

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,	)	DOCKETS TG-120840, TG-120842 and TG-120843
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,	)	RABANCO'S STATEMENT IN SUPPORT OF INDUSTRY PROPOSAL REVISING TARIFF ITEM 30
Respondent.	)	
.....	)	
	)	
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,	)	DOCKETS TG-121366, TG-121367, TG-121369, TG-121370 and TG-121371
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 KCLICKITAT 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).	)	RABANCO'S STATEMENT IN SUPPORT OF INDUSTRY PROPOSAL REVISING TARIFF ITEM 30
Respondent.	)	
.....	)	

## I. PRELIMINARY STATEMENT

1 This matter comes on for review by the Commission after a prolonged period. For Republic/Rabanco (“Rabanco” or “Company”), correspondence and contact with the Staff on this formerly rather obscure tariff item actually began in May, 2012 following a one-day work disruption in March, 2012 after which the Commission Staff and Company discussed the apparent lack of any frame of reference in the standard tariff template adopted by all regulated solid waste collection companies for work stoppage circumstances. During the summer of 2012, the Staff and company corresponded in efforts to hone or otherwise arrive at language addressing circumstances under which Tariff Item 30 would be potentially applied to work stoppages for regulated customers in recognition that regulated solid waste collection service can and has been disrupted by disputes involving collective bargaining unit terms and conditions.

2 As Order 02 in this matter reflects at ¶ 2, Rabanco ultimately filed its proposed tariff revision with the Commission almost exactly a year ago, on August 17, 2012, and, after formal suspension by Order on September 27, 2012, has awaited action on its filings which have finally become effective by operation of law on August 1, 2013.

3 As then filed and now approved, Rabanco’s Tariff Item 30 reads:

**(c) Missed pickups due to labor union strikes or other employee actions:** Customer pickups may also be impacted by strikes or other organized labor or other employee actions which directly or indirectly impact the company’s employees. In such event, the company will take all necessary actions consistent with its collective bargaining agreements and applicable law to continue to provide service to customers. If disruptions occur, all necessary steps in the interests of public health and safety will be undertaken to resume regular service. If accumulated materials, including solid waste and/or recyclables and yard waste are collected on the next scheduled or available pickup date, the company will not extend credit for the missed pickup but customers will also not be charged for

overfilled containers, receptacles or extras set out in bags on top of or next to the customer's regular receptacle if the amount of that material does not exceed the amount that would have been expected to accumulate because of the missed pickups. In the event of any more prolonged work stoppage, the company will extend credit or otherwise appropriately prorate customer invoices as provided in Item 17, above.

4 As noted, this language is now over a year old and was submitted before a stakeholder session (on October 25, 2012) and a Special Open Meeting on May 29, 2013. It was also not the product of written comments prior to those two sessions or impacted by presentations and questions and answers at various Open Meetings where the separate tariff filings were considered.<sup>1</sup>

5 As a result of the active and constructive stakeholder session, public comment rounds and informal meetings with Commission Staff and Open Meeting exchanges, Rabanco, as well as the WRRRA and Waste Management of Washington, Inc.<sup>2</sup>, have arrived at further proposed revisions to the Tariff Item 30 template. Those proposed revisions address limitations of service due to work stoppages/labor disruptions and are set forth as Exhibit A (the "Industry Proposal") attached and incorporated by this reference. Again, this proposed language is the result of carefully deliberated, crafted and protracted back and forths between and among industry, Staff and county governments and, in the views of the industry, represents the product of many months of thoughtful reflection,

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<sup>1</sup> As Order 02 also reflects, Rabanco also asked that the Commission take official notice of the entire record in this docket which request was granted. That file captures the evolution of this issue over the past year and reflects much of the compromise and deliberation discussed below as well as the consistency in many of the Company's concerns that the Item 30 tariff template be revised to recognize missed pick-ups due to work stoppages.

<sup>2</sup> Because Waste Management of Washington, Inc. ("WM") has been involved in a multiple-day strike, a Commission public hearing thereon, and a lengthy enforcement investigation and proceeding, (TG-121265), over the past year, Rabanco/Republic anticipates more specific discussion and examples in support of the industry proposal from WM based on that more comprehensive experience with this issue during the year.

experience and negotiation amongst the various constituencies. Unfortunately, it also does not reflect consensus on proposed settlement language of the parties, as the industry and Staff were ultimately unable to agree upon a reasonable defined interval for work stoppages before which mandatory credits would be applied and some other more minor points to be highlighted. As will be addressed below, however, it does represent in Rabanco's view, a far more comprehensive, articulated and balanced approach to work stoppages than presently exists.<sup>3</sup>

## II. CHARACTERIZATION OF REMAINING ISSUES IN DISPUTE

### A. Evaluation of Methods to Mitigate Work Stoppage Actions and Interval to Resume Service

6 One of the more material revisions to Item 30 in Rabanco's view is the introduction of general performance standards in subparagraph 6(f), which provides for the Company to use all "reasonable, practical" means to resume service and considers the Company's "resources, the circumstances of the labor disruption and other relevant factors" in weighing its response. The industry's proposal also includes a key metric to measure when service should be resumed: within five business days not including the initial day of the labor disruption.

