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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 (“WRRRA”) Petition to Intervene (“Petition”). The Petition should be denied because WRRRA 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,

¹ JEI Application at (PDF) page 9.

1 transportation, and disposal of solid and liquid process waste, hazardous waste, dangerous
2 waste and/or special waste.²
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6 3. JEI has provided various industrial cleaning services for Packaging Corporation of
7 America (“PCA”) at its facility in Walla Walla County, Washington, for approximately ten
8 years.³ In March 2021, JEI began assisting PCA in managing waste resulting from PCA’s
9 manufacturing of paper products from old corrugated cardboard (“OCC Rejects”).⁴ In May
10 2021, PCA requested that in addition to JEI’s current work relating to the OCC Rejects, that
11 JEI also haul and dispose of the OCC Rejects after Basin Disposal, Inc. was unable to
12 provide the service causing a fire and safety hazard at the facility.⁵
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23 4. At the direction of Washington Utilities and Transportation Commission (“WUTC”
24 or “Commission”) Staff, on April 1, 2022, JEI applied for a solid waste certificate to permit
25 its management—collection, loading, and hauling—of the OCC Rejects for PCA (the
26 “Application”).⁶
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33 5. On April 20, 2022, Basin Disposal Inc. filed a Protest, challenging JEI’s Application.
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42 ² *Id.*

43 ³ *Id.*

44 ⁴ *Id.*

45 ⁵ *Id.* at 10.

46 ⁶ WUTC Staff had previously indicated that JEI was exempt from needing a solid waste certificate
47 under WAC 480-07-011(1)(g).

1 6. According to the Commission’s website, Basin Disposal, Inc. and Basin Disposal of
2 Washington, LLC (together “BDI”), are the only companies that currently hold a solid waste
3 disposal certificate to operate in Walla Walla County.⁷ BDI provides solid waste collection
4 service for PCA, except for the collection, loading, and hauling of OCC Rejects, which is
5 currently done by JEI.
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13 7. On April 25, 2022, WRRRA filed its Petition. According to the Petition, WRRRA is a
14 trade association that represents “the vast majority of regulated solid waste collection
15 companies in Washington state.”⁸ In support of its Petition, WRRRA notes that “it has taken
16 part as a party, intervenor or interested party in virtually every significant WUTC hearing
17 regarding solid waste since the inception of regulation of solid waste.”⁹
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26 8. BDI and WRRRA have a close relationship. BDI is a member of WRRRA. According
27 to WRRRA’s website,
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30 WRRRA represents Washington’s diverse and multifaceted solid waste
31 handling industry, providing its members with general legal support,
32 educational seminars, workshops, and representation before regulatory
33 agencies and the Legislature.
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36 We’re an association of solid waste companies and professionals who
37 have gathered to promote the private solid waste and recycling industry
38 and our member companies.¹⁰
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42 ⁷ WUTC, *Solid Waste Service Maps - By County*, [https://www.utc.wa.gov/regulated-](https://www.utc.wa.gov/regulated-industries/transportation/regulated-transportation-industries/solid-waste-carriers/solid-waste-service-maps-county)
43 [industries/transportation/regulated-transportation-industries/solid-waste-carriers/solid-waste-service-](https://www.utc.wa.gov/regulated-industries/transportation/regulated-transportation-industries/solid-waste-carriers/solid-waste-service-maps-county)
44 [maps-county](https://www.utc.wa.gov/regulated-industries/transportation/regulated-transportation-industries/solid-waste-carriers/solid-waste-service-maps-county).

45 ⁸ Pet. ¶ 2.

