

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

WASTE MANAGEMENT OF
WASHINGTON, INC. D/B/A WASTE
MANAGEMENT OF THE NORTHWEST,
WASTE MANAGEMENT OF SEATTLE
AND SOUTH SOUND, AND WASTE
MANAGEMENT OF
SNO-KING, G-237,

Respondent.

DOCKETS TG-120840, TG-120842
and TG-120843

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

RABANCO LTD, D/B/A CONTAINER
HAULING, EASTSIDE DISPOSAL,
RABANCO COMPANIES, RABANCO
CONNECTIONS, LYNNWOOD
DISPOSAL, ALLIED WASTE SERVICES
OF LYNNWOOD, ALLIED WASTE
SERVICES OF KLUCKITAT COUNTY,
TRI-COUNTY DISPOSAL, ALLIED
WASTE SERVICES OF KENT &
RABANCO COMPANIES, AND SEATAC
DISPOSAL (G-12), AND FIORITO
ENTERPRISES, INC. & RABANCO
COMPANIES D/B/A KENT MERIDIAN
DISPOSAL COMPANY (G-60).

Respondent.

DOCKETS TG-121366, TG-121367,
TG-121369, TG-121370 and
TG-121371

DECLARATION OF PENNY
INGRAM

I, PENNY INGRAM, under penalty of perjury under the laws of the state of
Washington, declare as follows:

2 I am over 18 years of age, a citizen of the United States, a resident of the state of
Washington, and competent to be a witness.

3 I have been employed by the Washington Utilities and Transportation Commission
since 1991. Since April 2004, I have held the position of regulatory analyst in the
Commission's Solid Waste, Water, and Transportation Section.

4 I am familiar with the above-referenced dockets, as well as the re-opened Docket
TG-010374, as a lead analyst for Commission Staff.

5 In April 2001, the Commission adopted new rules governing the operations of solid
waste collection companies in WAC 480-70. WAC 480-70-281 requires all solid waste
collection companies to file proposed tariffs on forms available from the Commission or on
comparable forms approved by the Commission. In December 2001, in Docket TG-010374,
the Commission adopted a tariff template and Item 30 – Limitations of Service, and directed
companies to file tariffs using the template. See Attachment A to my Declaration.

6 That Item 30, Limitations of Service, governs interruptions to solid waste collection
service, including: Schedules; Due care; Liability for damage; Refusal of service; and,
Missed solid waste service due to weather or road conditions. However, the Item 30 tariff
template did not contain provisions for missed solid waste service due to a labor disruption.

7 On or about May 18, 2012, the Commission sent a letter to Waste Management of
Washington (Waste Management) and Rabanco LTD and Fiorito Enterprises, Inc.
(Rabanco). The letter reminded the companies that their tariffs did not address missed
services caused by labor disruptions, and advised them to file tariff revisions to address
strike-related solid waste service interruptions.

8 Waste Management worked with Commission Staff to craft proposed Item 30 tariff
language and filed proposed tariffs in the above-referenced dockets on June 6, 2012, all

scheduled to become effective August 1, 2012. The filings added language regarding missed pickups due to labor disputes, union strikes or other employee actions to Item 30 in three of Waste Management's tariffs.

9 Rabanco also worked with Commission Staff to craft proposed Item 30 tariff language. On August 17, 2012, Rabanco filed tariff revisions to five of its tariffs with the Commission in the above-referenced dockets, with a stated effective date of October 1, 2012. The filings added language regarding missed pickups due to labor union strikes or other employee actions to Item 30 in Rabanco's five tariffs. Rabanco's tariff language differs slightly from what Waste Management filed in June 2012. Rabanco added a sentence that states, "In the event of any more prolonged work stoppage, the company may extend credit or otherwise appropriately prorate customer invoices as provided in Item 17, above."

10 On July 12, 2012, Waste Management, at Commission Staff's request, postponed the effective date of its three tariffs to September 1, 2012. Staff requested the extension to provide additional time to work with Waste Management and the broader solid waste industry with the goal of developing an industry-wide proposal instead of company-specific proposals.

11 On July 25, 2012, Waste Management employees went on strike. That same day, Waste Management filed a request in the above-referenced dockets that the Commission consider and approve its pending tariff revisions at the July 27, 2012, open meeting. The Commission discussed the pending tariffs at the July 27, open meeting, but took no action on Waste Management's request.

12 On August 9, 2012, the Commission held a special open meeting in Woodinville to discuss Waste Management's response to the strike and to hear from the public how the strike impacted customers.

13 On August 21, 2012, in the above-referenced dockets, Waste Management asked the Commission to “. . . approve, on a temporary basis, the Company’s proposed methodology for handling missed collections, while at the same time refraining from an approval about the tariff language itself.”

14 At its August 30, 2012, open meeting, the Commission issued Order 01, Complaint and Order Suspending Tariffs, for Waste Management in dockets TG-120840, TG-120842 and TG-120843.

15 Also at its August 30, 2012, open meeting, at Staff’s recommendation, the Commission reopened Docket TG-010374 to consider whether to amend Item 30 – Limitations of Service in the standard tariff template for solid waste collection companies. In light of the recent garbage strikes and wildfires, the Commission determined that the issue of missed pickups needs to be clarified so affected customers would know what to expect. Reopening the docket would allow the Commission to discuss these issues with the industry in an open forum that would also provide interested persons the opportunity to provide comments. See Attachments B and C to my Declaration.

16 At its September 27, 2012, open meeting, the Commission issued Order 01, Complaint and Order Suspending Tariffs for Rabanco in dockets TG-121366, TG-121367, TG-121369, TG-121370 and TG-121371. In its Order, the Commission referred to the reopening of Docket TG-010374, stating that “the issue of missed pickups needs to be clarified so affected customers and companies know what to expect. The Commission will discuss these issues with the industry and interested stakeholders in an open forum seeking comment on how missed pickups should be handled during labor disputes and in other circumstances in the near future.”

17 On September 28, 2012, in Docket TG-010374, the Commission issued a Notice of Opportunity to Comment and a Notice of Workshop on October 25, 2012. The Commission sought comment from interested persons in response to a series of questions related to amendment of Item 30. See Attachment D to my Declaration.

18 On October 25, 2012, in Docket TG-010374, the Commission held a workshop with stakeholders to discuss proposed amendments to Item 30. After hearing from stakeholders, on March 12, 2013, the Commission issued a Notice of Opportunity to Comment on proposed amendments to Item 30, due by March 29, 2013. See Attachment E to my Declaration.

19 On May 29, 2013, in Docket TG-010374, the Commission held a special open meeting and a workshop with stakeholders and members of the public to consider amendment to Item 30. Commission Staff proposed to add a new section 6 to Item 30 to address missed service due to a labor disruption, to clarify existing rules, to address missed collection service due to natural disaster and government restricting access to local roads, and add definitions for terms used in the proposed rule. Staff provided a summary of, and its response to, stakeholder and customer comments received as of that time. See Attachment F to my Declaration. Also on that date, the Commission issued a Notice of Opportunity to Comment on a draft revision of Item 30, by June 7, 2013. See Attachment G to my Declaration.

20 On June 6, 2013, the Commission issued Notices of Hearing in the above-captioned suspended tariff filings. On June 11, 2013, the Washington Refuse and Recycling Association (WRRRA) filed petitions to intervene in both matters. Following a joint request by the parties to submit a paper record for Commission decision, the Commission issued a Notice Revising Procedural Schedule on both matters on June 12, 2013, scheduling a

prehearing conference. At the June 14, 2013, prehearing conference, it was reflected on the record that the Commission would let the suspended tariff filings go into effect by operation of law on July 13, 2013, and August 1, 2013, respectively.

21 On July 18, 2013, the Commission held another prehearing conference to address the tariff filings in the above-captioned dockets. The parties agreed upon a procedural schedule whereby the parties would file proposed Item 30 Tariff language regarding missed service in the event of labor disruption, and briefing. At the parties' request, the Commission took official notice of the record in Docket TG-010374. The Commission granted Rabanco's unopposed request to take official notice of the record in docket TG-010374.

22 Meanwhile, in Docket TG-010374, Commission Staff continued to work with the solid waste industry in an effort to reach consensus on proposed changes to the Item 30 tariff template. The matter came before the Commission at its June 13, 2013, open meeting. Commission Staff recommended that the Commission approve amendments to Item 30. Commission Staff recommended that the Commission add a new section 6 to Item 30 to address missed service due to a labor disruption. Commission Staff also proposed edits to clarify existing rules and address missed collection service due to natural disaster and government restricting access to local roads. See Attachment H to my Declaration. Rabanco and Waste Management filed written comments prior to the open meeting, and representatives from both companies, the industry, and Commission Staff commented at the open meeting and answered questions from the Commissioners. Although the companies agreed with many of the proposed amendments, the companies disagreed with other material amendments, such as a three-day bright-line requirement for restoration of regular service to affected customers in the event of a labor disruption. The Commission took no action on TG-010374 at the Open Meeting.

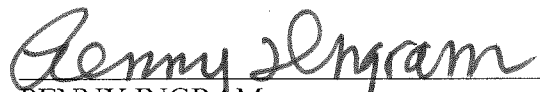
23

Docket TG-010374 came before the Commission at its July 26, 2013, open meeting. Commission Staff recommended that the Commission adopt changes to the Tariff Template, Item 30, for service interruption because of unsafe weather conditions, road conditions, natural disasters, or when government authority restricts access to local roads. In its Order 02, the Commission approved the revised Tariff Template, and required all solid waste collection companies to make a tariff filing, to become effective no later than November 1, 2013, that includes the approved language. The Commission's Order 02 noted that resulting revisions are the "thoughtful expression of the many meetings Commission Staff and stakeholders have held and Staff's careful consideration of filed comments. See Attachment I to my Declaration. The Tariff Template approved by the Commission does not include provisions regarding missed service due to a labor disruption.

24

Commission Staff is filing in the above-captioned dockets proposed tariff language for Item 30 specifically regarding missed service due to a labor disruption (Staff's Proposal), in conjunction with my Declaration, consistent with the Prehearing Conference Order in these dockets. Commission Staff's Proposal is the result of extensive collaboration with the industry as I have described above. Commission Staff believes its proposal is fair, just, reasonable, and in the public interest, and recommends the Commission require the companies to adopt the revised tariff language in Staff's Proposal

DATED and SIGNED at Olympia, Washington, on 8/16/13, 2013.


Penny Ingram
PENNY INGRAM

Attachment A

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

In the Matter of Adoption of a)	
Standard Tariff Template for Solid	)	DOCKET TG-010374
Waste Collection Companies,)	
	)	ORDER ADOPTING
	)	STANDARD TARIFF
	)	TEMPLATE AND
	)	DIRECTING COMPANIES TO
	)	FILE USING TEMPLATE
.....)	

BACKGROUND

1 The Washington Utilities and Transportation Commission (Commission) adopted new rules governing the operations of solid waste collection companies. Those new rules became effective on April 23, 2001. WAC 480-70-281 of the new rules states: "A company must file tariffs meeting the following criteria: (1) Tariffs must be on forms available from the commission or on comparable forms approved by the commission..."

2 Commission Staff reviewed the existing solid waste tariff template and proposed amendments to that document to ensure it was consistent with the newly adopted rules. In addition, Staff met with representatives of the solid waste industry to discuss amendments to the existing tariff template. Staff developed an amended tariff template, a copy of which is attached to, and by reference made a part of, this order.

3 At the open public meeting on December 28, 2001, Staff recommended that the attached tariff template be adopted for use by traditional solid waste collection companies, that traditional solid waste collection companies be required to file using the standard template for all future filings, and that all traditional solid waste collection companies be required to make a filing to convert their existing filed tariffs to the new format within 12 months. Use of the new tariff template will ensure that all company tariffs are consistent with current rules, will be less confusing to consumers, and will facilitate development of a system to deliver rate information to consumers via the Commission's internet page.

4 Staff further recommended that use of the standard tariff template should be required for all future filings, but that companies should be allowed to amend or alter the template to reflect specific company operations so long as amendments are consistent with laws and rules, are in the public interest, and are approved by the Commission. An example cited was that a company that does not provide drop box service could

eliminate from its filed tariff those items concerned with rates and service levels for drop boxes.

FINDINGS

5 THE COMMISSION FINDS:

- 6 (1) After careful examination of the proposed solid waste collection tariff template, and giving consideration to all relevant matters and for good cause shown, the Commission finds that the proposed tariff template should be adopted for use by traditional solid waste collections companies.

ORDER

7 THE COMMISSION ORDERS:

- 8 (1) The attached solid waste collection tariff template is adopted for use by traditional solid waste collection companies.
- 9 (2) Traditional solid waste collection companies are required to file using the standard template for all future rate filings.
- 10 (3) All traditional solid waste collection companies be required to make a filing within 12 months using the new tariff template.

DATED at Olympia, Washington, and effective this 28th day of December, 2001.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner

Attachment B

Agenda Date: August 30, 2012
Item Number: B1

Docket: TG-010374

Company Name: Solid Waste General

Staff: Penny Ingram, Regulatory Analyst
Gene Eckhardt, Assistant Director of Solid Waste, Water, and
Transportation

Recommendation

Reopen Docket No. TG-010374 to consider whether to amend Item 30 - Limitations of Service, which the commission adopted as part of the standard tariff template for traditional solid waste collection companies.

Discussion

In April 2001, the Washington Utilities and Transportation Commission (commission) adopted new rules governing the operations of solid waste collection companies in WAC 480-70. In December 2001 the commission adopted and ordered all traditional solid waste collection companies¹ to use the standard tariff template as required by WAC 480-70-281. The rule states in part: "A company must file tariffs meeting the following criteria: (1) Tariffs must be on forms available from the commission or on comparable forms approved by the commission ..."

