

Exhibit No. MAW-5T
Docket No. TG-181023
Witness: Michael Weinstein

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Application of:

DOCKET TG-181023

SUPERIOR WASTE & RECYCLE LLC

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

Response Testimony of

MICHAEL A. WEINSTEIN

On behalf of Waste Management of Washington, Inc.

June 28, 2019

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1 **I. INTRODUCTION AND OVERVIEW**

2

3 **Q. Please state your name.**

4 A. My name is Michael A. Weinstein.

5

6 **Q. Are you the same Michael A. Weinstein who filed direct testimony in this**
7 **docket on May 15, 2019?**

8 A. Yes, I am.

9

10 **Q. Please summarize the purpose and contents of your response testimony.**

11 A. On May 15, 2019, Superior filed testimony and exhibits from its owner, Daniel
12 Stein, who claimed without substantiation that Waste Management is unable to
13 fulfill the needs of Superior's proposed customers in Waste Management's existing
14 exclusive service territory. The purpose of this response testimony is to show that
15 Waste Management is able and willing to continue serving Superior's proposed
16 territory to the satisfaction of the Commission.

17 As I testified previously, Waste Management is considering revisions to the
18 tariff for its Brem-Air operations in areas under the Commission's jurisdiction. I
19 will first explain the progress we have made in developing those tariff revisions and
20 the expected features of the potential service. I will then explain how I am
21 developing cost-based rates for the new service Waste Management will offer.
22 Finally, I will mention a new concern with Superior's application that has arisen as I
23 have developed Waste Management's tariff revisions. Though I will not repeat the

1 concerns about Superior's application raised in my direct testimony, they remain
2 valid.

3

4 **Q. Is Waste Management presenting the response testimony of any other**
5 **witnesses?**

6 A. Yes. Waste Management is also presenting the response testimony of Robert
7 Rutledge. He is the district manager for Brem-Air Disposal, and also entered direct
8 testimony on May 15, 2019, along with my own. He will testify regarding the
9 availability of Waste Management service to all of Superior's customers, his survey
10 of Superior's proposed customer locations and the potential to extend special
11 services to a greater number of them, and Waste Management's prompt handling of
12 customer complaints it receives within the Brem-Air Disposal service area, which
13 includes all of Superior's proposed territory.

14

15 **II. WASTE MANAGEMENT SERVICE IS ALREADY AVAILABLE TO ALL**
16 **OF SUPERIOR'S CUSTOMERS, AND EXPANDED SPECIAL OPTIONS APPEAR**
17 **FEASIBLE**

18

19 **Q. In his direct testimony, Superior's owner and sole operator, Daniel Stein,**
20 **claimed that "Waste Management is unable to fulfill [customers'] needs" in its**
21 **Brem-Air territory. Do you agree?**

22 A. Absolutely not. As I previously testified, Waste Management is unequivocally
23 willing and committed to continue providing service to the Commission's

1 satisfaction in Superior's proposed territory. As Mr. Rutledge testifies, service is
2 already available to every one of Superior's proposed customers at standard pickup
3 locations on public roads. A number of them are also eligible for added carry-out or
4 drive-in service under Item 80 of the Brem-Air tariff. While we are not ready to file
5 tariff revisions, Waste Management has made great progress since filing my direct
6 testimony in developing our possible expansion of drive-in and carry-out collection
7 even farther beyond the standard service locations for these customers.

8
9 **Q. Please describe the new service you are developing.**

10 A. Mr. Rutledge testifies that standard residential service is already available to all of
11 Superior's customers, and a number of them are also eligible for special drive-in and
12 carry-out options under the existing tariff. In addition, I am working to develop a
13 new service option for specialized carry-out and drive-in service. This option would
14 be an add-on to Waste Management's basic residential service charges and options.
15 It would extend drive-in service to residential customers not currently eligible for
16 drive-in or carry-out service under the current Brem-Air tariff rules, either because
17 they are beyond the distance limits for those services under Item 80 of the tariff, or
18 because they are not safely accessible to the standard collection vehicles used by
19 Brem-Air.

