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5 BEFORE THE WASHINGTON UTILITIES
6 AND TRANSPORTATION COMMISSION

7 In the Matter of the Petitions of:

DOCKET NOS.

8 WASTE MANAGEMENT OF
9 WASHINGTON, INC., d/b/a WASTE
10 MANAGEMENT – NORTHWEST

TG-101220
(Consolidated)

11 WASTE MANAGEMENT OF
12 WASHINGTON, INC., d/b/a WASTE
13 MANAGEMENT – SNO-KING

TG-101221
(Consolidated)

14 WASTE MANAGEMENT OF
15 WASHINGTON, INC., d/b/a WASTE
16 MANAGEMENT – SOUTH SOUND AND
17 WASTE MANAGEMENT OF SEATTLE

TG-101222
(Consolidated)

18 Requesting Authority to Retain Fifty Percent of
19 the Revenue Received From the Sale of
20 Recyclable Materials Collected in Residential
21 Recycling Service

DECLARATION OF MICHAEL A.
WEINSTEIN IN SUPPORT OF MOTION
FOR SUMMARY DETERMINATION IN
SUPPORT OF REVENUE-SHARING
PLANS

22 I, Michael A. Weinstein, declare under penalty of perjury as follows:

- 23 1. I am a citizen of the United States and a resident of the State of Washington. I am over
24 eighteen years of age and fully competent to make this declaration. I make this declaration
25 based on my personal knowledge.
26 2. I am employed by Waste Management of Washington, Inc. My present position is Senior
Pricing Manager of Waste Management of Washington, Inc.

- 1 3. I am responsible for preparing and filing tariffs and rate cases with the Washington Utilities
2 and Transportation Commission (“WUTC”). My responsibilities include oversight on
3 negotiations with King and Snohomish Counties to implement RCW 81.77.185, and I have
4 worked on revenue sharing plans and related recycling commodity price adjustments since
5 the Revenue Sharing Legislation was first enacted in 2002.
- 6 4. For filing in May 2009, on behalf of Waste Management I filed for recycling commodity
7 price adjustments, and also requested Commission approval to retain thirty percent of the
8 revenues paid to the Company for marketing recyclable materials. *In re Waste Management*
9 *of Washington, Inc., d/b/a/ Waste Management – Northwest*, G-237, Docket TG-090759; *In*
10 *re Waste Management of Washington, Inc., d/b/a/ Waste Management – Sno-King*, G-237,
11 Docket TG-090760, and *In re Waste Management of Washington, Inc., d/b/a/ Waste*
12 *Management – South Sound and Waste Management of Seattle*, G-237, Docket TG-090761
13 (collectively, “2009-2010 Filing”).
- 14 5. After the 2009-2010 plan period closed, I prepared and Waste Management submitted a
15 report presenting the relevant calculations of the actual retained revenue and expenditures, as
16 well as data comparing recycling tonnages and pounds per customer to the previous year’s
17 numbers. 2009-2010 Filing, *Revenue Sharing Report – (2009-2010)* (August 30, 2010)
18 (“Initial Revenue Sharing Report”). The Initial Revenue Sharing Report showed that
19 \$3,720,339 was generated from marketing recyclable materials, and \$1,038,671 was the
20 amount of the thirty-percent retained revenue. Of the retained funds, \$889,861 was spent on
21 planned activities. The Initial Revenue Sharing Report stated that \$212,168 of the revenue
22 was not expended on program activities, and that amount was credited to the Company.
- 23 6. Using the actual revenue data for 2009-2010 from the Initial Revenue Sharing Report to
24 calculate the recycling commodity adjustment for the next plan period, I then prepared and
25 submitted on July 16, 2010, revisions to the applicable tariffs for three of the company’s
26 operating divisions in King and Snohomish Counties: *In re Waste Management of*

1 *Washington, Inc., d/b/a/ Waste Management – Northwest, G-237, Docket TG-110220; In re*
2 *Waste Management of Washington, Inc., d/b/a/ Waste Management – Sno-King, G-237,*
3 *Docket TG-110221, and In re Waste Management of Washington, Inc., d/b/a/ Waste*
4 *Management – South Sound and Waste Management of Seattle, G-237, Docket TG-110222*
5 *(collectively, “2010-2011 Filing”).*

- 6 7. On behalf of Waste Management, I requested the Commission’s approval to adjust recycling
7 commodity credits for the 2010-2011 plan period based on actual data from the 2009-2010
8 plan period. My calculation assumed the Company would keep the unspent retained revenue
9 of \$212,000. In implementation of RCW 81.77.185, under my direction Waste Management
10 also requested approval for revenue-sharing, and filed RSAs for both King and Snohomish
11 Counties for the period of September 1, 2010, to August 31, 2011.
- 12 8. Following discussions at the Open Meeting in August when the request to retain fifty percent
13 of the revenues under the 2010-2011 RSAs was first presented, the Commission ordered
14 Waste Management and the Counties to “devise a budget” and petition the Commission to
15 lift the interim status of its approval.
- 16 9. In compliance with this condition imposed by the Commission for allowing the proposed
17 revenue sharing to be effective for the remainder of the period through August 31, 2011, I
18 then prepared and submitted a detailed budget showing the amount of revenue I estimated for
19 the Company to retain and the amount of money I estimated it would cost to implement the
20 programs under the proposed 2010-2011 RSAs.
- 21 10. Prior to the institution of this proceeding, Waste Management and its partner Counties
22 worked together to quantify dollars that might be projected for any given plan year, and to
23 design programs intended to maximize the use of available, retained funds. This year, for the
24 first time, the Commission’s oversight has influenced the form and substance of the revenue-
25 sharing programs by ordering preparation of a budget.

