

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

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|-------------------------------------|---|----------------------|
| In the Matter of Penalty Assessment |) | DOCKET TG-091292 |
| Against |) | |
| |) | |
| RABANCO, LTD d/b/a ALLIED |) | ORDER 01 |
| WASTE SERVICES OF KLICKITAT |) | |
| COUNTY |) | ORDER APPROVING AND |
| |) | ADOPTING SETTLEMENT |
| In the Amount of \$44,400. |) | AGREEMENT MITIGATING |
| |) | PENALTY ASSESSMENT |
| |) | |

MEMORANDUM

- 1 On May 12, 2010, the Commission issued its Notice of Penalties Incurred and Due for Violations of Laws and Rules against Rabanco, Ltd. d/b/a Allied Waste Services of Klickitat County (Allied Waste or the Company) in the amount of \$44,400 for 444 violations of WAC 480480-70-236(1), which states that a company cannot assess rates and charges for solid waste collection service that are higher, lower or different from those contained in its tariff.

- 2 On May 19, 2010, the Commission received from Allied Waste a letter requesting mitigation and a hearing, which was supplemented with an application for mitigation form on May 26, 2010. In these filings, Allied Waste admitted the violations but set forth no reasons in support of mitigation.

- 3 On June 7, 2010, the Commission issued a Notice of Brief Adjudication setting July 9, 2010, as the date for taking oral statements in accordance with statute and the Commission’s procedural rules, including RCW 34.05.482 and WAC 480-07-610. However, on July 6, 2010, Commission Staff filed on behalf of both parties a Settlement Agreement and Narrative in Support of Settlement Agreement. If approved, the Settlement Agreement would resolve all issues in this proceeding. The parties accordingly requested that the previously scheduled brief adjudication be continued pending determination of the matter, or the conduct of further process, if necessary.

- 4 The parties explain the background of this matter in their Narrative in Support of Settlement Agreement. They state specifically that in February 2009, Staff received a complaint from a Klickitat County customer of Allied Waste. The customer had requested weekly solid waste collection service from the Company. Allied Waste informed the customer that his remote location and lengthy roundtrip service to pick up a single can necessitated every other week service. After reviewing Allied Waste's tariff, however, Commission Staff informed the Company's local county representative that the applicable tariff authorized weekly service, not every other week service. The Company then promptly notified the complaining customer that he would receive weekly service beginning the following week. To implement the weekly service to all similarly-situated customers, the Company promptly repositioned equipment and drivers by early March 2009. Since then, Allied Waste has received no additional service complaints.
- 5 Once Commission Staff brought the tariff application issue to Allied Waste's attention in February 2009, through a single customer complaint and inquiry from Commission Staff, the Company promptly notified its customers in the affected portion of the county of the provisions of its tariff and commenced providing weekly service as required by the Company's tariff. Considering these facts, Staff agreed with the Company that mitigation of the penalties was appropriate. The parties' Settlement Agreement proposes that Allied Waste pay a penalty of \$4,440, which represents a fine of \$10 per violation for a total of 444 violations of WAC 480-70-236(ii) to resolve this matter.
- 6 Because Allied Waste instituted prompt and effective remedial action and because there is no evidence that the Company has been the subject of similar complaints about tariff misapplication, the Commission determines that the proposed sanction of \$10 per affected customer for a total of \$4,440 is a fair, proportionate and adequate disposition of this matter. The Commission accordingly concludes that the parties' Settlement Agreement should be approved and adopted in full resolution of the issues in this proceeding.

ORDER

THE COMMISSION ORDERS THAT:

- 7 (1) The Settlement Agreement filed by all parties to this proceeding on July 6, 2010, which is appended to, and adopted into, this Order by this reference, is approved and adopted in full resolution of the issues in this proceeding.
- 8 (2) Allied Waste is required, within ten business days following the date of this Order, to pay penalties of \$4,400, or to make arrangements with the Commission for an extended payment program. Authority to approve such a payment program is delegated to the Executive Secretary.
- 9 (4) The Commission retains jurisdiction to enforce this Order.

DATED at Olympia, Washington, and effective July 20, 2010.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

DENNIS J MOSS
Senior Review Judge