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October 26, 2004

VIA ELECTRONIC FILING & U.S. MAIL

Ms. Carole J. Washburn, Executive Secretary
Washington Utilities and Transportation Commission
1300 South Evergreen Park Drive SW
P.O. Box 47250
Olympia, WA 98504-7250

Re: In re Joint Applications GA-79141, GA-79142, and GA-79159
of Rabanco, Ltd.
Docket Nos. TG-030433, TG0939434, TG-030590

Dear Ms. Washburn:

Enclosed please find the original and twelve copies of **King County's Request for Expedited Review**; and **Certificate of Service** for filing in the above-entitled case. This document is also transmitted electronically in .pdf format to WUTC Records Center. For confirmation of receipt, I have enclosed an additional copy to be date-stamped and returned to us in the enclosed self-addressed, stamped envelope.

Thank you for your attention to this matter.

Sincerely,

FOSTER PEPPER & SHEFELMAN PLLC

A handwritten signature in cursive script that reads 'P. Stephen DiJulio'.

P. Stephen DiJulio
Special Deputy Prosecuting Attorneys
for King County

cc: Parties of Record

*Celebrating
100 Years
1904-2004*

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7 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

8
9 In re Joint Applications GA-79141, GA-79142,
and GA-79159 of Rabanco, Ltd.

ORDER TG-030433
ORDER TG-030434
ORDER TG-030590

10
11 **KING COUNTY'S REQUEST FOR**
12 **EXPEDITED REVIEW**

13 **1. INTRODUCTION AND RELIEF REQUESTED**

14 King County petitioned the WUTC to amend Orders TG-030433, TG-030434, and
15 TG-030590 so that collection companies could not use the WUTC's administrative procedure of
16 G-Certificate Consolidation to thwart State and local requirements to deliver waste to specific
17 disposal sites. King County respectfully requests that the WUTC consider this petition on an
18 expedited basis.

19 Rabanco, Ltd. ("Rabanco") has sued King County alleging, in part, that under
20 RCW 36.58.040, Rabanco may dispose of solid waste collected pursuant to its G-Certificate
21 wherever it pleases in the absence of an interlocal agreement between counties.¹ King County
22 has been successful in defending this claim at the trial court. However, King County has been
23 forced to expend significant public resources to defend Rabanco's claims and will continue to
24 incur further legal costs until Rabanco stops aggressively pursuing this claim or the WUTC
25 amends the above listed orders.

26
¹ See *King County Superior Court Cause No. 04-2-06720-1 SEA*.

1 Further, Rabanco as well as other private waste collection companies operate under
2 G-Certificates that include individual territories in more than one county in the state of
3 Washington. Rabanco may argue to other counties that their site designation ordinances, and
4 the solid waste comprehensive plans that rely to a significant degree on those ordinances, are
5 invalid.² This risk to the stability and predictability of solid waste management planning in
6 Washington's counties merits prompt attention and resolution of this issue.

7 Therefore, King County respectfully requests that the WUTC consider the Petition to
8 Amend Orders on an expedited basis.

9 **2. STATEMENT OF RELEVANT FACTS**

10 On March 30, 2004, Rabanco filed its Complaint and Motion for a Temporary
11 Restraining Order against King County asserting various claims including its claim related to
12 RCW 36.58.040.³ Almost immediately thereafter, on April 9, 2004, Rabanco filed its Motion
13 for Partial Summary Judgment arguing that under RCW 36.58.040, King County could not
14 could not designate a disposal site to Rabanco due to its consolidated G-Certificate.

15 King County successfully opposed Rabanco's Motion for Partial Summary Judgment
16 and requested summary judgment in its favor on the same issue. The trial court granted partial
17 summary judgment in favor of King County dismissing Rabanco's RCW 36.58.040 claim and
18 certified the matter for an immediate appeal. Irrespective of the court's ruling on this issue,
19 King County, other counties, and the ratepayers face significant future costs and unintended risk
20 due to consolidated G-Certificates.

21 No matter what the outcome in the Court of Appeals, King County ratepayers, and those
22 in other counties face significant costs unless this issue is resolved promptly. If the courts adopt
23 Rabanco's strained reading of RCW 36.58.040, King County will have to expend thousands of
24 dollars to negotiate unnecessary interlocal agreements. Other counties around the state would

25 _____
² Under Rabanco's erroneous interpretation of RCW 36.58.040.

26 ³ The County remains subject to a restraining order that limits the County's collection of certain solid waste disposal fees.

1 be placed in a similar untenable position. Therefore, King County requests that the WUTC
2 review the County's petition on an expedited basis.

3 **3. EVIDENCE RELIED UPON**

4 King County relies upon the papers and records on file in this matter.

5 **4. ARGUMENT**

6 King County filed its Petition to Amend Orders TG-030433, TG-030434, and TG-
7 030590 on September 29, 2004. The twenty (20) day period for public comment has passed.
8 Either by petition or on its own motion, the WUTC "may alter, amend, or rescind any order that
9 is has entered." WAC 480-07-875. As set forth above, Rabanco's strained allegations and
10 persistent litigation relating to its consolidated G-Certificates has been and will continue to be
11 costly to the King County ratepayers. Rabanco's response (filed with the WUTC on October
12 18, 2004) does not minimize the need for expeditious resolution of this issue, or seriously
13 challenge the WUTC's past position on these issues.

14 Other similarly situated counties in Washington also face uncertainty given Rabanco's
15 claims. For example, Rabanco operates in Snohomish County. Snohomish County has a site
16 designation ordinance. Under Rabanco's argument (though flawed), Snohomish County could
17 lose its authority to designate final disposal sites. This uncertainty for Washington's counties
18 and the ratepayers in those counties merits prompt review and resolution of this issue by the
19 Commission.

20 Therefore, King County respectfully requests that the WUTC review its petition on an
21 expedited basis.

22 **5. CONCLUSION**

23 For the foregoing reasons, King County respectfully requests that the WUTC consider
24 King County's Petition to Amend Orders TG-030433, TG-030434, and TG-030590 be
25 considered on an expedited basis.
26

1 DATED this 26th day of October, 2004.

2 NORM MALENG,
3 PROSECUTING ATTORNEY

4 FOSTER PEPPER & SHEFELMAN PLLC

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6 P. Stephen DiJulio, WSBA No. 7139
7 Jeremy R. Larson, WSBA No. 22125
8 Attorneys for Petitioner King County

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

8 IN RE JOINT APPLICATIONS GA-79141,
9 GA-79142, AND GA-79159 OF RABANCO,
10 LTD.

ORDER TG-030433
ORDER TG-030434
ORDER TG-030590

11 CERTIFICATE OF SERVICE
12

13 The undersigned hereby certifies that on October 26, 2004 I caused to be served upon
14 each of the parties of record shown on the attached Service List a true and correct copy of **King**
15 **County's Request for Expedited Review; and this Certificate of Service via:**

- 16 First class mail, postage prepaid
17 Electronic e-mail (.pdf format)
18 Facsimile transmission
19 Legal messenger

20 DATED this 26th day of October, 2004.

21 FOSTER PEPPER & SHEFELMAN PLLC

22
23 
24 Susan G. Banner

25
26 CERTIFICATE OF SERVICE - 1

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SERVICE LIST

ORDER TG-030433
ORDER TG-030434
ORDER TG-030590

PARTY	REPRESENTATIVE	E-MAIL ADDRESS
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	Counsel: Mr. Kelly P. Corr Corr & Cronin LLP 1001 Fourth Ave., Ste. 3900 Seattle, WA 98154-1051	kcorr@corrchronin.com