

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In re Application No. GA-079114 of)	DOCKET NO. TG -021359
)	
EMPIRE DISPOSAL, INC.)	ORDER NO. 01
)	
For Extension of Authority under)	FINAL ORDER: GRANTING
Certificate of Public Convenience)	APPLICATION FOR EXTENSION
and Necessity No. G-75)	OF AUTHORITY AND AMENDING
)	CERTIFICATE
.....)	

I. SYNOPSIS

1 *The Commission grants an application for extension of existing solid waste authority under certificate of public convenience and necessity No. G-75, and requires that the affected certificate be amended and reissued to reflect the extension of authority.*

II. PROCEDURAL BACKGROUND

2 On October 16, 2002, Empire Disposal, Inc. (Empire) filed an application with the Washington Utilities and Transportation Commission (Commission) for extension of Empire’s existing authority under Certificate Of Public Convenience and Necessity No. 75. The application was given number GA-079114 and notice of the application was published in the Commission’s weekly Docket of November 12, 2002.

3 On the same day, Empire filed application No. GA-79113 seeking to transfer a portion of rights under Certificate No. G-37 standing in the name of Carroll-Naslund Disposal Service, Inc., d/b/a Naslund Disposal Service, to Empire. The Commission entered a final order granting that application in Docket No. TG-021358 on March 19, 2003.

- 4 On December 12, 2002, Waste Management of Washington, Inc. (Waste Management) filed with the Commission a protest to the application, asserting that Waste Management operates authority in conflict with the applied-for authority.
- 5 On January 23, 2003, the Commission convened a prehearing conference in this proceeding in Olympia, WA, before administrative law judge Lawrence J. Berg. The conference was continued to allow the parties to settle territorial issues arising from the application.
- 6 In order to settle these territorial issues, Empire and Waste Management filed three other applications with the Commission: (1) an application by Waste Management to extend its operating authority (Application No. GA-79166, Docket No. TG-030685); (2) an application to transfer a portion of Empire's operating authority to Waste Management (Application No. GA-79167, Docket No. TG-030686); and (3) an application to transfer a portion of Waste Management's operating authority to Empire (Application No. GA-79168, Docket No. TG-030687). Final orders granting these applications were entered on September 22, 23, and 24, 2003.
- 7 On October 23, 2003, Empire filed a letter with the Commission seeking to amend application No. GA-79114, modifying the description of the extension of authority sought in the application. On November 5, 2003, Waste Management filed a letter with the Commission withdrawing its protest to the application.
- 8 The Commission issued a notice to the parties on November 24, 2003, requesting additional information. In response, Commission Staff filed a letter with the Commission on December 9, 2003, attaching proposed language for certificate G-75 to reflect the extension of authority requested in this proceeding, as well as the related transfer applications filed by the parties.

9 On December 10, 2003, Empire and Waste Management filed letters with the Commission stating their agreement with Staff's proposed certificate language. In their letters, Empire and Waste Management also waive entry of an initial order in this proceeding, allowing the matter to proceed directly to a final Commission order based on a paper record.

III. MEMORANDUM

10 During the January 23, 2003 conference, the parties explained that, as a result of the Commission's efforts to map the territories held by solid waste companies in the state, Empire discovered that it was not serving territory it held under its certificate, but was serving areas it did not have authority to serve. Empire filed applications GA-79113 and GA-79114 to correct the problem. Waste Management determined that it held authority to serve in the territory sought in Empire's application for extension of authority and filed a protest to the application.

11 To resolve the territorial issues identified by the Commission's mapping process and Empire's application for extension of authority, Empire and Waste Management filed applications to transfer authority to each other and Waste Management filed an application for extension of authority. The Commission has granted the transfer applications and Waste Management's application for extension of authority.

12 Waste Management has withdrawn its protest to Empire's application for extension of authority, and the parties have waived an initial order in this proceeding. The Commission may now resolve the final issue in this territorial matter.

