BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In re Application of:
JAMMIE’S ENVIRONMENTAL, INC.

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

Docket TG-220243

JAMMIE’S ENVIRONMENTAL, INC.’S RESPONSE TO WASHINGTON REFUSE AND RECYCLING ASSOCIATION’S PETITION FOR INTERVENTION

I. In accordance with RCW 34.05.443 and WAC 480-07-355(2), Jammie’s Environmental, Inc. (“JEI”) responds and objects to the Washington Refuse and Recycling Association’s (“WRRA”) Petition to Intervene (“Petition”). The Petition should be denied because WRRA has no substantial interest not already represented, it does not identify a public interest basis for intervention, and its intervention will be unnecessarily duplicative and burdensome to the proceeding.

BACKGROUND

2. JEI specializes in industrial cleaning services for clients throughout the western United States.¹ Incidental to those services, JEI specializes in the management,
transportation, and disposal of solid and liquid process waste, hazardous waste, dangerous waste and/or special waste.²

3. JEI has provided various industrial cleaning services for Packaging Corporation of America (“PCA”) at its facility in Walla Walla County, Washington, for approximately ten years.³ In March 2021, JEI began assisting PCA in managing waste resulting from PCA’s manufacturing of paper products from old corrugated cardboard (“OCC Rejects”).⁴ In May 2021, PCA requested that in addition to JEI’s current work relating to the OCC Rejects, that JEI also haul and dispose of the OCC Rejects after Basin Disposal, Inc. was unable to provide the service causing a fire and safety hazard at the facility.⁵

4. At the direction of Washington Utilities and Transportation Commission (“WUTC” or “Commission”) Staff, on April 1, 2022, JEI applied for a solid waste certificate to permit its management—collection, loading, and hauling—of the OCC Rejects for PCA (the “Application”).⁶

5. On April 20, 2022, Basin Disposal Inc. filed a Protest, challenging JEI’s Application.

² Id.
³ Id.
⁴ Id.
⁵ Id. at 10.
⁶ WUTC Staff had previously indicated that JEI was exempt from needing a solid waste certificate under WAC 480-07-011(1)(g).
6. According to the Commission’s website, Basin Disposal, Inc. and Basin Disposal of Washington, LLC (together “BDI”), are the only companies that currently hold a solid waste disposal certificate to operate in Walla Walla County.\(^7\) BDI provides solid waste collection service for PCA, except for the collection, loading, and hauling of OCC Rejects, which is currently done by JEI.

7. On April 25, 2022, WRRA filed its Petition. According to the Petition, WRRA is a trade association that represents “the vast majority of regulated solid waste collection companies in Washington state.”\(^8\) In support of its Petition, WRRA notes that “it has taken part as a party, intervenor or interested party in virtually every significant WUTC hearing regarding solid waste since the inception of regulation of solid waste.”\(^9\)

8. BDI and WRRA have a close relationship. BDI is a member of WRRA. According to WRRA’s website,

WRRA represents Washington’s diverse and multifaceted solid waste handling industry, providing its members with general legal support, educational seminars, workshops, and representation before regulatory agencies and the Legislature.

We’re an association of solid waste companies and professionals who have gathered to promote the private solid waste and recycling industry and our member companies.\(^10\)


\(^8\) Pet. ¶ 2.

\(^9\) Id.

\(^10\) https://wrra.org/
WRRA seeks intervention because “[t]he issues presented in this action are of substantial interest to the solid waste industry in Washington in general, and to all individual G-certificate holders who are members of WRRA.”

WRRA’s Petition, however, does not state or explain how exactly its members (aside from BDI) will be impacted by the Application or JEI’s hauling of OCC Rejects for PCA.

ARGUMENT

9. The Commission may grant a petition to intervene if the petitioner “has a substantial interest in the subject matter of the hearing or if the petitioner’s participation is in the public interest.” The petitioner must also qualify under the law, and the intervention must “not impair the orderly and prompt conduct of the proceedings.”

10. While WRRA may at times represent the interests of its members in Commission proceedings, such involvement is not warranted or necessary here, because the interest WRRA identifies is already adequately represented and protected by BDI. Further, WRRA does not contend its participation is in the public interest, and WRRA’s involvement would be unnecessarily duplicative and would risk broadening the issues in this case.

