

Stephen C. Wamback declares:

1. I am the Solid Waste Administrator for Pierce County Public Works and Utilities Department and have been employed by the county for 18 years, the past twelve in my current capacity. I have worked in the solid waste field for over 20 years and was previously employed by the Washington Utilities and Transportation Commission as a Policy Research Specialist from 1990 to 1993.
2. As Solid Waste Administrator for Pierce County, I have been closely involved with numerous legislative and regulatory issues in the solid waste arena. I am the current Chair of the Department of Ecology Waste2Resources Advisory Committee, having previously served as Chair of the State's Solid Waste Advisory Committee (SWAC) from 2005 until the Legislature disbanded the SWAC in 2010. I am Vice-President and Legislative Committee Chair of the Solid Waste Association of North America Evergreen Chapter, a national association representing public and private sector solid waste management service providers.
3. Prior to becoming the Solid Waste Administrator, from 1993 to 1999, Pierce County employed me as a Solid Waste/Recycling Analyst. In that position I represented the County in discussions with regulated solid waste collection companies and Commission staff concerning the maintenance of curbside recycling programs and early calculations of a commodity credit recognizing the value of recyclable commodities placed in customers' recycling containers.
4. I am familiar with revenue share plan legislation and was a keen observer of the efforts in the 2002 legislature that resulted in the first revenue sharing law (SHB 2308; Chapter 299, Laws of 2002, Section 6).
5. From May to December 2007, I served as the solid waste management industry (public and private) representative on the Agriculture and Waste Technical Working

Group (TWG), reporting to the Governor's Climate Action Team. One policy recommendation reported by the TWG recommended that at least 50 percent, and up to 90 percent, of specific commodities be recycled or composted by 2020, with 30 percent of the incremental gain achieved by 2012. The TWG's efforts led directly to the creation of the Beyond Waste Implementation Work Group which reported recommendations on how to capture the "next 50 percent" of recyclable waste. A sub-recommendation recognized that "financial incentives are provided to the private sector to encourage investment in the infrastructure needed to support this action."

6. One of the incentives proposed is best described by reporting language directly from the group's report (2008 Climate Action Team – Appendix 5: Beyond Waste Implementation Work Group). Under the heading, "Financing for the Private Sector": "Current law allows solid waste collection companies to retain up to 30 percent of the revenue generated from the sales of recycled materials as negotiated between the company and the local planning jurisdiction. 70 percent is returned to generators through reduction in their garbage bills. To provide a stronger incentive [for] the solid waste collection companies, this revenue sharing lid should be increased to 50 percent. The amount of the revenue sharing should continue to be negotiated between solid waste jurisdiction and the collection service provider as a means to incentivize the collection service provider to improve recycling systems, improve the quality of recycled materials for market and increase market development efforts."

7. Legislation passed in 2010 (ESSHB 2539; Chapter 154, Laws of 2010, Section 3) incorporated said "Financing for the Private Sector" by increasing the revenue share that the Commission "shall authorize" up to 50% on specified conditions.

8. As concerns Murrey's Disposal and American Disposal, I have worked with these companies for more than two decades on enhancing recycling programs, improving

recycling participation rates, establishing benchmark or performance criteria for the haulers to obtain incentive revenue retention and various other matters involving solid waste planning, waste reduction, and combating illegal dumping by unauthorized companies.

9. Developing and reviewing recycling plans has been a collaborative process with Murrey's and American Disposal personnel including Irmgard Wilcox, Eddie Westmoreland, Dan Schooler, and District Controllers, amongst others. My staff and I have held numerous meetings with the companies and their representatives to devise, implement and fine tune recycling optimization and revenue share plans since 2005 (when Pierce County launched the single-cart recycling program), and we believe, and as the results of recycling enhancement in Pierce County reflect, that this has been an effective partnership.

10. Concerning the current filings, as Exhibit "1" attached to my Declaration reflects, I previously submitted written comments to the Commission on October 27, 2010 in response to the Commission staff's memorandum and recommendations on TG-101545 and TG-101548. My letter, followed by verbal testimony at the Open Meeting, commented/critiqued some of the proposed recommendations in the staff memo, specifically the staff recommendation that I addressed at the bottom of page 2 of attached Exhibit "1."

11. As indicated in Exhibit "1" and in general comments at the Open Meeting on October 28, 2010, I believe that the Commission staff opinion and Commission Order are at odds with my understanding of the intent of RCW 81.77.185 insofar as RCW 81.77.185 assigns to local government, not the Commission, the responsibility to determine that revenue generated by the sale of recyclable materials, and thus retained by the company, is appropriately used in support of recycling.

