

**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

**WASTE MANAGEMENT OF
WASHINGTON, INC.’s REPLY IN
SUPPORT OF MOTION FOR
CLARIFICATION OR, IN THE
ALTERNATIVE, PETITION FOR
ADMINISTRATIVE REVIEW**

**REPLY IN SUPPORT OF MOTION FOR CLARIFICATION OR, IN THE
ALTERNATIVE, PETITION FOR ADMINISTRATIVE REVIEW**

1 On December 3, 2019, Waste Management of Washington, Inc. (“Waste Management”) filed its Motion for Clarification or in the Alternative, Petition for Administrative Review (“Motion for Clarification”). The Motion for Clarification sought to clarify the intention of Administrative Law Judge (“ALJ”) Rayne Pearson with respect to some of Waste Management’s obligations under Order 04, Initial Order Denying Application in this docket (“Initial Order”), but did not challenge any aspect of that order. On December 12, 2019, Superior Waste & Recycle LLC (“Superior”) filed its response to the Motion for Clarification (“Response”). With leave of ALJ Pearson provided by email to all parties on December 13, Waste Management replies in support of its Motion for Clarification.

Waste Management of Washington, Inc.’s Reply in Support
Motion for Clarification / Petition for Administrative Review
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I. Superior does not oppose the relief Waste Management requests: clarification.

2 Waste Management’s Motion for Clarification seeks nothing more than clarification of its obligations in the Initial Order. Nothing in Superior’s Response opposes that relief. The Motion for Clarification presents Waste Management’s best reading of the Initial Order, but also lays out at least one alternative reading. Motion for Clarification at ¶¶ 4-5, 8-9. Superior argues for the alternative reading presented by Waste Management. Response at 1:6-7, 3:9-11. If anything, Superior’s disagreement underscores the need to *grant* clarification of the Initial Order as Waste Management requests. Nor does Superior take issue with Waste Management’s procedural request to allow clarification of the Initial Order by ALJ Pearson, rather than the full Commission.

II. Superior offers no basis for reversing the Initial Order and granting Superior’s certificate application.

3 Superior concludes its Response with a conditional request to grant it a certificate of public convenience and necessity to operate as a solid waste hauler. Response at 3:11-13. Superior makes no attempt to justify that remedy on the merits.

4 Procedurally, Superior did not timely petition for administrative review, so its request appears to be an attempt to challenge the Initial Order in response to the Motion for Clarification (which includes, in the alternative, a petition for administrative review) pursuant to WAC 480-07-825(2)(c)(iii). But such a challenge is allowed only if it is “in response, or otherwise reasonably related, to the issues raised in the petition.” *Id.*

5 Superior's attempt to overturn the entire Initial Order is not reasonably related to Waste Management's attempt to clarify its obligations, so the request is procedurally barred. As explained in the Motion for Clarification, Waste Management seeks clarification of its obligations under the Initial Order. Regardless of Waste Management's perceptions, ALJ Pearson obviously knew what she meant by the Initial Order, and she found that Waste Management *will* provide service to the satisfaction of the Commission, subject to the requirements of the Initial Order as *she* understood them.

6 No matter how the Initial Order is clarified, Waste Management again affirms that it will provide service to the Commission's satisfaction,¹ and there is no outcome from the Motion for Clarification that would permit granting Superior's application. Superior's request therefore exceeds the scope of challenge allowed by WAC 480-07-825(2)(c)(iii) and should be denied on that basis alone.

7 Substantively, Superior in its Response does not even attempt to analyze the merits of the case, as would be required to grant its certificate. Without bothering to explain or to respond to the detailed analysis of the Initial Order, Superior simply asks to be given what it wants. There is no basis to do so.

¹ Though Waste Management reserved its right to seek reconsideration or judicial review of the Initial Order, Motion for Clarification at ¶ 9, it will provide whatever service is finally required to satisfy the Commission, Weinstein, Exh. MW-1T at 8:1-11.

8 Similarly, Superior's Response attempts to relitigate various aspects of the factual record and to
reopen the record by attaching a new exhibit. Superior's arguments are not responsive to Waste
Management's request, its evidence is untimely, and the ALJ and Commission should entertain
neither in response to the Motion for Clarification.

III. Conclusion

9 For the foregoing reasons, Waste Management's Motion for Clarification should be granted, and
Superior's Response should be rejected.

DATED this 20th day of December, 2019

Respectfully Submitted,
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