

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

Complainant,

v.

WASTE MANAGEMENT OF
WASHINGTON, INC.

Respondent.

DOCKET TG-240189

ORDER 04

ORDER IMPOSING PENALTIES

BACKGROUND

- 1 On May 20, 2024, the Washington Utilities and Transportation Commission (Commission), on its own motion through regulatory staff (Staff),¹ filed a Complaint and Notice of Prehearing Conference (Complaint) against Waste Management of Washington, Inc. (Waste Management or Company), in the above-referenced Docket for alleged violations of state law and Commission rules under Washington Administrative Code (WAC) 480-70-236, and Wenatchee Tariff No. 14, Item 240, of Waste Management's Certificate No. G-237.²
- 2 In February 2023, Staff opened an investigation to determine Waste Management's compliance under the above provision after receiving a complaint in April of 2022 from a

¹ In formal proceedings such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners' policy and accounting advisors do not discuss the merits of this proceeding with regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. See [RCW 34.05.455](#).

² *Washington Utilities and Transportation Commission (W.U.T.C) v. Waste Management of Washington, Inc., (Waste Management)*, Docket TG-240189, Complaint and Notice of Prehearing Conference (Complaint) ¶ 2-23 (May 20, 2024).

customer in Douglas County who requested and was paying for bi-weekly container pickup service for a 4-yard dumpster but only receiving monthly pickup services.³

3 Upon receipt of the complaint, Staff contacted Waste Management's Area Customer Experience Manager, who confirmed that this customer was only provided monthly service because the round-trip distance from the Company's yard to the customer's pickup location was approximately 300 miles.⁴ On May 11, 2022, Staff sent a follow-up email communication upholding the consumer complaint,⁵ citing the Company 14 informal violations of WAC 480-70-236(2) for failure to provide the correct service as prescribed by its own Tariff No. 14, Item 240,⁶ and then referred this matter to its Compliance Investigation Division.⁷

4 Upon completion of a formal investigation into Waste Management's frequency of service under Tariff No. 14, Item 240, Staff found a total of 254 violations and recommended a penalty of \$1,000 per violation.⁸ Staff also noted two prior penalties assessed against Waste Management by the Commission, one in Docket TG-210689 of \$83,150 for 16,630 violations, and one in Docket TG-121265 for \$20,000.⁹

5 On April 20, 2023, Staff issued a data request to Waste Management to provide a list of customers receiving monthly solid waste residential pick-up service in Douglas and Grant Counties from August 2, 2021, through March 31, 2023, and requested copies of these customers' bill statements along with any complaints filed during the relevant period.¹⁰

³ *W.U.T.C. v. Waste Management*, Docket TG-240189, Exhibit to Testimony of Brigit Feeser, Staff Investigation Report dated April 30, 2024, Feeser, Exh. BF-1T at 5:7-10 (October 22, 2024), Feeser, Exh. BF-3r at 11-36 (February 10, 2025), and the informal consumer complaint attached to Staff's Investigation Report as Attachment A.

⁴ *Id* at 5:10-12, and Exh. BF-3r at 23.

⁵ Feeser, Exh. BF-1T at 14:16-20 and Exh. BF-3r at 28.

⁶ Docket TG-240189, Testimony of Bridgit Feeser, Waste Management Tariff 13, Feeser, Exh. BF-2r (February 10, 2025).

⁷ Feeser, Exh. BF-1T at 5:13-15.

⁸ Feeser, Exh. BF-1T at 6:20, and Exh. BF-3r at 4 and 8.

⁹ Feeser, Exh. BF-3r at 9.

¹⁰ Feeser, Exh. BF-3r, Attachment B, at 37-38.

- 6 On May 24, 2023, the Company responded and provided a spreadsheet containing the requested information and billing statements for over 8,000 customers who received residential solid waste pick up service in Douglas and Grant Counties.¹¹
- 7 On June 6, 2023, Staff sent a follow-up email request to the Company for a list of service frequency for customers receiving pick up under Tariff No. 14 Item 240 from September 1, 2021, through April 30, 2023.¹² On June 21, 2023, the Company responded with a spreadsheet identifying 29 customers who were only receiving monthly pickup services rather than bi-weekly, of which only 25 customers received monthly service after June 1, 2022.¹³ Staff focused their investigation on these 25 customers because Waste Management was required by Tariff No. 14, Item 20, to provide bi-weekly service to these customers but only provided monthly pickup from June 1, 2022, to June 1, 2023.¹⁴
- 8 During its investigation, Staff alleges it found a total of 254 violations of WAC 480-70-236 between June 1, 2022, and June 1, 2023, as follows:¹⁵

One Customer with permanent bi-weekly container pickup service who received monthly pickup service from June 1, 2022, through April 6, 2023, for a total of 10 violations.

Two Customers with permanent bi-weekly container pickup service who received monthly pickup service from June 1, 2022, through May 31, 2023, for a total of 22 violations.

One Customer with permanent bi-weekly container pickup service who received monthly pickup service from June 1, 2022, through June 1, 2023, for a total of 12 violations.

Twenty-one customers with permanent bi-weekly container pickup service who received monthly pickup service from June 1, 2022, through April 30, 2023, for a total of 210 violations.

- 9 On June 10, 2024, Waste Management filed its Answer to the Complaint in this Docket admitting to violations of state law and administrative rule “for providing solid waste

¹¹ Feeser, Exh. BF-3r at 5.

¹² Feeser, Exh. BF-3r at 6, and Attachment C, at 39.

¹³ Feeser, Exh. BF-3r at 6, and Attachment D, at 41-63.

