

# **WUTC v. Waste Management of Washington, Inc.**

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



1325 Fourth Avenue, Suite 1840 Seattle, Washington 98101  
6 South Second Street, Suite 718 Yakima, Washington 98901  
Bellingham | Everett | Tacoma | Olympia | Yakima | Spokane  
Seattle 206.287.9066 | Tacoma 253.235.0111 | Eastern Washington 509.624.3261

[www.buellrealtime.com](http://www.buellrealtime.com)

email: [audio@buellrealtime.com](mailto:audio@buellrealtime.com)

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

A P P E A R A N C E S:

FOR THE COMPANY:

Walker Clinton Stanovsky

walkerstanovsky@dwt.com

Davis Wright Tremaine LLP

920 Fifth Avenue, Suite 3300

Seattle, Washington 98104

206.757.8259

Caroline Cilek

carolinecilek@dwt.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

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	INDEX OF PROCEEDINGS	
2	PROCEEDING	PAGE
3	Proceedings Commence	28
4	Opening Statement by Staff	38
5	Opening Statement by Respondent	42
6		
7	EXAMINATION INDEX	
8	WITNESS	PAGE
9	BRIDGIT FEESER	
10		
11	Direct Examination By Attorney Gafken	52
12	Cross-Examination by Attorney Stanovsky	53
13	Redirect Examination by Attorney Gafken	128
14		
15	CHAD BROOKS	
16	Direct Examination by Attorney Stanovsky	131
17	Cross-Examination by Attorney Gafken	134
18	Redirect Examination by Attorney Stanovsky	148
19	EXHIBITS	
20		
21	EXHIBIT NUMBER	PAGE
22	Respondent BF-13X Docket A-120061 - Enforcement	
23	Policy of the Washington	
24	Utilities and Transportation	
25	Commission	56

EXHIBITS

EXHIBIT NUMBER		PAGE
Respondent BF-15X	Waste Management of Washington Inc.'s Answer to Complaint	74
Respondent BF-16X	Spreadsheet Response	92

PROCEEDINGS COMMENCE  
February 18, 2025 1:30 p.m.

-o0o-

JUDGE BONFRISCO: Let's be on the record.  
Good morning. It's Tuesday, February 18, 2025. The time  
is about 9:00 a.m. My name is Amy Bonfrisco, and I'm the  
administrative law judge in this matter. And I'm  
co-presiding with Jessica Kruszewski.

And we're here today for the evidentiary  
hearing in Docket TG-240189, which is captioned  
respectively Washington Utilities and Transportation  
Commission versus Waste Management of Washington  
Incorporated.

Please note that if you remain on this  
virtual hearing, you're deemed as giving your consent to  
the Zoom recording.

I'd like to take short appearances from both  
the parties as far as how we're going to proceed this  
morning.

So let's start with Waste Management. So I'm  
going to start with you, Walter.

ATTORNEY STANOVSKY: Good morning, your  
Honor. Can you see me okay?

JUDGE BONFRISCO: I can.

ATTORNEY STANOVSKY: Let me just adjust my

PROCEEDINGS COMMENCE

1 angle there.

2 Yes. Thank you, your Honor. My name is  
3 Walker Stanovsky. I'm with Davis Wright Tremaine,  
4 representing Waste Management of Washington, Inc.

5 Also with us on the line is my Davis Wright  
6 Tremaine colleague, Caroline Cilek.

7 We also have with us Waste Management's  
8 Pacific Northwest Area Director of Collection Operations,  
9 Chad Brooks, who's testifying; as well as Waste  
10 Management's senior legal counsel for the Pacific  
11 Northwest area, Ame Lewis.

12 And we may have our paralegal, Sabrina  
13 Goodman from Waste Management as well. Let's see. I  
14 don't know if she's on. I don't see her at the moment.

15 JUDGE BONFRISCO: I do not see her.

16 Thank you so much, Mr. Stanovsky.

17 And Ms. Gafken, are you here? Good. Go  
18 ahead, Ms. Gafken.

19 ATTORNEY GAFKEN: Good morning. Lisa Gafken,  
20 assistant attorney general appearing on behalf of  
21 commission staff.

22 JUDGE BONFRISCO: And is Mr. O'Brien with you  
23 today?

24 ATTORNEY GAFKEN: I may have some folks that  
25 are observing the hearing today.



PROCEEDINGS COMMENCE

1 JUDGE BONFRISCO: Okay. And for public  
2 counsel?

3 ATTORNEY SYKES: Yes, Rob Sykes for the  
4 public counsel unit.

5 JUDGE BONFRISCO: Okay. Perfect. Thank you,  
6 everyone.

7 So I just want to do a brief road map of how  
8 we're going to proceed today. First of all, I want to  
9 thank you for consulting one another in advance of this  
10 evidentiary hearing to keep processes moving smoothly and  
11 efficiently.

12 As I had shared in prior e-mail  
13 communications, we're going to allow for brief opening  
14 statements, limited to ten minutes for each party, before  
15 we turn to cross-examination of the witnesses. And we're  
16 going to go with the parties' agreed upon order of  
17 presentation, with staff proceeding first since this is  
18 their burden to prove this matter.

19 We're going to take a morning break around  
20 10:30 or as needed. If the parties feel like we can keep  
21 moving through at that point, we can also kind of modify  
22 the time as needed.

23 It looks like, based on all the exhibits  
24 submitted, we should be able to wrap up before noon  
25 today.

PROCEEDINGS COMMENCE

1 I want to remind the parties that if you're  
2 not speaking, just keep your microphones muted and to be  
3 aware of background noise. And only use your video for  
4 those portions when you have a speaking role.

5 If for any reason you do experience technical  
6 issues, if you could just message Jessica and I in the  
7 chat, and we'll make sure we respond to that. Or if  
8 something comes up where you need a break, let us know.  
9 Use that chat feature.

10 And then with that, I want to go ahead and  
11 turn to the issue of exhibits. So on February 14, 2025,  
12 I circulated a draft exhibit list, which basically  
13 reflected that revised Exhibits BF-2R and BF-3R for  
14 staff, which contains a revised investigation report and  
15 the revised Tariff 14 for Waste Management, as well as I  
16 received Waste Management's errata that they filed for  
17 Chad Brooks' direct testimony.

18 With that said, with those revisions that  
19 were filed, do any of the parties have any objections or  
20 concerns with that first piece?

21 ATTORNEY STANOVSKY: None from Waste  
22 Management.

23 ATTORNEY GAFKEN: No objection.

24 JUDGE BONFRISCO: Okay. Great.

25 Next, based on the e-mail correspondence,

PROCEEDINGS COMMENCE

1 it's also my understanding that the parties stipulated to  
2 the admission of prefiled exhibits and testimony, and  
3 basically agreed that the confidential versions of staff  
4 Exhibit BF-3R and Waste Management's Exhibit BF-16 do not  
5 need to be filed in any kind of confidential format.

6 And the parties have provided their  
7 assurances that today they'll only be relying on the  
8 unredacted versions of those exhibits. Is that  
9 correct?

10 ATTORNEY GAFKEN: Yes. We will only be  
11 relying on the redacted version of those exhibits.

12 JUDGE BONFRISCO: Perfect.

13 ATTORNEY STANOVSKY: Correct.

14 JUDGE BONFRISCO: Perfect.

15 And then I also just want to state for the  
16 record that Waste Management's Cross Exhibit BF-11X has  
17 been withdrawn from the record.

18 Next, it's also my understanding that the  
19 parties stipulated to the admission of Cross Exhibits  
20 BF-5X through BF-10X and BF-12X, but that with regard to  
21 Exhibits BF13-X through BF17-X, those can basically be  
22 admitted as they come in on examination to provide  
23 opposing counsel an opportunity to object as those are  
24 being presented.

25 Finally, given that there are no confidential

PROCEEDINGS COMMENCE

1 exhibits that are going to be presented today, I don't  
2 anticipate that we will need to go into a closed  
3 proceeding. But if for any reason we do need to go into  
4 a closed proceeding or have a confidential breakout  
5 session, please let me know. And we can either go off  
6 the record or if anyone is present here today that we  
7 need to reroute out to a breakout room, we will do that  
8 and basically reroute anybody out who has not signed a  
9 confidentiality agreement.

10 And based on -- the only party that I'm  
11 seeing at this point that has not signed a  
12 confidentiality agreement would be the company's witness,  
13 Chad Brooks. And let me see.

14 And Jessica, let me know if you're seeing  
15 anybody else that we don't believe had signed a  
16 confidentiality agreement.

17 Okay. So I think, you know, honestly, I'm  
18 looking. Do the parties, are they seeing anybody that  
19 they have concerns with on the call at this point?

20 I don't anticipate this being an issue since  
21 we don't have any confidential exhibits, but I'm just  
22 bringing it up to make sure all the parties are  
23 comfortable with all our participants on the line here  
24 today.

25 ATTORNEY STANOVSKY: I guess I'll just

PROCEEDINGS COMMENCE

1 acknowledge there are a few names that I don't recognize.

2 So, you know, if -- I would suggest that if  
3 and when we want to go into confidential session, we  
4 address those. But if we need to go through it now, we  
5 can.

6 JUDGE BONFRISCO: Honestly, I don't --  
7 really, the only time we go into a breakout session is  
8 generally if we're discussing a confidential matter. And  
9 given that none of the exhibits in this docket have been  
10 filed as confidential, and the parties have agreed to --  
11 you know, with the ones that there were concerns just  
12 keeping that redacted, I don't believe this is an issue.  
13 But I just wanted to bring that up.

14 Go ahead, Mr. Stanovsky.

15 ATTORNEY STANOVSKY: Sorry to interrupt. It  
16 occurs to me I should -- I'll just mention at the outset  
17 with respect to 16-X, the redacted version of the  
18 customer information?

19 JUDGE BONFRISCO: Mm-hm.

20 ATTORNEY STANOVSKY: I do intend to ask  
21 Ms. Feeser about some of the specific customer locations.

22 The details of the confidential information  
23 need not be a part of the record. But it might --  
24 Ms. Feeser might need to refer to them separately in  
25 answering some of the questioning. And I guess I had in

PROCEEDINGS COMMENCE

1 mind perhaps dealing with that subject to check.

2 JUDGE BONFRISCO: Okay. So why don't --  
3 yeah. At this point, then, if you think we need to go  
4 into a breakout session, we can do that.

5 But if I could have maybe, Mr. Stanovsky, if  
6 you let me know who's with you here today that -- I  
7 believe that that was the only individual when I was  
8 going through the record, Chad Brooks, that I hadn't seen  
9 a confidentiality agreement come through on.

10 And it looks like a lot of our other  
11 participants here on the line today are with staff  
12 counsel.

13 However, I do see a few more participants I'm  
14 just not familiar with. Brad Lovaas, is -- are you  
15 familiar with Brad Lovaas?

16 ATTORNEY STANOVSKY: I am. He's the  
17 executive director of the Washington Refuse and Recycling  
18 Association, WRRRA.

19 JUDGE BONFRISCO: Okay. And would you be  
20 comfortable with him being included if we need to do any  
21 breakout session?

22 ATTORNEY STANOVSKY: I hesitate just because  
23 there are, as you know, regulatory protections for  
24 customer information, and I just would not want to risk  
25 the company violating those.

PROCEEDINGS COMMENCE

1                   So -- but not in concept, if he were  
2                   comfortable committing to the protective orders and your  
3                   Honor were comfortable with his acceptance of them. I  
4                   don't know. Technically, I would leave it to you to  
5                   determine whether that technically works, given that WRRRA  
6                   is not a party.

7                   JUDGE BONFRISCO: I think if we could avoid  
8                   any confidential information at this point, I think that  
9                   would be easiest.

10                  But Mr. Stanovsky, if you feel like we're  
11                  going in that territory, you could let me know. And we  
12                  could do a breakout session, and then ensure that only  
13                  the necessary parties, you know, remain on the line.

14                  And then anybody -- I would then have records  
15                  staff move anybody off that should not be participating  
16                  on the call. I think that would be the best way to  
17                  handle that.

18                  But I think, you know, given what I'm seeing,  
19                  you let me know if you think that we need to go through  
20                  that at this point for records as far as --

21                  ATTORNEY STANOVSKY: I personally don't think  
22                  so. I've attempted to structure the cross to avoid that,  
23                  and, frankly, might just abandon that line of cross if we  
24                  -- you know, if we get to it before, you know, dealing  
25                  with confidential protections. So I'd say let's cross

PROCEEDINGS COMMENCE

1 that bridge when we come to it.

2 But I did just want to flag that there will  
3 be a little bit of delicate work at that point. But I  
4 think it should be okay.

5 JUDGE BONFRISCO: Just keep us apprised.

6 ATTORNEY STANOVSKY: Sure.

7 JUDGE BONFRISCO: All right. Thank you.

8 Go ahead, Ms. Gafken.

9 ATTORNEY GAFKEN: Thank you.

10 I also wanted to note that if we go into a  
11 breakout session on Zoom, there could be some issues in  
12 terms of recording that portion, which makes having the  
13 record be appropriately captured problematic as well.  
14 And so just noting that.

15 I think with the state of the record, we  
16 don't have confidential exhibits, and I think going into  
17 a confidential session is unlikely.

18 Of course, we haven't heard Mr. Stanovsky's  
19 cross yet, but I do believe that it would be unlikely  
20 that we go into a confidential session.

21 JUDGE BONFRISCO: Yeah, and I would agree  
22 with that as well, Ms. Gafken.

23 And the way I've handled it in the past,  
24 because we have had challenges with this before, is  
25 anybody who should not be participating, we actually move



OPENING STATEMENT BY STAFF

1       those parties to the breakout room so that we can  
2       keep the recording for the docket. So just so we're  
3       clear on that, that's how we would do that.

