

From: [Brewster, Stacey \(UTC\)](#)
To: [UTC DL Records Center](#)
Cc: [Doyle, Paige \(UTC\)](#)
Subject: FW: TG-200131 Int'l Resc. Mgmt. dba WasteXpress - PC Resp to Staff Mot. (1/7/2021)
Date: Friday, January 8, 2021 8:37:29 AM
Attachments: [TG-200131 - 3rd Notice Rescheduling PHC - WasteXpress.pdf](#)
[200131_CvrLtr_COS_01-07-2021.pdf](#)
[200131_PC_Resp_to_Staff_Mot_01-07-2021.pdf](#)
[image001.png](#)

Good morning,
Please add this email to docket TG-200131.

Thanks,

Stacey Brewster

Paralegal & Library Services
Administrative Law Division
(360) 664-1149
stacey.brewster@utc.wa.gov
*she/her



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www.utc.wa.gov

From: Howard, Michael (UTC) <michael.howard@utc.wa.gov>
Sent: Friday, January 8, 2021 8:32 AM
To: Brewster, Stacey (UTC) <stacey.brewster@utc.wa.gov>
Cc: Pearson, Rayne (UTC) <rayne.pearson@utc.wa.gov>
Subject: FW: TG-200131 Int'l Resc. Mgmt. dba WasteXpress - PC Resp to Staff Mot. (1/7/2021)

Stacey,

Please add this email from WasteXpress to the docket in 200131. Thank you,

Mike

From: Thomas Benke <trbenke@env-compliance.com>
Sent: Thursday, January 7, 2021 5:51 PM

Received
Records Management
01/08/21 08:46
State Of WASH.
UTIL. AND TRANSP.
COMMISSION

To: Howard, Michael (UTC) <michael.howard@utc.wa.gov>
Cc: Arthur Marx <arthur@wastex.com>; DeMarco, Betsy (UTC) <betsy.demarco@utc.wa.gov>; Gross, Krista (UTC) <krista.gross@utc.wa.gov>; Brown, Sally (UTC) <sally.brown@utc.wa.gov>; Teimouri, Daniel (UTC) <daniel.teimouri@utc.wa.gov>; Paisner, Ann (ATG) <Ann.Paisner@atg.wa.gov>; Gafken, Lisa (ATG) <lisa.gafken@atg.wa.gov>; Dahl, Corey J (ATG) <corey.dahl@atg.wa.gov>; Burdet, Kevin (ATG) <Kevin.Burdet@ATG.WA.GOV>
Subject: Re: TG-200131 Int'l Resc. Mgmt. dba WasteXpress - PC Resp to Staff Mot. (1/7/2021)

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ALJ Howard,

This is Thomas Benke for International Resource Management Inc. dba WasteXpress.

The Commission has scheduled a telephonic pre-hearing conference in the above-stated matter for Monday, January 11, 2021 at 1:30 pm. See attached Notice.

Counsel for staff has suggested that no pre-hearing conference is necessary since there is no longer any need for an evidentiary hearing.

WasteXpress requests an opportunity to be heard in light of Public Counsel's filing today.

By email today (see below) Public Counsel requests permission to respond to Commission Staff's Motion to Withdraw Complaint in this matter. Public Counsel does not oppose Staff's Motion but requests that the order resolving the Motion include a clarification of UTC's "authority to regulate" the collection of solid waste from industrial (as opposed to residential or commercial) customers. WasteXpress would oppose such a request not only because we believe that such a clarification - made within the context of the Commission's classification hearing - would disadvantage WasteXpress in a marketplace where collection of hazardous waste (and other non-municipal solid waste) collected from industrial customers is not otherwise regulated by UTC.

Importantly, WasteXpress does not question UTC's statutory authority to require a certificate for the collection of solid waste from industrial customers. It only questions whether the Commission has, by its definition of "solid waste collection company" actually exercised that authority by administrative rulemaking. That is an issue that should be resolved outside of the penalty assessment / classification action brought against WasteXpress, all of which was resolved with issuance of Certificate No. G069470 to WasteXpress. In fact, it is an issue of such importance and broad implications that it demands vetting in an administrative proceeding that involves all commercial interests to be represented before the commission, not just those of one carrier.

We want to emphasize that WasteXpress' interests are not necessarily in opposition to those espoused by Public Counsel. WasteXpress just wants to participate with other carriers on a level playing field in a regulatory environment that does not depend on an interpretation of "commercial

customers” as necessarily including “industrial customers” and an interpretation of “solid waste” as not including “hazardous waste”. A “clarification” by the Commission in a one-off classification hearing will not cure these deficiencies in the Commission’s rules.

Sincerely,
Thomas R. Benke

On Jan 7, 2021, at 11:15 AM, Burdet, Kevin (ATG) <Kevin.Burdet@ATG.WA.GOV> wrote:

Dear Parties,

Please find attached a letter addressed to Mark Johnson, a Certificate of Service, and Public Counsel’s Response to Staff’s Motion to Withdraw Complaint in the above-referenced docket. This has been filed today via the WUTC web portal.

Please contact me if you have any questions regarding this filing.

Sincerely,

Kevin Burdet

Legal Assistant

For Lisa Gafken, Unit Chief

For Nina Suetake, AAG

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Email: Kevin.Burdet@atg.wa.gov