

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

WASHINGTON UTILITIES AND	)	DOCKET TG-111813
TRANSPORTATION)	
COMMISSION,	)	ORDER 01
)	
Complainant,)	
)	
v.)	
)	
	)	COMPLAINT AND ORDER
	)	SUSPENDING TARIFF;
WASTE MANAGEMENT OF	)	ALLOWING REVENUE
WASHINGTON, INC., d/b/a WASTE	)	SHARING AND RECYCLABLE
MANAGEMENT – NORTHWEST,	)	COMMODITY REVENUE
G-237,	)	ADJUSTMENTS ON A
	)	TEMPORARY BASIS, SUBJECT
Respondent.	)	TO REFUND OR CREDIT
.....)	

BACKGROUND

- 1 On October 17, 2011, Waste Management of Washington, Inc., d/b/a Waste Management – Northwest (Waste Management or Company) filed with the Washington Utilities and Transportation Commission (Commission) revisions to its currently effective Tariff No. 17, designated as Tariff pages 2, 21, 22, 25, 26 and 27. The stated effective date is December 1, 2011. The company serves approximately 82,000 customers in Snohomish County.
- 2 In its filing, Waste Management proposes to increase the amount it pays to single family and multi-family customers for the value of the recyclable materials that the Company collects in its residential recycling collection service. The monthly credit for single family customers would increase from \$1.31 to \$3.60 and the credit for multi-family customers would increase from \$0.41 per yard to \$0.62 per yard for each pickup.
- 3 Also, on October 17, 2011, Waste Management filed with the Commission a request to retain thirty percent of the revenue Waste Management receives from the sale of recyclable materials that it collects in its residential single and multi-family recycling collection service from December 1, 2011, to August 31, 2012. Included with this request was a revenue sharing report for the 2010-2011 plan period showing the amount of revenue retained and the amount of money spent on the activities identified in Waste

Management's recycling and revenue sharing plan, and the effect the activities had on increasing recycling.

- 4 RCW 81.77.185 states that the Commission shall allow a solid waste collection company collecting recyclable materials from residential single and multi-family customers to retain "up to fifty percent of the revenue paid" to the company for the material if the company submits a plan to the Commission that is certified by the appropriate local government authority as being consistent with the local government solid waste plan and that demonstrates how the revenues will be used to increase recycling. The remaining revenue must be passed through to residential single and multi-family customers.
- 5 The Company's filing of October 17, 2011, did not include a recyclable commodity revenue sharing plan certified by Snohomish County (County) as required by RCW 81.77.185. Also lacking in Waste Management's filing was a statement from the County that the Company has met the obligations and requirements specified in the 2010-2011 plan, as requested in Docket TG-101220 Order 01 ¶ 24. On November 21, 2011, the Company filed a recyclable commodity revenue sharing plan for 2011-2012 certified by the County. The County filed its certification with the Commission on November 17, 2011.
- 6 On October 25, 2011, the Commission issued a final order, Order 10, in Dockets TG-101220, TG-101221, and TG-101222 (consolidated). In those dockets, Waste Management and Staff litigated the issue of whether Waste Management would be permitted to keep eight percent of the revenues it retained from the sale of recyclable materials collected from its customers as a financial incentive and reward under the 2010-2011 recycling plan. In Order 10, the Commission denied the eight percent financial reward requested by Waste Management. The Commission determined that Waste Management had failed to demonstrate that those revenues would be used to increase recycling, as required by RCW 81.77.185, and directed Waste Management to pass those revenues to residential customers.
- 7 On November 16, 2011, the Company filed substitute Tariff pages 2, 21, 22, 25, 26 and 27, increasing the proposed monthly credit for single family customers from \$3.60 to \$4.26 and increasing the proposed credit for multi-family customers from \$0.62 to \$0.91 per yard for each pickup. The revised credits are the result of removing a Labor Allocation for Executive Compensation and recalculating the Deferred Accounting Mechanism using 12 months of data as required by Commission Order and WAC

480-70-351. In a cover letter, the Company stated that, under the standards proposed in the 2011-2012 recycling plan, it had produced an increase in recycling in Snohomish County during the 2010-2011 plan period. The Company urged the Commission, in its discretion, to allow the Company to keep “the earned portion of retained revenue” as a performance award.