4               But at this point, I'm hoping we do not have  
5       to go down that track.

6               ATTORNEY GAFKEN: Thank you for that  
7       clarification.

8               JUDGE BONFRISCO: Yes.

9               ATTORNEY GAFKEN: That's really helpful in  
10      terms of understanding how the record works.

11              JUDGE BONFRISCO: Okay. Perfect.

12              So I guess with that, then, since public  
13      counsel hasn't filed any exhibits in the docket, and they  
14      indicated in their letter on February 10 that they don't  
15      intend to submit any cross-answering testimony, I'm going  
16      to have staff proceed with their opening statement and  
17      then have the company provide an opening statement.

18              Staff, are you prepared to provide your  
19      opening statement at this point?

20              ATTORNEY GAFKEN: Yes, I am.

21              JUDGE BONFRISCO: Okay. Go ahead.

22  
23      OPENING STATEMENT BY STAFF

24              ATTORNEY GAFKEN: Great. Thank you.

25              From staff's perspective, this is a very

OPENING STATEMENT BY STAFF

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.

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.

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.

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.

OPENING STATEMENT BY STAFF

Staff found that Waste Management had not corrected its business practices. It was still providing monthly service to at least 25 Douglas County customers under Tariff 14, Item 240.

Staff identified 254 violations of failing to follow the commission-approved tariff for those 25 customers. One violation was noted for each month those customers received monthly pickup instead of every-other-week pickup service.

Waste Management has acknowledged and admitted these violations. The fact of the violations is not in dispute.

What is in dispute is the level of penalty and the level of penalty the commission might consider suspending. Staff recommends maximum penalties, totaling 254,000.

Staff also recommends that the commission consider suspending up to one half the of penalty, which would be waived if Waste Management can demonstrate compliance during a two-year suspension period.

Lastly, staff recommends that the commission order Waste Management to ensure that its employees are properly trained on regulatory compliance and audit its statewide compliance with Item 240 to identify and correct other violations. Staff recommends that this

1                   OPENING STATEMENT BY STAFF  
2     audit be repeated at the end of two years.

3                   Both the audit and the two-year followup  
4     report should be filed in the docket as a compliance  
5     filing. These recommendations are also not in dispute.

6                   Maximum penalties are appropriate in this  
7     case. We have a large, sophisticated company that has  
8     been regulated for a very long time. We have a company  
9     that understands tariffs and the role they play.

10                  We have a company that made a conscious and  
11     intentional decision to provide service that conflicted  
12     with its commission-approved tariff, going as far as  
13     telling customers that they would receive monthly service  
14     instead of every-other-week service.

15                  We have a company that engaged with the  
16     commission regarding a consumer complaint regarding  
17     monthly service versus every-other-week service, and who  
18     received specific and direct technical assistance from  
19     commission staff during the course of that consumer  
20     complaint.

21                  We have a company that ultimately ignored  
22     that technical assistance and continued to provide  
23     monthly service to certain Douglas County customers over  
24     a year after the consumer complaint was resolved.

25                  Significantly reducing the penalty and  
   suspending more than 50 percent of the penalty does not

1                   OPENING STATEMENT BY RESPONDENT  
2           appropriately recognize these elements. Staff  
3  
4 continues to recommend, among our other recommendations,  
5 maximum penalties totaling \$254,000, which is appropriate  
6 for the level of behavior at issue and proportionate to  
7 the company.

8                   Thank you.

9                   JUDGE BONFRISCO: Thank you, Mrs. Gafken.

10                  And now I'd like to have Mr. Stanovsky go  
11 ahead and provide his opening statement.

12                  ATTORNEY STANOVSKY: Thank you, your Honor.  
13 And just to confirm my understanding, I believe public  
14 counsel is not planning to present an opening statement;  
15 is that correct?

16                  JUDGE BONFRISCO: That is my understanding.

17                  ATTORNEY SYKES: That is correct.

18                  JUDGE BONFRISCO: Thank you, Public Counsel.  
19 That is my understanding.

20                  ATTORNEY STANOVSKY: Thank you both.

21                  JUDGE BONFRISCO: You may proceed. Thank  
22 you.

23                   OPENING STATEMENT BY RESPONDENT

24                  ATTORNEY STANOVSKY: Good morning, Judge  
25 Bonfrisco and Judge Kruszewski. Did I pronounce that  
correctly?

OPENING STATEMENT BY RESPONDENT

1 JUDGE KRUSZEWSKI: It's Ker-che-ski. That's  
2 all right, though.

3 ATTORNEY STANOVSKY: I'm here this morning  
4 representing Waste Management of Washington in a long  
5 line of leaders and outside counsel who built the  
6 company's relationship with this commission since Waste  
7 Management came to Washington almost 40 years ago.

8 Here are my three main points, which the  
9 hearing and our post-hearing briefing will expand on.

10 First, Waste Management is proud of its  
11 record as a leader in industry cooperation with the  
12 commission.

13 Second, in deciding the appropriate penalty,  
14 the commission should focus on the stated objectives in  
15 its enforcement policy, and on consistency with past  
16 enforcement actions.

17 Third, staff is insisting on the maximum  
18 monetary penalty the commission can assess;  
19 unprecedented, given the facts of this case. But it has  
20 failed to give the commission the record or the reasoning  
21 to justify anything like that amount.

22 First, Waste Management's history with the  
23 commission: For decades, Waste Management has been what  
24 the record in this case shows, a company that takes its  
25 obligations under UTC regulations seriously and has

1                   OPENING STATEMENT BY RESPONDENT  
2                   always recognized the importance of compliance.

3                   Waste Management is not perfect and doesn't  
4                   pretend to be. In this case, it made multiple mistakes.  
5                   But it cooperated with staff to investigate those  
6                   mistakes, and forthrightly admitted them in response to  
7                   the complaint.

8                   As Chad Brooks will testify, Waste Management  
9                   has voluntarily accepted all of staff's requested  
10                  non-monetary relief, and has already implemented those  
11                  measures and more.

12                 We're here today for the commission to decide  
13                 what monetary penalty is appropriate for significant  
14                 mistakes made by a good partner in the regulatory  
15                 compact.

16                 Staff will try to suggest that Waste  
17                 Management is a habitual offender, whose history supports  
18                 staff's recommendation of the statutory maximum penalty.  
19                 But the past cases staff points to actually show that  
20                 even when Waste Management makes mistakes and incurs  
21                 violations, it continues to take its obligations to this  
22                 commission seriously and respond proactively.

23                 And that seriousness extends to the case  
24                 before you, as Mr. Brooks will demonstrate.

25                 So to the second point, how should the  
                    commission determine the penalty in this case? In 2013,

OPENING STATEMENT BY RESPONDENT

1 the commission adopted its enforcement policy, which  
2 Waste Management has submitted for convenience as Exhibit  
3 BF-13X. The enforcement policy has provided the  
4 framework for the commissions's enforcement decisions  
5 ever since, and it should guide your decision here, too.

6 After introductory material, the first  
7 sentence of the actual enforcement policy section of that  
8 document, paragraph 9, is the commission's objective,  
9 when enforcing statutes, rules, orders, and tariffs, is  
10 to ensure services within the commission's jurisdiction  
11 are delivered safely, adequately, efficiently, and at  
12 rates and charges that are just and reasonable.

13 Here, Item 240 of Waste Management's tariff  
14 requires collection at least every other week. This is  
15 mainly for customers that you think of -- pardon me.  
16 This is mainly for containers that you would think of as  
17 dumpsters. But on one collection route, serving 25  
18 customers in remote Douglas County, local operations  
19 staff decided only to run the route monthly, violating  
20 the tariff.

21 Worse, when an informal complaint led staff  
22 to issue technical assistance to Waste Management,  
23 internal process failures allowed the problem to continue  
24 until a subsequent investigation first brought the issue  
25 to the attention of senior Waste Management management.



OPENING STATEMENT BY RESPONDENT

1 Within a month, Waste Management restored  
2 every-other-week service to those customers.

3 Staff was clear in discovery that it is not  
4 alleging Waste Management's service to these customers  
5 was inadequate or unreasonable in any regard, other than  
6 failure to comply with its tariff.

7 There's also no evidence that these services  
8 were inefficient or that Waste Management charged  
9 unreasonable rates.

10 Definitely no evidence of unsafe service.

11 To be clear, we are not suggesting there was  
12 no problem here or that no penalty is appropriate. There  
13 were multiple problems, particularly the failure to  
14 correct after technical assistance from staff.

15 Mr. Brooks will agree that a reasonable  
16 penalty is entirely appropriate. But what's reasonable  
17 must be tied to the underlying rationale for having and  
18 enforcing tariffs in the first place, as presented in the  
19 enforcement policy.

20 The maximum penalty here would be \$254,000;  
21 \$1,000 for each of 25 customers each month that Waste  
22 Management collected their waste once instead of twice.

23 The maximum penalty on these facts would  
24 eliminate the distinction between cases like this and  
25 ones where, unlike here, a company endangers life,

OPENING STATEMENT BY RESPONDENT

1 health, safety, or properly; actively evades commission  
2 oversight; or overcharges customers.

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.

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.

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.

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,

OPENING STATEMENT BY RESPONDENT

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.

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.

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.

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.

24 Staff today is not trying to present the  
25 commission with the totality of circumstances. It did

1                   OPENING STATEMENT BY RESPONDENT  
2                   not even try to investigate evenhandedly.

3                   Staff is here as an advocate, pushing for the  
4                   maximum possible penalty, a major escalation in penalties  
5                   the commission will assess.

6                   The staff investigated and testifies to only  
7                   a subset of the facts favoring its advocacy for the  
8                   maximum penalty. You'll hear specific examples. But in  
9                   general, staff is consistently focused on discovering and  
10                  presenting negative facts, but not evidence in Waste  
11                  Management's favor.

12                  It has consistently offered unsupported  
13                  speculation against Waste Management about what could be  
14                  happening, where it didn't know or ask what was  
15                  happening, and has consistently failed to articulate any  
16                  clear connection between the facts, even its lopsided  
17                  subset of facts, and why the commission should levy the  
18                  maximum penalty here, particularly in light of precedent  
19                  pointing to a far lower penalty, which Waste Management  
20                  will address in briefing.

21                  So the challenge for the commission is that  
22                  you must apply the enforcement factors in a reasoned way,  
23                  considering all the facts, but without the benefit of a  
24                  balanced assessment from staff.

25                  And you should set a penalty that is  
                    consistent with the commission's own precedent, which

OPENING STATEMENT BY RESPONDENT

1 staff so far has never discussed in testimony or in  
2 opening.

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.

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.

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.

19 Thank you, your Honor.

20 JUDGE BONFRISCO: Thank you so much.

21 With that, I will have staff go ahead and  
22 start with the cross of the company witness, Chad Brooks.

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.

OPENING STATEMENT BY RESPONDENT

Okay. Thank you. Do you swear or affirm  
that the testimony you will give today will be the truth,  
the whole truth, and nothing but the truth?

THE WITNESS: I do swear.

JUDGE BONFRISCO: Okay. Thank you so much.

The witness is yours, Ms. Gafken.

ATTORNEY STANOVSKY: One moment, your Honor.

JUDGE BONFRISCO: Oh, go ahead.

ATTORNEY STANOVSKY: Lisa, correct me if I'm  
wrong, but I thought we had discussed that Ms. Feeser  
would testify first. I don't have a strong feeling, and  
if I've crossed it up in my mind, please correct me.

ATTORNEY GAFKEN: It does make sense to me  
that Ms. Feeser would be crossed first. So we're fine  
either way.

JUDGE BONFRISCO: My apologies. I was  
thinking staff was starting. But we can go ahead and  
start with Ms. Feeser.

My apologies, Mr. Brooks.

We'll go ahead and swear Ms. Feeser in.

CHAD BROOKS: Thank you, your Honor.

JUDGE BONFRISCO: Thank you.

ATTORNEY GAFKEN: Do you want to us introduce  
the witnesses or...?

JUDGE BONFRISCO: Yeah, that would be great.

1 DIRECT EXAMINATION BY ATTORNEY GAFKEN  
2 That would be great. Thank you, Ms. Gafken. If  
3 you would like to introduce Ms. Feeser.

4 ATTORNEY GAFKEN: I'm sorry. I thought you  
5 were going to swear her in and then --

6 JUDGE BONFRISCO: I will swear her in. I  
7 will swear her in.

8 ATTORNEY GAFKEN: Okay.

9 JUDGE BONFRISCO: Ms. Feeser, do you swear or  
10 affirm that the testimony you will give today is the  
11 truth, the whole truth, and nothing but the truth?

12 THE WITNESS: (Inaudible).

13 JUDGE BONFRISCO: Yes? Okay. Thank you,  
14 Ms. Feeser.

15 Ms. Gafken, the witness is yours.

16 BRIDGIT FEESER, witness herein, having been first  
17 duly sworn on oath, was examined  
18 and testified as follows:

19  
20 DIRECT EXAMINATION

21 BY ATTORNEY GAFKEN:

22 Q Will you please state your name, spelling it  
23 for the record?

24 A Bridgit Feeser. B-R-I-D-G-I-T, F-E-E-S-E-R.

25 Q And by whom are you employed?

1           A     By the Washington Utilities and Transportation  
2 Commission.

3           Q     What is your title?

4           A     I am the director of the commission's consumer  
5 protection division.

6           Q     Your testimony on Exhibits BF-1T, BF-2R, BF-3R,  
7 and BF-4T have been submitted into the record already.  
8 Are they true and accurate to the best of your knowledge?

