BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v. MURREY'S DISPOSAL COMPANY, INC., G-9, Respondent	)	DOCKET TG-111672 (Consolidated)
. . . . .	)	
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v. AMERICAN DISPOSAL COMPANY, INC., G-87, Respondent	)	DOCKET TG-111674 (Consolidated)
. . . . .	)	
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v. MASON COUNTY GARBAGE CO., INC. d/b/a MASON COUNTY GARBAGE, G-88, Respondent	)	DOCKET TG-111681 (Consolidated) RESPONDENTS MURREY'S DISPOSAL COMPANY, INC., AMERICAN DISPOSAL COMPANY, INC., MASON COUNTY GARBAGE CO., INC. D/B/A MASON COUNTY GARBAGE AND HAROLD LEMAY ENTERPRISES, INC., D/B/A PIERCE COUNTY REFUSE RESPONSE IN OPPOSITION TO STAFF'S MOTION FOR SUMMARY DETERMINATION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v. HAROLD LEMAY ENTERPRISES, INC., d/b/a PIERCE COUNTY REFUSE, G-98, Respondent	)	DOCKET TG-120073 (Consolidated)

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I. PRELIMINARY STATEMENT

1 Murrey's Disposal Company, Inc. ("Murrey's or M/A"), American Disposal Company, Inc. ("American or M/A"), Mason County Garbage Co., Inc. d/b/a Mason County Garbage ("MCG") and Harold LeMay Enterprises, Inc., d/b/a Pierce County Refuse ("PCR") (hereinafter "Murrey's," "American," "MCG," "PCR" or "Respondents"), pursuant to WAC 480-07-380(2)(c), hereby file their Response Opposing the WUTC Staff's Motion for Summary Determination ("Staff Motion") and in support of the Respondents' simultaneous Motion for Summary Determination seeking an Order from the Commission as a matter of law that unspent revenue share retention proceeds pursuant to RCW 81.77.185 in the 2010-2011 and 2011-2012 periods be authorized for retention pursuant to the approved and certified county revenue share agreements.

II. CHARACTERIZATION OF ARGUMENTS AND OUTCOME ADVOCATED BY THE STAFF MOTION

2 In its Motion, the Staff essentially makes two basic arguments which it bifurcates among Murrey's and American, Mason County Garbage and Harold LeMay Enterprises, to-wit: (1) for the 2010-2011 reporting year, unspent revenue retention should be limited to a ratio of unspent revenues to expenditures which Staff calculates was allowed by Order No. 5, Docket No. TG-101542, *In re the Petition of Mason County Garbage Co., Inc. d/b/a Mason County Garbage*, G-88 et al. (May 2011) (hereinafter "Order No. 5"), and that this effective 19.51 percent should be applied as well to the disparate performances of Mason County Garbage and Harold LeMay Enterprises ("PCR") for the 2010-2011 plan reporting periods [albeit under different county approved retention percentages and

in MCG's case, a wholly different county government plan]: and (2) that for 2011-2012 revenue share plans, the four companies be limited to retaining five percent of the revenues[1] the companies spent on recycling plan activities in the current plan years. After these quantitative formulas are proposed, the balance of the Staff Motion is directed to its argument interpreting RCW 81.77.185 and the relatively few Commission orders and the May, 2012 Commission Interpretive and Policy Statement which have sought to lend guidance to the revenue share program first instituted by the legislature over a decade ago.

III. ARGUMENT IN RESPONSE TO STAFF MOTION FOR SUMMARY DETERMINATION

1. The Staff's Argument That RCW 81.77.185 Should Be Somehow Interpreted In The Converse or By Negative Inference is Erroneous.

3 The Staff Motion launches its prescriptive formula for disposition of the unspent 2010-2011 revenue share proceeds at issue beginning at page 7 of its Motion by combining both the Commission's broad discretionary authority in general ratemaking with effectively a "reverse engineering" exercise in interpreting RCW 81.77.185. Though oft-repeated in the various suspended revenue share proceedings and orders to date, for reference here in tracking the arguments of the parties, the critical two-sentence statute of RCW 81.77.185(1) is set forth below:

> (1) The commission shall allow solid waste collection companies collecting recyclable materials to retain up to fifty percent of the

[1] There is some slight confusion in the Staff premise on the five percent quotient, owing to the fact that, i.e. at page 15 of its Motion it refers to Respondents being able to keep "no more than five percent of the revenues the Companies spent," *(emphasis added)* and at page 18 it refers to "a maximum of five percent of expenditures..." The Respondents, however, understand this argument to be consistent with and derived from the Interpretive and Policy Statement's ("IPS's") incentive limitation of 5% of expenditures (IPS at ¶ 32, p. 10) and will argue in response accordingly, but this underscores the troubling interpretation from the IPS that converts the statutory language in RCW 81.77.185 of "revenues paid" to the companies into "expenditures made," noted in Respondents' Motion, which equation is clearly not synonymous.

