

Exhibit No. MAW-1T
Docket No. TG-200250
Witness: Michael Weinstein

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Application of:

DOCKET TG-200250

ADE DUMPSTERS, LLC

**for Authority to Operate as a Solid Waste
Collection Company in Washington**

Direct Testimony of

MICHAEL A. WEINSTEIN

On behalf of Waste Management of Washington, Inc.

December 9, 2020

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I. EXPERIENCE AND SUMMARY OF TESTIMONY

Q. Please state your name and business address.

A. My name is Michael A. Weinstein. My business address is 720 4th Avenue, Ste. 400, Kirkland, WA 98033.

Q. By whom are you employed and in what capacity?

A. I am employed by Waste Management of Washington, Inc. (“Waste Management”) as Senior Pricing Manager.

Q. Would you please describe your educational background and professional employment experience?

A. I graduated from the University of Texas in 1977 with a Bachelor of Business Administration with a major in accounting. I was a Certified Public Accountant, having obtained a license to practice public accounting in Texas in 1981 and in Washington in 1982. Neither license presently is active as I am no longer in public accounting but in private practice. From 1977 through 1982, I worked as a public accountant with the following accounting firms: Peat Marwick Mitchell (now KPMG), Laventhol and Horwath, and Alexander Grant (now Grant Thornton). From 1982 through 1985, I was employed as a Controller for a real estate investment firm in Seattle. In 1985, I became Controller for Bayside Waste Hauling & Transfer, Inc. (“Bayside”) in Seattle. In this position, I managed an accounting staff of ten with operations in three states and I handled rate filings for Bayside in

1 Washington State. In 1987, Waste Management, Inc. (“WMI”) acquired Bayside
2 and I joined WMI as a Special Projects Controller from 1987 through 1993. In that
3 capacity, I was in charge of WMI’s regulatory affairs for Washington State. In
4 1993, I was promoted to Northwest Region Accounting Center & Special Projects
5 Controller. In that capacity, in addition to continuing with my responsibilities for
6 all of WMI’s rate filings in Washington State, I also provided general ledger,
7 payroll, accounts payable, and state and local tax support service for WMI’s
8 operations in Washington, Oregon, and Idaho.

9
10 **Q. What are your primary responsibilities for Waste Management?**

11 A. I have served as Senior Pricing Manager for Waste Management since 2004. I
12 provide financial and rate analysis for operations in Washington, Oregon, and Idaho.
13 I prepare rate filings for the Washington Utilities and Transportation Commission
14 (“Commission” or “UTC”) and I also perform financial analysis on municipal bids,
15 proposals, and acquisitions. I am the chief liaison with UTC for addressing
16 customer complaints.

17
18 **Q. Please summarize your testimony and Waste Management’s involvement in
19 this proceeding.**

20 A. ADE Dumpsters, LLC (“ADE”) applied for a certificate to provide drop box solid
21 waste hauling service in King, Pierce, and Thurston Counties.¹ In much of King

¹ ADE Dumpsters LLC, Application for a Solid Waste Collection Company Certificate, filed March 3, 2020, Exh. ACD-1 (“ADE Application”).

1 and part of Pierce Counties, the proposed service would directly conflict with Waste
2 Management's existing solid waste certificate from the Commission. Therefore,
3 Waste Management protested ADE's application and reaffirmed its commitment to
4 providing solid waste collection service to the Commission's satisfaction.²

5 I will testify about Waste Management's history of providing solid waste
6 and recycling collection service to the satisfaction of the Commission; Waste
7 Management's willingness to continue providing service to the Commission's
8 satisfaction; and the fact that the public convenience and necessity do not require
9 another competing solid waste hauler.

10
11 **Q. Is Waste Management presenting the testimony of any other witnesses?**

12 A. Yes. Jeffery McMahon, Waste Management's District Manager for its North Sound
13 operation, will also testify. He is responsible for overseeing Waste Management's
14 day-to-day operations in much of northern and eastern King County, including a
15 significant part of ADE's proposed service territory. He will testify regarding the
16 logistical and safety aspects of Waste Management's services with which ADE's
17 application conflicts, as well as the excellent service Waste Management offers its
18 drop box customers in Waste Management's portions of ADE's requested certificate
19 territory.

20

² Protest of Waste Management of Washington, Inc. (May 4, 2020).

1 **II. WASTE MANAGEMENT WILL CONTINUE ITS LONG HISTORY OF**
2 **PROVIDING SOLID WASTE SERVICE TO THE COMMISSION’S**
3 **SATISFACTION**

4
5 **Q. Does Waste Management hold a certificate of public convenience and necessity**
6 **from the UTC for solid waste collection in the same geographic area as that**
7 **covered by ADE’s application?**

8 A. Yes. ADE’s application covers all of King, Pierce, and Snohomish Counties.³
9 Waste Management holds UTC certificate G-237, attached hereto as
10 Exhibit MAW-2. That certificate grants Waste Management authority in much of
11 King and part of Pierce Counties to provide the services for which ADE seeks
12 authorization.⁴ Thus, ADE’s application conflicts with Waste Management’s
13 existing certificate.

14
15 **Q. What is the significance of Waste Management holding a certificate for solid**
16 **waste hauling in the area ADE proposes to serve?**

17 A. I am not a lawyer, but I understand from my involvement in previous certificate
18 cases that under Washington law, the Commission can only grant ADE’s application

³ ADE Application, Exh. ACD-1 at 3 (page marked 5 of 12).

⁴ UTC, Certificate No. G-237 (Aug. 15, 2017), Exh. MAW-2. *Compare* ADE proposed territory maps, ADE Application, Exh. ACD-1 at 7 to 8, *with* Waste Management service territory map for King and Pierce Counties, *available at* https://www.utc.wa.gov/regulatedIndustries/transportation/TransportationDocuments/G237_Waste%20Management%20of%20Washington%2c%20Inc.%20-%20King%20%28replaced%20%20maps%20within%20the%20map%20for%20Newcastle.pdf and <https://www.utc.wa.gov/regulatedIndustries/transportation/TransportationDocuments/G237%20-%20Waste%20Management%20of%20Washington%2c%20Inc.%20-%20Pierce.pdf>, respectively.

1 if Waste Management does not object to ADE’s application or if the Commission
2 finds that Waste Management will not provide service to the Commission’s
3 satisfaction. The existing service by Waste Management, subject to the regulation
4 of service and pricing by the Commission, supports universal, non-discriminatory
5 service at reasonable prices. In addition, Waste Management’s G-certificate is a
6 valuable asset to the company, and allowing another hauler to provide competitive
7 service would erode the value of that asset and undermine the certainty of Waste
8 Management’s business decision-making, which relies on the predictable customer
9 base afforded by the existing service.

10
11 **Q. Does Waste Management object to ADE’s application and proposed service?**

12 A. Yes.

13
14 **Q. What service does ADE propose to offer under its requested UTC certificate?**

15 A. Below, I discuss a number of irrelevant services ADE wants to offer. For hauling
16 solid waste, ADE’s co-owner and governor, Anthony C. Douglas, testifies that
17 ADE’s “services include medium size dumpsters of about 15 cubic yards.”⁵ (In
18 commodity hauling, a one cubic yard of volume or of a commodity is often referred
19 to simply as a “yard.”) ADE’s proposed tariff lists charges for containers of 15, 20,
20 and 30 yards.⁶ It appears that ADE’s actual equipment includes three containers

⁵ Exh. ACD-1T at 8:17-20.

⁶ “Tariff No. 1 of ADE Dumpsters LLC (Name of Solid Waste Collection Company)” filed March 23, 2020 with ADE Application (the “Proposed ADE Tariff”).

1 with capacity of 13.26 yards.⁷ UTC Staff’s financial review memo indicates that
2 ADE does not own containers to provide its proposed 20- and 30-yard services, but
3 “expects to ally with other drop box container service providers to rent or
4 subcontract additional containers.”⁸ And finally, ADE’s discovery requests to
5 Waste Management addressed service in containers of 10 to 18 yards.

6 Despite the inconsistency in all those sources, it seems ADE wants to
7 provide drop box service somewhere in the range of 10 yards to 30 yards.

8
9 **Q. Does ADE’s requested certificate conflict with Waste Management’s existing**
10 **services?**

11 A. Yes. Within parts of ADE’s proposed territory, Waste Management provides UTC-
12 certificated drop box service under Tariff No. 19 (doing business as Waste
13 Management – North Sound and Waste Management – Marysville) and Tariff
14 No. 23 (doing business as Waste Management – South Sound and Waste
15 Management of Seattle).⁹ Both Waste Management tariffs offer drop box service at
16 increments of 10 yards, 15 yards, 20 yards, 25 yards, 30 yards, and 40 yards.¹⁰ We

⁷ Exh. ACD-1T at 2:22-25.

⁸ UTC, Memorandum from Benjamin Sharbono, Regulatory Analyst, to Danny Kermode, Assistant Director, “Application for CC&N Financial Review, TG-200250, ADE Dumpsters LLC” (Apr. 13, 2020) (“Financial Review Memo”), Exh. ACD-9, at 2.

⁹ *See, respectively*, <https://www.utc.wa.gov/regulatedIndustries/transportation/TransportationDocuments/WM%20-%20North%20Sound%20and%20WM%20-%20Marysville%20G-237%20Tariff%2019.pdf> and <https://www.utc.wa.gov/regulatedIndustries/transportation/TransportationDocuments/WM%20South%20Sound%20and%20WM%20Seattle%20G-237%20Tariff%20No%2023.pdf>.

¹⁰ Items 260 and 275, Tariff No. 19, 1st Revised Page No. 45 and 1st Revised Page No. 46; Tariff No. 23, 1st Revised Page No. 38 and 1st Revised Page No. 39.

1 also offer smaller dumpster service in containers eight yards and below.¹¹ Those
2 services include both permanent and temporary service, and both recurring and
3 individually-scheduled hauls. Mr. McMahon's testimony explains these options in
4 detail.

5
6 **Q. In the area of overlap with ADE's proposed service territory, does Waste**
7 **Management provide drop box solid waste service to the satisfaction of the**
8 **Commission?**

9 A. Yes, I have every reason to believe that the Commission is satisfied with the solid
10 waste service Waste Management is currently providing in that area, and Waste
11 Management remains committed to serving to the Commission's satisfaction.

12
13 **Q. Please describe your experience with Waste Management's Commission-**
14 **regulated solid waste service.**

15 A. I have been with Waste Management for 33 years, plus two years before that with
16 its predecessor, Bayside. During those 35 years, regulatory affairs, including
17 relations with the Commission, have always been under my responsibility. I have
18 been Waste Management's principal contact for rate filings and other tariff revisions
19 for all of the company's Commission-regulated tariffs, and have testified before the
20 Commission on a wide range of regulatory matters.

21

¹¹ Item 240, Tariff No. 19, 4th Revised Page No. 41; Tariff No. 23, 4th Revised Page No. 35.

1 **Q. Have you received any indication that Waste Management is not currently**
2 **providing service to the Commission's satisfaction, either in the area ADE**
3 **proposes to serve or in any of Waste Management's other Commission-**
4 **jurisdictional territories?**

5 A. No. I am not aware of any communication or proceeding, either formal or informal,
6 from the Commission or Staff suggesting that the Commission is not satisfied with
7 Waste Management's solid waste service. In particular, I have not received any
8 indication from the Commission that Waste Management's drop box service and
9 options do not satisfactorily serve customers.

10

11 **Q. Have you ever had any indication that the Commission was not satisfied with**
12 **the availability or terms of Waste Management's solid waste collection?**

13 A. No. In my 35 years with the company, the Commission has never initiated an
14 enforcement action or investigation, or even given Waste Management a warning, to
15 indicate concern by the Commission that Waste Management will not continue
16 providing satisfactory service.

17 Waste Management does receive occasional complaints from customers
18 dissatisfied with the particulars of waste collection, and Waste Management corrects
19 those issues and strives to improve any isolated shortcomings and accommodate
20 each customer's needs within the limits of safety and reasonable cost. As far as I
21 know, the Commission has never expressed dissatisfaction with Waste
22 Management's level of service or its efforts to meet its customers' waste collection
23 needs. As Waste Management's liaison with the UTC regarding customer

1 complaints for all of Washington, I have rarely seen UTC complaints about Waste
2 Management's drop box service.

3 In fact, Waste Management takes pride in its positive relationship with the
4 Commission. About a year ago, ruling on an application for a competing certificate
5 in Kitsap County, the Commission's ALJ held that both our Kitsap operation "and
6 its parent company, Waste Management, have a positive history of compliance with
7 Commission regulations."¹² "Overall," the ALJ found, "Waste Management has an
8 exemplary history of complying with Commission rules, Commission orders, and its
9 tariffs."¹³ I am not aware of anything that would cause or suggest a change in the
10 Commission's view in the year since.

11
12 **Q. Is Waste Management willing to continue providing service to the**
13 **Commission's satisfaction within the territory that ADE proposes to serve?**

14 A. Yes. Waste Management takes its public service obligation and its relationship with
15 the Commission very seriously. As I said above, Waste Management already
16 provides the services for which ADE seeks a certificate, and intends to continue
17 doing so. Mr. McMahon's testimony goes into greater detail about how Waste
18 Management provides drop box services and protects customers' property and
19 interests. He also explains that much of Mr. Douglas's unsupported testimony about
20 existing drop box service is simply incorrect, at least with respect to Waste

¹² Order 04, Initial Order Denying Application Dkt. No. TG-181023 (Nov. 13, 2019), *as corrected*,
Erratum to Initial Order 03, Initial Order Denying Application, Dkt. No. TG-181023 (Nov. 21,
2019), at ¶ 35.

¹³ *Id.*

1 Management. Though I have no indication that changes are needed, Waste
2 Management has a record of collaborating with the Commission to ensure not only
3 that Waste Management *has* served to the Commission’s satisfaction, but that it will
4 continue to do so in the future.

5
6 **Q. Below, you explain that Waste Management does not offer general cleanup**
7 **services. What cleanup *does* Waste Management do as part of its solid waste**
8 **services?**

9 A. We don’t offer janitorial or grounds maintenance services to clean up a customer’s
10 premises for them, but as a matter of best management practices, we strive to avoid
11 and clean up any spill of materials in the course of Waste Management’s collection,
12 hauling, and disposal. That’s part of doing our job right, and it’s visible and
13 important to the communities we serve—and live in. We also know that failing to
14 clean up after ourselves could raise various regulatory, environmental, and safety
15 concerns, and it’s just better business to avoid those problems to begin with.

16
17 **Q. Does ADE’s application raise a legitimate need for service beyond Waste**
18 **Management’s current offerings?**

19 A. No. As described above and in Mr. McMahon’s testimony, Waste Management
20 provides all of the services subject to Commission jurisdiction that ADE proposes to
21 offer. Instead, ADE’s proposed service would simply be in direct competition with
22 Waste Management’s existing offerings.

23

1 **III. THE PUBLIC CONVENIENCE AND NECESSITY DO NOT REQUIRE**
2 **ADE’S PROPOSED SERVICE.**

3
4 **Q. Does ADE demonstrate a need for its proposed service?**

5 A. No, at least not with respect to services subject to the Commission’s jurisdiction, for
6 which a certificate is required. ADE filed direct testimony from two potential solid
7 waste drop box customers,¹⁴ but they do not express any need that Waste
8 Management cannot meet, as Mr. McMahon explains. Mr. Douglas makes some
9 additional arguments about service options and quality, but he doesn’t have
10 customer testimony or other evidence to back them up. Mr. McMahon also explains
11 that many of Mr. Douglas’s assertions simply seem to reflect lack of knowledge
12 about the service Waste Management actually provides.

13
14 **Q. Are all of ADE’s proposed services relevant to its requested certificate from the**
15 **UTC?**

16 A. No. Under RCW 81.77.040, a certificate is needed for solid waste hauling for
17 compensation on the public highways of the state, as well as related activities like
18 advertising or offering to do so. Mr. Douglas’s testimony suggests that ADE
19 intends to provide various services that are outside the UTC’s jurisdiction as I
20 understand it, and therefore have no relationship to the certificate ADE requests.

21

¹⁴ Direct Testimony of Shom Phillip Barrientos, Exh. SPB-2T; Direct Testimony of Ken Gordon, Exh. KG-3T.

1 **Q. What specific services does ADE propose that are not relevant here?**

2 A. Mr. Douglas says that ADE will offer services to load its containers at the
3 customer's location and sweep and clean around the container.¹⁵ He also says, "We
4 see ourselves as halfway between a junk hauling service and container hauler."¹⁶
5 He also says that in addition to junk, garbage, and yard waste, ADE wants to haul
6 landscaping material, aggregate, sand, "Tagro," cement, and commodities.¹⁷

7
8 **Q. What is Waste Management's view on ADE offering services other than solid
9 waste hauling?**

10 A. Waste Management is a solid waste hauler. What we object to, and the reason for
11 our protest, is ADE's proposal to provide solid waste hauling services in conflict
12 with our UTC certificate. But our business model does not include junk cleanout or
13 general janitorial services, or delivering the kinds of landscaping and construction
14 materials Mr. Douglas describes. We don't object to ADE or others providing those
15 services. Also, as a form of recycling, even hauling yard waste for commercial
16 customers does not require a UTC certificate—only hauling residential does. For
17 that matter, hauling dry refuse for reclamation or recycling, though not something
18 ADE specifically calls out, is another related service that doesn't require a UTC
19 certificate (although that industry has recurring problems with sham recycling).

20

¹⁵ Exh. ACD-1T at 5:2-5, 6:21-22.

¹⁶ Exh. ACD-1T at 6:18; *see also* ACD-1T at 17:22-25.

¹⁷ Exh. ACD-1T at 6:13-15. "Tagro" appears to refer to a soil mix from the City of Tacoma incorporating wastewater biosolids. <https://www.cityoftacoma.org/cms/one.aspx?pageId=16884>.

1 **Q. What conclusion do you draw from all of ADE’s discussion about services**
2 **other than hauling solid waste?**

3 A. Mr. Douglas says, “The fact that we offer services above and beyond what is offered
4 by the protestants tells me that they [Waste Management and the other protestors]
5 cannot provide adequate coverage for the work that we offer.” What it tells the
6 Commission is that many of ADE’s proposed services are not solid waste hauling
7 and are irrelevant to a requested certificate to haul solid waste.

8 Even if Mr. Douglas is correct—and his evidence is very thin—that the
9 public needs more junk cleanout, loading, cleaning, and material delivery services,
10 offering those services is no reason the Commission should issue a solid waste
11 certificate and no reason for the Commission to conclude that Waste Management is
12 not already providing regulated services to the satisfaction of the Commission.

13
14 **Q. Does this conclude your direct testimony?**

15 A. Yes.