

1 Hearing Date: Friday, May 21, 2021  
2 Hearing Time: 9:00 a.m.  
3 Judge/Calendar: Hon. Carol Murphy  
4 Without Oral Argument

5  
6 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
7 IN AND FOR THE COUNTY OF THURSTON

8 WASTE MANAGEMENT OF  
9 WASHINGTON, INC., WASTE  
10 MANAGEMENT DISPOSAL SERVICES OF  
11 OREGON, INC., MJ TRUCKING &  
12 CONTRACTING, and DANIEL ANDERSON  
13 TRUCKING AND EXCAVATION, LLC,

14 Petitioners,

15 v.

16 WASHINGTON UTILITIES AND  
17 TRANSPORTATION COMMISSION, an  
18 agency of the State of Washington,

19 Respondent.

CASE NO. 21-2-00870-34

**DECLARATION OF JIM BECK IN  
SUPPORT OF PETITIONERS'  
MOTION TO STAY**

20 I, Jim Beck, hereby declare as follows:

21 1. I am over 18 years of age and am competent to testify as to the following based  
22 upon personal knowledge.

23 2. I am the Area Director of M&I Sales for Waste Management of Washington, Inc.  
24 (“WMW”).

25 3. McKinley Paper Company (“McKinley Paper”) is a paper mill in Port Angeles  
26 that took over the business of Nippon Paper Industries USA (“Nippon”). For many years, until  
Nippon closed in 2015, WMW arranged for the transportation of Nippon’s OCC Rejects to  
WMW’s rail transfer facility and for transfer there to a railroad for delivery to the landfill.

1 WMW supplied Nippon a chassis, a truck trailer on which an intermodal container is mounted  
2 for highway transport, along with 48-foot intermodal containers to carry the OCC Rejects  
3 mounted on the chassis for transport and transfer to a railroad. The railroad then transported the  
4 intermodal containers of OCC Rejects to the landfill.

5 4. When McKinley Paper took over Nippon's business in 2020, McKinley Paper  
6 asked Waste Management to resume providing the COFC service. In light of the UTC staff's  
7 2011 determination that the UTC was preempted and could not regulate Waste Management's  
8 COFC service, Waste Management submitted a proposal to McKinley Paper to provide the same  
9 type of service to the new owner. Pursuant to this arrangement, Waste Management contracts  
10 with MJ Trucking to transport intermodal cargo containers of OCC Rejects on over the road  
11 chassis from McKinley Paper to the Olympic View Transfer Station ("OVTS") operated by  
12 WMW outside of Bremerton or to the North Mason Fiber Co. ("NMF") transload facility near  
13 Belfair, Washington. Waste Management cycles six intermodal containers per day at McKinley  
14 Paper to provide continuous, uninterrupted service. McKinley Paper loads the intermodal cargo  
15 containers with the OCC Rejects and the containers are closed at the time they are picked up by  
16 MJ Trucking for intermodal transport. Recently, Waste Management has revised its  
17 arrangements with McKinley Paper whereby its OCC Rejects also are transported in intermodal  
18 containers to the Union Pacific Railroad ("UPRR") transload facility located in Seattle, known as  
19 the Argo Yard. All the intermodal containers remain closed for the entire duration of their  
20 transport, including during the transloading process.

21 5. Under contract with Kitsap County, WMW operates OVTS. The Puget Sound  
22 and Pacific Railroad ("PSAP") owns and operates a rail line near OVTS. PSAP provides rail car  
23 switching services at OVTS and moves rail cars to and from the Kitsap rail siding to the nearby  
24 PSAP rail line for onward transportation. WMW transloads the intermodal containers of OCC  
25 Rejects from the truck chassis to rail cars owned by UPRR and staged on rail siding owned by  
26 Kitsap County at OVTS.

1           6.       Below is a photograph of a closed intermodal container of OCC Rejects being  
2 transloaded in COFC service from the truck chassis to the rail line at OVTS.



13           7.       Likewise, NMF transloads intermodal containers of solid waste from the chassis  
14 to UPRR rail cars staged on rail siding owned by NMF and located at the NMF facility. PSAP  
15 provides rail car switching services at the NMF facility, whereby PSAP moves rail cars to and  
16 from the NMF facility rail siding to the nearby PSAP rail lines. The photographs below show a  
17 closed intermodal container of OCC Rejects being offloaded from the truck chassis to the UPRR  
18 train at NMF's rail spur, bound for WMDSO's Columbia Ridge Landfill in Oregon.