> revenue paid to the companies for the material if the companies submit 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 shall be passed to residential customers.

4 As noted, the Staff in its Motion interprets the statute as granting the Commission discretion to allow a solid waste collection company "some amount less than 50 percent as a reward or incentive to increase recycling.[2] In other words, the Staff posits the statutory language that the Commission "shall allow" solid waste collection companies to retain "up to" 50 percent in the converse, purportedly enabling the Commission to reject (not "allow") revenues based on an unspecified, subjective sliding scale basis for any and all unspent revenue retention above zero.[3] Apparently, by the Staff view, "some portion" means the Commission can exercise its "discretion" to disallow any and all unspent revenue share retention that seems disproportionate, or even better, of "staggering magnitude."[4]

5 Now, with the Order No. 5's explicit finding to the contrary about performance incentives and its additional finding that "... the meaning of RCW 81.77.185 is plain on its face based on the ordinary meaning of the language, the context of the statute in which

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[2] Staff Motion for Summary Determination, ¶14 at 7.

[3] We've seen this type of strained interpretation of the statutory language before. In its Motion for Summary Determination in the prior Docket TG-101542 et al. leading to Order No. 5, the Staff tried to argue that the statute provided for no performance retention benefits and that the language "will be used to increase recycling" meant that there was always a future conditional showing requirement that effectively resulted in passing all unspent revenue share to customers. This stance obviously would nullify the "up to" qualifier in the statute since there would then be a perpetual carryover of any unspent revenue. Petitioners addressed this argument in detail in the Response to Opposition to Staff's Motion for Summary Determination in February, 2011, ¶ 16 at 6, 7 and, particularly, in footnote 7 of that pleading. The Commission Order No. 5 found considerably more flexibility in that language than Staff advocated, (see Order No. 5 ¶ 29 "...we do not believe [staff arguments]...are strong enough to overcome the flexibility embodied in the statute") and certainly did not imply in its Order that "shall allow" effectively meant that a negative inference reading of the statute that the Staff now advocates is an objective one.

[4] Staff Motion for Summary Determination, ¶20 at 10.

that provision is located, and the statutory scheme as a whole,"[5] the Staff further suggests that the revenue share incentive to increase recycling means the statute-provided retention is only judged by the empirical results of expenditures made and basically discounts the metric of revenues paid to the company which the statute appears to direct.

6 Even the Commission itself, in the passage from Order No. 5 (on which the Staff so prominently relies in Section 16 of its Summary Determination Motion here), speaks of "... 50 percent of the revenue it generates from the sale of recyclable materials" and refers to revenue "use" in the context of demonstration of increasing recycling. And, finally, the Staff's interpretation of the mechanics of RCW 81.77.185 for the 2010-2011 revenue share plan performances also unquestionably applies the IPS maxim of "expenditures made," one to two years before the articulation of that particular standard which even Staff later acknowledges in its Motion could well raise "issues of due process and lack of notice" for the Respondents.[6]

2. Rough Justice: The Staff's Qualitative Policy Arguments are Translated into Quantitative Recommended Retentions.

A. "Policy Grounds and Unreasonable Expectations"

7 Other than its "negative inference" parsed interpretation of RCW 81.77.185's verbiage, in addition to basic statutory interpretation, at the heart of its Argument Section, the Staff relies on "*policy grounds*, alleged reasonable expectations or otherwise," (emphasis added) again in the negative, to disqualify the companies from entitlement to the remaining revenue share plan proceeds. In a subsequent series of itemized policy trial

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[5] Order No. 5, ¶ 17, at 8.

