



# Investigation Report

Rabanco Ltd. DBA  
Allied Waste Services of  
Klickitat County

TG-091292

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## **PURPOSE, SCOPE AND AUTHORITY**

### **Purpose**

The purpose of this investigation is to determine if Rabanco Ltd. d/b/a Allied Waste Services of Klickitat County (Allied), improperly billed its customers for weekly solid waste collection service while providing the customers bi-weekly service (collection of solid waste every other week) in violation of its tariff and applicable laws and rules. The Revised Code of Washington (RCW) 81.28.080 states that common carriers shall not charge, demand, collect or receive a greater, less or different compensation for services than those filed with the commission and in effect at the time. Washington Administrative Code (WAC) 480-70-236 states that a company cannot assess rates and charges for solid waste collection service that are higher, lower or different from those contained in its tariff.

### **Scope**

The scope of this investigation includes Allied's business practices as reflected in consumer complaint 105620.

### **Authority**

Staff undertakes this investigation pursuant to RCW 81.04.070, which grants the commission the authority to investigate public service companies, including solid waste collection companies. As described in WAC 480-70-216, the commission is authorized to administer and enforce laws and rules relating to solid waste collection companies.

## **BACKGROUND**

### **Company Information**

Rabanco Ltd. is a wholly owned subsidiary of Republic Services Inc. (Republic). Republic provides solid waste collection and related services throughout North America. In Washington state, Rabanco Ltd. operates through various trade names under two certificates of public convenience and necessity granted by the Commission, G-12 and G-60. "Allied Waste Services of Klickitat County" is one of these trade names. Allied provides service under the G-12 certificate.

Under the G-12 certificate, Rabanco Ltd. collected \$24 million in regulated revenue for 2008 and served approximately 50,300 residential and commercial garbage collection customers in Washington. Allied provides service according to Tariff No. 8, effective January 1, 2008, which covers regulated service to 2,700 residential and commercial customers.

### **Investigation**

This investigation was prompted by consumer complaint 105620, filed with the commission on February 4, 2009. The complainant alleged that Allied was providing bi-weekly service (collection of solid waste every other week), but billing for weekly service. RCW 81.28.080 states that common carriers regulated by the commission "shall not charge, demand, collect, or receive a greater or less or different compensation for transportation of persons or property, or for any service in connection therewith, than the rates, fares, and charges applicable to such transportation as specified in its schedules filed and in effect at the time." WAC 480-70-236(2) provides that a company may not "assess rates and charges for solid waste collection service that are higher, lower, or different from those contained in its approved tariff."

Complaint No. 105620 prompted further staff investigation to determine the number of consumers affected by the company's improper billing practice, and whether other rule and tariff violations were present.

## INVESTIGATION

### **Consumer Complaint No. 105620**

Complaint 105620 alleged that Allied was providing bi-weekly service, but billing for weekly service. When the complainant requested weekly service, the company refused, stating that it services the complainant's route only every other week. A copy of the customer's complaint is attached as Appendix A.

On February 4, 2009, Consumer Protection staff forwarded complaint 105620 to Allied for a response.

On February 5, 2009, Allied's office supervisor, Shirley Jagelski, responded as follows:

\*\*\* did call me and ask to have weekly service. I explained to him that the route he is on is an established every other week route and that we cannot send a truck 16 miles round trip, to service one account weekly. It is very rural area and it does not justify us to change the route for the amount of customers we have in that area. It is not a situation that we go into his area weekly and I refuse to give him every week service. He signed up for service knowing that it was an every other week service area. There have not been any surprises, we didn't all of a sudden change his route or change something he did not sign up for.

We do allow three cans every other week for the one can per week rate, so all of our every other week customers have good service. Our tariff # is G-12, his rate is the established rate on "ITEM 100, ORIGINAL Page 23", of \$10.65 for one can per week, and he is allowed three 32 gallon cans every other week for that rate.

On February 6, 2009, staff determined that the company's tariff did not include bi-weekly service, and informed the company that it must provide only those services listed in its tariff. Staff stated in its response to Allied:

I understand that driving 16 miles per week to service one customer may not be an attractive option to the company. I don't see an option for every-other-week service in the company's tariff, so I don't think the company can limit the customer to every-other-week service. If there is a geographic boundary where a level of service becomes unavailable, that boundary should be defined in the company's tariff.

The company must provide only services listed in its tariff. The Washington Administrative Code (WAC) 480-70-236, says, "...all companies must file tariffs and must comply with the provisions of filed tariffs." Subsection (3) of this WAC says, "No company may accept a payment for service that is higher, lower, or different from the rates and charges contained in its approved tariff." I recorded one violation of WAC 480-70-236(3).

On February 6, Ms. Jagelski stated that her supervisor told her to change the complainant's account and add him to the company's weekly service.

