

WUTC v. Waste Management of Washington, Inc.

Docket No. TG-240189 - Vol. II (February 18, 2025)



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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION WASHINGTON UTILITIES AND) TRANSPORTATION COMMISSION,) Complainant,) vs.)DOCKET NO. TG-240189 WASTE MANAGEMENT OF) WASHINGTON, INC.,) Respondent.)PAGES 23 - 157 VIRTUAL EVIDENTIARY HEARING - VOL II BEFORE ADMINISTRATIVE LAW JUDGES AMY BONFRISCO JESSICA KRUSZEWSKI Via Zoom Washington Utilities and Transportation Commission 621 Woodland Square Loop SE Lacey, Washington 98504 DATE TAKEN: February 18, 2025 TRANSCRIBED BY: ELIZABETH PATTERSON HARVEY, FAPR, RPR, WA CCR 2731	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	A P P E A R A N C E S : FOR COMMISSION STAFF Lisa W. Gafken Lisa.gafken@atg.wa.gov Office of the Attorney General P.O. Box 40128 Olympia, Washington 98504 360.714.3551 FOR PUBLIC COUNSEL: Robert D. Sykes Robert.sykes@atg.wa.gov Attorney General of Washington 800 Fifth Avenue, Suite 2000 Seattle, Washington 98104 206.464.7740 ALSO PRESENT: Chad Brooks Bridgit Feeser Brad Lovaas
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	A P P E A R A N C E S : FOR THE COMPANY: Walker Clinton Stanovsky walkerstanovsky@dwtd.com Davis Wright Tremaine LLP 920 Fifth Avenue, Suite 3300 Seattle, Washington 98104 206.757.8259 Caroline Cilek carolinecilek@dwtd.com Davis Wright Tremaine LLP 560 SW 10th Avenue, Suite 700 Portland, Oregon 97205 503.241.2300 Ame Lewis ALewis6@wm.com Waste Management 7227 NE 55th Avenue Portland, Oregon, 97218 206. 919.3236	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	INDEX OF PROCEEDINGS PROCEEDING PAGE Proceedings Commence 28 Opening Statement by Staff 38 Opening Statement by Respondent 42 EXAMINATION INDEX WITNESS PAGE BRIDGIT FEESER Direct Examination By Attorney Gafken 52 Cross-Examination by Attorney Stanovsky 53 Redirect Examination by Attorney Gafken 128 CHAD BROOKS Direct Examination by Attorney Stanovsky 131 Cross-Examination by Attorney Gafken 134 Redirect Examination by Attorney Stanovsky 148 EXHIBITS EXHIBIT NUMBER PAGE Respondent BF-13X Docket A-120061 - Enforcement Policy of the Washington Utilities and Transportation Commission 56

<p>1 EXHIBITS</p> <p>2 EXHIBIT NUMBER PAGE</p> <p>3 Respondent BF-15X Waste Management of Washington</p> <p>4 Inc.'s Answer to Complaint 74</p> <p>5</p> <p>6 Respondent BF-16X Spreadsheet Response 92</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>PROCEEDINGS COMMENCE</p> <p>1 angle there.</p> <p>2 Yes. Thank you, your Honor. My name is</p> <p>3 Walker Stanovsky. I'm with Davis Wright Tremaine,</p> <p>4 representing Waste Management of Washington, Inc.</p> <p>5 Also with us on the line is my Davis Wright</p> <p>6 Tremaine colleague, Caroline Cilek.</p> <p>7 We also have with us Waste Management's</p> <p>8 Pacific Northwest Area Director of Collection Operations,</p> <p>9 Chad Brooks, who's testifying; as well as Waste</p> <p>10 Management's senior legal counsel for the Pacific</p> <p>11 Northwest area, Ame Lewis.</p> <p>12 And we may have our paralegal, Sabrina</p> <p>13 Goodman from Waste Management as well. Let's see. I</p> <p>14 don't know if she's on. I don't see her at the moment.</p> <p>15 JUDGE BONFRISCO: I do not see her.</p> <p>16 Thank you so much, Mr. Stanovsky.</p> <p>17 And Ms. Gafken, are you here? Good. Go</p> <p>18 ahead, Ms. Gafken.</p> <p>19 ATTORNEY GAFKEN: Good morning. Lisa Gafken,</p> <p>20 assistant attorney general appearing on behalf of</p> <p>21 commission staff.</p> <p>22 JUDGE BONFRISCO: And is Mr. O'Brien with you</p> <p>23 today?</p> <p>24 ATTORNEY GAFKEN: I may have some folks that</p> <p>25 are observing the hearing today.</p>
<p>PROCEEDINGS COMMENCE</p> <p>1 February 18, 2025 1:30 p.m.</p> <p>2 -o0o-</p> <p>3</p> <p>4 JUDGE BONFRISCO: Let's be on the record.</p> <p>5 Good morning. It's Tuesday, February 18, 2025. The time</p> <p>6 is about 9:00 a.m. My name is Amy Bonfrisco, and I'm the</p> <p>7 administrative law judge in this matter. And I'm</p> <p>8 co-presiding with Jessica Kruszewski.</p> <p>9 And we're here today for the evidentiary</p> <p>10 hearing in Docket TG-240189, which is captioned</p> <p>11 respectively Washington Utilities and Transportation</p> <p>12 Commission versus Waste Management of Washington</p> <p>13 Incorporated.</p> <p>14 Please note that if you remain on this</p> <p>15 virtual hearing, you're deemed as giving your consent to</p> <p>16 the Zoom recording.</p> <p>17 I'd like to take short appearances from both</p> <p>18 the parties as far as how we're going to proceed this</p> <p>19 morning.</p> <p>20 So let's start with Waste Management. So I'm</p> <p>21 going to start with you, Walter.</p> <p>22 ATTORNEY STANOVSKY: Good morning, your</p> <p>23 Honor. Can you see me okay?</p> <p>24 JUDGE BONFRISCO: I can.</p> <p>25 ATTORNEY STANOVSKY: Let me just adjust my</p>	<p>PROCEEDINGS COMMENCE</p> <p>1 JUDGE BONFRISCO: Okay. And for public</p> <p>2 counsel?</p> <p>3 ATTORNEY SYKES: Yes, Rob Sykes for the</p> <p>4 public counsel unit.</p> <p>5 JUDGE BONFRISCO: Okay. Perfect. Thank you,</p> <p>6 everyone.</p> <p>7 So I just want to do a brief road map of how</p> <p>8 we're going to proceed today. First of all, I want to</p> <p>9 thank you for consulting one another in advance of this</p> <p>10 evidentiary hearing to keep processes moving smoothly and</p> <p>11 efficiently.</p> <p>12 As I had shared in prior e-mail</p> <p>13 communications, we're going to allow for brief opening</p> <p>14 statements, limited to ten minutes for each party, before</p> <p>15 we turn to cross-examination of the witnesses. And we're</p> <p>16 going to go with the parties' agreed upon order of</p> <p>17 presentation, with staff proceeding first since this is</p> <p>18 their burden to prove this matter.</p> <p>19 We're going to take a morning break around</p> <p>20 10:30 or as needed. If the parties feel like we can keep</p> <p>21 moving through at that point, we can also kind of modify</p> <p>22 the time as needed.</p> <p>23 It looks like, based on all the exhibits</p> <p>24 submitted, we should be able to wrap up before noon</p> <p>25 today.</p>

<p>PROCEEDINGS COMMENCE</p> <p>1 I want to remind the parties that if you're</p> <p>2 not speaking, just keep your microphones muted and to be</p> <p>3 aware of background noise. And only use your video for</p> <p>4 those portions when you have a speaking role.</p> <p>5 If for any reason you do experience technical</p> <p>6 issues, if you could just message Jessica and I in the</p> <p>7 chat, and we'll make sure we respond to that. Or if</p> <p>8 something comes up where you need a break, let us know.</p> <p>9 Use that chat feature.</p> <p>10 And then with that, I want to go ahead and</p> <p>11 turn to the issue of exhibits. So on February 14, 2025,</p> <p>12 I circulated a draft exhibit list, which basically</p> <p>13 reflected that revised Exhibits BF-2R and BF-3R for</p> <p>14 staff, which contains a revised investigation report and</p> <p>15 the revised Tariff 14 for Waste Management, as well as I</p> <p>16 received Waste Management's errata that they filed for</p> <p>17 Chad Brooks' direct testimony.</p> <p>18 With that said, with those revisions that</p> <p>19 were filed, do any of the parties have any objections or</p> <p>20 concerns with that first piece?</p> <p>21 ATTORNEY STANOVSKY: None from Waste</p> <p>22 Management.</p> <p>23 ATTORNEY GAFKEN: No objection.</p> <p>24 JUDGE BONFRISCO: Okay. Great.</p> <p>25 Next, based on the e-mail correspondence,</p>	<p>PROCEEDINGS COMMENCE</p> <p>1 exhibits that are going to be presented today, I don't</p> <p>2 anticipate that we will need to go into a closed</p> <p>3 proceeding. But if for any reason we do need to go into</p> <p>4 a closed proceeding or have a confidential breakout</p> <p>5 session, please let me know. And we can either go off</p> <p>6 the record or if anyone is present here today that we</p> <p>7 need to reroute out to a breakout room, we will do that</p> <p>8 and basically reroute anybody out who has not signed a</p> <p>9 confidentiality agreement.</p> <p>10 And based on -- the only party that I'm</p> <p>11 seeing at this point that has not signed a</p> <p>12 confidentiality agreement would be the company's witness,</p> <p>13 Chad Brooks. And let me see.</p> <p>14 And Jessica, let me know if you're seeing</p> <p>15 anybody else that we don't believe had signed a</p> <p>16 confidentiality agreement.</p> <p>17 Okay. So I think, you know, honestly, I'm</p> <p>18 looking. Do the parties, are they seeing anybody that</p> <p>19 they have concerns with on the call at this point?</p> <p>20 I don't anticipate this being an issue since</p> <p>21 we don't have any confidential exhibits, but I'm just</p> <p>22 bringing it up to make sure all the parties are</p> <p>23 comfortable with all our participants on the line here</p> <p>24 today.</p> <p>25 ATTORNEY STANOVSKY: I guess I'll just</p>
<p>PROCEEDINGS COMMENCE</p> <p>1 it's also my understanding that the parties stipulated to</p> <p>2 the admission of prefiled exhibits and testimony, and</p> <p>3 basically agreed that the confidential versions of staff</p> <p>4 Exhibit BF-3R and Waste Management's Exhibit BF-16 do not</p> <p>5 need to be filed in any kind of confidential format.</p> <p>6 And the parties have provided their</p> <p>7 assurances that today they'll only be relying on the</p> <p>8 unredacted versions of those exhibits. Is that</p> <p>9 correct?</p> <p>10 ATTORNEY GAFKEN: Yes. We will only be</p> <p>11 relying on the redacted version of those exhibits.</p> <p>12 JUDGE BONFRISCO: Perfect.</p> <p>13 ATTORNEY STANOVSKY: Correct.</p> <p>14 JUDGE BONFRISCO: Perfect.</p> <p>15 And then I also just want to state for the</p> <p>16 record that Waste Management's Cross Exhibit BF-11X has</p> <p>17 been withdrawn from the record.</p> <p>18 Next, it's also my understanding that the</p> <p>19 parties stipulated to the admission of Cross Exhibits</p> <p>20 BF-5X through BF-10X and BF-12X, but that with regard to</p> <p>21 Exhibits BF13-X through BF17-X, those can basically be</p> <p>22 admitted as they come in on examination to provide</p> <p>23 opposing counsel an opportunity to object as those are</p> <p>24 being presented.</p> <p>25 Finally, given that there are no confidential</p>	<p>PROCEEDINGS COMMENCE</p> <p>1 acknowledge there are a few names that I don't recognize.</p> <p>2 So, you know, if -- I would suggest that if</p> <p>3 and when we want to go into confidential session, we</p> <p>4 address those. But if we need to go through it now, we</p> <p>5 can.</p> <p>6 JUDGE BONFRISCO: Honestly, I don't --</p> <p>7 really, the only time we go into a breakout session is</p> <p>8 generally if we're discussing a confidential matter. And</p> <p>9 given that none of the exhibits in this docket have been</p> <p>10 filed as confidential, and the parties have agreed to --</p> <p>11 you know, with the ones that there were concerns just</p> <p>12 keeping that redacted, I don't believe this is an issue.</p> <p>13 But I just wanted to bring that up.</p> <p>14 Go ahead, Mr. Stanovsky.</p> <p>15 ATTORNEY STANOVSKY: Sorry to interrupt. It</p> <p>16 occurs to me I should -- I'll just mention at the outset</p> <p>17 with respect to 16-X, the redacted version of the</p> <p>18 customer information?</p> <p>19 JUDGE BONFRISCO: Mm-hm.</p> <p>20 ATTORNEY STANOVSKY: I do intend to ask</p> <p>21 Ms. Feeser about some of the specific customer locations.</p> <p>22 The details of the confidential information</p> <p>23 need not be a part of the record. But it might --</p> <p>24 Ms. Feeser might need to refer to them separately in</p> <p>25 answering some of the questioning. And I guess I had in</p>

<p>PROCEEDINGS COMMENCE</p> <p>1 mind perhaps dealing with that subject to check.</p> <p>2 JUDGE BONFRISCO: Okay. So why don't --</p> <p>3 yeah. At this point, then, if you think we need to go</p> <p>4 into a breakout session, we can do that.</p> <p>5 But if I could have maybe, Mr. Stanovsky, if</p> <p>6 you let me know who's with you here today that -- I</p> <p>7 believe that that was the only individual when I was</p> <p>8 going through the record, Chad Brooks, that I hadn't seen</p> <p>9 a confidentiality agreement come through on.</p> <p>10 And it looks like a lot of our other</p> <p>11 participants here on the line today are with staff</p> <p>12 counsel.</p> <p>13 However, I do see a few more participants I'm</p> <p>14 just not familiar with. Brad Lovaas, is -- are you</p> <p>15 familiar with Brad Lovaas?</p> <p>16 ATTORNEY STANOVSKY: I am. He's the</p> <p>17 executive director of the Washington Refuse and Recycling</p> <p>18 Association, WRRRA.</p> <p>19 JUDGE BONFRISCO: Okay. And would you be</p> <p>20 comfortable with him being included if we need to do any</p> <p>21 breakout session?</p> <p>22 ATTORNEY STANOVSKY: I hesitate just because</p> <p>23 there are, as you know, regulatory protections for</p> <p>24 customer information, and I just would not want to risk</p> <p>25 the company violating those.</p>	<p>PROCEEDINGS COMMENCE</p> <p>1 that bridge when we come to it.</p> <p>2 But I did just want to flag that there will</p> <p>3 be a little bit of delicate work at that point. But I</p> <p>4 think it should be okay.</p> <p>5 JUDGE BONFRISCO: Just keep us apprised.</p> <p>6 ATTORNEY STANOVSKY: Sure.</p> <p>7 JUDGE BONFRISCO: All right. Thank you.</p> <p>8 Go ahead, Ms. Gafken.</p> <p>9 ATTORNEY GAFKEN: Thank you.</p> <p>10 I also wanted to note that if we go into a</p> <p>11 breakout session on Zoom, there could be some issues in</p> <p>12 terms of recording that portion, which makes having the</p> <p>13 record be appropriately captured problematic as well.</p> <p>14 And so just noting that.</p> <p>15 I think with the state of the record, we</p> <p>16 don't have confidential exhibits, and I think going into</p> <p>17 a confidential session is unlikely.</p> <p>18 Of course, we haven't heard Mr. Stanovsky's</p> <p>19 cross yet, but I do believe that it would be unlikely</p> <p>20 that we go into a confidential session.</p> <p>21 JUDGE BONFRISCO: Yeah, and I would agree</p> <p>22 with that as well, Ms. Gafken.</p> <p>23 And the way I've handled it in the past,</p> <p>24 because we have had challenges with this before, is</p> <p>25 anybody who should not be participating, we actually move</p>
<p>PROCEEDINGS COMMENCE</p> <p>1 So -- but not in concept, if he were</p> <p>2 comfortable committing to the protective orders and your</p> <p>3 Honor were comfortable with his acceptance of them. I</p> <p>4 don't know. Technically, I would leave it to you to</p> <p>5 determine whether that technically works, given that WRRRA</p> <p>6 is not a party.</p> <p>7 JUDGE BONFRISCO: I think if we could avoid</p> <p>8 any confidential information at this point, I think that</p> <p>9 would be easiest.</p> <p>10 But Mr. Stanovsky, if you feel like we're</p> <p>11 going in that territory, you could let me know. And we</p> <p>12 could do a breakout session, and then ensure that only</p> <p>13 the necessary parties, you know, remain on the line.</p> <p>14 And then anybody -- I would then have records</p> <p>15 staff move anybody off that should not be participating</p> <p>16 on the call. I think that would be the best way to</p> <p>17 handle that.</p> <p>18 But I think, you know, given what I'm seeing,</p> <p>19 you let me know if you think that we need to go through</p> <p>20 that at this point for records as far as --</p> <p>21 ATTORNEY STANOVSKY: I personally don't think</p> <p>22 so. I've attempted to structure the cross to avoid that,</p> <p>23 and, frankly, might just abandon that line of cross if we</p> <p>24 -- you know, if we get to it before, you know, dealing</p> <p>25 with confidential protections. So I'd say let's cross</p>	<p>OPENING STATEMENT BY STAFF</p> <p>1 those parties to the breakout room so that we can</p> <p>2 keep the recording for the docket. So just so we're</p> <p>3 clear on that, that's how we would do that.</p> <p>4 But at this point, I'm hoping we do not have</p> <p>5 to go down that track.</p> <p>6 ATTORNEY GAFKEN: Thank you for that</p> <p>7 clarification.</p> <p>8 JUDGE BONFRISCO: Yes.</p> <p>9 ATTORNEY GAFKEN: That's really helpful in</p> <p>10 terms of understanding how the record works.</p> <p>11 JUDGE BONFRISCO: Okay. Perfect.</p> <p>12 So I guess with that, then, since public</p> <p>13 counsel hasn't filed any exhibits in the docket, and they</p> <p>14 indicated in their letter on February 10 that they don't</p> <p>15 intend to submit any cross-answering testimony, I'm going</p> <p>16 to have staff proceed with their opening statement and</p> <p>17 then have the company provide an opening statement.</p> <p>18 Staff, are you prepared to provide your</p> <p>19 opening statement at this point?</p> <p>20 ATTORNEY GAFKEN: Yes, I am.</p> <p>21 JUDGE BONFRISCO: Okay. Go ahead.</p> <p>22</p> <p>23 OPENING STATEMENT BY STAFF</p> <p>24 ATTORNEY GAFKEN: Great. Thank you.</p> <p>25 From staff's perspective, this is a very</p>

<p>OPENING STATEMENT BY STAFF</p> <p>1 straightforward case. Under Tariff 14, Item 240, Waste 2 Management provides permanent container service in 3 Douglas County. That service is defined as no less than 4 scheduled every-other-week pickup unless local government 5 requires more frequent service or if (inaudible) are 6 involved.</p> <p>7 In April 2022, the consumer complaint 8 investigation section of the UTC received a complaint 9 from a Waste Management customer in Douglas County who 10 signed up for every-other-week service under Tariff 14, 11 Item 240. This customer was not receiving 12 every-other-week service, but instead was receiving 13 monthly service.</p> <p>14 Staff learned from Waste Management that it 15 had decided that the customer location was too far away 16 to provide every-other-week service. Staff provided 17 technical assistance to Waste Management, informing the 18 company that it had to provide service that complied with 19 its tariff.</p> <p>20 A year later, in April 2023, staff went back 21 to Waste Management to determine whether it was complying 22 with Item 14, Item 240. As Ms. Feeser testifies, the 23 investigation was to determine if the company had 24 corrected its business practices after the informal 25 consumer complaint in April 2022.</p>	<p>OPENING STATEMENT BY STAFF</p> <p>1 audit be repeated at the end of two years.</p> <p>2 Both the audit and the two-year followup 3 report should be filed in the docket as a compliance 4 filing. These recommendations are also not in dispute.</p> <p>5 Maximum penalties are appropriate in this 6 case. We have a large, sophisticated company that has 7 been regulated for a very long time. We have a company 8 that understands tariffs and the role they play.</p> <p>9 We have a company that made a conscious and 10 intentional decision to provide service that conflicted 11 with its commission-approved tariff, going as far as 12 telling customers that they would receive monthly service 13 instead of every-other-week service.</p> <p>14 We have a company that engaged with the 15 commission regarding a consumer complaint regarding 16 monthly service versus every-other-week service, and who 17 received specific and direct technical assistance from 18 commission staff during the course of that consumer 19 complaint.</p> <p>20 We have a company that ultimately ignored 21 that technical assistance and continued to provide 22 monthly service to certain Douglas County customers over 23 a year after the consumer complaint was resolved.</p> <p>24 Significantly reducing the penalty and 25 suspending more than 50 percent of the penalty does not</p>
<p>OPENING STATEMENT BY STAFF</p> <p>1 Staff found that Waste Management had not 2 corrected its business practices. It was still providing 3 monthly service to at least 25 Douglas County customers 4 under Tariff 14, Item 240.</p> <p>5 Staff identified 254 violations of failing to 6 follow the commission-approved tariff for those 25 7 customers. One violation was noted for each month those 8 customers received monthly pickup instead of 9 every-other-week pickup service.</p> <p>10 Waste Management has acknowledged and 11 admitted these violations. The fact of the violations is 12 not in dispute.</p> <p>13 What is in dispute is the level of penalty 14 and the level of penalty the commission might consider 15 suspending. Staff recommends maximum penalties, totaling 16 254,000.</p> <p>17 Staff also recommends that the commission 18 consider suspending up to one half the of penalty, which 19 would be waived if Waste Management can demonstrate 20 compliance during a two-year suspension period.</p> <p>21 Lastly, staff recommends that the commission 22 order Waste Management to ensure that its employees are 23 properly trained on regulatory compliance and audit its 24 statewide compliance with Item 240 to identify and 25 correct other violations. Staff recommends that this</p>	<p>OPENING STATEMENT BY RESPONDENT</p> <p>1 appropriately recognize these elements. Staff 2 continues to recommend, among our other recommendations, 3 maximum penalties totaling \$254,000, which is appropriate 4 for the level of behavior at issue and proportionate to 5 the company.</p> <p>6 Thank you.</p> <p>7 JUDGE BONFRISCO: Thank you, Mrs. Gafken.</p> <p>8 And now I'd like to have Mr. Stanovsky go 9 ahead and provide his opening statement.</p> <p>10 ATTORNEY STANOVSKY: Thank you, your Honor.</p> <p>11 And just to confirm my understanding, I believe public 12 counsel is not planning to present an opening statement; 13 is that correct?</p> <p>14 JUDGE BONFRISCO: That is my understanding.</p> <p>15 ATTORNEY SYKES: That is correct.</p> <p>16 JUDGE BONFRISCO: Thank you, Public Counsel.</p> <p>17 That is my understanding.</p> <p>18 ATTORNEY STANOVSKY: Thank you both.</p> <p>19 JUDGE BONFRISCO: You may proceed. Thank 20 you.</p> <p>21</p> <p>22 OPENING STATEMENT BY RESPONDENT</p> <p>23 ATTORNEY STANOVSKY: Good morning, Judge 24 Bonfrisco and Judge Kruszewski. Did I pronounce that 25 correctly?</p>

<p>OPENING STATEMENT BY RESPONDENT</p> <p>1 JUDGE KRUSZEWSKI: It's Ker-che-ski. That's</p> <p>2 all right, though.</p> <p>3 ATTORNEY STANOVSKY: I'm here this morning</p> <p>4 representing Waste Management of Washington in a long</p> <p>5 line of leaders and outside counsel who built the</p> <p>6 company's relationship with this commission since Waste</p> <p>7 Management came to Washington almost 40 years ago.</p> <p>8 Here are my three main points, which the</p> <p>9 hearing and our post-hearing briefing will expand on.</p> <p>10 First, Waste Management is proud of its</p> <p>11 record as a leader in industry cooperation with the</p> <p>12 commission.</p> <p>13 Second, in deciding the appropriate penalty,</p> <p>14 the commission should focus on the stated objectives in</p> <p>15 its enforcement policy, and on consistency with past</p> <p>16 enforcement actions.</p> <p>17 Third, staff is insisting on the maximum</p> <p>18 monetary penalty the commission can assess;</p> <p>19 unprecedented, given the facts of this case. But it has</p> <p>20 failed to give the commission the record or the reasoning</p> <p>21 to justify anything like that amount.</p> <p>22 First, Waste Management's history with the</p> <p>23 commission: For decades, Waste Management has been what</p> <p>24 the record in this case shows, a company that takes its</p> <p>25 obligations under UTC regulations seriously and has</p>	<p>OPENING STATEMENT BY RESPONDENT</p> <p>1 the commission adopted its enforcement policy, which</p> <p>2 Waste Management has submitted for convenience as Exhibit</p> <p>3 BF-13X. The enforcement policy has provided the</p> <p>4 framework for the commissions's enforcement decisions</p> <p>5 ever since, and it should guide your decision here, too.</p> <p>6 After introductory material, the first</p> <p>7 sentence of the actual enforcement policy section of that</p> <p>8 document, paragraph 9, is the commission's objective,</p> <p>9 when enforcing statutes, rules, orders, and tariffs, is</p> <p>10 to ensure services within the commission's jurisdiction</p> <p>11 are delivered safely, adequately, efficiently, and at</p> <p>12 rates and charges that are just and reasonable.</p> <p>13 Here, Item 240 of Waste Management's tariff</p> <p>14 requires collection at least every other week. This is</p> <p>15 mainly for customers that you think of -- pardon me.</p> <p>16 This is mainly for containers that you would think of as</p> <p>17 dumpsters. But on one collection route, serving 25</p> <p>18 customers in remote Douglas County, local operations</p> <p>19 staff decided only to run the route monthly, violating</p> <p>20 the tariff.</p> <p>21 Worse, when an informal complaint led staff</p> <p>22 to issue technical assistance to Waste Management,</p> <p>23 internal process failures allowed the problem to continue</p> <p>24 until a subsequent investigation first brought the issue</p> <p>25 to the attention of senior Waste Management management.</p>
<p>OPENING STATEMENT BY RESPONDENT</p> <p>1 always recognized the importance of compliance.</p> <p>2 Waste Management is not perfect and doesn't</p> <p>3 pretend to be. In this case, it made multiple mistakes.</p> <p>4 But it cooperated with staff to investigate those</p> <p>5 mistakes, and forthrightly admitted them in response to</p> <p>6 the complaint.</p> <p>7 As Chad Brooks will testify, Waste Management</p> <p>8 has voluntarily accepted all of staff's requested</p> <p>9 non-monetary relief, and has already implemented those</p> <p>10 measures and more.</p> <p>11 We're here today for the commission to decide</p> <p>12 what monetary penalty is appropriate for significant</p> <p>13 mistakes made by a good partner in the regulatory</p> <p>14 compact.</p> <p>15 Staff will try to suggest that Waste</p> <p>16 Management is a habitual offender, whose history supports</p> <p>17 staff's recommendation of the statutory maximum penalty.</p> <p>18 But the past cases staff points to actually show that</p> <p>19 even when Waste Management makes mistakes and incurs</p> <p>20 violations, it continues to take its obligations to this</p> <p>21 commission seriously and respond proactively.</p> <p>22 And that seriousness extends to the case</p> <p>23 before you, as Mr. Brooks will demonstrate.</p> <p>24 So to the second point, how should the</p> <p>25 commission determine the penalty in this case? In 2013,</p>	<p>OPENING STATEMENT BY RESPONDENT</p> <p>1 Within a month, Waste Management restored</p> <p>2 every-other-week service to those customers.</p> <p>3 Staff was clear in discovery that it is not</p> <p>4 alleging Waste Management's service to these customers</p> <p>5 was inadequate or unreasonable in any regard, other than</p> <p>6 failure to comply with its tariff.</p> <p>7 There's also no evidence that these services</p> <p>8 were inefficient or that Waste Management charged</p> <p>9 unreasonable rates.</p> <p>10 Definitely no evidence of unsafe service.</p> <p>11 To be clear, we are not suggesting there was</p> <p>12 no problem here or that no penalty is appropriate. There</p> <p>13 were multiple problems, particularly the failure to</p> <p>14 correct after technical assistance from staff.</p> <p>15 Mr. Brooks will agree that a reasonable</p> <p>16 penalty is entirely appropriate. But what's reasonable</p> <p>17 must be tied to the underlying rationale for having and</p> <p>18 enforcing tariffs in the first place, as presented in the</p> <p>19 enforcement policy.</p> <p>20 The maximum penalty here would be \$254,000;</p> <p>21 \$1,000 for each of 25 customers each month that Waste</p> <p>22 Management collected their waste once instead of twice.</p> <p>23 The maximum penalty on these facts would</p> <p>24 eliminate the distinction between cases like this and</p> <p>25 ones where, unlike here, a company endangers life,</p>

<p>OPENING STATEMENT BY RESPONDENT</p> <p>1 health, safety, or properly; actively evades commission 2 oversight; or overcharges customers.</p> <p>3 Also, the maximum penalty here compared to 4 past cases would signal an erosion in the value the 5 commission places on long-term efforts by Waste 6 Management and companies like it to engage seriously and 7 forthrightly with the commission and the regulatory 8 system you oversee.</p> <p>9 That brings me to the third point. Staff has 10 not presented you with anything like the record or 11 reasoning to justify the maximum penalty it demands. 12 From what Waste Management can find in the case law, it's 13 an unprecedented request.</p> <p>14 Staff fails to recognize the unprecedented 15 nature of its demand, much less justify it. Looking to 16 precedent, the commission should reject staff's penalty 17 recommendations because staff cannot prove that a higher 18 penalty would more effectively obtain compliance from 19 Waste Management.</p> <p>20 In Docket PG-160924, Puget Sound Energy 21 failed to ensure a disused gas supply line was properly 22 abandoned in the heart of Seattle's historic Greenwood 23 neighborhood. That led to what witnesses described as a 24 massive fireball. According to the Seattle Times, on 25 March 9, 2016, the explosion leveled two buildings,</p>	<p>OPENING STATEMENT BY RESPONDENT</p> <p>1 not even try to investigate evenhandedly.</p> <p>2 Staff is here as an advocate, pushing for the 3 maximum possible penalty, a major escalation in penalties 4 the commission will assess.</p> <p>5 The staff investigated and testifies to only 6 a subset of the facts favoring its advocacy for the 7 maximum penalty. You'll hear specific examples. But in 8 general, staff is consistently focused on discovering and 9 presenting negative facts, but not evidence in Waste 10 Management's favor.</p> <p>11 It has consistently offered unsupported 12 speculation against Waste Management about what could be 13 happening, where it didn't know or ask what was 14 happening, and has consistently failed to articulate any 15 clear connection between the facts, even its lopsided 16 subset of facts, and why the commission should levy the 17 maximum penalty here, particularly in light of precedent 18 pointing to a far lower penalty, which Waste Management 19 will address in briefing.</p> <p>20 So the challenge for the commission is that 21 you must apply the enforcement factors in a reasoned way, 22 considering all the facts, but without the benefit of a 23 balanced assessment from staff.</p> <p>24 And you should set a penalty that is 25 consistent with the commission's own precedent, which</p>
<p>OPENING STATEMENT BY RESPONDENT</p> <p>1 damaged almost three dozen other businesses, injured nine 2 firefighters. And thankfully, because it happened in the 3 1:00 a.m. hour in a commercial area, it did not kill 4 anyone.</p> <p>5 By the time of the commission's final order 6 in the enforcement proceeding that ensued, PSE and staff 7 had settled. But public counsel pushed for the maximum 8 penalty. Even with dozens of buildings flattened or 9 damaged, and first responders injured, the commission 10 rejected that recommendation because there was not, 11 quote, sufficient evidence to prove that this amount 12 would be more effective in achieving the commission's 13 primary objective of obtaining compliance with its 14 pipeline safety regulations.</p> <p>15 Here, unlike PSE, Waste Management 16 unfortunately has not been able to settle with staff. 17 And it's staff insisting on the maximum penalty from the 18 commission.</p> <p>19 The question for the commission is whether 20 the evidence, all of the circumstances in light of the 21 commission's objective in enforcement and the eleven 22 factors listed in the enforcement policy point to the 23 extreme relief staff wants. The answer is no.</p> <p>24 Staff today is not trying to present the 25 commission with the totality of circumstances. It did</p>	<p>OPENING STATEMENT BY RESPONDENT</p> <p>1 staff so far has never discussed in testimony or in 2 opening.</p> <p>3 Because staff doesn't recognize Waste 4 Management's serious approach to commission regulation, 5 it also fails to show how the maximum penalty would 6 improve the prospects of future compliance.</p> <p>7 In fact, accepting staff's recommendation 8 would risk the opposite. Topping out the penalty for 9 violations like these by a company like Waste Management 10 would eliminate the commission's headroom to signal what 11 violations truly endanger the public safety and public 12 interest in the vital, complex, and sometimes dangerous 13 industries you oversee. It would also signal erosion in 14 the value the commission places on companies' long-term 15 positive engagement.</p> <p>16 We hope you'll signal that the commission, 17 like Waste Management, still values the company's 18 long-standing commitment to regulatory compliance.</p> <p>19 Thank you, your Honor.</p> <p>20 JUDGE BONFRISCO: Thank you so much.</p> <p>21 With that, I will have staff go ahead and 22 start with the cross of the company witness, Chad Brooks.</p> <p>23 Mr. Brooks, if I could have you turn on your 24 camera and raise your right hand, I'm going to go ahead 25 and swear you in.</p>

<p>OPENING STATEMENT BY RESPONDENT</p> <p>1 Okay. Thank you. Do you swear or affirm</p> <p>2 that the testimony you will give today will be the truth,</p> <p>3 the whole truth, and nothing but the truth?</p> <p>4 THE WITNESS: I do swear.</p> <p>5 JUDGE BONFRISCO: Okay. Thank you so much.</p> <p>6 The witness is yours, Ms. Gafken.</p> <p>7 ATTORNEY STANOVSKY: One moment, your Honor.</p> <p>8 JUDGE BONFRISCO: Oh, go ahead.</p> <p>9 ATTORNEY STANOVSKY: Lisa, correct me if I'm</p> <p>10 wrong, but I thought we had discussed that Ms. Feeser</p> <p>11 would testify first. I don't have a strong feeling, and</p> <p>12 if I've crossed it up in my mind, please correct me.</p> <p>13 ATTORNEY GAFKEN: It does make sense to me</p> <p>14 that Ms. Feeser would be crossed first. So we're fine</p> <p>15 either way.</p> <p>16 JUDGE BONFRISCO: My apologies. I was</p> <p>17 thinking staff was starting. But we can go ahead and</p> <p>18 start with Ms. Feeser.</p> <p>19 My apologies, Mr. Brooks.</p> <p>20 We'll go ahead and swear Ms. Feeser in.</p> <p>21 CHAD BROOKS: Thank you, your Honor.</p> <p>22 JUDGE BONFRISCO: Thank you.</p> <p>23 ATTORNEY GAFKEN: Do you want to us introduce</p> <p>24 the witnesses or...?</p> <p>25 JUDGE BONFRISCO: Yeah, that would be great.</p>	<p>1 A By the Washington Utilities and Transportation</p> <p>2 Commission.</p> <p>3 Q What is your title?</p> <p>4 A I am the director of the commission's consumer</p> <p>5 protection division.</p> <p>6 Q Your testimony on Exhibits BF-1T, BF-2R, BF-3R,</p> <p>7 and BF-4T have been submitted into the record already.</p> <p>8 Are they true and accurate to the best of your knowledge?</p> <p>9 A Yes.</p> <p>10 ATTORNEY GAFKEN: The witness is ready for</p> <p>11 cross. Thank you.</p> <p>12 JUDGE BONFRISCO: You may proceed,</p> <p>13 Mr. Stanovsky.</p> <p>14 ATTORNEY STANOVSKY: Thank you.</p> <p>15</p> <p>16 CROSS-EXAMINATION</p> <p>17 BY ATTORNEY STANOVSKY:</p> <p>18 Q Good morning, Ms. Feeser.</p> <p>19 A Good morning.</p> <p>20 Q So to start at a very high level, rules have a</p> <p>21 purpose, correct?</p> <p>22 A Correct.</p> <p>23 Q And it's important to understand the purposes</p> <p>24 underlying a rule, correct?</p> <p>25 A Correct.</p>
<p>DIRECT EXAMINATION BY ATTORNEY GAFKEN</p> <p>1 That would be great. Thank you, Ms. Gafken. If</p> <p>2 you would like to introduce Ms. Feeser.</p> <p>3 ATTORNEY GAFKEN: I'm sorry. I thought you</p> <p>4 were going to swear her in and then --</p> <p>5 JUDGE BONFRISCO: I will swear her in. I</p> <p>6 will swear her in.</p> <p>7 ATTORNEY GAFKEN: Okay.</p> <p>8 JUDGE BONFRISCO: Ms. Feeser, do you swear or</p> <p>9 affirm that the testimony you will give today is the</p> <p>10 truth, the whole truth, and nothing but the truth?</p> <p>11 THE WITNESS: (Inaudible).</p> <p>12 JUDGE BONFRISCO: Yes? Okay. Thank you,</p> <p>13 Ms. Feeser.</p> <p>14 Ms. Gafken, the witness is yours.</p> <p>15</p> <p>16 BRIDGIT FEESER, witness herein, having been first</p> <p>17 duly sworn on oath, was examined</p> <p>18 and testified as follows:</p> <p>19</p> <p>20 DIRECT EXAMINATION</p> <p>21 BY ATTORNEY GAFKEN:</p> <p>22 Q Will you please state your name, spelling it</p> <p>23 for the record?</p> <p>24 A Bridgit Feeser. B-R-I-D-G-I-T, F-E-E-S-E-R.</p> <p>25 Q And by whom are you employed?</p>	<p>1 Q And would you agree that the gravity of a rule</p> <p>2 violation should be judged by the extent to which the</p> <p>3 violation undermines the purposes of the rule?</p> <p>4 A Correct.</p> <p>5 Q Thank you.</p> <p>6 You have your rebuttal testimony, Exhibit</p> <p>7 BF-4T. Would you please turn to page 4.</p> <p>8 A I'm there.</p> <p>9 Q Thank you.</p> <p>10 And if you would look at line 17.</p> <p>11 A Okay.</p> <p>12 Q I want to start with differences in how the</p> <p>13 parties understand the commission's enforcement purposes</p> <p>14 and objectives. So there at line 17, your view is that</p> <p>15 Mr. Brooks mischaracterizes the enforcement policy,</p> <p>16 correct?</p> <p>17 A I think Mr. Brooks was looking at it too</p> <p>18 narrow, and focusing on just some very specific words.</p> <p>19 Q And his statement that you say is too narrow in</p> <p>20 stating the commission's objective and its enforcement</p> <p>21 policy is -- I believe it's quoted there in the question</p> <p>22 on lines 14 to 15.</p> <p>23 So just to state it cleanly, the statement of</p> <p>24 Mr. Brooks that you're objecting to as mischaracterizing</p> <p>25 the commission's enforcement policy too narrowly is,</p>