[6] Staff Motion for Summary Determination, ¶ 31 at 14, which point it raised in the context of defense of limiting the 2010-2011 Plan retention amounts to the computed, approved 19.51 percent of expenditures formula in 2009-2010 and then following the IPS formula for the succeeding year.

balloon arguments, the Staff portrays the current circumstance (consistent with the Respondents' argument on Motion that essentially boils down to the "too big not to fail, doesn't feel right" mantra) as clearly disqualifying the Respondents from unspent revenue retention as currently calculated.

B. The Specified Miscarriages of the Revenue Statute Share According to the Staff in the Proposed Retentions.

8 The Staff "parade of horribles" policy arguments next in extended summary are: (1) the fact that the secondary market for commodity sales in 2010-2011 (which the Staff goes to considerable length to describe as entirely fortuitous) and the "robust market performance" should not be relied upon by the companies "to claim a right to a huge windfall." [Staff rendition: revenue share programs are a one-way street. If the market spikes, the customers automatically receive a higher payout/refund but if the market is "too bountiful," that would mean a "windfall" for the companies which on policy grounds needs to be subjectively scaled back prior even to any formal policy direction that budgets be prepared and adjusted and before any type of internal controls or "governors" on revenues removed from regulated income are advocated by the Commission]; and (2) that the spike in the amount of the requested incentive award had nothing to do with additional recycling activities, i.e. that allowance of an performance award in this circumstance creates "a perverse incentive for companies not to fully commit to the goal of increasing recycling,"[7] [no evidence cited, and Respondents did institute numerous new programs and expenditures in 2010-2011 and again, a worst case scenario frankly impugning the Respondents' motives in participating in the plan and county oversight in

[7] Staff Motion for Summary Determination, ¶ 22 at 10.

seeking to increase recycling which the certified results of waste reduction and container size migration cited in both counties' certification letters in 2010-2011 and the succeeding year refute]; (3) that sizeable unspent revenue retentions contravene the required clear demonstration that the revenues paid (at least if significant) were used to increase recycling[8] [apparently the larger the unspent retention in Staff's view the less likely the moneys used increased recycling, thus the approximate $10,700 deficit Mason County Garbage experienced in 2009-2010 must have been an herculean effort by MCG to increase recycling owing to the deficit]; (4) the IPS's finding that the lack of financial risk when companies use assigned revenue share funds means that because there is purportedly no financial risk, that translates into a finding that the proposed retention is unreasonable and prohibited [an argument that proves Respondents' premise on its Motion for Summary Determination that the Staff is applying traditional Lurito-Gallagher and other regulated ratemaking methodologies to revenue share contrary to the original design of revenue share by the legislature and the corresponding removal of revenue share regulated revenues on the companies' income statements]; (5) that the revenue share plan as implemented violates Order No. 5's mandate on spending *most* of the retained revenues of recycling activities [Order No. 5 was entered in the eighth month of the M/A and MCG 2010-2011 performance plans and the companies responded to the market rise and Order by increasing, for instance, spending on county sustainability

[8] Order No. 5 had also noted that RCW 81.77.185 does not authorize the Commission to adopt its own condition on the disposition of unspent revenue at least in terms of mandatory carryover. Moreover, that the linkage of revenue retention to the Company's satisfying the "increasing recycling" statutory requirement, which included a measurable increase in recycling rates, was a fully sufficient criterion to demonstrate revenues were "used to increase recycling" in the prior 2009-2010 Murrey's/American plan. Order No. 5 ¶ 34 at 14, ¶ 41 at 16.

positions in Pierce County and other activities that are now at risk under the IPS[9] and there were no program activities and budgeted line items ostensibly reflecting same required in either county since the programs' inception which has now also been duly revised by the IPS]; (6) the material amount of retained revenue is an "unintended consequence" of the 2010-2011 revenue share program and, on the basis of WAC 480-70-351(1)(c), apparently as a matter of law in Staff's view, that this is a clear "unintended consequence" and should not be allowed [again, exactly the Staff argument Respondents' anticipated in their own Motion, (*see*, pp. 12, 15 and 24), and which cannot be used as a matter of law to interpret an after-designed legislative program that was created to be and is removed from regulated ratemaking]; and (7) finally, that allowing the current revenue share plan results for 2010-2011 "harms ratepayers" that the Commission must consider in arriving at "an appropriate incentive return for the companies" and that the original legislation's requirement to report on the effectiveness of revenue share and the effect of revenue sharing on costs to customer means that an "unjustifiably high incentive payment directly harms the ratepayers" [10] [not mentioning ratepayers are already automatically

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[9] See footnote no. 14, ¶ 25 at 8 of Interpretive and Policy Statement.