Allied Waste's Tariff No. 8, Item 100, Original pages 21 through 24, provides weekly garbage service for one to six cans, and one option for monthly service with one can. The tariff does not contain any other scheduled service levels for residential garbage service within its service territory.

A copy of the company's Tariff No. 8, Item 100, pages 21 through 24, are attached as Appendix B.

### **Violations**

On March 19, 2009, staff asked Allied how many customers were receiving biweekly service billed at the weekly service rate. Ms. Jagelski stated that after finding out that the company must change the service level from biweekly to weekly, she made changes to 622 accounts. When staff attempted to confirm whether those 622 customers were improperly billed and for how long, Ms. Jagelski responded:

I am not sure, but I can ask. It was something that Ty Ross started way back when he started the company. Those customers that were receiving service every other week were allowed to set out 3 cans of trash for the one can per week rate, 6 cans for the two can per week rate, etc. So the customers were getting at least two free cans more per month than the rate they were paying.

On March 19, 2009, Ms. Jagelski further responded:

Ok, I called Ty Ross who originally started Tri-County Disposal and then was bought out. He said that the UTC suggested he start the every other week service so he could service a larger area of the county, because he was only doing the Goldendale area. He said it was about 1975 or 1976 when Carl Teel wasn't able to service some of his accounts and he bought him out, and that there were customers out in Glenwood and Bickleton that did not have any service and the UTC suggested the every other week service for those outlying areas, so that's what he did.

On March 27, 2009, Matt Henry, General Manager for Allied, clarified the number of customers who he believed were improperly billed:

622 was our hand count of letters that were sent to customers that were on every other week service. Apparently there were some duplicate letters or miscounts. Our records show that as of January 31, 2009, we had 591 customers on every other week service. Of this total 61 customers had dumpsters for which we have an established every other week rate. We had 530 residential customers receiving every other week service on January 31, 2009. That does not mean that there were 530 residential customers for the entire 140-month period in question. Determining that number would be very difficult. If you have questions or need additional information, please let me know. Thanks.

On March 27, 2009, staff recorded 74,200 violations of WAC 480-70-236(1) for improperly billing 530 customers for 140 months.

In September 2009, staff requested a list of names and addresses for all customers who were improperly billed in January 2009. On October 20, 2009, Mr. Henry responded to staff that the actual number of improperly billed customers was 444, not 530, and that the names and addresses of those customers were attached to his e-mail. Mr. Henry explained the change in the customer number:

In February 2009 we sent letters to 600+ customers notifying them of a service change. Upon review, we realized that some of those customers were commercial customers for which we have an every other week service rate in our tariff. Based on that information we reduced that total to residential customers that received letters, 530. As we began preparing the information to respond to your request to provide address and billing information for those customers, we realized that some of the residential customers that received letters were in fact already receiving weekly service. They received a letter to notify them of a change in their weekly service day, not a change to their service level. The address and billing information for the remaining 444 customers that were notified of the service change and actually receiving every other week service is attached. These customers were notified of the change in mid February and the changes were effective the first week of March 2009.

### **Customer Overcharges**

Customers who signed up for weekly service at the one can weekly rate but who received collection only once every two weeks appear to have been overcharged. It is true that affected customers were allowed a greater capacity of service: Allied allowed biweekly customers to deposit three cans every other week, while weekly customers were permitted only one can per week. Greater capacity, however, only has value if customers use it. Presumably, most biweekly customers required only one can per week because that is the service level they selected and for which the company billed them.

Solid waste collection companies that offer biweekly as well as weekly service in their tariffs typically have lower rates for the less frequent service. The average rate in the state among such companies for collection of two cans every other week is \$9.33. Two cans biweekly is the same capacity as one can weekly. Allied's rate for weekly collection of one can is \$10.65. The discrepancy between the two numbers is \$1.32. Accordingly, Allied customers with biweekly collection who were billed at the one can weekly rate appear to have been overcharged approximately \$1.32 per month.

During the investigation of complaint 105620, staff established that Allied improperly billed customers for a period of 140 months. Using the smallest number of affected customers identified, 444, the total overcharge for that time period was \$82,051.20.

**2007 Rate Increase**

On October 16, 2007, Allied filed a general rate increase request with the commission, Proposed Tariff No. 8. Allied stated that the proposed rate increase was necessary to “offset increases in labor, fuel, healthcare, pension, and other general operating expenses.” Item 100 of the tariff set the proposed rates for various levels of service. Allied represented that the only levels of service it offered were one, two, three, four, five or six can weekly, or one can monthly. No provision was made for biweekly service at any level.

**RECOMMENDATION**

Staff recommends a penalty of \$100 for each of the 444 customers improperly billed for weekly solid waste collection service in violation of WAC 480-70-236(1) for a total penalty of \$44,400.