¹⁴ *Id.*

¹⁵ Feeser, Exh. BF-1T at 9:12-22, and 10:1-6, and Exh. BF-3r at 7.

service inconsistent with Tariff No. 14 in Douglas County,” but denied Staff’s accounting of the specific number of affected customers based upon a lack of sufficient knowledge or information.¹⁶ Waste Management also asserts that it promptly corrected the identified errors by “May 12, 2023 – less than one monthly billing cycle” after receiving Staff’s April 20, 2023, data request and “resumed every-other-week collection for all affected customer in Douglas County.”¹⁷

- 10 On June 21, 2024, the Commission convened a virtual prehearing conference before former Administrative Law Judge, Michael Howard, where the parties presented an agreed upon procedural schedule.
- 11 On July 5, 2024, the Commission entered Order 02, Prehearing Conference Order; Notice of Hearing, in which the Commission established a procedural schedule and set an evidentiary hearing for February 18, 2025, and issued Order 03, Protective Order, to limit access to confidential information.¹⁸
- 12 On October 22, 2024, Staff filed direct testimony of witness Bridgit Feeser, Director of the Consumer Protection Division, together with an exhibit list, and exhibits of the Company’s Tariff No. 14, and Staff’s April 30, 2024, Investigative Report.¹⁹
- 13 On November 22, 2024, The Washington Attorney General’s Office Public Counsel Unit (Public Counsel) filed a letter indicating that it did not intend to file response testimony but reserved the right to file cross-answering testimony.
- 14 On November 22, 2024, Waste Management filed response testimony of witness Chad Brooks, Director of Collection Operations for the Pacific Northwest, together with an exhibit list, and exhibits related to the Company’s 2024 audit schedule of Washington jurisdictions, and training for Managers presentation.²⁰

¹⁶ Docket TG-240189, Waste Management’s Answer to Complaint (Answer) at 1 ¶ 2 (June 10, 2025).

¹⁷ *Id.*

¹⁸ Docket TG-240189, Order 02 Prehearing Conference Order; Notice of Hearing and Order 03, Protective Order (July 5, 2024).

¹⁹ Docket TG-240189, Testimony of Bridget Feeser, Staff of Washington Utilities and Transportation Commission, Feeser Exh. BF-1T, and Feeser, BF-2 and BF-3 (October 22, 2024).

²⁰ Docket TG-240189, Testimony of Chad Brooks on behalf of Waste Management of Washington Inc., Brooks, Exh. CB-1T, and Brooks Exh. CB-2 and CB-3 (November 22, 2024).

- 15 On December 20, 2024, Staff filed rebuttal testimony of witness Bridgit Feeser,²¹ and on this same date Public Counsel filed a letter indicating it would not be filing any cross-answering testimony in this docket.
- 16 On January 30, 2025, the Commission issued a Notice of Substitution of Presiding Officer and reassigned this matter to Administrative Law Judges Amy Bonfrisco as presiding officer and Jessica Kruzewski as co-presiding officer.
- 17 On February 10, 2025, Waste Management filed its exhibit list, cross-examination exhibits, and errata to direct testimony of witness Chad Brooks, and Staff filed revised exhibits BF-2r and BF-3r, and errata to correct the labeling of its exhibits. On this same date, Public Counsel filed a letter indicating it did not intend to cross examine any witnesses but reserved the right to file a post-hearing brief.
- 18 On February 14, 2025, the Company filed a revised exhibit list modifying exhibit BF-5X and withdrawing exhibit BF-11X.
- 19 On February 18, 2025, the Commission convened a virtual evidentiary hearing before presiding Administrative Law Judges Amy Bonfrisco and Jessica Kruszewski. The Commission heard testimony from the Company's witness Chad Brooks and Staff's witness Bridgit Feeser.²²
- 20 On March 18, 2025, Waste Management filed its post-hearing Brief and Public Counsel filed a letter indicating that it did not intend to file a post-hearing brief.
- 21 **PARTY REPRESENTATIVES.** Walker Stanovsky, Caroline Cilek, and Ame Lewis of Davis Wright Tremaine LLP represent Waste Management. Lisa W. Gafken, Assistant Attorney General, represents Staff. Tad Robinson O'Neill, Jessica Johanson-Kubin, and Robert Sykes, Assistant Attorneys General, represent Public Counsel.

DISCUSSION

²¹ Docket TG-240189, Rebuttal Testimony of Bridgit Feeser, Feeser Exh. BF-4T (December 20, 2024).

²² *W.U.T.C. v. Waste Management*, Docket TG-240189, Transcript – Vol. II (February 18, 2025).

22 Given that Waste Management admitted to the underlying violations of state law for failing to provide solid waste service in Douglas County to 25 customers at the frequency required by Commission-approved Tariff No. 14, the primary issue for review is determining the proper penalty amount.

A. Relief Requested:

23 Staff recommends the Commission impose the maximum penalty of \$1,000 per violation of WAC 480-70-236 against Waste Management, which amounts to a total penalty of \$254,000 for the Company's non-compliance with its Commission-approved Tariff No. 240.²³

24 Should the Commission opt to suspend a portion of the regulatory penalty to encourage future compliance, Staff recommends "no more than 50 percent be suspended for a two-year period and then waived on the condition that no further violations of this nature occur[sic] during the suspension period."²⁴

25 Staff also recommends that the Commission require Waste Management to do the following:

(1) audit its compliance with Item 240 service frequency state-wide, including all routes to which Item 240 applies (2) file its audit report as a compliance filing in this docket, and (3) ensure that appropriate Waste Management employees are properly trained with respect to regulatory compliance.²⁵

26 Finally, Staff recommends that at the end of the two-year suspension period, Waste Management conduct a follow-up audit regarding its' compliance with Item 240 and file its audit report as a compliance filing.²⁶

B. Overview of Parties' Positions

²³ Complaint at 4 ¶ 26.

