

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**In the Matter of the Application of
DTG ENTERPRISES INC.
for Permanent Solid Waste Carrier
Authority.**

**APPLICATION NO. TG-240584
PROTEST OF WASTE
MANAGEMENT OF WASHINGTON,
INC.**

1. Waste Management of Washington, Inc. (“WM”), holder of Certificate No. G-237,¹ respectfully protests the application by DTG Enterprises Inc. (“DTG”) for a certificate of public convenience and necessity to operate as a solid waste collection company (“Application”)² for hauling of solid waste, in the words of the docket notice from the Washington Utilities and Transportation Commission (“Commission”), “incidental to collection of recyclable construction and demolition [(“C&D”)] debris from commercial streams[.]”³

I. WM’s Interest

2. Under Certificate No. G-237, WM is authorized to provide solid waste collection service in many areas of Washington State, all of which is covered by DTG’s Application. WM does business under Certificate No. G-237 under many different names throughout the state, as indicated on WM’s various Commission-approved tariffs.⁴

3. DTG seeks a certificate only “for hauling residual materials from [DTG’s] sorting process” after it “collects construction and demolition wastes for recycling from various material

¹ Available at https://www.utc.wa.gov/sites/default/files/2022-02/42878%20-%20G-0237.cert%20-%20latest%20WM_0.pdf.

² DTG, Solid Waste Collection Company Certificate Application (corrected version as filed Aug. 8, 2024, dated July 31, 2024).

³ Washington Utilities and Transportation Commission, Docket (issued Aug. 27, 2024 in TG-240583).

⁴ See <https://www.utc.wa.gov/regulated-industries/transportation/regulated-transportation-industries/solid-waste-carriers/solid-waste-company-tariffs>.

streams throughout [DTG's] services areas in WA." DTG "wishes to operate throughout the state using various regional landfills for disposal" of the residual wastes.⁵

4. WM is suitably equipped and, in all respects, fit, willing, and able to provide collection and transportation of solid waste consistent with the Commission's regulations in WM's certificated portions of the territory described in DTG's Application. As discussed below, DTG's Application is unclear, but to the extent it could be construed to seek authorization to "collect solid waste that may incidentally contain recyclable materials," it conflicts with WM's certificate in areas where WM is authorized to collect solid waste.⁶ Therefore, the service proposed by DTG, to the extent it conflicts with WM's authority under Certificate No. G-237, is not warranted by the public convenience and necessity and is not in the public interest.

5. WM has provided and will continue to provide solid waste collection services within DTG's proposed territory to the satisfaction of the Commission at all times relevant to the Application.⁷

II. Bases of Protest

6. DTG's Application only seeks authority to haul residual wastes for disposal from its material recovery facilities ("MRFs").⁸ Assuming DTG itself generates that waste in the process of sorting and processing recyclable materials it collects from commercial and industrial generators, it is not clear that DTG hauls its residuals "for compensation."⁹ If DTG's residual hauling is not "for compensation," that activity does not appear to make DTG a "solid waste collection company" under Washington law,¹⁰ nor require a certificate.¹¹ But DTG's failure to

⁵ See Application at 5.

⁶ See RCW 81.80.470(2).

⁷ See RCW 81.77.040 (Commission may issue a certificate covering another hauler's certificated area "only if the existing solid waste collection company or companies serving the territory will not provide service to the satisfaction of the commission or if the existing solid waste collection company does not object.").

⁸ Application at 5.

⁹ See RCW 81.77.010(9).

¹⁰ RCW 81.77.010(9); see also paragraph (2) (a private carrier is not a contract carrier).

¹¹ RCW 81.77.040.

include the required tariff¹² in the Application makes it impossible to fully review the proposed service or to determine from whom, if anyone, DTG might receive compensation. From the descriptions in the Application, it appears that DTG may not intend to offer its services to the public, which would be in tension with the usual responsibility of universal service that comes with the rights protected by a certificate.¹³

7. DTG's Application is not consistent in how it describes the materials it seeks to haul. For example, it says it "only seeks a solid waste license for hauling residual materials" from its "sorting and processing [of] recyclable materials" at its MRFs.¹⁴ It says these residuals result from its "collect[ion of] construction and demolition *wastes for recycling* from various material streams" throughout the state, but does not "seek[] a license to transfer solid wastes [presumably to landfills] directly for disposal."¹⁵ DTG also states its view—purportedly shared by Commission Staff—that "C&D waste is not currently serviced such that a new entrant to the statewide market is warranted."¹⁶ It is unclear whether that view—by either DTG or Staff—is meant to apply specifically to C&D MRF residuals, the only material whose hauling the Application addresses.