[10] The legislative report Staff refers to here actually was submitted to the Legislature by the Commission on February 21, 2006 when revenue sharing was in its infancy in Pierce County (particularly with the removal of glass from its program) and three years before Mason County launched its revenue share program. The study results reflect that the first eight months of the program in Pierce County had shown dramatic increases in recycling pounds per customer compared to the experiences in Snohomish and King County, establishing a geographic divide on revenue share results from the start. See Table 3, at 11, "Report on Revenue Sharing in the Regulated Solid Waste Industry." (February 21, 2006).

Obviously also, its cost assessments piece for Pierce County was preliminary and formative and focused on the increased equipment costs necessitated, i.e., by moving to a commingled recycling cart system. "....the average incremental cost of collection and processing may exceed the incremental net revenues from the sale or disposal of additional materials. Individual customers may lower their garbage collection costs by diverting materials, such as food waste, from garbage to yardwaste composting, which may allow a customer to subscribe to a lower level of garbage service. However, this will provide a benefit only if customers are aware of the different levels of garbage service available to them and change service levels." "Report on Revenue Sharing in the Regulated Solid Waste Industry," at 8, 9.

receiving 50% of all revenues under the statute and in 2010-2011, for instance, that translated to $1,212,328, alone,[11] from Murrey's/American. This is actually $73,752 *more* than the automatic passback in 2009-2010 of $1,138,576. What the Staff also glaringly fails to acknowledge in its quantitative analysis and comparisons of the retention amount in the 2009-2010 period here is that the 2010-2011 year involved the "up to 50%" authorized retention amount while the 2009-2010 year had involved the previous "up to 30%" retention limitation which further places those numbers in context.

C. Mason County Garbage and Pierce County Refuse; Previous Staff Theory-Translated Revenue Share Dispositions.

9 The same analysis applies to Pierce County Refuse ("PCR") where under the 2009-2010 reporting year, the 70% automatic payout to customers (when the retention was "up to 30%") totaled $566,981. In 2010-2011, where the statutory allowance had increased "up to 50%," PCR customers automatically received $624,272, or $57,291 more than the previous year where the ratepayers received a higher automatic minimum payout percentage (70%). While it is true that the requested unspent retention in the 2010-2011 reporting year for PCR is $277,883 compared to $54,748 previously, overall PCR commodity revenues were up approximately 37.6% in the two years and again, the

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The Staff's Argument here on harmful cost impacts is obviously neutralized by the fact that the 2010 Legislature actually *increased* the companies' allowed maximum retention from 30% to 50%. Had the Legislature felt either the Commission's 2006 study or the ongoing program was having such draconian impacts on customers' costs, it would hardly have upped the maximum allowed retention amount two years ago. The "direct harm" to ratepayers argument amounts typifies the strained, retroactive justification of revenue share disallowance adopted by Staff in its Motion for Summary Determination.

[11] The projections here for Murrey's/American and Mason County Garbage for the 2010-2011 reporting year now include the stipulated processing fee differential to be returned referenced in footnote no. 5, page 9 of Respondents' Motion for Summary Determination.

underlying maximum retention amount available to the company had increased by 66% in that interval.[12]

10 Finally, in Mason County in the 2009-2010 reporting year, $167,854 was automatically returned to customers and, as we learned, the Company was (-$10,735) in deficit for unspent retention after expenses. In the 2010-2011 reporting year, the Company returned $280,821 (over $110,000 more than 2009-1010)[13] to ratepayers from commodity sales and now seeks to retain $15,347 after approved expenditures which would net MCG just about $4,600 over the two year successive reporting periods in unspent revenue share.

11 The Staff Motion ultimately gives short shrift to evaluation of these PCR and Mason County numerical plan results. This is particularly telling in light of its earlier exhaustive numerical critique of the Murrey's/American plan results (likely due to the considerably smaller numbers involved) and the fact that there was absolutely no rationale offered by the Staff for applying the 19.51 percent of expenditures formula other than Order No. 5 had arrived at that result for Murrey's/American, (albeit with no express holding or even discussion suggesting that unspent revenues would then or in the future be calculated based on that percentage of expenditures formula in the Order). The latter premise only surfaced in the IPS more than a year after Order No. 5 was announced.