²⁴ Docket TG-240189, Post-Hearing Brief of Commission Staff (Staff's Post-Hearing Brief) at 20 ¶ 50 (March 18, 2025).

²⁵ Staff's Post-Hearing Brief at 20 ¶ 51.

²⁶ *Id* at 20-21 ¶ 51. Staff also notes that "the initial and follow-up audit should contain the following information, separated by operating entity: the nature of any violations found, the location of any affected customers by address, the duration of the violation back to July 1, 2022, a description of the corrective action needed, and the date corrective action has been taken.

- 27 Staff argues that the maximum statutory penalty amounts are warranted given that Waste Management: (1) disregarded the technical assistance it provided in May 2022 and did not correct the violations at that time;²⁷ (2) failed to comply with its Tariff No. 14, Item 240, to provide bi-weekly or every-other-week service for 25 customers in Douglas County from June 1, 2022, to June 23, 2025;²⁸ and (3) provided inadequate, “unreasonable and potentially unsafe” conditions “in circumstances where containers overflowed.”²⁹
- 28 In response, Waste Management admits to the 254 violations by acknowledging it “provided 25 customers less frequent service than required by its tariff, and did not correct the service frequency until its senior management learned of the violations, 11 months after”³⁰ receiving Staff’s technical assistance email, dated May 11, 2022.³¹ However, Waste Management asserts that it “is proud of its exemplary record of compliance with Commission regulations...its history of proactive cooperation,”³² and maintains that Staff has failed “to justify its insistence on the statutory maximum penalty.”³³ Waste Management reasons that Staff’s recommended penalty “lacks basis,” is based on “numerous faulty assumptions,” and “does not align with the Commission’s overarching enforcement objectives ‘to ensure services within the Commission’s jurisdiction are delivered safely, adequately, efficiently, and at rates and charges that are just and reasonable.’”³⁴ Therefore, instead of adopting Staff’s recommendations, Waste

²⁷ Staff’s Post-Hearing Brief at 4 ¶ 10 citing Brooks, Exh. CT-1T at 12:15-18 and Feeser, Exh. BG-4T at 3:3-7.

²⁸ Staff’s Post-Hearing Brief at 4 ¶ 9 citing Feeser, Exh. BF1T at 6:20-22.

²⁹ *Id* at 4-5 ¶ 11 citing Feeser, Exh. BF-4T at 5:8-14. See also Feeser, Exh. BF-1T at 13:14-20.

³⁰ Waste Management notes that senior management did not learn of the violations until receiving Staff’s data request dated April 20, 2023, notifying the Company of its investigation.

³¹ Docket TG-240189, Waste Management of Washington, Inc.’s Post-Hearing Brief (Waste Management’s Post-Hearing Brief) at 1 ¶ 1 (March 18, 2025).

³² Waste Management highlights that its “track record of positive engagement” and “commitment to compliance” has been recognized as exemplary by the Commission as compared to other large companies. See Docket TG-181023, Superior Waste & Recycle LLC., Order 04, Initial Order Denying Application (erroneously marked as Order 03) at 8-9 ¶ 35 (November 13, 2019).

³³ Waste Management’s Post-Hearing Brief at 1 ¶ 2-3.

³⁴ *Id* at 1 ¶ 3, and 2 ¶ 4 citing *In re Matter of the Enforcement Policy of the Wash. Utils. & Transp. Comm’n*, Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission (Commission Enforcement Policy) at 6 ¶ 9 (January 7, 2013).

Management recommends the Commission “suspend 75 percent of the penalty,” contingent on its future compliance.³⁵

C. Applicable Law

- 29 Pursuant to Revised Code of Washington (RCW) 81.28.080, common carriers, including solid waste collection companies, are subject to the Commission’s jurisdiction and prohibited from charging, demanding, collecting or receiving “a greater or less or different compensation for transportation of . . . property . . . than the rates . . . and charges applicable to such transportation as specified in its schedules filed and in effect at the time.”³⁶ WAC 480-70-236, further provides “[n]o company may assess rates and charges” or “accept a payment...for solid waste collection service that are higher, lower, or different from those contained in its approved tariff.”³⁷ Accordingly, under RCW 81.04.380, the Commission may penalize a public service company that violates any provision of Title 81 RCW or any rule of the Commission, up to \$1,000 for each offense where each day the violation continues constitutes a separate and distinct offense.³⁸
- 30 However, in enforcement proceedings, the Commission’s goal is to obtain compliance and “ensure that services within its jurisdiction are delivered safely, adequately, and efficiently, and at rates that are just and reasonable,”³⁹ not to simply punish businesses operating in Washington.
- 31 Given that the Commission’s Enforcement Policy⁴⁰ provides a non-exclusive list of eleven factors that should be considered, we will address each of the parties’ arguments for each factor, then assess and evaluate the appropriate penalty amount in turn.

1. The seriousness of the violation and the harm to the public.

- 32 The Commission has held that the more serious or harmful the violation is, the more appropriate penalties or other sanctions may be. In this matter, Staff argues that

³⁵ Waste Management’s Post-Hearing at 2 ¶ 5.

³⁶ [RCW 81.28.080](#).

³⁷ [WAC 480-70-236](#).

³⁸ [RCW 81.04.380](#).

³⁹ Docket A-120061, Commission Enforcement Policy at 6 ¶ 9.

⁴⁰ *Id* at 7-9 ¶ 15.

