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BEFORE THE WASHINGTON STATE

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UTILITIES AND TRANSPORTATION COMMISSION

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WASHINGTON UTILITIES AND ) DOCKET TG-140560  
TRANSPORTATION COMMISSION, ) Pages 1 - 36

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v. )

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Complainant, )

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WASTE CONTROL, INC., )

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Respondent. )

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PREHEARING CONFERENCE, VOLUME I

11

Pages 1 - 36

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ADMINISTRATIVE LAW JUDGE MARGUERITE E. FRIEDLANDER

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10:00 A.M.

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APRIL 30, 2014

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Washington Utilities and Transportation Commission  
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Olympia, Washington 98504-7250

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OLYMPIA, WASHINGTON, APRIL 30, 2014

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10:00 A.M.

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P R O C E E D I N G S

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JUDGE FRIEDLANDER: Let's go on the record. This prehearing will come to order.

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It's April 30, 2014, at approximately ten a.m., at the offices of the Washington Utilities and Transportation Commission. The Commission has set for prehearing conference at this time and place the tariff filings of Waste Control, Inc., Docket TG-140560.

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I am Administrative Law Judge Marguerite Friedlander, and I have been assigned to these matters.

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Waste Control originally filed revised tariff sheets on September 23, 2013. The request designated as Docket TG-131794 was rejected. On April 4, 2014, Waste Control refiled its request, and the Company requests incorporation of testimony and exhibits it originally filed in the 131794 docket, and has included additional testimony and exhibits in its April 4, 2014 filing.

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We'll get into the evidentiary issues in just a minute. First, let's go ahead and take appearances. I'll note for the record that the parties present have either filed appearances or otherwise indicated their contact information to

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1 the Commission in previous matters, so let's go ahead and do  
2 short form appearances.

3 Mr. Wiley?

4 MR. WILEY: Yes, Your Honor. Good morning. David  
5 Wiley, attorney for the Respondent, Waste Control, Inc. Address  
6 and contact information as filed on the notice of appearance.

7 JUDGE FRIEDLANDER: Thank you.

8 And, Mr. Smith?

9 MR. SMITH: Steven W. Smith, Assistant Attorney  
10 General, representing the Commission Staff.

11 JUDGE FRIEDLANDER: Thank you.

12 And, Mr. Sells?

13 MR. SELLS: Thank you, Your Honor. James Sells,  
14 attorney, representing proposed Intervenor, Washington Refuse  
15 and Recycling Association.

16 JUDGE FRIEDLANDER: Thank you.

17 Is there anyone else on the conference bridge or here  
18 in the hearing room who would like to make an appearance?

19 Okay. Hearing nothing, let's go ahead and address  
20 the intervention filed by Mr. Sells.

21 So this is on behalf of Washington Refuse and  
22 Recycling Association. I have read the petition.

23 Are there any objections to granting the  
24 intervention?

25 MR. SMITH: No objection.

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1 MR. WILEY: No objection, Your Honor.

2 THE COURT: Okay. Thank you. And I'll go ahead and  
3 grant that request, Mr. Sells.

4 MR. SELLS: Thank you, Your Honor.

5 JUDGE FRIEDLANDER: Does anyone wish to make an oral  
6 petition for intervention at this time?

7 Okay. Hearing nothing, I'll note for the record that  
8 because this is a suspension of tariffs involving rates, that  
9 the discovery rules of the Commission are automatically  
10 available to the parties, and I think we should probably get  
11 right into the issues raised by Staff in its filing from  
12 yesterday.

13 Mr. Smith?

14 MR. SMITH: Thank you, Your Honor. What teed this up  
15 really was it's incumbent on the Staff. We viewed and tried to  
16 propose a hearing schedule and we didn't feel like we were able  
17 to do that because for issues outlined in my letter to you.

18 We don't know how much extra time we're going to need  
19 to sort through those issues that you listed off the record  
20 before we actually get to our audit of the case. For that  
21 reason, we did not propose a prehearing schedule.

22 JUDGE FRIEDLANDER: Okay. And let me just clarify  
23 for the record that the two issues are to the extent possible,  
24 we don't have in record right now which documents filed in  
25 TG-131794 that Mr. Wiley would like included in the record, and

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1 the other issue being the differences between the two filings in  
2 not only this docket, but the originally filed docket,  
3 TG-131794, and the reason for these differences?

4 MR. SMITH: That's correct, Your Honor. It's unclear  
5 to us as to exactly what the Company wishes to bring forward  
6 from the prior record. And whatever they want to include is  
7 fine. We just want to be clear what that is.

8 And as you mentioned in response to your urging in  
9 the prehearing notice, we were trying to get a list and an  
10 explanation of the differences between the two filings and --  
11 and as brought forward into this case and we would like that  
12 clarified.

13 JUDGE FRIEDLANDER: Okay. Thank you.

14 And, Mr. Wiley?

15 MR. WILEY: Yes, Your Honor. There is one other  
16 piece of correspondence that places into context the Staff's  
17 issues and the Company's issues that I should probably -- it  
18 should have been attached either to Mr. Smith's or my letter,  
19 but ours was rather a rushed product. But I think it just  
20 provides some additional context on where we are right now.

21 JUDGE FRIEDLANDER: Thank you.

22 And if you would, when we're concluded for the day,  
23 would you mind filing this both electronically and in hard copy  
24 an original and 2?

