

MAY 13 1994

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

KING COUNTY DEPARTMENT OF PUBLIC)	
WORKS, SOLID WASTE DIVISION,)	
)	
Complainant,)	DOCKET NO. TG-940411
)	
vs.)	SECOND SUPPLEMENTAL ORDER
)	ON PREHEARING CONFERENCE
SEATTLE DISPOSAL COMPANY,)	
RABANCO LTD., d/b/a EASTSIDE)	
DISPOSAL AND CONTAINER HAULING,)	
)	
Respondent.)	
.)	

PREHEARING CONFERENCE: A prehearing conference was held in Olympia on May 9, 1994. The prehearing conference was held before Commissioner Richard Hemstad and Administrative Law Judge Alice L. Haenle of the Office of Administrative Hearings.

APPEARANCES: Complainant King County Department of Public Works, Solid Waste Division (King County) was represented by Mary F. Perry and Kathryn A. Killinger, Senior Deputy Prosecuting Attorneys, Seattle. Respondent Seattle Disposal Company, Rabanco Ltd, d/b/a Eastside Disposal and Container Hauling (Rabanco Companies) was represented by Elizabeth Thomas, attorney, Seattle. The Commission was represented by Anne E. Egeler, assistant attorney general, Olympia. Northwest Waste Industries, Inc., was represented by Richard A. Finnigan, attorney, Tacoma.

Contact persons for this case are Ms. Perry, Ms. Thomas and Ms. Egeler. By telephone call after the prehearing conference, Public Counsel indicated he will not participate in this case.

PETITION TO INTERVENE: Northwest Waste Industries, Inc., filed a petition to intervene. The petition stated that petitioner's "interest and position in this proceeding is as a provider of recycling services in King County, Washington." Initially, no party opposed the intervention and the petition was granted.

After an off-the-record discussion later in the prehearing conference, Ms. Egeler moved for reconsideration of the ruling granting intervenor status. She indicated that information she obtained during the off-the-record discussion suggested that the petition's statement of interest was not accurate, in that Northwest Waste Industries might not provide

recycling services to any residential customers in King County outside the Seattle City limits. Ms. Egeler noted that the petition was not provided to the parties until the prehearing conference, which did not allow the parties time to verify the accuracy of the petition prior to the time they initially were asked to take a position.

The parties provided oral argument on the motion for reconsideration. King County and Rabanco Companies supported Ms. Egeler's motion.

Upon inquiry, Mr. Finnigan was unable to assure the bench that the petition's statement of interest was accurate. Petitioner had offered no other written ground for participation, and upon oral inquiry indicated only a general concern that the Commission would follow any precedent established in this proceeding. The Commission concluded Northwest Waste Industries' participation would not aid the record in this proceeding and should not be allowed. The Commission granted Ms. Egeler's motion, reconsidered its ruling and denied Northwest Waste Industries' petition to intervene.

EXHIBITS: King County's prefiled testimony and exhibits are due on May 16, 1994. King County was reminded to address particularly the issues outlined in the Commission's Notice of Prehearing Conference.

Parties must file an original and nineteen copies of all prefiled materials, including confidential materials.

SCHEDULE: The Commission established the following schedule for the remainder of this case:

King County prefile testimony	May 16
Rabanco Cos/Staff prefile testimony	June 20
King County prefile rebuttal	July 7
hearings	July 14, 15, 18
public hearing in King County	July 19
simultaneous briefs due	August 15

DISCOVERY: Procedures under the Commission's rule on obtaining data in adjudicative proceedings (WAC 480-09-480) are available in this case. The parties agreed to two modifications of the rule. First, the time for responses to data requests was shortened to five business days, and responses should be sent by FAX with a follow-up hard copy. Second, the deadline was

shortened to three business days for a responding party to notify a requesting party that data cannot be provided within the time limit, and to provide a schedule for producing the data.

The parties will develop a discovery schedule among themselves.

The parties were reminded to send responses to Commission Staff data requests directly to Ms. Egeler. Responses to Staff data requests should not be routed through the Commission Secretary.

All other case-related correspondence -- including responses to bench requests -- must be sent through the Secretary so that it can be logged in properly at the Commission. The parties should not address correspondence directly to the Administrative Law Judge, but should send the ALJ a courtesy copy.

PROTECTIVE ORDER: Rabanco Companies moved for a protective order. King County requested several modifications to the Commission's standard protective order. After an off-the-record discussion, the parties agreed to modified language.

A protective order was entered May 10, 1994, incorporating the modifications specified by the parties. The protective order was designated as the Commission's First Supplemental Order.

The parties were reminded to segregate all confidential materials. Protected materials must be enclosed in a separate envelope clearly marked "confidential". Parties should not send confidential material to the ALJ. The parties were also reminded to designate as "confidential" as little material as possible.

COMMISSIONER PARTICIPATION: Ms. Thomas noted that Chairman Nelson is married to Thomas Allison, who is a partner in Preston Gates & Ellis. Ms. Thomas indicated that her firm would establish a "wall" barring Mr. Allison from any involvement in this proceeding. Ms. Thomas asked the parties to waive any objection to Chairman Nelson's participation in this case. The parties agreed to waive any such objection. King County's waiver of objection was contained in its letter dated May 10, 1994.

NOTICE TO PARTIES: Any objection to the provisions of this order must be filed within ten days after the date of mailing of this statement, pursuant to WAC 480-09-460(2). In the absence of such objections, this prehearing conference order shall control further proceedings in this matter, subject to Commission review.

DATED at Olympia, Washington, and effective this 13th day of May, 1994.

OFFICE OF ADMINISTRATIVE HEARINGS

Alice L. Haenle

ALICE L. HAENLE
Administrative Law Judge