

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

Complainant,

vs.

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,

Respondents.

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

Complainant,

vs.

RABANCO, LTD., D/B/A CONTAINER
HAULING, EASTSIDE DISPOSAL, RABANCO
COMPANIES, RABANCO CONNECTIONS,
LYNNWOOD DISPOSAL, ALLIED WASTE
SERVICES OF KLICKITAT COUNTY, TRI-
COUNTY DISPOSAL, ALLIED WASTE
SERVICES OF KENT & RABANCO
COMPANIES, AND SEATAC DISPOSAL (G-12),

Docket No. TG-120840
No. TG-120842
No. TG-120843

STATEMENT OF INTERVENOR
WASHINGTON REFUSE AND
RECYCLING ASSOCIATION

Docket No. TG-121366
No. TG-121367
No. TG-121369
No. TG-121370
No. TG-121371

1 AND FIORITO ENTERPRISES, INC. &
2 RABANCO COMPANIES D/B/A KENT
3 MERIDIAN DISPOSAL COMPANY (G-60),

4 Respondents.

5 **COMES NOW** Intervenor Washington Refuse and Recycling Association
6 (WRRRA) and respectfully submits the following:

7 **STATUS:** WRRRA has been granted intervention in both Dockets for the
8 primary reason that this particular forum has apparently been selected as a
9 means of resolving the “Item 30” work stoppage issue for the entire industry, not
10 just the parties here. WRRRA has been an active participant in Docket TG-010374
11 which directly relates to the Commission’s Tariff Template. There, of course, the
12 issues of service disruption because of weather, road closures and the like were
13 solved by agreement and will be part of the Template for the foreseeable future.
14 Unfortunately, there was not, and is not now, agreement on “work stoppage”
15 issues, i.e. strikes, or whatever other form a stoppage may take.

16 Although WRRRA’s members include unionized, publicly-traded and
17 privately-owned companies, we have numerous smaller companies which are not
18 unionized, nor are likely to become so. That should not be construed as
19 reflecting a lack of interest in “work stoppages,” as virtually every proposal put
20 forth so far does not limit the term to lawful, union sanctioned strikes.¹ There
21 are other sorts of work stoppages and one has to presume that the eventual
22 result of all this will be a template that applies equally to a national Teamsters
23 strike and a local walkout of drivers (or office personnel or mechanics) protesting
24 something or other at a small, local company.

25 WRRRA wants to emphasize that the positions taken in this, and related,
26 dockets are industry positions, developed by not only the primary parties but
WRRRA as a representative of the solid waste industry statewide. The positions
taken by all parties here should be considered as such, and not just that of the
named parties.

¹ In fact, Staff would not identify “specific labor disruptions” upon “advice of counsel.” see
Staff Memo, Item B1, Docket TG-010374 (May 29, 2013) Fn 1.

Statement of Intervenor Washington
Refuse & Recycling Association - 2

JAMES K. SELLS

Attorney at Law

PMB 22, 3110 Judson St., Gig Harbor, WA 98335
360.981.0168 / e-mail: jamesells@comcast.net

1 **WRRRA ISSUES/COMMENTS**

2 There are some specific issues, however, that Intervenor feels need to be
3 addressed as industry-wide areas of concern:

4 **SAFETY:** There has been no end to discussion regarding when service
5 should (or can) be restored in the event of a work stoppage. What seems to be
6 lacking on the part of Staff is an understanding of the public and worker safety
7 issues involved. Haulers cannot simply go out and find a bunch of unemployed
8 people to drive route or transfer trucks. A “replacement” driver must have the
9 appropriate CDL, be able to pass drug/alcohol testing and be physically able to
10 do the job. If they are not able to meet all these (and more) criteria, they simply
11 cannot be put behind the wheel. To do so would endanger the public and the
12 driver. We cannot, and will not, place the public in danger in order to meet an
13 artificially imposed, possibly unrealistic, deadline. Those companies (such as the
14 parties here) do have plans and are able to respond appropriately, reasonably
15 and safely to a labor stoppage. But, the Commission needs to understand that
16 each situation is different and the best, perhaps only, source of reliable
17 information on what can or cannot be done, is the company itself.

18 **CONSUMERS:** The Commission uses the word “consumer,” while the
19 industry (like any other business), uses the word “customer.” There is no
20 difference; nor is there any difference in the Commission’s and the industry’s
21 objective: to serve the consumer/customer as efficiently, professionally, safely
22 and cost effectively as possible. It is not “them and us” between the Commission
23 and its regulated industries – the goal is the same.

24 The obvious point here is that the industry does not like “work stoppages”
25 any more than does the Commission, probably much less. We do not like having
26 our customers go without their regular (and expected) service. Not only can that
become a health and safety problem, it is simply bad business (nor do we want
our employees to go without a paycheck). Obviously, if we had our way, there
would never be a strike or any other disruption of the normal service cycle. The
realities, however, are different. There will always be weather/road condition
issues (as well as vicious dogs, and on and on). Similarly, there will always be

1 the threat of a labor-related work stoppage. No one wants it, or likes it, but it is a
2 “fact of life” with which the Commission and the industry must deal.

