

**Exh. BF-4T  
Docket TG-240189  
Witness: Bridgit Feeser**

**BEFORE THE  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,**

**Complainant,**

**v.**

**WASTE MANAGEMENT OF  
WASHINGTON, INC.,**

**Respondent.**

**DOCKET TG-240189**

**REBUTTAL TESTIMONY OF  
BRIDGIT FEESER  
STAFF OF  
WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION**

*Rebuttal to Waste Management*

**December 20, 2024**

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1 I. INTRODUCTION

2

3 **Q. Please state your name and business address.**

4 A. My name is Bridgit Feeser. My business address is 621 Woodland Square Loop SE,  
5 Lacey, Washington 98503. My business mailing address is P.O. Box 47250, Olympia,  
6 WA 98504-7250. My email address is bridgit.feeser@utc.wa.gov.

7

8 **Q. Are you the same Bridgit Feeser who provided testimony on behalf of Commission**  
9 **Staff earlier in this proceeding?**

10 A. Yes.

11

12 **Q. What is the purpose of your testimony?**

13 A. I respond to testimony submitted by Chad Brooks on behalf of Waste Management of  
14 Washington, Inc. (Waste Management or Company).

15

16 **Q. Has Staff's recommendation changed?**

17 A. No, it has not. Staff continues to recommend that the Commission issue a penalty against  
18 Waste Management of \$254,000 for 254 violations of WAC 480-70-236 for failure to  
19 comply with commission-approved Waste Management of Greater Wenatchee Tariff 14,  
20 Item 240. If the Commission chooses to suspend a portion of a regulatory penalty to  
21 encourage future compliance in this case, Staff continues to recommend that no more  
22 than 50 percent be suspended for a period of two years and then waived on the condition  
23 that no further violations of this nature occurred during the suspension period. Staff also

1 continues to recommend that the Commission require the Company to do the following:  
2 (1) audit its compliance with Item 240 service frequency state-wide, including all routes  
3 to which Item 240 applies, (2) file its audit report as a compliance filing in this docket,  
4 and (3) ensure that appropriate Waste Management employees are properly trained with  
5 respect to regulatory compliance. At the end of the two year suspension period, Staff  
6 continues to recommend that the Company conduct a follow-up audit regarding its  
7 compliance with Item 240, with the audit report being filed in this docket as a compliance  
8 filing. Both the initial audit and the follow-up audit should contain the following  
9 information, separated by operating entity: the nature of any violations found, the  
10 location of any affected customers by address, the duration of the violation back to July  
11 1, 2022, a description of the corrective action needed, and the date corrective action has  
12 been taken.

13  
14 **Q. Have you prepared exhibits in support of your rebuttal testimony?**

15 A. No. I have no additional exhibits.  
16

17 **II. STAFF'S REBUTTAL TO WASTE MANAGEMENT**

18  
19 **A. General Observations About Chad Brooks's Testimony**  
20

21 **Q. What are your general observations regarding Chad Brooks's testimony.**

22 A. Chad Brooks does not deny the underlying facts and circumstances or the resulting  
23 violations. He agrees with Staff's investigation report findings and admits that the

1 Company incurred 254 violations.<sup>1</sup> This is consistent with the Company’s position  
2 throughout this case.<sup>2</sup>

3 Mr. Brooks concedes that Waste Management did not correct its actions until  
4 after Staff initiated a formal investigation a year after the violations were discovered  
5 through the informal investigation.<sup>3</sup> Mr. Brooks appropriately characterized the  
6 Company’s failure to correct its actions, particularly after receiving explicit instructions  
7 from Staff during the informal complaint process, as “not acceptable.”<sup>4</sup>

8 However, Mr. Brooks’ interpretation of the Commission’s Enforcement Policy is  
9 too narrow,<sup>5</sup> and Staff is troubled by the Company minimizing the importance of its  
10 actions and violations.<sup>6</sup> I will address specific issues raised by Mr. Brooks in my  
11 testimony below.

12  
13 **B. Response to Specific Issues Raised by Waste Management’s Testimony**

14  
15 **Q. Chad Brooks for Waste Management testifies that the Company informed impacted**  
16 **customers that they would receive monthly service instead of every-other-week**  
17 **service.<sup>7</sup> What is your understanding?**

18 A. Customers are harmed even if the regulated company informs customers that they would  
19 not receive the service level to which they subscribed. Telling customers that they will

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<sup>1</sup> Brooks, Exh. CB-1T at 6:14-16.

