

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 DENYING OBJECTION TO  
ADMISSION OF EVIDENCE

The complainant has offered into evidence an Oregon Department of Environmental Quality (DEQ) rule interpretation regarding what materials must be counted in tonnage and fee payments by permitted landfills. The interpretation is for Chapter 340 Division 97, Oregon Administrative Rules. The offered evidence consists of the affidavit of Patricia Vernon, Solid Waste Policy Manager with the Oregon DEQ, with a copy of the DEQ interpretation attached. No party disputes the authenticity of the document.

The Respondents object to receipt of the evidence. Their objection is that the document has no bearing on any issue in dispute in this proceeding and therefore should be excluded on relevance grounds. They argue that the fact that the Oregon DEQ classifies material such as that involved in this proceeding 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.

The complainant argues 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. The complainant argues 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.

Intervenor Washington Refuse and Recycling Association supports the admission of the document. It argues 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 in other evidence.

Commission Staff does not object to the introduction of the document.

The presiding officer denies the Respondents' objection. The offered evidence will be made part of the record.

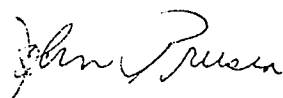
The proper characterization of the material being transported is an issue. Complainant's argument indicates that how the respondents classify the material also may be an issue in this particular proceeding. The Commission is liberal in admitting evidence which has any arguable relevance to its determination. The parties may argue the weight, if any, the Commission should give the evidence.

The parties are reminded that in interpreting its statutes, the Commission is not bound by other states' interpretation of similar or related statutes, and generally gives little weight to the bare result of another state's interpretation. This is true even when the foreign statute or rule relates to the same context and is made by an agency with similar responsibilities. See, Order M. V. No. 128995, In re United Parcel Service, Inc., App. No. E-18527 (January 1984). When the foreign jurisdiction's rule interpretation relates to a different context, is made by an agency that is not carrying out responsibilities similar to those of the Commission, and does not include the reasoning of the agency involved, it carries even less weight.

The Commission may find persuasive other Washington statutes and rules that are part of the same statutory scheme, are governed by the same legislative policy, or are aimed at the same result, in interpreting its statutes. Thus, for example, the parties might properly argue whether certain provisions of chapter 70.95 RCW or chapters 173-304 and 173-351 WAC should have a bearing on the Commission's decision in this proceeding.

DATED at Olympia, Washington and effective this 26th day of October, 1994.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

  
JOHN PRUSIA  
Hearings Examiner