9           A     Yes.

10                   ATTORNEY GAFKEN: The witness is ready for  
11 cross. Thank you.

12                   JUDGE BONFRISCO: You may proceed,  
13 Mr. Stanovsky.

14                   ATTORNEY STANOVSKY: Thank you.

15

16                   CROSS-EXAMINATION

17           BY ATTORNEY STANOVSKY:

18           Q     Good morning, Ms. Feeser.

19           A     Good morning.

20           Q     So to start at a very high level, rules have a  
21 purpose, correct?

22           A     Correct.

23           Q     And it's important to understand the purposes  
24 underlying a rule, correct?

25           A     Correct.



1           Q     And would you agree that the gravity of a rule  
2 violation should be judged by the extent to which the  
3 violation undermines the purposes of the rule?

4           A     Correct.

5           Q     Thank you.

6                     You have your rebuttal testimony, Exhibit  
7 BF-4T. Would you please turn to page 4.

8           A     I'm there.

9           Q     Thank you.

10                    And if you would look at line 17.

11          A     Okay.

12          Q     I want to start with differences in how the  
13 parties understand the commission's enforcement purposes  
14 and objectives. So there at line 17, your view is that  
15 Mr. Brooks mischaracterizes the enforcement policy,  
16 correct?

17          A     I think Mr. Brooks was looking at it too  
18 narrow, and focusing on just some very specific words.

19          Q     And his statement that you say is too narrow in  
20 stating the commission's objective and its enforcement  
21 policy is -- I believe it's quoted there in the question  
22 on lines 14 to 15.

23                    So just to state it cleanly, the statement of  
24 Mr. Brooks that you're objecting to as mischaracterizing  
25 the commission's enforcement policy too narrowly is,

1 quote, to ensure services within the commission's  
2 jurisdiction are delivered safely, adequately,  
3 efficiently, and at rates and charges that are just and  
4 reasonable, correct?

5 A Sorry. What was the question?

6 Q So when you say that Mr. Brooks characterizes  
7 the enforcement policy too narrowly, the statement of  
8 Mr. Brooks that you're challenging is what's quoted in  
9 the question there on lines 14 to 15, is it not?

10 A Correct. I didn't think that Mr. Brooks was  
11 understanding that in order to ensure that statement,  
12 that it is staff's responsibility to do compliance  
13 investigations when we suspect that there have been  
14 violations of laws, rules, or tariffs.

15 Q So I want to focus on the notion that that  
16 quoted language of Mr. Brooks is too narrow.

17 And I want to turn now to the enforcement  
18 policy, which has been marked Exhibit BF-13X. Would you  
19 do that?

20 A Okay. I'm there.

21 Q And I guess I'll go ahead and try and get this  
22 admitted. Do you recognize this as the enforcement  
23 policy the commission adopted in Docket A-120061 in 2013?

24 A Yes.

25 ATTORNEY STANOVSKY: I'd move to admit.

1 JUDGE BONFRISCO: Any objection?

2 ATTORNEY GAFKEN: So we're still not sure  
3 on how Mr. Stanovsky plans on using it. I will note that  
4 having a commission policy statement or order or those  
5 sorts of documents as an exhibit is unnecessary. But I  
6 don't --

7 ATTORNEY STANOVSKY: Well, I understand  
8 the point. And I suppose it doesn't need to be admitted  
9 per se.

10 The point is to have a copy in front of us  
11 that we can refer to, and I wanted to make sure that all  
12 parties had it. So that's the main thing.

13 So I suppose I'm happy to admit it or not,  
14 but it seems cleanest in terms of the record and  
15 posterity to have it admitted. So that's my preference,  
16 but it's not a strong preference.

17 ATTORNEY GAFKEN: I'm fine with having it  
18 admitted into the record.

19 JUDGE BONFRISCO: Please let the record  
20 reflect that we've admitted BF-13X.

21 (Respondent Exhibit BF-13X admitted.)

22 JUDGE BONFRISCO: Mr. Stanovsky, please go  
23 ahead and proceed with your questioning.

24 ATTORNEY STANOVSKY: Thank you. And give  
25 me one moment to mark that in my record, too.

1 JUDGE BONFRISCO: No worries. Thank you.

2 ATTORNEY STANOVSKY: I'm getting all the  
3 different tabs we've got open here.

4 Q (By Attorney Stanovsky) And I apologize,  
5 Ms. Feeser. I meant to ask you to keep a mark in your  
6 rebuttal testimony at page 4. Sorry. I forgot to do  
7 that. And if you've lost that, I'd appreciate it if  
8 you'd mark it before we turn back to the enforcement  
9 policy. And let me know when you're ready.

10 A It is marked.

11 Q Thank you.

12 Now would you please look at page 6 of 12 in  
13 Exhibit BF-13X and look at paragraph 9?

14 A I'm there.

15 Q This is the very start of the actual commission  
16 enforcement policy, quote/unquote, based on the headings,  
17 isn't it?

18 A Yes.

19 Q And can you please read Heading A above  
20 paragraph 9.

21 A "Objectives of the Commission's Enforcement  
22 Policy."

23 Q And now could you please read the first  
24 sentence of paragraph 9?

25 A "Commission's objective when enforcing

1 statutes, rules, orders, and tariffs is to ensure  
2 services within the commission's jurisdiction are  
3 delivered safely, adequately, efficiently, and at rates  
4 and charges that are just and reasonable."

5 Q Thank you.

6 Now please flip back to that page in your  
7 testimony that we were looking at before. That's page 4  
8 of Rebuttal BF-14.

9 Now, looking again at that quoted passage, the  
10 language you quote from Mr. Brooks that you say is too  
11 narrow, is that language in the quote, other than a typo,  
12 not word for word from the first sentence of the  
13 commission's enforcement policy?

14 A It is. And --

15 Q Thank you.

16 A Okay.

17 Q So Mr. Brooks' characterization is too narrow,  
18 but it's directly pulled from the enforcement policy.

19 So isn't your testimony really that the  
20 commission's own stated objective, which it gives in  
21 introducing its entire enforcement policy, is too narrow?

22 A No. I think staff's intent is that Mr. Brooks  
23 did not focus on the entirety of the enforcement policy;  
24 that every bit of the rest of the enforcement policy ties  
25 in with the objective statement.

1           Q     Thank you for bearing with me while I take  
2 notes.

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?

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.

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?

19          A     Yes. That must happen in order for the  
20 objective to occur.

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?

24          A     It's as I just stated. That I feel that is  
25 needed in order to meet that objective.

1 Q Well, you --

2 (Overlapping speech)

3 Q (By Attorney Stanovsky) Sorry. Please finish.

4 A So the goal is to ensure regulatory compliance  
5 with laws, rules, tariffs, so forth, in order to meet  
6 that objective.

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?

12 A Correct.

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?

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.

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

1 important, don't you, where you say he seems to admit  
2 this?

3 A I don't understand -- I'm sorry -- what your  
4 question is. Can you...?

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.

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?

14 A Yes.

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?

21 ATTORNEY GAFKEN: I'm going to object as  
22 mischaracterizing the testimony.

23 ATTORNEY STANOVSKY: Counsel, would you  
24 clarify the mischaracterization as you see it?

25 ATTORNEY GAFKEN: The testimony speaks for



1     itself.

2                   But I think you're characterizing it in a  
3     way that is not accurate.

4                   ATTORNEY STANOVSKY: That's a conclusory  
5     statement. I don't understand what you're saying isn't  
6     accurate.

7                   JUDGE BONFRISCO: We're going to overrule  
8     that objection.

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.

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?

21           A     Correct.

22                   JUDGE BONFRISCO: Mr. Stanovsky, could you  
23    please repeat the question?

24                   ATTORNEY STANOVSKY: Give me a minute,  
25    your Honor. I may simply withdraw it. Just one moment.

1     Yeah, I -- one second.

2                     I think I'll move on. Thank you for the  
3     patience.

4             Q     (By Attorney Stanovsky) So, Ms. Feeser, in  
5     this case, is staff trying to present the totality of  
6     circumstances and how the enforcement factor should apply  
7     evenhandedly, or is it trying to present the subset of  
8     circumstances to justify its particular relief sought?

9             A     I'm not sure I understand your question.

10                    I mean, I can speak to the fact that we  
11     conducted our investigation, we presented our facts, and  
12     we made staff's recommendation. So what is your  
13     question, then, in relation, you know, to that process?

14             Q     Sure. I suppose what I'm getting at is, is  
15     staff trying to present the commission an evenhanded  
16     recommendation based on a neutral evaluation of all the  
17     facts, or is it trying to present the evidence and  
18     argument that it needs to justify an advocacy position  
19     favoring the maximum penalty?

20             A     So staff's intent is to present the facts. And  
21     with those facts does come staff's recommendation. And  
22     staff's recommendation -- I think if you reviewed staff's  
23     response to a discovery question in which the company  
24     requested ten years' worth of staff investigations to  
25     find out the max penalties that staff had recommended in

1 those cases, I think if you had reviewed that list or  
2 that docket list that staff had provided, I think you  
3 will find that in the majority of those cases, staff did  
4 recommend max penalties. When staff did not, it was in  
5 cases where there were thousands of violations, or it was  
6 a small company that the penalty amount could put the  
7 company out of business.

8 So staff's recommendation was consistent with  
9 how staff applies our recommendation.

10 And then it's the commission's position and  
11 responsibility, then, to review the facts that staff has  
12 submitted along with their recommendation.

13 And then the commission will take in all  
14 factors, 11 factors, I think it is, of the enforcement  
15 policy, and base their decision, or make their decision.

16 I'm not sure that that answered your question.

17 Q Yeah. I think not quite. So let me try again.

18 I mean, the first thing you said was staff's  
19 intent is to present the facts. And what I'm getting at  
20 is prior to what you present to the commission, is staff  
21 attempting to investigate all the facts evenhandedly,  
22 those that would both favor and disfavor the company?

23 Start with the investigation.

24 A Staff's focus is on a particular rule violation  
25 to determine if the company was in compliance or not.

1           In this case, I can say staff took a very  
2 narrow approach on this investigation. We focused only  
3 on Item 240 and Douglas County customers.

4           We could have taken a much wider approach. We  
5 could have presented evidence of customers -- for these  
6 25 customers being charged rates that was not approved by  
7 the commission.

8           Q     I'm sorry. I'm going to stop you there. I  
9 think we're, you know, getting into angels dancing on the  
10 head of a pin as far as, you know, some other proceeding  
11 that might have happened in some other universe.

12           But bringing it back to this case, so the last  
13 question was about the investigation staff undertakes.

14           Now turning to when you present a  
15 recommendation to the commission and facts related to  
16 that, is it your understanding that in that situation,  
17 staff is attempting to present all relevant facts as it  
18 knows them, or is it presenting facts in support of its  
19 recommendation; that is to say, the position it's  
20 advocating?

21           A     We're presenting the facts of the case. Yeah.  
22 We're presenting the facts of the case as we know that we  
23 discovered in the course of our investigation.

24           Q     So the total package as you see it?

25           A     I'm not sure what your definition of "total

1 package" is.

2 So again, we do the investigation. We present  
3 the facts that we found in that investigation. And then  
4 we make our recommendation.

5 ATTORNEY STANOVSKY: Okay. One moment,  
6 your Honor.

7 Q (By Attorney Stanovsky) Okay. So turning back  
8 to the objective the commission stated in the enforcement  
9 policy that we looked at before, that first sentence in  
10 paragraph 9, would you please turn to your rebuttal  
11 testimony at 5 and look at line -- starting at line 8.  
12 Tell me when you're there.

13 A I'm there.

14 Q And you testified, quote, Even though  
15 Mr. Brooks testifies that staff failed to argue that  
16 Waste Management's services were unsafe, inadequate,  
17 inefficient, or provided at unreasonable rates, that is  
18 exactly what I argued throughout my testimony, correct?

19 A Correct.

20 Q So you're saying that you argued, quote,  
21 throughout your direct testimony that Waste Management's  
22 services were unsafe, inadequate, inefficient, or  
23 provided at unreasonable rates.

24 Let's start with safe. Later in that  
25 paragraph, you mentioned, quote, potentially unsafe

1 services, (overflowing containers). Potentially.

2 That doesn't indicate what actually happened  
3 and it isn't facts; is that fair?

4 A They had -- excuse me -- evidence of one  
5 customer that said they had overflowing containers. And  
6 so therefore, I just used the word "potentially" in my  
7 testimony.

8 Q Okay. One customer.

9 And when you say "overflowing," my recollection  
10 of the investigation report and the materials in there is  
11 that the relevant passage was actually discussing charges  
12 for overfilled containers. Is that your recollection as  
13 well?

14 A What -- yes. Yes. I think that's a fair  
15 statement.

16 Q Thank you.

17 And you have a citation to this paragraph.  
18 I'll note we've talked about your statement that your  
19 direct testimony argues throughout about these issues,  
20 but you have only one citation here, which points to your  
21 direct testimony, BF-1T at 13, lines 14 to 20. Do you  
22 see that?

23 A I do see that citation, yes.

24 Q So let's flip to that passage in your direct.  
25 Page 13, lines 14 to 20.

1                   ATTORNEY STANOVSKY: And I apologize to  
2 those of you who have to put up with me looking way off  
3 in the corner. That's where I've got my exhibits.

4           Q       (By Attorney Stanovsky) So tell me when you're  
5 there. I'm sorry.

6           A       I believe I'm there. Yes.

7           Q       Page 13. And lines 14 to 20 is what you had  
8 cited in your rebuttal testimony.

9                   If we look at -- starting at line 16, you  
10 testify the company failed to provide every-other-week  
11 pickup service to customers with permanent container  
12 service in Douglas County, leaving containers sitting for  
13 an entire month before being serviced.

