



Trash dispute enters courts

Republic faces lawsuit

By Monique Ching

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SAN ANGELO, Texas —The fight over San Angelo's trash business has officially gone legal.

"We think it is inappropriate for the city to take action tomorrow," said Bob Gregory, president of Texas Disposal Systems at a Monday news conference announcing local company Acme Iron and Metal, also owned by Gregory, had filed the lawsuit against Republic Services.

TDS held a news conference a day before the City Council will decide whether to authorize the city manager to execute an exclusive contract with Republic, which was selected over TDS three months ago for negotiations on a solid waste and landfill contract.

"The city anticipates approval of a solid waste contract that will very shortly result in an increased level of service at the lowest possible cost for customers and the least financial risk for their municipal government," said City Manager Daniel Valenzuela in a statement released Monday afternoon.

TDS is calling for the city to hold off on the decision for about six months while extending the current contract for that period of time so it can understand the full extent of the alleged overcharges Republic collected from 2,000 commercial customers in San Angelo.

"We'll continue until duration, because this is just wrong to have this to go on for this long and to have the company react as they have," Gregory said. "And what makes it worse, to allow staff and council to almost become a patsy for them."

On Friday, Republic issued a statement that it would hire a third-party accounting firm to conduct a comprehensive review of commercial billing statements to identify any incorrect fees that were charged. Republic committed to fully refund any such incorrect fees and projected the review to be complete in 90 days.

"I don't think that's taking ownership of the issue; I don't think that's a remedy to the issue," Gregory said. "It's certainly not money back to the pockets to the businesses."

This statement follows a monthslong review by the city's internal auditor Steve Mahaffey, simultaneous to the city's contract negotiations with Republic, to address the concerns that had been raised by TDS and members of the public.

"A question has been publicly raised as to the findings of the city's internal auditor," Valenzuela said. "Working with Republic, the internal auditor found environmental recovery fees and some fuel surcharges were not supported by City Council action. But because of the sheer volume of the billing records involved, there was no way for us to know precisely how much money is involved. That's why the city endorsed Republic's hiring of a third-party, external auditing firm that will independently determine the amounts owed."

TDS representatives and a few of the residents in attendance contended that didn't make sense.

"Republic is going to hire someone, and Republic is going to pay someone to decide whether or not Republic had done something wrong on the rates," said Charles Young, a San Angelo resident at Monday's news conference. "That's like asking the fox to count the number of chickens and tell you how many are missing. And that struck me as a little odd."

Acme will proceed with the lawsuit despite Republic's statement. The company, along with Mayfield Paper Co., is aiming to file it as a class-action lawsuit, which would include the thousands of other commercial customers. They are awaiting official certification of that.

TDS estimated up to \$9.2 million in overcharges were collected by Republic since 2000, saying the company should repay those overcharges with interest.

"The city didn't charge that fee," Gregory said. "We're not implying that the city did this."

Gregory also estimated that the entire contract was worth about \$466.3 million — but that figure is based on assumptions that the city would take its two options to extend the contract to its full 20 years as well as many other factors about landfill volume and rates that were assumed.

City officials could not confirm this estimate.

Gregory added that the request for proposals, or RFP, for the solid waste and landfill contracts were biased to begin with, in favor of Republic. If the city were to delay Tuesday's decision by six months, that would afford the city time to "throw out" the RFP and the submitted proposals by Republic and TDS so the city could start over.

"We think this process is way, way, way contaminated," Gregory said.

One of the areas of the RFP that was skewed in favor of Republic, he said, was a portion that required the new contractor to assume liability of all landfill activities that had occurred in the past.

Rick Fraumann, director of sales at TDS, said because the company would not assume the liability of what had occurred in the past at the landfill, that counted against it during the selection process.

“Landfills by their very nature carry with them a lot of liability,” said Anthony Wilson, public information officer for the city. “It was important to the city by this process to have the vendor that is selected to assume that.”

Gregory also stated that market information provided by the city was incorrect, causing the proposed TDS rates to be higher than they otherwise would have been.

Initial market information released at the time the RFP was sent out indicated San Angelo was a smaller market than it is, Gregory said, skewing the rates that TDS submitted in its response.

“I believe this process has been unfair to my company,” Gregory said. “The bid was so slanted toward Republic, who has the contract.”

Wilson disagreed with that assessment.

“We were basically someone available to help get Republic to volunteer money for financial insurance that they were already responsible for but they hadn’t given up to the city,” Gregory said.

Gregory admitted that while he does want the contract from the city, his purpose of continuing to pursue the issue is not just for business in San Angelo.

“It’s bigger than that. It’s bigger than that. I was born here, grew up here; I’ve had a business here ever since 1971, and I don’t like what’s going on,” he said. “I think San Angelo deserves better.”



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