12 WAC 480-07-355(3).
13 RCW 35.05.443(1).
A. WRRA Cannot Demonstrate a Substantial Interest That is Not Already Represented

11. WRRA has not demonstrated that it or any of its members (aside from BDI) meet the substantial interest standard. To meet this standard, a proposed intervenor must demonstrate “a nexus between the stated purpose of its intervention and an interest protected by a Washington statute within the Commission’s jurisdiction.”14 The petitioner must also show the interest is not already adequately represented by another party.15 In Avista’s 2019 general rate case, the Commission denied intervention to an interest group that claimed its intervention was necessary to safeguard the interests of residential and small business customers in Avista’s service territory in part because the Commission found that their interests were already represented.16 WRRA cannot demonstrate it has a substantial interest in the subject matter of this case not already represented, as the Commission requires.

1. WRRA does not have a substantial interest in this case.

12. WRRA does not have a substantial interest in this proceeding. WRRA contends it should be granted intervention because of its past history in intervening in Commission

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15 See, e.g., WUTC v. Avista Corporation, Docket UE-190334 (consolidated), Order 04 ¶ 15 (June 28, 2019).
16 Id. ¶¶ 13-14.
proceedings involving solid waste companies. However, past interventions in other proceedings do not demonstrate a substantial interest in this case.

Rather, to meet the substantial interest test, the petitioner must demonstrate how it has an interest in this case protected under Washington law within the Commission’s jurisdiction. Accordingly, WRRA, as a trade association who represents the interests of solid waste companies, must demonstrate how it or its members have an interest protected by law in this proceeding. WRRA has not done that.

WRRA asserts only generically that “The issues presented in this action are of substantial interest to the solid waste industry in Washington in general, and to all individual G-certificate holders who are members of WRRA.” But WRRA does not explain how JEI’s Application or its narrow service for PCA impacts WRRA members. Of WRRA’s members, only BDI, who already filed a Protest in this proceeding, holds a certificate to operate in Walla Walla County. WRRA has not explained how any of its other members could be impacted by the outcome of this proceeding.

17. Pet. ¶ 2.
19. In re Joint Application of Verizon Commc’ns, Inc. and Frontier Commc’ns Corp. for an Order Declining to Assert Jurisdiction or, in the Alternative, Approving the Indirect Transfer of Control of Verizon Nw., Inc., Docket UT-090842, Order 05 ¶ 14 (Sept. 10, 2009).
15. Instead, WRRA states that it should be allowed to intervene because the outcome of this case has “the potential to set policy” for other solid waste companies. 21 But this is speculative. The substantial interest test asks whether the proposed intervenor has a protected interest in that proceeding. 22 The fact that there are other solid waste companies in the state who may be interested in the outcome of this proceeding does not mean they have a protected interest in the proceeding as the substantial interest test requires. 23

16. If WRRA’s argument was the standard, the bounds of intervention would be limitless. It would mean that any person could intervene in any Commission proceeding if they believed there was a chance the Commission could issue a decision that might impact them in some future way. But the substantial interest test is not that broad. Courts and adjudicative bodies regularly issue decisions that impact future cases, but that fact does not provide all parties that could be impacted by a decision standing to intervene in the original case. Nor is this a policy-setting proceeding. The straightforward question before the Commission is whether JEI’s Application should be permitted. Aside from BDI, WRRA has

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21 Id.
22 In the Matter of the Application of Puget Sound Energy For an Order Authorizing the Sale of All of Puget Sound Energy’s Interests in Colstrip Unit 4 and Certain of Puget Sound Energy’s Interests in the Colstrip Transmission System, Docket UE-200115, Order 04 ¶ 14 (Sept. 10, 2020) (citing In Re Joint Application of Verizon Communications, Inc. and Frontier Communications Corporation for an Order Declining to Assert Jurisdiction Over, or, in the Alternative, Approving the Indirect Transfer of Control of Verizon Northwest, Inc., Docket UT-090842, Order 05 ¶ 14 (Sep. 10, 2009)).
23 See, e.g., Cost Mgmt. Servs., Inc. v. Cascade Natural Gas Corp., Docket UG-061256, Order 06 ¶ 20 (Oct. 12, 2007) (“While CMS may be interested in how the Commission resolves Cascade’s proposed tariff, CMS is not a customer of Cascade and has no ‘substantial interest,’ as the term is used in determining intervention and standing, in the outcome of the proceeding.”).
not demonstrated how it or any other solid waste company regulated by the Commission will be implicated by that decision. Interest in a hypothetical, future scenario cannot provide a substantial interest in a proceeding.24

2. **WRRA has not demonstrated how it would be representing an interest not already represented.**

17. WRRA has also not demonstrated how it would be representing an interest not already represented. WRRA’s Petition claims, “Any adjudication with the potential to set policy for the industry should include representation from the regulated companies.”25 In fact, this case already includes representation from the only regulated company that will be impacted by the Application—BDI. WRRA’s website states that “WRRA represents Washington’s diverse and multifaceted solid waste handling industry, providing its members with general legal support, educational seminars, workshops, and representation before regulatory agencies and the Legislature.”26 No party has alleged that BDI or its counsel is somehow inadequate or unable to represent BDI’s interests in this proceeding. Thus, aside from BDI which has representation, there is no WRRA member that needs representation.

