

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND	)	DOCKET TG-111813
TRANSPORTATION COMMISSION,	)	<i>(consolidated)</i>
)	
Complainant	)	ORDER 06
)	
v.)	
	)	FINAL ORDER APPROVING
WASTE MANAGEMENT OF	)	SETTLEMENT AGREEMENT
WASHINGTON, INC., d/b/a WASTE	)	AND LIFTING SUSPENSION
MANAGEMENT – NORTHWEST,)	
)	
Respondent.)	
.....)	
WASHINGTON UTILITIES AND	)	DOCKET TG-111814
TRANSPORTATION COMMISSION,	)	<i>(consolidated)</i>
)	
Complainant	)	ORDER 07
)	
v.)	
	)	FINAL ORDER APPROVING
WASTE MANAGEMENT OF	)	SETTLEMENT AGREEMENT
WASHINGTON, INC, d/b/a WASTE	)	AND LIFTING SUSPENSION
MANAGEMENT – SNO-KING,)	
)	
Respondent.)	
.....)	
WASHINGTON UTILITIES AND	)	DOCKET TG-111815
TRANSPORTATION COMMISSION,	)	<i>(consolidated)</i>
)	
Complainant,	)	ORDER 07
)	
v.)	
	)	FINAL ORDER APPROVING
WASTE MANAGEMENT OF	)	SETTLEMENT AGREEMENT
WASHINGTON, INC., d/b/a WASTE	)	AND LIFTING SUSPENSION
MANAGEMENT – SOUTH SOUND,)	
WASTE MANAGEMENT OF)	
SEATTLE,)	
)	
Respondent.)	
.....)	

- 1 *Synopsis. This is a final order of the Commission approving a settlement agreement between Waste Management of Washington, Inc., and Commission Staff and lifting the suspension on the company's recyclable commodity credit tariffs. Under the agreement, Waste Management will be entitled to incentive payments of five percent of expenditures under recyclable commodity revenue sharing plans with King and Snohomish Counties for meeting plan performance objectives tied to a demonstrated increase in recycling through increased recycling tonnages, decreased landfill disposal volumes, and increased voluntary subscriptions to yard/food waste collection services.*

BACKGROUND

- 2 On November 17, 2011, Waste Management of Washington, Inc., d/b/a Waste management – Northwest, Waste Management of Washington, Inc., d/b/a Waste Management – Sno-King, and Washington Management of Washington, Inc., d/b/a Waste Management South Sound, Waste Management of Seattle (Collectively Waste Management or Company) filed revisions in three dockets to applicable tariffs to increase the amount Waste Management pays to single family and multi-family customers for the value of the recyclable materials the Company collects in its residential recycling collection service. On November 21, 2011, Waste Management filed two recyclable commodity revenue sharing plans for 2011-12 for its service territories in King and Snohomish Counties.
- 3 On November 30, 2011, and December 29, 2011, the Washington Utilities and Transportation Commission (Commission) issued Orders 01 and 02, allowing the requested rates to go into effect, and authorizing Waste Management to retain up to thirty percent of the revenue from the sale of recyclable materials collected in its single-family and multi-family residential recycling programs on an interim basis, subject to refund once the proposed 2011-2012 Plan is approved by the Commission. The Commission also suspended the recyclable commodity revenue adjustments but allowed them to become effective on a temporary basis, subject to refund or credit if the Commission determines that different rates will be fair, just, reasonable and sufficient, and set the matter for hearing. The Commission issued Order 02/03 on January 23, 2012, consolidating the dockets into a single proceeding.

- 4 On July 2, 2012, Waste Management filed a Petition for Leave to Extend Revenue Sharing Programs and Recycling Commodity Price Adjustments (Extension Petition).¹ Waste Management requested that performance under current Revenue Sharing Agreement (“RSA”) recycling programs with King County and Snohomish County (collectively Counties) be allowed to continue for an additional four months beyond the August 31, 2012, expiration date. Waste Management also requested approval to continue charging the recycling commodity price adjustment rate that is in its current tariffs for the same period of time, by extending the expiration date of those tariffs to December 31, 2012. The Commission issued Order 05/06 on July 26, 2012, granting the Extension Petition.
- 5 On August 15, 2012, Waste Management and Commission Staff filed a joint request to suspend the procedural schedule. The parties represented that they had reached a settlement agreement in principle and sought to focus their efforts on preparing and filing documentation of their agreement. The Commission granted the request by notice dated August 16, 2012, and required the parties to file either a settlement agreement or a status report on their negotiations by September 5, 2012.