8 At the November 23, 2011, open meeting, Staff recommended that the Commission issue a complaint and order suspending revisions to Waste Management's Tariff No. 17, and allow monthly recyclable commodity revenue adjustments filed on October 17, 2011, as revised on November 16, 2011, and revenue sharing on a temporary basis, subject to refund or credit.

9 During the November 23, 2011, open meeting, the Commission questioned representatives of Waste Management about the relationship between the proposed tariffs and Orders 09 and 10 in Dockets TG-101220, TG-101221, and TG-101222. Waste Management explained that it sought a performance award for the 2010-2011 period under a theory that was different from the one it had advanced in those dockets.

FINDINGS AND CONCLUSIONS

10 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington vested by statute with the authority to regulate the rates, rules, regulations, practices, accounts and affiliated interests of public service companies, including solid waste companies. *RCW 80.01.040, RCW 81.01, RCW 81.04, RCW 81.16, RCW 81.28 and RCW 81.77.*

11 (2) This matter came before the Commission at its regularly scheduled meeting on November 23, 2011.

12 (3) Waste Management is engaged in the business of providing solid waste services within the state of Washington and is a public service company subject to Commission jurisdiction.

13 (4) RCW 81.77.185 states that the Commission shall allow a solid waste collection company collecting recyclable materials from single family and multi-family customers to retain “up to fifty percent of the revenue paid” to the company for the material if the company submits a plan to the Commission that is certified by

the appropriate local government authority as being consistent with the local government solid waste management plan and that demonstrates how the revenues will be used to increase recycling. The remaining revenue shall be passed through to single family and multi-family customers.

- 14 (5) Staff has not yet completed its review of the plan certified by the County for the forthcoming 2011-2012 plan year and cannot make a recommendation to the Commission on how the plan demonstrates how retained recycling revenues will be used to increase recycling or that the tariff revisions relating to recyclable commodity revenue adjustments would ultimately result in rates that are fair, just, reasonable and sufficient. Further, there are questions about how the interpretation and application of Commission Orders No. 9 and No. 10 issued in Dockets TG-101220, TG-101221, and TG-101222 (Consolidated) relate to these issues.
- 15 (6) During the pendency of this proceeding, Waste Management should be authorized to retain up to thirty percent of the revenue the Company receives from the sale of recyclable materials collected in its residential recycling program on a temporary basis, subject to refund or credit.
- 16 (7) As required by RCW 81.77.185, in the event this matter is set for hearing, Waste Management will bear the burden of proof to show that any proposed 2011-2012 recyclable commodity revenue sharing plan demonstrates how the retained recycling revenues will be used to increase recycling and that the proposed recyclable commodity revenue adjustments are just, reasonable and sufficient. Nothing in this Order is intended to limit the issues as to the fairness, justness, reasonableness and sufficiency of the proposed increases.

ORDER

THE COMMISSION ORDERS:

- 17 (1) Waste Management of Washington, Inc., d/b/a Waste Management – Northwest, is authorized to retain up to thirty percent of the revenue it receives from the sale of recyclable materials collected in its residential recycling program on a temporary basis, subject to refund or credit once the proposed 2011-2012 Plan is approved by the Commission.

- 18 (2) The recyclable commodity revenue adjustments filed by Waste Management of Washington, Inc., d/b/a Waste Management – Northwest, on October 17, 2011, as revised on November 16, 2011, are suspended but shall become effective on December 1, 2011, on a temporary basis, subject to refund or credit if the Commission determines that different rates will be fair, just, reasonable and sufficient.
- 19 (3) The Commission may hold hearings at such times and places as may be required.
- 20 (4) Waste Management of Washington, Inc., d/b/a Waste Management – Northwest, must not change or alter the tariffs filed in this Docket during the suspension period, unless authorized by the Commission.
- 21 (5) The Commission retains jurisdiction over the subject matter and Waste Management of Washington, Inc., d/b/a Waste Management – Northwest, to effectuate the provisions of this Order.

DATED at Olympia, Washington, and effective November 30, 2011.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

JEFFREY D. GOLTZ, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner