

Docket No. TG-200083 - Vol. II

**In the Matter of Determining the Proper Carrier
Classification of: Ridwell, Inc.**

May 12, 2020



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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Determining) DOCKET TG-200083
the Proper Carrier)
Classification of:)
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))
RIDWELL, INC.)
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TELEPHONIC EVIDENTIARY HEARING, VOLUME II
Pages 24-171
ADMINISTRATIVE LAW JUDGE GREGORY J. KOPTA

May 12, 2020
9:38 a.m.

Washington Utilities and Transportation Commission
621 Woodland Square Loop Southeast
Lacey, Washington 98503

REPORTED BY: CRYSTAL R. MCAULIFFE, RPR, CCR 2121

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1 LACEY, WASHINGTON; MAY 12, 2020

2 9:38 A.M.

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4 P R O C E E D I N G S

5

6 JUDGE KOPTA: Let's be on the record in
7 Docket TG-200083, captioned In the Matter of the Proper
8 Carrier Classification for Ridwell, Inc.

9 My name is Gregory Kopta. I am the
10 administrative law judge who is presiding over the
11 proceeding, and we are here today to conduct an
12 evidentiary hearing in this adjudication. We will begin
13 by taking appearances; starting with Commission Staff.

14 MR. CALLAGHAN: Thank you, Your Honor. Nash
15 Callaghan, Assistant Attorney General on behalf of
16 Commission Staff.

17 JUDGE KOPTA: And for the Company?

18 MR. GOLTZ: Yes, Your Honor. Jeffrey Goltz,
19 Cascadia Law Group for the respondent, Ridwell, Inc.

20 JUDGE KOPTA: All right. Our first order of
21 business is exhibits. I understand, having circulated a
22 draft exhibit list to the parties, that most of the
23 exhibits are -- have been agreed to be admitted, but
24 there are some that there is a disagreement by Staff.

25 Mr. Callaghan, would you like to identify

1 those exhibits that are in dispute and explain -- well,
2 let's start with having Mr. Goltz explain why he has an
3 objection to those exhibits. Mr. Callaghan, would you
4 identify the two exhibits from Staff that are at issue?

5 MR. CALLAGHAN: Yes, Your Honor, those are
6 KM-2 and KM-4.

7 JUDGE KOPTA: And, Mr. Goltz, your
8 objections to those being admitted?

9 MR. GOLTZ: Yes, Your Honor. So the KM-2
10 and KM-4 are, quote, "recyclable posters," unquote, for
11 Pierce County and the City of Tacoma, respectively.

12 Ridwell doesn't do business in Pierce County
13 or the City of Tacoma. So I guess I'm not sure of the
14 relevance of these exhibits any more than you have the
15 Skamania County or the Wahkiakum County or the Pend
16 Oreille County recyclable similar exhibits from them.

17 JUDGE KOPTA: Does the Company have any
18 intention of expanding into Pierce County or the City of
19 Tacoma.

20 MR. GOLTZ: I think it is -- they have had
21 certainly -- they have had inquires, as I understand it.
22 They have got -- I don't know if you call it a waiting
23 list, but at least a mailing list at least; a potential
24 mailing list of several hundred people. So ultimately,
25 yes, I think that would be their goal.

1 JUDGE KOPTA: All right. And,
2 Mr. Callaghan, the reason that you want to have those
3 exhibits admitted?

4 MR. CALLAGHAN: Thank you, Your Honor.

5 I expect that testimony from Kathryn
6 McPherson and, perhaps, Ryan Metzger will demonstrate
7 that Ridwell does have plans to expand their business
8 into Pierce County. While they are not conducting
9 business in Pierce County now, I think it's relevant
10 given that Ridwell has continued to expand into areas
11 that have local solid waste management plans and
12 certificated solid waste carriers that do pick up
13 recycling.

14 In Ryan Metzger's pretrial testimony there's
15 an argument that's presented that the -- about the
16 practical effects of being classified as a solid waste
17 carrier. And if the Commission is going to consider
18 that, I think it's only fair that it also considers the
19 practical affect of being classified as a common
20 carrier.

21 JUDGE KOPTA: Mr. Goltz, anything further
22 from you?

23 MR. GOLTZ: Well, Your Honor, I should make
24 it easier. I'll withdraw the objection and let these
25 two exhibits come in. I don't think they are that

1 relevant, but we can argue about the weight. So I'll
2 withdraw the objection.