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[12] And, even under Staff's rationale for unspent retention awards for PCR, the unspent retention to expenditures ratio in the previous year was $54,748 compared to $188,244 of program costs, or 29.08%. Applying that Staff formula to unspent retention in the 2010-2011 year rather than 19.51% translated from Murrey's/American, would actually yield $61,829, not the $41,497 for PCR that the Staff computed at ¶ 33 of their Motion.

[13] (Or 80% of overall sales based on performance criteria achieved in 2010-2011).

D. The Remaining 2011-2012 Revenue Share Plan Retentions and Staff's "Relation Back" Argument on the Interpretive and Policy Statement Formula.

12 The Staff's final thesis in its Motion rather boldly announces that the rationale of the May 30, 2012 IPS "can, and should, apply the findings [of the IPS] to the Companies' current revenue sharing plans."[14] This would of course then limit the unspent retention incentive to the 5 percent of expenditures cap established by the IPS. While the Respondents previously articulated their concerns with such in various due process, notice and retroactivity issues in their own Motion, with the "relation back" of the IPS to ongoing 2011-2012 certified performance plans by Pierce and Mason Counties, the Staff, as anticipated,[15] argues here that the discretionary ratemaking authority of the Commission on suspension allows for just this type of rollback on suspended rates. Once again, the fundamental flaw with this Staff theory is that it transfers traditional ratemaking theory and jurisdiction to yield post-hoc disallowance of county-approved, certified performance benchmarks that are expressly designed to demonstrate increased recycling. It does so apparently under the premise that the Commission's independent evaluation of that "demonstration of recycling" in the companies' plan performance can restore "removed revenues" to an apparent fully regulated "revenue requirement" status.

13 This argument, as noted appears to contravene the original legislative intent of treatment of revenue share proceeds as being outside of conventional ratemaking methodologies by now collaterally attacking the certified and approved County results to discredit outsize "returns" or other results of operations terminology when viewed through a traditional ratemaking prism. The Respondents had anticipated just this type of argument by Staff in

[14] Staff Motion for Summary Determination ¶ 34 at 16.
[15] Respondents Motion for Summary Determination ¶ 41 at 22.

the Companies' Opening Motion which has apparently now come to fruition in Staff's justification to apply the 2011-2012 revenue share plan results against an IPS issued halfway or two-thirds of the way through the current plan years.[16]

E. Revenue Share Agreements' Consistency, Other Settlement Agreement Relevance and Multiple County Scope and Jurisdiction

14 The Staff Motion further attempts to justify applying the IPS to 2011-2012 plan performances on the additional theory that the five percent of expenditures formula will make plan performances in all four currently participating revenue share counties uniform and "there is no reason why companies operating in Pierce or Mason Counties should be treated any differently regarding their revenue sharing plans."[17]

15 With this rationale, revenue share plans come full circle: the concept that local government recycling programs, minimum service level ordinances and grass roots design of the scope and direction of initiatives to increase recycling can be a "one size fits all" *state* model. The statute's verbiage and the legislative history that was the focus of the parties previous extensive briefings on Motions leading up to Order No. 5 in 2011 thoroughly addressed the primary role that counties have in negotiating plan terms and conditions with solid waste companies as well as managing and overseeing compliance. But the unprecedented added wrinkle here is that the Staff apparently believes that the prescriptive outcomes of the IPS should be linked to recently-completed settlement

[16] This is not dissimilar to the bootstrapping of WAC 480-07-351(1)(c) by the Staff in using the now familiar "unintended consequences" regulation analysis to disqualify results from a unique legislative program that didn't exist when the rule was promulgated and which was never subsequently amended. This alone certainly renders "clairvoyant" agency rule interpretation of statutes if it can be applied to legislation before the fact.

[17] Staff Motion for Summary Determination ¶ 37 at 17.

agreements from other counties for past and current years under wholly unrelated plans in predestining outcomes in this proceeding.[18]

IV. CONCLUSION/PRAYER FOR RELIEF

16 Admittedly, all parties have grappled in these protracted and long-suspended dockets and tariff filings with the procedural and substantive effects of: multiple year suspensions, legislative history review, quantitative change in the applicable statute in 2010, revised revenue share plans, intervening Orders in 2011 (providing the first formal pronouncements on the program requirements and statutory interpretation), intervening uncertainty on the parts of counties and haulers with the increasing regulatory cautions on operative plan elements, and most recently, an Interpretive and Policy Statement that seeks to bring progressive clarity to the universal fog of current revenue share plan implementation. Despite countervailing concerns by the Respondents relating to notice, due process, detrimental reliance and a host of other fairness-based legal and factual arguments, hopefully no one questions the good faith of any of the actors here: the companies, counties, Commission Staff and Commission who all appear to be attempting to wrest some semblance of certainty and direction going forward.