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13        8.        After loaded rail cars are switched to the PSAP rail line from either OVTS or  
14 NMF, the UPRR transports the intermodal containers to the Columbia Ridge Landfill in Oregon.  
15 WMDSO owns and operates the Columbia Ridge Landfill. Below is a photograph of a closed  
16 intermodal container of OCC Rejects being offloaded at the end of the COFC service from  
17 NMF's rail spur at the Columbia Ridge Landfill.



1           9.       Prior to June 2020, Murrey’s Disposal Company, Inc. (“Murrey’s”) collected the  
2 OCC Rejects generated by Port Townsend Paper Company (“PTP”).

3           10.       As a consequence of Murrey’s deficient service, PTP contacted Waste  
4 Management requesting a bid for transportation and disposal of its OCC Rejects like Waste  
5 Management was providing to McKinley Paper. In light of the UTC staff’s 2011 determination  
6 that federal law preempted state regulation of COFC solid waste service, Waste Management  
7 submitted a proposal to provide solid waste transportation and disposal services for PTP’s OCC  
8 Rejects. PTP accepted Waste Management’s proposal and entered into a contract with Waste  
9 Management. Starting in June 2020, under agreement with Waste Management, Daniel  
10 Anderson Trucking (“DAT”) began transporting intermodal cargo containers of OCC Rejects  
11 from PTP’s Port Townsend facility to OVTS or NMF where, as with McKinley Paper’s OCC  
12 Rejects, the closed intermodal containers of solid waste are switched to rail cars for continuous  
13 transportation to the Columbia Ridge Landfill.

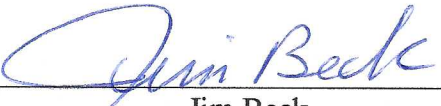
14           11.       It took considerable effort and time for Waste Management to phase in its service  
15 for PTP while Murrey’s was phasing out its service. Waste Management had multiple meetings  
16 onsite with PTP and DAT to initiate service and to make sure adequate assets were available.  
17 Waste Management and DAT had to mobilize equipment to several locations so that once  
18 started, daily services could be sustained. It took approximately two weeks to get all of the  
19 components in place and several days to phase in the service for PTP. Today, Waste  
20 Management cycles 11 48-foot intermodal containers daily at PTP to provide continuous,  
21 uninterrupted service.

22           12.       For PTP and McKinley Paper, Waste Management transports 400-500 tons of  
23 OCC Rejects every day of the week. This is roughly 30,000,000 pounds per month or the  
24 equivalent of 1,500 garbage truck loads monthly. To ensure the necessary service for PTP and  
25 McKinley Paper, Waste Management positions 12 chassis and 60 intermodal containers at OVTS  
26 and NMF. Immediate cessation of Waste Management’s OCC Reject service for PTP and

1 McKinley Paper would impact their daily production as they would quickly run out of available  
2 intermodal containers to load the OCC Rejects, would put these companies in a precarious  
3 compliance position with storage of this solid waste on the ground, and could require the paper  
4 mills to cease production until alternate services could be positioned and ramped up. Even if  
5 Murrey's had the necessary equipment – which it lacked a year ago for only PTP – it would take  
6 several weeks to transition all of the WM and Murrey's equipment at PTP and McKinley Paper.  
7 Today, it takes approximately a year to purchase new intermodal containers. In addition, Waste  
8 Management would risk losing PTP and McKinley Paper's business permanently.

9 I declare under penalty of perjury under the laws of the State of Washington that the  
10 foregoing is true and correct.

11 EXECUTED this 10<sup>th</sup> day of May, 2021, at Seattle, Washington.

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14 \_\_\_\_\_  
15 Jim Beck

**CERTIFICATE OF SERVICE**

I do hereby certify that on this day I caused to be served a true and correct copy of the foregoing *Declaration of Jim Beck in Support of Petitioners' Motion to Stay* by method indicated below and addressed to the following:

Mark Johnson  
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DATED this 11<sup>th</sup> day of May, 2021.

  
\_\_\_\_\_  
Karen Lang, Legal Assistant