



WASHINGTON REFUSE & RECYCLING ASSOCIATION

November 1, 2013

VIA EMAIL AND FIRST CLASS MAIL

Mr. Steve King
Executive Director & Secretary
Washington Utilities and
Transportation Commission
PO Box 47250
1300 S. Evergreen Park Dr. SW
Olympia, WA 98504-7250

Re: Comment – Docket A-130355

Dear Mr. King:

Thank you for this further opportunity to comment on the above-referenced rulemaking Docket. As you are aware, the Washington Refuse & Recycling Association (WRRA), Summit Law and Williams Kastner submitted written comments in mid May 2013, much earlier in the process. We urge the Commission to consider this letter and others which will be presented in conjunction with that earlier correspondence; as well as with comments and discussions at the September Workshop. The general direction taken by the three primary parties involved here may be the same, but individual comments may differ somewhat in approach, and each should be carefully considered. WRRA's comments are intended to present an overview of the general position of the industry itself, in particular small to medium-size companies, and will not be, we suspect, as detailed as those you will receive from others. However, be assured that the industry, and the various individual companies, stand together on the vast majority, if not all, of the issues presented in this Docket.

Accordingly, what follows will be summaries of WRRA's position on the various issues which we perceive as major points for further discussion and possible adoption as rules at some point in the future. We trust they will be of value to the Commission and its staff as we proceed to actual drafts of proposed rules, at which point discussion and comment will become increasingly focused:

TEMPORARY RATE RELIEF: The Commission should give serious consideration to implementation of a rule making temporary rate relief, subject, of course, to refund, readily available. If a rate filing is well documented and technically correct, chances are high that it, or a major portion of it, will be approved. We

assume that staff will apply complete and diligent analysis to the filing, which has already undergone intense scrutiny by the filing company. There would seem to be no logical reason, in such cases, not to grant temporary rates, subject to refund. The companies are able to plan better and the consumer will understand the process, and perhaps even be moved to take a greater part in that process. Rate increases are sought because they are needed to maintain levels of service and financial stability rightly required by the Commission. There is little, if any, justification to postpone them while the often lengthy process of review takes place.

ACCEPTANCE OF FILINGS: Filings which staff concludes are incomplete, or otherwise noncompliant, are rejected, and must be refiled. This is not necessarily unreasonable, but there should be a "middle ground" for those filings which may contain a very minor or insignificant error. This would be a matter of a short (perhaps two-day) period in which the company would be advised of the problem and given the opportunity to correct it, as opposed to starting the entire process over again. This would save both the company and staff time and resources; savings which eventually benefit the ratepayer. Rate filings are time consuming and expensive. Anything that can be done to make them less so should be done.

AFFILIATE TRANSACTIONS: The Commission apparently wants WAC 480-07-520(4)(j) to require companies to "demonstrate the cost" of every affiliate transaction. While on its face this may not seem to be an unreasonable requirement, the issue of concern is "how far" it goes. If, for example, a company rents real estate from an owner for shop/office space,¹ what information will the staff require beyond that the rent is at reasonable market rates?

Will the company have to provide tax records, comparable sales, other options or even a professional appraisal? Guidance from staff is necessary here, whether the rule is amended or not. Affiliated interests are a reality and they must be approached and treated by staff as such.

GENERAL LEDGER/WORK PAPERS: While we understand the necessity of staff understanding how a company reached its rate conclusions, we remain concerned about the information we supply which will be open to public scrutiny. The most obvious example is a "general ledger," which apparently staff wants in Excel format. There are two significant problems with this. First, many, if not most, small companies do not have information in Excel; to do so would significantly increase cost which, as we all know, is eventually borne by the ratepayer.

Secondly, and considering the current increase in "identity theft," general ledgers usually contain information which clearly should not be subject to public access. Employees' social security numbers, drivers' license numbers, addresses and dates of birth may well be accessible if the general ledger is made public. We should never underestimate the ingenuity of identity thieves, nor should we make it easy

¹ This is a common practice with small to medium-size companies, done so for tax purposes on the basis of advice from the companies' accountants.

for them to prey upon our employees. We have no problem with auditors' review of appropriate documents on site, but to make them part of the public record seems reckless, at best.

Also, regarding "papers," there seems to be a desire on the part of staff for more "narratives" in filings. This is already a normal part of the procedure, along with a "checklist" which is standard and has been required since 2009, and is published on the Commission's website.

A general narrative of a filing is, we believe, provided in the "transmittal letter" which accompanies each filing. If more information is needed by staff in this letter, it certainly can be provided. Perhaps the best solution is for staff to provide a sample and/or format for the letter/narrative, and we will comply, so long as it complies with the applicable rules.