14                   Couldn't any size container on any service  
15 frequency potentially end up overflowing if it was  
16 undersized for the customer?

17                   ATTORNEY GAFKEN: Objection. Speculation.

18                   JUDGE BONFRISCO: I'm going to go ahead  
19 and sustain that objection.

20                   ATTORNEY STANOVSKY: One moment.

21           Q       (By Attorney Stanovsky) Ms. Feeser, if we were  
22 to look at Item 240 in Tariff 14 -- and we can if we need  
23 to -- but from your recollection, if possible, would it  
24 be fair to say there were a large number of container  
25 volumes potentially available under that service?

1           A     My recollection, I believe there was several  
2 container sizes listed.

3           Q     And do you understand the reason for those many  
4 sizes to be to give customers the option of choosing a  
5 container size that's appropriate for the volume of waste  
6 they generate?

7           A     I can only speculate. I don't have personal  
8 knowledge of reasons behind anything included in the  
9 tariff. That's not a part of a compliance investigator's  
10 role.

11          Q     Okay. Well, then, turning back to -- you  
12 mentioned that you had information about one customer  
13 that had reported charges for an overfilled container.

14                But I want to look at that passage in your  
15 rebuttal testimony at page 6.

16          A     Okay.

17          Q     And at line 5, you testify at least one  
18 customer reported to staff that they contacted the  
19 company multiple times over a year and a half reporting  
20 missed pickups, but the company never provided the  
21 correct service.

22                The customer also stated there were multiple  
23 times the company charged them for an overfilled  
24 container.

25                You used the phrase "at least one customer,"



1 but I think what you said a moment ago, and what I wanted  
2 to confirm, is that "at least one customer" here really  
3 means one customer, correct, to the best of staff's  
4 knowledge?

5 A I think that's fair. We have direct knowledge  
6 of one customer. So that's why I said "at least one." I  
7 don't know if there are more. There's at least one.

8 Q Well, any more than one would be speculation,  
9 wouldn't it?

10 A As I said, I have direct knowledge of one.

11 Q Thank you.

12 So now let's talk about adequate. And I think  
13 you have Exhibit BF-10X, which is staff's response to  
14 Waste Management Data Request 28. If you could open  
15 that, and tell me when you're there.

16 A And you said 10X?

17 Q 10X, yes.

18 A Okay. I'm there.

19 Q Thank you.

20 So here, at the top, there's several subparts  
21 here, but the preamble to the question quotes the passage  
22 from your testimony that we were looking at a minute ago,  
23 where you said in rebuttal that you argued throughout  
24 your direct testimony that Waste Management provided  
25 inadequate and unreasonable service, correct?

1           A     Correct.

2           Q     And in Part A of the question, we asked staff  
3     to point out every passage in your direct testimony where  
4     you argue that Waste Management's service was inadequate  
5     in any respect other than the failure to serve in  
6     compliance with the tariff, correct?

7           A     Correct.

8           Q     Would you please read the first sentence of the  
9     response to A?

10          A     Staff has not alleged that Waste Management has  
11     provided inadequate service in any other respect other  
12     than failure to provide service that complies with Tariff  
13     14, Item 240.

14          Q     Thank you.

15                 And I just realized I forgot to lay foundation  
16     and get this admitted. No, this was stipulated. So it's  
17     already admitted, your Honor, is that right?

18                 JUDGE BONFRISCO: Yes, that's correct.

19     The parties have stipulated to this exhibit.

20                 ATTORNEY STANOVSKY: Thank you.

21                 JUDGE BONFRISCO: Yes.

22          Q     (By Attorney Stanovsky) Okay. Turning now to  
23     reasonable service. Part B of this request, Ms. Feeser,  
24     asked staff to identify passages in your direct testimony  
25     where you argued that Waste Management service was

1 unreasonable. Do you see that?

2 A Yes.

3 Q And would you please read the first sentence of  
4 the response to Part B?

5 A Staff has not alleged that Waste Management has  
6 provided unreasonable service in any other respect other  
7 than failure to provide service that complies with Tariff  
8 14, Item 240.

9 Q Thank you.

10 And now, your Honor, just to double check,  
11 Exhibit BF-5X, I believe is already admitted?

12 I have no questions on that, but just wanted to  
13 be doubly sure it's in the record.

14 JUDGE BONFRISCO: That is correct.

15 ATTORNEY STANOVSKY: Thank you.

16 Q (By Attorney Stanovsky) I'm going to change  
17 gears here, so give me a moment to think about this next  
18 line.

19 Okay. I want to move on to some of the  
20 specific enforcement factors that the commission lays out  
21 in the enforcement policy.

22 So do you recall that Enforcement Factor 5 is  
23 whether the company promptly corrected the violations and  
24 remedied the impacts?

25 A Sorry. I need to go to the enforcement policy.

1 Q Sure.

2 A That was -- what number was the enforcement --  
3 oh, 13? Yeah.

4 Q Exhibit 13, yes. I apologize. I should have  
5 just steered you there. Factor 5 is on the bottom of  
6 page 8.

7 A I'm there. Page 8.

8 Q So Enforcement Factor 5 is whether the company  
9 promptly corrected the violations and remedied the  
10 impacts, yes?

11 A Yes.

12 Q Now, if you would turn to page 9 of your  
13 rebuttal testimony.

14 And actually, get Exhibit BF-15X and E as well,  
15 if you would check.

16 JUDGE BONFRISCO: And I don't believe that  
17 exhibit has been admitted in the record.

18 ATTORNEY STANOVSKY: Sure. So let's deal  
19 with that, then.

20 JUDGE BONFRISCO: Okay.

21 ATTORNEY STANOVSKY: Thank you, your  
22 Honor.

23 JUDGE BONFRISCO: Thank you.

24 ATTORNEY GAFKEN: We might be able to do  
25 this a little bit quicker instead of laying foundation

1 and whatnot on 15X. With the enforcement policy,  
2 Mr. Stanovsky stated that the purpose was to have it in  
3 front of the witness. And if that's a similar goal here,  
4 staff has no objections to the exhibit.

5 ATTORNEY STANOVSKY: Yes, that's right.

6 JUDGE BONFRISCO: Okay. Thank you,  
7 Ms. Gafken. Appreciate you clarifying.

8 Mr. Stanovsky, go ahead.

9 ATTORNEY STANOVSKY: So just to clarify,  
10 15X, I believe is admitted? I don't think we've heard  
11 from (inaudible) --

12 JUDGE BONFRISCO: Yes, thank you.

13 ATTORNEY STANOVSKY: -- to be totally  
14 clear.

15 JUDGE BONFRISCO: Yes. Let the record  
16 reflect that Exhibit BF-15X is admitted, and that there's  
17 no objection from opposing counsel.

18 (Exhibit BF-15X admitted)

19 ATTORNEY STANOVSKY: Thank you. One  
20 moment. Now I don't have my exhibits handy. I'll be  
21 right there. Excuse me.

22 Q So Ms. Feeser, we've got 15X and E, which is  
23 Waste Management's answer to the complaint in this case,  
24 correct?

25 A Correct.

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?

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

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



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

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?

4 A Staff did not, no. The staff's investigation  
5 was focused on the violations.

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.

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.

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.

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?

21 A (Inaudible).

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?

25 A Correct. Staff had no reason to doubt that

1 that had happened.

2 Q Thank you.

3 And you still don't have any reason to doubt  
4 that sitting here today, do you?

5 A Correct. I have no reason to doubt it. I  
6 don't have documentation to prove it.

7 Q Thank you.

8 And discovery was available to staff in this  
9 case, wasn't it?

10 A Yes.

11 Q From July 5 last year through January 27?

12 At any rate --

13 A I don't have the dates in front of me.

14 Q Sure.

15 A But I'm not going to question you about that.

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.

19 A No, that's fine.

20 Q But staff didn't ask about this statement in  
21 discovery, did it?

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.

25 Q Well, I suppose we could take that subject to

1 check if you just wanted to look back afterward and  
2 correct that if you need to. But that's my  
3 understanding.

4 A I'm not going to -- I mean, I will say we did  
5 not ask.

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.

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.

13 A I'm there.

14 Q Factor 8 is the likelihood of recurrence of the  
15 violations, correct?

16 A Correct.

17 Q So in your rebuttal testimony, let's turn to  
18 page 11.

19 A Okay.

20 Q And would you please read the first full  
21 sentence, starting "Staff understands" at the top of the  
22 page?

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

1 Management may be making similar decisions in those other  
2 rural service areas.

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?

12 A That's correct.

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?

18 A I'm so sorry. I was kind of reading it all  
19 together now. Sorry.

20 Q Sure. Sure.

21 A What was your question?

22 Q Well, I'll try and break it down.

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

1 tariff-compliant service to those customers, correct?

2 A Correct.

3 Q And you go on to say that Waste Management had  
4 a reasonable and now confirmed concern that Waste  
5 Management was making similar decisions, which I take to  
6 mean deciding it was too far for drive to serve other  
7 customers in other rural service areas in other rural  
8 parts of the state; is that correct?

9 A You know, I think what I meant was not provide  
10 the every-other-week service to those under Item 240 that  
11 the company -- that staff had concerns that the company  
12 potentially was also not providing every-other-week  
13 service to others.

14 Q Well, that it sounds like it would be kind of  
15 an objective inquiry and not what you testify was your  
16 focus on the root cause of the violations, or looking  
17 back at line 18 to 20 on page 10, concern around the  
18 company's decision making and its reasoning. Is that  
19 fair?

20 I mean, it seems to me you're focused on this  
21 notion that the company was not serving customers that it  
22 deemed to be too far to drive.

23 ATTORNEY GAFKEN: I'm going to just object  
24 to the form of the question. It's hard to tell if  
25 there's a question in there. It seems that he's

1     testifying.

2                   ATTORNEY STANOVSKY:   Okay.

3                   JUDGE BONFRISCO:    If you --

4                   ATTORNEY STANOVSKY:  -- question.  I would  
5     contest whether I'm testifying.  I'll assert that I am  
6     trying to line out the question.

7                   But I'll withdraw and rephrase.

8                   JUDGE BONFRISCO:   Thank you.

9                   And I'm sorry.  Let the record reflect the  
10    question has been withdrawn and counsel is reframing the  
11    question.

12           Q     (By Attorney Stanovsky)  So, Ms. Feeser, you  
13    recall that Mr. Brooks testified the company looked at  
14    service frequency for all of its roughly 12,000 customers  
15    statewide under Item 240 of all its commission tariffs,  
16    correct?

17           A     Correct, except for I don't remember the  
18    number.  But I do recall Mr. Brooks' testimony that the  
19    company had looked at other service frequency under Item  
20    240.

21           Q     Well, I'm deciding whether it's worth noting it  
22    in the record because it is in Mr. Brooks' testimony.

23                   Yeah.  So if you want to look at Exhibit CB-1T,  
24    which I realize -- no, I suppose the parties stipulated,  
25    so I suppose it has been admitted.

1                   We'll have foundation for it when Mr. Brooks is  
2 sworn in. I suppose it isn't admitted because he hasn't  
3 been sworn in. But we can look at the exhibit  
4 nonetheless.

5           A     Okay. I'm at the testimony.

6           Q     Yeah, page 15.

7           A     Okay.

8           Q     And you see where he says, We identified 17  
9 more customers who were receiving noncompliant service?

10          A     Yes.

11          Q     Yes. So returning to the passage we were  
12 looking at at the bottom of 10, top of 11 in your  
13 rebuttal testimony, 4T?

14          A     Okay.

15          Q     Starting at page 10, line 18, you say staff's  
16 concern centered around the company's decision making,  
17 reasoning and the impact (inaudible) customers, yes?

18          A     Yes.

19          Q     And next you say that the investigation focused  
20 on the root cause of those violations being a decision  
21 that it was too far to drive to provide compliant  
22 service, yes?

23          A     Yes.

24          Q     And the next sentence after that, you say staff  
25 had a reasonable and now confirmed concern that Waste



1 Management may be making similar decisions in other rural  
2 service areas, yes?

3 A Yes, similar decisions.

4 Q And as you view it, based on Mr. Brooks'  
5 testimony, it's, quote, now confirmed that Waste  
6 Management was providing less than every-other-week  
7 service to Item 240 customers it thought were too far  
8 away, correct?

9 A Where are you at? I'm sorry.

10 Q I was trying to summarize.

11 A Oh. Oh. Okay. No, that's not correct.

12 As the statement says, is that Waste Management  
13 may be making similar decisions. And so similar  
14 decisions such as, and I didn't list out what all the  
15 decisions could be. It was similar decisions.

16 And in this case, Mr. Brooks confirmed there  
17 were 17 additional people not receiving the  
18 every-other-week pickup service.

19 Q How many of those 17 customers would have been  
20 able to receive every-other-week service if they had  
21 wanted it?

22 A I have no data, no information about 17  
23 customers. All I have is Mr. Brooks' testimony that 17  
24 were not being provided the service level they signed up  
25 for under Item 240.

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

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

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.

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

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.

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.

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.

11 JUDGE BONFRISCO: Okay. That's fair.

12 Mr. Stanovsky, if you could go ahead and  
13 lay the foundation, and we'll take it as it comes.

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.

17 Q (By Attorney Stanovsky) So, Ms. Feeser, you  
18 have Exhibit BF-16X?

19 A I do.

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?

24 A Correct.

25 Q Do you recognize this as that spreadsheet, the

1 redacted version, to be specific?

