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BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

In re Application of:

DTG ENTERPRISES INC.
D/B/A DTG RECYCLE
22745 29TH DR SE
BOTHEL, WA 98021

APPLICATION NO. TG-240584

**PROTEST OF RUBATINO REFUSE
REMOVAL LLC.**

COMES NOW, RUBATINO REFUSE REMOVAL LLC, holder of Certificate No. G-58 (hereinafter “Rubatino” or “Protestant”), by and through its representatives, Lukins & Annis, P.S., 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 requested in the above-numbered application for authority to transport:

Separation and disposal of residual solid waste originating through collection of recyclable construction and demolition debris from commercial streams as regulated under RCW 81.80 in the state of Washington. Transportation of separated solid waste from company’s material recovery facilities to landfills, transfer stations or licensed disposal sites.

Accordingly, while no map of the proposed service area has been provided, DTG “wishes to operate **throughout the state** using various regional landfills for disposal of residual wastes originating from [its] MRF facilities after sorting and processing recyclable materials.”

Moreover, the MRF in question acquires materials “from commercial or industrial generators **throughout the State**” before ultimately transporting waste to various landfills for disposal.

TG-240584 – PROTEST OF RUBATINO REFUSE
REMOVAL LLC: 1

LAW OFFICES OF
LUKINS & ANNIS, PS
A PROFESSIONAL SERVICE CORPORATION
717 W Sprague Ave., Suite 1600
Spokane, WA 99201
Telephone: (509) 455-9555
Fax: (509) 747-2323

1 This protest is submitted on the following grounds:

2 1. Rubatino is the holder of UTC Certificate No. G-58, a copy of which is
3 attached hereto as **Exhibit A**. Under Certificate No. G-58, Rubatino holds authority to operate
4 solid waste collection services in Snohomish County. Pursuant to this authority, Rubatino
5 provides full and complete solid waste collection service within its permitted territory, and has
6 provided waste collection services within that territory to the satisfaction of the Commission at
7 all times relevant to the application. The proposed service in DTG's Application would
8 therefore overlap. As a holder of authority to collect and transport waste Snohomish County,
9 Rubatino has a direct interest in this proceeding adverse to that of DTG.

10 2. Rubatino believes and therefore alleges that DTG is not qualified to receive a
11 grant of a solid waste certificate of public convenience and necessity; is not fit, willing, and
12 able to properly perform the services proposed; and is unable to conform to the provisions of
13 Ch. 81.77 RCW and the requirements, rules, and regulations of this Commission thereunder.
14 As DTG admits in its application, DTG and its predecessors have a history of violating
15 Commission rules.

16 3. Rubatino is suitably and adequately equipped and otherwise qualified, ready,
17 fit, willing, and able to provide all the relevant transportation services required by the shipping
18 public in the applied-for territory, to the satisfaction of the Commission and consistent with
19 the commission's regulations. It has invested significant funds to provide service to the public
20 within its permitted areas. Moreover, there is no public need for an additional service in this
21 area. The granting of additional overlapping authority would be detrimental to Rubatino's
22 investments, contrary to the public interest, and is not required by public convenience and
23 necessity. Rubatino therefore alleges that the service proposed by DTG is not warranted by the
24 public convenience and necessity and is not in the public interest.

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EXHIBIT A

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

621 Woodland Square Loop S.E., Lacey, Washington 98503

PO Box 47250, Olympia, WA 98504-7250

(360) 664-1222

This certificate authorizes the following operations under the provisions of RCW Title 81:

Rubatino Refuse Removal LLC.
d/b/a Rubatino Refuse Removal
2812 Hoyt Ave
Everett, WA 98201-3508

