

# Sunshine Disposal & Recycling

November 1, 2013

Mr. Steven V. King  
Executive Director and Secretary  
Washington Utilities and Transportation Commission  
P.O. Box 47250  
Olympia, WA 47250

Re: Rulemaking to Consider Possible Corrections and Changes in Rules in WAC 480-07, Relating to Procedural Rules, Docket A-130355

Dear Mr. King:

The following comments are in response to the Notice of Opportunity to File Written Comments on Solid Waste Industry Procedural Rules.

## Background

Rate filing requirements came about in the mid 1990s due to WUTC staff's struggle with a few small companies that were submitting proposed tariff revisions with little or no financial backup. These were a few companies who didn't have the resources or desire to prepare even basic financial statements and instead relied on staff to essentially prepare their rate cases for them. The rule was developed at that time, and later revised, to allow the Commission the option to reject filings which contained little or no financial support.

I point this out because over the years the rule was successful at putting the burden on company owners and accountants to submit proper support for their tariff filings. Those companies that "inspired" the rule either improved their accounting practices or eventually were acquired by other companies. The landscape of Certificated haulers has changed markedly since the rule was put in place most remaining Solid Waste companies either have competent accounting help or utilize consultants who are experienced in solid waste rate filings.

## Application of Current Rule

WAC 480-07-520 states that the Commission *may* reject a filing that fails to meet the minimum requirements, and in recent years staff has leveraged that provision in various filings to request companies withdraw and re-file dockets that are missing certain components. From a procedural perspective (and reflecting the reality that 45 day rate filings are typically negotiated in good faith) it would be much less burdensome for both the companies and staff if there was a consistent application of the Commission's discretion under this provision.

I would suggest a two step approach to this problem. The first is a fixed window from the day the filing is received by the records center (say 3 business days) wherein a staff member (not necessarily the same person who will conduct the audit) must review the filing for minimum compliance. Second: If

something is found lacking or there are questions over compliance, the company should have at least 2 business days to “fill in the blanks” before staff recommends rejection. A simple process like this should eliminate most of the chaos that can ensue when filings are potentially rejected and help everyone move on to the more substantive process of ensuring that the proposed rates are fair, just, reasonable and sufficient.

From my perspective as a company financial expert I am always of the mindset that submitting and completing a rate filing in the 45 day time frame is a challenge. As a result I am prepared to respond to further staff questions as quickly as possible. I realize that any delay on my part can delay the effective date of a proposed rate increase which could be thousands of dollars in lost revenue. I can see advantages to an option of implementing temporary rates subject to refund and/or credit but it is still far more desirable to have rate cases complete in the 45 day period.

### Proposed Rule Changes

The following are my comments on the revisions proposed in the notice of October 17, 2013:

1. Proposed changes to WAC 480-07-505(3): No comments.
2. Proposed changes to WAC 480-07-520:
  - a) As described this proposal seems reasonable and standard, assuming the final rule wording doesn't change the format of a pro forma beyond what is currently common practice.
  - b) No comment
  - c) No comment
  - d) Strongly disagree with the process as described here. Keep in mind a one day delay can essentially translate to a one month delay since most customers are billed a flat monthly fee. A filing could be considered out of compliance in a relatively minor fashion and the company is penalized thousands in lost revenue for a delayed filing. Also consider that one small omission doesn't prevent staff from reviewing other aspects of the filing while the company sends in missing information. If the missing information is serious or material then of course the filing becomes in danger of being delayed. There needs to be a common sense window to fix relatively minor omissions.
  - e) Why take away Commission discretion? If a company has submitted a filing in good faith and provided backup that was deemed missing then there should be no reason the review period shouldn't move forward. If staff is concerned that the company may abuse any grace periods, please bear in mind that any delays in the rate process potentially hurt those same companies. We are highly motivated to get staff the information necessary to complete its review.
  - f) No comment
  - g) As worded, this expanded requirement is vague and may be difficult to comply with in all circumstances. Each company is different and establishing a rule that fits all affiliated transactions may be very difficult. The current rule ensures that staff is aware of the nature

and pricing of all affiliated transactions and makes clear that companies must provide basic financial information about relevant affiliated entities. It makes more sense to leave it to specific circumstances for staff to determine if the affiliate pricing is appropriate to pass on to regulated customers.