The tariff template adopted by the commission in Docket TG-010374 included the following language in Item 30 - Limitations of Service:

"Missed pickups due to weather or road conditions. Pickup of materials may be missed due to weather or road conditions. If the accumulated material (solid waste and/or recyclables, and/or yardwaste) is collected on the next scheduled or available pickup date, the company is not obligated to extend credit for the missed pickup. The customer will not be charged for overfilled receptacles, or for materials set out in bags on top of or next to the customer's normal receptacles if the amount of extra material does not exceed the amount that would have reasonably been expected to accumulate due to missed pickups."

Recent garbage strikes and wildfires have raised many questions on how solid waste collection companies handle missed pickups in general. The issue of missed pick ups needs to be clarified

¹WAC 480-70-041 defines "Traditional solid waste collection company means a company engaged in collecting and removing solid waste and recyclable materials from private homes, and/or removing solid waste from commercial establishments, industrial facilities, and other sites. Solid waste is normally picked up on a daily, weekly, or other regular basis. Drivers are usually assigned designated routes to collect curbside residential solid waste or transport cans or containers for commercial businesses. Unless the company's certificate is restricted against doing so, a traditional solid waste collection company may also perform specialized solid waste collection service."

so affected customers and companies will know what to expect. Staff recommends that the commission discuss these issues with industry in an open forum that will also provide interested persons the opportunity to provide comments.

Conclusion

Reopen Docket No. TG-010374 to consider whether to amend Item 30 - Limitations of Service, which the commission adopted as part of the standard tariff template for traditional solid waste collection companies.

Attachment C

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Considering Whether	)	DOCKET TG-010374
to Amend Item 30 - Limitations of)	
Service in the Standard	)	ORDER 01
Tariff Template for Solid Waste)	
Collection Companies	)	ORDER TO REOPEN THE
	)	STANDARD TARIFF TEMPLATE TO
	)	CONSIDER WHETHER TO AMEND
	)	ITEM 30 - LIMITATIONS OF
	)	SERVICE
.....)	

BACKGROUND

- 1 On April 2001, the Washington Utilities and Transportation Commission (Commission) adopted new rules governing the operations of solid waste collection companies in WAC 480-70. In December 2001 the Commission adopted and ordered all traditional solid waste collection companies¹ to use the standard tariff template as required by WAC 480-70-281. The rule states in part: "A company must file tariffs meeting the following criteria: (1) Tariffs must be on forms available from the commission or on comparable forms approved by the commission ...".

- 2 Recent garbage strikes and wildfires have raised many questions about how traditional solid waste collection companies handle missed pickups in general. The issue of missed pickups needs to be clarified so affected customers and companies will know what to expect. Staff recommends that the commission discuss these issues with industry in an open forum that will also provide interested persons the opportunity to provide comments.

¹ WAC 480-70-041 defines "Traditional solid waste collection company means a company engaged in collecting and removing solid waste and recyclable materials from private homes, and/or removing solid waste from commercial establishments, industrial facilities, and other sites. Solid waste is normally picked up on a daily, weekly, or other regular basis. Drivers are usually assigned designated routes to collect curbside residential solid waste or transport cans or containers for commercial businesses. Unless the company's certificate is restricted against doing so, a traditional solid waste collection company may also perform specialized solid waste collection service."

FINDINGS AND CONCLUSIONS

- 3 (1) The Washington Utilities and Transportation Commission is an agency of the
State of Washington vested by statute with the authority to regulate rates,
regulations, practices, accounts and affiliated interests of public service
companies, including solid waste companies. RCW 80.01.040, RCW 81.01,
RCW 81.04.210, RCW 81.28.230 and RCW 81.77.030.
- 4 (2) All solid waste collection companies are subject to Commission jurisdiction
pursuant to RCW 81.77.
- 5 (3) After the recent labor disruptions that caused solid waste collection customers the
inconvenience of missed solid waste collection service, the Commission
concludes that it should reopen Docket TG-010374 to consider whether or not to
amend Item 30 – Limitations of Service in the standard tariff template for
traditional solid waste collection companies.
- 6 (4) This matter came before the Commission at its regularly scheduled meeting on
August 30, 2012.

ORDER

THE COMMISSION ORDERS:

- 7 The Commission reopens Docket No. TG-010374 for the purpose of considering whether
or not to amend Item 30 – Limitations of Service in the standard tariff template for
traditional solid waste collection companies.

DATED at Olympia, Washington, and effective August 30, 2012.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

JEFFREY D. GOLTZ, Chairman

PHILIP B. JONES, Commissioner

Attachment D

[Service Date September 28, 2012]

September 28, 2012

**NOTICE OF OPPORTUNITY TO COMMENT
(due by Friday, October 12, 2012)**

**NOTICE OF WORKSHOP
(Set for Thursday, October 25, 2012)**

RE: Commission's Tariff Template, Item 30, Limitations of Service,
Docket TG-010374

TO ALL INTERESTED PERSONS:

In April 2001, the Washington Utilities and Transportation Commission (Commission) adopted new rules governing the operations of solid waste collection companies in WAC 480-70. Pursuant to WAC 480-70-281, the Commission adopted a standard tariff template in December 2001 that all traditional solid waste collection companies are required to use. Item 30 Limitations of Service (Item 30) in that template governs disruptions to solid waste collection services and missed pickups due to inclement weather and road conditions. A copy of Item 30 is attached to this Notice as Attachment A.

The Commission has reopened this docket to review Item 30 and seeks written comments from interested persons in response to the following questions:

1. Should the Commission amend Item 30 and its current policy related to missed pickups resulting from inclement weather and road conditions? If so, how should Item 30 be amended?
2. Should customers receive a credit for missed pickups due to inclement weather and road conditions? If not, why not? If so, should a customer pay for all waste set out for the next pickup that exceeds the customer's subscribed service (*e.g.*, if a customer subscribes to one 64-gallon toter, and the customer sets out the 64-gallon toter and two 30-gallon plastic bags, should the customer pay the rate for the additional two 30-gallon bags)?

3. Should the Commission add language to the tariff template that describes how missed pickups would be handled as a result of labor disputes or strikes?
 - a. What issues should the Commission consider?
 - b. Should customers receive a credit for missed pickups due to labor disputes or strikes? If not, why not? If so, should customers pay for all waste set out for the next pickup that exceeds the customers subscribed service?
 - c. If service is disrupted due to labor disputes or strikes, should the Commission consider penalties against a solid waste collection company comparable to provisions in contracts companies have with some cities? (Samples of such contract provisions are attached to this Notice as Attachments B & C.)
4. Should the Commission add language to the tariff to address missed pickups due to other force majeure events (*i.e.*, events beyond the control of the company, including but not limited to wildfire, volcanic eruption, earthquake, or flood)?
5. Should the Commission adopt performance standards that specifically relate to disruption of service? If not, why not? If so, what performance standards should the Commission adopt?

WRITTEN COMMENTS

Written comments to the above questions must be filed with the Commission no later than **5:00 p.m., Friday, October 12, 2012**. The Commission requests that comments be provided in electronic format to enhance public access, for ease of providing comments, to reduce the need for paper copies, and to facilitate quotations from the comments. You may submit comments via the Commission's Web portal at www.utc.wa.gov/e-filing or by electronic mail to the Commission's Records Center at records@utc.wa.gov. Please include:

- The docket number of this proceeding (TG-010374).
- The commenting party's name.
- The title and date of the comment or comments.

An alternative method for submitting comments is by mailing or delivering an electronic copy to the Commission's Records Center on a 3 ½ inch, IBM-formatted, high-density disk, in .pdf Adobe Acrobat format or in Word 97 or later. Include all of the information requested above. The Commission will post on its web site all comments that are provided in electronic format. The web site is located at www.utc.wa.gov.

If you are unable to file your comments electronically or to submit them on a disk, the Commission will accept a paper document.

WORKSHOP

The Commission will conduct a workshop to discuss these issues on **Thursday, October 25, 2012, beginning at 1:30 p.m.**, at the Commission's headquarters, Room 206, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.

If you have questions regarding this Notice, the requested comments, or the workshop, you may contact Penny Ingram, by email at pingram@utc.wa.gov or (360) 664-1242.

DAVID W. DANNER
Executive Director and Secretary

Attachment A

Tariff No. _____

_____ Revised Page No. _____

Company Name/Permit Number:

Registered Trade Name:

Item 30 – Limitations of Service

Refusal of service. A solid waste collection company may refuse to:

- Pick up materials from points where it is hazardous, unsafe, or dangerous to persons, property, or equipment to operate vehicles due to the conditions of streets, alleys, or roads.
- Drive into private property when, in the company's judgment, driveways or roads are improperly constructed or maintained, do not have adequate turn-arounds, or have other unsafe conditions.
- Enter private property to pick up material while an animal considered or feared to be vicious is loose. The customer will be required to confine the animal on pickup days.

Schedules. A company's schedule will meet reasonable requirements and will comply with local service level ordinances.

Missed pickups due to weather or road conditions. Pickup of materials may be missed due to weather or road conditions. If the accumulated material (solid waste and/or recyclables, and/or yardwaste) is collected on the next scheduled or available pickup date, the company is not obligated to extend credit for the missed pickup. The customer will not be charged for overfilled receptacles, or for materials set out in bags on top of or next to the customer's normal receptacles if the amount of extra material does not exceed the amount that would have reasonably been expected to accumulate due to missed pickups.

Due care. Other than to offer reasonable care, the company assumes no responsibility for articles left on or near solid waste receptacles.

Liability for damage. When a customer requests that a company provide service and damage occurs to the customer's driveway due to reasons not in the control of the company, the company will assume no responsibility for the damage.

Issued by:

Issue date:

Effective date:

(For Official Use Only)

Docket No. TG- _____

Date: _____

By: _____

Attachment B – Federal Way City Contract Language for Inclement Weather

Inclement Weather and Other Service Disruptions

When weather conditions are such that continued operation would result in danger to the Contractor's staff, area residents or property, the Contractor shall collect only in areas that do not pose a danger. The Contractor shall notify the City of its collection plans and outcomes for each day that severe inclement weather is experienced as soon as practical that same business day.

The Contractor shall collect Garbage, Recyclables and Compostables from Customers with interrupted service on the first day that regular service to a Customer resumes and shall collect reasonable accumulated volumes of materials equal to what would have been collected on the missed collection day(s) from Customers at no extra charge. Following notification to the City, the Contractor will be provided temporary authorization to perform collection services after 6:00 pm and/or on Saturdays following disruptions due to weather in order to finish collection routes.

The Contractor shall handle weather-related service interruptions as follows:

- 1 Single Family Residential Garbage Customers: Make-up collection shall occur on that Customer's service day the following week.
- 2 Single-Family Residential Recycling customers: Make-up collection shall occur on the Customer's next scheduled collection day. The Contractor shall provide a City-approved Recyclables drop-off opportunity to those missed Customers to accommodate excess Recyclables that exceed the Customers' Cart capacity. The drop-off opportunity may be one or more centrally located containers or trucks convenient to the area where Customers were missed.
- 3 Single-Family Residential Compostables Customers: Make-up collection shall occur on that Customer's next scheduled service day.
- 4 All other Multi-family and Commercial Services: Make-up collection shall occur on the first day (Monday through Saturday) that safe access is available, subject to the availability of collection trucks and drivers.

In the event successive weather events occur on the same scheduled Single-family Residence collection day(s) two or more weeks in a row (for example, no collection service for Tuesday Customers two weeks running), make-up collection will be made on the next possible day. In these cases, the Contractor shall not wait for the regularly scheduled collection day the following week to service that area. In the event of successive service disruptions impacting entire neighborhoods, Contractor may provide temporary Residential Garbage, Compostables, and Recyclables collection sites using driver-staffed Drop-Box Containers or other suitable equipment, with no extra charge assessed for such temporary service.

The Contractor and City will develop and implement a weather-related operations & communications protocol to more specifically address management of service disruptions. This

protocol will detail pre-event and post-event inclement weather designation and recovery plans, as well as identifying potential temporary collection sites. The inclement weather/disruption in service requirements in the preceding paragraphs may be changed upon mutual written agreement of the Contractor and City at any time during the term of this Contract to better serve Customers.

Weather policies shall be included in program information provided to Customers. On each inclement weather day, the Contractor shall release notices to the local newspapers and radio stations (including the Seattle Times, Federal Way Mirror and KING AM, KIRO, KOMO and KUOW radio stations) and the Contractor's website notifying residents of the modification to the collection schedule. The City may specify additional media outlets for Contractor announcements at its discretion. The Contractor shall also notify The Federal Way Mirror newspaper when the duration of an inclement weather event is long enough to warrant notice in that publication. The Contractor shall also notify the Federal Way Mirror newspaper when the inclement weather lasts for four days or more and affects the collection schedule. Contractor shall use automated dialing services to inform Customers at the route level about service changes.

When closure of roadways providing access or other non-weather related events beyond the Contractor's control prevent timely collection on the scheduled day, the Contractor shall make collections on the first day that regular service to a Customer resumes, collect reasonable accumulated volumes of materials equal to what would have been collected on the missed collection day(s) from Customers at no extra charge. Following notification to the City, the Contractor will be provided temporary authorization to perform collection services after 6:00 pm and/or on Saturdays following such disruptions in order to finish collection routes. Delayed or interrupted collections as described in this Section are not considered service failures for purposes of Section 4.1.