7 This standard is omitted from the Staff's proposal which Rabanco believes is a troubling omission in failing to similarly provide for a practical, reasonable and most importantly, public safety-oriented interval for resuming interrupted service. Quantification and articulation of an anticipated service resumption date is particularly important for solid

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<sup>3</sup> Indeed, only Rabanco and Waste Management at present have *any* specific provision in their tariffs acknowledging the unfortunate reality of work stoppages, hence exposing the rest of the regulated industry to potential sanctions should work stoppages occur. That regulatory gap alone should motivate the Commission to more broadly address and formalize the application of regulated tariffs to the prospect of service disruptions caused by concerted work actions.

waste collection service, where the public health and safety is always implicated and where factors such as the ability to obtain specialized collection vehicles and trained, appropriately-licensed personnel to operate that equipment remains an issue, not to mention re-routing service, intervening traffic congestion and increased transfer station access issues, etc. all of which are realities during a work stoppage. Provision of an objective interval in which collection activities should be resumed before any enforcement actions would apply is consistent with the public interest by providing regulated providers sufficient time and space to implement alternative arrangements to pick up all missed accounts and prioritize hospital, nursing home and other critical customers in a fashion which attempts to mitigate impacts upon the remainder of their customer base.

8. As noted, the Staff's rendition of Item 30 leaves this significant metric out and in so doing assumes a posture that would potentially presume service could be restored within 24 hours or less to customers who are missed in a wide swath of territory due to a work stoppage. This is contrary to practical reality on the bases of factors just noted (i.e. routes, equipment, licensed operators) and which would also create an unfair, wholly unrealistic expectation in the eyes of customers. Not defining that reasonable interval for resumption of service simply perpetuates regulatory policy uncertainty which the parties have strived to eliminate since the initial filings in June, 2012 which the Staff encouraged and which were designed to provide definition and guidance to regulated service providers and their customers.

## B. Applying the Tariff After Work Stoppages/Credits

9 The industry proposal also provides a framework for provision of credits for missed pick-ups under specified circumstances. In short, if the Company affected by the work stoppage resumes service pursuant to the description outlined above and referenced in subparagraph 6(f), no credits would have to be extended (nor extras charged if the customer sets out the reasonable equivalent service amount) and service is resumed by the next regularly-scheduled service date. This is a transparent, objective and practical requirement allowing customers to know which missed service will be credited and avoids the imposition of punitive measures during a (hopefully) brief interval where the Company is endeavoring to take all necessary steps to resume service. If service is not restored by the next regularly scheduled pick up date, credits to the customer apply, under the proposal, to the original missed services forward, and this premise is obviously additional incentive to the affected company to restore service within the five business day parameter that serves as the measuring point for both service resumption and application of customer credits.

10 Rabanco notes that even the current Staff's proposal does provide for a similar moratorium on credits if service is provided by the next regularly-scheduled service date. There is thus agreement by the industry and Staff as to how and under what circumstances customer credits should be applied for missed pick-ups, save for one anecdotal element of when credits are applied on the proposed definition of "next regularly scheduled service date."

C. "Next Regularly Scheduled Service Date" Definition  
and How Credits are Computed

- 11 In the event credits for missed service need to be applied, the industry proposal in Exhibit A reflects, at subparagraph (7)(b) and (c), definitions of regularly-scheduled service at 7(b) in subparagraphs (i), (ii) and (iii). The industry proposal further provides examples of service by customer class, i.e. residential, commercial and recycling and yard waste in every-other-week service. While the Staff proposal removes the class of customer reference, the definitional examples of next regular service dates are otherwise identical. Rabanco believes the type of customer differentiation in the industry-proposal example is actually helpful, particularly in illustrating the types of intervals for "next scheduled service date" and should be retained for that reason.
- 12 The only non-semantic distinction between the industry and Staff proposals remaining is in Section 7(c), where the parties clarify what "the service-related component" means in calculating the credits to be applied for missed pick-ups. In alluding to how the credits are to be computed for all three types of residential solid waste service, the industry proposal is far simpler than the Staff's and merely defines the calculation as "excluding disposal and processing costs and offsetting any recyclable adjustments." The Staff, on the other hand, laboriously defines that exclusion by reference to individual garbage, yard waste and recycling services. As to the latter, the Staff proposal, as it had on garbage and yard waste, redundantly states that the tariff rate includes costs for disposal or process and then indicates: "[t]he recycling commodity adjustment (credit or debit) has no bearing on this calculation."
- 13 Rabanco acknowledges that under WAC 480-70-351(2), recycling credits are established on a twelve-month historical pricing period and involve an estimate for the next twelve