Certificate No.
G000058

GARBAGE AND REFUSE COLLECTION SERVICE In the City of Everett and those portions of Snohomish County adjacent thereto, described as follows: (1) South of Everett: Beginning at the point where the Great Northern Railway right-of-way intersects with the south city limits of Everett; thence southerly along said right-of-way to its intersection with 61st Street extended; thence west along 61st Street extended to its intersection with the new Alternate PSH-1 (U.S. 99 by-pass); thence southerly along said U.S. 99 by- pass to its intersection with 84th Street; thence west along 84th Street to the Upper Ridge Road; thence northerly along the Upper Ridge Road, including 78th Place S.W. and 76th Place S.W., to the Beverly Park Maple Heights Road; thence northerly along the Beverly Park-Maple Heights Road to the 7th Standard Parallel North; thence west on said parallel to the east line of Section 3, T. 28 N., R. 4 E.W.M.; thence south on said line to the east-west centerline of said Section 3; thence west on said centerline to the east city limits of Mukilteo; thence northerly and westerly following the city limits of Mukilteo to the shore line of Possession Sound and/or Port Gardner Bay; thence easterly along said shoreline to the west city limits of Everett. Also in that portion of Snohomish County described as follows: Starting at the points where 40th Ave. W. extended intersects with the north boundary of Paine Field; thence east on said north boundary to the east boundary of Paine Field; thence south to a line 100 feet north of 90th Street S.W.; thence east on this line to U.S. Highway 99 (no service to be rendered on Kelly-Corbin Road); thence north on a line one block west of U.S. Highway 99 to its intersection with 84th Street S.W.; thence west on the south side of 84th Street S.W. to Upper Ridge Road; thence north on Upper Ridge Road (with no service to be rendered on Upper Ridge Road) to Beverly Park-Maple Heights Road; thence following the west side of the Beverly Park Maple Heights road to the 7th Standard Parallel North; thence west on said parallel to the east line of Section 3, T. 28 N., R. 4 E.W.M.; thence south on said line to the east-west centerline of said Section 3; thence west on said centerline to the east city limits of Mukilteo; thence southerly and easterly following said city limits to 40th Ave. W. extended; thence south on 40th Ave. W. extended to the north boundary of Paine Field, the place of beginning. (2) East of Everett: Beginning at the point where Hewitt Avenue (PSH-15) intersects with the city limits of Everett;

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By

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thence east on Hewitt Avenue extended to the southeast corner of Section 21, T. 29 N., R. 6 E.W.M.; thence north on the east line of said Section 21 extended to the northeast corner of Section 4, T. 29 N., R. 6 E.W.M.; thence west on the north line of said Section 4 extended to the point where it intersects with the southerly shore of Steamboat Slough; thence westerly along said shoreline to Port Gardner Bay; thence southerly along the shoreline of said bay to the north city limits of Everett.

The following authority was obtained by transfer from Basin Disposal, Inc. holder of Certificate No. G-118.

GARBAGE AND WASTE MATERIALS COLLECTION SERVICE From within that portion of Snohomish County described as follows: Bounded on the north by the south city limits line of the City of Everett extended east to its intersection with the New Broadway Cut-off (alternate PSH-1); thence south on the New Broadway Cut-off to its intersection with Pacific Northwest Traction Company Road; thence south on both sides of said road to its intersection with Stockshow Road; thence west along the north side of Stockshow Road to its intersection with 8th Ave. W. extended; thence north on 8th Ave. W. extended to the intersection of 9th Ave. W. and U.S. 99; thence westerly and northerly on 9th Ave. W. to its intersection with 100th St. S.W. and Holly Drive; thence west on 100th St. S.W. (but not including 100th St. S.W.) to 12th Ave. W. extended (West boundary of Sec. 13, TWP 28 N., Range 4 E.); thence north on 12th Ave. W. extended to a point 100 Ft. north of 90th St. S.W.; thence east on a line 100 Ft. north of 90th St. S.W. to U.S. 99 (service is authorized on both sides of the Kelly-Corbin Road for its entire extent); thence northeast along U.S. Highway 99 (both sides) to its intersection with 84th St. S.W.; thence west on the north side of 84th St. S.W. to its intersection with Upper Ridge Road; thence north on both sides of Upper Ridge Road to its intersection with the Beverly Park-Maple Heights Road to its intersection with the south city limits of Everett.

GARBAGE AND REFUSE COLLECTION SERVICE In that portion of Snohomish County described as follows: From the Snohomish County Airport for the account of Tyee Aircraft, Inc., only, to the City of Everett dump.

REFUSE AND DEBRIS COLLECTION SERVICE consisting of lumber brick, tile and other cast-off materials (excluding regular garbage collection service) from premises where construction or repair jobs are being or have been conducted or structures are being or have been razed in Snohomish County (except for starting from Puget Sound at 148th St. S.W. to Highway 99, thence South on 99 to 35th Avenue S.W., thence South on 35 to 164th St. S.W., thence East on 164th St. S.W. including the City of Mill Creek present City Limits to Seattle Hill Road, thence North to Seattle Hill Road to Lowell-Larimer Road, thence Southeast on Lowell-Larimer Road and Connelly Road which runs into Elliott Road which connects with high Bridge Road

to the King County Line, thence West to Puget Sound following the King County Line, thence North along the shoreline of Puget Sound to the point of beginning.)