“compliance with tariffs is paramount for the regulatory framework to function appropriately...to maintain public trust”⁴¹ and to provide customers the services they sign up for, as required in the Company’s commission-approved tariff.⁴² Staff raises concerns that the Company is downplaying the seriousness of the violations,⁴³ and argues that “25 customers were harmed” for not receiving services for which they signed up for and paid for every other week service.⁴⁴ Additionally, Staff maintains that “the customer who complained and contacted Waste Management multiple times over 18-months to report missed pickups” was further harmed by being charged for an overfilled container, and ultimately cancelled their service due to all the billing and service discrepancies that occurred.⁴⁵ As such, since “overflowing containers...pose a public health risk due to the Company not abiding by the frequency of service required by its tariff Staff conclude that Factor 1 weights in favor of maximum penalties.”⁴⁶

33 While Waste Management acknowledges that “25 customers did not receive every-other-week service as required by its tariff,” and that “these were not harmless errors,”⁴⁷ the Company argues that these customers “were not harmed from a health, safety, or public nuisance standpoint.”⁴⁸ Additionally, because the violations of the tariff were not serious, or widespread, “did not approach the extent of threats to health,”⁴⁹ like in the Century Link 911 emergency outage case, or “violate the highest duties of a solid waste company,” Waste Management reasons maximum monetary penalties for this factor are unwarranted.⁵⁰

34 In our analysis for an appropriately weighted penalty, we look to Docket TG-210689, where Staff initiated a complaint against Waste Management for 16,630 violations of RCW 81.28.080 and WAC 480-70-236, after it failed to pick up yard waste and recycling

⁴¹ Staff’s Post-Hearing Brief at 7 ¶ 17-18.

⁴² Feeser, Exh. BF-1T at 13:14-16.

⁴³ Fesser, Exh.BF-4T at 5:19-20.

⁴⁴ Feeser, Exh. BF-4T at 6:4-5.

⁴⁵ Staff’s Post-Hearing Brief at 8 ¶ 19 citing Feeser, Exh. BF-4T at 6:4-20.

⁴⁶ *Id* at 20.

⁴⁷ Brooks, Exh. CB-1T at 11:18-19 and 12:9.

⁴⁸ Waste Management Post Hearing Brief at 15 ¶ 43.

⁴⁹ *W.U.T.C v. CenturyLink Communications, LLC.*, Docket UT-181051, Final Order 08, Granting Motion to Strike Imposing Penalties (June 9, 2023).

⁵⁰ Waste Management Post Hearing Brief at p. 16 ¶ 45 (March 18, 2025).

consistent with its Tariff in Kitsap County and “impose penalties of \$83,150, based on \$5 per missed pick-up.”⁵¹ However, because the matter occurred during the COVID-19 pandemic and Waste Management was experiencing a shortage of qualified drivers, instead of seeking the maximum statutory penalty of \$1,000 per violation, Staff sought a lesser penalty on the basis that “the full penalty [was] disproportionately punitive relative to the harm caused.”⁵² Waste Management in turn provided credits to the affected customers “for consecutive missed residential recycling and yard waste collection services for the months of August and September 2021,”⁵³ and an inconvenience credit of approximately \$34,658.⁵⁴

- 35 While the parties ultimately reached a settlement in which Staff agreed to the reduced amount as an incentive for the Company to avoid repeat violations and Waste Management admitted to the 16,630 violations and agreed to pay the \$83,150 monetary penalty in full,⁵⁵ the same mitigating factors in that matter are not present here.
- 36 In comparing the magnitude of the harm and quantity of customers adversely affected in this case to that in Docket TG-210689, we agree with Waste Management that the resulting harms caused cannot be characterized as: (1) a major company-wide disruption in the affected service area;⁵⁶ (2) causing unsafe conditions that endanger the health and safety of these customers; or (3) interrupting access to critical services akin to the CenturyLink 911 emergency outage.⁵⁷
- 37 Rather, we find that the harms can be more aptly characterized as undermining the Company’s reputation, public trust, responsiveness, reliability, and overall level of customer service. While we recognize that household waste materials sitting for a month at a time can become a public nuisance, this issue has not been alleged to be the case by Staff. Further, despite demonstrating that one customer was unduly harmed over an 18-month period and inappropriately charged for an overfilled container, the record reflects that Waste Management refunded the customer. Therefore, in balancing the seriousness

⁵¹ *W.U.T.C. v. Waste Management of Washington*, Docket TG-210689, Settlement Agreement at 2 ¶ 4-6 (February 18, 2022).

⁵² Docket TG-210689, Revised Investigation Report at 4 and 11 (October 2021).

⁵³ Docket TG-210689, Settlement Agreement at 4 ¶ 15.

⁵⁴ *Id* at 4 ¶ 16.

⁵⁵ *Id* 4 ¶ 11-13.

⁵⁶ Waste Management Post Hearing Brief at 5 ¶ 13.

⁵⁷ *Id* at 9-10 ¶ 27-30, 13-14 ¶ 38, and 15-16 ¶ 43-44 citing Brooks, Exh. CB-1T at 12:6-9.

of the violations and harm to the public, we do not believe the maximum penalty is warranted for this factor but are in favor of a larger penalty.

