

BEFORE THE WASHINGTON STATE

UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Application) of)
 BOBBY WOLFORD TRUCKING &) Docket No. TG-152228
 SALVAGE, INC.)
 For Authority to Operate as a)
 Solid Waste Collection Company)
 in Washington or Alternatively)
 for Exemptions from Commission)
 Rules Governing Regulated)
 Collection of Medical Waste)

PREHEARING CONFERENCE

Pages 1-13

ADMINISTRATIVE LAW JUDGE RAYNE PEARSON

9:31 a.m.

SEPTEMBER 21, 2016

Washington Utilities and Transportation Commission
1300 South Evergreen Park Drive Southwest
Olympia, Washington 98504-7250

REPORTED BY: ANITA W. SELF, RPR, CCR #3032

Buell Realtime Reporting, LLC.
1325 Fourth Avenue
Suite 1840
Seattle, Washington 98101
206.287.9066 | Seattle
360.534.9066 | Olympia
800.846.6989 | National

www.buellrealtime.com

A P P E A R A N C E S

ADMINISTRATIVE LAW JUDGE:

RAYNE PEARSON
Washington Utilities & Transportation Commission
1300 So. Evergreen Park Drive SW
P.O. Box 47250
Olympia, Washington 98504
360.664.1136
rpearson@utc.wa.gov

FOR BOBBY WOLFORD TRUCKING:

ELIZABETH ALVORD
221 Lake Avenue W
Kirkland, Washington 98033
425.505.1865
ealvordattorney@yahoo.com

FOR WASTE MANAGEMENT OF WASHINGTON, INC.
and RUBATINO REFUSE, INC.:

POLLY L. MCNEILL & SARA A. KELLY
Summit Law Group
315 Fifth Avenue S, Suite 1000
Seattle, Washington 98104
206.676.7040
pollym@summitlaw.com
sarak@summitlaw.com

FOR WASHINGTON REFUSE & RECYCLING ASSOCIATION:

JAMES K. SELLS
PMB 22, 3110 Judson
Gig Harbor, Washington 98335
360.981.0168
jamesells@comcast.net

FOR REPUBLIC SERVICES-RABANCO:

DAVID W. WILEY
Williams Kastner
601 Union Street, Suite 4100
Seattle, Washington 98101
206.628.6600
dwiley@williamskastner.com

* * * * *

1 OLYMPIA, WASHINGTON; SEPTEMBER 21, 2016

2 9:31 A.M.

3
4 P R O C E E D I N G S :

5
6 JUDGE PEARSON: Okay. Then let's be on the
7 record in Docket TG-152228, which is an application
8 filed by Bobby Wolford Trucking & Salvage, Inc., for
9 authority to operate as a solid waste collection company
10 in Washington.

11 Today is Wednesday, September 21st, 2016, at
12 9:30 a.m., and we are here for a prehearing conference
13 to discuss scheduling and other procedural issues.

14 My name is Rayne Pearson. I'm the
15 administrative law judge presiding over this case.

16 So let's get started by just taking short
17 appearances, beginning with the Applicant.

18 MS. ALVORD: My name is Elizabeth Alvord,
19 and I represent Bobby Wolford Trucking.

20 JUDGE PEARSON: Thank you.

21 And for Waste Management and Rubatino?

22 MS. MCNEILL: Thank you. Polly McNeill with
23 Summit Law Group, and co-counsel Sara Kelly with Summit
24 Law Group on behalf of Rubatino Refuse, Inc., and Waste
25 Management of Washington, Inc.

1 JUDGE PEARSON: Okay. Great.

2 And for Republic Services?

3 MR. WILEY: Good morning, your Honor. David
4 Wiley representing Rabanco, Republic Services.

5 JUDGE PEARSON: Okay. Thank you.

6 And Mr. Sells, did you want to introduce
7 yourself?

8 MR. SELLS: Yes, your Honor. James Sells
9 representing proposed Intervenor, Washington Refuse &
10 Recycling Association. I also have co-counsel,
11 Mr. Whitaker, who will not be here today.