<sup>2</sup> *Wash. Utils. & Transp. Comm’n v. Waste Management of Washington, Inc.*, Docket TG-240189, Waste Management of Washington, Inc.’s Answer to Complaint, ¶ 2 (June 10, 2024) (hereinafter “Answer”); TR. at 8:20-23; TR. at 9:6-22.

<sup>3</sup> Brooks, Exh. CB-1T at 4:10-11.

<sup>4</sup> Brooks, Exh. CB-1T at 4:12-15.

<sup>5</sup> Brooks, Exh. CB-1T at 7:5-8.

<sup>6</sup> See Brooks, Exh. CB-1T at 9:9 – 10:15, 11:18 – 12:4, 13:1-10, 23:17-18.

<sup>7</sup> Brooks, Exh. CB-1T at 12:2-4.

1 receive service that violates the tariff does not reduce or mitigate the harm. In this case,  
2 Waste Management not only violated the tariff by failing to provide a service level  
3 required in their tariff, but they further violated their tariff by providing a service that was  
4 not allowed under the tariff. As the saying goes, two wrongs do not make a right. The  
5 Company appears to be arguing that there is no harm to the customer simply *because* the  
6 Company told them they would not receive the level of service required by the tariff.  
7 WAC 480-70-236 states all companies must file tariffs and must comply with the  
8 provisions of approved tariffs. The rule does not allow a company to provide different  
9 service than required by tariff if the company informs customers. Customers are harmed  
10 when they do not receive the level of service that meets their needs, particularly when  
11 that level of service is required in the Company's tariff.

12  
13 **Q. Chad Brooks states that the Commission's objective with respect to its Enforcement**  
14 **Policy is "to ensure services with the Commission's jurisdiction are delivered safely,**  
15 **adequately, efficiently, and at rates and charges that are just and reasonable."<sup>8</sup> Do**  
16 **you agree with Mr. Brooks's characterization?**

17 A. In part, but Mr. Brooks's characterization of the Enforcement Policy is too narrow. The  
18 overarching goal of the Enforcement Policy, and my division's work, is to ensure  
19 regulatory compliance with statutes, rules, tariffs, and orders from companies operating  
20 within the Commission's jurisdiction. Ensuring that services are safe, adequate, and  
21 efficient and provided at just and reasonable rates is a key component of the  
22 Commission's work, and every regulatory requirement impacts these principles. While

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<sup>8</sup> Brooks, Exh. CB-1T at 7:5-8.

1 Mr. Brooks does not recognize regulatory compliance as an overarching and important  
2 goal of the Enforcement Policy, he does seem to admit this when he states, “the failure to  
3 immediately correct the errors affects the Commission’s abilities to achieve its  
4 enforcement objectives.”<sup>9</sup>

5 Mr. Brooks’s criticism of Staff’s testimony seems to be that I did not use specific  
6 words to describe the violations and the impact in this case. This criticism is not effective  
7 because my testimony provides the Commission with the detail and substance needed to  
8 impose Staff’s recommended penalty. For example, even though Mr. Brooks testifies that  
9 Staff failed to argue that Waste Management’s services were unsafe, inadequate,  
10 inefficient, or provided at unreasonable rates, that is exactly what I argue throughout my  
11 testimony. Waste Management failed to comply with its tariff. In doing so, Waste  
12 Management provided inadequate and unreasonable (as compared to the service levels  
13 required under the tariff and the charges allowed under the tariff) and potentially unsafe  
14 service (overflowing containers).<sup>10</sup>

15  
16 **Q. Mr. Brooks discusses select factors that the Commission has identified as relevant in**  
17 **compliance cases. Please respond to Mr. Brooks’s evaluation of Factor 1 (how**  
18 **serious or harmful to the public were the violations).**

19 A. Mr. Brooks downplays the seriousness of the violations by stating that 25 customers were  
20 impacted and that the Company informed these customers that they would be receiving

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<sup>9</sup> Brooks, Exh. CB-1T at 9:13-16 (“WMW doesn’t discount the significance of its violations in this case: it’s important from a customer service perspective to follow through with the services we offer in our tariff, and the failure to immediately correct the errors affects the Commission’s ability to achieve its enforcement objectives.”).

<sup>10</sup> See, Feeser, Exh. BF-1T at 13:14-20.