**City Collection Contracts in King County:
Performance Fees for Missed Collection
Force Majeure Provisions for Labor Disruptions**

Attachment C

City	Labor Disruption Included in Force Majeure	Performance fees for failure to collect missed materials within one business day after notification	Performance fees for missed collection
Auburn (Waste Management) Performance fees not applied for missed collections due to labor disruptions during the first week	None enumerated	<ul style="list-style-type: none"> • Single Family - \$100 per incident, maximum \$500 per truck per day • Multi-family & Commercial. – No maximum 	<ul style="list-style-type: none"> • \$150 per block segment if performed the following day • \$500 if not performed following day
Duvall (Waste Management)	Specifically excludes "strikes, labor stoppages or such riots or disturbances related thereto directed at Contractor specifically"	<ul style="list-style-type: none"> • Single Family - \$100 per incident, maximum \$500 per truck per day • Multi-family & Commercial. – No maximum 	<ul style="list-style-type: none"> • \$150 per block segment if performed the following day • \$500 if not performed following day
Federal Way (Waste Management) Performance fees not applied for missed collections due to labor disruptions during the first week	None enumerated	<ul style="list-style-type: none"> • Single Family - \$100 per incident, maximum \$500 per truck per day • Multi-family & Commercial. – No maximum 	<ul style="list-style-type: none"> • \$150 per block segment if performed the following day • \$500 if not performed following day
Kirkland (Waste Management) Performance fees not applied for missed collections due to labor disruptions during the first week	None enumerated	<ul style="list-style-type: none"> • Single Family - \$100 per incident, maximum \$500 per truck per day • Multi-family & Commercial. – No maximum 	<ul style="list-style-type: none"> • \$150 per block segment if performed the following day • \$500 if not performed following day

**City Collection Contracts in King County:
Performance Fees for Missed Collection
Force Majeure Provisions for Labor Disruptions**

Attachment C

<p>Seattle (Waste Management and CleanScapes) – Performance fees not applied for missed collections due to labor disruptions during the first week; “individual deductions for Performance Fees will be applied with consideration of the specific circumstances and related events as well as the Contractor’s overall performance, including the Contractor’s efforts to mitigate impacts and maintain service levels during labor disruptions.”</p>	<p>None enumerated</p>	<ul style="list-style-type: none"> • \$100 per structure or Commercial establishment, maximum of \$1,000 per truck per day 	<ul style="list-style-type: none"> • \$250 per block (3 or more houses per side of street or alley)
Seattle			
Additional Provisions Related to Labor Disruptions			
<p>Waste Management</p>	<p>“When labor disruptions prevent collection on the scheduled day, the Contractor shall make collections on the next day. If such labor disruption continues for a second consecutive day or more, the Contractor shall, on the first day that regular service to a customer resumes, collect all the materials that the customer places out for collection, subject to reasonable limits to be agreed upon by Contractor and the City and set forth in the Operations Plan. On the day that collections resume, the Contractor shall take bags, boxes and other secure material, and shall empty temporary receptacles that customers have used when the collection Cans and Containers have been filled, subject to reasonable limits to be agreed upon by Contractor and the City and set forth in the Operations Plan.”</p>		
<p>CleanScapes</p>	<p>“When labor disruptions prevent collection on the scheduled day, the Contractor shall make collections on the next day. If such labor disruption continues for a second consecutive day or more, the Contractor shall resume collections on the customers’ collection day the following week. On the day that collections resume, the Contractor shall take bags, boxes and other secure material, and shall empty temporary receptacles that customers have used when the collection Cans and Containers have been filled.”</p>		

**City Collection Contracts in King County:
Performance Fees for Missed Collection
Force Majeure Provisions for Labor Disruptions Attachment C**

<p>Seattle continued</p> <p>-----</p> <p>Both contracts</p>	<p>-----</p> <p>The Contractor is authorized to perform collection services after 5:00 pm during, or immediately after, labor disruptions in order to finish the collection routes.</p> <p>The Contractor shall not be paid for non-collections due to labor disruptions. The City shall deduct \$250 from the Contractor's regular monthly payment for each individual collection route which is not 90% collected by the end of the day following the scheduled collection day. The City has the option to require the Contractor to collect Compostable and Recyclables the week following non-collection instead of deducting funds for non-collections."</p>
--	---

Attachment E

[Service Date March 12, 2013]

March 12, 2013

**NOTICE OF OPPORTUNITY TO COMMENT
(Due by Friday, March 29, 2013)**

RE: Commission's Tariff Template, Item 30, Limitations of Service
Docket TG-010374

TO ALL INTERESTED PERSONS:

In April 2001, the Washington Utilities and Transportation Commission (Commission) adopted new rules governing the operations of solid waste collection companies in WAC 480-70. Pursuant to WAC 480-70-281, the Commission adopted a standard tariff template in December 2001 that all traditional solid waste collection companies are required to use. Item 30 Limitations of Service (Item 30) in that template governs disruptions to solid waste collection services and missed pick-ups due to inclement weather, road conditions or other events.

The Commission reopened this docket and provided the opportunity for interested persons to file written comments and participate in a workshop to discuss whether and how to revise Item 30. Commission Staff has now prepared a draft revised Item 30, a copy of which is attached to this Notice as Attachment A. Before considering this draft for adoption in the standard tariff template, the Commission seeks comments on this proposal.

WRITTEN COMMENTS

Written comments on the draft revised Item 30 must be filed with the Commission no later than **5:00 p.m., Friday, March 29, 2013**. The Commission requests that comments be provided in electronic format to enhance public access, for ease of providing comments, to reduce the need for paper copies, and to facilitate quotations from the comments. You may submit comments via the Commission's Web portal at www.utc.wa.gov/e-filing or by electronic mail to the Commission's Records Center at records@utc.wa.gov. Please include:

- The docket number of this proceeding (TG-010374).
- The commenting party's name.
- The title and date of the comment or comments.

An alternative method for submitting comments is by mailing or delivering an electronic copy to the Commission's Records Center on a 3 ½ inch, IBM-formatted, high-density disk, in .pdf Adobe Acrobat format or in Word 97 or later. Include all of the information requested above. The Commission will post on its web site all comments that are provided in electronic format. The web site is located at www.utc.wa.gov.

If you are unable to file your comments electronically or to submit them on a disk, the Commission will accept a paper document.

If you have questions regarding this Notice, the draft revised Item 30, or the requested comments, you may contact Penny Ingram, by email at pingram@utc.wa.gov or (360) 664-1242.

STEVEN V. KING
Acting Executive Director and Secretary

Attachment A

Tariff No. _____

_____ Revised Page No. _____

Company Name/Permit Number:

Registered Trade Name:

Item 30 – Limitations of Service

1. **Schedules.** A company's schedule will meet reasonable requirements and will comply with local service level ordinances.
2. **Due care.** Other than to offer reasonable care, the company assumes no responsibility for articles left on or near solid waste receptacles.
3. **Liability for damage.** When a customer requests that a company provide service and damage occurs to the customer's driveway due to reasons not in the control of the company, the company will assume no responsibility for the damage.
4. **Refusal of service** (except as set forth in Item 5, Missed service due to unsafe weather conditions or natural disaster.)

A solid waste collection company may refuse to:

- a. Collect solid waste from points where, in the company's judgment, it is hazardous, unsafe, or dangerous to persons, property, or equipment to operate vehicles due to the conditions of streets, alleys, or road;
 - b. Drive onto private property when, in the company's judgment, driveways or roads are improperly constructed or maintained, do not have adequate turn-around area, or have other unsafe conditions; or
 - c. Enter private property to pick up solid waste while an animal the company considers or fears to be dangerous, is not confined. The customer will be required to confine the animal on service days.
5. **Missed service due to unsafe weather conditions or natural disaster.**

A company is not required to collect solid waste when the company determines that it is unsafe to operate due to weather conditions or natural disaster. The company will collect customers'

Issued by:

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Docket No. TG- _____ Date: _____ By: _____

Attachment A

Tariff No. _____

_____ Revised Page No. _____

Company Name/Permit Number:

Registered Trade Name:

accumulated solid waste on the next scheduled service date on which the company determines it is safe to operate.

- a. The company is not obligated to extend a credit to customers for missed service if the company collects customers' accumulated solid waste on the next scheduled service date on which the company deems it is safe to operate. The company will not charge customers for extra waste set out (except as provided in Item 207, if applicable) in addition to customers' normal receptacle(s) if the amount of extra waste does not exceed the amount that reasonably would be expected to accumulate due to missed service.
- b. If the company does not collect customers' accumulated solid waste on the next scheduled service date on which the company determines it is safe to operate, the company is required to give a credit, proportionate to the customers' monthly service charge, to customers for all missed service(s).

6. Missed service due to a lawful labor strike by the company's employees that results in a work stoppage that prevents or limits a company from collecting solid waste.

- a. A company is required to provide all normal solid waste collection services in the event of a labor strike or other disruption by the company's employees unless the commission has issued an order approving the company's plan for revised operations during a strike (operational plan).
- b. If the commission has issued an order approving a company's operational plan, the company will publish the following in its tariff:

The company will implement the operational plan, attached to this tariff as Appendix (enter the letter) approved by the commission in Order (enter the order number), issued in Docket No. (enter the docket number), and dated (enter the date the order was issued).

Definitions

The following definitions apply for the purpose of this Item.

"Reasonably would be expected to accumulate due to missed service" means, at a minimum, the amount of solid waste represented by the number of missed service(s) multiplied by the customer's subscribed service level. For example, if the company misses two services for a customer who subscribes to one 96-gallon toter, the amount would be the equivalent of 192 gallons (2 services x 96 gallons subscription per service).

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Docket No. TG- _____ Date: _____ By: _____

Attachment A

Tariff No. _____

Revised Page No. _____

Company Name/Permit Number:

Registered Trade Name:

“Next scheduled service date” – this date is defined by each customer’s subscription service.

Example 1: A residential customer subscribes to weekly service that the company schedules for every Wednesday. If the company does not provide service on Wednesday, November 14, the next scheduled service date would be Wednesday, November 21.

Example 2: A commercial customer subscribes to daily service. If the company does not provide service on Wednesday, November 14, the next scheduled service date would be Thursday, November 15.

“Operational Plan” means a comprehensive action plan to respond to service disruption caused by a labor strike and to restore service to all customers. At a minimum, such a plan must include provisions that address the following: (a) communications with the commission, local governments and customers; (b) prioritized and measurable goals for restoring service by customer class and service area; (c) daily reports provided to the commission containing specific data on the company’s efforts and progress toward meeting the service restoration goals; (d) the amount and mechanism for providing credits to customers for service they did not receive; (e) alternate means for customers to dispose of accumulated solid waste during the service disruption, such as drop box locations or vouchers for customers to use at transfer stations or landfills; (f) penalties for failure to provide service; and (g) the differences between the provisions of the operational plan filed with the commission and comparable plans or agreements the company has with cities, municipalities, and other local governmental entities with which the company contracts to provide solid waste collection service.

Example of how to calculate a credit:

Monthly residential service rates are set based on 4.33 services per month. If the company misses one service, the credit is calculated as: $.231$ (1 missed service divided by 4.33 services per month) multiplied by the monthly rate; provided that the credit for any specific month does not exceed the full rate per month.

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Issue date:

Effective date:

(For Official Use Only)

Docket No. TG- _____

Date: _____

By: _____

Attachment F

Agenda Date: May 29, 2013

Item Number: B1

Docket: TG-010374

Issue: Solid Waste Industry – Tariff Item 30, Missed Service

Staff: Gene Eckhardt, Assist. Director Solid Waste/Water/Transportation
Greg Kopta, Director of Administrative Law Judge
Sharon Wallace, Assistant Director of Consumer Protection
Rayne Pearson, Manager of Consumer Protection
John Cupp, Regulatory Analyst
Bob Cedarbaum, Assistant Attorney General
Penny Ingram, Regulatory Analyst

Recommendation

Staff recommends that the commission add a new section 6 to Item 30 to address missed service due to a labor disruption.¹ Staff proposes that the rule state that solid waste collection companies are required to comply with all tariff provisions governing solid waste collection services in the event of a labor disruption. Each company could choose to file a plan for revised operations (Operational Plan) governing service when the company experiences a labor disruption. The commission must approve any Operational Plan before it becomes effective. The commission would review the Operational Plan and, if approved, issue an order adopting the Operational Plan as part of the company's tariff and require the company to reference the Operational Plan in its Tariff Item 30(6) and attach the Operational Plan to the company's tariff as an appendix.

Staff also proposes edits to clarify existing rules, address missed collection service due to natural disaster and government restricting access to local roads, and add definitions for terms used in the proposed rule.

Background

In April 2001, the Utilities and Transportation Commission (commission) adopted new rules governing the operations of solid waste collection companies in WAC 480-70. In December 2001, the commission adopted and ordered all traditional solid waste collection companies² to

¹ On advice of counsel, staff abandoned identifying specific labor disruptions (e.g. lawful strike, sympathy strike, and lockout) because of legal definitions and uncertainty of federal labor law.

² WAC 480-70-041, Definitions: "Traditional solid waste collection company" means a company engaged in collecting and removing solid waste and recyclable materials from private homes, and/or removing solid waste from

use the standard tariff template as required by WAC 480-70-281, Tariffs, format and size requirements. The rule states in part:

"A company must file tariffs meeting the following criteria: (1) Tariffs must be on forms available from the commission or on comparable forms approved by the commission ..."

Item 30, Limitations of Service, governs interruptions to solid waste collection service, including: Schedules; Due care; Liability for damage; Refusal of service; and, Missed solid waste service due to weather or road conditions. Currently, there are no provisions for missed solid waste service due to a labor disruption.

On May 18, 2012, the commission notified solid waste collection companies that they could not rely on Item 30 provisions for solid waste service interruptions caused by labor disruptions. The letter advised the companies to file tariff revisions to address strike related solid waste service interruptions. RCW 81.28.080 prohibits every solid waste collection company subject to regulation by the commission from charging, demanding, collecting, or receiving a greater, less or different compensation as specified in its schedules filed and in effect at the time.

On June 6, 2012, Waste Management of Washington, Inc. (Waste Management), d/b/a Waste Management of the Northwest, Waste Management of Seattle and South Sound, and Waste Management of Sno-King, filed tariff revisions with the commission. The proposed filings add language regarding missed service due to a labor dispute to Item 30 in its three tariffs.³

On July 25, 2012, Waste Management employees went on strike. That same day, Waste Management filed a request that the commission consider and approve its pending tariff revisions at the July 27, 2012, open meeting. The commission discussed the pending tariffs at the July 27 open meeting, but took no action on Waste Management's request.

On August 9, 2012, the commission held a special open meeting in Woodinville to discuss Waste Management's response to the strike and to hear from the public how the strike impacted customers.