2 A Yes. I believe this is the same spreadsheet  
3 that was provided to public counsel.

4 ATTORNEY STANOVSKY: Move to admit.

5 JUDGE BONFRISCO: Ms. Gafken, did you have  
6 any concerns?

7 ATTORNEY GAFKEN: No, it's fine to be  
8 admitted as an exhibit.

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.)

13 ATTORNEY STANOVSKY: Thank you.

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.

20 JUDGE BONFRISCO: Thank you for noting  
21 that for the record as well. I appreciate that.

22 Q (By Attorney Stanovsky) Ms. Feeser, you signed  
23 a confidentiality agreement under the protective order in  
24 this case, correct?

25 A Correct.

1           Q     And that would allow you to review unredacted  
2 confidential discovery materials, correct?

3           A     Correct.

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?

8           A     Correct.

9           Q     Ms. Feeser, would you turn to page 5 of the  
10 exhibit?

11          A     I'm there.

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.

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?

20                 And as a spoiler, I hope you'll arrive at 17,  
21 but please confirm.

22          A     Found them. There's 17.

23          Q     So you see the column listing Service City, the  
24 first column on page 5?

25          A     Yes.



1 Q And you see the third column on this page,  
2 Service Zip Code?

3 A Yes.

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?

7 A Yes.

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?

11 A I'd suspect it does.

12 Q Would you accept that subject to check?

13 A Yes.

14 Q Okay. Now back to page 5, if you would?

15 A (Inaudible).

16 Q Did staff take any of those addresses and look  
17 them up, where they're located?

18 A No, it's not a part of the investigation that  
19 we conducted.

20 Q And do you see the Bothell line at the bottom  
21 of the spreadsheet?

22 A Yes.

23 Q Is Bothell a rural area?

24 A I don't know. And I can just tell you I don't  
25 know if any of these are rural areas.

1           And I can share that when I had the  
2 conversation with regulatory services, you know, I told  
3 you that the -- it was around, really, how many -- or  
4 which areas likely have folks living a -- quite a  
5 distance from the yard or transfer station.

6           And I do recall I was told that potentially  
7 there could be areas even in Seattle, where someone lives  
8 quite a distance from. So -- and in my mind, when I  
9 think -- when I used the term "rural," I am looking at it  
10 in my mind from those that live a long distance away.

11           So I don't know anybody on this list, how far  
12 they live. I don't know if the area is rural. I don't  
13 know if they live a long distance from a transfer  
14 station. I'm just saying that up front. I don't know.

15           Q     So your testimony, I think, is that Mr. Brooks'  
16 testimony about these 17 customers confirms staff's  
17 suspicion that Waste Management was making similar  
18 decisions in other rural service areas.

19           But I think you've just said you don't actually  
20 know where any of the 17 customers are located or if any  
21 of them are in rural areas, fair?

22           A     I do not know where they're located.

23           Q     Thank you.

24           ATTORNEY STANOVSKY: Your Honor, I note  
25 that it's a little after 10:30. And I'm going to stay on

1 Factor 8 a little longer, but take a slightly different  
2 direction. So now would not be a bad time for a break.

3 JUDGE BONFRISCO: Ms. Gafken, how are you  
4 doing?

5 ATTORNEY GAFKEN: A break would be fine.

6 JUDGE BONFRISCO: Okay. Let's plan --  
7 what are we thinking, five, ten minutes?

8 ATTORNEY STANOVSKY: I'd appreciate ten,  
9 your Honor.

10 JUDGE BONFRISCO: Okay. So right now it's  
11 10:39. Let's go ahead and come back at 10:50. All  
12 right. Thank you. And thank you Ms. Feeser.

13 THE WITNESS: Thank you.

14 (Recess.)

15 ATTORNEY STANOVSKY: One moment while I  
16 get situated here.

17 JUDGE BONFRISCO: No worries. And thank  
18 you for your patience, Ms. Feeser.

19 THE WITNESS: No problem.

20 ATTORNEY STANOVSKY: I second that.

21 Q (By Attorney Stanovsky) Okay. Sorry. Thank  
22 you for your patience.

23 Okay. Ms. Feeser, when we're talking about  
24 what's likely to recur in the future, isn't it important  
25 what the company is doing today, not just what it did two

1 years ago?

2 A I think it depends -- it focuses on the  
3 company's compliance history.

4 And what's concerning in this case, as already  
5 stated, is the company did not correct their business  
6 practices when receiving technical assistance, and it  
7 wasn't until the company knew we did a -- opened a formal  
8 investigation. That is what leads to concern.

9 Q Is it your position that it's not relevant what  
10 the company does today when the commission weighs Factor  
11 8, the likelihood of recurrence?

12 A I think what the company is doing today ties in  
13 with potentially whether or not consideration for  
14 suspended penalty would be appropriate or not.

15 Q I appreciate that, but I'm asking about one of  
16 the enforcement factors, which is the likelihood of  
17 recurrence. And what I'm trying to understand is, do you  
18 agree or disagree that the company's current practices  
19 are important when you're considering the likelihood of  
20 the problem to recur?

21 A I can't say whether or not what the company is  
22 doing today to correct an issue that went over a year not  
23 being fixed, if that is indicative of recurrence or not.

24 Q You can't say. Okay.

25 So let's look at your direct testimony. Turn

1 to page -- I need the page number in my notes. I know  
2 the line once I find it. Sorry.

3 JUDGE BONFRISCO: And you're referring to  
4 Exhibit BF-1T, correct?

5 ATTORNEY STANOVSKY: Yes, BF-1T.

6 JUDGE BONFRISCO: Okay.

7 ATTORNEY STANOVSKY: Page 16, please.

8 THE WITNESS: Okay. I'm there.

9 Q (By Attorney Stanovsky) Now, Factor 8 is  
10 whether recurrence is likely, correct?

11 A I'm so sorry. I hit the wrong direction on my  
12 speaker and I lost you. Can you repeat that question?

13 Q So you're on page 16 of your direct BF-1T?

14 A Correct. I am.

15 Q Enforcement Factor 8 is whether recurrence is  
16 likely, correct?

17 A Correct.

18 Q But your testimony here on line 15 says staff  
19 believes recurrence is possible, correct?

20 A Correct.

21 Q You go on to testify that, quote, The company  
22 has already created a practice of not providing the level  
23 of service required by their tariff if they deem the  
24 distance is too far to drive. Do I have that right?

25 I'm sorry. Are you there?

1 A Yes. You can't hear me?

2 Q I didn't hear the response. If you just said  
3 yes, it may have cut out. So that was a yes. Okay.  
4 Sorry.

5 A Yes. Yes.

6 Q So the company has already created a practice  
7 of not providing the level of service required by their  
8 tariff if they deem the distance is too far to drive.  
9 Did that happen anywhere except on the one Douglas County  
10 route at issue in this case?

11 A I don't know. Yeah. I don't know.

12 Q (Inaudible).

13 A Go ahead.

14 Q So you don't know whether the company decided  
15 any of those 17 customer locations were too far to drive  
16 to provide every-other-week service?

17 JUDGE BONFRISCO: Could you reframe the  
18 question, Mr. Stanovsky, just so it's clear for the  
19 witness?

20 Q (By Attorney Stanovsky) Sure. I asked, so you  
21 don't know whether any of the 17 customers identified in  
22 the service review, that the company decided any of them  
23 were too far to drive?

24 A Staff has no knowledge, no documentation of  
25 anything of the 17.

1                   Staff investigation focused on the 25  
2 customers. That was the subject of the investigation.

3           Q     And this language created a practice -- I think  
4 you refer to it even as a business practice in your  
5 rebuttal testimony. Let's look at that, BF-4T at 10,  
6 line 9.

7           A     I'm there.

8           Q     So you testified that this so-called business  
9 practice exists, but you don't know if it was ever  
10 applied to even one other customer beyond the one Douglas  
11 County route corrected in 2023, correct?

12          A     The company established this business practice.  
13 It was an established business practice. The company was  
14 not providing service to 25 customers under Item 240.

15          Q     I'm sorry. But the question I asked was, you  
16 don't know if the so-called business practice was ever  
17 applied to any customers beyond the one Douglas County  
18 route directly at issue, correct?

19          A     A business practice was established when  
20 customers were not provided the level of service required  
21 by the tariff. And the company reported 25 customers  
22 should have been receiving every-other-week pickup  
23 service, and they were only receiving monthly.

24          Q     Let's look back at your direct, page 16, line  
25 15, where we just were.

1           A     Okay. I'm there.

2           Q     Your testimony is the company has already  
3     created a practice of not providing the level of service  
4     required by the tariff if they deem the distance is too  
5     far to drive. Do you see that?

6           A     Yes.

7           Q     But you do not know, do you, whether that  
8     so-called practice was ever applied to even one other  
9     customer beyond the one Douglas County route that was  
10    corrected in 2023?

11                  ATTORNEY GAFKEN: I'm going to object as  
12    asked and answered. Mr. Stanovsky has asked Ms. Feeser  
13    about her knowledge of the 17 additional customers many  
14    times.

15                  JUDGE BONFRISCO: And do you have any  
16    comments before I rule, Mr. Stanovsky?

17                  ATTORNEY STANOVSKY: Yes, your Honor. She  
18    attempted to recharacterize the practice and distance it  
19    -- pardon my word choice -- from this idea about the  
20    decision making being based on the distance being too far  
21    to drive. So she hasn't answered the question with  
22    respect to the practice as described in this passage.

23                  JUDGE BONFRISCO: I'm going to sustain the  
24    objection.

25                  ATTORNEY STANOVSKY: All right.



1 Q (By Attorney Stanovsky) Well, Ms. Feeser, if  
2 you know anything about any other customers beyond the  
3 one Douglas County route to which the practice you  
4 describe on page 16 of your direct has been applied, I'll  
5 give you one last chance to let us know.

6 ATTORNEY GAFKEN: Same objection.

7 JUDGE BONFRISCO: I'm going to go ahead  
8 and sustain it.

9 Q (By Attorney Stanovsky) Ms. Feeser, did staff  
10 investigate whether the business practice you describe  
11 here was ever applied to even one customer beyond the one  
12 Douglas County route?

13 A Staff investigated whether customers in Douglas  
14 County was receiving every-other-week pickup service  
15 under Item 240 that they should have been, and found that  
16 25 customers were receiving monthly instead.

17 Q The topic we're on is the likelihood of  
18 recurrence. And the question I'm asking is not about  
19 those 25 customers. It is about all of Waste  
20 Management's other customers.

21 Your lead argument here about why recurrence is  
22 possible is that the company has created a practice of  
23 not providing the level of service required by their  
24 tariff if they deem the distance is too far to drive. Is  
25 that not the lead argument you make after saying

1 recurrence is possible?

2 ATTORNEY GAFKEN: Asked and answered.

3 ATTORNEY STANOVSKY: I don't think so at  
4 all. I was characterizing that as her lead argument  
5 because it follows the sort of ultimate statement. I  
6 think that's different than anything I've asked.

7 JUDGE BONFRISCO: I'm going to overrule  
8 it, and I'm going to allow this line of questioning.

9 ATTORNEY STANOVSKY: Thank you, your  
10 Honor.

11 THE WITNESS: Okay. So would you please  
12 then restate or ask it again?

13 Q (By Attorney Stanovsky) So you say staff  
14 believe recurrence is possible. And in support of that,  
15 the argument you lead with is the company has already  
16 created a practice of not providing the level of service  
17 required by their tariff if they deem the distance is too  
18 far to drive, correct?

19 A Yes, that's what I state. You want me to  
20 explain?

21 Q But staff did not investigate whether the  
22 practice you describe there, not providing service if  
23 they deem the distance is too far to drive, staff did not  
24 investigate whether that so-called practice was ever  
25 applied to any customers other than the one Douglas

1 County route, correct?

2 A Staff verified with the company by -- through  
3 the data request that 25 customers did not -- that the  
4 company was not providing them the level of service under  
5 Item 240.

6 ATTORNEY STANOVSKY: Your Honor, I'm  
7 trying to be clear that I'm asking about all other  
8 customers besides those 25, and it seems the witness is  
9 resistant to answering that. I suppose I'd ask you to  
10 direct her to answer the question as posed.

11 JUDGE BONFRISCO: I guess to clarify,  
12 Ms. Feeser, is beyond the 25 focused in the scope of the  
13 investigation, I think his question is targeting beyond  
14 that, if there was any further investigation beyond that  
15 25 specified.

16 THE WITNESS: Okay. And no. The  
17 investigation solely focused on Douglas County and the 25  
18 customers that the company reported was not receiving  
19 service. And that, then we found they had created an  
20 established practice for those 25 customers of not  
21 providing them the level of service that they were  
22 entitled to.

23 ATTORNEY STANOVSKY: Thank you.

24 JUDGE BONFRISCO: Thank you, Ms. Feeser.

25 Q (By Attorney Stanovsky) So we've discussed

1     that staff has no reason to doubt that that practice was  
2     corrected with respect to those 25 customers. Do you  
3     recall that?

4           A     Yeah. And giving the company the benefit of  
5     the doubt that they're being truthful, then --

6           Q     Well --

7           A     -- yes, I wouldn't doubt it.

8           Q     I'm not asking for the benefit of the doubt.  
9     I'm asking to confirm you have no contrary evidence.

10          A     Yeah. I have no documentation to confirm or  
11     deny.

12          Q     So you have no reason to doubt that those --  
13     let me start the question over.

14                 You are no reason to doubt that the company  
15     corrected what you describe as a business practice here,  
16     and you conducted no investigation into whether the  
17     practice had applied to anyone else. Is that not  
18     relevant in your mind to the likelihood that the problem  
19     will recur in the future?