1 monthly service.<sup>11</sup> As discussed above, telling customers that they were going to receive  
2 service that did not comply with the tariff does not make the violation less harmful.  
3 Customers rely on the Company's service schedule to collect garbage, yard waste, and  
4 recycling to rid their homes of waste. Twenty-five customers were harmed because they  
5 did not receive the service they signed up for. In addition, at least one customer reported  
6 to Staff that they contacted the Company multiple times over a year and a half reporting  
7 missed pickups, but the Company never provided the correct service. The customer also  
8 stated there were times the Company charged them for an overfilled container, which  
9 would not have happened had the Company provided them the service level they signed  
10 up for. This customer ultimately canceled their service.<sup>12</sup>

11  
12 **Q. Please respond to Mr. Brooks's evaluation of Factor 2 (whether the violations were**  
13 **intentional).**

14 A. Mr. Brooks testifies that the violations were intentional because service-level changes  
15 were made to 25 customers that violated Tariff 14, Item 240. Mr. Brooks further  
16 acknowledges that Staff provided technical assistance to the Company to address the  
17 violations, but the Company disregarded the technical assistance and did not correct the  
18 violations. Mr. Brooks then testifies the violations were essentially unintentional because  
19 "senior management" was not aware of the actions of "local operations staff."<sup>13</sup> This  
20 argument is particularly troubling to Staff.

21  

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<sup>11</sup> Brooks, Exh. CB-1T at 11:18 – 12:10.

<sup>12</sup> Feeser, Exh. BF-3 at 13-14.

<sup>13</sup> Brooks, Exh. CB-1T at 12:19 – 13:10.



1           Whether violations are intentional does not rely on whether a regulated  
2 company’s senior management (or any management) is aware of the violation. Even if  
3 managerial knowledge is required, which it is not, Staff informed Waste Management’s  
4 “Area Customer Experience Manager” of the violations found within the informal  
5 complaint in 2022.<sup>14</sup> Staff explicitly explained the violations and how to remedy them in  
6 April 2022.

7           Mr. Brooks also asserts that my testimony is not accurate regarding whether  
8 Waste Management’s violations were intentional, pointing to the Company’s actions to  
9 correct the violations after Staff initiated the formal complaint.<sup>15</sup> Mr. Brooks focuses on  
10 the wrong time period. Staff’s investigation, and the violations incurred in this matter,  
11 were focused on the Company’s actions between the April 2022 informal complaint  
12 where Staff provided the Company technical assistance to correct violations and the  
13 formal investigation that began a year later. Waste Management failed to correct its  
14 actions for a year after knowing about the violations. That Waste Management promptly  
15 remedied the violations once Staff initiated a formal investigation into the Company’s  
16 business practices is not material to whether the violations were intentional. Staff  
17 informed the Company its operations were in violation of its tariff, and it intentionally  
18 did not come into compliance until Staff initiated a formal investigation to determine if  
19 the Company had corrected its business practices. This is the type of behavior the  
20 Commission’s compliance policies seeks to avoid and correct.

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<sup>14</sup> Brooks, Exh. CB-1T at 4:3-9; Feeser, Exh. BR-3 at 28.

<sup>15</sup> Brooks, Exh. CB-1T at 13:11-18.

1 **Q. Please respond to Mr. Brooks's evaluation of Factor 4 (whether the Company was**  
2 **cooperative and responsive during the investigation).**

3 A. Mr. Brooks points out that Waste Management was cooperative and responsive to Staff's  
4 investigation.<sup>16</sup> Regulated companies are expected and required to cooperate with  
5 requests for information from the Commission.<sup>17</sup> Cooperation is not remarkable because  
6 cooperation is statutorily required of regulated companies. This factor is important if a  
7 company fails to cooperate. Failure to cooperate would be notable. In any event, Factor 4  
8 is one factor of many non-exclusive factors that the Commission considers. No one factor  
9 is determinative, and max penalties can be appropriate, as they are in this case, even  
10 when a regulated company is cooperative.

11  
12 **Q. Please respond to Mr. Brooks's evaluation of Factor 5 (whether the violations were**  
13 **promptly corrected).**

14 A. Mr. Brooks again points to Waste Management correcting the violations within a month  
15 of Staff initiating its formal investigation. This ignores the fact that Waste Management  
16 failed to correct the violations for an entire year after learning of the violations through  
17 the informal complaint process.