- h) Allocations can be a significant issue in any rate proposal ranging from the largest national companies to a smaller private hauler who happens to serve a nearby municipality. The problem I see here is every accounting transaction has an element of allocation to it. Allocations can happen in a small fashion (splitting an invoice between city and county) or in a much broader sense (using metrics to allocate overhead costs). No two companies are quite the same and developing a very broad rule could potentially result in thousands of pages of work papers in order to technically comply. In most rate filings, staff must develop an overall understanding of the company's accounting procedures in order to focus their audit on those issues that may be most material to the overall result. This process may involve sampling of invoices or other source documents. While all this may sound ominous, if the company is employing procedures similar to earlier time periods and staff has good prior work papers to refer back to, it usually is not too difficult.
- i) The purpose of the minimum filing requirement should be to give staff a solid starting point to begin its review, but certainly does not limit the ability of staff to request further information. .
- j) No comment.
- k) No comment.
- l) As long as I've been involved in the solid waste rate making process there have been various attempts to implement "cost of service" methodologies. Each attempt has been infused with sound judgment and intentions yet each method has been abandoned because they are way too cumbersome to utilize. The reality is each company has dozens of service levels from regular can service to odd and usual items such as rollouts and re-start fees. Cost of service studies have suffered because it becomes very complex to split the hairs that finely. Also, it has never been clear how the results of these studies should be used. Should they be mere guidelines or are they intended to dictate final rates?

I think there is value in having an on-going discussion between the industry and staff about how to implement sound rate-design methodologies. Unfortunately, until we can all agree that we have a process that is usable by every company - large, medium and small - it makes absolutely no sense to include it in the minimum filing requirements. Ironically, this requirement was included in the original rule and was later taken out – for good reason.

- m) This seems unnecessary. Staff is very good at focusing and requesting detailed information they require. Putting our entire general ledger detail into the public record creates more confidentiality concerns and is unnecessary. Minimum filing requirements should be about information that *will* be used, not information that *might* be used.

### Other Proposed Changes to 480-07-520

The following are further suggestions that should help streamline and clarify the tariff filing process:

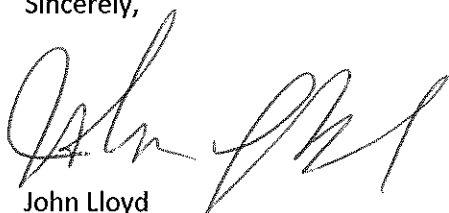
- 1) Eliminate the requirement for paper copies of work papers. Anything in a PDF (or similar electronic ) format is tracked as a public record . Paper copies just create more work for everyone, especially records center staff.
- 2) Eliminate language relating to "legislative format". It is in conflict with the standard tariff format which uses symbols to designate proposed changes.
- 3) In (4)(a) eliminate requirement that multi-family and residential recycling have separate pro formas. In many cases multi-family and single family recycling utilize the same equipment and are best analyzed as a consolidated operation.
- 4) In (4)(e) eliminate reference to "rates changed for services rendered". This item is overly broad and involves unnecessary confidential information. If staff requires specific information relating to a non-regulated operation they can certainly request it.
- 5) In (4) (c) (h) and (i) clarify that these items relate only to the proposed tariff area. The company should only be required to represent depreciation and investment that it is seeking to recover in the proposed tariff filing.
- 6) Change the definition of a "Class A" company in WAC 480-70-041 to set the revenue threshold to \$10,000,000. The current threshold of \$5,000,000 hasn't been adjusted for inflation or industry changes over the past several years.

### Conclusion

A significant expansion of the minimum filing requirements is not necessary. Some of the requirements need to just be better clarified or scaled back. Commissioners currently have and should continue to exercise sensible discretion rather than operating under an absolute threat of rejecting rate filings. The key to efficient and effective rate filings starts with clear rules and expectations but also requires good communication between companies and staff and a good faith effort to arrive at a fair result in a timely fashion.

Thank you for the opportunity to comment on this important matter. If you have any questions you may contact me at 509-924-5678 extension 217 or [johnl@sunshinedisposal.com](mailto:johnl@sunshinedisposal.com).

Sincerely,



John Lloyd  
Chief Financial Officer  
Sunshine Disposal & Recycling