20          A     No.

21          Q     Thank you.

22                 So looking again at your phrasing here, you  
23     testified that the company, quote, has already created a  
24     practice. You use the present tense there, don't you?

25          A     Yes.

1           Q     And that's your testimony entered today without  
2 revision, correct?

3           A     Correct. The company did create a practice.  
4 They had already established a practice.

5           Q     Sitting here today, does the company have a  
6 business practice of not providing required service to  
7 distant locations?

8           A     I can't answer that. Staff's investigation was  
9 solely focused on Item 240 for Douglas County.

10          Q     All right. So sitting here today, you have no  
11 reason to believe, do you, that the company has, now, a  
12 business practice of not providing required service to  
13 distant locations, correct?

14          A     I have -- I can't confirm nor deny that. We  
15 have not conducted an investigation outside of Douglas  
16 County Item 240.

17                   JUDGE BONFRISCO: And Mr. Stanovsky, I  
18 believe this has been couched in many different ways  
19 throughout this witness' testimony. Can we go ahead and  
20 move on?

21                   ATTORNEY STANOVSKY: Okay. I think so. I  
22 guess one final question if I might, your Honor.

23          Q     (By Attorney Stanovsky) So we're here talking  
24 about the likelihood of recurrence. You have not offered  
25 any reason to doubt that the practice you described does

1 not exist today. Isn't it relevant, in evaluating the  
2 likelihood of recurrence, that there is no evidence that  
3 the problem persists?

4 ATTORNEY GAFKEN: Asked and answered.

5 ATTORNEY STANOVSKY: I'm talking about the  
6 present now, which I think we previously had talked about  
7 the past.

8 ATTORNEY GAFKEN: The last four questions  
9 have been about the present.

10 JUDGE BONFRISCO: And I'm going to go  
11 ahead and sustain that, because I think the witness has  
12 made very clear the scope of the investigation and what  
13 it focused on.

14 ATTORNEY STANOVSKY: All right. I'll move  
15 on.

16 Q (By Attorney Stanovsky) So moving down to the  
17 very end of page 16, Ms. Feeser, do you see where -- the  
18 phrase that starts "staff believes"?

19 JUDGE BONFRISCO: And just to clarify, are  
20 you referring to her rebuttal testimony?

21 ATTORNEY STANOVSKY: I'm sorry. No. Her  
22 direct testimony, BF-1T.

23 JUDGE BONFRISCO: Okay. Thank you.

24 ATTORNEY STANOVSKY: Yeah.

25 ATTORNEY GAFKEN: I'm sorry. What was the

1 page reference?

2 ATTORNEY STANOVSKY: 16.

3 ATTORNEY GAFKEN: Thank you.

4 ATTORNEY STANOVSKY: The very end of the  
5 page is the phrase starting "Staff believes."

6 THE WITNESS: I'm there.

7 Q (By Attorney Stanovsky) Would you please read  
8 from there to the end of the sentence on the next page?

9 A Staff believes that noncompliance could be  
10 spread across the company's entire service area, and  
11 without commission intervention, the company's practices  
12 could continue.

13 Q So let's look at Exhibit BF-7X.

14 ATTORNEY STANOVSKY: And while we're  
15 getting there, your Honor, I meant to mention before the  
16 break, so I'll just say it now. Based on my two-hour  
17 estimate of cross, you know, we were roughly in the  
18 ballpark of halfway through when we took the break, my  
19 outline, and that had been roughly an hour. So I think,  
20 you know, roughly speaking, I seem to be pretty on track  
21 with the timing.

22 JUDGE BONFRISCO: And I appreciate that.  
23 And I still -- I'm still hopeful we can get done by noon.  
24 I know that staff estimates, you know, just 20 minutes.

25 But how much longer do you think you have

1 at this point?

2 ATTORNEY STANOVSKY: Well, I mean -- I  
3 guess, you know, 45 minutes-ish, you know. Maybe a  
4 little more, depending on if, you know, we bog down,  
5 which I'll try not to.

6 JUDGE BONFRISCO: Okay.

7 ATTORNEY STANOVSKY: But that whereabouts.

8 JUDGE BONFRISCO: Let's see what kind of  
9 progress we can make. Thanks.

10 Q (By Attorney Stanovsky) So 7X, Ms. Feeser, are  
11 you there?

12 A I am there.

13 Q Thank you.

14 I'm sorry. I just read the wrong number in my  
15 notes. 17X is what I meant to go to.

16 JUDGE BONFRISCO: And I don't believe 17X  
17 has been admitted yet. So if you want to -- yeah. Go  
18 ahead and lay foundation.

19 ATTORNEY STANOVSKY: Sure. So this is  
20 just a PDF printout of a web page on the commission  
21 website. That URL is at the bottom.

22 And I'm only offering it as a way of  
23 indicating the various counties throughout Washington  
24 where Waste Management serves under commission  
25 jurisdiction. So I think it probably would be subject to



1 official notice of the commission.

2 JUDGE BONFRISCO: Let me just take a look,  
3 get that pulled up really quick. Sorry. My computer is  
4 a little slow.

5 So yes. We're willing to take judicial  
6 notice of that.

7 ATTORNEY GAFKEN: And staff also does not  
8 object to Exhibit BF-17X if it's being used as an  
9 illustrative exhibit.

10 JUDGE BONFRISCO: And that's the case,  
11 correct, Mr. Stanovsky?

12 ATTORNEY STANOVSKY: I suppose technically  
13 you could view it that I'm using it as evidence of the  
14 counties that Waste Management serves. That would be the  
15 most expansive view of what I'm doing with it.

16 ATTORNEY GAFKEN: And Washington has the  
17 counties that we have in our state, and I think everyone  
18 can agree that the counties are what they are and that  
19 the commission would accurately reflect them on the  
20 website. But I think -- well, I'll stop there.

21 JUDGE BONFRISCO: I'm going to allow it in  
22 the record. Go ahead and proceed.

23 ATTORNEY STANOVSKY: Thank you.

24 Q (By Attorney Stanovsky) So Ms. Feeser, I'll  
25 represent to you, and I guess ask you in the interest of

1 time, to accept subject to check that this website lists  
2 16 counties in which Waste Management offers UTC  
3 jurisdictional service. Is that acceptable?

4 A That's acceptable.

5 Q So let's also have side by side, if we could,  
6 Exhibit 16X, the spreadsheet of the 17 customers outside  
7 the one Douglas route receiving noncompliant service.

8 A Okay.

9 Q So if you look at the last page of 16X, you see  
10 the column labeled Municipalities CD?

11 A Yes.

12 Q I'll suggest to you that each of these refers  
13 to a county, Benton, Douglas, Chelan, Kittitas, King, and  
14 Snohomish.

15 And that if you were to flip back to page 5,  
16 you could correlate the listed service cities with those.

17 In any case, looking at the list of cities, do  
18 you know where Wenatchee is?

19 A Yes.

20 Q It's in Chelan County, yes?

21 A I don't know what county. I know it's in  
22 Eastern Washington.

23 Q I'll suggest that Wenatchee, Leavenworth,  
24 Cashmere, and Peshastin in this list are all in Chelan  
25 County, and I guess ask you to accept that subject to

1 check?

2 A I accept it subject to check.

3 Q All right. So about half or more of these 17  
4 customers are located in Chelan County.

5 The other half, if you were to accept my  
6 description of the county abbreviations on the last page,  
7 are distributed across, it looks to me, like one in  
8 Benton, one in Douglas, two in Kittitas, two in King, and  
9 one in Snohomish. Is that count right, assuming I've got  
10 the counties correct?

11 A I'd say close enough.

12 Q So looking at 17X and the list of counties the  
13 commission serves -- and again, I'm addressing your  
14 testimony that staff was concerned that the noncompliance  
15 could be spread across the company's entire service area.  
16 You see that Grant County lists Waste Management as a  
17 regulated company there on 17X?

18 A Yes.

19 Q And Island County as well?

20 A Yes.

21 Q Kitsap as well?

22 A Yes.

23 Q And Lincoln?

24 A Yes.

25 Q And Mason?

1 A Yes.

2 Q And Okanogan?

3 A Yes.

4 Q Pierce?

5 A Yes.

6 Q And Skagit?

7 A Yes.

8 Q And Spokane?

9 A Yes.

10 Q And Whatcom?

11 A Yes.

12 Q So it looks like to me like out of these 17  
13 customers, we have ten in Chelan County, one or two each  
14 in a handful of others, and ten counties that Waste  
15 Management serves with no indication of noncompliant  
16 service. Would you accept that?

17 A Subject to a deeper look and review of that.

18 Q Certainly. Subject to check is fine.

19 ATTORNEY GAFKEN: I'm actually not sure  
20 how we would check that. If I understood the question  
21 correctly, Mr. Stanovsky is asking whether -- about the  
22 character of service in those territories or counties,  
23 and I don't think we can check that based on the record  
24 that's in this case.

25 ATTORNEY STANOVSKY: I asked whether

1     there's any indication of noncompliant service frequency  
2     in any of those counties. Obviously --

3                 JUDGE BONFRISCO: Well, I do think that  
4     Mrs. Gafken is correct. There wouldn't be anything  
5     outside of this record. It would have to be subject to  
6     check, you know, based on unrelated matters. So I'm not  
7     sure exactly --

8                 ATTORNEY GAFKEN: And I would say that's  
9     not an appropriate use of subject to check.

10                ATTORNEY STANOVSKY: Well, I guess let me  
11     suggest this: You have the confidential version of the  
12     spreadsheet with the 17 customer addresses. You could  
13     verify the counties in which those customers are located.  
14     And that would allow you to confirm that all the rest of  
15     the counties that we just went through have no indication  
16     of a relevant service issue.

17                JUDGE BONFRISCO: And I'm hoping maybe,  
18     Mr. Stanovsky, you could clarify this for the record as  
19     well, because I know prior to this, you had made it clear  
20     that none of the redacted content you intended to rely  
21     upon at this proceeding.

22                But it seems like that we're kind of going  
23     into a territory, you know, of asking this witness for  
24     her further review of this, when in fact the only thing  
25     submitted before the presiding officers to date is the

1 redacted version. So I guess I'm just not sure where  
2 you're going at this point.

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.

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.

11 JUDGE BONFRISCO: So if this is officially  
12 your objection, Ms. Gafken, then I'm going to go ahead  
13 and sustain it.

14 ATTORNEY STANOVSKY: I was willing to  
15 withdraw it anyway, but fair enough.

16 JUDGE BONFRISCO: Okay. Thank you.

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?

22 A Yes, I recall that.

23 Q Do you have the same concerns sitting here  
24 today?

25 A I don't have an opinion.

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.

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.

10          Q     So I think in answer to my question, you said  
11       you can't give an opinion; is that right?

12          A     I can't give an opinion if everything has been  
13       fixed.

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?

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.

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.

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.

12           What we generally find in investigations is if  
13 an area is impacted, it generally does creep into other  
14 areas.

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.

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.

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.



1                   ATTORNEY GAFKEN: The witness has answered  
2 the question.

3                   ATTORNEY STANOVSKY: Okay.

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.

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.

15                  JUDGE BONFRISCO: Okay. Thank you.

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?

19                  A     I don't believe we did.

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?

23                  ATTORNEY GAFKEN: Objection.  
24 Argumentative.

25                  JUDGE BONFRISCO: I'm going to go ahead

1 and sustain that.

2 Q (By Attorney Stanovsky) Would it be fair to  
3 say you wouldn't have the information had public counsel  
4 not requested it?

5 ATTORNEY GAFKEN: Objection. Speculation.

6 JUDGE BONFRISCO: Mr. Stanovsky, do you  
7 have anything to reply in regard to that?

8 What are your thoughts?

9 ATTORNEY STANOVSKY: The speculation would  
10 be the implication that staff might have requested it on  
11 its own. I'm just trying to understand the argument.

12 ATTORNEY GAFKEN: Also, it misstates the  
13 record. We do have information about the 17 customers  
14 outside of the discovery request. So I don't think it's  
15 properly premised.

16 JUDGE BONFRISCO: Okay. Mr. Stanovsky,  
17 before I rule, is there --

18 ATTORNEY STANOVSKY: I'll move on.

19 JUDGE BONFRISCO: So you're going to go  
20 ahead and withdraw the question?

21 I'll sustain the objection, and go ahead  
22 and move on. Thank you.

23 Q (By Attorney Stanovsky) All right. So now I  
24 want to move on to Enforcement Factor 10, which is the  
25 company's existing compliance program. And you can check

1     that if you want on Exhibit 13-X at page nine, again.

2           A     Okay. I'm sorry. Did you say the existing  
3     compliance program section? Okay.

4           Q     But what --

5           A     I'm there.

6           Q     -- is your --

7           A     My response to that?

8           Q     Well, actually, Exhibit 12-X.

9           A     Okay. I'm there.

10          Q     Which I believe was admitted under stipulation.

11                   JUDGE BONFRISCO: That's correct.

12          Q     (By Attorney Stanovsky) So in Part A of this  
13     request, Waste Management asked staff's understanding  
14     whether this factor is limited to the company's  
15     compliance program as it relates to the specific  
16     violations in a case, or if the company broadly considers  
17     the compliance program for UTC compliance in general. Is  
18     that a fair summary?

19          A     Yes.

20          Q     And in the response to A, third sentence, you  
21     wrote, In a formal compliance investigation, staff  
22     searches for compliance plans that are relevant to the  
23     violations found in that particular investigation. Do  
24     you see that?