2. Whether the violation is intentional.

38 Under the Commission’s enforcement policy, a “company that willingly and intentionally violates” a Commission requirement may be dealt with more severely,”⁵⁸ and factors considered include whether:

- a. The company ignored Staff’s previous technical assistance;
- b. The company committed previous violations of the same statute or regulation;
- c. The company appears to be hiding or obscuring facts; and
- d. There is clear evidence through documentation or other means that shows the company knew of and failed to correct the violation.⁵⁹

39 While it is undisputed that Waste management violated its Commission approved tariff by not providing bi-weekly pick-up service to 25 customers from June 1, 2022, to June 1, 2023, and was cited for 14 informal violations in May 2022, the Company argues its failures do not meet the Commission’s standard of intentionality.⁶⁰ Namely, because senior management was initially unaware of the actions of its local operations staff until receiving Staff’s April 2023 enforcement letter,⁶¹ was “cooperative and responsive throughout the compliance investigation,” and “always intended to comply with its tariffs.”⁶² By immediately admitting to the violations, voluntarily investigating the service frequency of approximately 12,000 customers under Item 240 statewide, and adding new trainings for local operations managers to “fully understand tariff requirements,” Waste Management maintains it took the appropriate measures to prevent future reoccurrences of what transpired in this case.⁶³ Waste Management also asserts that it instituted new and overlapping safeguards at both its local and district wide level by tasking members of its senior management and legal team to “review a log of all

⁵⁸ Commission Enforcement Policy at 8 ¶ 15.

⁵⁹ Commission Enforcement Policy at 8 ¶ 15.

⁶⁰ Waste Management Post-Hearing Brief at 16 ¶ 46.

⁶¹ Brooks, Exh. CB-1T at 13:1-2 and 13:8-10.

⁶² Waste Management Post Hearing Brief at 3 ¶ 8-9, and 16 ¶ 46.

⁶³ *Id* at 3-4 ¶ 9-10.

customer complaints received through the Commission every two months to ensure prompt correction of any compliance issues identified.”⁶⁴

40 To the contrary, Staff argues that Waste Management’s argument is “troubling” because the Company’s “Area Customer Experience Manager” was notified of the violations found in Staff’s informal investigation in 2022,” and Staff explicitly explained how the violations could be remedied.⁶⁵ Staff further argues that “senior management knowledge is not the measure of whether a violation is intentional,” and explains that “Waste Management employees made a conscious decision to change the level of service from the tariff” to provide Item 240 customers with monthly rather than every other week service absent having the authority to make this decision.”⁶⁶ Additionally, since “Waste Management failed to correct its actions for a year” after receiving “explicit technical assistance,” and being informed of the 14 informal violations in 2022, Staff concludes that the Company’s actions were intentional, purposeful, and the “type of behavior the Commission’s compliance policies seeks to avoid and correct.”⁶⁷

41 While the record clearly establishes that Waste Management’s local operations staff ignored the technical assistance Staff provided between April and May 2022, and did not promptly remedy the 14 informal violations, we agree with Waste Management that assessing a larger penalty here would not have improved or expedited compliance.⁶⁸ Further, no evidence was provided in the record suggesting that Waste Management willfully hid or obscured facts. Rather, after Senior Management received Staff’s April 20, 2023, data request, it restored the every-other-week collections as of May 20, 2023, to all the customers affected in Tariff 14, Item 240,⁶⁹ was forthcoming, admitted to the violations, and agreed to implement all of Staff’s non-monetary recommendations.

42 However, because the Company’s local operations staff knew about the tariff violation and failed to promptly take corrective action until a year later, a larger penalty is warranted, but we do not find that the intent and decision making of the local operations staff can be transferred Company-wide. Primarily because the record demonstrates that

⁶⁴ *Id.*

⁶⁵ Feeser Exh. BF-4T at 7:3-6.

⁶⁶ Staff’s Post Hearing Brief at 9 ¶ 22-23. See also Feeser, Exh. BF-4T a 7:1-2.

⁶⁷ *Id.* at 9-10 ¶ 23 and 24, and Feeser Exh. BF-4T at 7:13-20.

⁶⁸ Waste Management’s Post Hearing Brief at 8 ¶ 23.

⁶⁹ Brooks, Exh. CB-1T at 5:8-11 and 13:1-5.

Senior Management did take the necessary corrective measures upon being made aware of the violations at issue. For these reasons, in balancing each of the above factors, we find that Waste Management's conduct does not rise to the level of an intentional violation but may be more aptly characterized as demonstrative of its negligence. We thus weigh this factor in favor of a larger penalty.

3. Whether the Company self-reported the violation.

43 Under Factor 3, the Commission may be more lenient if a company self-reports its violations.⁷⁰ Unfortunately, that did not occur here because neither the Company's local operations staff nor Senior Management self-reported the violations before Staff opened both its informal and formal investigation in the matter before filing its complaint. However, we do consider Senior Management's lack of knowledge during the informal investigation in 2022 to be a mitigating factor for two reasons. First, Waste Management did restore every-other-week service by May 20, 2023, shortly after receiving Staff's April 20, 2023, data request; and (2) on November 15, 2024, reported to Staff that the Company identified "an additional 0.14 percent (17 customers)" out of the 12,000 customers under Item 240 that it investigated who were receiving non-complaint service frequencies.⁷¹ Therefore, we weigh this factor in favor of a lesser penalty.

4. Whether the company was cooperative and responsive.

44 Although Staff acknowledged Waste Management "was sufficiently responsive and cooperative" to its request for data and throughout the investigation,⁷² we disagree with Staff's proposition that maximum penalties are warranted under this factor. Instead, we find that Waste Management did own up to its failures, was responsive, and that its Senior Management subsequently took proactive measures to incorporate systemic improvements to its existing business processes and procedures to prevent recurrence.⁷³ For these reasons, this factor weighs in favor of leniency.

5. Whether the company promptly corrected the violations and remedied the impacts.

⁷⁰ Commission Enforcement Policy at 8 ¶ 15(3).

⁷¹ Waste Management Post Hearing Brief at 3-4 ¶ 9 and rooks, Exh. CB-1T at 15:11-19.

⁷² Staff's Post Hearing Brief at 10 ¶ 25 and Feeser Exh. BF-1T at 15:9-10.

