

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND	)	DOCKET TG-101220
TRANSPORTATION COMMISSION,	)	<i>(Consolidated)</i>
)	
Complainant,	)	ORDER 08
)	
v.)	
)	
WASTE MANAGEMENT OF)	
WASHINGTON, INC., d/b/a WASTE)	
MANAGEMENT – NORTHWEST,)	
)	
Respondent.)	
.....)	
WASHINGTON UTILITIES AND	)	DOCKET TG-101221
TRANSPORTATION COMMISSION,	)	<i>(Consolidated)</i>
)	
Complainant,	)	ORDER 08
)	
v.)	
)	
WASTE MANAGEMENT OF)	
WASHINGTON, INC, d/b/a WASTE)	
MANAGEMENT – SNO-KING,)	
)	
Respondent.)	
.....)	
WASHINGTON UTILITIES AND	)	DOCKET TG-101222
TRANSPORTATION COMMISSION,	)	<i>(Consolidated)</i>
)	
Complainant,	)	ORDER 08
)	
v.	)	INITIAL ORDER GRANTING
	)	PETITION FOR EXTENSION OF
WASTE MANAGEMENT OF	)	REVENUE SHARING
WASHINGTON, INC., d/b/a WASTE	)	PROGRAMS AND RECYCLING
MANAGEMENT – SOUTH SOUND,	)	COMMODITY PRICING
WASTE MANAGEMENT OF	)	ADJUSTMENTS
SEATTLE,)	
)	
Respondent.)	
.....)	

BACKGROUND

- 1 On July 16, 2010, Waste Management of Washington, Inc. (Waste Management or Company) filed revisions to its recycling commodity and related tariffs for three of the Company's operating divisions in King and Snohomish Counties with a proposed effective date of September 1, 2010.
- 2 On August 31, 2010, the Washington Utilities and Transportation Commission (Commission) issued Order 01, allowing the requested rates to go into effect, and authorizing Waste Management to retain fifty percent of the revenue from the sale of recyclable materials collected in its single-family and multi-family residential recycling programs on an interim basis, from September 1, 2010, through December 1, 2010, subject to refund. The Commission also directed Waste Management to work with the Counties to devise a budget and subsequently petition the Commission no later than November 1, 2010 to allow the revenue sharing through August 31, 2011.
- 3 Waste Management filed its Petition to Allow Revenue Sharing, Lift Interim Status and Approve Revised Commodity Credits (Petition) on November 1, 2010. The proposed revenue sharing plan in the Petition would permit the Company to keep eight percent of the retained recycling revenue.
- 4 On November 24, 2010, the Commission issued Order 02, Complaint and Order Suspending Tariff and Authorizing Temporary Revenue Sharing for Recyclable Commodities, Subject to Refund. The Commission extended the 50 percent revenue sharing on a temporary basis, subject to refund and other conditions established in Order 01, and set the Petition for hearing.
- 5 At the prehearing conference on December 1, 2010, the parties agreed to hold a procedural schedule in abeyance pending the outcome in Dockets TG-101542, TG-101545, and TG-101548 (consolidated), which, like this proceeding, also raised the issue of how recycling plans could demonstrate that retained revenues are "used to increase recycling" under RCW 81.77.185.
- 6 On February 28, 2011, the Commission approved a partial settlement agreement between Waste Management and Staff. The settlement resolved issues related to the

closure of the 2009-2010 plan period, and established a revised recycling commodity adjustment. The agreement, however, left unresolved the issue of whether the Company's 2010-11 recycling plans demonstrate how the retained revenues will be used to increase recycling as required by RCW 81.77.185.

7 On May 6, 2011, the Commission entered its Order on Reconsideration in Dockets TG-101542, TG-101545, and TG-101548, resolving the disputed issues over interpretation and application of RCW 81.77.185 in the context of that proceeding.

8 On June 7, 2011, the Commission issued Order 07, Second Prehearing Conference Order, establishing a schedule for cross-motions for summary determination of the remaining disputed issues in this proceeding. Pursuant to that schedule, briefing on those motions will be completed on July 20, 2011.

