

SERVICE DATE

OCT 24 1994

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

THE DISPOSAL GROUP, INC., d/b/a)
Vancouver Sanitary Service and)
Twin City Sanitary Service, a)
Washington Corporation (G-65),)

Complainant)

vs.)

WASTE MANAGEMENT DISPOSAL)
SERVICES OF OREGON, INC., d/b/a)
Oregon Waste Systems, a Delaware)
Corporation; and)
T & G TRUCKING & FREIGHT CO., an)
Oregon Corporation;)

Respondents.)

.)

DOCKET NO. TG-941154

ORDER ON OCTOBER 24
PREHEARING CONFERENCE

A prehearing conference was held on October 24, 1994, before Hearings Examiner John Prusia, pursuant to due and proper notice to all parties.

APPEARANCES: Cynthia A. Horenstein, attorney, Vancouver, represents the complainant, The Disposal Group, Inc., d/b/a Vancouver Sanitary Service and Twin City Sanitary Service. William K. Rasmussen, attorney, Seattle, represents respondent Waste Management Disposal Services of Oregon, Inc., d/b/a Oregon Waste Systems. Greg Haffner, attorney, Seattle, appeared for Jack R. Davis, attorney for respondent T & G Trucking & Freight Co. James K. Sells, attorney, Bellingham, petitioned for intervention on behalf of Washington Refuse & Recycling Association ("WRRRA"). Steven W. Smith, assistant attorney general, Olympia, represents the Commission Staff.

The parties reported that they have agreed on a set of stipulated facts, and have complied with the order of October 19, 1994, regarding the circulation of witness affidavits, the circulation of document lists, the providing of copies of documentary evidence to parties that did not already have copies, and rebuttal documents and affidavits.

The parties stipulated to the admissibility of the affidavits and documentary evidence that have been proposed, with the exception of one document that Ms. Horenstein proposes to submit, discussed below.

None of the parties believes that there is a need for a hearing or other opportunity for oral presentation. None intends to call additional witnesses if a hearing is held. The parties requested that the hearing scheduled for October 25, 1994, be cancelled. The parties requested that the stipulated facts, affidavits, and documentary evidence comprise the record.

Mr. Rasmussen, joined by Mr. Haffner, objected to the Oregon Department of Environmental Quality (DEQ) rule interpretation regarding disposal tonnage fees that Ms. Horenstein proposes to offer through the affidavit of Patricia Vernon. His objection is that the document has no bearing on any issue in dispute in this proceeding and therefore should be excluded on relevance grounds. He argued that the fact that the Oregon DEQ classifies these materials in a certain way with respect to application of tonnage fees is not relevant to how that material might be classified by the Commission or the ICC with respect to their particular rules or regulations. He does not dispute the authenticity of the document, provided Ms. Horenstein obtains the declaration of Ms. Vernon.

Ms. Horenstein argued that the purpose of introducing the document is to provide evidence to the Commission as to how a corresponding agency classifies this commodity, and that the document is highly relevant because the classification of the commodity is one of the salient issues in this proceeding. She argued that it is particularly relevant in light of the testimony that the respondents have put in through affidavits and stipulated facts on how several of their witnesses classify the commodity.

Mr. Sells supported the admission of the document. He argued that anything from either Washington or Oregon or from a federal source that will assist the Commission in making a determination as to what this material is, and what it is classified as, is relevant, and that the parties have been liberal in letting just about everything else come into this record.

Mr. Smith does not object to the introduction of the document.

The parties discussed and agreed upon deadlines for the submission of documents and on a briefing schedule, set out below. The representatives each agreed to sign and forward the set of stipulated facts as soon as they receive it.

It is Ordered:

1. The hearing in this matter scheduled for October 25, 1994, is cancelled.

2. The record in this proceeding will consist of the facts stipulated to by all of the parties, together with the

affidavits and documentary evidence already listed and circulated by the parties, as set out in the parties' correspondence filed with the Commission, except as follows:

The presiding officer reserves decision on the admissibility of the Oregon Department of Environmental Quality (DEQ) rule interpretation regarding disposal tonnage fees that Ms. Horenstein proposes to offer through the affidavit of Patricia Vernon. The presiding officer will notify the parties of his decision on the admissibility of the document by October 28, 1994.

The parties have stipulated that all other proposed exhibits are admissible.

3. The parties shall meet the following deadlines for filing their exhibits:

- a. the parties' original witness affidavits and documentary evidence are due at the Commission no later than 5:00 PM on Friday, October 28, 1994. Each party shall label its exhibits alphabetically, in the following style: "Complainant's Exhibit A".
- b. the set of stipulated facts is due at the Commission no later than 5:00 PM on Monday, October 31, 1994.

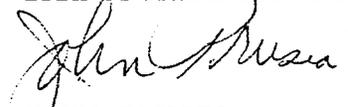
4. The presiding officer will renumber all of the exhibits consecutively, when all have been received, and will send the parties a list of exhibits.

5. The parties shall file simultaneous briefs, postmarked no later than Wednesday, November 23, 1994. Briefs shall not exceed 60 pages in length. The setting of a mailing date for submission of briefs is done under the relaxed rules allowed in a brief adjudicative proceeding, and does not reflect the practice the Commission follows in formal proceedings.

6. Reply briefs shall be postmarked no later than Monday, December 5, 1994.

DATED at Olympia, Washington and effective this 24th day of October 1994.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION


JOHN PRUSIA
Hearings Examiner