In general, the industry would welcome sample "formats" supplied by staff for any filings. This would be of benefit to all involved.

GENERAL INFORMATION: Staff appears to want the ability to receive "additional information" regarding rate filings, as in WAC 480-07-510(3)(e), which is an energy, not a solid waste, rule. This would seem to be addressed by the availability of Data Requests. Although Data Requests require a great deal of time and expense for companies, if necessary, they will be done. However, perhaps a simple phone call from the auditor could resolve the issue and save everyone (ratepayers included) time and expense. There is no need for additional rules regarding information from companies.

CONFIDENTIALITY: Although this is primarily a legislative issue, eventually it may well find itself in the rule making arena. At this point, it is sufficient to say that the industry does not seek to keep any relevant and appropriate information from the Commission. However, the Commission must keep in mind that information regarding many affiliated interests should not be available to these non-regulated entities' competitors. Nor should information such as employees' social security numbers, drivers' license numbers and the like be on file for an enterprising identity thief to peruse. This rulemaking should do nothing to threaten the absolute necessity of these limited forms of confidentiality.

As the Commission is well aware, this issue is of utmost importance in regard to information concerning affiliated interests and contracts. The availability in the public record of proprietary information places our members at a considerable disadvantage in relation to their competitors. They can easily obtain this valuable information about us, while we do not have the same option. This creates an unfair situation which must be remedied.

ALLOCATION FACTORS: We will readily admit to confusion concerning ". . . the derivation of all inter and intra-company and multiservice cost allocation factors." This is perhaps normal procedure in other regulated industries such as energy, but is new to us. Nor does there appear to be an applicable rule in place for

whatever this may be for solid waste. Accordingly, we would want to see a sample format before offering further comment.

COST OF SERVICE: Staff's points appear to seek a requirement that an analysis of the cost to provide each collection service be provided. This would, in effect, reinstate the "cost of service requirement" that was removed in 2004 by General Order No. R-510 (Docket A-010648). There was no reason to continue it in 2004, and there is no reason to reinstate it now.

SMALL BUSINESS IMPACTS: Clearly much, if not most of staff's initially outlined proposals apply to the publicly-traded and larger, more sophisticated companies which serve a majority of consumers, at least in the urban areas of our state. These companies are WRRRA members and we are equally concerned about the impact of any rulemaking upon all our members, publicly or privately owned. However, we have an additional concern that this particular rulemaking may be directed at these larger companies, while not giving appropriate consideration to the small, family-owned operations which continue to serve a significant number of consumers throughout the state, in rural, suburban and urban environments. The differences in customer base, revenue, resources and ability to comply with new and complex rules simply cannot be ignored.

We have referenced some of these problems above, and trust that the Commission will give them the attention they deserve.

The Commission should devote additional scrutiny to the impact of whatever rules may be eventually proposed on small business. There is, of course, a vehicle for this in the "Small Business Impact Statement." The Legislature has made it clear that the impact of administrative rules upon small business is of importance, and is not to be either assumed or ignored. Simply put, what may be acceptable and workable for a company with significant resources, including in-house financial experts, is simply out of reach for the small family-owned concern which serves, for example, a largely rural area. There, if rates are raised to a certain level to meet criteria imposed by new rules, there is a risk that customers will simply stop service and either self-haul or dispose of their garbage as they see fit, in a manner not necessarily consistent with legal and environmentally acceptable practices. The few remaining customers will eventually end up paying even higher rates as a reward for their loyalty and respect for the environment.

SUMMARY/CONCLUSIONS: WRRRA shares with the Commission the same goal here. That is, to provide the consumer with safe, affordable and effective service at reasonable and compensatory rates. We believe that is the case now, but if revision of some of the applicable rules will make it even better then we certainly want to be a part of the process, and if there are genuine problems, we want to be part of the solution.

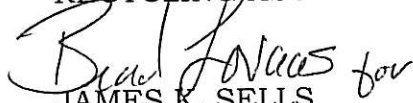
When the industry considers the regulatory climate, we hope for, and expect nothing more, nor less, than consistency in rule drafting and adoption; consistency in application; fairness; and just plain common sense. We trust that

the Commission shares these sentiments, and we can go forward in the best interest of all involved.

Thank you again for the ongoing opportunity to comment on these very important issues. We look forward to further opportunities for both written and oral exchanges as the process continues.

Very truly yours,

WASHINGTON REFUSE AND
RECYCLING ASSOCIATION


JAMES K. SELLS
General Counsel