On August 17, 2012, Rabanco LTD and Fiorito Enterprises, Inc. (Rabanco)⁴, filed tariff revisions⁵ with the commission. The proposed filings add language regarding missed solid waste

commercial establishments, industrial facilities, and other sites. Solid waste is normally picked up on a daily, weekly, or other regular basis. Drivers are usually assigned designated routes to collect curbside residential solid waste or transport cans or containers for commercial businesses. Unless the company's certificate is restricted against doing so, a traditional solid waste collection company may also perform specialized solid waste collection service.

³ Waste Management of Northwest provides regulated solid waste collection service to approximately 85,000 customers in Snohomish County. Waste Management of Seattle and South Sound provides solid waste collection services to approximately 20,000 customers in King County. Waste Management of Sno-King provides regulated solid waste collection service to approximately 22,000 customers in King County.

⁴ Rabanco provides solid waste collection services in King, Klickitat, Skamania, Snohomish, and Yakima counties and provides service to approximately 62,000 customers.

service due to a labor dispute, to Item 30 - Limitations of Service, in five separate tariffs. The proposed language was slightly different than the language filed by Waste Management in June 2012.

On August 21, 2012, Waste Management asked the commission to "...approve, on a temporary basis, the Company's proposed methodology for handling missed collections, while at the same time refraining from an approval about the tariff language itself."⁶

On August 30, 2012, staff asked the commission to reopen Item 30 in the standard tariff so that staff could work with all stakeholders to incorporate language for missed service collection in general. The commission granted staff's request.

On September 8, 2012, lightning storms ignited more than 100 fires in Kittitas and Yakima counties. Approximately 63 customers lost solid waste collection service. It took more than a month for firefighters to contain the fires. The current Item 30 does not cover natural disasters.

On October 25, 2012, the commission held a workshop with stakeholders to discuss proposed amendments to Item 30. After hearing from stakeholders, the commission, on March 12, 2013, issued a notice and opportunity to comment on proposed amendments to Item 30.

On April 17, 2013, Rabanco experienced a one-day sympathy strike⁷ in the service area surrounding the cities of Tukwila, SeaTac, Kent and Lynnwood. Approximately 10,300 customers did not receive solid waste service. The commission received five complaints from consumers for missed solid waste service and for not receiving credit for the missed service.

On April 23, 2013, the commission issued a Complaint in Docket TG-121265 alleging Waste Management violated statutes and rules during and immediately following a labor strike from July 25, 2012, through August 2, 2012. The commission has scheduled a prehearing conference for June 6, 2013.

Proposed Changes to Item 30

Staff reorganized and proposed changes to Item 30 as follows:

1. **Schedules:** (NO CHANGE.)
2. **Due care:** (NO CHANGE.)
3. **Liability for damage:** (NO CHANGE.)

⁵ Rabanco LTD and Fiorito Enterprises, Inc., currently suspended dockets are TG-121366, TG-121367, TG-121369, TG-121370, and TG-121371.

⁶ Waste Management's currently suspended dockets are TG-120840, TG-120842, and TG-120843.

⁷ The actual labor action originated in Ohio.

4. **Refusal of service:** (REVISED)

- Clarified that this section does not apply to “Missed service due to unsafe weather conditions, natural disaster, or where government authority restricts access to local roads”, which is addressed in Section 5.
- Clarified that decisions not to provide service are based on the carrier’s judgment.

5. **Missed service due to unsafe weather conditions, natural disaster, or where government authority restricts access to local roads:** (REVISED)

- Added language to extend this rule to missed service caused by natural disasters and situations where government authority restricts access to local roads.
- Adds part (b) that the company is required to give a credit if it does not collect customers’ accumulated solid waste on the next scheduled service date on which the company determines it is safe to operate.

6. **Missed service due to a labor disruption, which causes work stoppages that prevents or limits a company from collecting solid waste:** (NEW SECTION)

- Require companies to comply with all tariff provisions governing its solid waste collection services in the event of a labor disruption by its employees.
- Allows a company to propose a plan for revised operations (Operational Plan) governing service when the company experiences a labor disruption. The commission would need to approve the Operational Plan before it becomes effective and it would become part of the company’s tariff.

7. **Definitions:** (NEW SECTION)

Adds the following definitions:

- “Reasonably would be expected to accumulate due to missed service”.
- “Next scheduled service date”, with examples.
- “Operational Plan”, including minimum issues that are required to address.
- Example of how to calculate a credit⁸.

⁸ Staff recommends a methodology to calculate a credit for missed service, but that methodology is not cost-based. The recommended methodology recognizes that monthly rates are designed based on average services per month, not actual services per month. For example, weekly service rates are set using the 4.33 services per month (52 weeks divided by 12 months), not the actual four or five weekly services per month. A cost-based credit would require additional analysis of each company’s last rate case to identify fixed and variable costs for each individual service option, adjusted to reflect the monthly rate design.

Summary of Stakeholder Comments

For the most part, stakeholders supported the original proposed Item 30. Stakeholder comments and staff responses are summarized in Attachment C. Staff agreed with some of the stakeholder comments and incorporated them into the revised proposed rule, Attachment B.

There are a few remaining disagreements between staff and industry representatives about the definition of the “Operational Plan.”

1. Stakeholders want Item 30 to include the methodology and standards that the commission will use to evaluate the Operational Plan defined in Item 30(6). Staff disagrees. Staff does not believe that there is a “one-size fits all” Operational Plan and that the commission should evaluate each company’s proposed Operational Plan on a case-by-case basis.
2. Stakeholders want the commission to remove Item 30(6)(f), which requires solid waste collection companies to demonstrate that customers who receive service through contracts with cities, municipalities, and other local governmental entities will not receive undue or unreasonable preferential treatment over customers of the company’s service subject to commission regulation. Staff disagrees. Staff believes this part of the Operational Plan is essential for the commission to have a full understanding of the provisions contained in city contracts and that it will provide a basis for the commission to determine whether the proposed Operational Plan will treat regulated customers fairly, compared to customers the companies serve under nonregulated operations.

Attachments:

1. Item 30 – Current Tariff Page.
2. Item 30 - Redline Version Showing Proposed Changes.
3. Stakeholder Comment Summary and Staff’s Responses.

Attachment 1

Tariff No. _____

_____ Revised Page No. _____

Company Name/Permit Number:

Registered Trade Name:

Item 30 – Limitations of Service

Refusal of service. A solid waste collection company may refuse to:

- Pick up materials from points where it is hazardous, unsafe, or dangerous to persons, property, or equipment to operate vehicles due to the conditions of streets, alleys, or roads.
- Drive into private property when, in the company's judgment, driveways or roads are improperly constructed or maintained, do not have adequate turn-arounds, or have other unsafe conditions.
- Enter private property to pick up material while an animal considered or feared to be vicious is loose. The customer will be required to confine the animal on pickup days.

Schedules. A company's schedule will meet reasonable requirements and will comply with local service level ordinances.

Missed pickups due to weather or road conditions. Pickup of materials may be missed due to weather or road conditions. If the accumulated material (solid waste and/or recyclables, and/or yardwaste) is collected on the next scheduled or available pickup date, the company is not obligated to extend credit for the missed pickup. The customer will not be charged for overfilled receptacles, or for materials set out in bags on top of or next to the customer's normal receptacles if the amount of extra material does not exceed the amount that would have reasonably been expected to accumulate due to missed pickups.

Due care. Other than to offer reasonable care, the company assumes no responsibility for articles left on or near solid waste receptacles.

Liability for damage. When a customer requests that a company provide service and damage occurs to the customer's driveway due to reasons not in the control of the company, the company will assume no responsibility for the damage.

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By: _____

Attachment 2

Tariff No. _____

Revised Page No. _____

Company Name/Permit Number:

Registered Trade Name:

Item 30 – Limitations of Service

1. **Schedules.** A company's schedule will meet reasonable requirements and will comply with local service level ordinances.
2. **Due care.** Other than to offer reasonable care, the company assumes no responsibility for articles left on or near solid waste receptacles.
3. **Liability for damage.** When a customer requests that a company provide service and damage occurs to the customer's driveway due to reasons not in the control of the company, the company will assume no responsibility for the damage.
4. **Refusal of service.** (Except as set forth in Section 5. Missed service due to unsafe weather conditions, natural disaster or when government authority restricts access to local roads.)

A solid waste collection company may refuse to:

- ~~Pick up materials~~ Collect solid waste from points where, in the company's judgment, it is hazardous, unsafe, or dangerous to persons, property, or equipment to operate vehicles due to the conditions of streets, alleys, or roads.
 - Drive into private property when, in the company's judgment, driveways or roads are improperly constructed or maintained, do not have adequate turn-arounds, or have other unsafe conditions; or
 - Enter private property to pick up ~~material~~ solid waste while an animal the company considers or fears considered or feared to be vicious dangerous is loose not confined. The customer will be required to confine the animal on ~~pickup~~ service days.
5. **Missed pickups service due to unsafe weather conditions or road conditions natural disaster or when government authority restricts access to local roads.** A company is not required to collect solid waste when the company determines that it is unsafe to operate Pickup of materials may be missed due to weather, or road conditions natural disaster, or when government authority restricts access to local roads. If the The company will collect accumulated material solid waste (solid waste and/or recyclables, and/or yardwaste) is collected on the next scheduled or available pickup service date, on which the company deems it is safe to operate.

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Docket No. TG- _____

Date: _____

By: _____

Attachment 2

Tariff No. _____

Revised Page No. _____

Company Name/Permit Number:

Registered Trade Name:

- a. ~~¶~~The company is not obligated to extend credit to customers for the missed pickup service if the company collects the customers' accumulated solid waste on the next scheduled service date on which the company deems it to be safe to operate. The customer company will not be charged for overfilled extra waste set out (except provided in Item 207, if applicable) in addition to customers' normal receptacle(s), or for materials set out in bags on top of or next to the customer's normal receptacles if the amount of extra material waste does not exceed the amount that would have reasonably would been expected to accumulate due to missed pickupservice.
- b. If the company does not collect customers' accumulated solid waste on the next scheduled service date on which the company determines it is safe to operate, the company is required to give a credit, proportionate to the customers' monthly service charge, to customers for all missed service(s).

6. Missed service due to a labor disruption, which causes work stoppages that prevents or limits a company from collecting solid waste.

- a. A company is required to comply with all tariff provisions governing its solid waste collection services in the event of a labor disruption by its employees. A company's tariff may include a plan for revised operations (Operational Plan) governing service when the company experiences such a labor disruption. The Commission must approve any such Operational Plan before it becomes effective.
- b. If the commission has issued an order approving a company's Operational Plan, the company will publish the following in its tariff:

The company will implement the Operational Plan, attached to this tariff as Appendix (enter the letter) approved by the commission in Order (enter the order number), issued in Docket No. (enter the docket number), and dated (enter the date the order was issued).

7. Definitions: The following definitions apply for the purpose of this Item.

"Reasonably would be expected to accumulate due to missed service" means, at a minimum, the amount of solid waste represented by the number of missed service(s) multiplied by the customer's subscribed service level. For example, if the company misses two services for a customer who subscribes to one 96-gallon toter, the amount would be the equivalent of 192 gallons (2 services x 96 gallons subscription per service).

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Issue date:

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Docket No. TG- _____

Date: _____

By: _____

Attachment 2

Tariff No. _____

Revised Page No. _____

Company Name/Permit Number:

Registered Trade Name:

“Next scheduled service date” – this date is defined by each customer’s subscription service.

Example 1: A residential customer subscribes to weekly service that the company schedules for every Wednesday. If the company does not provide service on Wednesday, November 14, the next scheduled service date would be Wednesday, November 21.

Example 2: A commercial customer subscribes to daily service. If the company does not provide service on Wednesday, November 14, the next scheduled service date would be Thursday, November 15.

“Operational Plan” means a comprehensive action plan to respond to service disruption caused by a labor disruption and to restore full service to all customers. At a minimum, such a plan must include the following:

- (a) A schedule and methods for communicating with commission regulatory and consumer protection staff, local governments and customers;
- (b) Prioritized and measurable targets for restoring full service by customer class and service area;
- (c) A provision for daily reports to the commission containing specific data on the company’s efforts and progress toward meeting full service requirements;
- (d) The amount, timing, and mechanism for providing credits, if any, to customers for service they did not receive;
- (e) Alternate means for customers to self-dispose of accumulated solid waste during the service disruption, such as drop box locations or vouchers for customers to use at transfer stations or landfills; and,
- (f) A demonstration that customers who receive service through contracts with cities, municipalities, and other local governmental entities will not receive undue or unreasonable preferential treatment over customers of the company’s service subject to commission regulation.

Example of how to calculate a credit:

Monthly residential service rates are set based on 4.33 services per month. If the company misses one service, the credit is calculated as: .231 (1 missed service divided by 4.33 services per month)

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Docket No. TG- _____ Date: _____ By: _____

Attachment 2

Tariff No. _____

_____ Revised Page No. _____

Company Name/Permit Number:

Registered Trade Name:

multiplied by the monthly rate; provided that the credit for any specific month does not exceed the full rate per month.