25 MR. WILEY: Sure. When I get back to my office, if

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1 that's okay.

2 JUDGE FRIEDLANDER: That's fine.

3 MR. WILEY: Okay.

4 JUDGE FRIEDLANDER: That's fine. I just want to make  
5 sure that we have it in our system.

6 MR. WILEY: Right. Right. I think the Company's  
7 position is that it has been trying to make clear what should be  
8 associated between the prior hearing record and the current  
9 record.

10 As you saw, attached in one of the e-mails from  
11 myself to Mr. Smith, we had proposed that that would be the  
12 prefiled case of February 18th, which we attached as an exhibit  
13 to -- in the April 4 -- I call it the "April 3rd filing" because  
14 that's when it was electronically filed. The April 4th filing  
15 is the -- so if I alternate that, you know what I mean.

16 JUDGE FRIEDLANDER: Mm-hm.

17 MR. WILEY: But we had designated the case-in-chief  
18 filing as an exhibit.

19 Now, as you saw in one of the references, there was a  
20 technical objection to those exhibits because when they were  
21 originally filed, there was a metadata scrubbing that took  
22 place, which is automatic out of our office on any document that  
23 leaves, including, apparently, Excel spreadsheets. Those were  
24 eventually repaired. The links were restored.

25 If I created confusion by attaching the scrubbed

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1 exhibits, that was only to be consistent with what had been  
2 filed on February 18th. We are reassembling the data request  
3 answers where those exhibits with the restored -- I didn't even  
4 know what a hard code was until this case, but with the  
5 restored -- the removed hard codes and the external links  
6 restored. Those will be provided in the data request response.

7 The Staff already has all of those documents, as you  
8 saw attached, but we will provide them again for consistency's  
9 sake into this record.

10 JUDGE FRIEDLANDER: And when will that be?

11 MR. WILEY: We're hoping to do it by Friday. I have  
12 compiled the previous restored -- we'll call them  
13 "worksheets" -- and have forwarded them to Ms. Davis's office to  
14 verify that these are all the hard code removed and external  
15 link restored exhibits.

16 And, again, that refers to the February 18th case in  
17 chief, so -- so that clearly -- we have designated that as an  
18 exhibit. We want that included. The one exception to that,  
19 which was referenced in the e-mail, was the exhibit, JD-2, which  
20 was designated, which was the source of some of the problems on  
21 the last filing regarding its comprehensiveness. We have not  
22 asked for that to be included, per se, because we think it will  
23 be confusing to have the April 3rd and the September 23rd  
24 filings, but we -- it doesn't exist in a vacuum, and we could  
25 refer to it and some of the exhibits therein. It's just that



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1 they have been superceded largely by the April 3rd filing.

2 Now, with respect to what's been superceded, we tried  
3 to answer that in the supplemental testimony of Ms. Davis in  
4 terms of pointing out at page 13, lines 11 through 19, how the  
5 revenue requirement, which is the critical issue here,  
6 obviously, has changed between the two filings.

7 So that's -- but maybe we can get to the differences  
8 between the two filings later.

9 JUDGE FRIEDLANDER: Yeah. Let's --

10 MR. WILEY: Let's just talk about what's included in  
11 the record.

12 JUDGE FRIEDLANDER: Yeah.

13 MR. WILEY: And I think, you know, we stand by what  
14 we said in our letter on April 3rd, which is the Exhibits JD-1T,  
15 and 3 through 10 from the case-in-chief filing, and then we get  
16 to the issue of -- which is a concern in solid waste rate cases,  
17 what's in the official hearing record and what's in the general  
18 rate case file.

19 JUDGE FRIEDLANDER: Mm-hm.

20 MR. WILEY: So we have provided in our exhibit -- or  
21 our filing on April 3rd an index to all of the exhibits in JD-11  
22 which have various work papers, schedules, price sheets, et  
23 cetera. I have a copy of that that I will hand out now, but  
24 I -- we would see no --

25 JUDGE FRIEDLANDER: I have it.

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1 MR. WILEY: Oh, okay.

2 JUDGE FRIEDLANDER: Yeah.

3 MR. WILEY: We would see no reason for any of those  
4 not to be included in the record because they're obviously  
5 underpinning the testimony of Ms. Davis from April 3rd.

6 So in terms of what's included in the record, you  
7 know, I would express -- and I mentioned this to Mr. Smith.  
8 Because of the last experience, we're very reluctant to exclude  
9 anything from the record, but we don't -- in having that sort of  
10 gun-shy approach to inclusion, we are not seeking to obfuscate  
11 or play any games. We just want to make sure that the  
12 Commission has the full -- the maximum amount of record  
13 information because that obviously was the issue on the tariff  
14 rejection last time.

15 If I can answer any further questions by counsel or  
16 you, you know, that's one of the goals today.

17 JUDGE FRIEDLANDER: Okay. That's fine. Thank you.

18 Mr. Sells, did you have anything to add?

19 MR. SELLS: Not on this issue, Your Honor.

20 JUDGE FRIEDLANDER: Okay. Thank you.

21 I think it would be helpful -- first of all, I'm glad  
22 that you clarified the exhibits you want included and are  
23 requesting to be included in this record by using the exhibit  
24 numbers. I think that's going to be helpful as far as telling  
25 us exactly which pieces of paper and which documents you want to

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1 be in the evidentiary record.

