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8 LYNNWOOD DISPOSAL, d/b/a ALLIED WASTE OF LYNNWOOD;
9 EASTSIDE DISPOSAL, d/b/a ALLIED WASTE OF BELLEVUE, by
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1 P R O C E E D I N G S

2 JUDGE TOREM: We will be on the record. This
3 is a status conference in the Hungry Buzzard case.
4 It's TG-072226. This is Judge Adam Torem at the
5 Utilities and Transportation Commission in Olympia,
6 Washington. It's November 18th, 2008, Tuesday morning,
7 a little after ten o'clock.

8 Let's take the short form appearances, and
9 then I'll try to get an on-the-record summary of our
10 procedural history and where we are going from there.
11 Let me start with Commission staff.

12 MR. THOMPSON: This is Jonathan Thompson,
13 assistant attorney general representing the Commission
14 staff.

15 JUDGE TOREM: Mr. Wiley?

16 MR. WILEY: This is Dave Wiley representing
17 the intervenors, who are listed in the caption.

18 JUDGE TOREM: Mr. Anderson?

19 MR. ANDERSON: This is Don Anderson
20 representing Glacier Recycle, Hungry Buzzard, and T&T
21 Recovery.

22 JUDGE TOREM: Mr. Sells?

23 MR. SELLS: Thank you. James Sells
24 representing intervenor Washington Refuse and Recycling
25 Association.

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1 JUDGE TOREM: Ms. McNeill?

2 MS. MCNEILL: Thank you. Polly McNeill
3 representing Waste Management of Washington, Inc.

4 JUDGE TOREM: I don't think we have anybody
5 else that needs to make an appearance today.

6 So we are here today based on a notice that
7 went out October 23rd suspending our procedural
8 schedule. The original schedule was set out back in
9 January of this year. It seems so long ago. We had a
10 hearing originally to be held September 9th, 10th, and
11 11th, and we postponed that to early December, the 4th
12 and the 5th, and then we postponed it again to December
13 16th and 17th, about a month from now.

14 But on October 23rd, the parties informed me
15 through you, Mr. Thompson, that settlement discussions
16 were ongoing and that it would not be worthwhile to go
17 to the next step, which I think was responsive
18 testimony from intervenors and Staff on the remaining
19 issues in the case and then the reply testimony.

20 So rather than keep kicking the dates down
21 the road two or three weeks at a time, we suspended the
22 schedule, and I think the settlement negotiations have
23 been ongoing or on and off as time allows, at least
24 since summertime. What's the current status?

25 MR. THOMPSON: I'll jump in on that. Your

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1 notice of this status conference recounts all the
2 continuances we've had where I was representing that
3 settlement may be imminent. As it turns out, it's
4 taken -- we have had a very worthwhile, I would say,
5 meetings between Staff and the respondent companies,
6 and we have now presented them with a settlement offer
7 and they responded to that last Friday, and for
8 whatever reason, I guess, it's taken them awhile to get
9 back to our requests to meet and/or to respond to our
10 offer.

11 What I would suggest, I think we are at a
12 point where we've now exchanged proposals for
13 settlement, so we have our positions set out there, and
14 maybe there is some room for us to have a couple more
15 exchanges and see whether we can come together or not,
16 and I would hope we could do that relatively quickly.

17 So my idea was to propose dates for us to
18 commit to exchanging further proposals with each other
19 and then maybe set up another status conference, if
20 that would be satisfactory.

21 JUDGE TOREM: Mr. Anderson, I guess you are
22 the party doing the exchanging. What do you think
23 about what Mr. Thompson said or anything else, and I
24 want to be clear up front. I'm not too worried about
25 the delay here. The commissioners have recently

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1 expressed to various divisions that they want
2 complaint-type proceedings to move along faster on
3 enforcement items, but I don't think that means we have
4 to put any further pressure on this case to have what
5 might be an unnecessary hearing. We don't need to cast
6 things back and forth as to who is taking too long.
7 I'm not interested in that whatsoever. I just want to
8 know if we are going to get to a result, and if not,
9 what we need to do about it.