Issued by:

Issue date:

Effective date:

(For Official Use Only)

Docket No. TG- _____

Date: _____

By: _____

Attachment 3

Rule	Company	Comment	Staff Response
<p>4. Refusal of service (except as set forth in Item <u>Section 5</u>, Missed service due to unsafe weather conditions or natural disaster.)</p> <p>A solid waste collection company may refuse to:</p> <ol style="list-style-type: none"> Collect solid waste from points where, in the company's judgment, it is hazardous, unsafe, or dangerous to persons, property, or equipment to operate vehicles due to the conditions of streets, alleys, or roads; Drive onto private property when, in the company's judgment, driveways or roads are improperly constructed or maintained, do not have adequate turn-around area, or have other unsafe conditions; or Enter private property to pick up solid waste while an animal the company considers or fears to be dangerous is not confined. The customer will be required to confine the animal on service days. 	<p>Sunshine Disposal and Recycling, John Lloyd via phone.</p> <p>WRRRA, Brad Lovaas, Executive Director</p>	<p>Staff should consider revising "Item 5" to read "Section 5."</p> <p>Not concerned with this section.</p>	<p>Staff agrees.</p> <p>N/A</p>
<p>5. Missed service due to unsafe weather conditions or natural disaster.</p> <p>A company is not required to collect solid waste when the company determines that it is unsafe to operate due to weather conditions, or natural disaster, or where government authorities restrict access to local roads. The company will collect customers' accumulated solid waste on the next scheduled service date on which the company determines it is safe to operate</p> <ol style="list-style-type: none"> The company is not obligated to extend a credit to customers for missed service if the company collects customers' accumulated solid waste on the next scheduled service date on which the company deems it is safe to operate. The company will not charge customers for extra waste set out (except as provided in Item 207, if applicable) in addition to customers' normal receptacle(s) if the amount of extra waste does not exceed the amount that reasonably would be expected to accumulate due to missed service. If the company does not collect customers' accumulated solid waste on the next scheduled service date on which the company determines it is safe to operate, the company is required to give a credit, proportionate to the customers' monthly service charge, to customers for all missed service(s). 	<p>Sunshine Disposal and Recycling, Marc Torre</p> <p>Casey Harrison, UTC regulated customer</p> <p>WRRRA, Brad Lovaas, Executive Director</p>	<p>Request that the following language be added to the end of the first paragraph in the section – or where government authorities restrict access to local roads.</p> <p>The company has no other objects to the proposed Item 30.</p> <p>Would like to receive credits for service not received.</p> <p>Not concerned with this section.</p>	<p>Staff agrees.</p> <p>Staff disagrees.</p> <p>N/A</p>

Rule	Company	Comment	Staff Response
<p>6. Missed service due to a lawful labor strike, sympathy strike, lockout or other labor disruption by the company's employees that results in a work stoppage that prevents or limits a company from collecting solid waste.</p> <p>a. A company is required to provide all normal solid waste collection services in the event of a labor disruption by the company's employees unless the commission has issued an order approving the company's plan for revised operations (operational plan).</p> <p>b. If the commission has issued an order approving a company's operational plan, the company will publish the following in its tariff:</p> <p>The company will implement the operational plan, attached to this tariff as Appendix (enter the letter) approved by the commission in Order (enter the order number), issued in Docket No. (enter the docket number), and dated (enter the date the order was issued).</p>	<p>Casey Harrison, UTC regulated customer</p> <p>WRRRA, Brad Lovaas, Executive Director</p>	<p>Would like to receive credits for service not received.</p> <p>WRRRA is not opposed to companies filing "contingency plans"; however they are concerned that such a plan, if it has no flexibility, may prolong work stoppage rather than contribute to early resolution. Operational plans cannot be a one size fits all. WRRRA is concerned that members may lose bargaining powers by the requirement of filing and approval of an operational plan. WRRRA believes UTC should ensure the proposal does not run afoul of the National Labor Relations Board.</p> <p>Tying any requirements to city contracts would be inappropriate and unwise. A regulated solid waste company's tariff is a very different situation from service by contract and there are no legal or logical reasons to tie them together.</p>	<p>Staff agrees.</p> <p>Staff does not suggest that each company's Operational Plan should be exactly the same. Each company, based on its needs, may craft an Operational Plan to meet its obligations to provide service to its customers during a work stoppage event.</p> <p>Staff agrees. Staff modified the new proposal of the Operational Plan to include a demonstration that customers who receive service through contracts with cities, municipalities, and other local governmental entities will not receive undue or unreasonable preferential treatment over customers of a company subject to UTC regulation.</p>

Rule	Company	Comment	Staff Response
	<p>Waste Management of Washington, Inc., Andrew Kenefick, Senior Legal Counsel</p>	<p>Does not support the requirement for some of the details, particularly the requirement for the "Operational Plan" and the lack of clear standards on how the commission will evaluate these plans.</p> <p>In addition, WM would like clarification on what happens if a company does not have an approved Operational Plan on file with the commission and a strike occurs.</p> <p>WM believes these standards are important in light of the experience over the last few years regarding revenue sharing plans. WM does not wish to embark on another protracted and costly administrative process for developing an operational plan without a clearer understanding of the commission's expectations.</p> <p>WM offers the following suggestions for the commission:</p> <ul style="list-style-type: none"> Item 30 should apply to all labor disruptions, including strikes and lockouts. <p>The term "lawful" is ambiguous. There are work stoppages that can be caused by secondary boycotts, slowdowns, and other concerted actions that the National Labor Relations Board or reviewing courts may later find to be unlawful. Those types of wildcat actions are circumstances beyond a company's control.</p>	<p>There is no requirement for an Operational Plan.</p> <p>The commission will investigate and take the appropriate action.</p> <p>Staff suggests the standards would be considered within the review of a company's Operational Plan.</p> <p>Staff agrees.</p> <p>Staff disagrees. If a strike is unlawful, the company has recourse against its employees.</p>

Rule	Company	Comment	Staff Response
<p>Definitions The following definitions apply for the purpose of this item.</p> <p>"Reasonably would be expected to accumulate due to missed service" means, at a minimum, the amount of solid waste represented by the number of missed service(s) multiplied by the customer's subscribed service level. For example, if the company misses two services for a customer who subscribes to one 96-gallon tote, the amount would be the equivalent of 192 gallons (2 services x 96 gallons subscription per service).</p> <p>"Next scheduled service date" – this date is defined by each customer's subscription service.</p> <p>Example 1: A residential customer subscribes to weekly service that the company schedules for every Wednesday. If the company does not provide service on Wednesday, November 14, the next scheduled service date would be Wednesday, November 21.</p> <p>Example 2: A commercial customer subscribes to daily service. If the company does not provide service on Wednesday, November 14, the next scheduled service date would be Thursday, November 15.</p> <p>"Operational Plan" means a comprehensive action plan to respond to service disruption caused by a labor strike and to restore service to all customers. At a minimum, such a plan must include provisions that address the following: (a) communications with the commission, local governments and customers; (b) prioritized and measurable goals for restoring service by customer class and service area; (c) daily reports provided to the commission containing specific data on the company's efforts and progress toward meeting the service restoration goals; (d) the amount and mechanism for providing credits to customers for service they did not receive; (e) alternate means for customers to dispose of accumulated solid waste during the service disruption, such as drop box locations or vouchers for customers to use at transfer stations or landfills; and (f) the differences between the provisions of the operational plan filed with the commission and comparable plans or agreements the company has with cities, municipalities, and other local governmental entities with which the company contracts to provide solid waste collection service.</p>	<p>Waste Management of Washington, Inc.</p>	<p>Operational Plan definition: WM believes an effective and frequent communication to the commission, local government and its customers is a critical element of mitigating confusion and problems will inevitably arise during any service disruption. WM would like the commission to allow some flexibility in frequency and substance of communication especially during chaotic times preceding and immediately following the beginning of a work stoppage.</p> <p>WM would like the flexibility to add terminology to its operational plan. WM is unclear to what commission staff means when it states, "restoring service by customer class." If it means the classes of service as outlined in our tariff, e.g., residential, commercial, and industrial this will not be the only class during a strike or labor disruption the company must consider. The company has a class of customers that are not defined in a tariff called "critical accounts," i.e., a subset of commercial accounts, hospitals, nursing homes, and daycare centers.</p> <p>What does "service areas" mean? Jurisdictional boundaries? We believe it could it mean efficiencies of access, such as population density and proximity to major freeways which is appropriate in restoring service.</p> <p>Believes subsection (c) daily reports should be relaxed. During work stoppages there are a lot of priorities the company must accomplish. Daily reports would be extremely cumbersome on the company. If the labor strike lasts for longer than three days then it would be appropriate. The company suggests adding regular and frequent reports rather than dictating daily communications. Specific data is not available until after the strike. WM does not have the ability to track customer who receive service and those who do not during a work stoppage.</p> <p>Company suggested language change to section c: (c) A schedule for providing regular daily reports provided to the commission containing specific data on the company's efforts and process toward meeting the service restoration goals.</p> <p>Under section (d), the template lacks clear standards as to what amount and mechanism for providing credits will be approvable in element (d) of the Operational Plan.</p>	<p>Staff agrees that communication is vital during a work stoppage. However, if the company has a plan in place it should not be a chaotic time.</p> <p>Staff agrees that a company could add terminology and definitions to clearly identify the affected customers – such as "critical accounts."</p> <p>Service area means the company's certificated territory.</p> <p>Staff disagrees. It is important for the commission to communicate with its constituents regarding a work stoppage. Staff suggests WM consider implementing a method to track its customers to obtain data on who receives service, and who does not.</p> <p>Staff disagrees with the suggested change.</p> <p>Staff does not propose a defined outcome.</p>

Rule	Company	Comment	Staff Response
<p>Example of how to calculate a credit:</p> <p>Monthly residential service rates are set based on 4.33 services per month. If the company misses one service, the credit is calculated as: $231 \div 4.33$ (missed service divided by 4.33 services per month) multiplied by the monthly rate; provided that the credit for any specific month does not exceed the full rate per month.</p>		<p>Credits</p> <ul style="list-style-type: none"> WM intends to propose in its Operational Plan that customers be issued credits for each service missed after two consecutive regularly-scheduled service misses for customers with weekly and every-other-week service. In other words, for the third missed collection, and thereafter, WM agrees credits are appropriate. For customers with more frequent service WM will offer credits only if WM has failed to restore regular service within 14 days after the disruption began. <p>Disposal fees: Customers credits should be prorated to the "collection service" component of the monthly rate because the hauler will still have to dispose of the extra material. The disposal fee component should be passed through in the final bill.</p> <p>WM request the commission to provide additional guidance and clarification as to what would constitute an acceptable means for calculating customer credits.</p> <p>Section (e) WM believes it should be removed completely and believes it will interfere in operational efficiencies by increasing the number of self-haulers at the transfer stations will delay the garbage trucks from emptying the trucks faster to get out to continue collecting garbage on its route. In addition, adding a temporary drop box location also would be counter productive because it would have to be staffed by WM employee's which are not available during work stoppages.</p> <p>(f) Penalties: WM believes it is inappropriate to have a hauler define in its Operational Plan what the penalties for failure to provide service. If the company is in compliance with its Operational Plan this section is contrary to the underlying approach of the Operational Plan.</p> <p>(g) WM believes this section should be deleted as it is not relevant to regulated territory.</p>	<p>The method to provide credits should be defined within the plan, which the commission will consider when filed.</p> <p>Staff disagrees. Please refer to the "Example of how to calculate a credit" in Item 30.</p> <p>Please refer to "Example of how to calculate a credit" in Item 30.</p> <p>Staff disagrees. The company should have an alternative available for its customers to dispose of accumulated garbage.</p> <p>Staff agrees.</p> <p>Staff agrees. Staff modified the new proposal of the Operational Plan to include a demonstration that customers who receive service through contracts with cities, municipalities, and other local governmental entities will not receive undue or unreasonable preferential treatment over customers of a company subject to UTC regulation.</p>
	Kitsap County, Patricia Campbell	<p>For the most part we concur that the language in the currently revised template addresses the concerns raised earlier. However we have one outstanding concern related to the definition and application of "next scheduled service date." Customers with every-other-week service would wait for four weeks from their missed pickup. The language could be changed to allow these customers to set out their missed can the following week - i.e., the next time the truck is servicing the road.</p>	<p>This may work for "optional" every-other-week customers; however it would not work for "regular" every-other-week customers. Companies would have to be willing to include this in its filed Operational Plan for consideration.</p>

Rule	Company	Comment	Staff Response
	King County	<p>It is unclear in the proposed language whether the operational plan is intended to be a response to a specific impending strike threat, or as a document that provides a response structure generally applicable to potential strikes. We believe it needs to serve both these functions. Operational Plans should be submitted prior to any labor disputes are impending.</p> <p>(f) The county believes that it is probably unrealistic to expect a company to propose its own penalties for failure to provide service. It would be more practical for the UTC staff to develop and propose a penalty structure.</p> <p>Generally support a-d. However, the communication parameters and timing of communications to the public and UTC are obviously important. Some of the other parts of the operational plan appear to be presently unworkable. For example sub e requires the company have an alternate means for disposal of accumulated waste. This will result in traffic congestion at the landfills. Who's to say if the landfill will be picketed as well.</p> <p>Section f penalties for failure to provide service is troubling, as it appears to seek to "liquidate" the commission's jurisdiction for missed service that it already has under statute and rule.</p> <p>Section g is not relevant. The UTC does not regulate contract cities or cities that provide their own garbage collection.</p>	<p>There is no requirement for an Operational Plan. If an Operational Plan is filed and approved it would be used during any work stoppage event.</p> <p>Staff agrees.</p> <p>Staff disagrees. Self haul to the landfill is not the only alternate disposal option.</p> <p>Staff agrees.</p>
Miscellaneous Comments Received.	City of Colville, Eric Durpos, Municipal Services Administrator	These changes seem reasonable.	Staff agrees.
	City of Bothell, Sabrina Combs, Recycling and Public Service Project Administrator	The proposal provides methods for restoring collection or issuing credits for lost services.	Staff agrees.

Attachment G

[Service Date May 29, 2013]

May 29, 2013

**NOTICE OF OPPORTUNITY TO COMMENT
(Due by Friday, June 7, 2013)**

RE: Commission's Tariff Template, Item 30, Limitations of Service
Docket TG-010374

TO ALL INTERESTED PERSONS:

In April 2001, the Washington Utilities and Transportation Commission (Commission) adopted new rules governing the operations of solid waste collection companies in WAC 480-70. Pursuant to WAC 480-70-281, the Commission adopted a standard tariff template in December 2001 that all traditional solid waste collection companies are required to use. Item 30 Limitations of Service (Item 30) in that template governs disruptions to solid waste collection services and missed pick-ups due to inclement weather, road conditions or other events.