SETTLEMENT AGREEMENT

- 6 On September 5, 2012, the Company and Staff jointly filed a Motion to Lift Suspension and Approve Settlement Agreement, along with a Narrative Supporting Settlement Agreement and a copy of the agreement itself. The Settlement Agreement allows Waste Management to retain up to five percent of its program expenditures if the Company demonstrates that it has achieved performance objectives tied to an increase in recycling as defined in its RSA programs with King and Snohomish Counties.² Under those plans, Waste Management can demonstrate an increase in recycling through increased recycling tonnages, decreased landfill disposal volumes, and increased voluntary subscriptions to yard/food waste collection services.³

¹ The parties made this filing both in this proceeding and in consolidated dockets TG-101220, TG-101221, and TG-101222.

² Settlement Agreement ¶ 24. The rewards authorized under the plans are measured by reference to revenues, but the Settlement Agreement requires that those rewards be measured by plan expenditures. *Id.* ¶ 26. The Company will refund the difference to customers. *Id.* ¶¶ 27-28.

³ *Id.* ¶ 25.

7 On September 12, 2012, the Commission received a letter from Kevin Kiernan, Director of the King County Solid Waste Division, expressing its support for the Settlement Agreement. On September 13, 2012, the Commission received a letter from Matthew Zybas, Director, Solid Waste Division for Snohomish County Public Works, communicating its support for the Settlement Agreement.

DISCUSSION AND DECISION

8 WAC 480-07-750(1) states in part: “The commission will approve settlements when doing so is lawful, the settlement terms are supported by an appropriate record, and when the result is consistent with the public interest in light of all the information available to the commission.” Thus, the Commission considers the individual components of the Settlement Agreement under a three-part inquiry, asking:

- Whether any aspect of the proposal is contrary to law.
- Whether any aspect of the proposal offends public policy.
- Whether the evidence supports the proposed elements of the Settlement Agreement as a reasonable resolution of the issue(s) at hand.

9 The Commission must determine one of three possible results:

- Approve the proposed settlement without condition.
- Approve the proposed settlement subject to conditions.
- Reject the proposed settlement.

10 We approve the Settlement Agreement without condition. The Agreement permits Waste Management to retain an incentive payment of five percent of plan expenditures under the current and prior recycling plan periods. The payment structure and amount is consistent with the direction we gave in our Interpretive and Policy Statement in Docket TG-112162 that financial incentives be capped at five percent of plan expenditures absent extraordinary circumstances and must be tied to a demonstrated increase in recycling.⁴

11 The terms in the Settlement Agreement are not contrary to law or public policy and reasonably resolve all issues in this proceeding. Without prejudging the acceptable design of incentive payments in future recycling plans, we find that the Settlement

⁴ *In re Commission Investigation of Recycling Revenue Sharing Plans*, Docket TG-112162, Interpretive and Policy Statement on RCW 81.77.185 ¶¶ 31-32 (May 30, 2012).

Agreement in the context of the circumstances described above is consistent with the public interest.

ORDER

THE COMMISSION ORDERS:

- 12 (1) The Settlement Agreement is approved without condition and is attached as Exhibit A to, and incorporated into, this Order and adopted as the final resolution of the disputed issues in these dockets; and
- 13 (2) The suspensions ordered by the Commission on November 30, 2011, and December 29, 2011, in these dockets are lifted.

Dated at Olympia, Washington, and effective September 27, 2012.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

JEFFREY D. GOLTZ, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner

NOTICE TO PARTIES: This is a Commission Final Order. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 and WAC 480-07-870.

**Exhibit A
Settlement Agreement**