12. The Commission Order that a company might be required to “roll over” retained revenues to a future rate period also seems contrary to what appears to me a consistent statement of intent from both the Climate Action Team and the Legislature: that the revenue share represents “financial incentives are [to be] provided to the private sector to encourage investment in the infrastructure needed to support” recycling such as additional investment of infrastructure, equipment and personnel to achieve the goals of increased recycling, statewide.

13. As I previously indicated, I believe that the counties are the primary arbiter of performance of the revenue share plans as we can observe potentially, literally on a day to day basis, progress or lack thereof made by haulers in achieving goals that we have established as realistic benchmarks in order to attain enhanced recycling and waste reduction. This view is supported by the collective perspective of the Climate Action Team and its recommendation that “[t]he amount of the revenue sharing should continue to be negotiated between solid waste jurisdiction and the collection service provider....”

14. With colleagues from other local government jurisdictions, I have consulted Commission staff personnel such as Gene Eckhardt and Dave Gomez over time in order to receive their input and advice in formulating, implementing and overseeing revenue share plans with the regulated solid waste collection companies within our jurisdiction. It is my observation that Commission staff opinion about revenue sharing and the appropriate role of local government changed after Pierce County approved the hauler’s recycling plan in 2005. Initially it appeared that staff took the view that it was the Commission’s responsibility solely to perform “due diligence” concerning the local government’s review and approval of the hauler’s recycling plan. Pierce County was allowed to review, approve, and acknowledge said approval with Commission staff support.

15. As the record indicates, and as previous correspondence from me attests, Pierce County has historically certified Murrey's Disposal and American Disposal's revenue share plans and monitored performance thereunder to ensure that they are achieving performance benchmarks that increase recycling participation rates and which allow them the "carrot" of obtaining revenue share proceeds.

16. Commission action now conflicts with the responsibility assigned to the County through RCW 81.77.185(1). This undermines the purpose of the original revenue share legislation and serves to modify the law as I see it. It does so by effectively telling a solid waste collection company there's no incentive: all revenues not expended to improve the program are to be returned regardless of performance against the criteria and goals approved and certified by the County.

17. I do not believe this is compatible with the original and observed goals of the revenue share legislation - namely the creation of incentives for the private sector to expand recycling programs - goals that had been agreed-to and enforced by Commission staff from 2002 to 2010. It is unclear to me what has changed to allow the Commission to add conditions to the County-approved revenue share plan.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated this 8th day of February, 2011 at University Place, Washington.


Stephen C. Wamback



Pierce County

Public Works and Utilities

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EXHIBIT /

Brian J. Ziegler, P.E.
Director

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October 27, 2010

David W. Danner, Executive Director
Washington Utilities and Transportation Commission
1300 South Evergreen Park Drive SW
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Olympia, WA 98504-7250

SUBJECT: Pierce County Comment on TG-101545 and TG-101548

Dear Executive Director Danner:

This letter provides formal comment and recommendations from Pierce County concerning the above-referenced docket numbers. To supplement this written comment, I will present oral testimony at the Washington Utilities and Transportation Commission Open Meeting on Thursday, October 28, 2010.

Background

American Disposal Company, Inc. and Murrey's Disposal Company, Inc. ("the companies") provide garbage collection and residential recycling services in Pierce County under certificates of convenience and necessity issued by the Washington Utilities and Transportation Commission ("Commission").

Annually, the companies file with the Commission a revised tariff to account for changes in the value of commodities collected through recycling programs. The companies filed the recycling commodity adjustments on September 15, 2010 in Docket TG-101545 and TG-101548.

Concurrent with the companies' filings, and in a letter to the Commission dated September 16, 2010, Pierce County certified a revised Company Recycling Plan designed to meet the requirements of RCW 81.77.185 and which reflects the requirements of Pierce County Code Chapter 8.29 – Minimum Levels of Service for Residential Recycling and Yardwaste Collection.

In the updated Company Recycling Plan, the companies will be required to make additional demonstrations and provide additional services in support of curbside recycling out of the revenues retained from the sale of recyclable commodities. Further, Pierce County will evaluate the companies' performance against new performance measures and thereby determine whether the companies will be eligible to retain up to fifty percent (50%) of revenue generated from the sale of commodities in the upcoming rate period.

State law assigns to local government "primary responsibility for solid waste management and to develop and implement aggressive and effective waste reduction and source separation strategies," [RCW 70.95.010(6)(c)].