⁷³ Waste Management Post Hearing Brief at 3-4 ¶ 9-10 and Brooks, Exh. CB-1T at 15:11-19.

- 45 Pursuant to our Enforcement Policy, the Commission may be more lenient when the Company promptly corrects a violation and any underlying system problems.⁷⁴
- 46 While Waste Management argues that it promptly remedied the impacts of the violations by restoring bi-weekly service after Senior Management was aware of the violations, Staff argues that this argument “ignores the fact that [the] violations should have been corrected after receiving technical assistance through the informal consumer complaint.”⁷⁵ Additionally, Staff stresses that it took the Company over a year to remedy its behavior and that the continuance of these reoccurrences demonstrate that the violations were not promptly remedied.⁷⁶
- 47 As we noted above in paragraph 41, we agree with Staff that local operations staff disregarded the technical assistance provided, and that their failure to take the appropriate corrective actions at the time resulted in the violations continuing to persist for a year. Further, while we recognize that the 17 customers Waste Management identified as receiving non-compliant service and additional efforts the Company made after June 1, 2023, were outside the scope of Staff’s investigation,⁷⁷ we disagree with Staff disregarding the remedial measures taken. The reason for this is that it demonstrates the subsequent actions Waste Management took to remedy the adverse impact of its tariff violations, namely, to ensure it provided the correct service levels moving forward. Therefore, in weighing both prongs of this factor, we do not agree that the maximum penalty is warranted and weigh this factor in favor of a lesser penalty.

6. The number of violations.

- 48 While “numbers alone do not determine appropriate enforcement actions, the more violations the Commission finds, the more likely it is to take an enforcement action.”⁷⁸ Given that Waste Management admitted to committing the 254 violations alleged by Staff,⁷⁹ the number of violations in this matter is undisputed. However, since Staff does not provide any explanation as to why a maximum penalty is warranted, given Waste Management’s admission, we weigh this factor in favor of a larger penalty.

⁷⁴ Commission Enforcement Policy p. 8 ¶ 15.

⁷⁵ Staff’s Post Hearing Brief at 11 ¶ 28-30.

⁷⁶ *Id.*

⁷⁷ *Id.* at 11 ¶ 29.

⁷⁸ Commission Enforcement Policy, at 9 ¶ 15 (6).

⁷⁹ Waste Management’s Post Hearing Brief at 18 ¶ 50.

7. The number of customers affected.

49 Similar to factor 6, the more customers impacted and the more widespread that a violation is, the higher the likelihood that the Commission will take enforcement action.⁸⁰ Again, since it is undisputed that the violations Staff recorded impacted 25 customers,⁸¹ and Staff views this factor neutrally as “the number of customers is not overwhelming,”⁸² we find that this factor weighs in favor of a lesser penalty.

8. The likelihood of recurrence.

50 Factor eight weighs whether a company has changed its practices to prevent future violations. While Staff argues that Waste Management did not take the violations seriously until it was faced with a formal investigation and is not confident the Company will comply absent Commission intervention,⁸³ Waste Management argues that the record establishes that: (1) it “undisputedly corrected the service to that route” by May 20, 2023;⁸⁴ (2) it “implemented new compliance monitoring procedures to...better prevent, identify, and correct future violations;”⁸⁵ and (3) it added new trainings for local operations managers and staff to “fully understand tariff requirements.”⁸⁶ Waste Management further argues that when it conducted its own investigation of its service frequency of 12,000 customers “no customers with non-compliant service in 10 of the 16 counties where [it] holds Commission solid waste collection authority” were identified.⁸⁷ Finally, Waste Management emphasizes that “nothing in the record shows that such decision making ever extended beyond the one collection route directly at issue[,]” and that it made “multiple systematic improvements since.”⁸⁸

⁸⁰ Commission Enforcement Policy p. 9 ¶ 15(7).

⁸¹ Staff’s Post-Hearing Brief at 13 ¶ 32.

⁸² *Id* at 13 ¶ 34.

⁸³ Staff’s Post-Hearing Brief at 14 ¶ 36.

⁸⁴ Waste Management’s Post-Hearing Brief at 21 ¶ 38.

⁸⁵ Brooks, CB-1T at 16:8-10.

⁸⁶ Waste Management Post-Hearing Brief at 4 ¶ 10.

⁸⁷ *Id* at 21 ¶ 58.

⁸⁸ *Id*.

51 Based on the record before us, we agree with Waste Management and find its arguments compelling. As we noted above in paragraph 47, the evidence before us shows that after the Company’s Senior Management was made aware of the tariff violations, it took its regulatory obligations seriously, corrected its service levels, and took proactive steps to ensure multiple systematic improvements were integrated to prevent recurrence. For this reason, we are not persuaded by Staff that that the maximum penalty is appropriate and thus weigh this factor in favor of a lesser penalty.

9. The company’s past performance regarding compliance, violations, and penalties.

52 Staff argues that Waste Management has a history of noncompliance, has repeated violations of the same regulation, WAC 480-07-236, and has incurred penalties ranging from \$83,150, with \$40,000 in customer credits, in Docket TG-210689, and \$20,000, with \$620,000 in customer credits, in Docket TG-121265.⁸⁹ While Waste Management acknowledges that it has been the subject of prior complaints and investigations, it argues that Staff fails to provide the “crucial context” of the case precedent⁹⁰ and only cites to its prior violations.

53 We agree with Waste Management that the facts involved in the other two dockets do provide crucial context. As we discussed above in paragraphs 34-37, although Waste Management was cited for violations under the same regulatory provision, WAC-480-07-236, in Docket TG-210689, the Company experienced a shortage of qualified drivers during the height of the COVID-19 pandemic,⁹¹ which led to unprecedented exigent circumstances. Similarly, Docket TG-121265 involved a labor strike in Kitsap County 24 years prior. Given that both Dockets were settled and involved mitigating factors, we agree with the Company that these two cases are clearly distinguishable from this matter and are neither instructive nor demonstrative in showing a repeated pattern of conduct. This factor therefore weighs in favor of a lesser penalty.