The Commission reopened this docket and provided the opportunity for interested persons to file written comments and participate in a workshop to discuss whether and how to revise Item 30. The Commission heard this matter at a special open meeting on May 29, 2013, and held a workshop with stakeholders and members of the public to consider whether to amend Item 30. Commission Staff prepared and provided a draft revised Item 30, a copy of which is attached to this Notice as Attachment A, at the workshop. Before considering this draft for adoption in the standard tariff template, the Commission will provide interested persons an opportunity to provide additional written comments on this proposal.

WRITTEN COMMENTS

Written comments on the draft revised Item 30 must be filed with the Commission no later than **5:00 p.m., Friday, June 7, 2013**. The Commission requests that comments be provided in electronic format to enhance public access, for ease of providing comments, to reduce the need for paper copies, and to facilitate quotations from the comments. You may submit comments via the Commission's Web portal at www.utc.wa.gov/e-filing or

by electronic mail to the Commission's Records Center at records@utc.wa.gov. Please include:

- The docket number of this proceeding (TG-010374).
- The commenting party's name.
- The title and date of the comment or comments.

An alternative method for submitting comments is by mailing or delivering an electronic copy to the Commission's Records Center on a 3 ½ inch, IBM-formatted, high-density disk, in .pdf Adobe Acrobat format or in Word 97 or later. Include all of the information requested above. The Commission will post on its web site all comments that are provided in electronic format. The web site is located at www.utc.wa.gov.

If you are unable to file your comments electronically or to submit them on a disk, the Commission will accept a paper document.

If you have questions regarding this Notice, the draft revised Item 30, or the requested comments, you may contact Penny Ingram, by email at pingram@utc.wa.gov or (360) 664-1242.

STEVEN V. KING
Acting Executive Director and Secretary

Attachment 2

Tariff No. _____

Revised Page No. _____

Company Name/Permit Number:

Registered Trade Name:

Item 30 – Limitations of Service

1. **Schedules.** A company's schedule will meet reasonable requirements and will comply with local service level ordinances.
2. **Due care.** Other than to offer reasonable care, the company assumes no responsibility for articles left on or near solid waste receptacles.
3. **Liability for damage.** When a customer requests that a company provide service and damage occurs to the customer's driveway due to reasons not in the control of the company, the company will assume no responsibility for the damage.
4. **Refusal of service.** (Except as set forth in Section 5. Missed service due to unsafe weather conditions, natural disaster or when government authority restricts access to local roads.)

A solid waste collection company may refuse to:

- ~~Pick up materials~~ Collect solid waste from points where, in the company's judgment, it is hazardous, unsafe, or dangerous to persons, property, or equipment to operate vehicles due to the conditions of streets, alleys, or roads.
 - Drive into private property when, in the company's judgment, driveways or roads are improperly constructed or maintained, do not have adequate turn-arounds, or have other unsafe conditions-; or
 - Enter private property to pick up ~~material~~ solid waste while an animal the company considers or fears considered or feared to be vicious dangerous is loose not confined. The customer will be required to confine the animal on ~~pickup~~ service days.
5. **Missed pickups service due to unsafe weather conditions or road conditions natural disaster or when government authority restricts access to local roads .** A company is not required to collect solid waste when the company determines that it is unsafe to operate Pickup of materials may be missed due to weather, or road conditions natural disaster, or when government authority restricts access to local roads. If the The company will collect accumulated material solid waste (solid waste and/or recyclables, and/or yardwaste) is collected on the next scheduled or available pickup service date, on which the company deems it is safe to operate.

Issued by:

Issue date:

Effective date:

(For Official Use Only)

Docket No. TG- _____

Date: _____

By: _____

Attachment 2

Tariff No. _____

_____ Revised Page No. _____

Company Name/Permit Number:

Registered Trade Name:

- a. The company is not obligated to extend credit to customers for the missed pickup service if the company collects the customers' accumulated solid waste on the next scheduled service date on which the company deems it to be safe to operate. The customer company will not be charged for overfilled extra waste set out (except provided in Item 207, if applicable) in addition to customers' normal receptacle(s), or for materials set out in bags on top of or next to the customer's normal receptacles if the amount of extra material waste does not exceed the amount that would have reasonably would been expected to accumulate due to missed pickups service.
- b. If the company does not collect customers' accumulated solid waste on the next scheduled service date on which the company determines it is safe to operate, the company is required to give a credit, proportionate to the customers' monthly service charge, to customers for all missed service(s).

6. Missed service due to a labor disruption, which causes work stoppages that prevents or limits a company from collecting solid waste.

- a. A company is required to comply with all tariff provisions governing its solid waste collection services in the event of a labor disruption by its employees. A company's tariff may include a plan for revised operations (Operational Plan) governing service when the company experiences such a labor disruption. The Commission must approve any such Operational Plan before it becomes effective.
- b. If the commission has issued an order approving a company's Operational Plan, the company will publish the following in its tariff:

The company will implement the Operational Plan, attached to this tariff as Appendix (enter the letter) approved by the commission in Order (enter the order number), issued in Docket No. (enter the docket number), and dated (enter the date the order was issued).

7. Definitions: The following definitions apply for the purpose of this Item.

"Reasonably would be expected to accumulate due to missed service" means, at a minimum, the amount of solid waste represented by the number of missed service(s) multiplied by the customer's subscribed service level. For example, if the company misses two services for a customer who subscribes to one 96-gallon toter, the amount would be the equivalent of 192 gallons (2 services x 96 gallons subscription per service).

Issued by:

Issue date:

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Docket No. TG- _____

Date: _____

By: _____

Attachment 2

Tariff No. _____

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Company Name/Permit Number:

Registered Trade Name:

“Next scheduled service date” – this date is defined by each customer’s subscription service.

Example 1: A residential customer subscribes to weekly service that the company schedules for every Wednesday. If the company does not provide service on Wednesday, November 14, the next scheduled service date would be Wednesday, November 21.

Example 2: A commercial customer subscribes to daily service. If the company does not provide service on Wednesday, November 14, the next scheduled service date would be Thursday, November 15.

“Operational Plan” means a comprehensive action plan to respond to service disruption caused by a labor disruption and to restore full service to all customers. At a minimum, such a plan must include the following:

- (a) A schedule and methods for communicating with commission regulatory and consumer protection staff, local governments and customers;
- (b) Prioritized and measurable targets for restoring full service by customer class and service area;
- (c) A provision for daily reports to the commission containing specific data on the company’s efforts and progress toward meeting full service requirements;
- (d) The amount, timing, and mechanism for providing credits, if any, to customers for service they did not receive;
- (e) Alternate means for customers to self-dispose of accumulated solid waste during the service disruption, such as drop box locations or vouchers for customers to use at transfer stations or landfills; and,
- (f) A demonstration that customers who receive service through contracts with cities, municipalities, and other local governmental entities will not receive undue or unreasonable preferential treatment over customers of the company’s service subject to commission regulation.

Example of how to calculate a credit:

Monthly residential service rates are set based on 4.33 services per month. If the company misses one service, the credit is calculated as: .231 (1 missed service divided by 4.33 services per month)

Issued by:

Issue date:

Effective date:

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Docket No. TG- _____

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By: _____

Attachment 2

Tariff No. _____

_____ Revised Page No. _____

Company Name/Permit Number:

Registered Trade Name:

multiplied by the monthly rate; provided that the credit for any specific month does not exceed the full rate per month.

Issued by:

Issue date:

Effective date:

(For Official Use Only)

Docket No. TG- _____

Date: _____

By: _____

Attachment H

Agenda Date: June 13, 2013

Item Number: B1

Docket: TG-010374

Issue: Solid Waste Industry – Tariff Item 30, Missed Service

Staff: Gene Eckhardt, Assist. Director Solid Waste/Water/Transportation
Greg Kopta, Director of Administrative Law Judge
Sharon Wallace, Assistant Director of Consumer Protection
Rayne Pearson, Manager of Consumer Protection
John Cupp, Regulatory Analyst
Bob Cedarbaum, Assistant Attorney General
Penny Ingram, Regulatory Analyst

Recommendation

Staff recommends that the commission add a new section 6 to Item 30 to address missed service due to a labor disruption.¹ Staff proposes the rule state that solid waste collection companies must restore service within three business days of the commencement of a labor disruption or incur penalties, among other requirements.

Staff also proposes edits to clarify existing rules and address missed collection service due to natural disaster and government restricting access to local roads.

Background

In April 2001, the Utilities and Transportation Commission (commission) adopted new rules governing the operations of solid waste collection companies in WAC 480-70. In December 2001, the commission adopted and ordered all traditional solid waste collection companies² to use the standard tariff template as required by WAC 480-70-281, Tariffs, format and size requirements. The rule states in part:

¹ On advice of counsel, staff abandoned identifying specific labor disruptions (e.g. lawful strike, sympathy strike, and lockout) because of legal definitions and uncertainty of federal labor law.

² WAC 480-70-041, Definitions: "Traditional solid waste collection company" means a company engaged in collecting and removing solid waste and recyclable materials from private homes, and/or removing solid waste from commercial establishments, industrial facilities, and other sites. Solid waste is normally picked up on a daily, weekly, or other regular basis. Drivers are usually assigned designated routes to collect curbside residential solid waste or transport cans or containers for commercial businesses. Unless the company's certificate is restricted against doing so, a traditional solid waste collection company may also perform specialized solid waste collection service.

“A company must file tariffs meeting the following criteria: (1) Tariffs must be on forms available from the commission or on comparable forms approved by the commission ...”

Item 30, Limitations of Service, governs interruptions to solid waste collection service, including: Schedules; Due care; Liability for damage; Refusal of service; and Missed solid waste service due to weather or road condition shown in Attachment 1. Currently, there are no provisions for missed solid waste service due to a labor disruption.

On May 18, 2012, the commission notified solid waste collection companies that they could not rely on Item 30 provisions missed services caused by labor disruptions. The letter advised the companies to file tariff revisions to address strike-related solid waste service interruptions. RCW 81.28.080 prohibits every solid waste collection company subject to regulation by the commission from charging, demanding, collecting, or receiving greater, less or different compensation as specified in its schedules filed and in effect at the time.

On June 6, 2012, Waste Management of Washington, Inc. (Waste Management), d/b/a Waste Management of the Northwest, Waste Management of Seattle and South Sound, and Waste Management of Sno-King, filed tariff revisions with the commission. The proposed filings add language regarding missed service due to a labor disruption to Item 30 in its three tariffs.³

On July 25, 2012, Waste Management employees went on strike. That same day, Waste Management filed a request that the commission consider and approve its pending tariff revisions at the July 27, 2012, open meeting. The commission discussed the pending tariffs at the July 27 open meeting, but took no action on Waste Management's request.

On August 9, 2012, the commission held a special open meeting in Woodinville to discuss Waste Management's response to the strike and to hear from the public how the strike impacted customers.

On August 17, 2012, Rabanco LTD and Fiorito Enterprises, Inc. (Rabanco)⁴, filed tariff revisions⁵ with the commission. The proposed filings add language regarding missed solid waste service due to a labor disruption, to Item 30 - Limitations of Service, in five separate tariffs. The proposed language was slightly different than the language filed by Waste Management in June 2012.

³ Waste Management of Northwest provides regulated solid waste collection service to approximately 85,000 customers in Snohomish County. Waste Management of Seattle and South Sound provides solid waste collection services to approximately 20,000 customers in King County. Waste Management of Sno-King provides regulated solid waste collection service to approximately 22,000 customers in King County.

⁴ Rabanco provides solid waste collection services in King, Klickitat, Skamania, Snohomish, and Yakima counties and provides service to approximately 62,000 customers.

⁵ Rabanco LTD and Fiorito Enterprises, Inc., currently suspended dockets are TG-121366, TG-121367, TG-121369, TG-121370, and TG-121371.

On August 21, 2012, Waste Management asked the commission to "...approve, on a temporary basis, the Company's proposed methodology for handling missed collections, while at the same time refraining from an approval about the tariff language itself."⁶

On August 30, 2012, staff asked the commission to reopen Item 30 in the standard tariff so that staff could work with all stakeholders to incorporate language for missed service collection in general. The commission granted staff's request.

On September 8, 2012, lightning storms ignited more than 100 fires in Kittitas and Yakima counties. Approximately 63 customers lost solid waste collection service. It took more than a month for firefighters to contain the fires. The current Item 30 does not cover natural disasters.

On October 25, 2012, the commission held a workshop with stakeholders to discuss proposed amendments to Item 30. After hearing from stakeholders, the commission, on March 12, 2013, issued a notice and opportunity to comment on proposed amendments to Item 30.

On April 17, 2013, Rabanco experienced a one-day sympathy strike⁷ in the service area surrounding the cities of Tukwila, SeaTac, Kent and Lynnwood. Approximately 10,300 customers did not receive solid waste service. The commission received five complaints from consumers for missed solid waste service and for not receiving credit for the missed service.

On April 23, 2013, the commission issued a Complaint in Docket TG-121265 alleging Waste Management violated statutes and rules during and immediately following a labor strike from July 25, 2012, through August 2, 2012. The commission has scheduled a prehearing conference for June 6, 2013.

Proposed Changes to Item 30

Staff reorganized and proposed changes to Item 30 as follows:

1. **Schedules:** (NO CHANGE.)
2. **Due care:** (NO CHANGE.)
3. **Liability for damage:** (NO CHANGE.)
4. **Refusal of service:** (REVISED)
 - Clarified that this section does not apply to "Missed service due to unsafe weather conditions, natural disaster, or where government authority restricts access to local roads," which is addressed in Section 5.
 - Clarified that decisions not to provide service are based on the carrier's judgment.

⁶ Waste Management's currently suspended dockets are TG-120840, TG-120842, and TG-120843.

⁷ The actual labor action originated in Ohio.

