

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

WASTE CONNECTIONS OF)	DOCKET TG-071194
WASHINGTON, INC.,)	
)	
Complainant,)	ORDER 06
)	
v.)	
)	PREHEARING CONFERENCE
ENVIRO/CON & TRUCKING, INC., a)	ORDER; NOTICE OF POST-
Washington Corporation, and WASTE)	REMAND PROCEDURAL
MANAGEMENT DISPOSAL)	SCHEDULE
SERVICES OF OREGON, INC.,)	
)	
Respondents.)	
)	
.....)	

1 **NATURE OF PROCEEDING.** This matter involves a private party complaint, or in the alternative, a petition for a declaratory order, filed by Waste Connections of Washington, Inc., against Enviro/Con & Trucking, Inc. (ECTI) and Waste Management Disposal Services of Oregon, Inc. (Waste Management). In Order 05, *Order Granting Petition for Administrative Review; Reversing Initial Order, and Ordering Hearing on the Merits; Granting Motion for Leave to File Reply*, the Washington Utilities and Transportation Commission (Commission) remanded the matter to an Administrative Law Judge (ALJ) to allow the Complainant an opportunity to file an amended complaint and then rule on whether or not this litigation should be allowed to continue. Order 05, paragraphs 18, 19, and 37. On August 7, 2009, the Thurston County Superior Court affirmed Order 05.

2 **CONFERENCE.** The Washington Utilities and Transportation Commission (Commission) convened a prehearing conference in this docket at Olympia, Washington on August 21, 2009, before Administrative Law Judge Adam E. Torem.

3 **APPEARANCES.** David W. Wiley, Willams, Kastner & Gibbs, PLLC, Seattle, Washington, represents Waste Connections of Washington, Inc. (Complainant or

Waste Connections). Polly L. McNeill, Summit Law Group, PLLC, Seattle, Washington, represents ECTI and Waste Management (Respondents). James R. Sells, Ryan Sells Uptegraft, Inc. P.S., Silverdale, Washington, represents Washington Refuse and Recycling Association (WRRRA). E. Bronson Potter, Sr. Deputy Prosecuting Attorney for Clark County, Washington, represents Clark County.

4 **REQUEST TO AMEND COMPLAINT.** The Complainant confirmed its desire to file an amended complaint in this matter and seek an available and meaningful remedy. Further, the Respondents indicated their desire to seek dismissal of any amended complaint that might be allowed. Therefore, in accordance with Order 05, the presiding judge must determine whether or not to grant the proposed amendment and, in turn, decide whether the litigation of this matter should be allowed to continue.

5 As explained at the conference, the most efficient way to promptly reach both decisions is by combining (a) the necessary procedural motion to amend the complaint with (b) the subsequent dispositive motion that the Respondents intend to file. This permits the Commission to issuing a single order ruling on both questions, as necessary, in sequence.

6 **PROCEDURAL SCHEDULE.** The Commission adopts the following procedural schedule which is also attached in matrix format to this Order as an Appendix:

Motion to Amend Complaint	Tuesday, August 25, 2009
Response to Motion to Amend	Friday, September 4, 2009
Reply re Motion to Amend	Monday, September 14, 2009
Motion to Dismiss	Friday, September 4, 2009
Response to Motion to Dismiss	Monday, September 14, 2009
Reply re Motion to Dismiss	Monday, September 21, 2009

The intent of this streamlined schedule is to allow both the Complainant and the Respondent to file combined pleadings (i.e., response to opponent's motion combined with own motion). The schedule also presumes just cause for the parties originating a motion to submit a reply to the other party's response. WAC 480-07-370(1)(d)(i).

7 Intervenor Clark County and WRRRA may each file only a single response addressing both parties' motions on Monday, September 14, 2009.

8 **DOCUMENT PREPARATION AND FILING REQUIREMENTS.** The Commission reaffirms the provisions of Order 01, paragraph 13, requiring the parties to file an original plus **six (6)** copies of all pleadings, motions, briefs, and other prefiled materials. The Commission also confirms that its *updated* procedural rules governing communicating with the Commission (WAC 480-07-140) and filing documents in adjudicative proceedings (WAC 480-07-145) shall govern the remainder of the proceedings in this matter. The parties are advised to review these regulations and ensure compliance. Of specific note under these updated rules, electronic filing of pleadings is expressly permitted, with paper copies to be served the following day, in accordance with WAC 480-07-145(6). All other procedural provisions of Order 01 remain in effect.

9 **NOTICE TO PARTIES: Any objection to the provisions of this Order must be filed within ten (10) days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. Absent such objection, this Order will control further proceedings in this matter, subject to Commission review. Parties must provide courtesy copies of filings to the presiding administrative law judge.**

Dated at Olympia, Washington, and effective August 24, 2009.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

ADAM E. TOREM
Administrative Law Judge

APPENDIX
PROCEDURAL SCHEDULE ON REMAND
DOCKET TG-071194

EVENT	DATE	INTERVAL
Motion to Amend Complaint	August 25, 2009	-----
Response to Motion to Amend & Motion to Dismiss	September 4, 2009	10 days
Reply re Motion to Amend & Response(s) to Motion to Dismiss	September 14, 2009	10 days
Reply re Motion to Dismiss	September 21, 2009	7 days