2 I personally have a couple of clarifications  
3 questions about the exhibit, JD-11, because I think that we may  
4 need to be -- have some more specificity with regard to some of  
5 these exhibits, and I also think that we can condense this down  
6 a little bit because we have several worksheets that are  
7 continuations, but, yet, they're two or three tabs long, so  
8 there's no reason for it to go on overmuch.

9 MR. WILEY: Right.

10 JUDGE FRIEDLANDER: But before I go into that,  
11 Mr. Smith, does that help you out with regard to the evidentiary  
12 record from TG-131794?

13 MR. SMITH: I believe, yes. As I understand what's  
14 on the record today, I think I'm clear. There were some -- to  
15 us, at least -- ambiguous references in our correspondence, so I  
16 think it's helpful to nail down what is the Company's direct  
17 case.

18 If I may just comment about the external links, we  
19 did work that through the Company. I understand that they were  
20 scrubbed in the normal course of their operations. No problem.  
21 They corrected that.

22 I was surprised that they refiled it again blocked,  
23 but that's fine. I was going to refile that.

24 I do want to say that we, as indicated in the  
25 informal DR-1, we worked down the line after that first

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1 unscrubbing and we kept -- or often came to a blocked cell or an  
2 external link that was not linked. And, you know, we have to  
3 run down to the last chapter of the book, as someone described  
4 it, and so I just want to reserve that that may be an issue down  
5 the road. I don't know. I'm not assigning anything sinister  
6 to --

7 JUDGE FRIEDLANDER: Sure.

8 MR. SMITH: -- the original scrubbing at all, so...

9 JUDGE FRIEDLANDER: Sure. Understood. Thank you.

10 Okay. Then let's go ahead and go through JD-11 as  
11 Mr. Wiley has given us the index.

12 First of all --

13 MR. WILEY: Your Honor?

14 JUDGE FRIEDLANDER: Yes?

15 MR. WILEY: Could I make sure that I have my expert  
16 available on this --

17 JUDGE FRIEDLANDER: Certainly.

18 MR. WILEY: -- because I don't even -- I haven't  
19 checked, but I don't know if I brought all the individual  
20 exhibits today for JD-11.

21 JUDGE FRIEDLANDER: Fine.

22 MR. WILEY: I have the index. She obviously has the  
23 documents.

24 And, Ms. Davis, you know, I want you to be available  
25 at this stage because you've got the exhibits in front of you

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1 and the knowledge of the numbers.

2 MS. DAVIS: Right. We're here, and I'm on it.

3 MR. WILEY: Thank you.

4 JUDGE FRIEDLANDER: Thank you.

5 Okay. So what I have is -- excuse me.

6 What I have is -- JD-1T is the original prefiled  
7 direct testimony --

8 MR. WILEY: Correct.

9 JUDGE FRIEDLANDER: -- from February 18, 2014.

10 MR. WILEY: Correct.

11 JUDGE FRIEDLANDER: And JD-2 has been removed, so I'm  
12 now going with what had been previously been JD-3, which is the  
13 Company-adjusted pro forma results of operations --

14 MR. WILEY: Right.

15 JUDGE FRIEDLANDER: -- will now become JD-2, so I  
16 will --

17 MR. WILEY: Your Honor?

18 JUDGE FRIEDLANDER: Yes?

19 MR. WILEY: I don't mean to interrupt you, but --

20 JUDGE FRIEDLANDER: No, that's fine.

21 MR. WILEY: -- on JD-2, because there could be a  
22 reference to it without making -- can we retain the numbering  
23 just so that there's no confusion, or does that create  
24 additional confusion in your view?

25 JUDGE FRIEDLANDER: I think that will probably

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1 create -- yeah. I think it will probably create additional  
2 confusion.

3 MR. WILEY: Okay.

4 JUDGE FRIEDLANDER: If you want -- yeah.

5 I think let's just refer to it as the original tariff  
6 filing --

7 MR. WILEY: Okay.

8 JUDGE FRIEDLANDER: -- and leave it at that. And  
9 then we will -- you know, we can refer to it that way because  
10 the numbering system is primarily for my use in drafting the  
11 final order.

12 MR. WILEY: Okay.

13 JUDGE FRIEDLANDER: And if it's not going to be  
14 referenced in the final order as a citation, there's no need for  
15 it.

16 MR. WILEY: Okay.

17 JUDGE FRIEDLANDER: So I think I have a handle on  
18 what you want from Docket TG-131794, and we go all the way up  
19 through...

20 MR. WILEY: 10.

21 JUDGE FRIEDLANDER: So that would bring us to --

22 MR. WILEY: 10.

23 JUDGE FRIEDLANDER: -- JD-10.

24 MR. WILEY: Yeah.

25 JUDGE FRIEDLANDER: No, I take it back.

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1 MR. WILEY: Yeah, it becomes 9.

2 JUDGE FRIEDLANDER: It wouldn't because I don't have  
3 a -- well, let me just double-check this.

4 It does. Okay. So we have up to JD-10, and then I  
5 have the prefiled supplemental testimony, which I assume you  
6 would like to be considered in the evidentiary record?