5. **Missed service due to unsafe weather conditions, natural disaster, or where government authority restricts access to local roads:** (REVISED)

- Added language to extend this rule to missed service caused by natural disasters and situations where government authority restricts access to local roads.
- Adds part (b) that the company is required to give a credit if it does not collect customers' accumulated solid waste on the next scheduled service date on which the company determines it is safe to operate.

6. **Missed service due to a labor disruption, which causes work stoppages that prevents or limits a company from collecting solid waste:** (NEW SECTION)

In the event of a labor disruption, a company must:

- Immediately inform the commission's regulatory services and consumer protection staff when a labor disruption is imminent.
- Provide daily reports to the commission regarding the company's progress toward meeting full service requirements.
- Develop and implement a customer outreach plan regarding the labor disruption, what to expect, and how to contact the commission.
- Provide the commission's regulatory services and consumer protection staff with a copy of the customer outreach plan.
- Provide a schedule and plan for communicating with local governments and the media.
- Restore service to all customers within three business days, beginning the first day of the labor disruption. Service missed after three business days is subject to enforcement action, including penalties.
- Collect, at no additional charge, all accumulated solid waste at the customer's next scheduled service date, or within seven days from the date service is restored, whichever is sooner. Missed services will not result in a customer overcharge.
- After the first three business days of a labor disruption, if the company does not collect a customer's accumulated solid waste on the next, or subsequent, scheduled service date, the company is required to give a credit, proportionate to the customer's monthly service charge, for all missed services, and must also collect all accumulated solid waste at no additional charge.

Summary of Stakeholder Comments

For the most part, stakeholders supported the original proposed Item 30, but expressed doubts about the Operational Plan. Stakeholder comments and staff responses are summarized in Attachment 3. After several drafts and a workshop, Staff ultimately agreed with many of the stakeholder comments, and incorporated them into the revised proposed rule, Attachment 2.

Attachments:

1. Item 30 – Current Tariff Page.
2. Item 30 - Redline Version Showing Proposed Changes.
3. Stakeholder Comment Summary and Staff's Responses.

Attachment 1

Tariff No. _____

_____ Revised Page No. _____

Company Name/Permit Number:

Registered Trade Name:

Item 30 – Limitations of Service

Refusal of service. A solid waste collection company may refuse to:

- Pick up materials from points where it is hazardous, unsafe, or dangerous to persons, property, or equipment to operate vehicles due to the conditions of streets, alleys, or roads.
- Drive into private property when, in the company's judgment, driveways or roads are improperly constructed or maintained, do not have adequate turn-arounds, or have other unsafe conditions.
- Enter private property to pick up material while an animal considered or feared to be vicious is loose. The customer will be required to confine the animal on pickup days.

Schedules. A company's schedule will meet reasonable requirements and will comply with local service level ordinances.

Missed pickups due to weather or road conditions. Pickup of materials may be missed due to weather or road conditions. If the accumulated material (solid waste and/or recyclables, and/or yardwaste) is collected on the next scheduled or available pickup date, the company is not obligated to extend credit for the missed pickup. The customer will not be charged for overfilled receptacles, or for materials set out in bags on top of or next to the customer's normal receptacles if the amount of extra material does not exceed the amount that would have reasonably been expected to accumulate due to missed pickups.

Due care. Other than to offer reasonable care, the company assumes no responsibility for articles left on or near solid waste receptacles.

Liability for damage. When a customer requests that a company provide service and damage occurs to the customer's driveway due to reasons not in the control of the company, the company will assume no responsibility for the damage.

Issued by:

Issue date:

Effective date:

(For Official Use Only)

Docket No. TG- _____ Date: _____ By: _____

Attachment 2 – Revised Version

Tariff No. _____

Revised Page No. _____

Company Name/Permit Number:

Registered Trade Name:

Item 30 – Limitations of Service

1. **Schedules.** A company's schedule will meet reasonable requirements and will comply with local service level ordinances.
2. **Due care.** Other than to offer reasonable care, the company assumes no responsibility for articles left on or near solid waste receptacles.
3. **Liability for damage.** When a customer requests that a company provide service and damage occurs to the customer's driveway due to reasons not in the control of the company, the company will assume no responsibility for the damage.
4. **Refusal of service.** (Except as set forth in Section 5, Missed service due to unsafe weather conditions, road conditions, natural disaster or when government authority restricts access to local roads.)

A solid waste collection company may refuse to:

- ~~Pick up materials~~ Collect solid waste from points where, in the company's judgment, it is hazardous, unsafe, or dangerous to persons, property, or equipment to operate vehicles due to the conditions of streets, alleys, or roads.
 - Drive into private property when, in the company's judgment, driveways or roads are improperly constructed or maintained, do not have adequate turn-arounds, or have other unsafe conditions; or
 - Enter private property to pick up ~~material~~ solid waste while an animal the company considers or fears considered or feared to be vicious dangerous is loose not confined. The customer will be required to confine the animal on pickup service days.
5. **Missed pickups service due to unsafe weather conditions, or road conditions, natural disaster or when government authority restricts access to local roads.** A company is not required to collect solid waste when the company determines that it is unsafe to operate. Pickup of materials may be missed due to weather conditions, or road conditions, natural disaster, or when government authority restricts access to local roads. If the The company will collect accumulated material solid waste (solid waste and/or recyclables, and/or yardwaste) is collected on the next scheduled or available pickup service date, on which the company deems it is safe to operate.

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- a. The company is not obligated to extend credit to customers for the missed pickup service if the company collects the customers' accumulated solid waste on the next scheduled service date on which the company deems it to be safe to operate. The customer company will not be charged for overfilled extra waste set out (except provided in Item 207, if applicable) in addition to customers' normal receptacle(s), or for materials set out in bags on top of or next to the customer's normal receptacles if the amount of extra material waste does not exceed the amount that would have reasonably would been expected to accumulate due to missed pickups service.
- b. If the company does not collect a customer's accumulated solid waste on the next scheduled service date on which the company determines it is safe to operate, the company is required to give a credit, proportionate to the customer's monthly service charge, for all missed service(s).

6. Missed service due to a labor disruption, which causes work stoppages that prevent or limit a company from collecting solid waste. A company must:

- a. Immediately inform the commission's regulatory services and consumer protection staff when a labor disruption is imminent by email at: servicedisruption@utc.wa.gov. *Please use this email for all communications regarding the labor disruption.*
- b. Provide daily email reports to the commission regarding the company's progress toward meeting full service requirements.
- c. Develop and implement a customer outreach plan regarding the labor disruption, what to expect, and how to contact the commission.
- d. Provide the commission's regulatory services and consumer protection staff with a copy of the customer outreach plan by email.
- e. Provide an email that includes a schedule and plan for communicating with local governments and the media.
- f. Resume service to all customers within three business days, beginning the from the day first day of the labor disruption begins. Service missed after three business days is subject to enforcement action, including penalties.
- g. Collect, at no additional charge, all accumulated solid waste at the customer's next scheduled service date, or within seven days service is required to be from the date service is from the date service is required to be restored resumed, whichever is sooner. Missed services will not result in a customer overcharge.
- h. After the first three business days of a labor disruption, if the company does not collect a customer's accumulated solid waste on the next, or subsequent, scheduled service date, the

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Company Name/Permit Number:

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company is required to give a credit, proportionate to the customer's monthly service charge, for all missed services, and must also collect all accumulated solid waste at no additional charge.

- i. When a labor dispute has been settled, notify regulatory services and consumer protection staff by email, and indicated when service is anticipated to resume.

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Attachment 3

Rule	Company	Comment	Staff Response
<p>4. Refusal of service (except as set forth in Item Section 5, Missed service due to unsafe weather conditions or natural disaster.)</p> <p>A solid waste collection company may refuse to:</p> <ol style="list-style-type: none"> Collect solid waste from points where, in the company's judgment, it is hazardous, unsafe, or dangerous to persons, property, or equipment to operate vehicles due to the conditions of streets, alleys, or road; Drive onto private property when, in the company's judgment, driveways or roads are improperly constructed or maintained, do not have adequate turn-around area, or have other unsafe conditions; or Enter private property to pick up solid waste while an animal the company considers or fears to be dangerous is not confined. The customer will be required to confine the animal on service days. 	<p>Sunshine Disposal and Recycling, John Lloyd via phone.</p> <p>WRRRA, Brad Lovaaas, Executive Director</p>	<p>Staff should consider revising "Item 5" to read "Section 5."</p> <p>Not concerned with this section.</p>	<p>Staff agrees.</p> <p>N/A</p>
<p>5. Missed service due to unsafe weather conditions or natural disaster.</p> <p>A company is not required to collect solid waste when the company determines that it is unsafe to operate due to weather conditions, or natural disaster, or where government authorities restrict access to local roads. The company will collect customers' accumulated solid waste on the next scheduled service date on which the company determines it is safe to operate</p> <ol style="list-style-type: none"> The company is not obligated to extend a credit to customers for missed service if the company collects customers' accumulated solid waste on the next scheduled service date on which the company deems it is safe to operate. The company will not charge customers for extra waste set out (except as provided in Item 207, if applicable) in addition to customers' normal receptacle(s) if the amount of extra waste does not exceed the amount that reasonably would be expected to accumulate due to missed service. If the company does not collect customers' accumulated solid waste on the next scheduled service date on which the company determines it is safe to operate, the company is required to give a credit, proportionate to the customers' monthly service charge, to customers for all missed service(s). 	<p>Sunshine Disposal and Recycling, Marc Torre</p> <p>Casey Harrison, UTC regulated customer</p> <p>WRRRA, Brad Lovaaas, Executive Director</p>	<p>Request that the following language to be added to the end of the first paragraph in the section – or where government authorities restrict access to local roads.</p> <p>The company has no other objects to the proposed item 30.</p> <p>Would like to receive credits for service not received.</p> <p>Not concerned with this section.</p>	<p>Staff agrees.</p> <p>Staff disagrees.</p> <p>N/A</p>

Rule	Company	Comment	Staff Response
<p>6. Missed service due to a lawful labor strike, sympathy strike, lockout or other labor disruption by the company's employees that results in a work stoppage that prevents or limits a company from collecting solid waste.</p> <p>a. A company is required to provide all normal solid waste collection services in the event of a labor disruption by the company's employees unless the commission has issued an order approving the company's plan for revised operations (operational plan).</p> <p>b. If the commission has issued an order approving a company's operational plan, the company will publish the following in its tariff:</p> <p>The company will implement the operational plan, attached to this tariff as Appendix (enter the letter) approved by the commission in Order (enter the order number), issued in Docket No. (enter the docket number), and dated (enter the date the order was issued).</p>	<p>Casey Harrison, UTC regulated customer</p>	<p>Would like to receive credits for service not received.</p>	<p>Staff agrees.</p>
	<p>WRRRA, Brad Lovaas, Executive Director</p>	<p>WRRRA is not opposed to companies filing "contingency plans", however they are concerned that such a plan, if it has no flexibility, may prolong work stoppage rather than contribute to early resolution. Operational plans cannot be a one size fits all. WRRRA is concerned that members may lose bargaining powers by the requirement of filing and approval of an operational plan. WRRRA believes UTC should ensure the proposal does not run afoul of the National Labor Relations Board.</p> <p>Tying any requirements to city contracts would be inappropriate and unwise. A regulated solid waste company's tariff is a very different situation from service by contract and there are no legal or logical reasons to tie them together.</p>	<p>Staff decided that operational plans are too cumbersome, and removed them from the Rule. Staff agrees. This section has been removed.</p>

Rule	Company	Comment	Staff Response
	<p>Waste Management of Washington, Inc., Andrew Kenefick, Senior Legal Counsel</p>	<p>Does not support the requirement for some of the details, particularly the requirement for the "Operational Plan" and the lack of clear standards on how the commission will evaluate these plans.</p> <p>In addition, WM would like clarification on what happens if a company does not have an approved Operational Plan on file with the commission and a strike occurs.</p> <p>WM believes these standards are important in light of the experience over the last few years regarding revenue sharing plans. WM does not wish to embark on another protracted and costly administrative process for developing an operational plan without a clearer understanding of the commission's expectations.</p> <p>WM offers the following suggestions for the commission:</p> <ul style="list-style-type: none"> Item 30 should apply to all labor disruptions, including strikes and lockouts. 	<p>The Operational Plan provision has been removed.</p> <p>The Operational Plan provision has been removed.</p> <p>The Operational Plan provision has been removed.</p> <p>Staff agrees.</p>
	<p>Rabanco LTD, Mike Huyckle, Area President</p>	<p>The term "lawful" is ambiguous. There are work stoppages that can be caused by secondary boycotts, slowdowns, and other concerted actions that the National Labor Relations Board or reviewing courts may later find to be unlawful. Those types of wildcat actions are circumstances beyond a company's control.</p>	<p>Staff disagrees. If a strike is unlawful, the company has recourse against its employees.</p>

Rule	Company	Comment	Staff Response
<p>Definitions</p> <p>The following definitions apply for the purpose of this item.</p> <p>"Reasonably would be expected to accumulate due to missed service" means, at a minimum, the amount of solid waste represented by the number of missed service(s) multiplied by the customer's subscribed service level. For example, if the company misses two services for a customer who subscribes to one 96-gallon tote, the amount would be the equivalent of 192 gallons (2 services x 96 gallons subscription per service).</p> <p>"Next scheduled service date" – this date is defined by each customer's subscription service.</p> <p>Example 1: A residential customer subscribes to weekly service that the company schedules for every Wednesday. If the company does not provide service on Wednesday, November 14, the next scheduled service date would be Wednesday, November 21.</p> <p>Example 2: A commercial customer subscribes to daily service. If the company does not provide service on Wednesday, November 14, the next scheduled service date would be Thursday, November 15.</p> <p>"Operational Plan" means a comprehensive action plan to respond to service disruption caused by a labor strike and to restore service to all customers. At a minimum, such a plan must include provisions that address the following: (a) communications with the commission, local governments and customers; (b) prioritized and measurable goals for restoring service by customer class and service area; (c) daily reports provided to the commission containing specific data on the company's efforts and progress toward meeting the service restoration goals; (d) the amount and mechanism for providing credits to customers for service they did not receive; (e) alternate means for customers to dispose of accumulated solid waste during the service disruption, such as drop box locations or vouchers for customers to use at transfer stations or landfills; and (f) the differences between the provisions of the operational plan filed with the commission and comparable plans or agreements the company has with cities, municipalities, and other local governmental entities with which the company contracts to provide solid waste collection service.</p>	<p>Waste Management of Washington, Inc.</p>	<p>Operational Plan definition: WM believes an effective and frequent communication to the commission, local government and its customers is a critical element of mitigating confusion and problems will inevitably arise during any service disruption. WM would like the commission to allow some flexibility in frequency and substance of communication especially during chaotic times preceding and immediately following the beginning of a work stoppage.</p> <p>WM would like the flexibility to add terminology to its operational plan. WM is unclear to what commission staff means when it states, "restoring service by customer class." If it means the classes of service as outlined in our tariff, e.g., residential, commercial, and industrial this will not be the only class during a strike or labor disruption the company must consider. The company has a class of customers that are not defined in a tariff called "critical accounts," i.e., a subset of commercial accounts, hospitals, nursing homes, and daycare centers.</p> <p>What does "service areas" mean? Jurisdictional boundaries? We believe it could it mean efficiencies of access, such as population density and proximity to major freeways which is appropriate in restoring service.</p> <p>Believes subsection (c) daily reports should be relaxed. During work stoppages there are a lot of priorities the company must accomplish. Daily reports would be extremely cumbersome on the company. If the labor strike lasts for longer than three days then it would be appropriate. The company suggests adding regular and frequent reports rather than dictating daily communications. Specific data is not available until after the strike. WM does not have the ability to track customer who receive service and those who do not during a work stoppage.</p> <p>Company suggested language change to section c:</p> <p>(c) A schedule for providing regular daily reports provided to the commission containing specific data on the company's efforts and process toward meeting the service restoration goals.</p> <p>Under section (d), the template lacks clear standards as to what amount and mechanism for providing credits will be approvable in element (d) of the Operational Plan.</p>	<p>Staff agrees that communication is vital during a work stoppage. However, if the company has a plan in place it should not be a chaotic time.</p> <p>The Operational Plan provision has been removed.</p> <p>Service area means the company's certificated territory.</p> <p>Staff disagrees. It is important for the commission to communicate with its constituents regarding a work stoppage. Staff suggests WM consider implementing a method to track its customers to obtain data on who receives service, and who does not.</p> <p>Staff disagrees with the suggested change.</p> <p>The Operational Plan provision has been removed.</p>

Rule	Company	Comment	Staff Response
<p>Example of how to calculate a credit:</p> <p>Monthly residential service rates are set based on 4.33 services per month. If the company misses one service, the credit is calculated as: .231 (1 missed service divided by 4.33 services per month) multiplied by the monthly rate; provided that the credit for any specific month does not exceed the full rate per month.</p>		<p>Credits</p> <ul style="list-style-type: none"> WM intends to propose in its Operational Plan that customers be issued credits for each service missed after two consecutive regularly-scheduled service misses for customers with weekly and every-other-week service. In other words, for the third missed collection, and thereafter, WM agrees credits are appropriate. For customers with more frequent service WM will offer credits only if WM has failed to restore regular service within 14 days after the disruption began. <p>Disposal fees: Customers credits should be prorated to the "collection service" component of the monthly rate because the hauler will still have to dispose of the extra material. The disposal fee component should be passed through in the final bill.</p> <p>WM request the commission to provide additional guidance and clarification as to what would constitute and acceptable means for calculating customer credits.</p> <p>Section (e) WM believes it should be removed completely and believes it will interfere in operational efficiencies by increasing the number of self-haulers at the transfer stations will delay the garbage trucks from emptying the trucks faster to get out to continue collecting garbage on its route. In addition, adding a temporary drop box location also would be counter productive because it would have to be staffed by WM employees which are not available during work stoppages.</p> <p>(f) Penalties: WM believes it is inappropriate to have a hauler define in its Operational Plan what the penalties for failure to provide service. If the company is in compliance with its Operational Plan this section is contrary to the underlying approach of the Operational Plan.</p> <p>(g) WM believes this section should be deleted as it is not relevant to regulated territory.</p>	<p>The Operational Plan provision has been removed.</p>
			<p>The automatic credit provision has been removed.</p>
			<p>The automatic credit provision has been removed.</p>
			<p>This section has been removed.</p>
			<p>The Operational Plan provision has been removed.</p>
			<p>This section has been removed.</p>
			<p>The Operational Plan provision has been removed.</p>
			<p>This section has been removed.</p>
	<p>Kitsap County, Patricia Campbell</p>		<p>Staff agrees, and has added a provision that requires a company to "collect all accumulated waste at the customer's next scheduled pickup, or within seven days from the time service is restored, whichever is sooner."</p>

Rule	Company	Comment	Staff Response
	King County	<p>It is unclear in the proposed language whether the operational plan is intended to be a response to a specific impending strike threat, or as a document that provides a response structure generally applicable to potential strikes. We believe it needs to serve both these functions. Operational Plans should be submitted prior to any labor disputes are impending.</p> <p>(f) The county believes that it is probably unrealistic to expect a company to propose its own penalties for failure to provide service. It would be more practical for the UTC staff to develop and propose a penalty structure.</p> <p>Generally support a-d. However, the communication parameters and timing of communications to the public and UTC are obviously important. Some of the other parts of the operational plan appear to be presently unworkable. For example sub e requires the company have an alternate means for disposal of accumulated waste. This will result in traffic congestion at the landfills. Who's to say if the landfill will be picketed as well.</p> <p>Section f penalties for failure to provide service is troubling, as it appears to seek to "liquidate" the commission's jurisdiction for missed service that it already has under statute and rule.</p> <p>Section g is not relevant. The UTC does not regulate contract cities or cities that provide their own garbage collection.</p>	<p>The Operational Plan provision has been removed.</p> <p>Staff agrees. The Operational Plan provision has been removed.</p> <p>The "self-haul" provision has been removed.</p> <p>This section has been removed.</p> <p>This section has been removed.</p>
Miscellaneous Comments Received.	<p>City of Colville, Eric Durpos, Municipal Services Administrator</p> <p>City of Bothell, Sabrina Combs, Recycling and Public Service Project Administrator</p> <p>City of Pend Oreille, Beth Gillespie, County Public Works Solid Waste Coordinator</p>	<p>These changes seem reasonable.</p> <p>The proposal provides methods for restoring collection or issuing credits for lost services.</p> <p>Pend Oreille Solid Waste Division is in agreement with the draft wording. We fully support the draft revisions and recommend its adoption.</p>	<p>Staff agrees.</p> <p>Staff agrees.</p> <p>Additional changes have been made to the draft.</p>

Attachment I

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of	)	DOCKET TG-010374
)	
REVISIONS TO ITEM 30 OF THE	)	ORDER 02
STANDARD TARIFF TEMPLATE)	
FOR SOLID WASTE COLLECTION	)	ORDER REVISING ITEM 30 OF
COMPANIES REQUIRED BY WAC	)	STANDARD SOLID WASTE TARIFF
480-70-281	)	TEMPLATE
.....)	

BACKGROUND

- 1 On December 28, 2001, the Washington Utilities and Transportation Commission (Commission) issued an order adopting a solid waste collection tariff template (Tariff Template). In that order, the Commission required that traditional solid waste collection companies¹ convert their existing tariffs to the new Tariff Template, and to use the Tariff Template for all future filings. The purpose of the Tariff Template was to “ensure that all company tariffs are consistent with current rules, will be less confusing to customers, and will facilitate development of a system to deliver rate information to consumers via the Commission’s internet page.”²

- 2 On August 30, 2012, at its regularly scheduled open meeting, the Commission voted to reopen this docket and consider whether Item 30 of the Tariff Template’s (Item 30) provisions regarding missed collection service should be revised.

- 3 On June 10, 2013, Staff proposed changes to the Tariff Template for service interruption because of unsafe weather conditions, road conditions, natural disasters, or when government authority restricts access to local roads. The proposed revision of Item 30 is attached hereto, in redline format, as Exhibit 1.

¹ RCW 480-70-041 "Traditional solid waste collection company" means a company engaged in collecting and removing solid waste and recyclable materials from private homes, and/or removing solid waste from commercial establishments, industrial facilities, and other sites. Solid waste is normally picked up on a daily, weekly, or other regular basis. Drivers are usually assigned designated routes to collect curbside residential solid waste or transport cans or containers for commercial businesses. Unless the company's certificate is restricted against doing so, a traditional solid waste collection company may also perform specialized solid waste collection service.

² *Order Adopting Standard Tariff Template and Directing Companies to File Using Template*, Docket TG-010374, at 1, ¶ 3.

DISCUSSION

- 4 Commission Staff explains that existing Item 30 contains no provisions or remedies for service disruptions due to natural disasters. As it now stands, Item 30 allows solid waste collection companies to refuse service when collection points are hazardous or unsafe, are inadequately constructed or maintained, or when a worker believes that an animal near the collection site is dangerous and the animal is not confined. Item 30 also provides only limited procedures for service missed because of inclement weather or hazardous road conditions. Staff's proposal gives collection companies the discretion to determine whether it is safe for them to operate in the case of unusual weather or road conditions, natural disasters, or government-restricted access to roads. The Commission agrees with Staff that the companies are in the best position to make real-time determinations regarding safe access to collection points. The companies must then pick up waste at the next scheduled service date and not charge for extra service if the accumulated waste does not exceed the amount ordinarily put out for the entire period.
- 5 Staff recommends that the Tariff Template, with revised Item 30, be adopted by all traditional solid waste collection companies, and that the companies make a tariff filing with the Commission incorporating revised Item 30.
- 6 The Commission agrees with Staff's recommendations regarding the revision of Item 30. Staff and stakeholders have had extensive opportunities to collaborate and balance the needs of the companies in unexpected, unusual circumstances with the needs of the public for timely collection of solid waste. The resulting proposed Tariff Template revisions are the thoughtful expression of the many meetings Staff and stakeholders have held and Staff's careful consideration of filed comments.
- 7 Since the proposed Tariff Template revision appears to be fair, just, reasonable, and sufficient, the Commission will approve it.

FINDINGS AND CONCLUSIONS

- 8 (1) The Washington Utilities and Transportation Commission is an agency of the state of Washington vested by statute with the authority to regulate the rates, regulations, practices, accounts, and affiliated interests of public service companies, including traditional solid waste companies. RCW 80.01.040, RCW 81.04.210, RCW 81.28.230 and RCW 81.77.030.

- 9 (2) All traditional solid waste collection companies are subject to Commission jurisdiction under RCW 81.77.
- 10 (3) This matter came before the Commission at its regularly scheduled meeting on July 26, 2013.
- 11 (4) After reviewing Commission Staff's proposed revised Item 30, Limitations of Service, presented at the July 26, 2013 open meeting in this docket and giving due consideration to all relevant matters and for good cause shown, the Commission finds the proposed tariff revision should become effective July 27, 2013.

ORDER

THE COMMISSION ORDERS:

- 12 (1) Tariff Template Item 30, Limitations of Service, set forth in Exhibit 1 to this order, is hereby APPROVED.
- 13 (2) All traditional solid waste collection companies shall make a tariff filing, to become effective no later than November 1, 2013, that includes the approved Tariff Template Item 30, Limitations of Service, language. The Tariff Template will be available on the Commission's website.
- 14 (3) The Commission Secretary is authorized to accept by letter, with copies to all parties to this proceeding, a filing that complies with the requirements of this Final Order.

The Commissioners, having determined this Order to be consistent with the public interest, directed the Secretary to enter this Order.

DATED at Olympia, Washington, and effective July 26, 2013.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

STEVEN V. KING, Executive Director and Secretary

Tariff No. _____

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Company Name/Permit Number:

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Item 30 – Limitations of Service

1. **Schedules.** A company's schedule will meet reasonable requirements and will comply with local service level ordinances.
2. **Due care.** Other than to offer reasonable care, the company assumes no responsibility for articles left on or near solid waste receptacles.
3. **Liability for damage.** When a customer requests that a company provide service and damage occurs to the customer's driveway due to reasons not in the control of the company, the company will assume no responsibility for the damage.
4. **Refusal of service.** (Except as set forth in Section 5, Missed service due to unsafe weather conditions road conditions, natural disaster or when government authority restricts access to local roads.)

A solid waste collection company may refuse to:

- Collect solid waste from points where it is hazardous, unsafe, or dangerous to persons, property, or equipment to operate vehicles due to the conditions of streets, alleys, or roads.
- Drive into private property when, in the company's judgment, driveways or roads are improperly constructed or maintained, do not have adequate turn-arounds, or have other unsafe conditions; or
- Enter private property to pick up solid waste while an animal considered or feared to be dangerous is not confined. The customer will be required to confine the animal on service days.

5. **Missed service due to unsafe weather conditions, road conditions, natural disaster or when government authority restricts access to local roads.** A company is not required to collect solid waste when the company determines that it is unsafe to operate due to weather conditions, road conditions, natural disaster, or when government authority restricts access to local roads. The company will collect on the next scheduled service date on which the company deems it is safe to operate, and will take other reasonable actions to resume or provide alternative service as soon as reasonably practicable.

- a. The company is not obligated to extend credit to customers for missed service if the company collects the customers' accumulated solid waste on the next scheduled service date on which the company deems it to be safe to operate. The company will not charge for extra waste set out

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Exhibit 1 TG-010374

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(except provided in Item 207, if applicable) in addition to customers' normal receptacle(s), if the amount of extra waste does not exceed the amount that reasonably would be expected to accumulate due to missed service.

- b. If the company does not collect a customer's accumulated solid waste on the next scheduled service date on which the company determines it is safe to operate, the company is required to give a credit, proportionate to the customer's monthly service charge, for all missed service(s).

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