46 ⁹ *Id.*

47 ¹⁰ <https://wrra.org/>

1 WRRRA seeks intervention because “[t]he issues presented in this action are of
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3 substantial interest to the solid waste industry in Washington in general, and to all
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5 individual G-certificate holders who are members of WRRRA.”¹¹ WRRRA’s Petition,
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7 however, does not state or explain how exactly its members (aside from BDI) will be
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9 impacted by the Application or JEI’s hauling of OCC Rejects for PCA.
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12 ARGUMENT

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15 9. The Commission *may* grant a petition to intervene if the petitioner “has a substantial
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17 interest in the subject matter of the hearing or if the petitioner’s participation is in the public
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19 interest.”¹² The petitioner must also qualify under the law, and the intervention must “not
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21 impair the orderly and prompt conduct of the proceedings.”¹³
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25 10. While WRRRA may at times represent the interests of its members in Commission
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27 proceedings, such involvement is not warranted or necessary here, because the interest
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29 WRRRA identifies is already adequately represented and protected by BDI. Further, WRRRA
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31 does not contend its participation is in the public interest, and WRRRA’s involvement would
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33 be unnecessarily duplicative and would risk broadening the issues in this case.
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45 ¹¹ Pet. ¶ 2.

46 ¹² WAC 480-07-355(3).

47 ¹³ RCW 35.05.443(1).

1 **A. WRRRA Cannot Demonstrate a Substantial Interest That is Not Already**
2 **Represented**

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

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30 *12.* WRRRA does not have a substantial interest in this proceeding. WRRRA contends it
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32 should be granted intervention because of its past history in intervening in Commission
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42 ¹⁴ *In the Matter of the Application of Puget Sound Energy for an Ord. Authorizing the Sale of All of*
43 *Puget Sound Energy’s Ints. in Colstrip Unit 4 & Certain of Puget Sound Energy’s Ints. in the*
44 *Colstrip Transmission Sys.*, Docket UE-200115, Order 04 ¶ 14 (Sept. 10, 2020).

45 ¹⁵ *See, e.g., WUTC v. Avista Corporation*, Docket UE-190334 (consolidated), Order 04 ¶ 15 (June
46 28, 2019).

47 ¹⁶ *Id.* ¶¶ 13-14.

1 proceedings involving solid waste companies.¹⁷ However, past interventions in other
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3 proceedings do not demonstrate a substantial interest in this case.¹⁸
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6 13. Rather, to meet the substantial interest test, the petitioner must demonstrate how it
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8 has an interest in this case protected under Washington law within the Commission's
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10 jurisdiction.¹⁹ Accordingly, WRRRA, as a trade association who represents the interests of
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12 solid waste companies, must demonstrate how it or its members have an interest protected
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14 by law *in this proceeding*. WRRRA has not done that.
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18 14. WRRRA asserts only generically that "The issues presented in this action are of
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20 substantial interest to the solid waste industry in Washington in general, and to all individual
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22 G-certificate holders who are members of WRRRA."²⁰ But WRRRA does not explain how
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24 JEI's Application or its narrow service for PCA impacts WRRRA members. Of WRRRA's
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26 members, only BDI, who already filed a Protest in this proceeding, holds a certificate to
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28 operate in Walla Walla County. WRRRA has not explained how any of its other members
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30 could be impacted by the outcome of this proceeding.
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41 ¹⁷ Pet. ¶ 2.

42 ¹⁸ See *WUTC v. Washington Natural Gas Co.*, Docket UG-940814, 3rd Suppl. Order ¶ 1 (Aug. 24,
43 1994) (noting "the Commission may weigh the pros and cons of participation in each proceeding").

44 ¹⁹ *In re Joint Application of Verizon Commc 'ns, Inc. and Frontier Commc 'ns Corp. for an Order*
45 *Declining to Assert Jurisdiction or, in the Alternative, Approving the Indirect Transfer of Control of*
46 *Verizon Nw., Inc.*, Docket UT-090842, Order 05 ¶ 14 (Sept. 10, 2009).

47 ²⁰ Pet. ¶ 2.

