



## I. INTRODUCTION

1 This Narrative Supporting Settlement Agreement (Narrative) is filed pursuant to WAC  
480-07-740(2)(a) on behalf of all respondents (collectively "Rabanco") and the Staff of  
the Washington Utilities and Transportation Commission. All parties have signed the  
Settlement Agreement, which is included with this Narrative. This Narrative summarizes  
the Settlement Agreement. It is not intended to modify any terms of the Settlement  
Agreement.

## II. PROPOSED REVIEW PROCEDURE AND EFFECTIVE DATE

2 The parties suggest that this matter is less complex than a general rate case, and request  
that review proceed under the rule governing less complex matters, WAC  
480-07-740(1)(b), with the acknowledgement of an abbreviated review period as noted in  
the accompanying motion. To the knowledge of the parties, there are no opponents of  
this settlement.

3 This matter is related to tariffs that are awaiting Commission approval in Dockets  
TG-121059, TG-121060, and TG-121061. The parties request an effective date of  
August 1, 2012, in order to allow the tariffs filed in those dockets to take effect on that  
date.

## III. SCOPE OF THE UNDERLYING DISPUTE

4 RCW 81.77.185 directs the Commission to allow solid waste collection companies to  
retain up to fifty percent of the revenue they receive from the sale of recyclable materials,  
if certain conditions are met. The remaining revenue is to be passed to residential  
customers.

5 In Order 03 in Docket TG-101224, the Commission authorized Rabanco Ltd., d/b/a

Lynnwood Disposal (“Lynnwood”) to retain fifty percent of the revenue it received from the sale of recyclable materials during the period of September 1, 2010 to December 31, 2011.<sup>1</sup> In Order 01 in Docket TG-101857, the Commission authorized Rabanco Ltd., d/b/a Allied Waste Services of Kent, Rabanco Companies and Sea-Tac Disposal (“Sea-Tac”) to retain fifty percent of the revenue it received from the sale of recyclable materials during the period of September 1, 2010 to December 31, 2011.<sup>2</sup> In Order 01 in Docket TG-101858, the Commission authorized Rabanco Ltd., d/b/a Eastside Disposal, Container Hauling, Rabanco Connections, and Rabanco Companies (“Eastside”) to retain fifty percent of the revenue it received from the sale of recyclable materials during the period of September 1, 2010 to December 31, 2011.<sup>3</sup> All three orders directed that unspent retained revenues “are to be carried over to the following year, unless some other treatment as may be ordered by the Commission.”<sup>4</sup>

6 In May 2011, the Commission ruled in another case that RCW 81.77.185 does not authorize the Commission to require a solid waste collection company to carry over to a subsequent plan period the retained revenue from the sale of recyclable materials that the company does not spend on recycling activities within a given plan period. The Commission further ruled that RCW 81.77.185 does not require a company to spend all

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<sup>1</sup> *In re Rabanco Ltd., DBA Lynnwood Disposal, G-12, Docket TG-101224, Order 03 (Dec. 30, 2010).*

<sup>2</sup> *In re Rabanco Ltd., DBA Allied Waste Services of Kent, Rabanco Companies and Sea-Tac Disposal, G-12, Docket TG-101857, Order 01 (Dec. 30, 2010).*

<sup>3</sup> *In re Rabanco Ltd., DBA Eastside Disposal Container Hauling, Rabanco Connections and Rabanco Companies, G-12, Docket TG-101858, Order 01 (Dec. 30, 2010).*

<sup>4</sup> Docket TG-101224, Order 03 ¶ 24; Docket TG-101857, Order 01 ¶ 19; Docket TG-101858, Order 01 ¶ 19.

retained revenues on recycling activities, and that financial incentives for meeting performance goals may be included in a recycling plan.<sup>5</sup>

7 On November 16, 2011, pursuant to WAC 480-70-351(2),<sup>6</sup> Rabanco initiated these dockets by filing with the Commission proposed revisions to certain tariffs, to reflect adjustments in commodity credits for residential and multi-family customers receiving recycling collection services.

