

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND)	DOCKET TG-111681
TRANSPORTATION)	
COMMISSION,)	
)	ORDER 01
Complainant,)	
)	
v.)	
)	COMPLAINT AND ORDER
MASON COUNTY GARBAGE CO.,)	SUSPENDING TARIFF;
INC. DBA MASON COUNTY)	ALLOWING REVENUE
GARBAGE, G-88,)	SHARING ON A TEMPORARY
)	BASIS, SUBJECT TO REFUND
Respondent.)	OR CREDIT
)	
.....)	

BACKGROUND

- 1 On September 16, 2011, Mason County Garbage Company, Inc. (Mason or Company), filed with the Washington Utilities and Transportation Commission (Commission) revisions to its currently effective Tariff No. 13, designated as Tariff pages 1, 21 and 21A. The Company filed replacement pages 21 and 21A on October 17, 2011, to revise the monthly recyclable commodity revenue adjustment originally filed on September 16, 2011. The stated effective date is November 1, 2011.

- 2 In its filing of September 16, 2011, Mason proposes to increase the amount it pays to single family customers for the value of the recyclable materials that the Company collects in its residential recycling collection service. The monthly credit for single family customers would increase from \$1.75 to \$2.13. The Company also requested the Commission allow it to retain thirty percent of the revenue it receives from the sale of recyclable materials that it collects in its residential single-family recycling collection service from November 1, 2011, to October 31, 2012.

- 3 RCW 81.77.185 states that the Commission shall allow a solid waste collection company collecting recyclable materials from residential single and multi-family customers to retain “up to fifty percent of the revenue paid” to the company for the material if the company submits a plan to the Commission that is certified by the appropriate local government authority as being consistent with the local government solid waste plan and

that demonstrates how the revenues will be used to increase recycling. The remaining revenue must be passed through to residential single and multi-family customers.

4 On September 16, 2011, Mason filed a letter, signed by Company representative, Richard P. Fredrickson and John A. Cunningham, Interim Program Manager for Mason County Utilities and Waste Management, confirming continuance in the 2011-2012 plan year of the revenue sharing plan approved in 2010-2011. The 2010-2011 plan sets forth actions that Mason will take to increase recycling using recyclable commodity revenues retained by the Company. The plan calls for thirty percent of the retained recyclable commodity revenue to be awarded to the Company on the basis of:

- **Criteria “A” Detail** - Meeting or exceeding data monitoring and reporting requirements - 10 percent award;
- **Criteria “B” Detail** - Achieving and demonstrating an increase in recycling per household per month, year-over-year - 10 percent award; and
- **Criteria “C” Detail** - Assisting the County in providing and operating a glass recycling box at County transfer stations – 10 percent award.

Mason’s filing of September 16, 2011, also included a letter from John A. Cunningham where he stated that the Company had demonstrated to the satisfaction of Mason County that it had met the goals and objectives specified in the 2010-2011 plan.

5 Absent in the letter of September 16, 2011, was certification by Mason County (County) that the 2011-2012 plan is consistent with the County’s solid waste management plan and that the plan demonstrates how the revenues will be used to increase recycling. On October 19, 2011, the County filed with the Commission its certification of the 2011-2012 plan which included an updated performance plan criteria scorecard from the one used in 2010-2011. The updated scorecard reflects new dates and objectives required for the Company to retain thirty percent of the retained recyclable commodity revenue for the 2011-2012 plan period (scorecard referred to as 2011-2012 Plan).

6 Staff examined the data submitted by the Company in its filing of September 16, 2011, and concluded that the Company had failed to achieve the performance requirements specified in the 2010-2011 approved plan, specifically Criteria “B” Detail. To receive the full ten percent award for this criterion, Mason would have had to increase household recycle pounds per-month to 31.85 pounds. The Company’s actual result was 31.19

pounds per household. Consequently, the Company was obligated to refund a portion of the retained revenue to customers.¹ On October 11, 2011, the Company filed revised pages 21 and 21A to increase the monthly recyclable commodity revenue adjustment from \$2.13 to \$2.39, reflecting the refund.² On October 19, 2011, the County notified Staff that it concurred with the reduction in retained revenue. The table below shows the amounts Mason retained and spent as part of its 2010-2011 plan.