25          A     Yes.

1           Q     And it seems to me that searching for a  
2 compliance plan is even narrower than evaluating the  
3 sufficiency of a compliance program. Would you agree  
4 with that?

5           A     Not necessarily, no.

6                     No, I don't, because I believe in Mr. Brooks'  
7 testimony, he outlined the company's compliance program,  
8 if I'm stating} that correctly from his testimony. And  
9 -- but that compliance program did not work in this case.

10                    If the company brought that forward in the  
11 testimony to show they had a compliance program, it did  
12 not work. It broke down. It didn't work.

13           Q     (Inaudible) the question was about whether  
14 searching for a compliance plan is narrower than what  
15 would be construed as a compliance program.

16                    But I guess I'll withdraw the question.

17                    Your statement that in a formal compliance  
18 investigation, staff searches for compliance plans that  
19 are relevant to the violations found in that particular  
20 violation, would you agree that's a pretty narrow  
21 inquiry?

22           A     I'm not going to say it's a narrow inquiry.

23                    We search to see if we have anything on record  
24 that shows the company had something in place to address  
25 the issue, this particular issue.

1 Q Okay.

2 A And that's what we did in this case.

3 Q When you say you search, what do you search?

4 A We search our compliance investigations  
5 database for any prior investigations.

6 We search the docket history to see if there's  
7 been any formal complaints on this similar topic to where  
8 a compliance plan was put in place.

9 We search our consumer complaint database. And  
10 specific to this, where there was a consumer complaint on  
11 it, we search to see if the company presented a plan or a  
12 commitment of how they were going to fix the issue to  
13 ensure compliance moving forward. Those are all things  
14 that we search.

15 Q Okay. And let's look at Exhibit 9-X.

16 A Okay.

17 Q And I believe this has already been admitted as  
18 well as a discovery response.

19 So you see part A asks -- this is Waste  
20 Management asking staff to identify and describe  
21 compliance programs by commission regulated companies  
22 that staff believes are positive examples as relevant to  
23 this factor. Do you see that?

24 A Yes.

25 Q And would you read the response in A, please?

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.

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?

11          A     That was what we were reporting on in our  
12 investigative report.

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?

17          A     I think we're talking two different things,  
18 potentially.

19                The commission -- I'm telling you what  
20 commission staff looks for in the course of our  
21 investigation.

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.

25                I am telling you what commission staff looks

1 for in the course of our investigations.

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?

5 A We're going to report what we find, and the  
6 commission will make the decision.

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?

12 A That was included in the compliance history,  
13 yes.

14 Q So you --

15 A -- as well as other cases.

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?

22 A You mean when we report out of the compliance  
23 history for the company?

24 Q Mm-hm.

25 A Is that what you mean?

1 Q Yes.

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 --

6 Q Okay. That's --

7 A -- history was.

8 Q So it doesn't matter how long ago the case was?

9 A I don't -- there is no set timeline of what we  
10 report on.

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?

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.

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.

23 Q I'm not asking whether you were comprehensive  
24 in what you did list.

25 I'm asking -- I'm trying to understand if



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.

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.

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.

13            Q     Okay.

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.

19                     But no. There is no set date that we have that  
20    we will not go back any further than this.

21            Q     Thank you.

22                     So staying with Factor 9 --

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?

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

REDIRECT EXAMINATION BY ATTORNEY GAFKEN  
REDIRECT EXAMINATION

BY ATTORNEY GAFKEN:

Q Ms. Feeser, you were asked a number of questions about the 17 customers identified by Waste Management. Do you recall that line of questioning?

A Yes.

Q And you were asked questions about why they might be receiving monthly service. Do you recall that?

A Yes.

Q Or do you recall the questions?

A Well, there were a lot of questions about the 17 customers.

Q What do we know about the 17 customers?

A We know that the company stated in their answer to the complaint -- I believe that's where it was stated -- that they had done an audit and they found 17 -- I actually would want to verify this, but I believe they stated they found 17 additional customers who didn't receive the level of service they were supposed to under -- I believe it's specific under Item 240. So we know the company stated that.

Other than that, I don't know anything else outside of this Excel spreadsheet that was provided to public counsel, but then included as a cross exhibit in this case from the company.

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

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

1 DIRECT EXAMINATION BY ATTORNEY STANOVSKY  
swear you in, if you could just raise your right hand.

2 Do you swear or affirm that the testimony  
3 you will give today will be the truth, the whole truth,  
4 and nothing but the truth?

5 THE WITNESS: Yes.

6 JUDGE BONFRISCO: Okay. Thank you.

7 You may proceed.

8 ATTORNEY STANOVSKY: Thank you.

9  
10 DIRECT EXAMINATION

11 BY ATTORNEY STANOVSKY:

12 Q Mr. Brooks, would you please for the record  
13 state your name and title at Waste Management?

14 A Yeah. My name is Chad Brooks; that's C-H-A-D,  
15 B-R-O-O-K-S. I am the director of operations for the  
16 PNW/BC, surveying BC, Washington, Idaho, Oregon, Alaska  
17 -- I think I said Alaska already. And yeah. Idaho.

18 Q Thank you.

19 And you have what's marked as Exhibits CB-1T,  
20 CB-2, and CB-3?

21 A I do.

22 Q Is Exhibit CB-1T the direct testimony you  
23 prepared in this case?

24 A It is.

25 Q And do you recall that Waste Management filed

1 DIRECT EXAMINATION BY ATTORNEY STANOVSKY  
2 an errata to this testimony?

3 A I do. Just that my territory arrangement has  
4 changed since my submission of this testimony.

5 Q And to sort of summarize the nature of that  
6 change, you're in the same role, as I understand it, at  
7 Waste Management --

8 A That is correct.

9 Q And the same UTC compliance obligations, but  
10 with respect to a different part of Washington state,  
11 correct?

12 A That is correct.

13 Q Thank you.

14 And other than that change, do you have any  
15 changes to Exhibit CB-1T or the attached Exhibits CB-2  
16 and CB-3?

17 A I do not.

18 ATTORNEY STANOVSKY: With that, your  
19 Honor, I believe, I guess I move to admit, though I think  
20 we've stipulated.

21 JUDGE BONFRISCO: I think we have  
22 stipulated. But I do appreciate you clarifying for the  
23 record the basis for the errata. Thank you.

24 ATTORNEY STANOVSKY: And with that, tender  
25 Mr. Brooks for questioning.

JUDGE BONFRISCO: All right. Ms. Gafken,

1 DIRECT EXAMINATION BY ATTORNEY STANOVSKY  
the witness is yours for cross.

2 ATTORNEY GAFKEN: Thank you.

3 I do have one procedural question before I  
4 start on the cross. Do we have a hard stop at noon, or  
5 okay if we go slightly into the noon hour?

6 JUDGE BONFRISCO: I think I would  
7 recommend if we could just forge ahead if the parties are  
8 okay with that. I think we're close.

9 Mr. Stanovsky, do you have any objection  
10 to that?

11 ATTORNEY STANOVSKY: I don't personally,  
12 but give me five second to see if anyone pipes up in  
13 our--

14 JUDGE BONFRISCO: Okay.

15 ATTORNEY GAFKEN: And I don't believe --

16 JUDGE BONFRISCO: How about --

17 (Overlapping speech)

18 ATTORNEY GAFKEN: -- into the noon hour.  
19 It's just I'm not sure that I can complete this in ten  
20 minutes.

21 JUDGE BONFRISCO: That's fair. And we  
22 might even have, you know, redirect. So I think if the  
23 parties are comfortable with that.

24 ATTORNEY STANOVSKY: Waste Management is  
25 good with that, your Honor.



EXAMINATION BY ATTORNEY GAFKEN

1 JUDGE BONFRISCO: I think we're close  
2 here, if everybody's okay. I think hopefully we could  
3 complete this by 12:20, 12:30.

4 ATTORNEY GAFKEN: We will do our best.

5 JUDGE BONFRISCO: Okay. Thank you.

6 ATTORNEY GAFKEN: Thank you.

7

8 CROSS-EXAMINATION

9 BY ATTORNEY GAFKEN:

10 Q Good morning, Mr. Brooks.

11 A Good morning.

12 Q Would you please turn to your testimony,  
13 Exhibit CB-1T, and go to page 2, lines 2 through 10?

14 A Two through 10. I'm here.

15 Q Perfect. In this portion of your testimony,  
16 you describe your experience with Waste Management of  
17 Washington, correct?

18 A Correct.

19 Q So throughout my questioning, I'm going to  
20 refer to Waste Management of Washington as Waste  
21 Management, just for clarity.

22 A Understood.

23 Q You testify that prior to May 2024, you oversaw  
24 operations and safety measures for 250 employees across  
25 five collection sites in British Columbia, Canada,

EXAMINATION BY ATTORNEY GAFKEN

1 correct?

2 A That is correct.

3 Q And then in May 2024, you assumed a new role  
4 that oversees 20 locations, including Waste Management's  
5 Central and Eastern Washington operations, correct?

6 A That is correct.

7 Q And I believe that's what you were just talking  
8 about in your introduction, that that service territory  
9 may have changed?

10 A It has. It has changed from Eastern/Central  
11 Washington to Western Washington, within Washington  
12 itself.

13 Q Do you still oversee Central and Eastern  
14 Washington operations?

15 A I do not.

16 Q Okay. Prior to you assuming your current role  
17 in May 2024, did that position exist within the company?

18 A It did, yes.

19 Q And were the responsibilities the same as the  
20 responsibilities that you assumed in May 2024?

21 A They are the same, yes, confirmed.

22 Q Okay. Could you please turn to page 4 of your  
23 testimony, Exhibit CB-1T? And go to lines 6 through 9.

24 A I'm here.

25 Q There you testify about the technical

EXAMINATION BY ATTORNEY GAFKEN

1 assistance staff provided to Waste Management during the  
2 informal complaint in 2022, correct?

3 A Correct.

4 Q You point to one sentence, and I quote, Waste  
5 Management must provide and bill for our service in a  
6 manner consistent with the conditions described in its  
7 approved tariff, end quote. Did I read that correctly?

8 A That is correct.

9 Q Is that sentence your understanding of the  
10 extent of the technical assistance received by Waste  
11 Management in 2022?

12 A That is the extent of the technical assistance,  
13 yes.

14 Q Are you aware that staff encouraged Waste  
15 Management to contact the UTC's regulatory services to  
16 explore tariff options?

17 A I'm not aware of that.

18 Q Are you aware that staff specifically laid out  
19 Waste Management's actions that violated its tariffs,  
20 specifically that the customer received monthly service  
21 instead of biweekly service and that the tariff required  
22 every-other-week service?

23 A I am aware that there was a violation of the  
24 district and site with that technical assistance, yes.

25 Q Are you aware that Waste Management adjusted

1 EXAMINATION BY ATTORNEY GAFKEN  
2 the customer's rate by charging half the Tariff 14, Item  
3 240 rate to account for monthly instead of  
4 every-other-week service?

5 ATTORNEY STANOVSKY: Objection, your  
6 Honor. I'd like to clarify who the customer is that  
7 Ms. Gafken is referring to.

8 ATTORNEY GAFKEN: I'm referring to the  
9 customer in the informal complaint.

10 ATTORNEY STANOVSKY: Thank you.

11 JUDGE BONFRISCO: Okay. I'm going to go  
12 ahead and -- I guess it seems like it's been resolved.

13 ATTORNEY STANOVSKY: Yes.

14 JUDGE BONFRISCO: Okay. Thank you.

15 Go ahead Ms. Gafken.

16 Q (By Attorney Gafken) Mr. Brooks does cite to  
17 the informal complaint which was attached to the staff  
18 investigation report, and I am exploring what he's aware  
19 of in terms of the violations in that case.

20 JUDGE BONFRISCO: I'm going to allow you  
21 to proceed with your line of questioning for the record.

22 ATTORNEY GAFKEN: Okay. And I just have a  
23 couple of these questions left on this line, and then  
24 we'll move on to another topic.

25 Q (By Attorney Gafken) Mr. Brooks, are you aware  
that Waste Management adjusted the customer's rate by

EXAMINATION BY ATTORNEY GAFKEN

1 charging half of the Tariff, 14 Item 240 rate to account  
2 for monthly instead of every-other-week service?

3 A I am aware, yes.

4 Q Are you aware that staff pointed to that  
5 activity, the rate adjustment, as not complying with the  
6 tariff in communications with Waste Management?

7 A I am aware that the technical staff addressed  
8 the issue with the staff at the site impacted.

9 Q After the informal complaint in 2022, Waste  
10 Management continued to provide monthly service instead  
11 of every other service under Tariff 14, Item 240, to  
12 certain customers in Douglas County, correct?

13 A That is correct.

14 Q And you testified on page 4 of Exhibit CB-1T,  
15 lines 10 through 11, that Waste Management did not  
16 correct the issue identified in the informal complaint  
17 until staff took further action the following year,  
18 correct?

19 A That is correct.

20 Q I'd like to ask a couple of questions about  
21 your discussions of the commission's enforcement policy.  
22 Please turn to your testimony CB-1T, page 7, lines 5  
23 through 8.

24 A I'm here.

25 Q There you identify the commission's enforcement

EXAMINATION BY ATTORNEY GAFKEN

1 objective. Correct?

2 A Correct.

3 Q Specifically, you identify the commission's  
4 objective as being that jurisdictional services are safe,  
5 adequate, efficient and provided at just and reasonable  
6 prices, correct?

7 A Correct.

8 Q Would you agree that this objective is with  
9 respect to enforcing statutes, rules, orders, and  
10 tariffs?

11 A I would agree.

12 Q Would you agree that in order to have safe,  
13 adequate, and efficient services provided at just and  
14 reasonable rates, we need regulated companies to comply  
15 with statutes, rules, orders, and tariffs?

