

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

In the matter of the Complaint:

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

DTG ENTERPRISES, INC.,

Respondent

Docket TG-240761

**PETITION TO INTERVENE OF
TORRE REFUSE RECYCLING LLC**

1 COMES NOW, TORRE REFUSE RECYCLING LLC d/b/a SUNSHINE DISPOSAL &
RECYCLING, holder of Certificate No. G-260 (hereinafter “Sunshine Disposal & Recycling”),
by and through its representatives, Lukins & Annis, P.S., respectfully files this petition to
intervene in the above matter pursuant to WAC 480-07-355.

I. INTRODUCTION

2 Sunshine Disposal & Recycling seeks to intervene in the above captioned action as it
has a substantial interest in the outcome of the proceedings, and its involvement implicates the
public interest. DTG has filed an application seeking a *statewide* certificate of public
convenience and necessity to operate as a solid waste company based on its “ongoing”

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REFUSE RECYCLING LLC: 1

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operations. If such ongoing activities are taking place in Sunshine Disposal & Recycling's certificate area, it will harm Sunshine Disposal & Recycling's interest as a certificate holder. If DTG is in fact permitted to obtain certificate rights on a statewide level, Sunshine Disposal & Recycling's rights and interests, and those of numerous other certificate holders, will be adversely affected.

3 Moreover, the questions raised in this Complaint directly relate to DTG's fitness to operate as a solid waste collection company and will have a determinative effect on the outcome of DTG's application for a certificate of public convenience and necessity. Thus, Sunshine Disposal & Recycling's intervention as a party to this Complaint is essential to ensuring its rights, and those of similarly situated certificate holders throughout the state, are safeguarded.

II. ARGUMENT

A. SUNSHINE DISPOSAL & RECYCLING MAINTAINS A SUBSTANTIAL INTEREST IN THE SUBJECT MATTER OF THIS ACTION

4 Pursuant to WAC 480-07-355(1)(a), "any person" may file a petition to intervene. Commission rules provide the presiding officer with discretion to grant intervention "[i]f the petition discloses a substantial interest in the subject matter of the hearing or if the petitioner's participation is in the public interest."¹ The Commission applies a "zone of interest test" to determine whether a party seeking intervention has a substantial interest.² Such an interest occurs where there is a nexus between the petitioner's stated purpose in seeking to intervene and an interest protected by a Washington statute within the Commission's jurisdiction.

5 Sunshine Disposal & Recycling maintains a substantial interest in this matter as DTG's application seeks the right to operate as a solid waste certificate holder throughout the entire state of Washington and based on its "ongoing" operations. Permitting DTG's potentially unlawful

¹ WAC 480-07-355(3).

² *Washington Util. & Transp. Comm'n*, No. U-170970, Order No. 04, at para. 30 (Jan. 25, 2018).

operations statewide would undoubtedly affect Sunshine Disposal & Recycling's rights as a certificate holder, particularly its right and obligation to service its certificate area. Such activity would cause Sunshine Disposal & Recycling to lose substantial revenue and profit that it otherwise would maintain if it were permitted to solely operate under Certificate No. G-260 in its certificate area.

6 The Complaint raises significant concerns about DTG's impact on Sunshine Disposal & Recycling's business operations. The Complaint cites multiple grievances over a three-year period, including DTG's alleged unauthorized solid waste hauling in Snohomish County and surrounding areas.³ Though the Complaint is silent as to what other regions are affected at this time, it is clear that Snohomish County is not the only area where DTG operated without the requisite certificate. DTG's indirectly admits that its operations already occur throughout the state by seeking a **statewide** certificate based on "ongoing activity."⁴ It is anticipated that discovery will seek and likely reveal evidence regarding DTG's operations in other geographical areas as this action progresses. If proven to be true, it will have a direct impact on Sunshine Disposal & Recycling's rights and injuries as an interested party. Moreover, such findings may require Staff to amend its Complaint to add additional infractions. If intervention were denied now, Sunshine Disposal & Recycling will have lost the ability to participate in this proceeding and defend its certificate rights.

7 Additionally, allowing Sunshine Disposal & Recycling to intervene also serves the interest of judicial economy. Addressing any issues related to Sunshine Disposal & Recycling's rights at this stage would prevent the need for further adjudication, streamlining the resolution process. The Complaint raises issues pertaining to DTG's fitness to operate as a solid waste collection company in Washington, which will be adjudicated in its application for a certificate

³ Compl. & Notice of Prehearing Conference ¶8, *Wash. Utils. & Transp. Comm'n v. DTG Enters., Inc.*, Docket TG-240761 (Dec. 18, 2024).

