



WASHINGTON REFUSE & RECYCLING ASSOCIATION

May 15, 2017

Mr. Steve King
Executive Director and Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, WA 98504-7250

Re: Docket A-130355

Dear Mr. King:

Thank you for this opportunity to comment on Part B of this rulemaking. The **Washington Refuse & Recycling Association (WRRA)** has been involved with this rulemaking since the beginning and will continue to comment and participate in workshops until ultimate adoption of the rules. As is always the case, these comments are on behalf of WRRA, and not those of any specific member. Many of our members have filed comments previously, and we urged them to do so at this stage again, and to take an active role in the upcoming workshop.

The WRRA has been in discussions with the Commission on rate filing procedures well before the start of this rulemaking. It is obvious that a great deal of energy and hard work by staff have gone into the proposed changes to this portion of the “regulatory roadmap.” We are especially thankful that agency leadership allowed the Assistant Director for Water and Transportation to have input into the proposed rules. As an overview of our comments, the clear majority of the proposed rule changes are welcomed and appreciated by the industry. In a few instances, we have identified proposed language that is problematic and have offered comments that should be viewed as constructive input. With that in mind our comments follow:

WAC 480-07-500(4): This section contains new language that allows a company to remedy noncompliance identified by the Commission, but changes the effective date of the tariffs based on the date of the revised submissions. At first reading, it appears that perhaps some sort of “grace period” to correct minor non-conformities in filing would be appropriate. The new language appears inconsistent with the spirit of the new procedural rules, and contradictory to practices laid out in the recently adopted WAC 480-07-141.

The new language in Section 500(4) references Section 141, but goes on to prescribe a different procedure. Section 141(2)(c) details the process for correcting noncompliance and states that the Commission will use the original submittal date if “the deficiencies are not substantive or otherwise do not impair or hamper the Commission's ability to timely review, analyze, or act on the merits of the submission.” The approach detailed in WAC 480-07-141 is preferable. In many cases, the company will be able to quickly respond to the Commission and work with staff to efficiently move the filing forward. WRRRA has identified working successfully with Commission Staff as a key priority. Ultimately, rules that allow companies and Commission Staff to work collaboratively will achieve the best results for both parties.

WAC 480-07-505: WRRRA and its members appreciate many of the changes to this section as they address and clarify several longstanding issues for solid waste companies. The proposed language contains several positive changes and we offer the following comments to help this section achieve its goals:

- **WAC 480-07-505(3)(b)** clarifies that submissions seeking only increases in disposal fees should not initiate general rate proceedings and supports the underlying statutory authority in RCW 81.77.160 and the ruling in *Waste Management v. WUTC*, 123 Wn.2d 621 (1994). This clarification is much appreciated. We would also suggest that the inclusion of recycling, yard waste, and processing fees would conform to the general objective of this section. Like disposal, these fees are equally necessary expenses for a solid waste collection company and the rates charged are typically set by outside entities beyond the control of the company.

Recycling, yard waste, and processing fees are equivalent to disposal fees in that a solid waste collection company must ultimately transport the waste collected to an environmentally responsible facility. RCW 81.77.160 also allows for pass-through on all costs “related to implementation of the approved county or city comprehensive solid waste management plan.” Recycling and composting goals and programs are included in these plans and the local solid waste collection companies will play a vital role in achieving those goals. Including recycling and processing fees in this section will conserve on Commission and company resources and promote recycling. This change is an efficient way for our industry to stay current with the markets while maintaining compliance with mandates relating to the diversion of materials.

- **WAC 480-07-505(3)(c)** clarifies that submissions for rate changes to recover only the costs incurred by compliance with government action do not initiate general rate proceedings. The solid waste industry, not unlike the Commission, needs to cover mandatory costs imposed by outside government entities. The changes in this section are appreciated by WRRRA and the solid waste industry. The revised language better reflects the intent of the rule, accounting for the cost of compliance with government action, better than the current rule language which is limited to surcharges and fees from local government.