16 A I would agree.

17 Q Now I want to ask you a few questions about  
18 tariffs. A tariff tells customers what services Waste  
19 Management offers and at what rates, correct?

20 A That is correct.

21 Q And tariffs must be approved by the commission  
22 before they're effective, correct?

23 A Correct.

24 Q This means that Waste Management cannot offer  
25 services until the tariff describing the services is

EXAMINATION BY ATTORNEY GAFKEN  
1 approved by the commission, correct?

2 A That is correct.

3 Q When the commission approves a tariff it  
4 reviews the services and rates and determines if they are  
5 appropriate; is that correct?

6 A That is correct.

7 Q In this case, Waste Management decided to  
8 provide monthly service instead of every-other-week  
9 service to Douglas County customers, correct?

10 A For this particular subset of customers, yes.

11 Q The commission had not reviewed monthly service  
12 as it relates to Tariff 14, Item 240, has it?

13 A It has not.

14 Q In this case, when Waste Management charged  
15 half for service, it charged customers a rate that had  
16 not been reviewed or vetted by the commission as it  
17 relates to Tariff 14, Item 240, correct?

18 A That's correct.

19 ATTORNEY STANOVSKY: Objection. I think  
20 the question was framed in terms of what Waste Management  
21 charged customers. But I think we've only discussed in  
22 the record one customer in the informal complaint in  
23 2022.

24 ATTORNEY GAFKEN: I'm fine with that  
25 modification.

1 EXAMINATION BY ATTORNEY GAFKEN  
2 ATTORNEY STANOVSKY: Would you mind  
3 restating.

4 ATTORNEY GAFKEN: Absolutely.

5 Q (By Attorney Gafken) In this -- sorry.

6 JUDGE BONFRISCO: That's fine. Go ahead  
7 and proceed. Appreciate you guys doing all this for me.

8 Q (By Attorney Gafken) In this case when Waste  
9 Management charged half for service, it charged a  
10 customer a rate that had not been reviewed or vetted by  
11 the commission as it relates to Tariff 14, Item 240; is  
12 that correct?

13 A That is correct.

14 Q Mr. Brooks, would you please turn to your  
15 testimony, Exhibit CB-1T, and go to page 12, lines 2  
16 through 4?

17 A Okay. I'm here.

18 Q There you testify that Waste Management  
19 informed customers that they would receive monthly  
20 service instead of every-other-week service, correct?

21 A For this subset of customers, yes.

22 Q You also testified that Waste Management  
23 provided the service -- I'm sorry. Let me start that  
24 over again.

25 You have also testified that Waste Management  
provided the service the customers were told to expect,



EXAMINATION BY ATTORNEY GAFKEN

1 correct?

2 A I'm sorry. Can you ask that again?

3 Q Sure. So I am looking at your testimony on  
4 page 12, lines 2 through 4. And particularly the last  
5 line there. You testify that Waste Management provided  
6 the service that customers were told to expect; is that  
7 correct?

8 A That is correct.

9 Q What customers were told to expect monthly  
10 service was not the service that was required under  
11 Tariff 14, 240, was it?

12 A That is confirmed, yes.

13 Q Tariff 14, Item 240, requires every-other-week  
14 service, correct?

15 A That is correct.

16 Q Does Waste Management believe that telling  
17 customers that it would provide monthly service under  
18 Tariff 14, Item 240, is a mitigating circumstance?

19 A Can you rephrase that question?

20 Q Sure. Does Waste Management believe that  
21 telling customers that it would provide monthly service  
22 instead of every-other-week service under Tariff 14, Item  
23 240, is a mitigating circumstance?

24 ATTORNEY STANOVSKY: I will object, your  
25 Honor. I think it's vague as to what Ms. Gafken means by

1 EXAMINATION BY ATTORNEY GAFKEN  
a "mitigating circumstance."

2 JUDGE BONFRISCO: Ms. Gafken, do you have  
3 any comments before I rule?

4 ATTORNEY GAFKEN: I'm actually trying to  
5 get at what Waste Management is trying to tell us in  
6 terms of telling us that they told their customers that  
7 they would receive noncompliant service and then provided  
8 that noncompliant service.

9 JUDGE BONFRISCO: So what I'm going to do  
10 is sustain the objection, but if you could reframe your  
11 questioning to make it more direct.

12 Q (By Attorney Gafken) Mr. Brooks, what is Waste  
13 Management telling us when you testify the customers were  
14 told that it was going to be -- that they were going to  
15 be provided uncompliant service and then the company  
16 provided the uncompliant service?

17 What's the purpose of that testimony?

18 A So at this particular site, and with district  
19 staff, they took it upon themselves to try to offer  
20 something that we offer in many area locations with  
21 rightsizing the frequency of pickup, not realizing the  
22 complexity in the tariff enforcement for this particular  
23 subset of customers of 25.

24 Q Okay. Could you please turn to your testimony,  
25 Exhibit CB-1T, page 12, line 19, through page 13, line

EXAMINATION BY ATTORNEY GAFKEN  
1 10, and review that testimony?

2 Let me know when you have it in mind.

3 JUDGE BONFRISCO: Could you restate the  
4 reference, Ms. Gafken?

5 ATTORNEY GAFKEN: Of course.

6 JUDGE BONFRISCO: Thank you.

7 ATTORNEY GAFKEN: Page 12, line 19, which  
8 is where the question is set out; and then the testimony,  
9 the answer is on page 13 running through line 10.

10 JUDGE BONFRISCO: Thank you. Thank you.

11 THE WITNESS: Can you ask the question  
12 once more?

13 Q (By Attorney Gafken) Yes. Actually I was just  
14 asking you to review the testimony --

15 A Okay.

16 Q Let me know when you --

17 A I'm here.

18 Q Is it Waste Management's position that the  
19 violations are not intentional unless senior management  
20 is aware of the company's local level activities?

21 A We believe this situation is very isolated to  
22 the district staff at this piece. And we're not running  
23 from the fact that they made an incredible error as it  
24 relates to the tariff.

25 Once senior management -- as part of this

EXAMINATION BY ATTORNEY GAFKEN

1 testimony, when senior management was involved, it was  
2 quickly rectified.

3 Q I appreciate that context.

4 But the question was whether Waste Management's  
5 position is that violations are not intentional unless  
6 senior management is aware of what the local level staff  
7 is doing.

8 A Yeah, that is not -- so asking the question  
9 again, was it intentional for Waste Management to -- I'm  
10 sorry. Just ask that one more time.

11 Q I'm sorry. My connection went a little wonky  
12 in part of that.

13 What I'm trying to get at is whether the  
14 position is that the violations were not intentional  
15 unless and until -- or unless senior management is aware  
16 of local activities. You provided some context in your  
17 answer, but I want to get to the intentional piece of it.

18 A Yeah, so it's not intentional to violate  
19 tariff.

20 Q Does senior management have to be aware of what  
21 is happening in order for the violations to be  
22 intentional?

23 A So in most cases, every case, we expect our  
24 district staff to comply with the tariff, with the rules  
25 of our organization across the board.

EXAMINATION BY ATTORNEY GAFKEN

1 In this case, there was a process break in  
2 understanding this tariff.

3 Q What constitutes senior management?

4 A At WM, it would start with the directors of  
5 operation above the district manager, and of course the  
6 front line would be managed by the route managers.

7 Q Please turn to page 18 of your testimony, CB-1T  
8 and go to line 5.

9 A I apologize. Was that page 8?

10 Q 18.

11 A 18. And I apologize. What lines again?

12 Q Line 5?

13 A Line 5. I'm here.

14 Q Okay. There you refer to a Waste Management  
15 employee -- and I apologize if I don't say her name  
16 correctly -- Denie Covert, who is the Pacific Northwest  
17 area manager of customer engagement, correct?

18 A Correct.

19 Q Is Denie Covert considered senior management?

20 A She is not.

21 Q Okay. Please refer to Exhibit CB-1T, page 13,  
22 lines 12 through 18.

23 A 13, 12 through 18 to confirm? I'm here.

24 Q Okay. There you testify that Ms. Feeser's  
25 testimony is inaccurate when she refers to Waste

EXAMINATION BY ATTORNEY GAFKEN

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.

REDIRECT EXAMINATION BY ATTORNEY STANOVSKY

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

1 REDIRECT EXAMINATION BY ATTORNEY STANOVSKY  
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



REDIRECT EXAMINATION BY ATTORNEY STANOVSKY  
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

REDIRECT EXAMINATION BY ATTORNEY STANOVSKY  
1 manager in collections, identifying director level  
2 positions.

3 Q Thank you.

4 And I think you mentioned a title of route  
5 manager. Would that be a senior management position?

6 A That is not a senior position.

7 Q And do you recall the line of questioning about  
8 whether Waste Management views a violation as  
9 unintentional if senior management didn't know about it?

10 A I do recall the question.

11 Q Can you please go to page 12 of Exhibit CB-1T,  
12 your testimony, and read line 11, the question?

13 A Factor 2, were the violations intentional?

14 Q And can you read just the first sentence of  
15 your response?

16 A Yes, but staff leaves out important context. I  
17 understand the local operations teams made changes to 25  
18 customers.

19 Q So I think I understand your testimony to be  
20 that the violations in this case were intentional; is  
21 that fair?

22 A At the district level, yes, they were.

23 Q Thank you. I believe that's all I have.

24 Oh, one other just clarifying question. I  
25 think in response to several of Ms. Gafken's questions,

1     you responded that the premise was correct with respect  
2     to a subset of customers. And I just want to clarify for  
3     the record, when you use that phrase, what subset of  
4     customers were you talking about?

5           A     I'm referring to the 25 customers negatively  
6     impacted in this tariff.

7                   ATTORNEY STANOVSKY: Okay. Thank you.

8                   I believe that is all I have. No further  
9     questions.

10                  JUDGE BONFRISCO: Okay. Thank you.

11                  Well, I just want to clarify with my  
12     co-presiding officer, do you have any followup  
13     questions?

14                  JUDGE KRUSZEWSKI: I do not.

15                  JUDGE BONFRISCO: Okay. And I do not at  
16     this point as well.

17                  I just have a few housekeeping items  
18     before we adjourn.

19                  I just want to note that I'm showing that  
20     we have post-hearing briefs due on March 18, 2025. Do  
21     you believe you can brief these issues in less than 20  
22     pages?

23                  ATTORNEY GAFKEN: I was actually thinking  
24     25.

25                  JUDGE BONFRISCO: Okay. And that's fine.

1 That's fine. I just kind of want to get a sense of a  
2 range.

3 ATTORNEY GAFKEN: I don't think we need  
4 the full -- I think it's 60 pages in the rule.

5 JUDGE BONFRISCO: Exactly.

6 ATTORNEY GAFKEN: I did not --

7 JUDGE BONFRISCO: I didn't think that  
8 either. But I wasn't sure as far as, you know, what we  
9 were thinking between that range.

10 ATTORNEY STANOVSKY: And remind me,  
11 briefing is double spaced; is that right?

12 JUDGE BONFRISCO: That's correct. 12  
13 font, yes.

14 ATTORNEY STANOVSKY: I think that should  
15 work for Waste Management, your Honor. I would defer to  
16 staff's 25.

17 JUDGE BONFRISCO: And that's fine. My  
18 apologies. I didn't mean to scare you off there.

19 And it doesn't appear that we're going to  
20 have any reply briefs.

21 And I guess with that, do I have any  
22 questions from the parties or any other concerns before  
23 we adjourn today?

24 ATTORNEY STANOVSKY: Your Honor, I guess I  
25 would ask if public counsel does file a post-hearing

1 brief, that will be the first look that the company has,  
2 and staff for that matter, at any position public counsel  
3 might take in this case.

4 So I guess I would just preview that we  
5 would reserve the right to request reply briefing so that  
6 the company has any chance at all to respond to any  
7 positions that may be raised there.

8 JUDGE BONFRISCO: And Public Counsel, if  
9 you could just let me know whether or not at this point  
10 -- I know thus far there's been no testimony filed in  
11 this record. But if you could let us know public  
12 counsel's position on this? Oh, you're on mute.

13 ATTORNEY SYKES: On this point, we're not  
14 planning to file a post-hearing brief. We've reserved  
15 the right to. If we do, it would be short.

16 But we have no problem allowing the other  
17 parties to reply to that.

18 JUDGE BONFRISCO: Okay. So, you know, it  
19 sounds like at this point -- and I guess, Mr. Stanovsky,  
20 you're just requesting to have the opportunity for a  
21 reply brief in the event anything changes, correct?

22 ATTORNEY STANOVSKY: If public counsel  
23 does file a post-hearing brief.

24 JUDGE BONFRISCO: Exactly. I did not say  
25 that clearly. My apologies.

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

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

CERTIFICATE OF REPORTER)  
STATE OF WASHINGTON )  
 ) ss  
COUNTY OF KING )

I, Elizabeth Patterson Harvey, a Certified  
Court Reporter and Registered Professional Reporter  
within and for the State of Washington, do hereby  
certify under penalty of perjury that the foregoing legal  
recordings were transcribed under my direction; that I  
received the electronic recording in the proprietary  
format; that I am not a relative or employee of any  
attorney or counsel employed by the parties hereto, nor  
financially interested in its outcome.

IN WITNESS WHEREOF, I have hereunto set my  
hand this 4th day of March, 2025.

*Elizabeth Patterson Harvey*

Elizabeth Patterson Harvey  
CCR 2731  
Certified Court Reporter in  
The State of Washington

My license expires December 21, 2025