3 What we suspect the Commission may not fully appreciate is that the
4 average consumer/customer understands that these problems will occur. There
5 will be a time when one’s driveway is covered with snow or ice, and it simply is
6 not safe to pick up that receptacle next to the house. These folks also
7 understand strikes and the necessity of “bringing in” replacement workers
8 and/or supervisory personnel to pick up their garbage. They do not expect this
9 to happen overnight, but they do expect it to happen. In fact, many of our
customers are union members themselves and, perhaps, understand the
dynamics and realities of a strike as well as do we.

10 The simple fact is that percentage-wise the number of customer complaints
11 regarding a work stoppage are a very small portion of the customer base. The
12 Commission should, at the very least, take this into consideration when
13 advocating time lines as to when service must (or should) be reinstated. The
14 goals proposed by the primary parties in this action are reasonable and, most
15 importantly, “doable.” No one wants a quick service restoration more than the
company involved, and the Commission should understand and support that.

16 **SMALL/NON-UNION COMPANIES:** Many of our members are small,
17 family-owned entities which are not unionized, and probably will never face a
18 legal, union sanctioned strike. However, that does not mean there may not be a
19 “wildcat” strike or other type of work stoppage in their future. Again, we hope it
will not happen, but it could, and the Commission is correct in planning for the
possibility, no matter how remote.

20 WRRRA, in previous comments, has advocated that work stoppage
21 provisions should simply be part and parcel of “paragraph 5” which already has
22 been adopted in Docket TG-010374, Order 02. This was supported by WRRRA and
23 others in the industry and, in our view, presents a workable, common sense
24 directive as to how to deal with service disruptions. We are still of the belief that
25 it could, and should, be applicable to all types of work stoppages, including those
26 which are the subject of this Docket. Whether or not that is a realistic
possibility, the smaller union and non-union companies (all privately held)

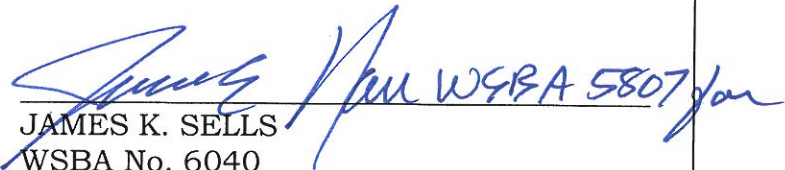
1 should come under paragraph 5 relative to work stoppages/strikes, rather than
2 under a yet to be decided provision which clearly is (or will be) directed at large,
3 publicly-owned companies, which are much more likely to be subjects of a legal,
4 well-organized, perhaps even nationwide, strike.

5 **FILINGS:** Although the idea appears to have been abandoned, just in
6 case, the Commission should be aware that WRRRA will not advise its members to
7 file any sort of contingency plan in case of a strike. It is our understanding, in
8 any case, it would be "optional" and we see no reason why a company should
9 make its strike response plans a public record, available to anyone, in particular
10 the very union with whom the company is negotiating. If there were to be an
11 appropriate confidentiality statute/rule in place, our position may well change.
12 We have nothing to hide from the Commission; we just fail to see the wisdom in
13 providing our opponents in ongoing labor negotiations with our strategy.

14 We do not necessarily have objections to providing the Commission with
15 daily e-mails regarding progress in resolving a work stoppage, as proposed by
16 Staff. Again, however, we would feel much better about doing so if there were
17 some sort of confidentiality protection in place.

18 **CONCLUSIONS:** WRRRA will defer to the primary parties to argue the law
19 here, in confidence that they both will do it well. Our concerns are the same as
20 theirs, and we urge the Commission to closely consider the impacts of this issue,
21 not only to the consumer/customer, but to the service providers as well. The
22 object here, as we have said over and over again, is to resume safe, efficient
23 service as quickly as possible. That certainly is our objective and, we believe, is
24 that of the Commission as well. We all need to work to achieve that objective,
25 without allowing needless roadblocks to get in our way.
26

DATED this 16th day of August 2013.


JAMES K. SELLS
WSBA No. 6040
General Counsel Washington Refuse
and Recycling Association

CERTIFICATE OF SERVICE

I hereby certify that I have this day served this document upon all parties of record in this proceeding, by the method as indicated below, pursuant to WAC 480-07-150.

Washington Utilities and Transportation Commission 1300 S. Evergreen Park Dr. SW PO Box 47250 Olympia, WA 98504-7250 360.664.1160 records@utc.wa.gov	<input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input checked="" type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email
Hon. Marguerite E. Friedlander Administrative Law Judge mfriedla@utc.wa.gov	<input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email
Polly L. McNeill Summit Law Group PLLC 315 Fifth Avenue South, Suite 1000 Seattle, WA 98104 (206) 676-7000 pollym@summitlaw.com	<input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input checked="" type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email
David W. Wiley Williams, Kastner & Gibbs, PLLC 601 Union Street, Suite 4100 Seattle, WA 98101 (206) 233-2895 dwiley@williamskastner.com	<input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input checked="" type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email
Michael A. Fassio Asst. Attorney General 1400 S. Evergreen Park Dr. SW PO Box 40128 Olympia, WA 98504-0218 360.664.1192 mfassio@utc.wa.gov	<input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input checked="" type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email

DATED at Silverdale, Washington, this 16th day of August 2013.


Cheryl L. Sinclair