month period. What the industry reference was simply trying to recognize here is that the commodity credit adjustment should not include adjustments for pick-ups and commodity sales that never occurred. In other words, there should be adjustments under WAC 480-70-351(2) for missed pick-up circumstances to protect against over-crediting of customers for recyclables never picked up, processed and sold. The broad-brushed Staff exclusion asserting that the recycling adjustment “has no relationship to the calculation” misses that point by ignoring any attrition in recyclable collections caused by missed pick-ups. While it is true that this effect should be reflected in the annual calculation under WAC 480-70-351, the industry-proposed definitional example merely seeks an acknowledgement of processing and commodity sale impacts consistent with the overall service-related component definition exclusion for garbage and yard waste collection.

### III. CONCLUSION

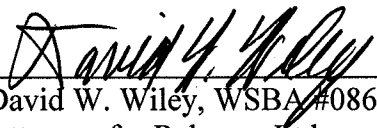
14 The standard Tariff Item 30 template needs to be revised to include provision for missed pick-ups due to the unfortunate reality of labor force work stoppages. The proposal put forth by the solid waste collection industry represents many months of deliberation, review, give-and-take active dialogue with the Commission Staff, county governments and solid waste collection companies. It addresses the disruption and dislocation of service accompanying work stoppages and balances the interests of all parties in arriving at succinct but hopefully comprehensive language setting forth conditions on service interruption, customer contacts, communication, credits and resumption of service which are all moving parts in work stoppage scenarios. At present, even with the effective acknowledgment in two certificate holders’ current tariffs of work stoppages, there is far too much of a blank slate to be of meaningful assistance to the regulated industry or its



customers. The industry proposal in Exhibit A ameliorates that circumstance and provides for generalized performance standards, objective resumption of service intervals, customer credits and definitions of how and when tariff credits would apply. Rabanco urges the Commission, after due review and consideration, to adopt the language in Exhibit A and provide all parties the necessary, meaningful guidance and tools that the industry-proposed changes and additions to Tariff Item 30 encompass.

DATED this 16<sup>th</sup> day of August, 2013.

Respectfully submitted,

  
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David W. Wiley, WSBA #08614  
Attorney for Rabanco Ltd.

CERTIFICATE OF SERVICE

I hereby certify that on August 16, 2013, I caused to be served the original and six (6) copies of the foregoing document to the following address via first class mail:

Steven King, Acting Executive Director and Secretary  
Washington Utilities and Transportation Commission  
P.O. Box 47250  
1300 S. Evergreen Park Dr. SW  
Olympia, WA 98504-7250

I certify I have also provided to the Washington Utilities and Transportation Commission's Secretary an official electronic file containing the foregoing document via email to: records@utc.wa.gov.

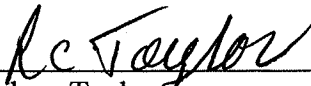
I also certify that I have served via email and first class mail the foregoing document on:

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Tariff No. \_\_\_\_\_

\_\_\_\_\_ Revised Page No. \_\_\_\_\_

Company Name/Permit Number:

Registered Trade Name:

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Item 30 – Limitations of Service

[Paragraphs 1-5 omitted]

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. This email must be used 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. Use all reasonable, practicable means to resume regularly-scheduled service to all customers within five business days, not including the first day of the labor disruption. To evaluate a company’s response to a labor disruption, the commission may consider the company’s resources, the circumstances of the labor disruption and any other relevant factors.
  - g. Collect all accumulated solid waste at the customer’s next regularly-scheduled service date after service resumes as set forth in subsection (f) above. The company will not charge for extra waste set out 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.
  - h. The company is not obligated to extend credit to missed customers who do not receive service if the company collects the customers’ accumulated solid waste as required in subsection (g) above. If the company does not collect all of a customer’s accumulated solid waste as required in subsection (g) above, the company is required to give a credit to the customer, proportionate to the customer’s monthly service charge, for all missed services and for each subsequent missed service until normal service is restored.
  - i. When the labor disruption has been settled, notify the commission’s regulatory services and consumer protection staff by email, and indicate when normal service is anticipated to resume.

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Issued by:

Issue date:

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Docket No. TG- \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Tariff No. \_\_\_\_\_

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Company Name/Permit Number:  
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**7. Definitions:**

- a. "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).
  
- b. "Next scheduled service date" – this date is defined by each customer's subscription service.
  - i. 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.
  
  - ii. 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.
  
  - iii. Example 3: A residential customer subscribes to every-other-week recycling service scheduled for Wednesday, November 14. If the company does not provide service on Wednesday, November 14, the next scheduled service date would be Wednesday, November 28.
  
- c. 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 service-related component of the monthly rate (excluding disposal and processing costs, and offsetting any recyclable commodity adjustments); provided that the credit for any specific month does not exceed the full rate per month.

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