<p>1 quote, to ensure services within the commission's</p> <p>2 jurisdiction are delivered safely, adequately,</p> <p>3 efficiently, and at rates and charges that are just and</p> <p>4 reasonable, correct?</p> <p>5 A Sorry. What was the question?</p> <p>6 Q So when you say that Mr. Brooks characterizes</p> <p>7 the enforcement policy too narrowly, the statement of</p> <p>8 Mr. Brooks that you're challenging is what's quoted in</p> <p>9 the question there on lines 14 to 15, is it not?</p> <p>10 A Correct. I didn't think that Mr. Brooks was</p> <p>11 understanding that in order to ensure that statement,</p> <p>12 that it is staff's responsibility to do compliance</p> <p>13 investigations when we suspect that there have been</p> <p>14 violations of laws, rules, or tariffs.</p> <p>15 Q So I want to focus on the notion that that</p> <p>16 quoted language of Mr. Brooks is too narrow.</p> <p>17 And I want to turn now to the enforcement</p> <p>18 policy, which has been marked Exhibit BF-13X. Would you</p> <p>19 do that?</p> <p>20 A Okay. I'm there.</p> <p>21 Q And I guess I'll go ahead and try and get this</p> <p>22 admitted. Do you recognize this as the enforcement</p> <p>23 policy the commission adopted in Docket A-120061 in 2013?</p> <p>24 A Yes.</p> <p>25 ATTORNEY STANOVSKY: I'd move to admit.</p>	<p>1 JUDGE BONFRISCO: No worries. Thank you.</p> <p>2 ATTORNEY STANOVSKY: I'm getting all the</p> <p>3 different tabs we've got open here.</p> <p>4 Q (By Attorney Stanovsky) And I apologize,</p> <p>5 Ms. Feeser. I meant to ask you to keep a mark in your</p> <p>6 rebuttal testimony at page 4. Sorry. I forgot to do</p> <p>7 that. And if you've lost that, I'd appreciate it if</p> <p>8 you'd mark it before we turn back to the enforcement</p> <p>9 policy. And let me know when you're ready.</p> <p>10 A It is marked.</p> <p>11 Q Thank you.</p> <p>12 Now would you please look at page 6 of 12 in</p> <p>13 Exhibit BF-13X and look at paragraph 9?</p> <p>14 A I'm there.</p> <p>15 Q This is the very start of the actual commission</p> <p>16 enforcement policy, quote/unquote, based on the headings,</p> <p>17 isn't it?</p> <p>18 A Yes.</p> <p>19 Q And can you please read Heading A above</p> <p>20 paragraph 9.</p> <p>21 A "Objectives of the Commission's Enforcement</p> <p>22 Policy."</p> <p>23 Q And now could you please read the first</p> <p>24 sentence of paragraph 9?</p> <p>25 A "Commission's objective when enforcing</p>
<p>1 JUDGE BONFRISCO: Any objection?</p> <p>2 ATTORNEY GAFKEN: So we're still not sure</p> <p>3 on how Mr. Stanovsky plans on using it. I will note that</p> <p>4 having a commission policy statement or order or those</p> <p>5 sorts of documents as an exhibit is unnecessary. But I</p> <p>6 don't --</p> <p>7 ATTORNEY STANOVSKY: Well, I understand</p> <p>8 the point. And I suppose it doesn't need to be admitted</p> <p>9 per se.</p> <p>10 The point is to have a copy in front of us</p> <p>11 that we can refer to, and I wanted to make sure that all</p> <p>12 parties had it. So that's the main thing.</p> <p>13 So I suppose I'm happy to admit it or not,</p> <p>14 but it seems cleanest in terms of the record and</p> <p>15 posterity to have it admitted. So that's my preference,</p> <p>16 but it's not a strong preference.</p> <p>17 ATTORNEY GAFKEN: I'm fine with having it</p> <p>18 admitted into the record.</p> <p>19 JUDGE BONFRISCO: Please let the record</p> <p>20 reflect that we've admitted BF-13X.</p> <p>21 (Respondent Exhibit BF-13X admitted.)</p> <p>22 JUDGE BONFRISCO: Mr. Stanovsky, please go</p> <p>23 ahead and proceed with your questioning.</p> <p>24 ATTORNEY STANOVSKY: Thank you. And give</p> <p>25 me one moment to mark that in my record, too.</p>	<p>1 statutes, rules, orders, and tariffs is to ensure</p> <p>2 services within the commission's jurisdiction are</p> <p>3 delivered safely, adequately, efficiently, and at rates</p> <p>4 and charges that are just and reasonable."</p> <p>5 Q Thank you.</p> <p>6 Now please flip back to that page in your</p> <p>7 testimony that we were looking at before. That's page 4</p> <p>8 of Rebuttal BF-14.</p> <p>9 Now, looking again at that quoted passage, the</p> <p>10 language you quote from Mr. Brooks that you say is too</p> <p>11 narrow, is that language in the quote, other than a typo,</p> <p>12 not word for word from the first sentence of the</p> <p>13 commission's enforcement policy?</p> <p>14 A It is. And --</p> <p>15 Q Thank you.</p> <p>16 A Okay.</p> <p>17 Q So Mr. Brooks' characterization is too narrow,</p> <p>18 but it's directly pulled from the enforcement policy.</p> <p>19 So isn't your testimony really that the</p> <p>20 commission's own stated objective, which it gives in</p> <p>21 introducing its entire enforcement policy, is too narrow?</p> <p>22 A No. I think staff's intent is that Mr. Brooks</p> <p>23 did not focus on the entirety of the enforcement policy;</p> <p>24 that every bit of the rest of the enforcement policy ties</p> <p>25 in with the objective statement.</p>

<p>1 Q Thank you for bearing with me while I take 2 notes.</p> <p>3 And your view, as I understand it, is that 4 above the goals stated in that objective statement, which 5 are safety, efficiency, adequacy of service, reasonable 6 rates, I understand your view, based on your direct 7 testimony, to be that above those goals is the goal of 8 following rules. Is that fair?</p> <p>9 A It would not -- no, I don't think it's fair to 10 say it's above that. I think it's ensuring compliance is 11 what leads to that objective statement.</p> <p>12 Q Well, let's look at your rebuttal, same page, 13 the very last word of line 17. The sentence after when 14 you stated Mr. Brooks' characterization where he simply 15 quotes enforcement policy was too narrow, you go on to 16 say, The overarching goal of the enforcement policy and 17 my division's work is to ensure regulatory compliance, 18 correct?</p> <p>19 A Yes. That must happen in order for the 20 objective to occur.</p> <p>21 Q But it's your view that that is overarching in 22 comparison to the objective that Mr. Brooks quotes from 23 the enforcement policy?</p> <p>24 A It's as I just stated. That I feel that is 25 needed in order to meet that objective.</p>	<p>1 important, don't you, where you say he seems to admit 2 this?</p> <p>3 A I don't understand -- I'm sorry -- what your 4 question is. Can you...?</p> <p>5 Q Well, you said that you criticize Mr. Brooks as 6 too narrow in characterizing the enforcement policy by 7 focusing just on the sentence where the commission states 8 its objective.</p> <p>9 And I think I understood you to say that he was 10 ignoring the rest of the enforcement policy and the 11 importance of regulatory compliance, rule following, you 12 could say, in focusing only on that one sentence. Is 13 that a fair characterization of your view?</p> <p>14 A Yes.</p> <p>15 Q But here at lines 2 to 3 on page 5, you admit 16 that -- I mean, you point to Mr. Brooks' language where 17 he testifies that the failure to immediately correct the 18 errors affects the commission's abilities to achieve its 19 enforcement objectives. Is that not that exactly what 20 you're criticizing him for omitting?</p> <p>21 ATTORNEY GAFKEN: I'm going to object as 22 mischaracterizing the testimony.</p> <p>23 ATTORNEY STANOVSKY: Counsel, would you 24 clarify the mischaracterization as you see it?</p> <p>25 ATTORNEY GAFKEN: The testimony speaks for</p>
<p>1 Q Well, you -- 2 (Overlapping speech)</p> <p>3 Q (By Attorney Stanovsky) Sorry. Please finish.</p> <p>4 A So the goal is to ensure regulatory compliance 5 with laws, rules, tariffs, so forth, in order to meet 6 that objective.</p> <p>7 Q And if we look at the next page of your 8 rebuttal testimony, page 5, lines 1 to 2, here you 9 criticize Mr. Brooks, that he, quote, does not recognize 10 regulatory compliance as an overarching and important 11 goal of the enforcement policy, correct?</p> <p>12 A Correct.</p> <p>13 Q Do you really think that's a fair criticism, 14 when all he's doing is quoting what the commission says 15 is its objective in enforcement?</p> <p>16 A Here, to me, that the rest of the enforcement 17 policy was not being considered, and that the focus was 18 just on the specific words and the objective, not 19 understanding what all went into ensuring that objective 20 was met.</p> <p>21 Q But beyond that, what I think, you know, 22 Mr. Brooks characterizes as the top level objective, that 23 first sentence in the enforcement policy, in the next 24 breath of your testimony, you admit that Mr. Brooks does 25 recognize that regulatory compliance in itself is</p>	<p>1 itself.</p> <p>2 But I think you're characterizing it in a 3 way that is not accurate.</p> <p>4 ATTORNEY STANOVSKY: That's a conclusory 5 statement. I don't understand what you're saying isn't 6 accurate.</p> <p>7 JUDGE BONFRISCO: We're going to overrule 8 that objection.</p> <p>9 Q (By Attorney Stanovsky) All right. So to try 10 and repose the question -- and I realize there's a few 11 layers here at this point, Ms. Feeser, so feel free to 12 ask me to clarify or, you know, reframe a little as 13 needed.</p> <p>14 But I think where we're at is you're 15 criticizing Mr. Brooks for being overly narrow in the 16 view of the commission's enforcement policy because he 17 focuses on the sentence stating the commission's overall 18 objective, and in your view, not enough on the importance 19 of regulatory compliance as such or the rest of the 20 enforcement policy. Is that fair?</p> <p>21 A Correct.</p> <p>22 JUDGE BONFRISCO: Mr. Stanovsky, could you 23 please repeat the question?</p> <p>24 ATTORNEY STANOVSKY: Give me a minute, 25 your Honor. I may simply withdraw it. Just one moment.</p>

<p>1 Yeah, I -- one second.</p> <p>2 I think I'll move on. Thank you for the</p> <p>3 patience.</p> <p>4 Q (By Attorney Stanovsky) So, Ms. Feeser, in</p> <p>5 this case, is staff trying to present the totality of</p> <p>6 circumstances and how the enforcement factor should apply</p> <p>7 evenhandedly, or is it trying to present the subset of</p> <p>8 circumstances to justify its particular relief sought?</p> <p>9 A I'm not sure I understand your question.</p> <p>10 I mean, I can speak to the fact that we</p> <p>11 conducted our investigation, we presented our facts, and</p> <p>12 we made staff's recommendation. So what is your</p> <p>13 question, then, in relation, you know, to that process?</p> <p>14 Q Sure. I suppose what I'm getting at is, is</p> <p>15 staff trying to present the commission an evenhanded</p> <p>16 recommendation based on a neutral evaluation of all the</p> <p>17 facts, or is it trying to present the evidence and</p> <p>18 argument that it needs to justify an advocacy position</p> <p>19 favoring the maximum penalty?</p> <p>20 A So staff's intent is to present the facts. And</p> <p>21 with those facts does come staff's recommendation. And</p> <p>22 staff's recommendation -- I think if you reviewed staff's</p> <p>23 response to a discovery question in which the company</p> <p>24 requested ten years' worth of staff investigations to</p> <p>25 find out the max penalties that staff had recommended in</p>	<p>1 In this case, I can say staff took a very</p> <p>2 narrow approach on this investigation. We focused only</p> <p>3 on Item 240 and Douglas County customers.</p> <p>4 We could have taken a much wider approach. We</p> <p>5 could have presented evidence of customers -- for these</p> <p>6 25 customers being charged rates that was not approved by</p> <p>7 the commission.</p> <p>8 Q I'm sorry. I'm going to stop you there. I</p> <p>9 think we're, you know, getting into angels dancing on the</p> <p>10 head of a pin as far as, you know, some other proceeding</p> <p>11 that might have happened in some other universe.</p> <p>12 But bringing it back to this case, so the last</p> <p>13 question was about the investigation staff undertakes.</p> <p>14 Now turning to when you present a</p> <p>15 recommendation to the commission and facts related to</p> <p>16 that, is it your understanding that in that situation,</p> <p>17 staff is attempting to present all relevant facts as it</p> <p>18 knows them, or is it presenting facts in support of its</p> <p>19 recommendation; that is to say, the position it's</p> <p>20 advocating?</p> <p>21 A We're presenting the facts of the case. Yeah.</p> <p>22 We're presenting the facts of the case as we know that we</p> <p>23 discovered in the course of our investigation.</p> <p>24 Q So the total package as you see it?</p> <p>25 A I'm not sure what your definition of "total</p>
<p>1 those cases, I think if you had reviewed that list or</p> <p>2 that docket list that staff had provided, I think you</p> <p>3 will find that in the majority of those cases, staff did</p> <p>4 recommend max penalties. When staff did not, it was in</p> <p>5 cases where there were thousands of violations, or it was</p> <p>6 a small company that the penalty amount could put the</p> <p>7 company out of business.</p> <p>8 So staff's recommendation was consistent with</p> <p>9 how staff applies our recommendation.</p> <p>10 And then it's the commission's position and</p> <p>11 responsibility, then, to review the facts that staff has</p> <p>12 submitted along with their recommendation.</p> <p>13 And then the commission will take in all</p> <p>14 factors, 11 factors, I think it is, of the enforcement</p> <p>15 policy, and base their decision, or make their decision.</p> <p>16 I'm not sure that that answered your question.</p> <p>17 Q Yeah. I think not quite. So let me try again.</p> <p>18 I mean, the first thing you said was staff's</p> <p>19 intent is to present the facts. And what I'm getting at</p> <p>20 is prior to what you present to the commission, is staff</p> <p>21 attempting to investigate all the facts evenhandedly,</p> <p>22 those that would both favor and disfavor the company?</p> <p>23 Start with the investigation.</p> <p>24 A Staff's focus is on a particular rule violation</p> <p>25 to determine if the company was in compliance or not.</p>	<p>1 package" is.</p> <p>2 So again, we do the investigation. We present</p> <p>3 the facts that we found in that investigation. And then</p> <p>4 we make our recommendation.</p> <p>5 ATTORNEY STANOVSKY: Okay. One moment,</p> <p>6 your Honor.</p> <p>7 Q (By Attorney Stanovsky) Okay. So turning back</p> <p>8 to the objective the commission stated in the enforcement</p> <p>9 policy that we looked at before, that first sentence in</p> <p>10 paragraph 9, would you please turn to your rebuttal</p> <p>11 testimony at 5 and look at line -- starting at line 8.</p> <p>12 Tell me when you're there.</p> <p>13 A I'm there.</p> <p>14 Q And you testified, quote, Even though</p> <p>15 Mr. Brooks testifies that staff failed to argue that</p> <p>16 Waste Management's services were unsafe, inadequate,</p> <p>17 inefficient, or provided at unreasonable rates, that is</p> <p>18 exactly what I argued throughout my testimony, correct?</p> <p>19 A Correct.</p> <p>20 Q So you're saying that you argued, quote,</p> <p>21 throughout your direct testimony that Waste Management's</p> <p>22 services were unsafe, inadequate, inefficient, or</p> <p>23 provided at unreasonable rates.</p> <p>24 Let's start with safe. Later in that</p> <p>25 paragraph, you mentioned, quote, potentially unsafe</p>

<p>1 services, (overflowing containers). Potentially.</p> <p>2 That doesn't indicate what actually happened</p> <p>3 and it isn't facts; is that fair?</p> <p>4 A They had -- excuse me -- evidence of one</p> <p>5 customer that said they had overflowing containers. And</p> <p>6 so therefore, I just used the word "potentially" in my</p> <p>7 testimony.</p> <p>8 Q Okay. One customer.</p> <p>9 And when you say "overflowing," my recollection</p> <p>10 of the investigation report and the materials in there is</p> <p>11 that the relevant passage was actually discussing charges</p> <p>12 for overfilled containers. Is that your recollection as</p> <p>13 well?</p> <p>14 A What -- yes. Yes. I think that's a fair</p> <p>15 statement.</p> <p>16 Q Thank you.</p> <p>17 And you have a citation to this paragraph.</p> <p>18 I'll note we've talked about your statement that your</p> <p>19 direct testimony argues throughout about these issues,</p> <p>20 but you have only one citation here, which points to your</p> <p>21 direct testimony, BF-1T at 13, lines 14 to 20. Do you</p> <p>22 see that?</p> <p>23 A I do see that citation, yes.</p> <p>24 Q So let's flip to that passage in your direct.</p> <p>25 Page 13, lines 14 to 20.</p>	<p>1 A My recollection, I believe there was several</p> <p>2 container sizes listed.</p> <p>3 Q And do you understand the reason for those many</p> <p>4 sizes to be to give customers the option of choosing a</p> <p>5 container size that's appropriate for the volume of waste</p> <p>6 they generate?</p> <p>7 A I can only speculate. I don't have personal</p> <p>8 knowledge of reasons behind anything included in the</p> <p>9 tariff. That's not a part of a compliance investigator's</p> <p>10 role.</p> <p>11 Q Okay. Well, then, turning back to -- you</p> <p>12 mentioned that you had information about one customer</p> <p>13 that had reported charges for an overfilled container.</p> <p>14 But I want to look at that passage in your</p> <p>15 rebuttal testimony at page 6.</p> <p>16 A Okay.</p> <p>17 Q And at line 5, you testify at least one</p> <p>18 customer reported to staff that they contacted the</p> <p>19 company multiple times over a year and a half reporting</p> <p>20 missed pickups, but the company never provided the</p> <p>21 correct service.</p> <p>22 The customer also stated there were multiple</p> <p>23 times the company charged them for an overfilled</p> <p>24 container.</p> <p>25 You used the phrase "at least one customer,"</p>
<p>1 ATTORNEY STANOVSKY: And I apologize to</p> <p>2 those of you who have to put up with me looking way off</p> <p>3 in the corner. That's where I've got my exhibits.</p> <p>4 Q (By Attorney Stanovsky) So tell me when you're</p> <p>5 there. I'm sorry.</p> <p>6 A I believe I'm there. Yes.</p> <p>7 Q Page 13. And lines 14 to 20 is what you had</p> <p>8 cited in your rebuttal testimony.</p> <p>9 If we look at -- starting at line 16, you</p> <p>10 testify the company failed to provide every-other-week</p> <p>11 pickup service to customers with permanent container</p> <p>12 service in Douglas County, leaving containers sitting for</p> <p>13 an entire month before being serviced.</p> <p>14 Couldn't any size container on any service</p> <p>15 frequency potentially end up overflowing if it was</p> <p>16 undersized for the customer?</p> <p>17 ATTORNEY GAFKEN: Objection. Speculation.</p> <p>18 JUDGE BONFRISCO: I'm going to go ahead</p> <p>19 and sustain that objection.</p> <p>20 ATTORNEY STANOVSKY: One moment.</p> <p>21 Q (By Attorney Stanovsky) Ms. Feeser, if we were</p> <p>22 to look at Item 240 in Tariff 14 -- and we can if we need</p> <p>23 to -- but from your recollection, if possible, would it</p> <p>24 be fair to say there were a large number of container</p> <p>25 volumes potentially available under that service?</p>	<p>1 but I think what you said a moment ago, and what I wanted</p> <p>2 to confirm, is that "at least one customer" here really</p> <p>3 means one customer, correct, to the best of staff's</p> <p>4 knowledge?</p> <p>5 A I think that's fair. We have direct knowledge</p> <p>6 of one customer. So that's why I said "at least one." I</p> <p>7 don't know if there are more. There's at least one.</p> <p>8 Q Well, any more than one would be speculation,</p> <p>9 wouldn't it?</p> <p>10 A As I said, I have direct knowledge of one.</p> <p>11 Q Thank you.</p> <p>12 So now let's talk about adequate. And I think</p> <p>13 you have Exhibit BF-10X, which is staff's response to</p> <p>14 Waste Management Data Request 28. If you could open</p> <p>15 that, and tell me when you're there.</p> <p>16 A And you said 10X?</p> <p>17 Q 10X, yes.</p> <p>18 A Okay. I'm there.</p> <p>19 Q Thank you.</p> <p>20 So here, at the top, there's several subparts</p> <p>21 here, but the preamble to the question quotes the passage</p> <p>22 from your testimony that we were looking at a minute ago,</p> <p>23 where you said in rebuttal that you argued throughout</p> <p>24 your direct testimony that Waste Management provided</p> <p>25 inadequate and unreasonable service, correct?</p>

<p>1 A Correct.</p> <p>2 Q And in Part A of the question, we asked staff</p> <p>3 to point out every passage in your direct testimony where</p> <p>4 you argue that Waste Management's service was inadequate</p> <p>5 in any respect other than the failure to serve in</p> <p>6 compliance with the tariff, correct?</p> <p>7 A Correct.</p> <p>8 Q Would you please read the first sentence of the</p> <p>9 response to A?</p> <p>10 A Staff has not alleged that Waste Management has</p> <p>11 provided inadequate service in any other respect other</p> <p>12 than failure to provide service that complies with Tariff</p> <p>13 14, Item 240.</p> <p>14 Q Thank you.</p> <p>15 And I just realized I forgot to lay foundation</p> <p>16 and get this admitted. No, this was stipulated. So it's</p> <p>17 already admitted, your Honor, is that right?</p> <p>18 JUDGE BONFRISCO: Yes, that's correct.</p> <p>19 The parties have stipulated to this exhibit.</p> <p>20 ATTORNEY STANOVSKY: Thank you.</p> <p>21 JUDGE BONFRISCO: Yes.</p> <p>22 Q (By Attorney Stanovsky) Okay. Turning now to</p> <p>23 reasonable service. Part B of this request, Ms. Feeser,</p> <p>24 asked staff to identify passages in your direct testimony</p> <p>25 where you argued that Waste Management service was</p>	<p>1 Q Sure.</p> <p>2 A That was -- what number was the enforcement --</p> <p>3 oh, 13? Yeah.</p> <p>4 Q Exhibit 13, yes. I apologize. I should have</p> <p>5 just steered you there. Factor 5 is on the bottom of</p> <p>6 page 8.</p> <p>7 A I'm there. Page 8.</p> <p>8 Q So Enforcement Factor 5 is whether the company</p> <p>9 promptly corrected the violations and remedied the</p> <p>10 impacts, yes?</p> <p>11 A Yes.</p> <p>12 Q Now, if you would turn to page 9 of your</p> <p>13 rebuttal testimony.</p> <p>14 And actually, get Exhibit BF-15X and E as well,</p> <p>15 if you would check.</p> <p>16 JUDGE BONFRISCO: And I don't believe that</p> <p>17 exhibit has been admitted in the record.</p> <p>18 ATTORNEY STANOVSKY: Sure. So let's deal</p> <p>19 with that, then.</p> <p>20 JUDGE BONFRISCO: Okay.</p> <p>21 ATTORNEY STANOVSKY: Thank you, your</p> <p>22 Honor.</p> <p>23 JUDGE BONFRISCO: Thank you.</p> <p>24 ATTORNEY GAFKEN: We might be able to do</p> <p>25 this a little bit quicker instead of laying foundation</p>
<p>1 unreasonable. Do you see that?</p> <p>2 A Yes.</p> <p>3 Q And would you please read the first sentence of</p> <p>4 the response to Part B?</p> <p>5 A Staff has not alleged that Waste Management has</p> <p>6 provided unreasonable service in any other respect other</p> <p>7 than failure to provide service that complies with Tariff</p> <p>8 14, Item 240.</p> <p>9 Q Thank you.</p> <p>10 And now, your Honor, just to double check,</p> <p>11 Exhibit BF-5X, I believe is already admitted?</p> <p>12 I have no questions on that, but just wanted to</p> <p>13 be doubly sure it's in the record.</p> <p>14 JUDGE BONFRISCO: That is correct.</p> <p>15 ATTORNEY STANOVSKY: Thank you.</p> <p>16 Q (By Attorney Stanovsky) I'm going to change</p> <p>17 gears here, so give me a moment to think about this next</p> <p>18 line.</p> <p>19 Okay. I want to move on to some of the</p> <p>20 specific enforcement factors that the commission lays out</p> <p>21 in the enforcement policy.</p> <p>22 So do you recall that Enforcement Factor 5 is</p> <p>23 whether the company promptly corrected the violations and</p> <p>24 remedied the impacts?</p> <p>25 A Sorry. I need to go to the enforcement policy.</p>	<p>1 and whatnot on 15X. With the enforcement policy,</p> <p>2 Mr. Stanovsky stated that the purpose was to have it in</p> <p>3 front of the witness. And if that's a similar goal here,</p> <p>4 staff has no objections to the exhibit.</p> <p>5 ATTORNEY STANOVSKY: Yes, that's right.</p> <p>6 JUDGE BONFRISCO: Okay. Thank you,</p> <p>7 Ms. Gafken. Appreciate you clarifying.</p> <p>8 Mr. Stanovsky, go ahead.</p> <p>9 ATTORNEY STANOVSKY: So just to clarify,</p> <p>10 15X, I believe is admitted? I don't think we've heard</p> <p>11 from (inaudible) --</p> <p>12 JUDGE BONFRISCO: Yes, thank you.</p> <p>13 ATTORNEY STANOVSKY: -- to be totally</p> <p>14 clear.</p> <p>15 JUDGE BONFRISCO: Yes. Let the record</p> <p>16 reflect that Exhibit BF-15X is admitted, and that there's</p> <p>17 no objection from opposing counsel.</p> <p>18 (Exhibit BF-15X admitted)</p> <p>19 ATTORNEY STANOVSKY: Thank you. One</p> <p>20 moment. Now I don't have my exhibits handy. I'll be</p> <p>21 right there. Excuse me.</p> <p>22 Q So Ms. Feeser, we've got 15X and E, which is</p> <p>23 Waste Management's answer to the complaint in this case,</p> <p>24 correct?</p> <p>25 A Correct.</p>