- 1 11. Responding to the Commission's order, on behalf of Waste Management, I worked with
2 King and Snohomish Counties to prepare a detailed budget estimating amounts that the
3 Company would likely expend in satisfying the provisions of both RSAs if it were to use fifty
4 percent of the projected commodity revenue.
- 5 12. Both King and Snohomish Counties expressed to me the view that revenue-sharing revenues
6 should be used in some fashion to provide financial incentives to Waste Management. The
7 Counties agreed to a profit component to the Company in their RSAs. In the context of a
8 budget-driven plan, the logical way to accomplish that goal was to assign a line-item for its
9 financial reward in the associated budget.
- 10 13. As a result, a reward of 8% of revenue for Waste Management is reflected in the budgets,
11 and both the Counties support the proposed return. The amount was negotiated. I informed
12 the Counties that, as a general matter, Waste Management's operating ratio in rate filings has
13 generally fallen between 91-93%. In discussions with the Counties about how to fashion a
14 financial incentive in the context of a budget-driven plan, the parties agreed to use that range
15 as a benchmark but it was quite simply a negotiated number. I am aware that this negotiated
16 financial incentive is not the same as a return under an operating ratio approach.
- 17 14. On October 26, 2010, Waste Management filed with the Commission a *Petition to Allow*
18 *Revenue Sharing, Lift Interim Status, and Approve Revised Commodity Credits* ("Petition").
19 The Petition included a detailed budget estimating the costs of program activities and
20 investments that I prepared. The budget had a line-item allocating 8% of the estimated
21 retained revenue to the Company.
- 22 15. The Petition also included a modified revenue sharing report that I prepared. See 2009-2010
23 Filing, *Revenue Sharing Report – (2009-2010)* (revised October 29,) ("Revised Revenue
24 Sharing Report"). Instead of allocating all revenues not expended on program activities and
25 investments in the 2009-2010 plan period to Waste Management, under the Revised Revenue
26 Sharing Report, I allocated only 8% of the retained revenue to Waste Management, reducing

1 the Company's take from \$212,168 to \$88,162. I then recalculated the recycling commodity
2 adjustment for the 2010-2011 period based on keeping only 8% of the prior plan-year
3 revenues, and submitted revised tariff pages showing a recalculated recycling commodity
4 price adjustments, prorated for the remainder of the 2010-2011 plan period.

5 16. Acting under revenue sharing plans since the law was adopted in 2002 allows Waste
6 Management, as well as both King and Snohomish Counties, to experiment with new
7 methods of education, outreach, collection and processing, all with the goal of using the
8 revenues to increase recycling.

9 17. Because the programs and activities presented in the RSAs are experimental, they typically
10 would not present "known and measurable" recurring expenditures that are incorporated into
11 a regulated company's rate base. A participating company like Waste Management would
12 not earn any profit or return on the expenses it incurs in performing revenue-sharing
13 activities and making the investments identified in the RSAs in the absence of a revenue-
14 sharing mechanism under RCW 81.77.185.

15 18. Waste Management has enormous knowledge of the customer behaviors and motivations that
16 can make education and outreach more meaningful in King and Snohomish Counties. Its
17 skills and experience in designing collection systems can help provide input on pilot
18 programs that might provide useful insight. Its operational expertise at its material recovery
19 facilities can guide toward practical and effective capital improvements.

20 19. It is my understanding that Waste Management may not keep retained revenue under the
21 King and Snohomish County RSAs unless it performs in accordance with the RSAs and the
22 conditions of certification. Waste Management must fulfill the obligations of the plans to
23 qualify for a reward. The Company's eligibility is tied to its performance.

24 20. The King and Snohomish County RSAs do not link Waste Management's performance to an
25 increase in recycling volumes. By correlating the financial percentage to revenue, the
26 Company is motivated to find the best markets and get the most out of the value of the

1 materials it collects and processes; increasing volumes can theoretically increase revenues as
2 well.

- 3 21. I would not support a revenue-sharing plan that linked the Company's financial reward to
4 proving that there has, actually, been an increase in recycling because there are too many
5 uncontrollable factors that influence that benchmark. The vagaries of local, national and
6 even global economics are not within the control of Waste Management or its County
7 partners. King and Snohomish County are interested in reports about those data points, but
8 have chosen not to equate Waste Management's eligibility for a financial reward to them.
- 9 22. For Waste Management, King and Snohomish County have correlated Waste Management's
10 reward to the revenues it produces. The Company's eligibility for the reward is conditioned
11 on its performance of the RSA activities. This line-item approach directly links the
12 Company's reward to its ability to get as much revenue as possible for the recyclable
13 material it collects. If the RSA program activities are successful in generating greater
14 volumes, in increasing participation, in adding higher-value commodities, or in maximizing
15 processing efficiencies to generate higher marketing revenues, then Waste Management gets
16 a share of any increased revenues that might be produced.

17 DATED this ____ day of _____ 2011, at _____.

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19 _____
20 Michael A. Weinstein