3 JUDGE KOPTA: All right. Fair enough, then
4 we will include those among the stipulated exhibits.

5 Then, I understand, that there are some
6 exhibits, Mr. Goltz, that you have proposed that are not
7 stipulated.

8 Would you identify those, please?

9 MR. GOLTZ: Yes, those are Exhibits RM-16
10 which is -- which is an excerpts from customer support
11 letters.

12 There's RM-17, which is a support letter
13 from a number of Ridwell's partners, with whom they
14 partner to move materials to various charities.

15 Exhibit RM-18 is actually two letters, but
16 what I would just call the file together; legislative
17 support letters.

18 And number -- RM-19 is a letter from the
19 sustainability official at the City of Mercer Island
20 expressing support for Ridwell's operations.

21 JUDGE KOPTA: And, Mr. Callaghan, your
22 objection to having those exhibits admitted?

23 MR. GOLTZ: Thank you, Your Honor.

24 I'm objecting to the relevance of RM-16
25 through 19. While these documents may be relevant at a

1 hearing considering an application; they have no
2 relevance with respect to classification.

3 Classification is just about the kinds of
4 activities that a business is engaging in and whether
5 those activities meet the statutory definition.

6 Simply put, a classification carrying is not
7 a popularity contest. Customer satisfaction, support
8 from legislatures, support from nonprofit organizations
9 does not have any tendency to make a question of
10 relevance to this determination more or less likely.

11 The contents of these exhibits are not
12 damaging to the past case, but I think there's a
13 principle at issue here.

14 My concern is that the admission of these
15 exhibits would create the appearance that the
16 Commission's classification decision was subject to
17 political pressure.

18 The record should be clear that the
19 Commission made its decision based on the facts and the
20 law as it always does.

21 For that reason, I'd ask the Commission to
22 find that these exhibits are not relevant and deny their
23 admission.

24 JUDGE KOPTA: Those exhibits, while they are
25 providing opinions on the Company's operations, do in, I

1 think, every case have some description of what the
2 Company is doing, don't they?

3 MR. CALLAGHAN: I'm sorry, which -- which
4 exhibit are you referring to?

5 JUDGE KOPTA: I'm referring to all of them.
6 They all have some description of what the Company is
7 doing, don't they?

8 MR. CALLAGHAN: They have some descriptions,
9 but those are cumulative to what's already been
10 stipulated to be admitted in the record.

11 And again, I think that the relevance of the
12 support, particularly in Exhibit 18, there is no
13 relevance -- relevance regarding whether or not state
14 legislatures support Ridwell as a business.

15 As the issue of classification is just a
16 matter of fact regarding the activities of the company
17 and a matter of law regarding whether those activities
18 meet the statutory definition.

19 JUDGE KOPTA: All right. Mr. Goltz?

20 MR. GOLTZ: Yes, Your Honor, I think to
21 respond to this, what I would like to do is respond to
22 all of them as a group because I think there's
23 commonalities among them.

24 But first I have to get to some description
25 of -- at least part of our legal theory of the case.

1 A couple of related arguments that we're
2 trying to have factual support for.

3 The first is, frankly, Ridwell is not a
4 solid waste company, as that term is understood under
5 81.77. It is more than that.

6 We look at the vision and mission statement
7 and the early parts of Mr. Metzger's testimony, these
8 aren't a bunch of boats -- these aren't hauling solid
9 waste going down the street. They are different than
10 that. They're broader than that.

11 If anything, they are the antithesis of a
12 solid waste company. A solid waste company takes stuff
13 to a landfill, recycling center.

14 The whole purpose of Ridwell is to reduce
15 the impact on the waste stream, get things out of the
16 waste stream, get things out of the landfill. They take
17 zero to the landfill. Get things into reuse, if at all
18 possible, and minimize even recycling consistent with
19 the State solid waste management goals.

20 Defining a business as something other than
21 a solid waste company is not unusual. If you look at
22 some of our exhibits that have been stipulated to, the
23 notion of -- or the company 1-800-GOT-JUNK?® and under
24 other waste haulers, even though they advertise that
25 they pick up junk and take them to a land -- to a

1 landfill, doesn't make them a solid waste company
2 because the Commission Staff has determined that they
3 are a cleanup company not a solid waste hauler. So it
4 makes a difference to what you call it.

5 And second, sort of the aspect of this
6 argument is, you know, 81.77 was enacted in 1961;
7 contemporaneous with that, or almost contemporaneous
8 with that, are some interpretations that basically
9 concluded that 81.77 was intended to apply to only those
10 carriers who are in the business of hauling for regular
11 customers in a specified area and do not include general
12 freight or special commodity carriers.

13 Again, that's related to the first -- the
14 first aspect of the argument. And that's what --
15 actually, what we are -- are going to show, is that
16 statute was intended to apply only to those companies
17 with franchises or those to have sought to intrude on
18 those franchises.

19 So the Commission has adopted rules in
20 response to those interpretations. And among the rules
21 are WAC 480-70-011. And in there, the -- the Commission
22 rules recognize that some end companies that carry solid
23 waste should be regulated and some should not be
24 regulated under 81.77; rather regulated under 81.80.

25 And so among the criteria are in 480-70-011;

1 it's a nonexclusive list of criteria. Among the
2 criteria are 4(a), the intent of the shipper.

3 So with that background, let's go to
4 these -- the various exhibits.

5 RM-16, customer support letters. That
6 clearly show -- those clearly show "notches," as Your
7 Honor recognized what the company does, but the broad
8 scope of that -- and it's not just a commercial solid
9 waste company. And it shows, as customers, what their
10 intent is; i.e., the intent of the shipper.

11 RM-17, partner support letters, also show
12 what business Ridwell is in. It shows that it's meeting
13 a community need. It's not just hauling waste to the --
14 to the dump or recycles that -- to the recycle center.
15 It shows the focus of the business is more than just a
16 simple solid waste carrier.

17 The same with the legislative support
18 letters. You know, it's not unusual for legislatures to
19 weigh in on matters. As a matter of fact, doesn't it
20 make more sense that they weigh in this way than some
21 notes over the transom to the Commission? I think this
22 is the appropriate way for them to do it.

23 The Commission weighs in on legislative
24 matters; there's no reason why legislators can't weigh
25 in on Commission matters as long as it's done in a

1 proper way.

2 In the past, you know, it's not unusual for
3 legislators to write Amicus briefs. This is kind of
4 analogous to that.

5 The last one is the Mercer Island letter.
6 Again, they're making -- the sustainability manager of
7 Mercer Island is making the point that Ridwell is
8 keeping stuff out of the landfills.

9 Now Mercer Island has a contract for a solid
10 waste carrier. They control their own solid waste
11 management system.

12 And what they're basically saying is in our
13 city, we've got scroll. The fact that Ridwell is in
14 there operating, is fine with us. And it's a little bit
15 unusual, I think, or seems a little bit strange, that
16 despite the willingness of Mercer Island to have Ridwell
17 in there helping them meet their City's and the State's
18 sustainability goals, that the Commission would want to
19 say, sorry, Ridwell, we've got to impose a burden on you
20 so you can't do what -- for Mercer Island what you have
21 been doing, at least not in the same way.

22 So even with all that being said, there's
23 one final argument for all of this.

24 WAC 480-07-498 talks about public comments.
25 And it says that the Commission will receive as a bench

1 exhibit any public comment submitted by nonparties in
2 connection with an adjudicative proceeding. This
3 exhibit -- the exhibit will be treated as an
4 illustrative exhibit that expresses public sentiment
5 received concerning the pending matter.

6 The Commission may also receive into
7 evidence documents a member of the public presents that
8 are exceptional in their probative value after the
9 Commission provides staff parties an opportunity to
10 respond to those documents.

11 Well, here, staff has an opportunity to
12 respond to any or all these documents. I think they
13 have probative value and probative value given our
14 theory of the case that is exceptional and at the very
15 least they do express public sentiment.

16 JUDGE KOPTA: Mr. Callaghan.

17 MR. CALLAGHAN: Thank you, Your Honor.

18 With respect to that last point, what I will
19 say is these exhibits are not being submitted as a
20 public comment from the individuals who wrote them.
21 They are being submitted as exhibits from Ridwell, and
22 so I don't think that that's part of the Commission
23 rules as relevant.

24 And I would also say, again, these are
25 exhibits that express support for the Company; from

1 customers, from legislatures; from an official on Mercer
2 Island.

