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BEFORE THE WASHINGTON UTILITIES
AND TRANSPORTATION COMMISSION

In the Matter of the Petitions of:	DOCKET NOS.
WASTE MANAGEMENT OF WASHINGTON, INC., d/b/a WASTE MANAGEMENT – NORTHWEST	TG-101220 (Consolidated)
WASTE MANAGEMENT OF WASHINGTON, INC., d/b/a WASTE MANAGEMENT – SNO-KING	TG-101221 (Consolidated)
WASTE MANAGEMENT OF WASHINGTON, INC., d/b/a WASTE MANAGEMENT – SOUTH SOUND AND WASTE MANAGEMENT OF SEATTLE	TG-101222 (Consolidated)
Requesting Authority to Retain Fifty Percent of the Revenue Received From the Sale of Recyclable Materials Collected in Residential Recycling Service	PETITION FOR LEAVE TO EXTEND REVENUE SHARING PROGRAMS AND RECYCLING COMMODITY PRICE ADJUSTMENTS

I. INTRODUCTION

1. *This Petition for Leave to Extend Revenue Sharing Programs and Recycling Commodity Price Adjustments* (“Petition”) is submitted by Waste Management of Washington, Inc., d/b/a/ Waste Management – Northwest, Waste Management of Washington, Inc., d/b/a/ Waste Management – Sno-King; and Waste Management of Washington, Inc., d/b/a/ Waste Management – South Sound and Waste Management of Seattle (collectively, “Waste Management” or “Company”), to request that performance under current Revenue Sharing Agreement (“RSA”) recycling programs with King County and Snohomish County be

1 allowed to continue for an additional three months to provide time for the Commissions to
2 issue a final order determining whether the line-item allocation of a percentage of retained
3 revenue to the Company as reflected in the budget for the RSAs is a “use[] to increase
4 recycling” within the meaning of RCW 81.77.185, and subsequent implementation of that
5 determination. As a consequence, Waste Management also requests approval to continue
6 charging the recycling commodity price adjustment rate that is in its current tariffs for the
7 same period of time, by extending the expiration date to November 30, 2011.

8 II. FACTUAL BACKGROUND

9 2. On July 16, 2010, Waste Management filed revisions to its applicable tariffs for three of the
10 company’s operating divisions in King and Snohomish Counties: *In re Waste Management of*
11 *Washington, Inc., d/b/a/ Waste Management – Northwest*, G-237, Docket TG-110220; *In re*
12 *Waste Management of Washington, Inc., d/b/a/ Waste Management – Sno-King*, G-237,
13 Docket TG-110221, and *In re Waste Management of Washington, Inc., d/b/a/ Waste*
14 *Management – South Sound and Waste Management of Seattle*, G-237, Docket TG-110222.
15 The requested effective date for the recycling commodity price adjustment rates was
16 September 1, 2010.

17 3. On August 31, 2010, the Commission allowed the requested rates to go into effect, and
18 authorized Waste Management to retain fifty percent of the revenue from the sale of
19 recyclable materials collected in its single-family and multi-family residential recycling
20 programs on an interim basis, from September 1, 2010, through December 1, 2010, subject to
21 refund. Order 01, *Order Authorizing Temporary Revenue Sharing for Recyclable*
22 *Commodities Subject to Refund* (August 31, 2010) ¶20.¹

23 4. The Commission also directed Waste Management to work with the Counties to devise a
24 budget and subsequently petition the Commission no later than November 1, 2010 to allow

25
26 ¹ The three dockets were consolidated. Order 03, *Order of Consolidation and Notice of Prehearing Conference*
(December 1, 2010). In this Petition, because the relevant Commission decisions apply similarly to all three docket
matters, they are denominated collectively as one “Order.”

1 the revenue sharing through August 31, 2011. Order 01 ¶21. The Commission anticipated
2 that it would then issue an order either lifting the interim status of the revenue sharing or
3 setting some other amount percentage for revenue sharing prior to December 1, 2010. Order
4 01 ¶23.

