

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND)	
TRANSPORTATION COMMISSION,)	DOCKET NO. UR-950619
)	
Complainant,)	
)	
v.)	
)	
US ECOLOGY, INC.,)	
)	
Respondent.)	
.....)	
)	DOCKET NO. UR-950620
PETITION OF US ECOLOGY, INC., FOR)	
AN ORDER REGARDING THE)	FIFTH SUPPLEMENTAL ORDER;
ACCOUNTING TREATMENT OF THE)	INTERLOCUTORY ORDER
BENTON COUNTY PROPERTY)	ACCEPTING STIPULATION
TAX LIABILITY)	
.....)	

PROCEEDINGS: On May 31, 1995, in Docket No. UR-950619, US Ecology, Inc., filed certain tariff revisions designed to effect a statewide increase in its rates for disposal of low-level radioactive waste (LLRW) at its Richland, Washington facility. The filing indicated that the total effect of such tariff revisions is an annual increase of approximately \$1,490,905.

Also on May 31, 1995, in Docket No. UR-950620, US Ecology, Inc., filed a petition requesting the Commission to issue an order allowing the company to defer the 1995 tax liability for the Benton County property tax for consideration in its general rate proceeding.

On June 9, 1995, the Commission suspended the tariff revisions pending hearings on the justness and reasonableness of the rates requested in the filings.

The Second Supplemental Order, entered June 23, 1995, consolidated the two

HEARINGS: A prehearing conference was held at Olympia, Washington, on June 21, 1995. A hearing on a proposed stipulation on rate design, ratesetting methodology, and changes in the semiannual rate adjustment mechanism was held on July 13, 1995, before Chairman Sharon L. Nelson, Commissioner Richard Hemstad, Commissioner William R.

Gillis, and Administrative Law Judge John Prusia. The Commission's Third Supplemental Order, entered July 21, 1995, rejected the proposed stipulation. Hearing on a revised proposed stipulation was held on September 18, 1995, before Chairman Sharon L. Nelson, Commissioner Richard Hemstad, Commissioner William R. Gillis, and Administrative Law Judge John Prusia.

APPEARANCES: At the hearing, US Ecology, Inc., was represented by James M. Van Nostrand, attorney, Bellevue. The Washington Utilities and Transportation Commission (Commission Staff) was represented by Ann E. Rendahl, assistant attorney general, Olympia. Intervenor Washington Public Power Supply System ("Supply System") was represented by Melvin N. Hatcher, attorney, Richland. Intervenor Portland General Electric Company ("PGE") was represented by J. Jeffrey Dudley, attorney, Portland, Oregon. Intervenor Public Service Company of Colorado ("PSC Colorado") was represented by Frank Prager, attorney, Denver, Colorado. Intervenor Teledyne Wah Chang ("TWC") was represented by Richard H. Williams, attorney, Portland, Oregon. Intervenor Precision Castparts Corp. ("Precision") was represented by James Fell, attorney, Portland, Oregon. Intervenor Bonneville Power Administration ("BPA") was represented by James T. Irish, program analyst, Richland. Intervenor University of Washington was appeared by Stan Addison, Radiation Safety Officer, Environmental Health and Safety Division. Intervenor Washington State University was appeared by Lynn Porter, Director, Radiation Safety Office.

COMMISSION: The Commission accepts the Stipulation Regarding Rate Design and Ratemaking Issues filed on September 5, 1995 (Exhibit 14).

MEMORANDUM

Background

Low level radioactive waste (LLRW) disposal came under regulation through a process that began in 1990 with Chapter 21, Laws of 1990.

The history of the Commission's regulation of this company is set out in Docket No. TG-920234, In re US Ecology, Inc., Seventh Supplemental Order (December 1992); in consolidated proceedings in Docket No. UR-93071 1, WUTC v - US Ecology, Inc., Third Supplemental Order, and Docket No. UR-930890, WPPSS V. US Ecology, Inc., Third Supplemental Order (consolidated) (October 1993);¹ and in consolidated proceedings in

¹ Published in the Commission's October 1993 Utility final orders; another copy was included with the Commission's January 1994 Transportation final orders.