3 They are not exhibits that issue what
4 Ridwell is doing as a company and whether or not Ridwell
5 is engaging in solid waste carrier activities as defined
6 under the statute.

7 I don't want to belabor this point, but I
8 think that and the end of the day, these items are not
9 relevant to the classification here. I think it's
10 important to keep in mind where we're at in this
11 proceeding. This is just the classification hearing.

12 And so for the purposes of a classification
13 hearing, these items are not relevant. Thank you.

14 JUDGE KOPTA: All right. I take your point,
15 Mr. Callaghan. At the same time, I want to know what
16 this company does. And while I appreciate Mr. Metzger's
17 description of what that is, I think hearing from other
18 people who are familiar with the company's operations,
19 exactly what kind of services they are providing.

20 So I -- I do think that there is relevance
21 in these exhibits. I think the Commission is capable of
22 seeing them for what they are and not being persuaded or
23 otherwise pressured by legislators or others in
24 positions of authority, but instead the Commission will
25 make a determination based on the facts and the law as

1 you suggest. So I will overrule your objection and I
2 will admit those exhibits.

3 MR. CALLAGHAN: Thank you, Your Honor.

4 JUDGE KOPTA: So let me talk about which
5 exhibits we are going to admit.

6 We will admit -- I will admit all of the
7 exhibits on the exhibit list that have been either
8 stipulated to or that I have determined will be
9 admitted.

10 And those are Exhibits KM-1 through KM-4.

11 Exhibits KM-6 through KM-12.

12 Exhibits -- Exhibit KM-14.

13 Exhibit KM-15HC, which is a "highly
14 confidential" exhibit.

15 And Exhibits KM-17 through KM-19.

16 Then we will -- I will admit Exhibits RM-1T
17 through RM-12.

18 Exhibit RM-13HC, which is a highly
19 confidential -- or an exhibit that has been designated
20 as highly confidential.

21 And Exhibits RM-14 through RM-19.

22 All of those exhibits are admitted.

23 (Exhibits admitted.)

24 JUDGE KOPTA: So now we are ready for
25 witnesses. Mr. Callaghan, I believe your witnesses are

1 going first.

2 MR. CALLAGHAN: Thank you, Your Honor.

3 Would you like an opening statement from the
4 parties?

5 JUDGE KOPTA: Well, Mr. Goltz has almost
6 already given one of his.

7 But if you would like to, you are certainly
8 welcome to.

9 MR. CALLAGHAN: I will -- I will save it for
10 closing, if we have closing argument, Your Honor.

11 JUDGE KOPTA: All right. That's fine.
12 Then call your first witness.

13 MR. CALLAGHAN: Thank you, Your Honor.
14 I'd like to call Kathryn McPherson.

15 JUDGE KOPTA: All right. Ms. McPherson,
16 will you raise your right hand, please.

17 Do you solemnly swear or affirm the
18 testimony you give in this proceeding is the truth, the
19 whole truth, and nothing but the truth?

20 Ms. McPherson? Are you there?

21 THE WITNESS: Yes, I do.

22 JUDGE KOPTA: Okay. Great.

23 Thank you. Pesky mute button; right?

24 All right. Your witness is sworn,

25 Mr. Callaghan. You may proceed.

1 MR. CALLAGHAN: Thank you, Your Honor.
2 KATHRYN MCPHERSON, witness herein, having been
3 first duly sworn on oath, was
4 examined and testified as
5 follows:

6
7 DIRECT EXAMINATION

8 BY MR. CALLAGHAN:

9 Q. Good morning, Ms. McPherson.

10 A. Good morning.

11 Q. Would you please state your name and spell your
12 last name for the record?

13 A. Kathryn McPherson, M-c-P-h-e-r-s-o-n.

14 Q. What is your current occupation?

15 A. I'm a solid waste investigator with the
16 Transportation Safety Commission.

17 Q. And how long have you been in that position?

18 A. Since January 2, 2019.

19 Q. Are you familiar with the Commission's rules and
20 policies related to solid waste carriers?

21 A. Yes, I am.

22 Q. In your work at the Commission, have you
23 investigated solid waste carriers?

24 A. Yes, I have.

25 Q. And do recyclable materials fall under the

1 definition of solid waste?

2 A. Yes, they do.

3 Q. If a city has a local solid waste plan that
4 designates recyclable materials, are those materials
5 considered recyclable under Commission statute?