12 JUDGE PEARSON: Okay, great. Which brings
13 us to our first issue, which is the WRRRA's petition to
14 intervene.

15 Mr. Sells, would you like to speak briefly
16 to your petition?

17 MR. SELLS: Thank you, your Honor. This --
18 we see this matter as having two primary issues, one
19 being the issue of use of equipment, and who picks the
20 equipment, and whether other companies have the right to
21 get the equipment if they don't -- if, in fact,
22 equipment is -- special equipment is needed. That's
23 something that would affect the entire industry
24 statewide.

25 Secondly is the issue of fitness. This is

1 an applicant who is coming off a couple substantial
2 fines. And, once again, this is kind of unusual to us,
3 and it's something that's going to have to be decided,
4 and it will be precedential for the entire statewide
5 industry.

6 JUDGE PEARSON: Okay. Thank you.

7 Is there any objection to WRRRA's petition to
8 intervene?

9 MS. ALVORD: No objection.

10 JUDGE PEARSON: Okay. Since there is no
11 objection, I will grant the petition for intervention.
12 And next, I would like to clarify the scope of the
13 proceeding and the application.

14 When I read the application, I see that it's
15 narrowly tailored to provide solid waste collection
16 services of debris from construction sites, it looks
17 like, using the specialized end dump, side dump and belt
18 trailers within the boundaries of King and Snohomish
19 Counties.

20 And again, when I read the application, it
21 looks as though the Company is asserting that no
22 incumbent hauler is able to provide this service at the
23 time, not that the service is being provided but not to
24 the Commission's satisfaction.

25 So you are proposing to operate different

1 service as opposed to an overlapping service; is that
2 correct?

3 MS. ALVORD: That's correct.

4 JUDGE PEARSON: Okay. I just wanted to
5 clarify that on the record.

6 So my next question is whether the parties
7 want the discovery rules to be available.

8 MS. MCNEILL: Your Honor, Polly McNeill for
9 Rubatino and Waste Management.

10 On your prior point, I appreciate your
11 question to the Applicant to clarify that. Of course, I
12 would assume that, if we have evidence that there are
13 carriers performing this service, that the issue would
14 become subsumed into the Applicant's position that no
15 service is being provided. We're certainly not willing
16 to concede that the service is not being provided at all
17 at this point.

18 JUDGE PEARSON: Right.

19 MS. MCNEILL: Okay.

20 JUDGE PEARSON: I think that's what we're
21 here to determine is whether this service is being
22 provided.

23 MS. MCNEILL: Thank you. I just wanted to
24 clarify that. I appreciate that.

25 JUDGE PEARSON: Okay.

1 Any comment on the discovery rules?

2 MS. MCNEILL: Oh, well, we think that there
3 would be a need for some discovery in this case, so we
4 would appreciate having the opportunity to explore,
5 prior to the hearing, some of the factual bases for the
6 Applicant's assertions.

7 MR. WILEY: Yes, your Honor. On behalf of
8 Republic Services, I would say that, particularly
9 because of the issues that were framed by Mr. Sells in
10 terms of the WRRRA's role, that those issues also would
11 pertain to the protestness [sic] in terms of developing
12 evidence about the use of equipment, particularly in
13 this case.

14 JUDGE PEARSON: Okay. And I agree, and it
15 sounds like we're on the same page, that discovery
16 should be used in this case for the limited purpose of
17 looking at whether or not the service is the same. I
18 don't think we need to go down the road of looking at
19 the Company's fitness, because I don't think we will
20 necessarily reach that question. We'll just be looking
21 at whether or not the service is being provided by the
22 incumbent haulers. So just keep that in mind when you
23 draft your discovery requests.

24 And so is there a need for a protective
25 order? I'm hearing nothing on that, so we won't issue

1 one then.

2 And do each of the parties consent to
3 electronic service, if the Commission decides to serve
4 documents in that manner?

5 MS. MCNEILL: Yes, very definitely for Waste
6 Management and Rubatino, we do, thank you.

7 JUDGE PEARSON: Great.

8 MR. WILEY: Your Honor, on that issue, could
9 we also waive service by mail, at least of the parties
10 versus the Commission and you?