<p>1 Q And we're looking at your rebuttal testimony at 2 page 9? 3 A Correct. 4 Q Would you please read lines 8 through 12 of 5 your rebuttal testimony. 6 A Initially, Mr. Brooks criticizes my testimony 7 that staff was unaware of whether the company had 8 remedied its pickup service. While staff was aware that 9 Waste Management had made statements that it had 10 corrected its actions, staff did not have documentation 11 confirming this to be true. I could not testify that 12 staff knew that the violations had been corrected. 13 Q Well, looking at the answer to the complaint, 14 first page, paragraph 2, third line, can you please read 15 the two sentences, starting from "However," and ending 16 with "all affected customers in Douglas County"? 17 A However, after receiving staff's initial data 18 request letter on April 20, 2023, and the formal 19 investigation in this matter, Waste Management Washington 20 promptly corrected the identified errors. By May 12, 21 2023, less than one monthly billing cycling after the 22 data request, Waste Management resumed every-other-week 23 collection for all affected customers in Douglas County. 24 Q So you were aware that Waste Management in its 25 answer had asserted this correction, correct?</p>	<p>1 actions by regulated companies? 2 A In the course of an investigation. This 3 investigation was completed in April of 2024, I believe. 4 That's when the investigation was complete. And our 5 recommendations was based on the findings of that 6 investigation. 7 Q And so it wouldn't be the enforcement 8 division's practice to investigate anything that happened 9 after finalizing an investigation report; is that right? 10 A I don't -- well, I don't think that we continue 11 an investigation. 12 However, what we do is, based on additional 13 information that the company may provide in the meantime, 14 that might be grounds for staff, for example, to 15 recommend potential suspension of penalties, which is 16 what staff did in this case based on some information 17 that staff heard, learned from the company verbally, then 18 in staff's testimony, then we recommended potential 19 suspension of penalties. 20 Q So I think I just understood you in the last 21 couple of responses to say staff wouldn't investigate 22 beyond an investigation report to confirm a correction; 23 but if you had reason to suspect further violations, you 24 might investigate further; is that fair? 25 A If what you mean is that if staff would</p>
<p>1 A Correct, that it had asserted it, yes. 2 Q But you testified that staff had no 3 documentation that it was true, so you couldn't testify 4 that the violations had been corrected. 5 Would it be fair to say that staff wanted to 6 give the company credit for taking corrective action but 7 couldn't do so because staff had no verification of that 8 action? 9 A I think what staff would like to have been able 10 to give credit for was that the company had corrected its 11 business practices when they received technical 12 assistance from staff in April of 2022, that they were 13 out of compliance with the tariff. That's what staff 14 would have liked to see, is that the company corrected 15 their business practices then. 16 If -- I mean, if the company states that they 17 corrected it, I can't confirm or deny they did, simply 18 because I don't have documentation to show that. 19 But at the same time, I'm not going to argue 20 that the company has not -- you know, if the company 21 states in their answer that they corrected it, I'm not 22 going to say they haven't. I'm just saying I cannot 23 confirm or deny. I have not seen anything. 24 Q Ms. Feeser, isn't your division pretty 25 regularly in the business of verifying statements and</p>	<p>1 investigate further violations of this same issue before 2 us if we learned the company still did not correct this 3 other business practice, we could. 4 Q But you wouldn't further -- 5 A -- another investigation; is that what you 6 meant? 7 Q Well, I suppose the point is you wouldn't 8 further investigate the facts around compliance factors 9 that would favor the company once you've closed an 10 investigation, correct? 11 A Right. I mean, again, our focus is did the 12 company comply with its tariff in this case. If not, 13 here's staff's recommendation. 14 Based on -- but, you know, there's other steps, 15 you know, where there's settlement discussions that 16 happen or there's orders from the commission. But in 17 information during that process, if staff learns that -- 18 or the company shares with staff things that they have 19 put in place to now address the problem, then that would 20 be grounds for staff to then recommend potential -- 21 recommend to the commission for them to consider 22 suspending part of penalties because of these things the 23 company has said they've done, but also these are 24 additional things staff would like to see. 25 Q Well, that sounds nice, but in this case, at</p>

<p>1 any rate, staff didn't investigate whether the company 2 actually did what it said in its answer it had done; is 3 that fair?</p> <p>4 A Staff did not, no. The staff's investigation 5 was focused on the violations.</p> <p>6 And staff took the company's word for it. 7 Staff did not investigate further because the 8 investigation now is closed. The investigation is 9 closed. But staff took the company's word for it, that 10 they had already started making changes.</p> <p>11 So that's why in staff's testimony, then, 12 staff's recommending potential -- that the commission 13 consider suspending some of the penalties.</p> <p>14 That does not negate the fact that the 15 violations occurred, the violations continued to occur 16 for a year after staff provided the company technical 17 assistance.</p> <p>18 Q I understand. So one moment. Well, staff 19 didn't have any reason to doubt that statement that Waste 20 Management had made those corrections, did it?</p> <p>21 A (Inaudible).</p> <p>22 Q I'm sorry. You were a little garbled on my 23 end. So just to make sure the record is clear, could you 24 restate?</p> <p>25 A Correct. Staff had no reason to doubt that</p>	<p>1 check if you just wanted to look back afterward and 2 correct that if you need to. But that's my 3 understanding.</p> <p>4 A I'm not going to -- I mean, I will say we did 5 not ask.</p> <p>6 Q Okay. So -- sorry. Let me find my place. 7 Which I've lost which piece of your testimony I was 8 meaning to point to. So back in -- I apologize.</p> <p>9 I'm going to move on to the next factor. So 10 Factor 8, I guess if you want to just confirm that back 11 in the enforcement policy, Exhibit 13, it's going to be 12 on page 9.</p> <p>13 A I'm there.</p> <p>14 Q Factor 8 is the likelihood of recurrence of the 15 violations, correct?</p> <p>16 A Correct.</p> <p>17 Q So in your rebuttal testimony, let's turn to 18 page 11.</p> <p>19 A Okay.</p> <p>20 Q And would you please read the first full 21 sentence, starting "Staff understands" at the top of the 22 page?</p> <p>23 A Staff understands that Waste Management 24 services other rural parts of the state and had a 25 reasonable and now confirmed concern that Waste</p>
<p>1 that had happened.</p> <p>2 Q Thank you.</p> <p>3 And you still don't have any reason to doubt 4 that sitting here today, do you?</p> <p>5 A Correct. I have no reason to doubt it. I 6 don't have documentation to prove it.</p> <p>7 Q Thank you.</p> <p>8 And discovery was available to staff in this 9 case, wasn't it?</p> <p>10 A Yes.</p> <p>11 Q From July 5 last year through January 27? 12 At any rate --</p> <p>13 A I don't have the dates in front of me.</p> <p>14 Q Sure.</p> <p>15 A But I'm not going to question you about that.</p> <p>16 Q Apologies. I don't know why you didn't 17 memorize the prehearing conference order in preparation 18 today. Sorry, I didn't mean to put you through that.</p> <p>19 A No, that's fine.</p> <p>20 Q But staff didn't ask about this statement in 21 discovery, did it?</p> <p>22 A I don't believe we did. I'm sorry. I don't 23 have the discovery questions in front of me of what we 24 did ask.</p> <p>25 Q Well, I suppose we could take that subject to</p>	<p>1 Management may be making similar decisions in those other 2 rural service areas.</p> <p>3 Q So you say "those other rural service areas." 4 There's no factual dispute here about what 5 happened in one area of Douglas County that was the 6 subject of the complaint. But now here, you're 7 testifying that in Waste Management's other rural service 8 areas, in, quote, other rural parts of state in line 2, 9 you're testifying that it's now confirmed that Waste 10 Management was making similar decisions to the violations 11 Waste Management has admitted here; is that correct?</p> <p>12 A That's correct.</p> <p>13 Q And your phrase, "similar decisions," looking 14 back to just the bottom of the page before, you mean from 15 line 21, the company decision that it was too far to 16 drive to provide tariff-compliant service to those 17 customers, correct?</p> <p>18 A I'm so sorry. I was kind of reading it all 19 together now. Sorry.</p> <p>20 Q Sure. Sure.</p> <p>21 A What was your question?</p> <p>22 Q Well, I'll try and break it down.</p> <p>23 So, starting at line 21, you say the root cause 24 of the violations in Douglas County was the company 25 decision that it was too far to drive to provide</p>

<p>1 tariff-compliant service to those customers, correct?</p> <p>2 A Correct.</p> <p>3 Q And you go on to say that Waste Management had</p> <p>4 a reasonable and now confirmed concern that Waste</p> <p>5 Management was making similar decisions, which I take to</p> <p>6 mean deciding it was too far for drive to serve other</p> <p>7 customers in other rural service areas in other rural</p> <p>8 parts of the state; is that correct?</p> <p>9 A You know, I think what I meant was not provide</p> <p>10 the every-other-week service to those under Item 240 that</p> <p>11 the company -- that staff had concerns that the company</p> <p>12 potentially was also not providing every-other-week</p> <p>13 service to others.</p> <p>14 Q Well, that it sounds like it would be kind of</p> <p>15 an objective inquiry and not what you testify was your</p> <p>16 focus on the root cause of the violations, or looking</p> <p>17 back at line 18 to 20 on page 10, concern around the</p> <p>18 company's decision making and its reasoning. Is that</p> <p>19 fair?</p> <p>20 I mean, it seems to me you're focused on this</p> <p>21 notion that the company was not serving customers that it</p> <p>22 deemed to be too far to drive.</p> <p>23 ATTORNEY GAFKEN: I'm going to just object</p> <p>24 to the form of the question. It's hard to tell if</p> <p>25 there's a question in there. It seems that he's</p>	<p>1 We'll have foundation for it when Mr. Brooks is</p> <p>2 sworn in. I suppose it isn't admitted because he hasn't</p> <p>3 been sworn in. But we can look at the exhibit</p> <p>4 nonetheless.</p> <p>5 A Okay. I'm at the testimony.</p> <p>6 Q Yeah, page 15.</p> <p>7 A Okay.</p> <p>8 Q And you see where he says, We identified 17</p> <p>9 more customers who were receiving noncompliant service?</p> <p>10 A Yes.</p> <p>11 Q Yes. So returning to the passage we were</p> <p>12 looking at at the bottom of 10, top of 11 in your</p> <p>13 rebuttal testimony, 4T?</p> <p>14 A Okay.</p> <p>15 Q Starting at page 10, line 18, you say staff's</p> <p>16 concern centered around the company's decision making,</p> <p>17 reasoning and the impact (inaudible) customers, yes?</p> <p>18 A Yes.</p> <p>19 Q And next you say that the investigation focused</p> <p>20 on the root cause of those violations being a decision</p> <p>21 that it was too far to drive to provide compliant</p> <p>22 service, yes?</p> <p>23 A Yes.</p> <p>24 Q And the next sentence after that, you say staff</p> <p>25 had a reasonable and now confirmed concern that Waste</p>
<p>1 testifying.</p> <p>2 ATTORNEY STANOVSKY: Okay.</p> <p>3 JUDGE BONFRISCO: If you --</p> <p>4 ATTORNEY STANOVSKY: -- question. I would</p> <p>5 contest whether I'm testifying. I'll assert that I am</p> <p>6 trying to line out the question.</p> <p>7 But I'll withdraw and rephrase.</p> <p>8 JUDGE BONFRISCO: Thank you.</p> <p>9 And I'm sorry. Let the record reflect the</p> <p>10 question has been withdrawn and counsel is reframing the</p> <p>11 question.</p> <p>12 Q (By Attorney Stanovsky) So, Ms. Feeser, you</p> <p>13 recall that Mr. Brooks testified the company looked at</p> <p>14 service frequency for all of its roughly 12,000 customers</p> <p>15 statewide under Item 240 of all its commission tariffs,</p> <p>16 correct?</p> <p>17 A Correct, except for I don't remember the</p> <p>18 number. But I do recall Mr. Brooks' testimony that the</p> <p>19 company had looked at other service frequency under Item</p> <p>20 240.</p> <p>21 Q Well, I'm deciding whether it's worth noting it</p> <p>22 in the record because it is in Mr. Brooks' testimony.</p> <p>23 Yeah. So if you want to look at Exhibit CB-1T,</p> <p>24 which I realize -- no, I suppose the parties stipulated,</p> <p>25 so I suppose it has been admitted.</p>	<p>1 Management may be making similar decisions in other rural</p> <p>2 service areas, yes?</p> <p>3 A Yes, similar decisions.</p> <p>4 Q And as you view it, based on Mr. Brooks'</p> <p>5 testimony, it's, quote, now confirmed that Waste</p> <p>6 Management was providing less than every-other-week</p> <p>7 service to Item 240 customers it thought were too far</p> <p>8 away, correct?</p> <p>9 A Where are you at? I'm sorry.</p> <p>10 Q I was trying to summarize.</p> <p>11 A Oh. Oh. Okay. No, that's not correct.</p> <p>12 As the statement says, is that Waste Management</p> <p>13 may be making similar decisions. And so similar</p> <p>14 decisions such as, and I didn't list out what all the</p> <p>15 decisions could be. It was similar decisions.</p> <p>16 And in this case, Mr. Brooks confirmed there</p> <p>17 were 17 additional people not receiving the</p> <p>18 every-other-week pickup service.</p> <p>19 Q How many of those 17 customers would have been</p> <p>20 able to receive every-other-week service if they had</p> <p>21 wanted it?</p> <p>22 A I have no data, no information about 17</p> <p>23 customers. All I have is Mr. Brooks' testimony that 17</p> <p>24 were not being provided the service level they signed up</p> <p>25 for under Item 240.</p>

<p>1 Q So how many of those 17 customers were set up 2 for monthly service by the company as a result of the 3 customer's preference? 4 ATTORNEY GAFKEN: Objection. Speculation. 5 Q (By Attorney Stanovsky) Ms. Feeser, would it 6 be fair to say -- 7 ATTORNEY STANOVSKY: I'll rephrase, your 8 Honor. 9 JUDGE BONFRISCO: Go ahead. 10 So objection sustained. Go ahead and 11 restate. 12 Q (By Attorney Stanovsky) Ms. Feeser, would it 13 be fair to say that you also have no idea how many of 14 those 17 customers were set up for monthly service by the 15 company because that was their preference? 16 A Yeah, as I already stated, I have no 17 information, no documentation, only 17. 18 Q So if you don't know why they were set up that 19 way, you really have no idea whether the company was, as 20 you say, making similar decisions in those service areas, 21 do you? 22 A I just know what Mr. Brooks testified to. 23 Q So let's now talk about what you call -- what 24 you refer to as, quote, those other rural service areas. 25 How many of those 17 customers are located in rural</p>	<p>1 service areas. 2 But you don't have, I think, a clear sense of 3 what constitutes a rural service area conceptually. Is 4 that fair? 5 Or if you do have a definition in mind, you 6 know, share it. But I think I didn't hear one. 7 A No, I think in my conversation with regulatory 8 services, when I was asking them what is a rural area, it 9 was how I defined rural area for my purposes was 10 locations where there may be customers that lived quite a 11 distance from the transfer station or the yard. 12 But that is why staff did not -- I mean, staff 13 has not recommended penalties for those 17. And staff 14 did not investigate other areas either. Staff -- we had 15 a reasonable suspicion, based on the treatment of 16 customers in Douglas County, that there could be the same 17 treatment or similar treatment to other customers in 18 similar situations. 19 Q Well, you just described it as a reasonable 20 suspension, but your testimony is that that was 21 subsequently confirmed in other rural service areas. But 22 I think I understood you a minute ago to say that you 23 don't actually know where the 17 customers are located, 24 correct? 25 A Correct.</p>
<p>1 areas? 2 A Well, I'll state again, I have no information 3 on those 17. All I have is what Mr. Brooks stated in his 4 testimony. 5 Q Okay. I may come back to that. 6 But how do you know if an area is rural? 7 A I -- I don't know. In this case, I did reach 8 out to staff in the regulatory services division just to 9 get an idea, not specifics, but just to get an idea of 10 what was considered some rural areas, and -- or areas -- 11 yeah, what was considered rural areas, and just in naming 12 off a few. 13 So we did not sit and go over each area that 14 Waste Management serves. It was more of a general 15 conversation of what are some rural areas. 16 And they mentioned, I believe, and it's in my 17 testimony, but areas such as Chelan, Grant County, I 18 think Kittitas County, and that was about as far as we 19 went. It wasn't -- like I say, we weren't breaking down 20 the service area. It was me getting an understanding of 21 are there other rural areas besides Douglas County. And 22 so just a few counties were thrown out. 23 Q Okay. So you're testifying that staff had a 24 reasonable and now confirmed concern that Waste 25 Management was making similar decisions in other rural</p>	<p>1 Q Do you recall that public counsel in discovery 2 asked about the results of Waste Management's Item 240 3 service frequency review? 4 A Actually, I do not recall. 5 Q Did you review all the discovery materials in 6 this case? 7 A I did at the time they came in. And there's 8 been a lot that has happened since then. 9 Q So do you recall that Waste Management, in 10 response to public counsel, provided a spreadsheet with 11 information on 17 customers in discovery? 12 A Actually, I -- yes, I think I do recall that. 13 In fact, I think that spreadsheet, I thought the company 14 provided as an exhibit to this case. 15 Q As an exhibit to what? 16 Oh, yes. Yes. As a cross exhibit. Yes. 17 That's right, actually. 18 So let's turn to Exhibit BF-16X? 19 A I'm there. 20 JUDGE BONFRISCO: And I just want to check 21 in real quick. 22 Ms. Gafken, do you have any concerns with 23 just referring for the witness refreshing her memory on 24 BF-16, or do you want to establish foundation? 25 ATTORNEY GAFKEN: My concern with Cross</p>

<p>1 Exhibit BF-16 is whether the witness has sufficient 2 personal knowledge of it. And so it's really going to 3 depend on the questions.</p> <p>4 Using it to refresh her memory, I mean, it 5 did come in through discovery. So if the question is 6 have you seen this before, I don't have any objections 7 about that.</p> <p>8 So I'm not willing to, at this point, 9 stipulate to it being entered. But I'd like to see where 10 the questioning goes.</p> <p>11 JUDGE BONFRISCO: Okay. That's fair.</p> <p>12 Mr. Stanovsky, if you could go ahead and 13 lay the foundation, and we'll take it as it comes.</p> <p>14 ATTORNEY STANOVSKY: Sure. And I have in 15 mind a couple different ways we might go about it, so 16 yeah, I think that makes sense.</p> <p>17 Q (By Attorney Stanovsky) So, Ms. Feeser, you 18 have Exhibit BF-16X?</p> <p>19 A I do.</p> <p>20 Q And you testified a moment ago that you 21 recalled Waste Management submitting a spreadsheet as an 22 exhibit that was provided to public counsel in a data 23 response, correct?</p> <p>24 A Correct.</p> <p>25 Q Do you recognize this as that spreadsheet, the</p>	<p>1 Q And that would allow you to review unredacted 2 confidential discovery materials, correct?</p> <p>3 A Correct.</p> <p>4 Q So I assume when you said you had reviewed all 5 the discovery materials, at least initially, in this 6 case, that would include the confidential version of this 7 spreadsheet, correct?</p> <p>8 A Correct.</p> <p>9 Q Ms. Feeser, would you turn to page 5 of the 10 exhibit?</p> <p>11 A I'm there.</p> <p>12 Q And first, I want to apologize that I didn't 13 get row and column labels from the spreadsheet, on the 14 PDF print. So it's a little -- you know, I can't just 15 say please look at column, you know, X, Y, or Z.</p> <p>16 But if you would take a moment, you see there's 17 a row of column headings right below where it says 18 Redacted. And then would you take a moment and count the 19 rows here other than the column headings?</p> <p>20 And as a spoiler, I hope you'll arrive at 17, 21 but please confirm.</p> <p>22 A Found them. There's 17.</p> <p>23 Q So you see the column listing Service City, the 24 first column on page 5?</p> <p>25 A Yes.</p>
<p>1 redacted version, to be specific?</p> <p>2 A Yes. I believe this is the same spreadsheet 3 that was provided to public counsel.</p> <p>4 ATTORNEY STANOVSKY: Move to admit.</p> <p>5 JUDGE BONFRISCO: Ms. Gafken, did you have 6 any concerns?</p> <p>7 ATTORNEY GAFKEN: No, it's fine to be 8 admitted as an exhibit.</p> <p>9 JUDGE BONFRISCO: Okay. Let the record 10 reflect that Exhibit BF-16X is admitted in the redacted 11 version per the parties' prior stipulation. 12 (Exhibit BF-16X marked.)</p> <p>13 ATTORNEY STANOVSKY: Thank you.</p> <p>14 And just for the record, this is a PDF 15 version of an Excel spreadsheet that Waste Management 16 provided in discovery, but the original spreadsheet -- I 17 just want to put on the record -- has no formulas or 18 calculations. The cells are all just text. So we have 19 submitted it in PDF, not in a live Excel version.</p> <p>20 JUDGE BONFRISCO: Thank you for noting 21 that for the record as well. I appreciate that.</p> <p>22 Q (By Attorney Stanovsky) Ms. Feeser, you signed 23 a confidentiality agreement under the protective order in 24 this case, correct?</p> <p>25 A Correct.</p>	<p>1 Q And you see the third column on this page, 2 Service Zip Code?</p> <p>3 A Yes.</p> <p>4 Q I'll have you look on the previous page, page 5 4. There's a column with all the details redacted that's 6 labeled House Number, Service Street NM?</p> <p>7 A Yes.</p> <p>8 Q Do you recall that the confidential version of 9 this spreadsheet has a street address for each of the 17 10 service locations?</p> <p>11 A I'd suspect it does.</p> <p>12 Q Would you accept that subject to check?</p> <p>13 A Yes.</p> <p>14 Q Okay. Now back to page 5, if you would?</p> <p>15 A (Inaudible).</p> <p>16 Q Did staff take any of those addresses and look 17 them up, where they're located?</p> <p>18 A No, it's not a part of the investigation that 19 we conducted.</p> <p>20 Q And do you see the Bothell line at the bottom 21 of the spreadsheet?</p> <p>22 A Yes.</p> <p>23 Q Is Bothell a rural area?</p> <p>24 A I don't know. And I can just tell you I don't 25 know if any of these are rural areas.</p>

<p>1 And I can share that when I had the</p> <p>2 conversation with regulatory services, you know, I told</p> <p>3 you that the -- it was around, really, how many -- or</p> <p>4 which areas likely have folks living a -- quite a</p> <p>5 distance from the yard or transfer station.</p> <p>6 And I do recall I was told that potentially</p> <p>7 there could be areas even in Seattle, where someone lives</p> <p>8 quite a distance from. So -- and in my mind, when I</p> <p>9 think -- when I used the term "rural," I am looking at it</p> <p>10 in my mind from those that live a long distance away.</p> <p>11 So I don't know anybody on this list, how far</p> <p>12 they live. I don't know if the area is rural. I don't</p> <p>13 know if they live a long distance from a transfer</p> <p>14 station. I'm just saying that up front. I don't know.</p> <p>15 Q So your testimony, I think, is that Mr. Brooks'</p> <p>16 testimony about these 17 customers confirms staff's</p> <p>17 suspicion that Waste Management was making similar</p> <p>18 decisions in other rural service areas.</p> <p>19 But I think you've just said you don't actually</p> <p>20 know where any of the 17 customers are located or if any</p> <p>21 of them are in rural areas, fair?</p> <p>22 A I do not know where they're located.</p> <p>23 Q Thank you.</p> <p>24 ATTORNEY STANOVSKY: Your Honor, I note</p> <p>25 that it's a little after 10:30. And I'm going to stay on</p>	<p>1 years ago?</p> <p>2 A I think it depends -- it focuses on the</p> <p>3 company's compliance history.</p> <p>4 And what's concerning in this case, as already</p> <p>5 stated, is the company did not correct their business</p> <p>6 practices when receiving technical assistance, and it</p> <p>7 wasn't until the company knew we did a -- opened a formal</p> <p>8 investigation. That is what leads to concern.</p> <p>9 Q Is it your position that it's not relevant what</p> <p>10 the company does today when the commission weighs Factor</p> <p>11 8, the likelihood of recurrence?</p> <p>12 A I think what the company is doing today ties in</p> <p>13 with potentially whether or not consideration for</p> <p>14 suspended penalty would be appropriate or not.</p> <p>15 Q I appreciate that, but I'm asking about one of</p> <p>16 the enforcement factors, which is the likelihood of</p> <p>17 recurrence. And what I'm trying to understand is, do you</p> <p>18 agree or disagree that the company's current practices</p> <p>19 are important when you're considering the likelihood of</p> <p>20 the problem to recur?</p> <p>21 A I can't say whether or not what the company is</p> <p>22 doing today to correct an issue that went over a year not</p> <p>23 being fixed, if that is indicative of recurrence or not.</p> <p>24 Q You can't say. Okay.</p> <p>25 So let's look at your direct testimony. Turn</p>
<p>1 Factor 8 a little longer, but take a slightly different</p> <p>2 direction. So now would not be a bad time for a break.</p> <p>3 JUDGE BONFRISCO: Ms. Gafken, how are you</p> <p>4 doing?</p> <p>5 ATTORNEY GAFKEN: A break would be fine.</p> <p>6 JUDGE BONFRISCO: Okay. Let's plan --</p> <p>7 what are we thinking, five, ten minutes?</p> <p>8 ATTORNEY STANOVSKY: I'd appreciate ten,</p> <p>9 your Honor.</p> <p>10 JUDGE BONFRISCO: Okay. So right now it's</p> <p>11 10:39. Let's go ahead and come back at 10:50. All</p> <p>12 right. Thank you. And thank you Ms. Feeser.</p> <p>13 THE WITNESS: Thank you.</p> <p>14 (Recess.)</p> <p>15 ATTORNEY STANOVSKY: One moment while I</p> <p>16 get situated here.</p> <p>17 JUDGE BONFRISCO: No worries. And thank</p> <p>18 you for your patience, Ms. Feeser.</p> <p>19 THE WITNESS: No problem.</p> <p>20 ATTORNEY STANOVSKY: I second that.</p> <p>21 Q (By Attorney Stanovsky) Okay. Sorry. Thank</p> <p>22 you for your patience.</p> <p>23 Okay. Ms. Feeser, when we're talking about</p> <p>24 what's likely to recur in the future, isn't it important</p> <p>25 what the company is doing today, not just what it did two</p>	<p>1 to page -- I need the page number in my notes. I know</p> <p>2 the line once I find it. Sorry.</p> <p>3 JUDGE BONFRISCO: And you're referring to</p> <p>4 Exhibit BF-1T, correct?</p> <p>5 ATTORNEY STANOVSKY: Yes, BF-1T.</p> <p>6 JUDGE BONFRISCO: Okay.</p> <p>7 ATTORNEY STANOVSKY: Page 16, please.</p> <p>8 THE WITNESS: Okay. I'm there.</p> <p>9 Q (By Attorney Stanovsky) Now, Factor 8 is</p> <p>10 whether recurrence is likely, correct?</p> <p>11 A I'm so sorry. I hit the wrong direction on my</p> <p>12 speaker and I lost you. Can you repeat that question?</p> <p>13 Q So you're on page 16 of your direct BF-1T?</p> <p>14 A Correct. I am.</p> <p>15 Q Enforcement Factor 8 is whether recurrence is</p> <p>16 likely, correct?</p> <p>17 A Correct.</p> <p>18 Q But your testimony here on line 15 says staff</p> <p>19 believes recurrence is possible, correct?</p> <p>20 A Correct.</p> <p>21 Q You go on to testify that, quote, The company</p> <p>22 has already created a practice of not providing the level</p> <p>23 of service required by their tariff if they deem the</p> <p>24 distance is too far to drive. Do I have that right?</p> <p>25 I'm sorry. Are you there?</p>

<p>1 A Yes. You can't hear me?</p> <p>2 Q I didn't hear the response. If you just said</p> <p>3 yes, it may have cut out. So that was a yes. Okay.</p> <p>4 Sorry.</p> <p>5 A Yes. Yes.</p> <p>6 Q So the company has already created a practice</p> <p>7 of not providing the level of service required by their</p> <p>8 tariff if they deem the distance is too far to drive.</p> <p>9 Did that happen anywhere except on the one Douglas County</p> <p>10 route at issue in this case?</p> <p>11 A I don't know. Yeah. I don't know.</p> <p>12 Q (Inaudible).</p> <p>13 A Go ahead.</p> <p>14 Q So you don't know whether the company decided</p> <p>15 any of those 17 customer locations were too far to drive</p> <p>16 to provide every-other-week service?</p> <p>17 JUDGE BONFRISCO: Could you reframe the</p> <p>18 question, Mr. Stanovsky, just so it's clear for the</p> <p>19 witness?</p> <p>20 Q (By Attorney Stanovsky) Sure. I asked, so you</p> <p>21 don't know whether any of the 17 customers identified in</p> <p>22 the service review, that the company decided any of them</p> <p>23 were too far to drive?</p> <p>24 A Staff has no knowledge, no documentation of</p> <p>25 anything of the 17.</p>	<p>1 A Okay. I'm there.</p> <p>2 Q Your testimony is the company has already</p> <p>3 created a practice of not providing the level of service</p> <p>4 required by the tariff if they deem the distance is too</p> <p>5 far to drive. Do you see that?</p> <p>6 A Yes.</p> <p>7 Q But you do not know, do you, whether that</p> <p>8 so-called practice was ever applied to even one other</p> <p>9 customer beyond the one Douglas County route that was</p> <p>10 corrected in 2023?</p> <p>11 ATTORNEY GAFKEN: I'm going to object as</p> <p>12 asked and answered. Mr. Stanovsky has asked Ms. Feeser</p> <p>13 about her knowledge of the 17 additional customers many</p> <p>14 times.</p> <p>15 JUDGE BONFRISCO: And do you have any</p> <p>16 comments before I rule, Mr. Stanovsky?</p> <p>17 ATTORNEY STANOVSKY: Yes, your Honor. She</p> <p>18 attempted to recharacterize the practice and distance it</p> <p>19 -- pardon my word choice -- from this idea about the</p> <p>20 decision making being based on the distance being too far</p> <p>21 to drive. So she hasn't answered the question with</p> <p>22 respect to the practice as described in this passage.</p> <p>23 JUDGE BONFRISCO: I'm going to sustain the</p> <p>24 objection.</p> <p>25 ATTORNEY STANOVSKY: All right.</p>
<p>1 Staff investigation focused on the 25</p> <p>2 customers. That was the subject of the investigation.</p> <p>3 Q And this language created a practice -- I think</p> <p>4 you refer to it even as a business practice in your</p> <p>5 rebuttal testimony. Let's look at that, BF-4T at 10,</p> <p>6 line 9.</p> <p>7 A I'm there.</p> <p>8 Q So you testified that this so-called business</p> <p>9 practice exists, but you don't know if it was ever</p> <p>10 applied to even one other customer beyond the one Douglas</p> <p>11 County route corrected in 2023, correct?</p> <p>12 A The company established this business practice.</p> <p>13 It was an established business practice. The company was</p> <p>14 not providing service to 25 customers under Item 240.</p> <p>15 Q I'm sorry. But the question I asked was, you</p> <p>16 don't know if the so-called business practice was ever</p> <p>17 applied to any customers beyond the one Douglas County</p> <p>18 route directly at issue, correct?</p> <p>19 A A business practice was established when</p> <p>20 customers were not provided the level of service required</p> <p>21 by the tariff. And the company reported 25 customers</p> <p>22 should have been receiving every-other-week pickup</p> <p>23 service, and they were only receiving monthly.</p> <p>24 Q Let's look back at your direct, page 16, line</p> <p>25 15, where we just were.</p>	<p>1 Q (By Attorney Stanovsky) Well, Ms. Feeser, if</p> <p>2 you know anything about any other customers beyond the</p> <p>3 one Douglas County route to which the practice you</p> <p>4 describe on page 16 of your direct has been applied, I'll</p> <p>5 give you one last chance to let us know.</p> <p>6 ATTORNEY GAFKEN: Same objection.</p> <p>7 JUDGE BONFRISCO: I'm going to go ahead</p> <p>8 and sustain it.</p> <p>9 Q (By Attorney Stanovsky) Ms. Feeser, did staff</p> <p>10 investigate whether the business practice you describe</p> <p>11 here was ever applied to even one customer beyond the one</p> <p>12 Douglas County route?</p> <p>13 A Staff investigated whether customers in Douglas</p> <p>14 County was receiving every-other-week pickup service</p> <p>15 under Item 240 that they should have been, and found that</p> <p>16 25 customers were receiving monthly instead.</p> <p>17 Q The topic we're on is the likelihood of</p> <p>18 recurrence. And the question I'm asking is not about</p> <p>19 those 25 customers. It is about all of Waste</p> <p>20 Management's other customers.</p> <p>21 Your lead argument here about why recurrence is</p> <p>22 possible is that the company has created a practice of</p> <p>23 not providing the level of service required by their</p> <p>24 tariff if they deem the distance is too far to drive. Is</p> <p>25 that not the lead argument you make after saying</p>

<p>1 recurrence is possible?</p> <p>2 ATTORNEY GAFKEN: Asked and answered.</p> <p>3 ATTORNEY STANOVSKY: I don't think so at</p> <p>4 all. I was characterizing that as her lead argument</p> <p>5 because it follows the sort of ultimate statement. I</p> <p>6 think that's different than anything I've asked.</p> <p>7 JUDGE BONFRISCO: I'm going to overrule</p> <p>8 it, and I'm going to allow this line of questioning.</p> <p>9 ATTORNEY STANOVSKY: Thank you, your</p> <p>10 Honor.</p> <p>11 THE WITNESS: Okay. So would you please</p> <p>12 then restate or ask it again?</p> <p>13 Q (By Attorney Stanovsky) So you say staff</p> <p>14 believe recurrence is possible. And in support of that,</p> <p>15 the argument you lead with is the company has already</p> <p>16 created a practice of not providing the level of service</p> <p>17 required by their tariff if they deem the distance is too</p> <p>18 far to drive, correct?</p> <p>19 A Yes, that's what I state. You want me to</p> <p>20 explain?</p> <p>21 Q But staff did not investigate whether the</p> <p>22 practice you describe there, not providing service if</p> <p>23 they deem the distance is too far to drive, staff did not</p> <p>24 investigate whether that so-called practice was ever</p> <p>25 applied to any customers other than the one Douglas</p>	<p>1 that staff has no reason to doubt that that practice was</p> <p>2 corrected with respect to those 25 customers. Do you</p> <p>3 recall that?</p> <p>4 A Yeah. And giving the company the benefit of</p> <p>5 the doubt that they're being truthful, then --</p> <p>6 Q Well --</p> <p>7 A -- yes, I wouldn't doubt it.</p> <p>8 Q I'm not asking for the benefit of the doubt.</p> <p>9 I'm asking to confirm you have no contrary evidence.</p> <p>10 A Yeah. I have no documentation to confirm or</p> <p>11 deny.</p> <p>12 Q So you have no reason to doubt that those --</p> <p>13 let me start the question over.</p> <p>14 You are no reason to doubt that the company</p> <p>15 corrected what you describe as a business practice here,</p> <p>16 and you conducted no investigation into whether the</p> <p>17 practice had applied to anyone else. Is that not</p> <p>18 relevant in your mind to the likelihood that the problem</p> <p>19 will recur in the future?</p> <p>20 A No.</p> <p>21 Q Thank you.</p> <p>22 So looking again at your phrasing here, you</p> <p>23 testified that the company, quote, has already created a</p> <p>24 practice. You use the present tense there, don't you?</p> <p>25 A Yes.</p>
<p>1 County route, correct?</p> <p>2 A Staff verified with the company by -- through</p> <p>3 the data request that 25 customers did not -- that the</p> <p>4 company was not providing them the level of service under</p> <p>5 Item 240.</p> <p>6 ATTORNEY STANOVSKY: Your Honor, I'm</p> <p>7 trying to be clear that I'm asking about all other</p> <p>8 customers besides those 25, and it seems the witness is</p> <p>9 resistant to answering that. I suppose I'd ask you to</p> <p>10 direct her to answer the question as posed.</p> <p>11 JUDGE BONFRISCO: I guess to clarify,</p> <p>12 Ms. Feeser, is beyond the 25 focused in the scope of the</p> <p>13 investigation, I think his question is targeting beyond</p> <p>14 that, if there was any further investigation beyond that</p> <p>15 25 specified.</p> <p>16 THE WITNESS: Okay. And no. The</p> <p>17 investigation solely focused on Douglas County and the 25</p> <p>18 customers that the company reported was not receiving</p> <p>19 service. And that, then we found they had created an</p> <p>20 established practice for those 25 customers of not</p> <p>21 providing them the level of service that they were</p> <p>22 entitled to.</p> <p>23 ATTORNEY STANOVSKY: Thank you.</p> <p>24 JUDGE BONFRISCO: Thank you, Ms. Feeser.</p> <p>25 Q (By Attorney Stanovsky) So we've discussed</p>	<p>1 Q And that's your testimony entered today without</p> <p>2 revision, correct?</p> <p>3 A Correct. The company did create a practice.</p> <p>4 They had already established a practice.</p> <p>5 Q Sitting here today, does the company have a</p> <p>6 business practice of not providing required service to</p> <p>7 distant locations?</p> <p>8 A I can't answer that. Staff's investigation was</p> <p>9 solely focused on Item 240 for Douglas County.</p> <p>10 Q All right. So sitting here today, you have no</p> <p>11 reason to believe, do you, that the company has, now, a</p> <p>12 business practice of not providing required service to</p> <p>13 distant locations, correct?</p> <p>14 A I have -- I can't confirm nor deny that. We</p> <p>15 have not conducted an investigation outside of Douglas</p> <p>16 County Item 240.</p> <p>17 JUDGE BONFRISCO: And Mr. Stanovsky, I</p> <p>18 believe this has been couched in many different ways</p> <p>19 throughout this witness' testimony. Can we go ahead and</p> <p>20 move on?</p> <p>21 ATTORNEY STANOVSKY: Okay. I think so. I</p> <p>22 guess one final question if I might, your Honor.</p> <p>23 Q (By Attorney Stanovsky) So we're here talking</p> <p>24 about the likelihood of recurrence. You have not offered</p> <p>25 any reason to doubt that the practice you described does</p>