The Commission is an important and crucial partner assisting local government efforts. Through the responsibilities assigned in Chapter 81.77 RCW, the Commission not only supervises and regulates private solid waste collection companies, but does so in a way that requires "compliance with local solid waste management plans and related implementation ordinances", and requires "certificate holders under



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chapter 81.77 RCW to use rate structures and billing systems consistent with the solid waste management priorities set forth under RCW 70.95.010 and the minimum levels of solid waste collection and recycling services pursuant to local comprehensive solid waste management plans.”

Formal Comment

Through the regulatory efforts highlighted above, the Commission supports and enforces the solid waste management, waste reduction, and recycling systems that local governments are required to develop and implement. Pierce County wishes to formally thank the Commission and its staff for its acknowledgement of the Company Recycling Plan and the mutual efforts of Pierce County and the companies to optimize systems for the collection and processing of recyclable materials.

In both TG-101545 and TG-101548, the County concurs with staff recommendation 1.

Concerning staff recommendation 2, in both TG-101545 and TG-101548 the recommendation refers to “conditions set forth in staff’s memo.” These conditions appear in the paragraph at the bottom of page three. Pierce County supports some of the language and objects to other language. To better show our comments, I have divided the paragraph into each of its component parts.

Staff Recommendation

“Staff recommends that the commission accept the county’s recommendation that American retain fifty percent of the revenue it will receive from the sale of recyclable materials and require the company to report to the commission the amount of revenue it retained, the amount of money it spent on the activities identified in the company’s recycling and revenue sharing plan and the effect the activities had on increasing recycling.”

“Staff also recommends that the commission require the company to meet the performance requirements set forth in the plan...

“... and consider whether to reduce the revenue share the company retained if the company fails to meet those performance requirements.”

“Finally, staff recommends that the commission require revenues that American retained but did not spend during the previous plan period to be carried over into the next year, and revenues from this plan period that are not spent to be carried over to the following year, unless the commission orders some other treatment.”

County Response

Pierce County concurs.

Pierce County agrees. This reflects the County-WUTC regulatory partnership envisioned in RCW 81.77.030(6).

This clause, with the Commission shouldering all of the responsibility for this review, does not adhere to the partnership envisioned in RCW 81.77.030(6), nor the requirements of RCW 81.77.185.

This “roll-over” seems to run at odds with the legislative intent of RCW 81.77.185: the creation of **financial incentives** to optimize recycling systems.

David W. Danner, Executive Director
October 27, 2010
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Pierce County believes the Commission can, through the Orders to be issued for each docket item, protect and preserve the regulatory partnership envisioned by the legislature when it first allowed revenue sharing in 2002 and expanded revenue sharing in 2010.

Formal Recommendations

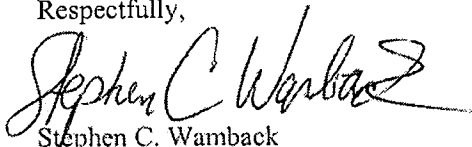
Pierce County recommends that the Commission accept staff recommendation 1 as reported in both TG-101545 and TG-101548.

Pierce County further recommends that the Commission accept staff recommendation 2 as reported in both TG-101545 and TG-101548, using the following language to establish the conditions of approval with the Order Authorizing Revenue Sharing:

[insert name of company] is authorized to retain fifty percent of the revenue it will receive from the sale of recyclable materials; require the company to report to the commission the amount of revenue it retained, the amount of money it spent on the activities identified in the company's recycling and revenue sharing plan and the effect the activities had on increasing recycling; require the company to meet the performance requirements set forth in the Company Recycling Plan certified by the Pierce County Department of Public Works and Utilities; and after consulting with Pierce County, consider whether to reduce the revenue share the company retained, carry forward retained revenues into the next year, or other treatment ordered by the commission, if the company fails to meet those performance requirements.

As noted in the opening to this letter, I will be attending the Commission's Open Meeting to comment on these docket items in person. In the meantime, please contact me at (253) 798-4656 if you have any questions.

Respectfully,



Stephen C. Wamback
Solid Waste Administrator

cc: Brian J. Ziegler, P.E., Director, Department of Public Works and Utilities
Toby Rickman, Deputy Director, Department of Public Works and Utilities
Robert Dieckmann, Solid Waste Project Coordinator, Public Works and Utilities
Eddie Westmoreland, Waste Connections
Dan Schooler, Waste Connections
Irmgard Wilcox, Waste Connections

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