5 5. On November 1, 2010, Waste Management filed the information required by Order 01, with
6 a *Petition to Allow Revenue Sharing, Lift Interim Status and Approve Revised Commodity*
7 *Credits* that included revised tariff pages presenting recalculated recycling commodity
8 adjustments.

9 6. In the budget presented with the November 1 filing, the revenue sharing plan proposed that
10 Waste Management keep eight percent of the retained revenue. Because the proposed eight
11 percent budget item would affect the percent of revenue that the Commission would allow
12 Waste Management to retain for the 2010-2011 plan period, as well as what the Commission
13 might determine should happen with the unspent 2009- 010 retained revenue, the Petition
14 was set for hearing. Order 02, *Complaint and Order Suspending Tariff and Authorizing*
15 *Temporary Revenue Sharing for Recyclable Commodities, Subject to Refund* (November 24,
16 2010) ¶16.

17 7. The Commission extended the fifty percent revenue sharing on a temporary basis, subject to
18 refund, and subject to the conditions established in Order 01. Order 02 ¶16. The
19 Commission did not set a deadline by which the temporary approval would expire, but the
20 recycling commodity price adjustment left in effect retained an expiration date of August 31,
21 2011 in the applicable tariffs.

22 8. Meanwhile, a similar proceeding involving the revenue sharing programs in Pierce and
23 Mason Counties came before the Commission. *See, In re Mason County Garbage Co., Inc.*
24 *d/b/a Mason County Garbage*, G-88, Docket TG-101542; *In re Murrey's Disposal Company,*
25 *Inc.*, G-9, Docket TG-101545; and *In re American Disposal Company, Inc.*, G-87, Docket
26

1 TG-101548 (collectively, the “Pierce County Filings”). These unrelated but comparable
2 matters were also the subject of administrative adjudication, and subsequently consolidated.

3 9. Prehearing conferences for both Waste Management’s consolidated matters and the Pierce
4 County Filings were held on December 1, 2010. The parties agreed that a procedural
5 schedule in the Waste Management matters depended somewhat on the outcome of the
6 Pierce County Filings. Order 04, *Prehearing Conference Order* (December 20, 2010) ¶8.

7 10. Ultimately, the Commission issued a final decision regarding the revenue sharing plans in
8 Pierce and Mason Counties, addressing many aspects of interpreting and implementing RCW
9 81.77.185. Pierce County Filings, Order 05, *Order on Reconsideration* (May 6, 2011).

10 11. During the pendency of the Pierce County Filings, Waste Management and Commission
11 Staff negotiated a partial settlement which was ultimately approved by the Commission.
12 Order 06, *Initial Order Approving and Adopting Partial Settlement Agreement* (February 28,
13 2011) and *Notice of Finality* (March 1, 2011). The settlement resolved issues related to the
14 closure of the 2009-2010 plan period, and a revised recycling commodity adjustment was put
15 into effect. The approved agreement settled the look-back component of the recycling
16 commodity adjustment and established a “permanent” credit amount for the remainder of the
17 effective twelve-month period. Order 06 ¶33. The expiration date remained stated in the
18 tariffs as August 31, 2011

19 12. After settlement, then, the sole remaining point of contention in the Waste Management
20 proceeding was whether the 2010-2011 RSAs demonstrated how the revenues would be used
21 to increase recycling in a manner approved by the Commission. The Company and the
22 Counties retained the line-item allocating eight percent of the projected revenue in the RSA
23 budget for the next plan period of 2010-2011. The specific remaining question presented by
24 this case is whether budgeting for a percentage of the recycling revenues to provide Waste
25 Management with a financial incentive under its RSAs with King and Snohomish Counties is

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1 a “use[] to increase recycling” within the meaning of RCW 81.77.185. *See* Order 07, *Second*
2 *Prehearing Conference Order* (June 7, 2011) ¶5.