7 MR. WILEY: Absolutely, Your Honor.

8 JUDGE FRIEDLANDER: So that will be JD-11T.

9 And then we get into all these lovely tabs in what  
10 had been JD-11.

11 MR. WILEY: Yes.

12 JUDGE FRIEDLANDER: So I see the first two as a  
13 "PRICE OUT" and a "SUMMARY PRICE OUT."

14 I don't know what a price out is, and so we need a  
15 bit more in way of a description.

16 So, Ms. Davis, I assume that you're going to be the  
17 one responsible for providing me with some kind of a description  
18 as to those documents?

19 MS. DAVIS: Okay. So do you just want to go tab by  
20 tab through them or...

21 JUDGE FRIEDLANDER: Yeah, let's do that. And I'm  
22 going to combine those into a single tab unless you make a  
23 persuasive argument for why they should be separate. They'll  
24 just be --

25 MS. DAVIS: It doesn't make any difference to us, I

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1 don't think.

2 JUDGE FRIEDLANDER: Okay. Okay. Then that's fine.

3 They'll just be a single tab.

4 And I will forward to everybody a revised exhibit  
5 list so that you have it, and you can let me know if I've  
6 inadvertently left anything out. But I don't want to  
7 mischaracterize anything, and I would prefer greatly to have you  
8 to characterize your own exhibits.

9 So maybe you could tell me what this price out and  
10 the summary of the price out is.

11 MS. DAVIS: Okay. So the price out is just  
12 attempting to calculate the new rates that we're proposing by  
13 the number of customers we have to get to the new revenue, and  
14 that carries over to the summary price out.

15 JUDGE FRIEDLANDER: Okay. And I assume that in  
16 typical accounting terms, "price out" is a term of art?

17 MS. DAVIS: You know, I think it's a term that's  
18 normally used by the UTC.

19 MR. WILEY: For solid waste, yeah.

20 MS. DAVIS: Maybe in layman's terms, but that's  
21 really where I come across it is, is for doing -- what usually  
22 happens is you do a cost study and build prices according to  
23 what your costs are for providing the services. And because of  
24 our size, we don't have to include the -- the cost study in our  
25 submission, so we start with the price out where we have already



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1 developed what the rates will be.

2 JUDGE FRIEDLANDER: Okay.

3 MR. WILEY: It demonstrates rate design and rate  
4 spread.

5 JUDGE FRIEDLANDER: Okay. Then perhaps, Staff, did  
6 you want to add to this?

7 MS. CHEESEMAN: The primary purpose of the price out  
8 is to reconcile income statement revenue to the Company's  
9 proposed customer accounts. And there's a requirement that this  
10 price out needs to reconcile within 5 percent of the income  
11 statement revenues before adjustments.

12 JUDGE FRIEDLANDER: Okay. So but yet it also  
13 includes rate spread and rate design?

14 MS. CHEESEMAN: That is what the Company has added to  
15 it, correct.

16 JUDGE FRIEDLANDER: Okay. Well, you know what?  
17 Here's what I'm going to do because I think this could end up  
18 being a bit voluminous as far as the transcript goes.

19 I will go ahead and e-mail to all the parties the  
20 specific exhibits that I have that need a revised description.  
21 And then if there's any kind of lack of consensus on what we  
22 should be describing these exhibits as, then we can deal with it  
23 at that point.

24 I do want to say that as far as what the index of  
25 Exhibit JD-11 has for No. 3, I don't have anything. I don't

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1 have a "FLY SHEET." I'm not sure what that is.

2 MS. DAVIS: You know, it's just a tab that is a cover  
3 page for us and are compiled historical and forecasted results  
4 of operations.

5 So I think the index just picked up what we've called  
6 our tabs. And fly sheet is just a cover page of the financial,  
7 so it doesn't really have a lot of bearing on what you're trying  
8 to review.

9 JUDGE FRIEDLANDER: Okay. So we don't really need  
10 it, then?

11 MS. DAVIS: No.

12 JUDGE FRIEDLANDER: All right. Thank you.

13 Let's go ahead and take that one out because I'm --  
14 you know, unless -- again, unless one of the parties wants to  
15 include it, I don't think it's going to be -- I didn't see  
16 anything in it. I didn't see anything.

17 So let's go ahead and look at some of the ones that I  
18 think can be combined. I think Tab No. 8 and 9 can be combined.  
19 They're both Schedule 1. One is just the explanation. The  
20 other is the summary. The same with 10 and 11. I think they  
21 can be combined. 12 and 13; 15 and 16; Tab 17 and 18; Tabs 19,  
22 20 and 21; Tabs 24 and 25; and then Tabs 34 and 35, unless  
23 specifically Waste Control has an issue, I think we ought to  
24 just combine them for simplicity's sake.

25 MR. WILEY: Fine.

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1 JUDGE FRIEDLANDER: Okay. And I'm getting a nod from  
2 Mr. Wiley --

3 MR. WILEY: Yes, Your Honor.

4 JUDGE FRIEDLANDER: -- so I think that should be  
5 sufficient.

6 I believe that that was all of the concerns I had  
7 with regard to the exhibits and their identification.

8 Mr. Smith, did you have any other concerns regarding  
9 the exhibits?

10 MR. SMITH: Just one, Your Honor. I don't have  
11 the -- excuse me -- the prefiling 131794 in front of me, but if  
12 we replaced the prior JD-2 with the -- we have a new JD -- does  
13 that change the numbering thereafter?