- 13 The issues in this proceeding include whether the proposed extension of authority would overlap the territory of another solid waste collection company, whether the application complies with Washington state statutes and rules, and is otherwise consistent with the public interest.
- 14 Pursuant to RCW 81.77.040, if an applicant requests authority in a territory already served by a certificate holder, the Commission may grant the application only if the existing company will not provide service to the satisfaction of the Commission. Where there is no request for overlapping authority, however, the Commission may issue certificates with or without hearing if the applicant is fit, willing and able to properly conduct the proposed operations and the proposed service is necessary and will be a convenience to the public.
- 15 Due to the parties' efforts to resolve the territorial issues in this proceeding, Empire's application for extension no longer involves a request for overlapping authority. There are no remaining issues in dispute between the parties, as Waste Management has withdrawn its protest, and all parties have waived an initial order in the proceeding. No party has raised an issue of fitness, willingness or ability to conduct the proposed operations, and granting the application would be in the public interest. Under these circumstances, the Commission may grant the application without hearing.

IV. FINDINGS OF FACT

- 16 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, practices, accounts, securities, and transfers of public service companies, including solid waste collection companies.

- 17 (2) Empire Disposal, Inc., has been serving the subject area for a significant period of time, and recently discovered that the area was within Waste Management 's service territory under Certificate G-237.
- 18 (3) Empire Disposal, Inc. and Waste Management of Washington, Inc. have resolved the issue of overlapping authority in this proceeding through three applications for transfer and extension of authority granted by the Commission in Docket Nos. TG-030685, TG-030686, and TG-030687.
- 19 (4) Empire is fit, willing, and able to conduct operations under the requested extension of authority.

V. CONCLUSIONS OF LAW

- 20 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of this proceeding and all parties to this proceeding.
- 21 (2) The application complies with Washington state statute and rules and the proposed service is necessary and will be a convenience to the public.
- 22 (3) The application is otherwise consistent with the public interest. The application should be granted and the affected certificate should be amended and reissued to reflect the extension of authority under Certificate G-75.

VI. ORDER

THE COMMISSION ORDERS That:

- 23 (1) The application for extension of authority under Certificate No. G-75
standing in the name of Empire Disposal, Inc., is granted.
- 24 (2) Certificate No. G-75 standing in the name of Empire Disposal, Inc. is
amended and will be reissued, as per Attachment A to this Order.

DATED at Olympia, Washington, and effective this 18th day of December, 2003.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner

NOTICE TO PARTIES: This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-09-810, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-09-820(1).

ATTACHMENT A

EMPIRE DISPOSAL, INC.
North 905 Sumner
PO Box 649
Colfax, WA 99111-0649

G-75

SOLID WASTE COLLECTION SERVICE in that portion of Spokane County described as follows: Beginning at the southwest corner of Section 31, T21N, R42E; thence north on the west line of said section extended to the northwest corner of Section 6, T21N, R42E; thence east on the north line of said section extended to the southwest corner of Section 35, T22N, R42E; thence north on the west line of said section to the northwest corner of said section; thence east on the north line of said section extended to the southwest corner of Section 29, T22N, R43E; thence north on the west line of said section to the northwest corner of said section; thence east on the north line of said section to the northeast corner of said section; thence north on the east line of said section extended to the northwest corner of Section 4, T23N, R43E; thence east on the north line of said section extended to the southwest corner of Section 36, T24N, R43E; thence north on the west line of said section extended to the northwest corner of Section 24, T24N, R43E; thence east on the north line of said section to the southwest corner of Section 18, T24N, R44E; thence north on the west line of said section to the northwest corner of said section; thence east on the north line of said section extended to the southwest corner of Section 11, T24N, R44E; thence north on the west line of said section to the northwest corner of said section; thence east on the north line of said section to the northeast corner of said section; thence south on the east line of said section extended to the northwest corner of Section 13, T24N, R44E; thence east on the north line of said section extended to the southwest corner of Section 8, T24N, R45E; thence north on the west line of said section extended to the northwest corner of the southwest quarter of the southwest quarter of Section 32, T25N, R45E; thence east on the north line of said quarter of the quarter of said section extended to the Spokane County line (also the northeast corner of the southwest quarter of the southwest quarter of Section 31, T25N, R46E); thence south on the Spokane County line to its intersection with the Spokane/Whitman County line (also the southeast corner of Section 31, T21N,

R46E); thence west on the Spokane County line to its intersection with the southwest corner of Section 31, T21N, R42E, the point of beginning.