3 III. REQUEST FOR EXTENSION

4 13. The expiration date for Waste Management’s current recycling commodity price adjustment
5 is August 31, 2011. Although it is not certain whether the commodity price adjustment for
6 the next period would result in a rate increase or a rate decrease, if forty-five days’ notice
7 were required Waste Management would need to file its new tariff rate by July 15, 2011, in
8 the absence of a request for less than statutory notice. The Company’s ability to calculate the
9 next recycling commodity price adjustment is constrained by lack of certainty about the
10 2010-2011 RSAs budgetary proposals for allocating retained revenues.

11 14. If Waste Management, along with King County or Snohomish County, were to present an
12 RSA for the next plan period to the Commission, they would not know whether it would
13 meet with the Commission’s approval or not. Neither Waste Management nor its County
14 partners are desirous of preparing a new RSA without knowing whether it would comport
15 with the Commission’s standards. Hence, Waste Management cannot calculate the
16 prospective recycling commodity price adjustment, either. It needs both the amount to apply
17 from the 2010-2011 plan period, as well as the allocation of expenditures for the next 2011-
18 2012 plan period to make that calculation.

19 15. In June, Waste Management conferred with Commission Staff about this dilemma.
20 Commission Staff expressed support for the concept of extending the existing RSA and
21 perpetuating the current recycling commodity credit, until the Commission provides
22 guidance for how to move forward with the next plan and how to figure the next recycling
23 commodity price adjustment.

24 16. The Counties were similarly interested in minimizing redundancies. Personnel from both
25 King and Snohomish County negotiated with Waste Management an extension of the
26 existing RSAs that would enable the Company to continue revenue-sharing operations to

1 increase recycling, and identified elements of their RSAs that were eligible for continuation.
2 Waste Management prepared a budget showing how the revenues retained for the additional
3 three-month period would be applied. The RSA Extensions and budgets are attached to this
4 Petition. Also included are the Counties' certification letters in which they express support
5 for perpetuating the current recycling commodity adjustment rate in each of their respective
6 jurisdictions as well.²

7 17. All parties anticipate that a three-month extension will be sufficient time to enable the
8 Commission to rule in the Waste Management proceedings, to allow the participating parties
9 to apply that guidance to formulation of a new plan, and to permit Waste Management to
10 calculate new tariff rates for recycling commodity price adjustments. The expectation is that
11 Waste Management will be able to present to the Commission new RSAs on or before
12 October 15. Waste Management and the Counties are already working on designing a new
13 revenue-sharing program for the ensuing time period. The October filing would also include
14 a calculation of the new rates for the prospective recycling commodity price adjustment for
15 the remainder of the next plan period. Because the commodity adjustment is calculated by a
16 deferred accounting methodology, Waste Management and the Commission will be able to
17 true-up the rate for prospective application.

18 18. The expectation is that this three-month extension will be followed by an abbreviated nine-
19 month plan period, so that both the ensuring recycling commodity adjustment and the next
20 revenue-sharing plan will take effect on September 1, 2012.

21 IV. CONCLUSION

22 19. For the reasons stated above, Waste Management respectfully requests the Commission
23 authorize:

24 A. Extension of the recycling commodity price adjustment rates currently set forth in the
25 three tariffs at issue in this proceeding by revising the expiration date to November 30, 2011;

26 ² King County intends to separately file its certification directly with the Commission.

1 B. Continuation of the current 2010-2011 RSA plans under the *Waste Management*
2 *Recycling and Commodity Revenue Sharing Plan for King County, Extension No. 1*
3 (September 1-November 30, 2011) as presented in the attached documentation; and

4 C. Continuation of the current 2010-2011 RSA plans under the *Waste Management*
5 *Recycling and Commodity Revenue Sharing Plan for Snohomish County, Extension No. 1*
6 (September 1-November 30, 2011) as presented in the attached documentation.

7
8 DATED this 12th day of July, 2011.

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11 By 

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