20 Based on the site surveys described in Mr. Rutledge's testimony and work
21 I've done toward developing costs and rates, it looks increasingly likely that Waste
22 Management will be able to offer a special extension of our standard residential

1 service at a reasonable cost to virtually all of Superior's customers (except those
2 already eligible for drive-in or carry-out, who have no need of the new service).

3
4 **Q. Why do you say “virtually” all?**

5 A. As Mr. Rutledge testifies, he visited the locations of 45 of the 53 customers listed by
6 Superior in discovery, and investigated the remaining eight using Google Maps and
7 the knowledge of Brem-Air's residential garbage route manager. Mr. Rutledge is
8 confident that Waste Management could offer drive-in or carry-out service to all but
9 one of those customers with the addition of the vehicles we would use for the new
10 service.¹ Mr. Rutledge *expects* that we will also be able to offer the new service at
11 even the one questionable location, though that's not entirely certain yet.

12
13 **Q. Is Superior's criticism of Brem-Air's existing carry-out service well-founded?**

14 A. No. As “support . . . of Waste Management's failure to provide service,” Mr. Stein
15 offers an article published in the *Kitsap Sun* in 2007 as his Exhibit DS-6.²
16 According to the article, some 250 Brem-Air customers were affected by a then-new
17 50-foot limit on Brem-Air's carry-out service, where the company had previously
18 been willing to move carts up to at least 100 feet.³ However, even before the article
19 was published, Waste Management compromised with the specific customer

¹ In fact, about a quarter of Superior's customers are already eligible for drive-in or carry-out service under the existing Brem-Air tariff.

² Exh. DS-1T, Direct Testimony of Daniel Stein, at 3:18, 3:23.

³ See Exh. DS-6 at 1-2.

1 interviewed in the article. The *Sun* reported that she was “pleased with the
2 outcome” even then.⁴

3
4 **Q. Has the carry-out service been improved since the 2007 article Mr. Stein relies
5 on?**

6 A. Yes. In 2010, Waste Management expanded the carry-out service to the current
7 100-foot limit without raising the charge.⁵

8
9 **III. WASTE MANAGEMENT IS DEVELOPING REASONABLE CHARGES
10 BASED ON THE ESTIMATED COST OF THE EXTENDED SERVICE.**

11
12 **Q. Please explain how you are developing the initial rate for the extended special
13 collection service based on the expected costs of providing that service.**

14 A. I do not yet have estimates for all cost components sufficient to put a dollar figure
15 on the rate for the potential new service. However, in concept, here is how I am
16 developing that rate:

17 I will first estimate the aggregate cost per hour of driver and vehicle time to
18 provide the specialized service, based on Waste Management’s estimated costs for
19 driver wages and benefits; depreciation, fuel, and maintenance for the specialized

⁴ Exh. DS-6 at 4.

⁵ See Tariff No. 20, 1st Revised Page No. 19, substitute revision filed August 23, 2010, in Docket No. TG-101248, effective October 1, 2010.

1 collection vehicles;⁶ and a reasonable margin typical of Waste Management's other
2 Commission-regulated solid waste services. Next, I will estimate the total cost to
3 Waste Management of providing the service by multiplying the hourly cost by the
4 estimated time per week it will take to provide the service (including collection,
5 disposal, and travel time). The time estimate is based on the investigation of
6 Superior's service territory described in Mr. Rutledge's response testimony.
7 Finally, I will calculate the added monthly charge per customer for the new service
8 by dividing Waste Management's total weekly cost of the service by the number of
9 customers, and then multiplying by the average number of weeks per month
10 (about 4.33).

11

12 **Q. How many collection vehicles does Waste Management anticipate buying to**
13 **provide the new service?**

14 A. Initially, Waste Management would purchase two small, specialized collection
15 vehicles for this service. We anticipate purchasing vehicles designed to collect a
16 single commodity at a time, but each suitable for collection of either garbage or
17 recycling. This would ordinarily allow collection of both garbage and recycling on
18 the same day.

19 Having two vehicles from the beginning also means that Waste
20 Management's initial rates would cover a level of redundancy and service reliability

⁶ I have worked with Waste Management operations personnel to estimate the useful life, maintenance expense, and fuel consumption of operating the vehicles. I will be able to provide more detail, as needed, when my analysis is final if Waste Management finally decides to file tariff revisions and begin the new service.

1 unmatched by Superior, which has only one truck. If one of Waste Management's
2 trucks is unavailable due to maintenance, Waste Management would still be able to
3 provide both garbage and recycling service with the one available truck.

4
5 **Q. What is the largest uncertainty in the cost estimates and determination of**
6 **initial rates?**

7 A. By far the largest cost component is driver wages and benefits, which look like they
8 will account for the majority of the cost. Wages and benefits *per hour* are well
9 known. That leaves the actual time *per customer* to provide this service as the
10 greatest source of uncertainty. There is no way to determine that without actually
11 offering the service and then finding out how many customers actually sign up, in
12 what locations, and how long it actually takes to serve them, but Mr. Rutledge's site
13 survey provides a reasonable basis for initial estimates.

14
15 **IV. SUPERIOR'S PROPOSED RATES DO NOT APPEAR COST-BASED.**

16
17 **Q. You previously testified about a number of concerns with Superior's**
18 **application.⁷ Have you identified any new concerns with Superior's proposed**
19 **service as you have developed Waste Management's proposal?**

20 A. Yes. It has become clear that the extra cost of serving Superior's proposed
21 customer base (when compared to customers eligible under the existing Brem-Air
22 tariff) depends almost entirely on the time it takes to access them, and has much less

⁷ Direct Testimony of Michael Weinstein at 11-17.

1 relationship to the size or number of collection containers or the commodity
2 collected. Closer examination of Superior's proposed tariff in that light suggests
3 that Superior's rates would not accurately reflect the costs of its proposed service.
4

5 **Q. Please explain.**

6 A. For Brem-Air, commodity and volume differences between customers are reflected
7 in base service charges, which appear in Item 100 of Brem-Air's tariff.⁸ Each 32-
8 gallon increment in cart volume, collected weekly, adds about \$4 to \$5 to the
9 *monthly* rate—meaning the incremental charge per *pickup* is \$1 or slightly more.
10 Similarly, for cans instead of carts, the monthly rates go up by about \$5.50 per
11 added can, implying an incremental charge of less than \$1.50 per additional can per
12 pickup.

13 By comparison, Superior's proposed monthly charges for weekly service go
14 up by \$20 per can—an incremental charge of about \$5 per can per pickup.⁹ Thus,
15 Superior's incremental charge per container per pickup is roughly 3 to 5 times what
16 Waste Management charges.

17 Because cost differences are driven mainly by travel time, Superior's steep
18 incremental charges *per can* suggest that its rates are not based on the actual costs
19 of providing service at different levels. Put differently, by the time Mr. Stein has
20 traveled to a customer's service location and emptied their first can, it is very
21 unlikely, based on what I have learned in developing Waste Management's potential

⁸ Tariff No. 20, 25th Revised Page No. 22, effective June 3, 2019.

⁹ Superior's Proposed tariff Page No. 5, Revision 0.

1 new service, that Superior incurs anywhere close to \$5 of additional cost by
2 emptying a second can and disposing of its contents. That means that either
3 Superior's overall rates are unreasonably high, or else its higher-volume rates are
4 unreasonably high and its lower-volume rates are unreasonably low reflecting a
5 cross-subsidy to the disadvantage of high-volume customers.

6

7 **Q. Does this conclude your response testimony?**

8 A. Yes.

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