2010-2011 Recyclable Commodity Revenue Retained vs. Revenue Spent

District 2149: Mason County Garbage Summary of Commodity Credit Justification Support 9/2010 - 8/2011		
Total Amount Retained by Company		\$84,910
Expense Description	Expense Narrative	Expense Amount
Mason County Blue Box Recycling Contract & Glass Hauls	Fiscal year loss on County Blue Box recycling contract and glass hauls. 1,044 (hauls for period) x \$41.81 (\$102.30 cost per haul -	\$43,650
30 YD Glass Box - Shelton Transfer	Monthly hauling of glass box at \$125 per month.	\$1,500
Community Event Recycling - Donated Service	In-kind service donated by MCG to various civic events throughout the County (multiple	\$5,222
Mason County Business Expo - Recycle Promotion Booth	Indirect and direct booth expense to MCG for business expo, with MCG booth promoting recycling. Includes supplies, table, and	\$1,301
Mason County Annual Shred Event	Free shred event, paid for by MCG, in conjunction with LeMay Shredding. Includes	\$1,274
Regulated Comingle Commodity Transport Trailer Signage	Recycle promotion and graphics on side of 53' transport trailer - "Another Load Saved From The Landfill."	\$1,951
TOTAL DOCUMENTED COMMODITY RETENTION EXPENSE - 2010:		\$54,898
Amount Not Spent by Company		\$30,012
Performance Penalty		\$8,491
Final Retention Amount		\$21,521

¹ In TG-101542 Order 05, Paragraph 44, the Commission said: [A]ny retained revenue [under the 2010-11 recycling plan] that is not used to increase recycling will be passed on to residential customers. Such "passed on" revenue would include all amounts associated with any plan obligation or performance measure the company does not meet to the satisfaction of both the County and the Commission.

² This credit is based on a refund of \$8,451, or ten percent of the revenues the Company actually retained. The plan, however, allocates ten percent of the *total* revenues from the sale of recyclable materials to this factor. Refunding the entire allocation, therefore, would require the Company to pass through approximately \$28,300 to its residential customers.

7 Staff notes that the Company did not spend \$30,012 (35 percent) of the retained revenue, and the Company proposes to keep a lesser amount, \$21,521 (25 percent), only because Staff found the Company had failed to meet the performance standard discussed above. Retained revenue is defined as a percentage (thirty percent in this case) of the total gross revenue produced by the Company's recycling program. Because total revenue will increase or decrease depending upon the quantity of recyclable materials collected and prices paid, the amount of retained revenue will also change. The potential for even greater amounts of unspent retained revenue exists if quantity or prices increase. Staff believes that the amount of Mason's unspent revenue is an unintended result or consequence of the Company's 2010-2011 plan and is otherwise contrary to the public interest. Further, Staff contends that there are no changes or safeguards in Mason's proposed 2011-2012 Plan that would prevent even greater unspent revenues, and thus the Commission should consider whether the proposed 2011-2012 Plan may have any unintended results or consequences.

8 Staff therefore recommends that the Commission issue a complaint and order suspending revisions to Mason's Tariff No. 13, allowing monthly recyclable commodity revenue adjustments filed on September 16, 2011, as revised on October 17, 2011, and revenue sharing on a temporary basis, subject to refund.

DISCUSSION

9 The Commission shares Staff's concern that the proposed 2011-2012 Plan does not demonstrate how the retained revenues from the sale of recyclable materials will be used to increase recycling. The plan does not identify any of the expenses the Company anticipates incurring to undertake the tasks or accomplish the objectives it sets forth. Nor has the Company estimated the revenues it expects to generate from the sale of recyclable materials during the plan period, including the plan's expected benefits to its recycling program. Nevertheless, the plan allocates a specific percentage of retained revenue to the Company for achieving each stated task or goal. In short, the plan accords the Company an unknown amount of revenue in compensation for incurring unspecified costs to accomplish the stated but otherwise inexplicit tasks and goals. Some of those tasks and goals, moreover, do not appear to be reasonably designed to increase recycling. Under these circumstances, further inquiry is necessary to determine whether the proposed 2011-2012 Plan demonstrates how the retained revenues will be used to increase recycling as RCW 81.77.185 requires.