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[18] So, effectively here, we have the Staff also arguing that, despite being non-binding and non-precedential, settlement agreements involving wholly unrelated solid waste companies in different counties with significantly distinct and individually tailored RSA's with disparate performance benchmarks, plan elements and criteria, ought to have incorporated outcomes and directives of an Interpretive Policy Statement affecting plans beginning almost two years before the IPS was issued and which RCW 34.05.230 and appellate case law make very clear is non-binding and prospective only. Moreover, that these should foreshadow and control a "reasonable" outcome here. This type of "shifting sand," quasi-legal argument is admittedly difficult to either evaluate or respond to since it is so removed from any reliable statutory, regulatory or case law support, much like the generalized "too big not to fail" rationale which so characterizes the Staff position here.

17 And, despite some real concerns about the IPS that Respondents noted in their Motion, there is also no dispute that the document lends direction and clarity in roadmap form for revenue share plans now being revised and assembled for future reporting periods, subject possibly to same qualitative clarifications Respondents alluded to in their initial Motion.

18 It is in that spirit of emerging from this "regulatory fog" that Respondents would urge this Commission to continue to progress forward by not readjusting the past to current and future standards and metrics by following the Staff's recommended disposition of 2010-2011 and 2011-2012 revenue share proceeds. No one can seriously doubt that their current formula "moves the goal posts" in retroactively adjusting revenues that were always intended to and stand apart from regulated ratemaking based on more specific and contemporaneous policy pronouncements by the Commission.

19 None of us typically confronts this unique type of accounting treatment for regulated companies' rates nor is the program under which these programs spring and proceeds are generated "garden variety" in the least. Rather, revenue share is still in its formative, grand experiment stage a decade later and potentially subject to further regulatory and legislative revision in the near future. While the Staff has urged the Commission to exercise its traditional ratemaking discretion to diminish, and disqualify the majority of the companies' unspent revenue share retentions for 2010-2011 and 2011-2012, Respondents urge the Commission to instead acknowledge the fundamental fairness questions in such an action which at least two Commissioners initially questioned at the October 27, 2011 Open Meeting.

20 Finally, no one can dispute that the customers, counties and the solid waste collection companies all benefited from strong secondary market and resurgent sales in 2010, 2011 and at least part of 2012. As has been demonstrated, this was an altogether shared benefit[19] that acted to continue to increase recycling, diminish solid waste generation and receptacle sizes and innovate programs that will hopefully also continue to progressively expand the waste reclamation and reduction efforts in all participating counties. The future for recycling expansions in those jurisdictions remains bright and with the resolution of these two remaining reporting year county-certified and approved plan results, hopefully all the parties' focus can return to the future without the distraction of suspended plans, tariffs and multi-year cumulative true-ups clouding the way forward.

21 After weighing all the above, the Respondents therefore ask that the Staff's argument and Motion to diminish, discredit and/or disqualify their unspent revenue share retention in 2010-2011 and 2011-2012 be denied, and that alternatively, their Motion for Summary Determination allowing the unspent revenue share amounts set forth in Stipulated Exhibit A to both parties' Motions be granted.

Dated at Seattle, Washington this 13th day of November, 2012.

Respectfully submitted,

DAVID W. WILEY
Attorney for Respondents

[19] Indeed, it is important to remember that revenue "sharing" is the operative term in the legislation and the title of the statute. The Staff's arguments from 2010 on in adjudications has indisputably and concertedly sought to minimize that term when it comes to retentions flowing to solid waste collection companies.

CERTIFICATE OF SERVICE

I hereby certify that on November 13, 2012, I caused to be served the original and nine (9) copies of the foregoing document to the following address via first class mail, postage prepaid to:

David Danner, Executive Director and Secretary
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I certify I have also provided to the Washington Utilities and Transportation Commission's Secretary an official electronic file containing the foregoing document via email to: records@utc.wa.gov.

I also certify that I have served via email and first class mail the foregoing document on:

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