



SUMMIT
LAW GROUP

a professional limited liability company

POLLY L. MCNEILL
DID: (206) 676-7040
EMAIL: pollym@summitlaw.com

315 Fifth Ave S Suite 1000
Seattle, Washington 98104
phone · 206.676.7000
fax · 206.676.7001

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SENT VIA EMAIL

records@utc.wa.gov

Steven V. King
Executive Director and Secretary
P.O. Box 47250
1300 S. Evergreen Park Dr. SW
Olympia, WA 98504-7250

Re: Procedural Rulemaking (Docket A-130355) – Part III, Subpart B: General Rate Proceedings for Solid Waste Collection Companies

Dear Secretary King:

This comment is being provided by Summit Law Group on behalf of our solid waste collection clients regulated by the Washington Utilities and Transportation Commission (“the Commission”), with regard to Docket A-130355, specifically addressing Part III, Subpart B, the Commission’s General Rate Proceeding rules and standards. We appreciate the Commission’s effort to tackle the general adjudicative and rulemaking regulations first, before turning its attention to these more specific rules.

As a general matter, our clients support and reiterate the comments that are being provided by the Washington Refuse and Recycling Association (WRRRA). We have consulted with WRRRA, and have provided input through the Association’s staff and counsel. As an industry, the solid waste collection companies share common experiences and opinions about how to improve on the current rules for general rate filings by the solid waste industry. WRRRA has done a good job consolidating those comments. Below are our additional observations.

WAC 480-07-500(4): As noted by WRRRA, the standards set forth in WAC 480-07-141 allow for non-substantive corrections to “relate back” to the date of the original submittal. Here, the tariff-filing rule does not afford that option. We suspect this is oversight, because there is no obvious policy reason for not allowing it. Indeed, when commenting on the need for an opportunity to cure a deficient filing in the context of the Part I regulations, it was the context of filing for general rate cases that we had in mind. Tariff filings are generally made on a 45-day notice basis, and forcing a company to miss that anticipatory deadline because of non-substantive errors has serious implications, and can cause loss of an additional month of

revenue, due to billing cycles. The Commission should consider corrected tariff-filing documents to have been filed on the date the original submittal, if the deficiencies are not substantive or otherwise do not impair or hamper the ability to timely review, analyze, or act on the merits of the submission. If the deficiencies are substantive, in that case it is fair (and more in alignment with WAC 480-07-141) to use the date the corrected documents are submitted.

WAC 480-07-505(3)(b): We concur with WRRRA's approval of this change, and appreciate expanding the disposal fee pass-through exception so that it is no longer limited to drop box Item 230 disposal fees. This change reflects common practice, and eliminates the artifice of petitioning for it every time disposal fees are changed. We also believe that composting fees and recycling charges should be allowed similar treatment. When the fees are set by government or by unaffiliated third-parties, however, pass-through filings should be able to qualify for abbreviated tariff filing proceedings. We acknowledge that "disposal fee" is not defined by statute or by rule, and an expansive interpretation is therefore not precluded.

WAC 480-07-505(3)(c): The limitation to specific types of government taxes has been properly removed, and now companies may avoid having to submit a full-blown rate filing to comply with government actions that directly impact costs. Taxes (of any kind) and regulatory fees are now explicitly recognized as qualifications for an abbreviated tariff filing, an appreciated change and improvement. Presumably government actions that directly impact company costs may be potentially handled through abbreviated filing proceedings, regardless of how the government chooses to label or package the impositions.

WAC 480-07-505(3)(e): Although this rule allows for cost adjustment mechanisms to be requested without the need for a general rate case, as written it is limited to situations where the adjustment mechanism is generally authorized. There may be circumstances where a cost adjustment mechanism has been authorized only for one or a few companies. Presumably, the Commission could order compliance filings where the cost adjustment mechanism has limited applicability, but perhaps this rule should affirmatively recognize the possibility that periodic rate adjustments might not necessarily be generally authorized, too.

WAC 480-07-505(5): We are interested in hearing more about this provision at the workshop in June. It seems intended to codify what is standard practice with the solid waste industry, where suspension and hearing is not considered the norm. Commonly, it all happens at the open meeting and this rule seems to articulate the option of requesting early suspension.

WAC 480-07-520(1). We have repeatedly commented on areas where these procedural rules conflict with the more specific rules governing solid waste companies, and this is one. By practice and for practical reasons, solid waste companies identify changes in their rates, charges or rules as required by WAC 480-70-286, which mandates the use of code

symbols for the industry, and does not allow for using legislative format. As a general matter, we advise our clients to comport with more recent rules, where there is conflict. So, for instance, the solid waste rules require tariff filings to be submitted “in person, by mail, or by telefacsimile” instead of allowing for electronic filing, as set forth in WAC 480-70-326. We believe electronic filing is now universally preferred. Nobody wants to handle work papers by fax! (In the context of the record on this rulemaking, perhaps the Commission could affirmatively clarify that hard copies are no longer the means by which a request for a general rate case is commenced, and that hard copies of work papers and tariff pages must only follow that e-filing submittal.) However, for tariff changes where the solid waste rule is a more accurate reflection of practice and commonly accepted procedure, the rule that is specific to the industry should govern.

WAC 480-07-520(4)(a): Changing from “service type” to “customer class” seems benign, but we probably need a definition so that revenue reconciliation is performed in accordance with expectations. Discussion at the workshop might be sufficient to ensure a common understanding of what is requested, but clarification of some sort is necessary to alleviate the risk of assuming we all know what is needed, and then finding out later that the companies and staff were not using the same concepts.

WAC 480-07-520(4)(e): We appreciate eliminating the rate information for nonregulated WAC 480-07-operations. As noted by WRRRA, nonregulated revenue should only be necessary in a consolidated form.

WAC 480-07-520(4)(g): The need for providing all leases is unduly burdensome, especially because as written this requirement is not limited to real estate leases and would include equipment leases, which are fairly common. Further, unless the requirement is limited to the entity submitting the request for rates, it is not clear why this information would have any value. Without further clarification, we oppose this new requirement.

WAC 480-07-520(4)(h): We appreciate the shift from “computed average” to “end of the test period” – but really, shouldn’t it be the period immediately preceding the filing? As we understand it, the rates should be set to cover the costs going forward, for the period of time the rates will be effective. This rule goes partly there, and elimination of the requirement to “divide by two” is most welcome, but we urge the Commission to consider going further.

WAC 480-07-520(4)(j): We oppose this rule as written, but look forward to hearing more about what is intended at the workshop. There may be some reasonable means of satisfying this requirements, but without a better understanding, we have no idea what this provision is about and how the company would ever report “why it has not taken any actions” to control costs.

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Thank you for considering our comments. Overall, we commend the Commission for its efforts, and we hope our comments are received in the context of that overarching compliment. We look forward to continued participation in this process.

Sincerely,

SUMMIT LAW GROUP PLLC

A handwritten signature in cursive script, appearing to read "Polly L. McNeill".

Polly L. McNeill

cc: Clients