DELAWARE SOLID WASTE AUTHORITY

Statutory Authority: 7 Delaware Code, Section 6403 (7 **Del.C.** §6403)
1 **DE Admin. Code** 503

FINAL

ORDER AND DECISION

503 Differential Disposal Fee Program

1. This is the Final Order and Decision of the Directors of the Delaware Solid Waste Authority (the "Authority") on the proposed removal of the Differential Disposal Fee Program (the "Obsolete Program") as it appears in the Delaware Administrative Code as 1 **DE Admin. Code** §503.

2. On June 1, 2013, the Authority caused to be published, in the Delaware *Register of Regulations*, notice of the removal of the Obsolete Program. The removal of the Obsolete Program was also the subject of publication in the *Delaware State News* on June 10, 2013.

3. In accordance with 7 **Del.C.** §6403(i) and (k), on Tuesday, July 2, 2013 a hearing was held before Michael W. Teichman, Esquire, the Authority's designated hearing officer. At the hearing, documents and sworn testimony were received into evidence.

4. The Authority issues this Final Order and Decision after a review of the documents and evidence admitted into the record at the hearing, as well as a careful review of the hearing officer's Proposed Order and Recommendations dated July 17, 2013.

Summary of Evidence, Findings of Fact and Conclusions of Law

5. The summary of evidence set forth in the hearing officer's Proposed Order and Recommendations accurately summarizes the documentary evidence and verbal testimony received into the record.

6. The findings of fact and conclusions of law in the Proposed Order and Recommendations appear well reasoned and amply supported by the summary of the evidence contained therein.

7. Accordingly, the summary of the evidence, findings of fact and conclusions of law set forth in the Proposed Order and Recommendations are incorporated by reference and adopted herein in their entirety as if fully set forth herein.

Decision

8. For the reasons set forth above, the Obsolete Program shall be stricken in its entirety and notice thereof shall be published in the Delaware *Register of Regulations.*

SO ORDERED, this 25th Day of July, 2013.

Richard V. Pryor, Chairman
Ronald G. McCabe, Vice Chair
Gerard L. Esposito
Gregory Moore
Tonda L. Parks
Theodore W. Ryan
Timothy P. Sheldon

~~503 Differential Disposal Fee Program~~

~~Statutory Authority: 7 Delaware Code,~~
~~Section 6403 (7 **Del.C**. §6403)~~

~~**1.0** Except as provided in Paragraph 2.0 below, the rate for disposal of solid waste and dry waste shall be $58.50 per ton.~~

~~**2.0** For those entering into a contract with the Authority to bring all of their solid waste or dry waste which has been collected in the State of Delaware to Authority facilities in accordance with the terms of the contract, the rebates and rates set forth shall be made available by the Authority subject to the following:~~

~~2.1 The contract term shall be from July 1, 2001 to June 30, 2005; July 1, 2002 to June 30, 2005; July 1, 2003 to June 30, 2005; or July 1, 2004 to June 30, 2005.~~

~~2.2 A rebate of $10.00 shall be paid for each ton of solid waste (excluding special and industrial process solid waste) delivered to Authority facilities, other than the Northern Solid Waste Facility located at Cherry Island in~~

~~Delaware, and for which the base rate disposal fee of $58.50 per ton has been paid to the Authority. A rebate of $13.50 shall be paid for each ton of solid waste or dry waste delivered to the Northern Solid Waste Facility located at Cherry Island in Delaware and for which the base rate disposal fee of $58.50 per ton has been paid to the Authority. The rebate shall be paid for the following periods in which the solid waste (excluding special and industrial process solid waste) has been delivered:~~

~~2.2.1 July 1, 2001 through June 30, 2002~~

~~2.2.2 July 1, 2002 through June 30, 2003~~

~~2.2.3 July 1, 2003 through June 30, 2004~~

~~2.2.4 July 1, 2004 through June 30, 2005~~

~~2.3 The rebate for the periods set forth in Paragraph 2.2 above shall be paid within forty-five (45) days after the end of the applicable period or after full payment has been made to the Authority by the person entitled to the rebate, whichever is later, for the solid waste delivered during the applicable period.~~