- **WAC 480-07-505(3)(e)** is a new and appreciated section which clarifies that periodic adjustments through a cost adjustment mechanism generally authorized by the Commission does not initiate a general rate proceeding. This new section reflects established practice.
- **WAC 480-07-505(4):** We understand that the Commission can, and in some cases, should have the authority to declare any filings to be a general rate proceeding, or to convert a previously filed proceeding to the same. We do believe that this problem has been solved, but it may be best to provide some general guidelines here, either within the rule itself or by some sort of policy statement. With respect to rate filings, it is preferable to have a “roadmap” rather than to create new procedures and analytical audit approaches during individual cases.

WAC 480-07-520: Again, WRRRA and the solid waste industry appreciate several of the changes to this section and the work that went in to developing this draft. We offer the following comments in hope of improving this solid waste specific section even further:

- **WAC 480-07-520:** New language in this initial section discusses the appropriate use of “locked, hidden, or password protected cells” with respect to confidentiality. It may be helpful to add clarifying language that “hard-coded” cells are sometimes necessary/appropriate due to the nature of the source data and different than “locked, hidden, or password protected cells,” as this issue has caused some confusion in the past. The industry fully acknowledges that the underlying source data of hardcoded cells still needs to be made available upon request and where necessary.
- **WAC 480-07-520(1)** requires that initial filings must use legislative format. WRRRA members have raised concerns that the proposed change is unnecessary due to currently existing tariff symbols in Item 300 of the tariff template, as prescribed by the Commission. We also believe this proposed change is infeasible due to the columnar nature of solid waste companies’ rate structure and design. For example, in item 240 (container service) generally there are about 6 to 9 columns for 1 yd, 1.5 yd., 2 yd., 3 yd., etc. sized containers. To insert legislative format would be confusing, complex and time consuming.

Furthermore, tariff sheets are often linked directly to an Excel spreadsheet or contain embedded spreadsheets and our members have expressed concerns regarding the merged nature of these documents and displaying the changes in legislative format. Legislative format is not currently used by solid waste collection companies and existing tariff symbols accomplish the same goal by flagging changes for the Commission. We do not understand why this change is necessary, given the longstanding use of tariff symbols, and request additional guidance and clarification regarding the new format at the upcoming workshop.

- **WAC 480-07-520(4)(a)** changes the rule for providing income statements separated by “service type” to “customer class.” The term “customer class” is generally understood, but should be clearly defined if it is to be substituted for the more conventional term.

WAC 480-07-520(4)(d) has not changed and requires separation of revenue between regulated and nonregulated revenue if the nonregulated revenue is over 10% of total revenue. Solid waste collection companies are distinct from many of the larger regulated utilities, and include both some of the largest and some of the smallest companies in Washington. WRRRA members have previously suggested that the threshold should be 20%, which is more realistic when applied to all companies, large or small. The smaller companies, which do not generally have an accountant or financial personnel on staff, are significantly burdened by this provision in that they must devote their time and resources to hire someone to do the filing. It may make sense for companies with 20% plus unregulated revenue, but not for the smaller company with, for example, 11%.

- **WAC 480-07-520(4)(e)** no longer requires the disclosure of rates for nonregulated operations. This change is wholly supported by WRRRA and the solid waste industry. WRRRA also believes that non-regulated revenue should only be presented “in a consolidated fashion.”
- **WAC 480-07-520(4)(g)** now requires that balance sheets include supporting documentation, including but not limited to a list of all company leases. This requirement appears unnecessary and burdensome, both on the Company and the Commission. While we believe, this section speaks generally to real estate leases, in practice that may not be how it is applied. Particularly for a large company, this requirement could result in huge numbers of unrelated documents including leases for copy machines, other office equipment, vehicles, and any other manner of extraneous equipment. This requirement should only apply to real estate leases implicated by the filing and only upon request.
- **WAC 480-07-520(4)(h)**: WRRRA supports the elimination of the current Section 520(4)(i) and the replacement language in the proposed Section 520(4)(h) which allows for calculation of net investment. We request additional guidance from the Commission pertaining to this change and implications for future updates to solid waste rate methodology.
- **WAC 480-07-520(4)(i)**: This involves a recodification of former 520(4)(h) on detailed depreciation schedules. WRRRA members believe that requirements in this section will continue to lead to large amounts of unnecessary data being generated. WRRRA members report regularly filing waiver requests because total company depreciation schedules contain large amounts of data unrelated to the rate case being considered. We suggest the following change to remedy the need for repeated waivers in the future, “A detailed

depreciation schedule listing all used and useful assets ~~held by the company~~ that affect the tariff filing entity included in the rate filing during the test period...”

- **WAC 480-07-520(4)(j)** is a new section and imposes a new duty for a company to explain why the company has not achieved its authorized rate of return, and what actions the company has taken to improve its earnings, or explain why it has not taken such action. This provision is confusing to us in that this information already appears in rate filings and customer notices of rate changes. It thus appears to be superfluous, and in our view, should simply be stricken. Our understanding is that similar provisions are sometimes used by other regulated industries to highlight challenges, accomplishments and/or significant investments in new and better equipment or infrastructure. Solid waste collection companies will continue to provide this information regularly to educate their local communities on new programs and accomplishments and already do so at the Commission level through existing procedures.

Other issues: WRRRA offers comments on the following issues not addressed by the current draft rule:

Temporary rates subject to refund:

WRRRA maintains that temporary rates subject to refund should be addressed for solid waste collection companies in this rulemaking. It is a well-known and workable regulatory solution that would provide both the Commission and a petitioning solid waste company more time to resolve remaining issues in a rate filing while allowing interim rate relief for the company. We suggest a provision be added to allow the right to seek temporary rates subject to refund at the expiration of the 45-day statutory review period provided for in RCW 81.28.050.

Solid waste collection companies face more risk due to the nature of their capital deployment and comparatively faster turnover of assets than other regulated industries. Without temporary rate relief subject to refund, any solid waste collection company is subject to potential attrition in their allowable revenue requirements while further review, analysis or challenges occur to a portion of the proposed revenue requirement increases.

Professional Fees:

We have also previously pointed out that Washington’s regulated solid waste industry varies greatly in size from large national publicly-traded companies to small privately held companies. While current rate filings are often accomplished by our larger members with company employees, this is not the case with all the companies, specifically smaller companies. As noted above, the smaller companies simply do not have the professional resources on staff and are required to retain both accounting and legal expertise from contracted professionals. We are also finding that larger companies also increasingly rely on outside counsel and consultants as rate filings and adjudications become more complex and protracted. We believe that provision for the recouping of these reasonable costs subject to Commission approval should be reflected in rule.

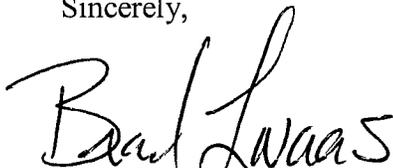
Fairness and timing issues:

As part of a general “roadmap” for rate filings discussed above, a final issue that bears discussion is timing in rate filings. RCW 81.28.050 prescribes a 45 day period for solid waste collection companies before a change in rates can move forward at a Commission open meeting. Often, a company only receives notice of staff recommendations regarding their filing within the last few days of that 45 day period. During that time, Commission staff has had time to thoroughly review the filing, but a company has just several days to make a decision, respond, and, in many cases, very little time to address any issues of substance before the next Open Meeting. WRRRA members are very interested in working with the Commission to develop a reasonable timeline that allows both solid waste collection companies and Commission staff the sufficient time to complete and evaluate filings in a timely, realistic fashion going forward.

Again, please accept these suggestions in the spirit of constructive commentary on the proposed rule revisions. Relative to those rule revisions, we have highlighted what WRRRA believes the Commission can and should request as necessary on a case by case basis, rather than a broad mandate in all rate filings. We look forward to discussing this and more specific suggestions at the upcoming workshop. Again, this has been an extended project which we believe has resulted in an improved and useful proposal, which can be further fine-tuned with ongoing discussions throughout the remainder of this rulemaking.

As always, please feel free to contact me with any comments or questions.

Sincerely,



Brad Lovaas

Executive Director