10. The Company’s existing compliance program.

54 Staff argues that since Waste Management “wholly disregarded the technical assistance it provided in May 2022,” “failed to develop a responsive compliance program,” and

⁸⁹ Staff’s Post-Hearing Brief at 14 ¶ 37 citing Feeser, Exh. BF-1T at 17:3-14.

⁹⁰ Waste Management’s Post-Hearing Brief at 10 ¶ 26.

⁹¹ Docket TG-210689, Order 02 at 2 ¶ 8.

allowed penalties to persist for another year into May 2023, it did not “develop a responsive compliance program to remedy and prevent future violations.”⁹² In contrast, Waste Management argues its “pre-existing, multi-layer approach...closely resembles the Commission’s stated expectations” as evidenced through the “millions of annual waste pickups” Waste Management has performed for many years and “new compliance monitoring procedures it adopted” in response to this proceeding.⁹³ To support its contention that it has further improved its existing compliance program, Waste Management provided supporting documentation of its 2024 auditing schedule and the training presentation it provided to all local and district managers. The Company further argues that “if Staff had inquired...rather than speculating, it would have learned that the issue was limited to 0.14% of its Commission jurisdictional customers under Item 240,” which it reasons “certainly does not indicate a frequently recurring problem.”⁹⁴

55 We agree with Staff that it is extremely disconcerting that its local operations staff disregarded the technical assistance provided in May 2022 and allowed non-tariff-compliant service to persist for a year and find that Waste Management’s conduct constitutes a serious violation. However, we are not convinced that the violations at issue in this matter were pervasive in nature or that such violations are demonstrative of Waste Management’s existing compliance program being defective. Therefore, in balancing the seriousness of the violation against the Company’s compliance program, we do not believe the maximum penalty is warranted but are in favor of a larger penalty to remedy the non-complaint tariff service that led to the violations in the first place.

11. The size of the Company.

56 Under this factor, the Commission considers the size of the regulated company so that the penalties are not disproportionate to companies of a similar size with similar penalties.⁹⁵ Given that Waste Management is a large, regulated company with reported annual revenues for 2023 reported by Staff of approximately \$173,526,250,⁹⁶ Staff requests that the Commission assess the maximum penalty of \$1,000 per violation for a total of

⁹² Staff’s Post Hearing Brief at 15 ¶ 39.

⁹³ Waste Management’s Post Hearing Brief at 22-23 ¶ 62.

⁹⁴ Brooks, Exh. CB-1T at 17:9-15.

⁹⁵ Commission Enforcement Policy at 9 ¶ 15(11).

⁹⁶ Feeser, Exh. BF-1T at 4:12.

\$254,000.⁹⁷ While Waste Management states that its size “supports neither a larger or smaller penalty,”⁹⁸ Staff urges the Commission not to significantly reduce the penalty as such response would “only serve to unnecessarily minimize the impact on the Company.”⁹⁹ To support its contention that the penalty should be adequately punitive to recognize “the severity of the violations, [the] resulting harms,...[and] the Company’s acceptance of responsibility, cooperation, and agreement to take appropriate steps to minimize the possibility of future violations,” Staff cites to *Puget Sound*, Docket PG-160924.¹⁰⁰ Staff further argues that this case is distinguishable from *CenturyLink*, Docket UT-181051, in that the maximum penalties requested of \$254,000 are not disproportionate to Waste Management’s annual revenues of \$173,526,000. To ensure the penalties are proportionate to Waste Management’s violations and provide incentive for future compliance of its regulatory obligations, we will carefully balance our findings with respect to each of the eleven factors to determine the appropriate penalty amount.

D. Suspension

- 57 Should the Commission determine suspension is appropriate, Staff recommend suspending a portion of the penalty, no more than 50 percent for a period of two years, and then waiving the remainder on the condition that no further violations occur during the suspension period.¹⁰¹ Additionally, as detailed above in paragraphs 25-26, Staff requests that the Commission order additional auditing and reporting requirements.¹⁰²
- 58 While Waste Management agrees with Staff’s auditing and reporting recommendations and maintains that it is already instituting actions consistent with Staff’s recommendations, it requests the Commission suspend 75 percent of the penalty rather than the 50 percent Staff recommends. To support this request, Waste Management maintains that larger penalties “are not needed to spur [its] compliance improvements” given that it has: (1) taken specific actions to remedy the violations to avoid the same or similar violations from recurring; and (2) implemented a compliance plan “that will

⁹⁷ Staff’s Post-Hearing Brief at 16 ¶ 40.

⁹⁸ Waste Management’s Post Hearing Brief at 23 at ¶ 62.

⁹⁹ Staff’s Post-Hearing Brief at 16 ¶ at 41.

¹⁰⁰ *Id* at 16-17 ¶ 42 citing *W.U.T.C. v. Puget Sound Energy*, Docket PG-160924, Order 04 ¶ 25.

¹⁰¹ Staff’s Post-Hearing Brief at 18-19 ¶ 44, ¶ 46, and ¶ 50.

