

Docket TG-181023

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Application of:

SUPERIOR WASTE & RECYCLE, LLC

for Authority to Operate as a Solid Waste
Collection Company in Washington

DOCKET TG-181023

**SUPERIOR'S RESPONSE TO WASTE MANAGEMENT OF
WASHINGTON, INC'S MOTION FOR CLARIFICATION, OR IN
THE ALTERNATIVE, PETITION FOR ADMINISTRATIVE
REVIEW**

Superior Waste & Recycle LLC provides the following response to Waste Management of Washington, Inc's Motion for Clarification, or in the Alternative, Petition for Judicial Review:

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1 **I. RESPONSE**

2 In its request for clarification, Waste Management is already attempting to circumvent
3 what is required from it in order to fulfill its duty to serve all its customers located in the rural
4 areas of Kitsap County. The Order provides, likely at the recommendation of the Commission,
5 that Waste Management eliminate its arbitrary carry-out and drive-in service limitations within
6 90 days, as well as purchase smaller vehicles to ensure it has proper equipment necessary to
7 provide its service.

8 Waste Management, in its motion, contend that this was only included in the Order
9 because Waste Management itself anticipated purchasing the vehicles, and purchasing these
10 vehicles is not necessary and should not be made mandatory. However, Waste Management
11 fails to account for its own testimony stating that purchasing new vehicles is likely necessary in
12 order to provide service to commission’s satisfaction. Waste Management also fails to account
13 that denial to Superior’s application for certificate was likely made based on reliance on those
14 statements.

15 Waste Management in its own testimony states that it has, “**deemed** that a smaller
16 vehicle would be necessary in order for Waste Management to be able to provide the service
17 that Mr. Stein is providing.” [Emphasis Added] (Tr. at 125:15-125:17). Waste Management
18 further stated that, with its current vehicles, Waste Management is, “concerned about whether
19 or not we create damage to the customer's property and whether or not our vehicles can safely
20 navigate the areas.” (Tr. at 134:14-138:16). Up until the date of the hearing, Waste
21 Management had only even attempted to do the route serviced by Superior in a smaller
22 vehicle. “It was a Waste Management route manager truck, which is a Chevy Silverado.”
23 (Tr. at 123:24-123:25).

24 Now when Waste Management is required to comply with the Order and purchase

1 the vehicles necessary to provide service, that it itself deemed were necessary, Waste
2 Management is balking at the idea due to the financial implications. Waste Management
3 would rather not spend money than ensure everyone is receiving the proper service they
4 deserve. Waste Management is aware of smaller vehicles being used in other locations,
5 likely where there is more competition in the area than what is allowed under the laws of the
6 State of Washington.

7 Waste Management itself stated that only competition and having another entity
8 provide service in the area controlled by Waste Management would cause it to expend the
9 funds necessary to provide adequate service. “If the UTC were to grant a certificate to
10 Superior, then we would provide whatever services are necessary to compete with Superior
11 in our certificated territory.” (Tr. at 131:21-131:24). Waste Management contends, “these
12 vehicles cost hundreds of thousands of dollars,” and there should be no requirement to buy
13 them unless they are facing competition in the area. (Tr. at 136:24-136:25). Since the UTC
14 did not grant a certificate to Superior, Waste Management no longer has any incentive or
15 financial motivation to serve the customers located in Seabeck or Kitsap County more
16 generally.

17 The order denying a certificate to Superior was granted in part on the anticipation
18 and expectation that Waste Management will comply with the Order and take action to serve
19 all its customers to the Commission’s satisfaction. Now Waste Management is asking for
20 clarification so it can continue to refuse service. Waste Management previously stated that
21 it was unaware of any customers that had complaints, and acknowledged it now realizes there
22 is an issue with its service that needs to be corrected. (Tr. at 124:15-124:18).

23 The customers in Seabeck and the surrounding area, previously, were also unaware
24 of who to complaint to about Waste Management’s refusal to provide service, but since the

1 hearing have filed multiple complaints with the UTC. *Complaints attached as Exhibit DS-*
2 23. In the meantime, Superior has continued to provide service to those customers that Waste
3 Management refuses to, at no charge to the customers but at a great financial cost to Superior.
4 Superior continues to serve the public and strives to do so to the liking of the commission.
5 Some of the customers served by Superior are the ones most in need of extension of service,
6 due to their disabilities or their age. However, Waste Management continues to discriminate
7 against these customers.

8 **II. CONCLUSION**

9 Based on the response above, Superior respectfully requests that Waste
10 Management be required to acquire smaller vehicles and extend its service to ensure it is
11 available equally to all its customers located in Kitsap County. In the alternate, or if Waste
12 Management is unable and unwilling to provide the requisite service, Superior requests that
13 it be granted a certificate to continue to serve the public whose needs requires its service the
14 most.

15
16 DATED this 12th day of December 2019.

17 18 **SEATTLE LITIGATION GROUP, PLLC**

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