

LLC² (JMK). Waste Management of Washington, Inc., subsequently acquired JMK in January 2012, which makes JMK an affiliate of Brem-Air.

- 4 The Company projected it would receive \$733,000 from commodity sales for the plan period September 2011 through August 2012, but reported actual receipts of \$262,000. The decrease is due to two factors. First, the revenues Brem-Air received from JMK for the sale of recyclable commodities were significantly lower than the revenues historically received from SP Recycling. Although the market value of recyclable commodities decreased during the plan year, Staff believes the cumulative decrease in revenues may be excessive and requires more investigation. Second, JMK, a Brem-Air affiliate, paid Brem-Air a “net” amount for the sale of recyclable materials that subtracted hauling and “load out” costs from the revenue JMK received for the sales of recycling commodities. The practice of an affiliate subtracting operating costs from the revenue received from the sales of recyclable materials before the affiliate pays the regulated solid waste collection company is an issue in several pending adjudications³ before the Commission.
- 5 Decreasing revenue from the sale of recyclable materials affects the deferred accounting calculation of the commodity adjustment to true-up the 2011-2012 plan period and to project revenue for the 2012-2013 plan period. The proposed decrease from a \$1.42 payment to a \$0.28 charge is a \$1.70 per month net increase in cost to single family customers, and the proposed decrease from a \$0.16 payment to a \$0.03 charge is a \$0.19 per month net increase in cost for multi-family customers. Using 100 percent of the revenue that the affiliate received from the sale of recyclable material to calculate the recycling commodity adjustment results in a \$1.01 per month payment, or a \$.69 per month net increase in cost, for residential customers, and a \$0.17 per month payment, or a \$0.01 per month net decrease in cost, for multi-family customers. Staff recommends that the Commission suspend the proposed changes, but allow revised commodity credits based upon 100 percent of the revenue that the affiliate received from the sale of recyclable materials. Staff recommends that the Commission suspend the proposed \$0.28 per month commodity debit (charge) for single family customers, but allow a \$1.01 per month commodity credit (payment) to become effective on a temporary basis, subject to refund, and suspend the proposed \$0.03 per month commodity debit (charge) for multi-

² JMK Fibers, LLC; currently Waste Management of Washington, Inc. dba WM-JMK Fibers.

³ TG-111681, Mason County Garbage Co., Inc.; TG-111672, Murrey’s Disposal Company, Inc.; TG-11674 American Disposal Company, Inc.

family customers, but allow a \$0.17 per month commodity credit (payment) to become effective on a temporary basis, subject to refund.

6 RCW 81.77.185 states that the Commission shall allow a solid waste collection company collecting recyclable materials from residential single family and multi-family customers to retain “up to fifty percent of the revenue paid” to the company for the material if the company submits a plan to the Commission that is certified by the appropriate local government authority as being consistent with the local government solid waste plan and that demonstrates how the revenues will be used to increase recycling. The remaining revenue must be passed through to residential single and multi-family customers. Brem-Air does not participate in revenue sharing, therefore all receipts from the sale of commodities must be returned to customers.

7 Staff has not yet completed its review of Brem-Air’s records or of the affiliate transactions with JMK. Therefore, Staff recommends that the Commission issue a Complaint and Order Suspending the Tariff Revisions filed by Waste Management of Washington, Inc., dba Brem-Air Disposal on September 10, 2012, and allow a \$1.01 per month credit for single family customers and a \$0.17 credit for multi-family customers to become effective on November 1, 2012, on a temporary basis, subject to refund or credit.

FINDINGS AND CONCLUSIONS

8 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington vested by statute with the authority to regulate the rates, rules, regulations, practices, accounts and affiliated interests of public service companies, including solid waste companies. RCW 80.01.040, RCW 81.01, RCW 81.04, RCW 81.16, RCW 81.28 and RCW 81.77.

9 (2) This matter came before the Commission at its regularly scheduled meeting on October 25, 2012.

10 (3) Brem-Air is engaged in the business of providing solid waste services within the state of Washington and is a public service company subject to Commission jurisdiction.

11 (4) RCW 81.77.185 states that the Commission shall allow a solid waste collection company collecting recyclable materials from single family and multi-family

customers to retain “up to fifty percent of the revenue paid” to the company for the material if the company submits a plan to the Commission that is certified by the appropriate local government authority as being consistent with the local government solid waste management plan and that demonstrates how the revenues will be used to increase recycling. The remaining revenue shall be passed through to single family and multi-family customers.

12 (5) Staff and the Company have not yet resolved differences relating to issues in this docket. Suspending the filings, while allowing revised commodity credits on a temporary basis, subject to refund or credit, is reasonable and in the public interest.

13 (6) As required by RCW 81.77.185, in the event this matter is set for hearing, Brem-Air will bear the burden of proof to show that the proposed recyclable commodity revenue adjustments are just, reasonable and sufficient. Nothing in this Order is intended to limit the issues as to the fairness, justness, reasonableness and sufficiency of the proposed increases.

ORDER

THE COMMISSION ORDERS:

14 (1) The recyclable commodity revenue adjustments filed by Waste Management of Washington, Inc., dba Brem-Air Disposal, on September 10, 2012, are suspended.

15 (2) A \$1.01 per month credit for single family customers and a \$0.17 per month credit for multi-family customers will become effective on November 1, 2012, on a temporary basis, subject to refund or credit. Waste Management of Washington, Inc., dba Brem-Air Disposal will make the appropriate compliance filing to make the temporary credits effective on November 1, 2012.

16 (3) The Commission may hold hearings at such times and places as may be required.

17 (4) Waste Management of Washington, Inc., dba Brem-Air Disposal, must not change or alter the tariffs filed in this Docket during the suspension period, unless authorized by the Commission.

- 18 (5) The Commission retains jurisdiction over the subject matter and Waste Management of Washington, Inc., dba Brem-Air Disposal, to effectuate the provisions of this Order.

DATED at Olympia, Washington, and effective October 25, 2012.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

JEFFREY D. GOLTZ, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner