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June 18, 2014

Steven V. King, Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Dr. SW
P. O. Box 47250
Olympia, Washington 98504-7250

RE: *Washington Utilities and Transportation Commission v. Waste Control, Inc.*
Docket TG-140560

Dear Mr. King:

Enclosed for filing in the above-referenced docket are the original and two copies of Commission Staff's Response to Waste Control, Inc.'s Motion for Appointment of a Discovery Master and/or, Alternatively, Scheduling a Discovery Conference, and Certificate of Service.

Sincerely,

BRETT P. SHEARER
Assistant Attorney General

BPS/emd
Enclosure
cc: Parties w/enc.

Docket TG-140560
CERTIFICATE OF SERVICE

I hereby certify that I have this day served the attached Commission Staff's Response to Waste Control, Inc.'s Motion for Appointment of a Discovery Master and/or, Alternatively, Scheduling a Discovery Conference upon the persons and entities listed on the Service List below via e-mail and by depositing a copy of said document in the United States mail, addressed as shown on said Service List, with first class postage prepaid.

DATED at Olympia, Washington this 18th day of June, 2014.

ELIZABETH M. DeMARCO

***For Waste Control, Inc.*:**

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***For WRRA*:**

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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v. WASTE CONTROL, INC., Respondent.	DOCKET TG-140560 STAFF'S RESPONSE TO WASTE CONTROL, INC.'S MOTION FOR APPOINTMENT OF A DISCOVERY MASTER AND/OR, ALTERNATIVELY, SCHEDULING A DISCOVERY CONFERENCE

I. INTRODUCTION

1 Washington Utilities and Transportation Commission Staff (Commission Staff or Staff) files its response to Waste Control, Inc.'s (Waste Control or Company) recent motion for appointment of a discovery master and/or scheduling of a discovery conference. In light of the complexity of this case and the motion to compel currently before the Commission, Staff cautions that the appointment of a third party facilitator to resolve discovery disputes and/or a discovery conference may be an exercise in futility at this stage of the proceeding. Staff further posits that the appointment of a third party to resolve discovery disputes and/or scheduling a discovery conference is: 1) not a substitute for Staff's motion requesting that the Commission issue a ruling clarifying the scope of WAC 480-07-520(4) and compel discovery; and 2) further evidence that several discovery disputes remain outstanding, and the Commission should grant Staff's motion for an extension of time.

II. DISCOVERY MOTIONS

2 A motion under WAC 480-07-415 and 480-07-425 is a discovery motion. Under WAC 480-07-380(1)(c), discovery motions include requests to promote or limit the exchange of information among the parties.

3 Under WAC 480-07-415, a discovery conference is meant to allow parties to talk directly and informally and generally enhance the parties' understanding of the positions and perspectives of other parties. The Commission may designate a person to facilitate such a discovery conference.

4 WAC 480-07-425 provides for resolution of discovery disputes. The rule allows for the Commission to designate a person to assist the parties in resolving a discovery dispute.

III. ARGUMENT

A. Appointment of Another Party to Assist in Resolving Disputes may be Practically Difficult and Cause Additional Delay

5 Waste Control's filing is complex, voluminous, and the relevant record extends back to the Company's previous general rate filing.[1] As the Company acknowledges in its motion to appoint a discovery master, the present case includes, "thousands of pages of responses, supporting data and documents supplied so far by the Company in discovery in Dockets TG-131794 and TG-140560."[2] It would be an extremely difficult and time-consuming task for any appointed facilitator to review the extensive amount of relevant information included in the above-referenced dockets. Therefore, the appointment of a discovery master at this point in the adjudication may not serve to materially expedite this proceeding.

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[1] *See* Commission Docket No. TG-131794, which the Commission dismissed on March 25, 2014.
[2] Waste Control Motion, p. 2, at ¶3.

B. A Discovery Conference is a Futile Endeavor

6 At this point in the proceeding, a discovery conference would likely be ineffective in resolving the parties' discovery disputes. Since the Company's initial filing in Docket TG-131794, Waste Control's general rate case has been suspended, dismissed, re-filed, and suspended again. Furthermore, Staff and the Company engaged in a technical conference, Staff issued several data requests to which the Company objected, and now a motion to compel is before the Commission. At this point in time, the Company has provoked exasperation among Staff; there is simply no longer substantial prospect for a discovery conference to save Staff or the Company effort or expense. Moreover, after such an extended period of time and effort, it seems unlikely that the parties would be able to reconcile their positions in a discovery conference. Therefore, a discovery conference would likely end without resolution, and the Commission would again be rendering a decision on a motion to compel. Staff's position is that a ruling on Staff's present motion to compel would be the most expeditious and efficient way forward.

C. Waste Control's Proposal does not Contravene Staff's Motion to Clarify the Scope of WAC 480-07-520(4), Compel Discovery, and Grant Staff an Extension of Time to Prepare Testimony

7 Regardless of any decision relating to a discovery master and/or a discovery conference, the Commission should clarify the filing requirements under WAC 480-07-520(4) and compel discovery. It is absolutely essential that regulated companies provide supporting calculations and documentation for all adjustments in a general rate filing. Absent supporting calculations, Staff cannot conduct an analysis and fulfill its regulatory function. Staff's fundamental position on requiring supporting calculations and documents will not change in the context of a discovery conference. Consequently, Waste Control's proposal for a third

party facilitator and/or a discovery conference is not a substitute for Staff's motion to clarify filing requirements and compel discovery. The Commission should still issue a ruling clarifying the scope of WAC 480-07-520(4) and compel discovery.

8 Waste Control's proposals for discovery also demonstrate the necessity to extend the procedural schedule in this matter. The Company's motion states that several discovery disputes remain outstanding. The general purpose of discovery is to provide the parties additional information in preparing a case; in this instance, the fact that all parties recognize continuing discovery disputes strongly supports Staff's position that the parties need more time to adequately gather information and prepare testimony.

9 Continuing discovery disputes also demonstrate the ongoing complexity in the Company's filing. A late, unanticipated[3] substitution of counsel in this type of proceeding poses significant potential prejudice to Staff's case, further supporting Staff's position to extend the procedural schedule.[4]

IV. CONCLUSION

10 Although not adamantly opposed to Waste Control's proposal for a discovery master and/or a discovery conference, Staff views both endeavors as simply adding further expense and delay. Regardless of any decision relating to a discovery master and/or a discovery conference, the Commission should clarify the filing requirements under WAC 480-07-520(4) and compel Waste Control to provide additional information as outlined in Staff's motion.[5]

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[3] Substitution of counsel was unanticipated because of the date. Former Assistant Attorney General Steve Smith had planned to retire effective May 31, 2014. Due to an error in the state's personnel system, Mr. Smith's retirement date was moved up to May 22, 2014, with less than 48 hour's notice. This removed any possible gradual transition to new counsel.

[4] *See* Staff's Motion to Clarify the Scope of WAC 480-07-520(4), Compel Discovery, and Expedited Motion for an Extension of Time, pp. 15-17

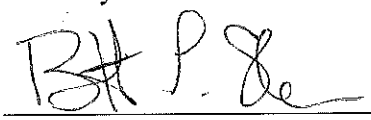
[5] *See generally* Staff's Motion.

The Company's proposal for further discovery also demonstrates the necessity to grant Staff's motion for an extension of time.

DATED this 18th day of June 2014.

Respectfully submitted,

ROBERT W. FERGUSON
Attorney General



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