18 The Commission's technical assistance program includes informing companies of  
19 Commission requirements during the informal consumer complaint process. When the  
20 Commission or Staff finds a violation, the company has an obligation to correct the  
21 particular violation and the problems that caused the violation to occur. When Staff  
22 performs a formal investigation, they consider whether the company made necessary

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<sup>16</sup> Brooks, Exh. CB-1T at 14:8-14.

<sup>17</sup> RCW 80.04.070; RCW 81.04.070.

1 corrections to address previous technical assistance and whether the company's  
2 operations now comply with an applicable statute, rule, or tariff. When previous technical  
3 assistance is ignored and the company continues to violate applicable statute, rule, or  
4 tariff, Staff may recommend enforcement action. Unfortunately, Waste Management did  
5 not promptly make corrections after receiving technical assistance, and the same  
6 violations were still occurring a year later. As a result, Staff referred Waste Management  
7 for enforcement through the complaint filed in this case.

8 Additionally, Mr. Brooks criticizes my testimony that Staff was unaware of  
9 whether the Company had remedied its pick-up service.<sup>18</sup> While Staff was aware that  
10 Waste Management had made statements that it had corrected its actions, Staff did not  
11 have documentation confirming this to be true. I could not testify that Staff knew that the  
12 violations had been corrected.

13  
14 **Q. Please respond to Mr. Brooks's evaluation of Factor 8 (likelihood of repeat**  
15 **violations).**

16 A. Mr. Brooks testifies about the steps Waste Management has in place and has taken to  
17 achieve and maintain regulatory compliance.<sup>19</sup> Mr. Brooks points to the volume of  
18 services Waste Management provides across its service territory and the care the  
19 Company takes to remain compliant.

20 Mr. Brooks also criticizes Staff's concerns related to the facts of the violations in this  
21 case, stating Staff speculates what "could" happen in the future, that "recurrence is  
22 possible," and without Commission intervention the Company's practices "could"

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<sup>18</sup> Brooks, Exh. CB-1T at 15:1-3.

<sup>19</sup> Brooks, Exh. CB-1T at 16:6-14, 18:4 – 21:21.

1 continue.<sup>20</sup> Mr. Brooks further states he does not know what I mean when I say the  
2 Company has “created a practice,” and “Staff believes the non-compliance could be  
3 spread across the Company’s entire service area.”<sup>21</sup>

4 Even though Mr. Brooks minimizes Staff’s concerns, he proves that the concern  
5 was valid and correct. Waste Management decided that it was too far to drive to provide  
6 services under Item 240 well before Staff became aware of the issue through an informal  
7 complaint. Staff provided technical assistance to the Company of the violations, but the  
8 Company continued to withhold every-other-week pickup service for a year until Staff  
9 began a formal investigation. Waste Management did indeed establish a business practice  
10 of providing non-compliant service and had repeat violations.

11 In addition, after the Commission filed the complaint against the Company,  
12 which contained staff’s recommendation for the Company to audit its compliance with  
13 Item 240, the Company conducted a review. In the Company’s efforts to evaluate how  
14 widespread the issue is, it found an additional 17 customers who were receiving non-  
15 compliant service.<sup>22</sup> Had Staff conducted a wider investigation, those violations would  
16 have been included, increasing the potential penalty recommendation in this case.

17 In keeping the goal of achieving compliance, Staff conducted a narrower  
18 investigation which was sufficient to establish the compliance issue. Staff’s concern  
19 centered around the Company’s decision-making, its reasoning, and the impact rural  
20 customers would experience. Staff’s investigation focused on Douglas County services,  
21 and the root cause of the violations was a Company decision that it was too far to drive to

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<sup>20</sup> Brooks, Exh. CB-1T at 16:16-19.

<sup>21</sup> Brooks, Exh. CB-1T at 17:3-10.

<sup>22</sup> Brooks, Exh. CB-1T at 15:14-19.

1 provide tariff-compliant service to these customers. Staff understands that Waste  
2 Management services other rural parts of the state and had a reasonable (and now  
3 confirmed) concern that Waste Management may be making similar decisions in those  
4 other rural service areas.

