

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

DTG ENTERPRISES, INC.,

Respondent.

DOCKET TG-240761

In re the Application of,

DTG ENTERPRISES, INC. D/B/A DTG
RECYCLE

For Solid Waste Collection Authority

DOCKET TG-240584

RESPONSE OF PROTESTANTS
BASIN DISPOSAL, INC.,
RABANCO LTD, KENT-
MERIDIAN DISPOSAL CO.,
SANITARY SERVICE COMPANY,
INC., BAINBRIDGE DISPOSAL,
INC., AND THE WASTE
CONNECTIONS' COMPANIES IN
SUPPORT OF COMMISSION
STAFF'S MOTION TO
CONSOLIDATE PROCEEDINGS

1 COMES NOW, Protestants Basin Disposal, Inc., Rabanco LTD, Kent Meridian Disposal Co., Sanitary Service Company, Inc, Bainbridge Disposal, Inc., and the Waste Connections' Companies (collectively "Protestants") filing this Response in Support of the Motion to Consolidate Proceedings ("Motion") filed by Commission staff ("Staff").

2 The Commission "may, in its discretion consolidate two or more proceedings in which the facts or principles of law are related." WAC 480-07-320. In determining whether to exercise such discretion, the Commission considers not just the extent to which the factual and legal issues are related but whether consolidation would promote judicial economy and would not unduly delay

the resolution of one or all of the proceedings. *Qwest Corp. v. Level 3 Comm.*, Docket UT-063038, Order 09, ¶ 13 (Feb. 15, 2008). “The Commission may order that proceedings be consolidated for hearing and disposition when the facts and principles in the two proceedings are related, particularly when consolidation will conserve time and resources.” Order MVG No. 1682, *In re Ryder Distribution Resources, Inc.*, GA-75154; *In re Stericycle of Washington, Inc.* GA-77539 (Jan. 1994).

3 Staff accurately observes that consolidating both the formal complaint in Docket TG-240761 and DTG’s pending application in docket TG-240584 will conserve Commission resources by assigning these two proceedings to a single administrative law judge. The two proceedings involve closely related issues of fact and law involving DTG Enterprises, Inc.’s (“DTG’s”) potential violations of RCW Title 81 and the company’s fitness to operate. Staff raises an accurate analogy to the case of *In re the Application of Jammie’s Environmental, Inc.*, Dockets TG-220243 and TG-220215 (consolidated), Order 01, ¶ 6 (June 8, 2022), where the presiding administrative law judge consolidated a complaint proceeding with a pending application docket.

4 It is not clear at this time whether DTG will oppose consolidation. DTG has already moved to suspend or, in the alternative, to withdraw its pending application in Commission Docket TG-240584.

5 DTG may in fact argue that consolidation is unnecessary because the Commission’s decision in the formal complaint docket TG-240761 may effectively moot the issues raised in its pending application. Nevertheless, the Commission should still consolidate the dockets at this time because the lawfulness of past operations and fitness to operate under a prospective certificate are intertwined analyses that should be presented to and evaluated by a single administrative law judge who decides the issue in the initial complaint docket. In other words, the administrative law judge

who decides the complaint docket is the one best suited to determine whether any remaining issues in the complaint docket are mooted. It may also be appropriate for the presiding administrative law judge assigned the Staff complaint docket to decide whether DTG should now be permitted to withdraw the application which it was directed to file by Staff.

6 Finally, the Protestants would allude to a material concern that not consolidating the dockets may further exacerbate delay in DTG’s application docket, TG-240584. The Commission has previously declined to consolidate a complaint docket against PacifiCorp d/b/a Pacific Power & Light Company with a pending Clean Energy Implementation Plan (“CEIP”) docket. *WUTC v. PacifiCorp d/b/a Pacific Power & Light Company*, where it found that consolidation would not serve judicial economy and efficiency. *See* Docket UE-220376, Order 03 ¶ 16 (Aug. 25, 2022) (“[W]e find that consolidation at this time will not further judicial economy or administrative efficiency.”) There, the Commission ultimately did not enter its final order approving the settlement in the CEIP docket until October 25, 2023, over a year later, well into the CEIP implementation period. *WUTC v. PacifiCorp d/b/a Pacific Power & Light Company*, Docket UE-210829, Order 06 (Oct. 25, 2023). Declining to consolidate DTG’s pending application docket may thus make it more difficult to resolve these dockets in a reasonable timeframe.

7 For all of these reasons, the Commission should grant Staff’s Motion and consolidate these two proceedings.

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DATED this 28th day of January, 2025.

Respectfully submitted,

/s/ Michael S. Howard

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