11 JUDGE PEARSON: Yes.

12 MR. WILEY: Okay. Thank you. We would so
13 waive if it's approved by everyone else.

14 MS. ALVORD: Agreed.

15 JUDGE PEARSON: Okay.

16 MR. SELLS: Correct, your Honor. Thank you.

17 JUDGE PEARSON: Great. Thank you.

18 So that brings us to the schedule. I don't
19 think that it's necessary to brief out testimony in this
20 case because, again, the issues are relatively limited
21 and narrow. So what we need to do is set a hearing
22 date, working back from there, setting a date one week
23 prior by which parties must file exhibit and witness
24 lists, and at least ten days prior to that date the
25 cutoff for discovery.

1 So just to be clear, because this is a
2 little bit different, and it's not necessarily laid out
3 in the procedural rules, the exhibit list should include
4 descriptions of each exhibit, and the witness list
5 should provide the name of the witness and a brief
6 summary of the witness's testimony and a time estimate
7 for their testimony.

8 So have the parties had the opportunity to
9 discuss a hearing date in advance or -- okay. That's
10 okay. So just so you know what works for my schedule
11 and for this room, because that's what I've looked into,
12 I do have some possible hearing dates in mid-November,
13 and what I have is November 9th, November 14th,
14 November 16th, November 18th and November 22nd.

15 MR. WILEY: Your Honor, November 22nd, I
16 believe, is the week in which -- is that the week this
17 year that Thanksgiving --

18 JUDGE PEARSON: Thanksgiving, yes.

19 MR. WILEY: Thank you.

20 JUDGE PEARSON: Yes. So if you don't want
21 to do it that week, I understand. So do you need a few
22 minutes? I don't know that I necessarily need to leave
23 the room, but maybe we can go off the record for a few
24 minutes and discuss amongst the parties --

25 MS. MCNEILL: Why don't we do that.

1 Presently, the dates are all good with me, but we should
2 work together and see what works for everybody, if you
3 don't mind.

4 JUDGE PEARSON: Okay. We will take a short
5 recess then.

6 MS. MCNEILL: Thanks.

7 (A break was taken from 9:40 a.m.
8 to 9:43 a.m.)

9 JUDGE PEARSON: Okay. All right. Well,
10 let's go ahead and go back on the record then. And
11 while we were in a brief recess, the parties had the
12 opportunity to discuss a hearing date, which it looks
13 like Ms. Alvord is going to inform me of.

14 MS. ALVORD: Yes. We decided on the 14th of
15 November.

16 JUDGE PEARSON: Okay.

17 MS. ALVORD: And the witness and exhibit
18 lists, then, would be due on the 7th.

19 JUDGE PEARSON: Okay.

20 MS. ALVORD: And discovery would be
21 completed, or the discovery cutoff date would be the
22 28th of October.

23 JUDGE PEARSON: Perfect. Okay.

24 And did you decide whether you wanted a
25 morning or afternoon hearing?

1 MS. KELLY: It would be my strong preference
2 to do it in the morning.

3 JUDGE PEARSON: Okay. That's fine.

4 MR. WILEY: Do you think we'll get through
5 in a morning session, your Honor?

6 JUDGE PEARSON: Most likely, but it would
7 probably be safer to set it for the morning just in case
8 it does spill over into the afternoon. Okay.

9 And what about start time? Would the
10 parties prefer 9:00 or 9:30 or 10:00?

11 MR. WILEY: 9:30.

12 MS. KELLY: 9:30 is fine.

13 MS. ALVORD: 9:30 is fine.

14 JUDGE PEARSON: Then we would do 9:30 on
15 November 14th. Okay.

16 Is there anything else that we need address
17 while we're here?

18 MS. MCNEILL: No.

19 MR. WILEY: Nope.

20 JUDGE PEARSON: Okay. Then I will issue an
21 order reflecting everything that was discussed here
22 today, and we will be adjourned until the hearing on the
23 14th of November.

24 MS. MCNEILL: Thank you.

25 MS. KELLY: Thank you.

1 JUDGE PEARSON: Thank you very much.

2 MS. ALVORD: Thank you.

3 MR. WILEY: Thanks.

4 (Hearing concluded at 9:45 a.m.)

5

6 -o0o-

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I, ANITA W. SELF, a Certified Shorthand Reporter
in and for the State of Washington, do hereby certify
that the foregoing transcript is true and accurate to
the best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set my hand
and seal this 26th day of September, 2016.

ANITA W. SELF, RPR, CCR #3032