14 JUDGE FRIEDLANDER: Well, it's a funny thing you  
15 should ask because it does and it doesn't.

16 Mr. Wiley filed two 3's. There were 3A and 3B.

17 MR. WILEY: Correct. Correct.

18 JUDGE FRIEDLANDER: So I believe even taking one out  
19 we still have ten.

20 MR. WILEY: Good point.

21 MS. SMITH: Okay.

22 JUDGE FRIEDLANDER: That's what I have in my  
23 schedule. There was a 3, which was nothing. There was a 3A and  
24 3B.

25 MR. SMITH: So 3A stays?

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1 JUDGE FRIEDLANDER: Becomes 2 --

2 MR. SMITH: Okay. And...

3 JUDGE FRIEDLANDER: -- because we've taken out 2. So  
4 3A becomes 2, 3B becomes 3, and then now you've got 4, 5, 6, 7,  
5 8, 9, 10.

6 MR. SMITH: Okay.

7 JUDGE FRIEDLANDER: But you know what? Again, I have  
8 no problems working it out. We can do that with dueling  
9 e-mails.

10 MR. SMITH: Okay. That's fine.

11 JUDGE FRIEDLANDER: Okay. So let's go on to the  
12 extent of the differences between the two filings.

13 And I know, Mr. Smith, you started us out with this  
14 discussion. And I have seen your letter from yesterday, so I  
15 think I'm aware of what it is that you're specifically  
16 referencing.

17 Mr. Wiley, maybe you can -- I don't believe that you  
18 addressed what Waste Control will be doing to let us know what  
19 these differences are and why we're seeing a different filing  
20 this time.

21 MR. WILEY: And I'll let Ms. Davis jump in after I'm  
22 through if there's anything she wishes to add.

23 I believe we've addressed this in an e-mail to  
24 Counsel that you have now seen, but the primary differences that  
25 we noted in the supplemental testimony at page 13 dealt with the

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1 Lurito Gallagher revenue requirement that's derived from the  
2 revised filing and the three categories of issues that arose  
3 from that which were labor and wage benefits, rate case costs,  
4 and adjustment to average investment based on a reference to a  
5 leased asset, as I recall, the reference.

6           Clearly, the chronology has changed in the pro forma  
7 or forecast adjustments because the rate year is different based  
8 on the adjusted filing timing so that the pro forma adjustments  
9 will take us through the end of May 2015 for the rate here,  
10 whereas before, as I recall, the rate year ended on November 30,  
11 2014, so those clearly affect some of the computations and  
12 calculations but we've tried to address that in the supplemental  
13 testimony.

14           If there are other issues of distinction, obviously,  
15 I'd like Ms. Davis to speak up now. And also if, as you  
16 suggested at the start, a technical conference between the  
17 experts would elicit, you know -- would illuminate that better,  
18 obviously, they'd be the appropriate people to do that.

19           JUDGE FRIEDLANDER: Ms. Davis?

20           MS. DAVIS: I believe those are the three differences  
21 from the case at suspension to the case -- the prior suspended  
22 case to where we were beginning this time.

23           JUDGE FRIEDLANDER: Okay. Thank you.

24           Mr. Smith, does that alleviate the concerns and  
25 address the differences to your satisfaction?

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1 MR. SMITH: No; no, Your Honor.

2 I understand from -- and I have attached this to my  
3 letter to you -- that page 13 of the supplemental testimony  
4 lists what they, the Company, is saying is the only three  
5 differences. And they've said that on more than one occasion,  
6 but the next sentence goes on to talk about other  
7 inconsistencies and then directs Staff to look at a pro forma  
8 issued back in September, which is over seven months ago, and I  
9 don't know what that is.

10 And, moreover, it has nothing to do with our question  
11 as to explain the difference between their two filings, whatever  
12 Staff issued seven months ago, I mean, and we're just inclined  
13 to go back, go burrow through prior files, to try to figure out  
14 what the differences are for the Company.

15 So it is still not clear, and we have gone through  
16 the results and have found more differences than the three  
17 listed here. So just for our initial, without going beyond --  
18 behind those numbers, that there are other differences and  
19 they're different.

20 JUDGE FRIEDLANDER: Can you give me an example of  
21 some of the other differences that they haven't illuminated  
22 today?

23 MR. SMITH: Yeah. Let me introduce Melissa  
24 Cheeseman, the Staff accountant, who I will ask to respond to  
25 that.

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1 JUDGE FRIEDLANDER: Okay. Thank you.

2 MS. CHEESEMAN: Melissa Cheeseman.

3 The first example from the results of operations,  
4 Schedule 2, comparative -- or no. Sorry -- Schedule 2 Waste  
5 Control -- I'm sorry. That's the wrong schedule number. Let me  
6 just get to the account number.

7 The account number -- or the account is Fuel, so in  
8 the results of operations, the book value did not change. The  
9 restatement between nonregulated changed. Regulated did not  
10 change. Restatement to the regulated income statement did not  
11 change -- or did -- did not change. And then the pro forma did  
12 change, and it changed to approximately 5,300.