1 15. Instead, WRRRA states that it should be allowed to intervene because the outcome of
2 this case has “the potential to set policy” for other solid waste companies.²¹ But this is
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4 speculative. The substantial interest test asks whether the proposed intervenor has a
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6 protected interest in that proceeding.²² The fact that there are other solid waste companies in
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8 the state who may be *interested* in the outcome of this proceeding does not mean they have a
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10 *protected interest* in the proceeding as the substantial interest test requires.²³
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15 16. If WRRRA’s argument was the standard, the bounds of intervention would be
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17 limitless. It would mean that that any person could intervene in any Commission proceeding
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19 if they believed there was a chance the Commission could issue a decision that might impact
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21 them in some future way. But the substantial interest test is not that broad. Courts and
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23 adjudicative bodies regularly issue decisions that impact future cases, but that fact does not
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25 provide all parties that could be impacted by a decision standing to intervene in the original
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27 case. Nor is this a policy-setting proceeding. The straightforward question before the
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29 Commission is whether JEI’s Application should be permitted. Aside from BDI, WRRRA has
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37 ²¹ *Id.*

38 ²² *In the Matter of the Application of Puget Sound Energy For an Order Authorizing the Sale of All*
39 *of Puget Sound Energy’s Interests in Colstrip Unit 4 and Certain of Puget Sound Energy’s Interests*
40 *in the Colstrip Transmission System*, Docket UE-200115, Order 04 ¶ 14 (Sept. 10, 2020) (citing *In*
41 *Re Joint Application of Verizon Communications, Inc. and Frontier Communications Corporation*
42 *for an Order Declining to Assert Jurisdiction Over, or, in the Alternative, Approving the Indirect*
43 *Transfer of Control of Verizon Northwest, Inc.*, Docket UT-090842, Order 05 ¶ 14 (Sep. 10, 2009)).

44 ²³ *See, e.g., Cost Mgmt. Servs., Inc. v. Cascade Natural Gas Corp.*, Docket UG-061256, Order 06 ¶
45 20 (Oct. 12, 2007) (“While CMS may be interested in how the Commission resolves Cascade’s
46 proposed tariff, CMS is not a customer of Cascade and has no ‘substantial interest,’ as the term is
47 used in determining intervention and standing, in the outcome of the proceeding.”).

1 not demonstrated how it or any other solid waste company regulated by the Commission
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3 will be implicated by that decision. Interest in a hypothetical, future scenario cannot provide
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5 a substantial interest in a proceeding.²⁴
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9 **2. WRRRA has not demonstrated how it would be representing an**
10 **interest not already represented.**
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12 17. WRRRA has also not demonstrated how it would be representing an interest not
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14 already represented. WRRRA’s Petition claims, “Any adjudication with the potential to set
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16 policy for the industry should include representation from the regulated companies.”²⁵ In
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18 fact, this case already includes representation from the only regulated company that will be
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20 impacted by the Application—BDI. WRRRA’s website states that “WRRRA represents
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22 Washington’s diverse and multifaceted solid waste handling industry, providing its members
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24 with general legal support, educational seminars, workshops, and representation before
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26 regulatory agencies and the Legislature.”²⁶ No party has alleged that BDI or its counsel is
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28 somehow inadequate or unable to represent BDI’s interests in this proceeding. Thus, aside
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30 from BDI which has representation, there is no WRRRA member that needs representation.
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36 18. Granting WRRRA’s intervention would effectively mean BDI is represented twice in
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38 this proceeding: once by its counsel and second by WRRRA. Where an interest is already
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42 ²⁴ See, e.g., *In the Matter of the Application of Puget Sound Energy*, Docket UE-200115, Order 04 ¶
43 16 (Sept. 10, 2020) (finding the proposed intervenor’s interests, some of which are hypothetical, did
44 not give rise to a substantial interest under Washington law and under the jurisdiction of the
45 Commission).

46 ²⁵ Pet. ¶ 2.