18. Granting WRRA’s intervention would effectively mean BDI is represented twice in this proceeding: once by its counsel and second by WRRA. Where an interest is already

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24 See, e.g., In the Matter of the Application of Puget Sound Energy, Docket UE-200115, Order 04 ¶ 16 (Sept. 10, 2020) (finding the proposed intervenor’s interests, some of which are hypothetical, did not give rise to a substantial interest under Washington law and under the jurisdiction of the Commission).


26 https://wrra.org/
adequately represented in a proceeding and the intervention would be duplicative, intervention is unwarranted and should not be granted.\textsuperscript{27} WRRA has not demonstrated how either it or its members have a substantial interest in this proceeding that is not already represented.

\section*{B. WRRA Has Not Contended Intervention is in the Public Interest}

\begin{enumerate}
\item[19.] Appropriately, WRRA’s petition does not allege that its intervention would be in the public interest under WAC 480-07-355(3).
\item[20.] To the extent WRRA implies that its intervention is in the public interest because its members may have a general interest in the outcome of the proceeding, this is not a public interest. Although regulated, WRRA’s members are private companies and neither they nor their customers will be impacted by the outcome of the Application. The only customer that will be impacted by the Application is PCA, who has filed a petition to intervene in this proceeding. There is no public interest at stake here that would warrant WRRA’s intervention, nor does WRRA allege any.
\item[21.] Finally, this is also not a scenario where a proposed intervenor could aid the Commission in rendering a decision. WRRA is an advocacy organization that is paid to support the interests of its members. As stated on the WRRA website: “We’re an association

\footnotesize{\textsuperscript{27} See, e.g., \textit{WUTC v. Avista Corporation}, Docket UE-190334 (consolidated), Order 03 \p 16 (May 30, 2019), \textit{affirmed by WUTC v. Avista Corporation}, Docket UE-190334 (consolidated), Order 04 \p 15 (Jun. 28, 2019); \textit{B.N.S.F. Railway Co. v. City of Mount Vernon}, Docket TR-070696, Order 01 \p 20 (Jul. 20, 2007).}
of solid waste companies and professionals who have gathered to promote the private solid waste and recycling industry and our member companies.”  

Any participation by WRRA would not be objective but would be biased by its obligation to advocate for BDI. In sum, WRRA is certainly not “an essential or indispensable party” needed to reach a decision in this case.  

WRRA should not be granted intervention on this basis.

B. WRRA’s Intervention Will Broaden the Issues and Unnecessarily Complicate and Encumber the Proceeding

22. While WRRA has assured the Commission that it will not broaden the issues, its Petition reveals otherwise. Indeed, aside from BDI, its primary basis for seeking intervention is representing the interests of companies that are not even parties to the proceeding and do not have a certificate at issue before the Commission in this case. By arguing that its intervention is warranted so it can represent the general interests of the other solid waste companies in the state, WRRA is necessarily broadening the issues and the companies potentially involved in the proceeding. The only focus of this proceeding is the Application and BDI’s Protest, not the interests of other solid waste companies in the state.

23. Given that WRRA’s and BDI’s positions and interests are in lockstep with one another, WRRA’s involvement will result in duplicative testimony, witnesses, and

28 https://wrra.org/

29 See Cost Mgmt. Servs., Inc. v. Cascade Natural Gas Corp., Docket UG-061256, Order 06 ¶ 21 (Oct. 12, 2007) (denying intervention to interested party even where it claimed expertise in the subject matter of the proceeding).
argument, increasing costs for responding parties and increasing the burden on the Commission. To avoid duplication and burdening the proceeding, the Commission should deny WRRA’s Petition. To the extent WRRA wishes to support BDI, it can do so in a non-representative role. WRRA does not need to be a party to support BDI in this case, whether it be through legal research, strategy or otherwise. Additionally, WRRA is also able state its position through written comments before the Commission.

CONCLUSION

24. For the reasons set forth above, the Commission should deny WRRA’s petition. If the Commission decides to grant WRRA’s intervention, it should be narrowly limited to the Application and not the interests of companies not before the Commission in this case. WRRA and BDI should also be required to coordinate and consolidate discovery, briefing, any witnesses called at hearing, argument time, and any other similar action, so as to avoid duplication and burdening the parties and the Commission.
RESPECTFULLY SUBMITTED this 20th day of May, 2022.

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