13 JUDGE FRIEDLANDER: Okay.

14 MR. WILEY: Well, Your Honor, this is exactly what I  
15 have been asking for since Friday in terms of a specification or  
16 identification of any differences. We are not playing hide the  
17 ball here. We want to know exactly what the Staff is pointing  
18 to.

19 Now, Ms. Davis is hearing this for the first time,  
20 but from what I was hearing, obviously, the pro forma  
21 adjustments are going to change. We've made that very clear  
22 because of the rate year.

23 Now, I don't know how much of this identification  
24 relates to that. This is very technical right now that we're  
25 getting into, and, you know, I would suggest that this is really

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1 best addressed between the experts. And we have nothing to hide  
2 or conceal whatsoever. We want transparency.

3 JUDGE FRIEDLANDER: Mr. Smith?

4 MR. SMITH: Your Honor, this is the Company's case,  
5 and their last response to us after Mr. Wiley and I spoke Friday  
6 was for us to go and figure it out from a September pro forma --

7 MR. WILEY: No.

8 MR. SMITH: -- issued by Staff.

9 MR. WILEY: I don't know where he's reading that in,  
10 but...

11 MR. SMITH: Well, I'm reading from your response at  
12 4:53 on April 25th, last Friday.

13 MR. WILEY: Could you read the language?

14 MR. SMITH: (As read): "As for other  
15 inconsistencies, Staff, beyond the three you've listed, Staff is  
16 aware there was a pro forma issued on or about December 12th to  
17 the Company, which was the last written indication from the  
18 Staff as to its position in the prior rate case," and it goes  
19 on.

20 And I...

21 MR. WILEY: Yeah. And then?

22 MR. SMITH: And I will tell you we were confused by  
23 that and consequently did not follow up with a phone call,  
24 but...

25 MR. WILEY: Then it goes on to say (as read):



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1 "Please give me an example that I can follow through of what  
2 you're saying is inconsistent."

3 And this is the first time we've heard it, Your  
4 Honor. And, again, we're willing to walk through these, but  
5 this is not the ideal forum to do it.

6 JUDGE FRIEDLANDER: Well, and I think that it's  
7 sounding more and more to me that the experts should really sit  
8 down for however long it takes and figure out what is -- what  
9 are these discrepancies, why are they there, and then you'll be  
10 able to do more in the way of discovery and such.

11 So, you know, if that's amenable to both parties, I  
12 don't see a problem with putting that into the procedural  
13 schedule. The problem then becomes, as Mr. Smith alluded to, we  
14 don't know how long this is going to take to flush out, and  
15 that's going to impact the back-end of the schedule.

16 So I think we can build in some days. I think we can  
17 make a reasonable effort at coming up with a procedural  
18 schedule. And then if it needs to be revised later, we'll go  
19 ahead and do that. But I think this is the purpose of the  
20 prehearing conference. Let's go ahead and set a procedural  
21 schedule. We'll work with it.

22 And if the experts are not able to discuss and  
23 collaborate and arrive at some kind of conclusion and meeting of  
24 the minds, that's fine. You can involve me at that point.

25 Is that amenable to everyone?

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1 MR. WILEY: Yes.

2 MR. SMITH: That's fine, Your Honor.

3 JUDGE FRIEDLANDER: Okay. Thank you.

4 And, Mr. Sells, you've remained really quiet.

5 MR. SELLS: Well, for good reason, Your Honor. I'm  
6 here primarily interested in the scheduling --

7 JUDGE FRIEDLANDER: Sure. Understood.

8 MR. SELLS: -- and see where we're going with that.

9 JUDGE FRIEDLANDER: Okay. Thank you. I just wanted  
10 to make sure that you didn't have an opinion that was going  
11 unheard.

12 So let's go ahead and talk about schedule, then. I  
13 think before anything else happens, we're already in discovery  
14 phase as it is.

15 MR. WILEY: Yes.

16 JUDGE FRIEDLANDER: Let's go ahead and talk about a  
17 technical conference, preferably, as soon as possible.

18 MR. WILEY: Yes.

19 JUDGE FRIEDLANDER: And I don't -- you know, since  
20 I'm not involved in it, you all can take as many days as you  
21 would like.

22 So do we want to go off the record, then, and maybe  
23 arrive at some kind of procedural schedule? Sounds good?

24 All right. We'll be off the record, then.

25 (A break was taken from 10:32 a.m.)

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1 to 10:46 a.m.)

2 JUDGE FRIEDLANDER: So we'll be back on the record.

3 The parties have had a chance to confer and arrived  
4 at a proposed procedural schedule. We'll address that first  
5 before getting into a couple of issues that were brought up --  
6 procedural issues that were brought up off the record, so who  
7 would like to present the proposed procedural schedule?

8 MR. SMITH: I can, Your Honor.

9 JUDGE FRIEDLANDER: Okay.

10 MR. SMITH: We will have a technical conference  
11 between our subject matter experts on May 15th and 16th. Staff  
12 would prefile its direct testimony exhibits on June 20th. There  
13 will be a settlement conference between the parties --

14 JUDGE FRIEDLANDER: I'm sorry. You said June 20th?

15 MR. SMITH: Correct; yes.

16 JUDGE FRIEDLANDER: Okay. Yes, please proceed.

17 MR. SMITH: Settlement conference between the parties  
18 on July 9th; the company would prefile its rebuttal on July  
19 23rd; hearing would be August 6th and 7th; and last simultaneous  
20 briefs on August 28th.