8. The Application's terminology is also not consistent with the Commission's regulatory framework. Under Commission rules, "commercial recycling service" exempt from Commission regulation requires collection and transport of "recyclable materials . . . for use other than landfill disposal or incineration," whereas "construction waste" and "demolition waste" are both categories of "solid waste," the collection of which from residential and commercial customers requires a certificate.¹⁷ "Recyclable materials" are those "transported for

¹² WAC 480-70-091(3)(e) requires a certificate application to include "a proposed tariff[.]"

¹³ See, e.g., RCW 81.28.010 (service obligations of common carriers).

¹⁴ Application at 5.

¹⁵ *Id.* (emphasis added).

¹⁶ DTG, cover letter to Application (dated Jul. 31, 2024; filed Aug. 5, 2024).

¹⁷ See WAC 480-70-011(1)(e) and (2)(b); WAC 480-70-041 (definitions); compare definitions of "commercial recycling service"; "construction debris" or "construction waste"; "demolition waste" or "demolition debris"; and "solid waste." See also definition of "recyclable materials."

recycling, reprocessing, reclamation, or for any process that extracts or modifies the commodity for reuse or another commercially valuable purpose.” Whether a service requires Commission certification depends on these categories, but the Application fails to address them, justifying denial of the Application.

9. DTG’s Application and related filings also do not show that DTG is qualified to receive a grant of a solid waste certificate because it is not clear on the face of the Application that DTG is financially and operationally fit,¹⁸ willing, and able to properly perform the services proposed or is able to conform to the provisions of Chapter 81.77 RCW and the requirements, rules, and regulations of the Commission thereunder.

10. Various elements required of an application by Commission regulation are missing or deficient, rendering the application incomplete. These elements include:

- “A complete description of the proposed service and the line, route, or service territory using boundaries such as streets, avenues, roads, highways, townships, ranges, city limits, county boundaries, or other geographic descriptions”¹⁹;
- “A map of the proposed . . . service territory that meets the standards described in WAC 480-70-056”²⁰;
- A proposed tariff²¹;
- “A statement of conditions *that justify the proposed service*”²²; and
- A complete equipment list (DTG only seems to have provided a list of vehicles).²³

¹⁸ See *In re Waste Management of Washington, Inc. d/b/a/ WM Healthcare solutions of Washington* (Docket TG-120033, Order 07, Feb. 14, 2013) at ¶ 5.

¹⁹ WAC 480-70-091(3)(a).

²⁰ WAC 480-70-091(3)(b); see also WAC 480-70-056 (laying out detailed requirements for map content and format).

²¹ WAC 480-70-091(3)(e).

²² WAC 480-70-091(3)(f) (emphasis added). The Application, in response to this requirement, describes the operations for which it seeks certification, but does not explain why it believes a certificate is necessary or warranted. See Application at 5.

²³ WAC 480-70-091(g).

11. The Application does not show that there is demand for the proposed services sufficient such that the public convenience and necessity require it.²⁴

12. Finally, DTG's Application appears to seek Commission authority in areas exempt from Commission regulation, such as areas serviced by municipalities themselves or haulers under municipal contract.²⁵ The Application should therefore be denied to the extent it purports to seek certification in areas outside Commission jurisdiction.

III. Procedural Matters

13. WM requests that DTG be required to produce evidence and competent witnesses at a hearing for cross-examination, on all material and relevant facts bearing on the protested Application. The Application does not demonstrate that DTG is fit, willing, or able to provide the applied-for services to the satisfaction of the Commission or that the public convenience and necessity require those services. DTG also has not demonstrated—and cannot—that WM has failed to provide service to the satisfaction of the Commission. Nor has DTG demonstrated that any certificate is required at all for it to haul its own residuals.

14. If an oral hearing is held, WM will appear and present evidence of its own operations and particular interests in the Application. WM estimates that it will call two to three witnesses at the hearing, and that the hearing time for the testimony of its witnesses will be approximately three hours.

15. Service on WM in this docket should be made to:

Waste Management of Washington, Inc.
720 4th Avenue
Kirkland, WA 98033

²⁴ See *Northwest Industrial Services, LLC, d/b/a American On Site Services* (TG-081725, Order 03, Apr. 23, 2009) (to show public convenience and necessity requirement, “the Commission must hear directly from prospective customers”).

²⁵ See WAC 480-70-011(1)(a), (b).

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WHEREFORE, WM respectfully requests the opportunity to participate in the hearing on this Application, and that the Commission thereafter deny the Application.

DATED this 26th day of September, 2024.

Respectfully Submitted,
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