Docket No. TG-920234, In re US Ecology, Inc., Tenth Supplemental Order, Docket No. UR-930711, WUTC v. US Ecology, Inc., Sixth Supplemental Order, and Docket No. UR-930890, WPPSS v. US Ecology, Inc., Sixth Supplemental Order (March 1994). The company presently operates under rates established in a settlement agreement approved by the Commission in January 1994.²

In its October 1993 order in Docket Nos. UR-930711 and UR-930890, the Commission expressed its distress and impatience with the litigiousness of proceedings involving this industry, and expressed its belief that a collaborative process would provide a better forum for raising and resolving disputes than contested hearings. The Commission concluded that a consensus-based process would be particularly appropriate for defining or resolving as many issues as possible before hearing the 1994-95 rate case directed in the Commission's 1992 order, including cost study methodology; cost allocation approaches; rate design; and possible changes to the semiannual rate adjustment (SARA) to better track costs. The order directed the company to convene a collaborative, inviting all parties to the Study Group that designed the original regulatory framework for this industry and all intervenors in Docket Nos. UR-930711 and UR-930890, to address, at a minimum, the issues listed above. The order requested a status report to be delivered no later than three months before the general rate filing ordered in the 1992 order.

On March 10, 1995, the company submitted a status report on the Collaborative Group. The report advised the Commission that the Collaborative Group had reached tentative and conditional agreement on several issues, and discussed issues that remained in dispute and would be discussed further. On April 17, 1995, the company submitted an updated status report, which included a stipulation regarding design and ratemaking issues. On April 18, 1995, the company made an oral presentation to the Commission, at which time the Collaborative Group had not reached complete agreement on a consensus proposal. Specifically, Commission Staff identified a number of explicit concerns with respect to the issues presented in the Stipulation then proposed.

Following the April 18 presentation, the Commission in an April 24, 1995 letter (Exhibit 3) set forth a number of concerns the Commission had with respect to the proposed stipulation.

² Docket No. TG-920234, In re US Ecology, Inc., Ninth Supplemental Order, Docket No. UR-930711, WUTC v. US Ecology, Inc., Fifth Supplemental Order, and Docket No. UR-930890, WPPSS v. US Ecology, Inc., Fifth Supplemental Order (consolidated) (January 1994).

Following the commencement of the company's general rate case, pursuant to notice, the Commission on July 13, 1995, convened a hearing to consider a modified proposed stipulation. At that hearing, the parties still had not reached complete consensus. Several customers of the company who are not parties also testified in opposition to the proposed stipulation.

The Commission entered its Third Supplemental Order on July 21, 1995, rejecting the proposed stipulation. The order set out the Commission's reasons for rejecting the proposed stipulation. It urged the parties to make another effort to reach consensus on a stipulation which the Commission could accept.

Subsequently, the Collaborative Group held an additional meeting, and reached consensus on rate design and ratemaking recommendations (described in Exhibit 13, the Collaborative Group's final report). On September 5, 1995, the company filed a revised proposed stipulation with the Commission (Exhibit 14).

Proposed Stipulation

A summary of the principal provisions of the proposed stipulation filed on September 5, 1995, is as follows:

1. Rate Adjustment Mechanism

Section 1 of the stipulation establishes a rate adjustment mechanism. It provides for an annual automatic adjustment of rates, based on the change in an inflation index (the GDP Deflator) and on waste projections provided by the Company's customers as to volume of waste (in cubic feet), number of containers and shipments, and aggregate dose rate (in millirems; per hour measured at container surface). A "safety margin" would be used in determining rates, which means that rates are based on 80% of projected amounts. Deferred accounting would be used to track over- and under-recoveries, calculated separately with respect to each rate component. In the case of over-recoveries, instead of carrying forward such balances, as under typical deferred accounting mechanisms, excess collections would be refunded promptly to customers.

2. Rate Design

Section 2 of the Stipulation sets forth a recommended rate design. It provides that the revenue requirement will be recovered through the following five rate components in the following percentages when the rate design is fully phased in: Site availability charge (22%); Volume (31.6%); Shipments (10.7%); Containers (21.5%); and Activity as measured by dose rate at container surface (14.2%).

The site availability charge takes the form of an annual fee assessed against each holder of a site use permit issued by the Department of Ecology. The charge is based upon a cost-causal component recognized in the company's cost-of-service analysis based on the conclusion that a number of the company's costs associated with operation of the Richland site are fixed; that is, that they do not vary with the number of containers, number of shipments, volume, or dose rates of containers received. This charge includes the cost of licenses, regulatory compliance, and monitoring.