8 On December 21, 2011, King County filed a letter in Dockets TG-111991 and TG-111992 recommending that Eastside and Lynnwood be permitted to keep some unspent recycling revenues retained during 2011 as an “incentive payment,” although the 2011 recycling plans had not provided for an incentive payment. On the same date, Snohomish County filed a letter in Docket TG-111993 recommending that all unspent recycling revenues that Lynnwood had retained during the 2010-2011 period be returned to rate payers. Rabanco filed substitute tariff pages to incorporate the counties’ recommendations and return unspent recycling revenues not retained as an “incentive payment” to rate payers through credits on their bills.

9 In December 2011, in these dockets, Rabanco filed requests to retain fifty percent of the revenue Rabanco would receive from the sale of recyclable materials that it collects in its residential recycling collection service during the recycling plan period of January through July, 2012. As required by RCW 81.77.185, Rabanco also submitted plans for the use of the revenues. The plans for Eastside and Sea-Tac were certified by King

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<sup>5</sup> *In re Mason County Garbage Co., et al.*, Dockets TG-101542/TG-101545/TG-101548, Order 05 (May 6, 2011).

<sup>6</sup> WAC 480-70-351(2) provides: “Companies that estimate the revenue from the sale of recyclable materials collected in residential curbside programs as part of a deferred accounting program to return

County, and the plan for Lynnwood was certified by Snohomish County. All three plans included provisions that would allow the companies to keep some of the money in the form of performance bonuses plus a five percent return on recycling plan expenditures.

10 Rabanco's revised tariffs under WAC 480-70-351(2), and its revenue sharing requests under RCW 81.77.185, came before the Commission at its December 29, 2011 Open Meeting. The Commission accepted Staff's recommendation and suspended the tariffs,<sup>7</sup> while allowing the rates and revenue sharing to be in effect on a temporary basis, subject to refund or credit, pending the outcome of an adjudicative proceeding.<sup>8</sup> The Commission referred the matters to its Administrative Law Division to be set for hearing.

11 Between January and March 2012, the Commission conducted workshops on recycling revenue sharing programs and received comments from interested persons on how the Commission should administer RCW 81.77.185. The Commission announced that it expected to issue an interpretive and policy statement under RCW 34.05.230.

12 Administrative Law Judge Gregory J. Kopta consolidated these Rabanco dockets and convened a prehearing conference on March 5, 2012.<sup>9</sup> During the prehearing conference, the parties agreed that the issues the Commission was addressing in its workshops were related to those in these dockets. The parties agreed on a procedural schedule that

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recycling revenues or charges to customers must use the most recent twelve-month historical period to estimate the revenue for the next twelve months."

<sup>7</sup> See RCW 81.04.130.

<sup>8</sup> *WUTC v. Rabanco Ltd., DBA Eastside Disposal, Container Hauling, Rabanco Connections, and Rabanco Companies, G-12*, Docket TG-111991, Order 01 (Dec. 29, 2011); *WUTC v. Rabanco Ltd., DBA Allied Waste Services of Kent, Rabanco Companies, and Sea-Tac Disposal, G-12*, Docket TG-111992, Order 01 (Dec. 29, 2011); *WUTC v. Rabanco Ltd., DBA Lynnwood Disposal, G-12*, Docket TG-111993, Order 01 (Dec. 29, 2011).

<sup>9</sup> *WUTC v. Rabanco*, Dockets TG-111991/TG-111992/TG-111993, Order 02 (Feb. 15, 2012).

effectively stayed further proceedings until after the Commission had issued its expected interpretive and policy statement on RCW 81.77.185.<sup>10</sup>

13 The Commission issued an Interpretive and Policy Statement on May 30, 2012.<sup>11</sup> Among other things, the Commission stated:<sup>12</sup>

Bonus or incentive payments . . . are permissible to the extent they are reasonably designed to encourage the company to achieve or exceed plan goals or objectives.

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[P]ayments should be structured as a percentage of revenues or expenses. We find particularly appealing King and Snohomish County's proposal that incentive payments should be determined based on a pre-determined percentage of company expenditures to achieve the goal or objective, rather than a percentage of revenues. . . . Both King and Snohomish Counties recently have negotiated Plans in which they have agreed to "an incentive equal to 5% of expenditures." We believe that is an appropriate amount and will expect any bonus or incentive percentage to be no higher than that percentage without compelling justification.

14 In Paragraph 7 of the Interpretive and Policy Statement, the Commission said:

The statement the Commission is issuing in this docket reflects our current interpretation of RCW 81.77.185, but it is not binding on the Commission or interested persons and thus does not preclude parties from raising these issues in the context of specific Plans.