~~2.4 The disposal fee for dry waste delivered to designated solid waste facilities shall be $40.00 per ton. Such designated facilities shall include the Central Solid Waste Facility located at Sandtown in Delaware and the Southern Solid Waste Facility located at Jones Crossroads in Delaware, but shall not include the Northern Solid Waste Facility located at Cherry Island in Delaware. If the Authority establishes a disposal fee for dry waste above $40.00 per ton at any time during the term of the contract, the $40.00 per ton disposal fee shall apply for the term of the contract to those entering contracts. If the Authority establishes a disposal fee for dry waste below $40.00 per ton at any time during the term of the contract, those entering contracts with the Authority shall be entitled to such lower disposal fees while such disposal fees are in effect.~~

~~2.5 In order to enter into contracts under this Paragraph 2.0, persons having active accounts with the Authority and delivering solid waste or dry waste to an Authority facility that was collected in the State of Delaware shall execute contracts with the Authority (i) on or before September 1, 2001 for the contract term from July 1, 2001 to June 30, 2005, provided however, that for contracts executed after July 1, 2001 but on or before September 1, 2001 the effective date for participating in the Program shall be the effective date of execution of the contract; (ii) on or before June 30, 2002 for the contract term July 1, 2002 to June 30, 2005; (iii) on or before June 30, 2003 for the contract term July 1, 2003 to June 30, 2005; and (iv) on or before June 30, 2004 for the contract term July 1, 2004 to June 30, 2005.~~

~~**3.0** Those persons not under contract with the Authority shall be entitled to use the Authority facilities for disposal of solid waste and dry waste collected in the State of Delaware, subject to payment of such rate or rates established by the Authority, and subject to compliance with the regulations and requirements of the Authority and other applicable laws and regulations.~~

~~**4.0** The contracts utilized to effectuate this Program shall be uniform and shall contain such other terms and conditions deemed desirable and acceptable to the Authority. Municipalities, political subdivisions and governmental instrumentalities and entities which are required to deliver to Authority facilities all their solid waste and dry waste collected in the State of Delaware shall be entitled to the full benefits of this Program. The contracts shall inure to the benefit of and be binding on the persons, including their successors, assigns, parents, subsidiaries, affiliates, partners, joint venturers, divisions, and all other entities existing or newly formed, controlled directly or indirectly by such persons, through change in ownership or status by transfer of assets or otherwise, and which engage in the collection and/ or transportation of solid waste and dry waste generated in the State of Delaware.~~

~~**5.0** The Program established by Paragraph 2.0, above, shall be available to all persons having active accounts with the Authority effective July 1, 2001. For new accounts with the Authority opened after July 1, 2001, persons establishing such accounts shall be entitled to enter contracts with the Authority provided:~~

~~5.1 the uniform contract referenced in Paragraph 4.0 herein is executed within sixty (60) days of the date the new account is established;~~

~~5.2 the term of the contract extends to June 30, 2005;~~

~~5.3 the new account is with a new person, and not a person having an account with the Authority as of July 1, 2001; and~~

~~5.4 the persons agree that the Program benefits (rebate or reduced fee) do not come into effect until sixty (60) days after the new account is established.~~

~~**6.0** For purposes of this Program the term "person" is defined to mean any individual, partnership, corporation, association, institution, cooperative enterprise, municipality, commission, political subdivision or other duly established legal entity. The term "person" shall also include successors, assigns, parents, subsidiaries, affiliates, partners, joint venturers, divisions,~~

~~and all other entities existing or newly formed, controlled directly or indirectly by the person, through change in ownership or status by transfer of assets or otherwise.~~

~~**7.0** For purposes of this Program the term "dry waste" shall have the meaning as defined in the REGULATIONS OF THE DELAWARE SOLID WASTE AUTHORITY. For purposes of this Program the term "solid waste" shall have the meaning as defined in the REGULATIONS OF THE DELAWARE SOLID WASTE AUTHORITY but shall not include dry waste, or special or industrial process solid waste.~~

~~**8.0** This Program shall become effective on July 1, 2001 and continue until June 30, 2005. For those persons who have (i) prior to the adoption of this Program entered Differential Disposal Fee contracts with the Authority and (ii) who do not enter the Differential Disposal Fee contract under this Program, the provisions of prior Program and prior Differential Disposal Fee contract shall continue in full force and effect.~~

~~**5 DE Reg. 100 (7/1/01)**~~

17 DE Reg. 315 (09/01/13) (Final)