



## **NORTHWEST CHAPTER**

P.O. Box 1001 – Bellingham, WA 98227

October 31, 2013

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

RE: Docket TG-130355, Rulemaking

Dear Mr. King:

Members of the Northwest Chapter of Construction Demolition Recycling Association, CDRA (formerly the CMRA) appreciate the opportunity to be engaged and to comment on possible changes to chapter 480-07. As commercial recyclers, our members routinely compete against regulated (certificated) companies that appear to regularly utilize regulated assets, staff and counsel in supporting their unregulated commercial recycling activities. As the UTC considers rule revisions for Solid Waste rate setting, we ask that you achieve the following:

- **Increase reporting requirements related to affiliated interests that share any operating resources with regulated operations, so that auditors can fully review expense allocations.**
- **Maintain transparency by keeping filings available for third party review.**
- **Revise accounting procedures so that depreciated assets like trucks and containers cannot be transferred internally or to affiliates at below market values after the rate payers have paid for them.**
- **Develop accountability / penalty language for when inappropriate allocations are found.**
- **Protect market competition in the commercial recycling industry of Washington State.**

Our members are particularly interested in accessibility to records needed to assure that cross subsidization of commercial recycling services is not occurring. However, as far as confidential records of affiliated companies, we see no need for customer lists or personal income statements, or for price lists for that matter, however, we feel it imperative that operational cost documentation for affiliate operations be provided. When a State sanctioned monopolistic company chooses to utilize regulated assets in business outside the purposed activity, they **MUST** be held to a very high level of transparent accounting.

From years of being in the industry, our members have developed valuable insight into the many ways that cross-subsidization can be woven into the regulated companies' business models, which is why we need transparency with this information. These efforts can be as subtle as advertising charged to a regulated company that focuses almost entirely on competitive unregulated service offerings, or legal counsel expenditures charged to rate payers that are actually protecting a company's competitive interests. Record review by our members can help to assure these mis-allocations do not occur.

Our members support staff's suggestion for a uniform format (checklist) with clear explanations concerning submitted documentation and the use of market analysis. Our review of past rate case files found documentation disjointed and very confusing. Additionally, we support the consideration of performing a market analysis along with considering costs when assessing interactions with affiliates, since the fees paid to affiliates are internally derived.

What would seem to be an obvious deterrent to cross-subsidization, that being penalties, seem to be missing from the rule. To our knowledge, when staff has identified inappropriate allocations of expenses to the regulated side of the business this expense is simply rejected. No penalties are sought, nor do historic reviews occur to see if the inappropriate allocation had been occurring for years and years. Without penalties, this seems to lead to a never ending game of cat and mouse. Misallocations lead to higher rates, and the ratepayers should be compensated when such misrepresentations are found, based on the size and duration of the expense.

Our final comment, at this time, on rule language has to do with amortization of equipment. Our members have to pay market value to acquire used equipment. However, our integrated competitors can buy a truck from their regulated affiliate that may have a market value of \$50,000 or more for as little as \$1 because it was aggressively depreciated on the rate payers tab. We believe that the depreciation schedules need to be substantially lengthened or the equipment needs to be sold at market value. With ongoing maintenance, equipment far outlasts its' projected value and seems to be sold internally, potentially to affiliates in competition with our members. At a minimum, this warrants further discussion.

Our organization's campaign against cross-subsidization and in favor of fair accounting seems to have had a positive impact in how expenses are reviewed in rate setting cases by UTC staff, and we believe this trend has led to the recent efforts of the regulated garbage industry to seek to obscure expenses related to affiliate interests from public review. These efforts included a 2013 bill to block records from release under the Public Records Act; we would ask that the UTC not support such a bill, unless the scope of protected information is substantially narrowed. We believe that open accessibility to not only records connected with rate cases but open dialogue with staff auditors is critical to maintaining regulatory transparency.

Again we appreciate the efforts of the UTC in responding to issues we have raised and we look forward to working with you and the Commission Staff and Commissioners. Please feel free to contact me, on behalf of our group, if you have any questions.

Thank you for your consideration of our concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'Troy Lautenbach', with a stylized flourish at the end.

Troy Lautenbach  
President CDRA NW Chapter