

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

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

1 **SYNOPSIS.** *This is an Administrative Law Judge’s Initial Order that is not effective unless approved by the Commission or allowed to become effective pursuant to the notice at the end of the order. If this Initial Order becomes final, the Settlement Agreement entered into between Rabanco, Ltd., d/b/a Allied Waste Services of Klickitat County and the Commission Staff, which resolves all issues in the penalty assessment, will be approved and adopted.*

**MEMORANDUM**

2 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.

3 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.

4 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.

- 5 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.
- 6 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.
- 7 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.

- 8 The Commission entered the original Order 01 in this docket on July 19, 2010. The Commission enters this corrected order to reflect that the order is an initial order of the Commission, providing notice of the procedures governing initial orders. This corrected order also modifies the penalty amount identified in the ordering paragraphs below to reflect an amount consistent with the discussion in paragraph 7 above, i.e., that Allied Waste must pay a penalty of \$4,440, not \$4,400.

**ORDER**

**THE COMMISSION ORDERS THAT:**

- 9 (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.
- 10 (2) Allied Waste is required, within ten business days following the date of this Order, to pay penalties of **\$4,440**, 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.
- 11 (4) The Commission retains jurisdiction to enforce this Order.

DATED at Olympia, Washington, and effective July 23, 2010.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

DENNIS J. MOSS  
Senior Review Judge

## NOTICE TO THE PARTIES

This is an Initial Order. The action proposed in this Initial Order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order, and you would like the order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

WAC 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this Initial Order to file a *Petition for Administrative Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within (10) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order any party may file a Petition To Reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition To Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

RCW 80.01.060(3), as amended in the 2006 legislative session, provides that an Initial Order will become final without further Commission action if no party seeks administrative review of the Initial Order and if the Commission does not exercise administrative review on its own motion. You will be notified if this order becomes final.

One copy of any Petition or Answer filed must be served on each party of record with proof of service as required by WAC 480-07-150(8) and (9). An original and eight copies of any Petition or Answer must be filed by mail delivery to:

Attn: David W. Danner, Executive Director and Secretary  
Washington Utilities and Transportation Commission  
P.O. Box 47250  
Olympia, Washington 98504-7250