

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

<p>MURREY’S DISPOSAL CO., INC., Complainant,</p>	<p>DOCKETS TG-200650 and TG-200651 (<i>Consolidated</i>)</p>
<p>v.</p>	
<p>WASTE MGMT. OF WASH., INC., WASTE MGMT. DISPOSAL SERVICES OF OR., AND MJ TRUCKING & CONTRACTING, Respondents.</p>	<p>ORDER 04 PREHEARING CONFERENCE ORDER; NOTICE OF STATUS CONFERENCE</p>
<p>MURREY’S DISPOSAL CO., INC., Complainant,</p>	
<p>v.</p>	<p>(Set for Tuesday, January 26, 2021, at 10:00 a.m.)</p>
<p>WASTE MGMT. OF WASH., INC., WASTE MGMT. DISPOSAL SERVICES OF OR., AND DANIEL ANDERSON TRUCKING AND EXCAVATION, LLC, Respondents.</p>	

BACKGROUND

1 **NATURE OF PROCEEDING.** On July 15, 2020, Murrey’s Disposal Company, Inc. (Murrey’s Disposal), filed with the Washington Utilities and Transportation Commission (Commission) a complaint against Waste Management of Washington, Inc. (WMW), Waste Management Disposal Services of Oregon, Inc. (WMDSO), and MJ Trucking & Contracting, Inc. Murrey’s Disposal filed a second complaint against WMW, WMDSO,

and Daniel Anderson Trucking and Excavation, Inc. (respondents in both complaints collectively Respondents). The complaints allege that Respondents are providing solid waste collection services in Murrey's Disposal's service territory in unincorporated Jefferson County and Clallam County without a certificate of public convenience and necessity and request that the Commission order Respondents to cease and desist from such activity.

2 On August 4, 2020, the Respondents filed answers to the complaints and motions to dismiss. Respondents contend that the Commission lacks jurisdiction over the complaints because federal law preempts Commission regulation of the intermodal rail and motor carrier transportation of solid waste Respondents are providing.

3 On August 20, 2020, Murrey's Disposal filed responses opposing the motions to dismiss.

4 On August 27, 2020, the Commission entered Order 01, consolidating in these dockets.

5 On October 19, 2020, following a hearing and supplemental briefing from the parties, the Commission entered Order 02, denying Respondents' motions to dismiss.

6 On October 29, 2020, Respondents filed a Petition for Interlocutory Review of Order 02. Murrey's Disposal filed a response opposing Respondents' petition for interlocutory review on November 9, 2020.

7 After receiving a response opposing Respondents' petition for interlocutory review from Murrey's Disposal, the Commission entered Order 03, granting interlocutory review of Order 02 and affirming Order 02's denial of the motions to dismiss on December 7, 2020.

8 **CONFERENCE.** The Commission convened a virtual prehearing conference on December 18, 2020, before Administrative Law Judge Andrew J. O'Connell.

9 **APPEARANCES.** David W. Wiley and Blair I. Fassburg, Williams Kastner & Gibbs, PLLC, represent Murrey's Disposal. Jessica L. Goldman and Jesse L. Taylor, Summit Law Group PLLC, represent Respondents. Andrew M. Kenefick, Senior Legal Counsel, WMW and WMDSO, also represents WMW and WMDSO as co-counsel to Jessica L. Goldman and Jesse L. Taylor. Contact information for the representatives of the Parties is attached as Appendix A to this Order.

10 **PETITIONS FOR INTERVENTION.** The Commission received no petitions to intervene in these consolidated matters.

- 11 **PROCEDURAL SCHEDULE.** Through discussion during the prehearing conference the Parties agreed to a limited procedural schedule through January 2021. The Parties agree to collaborate and file jointly with the Commission a stipulation of material facts, or a letter explaining that the Parties are unable to come to an agreement on a stipulation of material facts, by 5 p.m. on January 15, 2021. Additionally, the Parties agreed that the Commission should hold a status conference at 3:30 p.m. on January 20, 2021, to determine the appropriate procedure moving forward thereafter. That procedure might include, among other options, an agreed date for the filing of a motion for the Commission to consider issuing a final determination in these consolidated matters based upon the Parties' stipulation of material facts or the Commission may decide that a formal motion is unnecessary. Due to scheduling conflicts and to give the Commission adequate time to consider the Parties' agreed stipulation of material facts, the Commission finds it appropriate to schedule the status conference for January 26, 2021, at 10:00 a.m. – a date and time for which the Parties have confirmed availability.
- 12 The Commission adopts the dates discussed and agreed at the prehearing conference, as modified by this Order, and memorializes them in a procedural schedule, which is attached to this Order as Appendix B.
- 13 **DISCOVERY.** At the prehearing conference, the Parties indicated their expectations that discovery could be conducted cooperatively and informally, at least initially. Should formal discovery become necessary, as it may in preparation of testimony, exhibits, or for a hearing, such discovery will be conducted according to this Order and the Commission's discovery rules, WAC 480-07-400 – 425. The Commission urges the parties to work together to avoid having to bring discovery matters forward for formal resolution.
- 14 **DOCUMENT FILING AND SERVICE REQUIREMENTS.** Parties must file and serve all pleadings, motions, briefs, and other prefiled materials in compliance with all of the following requirements:
- (a) Parties must submit electronic copies of all documents by 5 p.m. on the filing deadline established in the procedural schedule (or other deadline as applicable) unless the Commission orders otherwise. Parties must comply with WAC 480-07-140(6) in formatting, organizing, and identifying electronic files.
 - (b) The Commission accepts only electronic versions of documents for formal filing. The Commission requires electronic copies to be in searchable .pdf format (adobe