SOLID WASTE COLLECTION SERVICE (excluding service in drop boxes greater than 20 cubic yards) in that portion of Spokane County described as follows: Beginning at the northwest corner of Section 32, T25N, R45E; thence east along the north line of said section extended to the Spokane County line (also the northeast corner of Section 31, T25N, R46E); thence south on the east line of said section to the southeast corner of the northwest quarter of the southwest quarter of said section; thence west along the south line of said quarter section extended to its intersection with the southwest corner of the northwest quarter of the southwest quarter of Section 32, T25N, R45E; thence north on the west line of said section to the northwest corner of said section, the point of beginning.

SOLID WASTE COLLECTION SERVICE in all of Whitman County except the following:

EXCLUDING SERVICE in that portion of Whitman County contained within T20N, R39E;

EXCLUDING SERVICE in that portion of Whitman County described as follows: Beginning at the northeast corner of Section 24, T15N, R45E; thence west along the north line of said Section 24 extended to the northwest corner of Section 22, T15N, R44 E; thence south along the west line of said Section 22 extended to the southwest corner of Section 22, T14N, R44E; thence east along the south line of said Section to the southeast corner of said Section 22; thence south along the east line of said Section 22 extended to the southwest corner of Section 35, T14N, R44E; thence east along the south line of said Section 35 extended to the southeast corner of Section 33, T14N, R45E; thence north along the east line of said Section 33 extended to the southwest corner of Section 22, T14N, R45E; thence east on the south line of said Section 22 extended to the southeast corner of Section 24, T14N, R45E; thence north along the east line of said Section 24 extended to the northeast corner of Section 24, T15N, R45E, the point of beginning.

SOLID WASTE COLLECTION SERVICE In that portion of Columbia County described as follows:

Beginning at the southwest corner of Section 31, T12N, R37E; thence north along the west line of said township to the northwest corner of Section 6, T12N, R37E; thence east along the north line of said Section 6 to the southwest corner of Section 31, T13N, R37E; thence north along the west line of said T13 N, R37E, to the Whitman-Columbia County line; thence easterly along said county line to the east line of Section 12, T13N, R39E; thence south along the east line of said section extended to the southeast corner of Section 36, T13N, R39E; thence west along the south line of said Section 36 to the northeast corner of Section 1, T12N, R39E; thence south to the southeast corner of Section 36, T12N, R 39E; thence west along the south line of T12N, R39E; T12N, R38E; and T12N, R37E; to the point of beginning.

SOLID WASTE COLLECTION SERVICE in that portion of Garfield County described as follows:

Beginning at the southwest corner of Section 31, T12N, R40E; thence east along the south line of said section to the southeast corner of Section 35, T12N, R40E; thence north along the east line of said section to the northeast corner of Section 2, T12 N, R40E; thence east along the south line of Section 35, T13N, R40 E; to the southeast corner of said section; thence north along the east line of said section to the southwest corner of Section 12, T13N, R40E; thence east along the south line of said section to the southeast corner of Section 7, T13N, R41E; thence north along the east line of said section to the southwest corner of Section 32, T14N, R41E; thence east along the south line of said section extended to the northwest corner of Section 5, T13N, R43E; thence south on the west line of said section to the southwest corner of said section; thence east on the south line of said Section 5, T13N, R43E, extended to its intersection with the Garfield-Whitman County line (near Section 3, T13N, R43E); thence northwesterly along said county line to its intersection with the west line of Section 7, T13N, R40E; thence south along the west line of said section extended to the southwest corner of Section 31, T13N, R40E; thence west to the northwest corner of Section 6, T12N, R40E; thence south to the point of beginning.