6 A. Yes.

7 Q. And are you the investigator assigned to this
8 case?

9 A. Yes.

10 Q. When did this investigation begin?

11 A. On April 23, 2019, I received information that
12 Ridwell was providing residential recycling in Seattle,
13 and I began an investigation to look into the Company's
14 activities.

15 Q. Would you turn your attention to Exhibit KM-19
16 and let me know when you're there?

17 A. I have it in front of me.

18 Q. What is this document?

19 A. This is an investigation report I did regarding
20 Ridwell.

21 Q. And are all the attachments to this report
22 gathered or received by you during the course of your
23 investigation?

24 A. Yes.

25 Q. Are the facts alleged in the investigation

1 report true and accurate to the best of your knowledge?

2 A. Yes.

3 Q. Did you conclude in your investigation that
4 Ridwell was operating as a solid waste collection
5 company?

6 A. Yes, I did.

7 Q. And what was Ridwell doing that caused you to
8 conclude they were operating as a solid waste collection
9 company?

10 A. Ridwell collects recyclables listed on the
11 County solid waste plans for drop-off or special pickup.
12 They then transport those recyclable commodities to
13 their own recycle center that was licensed through King
14 County.

15 Q. And does Ridwell collect recyclable materials
16 from residential, commercial, or industrial customers?

17 A. They collect residential customers' recycling
18 products.

19 Q. And to your knowledge, when Ridwell comes to a
20 residence, does it perform any cleanup service or is it
21 just picking up the recyclable material?

22 A. No. Ridwell provides a recycling container, a
23 receptacle for the customers to place outside their home
24 for pickup.

25 The customers then place the recyclable

1 materials into the container and Ridwell comes on a
2 bi-weekly basis to collect those recyclable materials.

3 Q. Does the collection of source-separated
4 recyclable materials from residential customers fall
5 under the definition of solid waste collection?

6 A. Yes.

7 Q. During the course of the investigation, did
8 staff reach out to city officials in the areas where
9 Ridwell was operating?

10 A. Yes. I communicated with multiple
11 municipalities during this process, including the City
12 of Seattle and the City of Kirkland.

13 Q. And what information did you need from these
14 officials about Ridwell?

15 A. I was identifying that either of the cities had
16 contracts or intended to provide contracts to Ridwell
17 for residential recycling.

18 Q. And is it your understanding that if Ridwell had
19 a contract under a local solid waste management plan,
20 then the officials would have the authority to regulate
21 and set prices for Ridwell?

22 A. Yes.

23 Q. And at one point did an official in Seattle
24 indicate to you that they would exercise their authority
25 over Ridwell?

1 A. Yes. I met with King County Public Health
2 employees, along with the City -- the City of Seattle
3 solid waste employee in a meeting. The solid waste
4 contract manager, he had stated that he would have taken
5 jurisdiction over Ridwell activities.

6 And I explained to Ridwell staff at that time,
7 that as long as the City of Seattle was responsible for
8 their jurisdiction, the Commission would close their
9 investigation.

10 I explained that they should -- should they
11 choose to expand outside of the City of Seattle, Ridwell
12 would first have to apply for it and receive a
13 certificate before they are allowed to expand.

14 Q. All right. And did the Seattle officials,
15 stating that they would exercise over -- authority over
16 Ridwell, did that change later on in the investigation?

17 A. Yes, it did. When I had learned that Ridwell
18 had expanded to the City of Kirkland, I re-opened the
19 investigation. I communicated with Seattle again, and
20 they had stated that they were not going to take
21 jurisdiction or offer a contract.

22 I communicated with the City of Kirkland, and
23 they opted not to take jurisdiction as well.

24 Q. And throughout your investigation, has staff
25 communicated with Ridwell through letters, e-mails,

1 phone calls, and in-person meetings?

2 A. Yes.

3 Q. And did the letters staff sent to Ridwell inform
4 the company that if they were providing services
5 regulated by the Commission, unless local officials were
6 going to assert their authority over the company,
7 Ridwell would need a certificate from the Commission?

8 A. Yes.

9 Q. All right. Could you please direct your
10 attention to Exhibit KM-1, and let me know when you have
11 that in front of you?

12 A. I have it in front of me now.

13 Q. What is KM-1?

14 A. KM-1 is the 2019 Comprehensive Solid Waste
15 Management Plan for King County.

16 Q. And did you review the solid waste management
17 plan as part of your investigation?

18 A. Yes, I did.

19 Q. Could you turn to page 4-14, which is Exhibit
20 page No. 98 for me, and let me know when you're there?

21 A. I have that in front of me.

22 Q. All right. And what is on that page?

23 MR. GOLTZ: Excuse me, Your Honor, could you
24 just give the rest of us who are scrolling through just
25 a couple seconds to get to page 98; is that what you

1 said?

2 MR. CALLAGHAN: Yeah. It is marked as
3 Exhibit page 98, but -- the local solid waste management
4 plan marks it as 4-14. Let me know when you're there.

5 MR. GOLTZ: It's fine. I'm good.

6 BY MR. CALLAGHAN:

7 Q. All right. Ms. McPherson, what is on this page?

8 A. It is a table that designates recyclables. It's
9 a designated recyclables list.

10 Q. Are plastic bags and plastic films designated as
11 "recyclable" under this plan?

12 A. Yes, they are.

13 Q. Are batteries and light bulbs designated as
14 "recyclable" under this plan?

15 A. Yes, they are.

16 Q. In the course of your investigation, are those
17 items that Ridwell picks up from residential customers
18 in King County?

19 A. Yes, they are. Plastics are listed as a core
20 recyclable on Ridwell's site. And batteries are also
21 collected regularly.

22 Q. And has Ridwell advertised to customers that it
23 will pick up those items?

24 A. Yes, they have.

25 Q. Could you now direct your attention to Exhibit

1 KM-3 for me?

2 A. I have that in front of me.

3 Q. What is Exhibit KM-3?

4 A. This is a press release. It says that the City
5 Council for the City of Kirkland is adopting the 2019
6 King County Comprehensive Solid Waste Plan.

7 Q. And did you find this press rerelease on the
8 City of Kirkland's website?

9 A. Yes, I did.

10 Q. If the City of Kirkland is adopting the King
11 County local solid waste management plan, is it your
12 understanding that the same materials are designated as
13 recyclable in Kirkland?

14 A. Yes, absolutely.

15 Q. And to your knowledge, is Ridwell operating in
16 Kirkland?

17 A. Yes.

18 Q. All right. Could you now turn your attention to
19 Exhibit KM-2?

20 A. I have that in front of me.

21 Q. And what is Exhibit KM-2?

22 A. KM-2 is a brochure or a poster for Pierce County
23 to educate consumers on what is and what is not
24 recyclable in the Pierce County area.

25 Q. And does KM-2 show that batteries, light bulbs,

1 and plastic film and bags are recyclable at drop-off
2 locations in Pierce County?

3 A. Yes, it does.

4 Q. In the course of your investigation, did you
5 find any evidence that Ridwell was operating or planning
6 to operate in Pierce County?

7 A. Yes. Their website has posting advertisements
8 for "Hey, Tacoma, we're coming." Encouraging people to
9 sign up to prepare to have recyclable -- residential
10 recycling at -- in the City of Tacoma.

11 Q. Thank you.

12 And does Ridwell pick up materials that are not
13 designated as be recyclable.

14 A. Yes, they do.

15 Q. And does that change your assessment of whether
16 they should be classified as a solid waste collection?

17 A. No, because the majority of the collections that
18 Ridwell does, the guests are recyclable per the County's
19 solid waste plan. Ridwell collects recycle commodities
20 that they then resell at -- into other recycling
21 centers. Such as the plastic films are a high market
22 for recyclable commodities. So I don't think it affects
23 it.

24 Q. And if Ridwell is classified as a solid waste
25 collection company, are you willing to continue to work

1 with them through the application process?

2 A. Yes.

3 MR. CALLAGHAN: All right. No further
4 questions, Your Honor.

5 JUDGE KOPTA: All right. Thank you,
6 Mr. Callaghan.

7 Mr. Goltz?

8 MR. GOLTZ: Sure. Let me find my notes
9 here.

10 CROSS-EXAMINATION

11 BY MR. GOLTZ:

12 Q. Good morning, Ms. McPherson. Before -- could I
13 just ask you to go back to KM-2?

14 A. Yes, sir.

15 Q. You said batteries were on there.

16 A. Yes. They are listed under "household hazards."
17 If you see on the bottom right corner, there is a --

18 Q. The little red and black I notice there.

19 A. Yes.

20 Q. So can you tell me what was your experience
21 before coming with the Utilities Commission?

22 A. Well, I had three years in consumer protection
23 where I investigated consumer complaints against
24 regulated companies.