¹⁰² Staff’s Post-Hearing Brief at 19-20 ¶ 47 and ¶ 50.

guarantee future compliance in exchange for suspended penalties” since any repeat violations will result in the suspended penalties being reimposed.¹⁰³

59 To aid in determining whether to suspend a portion of a penalty, the Commission Policy Statement provides five factors to consider, which include:

1. Whether this is a first-time penalty for this or a similar violation.
2. Whether the company has taken specific actions to remedy the violations and avoid the same or similar violations in the future. Examples include purchasing new technology, making system changes, or training company personnel.
3. Whether the company agrees to a specific compliance plan that will guarantee future compliance in exchange for suspended penalties.
4. Whether Staff and the company have agreed that Staff will conduct a follow-up investigation at the end of the suspension period and that if a repeat violation is found, the suspended penalties are re-imposed.
5. Whether the company can demonstrate other circumstances exist that convince the Commission to suspend the penalties.¹⁰⁴

60 As we have stated throughout this Order, after weighing each of the eleven factors, we find that the maximum statutory penalty is unwarranted. While the 254 violations committed were serious and allowed to persist over a year, the magnitude of harm and small number of customers impacted and inconvenienced by the Company’s non-compliant service comprises a relatively small portion of Item 240 Waste Management’s service territory. Further, since we found that the record supports lesser penalties for factors 3, 4, 5, 7, 8, and 9, in balancing the weight of all the eleven factors, we will impose penalties against Waste Management for 254 violations of WAC 480-70-236 for failure to comply with its commission-approved Tariff 14, Item 240, at \$600 per violation, for a total penalty of \$152,400. We find this penalty reasonable given the nature and duration of the violations, Waste Management’s acceptance of responsibility by taking appropriate steps to minimize the possibility of future violations, and past performance regarding compliance, violations, and penalties.

¹⁰³ Waste Management’s Post-Hearing Brief at 24 ¶ 65.

¹⁰⁴ Commission Enforcement Policy at 11 ¶ 19.

61 Additionally, in accordance with the parties' agreement on the non-monetary terms, we order Waste Management to:

(1) audit its compliance with Item 240 service frequency state-wide, include all routes to which Item 240 applies (2) file its audit report as a compliance filing in this docket, and (3) ensure that appropriate Waste Management employees are properly trained with respect to regulatory compliance.¹⁰⁵

62 Next with regard to suspension, we adopt Staff's recommendations that no more than 50 percent be suspended for a period of two years and then waived on the condition that no further violations of this nature occur during the suspension period, and that Waste Management be required to conduct a follow-up audit regarding its compliance with Item 240, with the audit report being filed in this docket as a compliance filing.¹⁰⁶ We further adopt Staff's request requiring that:

both the initial audit and follow-up audit...contain the following information separated by operating entity: the nature of any violations found, the location of any affected customers by address, the duration of the violation back to July 1, 2022, a description of the corrective action needed, and the date corrective action has been taken.¹⁰⁷

FINDINGS AND CONCLUSIONS

- 63 (1) The Commission is an agency of the state of Washington, vested by statute with authority to regulate rates, rules, regulations, and practices of solid waste collection companies.
- 64 (2) Waste Management is a solid waste collection company subject to regulation by the Commission.
- 65 (3) Pursuant to RCW 81.28.080, common carriers, including solid waste companies are prohibited from "charging, demanding, collecting, or receiving a greater or lesser or different compensation for solid waste collection, or any related service,

¹⁰⁵ Staff's Post-Hearing Brief at 20 ¶ 51.

¹⁰⁶ Staff's Post-Hearing Brief at 19 ¶ 47.

¹⁰⁷ Staff's Post Hearing Brief at 20-21 ¶ 51.

than the rates and charges specified in the company's tariff."¹⁰⁸ Similarly, WAC 480-70-236 in relevant part provides that a solid waste collection service company may not assess rates and charges or accept payment for services that are "higher, lower, or different from those contained in its approved tariff."¹⁰⁹

- 66 (4) The Commission shall impose a penalty of \$152,400 for 254 violations of WAC 480-70-236.

ORDER

THE COMMISSION ORDERS that:

- 67 (1) A total penalty of \$152,400 shall be assessed against Waste Management for 254 violations of WAC 480-70-236, of which \$76,200 is suspended for a period of two years from the effective date of this Order and then waived if Waste Management complies with this Order over the two-year period.
- 68 (2) Waste Management must pay the \$76,200 that is not suspended within 10 days of the effective date of this Order. If Waste Management fails to pay the \$76,200 portion of the penalty within 10 days of the effective date of this Order, the \$76,200 suspended penalty will immediately become due and payable without further order of the Commission.
- 69 (3) The Commission retains jurisdiction to effectuate the terms of the Order.

DATED this 12th day of May 2025, at Lacey, Washington.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Amy Bonfrisco
AMY BONFRISCO
Administrative Law Judge

/s/ Jessica Kruszewski
JESSICA KRUSZEWSKI
Administrative Law Judge

¹⁰⁸ [RCW 81.28.080.](#)

¹⁰⁹ [WAC 480-70-236.](#)

NOTICE TO PARTIES

This is an initial order. The action proposed in this initial order is not yet effective. If you disagree with this initial order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this initial order, and you would like the order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

WAC 480-07-825(2)(a) provides that any party to this proceeding has 20 days after the entry of this initial order to file a petition for administrative review (Petition). Section (2)(b) of the rule identifies what you must include in any Petition as well as other requirements for a Petition. WAC 480-07-825(2)(c) states that any party may file an answer (Answer) to a Petition within 10 days after service of the petition.

WAC 480-07-830 provides that before the Commission enters a final order any party may file a petition to reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. The Commission will not accept answers to a petition to reopen unless the Commission requests answers by written notice.

RCW 80.01.060(3) provides that an initial order will become final without further Commission action if no party seeks administrative review of the initial order and if the Commission fails to exercise administrative review on its own motion.

Any Petition or Response must be electronically filed through the Commission's web portal as required by WAC 480-07-140(5).