10 MR. ANDERSON: I think we have made a
11 meaningful progress. There has been delay to some
12 extent with multiple clients and a desire to have a
13 universal position, but I would second Mr. Thompson's
14 recommendations, and we now have something back, a
15 point by point proposal that Mr. Thompson has advanced,
16 and I think additional exchanges and clarifications may
17 be worthwhile, so I think it would serve the resolution
18 of this to allow for that to happen, and some deadlines
19 may be helpful. They may actually help me
20 administratively getting some clients to come together.

21 JUDGE TOREM: I understand you've got three
22 different clients with similar interests but certainly
23 not all 100 percent overlapping. Intervenors, I'm not
24 sure what your participation level has been in the
25 settlement exchanges, whether it's been active or just

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1 taking a look and seeing that your individual client
2 interests as intervening parties are met. Do any of
3 you want to weigh in on a proposed set of dates and the
4 appropriateness of that?

5 MS. MCNEILL: For my part, I think whatever
6 dates that Mr. Thompson and Mr. Anderson come up with
7 would be workable for us.

8 JUDGE TOREM: Mr. Wiley?

9 MR. WILEY: I defer to John Thompson's
10 scheduling preferences. He sent me some ideas of time
11 tables, and I'm fine with it.

12 JUDGE TOREM: Mr. Sells?

13 MR. SELLS: Same here. We are fine with the
14 proposed timetable.

15 JUDGE TOREM: Mr. Thompson, let me have it.

16 MR. THOMPSON: I actually haven't shared this
17 with Don Anderson yet, so just a proposal.

18 Since the ball is now in our court with a
19 counter-offer from the Respondent's, what I would first
20 propose, and when I say "we," that means Staff and
21 Intervenors, commit to get back to the Respondent's
22 with another offer, maybe, by November 26th, so next
23 Wednesday, and then I just counted out from there.
24 That gives us basically eight business days from when
25 we received their offer to get back with a response.

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1 So applying that same length of time, my proposal would
2 be for the Respondents to then get back to us, and
3 hopefully, if we are able to get to the point where we
4 either have a meeting of the minds or decide that
5 settlement isn't going to work by December 10th, and
6 then I would like to have a status conference just as
7 Don Anderson suggested to give a decision point to push
8 things along on maybe December 11th, something like
9 that.

10 JUDGE TOREM: Mr. Anderson, what do you think
11 of those dates initially?

12 MR. ANDERSON: Those sound satisfactory to
13 me, as long as the status conference isn't in the late
14 afternoon of the 11th.

15 JUDGE TOREM: For the first time in my life
16 the Pierce County Superior court has asked me to play
17 juror the weeks of December 8th and 15th, so
18 fascinating as that might be, my understanding is that
19 Pierce County's jury service requires you to call in
20 the night before and then you get to know if your day
21 is opened or closed.

22 So I'm hesitant to schedule anything during
23 that two-week period unless we all agree with the
24 understanding that you might get a cancellation of the
25 status conference the night before based on me being

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1 told I have to report that day, but beyond that, I
2 don't have any objections to scheduling something on
3 December 11th, but I would also rather have a fall-back
4 date so we can reserve time. I know given that they
5 let me out of jury duty for the two-week period on
6 December 19th, that puts us right into the two weeks of
7 the holiday season. So I don't know if Monday,
8 December 22nd, or Tuesday, December 23rd works well for
9 anybody. Folks taking vacation around the New Years or
10 Christmas holiday, I certainly respect that, but then
11 we end up rolling into January.

12 So Plan B would be we have the December 11th
13 date, and then if I can't be here to actually
14 administer the status conference, I could have another
15 judge substitute in for that date, and if at all
16 possible, call in myself to the bridge line with my
17 calendar and have that judge do it from here and we can
18 decide the dates.