⁴ *DTG's Response to Motion to Consolidate*, p. 3, para. 5.

of public convenience and necessity. The issues pertaining to its fitness are directly tied to its statutory and regulatory violations and will bear weight on the Commission's ultimate determination as to whether DTG can obtain its desired certificate. A final determination of DTG's actions in this complaint proceeding will bear on its fitness to operate and may have preclusive effect in the application proceeding. Sunshine Disposal & Recycling is already a party to the application proceeding, and its input and involvement are essential to the determination as to whether DTG is fit to hold a solid waste certificate.

8 Thus, the outcome of the Complaint against DTG has a direct effect on Sunshine Disposal & Recycling's operations. DTG's request for statewide certificate shows that Sunshine Disposal & Recycling has been or will be damaged if DTG is allowed to operate in the service area designated to Sunshine Disposal & Recycling. Accordingly, Sunshine Disposal & Recycling maintains a substantial interest in the subject matter of this proceeding as it seeks to protect its certificate rights, which are of course governed by the Commission.

B. SUNSHINE DISPOSAL & RECYCLING'S INVOLVEMENT ADVANCES THE PUBLIC INTEREST

9 The Commission has broad discretion to grant intervention "when such action would enhance [its] understanding and analysis of the matter at hand."⁵ Sunshine Disposal & Recycling's involvement in this action implicates the public interest and will aid the Commission in fully evaluating the issues at hand. If the Complaint allegations are confirmed, and if additional violations are uncovered, DTG's operations will impact other similarly situated certificate holders throughout the state. Allowing DTG to operate statewide would cause diminished revenues and profits for multiple certificate holders. This type of disruption would be detrimental

⁵ *In Re Joint Application of Verizon Communications, Inc. and Frontier Communications Corporation for an Order Declining to Assert Jurisdiction Over, or, in the Alternative, Approving the Indirect Transfer of Control of Verizon Northwest, Inc.*, Docket UT-090842, Order 05, para. 14 (September 10, 2009).

to the industry as a whole and undermine the Commission's authority over solid waste operations. Thus, allowing Sunshine Disposal & Recycling to intervene would ensure that the interests of other similarly situated entities, and the system as whole are properly represented and adjudicated. Thus, the public interest warrants Sunshine Disposal & Recycling's participation in this proceeding.

10 Moreover, the distinctions between regulated solid waste collection services and non-regulated solid waste collection services may involve complicated issues of fact and law. The findings with respect to one company may have broader ramifications for the solid waste collection industry in the state. Further, legal determinations such as, for example, whether DTG can bypass commission regulations by simply hiring a third-party collection company or whether residual waste is considered a regulated haul, may have industry-wide ramifications. Sunshine Disposal & Recycling's participation may result in a record that more fully informs the Commission on this matter. Thus, it is in the public interest, and the interest of all solid waste collection companies, for Sunshine Disposal & Recycling to be allowed to participate in this proceeding.

C. SUNSHINE DISPOSAL & RECYCLING SUPPORTS STAFF'S POSITION

11 Sunshine Disposal & Recycling's position with respect to the matters in this action mirrors those of Staff. Namely, Sunshine Disposal & Recycling believes that DTG cannot comply with the provisions of RCW 81.77 and the applicable rules and regulations imposed on solid waste companies by the Commission. Further, DTG should not be granted a G- Certificate allowing it to operate on an "ongoing" basis throughout the state as doing so would interfere with Sunshine Disposal & Recycling's interest as an established certificate holder.

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D. SCOPE OF THE ISSUES

12 Sunshine Disposal & Recycling does not propose to broaden the issues in the proceeding at this time. However, it reserves the right to broaden the scope of the action if discovery uncovers new issues. Sunshine Disposal & Recycling does not intend to call any witnesses at hearing but reserves the right to do so should issues brought by the primary parties result in the presentation of witnesses by Sunshine Disposal & Recycling being helpful to the Commission.

E. CONTACT INFORMATION

13 Sunshine Disposal & Recycling's address is 2405 N. University Rd., Spokane Valley, WA 99206. Counsel for Sunshine Disposal & Recycling is Reid G. Johnson of Lukins & Annis, P.S. and service can be completed at the following address:

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III. CONCLUSION

14 For the reasons stated above, Torre Refuse Recycling LLC d/b/a Sunshine Disposal & Recycling respectfully requests that it is permitted to participate as an intervenor in this matter.

Dated this 3rd day of February, 2025

Respectfully submitted,

LUKINS & ANNIS, P.S.

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