- 10 We are also troubled by the amount of unspent retained revenues from the 2010-2011 plan the Company proposes to retain. We question the sufficiency of the amount of revenues the Company proposes to refund to customers for failure to satisfy the plan commitment to increase recycling pounds per month. In addition, our prior orders anticipated that the Company would be entitled to keep some of the revenues under the plan as an incentive for accomplishing plan goals, but neither the Commission nor Staff anticipated a percentage of unspent retained revenues of the magnitude the Company proposes. The statute and our orders authorize the Company to retain *up to* thirty percent of the total recycling revenues, and the Commission would be remiss in its statutory responsibilities to ensure that the retained revenues are used to increase recycling without some further review of the Company's implementation of the 2010-2011 plan.
- 11 We nevertheless value the Company's efforts to develop a recycling plan with Mason County and believe that Company activities to increase recycling and pass recycling revenues on to residential customers are in the public interest. Those activities and revenue sharing, therefore, should continue pending the Commission's investigation of the plans at issue.
- 12 Accordingly, the Commission will adopt Staff's recommendation and will suspend the tariff filings for investigation while permitting them to go into effect on a temporary basis, subject to refund or credit.

FINDINGS AND CONCLUSIONS

- 13 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington vested by statute with the authority to regulate the rates, rules, regulations, practices, accounts and affiliated interests of public service companies, including solid waste companies. RCW 80.01.040, RCW 81.01, RCW 81.04, RCW 81.16, RCW 81.28 and RCW 81.77.
- 14 (2) This matter came before the Commission at its regularly scheduled meeting on October 27, 2011.
- 15 (3) Mason is engaged in the business of providing solid waste services within the state of Washington and is a public service company subject to Commission jurisdiction.

- 16 (4) RCW 81.77.185 states that the Commission shall allow a solid waste collection company collecting recyclable materials from single family and multi-family customers to retain “up to fifty percent of the revenue paid” to the company for the material if the company submits a plan to the Commission that is certified by the appropriate local government authority as being consistent with the local government solid waste management plan and that demonstrates how the revenues will be used to increase recycling. The remaining revenue shall be passed through to single family and multi-family customers.
- 17 (5) Mason in the proposed 2011-2012 Plan has not yet demonstrated how the retained recycling revenues will be used to increase recycling or that the tariff revisions relating to recyclable commodity revenue adjustments would ultimately result in rates that are fair, just, reasonable and sufficient.
- 18 (6) During the pendency of this proceeding, Mason should be authorized to retain up to thirty percent of the revenue the Company receives from the sale of recyclable materials collected in its residential recycling program on a temporary basis, subject to refund or credit in accordance with the requirements of the proposed 2011-2012 Plan.
- 19 (7) As required by RCW 81.77.185, Mason bears the burden of proof to show that the proposed 2011-2012 Plan demonstrates how the retained recycling revenues will be used to increase recycling.
- 20 (8) As required by RCW 81.04.130, Mason bears the burden of proof to show that the proposed recyclable commodity revenue adjustments are just, reasonable and sufficient. Nothing in this Order is intended to limit the issues as to the fairness, justness, reasonableness and sufficiency of the proposed increases.

ORDER

THE COMMISSION ORDERS:

- 21 (1) Mason County Garbage Company, Inc., is authorized to retain up to thirty percent of the revenue it receives from the sale of recyclable materials collected in its residential recycling program on a temporary basis, subject to refund or credit if the proposed 2011-2012 Plan is modified.

- 22 (2) The monthly recyclable commodity revenue adjustments filed by Mason County
Garbage Company, Inc., on September 16, 2011, as revised on October 17, 2011,
are suspended but shall become effective on November 1, 2011, on a temporary
basis, subject to refund or credit if the Commission determines that different rates
will be fair, just, reasonable and sufficient.
- 23 (3) The Commission will hold hearings at such times and places as may be required.
- 24 (4) Mason County Garbage Company, Inc., must not change or alter the tariffs filed
in this Docket during the suspension period, unless authorized by the
Commission.
- 25 (5) The Commission retains jurisdiction over the subject matter and Mason County
Garbage Company, Inc., to effectuate the provisions of this Order.

DATED at Olympia, Washington, and effective October 31, 2011.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

JEFFREY D. GOLTZ, Chairman

PATRICK J. OSHIE, Commissioner