The site availability charge has eleven blocks for generators who ship any waste to the facility during the year and one block for generators who ship no waste to the facility during the year. The assignment of a generator to a particular block depends on two factors: (1) the volume of waste shipped to the facility during the calendar year; and (2) the dose rate at container service, summed over all containers shipped during the year.

If a generator uses a broker, the generator will be placed in the appropriate block for site availability charge on the basis of volume and dose rate of waste after processing by the broker. The parties assume that such waste typically will be reduced, repackaged, or processed by the broker.

The stipulation provides some relief from the site availability charge for not-for-profit educational research institutions with respect to waste that is generated for research, medical, or education purposes. The charge assessed would be one block lower than the rate that would otherwise apply.

The stipulation provides brokers with some relief from the impact of the site availability charge to the extent a broker's residual wastes--which arise as a result of a broker's providing compaction or processing services for others--would place brokers in a block greater than Block No. 7.

A common multiplier applies throughout the site availability rate structure.

The dose rate charge has five blocks, stated on a per container basis.

3. Ratesetting Methodology

Section 3 of the Stipulation provides that the participants will not relitigate the issues determined by the Commission in the Company's 1992 general rate case regarding (1) use of an operating ratio to set rates or (2) the 71 % operating ratio determined by the Commission. See, Docket No. TG-920234, In re US Ecology, Inc., Seventh Supplemental Order (December 1992). The expenses to which the operating ratio would be applied would be narrowed to exclude amortization of rate case expenses and recovery of a return on working capital, inventory, or unamortized balances.

4. NORM/NARM Waste

"NORM" means naturally occurring radioactive materials, while "NARM" means naturally occurring and accelerator produced radioactive materials. This waste is not classified as LLRW, and thus its disposal is not regulated by the Commission. The stipulation provides that if the site continues to receive NORM/NARM waste, 50% of net proceeds (revenue less marketing costs and other direct expenses) will be refunded to customers.

5. Moratorium on Rate Filings

Section 5 of the stipulation provides that the company may not seek a general rate increase until the year 2001, for rates to become effective January 2002; it provides an "extraordinary circumstances" exception.

Public Comment

The Commission held a hearing for the purpose of allowing public comment on the revised proposed stipulation and the issues raised therein, in Olympia on September 18, 1995. No members of the public appeared.

Commission Discussion and Decision

The Commission has had an opportunity to examine the revised proposed stipulation and the final report of the Collaborative Group, and to ask questions of counsel and the witnesses. The Commission is fully informed and, on the basis of its information, believes that the proposed Stipulation Regarding Rate Design and Ratemaking Issues ("Stipulation") filed September 5, 1995, is consistent with the public interest.

The Commission believes that the Stipulation acceptably addresses the concerns expressed by the Commission in the Third Supplemental Order. It increases the number of blocks in the site availability charge element, which should substantially reduce any inequities or gamesmanship. It eliminates the apparent lack of parallelism between volume breaks and activity breaks. It modifies the dosage charge element from a sliding scale to a block rate, on a per container basis, to reflect the cost causer. It limits the exemption for not-for-profit organizations to educational research institutions. It clarifies the use of brokers and proposes a reasonable solution.

The Commission appreciates the time and effort that went into accomplishing this consensus stipulation. Members of the Collaborative Group faced a difficult task, which required substantial individual investment of time and resources. Settlements are encouraged in matters before the Commission, as they eliminate the need for continued litigation and

save both time and money. They are especially appropriate in this industry, the regulatory framework for which was developed through successful application of a consensus-based, structured negotiation approach.

Although we found it difficult to reject the parties' prior signed stipulation, created as it was by the major users of US Ecology's facility, we find the instant stipulation more appropriately and reasonably addresses the needs of all generators. We recognize the additional burdens we placed upon the Collaborative Group, we applaud their success, and we readily endorse the stipulation they achieved.

ORDER

THE COMMISSION ORDERS:

1. The Stipulation Regarding Rate Design and Ratemaking Issues filed on September 5, 1995 (Exhibit 14), a copy of which is attached as "Appendix A", is accepted.
2. In the final order in this proceeding, the company will be authorized to file revised tariffs consistent with the rate design, ratesetting methodology, semiannual rate adjustment mechanism, NORM/NARM, and other ratemaking determinations made in this order.

DATED at Olympia, Washington, and effective this 6th day of October 1995.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

SHARON L. NELSON, Chairman

RICHARD HEMSTAD, Commissioner

WILLIAM R. GILLIS, Commissioner

APPENDIX “A”