

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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WASHINGTON UTILITIES AND)	
TRANSPORTATION COMMISSION,)	
)	
Complainant,)	
)	DOCKET NO: TG-000893
v.)	
)	ORDER REJECTING
WESTERN REFUSE COMPANY, a division)	TARIFF FILING
of WASTE MANAGEMENT OF)	
WASHINGTON, INC., G-237)	
)	
Respondent.)	
)	
.....)	

MEMORANDUM

On June 9, 2000, Western Refuse Company (Western) filed with the Washington Utilities and Transportation Commission revisions to its current tariff naming rates to become effective July 1, 2000, on less than statutory notice (LSN). The revisions would establish Item 160 Time Rates for the transportation from the Waste to Energy (WTE) incinerator in Spokane of by-pass waste for disposal and industrial ash waste to an inter-modal facility for disposal. The Spokane County Comprehensive Solid Waste Management Plan designates the WTE facility as a site that receives, transfers and incinerates solid waste for disposal from various locations throughout Spokane County.

At its Open Meeting of June 28, 2000, the Rabanco Companies appeared in opposition to the proposed tariff revisions. They argued that the filing would establish rates for transportation that is exempt from Commission jurisdiction under RCW 36.58.050. Western disputed that position of the Rabanco Companies.

At the recommendation of the Commission Staff, the Commission took no action on the LSN request, and ordered the Western and the Rabanco Companies to file written briefs by July 6th, 2000, stating their arguments for and against their respective positions that the subject transportation was or was not exempt from Commission jurisdiction under RCW 36.58.050. Those briefs were timely filed by both parties. The briefs indicated that Western and the

Rabanco Companies agree that the exemption contained in RCW 36.58.050 applies to the transportation of by-pass waste. Therefore, the only jurisdictional issue remaining between the parties is whether the exemption in RCW 36.58.050 applies also to the transportation of industrial ash waste from the WTE incinerator to the intermodal facility for disposal.

At its Open Meeting of July 12, 2000, the Commission considered the written briefs of Western and the Rabanco Companies, and heard additional oral argument regarding the application of RCW 36.58.050 to the transportation of industrial ash waste from the WTE facility. The Commission held that the transportation of industrial ash waste from the WTE facility to the intermodal facility for disposal was exempt from Commission jurisdiction under the provisions of RCW 36.58.050. In so doing, the Commission rejected the argument of Western that the exemption did not apply because the WTE facility was a generator of industrial ash, rather than a site that receives and transfers for disposal solid waste with respect to industrial ash. The Commission, therefore, concluded that rates for the transportation of industrial ash from the WTE facility to the intermodal facility should not appear in Western's tariff on file with the Commission, and that the proposed tariff revisions should be rejected.

Based on the record and file in this matter, including the written and oral arguments of Western, the Rabanco Companies and Commission Staff, the Commission makes and enters the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. On June 9, 2000, Western Refuse Company (Western) filed with the Washington Utilities and Transportation Commission revisions to its current tariff naming rates to become effective July 1, 2000, on less than statutory notice (LSN). The proposed tariff revisions came before the Washington Utilities and Transportation Commission at its Open Public Meetings of June 28, 2000 and July 12, 2000.

2. The proposed tariff revisions would establish Item 160 Time Rates for the transportation from the Waste to Energy (WTE) incinerator in Spokane of by-pass waste for disposal and industrial ash waste to an inter-modal facility for disposal. The Spokane County Comprehensive Solid Waste Management Plan (Plan) designates the WTE facility as a site that receives and transfers solid waste collected for disposal from various locations throughout Spokane County. Included in the Plan as solid waste is by-pass waste and industrial ash waste.

3. The incineration of material at the WTE facility does not generate solid waste. The essential character of the material remains solid waste when it arrives at the WTE facility, is incinerated at the WTE facility, and is transported from the WTE facility to the intermodal facility for disposal.

CONCLUSIONS OF LAW

1. The Washington Utilities and Transportation Commission (Commission) is an agency of the State of Washington with jurisdiction to regulate the rates, services and practices of solid waste collection companies operating under chapter 81.77 RCW.

2. Western Refuse Company is a solid waste collection company subject to regulation by the Commission under chapter 81.77 RCW, unless otherwise exempt from Commission regulation under other provision of law.

