

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

Fiorito Enterprises, Inc. and Rabanco
Companies d/b/a Kent Meridian Disposal
Company, Allied Waste Services of Kent
and Republic Services of Kent,
Rabanco Ltd d/b/a Republic Services of
Lynnwood and Lynnwood Disposal,
Rabanco Ltd d/b/a Rabanco Companies
and Sea Tac Disposal,
Rabanco Ltd d/b/a Rabanco Companies,
Eastside Disposal and Rabanco
Connections

Respondent.

DOCKETS TG-181017, TG-181018,
TG-181019, TG-181020

ORDER 02

ORDER DISMISSING COMPLAINT
AND ORDER SUSPENDING
TARIFF REVISIONS; ALLOWING
TARIFF REVISIONS TO BECOME
EFFECTIVE BY OPERATION OF
LAW; GRANTING EXEMPTION
FROM RULE

BACKGROUND

- 1 On December 4, 2018, Fiorito Enterprises, Inc. and Rabanco Companies d/b/a Kent Meridian Disposal Company, Allied Waste Services of Kent and Republic Services of Kent, Rabanco Ltd d/b/a Republic Services of Lynnwood and Lynnwood Disposal, Rabanco Ltd d/b/a Rabanco Companies and Sea Tac Disposal, Rabanco Ltd d/b/a Rabanco Companies, Eastside Disposal and Rabanco Connections (collectively, Rabanco or Company) filed with the Washington Utilities and Transportation Commission (Commission) proposed tariff revisions that would increase rates and charges for solid waste service. Rabanco provides service to approximately 20,700 recycling customers in King and Snohomish Counties.
- 2 Also on December 4, 2018, the Company filed a petition for exemption from Washington Administrative Code (WAC) 480-70-351(2), which requires companies to use the most recent 12 months to project revenue from the sale of recyclable materials (Petition).
- 3 On January 31, 2019, the Commission entered Orders in these dockets, which suspended the tariff revisions pending an investigation to determine whether the revisions are fair,

just, reasonable, and sufficient. Because the Commission suspended the proposed tariff revisions filed in this docket to allow parties and stakeholders additional time to determine the correct commodity adjustment, the Commission did not act on the Company's Petition.

- 4 Initially, Commission Staff (Staff) did not agree with the Company's methodology for computing the annual commodity adjustment. Staff was concerned that customers were being treated differently because the Company utilizes an affiliate Materials Recovery Facility (MRF) rather than a third-party processor.
- 5 Upon further review, Staff accepts the Company's proposed calculations. Following further discussions with the Company, Staff recognizes that the customer impact of the arrangement between the Company and the MRF is a policy decision that should remain unchanged during the course of a revenue sharing agreement, and can be addressed in a separate proceeding. Instead, any changes to how revenue sharing is applied, or commodity adjustments are calculated, should be implemented at the start of the next revenue sharing plan period on August 1, 2019.
- 6 WAC 480-70-351(2) states that solid waste companies that estimate the revenue from the sales of recyclable materials collected in residential curbside programs as part of a deferred accounting program to return recycling revenues or charges to customers must use the most recent 12-month historical period to estimate the revenue for the next 12 months.
- 7 In its Petition, the Company asserts that the recycling commodity markets have become more volatile, and a shorter projection period for calculating commodity adjustments would avoid large swings in the credit or debit to customers based on changing commodity values. Due to the decreased value of recyclable commodities, the Company seeks approval to use a 6-month, rather than 12-month, average to calculate its proposed recycling commodity adjustment.
- 8 The Company and Staff agree that the commodity adjustment as filed is fair, just, reasonable, and sufficient, and also agree to incorporate January and February 2019 actual data in the true up calculation when the company files its next revenue sharing plan in June 2019. The company filed revised pages on February 22, 2019, reflecting the commodity adjustment as originally filed.
- 9 Staff reviewed the Petition and determined that the request for an exemption from the 12-month historical period requirement is reasonable. Using the most recent 12-month

period to estimate future revenues would include the time period prior to the change in recycling markets, when revenue from the sale of recyclable commodities provided a net positive amount (a credit) back to customers, and would not accurately reflect the anticipated market down-turn. Changing the calculation should also decrease customer rate shock. It will also prevent the Company from providing a credit it will not actually receive.

DISCUSSION

- 10 We agree with Staff that the tariff revisions are fair, just, reasonable, and sufficient, and should be allowed to go into effect on March 1, 2019. In Order 01, the Commission suspended the tariff revisions because the Company had not yet demonstrated that the commodity adjustment provisions were fair, just, reasonable, and sufficient, and the parties and stakeholders had not had the opportunity to reach an agreement that resolves how the commodity adjustment should be calculated.
- 11 We also accept Staff's recommendation that the issue regarding Rabanco's arrangement with the MRF should be addressed in a separate proceeding. Accordingly, the Commission finds it is consistent with the public interest to dismiss the Complaint and Order Suspending Tariff Revisions in Dockets TG-181017, TG-181018, TG-181019, and TG-181020, dated December 4, 2018, and allow the tariff revisions, as revised on February 22, 2019, to become effective on March 1, 2019.
- 12 Finally, we grant the Company's Petition for an exemption from WAC 480-70-351(2). We agree with Staff's recommendation to allow the Company to use the most recent 6 months of historical revenue to calculate the commodity credit, and grant the Company's request. Using the most recent 6-month historical period to estimate revenues is reasonable because it reflects a more realistic estimate of recyclable commodity revenue.

FINDINGS AND CONCLUSIONS

- 13 (1) The Commission is an agency of the State of Washington vested by statute with the authority to regulate the rates, rules, regulations, practices, accounts and affiliated interests of public service companies, including solid waste companies.
- 14 (2) Rabanco is a solid waste company and a public service company subject to Commission jurisdiction.
- 15 (3) This matter came before the Commission at its regularly scheduled meeting on February 28, 2019.

- 16 (4) Rabanco is subject to WAC 480-70-351(2), which requires solid waste companies that estimate the revenue from the sales of recyclable materials collected in residential curbside programs as part of a deferred accounting program to return recycling revenues or charges to customers to use the most recent 12-month historical period to estimate the revenue for the next 12 months.
- 17 (5) Under WAC 480-70-051, the Commission may grant an exemption from the provisions of any rule in WAC 480-70 if doing so is consistent with the public interest, the purposes underlying regulation, and applicable statutes. See also WAC 480-07-110.
- 18 (6) After reviewing the Petition filed in Dockets TG-181017, TG-181018, TG-181019, and TG-181020 by Rabanco on December 4, 2018, and giving due consideration, the Commission finds that the requested exemption is in the public interest, and is consistent with the purposes underlying the regulation and applicable statutes, and should be granted.
- 19 (7) After reviewing the tariff revisions Rabanco filed in Dockets TG-181017, TG-181018, TG-181019, and TG-181020 and giving due consideration, the Commission finds that the proposed tariff revisions, as revised on February 22, 2019, are fair, just, reasonable and sufficient.
- 20 (8) The Commission concludes it is consistent with the public interest to dismiss the Complaint and Order Suspending Tariff Revisions in Dockets TG-181017, TG-181018, TG-181019, and TG-181020, dated December 4, 2018, and allow the tariff revisions, as revised on February 22, 2019, to become effective on March 1, 2019.

ORDER

THE COMMISSION ORDERS:

- 21 (1) The Complaints and Orders Suspending Tariff Revisions in Dockets TG-181017, TG-181018, TG-181019, and TG-181020, entered on January 31, 2019, are dismissed.
- 22 (2) The Commission grants Fiorito Enterprises, Inc. and Rabanco Companies d/b/a Kent Meridian Disposal Company, Allied Waste Services of Kent and Republic Services of Kent, Rabanco Ltd d/b/a Republic Services of Lynnwood and

Lynnwood Disposal, Rabanco Ltd d/b/a Rabanco Companies and Sea Tac Disposal, Rabanco Ltd d/b/a Rabanco Companies, Eastside Disposal and Rabanco Connections' request for an exemption from WAC 480-70-351(2); the Company may use the most recent 6 months of historical revenues to calculate its recycling commodity credit.

- 23 (3) The tariff revisions Fiorito Enterprises, Inc. and Rabanco Companies d/b/a Kent Meridian Disposal Company, Allied Waste Services of Kent and Republic Services of Kent, Rabanco Ltd d/b/a Republic Services of Lynnwood and Lynnwood Disposal, Rabanco Ltd d/b/a Rabanco Companies and Sea Tac Disposal, Rabanco Ltd d/b/a Rabanco Companies, Eastside Disposal and Rabanco Connections filed in these dockets on December 4, 2018, as revised on February 22, 2019, shall become effective on March 1, 2019, by operation of law.

DATED at Olympia, Washington, and effective February 28, 2019.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

ANN E. RENDAHL, Commissioner

JAY M. BALASBAS, Commissioner