47 ²⁶ <https://wrra.org/>

1 adequately represented in a proceeding and the intervention would be duplicative,
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3 intervention is unwarranted and should not be granted.²⁷ WRRRA has not demonstrated how
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5 either it or its members have a substantial interest in this proceeding that is not already
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7 represented.
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11 **B. WRRRA Has Not Contended Intervention is in the Public Interest**
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13 19. Appropriately, WRRRA’s petition does not allege that its intervention would be in the
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15 public interest under WAC 480-07-355(3).
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18 20. To the extent WRRRA implies that its intervention is in the public interest because its
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20 members may have a general interest in the outcome of the proceeding, this is not a public
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22 interest. Although regulated, WRRRA’s members are private companies and neither they nor
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24 their customers will be impacted by the outcome of the Application. The only customer that
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26 will be impacted by the Application is PCA, who has filed a petition to intervene in this
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28 proceeding. There is no public interest at stake here that would warrant WRRRA’s
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30 intervention, nor does WRRRA allege any.
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35 21. Finally, this is also not a scenario where a proposed intervenor could aid the
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37 Commission in rendering a decision. WRRRA is an advocacy organization that is paid to
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39 support the interests of its members. As stated on the WRRRA website: “We’re an association
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45 ²⁷ See, e.g., *WUTC v. Avista Corporation*, Docket UE-190334 (consolidated), Order 03 ¶ 16 (May
46 30, 2019), *affirmed by WUTC v. Avista Corporation*, Docket UE-190334 (consolidated), Order 04 ¶
47 15 (Jun. 28, 2019); *B.N.S.F. Railway Co. v. City of Mount Vernon*, Docket TR-070696, Order 01 ¶
20 (Jul. 20, 2007).

1 of solid waste companies and professionals who have gathered to promote the private solid
2 waste and recycling industry and our member companies.”²⁸ Any participation by WRRRA
3 would not be objective but would be biased by its obligation to advocate for BDI. In sum,
4 WRRRA is certainly not “an essential or indispensable party” needed to reach a decision in
5 this case.²⁹ WRRRA should not be granted intervention on this basis.
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13 **B. WRRRA’s Intervention Will Broaden the Issues and Unnecessarily Complicate**
14 **and Encumber the Proceeding**
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16 22. While WRRRA has assured the Commission that it will not broaden the issues, its
17 Petition reveals otherwise. Indeed, aside from BDI, its primary basis for seeking intervention
18 is representing the interests of companies that are not even parties to the proceeding and do
19 not have a certificate at issue before the Commission in this case. By arguing that its
20 intervention is warranted so it can represent the general interests of the other solid waste
21 companies in the state, WRRRA is necessarily broadening the issues and the companies
22 potentially involved in the proceeding. The only focus of this proceeding is the Application
23 and BDI’s Protest, not the interests of other solid waste companies in the state.
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36 23. Given that WRRRA’s and BDI’s positions and interests are in lockstep with one
37 another, WRRRA’s involvement will result in duplicative testimony, witnesses, and
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44 ²⁸ <https://wrra.org/>

45 ²⁹ *See Cost Mgmt. Servs., Inc. v. Cascade Natural Gas Corp.*, Docket UG-061256, Order 06 ¶ 21
46 (Oct. 12, 2007) (denying intervention to interested party even where it claimed expertise in the
47 subject matter of the proceeding).

1 argument, increasing costs for responding parties and increasing the burden on the
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3 Commission. To avoid duplication and burdening the proceeding, the Commission should
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5 deny WRRRA's Petition. To the extent WRRRA wishes to support BDI, it can do so in a non-
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7 representative role. WRRRA does not need to be a party to support BDI in this case, whether
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9 it be through legal research, strategy or otherwise. Additionally, WRRRA is also able state its
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11 position through written comments before the Commission.
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15 CONCLUSION

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17 24. For the reasons set forth above, the Commission should deny WRRRA's petition. If
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19 the Commission decides to grant WRRRA's intervention, it should be narrowly limited to the
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21 Application and not the interests of companies not before the Commission in this case.
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23 WRRRA and BDI should also be required to coordinate and consolidate discovery, briefing,
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25 any witnesses called at hearing, argument time, and any other similar action, so as to avoid
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27 duplication and burdening the parties and the Commission.
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1 RESPECTFULLY SUBMITTED this 20th day of May, 2022.
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7 **PERKINS COIE LLP**

8 *s/ David S. Steele*
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JAMMIE'S ENVIRONMENTAL, INC.'S
RESPONSE TO WASHINGTON REFUSE
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