5  
6 **Q. Please respond to Mr. Brooks's evaluation of Factor 10 (existing compliance**  
7 **program).**

8 A. Mr. Brooks describes Waste Management's compliance efforts, including staffing and  
9 other tools. Some of the staffing and tools existed prior to the violations found in Staff's  
10 investigation, and some of the tools were created in response to the investigation.<sup>23</sup> Mr.  
11 Brooks takes issue with Staff being unaware of the Company's compliance efforts.<sup>24</sup>

12 When Staff considers whether a regulated entity has a compliance program that  
13 addresses the violations at issue, Staff reviews past technical assistance provided to the  
14 Company in addition to the Company's response, i.e., did the company acknowledge the  
15 violations and notify Staff of their plan to make corrections and ensure future  
16 compliance. Staff also reviews past formal investigations to determine if violations in the  
17 current case have been addressed in previous formal cases and if there were any resulting  
18 compliance plans. Here, Waste Management knew of the violations in April 2022, but it  
19 failed to develop a responsive compliance program to remedy and prevent future  
20 violations. Instead, Waste Management continued to operate pursuant to its business  
21 practices of not providing certain customers with tariff-compliant service.

22  

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<sup>23</sup> Brooks, Exh. CB-1T at 18:4 – 21:21.

<sup>24</sup> Brooks, Exh. CB-1T at 22:3-8.

1 **Q. Please respond to Chad Brooks's evaluation of a suspended penalty in this case.**

2 A. Mr. Brooks testifies that Waste Management agrees with Staff's non-penalty  
3 recommendations and has already taken the actions Staff recommends.<sup>25</sup> However, Mr.  
4 Brooks criticizes my recommendation to consider suspending a portion of the regulatory  
5 penalty if certain conditions are met because he alleges that I do not consider the  
6 suspension factors.

7 Staff's recommendations regarding requiring an audit, remedying any further  
8 violations found, setting a suspension period, and requiring future compliance address the  
9 factors the Commission has identified for suspending a penalty. Indeed, Staff's  
10 recommendation provides the Commission with a basis for considering suspending a  
11 portion of the penalty in this case.

12 Customers rely on the Company's service schedule to collect garbage, yard waste,  
13 and recycling to rid their homes of waste. Twenty-five customers in the Douglas County  
14 area did not receive the service level they signed up for because the Company determined  
15 it was too far to drive for those customers. Customers in other rural areas who are not a  
16 part of this complaint were also negatively impacted. The Company received technical  
17 assistance regarding the violations and the requirement to make corrections a year before  
18 Staff began the formal investigation. The Company did not promptly remedy the  
19 violations and change its business practices, provide staff with a commitment or  
20 compliance plan to correct the violations, and repeated the same violations for an entire  
21 year. It was not until the Company was aware that Staff was conducting a formal  
22 investigation that they began addressing the violations. Two hundred and fifty-four

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<sup>25</sup> Brooks, Exh. CB-1T at 8:8-11.

1 violations is a significant number. Staff considers that the recommended penalty is  
2 appropriate. However, Staff also believes that suspending a portion of the penalty is  
3 appropriate to provide an incentive to achieve and continue compliance going forward.  
4

### 5 III. CONCLUSION

6

7 **Q. Please summarize your recommendation.**

8 A. Staff's recommendation remains the same. Staff continues to recommend that the  
9 Commission issue a penalty against Waste Management of \$254,000 for 254 violations  
10 of WAC 480-70-236 for failure to comply with commission-approved Waste  
11 Management of Greater Wenatchee Tariff 14, Item 240. If the Commission chooses to  
12 suspend a portion of a regulatory penalty to encourage future compliance in this case,  
13 Staff continues to recommend that no more than 50 percent be suspended for a period of  
14 two years and then waived on the condition that no further violations of this nature  
15 occurred during the suspension period. Staff also continues to recommend that the  
16 Commission require the Company to do the following: (1) audit its compliance with Item  
17 240 service frequency state-wide, including all routes to which Item 240 applies, (2) file  
18 its audit report as a compliance filing in this docket, and (3) ensure that appropriate  
19 Waste Management employees are properly trained with respect to regulatory  
20 compliance. At the end of the two year suspension period, Staff recommends that the  
21 Company conduct a follow-up audit regarding its compliance with Item 240, with the  
22 audit report being filed in this docket as a compliance filing. Both the initial audit and the  
23 follow-up audit should contain the following information, separated by operating entity:

1 the nature of any violations found, the location of any affected customers by address, the  
2 duration of the violation back to July 1, 2022, a description of the corrective action  
3 needed, and the date corrective action has been taken.

4

5 **Q. Does this conclude your testimony?**

6 A. Yes.