21 JUDGE FRIEDLANDER: Okay. And so I didn't hear  
22 anything in there about WRRR filing testimony.

23 Mr. Sells, do you anticipate filing testimony?

24 MR. SELLS: We do not at this point, Your Honor.

25 JUDGE FRIEDLANDER: Okay. Okay.

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1           MR. WILEY: Your Honor, as we did in the last rate  
2 case, if there is WRRRA testimony to be reserved, I assume that  
3 would be on the Company rebuttal date. That's, I believe, what  
4 we did before, but...

5           MR. SMITH: That's fine with me.

6           JUDGE FRIEDLANDER: Okay. That's fine.

7           MR. SMITH: Your Honor, it will be rebuttal  
8 testimony, though, by WRRRA if they file.

9           MR. WILEY: I'm trying to remember. I think we may  
10 even want to go back to the...

11          MR. SMITH: Well, I mean, that's -- I guess that  
12 would be my...

13          MR. WILEY: Rebuttal of Staff --

14          MR. SMITH: Nothing new, yeah.

15          MR. WILEY: -- Staff's case?

16          MR. SMITH: Right.

17          MR. WILEY: They're not going to rebut our case.

18          MR. SELLS: No, no.

19          JUDGE FRIEDLANDER: And they're not going to  
20 cross-answer anything that hasn't been filed yet, so...

21                 Actually, yeah. It would almost have to be rebuttal  
22 because there's nothing to cross-answer --

23          MR. WILEY: Yeah.

24          MR. SELLS: Right.

25          JUDGE FRIEDLANDER: -- once before Staff files.

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1 MR. SELLS: And I have no problem with that, Your  
2 Honor.

3 JUDGE FRIEDLANDER: Okay. All right, then, so we'll  
4 call it cross-answering.

5 MR. WILEY: Your Honor, I found that fuel...

6 JUDGE FRIEDLANDER: Yes.

7 MR. WILEY: I found that fuel citation.

8 Just for the record, it's WAC 480-70-346.

9 MR. SELLS: What's the rebuttal brief date?

10 MR. WILEY: It's the 23rd of July.

11 JUDGE FRIEDLANDER: Okay. So let me just quickly  
12 make sure that I don't have anything going on at that time. And  
13 I don't have a conflict, so that should be fine.

14 Are we doing typical discovery response times, or are  
15 we shortening those?

16 MR. SMITH: We didn't see any need, given this  
17 schedule, to shorten them.

18 JUDGE FRIEDLANDER: All right. Then we'll do ten  
19 business days, the typical.

20 Okay. I think that covers all of the procedural  
21 schedule issues. Let's go into the two issues that were raised  
22 off the record, the first being the legislation that I believe  
23 that has been signed SB 6141, which I'm told by Counsel for  
24 Waste Control allows for solid waste confidentiality agreements  
25 and protective orders.

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1                   MR. WILEY: Your Honor, it really -- what it does is  
2 allows for a party to move in court to protect documents from  
3 requests for public records on ten-days' notice. You have to go  
4 on to Superior Court.

5                   Historically, the Commission issued its own  
6 regulation in the procedural rules that basically carried that  
7 out from an administrative agency standpoint in terms of  
8 litigants through the process, so I don't want you to assume  
9 that the statute says the agency issues protective orders. But  
10 what's the case in utility circumstances, as I understand it, is  
11 under the companion statute, the regulation -- I'll get you the  
12 regulation under -- I'm sure you have seen it before many times,  
13 but it's --

14                   JUDGE FRIEDLANDER: Sure.

15                   MR. WILEY: -- it's the form order that comes under  
16 that section.

17                   JUDGE FRIEDLANDER: Right. And I think -- you're  
18 correct. In general, the Commission has its own procedural  
19 statute -- or a procedural reg that will allow us to have the  
20 parties use a form.

21                   However, not having anything like that in place at  
22 this point --

23                   MR. WILEY: Right.

24                   JUDGE FRIEDLANDER: -- that draws into -- it brings  
25 up in my mind the question of we have a statute out there now --

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1 MR. WILEY: Right, right.

2 JUDGE FRIEDLANDER: -- a legislation, 6141, which  
3 allows, in my understanding from what you're saying, the Company  
4 to go to court.

5 MR. WILEY: Right.

6 JUDGE FRIEDLANDER: But there's nothing in place at  
7 this point in the legislation that says "the Commission."

8 MR. WILEY: Right.

9 JUDGE FRIEDLANDER: So we don't have any -- we  
10 wouldn't be doing anything for this, would we?

11 MR. WILEY: No. We'd be asking for a protective  
12 order under WAC 480-07-160 that references the statute for the  
13 utility companies and -- and talks about at the present time  
14 there not being a similar statute under Title 81 in WAC  
15 480-07-160, the introduction section.

16 JUDGE FRIEDLANDER: I see. Okay. Well...

17 MR. WILEY: So I understand your point, Your Honor,  
18 that because the legislation isn't in effect now, you wouldn't  
19 feel comfortable issuing a protective order at this stage.