15 According to RCW 34.05.230(1), "Current interpretive and policy statements are advisory only."

#### IV. SUMMARY OF PROPOSED SETTLEMENT

16 In light of the Interpretive and Policy Statement, the parties have reached agreement on the disputed issues in these consolidated dockets.

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<sup>10</sup> *WUTC v. Rabanco*, Dockets TG-111991/TG-111992/TG-111993, Order 03 (March 6, 2012).

<sup>11</sup> *In re Commission's Investigation of Recycling Revenue Sharing Plans*, Docket TG-112162, Interpretive and Policy Statement on RCW 81.77.185 (May 30, 2012).

<sup>12</sup> *Id.* ¶¶ 29, 31, 32.

17 Rabanco acknowledges the relatively modest amount of unspent retention now in dispute and believes that resolving these suspended plans now without further litigation as proposed in the Settlement Agreement is thus fully consistent with the Company's, its customers' and the public's interest. Rabanco and Staff have the right to raise the issues in the Interpretive and Policy Statement in the context of future specific plans.

**Unspent Revenues from 2010-2011 Recycling Plan Period**

18 In Docket TG-111991, Eastside will keep as an incentive payment an amount equal to 5% of its expenditures on the 2011 recycling plan, as reflected in the table below. Eastside will return the remaining unspent revenues to customers in the form of credits through tariffs awaiting Commission approval in Docket TG-121059.

Company	2011 Recycling Revenue Retained @ Fifty Percent	Retained Revenue Spent on Recycling Plan Activities	Unspent Retained Revenues Already Returned to Customers	Unspent Retained Revenues to be Kept by Company (5% of Expenditures)	Unspent Revenues to be Returned to Customers via Docket TG-121059.
Eastside Disposal	\$323,166	\$183,386	\$124,441	\$9,169	\$6,170

19 In Docket TG-111992, Sea-Tac has kept \$744 in unspent retained revenues from the 2011 recycling plan period, which is less than five percent of its expenditures on recycling plan activities. Sea-Tac has already returned the remaining unspent retained revenues to customers. Sea-Tac will keep \$744, and no adjustments are needed to the 2011 recycling plan revenues.

20 In Docket TG-111993, Lynnwood has returned all unspent retained revenues from the 2010-2011 recycling plan period to customers. No adjustments are needed.

### **Incentive Payments in January-July 2012 Recycling Plans**

- 21 The January-July 2012 recycling plans that Rabanco submitted in December 2011 would have permitted the companies to keep an incentive equal to 5% of expenditures, plus performance bonuses based on a percentage of revenues. Rabanco will keep an incentive equal to 5% of expenditures, but will not receive performance bonuses based on a percentage of revenues. Instead, Rabanco will return remaining unspent revenues to customers.
- 22 Eastside will return revenues to customers in the form of credits through tariffs awaiting Commission approval in Docket TG-121059. Sea-Tac will return revenues to customers in the form of credits through tariffs awaiting Commission approval in Docket TG-121061. Lynnwood will return revenues to customers in the form of credits through tariffs awaiting Commission approval in Docket TG-121060.

### **V. STATEMENT OF PARTIES' INTERESTS AND THE PUBLIC INTEREST**

- 23 The parties believe it is in their best interests to avoid the expense, inconvenience, uncertainty, and delay inherent in a litigated outcome. It is in the public interest that this dispute be concluded without the further expenditure of public and company resources on litigation expenses.
- 24 The settlement is in the ratepayer public's interest because it will reduce the rates of Rabanco's customers beginning August 1, 2012. Rates will be reduced because unspent revenues from the January-July 2012 plan period, and, for Eastside, from the 2011 plan period, will be returned to customers in the form of credits.



## VI. CONCLUSION


25 The settlement meets all pertinent legal and policy standards. The Commission should approve it in full, with an effective date of August 1, 2012.


WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION  
STAFF

RABANCO LTD., D/B/A EASTSIDE  
DISPOSAL, CONTAINER HAULING,  
RABANCO CONNECTIONS AND  
RABANCO COMPANIES ("EASTSIDE");  
RABANCO LTD., D/B/A ALLIED WASTE  
SERVICES OF KENT, RABANCO  
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