3. The Commission's jurisdiction to regulate the transportation of solid waste for collection or disposal is restricted by RCW 36.58.050, which states in relevant part as follows:

When a comprehensive solid waste management plan, as provided in RCW 70.95.080, incorporates the use of transfer stations, such stations shall be considered part of the disposal site and as such, along with the transportation of solid wastes between disposal sites, shall be exempt from regulation by the Washington Utilities and Transportation Commission as provided in chapter 81.77 RCW.

4. The Commission is without authority, under RCW 36.58.050, to regulate the transportation from the Spokane WTE facility of solid waste for disposal, including by-pass waste and industrial ash waste. The tariff revisions proposed in this docket by Western Refuse Company, therefore, must be rejected.

Based on the above findings of fact and conclusions of law, the Commission enters the following order.

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ORDER

IT IS ORDERED That filing of Western Refuse Company in Docket TG-000893 is hereby rejected.

DATED at Olympia, Washington, and effective this 18th day of July, 2000.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION



MARILYN SHOWALTER, Chairwoman



RICHARD HEMSTAD, Commissioner



WILLIAM R. GILLIS, Commissioner

Tariff No. 11

2nd Revised Page No. 1

Company Name: Western Refuse Company

CHECK SHEET

All of the pages contained in this tariff are listed consecutively by number. The pages to the tariff and/or any supplements to the tariff listed on this page have issued dates which are the same as, or are prior to, the issued date of this page. "O" in the revision column indicates an original page.

<u>Page No.</u>	<u>Current Revision</u>	<u>Page No.</u>	<u>Current Revision</u>
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Supplements in Effect

Issued By: Michael A. Weinstein, Region Financial Analyst

Issue Date: June 9, 2000

Effective Date: July 24, 2000

(FOR OFFICIAL USE ONLY)

Effective _____ Docket TG- _____ Other _____

LSN _____ 1AA _____ Hearing _____ By _____

Company Name: Western Refuse Company

Item No. **TIME RATES**
 When customer orders single, special or emergency pickup or when Items apply, time is charged for as follows:

Time shall be recorded and charged for from the time the vehicle leaves the collector's terminal until return to the terminal excluding interruptions. Time to be recorded to the nearest increment of 15 minutes.

Item 230 disposal site fees for the specific site or facility used will be added to the customer's account.

RATES PER HOUR

160	<u>Type of Equipment Ordered</u>	<u>Truck & Driver</u>	<u>Each Extra Person</u>	<u>Minimum Charge</u>
	<u>Single Rear Drive Axle:</u>			
	Non-Packer	\$ <u>51.45</u>	\$ <u>17.15</u>	\$ <u>51.45</u>
	Packer	\$ <u>68.30</u>	\$ <u>17.15</u>	\$ <u>68.30</u>
	Drop Box	\$ <u>85.50</u>	\$ <u>17.15</u>	\$ <u>85.50</u>
	<u>Tandem Rear Drive Axle:</u>			
	Non-Packer	\$ _____	\$ _____	\$ _____
	Packer	\$ <u>85.50</u>	\$ <u>17.15</u>	\$ <u>85.50</u>
	Drop Box	\$ <u>85.50</u>	\$ <u>17.15</u>	\$ <u>85.50</u>
	4 Axle Tractor and 40' 4 Axle Inter-modal Chassis	\$ <u>55.27</u>		
	3 Axle Tractor and 2-40 yd. End Dump Trailers	\$ <u>55.27</u>		
	3 Axle Tractor only	\$ <u>51.12</u>		

APPLICATION OF CONTAINER AND/OR DROP BOX RATES

Regardless of the amount of waste material in the container at pickup time, full pickup and rental rates will apply.

Time rates named in Item No. 160 will apply on material which must be taken to a special site for disposal.

Time rates named in Item No. 160 will apply when a truck must wait at or return to the customer's site to provide scheduled service due to no disability, fault or negligence on the part of the collector. Actual waiting time or time taken in returning to the site will be charged for.

Rates for compacted material apply only when such material has been compacted prior to its pickup by collector. Loose material dumped into the collector's packer truck from a container will be subject to the rates for non-compacted material even though the material may be compacted later in the packer truck.

Issued By: Michael A. Weinstein, Region Financial Analyst

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