20 JUDGE FRIEDLANDER: Right. And I think the course we  
21 should take is have the Company, since this would be benefitting  
22 the Company, file a motion for a protective order at the time  
23 that this statute is fully --

24 MR. WILEY: Right.

25 JUDGE FRIEDLANDER: -- in place, at the time it's

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1 fully operational, so that we at that point will know that  
2 what -- what our responsibilities are under this legislation  
3 because I'm just looking at a bill report for this, and there's  
4 a lot of research that needs to be done.

5 MR. WILEY: Yeah. Your Honor, I'd also cite you to  
6 WAC 480-07-420 on protective orders that the Commission issues,  
7 and it does say, "The commission may, upon motion by a party, or  
8 on its own initiative, amend its standard form of protective  
9 order to meet the parties' and the commission's needs in  
10 individual cases."

11 JUDGE FRIEDLANDER: Right. And that's assuming that  
12 we have the authority to do so.

13 MR. WILEY: Right. Absolutely.

14 JUDGE FRIEDLANDER: So I would strongly encourage  
15 Waste Control, when filing the motion to provide us --

16 MR. WILEY: Some explanation.

17 JUDGE FRIEDLANDER: -- with what powers and  
18 authorities the Commission has to do so.

19 And, of course, we would allow Staff to respond as  
20 well, as well as WRRR, so we'll address that when we receive the  
21 motion.

22 The second issue that was raised is that the fuel  
23 surcharge --

24 MR. WILEY: Right.

25 JUDGE FRIEDLANDER: -- is going to be expiring as of



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1 today, April 30th, that is in place for Waste Control; is that  
2 correct?

3 MR. WILEY: I think -- and my understanding is -- and  
4 Ms. Davis can correct me if I'm wrong -- that it will actually  
5 expire May 31st but it has to be on file by today.

6 JUDGE FRIEDLANDER: Ah.

7 MR. WILEY: And Ms. Cheeseman's shaking her head yes,  
8 too.

9 JUDGE FRIEDLANDER: I see. I see.

10 Okay. And so it's continuing in effect --

11 MR. WILEY: Right.

12 JUDGE FRIEDLANDER: -- until the end of the month of  
13 May, with the filing to replace it...

14 MR. WILEY: On 30 days' notice.

15 JUDGE FRIEDLANDER: Right. Right. Okay. Well --  
16 and Waste Control, you can correct me if I'm wrong.

17 You guys will be filing something today?

18 MR. WILEY: Yes, yes. And I understand Ms. Davis has  
19 it ready, and I want her to, after it gets filed, to talk to  
20 Ms. Cheeseman, too.

21 JUDGE FRIEDLANDER: Certainly, to...

22 MR. WILEY: To resolve any...

23 JUDGE FRIEDLANDER: Outstanding issues --

24 MR. WILEY: Yeah.

25 JUDGE FRIEDLANDER: -- that there may be with the

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1 filing?

2 MR. WILEY: Yeah.

3 JUDGE FRIEDLANDER: I will most likely still provide  
4 a notice to the parties, both WRRRA and Staff, that they can  
5 respond to the request for continuation of the fuel surcharge  
6 collection and then rule before the expiration at the end of  
7 May. So we'll be receiving that shortly.

8 Is there anything else that we need to discuss before  
9 we adjourn today?

10 Okay. Hearing nothing, I'll remind the parties that  
11 they need to provide an original and two copies. I'm going to  
12 try to keep it to a minimum and hope that all of the people at  
13 the Commission will be using their tablets and laptops as  
14 opposed to paper copies.

15 With that, unless there's anything else?

16 MR. WILEY: Your Honor?

17 JUDGE FRIEDLANDER: Yes.

18 MR. WILEY: I just want to make one comment on the  
19 record.

20 I believe this is the last time that I will be  
21 appearing before you with my colleague from the Commission  
22 Staff, and I wanted to thank him for 30-plus years of working  
23 together. The last recent period hasn't been as pleasant as  
24 some other, but he's a real gentleman and a loss to the  
25 Commission Staff. And I wish him well, the bum, for getting to

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1 retire.

2 JUDGE FRIEDLANDER: Yes. And --

3 MR. SMITH: May I, Your Honor?

4 JUDGE FRIEDLANDER: Yes, please.

5 MR. SMITH: And I appreciate that, Mr. Wiley, and I  
6 would request that Mr. Wiley be directed to wipe the smile off  
7 his face when he announces that I'm leaving.

8 JUDGE FRIEDLANDER: Well, and I would echo  
9 Mr. Wiley's comments and appreciate everything that you have  
10 done for the Commission and all of your work and research and  
11 efforts. So thank you.

12 MR. SMITH: Thank you, Your Honor.

13 JUDGE FRIEDLANDER: We will miss you.

14 So with that, we are adjourned. Thank you.

15 MR. WILEY: Thank you.

16 (Proceeding concluded at 11:55 a.m.)

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C E R T I F I C A T E

STATE OF WASHINGTON ) ) ss  
COUNTY OF KING )

I, SHELBY KAY K. FUKUSHIMA, a Certified Shorthand Reporter  
and Notary Public in and for the State of Washington, do hereby  
certify that the foregoing transcript is true and accurate to  
the best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set my hand and seal  
this 8th day of May, 2014.

\_\_\_\_\_ SHELBY KAY K. FUKUSHIMA, CCR

My commission expires: June 29, 2017