EXTENSION PETITION

9 On July 13, 2011, Waste Management filed a Petition for Leave to Extend Revenue Sharing Programs and Recycling Commodity Price Adjustments (Extension Petition). Waste Management requests that performance under current Revenue Sharing Agreement ("RSA") recycling programs with King County and Snohomish County (collectively Counties) be allowed to continue for an additional three months beyond the current August 31, 2011, expiration date to provide time for the Commission to issue a final order determining whether the line-item allocation of a percentage of retained revenue to the Company as reflected in the budget for the RSAs is a "use[] to increase recycling" within the meaning of RCW 81.77.185. Waste Management also requests approval to continue charging the recycling commodity price adjustment rate that is in its current tariffs for the same period of time, by extending the expiration date of those tariffs to November 30, 2011.

10 Waste Management contends that the requested extension is necessary to enable the Commission to rule on Company's original Petition in sufficient time to permit Waste Management to incorporate that ruling into new recycling plans and to permit the Company more accurately to calculate new tariff rates for recycling commodity price adjustments. The Company states that it and the Counties are already working on designing new revenue-sharing programs for the ensuing time period, which if the Commission grants the extension of the existing plans and commodity adjustments, would be in effect from December 1, 2011, through August 31, 2012. Waste

Management represents that it has consulted with Staff and the Counties concerning the proposed extension, and attached to the Extension Petition are the Company's extension agreements with the Counties, a budget showing how the revenues retained for the additional three-month period would be applied, and certification letters from the Counties in which they express support for perpetuating the current recycling commodity adjustment rate in each of their respective jurisdictions.

- 11 On July 14, 2011, Staff filed its response to the Extension Petition. Staff does not oppose the Extension Petition, believing that three months is a reasonable period of time to maintain the status quo pending resolution of the disputed issues in this proceeding. Staff, however, proposes that the Commission condition any grant of the Extension Petition on application of the same "subject to refund" conditions the Commission adopted in Orders 01 and 02 for the current recycling plans. Staff also recommends that the Commission require the Company to file revised tariff sheets that reflect the November 30, 2011, revised expiration date for the commodity credits.

DISCUSSION AND DECISION

- 12 The Commission grants the Extension Petition. The Commission agrees that Waste Management, the Counties, and Staff should have the opportunity to incorporate the resolution of the disputed issues in this proceeding into the 2011-12 recycling plans and that an extension of the existing plans is necessary to provide that opportunity.
- 13 The Commission also agrees with Staff that any extension of the current plans should be subject to the same conditions that the Commission adopted in Orders 01 and 02, specifically that the revenue sharing established in those plans be subject to refund should the Commission determine that Waste Management is not entitled to the line-item allocation of a percentage of retained revenue to the Company as reflected in the budget for the RSAs. As Staff also proposes, Waste Management should file revised tariff pages reflecting the extended expiration date for the commodity price adjustment rates, and those tariff pages should be subject to the tariff suspension in Orders 01 and 02.

ORDER

THE COMMISSION ORDERS that

- 14 (1) Waste Management's Petition for Leave to Extend Revenue Sharing Programs and Recycling Commodity Price Adjustments is granted.
- 15 (2) The expiration of the recycling commodity price adjustment rates currently set forth in each of the three tariffs at issue in this proceeding is extended to November 30, 2011. Waste Management shall file tariff pages revised only to reflect the extended expiration date, and those tariffs will continue to be suspended but allowed to be effective on a temporary basis, subject to refund and the other conditions the Commission adopted in Orders 01 and 02.
- 16 (3) The current 2010-2011 Revenue Sharing Agreement plans between Waste Management and King County will continue in effect after August 31, 2011, under the Waste Management Recycling and Commodity Revenue Sharing Plan for King County, Extension No. 1 (September 1-November 30, 2011) attached to the Company's Extension Petition, subject to refund and the other terms and conditions the Commission adopted in Orders 01 and 02.
- 17 (4) The current 2010-2011 Revenue Sharing Agreement plans between Waste Management and Snohomish County will continue in effect after August 31, 2011, under the Waste Management Recycling and Commodity Revenue Sharing Plan for Snohomish County, Extension No. 1 (September 1-November 30, 2011) attached to the Company's Extension Petition, subject to refund and the other terms and conditions the Commission adopted in Orders 01 and 02.

Dated at Olympia, Washington, and effective July 14, 2011.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

GREGORY J. KOPTA
Administrative Law Judge