

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,

Petitioners,

v.

14 WASHINGTON UTILITIES AND
15 TRANSPORTATION COMMISSION, an
16 agency of the State of Washington,

Respondent.

CASE NO. 21-2-00870-34

**DECLARATION OF MICHAEL
PENSON IN SUPPORT OF
PETITIONERS' MOTION TO STAY**

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18 I, MICHAEL PENSON, hereby declare as follows:

19 1. I am at least 18 years of age and am competent to testify as to the following based
20 upon personal knowledge.

21 2. I am the Procurement/Stores Manager for Port Townsend Paper Company
22 ("PTP").

23 3. Currently, PTP contracts with Waste Management of Washington, Inc. ("WMW")
24 to collect PTP's old corrugated cardboard rejects ("OCC Rejects"). WMW provides PTP
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1 intermodal containers mounted on over the road chassis that are transported for transfer to a
2 railroad for final delivery of the intermodal containers to the landfill in Oregon.

3 4. Previously, PTP contracted with Murrey's Disposal Co., Inc. dba Waste
4 Connections ("Murrey's") to collect PTP's OCC Rejects. Murrey's did not have enough
5 equipment to handle PTP's volume. Consequently, PTP was forced to dump the OCC Rejects on
6 the ground and then later to load the OCC Rejects when Murrey's could provide a container.
7 This cost PTP twice as much to handle and PTP did not want this solid waste left waiting on the
8 ground.

9 5. PTP experienced other problems with Murrey's OCC Rejects service which cost
10 PTP more.

11 6. WMW has done a phenomenal job collecting PTP's OCC Rejects and ensuring
12 that we have the necessary intramodal containers and pickup necessary to service PTP's heavy
13 volume of OCC Rejects.

14 7. If WMW's intermodal service of PTP's OCC Rejects was stopped immediately, it
15 would cause substantial injury and risks to PTP. From our past experience, we do not believe
16 that Murrey's could provide the necessary service and certainly not immediately.

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

19 EXECUTED this 10th day of May, 2021, at Clallam, Washington.

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21 
22 _____
23 Michael Penson
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1 **CERTIFICATE OF SERVICE**

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

5 Mark Johnson
6 Executive Director and Secretary Via Legal Messenger
7 Washington Utilities and Transportation Commission Via Email
8 621 Woodland Square Loop S.E.
9 Lacey, WA 98503
(360) 664-1234
records@utc.wa.gov

10 Office of the Attorney General Via U.S. Mail
11 1125 Washington St. SE Via Email
12 PO Box 40100
13 Olympia, WA 98504
(360) 753-6200
serviceATG@atg.wa.gov

14 *Attorneys for Murrey's Disposal Co. Inc.*
15 Blair I. Fassburg, WSBA #41207 Via U.S. Mail
16 David W. Wiley, WSBA #08614 Via Email
17 WILLIAMS, KASTNER & GIBBS PLLC
18 601 Union Street, Suite 4100
19 Seattle, WA 98101-2380
(206) 233-2895
dwiley@williamskastner.com
bfassburg@williamskastner.com

20 Murrey's Disposal Company, Inc. Via U.S. Mail
21 c/o Corporation Service Company
22 300 Deschutes Way SW, Ste 208
Tumwater, WA 98501
(800) 927-9800

23 DATED this 11th day of May, 2021.

24 
25 _____
26 Karen Lang, Legal Assistant