	PAGES	RESULT	
03/09	17:14	02'25"	2062960197	ECM-S	05	OK	0000

# MESSAGE CONFIRMATION

SESSION NO. = 567

03/09/94 17:12  
ID=WUTC

DATE	TIME	S,R-TIME	DISTANT STATION ID	MODE	PAGES	RESULT	
03/09	17:09	02'37"	9P7867018	ECM-S	05	OK	0000

# MESSAGE CONFIRMATION

SESSION NO. = 567

03/09/94 17:08  
ID=WUTC

DATE	TIME	S,R-TIME	DISTANT STATION ID	MODE	PAGES	RESULT	
03/09	17:06	02'37"	9P7867018	ECM-S	05	OK	0000



# MESSAGE CONFIRMATION

SESSION NO. = 567

03/09/94 17:05  
ID=WUTC

DATE	TIME	S,R-TIME	DISTANT STATION ID	MODE	PAGES	RESULT	
03/09	17:02	02'38"	9P7867018	ECM-S	05	OK	0000

# MESSAGE CONFIRMATION

SESSION NO. = 567

03/09/94 17:01  
ID=WUTC

DATE	TIME	S,R-TIME	DISTANT STATION ID	MODE	PAGES	RESULT	
03/09	17:01	00'00"	9P7867173	G3 -S	00	BUSY	10A2

# MESSAGE CONFIRMATION

SESSION NO. = 567

03/09/94 17:00  
ID=WJTC

DATE	TIME	S,R-TIME	DISTANT STATION ID	MODE	PAGES	RESULT	
03/09	16:58	02'36"	9P7867018	ECM-S	05	OK	0000

# MESSAGE CONFIRMATION

SESSION NO. = 567

03/09/94 16:56  
ID=WUTC

DATE	TIME	S,R-TIME	DISTANT STATION ID	MODE	PAGES	RESULT	
03/09	16:54	02'35"	206 296 0194	ECM-S	05	OK	0000



# MESSAGE CONFIRMATION

SESSION NO. = 567

03/09/94 17:20  
ID=WUTC

DATE	TIME	S,R-TIME	DISTANT STATION ID	MODE	PAGES	RESULT	
03/09	17:18	02'22"	206 2960198	ECM-S	05	OK	0000