19 MR. THOMPSON: I guess another option would
20 be could we make it earlier, like December 5th?

21 JUDGE TOREM: I think that December 5th would
22 certainly work for me. I think I've got a ten o'clock
23 meeting that morning, so we can do an early one or
24 right after lunch.

25 MR. THOMPSON: If that's a possibility, we

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1 could move the date by which Staff and Intervenors
2 would get back to the Respondent's this Friday. I
3 think we can probably do that, and then that would give
4 the Respondent's a little more time on the back end
5 there if we did have it on Friday. Does that sound all
6 right, Don?

7 MR. ANDERSON: When are you proposing for us
8 to get back?

9 JUDGE TOREM: It would have to be December
10 4th at the latest; right?

11 MR. THOMPSON: Right.

12 MS. MCNEILL: That puts you through the
13 Thanksgiving holiday, Don.

14 MR. ANDERSON: I'm trying to retain my status
15 as an attorney by being in an all-day CLA on the 3rd.
16 That will work.

17 JUDGE TOREM: As long as you think you can
18 get your clients -- if you tell them now that they are
19 going to get something on the 21st and maybe you can
20 talk to them that week after Thanksgiving, either the
21 1st or the 2nd, and then have something back to John by
22 the 4th, and then we would know on December 5th whether
23 we need more time and we are going to settle or we need
24 more time to set up a hearing for January or February
25 on the remaining issues, and at that point, we can

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1 adopt a remainder of December and January scheduling
2 for filing dates that we might need.

3 MR. ANDERSON: Okay.

4 JUDGE TOREM: John, does that work for you?

5 MR. THOMPSON: Yes, that works.

6 JUDGE TOREM: Then how does 1:30 in the
7 afternoon on Friday, December the 5th work for folks?

8 MS. MCNEILL: I love driving back from
9 Olympia late afternoon on Friday.

10 JUDGE TOREM: No need to drive down.

11 MS. MCNEILL: I'm kidding. I would do it by
12 phone anyway.

13 MR. SELLS: When is our panel? That's on
14 Saturday, isn't it?

15 MS. MCNEILL: Well, yes. What is the
16 schedule for Friday afternoon?

17 MR. SELLS: Board meeting, etcetera.

18 MR. WILEY: You can come over to my office,
19 Jim, if you want to be on the phone.

20 MR. SELLS: Don't worry about me. I can
21 always get out of the board meeting. I'll get fired,
22 but that's all right.

23 JUDGE TOREM: If we need to schedule this
24 meeting to accommodate more of a meeting schedule that
25 most of you sound like you are in that weekend.

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1 MS. MCNEILL: It's the annual Washington
2 Refuse and Recycling Association winter meeting.

3 JUDGE TOREM: Then I hesitate to offer to
4 take up your lunch hour.

5 MR. WILEY: Don't worry about it.

6 MR. SELLS: We can make it work.

7 JUDGE TOREM: If 1:30 sounds good, great. If
8 12:30 sounds better --

9 MR. SELLS: 12:30 would be better, wouldn't
10 it, Dave?

11 MR. WILEY: Yes.

12 JUDGE TOREM: Mr. Anderson and Mr. Thompson,
13 would that work okay for your lunch schedule?

14 MR. ANDERSON: I'm very flexible, thanks.

15 JUDGE TOREM: We will do it at 12:30 and go
16 from there. So I will issue another notice based on
17 today's status conference. We will set up a schedule
18 for a November 21st second offer from Commission staff,
19 and I guess it would be with concurrence with the
20 Intervenors to your clients, Mr. Anderson, and that
21 your response or counter-offer is due by Thursday,
22 December 4th, and that we will have a status conference
23 to talk about whatever posture the case remains in on
24 Friday, December 5th at 12:30. Is that everybody's
25 understanding.

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1 MS. MCNEILL: Yes.

2 MR. WILEY: Yes.

3 MR. SELLS: Yes.

4 JUDGE TOREM: Anything else for the record
5 today? Good luck with this next exchange, and we will
6 see what we need to do going forward.

7 (Status conference adjourned at 10:20 a.m.)

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