<p>1 not exist today. Isn't it relevant, in evaluating the</p> <p>2 likelihood of recurrence, that there is no evidence that</p> <p>3 the problem persists?</p> <p>4 ATTORNEY GAFKEN: Asked and answered.</p> <p>5 ATTORNEY STANOVSKY: I'm talking about the</p> <p>6 present now, which I think we previously had talked about</p> <p>7 the past.</p> <p>8 ATTORNEY GAFKEN: The last four questions</p> <p>9 have been about the present.</p> <p>10 JUDGE BONFRISCO: And I'm going to go</p> <p>11 ahead and sustain that, because I think the witness has</p> <p>12 made very clear the scope of the investigation and what</p> <p>13 it focused on.</p> <p>14 ATTORNEY STANOVSKY: All right. I'll move</p> <p>15 on.</p> <p>16 Q (By Attorney Stanovsky) So moving down to the</p> <p>17 very end of page 16, Ms. Feeser, do you see where -- the</p> <p>18 phrase that starts "staff believes"?</p> <p>19 JUDGE BONFRISCO: And just to clarify, are</p> <p>20 you referring to her rebuttal testimony?</p> <p>21 ATTORNEY STANOVSKY: I'm sorry. No. Her</p> <p>22 direct testimony, BF-1T.</p> <p>23 JUDGE BONFRISCO: Okay. Thank you.</p> <p>24 ATTORNEY STANOVSKY: Yeah.</p> <p>25 ATTORNEY GAFKEN: I'm sorry. What was the</p>	<p>1 at this point?</p> <p>2 ATTORNEY STANOVSKY: Well, I mean -- I</p> <p>3 guess, you know, 45 minutes-ish, you know. Maybe a</p> <p>4 little more, depending on if, you know, we bog down,</p> <p>5 which I'll try not to.</p> <p>6 JUDGE BONFRISCO: Okay.</p> <p>7 ATTORNEY STANOVSKY: But that whereabouts.</p> <p>8 JUDGE BONFRISCO: Let's see what kind of</p> <p>9 progress we can make. Thanks.</p> <p>10 Q (By Attorney Stanovsky) So 7X, Ms. Feeser, are</p> <p>11 you there?</p> <p>12 A I am there.</p> <p>13 Q Thank you.</p> <p>14 I'm sorry. I just read the wrong number in my</p> <p>15 notes. 17X is what I meant to go to.</p> <p>16 JUDGE BONFRISCO: And I don't believe 17X</p> <p>17 has been admitted yet. So if you want to -- yeah. Go</p> <p>18 ahead and lay foundation.</p> <p>19 ATTORNEY STANOVSKY: Sure. So this is</p> <p>20 just a PDF printout of a web page on the commission</p> <p>21 website. That URL is at the bottom.</p> <p>22 And I'm only offering it as a way of</p> <p>23 indicating the various counties throughout Washington</p> <p>24 where Waste Management serves under commission</p> <p>25 jurisdiction. So I think it probably would be subject to</p>
<p>1 page reference?</p> <p>2 ATTORNEY STANOVSKY: 16.</p> <p>3 ATTORNEY GAFKEN: Thank you.</p> <p>4 ATTORNEY STANOVSKY: The very end of the</p> <p>5 page is the phrase starting "Staff believes."</p> <p>6 THE WITNESS: I'm there.</p> <p>7 Q (By Attorney Stanovsky) Would you please read</p> <p>8 from there to the end of the sentence on the next page?</p> <p>9 A Staff believes that noncompliance could be</p> <p>10 spread across the company's entire service area, and</p> <p>11 without commission intervention, the company's practices</p> <p>12 could continue.</p> <p>13 Q So let's look at Exhibit BF-7X.</p> <p>14 ATTORNEY STANOVSKY: And while we're</p> <p>15 getting there, your Honor, I meant to mention before the</p> <p>16 break, so I'll just say it now. Based on my two-hour</p> <p>17 estimate of cross, you know, we were roughly in the</p> <p>18 ballpark of halfway through when we took the break, my</p> <p>19 outline, and that had been roughly an hour. So I think,</p> <p>20 you know, roughly speaking, I seem to be pretty on track</p> <p>21 with the timing.</p> <p>22 JUDGE BONFRISCO: And I appreciate that.</p> <p>23 And I still -- I'm still hopeful we can get done by noon.</p> <p>24 I know that staff estimates, you know, just 20 minutes.</p> <p>25 But how much longer do you think you have</p>	<p>1 official notice of the commission.</p> <p>2 JUDGE BONFRISCO: Let me just take a look,</p> <p>3 get that pulled up really quick. Sorry. My computer is</p> <p>4 a little slow.</p> <p>5 So yes. We're willing to take judicial</p> <p>6 notice of that.</p> <p>7 ATTORNEY GAFKEN: And staff also does not</p> <p>8 object to Exhibit BF-17X if it's being used as an</p> <p>9 illustrative exhibit.</p> <p>10 JUDGE BONFRISCO: And that's the case,</p> <p>11 correct, Mr. Stanovsky?</p> <p>12 ATTORNEY STANOVSKY: I suppose technically</p> <p>13 you could view it that I'm using it as evidence of the</p> <p>14 counties that Waste Management serves. That would be the</p> <p>15 most expansive view of what I'm doing with it.</p> <p>16 ATTORNEY GAFKEN: And Washington has the</p> <p>17 counties that we have in our state, and I think everyone</p> <p>18 can agree that the counties are what they are and that</p> <p>19 the commission would accurately reflect them on the</p> <p>20 website. But I think -- well, I'll stop there.</p> <p>21 JUDGE BONFRISCO: I'm going to allow it in</p> <p>22 the record. Go ahead and proceed.</p> <p>23 ATTORNEY STANOVSKY: Thank you.</p> <p>24 Q (By Attorney Stanovsky) So Ms. Feeser, I'll</p> <p>25 represent to you, and I guess ask you in the interest of</p>

<p>1 time, to accept subject to check that this website lists</p> <p>2 16 counties in which Waste Management offers UTC</p> <p>3 jurisdictional service. Is that acceptable?</p> <p>4 A That's acceptable.</p> <p>5 Q So let's also have side by side, if we could,</p> <p>6 Exhibit 16X, the spreadsheet of the 17 customers outside</p> <p>7 the one Douglas route receiving noncompliant service.</p> <p>8 A Okay.</p> <p>9 Q So if you look at the last page of 16X, you see</p> <p>10 the column labeled Municipalities CD?</p> <p>11 A Yes.</p> <p>12 Q I'll suggest to you that each of these refers</p> <p>13 to a county, Benton, Douglas, Chelan, Kittitas, King, and</p> <p>14 Snohomish.</p> <p>15 And that if you were to flip back to page 5,</p> <p>16 you could correlate the listed service cities with those.</p> <p>17 In any case, looking at the list of cities, do</p> <p>18 you know where Wenatchee is?</p> <p>19 A Yes.</p> <p>20 Q It's in Chelan County, yes?</p> <p>21 A I don't know what county. I know it's in</p> <p>22 Eastern Washington.</p> <p>23 Q I'll suggest that Wenatchee, Leavenworth,</p> <p>24 Cashmere, and Peshastin in this list are all in Chelan</p> <p>25 County, and I guess ask you to accept that subject to</p>	<p>1 A Yes.</p> <p>2 Q And Okanogan?</p> <p>3 A Yes.</p> <p>4 Q Pierce?</p> <p>5 A Yes.</p> <p>6 Q And Skagit?</p> <p>7 A Yes.</p> <p>8 Q And Spokane?</p> <p>9 A Yes.</p> <p>10 Q And Whatcom?</p> <p>11 A Yes.</p> <p>12 Q So it looks like to me like out of these 17</p> <p>13 customers, we have ten in Chelan County, one or two each</p> <p>14 in a handful of others, and ten counties that Waste</p> <p>15 Management serves with no indication of noncompliant</p> <p>16 service. Would you accept that?</p> <p>17 A Subject to a deeper look and review of that.</p> <p>18 Q Certainly. Subject to check is fine.</p> <p>19 ATTORNEY GAFKEN: I'm actually not sure</p> <p>20 how we would check that. If I understood the question</p> <p>21 correctly, Mr. Stanovsky is asking whether -- about the</p> <p>22 character of service in those territories or counties,</p> <p>23 and I don't think we can check that based on the record</p> <p>24 that's in this case.</p> <p>25 ATTORNEY STANOVSKY: I asked whether</p>
<p>1 check?</p> <p>2 A I accept it subject to check.</p> <p>3 Q All right. So about half or more of these 17</p> <p>4 customers are located in Chelan County.</p> <p>5 The other half, if you were to accept my</p> <p>6 description of the county abbreviations on the last page,</p> <p>7 are distributed across, it looks to me, like one in</p> <p>8 Benton, one in Douglas, two in Kittitas, two in King, and</p> <p>9 one in Snohomish. Is that count right, assuming I've got</p> <p>10 the counties correct?</p> <p>11 A I'd say close enough.</p> <p>12 Q So looking at 17X and the list of counties the</p> <p>13 commission serves -- and again, I'm addressing your</p> <p>14 testimony that staff was concerned that the noncompliance</p> <p>15 could be spread across the company's entire service area.</p> <p>16 You see that Grant County lists Waste Management as a</p> <p>17 regulated company there on 17X?</p> <p>18 A Yes.</p> <p>19 Q And Island County as well?</p> <p>20 A Yes.</p> <p>21 Q Kitsap as well?</p> <p>22 A Yes.</p> <p>23 Q And Lincoln?</p> <p>24 A Yes.</p> <p>25 Q And Mason?</p>	<p>1 there's any indication of noncompliant service frequency</p> <p>2 in any of those counties. Obviously --</p> <p>3 JUDGE BONFRISCO: Well, I do think that</p> <p>4 Mrs. Gafken is correct. There wouldn't be anything</p> <p>5 outside of this record. It would have to be subject to</p> <p>6 check, you know, based on unrelated matters. So I'm not</p> <p>7 sure exactly --</p> <p>8 ATTORNEY GAFKEN: And I would say that's</p> <p>9 not an appropriate use of subject to check.</p> <p>10 ATTORNEY STANOVSKY: Well, I guess let me</p> <p>11 suggest this: You have the confidential version of the</p> <p>12 spreadsheet with the 17 customer addresses. You could</p> <p>13 verify the counties in which those customers are located.</p> <p>14 And that would allow you to confirm that all the rest of</p> <p>15 the counties that we just went through have no indication</p> <p>16 of a relevant service issue.</p> <p>17 JUDGE BONFRISCO: And I'm hoping maybe,</p> <p>18 Mr. Stanovsky, you could clarify this for the record as</p> <p>19 well, because I know prior to this, you had made it clear</p> <p>20 that none of the redacted content you intended to rely</p> <p>21 upon at this proceeding.</p> <p>22 But it seems like that we're kind of going</p> <p>23 into a territory, you know, of asking this witness for</p> <p>24 her further review of this, when in fact the only thing</p> <p>25 submitted before the presiding officers to date is the</p>

<p>1 redacted version. So I guess I'm just not sure where 2 you're going at this point.</p> <p>3 ATTORNEY GAFKEN: And also to respond that 4 we've already established that staff did not look into 5 the particulars of the 17. We accepted the company's 6 statements about them.</p> <p>7 Again, I don't believe that this is an 8 appropriate use of subject to check. We have the record 9 that we have, even with the redacted versions. And 10 Mr. Stanovsky can make this argument on brief.</p> <p>11 JUDGE BONFRISCO: So if this is officially 12 your objection, Ms. Gafken, then I'm going to go ahead 13 and sustain it.</p> <p>14 ATTORNEY STANOVSKY: I was willing to 15 withdraw it anyway, but fair enough.</p> <p>16 JUDGE BONFRISCO: Okay. Thank you.</p> <p>17 Q (By Attorney Stanovsky) So back on your direct 18 testimony, where we were looking at the bottom of 16, top 19 of 17, your testimony was that staff believes the 20 noncompliance could be spread across the company's entire 21 service area. Do you recall that?</p> <p>22 A Yes, I recall that.</p> <p>23 Q Do you have the same concerns sitting here 24 today?</p> <p>25 A I don't have an opinion.</p>	<p>1 So I -- I cannot say whether or not the problem 2 has been fixed across all service areas, or how bad it 3 was across all service areas. Staff had a --has a 4 concern that it existed. The company is saying they 5 fixed it. Okay. The company is saying they did. But I 6 have nothing -- I have not -- we have not investigated 7 other areas outside of 240.</p> <p>8 So I'm sorry. I don't know how else to say 9 that outside of our investigation into Douglas County, I 10 can't say that the issue does not exist across the rest 11 of the service areas.</p> <p>12 What we generally find in investigations is if 13 an area is impacted, it generally does creep into other 14 areas.</p> <p>15 Q And I assume that's the basis for the statement 16 when you filed your direct testimony last fall that we 17 were looking at.</p> <p>18 I'm trying to understand whether staff believes 19 today that this noncompliance could be spread across the 20 entire service area. And again, we're talking about the 21 likelihood of recurrence of this problem.</p> <p>22 So I don't think I've gotten a clear answer 23 whether, sitting here today, staff believes the 24 noncompliance could be spread across the company's entire 25 service area.</p>
<p>1 As I've stated, I've not received, reviewed, 2 looked at any documentation other than what was the 3 source of the investigation, which was the 25 customers 4 in Douglas County.</p> <p>5 So I'm not making a claim the company hasn't 6 corrected, but I'm just -- you know, I can't say I have 7 the knowledge that everything is operating as is should 8 under Item 240, because I've not received or reviewed 9 anything.</p> <p>10 Q So I think in answer to my question, you said 11 you can't give an opinion; is that right?</p> <p>12 A I can't give an opinion if everything has been 13 fixed.</p> <p>14 Q Okay. So in your testimony that we're looking 15 at here, prefiled testimony, you give an opinion that 16 staff has a concern that the violations could be spread 17 across the company's entire service area. But sitting 18 here today, you can't give an opinion whether that 19 concern is still valid, correct?</p> <p>20 A No, it's not correct. I mean, the concern 21 exists. The concern exists. The company has indicated 22 they did an audit. They found 17 additional customers 23 that were not receiving the service they should under 24 240. All of that is just hearing of words, of 25 information.</p>	<p>1 ATTORNEY GAFKEN: The witness has answered 2 the question.</p> <p>3 ATTORNEY STANOVSKY: Okay.</p> <p>4 JUDGE BONFRISCO: And I think I'm going to 5 agree with that at this point. I think she's made it 6 very clear what the scope of the investigation entailed, 7 and that some of the line of questioning is outside of 8 her personal knowledge. So.</p> <p>9 ATTORNEY STANOVSKY: Well, that's fair 10 enough, your Honor, but I do think it's fair for the 11 company to clarify what the limits of her personal 12 knowledge are. And that's part of what I'm trying to do 13 here. But I agree with you. I think on this line, we've 14 got what we're going to get.</p> <p>15 JUDGE BONFRISCO: Okay. Thank you.</p> <p>16 Q (By Attorney Stanovsky) So Ms. Feeser, in 17 discovery, staff didn't even ask about the results of 18 Waste Management's service frequency review, did it?</p> <p>19 A I don't believe we did.</p> <p>20 Q Would it be right to say that staff has public 21 counsel to thank for having the data about those 17 22 customers at all?</p> <p>23 ATTORNEY GAFKEN: Objection.</p> <p>24 Argumentative.</p> <p>25 JUDGE BONFRISCO: I'm going to go ahead</p>

<p>1 and sustain that.</p> <p>2 Q (By Attorney Stanovsky) Would it be fair to</p> <p>3 say you wouldn't have the information had public counsel</p> <p>4 not requested it?</p> <p>5 ATTORNEY GAFKEN: Objection. Speculation.</p> <p>6 JUDGE BONFRISCO: Mr. Stanovsky, do you</p> <p>7 have anything to reply in regard to that?</p> <p>8 What are your thoughts?</p> <p>9 ATTORNEY STANOVSKY: The speculation would</p> <p>10 be the implication that staff might have requested it on</p> <p>11 its own. I'm just trying to understand the argument.</p> <p>12 ATTORNEY GAFKEN: Also, it misstates the</p> <p>13 record. We do have information about the 17 customers</p> <p>14 outside of the discovery request. So I don't think it's</p> <p>15 properly premised.</p> <p>16 JUDGE BONFRISCO: Okay. Mr. Stanovsky,</p> <p>17 before I rule, is there --</p> <p>18 ATTORNEY STANOVSKY: I'll move on.</p> <p>19 JUDGE BONFRISCO: So you're going to go</p> <p>20 ahead and withdraw the question?</p> <p>21 I'll sustain the objection, and go ahead</p> <p>22 and move on. Thank you.</p> <p>23 Q (By Attorney Stanovsky) All right. So now I</p> <p>24 want to move on to Enforcement Factor 10, which is the</p> <p>25 company's existing compliance program. And you can check</p>	<p>1 Q And it seems to me that searching for a</p> <p>2 compliance plan is even narrower than evaluating the</p> <p>3 sufficiency of a compliance program. Would you agree</p> <p>4 with that?</p> <p>5 A Not necessarily, no.</p> <p>6 No, I don't, because I believe in Mr. Brooks'</p> <p>7 testimony, he outlined the company's compliance program,</p> <p>8 if I'm stating} that correctly from his testimony. And</p> <p>9 -- but that compliance program did not work in this case.</p> <p>10 If the company brought that forward in the</p> <p>11 testimony to show they had a compliance program, it did</p> <p>12 not work. It broke down. It didn't work.</p> <p>13 Q (Inaudible) the question was about whether</p> <p>14 searching for a compliance plan is narrower than what</p> <p>15 would be construed as a compliance program.</p> <p>16 But I guess I'll withdraw the question.</p> <p>17 Your statement that in a formal compliance</p> <p>18 investigation, staff searches for compliance plans that</p> <p>19 are relevant to the violations found in that particular</p> <p>20 violation, would you agree that's a pretty narrow</p> <p>21 inquiry?</p> <p>22 A I'm not going to say it's a narrow inquiry.</p> <p>23 We search to see if we have anything on record</p> <p>24 that shows the company had something in place to address</p> <p>25 the issue, this particular issue.</p>
<p>1 that if you want on Exhibit 13-X at page nine, again.</p> <p>2 A Okay. I'm sorry. Did you say the existing</p> <p>3 compliance program section? Okay.</p> <p>4 Q But what --</p> <p>5 A I'm there.</p> <p>6 Q -- is your --</p> <p>7 A My response to that?</p> <p>8 Q Well, actually, Exhibit 12-X.</p> <p>9 A Okay. I'm there.</p> <p>10 Q Which I believe was admitted under stipulation.</p> <p>11 JUDGE BONFRISCO: That's correct.</p> <p>12 Q (By Attorney Stanovsky) So in Part A of this</p> <p>13 request, Waste Management asked staff's understanding</p> <p>14 whether this factor is limited to the company's</p> <p>15 compliance program as it relates to the specific</p> <p>16 violations in a case, or if the company broadly considers</p> <p>17 the compliance program for UTC compliance in general. Is</p> <p>18 that a fair summary?</p> <p>19 A Yes.</p> <p>20 Q And in the response to A, third sentence, you</p> <p>21 wrote, In a formal compliance investigation, staff</p> <p>22 searches for compliance plans that are relevant to the</p> <p>23 violations found in that particular investigation. Do</p> <p>24 you see that?</p> <p>25 A Yes.</p>	<p>1 Q Okay.</p> <p>2 A And that's what we did in this case.</p> <p>3 Q When you say you search, what do you search?</p> <p>4 A We search our compliance investigations</p> <p>5 database for any prior investigations.</p> <p>6 We search the docket history to see if there's</p> <p>7 been any formal complaints on this similar topic to where</p> <p>8 a compliance plan was put in place.</p> <p>9 We search our consumer complaint database. And</p> <p>10 specific to this, where there was a consumer complaint on</p> <p>11 it, we search to see if the company presented a plan or a</p> <p>12 commitment of how they were going to fix the issue to</p> <p>13 ensure compliance moving forward. Those are all things</p> <p>14 that we search.</p> <p>15 Q Okay. And let's look at Exhibit 9-X.</p> <p>16 A Okay.</p> <p>17 Q And I believe this has already been admitted as</p> <p>18 well as a discovery response.</p> <p>19 So you see part A asks -- this is Waste</p> <p>20 Management asking staff to identify and describe</p> <p>21 compliance programs by commission regulated companies</p> <p>22 that staff believes are positive examples as relevant to</p> <p>23 this factor. Do you see that?</p> <p>24 A Yes.</p> <p>25 Q And would you read the response in A, please?</p>

<p>1 A Staff is unaware of other complaints against 2 companies for not providing service to customers under 3 Tariff 14, Item 240, permanent container pickup service, 4 which requires every-other-week pickup service; 5 therefore, staff is unaware of positive compliance plan 6 related to this issue.</p> <p>7 Q So staff would only view a compliance program 8 positively if it included a plan specific to compliance 9 with Item 240, service frequency, on the facts of this 10 case?</p> <p>11 A That was what we were reporting on in our 12 investigative report.</p> <p>13 Q So, in general, a positive compliance program 14 with respect to any particular violation has to narrowly 15 address that specific type of violation; is that your 16 view?</p> <p>17 A I think we're talking two different things, 18 potentially.</p> <p>19 The commission -- I'm telling you what 20 commission staff looks for in the course of our 21 investigation.</p> <p>22 That does not mean that -- I'm not speaking for 23 the commission in what the commission is looking for or 24 what they're going to base decisions on.</p> <p>25 I am telling you what commission staff looks</p>	<p>1 Q Yes.</p> <p>2 A Yeah, no, that question, that factor, is about 3 what is the company's compliance history. We report on 4 the compliance history, no matter what the subject or 5 topic of that --</p> <p>6 Q Okay. That's --</p> <p>7 A -- history was.</p> <p>8 Q So it doesn't matter how long ago the case was?</p> <p>9 A I don't -- there is no set timeline of what we 10 report on.</p> <p>11 Q Mm-hm. And it doesn't sound like staff would 12 view there as being any limit on the nature of the 13 violations that would be relevant to report on for 14 purposes of this factor, would there?</p> <p>15 A On this, what staff reported on, I believe were 16 compliance investigations. Staff did not report on all 17 penalties the company has received.</p> <p>18 I believe -- and I can go to my -- or go to the 19 investigative report to confirm, but I believe there's a 20 statement in there that also says there were several 21 cases for safety violations. We did not list all of 22 those.</p> <p>23 Q I'm not asking whether you were comprehensive 24 in what you did list.</p> <p>25 I'm asking -- I'm trying to understand if</p>
<p>1 for in the course of our investigations.</p> <p>2 Q Okay. And it isn't relevant to staff how good 3 the company's systems are for complying with commission 4 regulation across the board; is that fair?</p> <p>5 A We're going to report what we find, and the 6 commission will make the decision.</p> <p>7 Q Okay. But when it comes to Factor 9, the 8 company's past compliance history, it seems that it is 9 relevant to staff, for example, that a dozen years ago, 10 Waste Management had difficulty providing service during 11 a labor strike; is that fair?</p> <p>12 A That was included in the compliance history, 13 yes.</p> <p>14 Q So you --</p> <p>15 A -- as well as other cases.</p> <p>16 Q We just talked about the narrowness of staff's 17 inquiry on the compliance program factor, but now that 18 we're talking about past compliance issues, violations, 19 is there any sort of outer bound on what you would view 20 as a relevant circumstance for the purpose of the 21 violation history?</p> <p>22 A You mean when we report out of the compliance 23 history for the company?</p> <p>24 Q Mm-hm.</p> <p>25 A Is that what you mean?</p>	<p>1 there's an outer bound of a sort of violation that is so 2 old or so irrelevant that it wouldn't bear on Factor 9 in 3 your view.</p> <p>4 A Our standard process is we look up compliance 5 investigation cases, and that went formal. Formal 6 compliance investigation cases -- actually formal cases, 7 sorry. I'm going to back up.</p> <p>8 Not formal compliance investigation, but formal 9 cases, where penalties were assessed. And we are going 10 to report on them. We are not going to determine what 11 were the penalties for and then make a decision whether 12 to include that or not.</p> <p>13 Q Okay.</p> <p>14 A And as for how old, I mean, to be honest with 15 you, I'm probably not going to sit there and try to go 16 back to the company -- if the company's been around for 17 40 years, I'm not going to sit there and go back 30 18 years, 40 years.</p> <p>19 But no. There is no set date that we have that 20 we will not go back any further than this.</p> <p>21 Q Thank you.</p> <p>22 So staying with Factor 9 --</p> <p>23 ATTORNEY STANOVSKY: Actually, your Honor, 24 if I could just have a brief pause to confer (inaudible) 25 with my client, would that be acceptable?</p>

<p>1 JUDGE BONFRISCO: Yes. But I do just want 2 to just make a note on time. I know we're at 11:40. So 3 I just want to be mindful of the time. 4 ATTORNEY STANOVSKY: And I'm close to the 5 end here, too. 6 JUDGE BONFRISCO: Okay. All right. Thank 7 you. 8 ATTORNEY STANOVSKY: And if my team is 9 listening on the Zoom, please meet me in our chat. 10 (Pause in proceedings.) 11 ATTORNEY STANOVSKY: Okay, thank you for 12 that, your Honor. I didn't mute, did I? You can still 13 hear me? 14 JUDGE BONFRISCO: I can hear you. Go 15 ahead and proceed. 16 ATTORNEY STANOVSKY: Actually, Waste 17 Management has no further questions. Thank you. 18 JUDGE BONFRISCO: Oh, okay. Thank you. 19 Ms. Gafken, do you have any redirect for 20 this witness? 21 ATTORNEY GAFKEN: Just a little bit. It 22 shouldn't take too long. Sorry. I have to find the 23 questions again, though. 24 25</p>	<p>REDIRECT EXAMINATION BY ATTORNEY GAFKEN 1 Q And we don't know why they didn't receive 2 compliant service, but we do know that they didn't 3 receive compliant service, correct? 4 A Correct. 5 ATTORNEY STANOVSKY: Objection. Your 6 Honor. Leading. 7 ATTORNEY GAFKEN: I was trying to 8 summarize the testimony. 9 JUDGE BONFRISCO: I'm going to go ahead 10 and overrule the objection. 11 Q (By Attorney Gafken) Ms. Feeser, I believe you 12 answered the question before the objection came in. 13 Could you answer -- 14 A I said correct. 15 Q You were asked a number of questions about 16 staff's concern about recurrence. Do you recall that 17 line of questioning? 18 A Yes. 19 Q What role, if any, does the 17 customers play 20 in staff's concern about recurrence? 21 A None. I mean, really, none. 22 When staff conducted this investigation, the 23 focus, you know, and our recommendation was based, and 24 our concerns were based, on 25 customers in Douglas 25 County that didn't receive the level of service they were</p>
<p>REDIRECT EXAMINATION BY ATTORNEY GAFKEN 1 REDIRECT EXAMINATION 2 BY ATTORNEY GAFKEN: 3 Q Ms. Feeser, you were asked a number of 4 questions about the 17 customers identified by Waste 5 Management. Do you recall that line of questioning? 6 A Yes. 7 Q And you were asked questions about why they 8 might be receiving monthly service. Do you recall that? 9 A Yes. 10 Q Or do you recall the questions? 11 A Well, there were a lot of questions about the 12 17 customers. 13 Q What do we know about the 17 customers? 14 A We know that the company stated in their answer 15 to the complaint -- I believe that's where it was stated 16 -- that they had done an audit and they found 17 -- I 17 actually would want to verify this, but I believe they 18 stated they found 17 additional customers who didn't 19 receive the level of service they were supposed to under 20 -- I believe it's specific under Item 240. So we know 21 the company stated that. 22 Other than that, I don't know anything else 23 outside of this Excel spreadsheet that was provided to 24 public counsel, but then included as a cross exhibit in 25 this case from the company.</p>	<p>REDIRECT EXAMINATION BY ATTORNEY GAFKEN 1 supposed to. 2 With that group of individuals, that led us to 3 have concerns that that could be occurring elsewhere, and 4 as -- I'm sorry. Was this about recurrence? 5 Q Yes. 6 A Sorry. And in the recurrence factor, what was 7 (inaudible) staff position on why it could reoccur is 8 when technical assistance is provided to a company, and 9 very specific technical assistance that you're out of 10 compliance with, even a recommendation stating in that 11 technical assistance that the company -- if the company 12 doesn't want to provide this level of service, they 13 should submit an updated tariff to the commission; when 14 none of the technical assistance is acted upon, and the 15 noncompliance continues, staff does have concern of 16 reoccurrence. And not let's just fix something quickly 17 to address a formal complaint that was filed. It causes 18 concerns. 19 ATTORNEY GAFKEN: Thank you. I have no 20 further questions. 21 JUDGE BONFRISCO: Thank you so much, 22 Ms. Gafken. 23 With that, I would like to call company 24 witness Chad Brooks forward. 25 And Mr. Brooks, I'm going to go ahead and</p>

<p>DIRECT EXAMINATION BY ATTORNEY STANOVSKY</p> <p>1 swear you in, if you could just raise your right hand.</p> <p>2 Do you swear or affirm that the testimony</p> <p>3 you will give today will be the truth, the whole truth,</p> <p>4 and nothing but the truth?</p> <p>5 THE WITNESS: Yes.</p> <p>6 JUDGE BONFRISCO: Okay. Thank you.</p> <p>7 You may proceed.</p> <p>8 ATTORNEY STANOVSKY: Thank you.</p> <p>9</p> <p>10 DIRECT EXAMINATION</p> <p>11 BY ATTORNEY STANOVSKY:</p> <p>12 Q Mr. Brooks, would you please for the record</p> <p>13 state your name and title at Waste Management?</p> <p>14 A Yeah. My name is Chad Brooks; that's C-H-A-D,</p> <p>15 B-R-O-O-K-S. I am the director of operations for the</p> <p>16 PNW/BC, surveying BC, Washington, Idaho, Oregon, Alaska</p> <p>17 -- I think I said Alaska already. And yeah. Idaho.</p> <p>18 Q Thank you.</p> <p>19 And you have what's marked as Exhibits CB-1T,</p> <p>20 CB-2, and CB-3?</p> <p>21 A I do.</p> <p>22 Q Is Exhibit CB-1T the direct testimony you</p> <p>23 prepared in this case?</p> <p>24 A It is.</p> <p>25 Q And do you recall that Waste Management filed</p>	<p>DIRECT EXAMINATION BY ATTORNEY STANOVSKY</p> <p>1 the witness is yours for cross.</p> <p>2 ATTORNEY GAFKEN: Thank you.</p> <p>3 I do have one procedural question before I</p> <p>4 start on the cross. Do we have a hard stop at noon, or</p> <p>5 okay if we go slightly into the noon hour?</p> <p>6 JUDGE BONFRISCO: I think I would</p> <p>7 recommend if we could just forge ahead if the parties are</p> <p>8 okay with that. I think we're close.</p> <p>9 Mr. Stanovsky, do you have any objection</p> <p>10 to that?</p> <p>11 ATTORNEY STANOVSKY: I don't personally,</p> <p>12 but give me five second to see if anyone pipes up in</p> <p>13 our--</p> <p>14 JUDGE BONFRISCO: Okay.</p> <p>15 ATTORNEY GAFKEN: And I don't believe --</p> <p>16 JUDGE BONFRISCO: How about --</p> <p>17 (Overlapping speech)</p> <p>18 ATTORNEY GAFKEN: -- into the noon hour.</p> <p>19 It's just I'm not sure that I can complete this in ten</p> <p>20 minutes.</p> <p>21 JUDGE BONFRISCO: That's fair. And we</p> <p>22 might even have, you know, redirect. So I think if the</p> <p>23 parties are comfortable with that.</p> <p>24 ATTORNEY STANOVSKY: Waste Management is</p> <p>25 good with that, your Honor.</p>
<p>DIRECT EXAMINATION BY ATTORNEY STANOVSKY</p> <p>1 an errata to this testimony?</p> <p>2 A I do. Just that my territory arrangement has</p> <p>3 changed since my submission of this testimony.</p> <p>4 Q And to sort of summarize the nature of that</p> <p>5 change, you're in the same role, as I understand it, at</p> <p>6 Waste Management --</p> <p>7 A That is correct.</p> <p>8 Q And the same UTC compliance obligations, but</p> <p>9 with respect to a different part of Washington state,</p> <p>10 correct?</p> <p>11 A That is correct.</p> <p>12 Q Thank you.</p> <p>13 And other than that change, do you have any</p> <p>14 changes to Exhibit CB-1T or the attached Exhibits CB-2</p> <p>15 and CB-3?</p> <p>16 A I do not.</p> <p>17 ATTORNEY STANOVSKY: With that, your</p> <p>18 Honor, I believe, I guess I move to admit, though I think</p> <p>19 we've stipulated.</p> <p>20 JUDGE BONFRISCO: I think we have</p> <p>21 stipulated. But I do appreciate you clarifying for the</p> <p>22 record the basis for the errata. Thank you.</p> <p>23 ATTORNEY STANOVSKY: And with that, tender</p> <p>24 Mr. Brooks for questioning.</p> <p>25 JUDGE BONFRISCO: All right. Ms. Gafken,</p>	<p>EXAMINATION BY ATTORNEY GAFKEN</p> <p>1 JUDGE BONFRISCO: I think we're close</p> <p>2 here, if everybody's okay. I think hopefully we could</p> <p>3 complete this by 12:20, 12:30.</p> <p>4 ATTORNEY GAFKEN: We will do our best.</p> <p>5 JUDGE BONFRISCO: Okay. Thank you.</p> <p>6 ATTORNEY GAFKEN: Thank you.</p> <p>7</p> <p>8 CROSS-EXAMINATION</p> <p>9 BY ATTORNEY GAFKEN:</p> <p>10 Q Good morning, Mr. Brooks.</p> <p>11 A Good morning.</p> <p>12 Q Would you please turn to your testimony,</p> <p>13 Exhibit CB-1T, and go to page 2, lines 2 through 10?</p> <p>14 A Two through 10. I'm here.</p> <p>15 Q Perfect. In this portion of your testimony,</p> <p>16 you describe your experience with Waste Management of</p> <p>17 Washington, correct?</p> <p>18 A Correct.</p> <p>19 Q So throughout my questioning, I'm going to</p> <p>20 refer to Waste Management of Washington as Waste</p> <p>21 Management, just for clarity.</p> <p>22 A Understood.</p> <p>23 Q You testify that prior to May 2024, you oversaw</p> <p>24 operations and safety measures for 250 employees across</p> <p>25 five collection sites in British Columbia, Canada,</p>

<p style="text-align: center;">EXAMINATION BY ATTORNEY GAFKEN</p> <p>1 correct?</p> <p>2 A That is correct.</p> <p>3 Q And then in May 2024, you assumed a new role</p> <p>4 that oversees 20 locations, including Waste Management's</p> <p>5 Central and Eastern Washington operations, correct?</p> <p>6 A That is correct.</p> <p>7 Q And I believe that's what you were just talking</p> <p>8 about in your introduction, that that service territory</p> <p>9 may have changed?</p> <p>10 A It has. It has changed from Eastern/Central</p> <p>11 Washington to Western Washington, within Washington</p> <p>12 itself.</p> <p>13 Q Do you still oversee Central and Eastern</p> <p>14 Washington operations?</p> <p>15 A I do not.</p> <p>16 Q Okay. Prior to you assuming your current role</p> <p>17 in May 2024, did that position exist within the company?</p> <p>18 A It did, yes.</p> <p>19 Q And were the responsibilities the same as the</p> <p>20 responsibilities that you assumed in May 2024?</p> <p>21 A They are the same, yes, confirmed.</p> <p>22 Q Okay. Could you please turn to page 4 of your</p> <p>23 testimony, Exhibit CB-1T? And go to lines 6 through 9.</p> <p>24 A I'm here.</p> <p>25 Q There you testify about the technical</p>	<p style="text-align: center;">EXAMINATION BY ATTORNEY GAFKEN</p> <p>1 the customer's rate by charging half the Tariff 14, Item</p> <p>2 240 rate to account for monthly instead of</p> <p>3 every-other-week service?</p> <p>4 ATTORNEY STANOVSKY: Objection, your</p> <p>5 Honor. I'd like to clarify who the customer is that</p> <p>6 Ms. Gafken is referring to.</p> <p>7 ATTORNEY GAFKEN: I'm referring to the</p> <p>8 customer in the informal complaint.</p> <p>9 ATTORNEY STANOVSKY: Thank you.</p> <p>10 JUDGE BONFRISCO: Okay. I'm going to go</p> <p>11 ahead and -- I guess it seems like it's been resolved.</p> <p>12 ATTORNEY STANOVSKY: Yes.</p> <p>13 JUDGE BONFRISCO: Okay. Thank you.</p> <p>14 Go ahead Ms. Gafken.</p> <p>15 Q (By Attorney Gafken) Mr. Brooks does cite to</p> <p>16 the informal complaint which was attached to the staff</p> <p>17 investigation report, and I am exploring what he's aware</p> <p>18 of in terms of the violations in that case.</p> <p>19 JUDGE BONFRISCO: I'm going to allow you</p> <p>20 to proceed with your line of questioning for the record.</p> <p>21 ATTORNEY GAFKEN: Okay. And I just have a</p> <p>22 couple of these questions left on this line, and then</p> <p>23 we'll move on to another topic.</p> <p>24 Q (By Attorney Gafken) Mr. Brooks, are you aware</p> <p>25 that Waste Management adjusted the customer's rate by</p>
<p style="text-align: center;">EXAMINATION BY ATTORNEY GAFKEN</p> <p>1 assistance staff provided to Waste Management during the</p> <p>2 informal complaint in 2022, correct?</p> <p>3 A Correct.</p> <p>4 Q You point to one sentence, and I quote, Waste</p> <p>5 Management must provide and bill for our service in a</p> <p>6 manner consistent with the conditions described in its</p> <p>7 approved tariff, end quote. Did I read that correctly?</p> <p>8 A That is correct.</p> <p>9 Q Is that sentence your understanding of the</p> <p>10 extent of the technical assistance received by Waste</p> <p>11 Management in 2022?</p> <p>12 A That is the extent of the technical assistance,</p> <p>13 yes.</p> <p>14 Q Are you aware that staff encouraged Waste</p> <p>15 Management to contact the UTC's regulatory services to</p> <p>16 explore tariff options?</p> <p>17 A I'm not aware of that.</p> <p>18 Q Are you aware that staff specifically laid out</p> <p>19 Waste Management's actions that violated its tariffs,</p> <p>20 specifically that the customer received monthly service</p> <p>21 instead of biweekly service and that the tariff required</p> <p>22 every-other-week service?</p> <p>23 A I am aware that there was a violation of the</p> <p>24 district and site with that technical assistance, yes.</p> <p>25 Q Are you aware that Waste Management adjusted</p>	<p style="text-align: center;">EXAMINATION BY ATTORNEY GAFKEN</p> <p>1 charging half of the Tariff, 14 Item 240 rate to account</p> <p>2 for monthly instead of every-other-week service?</p> <p>3 A I am aware, yes.</p> <p>4 Q Are you aware that staff pointed to that</p> <p>5 activity, the rate adjustment, as not complying with the</p> <p>6 tariff in communications with Waste Management?</p> <p>7 A I am aware that the technical staff addressed</p> <p>8 the issue with the staff at the site impacted.</p> <p>9 Q After the informal complaint in 2022, Waste</p> <p>10 Management continued to provide monthly service instead</p> <p>11 of every other service under Tariff 14, Item 240, to</p> <p>12 certain customers in Douglas County, correct?</p> <p>13 A That is correct.</p> <p>14 Q And you testified on page 4 of Exhibit CB-1T,</p> <p>15 lines 10 through 11, that Waste Management did not</p> <p>16 correct the issue identified in the informal complaint</p> <p>17 until staff took further action the following year,</p> <p>18 correct?</p> <p>19 A That is correct.</p> <p>20 Q I'd like to ask a couple of questions about</p> <p>21 your discussions of the commission's enforcement policy.</p> <p>22 Please turn to your testimony CB-1T, page 7, lines 5</p> <p>23 through 8.</p> <p>24 A I'm here.</p> <p>25 Q There you identify the commission's enforcement</p>

<p>EXAMINATION BY ATTORNEY GAFKEN</p> <p>1 objective. Correct?</p> <p>2 A Correct.</p> <p>3 Q Specifically, you identify the commission's</p> <p>4 objective as being that jurisdictional services are safe,</p> <p>5 adequate, efficient and provided at just and reasonable</p> <p>6 prices, correct?</p> <p>7 A Correct.</p> <p>8 Q Would you agree that this objective is with</p> <p>9 respect to enforcing statutes, rules, orders, and</p> <p>10 tariffs?</p> <p>11 A I would agree.</p> <p>12 Q Would you agree that in order to have safe,</p> <p>13 adequate, and efficient services provided at just and</p> <p>14 reasonable rates, we need regulated companies to comply</p> <p>15 with statutes, rules, orders, and tariffs?</p> <p>16 A I would agree.</p> <p>17 Q Now I want to ask you a few questions about</p> <p>18 tariffs. A tariff tells customers what services Waste</p> <p>19 Management offers and at what rates, correct?</p> <p>20 A That is correct.</p> <p>21 Q And tariffs must be approved by the commission</p> <p>22 before they're effective, correct?</p> <p>23 A Correct.</p> <p>24 Q This means that Waste Management cannot offer</p> <p>25 services until the tariff describing the services is</p>	<p>EXAMINATION BY ATTORNEY GAFKEN</p> <p>1 ATTORNEY STANOVSKY: Would you mind</p> <p>2 restating.</p> <p>3 ATTORNEY GAFKEN: Absolutely.</p> <p>4 Q (By Attorney Gafken) In this -- sorry.</p> <p>5 JUDGE BONFRISCO: That's fine. Go ahead</p> <p>6 and proceed. Appreciate you guys doing all this for me.</p> <p>7 Q (By Attorney Gafken) In this case when Waste</p> <p>8 Management charged half for service, it charged a</p> <p>9 customer a rate that had not been reviewed or vetted by</p> <p>10 the commission as it relates to Tariff 14, Item 240; is</p> <p>11 that correct?</p> <p>12 A That is correct.</p> <p>13 Q Mr. Brooks, would you please turn to your</p> <p>14 testimony, Exhibit CB-1T, and go to page 12, lines 2</p> <p>15 through 4?</p> <p>16 A Okay. I'm here.</p> <p>17 Q There you testify that Waste Management</p> <p>18 informed customers that they would receive monthly</p> <p>19 service instead of every-other-week service, correct?</p> <p>20 A For this subset of customers, yes.</p> <p>21 Q You also testified that Waste Management</p> <p>22 provided the service -- I'm sorry. Let me start that</p> <p>23 over again.</p> <p>24 You have also testified that Waste Management</p> <p>25 provided the service the customers were told to expect,</p>
<p>EXAMINATION BY ATTORNEY GAFKEN</p> <p>1 approved by the commission, correct?</p> <p>2 A That is correct.</p> <p>3 Q When the commission approves a tariff it</p> <p>4 reviews the services and rates and determines if they are</p> <p>5 appropriate; is that correct?</p> <p>6 A That is correct.</p> <p>7 Q In this case, Waste Management decided to</p> <p>8 provide monthly service instead of every-other-week</p> <p>9 service to Douglas County customers, correct?</p> <p>10 A For this particular subset of customers, yes.</p> <p>11 Q The commission had not reviewed monthly service</p> <p>12 as it relates to Tariff 14, Item 240, has it?</p> <p>13 A It has not.</p> <p>14 Q In this case, when Waste Management charged</p> <p>15 half for service, it charged customers a rate that had</p> <p>16 not been reviewed or vetted by the commission as it</p> <p>17 relates to Tariff 14, Item 240, correct?</p> <p>18 A That's correct.</p> <p>19 ATTORNEY STANOVSKY: Objection. I think</p> <p>20 the question was framed in terms of what Waste Management</p> <p>21 charged customers. But I think we've only discussed in</p> <p>22 the record one customer in the informal complaint in</p> <p>23 2022.</p> <p>24 ATTORNEY GAFKEN: I'm fine with that</p> <p>25 modification.</p>	<p>EXAMINATION BY ATTORNEY GAFKEN</p> <p>1 correct?</p> <p>2 A I'm sorry. Can you ask that again?</p> <p>3 Q Sure. So I am looking at your testimony on</p> <p>4 page 12, lines 2 through 4. And particularly the last</p> <p>5 line there. You testify that Waste Management provided</p> <p>6 the service that customers were told to expect; is that</p> <p>7 correct?</p> <p>8 A That is correct.</p> <p>9 Q What customers were told to expect monthly</p> <p>10 service was not the service that was required under</p> <p>11 Tariff 14, 240, was it?</p> <p>12 A That is confirmed, yes.</p> <p>13 Q Tariff 14, Item 240, requires every-other-week</p> <p>14 service, correct?</p> <p>15 A That is correct.</p> <p>16 Q Does Waste Management believe that telling</p> <p>17 customers that it would provide monthly service under</p> <p>18 Tariff 14, Item 240, is a mitigating circumstance?</p> <p>19 A Can you rephrase that question?</p> <p>20 Q Sure. Does Waste Management believe that</p> <p>21 telling customers that it would provide monthly service</p> <p>22 instead of every-other-week service under Tariff 14, Item</p> <p>23 240, is a mitigating circumstance?</p> <p>24 ATTORNEY STANOVSKY: I will object, your</p> <p>25 Honor. I think it's vague as to what Ms. Gafken means by</p>

<p>EXAMINATION BY ATTORNEY GAFKEN</p> <p>1 a "mitigating circumstance."</p> <p>2 JUDGE BONFRISCO: Ms. Gafken, do you have</p> <p>3 any comments before I rule?</p> <p>4 ATTORNEY GAFKEN: I'm actually trying to</p> <p>5 get at what Waste Management is trying to tell us in</p> <p>6 terms of telling us that they told their customers that</p> <p>7 they would receive noncompliant service and then provided</p> <p>8 that noncompliant service.</p> <p>9 JUDGE BONFRISCO: So what I'm going to do</p> <p>10 is sustain the objection, but if you could reframe your</p> <p>11 questioning to make it more direct.</p> <p>12 Q (By Attorney Gafken) Mr. Brooks, what is Waste</p> <p>13 Management telling us when you testify the customers were</p> <p>14 told that it was going to be -- that they were going to</p> <p>15 be provided uncompliant service and then the company</p> <p>16 provided the uncompliant service?</p> <p>17 What's the purpose of that testimony?</p> <p>18 A So at this particular site, and with district</p> <p>19 staff, they took it upon themselves to try to offer</p> <p>20 something that we offer in many area locations with</p> <p>21 rightsizing the frequency of pickup, not realizing the</p> <p>22 complexity in the tariff enforcement for this particular</p> <p>23 subset of customers of 25.</p> <p>24 Q Okay. Could you please turn to your testimony,</p> <p>25 Exhibit CB-1T, page 12, line 19, through page 13, line</p>	<p>EXAMINATION BY ATTORNEY GAFKEN</p> <p>1 testimony, when senior management was involved, it was</p> <p>2 quickly rectified.</p> <p>3 Q I appreciate that context.</p> <p>4 But the question was whether Waste Management's</p> <p>5 position is that violations are not intentional unless</p> <p>6 senior management is aware of what the local level staff</p> <p>7 is doing.</p> <p>8 A Yeah, that is not -- so asking the question</p> <p>9 again, was it intentional for Waste Management to -- I'm</p> <p>10 sorry. Just ask that one more time.</p> <p>11 Q I'm sorry. My connection went a little wonky</p> <p>12 in part of that.</p> <p>13 What I'm trying to get at is whether the</p> <p>14 position is that the violations were not intentional</p> <p>15 unless and until -- or unless senior management is aware</p> <p>16 of local activities. You provided some context in your</p> <p>17 answer, but I want to get to the intentional piece of it.</p> <p>18 A Yeah, so it's not intentional to violate</p> <p>19 tariff.</p> <p>20 Q Does senior management have to be aware of what</p> <p>21 is happening in order for the violations to be</p> <p>22 intentional?</p> <p>23 A So in most cases, every case, we expect our</p> <p>24 district staff to comply with the tariff, with the rules</p> <p>25 of our organization across the board.</p>
<p>EXAMINATION BY ATTORNEY GAFKEN</p> <p>1 10, and review that testimony?</p> <p>2 Let me know when you have it in mind.</p> <p>3 JUDGE BONFRISCO: Could you restate the</p> <p>4 reference, Ms. Gafken?</p> <p>5 ATTORNEY GAFKEN: Of course.</p> <p>6 JUDGE BONFRISCO: Thank you.</p> <p>7 ATTORNEY GAFKEN: Page 12, line 19, which</p> <p>8 is where the question is set out; and then the testimony,</p> <p>9 the answer is on page 13 running through line 10.</p> <p>10 JUDGE BONFRISCO: Thank you. Thank you.</p> <p>11 THE WITNESS: Can you ask the question</p> <p>12 once more?</p> <p>13 Q (By Attorney Gafken) Yes. Actually I was just</p> <p>14 asking you to review the testimony --</p> <p>15 A Okay.</p> <p>16 Q Let me know when you --</p> <p>17 A I'm here.</p> <p>18 Q Is it Waste Management's position that the</p> <p>19 violations are not intentional unless senior management</p> <p>20 is aware of the company's local level activities?</p> <p>21 A We believe this situation is very isolated to</p> <p>22 the district staff at this piece. And we're not running</p> <p>23 from the fact that they made an incredible error as it</p> <p>24 relates to the tariff.</p> <p>25 Once senior management -- as part of this</p>	<p>EXAMINATION BY ATTORNEY GAFKEN</p> <p>1 In this case, there was a process break in</p> <p>2 understanding this tariff.</p> <p>3 Q What constitutes senior management?</p> <p>4 A At WM, it would start with the directors of</p> <p>5 operation above the district manager, and of course the</p> <p>6 front line would be managed by the route managers.</p> <p>7 Q Please turn to page 18 of your testimony, CB-1T</p> <p>8 and go to line 5.</p> <p>9 A I apologize. Was that page 8?</p> <p>10 Q 18.</p> <p>11 A 18. And I apologize. What lines again?</p> <p>12 Q Line 5?</p> <p>13 A Line 5. I'm here.</p> <p>14 Q Okay. There you refer to a Waste Management</p> <p>15 employee -- and I apologize if I don't say her name</p> <p>16 correctly -- Denie Covert, who is the Pacific Northwest</p> <p>17 area manager of customer engagement, correct?</p> <p>18 A Correct.</p> <p>19 Q Is Denie Covert considered senior management?</p> <p>20 A She is not.</p> <p>21 Q Okay. Please refer to Exhibit CB-1T, page 13,</p> <p>22 lines 12 through 18.</p> <p>23 A 13, 12 through 18 to confirm? I'm here.</p> <p>24 Q Okay. There you testify that Ms. Feeser's</p> <p>25 testimony is inaccurate when she refers to Waste</p>

<p>EXAMINATION BY ATTORNEY GAFKEN</p> <p>1 Management's failure to correct its business practices 2 and failed to provide 25 Douglas County customers with 3 every-other-week pickup. Is that a correct summary? 4 A That is correct. 5 Q Waste Management actually concedes that it 6 failed to provide every-other-week service to 25 Douglas 7 County customers between June 1, 2022 and June 2023, 8 doesn't it? 9 A That is correct, during that time period. 10 Q At lines 15 through 18, you state that Waste 11 Management corrected its business practices immediately 12 after receiving the April 28, 2023, letter, correct? 13 A That is correct. 14 Q The April 2023 letter is the letter from staff 15 initiating a formal investigation, that you're following 16 the informal investigation that involved a consumer 17 complaint in 2022, correct? 18 A That is correct. 19 ATTORNEY GAFKEN: Thank you. That 20 actually concludes my questioning. 21 JUDGE BONFRISCO: Thank you, Ms. Gafken. 22 Mr. Stanovsky, do you have any redirect? 23 ATTORNEY STANOVSKY: I think I do if I 24 could have just a moment to frame it up a little. 25 JUDGE BONFRISCO: Okay.</p>	<p>REDIRECT EXAMINATION BY ATTORNEY STANOVSKY</p> <p>1 this is unacceptable. 2 Q But if you look above, the question there 3 indicates that you're being asked to testify about 4 Enforcement Factor 1, correct? 5 A Correct. 6 Q And what is Enforcement Factor 1? 7 ATTORNEY GAFKEN: I'm going to object that 8 this goes beyond the scope of my cross. 9 JUDGE BONFRISCO: Mr. Stanovsky, if you 10 could respond? 11 ATTORNEY STANOVSKY: Your Honor, 12 Ms. Gafken asked about the purpose of this testimony. 13 I'm trying to elucidate the purpose. 14 JUDGE BONFRISCO: And I guess where are 15 you going with this questioning? 16 ATTORNEY STANOVSKY: I'm trying to clarify 17 why -- what Mr. Brooks' purpose was in making these 18 statements that Ms. Gafken asked him about the purpose 19 of. 20 JUDGE GAFKEN: I'm going to overrule the 21 objection, and I'm going to allow you to continue. 22 ATTORNEY STANOVSKY: Thank you. 23 Q (By Attorney Stanovsky) So if things happened 24 as they had in this case, except -- let me rephrase that. 25 If a customer experienced what the customers at</p>
<p>REDIRECT EXAMINATION BY ATTORNEY STANOVSKY</p> <p>1 ATTORNEY STANOVSKY: It wouldn't be long. 2 I'm sure we're all getting hungry. 3 JUDGE BONFRISCO: Sounds good. Thank you. 4 (Pause in proceedings.) 5 ATTORNEY STANOVSKY: Okay. I think I'm 6 ready. I might need Ms. Gafken to help me with a couple 7 of references. I'm not sure I got them all in my notes. 8 9 REDIRECT EXAMINATION 10 BY ATTORNEY STANOVSKY: 11 Q Mr. Brooks, do you recall the line of 12 questioning about Waste Management providing the service 13 that it told customers to expect? 14 A I do recall. 15 Q And about notifying customers they will be 16 receiving monthly service and supplying them 17 appropriately sized containers for that service? 18 A Yes. 19 Q And for the record, that is CB-1T; starts with 20 a question on page 11, line 11, and the passages I just 21 mentioned are on 12, starting from line 2. 22 Just at the outset, I want to be totally clear. 23 Are the failures against which you raise these points 24 acceptable to Waste Management? 25 A We've made it clear through the testimony that</p>	<p>REDIRECT EXAMINATION BY ATTORNEY STANOVSKY</p> <p>1 issue in this case did, but were provided inappropriate 2 containers, how would that affect the level of harm they 3 faced? 4 A If they were provided a container that is too 5 small, they would certainly exceed the allowable volume 6 during that frequency period. 7 Q And if Waste Management had provided monthly 8 service without telling customers what to expect, how 9 would that affect the harm the customers suffered? 10 A That would be very impactful without 11 communication of the change, because they would 12 relatively seem like we were not servicing the customer 13 on time. 14 Q Thank you. 15 Now, I just want to return to a question 16 Ms. Gafken asked about what you mean by senior 17 management. And you listed several positions, and it 18 wasn't clear to me whether you thought all the positions 19 you listed were part of senior management or if you were 20 intending to sort of draw two separate categories. 21 So I guess I would just ask you generally to 22 restate what positions at Waste Management you understand 23 to be senior management for purposes of your testimony? 24 A For the purpose of testimony, the level of 25 management considered senior would be above the district</p>

<p>REDIRECT EXAMINATION BY ATTORNEY STANOVSKY</p> <p>1 manager in collections, identifying director level</p> <p>2 positions.</p> <p>3 Q Thank you.</p> <p>4 And I think you mentioned a title of route</p> <p>5 manager. Would that be a senior management position?</p> <p>6 A That is not a senior position.</p> <p>7 Q And do you recall the line of questioning about</p> <p>8 whether Waste Management views a violation as</p> <p>9 unintentional if senior management didn't know about it?</p> <p>10 A I do recall the question.</p> <p>11 Q Can you please go to page 12 of Exhibit CB-1T,</p> <p>12 your testimony, and read line 11, the question?</p> <p>13 A Factor 2, were the violations intentional?</p> <p>14 Q And can you read just the first sentence of</p> <p>15 your response?</p> <p>16 A Yes, but staff leaves out important context. I</p> <p>17 understand the local operations teams made changes to 25</p> <p>18 customers.</p> <p>19 Q So I think I understand your testimony to be</p> <p>20 that the violations in this case were intentional; is</p> <p>21 that fair?</p> <p>22 A At the district level, yes, they were.</p> <p>23 Q Thank you. I believe that's all I have.</p> <p>24 Oh, one other just clarifying question. I</p> <p>25 think in response to several of Ms. Gafken's questions,</p>	<p>1 That's fine. I just kind of want to get a sense of a</p> <p>2 range.</p> <p>3 ATTORNEY GAFKEN: I don't think we need</p> <p>4 the full -- I think it's 60 pages in the rule.</p> <p>5 JUDGE BONFRISCO: Exactly.</p> <p>6 ATTORNEY GAFKEN: I did not --</p> <p>7 JUDGE BONFRISCO: I didn't think that</p> <p>8 either. But I wasn't sure as far as, you know, what we</p> <p>9 were thinking between that range.</p> <p>10 ATTORNEY STANOVSKY: And remind me,</p> <p>11 briefing is double spaced; is that right?</p> <p>12 JUDGE BONFRISCO: That's correct. 12</p> <p>13 font, yes.</p> <p>14 ATTORNEY STANOVSKY: I think that should</p> <p>15 work for Waste Management, your Honor. I would defer to</p> <p>16 staff's 25.</p> <p>17 JUDGE BONFRISCO: And that's fine. My</p> <p>18 apologies. I didn't mean to scare you off there.</p> <p>19 And it doesn't appear that we're going to</p> <p>20 have any reply briefs.</p> <p>21 And I guess with that, do I have any</p> <p>22 questions from the parties or any other concerns before</p> <p>23 we adjourn today?</p> <p>24 ATTORNEY STANOVSKY: Your Honor, I guess I</p> <p>25 would ask if public counsel does file a post-hearing</p>
<p>1 you responded that the premise was correct with respect</p> <p>2 to a subset of customers. And I just want to clarify for</p> <p>3 the record, when you use that phrase, what subset of</p> <p>4 customers were you talking about?</p> <p>5 A I'm referring to the 25 customers negatively</p> <p>6 impacted in this tariff.</p> <p>7 ATTORNEY STANOVSKY: Okay. Thank you.</p> <p>8 I believe that is all I have. No further</p> <p>9 questions.</p> <p>10 JUDGE BONFRISCO: Okay. Thank you.</p> <p>11 Well, I just want to clarify with my</p> <p>12 co-presiding officer, do you have any followup</p> <p>13 questions?</p> <p>14 JUDGE KRUSZEWSKI: I do not.</p> <p>15 JUDGE BONFRISCO: Okay. And I do not at</p> <p>16 this point as well.</p> <p>17 I just have a few housekeeping items</p> <p>18 before we adjourn.</p> <p>19 I just want to note that I'm showing that</p> <p>20 we have post-hearing briefs due on March 18, 2025. Do</p> <p>21 you believe you can brief these issues in less than 20</p> <p>22 pages?</p> <p>23 ATTORNEY GAFKEN: I was actually thinking</p> <p>24 25.</p> <p>25 JUDGE BONFRISCO: Okay. And that's fine.</p>	<p>1 brief, that will be the first look that the company has,</p> <p>2 and staff for that matter, at any position public counsel</p> <p>3 might take in this case.</p> <p>4 So I guess I would just preview that we</p> <p>5 would reserve the right to request reply briefing so that</p> <p>6 the company has any chance at all to respond to any</p> <p>7 positions that may be raised there.</p> <p>8 JUDGE BONFRISCO: And Public Counsel, if</p> <p>9 you could just let me know whether or not at this point</p> <p>10 -- I know thus far there's been no testimony filed in</p> <p>11 this record. But if you could let us know public</p> <p>12 counsel's position on this? Oh, you're on mute.</p> <p>13 ATTORNEY SYKES: On this point, we're not</p> <p>14 planning to file a post-hearing brief. We've reserved</p> <p>15 the right to. If we do, it would be short.</p> <p>16 But we have no problem allowing the other</p> <p>17 parties to reply to that.</p> <p>18 JUDGE BONFRISCO: Okay. So, you know, it</p> <p>19 sounds like at this point -- and I guess, Mr. Stanovsky,</p> <p>20 you're just requesting to have the opportunity for a</p> <p>21 reply brief in the event anything changes, correct?</p> <p>22 ATTORNEY STANOVSKY: If public counsel</p> <p>23 does file a post-hearing brief.</p> <p>24 JUDGE BONFRISCO: Exactly. I did not say</p> <p>25 that clearly. My apologies.</p>

<p>1 ATTORNEY STANOVSKY: And just to be clear, 2 it's possible that, you know, we will read it and not 3 feel the need to, you know, file a reply brief. 4 So we're not asking for that at this 5 point, but just to flag the issue that we might ask for 6 it (inaudible). 7 JUDGE BONFRISCO: And I don't think -- I'm 8 looking at the prior procedural history or procedural 9 schedule on this, and I don't believe we've set any date 10 where that wasn't addressed. 11 So in the event -- you know, I don't 12 anticipate there's going to be the case, but thinking 13 about timelines -- oh, sorry. 14 Go ahead, Ms. Gafken. 15 ATTORNEY GAFKEN: I just wanted to note 16 that staff certainly has no objections if the company 17 would like to request a reply brief. I think maybe we 18 can wait and see. We don't have a statutory deadline 19 like we do with rate cases for this case, and so we do 20 have some flexibility. 21 When the parties initially agreed to the 22 procedural schedule, we didn't think that reply briefs 23 were necessary. That may still be the case, but, you 24 know, we would certainly be open to a request for reply 25 briefs on the other end, once we see what the briefing is</p>	<p>1 2 3 CERTIFICATE OF REPORTER) 4 STATE OF WASHINGTON) 5) ss 6 COUNTY OF KING) 7 8 I, Elizabeth Patterson Harvey, a Certified 9 Court Reporter and Registered Professional Reporter 10 within and for the State of Washington, do hereby 11 certify under penalty of perjury that the foregoing legal 12 recordings were transcribed under my direction; that I 13 received the electronic recording in the proprietary 14 format; that I am not a relative or employee of any 15 attorney or counsel employed by the parties hereto, nor 16 financially interested in its outcome. 17 IN WITNESS WHEREOF, I have hereunto set my 18 hand this 4th day of March, 2025. 19 20 <i>Elizabeth Patterson Harvey</i> 21 Elizabeth Patterson Harvey 22 CCR 2731 23 Certified Court Reporter in 24 The State of Washington 25 26 My license expires December 21, 2025</p>
<p>1 going to be. 2 JUDGE BONFRISCO: Yes, and I think we'll 3 all know after that -- you know, that deadline. 4 I appreciate you highlighting that, 5 Ms. Gafken. So, you know, at this point, we'll just 6 address that, you know, after -- if that is an issue in 7 the docket after the post-hearing briefs are filed. 8 ATTORNEY GAFKEN: And I don't want to be 9 overly optimistic, but that might also be something that 10 the parties can confer about and bring an agreement to 11 (inaudible). 12 JUDGE BONFRISCO: And that would be very 13 helpful in the event that you do foresee needing to do 14 reply briefs, conferring on a timeline, given that we do 15 not have a statutory deadline; still want to keep things 16 moving, but I do think that would be extremely helpful to 17 make it more efficient for everyone. 18 So I want to thank everyone for their time 19 today and thank the witnesses for all their patience, and 20 I hope you all have a wonderful day. 21 And with that, we're going to adjourn the 22 hearing. 23 (Proceedings concluded at 12:21 p.m.) 24 25</p>	

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