acrobat or comparable software), or to otherwise comply with WAC 480-07-140(6)(a). Parties must submit documents electronically through the Commission's web portal (www.utc.wa.gov/e-filing). If a party is unable to use the web portal to submit documents for filing, the Commission will accept a submission via email to records@utc.wa.gov provided the email: (1) explains the reason the documents are not being submitted via the web portal, and (2) complies with the requirements in WAC 480-07-140(5)(b).

(c) Documents filed with the Commission must conform to the formatting and other requirements in WAC 480-07-395 and WAC 480-07-460.

(d) Parties must electronically serve the other parties and provide courtesy electronic copies of filings to the presiding administrative law judge (andrew.j.oconnell@utc.wa.gov) by 5 p.m. on the filing deadline unless the Commission orders otherwise. If parties are unable to email copies, they may furnish electronic copies by delivering them on a flash drive only.

15 **STIPULATION OF FACTS.** As agreed and ordered at the prehearing conference, the Parties must file their agreed stipulation of material facts, or a letter explaining that the Parties are unable to come to an agreement on a stipulation of material facts, by **5 p.m. on January 15, 2021.**

16 **NOTICE OF STATUS CONFERENCE.** The Commission will hold a virtual status conference in these dockets at **10:00 a.m. on January 26, 2021.** A representative from each party is required to appear using the Microsoft Teams web application.

To participate by phone, call (253) 372-2181 and enter the Conference ID: 481 553 53#. To participate via the Microsoft Teams application, use the following link: [Join Microsoft Teams Meeting](#).

Commission headquarters remain closed to the public due to the ongoing COVID-19 public health crisis.

17 **ALTERNATE DISPUTE RESOLUTION.** The Commission supports the informal settlement of matters before it. Parties are encouraged to consider means of resolving disputes informally. The Commission has limited ability to provide dispute resolution services. If you wish to explore those services, please contact Rayne Pearson, Director, Administrative Law Division (rayne.pearson@utc.wa.gov or 360-664-1136).

18 **NOTICE TO PARTIES: A party who objects to any portion of this Order must file a written objection within ten (10) calendar days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. The service date appears on the first page of the order in the upper right-hand corner. Absent such objection, this Order will control further proceedings in these dockets, subject to Commission review.**

DATED at Lacey, Washington, and effective January 13, 2021.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ *Andrew J. O'Connell*

ANDREW J. O'CONNELL
Administrative Law Judge

**APPENDIX A
PARTIES' REPRESENTATIVES
DOCKETS TG-200650 & TG-200651**

PARTY	REPRESENTATIVE	PHONE	E-MAIL
Murrey's Disposal	David W. Wiley 601 Union Street, Suite 4100 Seattle, WA 98101-2380	(206) 628-6600	dwiley@williamskastner.com
	Blair I. Fassburg		bfassburg@williamskastner.com
	Sean D. Leake		sleake@williamskastner.com
Respondents (WMW, WMDSO, MJ Trucking, Daniel Anderson Trucking)	Jessica L. Goldman 315 Fifth Avenue S., Suite 1000 Seattle, WA 98104	(206) 676-7000	jessicag@summitlaw.com
	Jesse L. Taylor		jesset@summitlaw.com
	Karen Lang		karenl@summitlaw.com
	Sharon Hendricks		sharonh@summitlaw.com
Respondents (Co-counsel for WMW and WMDSO, only)	Andrew M. Kenefick Senior Legal Counsel, Waste Management of Washington, Inc. and Waste Management Disposal Services of Oregon, Inc. 720 Fourth Avenue, Suite 400 Kirkland, WA 98033	(425) 825-2003	akenefick@wm.com
All Email Addresses	dwiley@williamskastner.com , bfassburg@williamskastner.com , sleake@williamskastner.com , jessicag@summitlaw.com , jesset@summitlaw.com , sharonh@summitlaw.com , karenl@summitlaw.com , akenefick@wm.com		

**APPENDIX B
PROCEDURAL SCHEDULE
DOCKETS TG-200650 & TG-200651**

EVENT	DATE
Joint Stipulation of Material Facts	January 15, 2021
Status Conference	January 26, 2021, 10 a.m.