25 And prior to that, I worked in social services

1 where I did case management for at-risk families.

2 Q. Okay. So your career, professional career, has
3 been in public service?

4 A. Absolutely.

5 Q. Congratulations for that.

6 And so you've never started a business or run a
7 business?

8 A. No. But my husband did run a business in
9 Florida -- my ex-husband -- for 20 years. And, of
10 course, as a wife, I spent many times assisting him in
11 marketing and promotion of his company and making sure
12 that he fell under the regulation of the automobile
13 industry and repair shop.

14 Q. So are you familiar with the State policies on
15 waste reduction?

16 A. Yes.

17 Q. And the highest priority is -- is to keep them
18 out of landfills; highest priority is reuse of
19 materials?

20 A. Absolutely.

21 Q. And do you believe it's the role of the
22 Utilities Commission to implement those policies?

23 A. I believe it's the role of the Commission to
24 regulate the solid waste industry, as it comes to the
25 transportation of solid waste. And then for the

1 tariffed companies to make sure that all of their rates
2 are fair, reasonable, and sufficient.

3 Q. So is that a "no"?

4 A. That would neither be a no or a yes.

5 There are roles as the Utilities Commission
6 pertains to that role in making sure that we follow
7 those guidelines. But it is not fully encompassing.

8 Q. No, I understand that. But I guess I'm
9 wondering, though, is that -- are the State waste
10 reduction guidelines, should they be considered in the
11 regulatory process?

12 A. Absolutely. And as I had stated to Mr. Metzger
13 when I had first discussed his company with him, that he
14 should most certainly apply for a certificate so he can
15 be a solid waste company who is working under legal
16 authority from the Commission in order to help those
17 goals.

18 Q. So turning to now the investigation report,
19 which is -- which is Exhibit RM-19, as I recall; is that
20 correct?

21 A. Yes. I have that in front of me.

22 Q. Does this investigation report constitute -- and
23 it's appendices --

24 A. Mm-hmm.

25 Q. -- constitute the complete basis for your

1 complaint that Ridwell is a solid waste company that
2 must comply with the requirements of RCW 81.77?

3 A. Yes, I think that the investigation report shows
4 multiple examples of where I had requested them to apply
5 for a certificate as they were providing residential
6 recycling.

7 Q. Right. And so this is where I -- this is where
8 you sort of got this -- show your work; right?

9 A. Yeah.

10 Q. Okay. And Attachment A is applicable laws and
11 rules.

12 And are these the laws and rules you consulted
13 in making your recommendation?

14 A. Yes, they are.

15 Q. And basically you allege five violations;
16 correct? Two offers to provide a recycling collection:
17 One in Kirkland; one in Mercer Island; and three
18 instances of advertising. Is that correct?

19 A. Yes. I limited it to the advertising for the
20 Facebook, Instagram, and their web page. And didn't
21 extend it past the other mailings or other advertising
22 that I had found.

23 Q. Right. So the -- one of the offers to provide
24 recycling collection was in Kirkland; correct?

25 A. Yes.

1 Q. And that was to give free collections; isn't
2 that right?

3 A. It was to start a free collection. They were
4 collecting plastic films, which is their larger
5 commodities. And they had e-mailed me to solicit
6 ongoing bi-weekly pickups of all of their products.

7 Q. Right. But the solicitation was for free pickup
8 of plastic film.

9 A. Yes.

10 Q. Okay. So if -- so let me just explore that a
11 little bit.

12 Is it -- in the investigation report, you allege
13 two offers to recycle and three instances of
14 advertising.

15 And is it the position of the Commission Staff
16 that if a person offers or advertises to pick up
17 recycling for compensation, does that fact make that
18 person a solid waste company subject to regulation?

19 A. That is one of the things that makes a company a
20 solid waste company regulated by the Commission.

21 Q. So that, by itself, is or is not deficient?

22 A. That by itself is, but that's not the only thing
23 that it is.

24 Q. Right. So you're saying that if someone
25 advertises to pick up recycling -- recyclables, that

1 person is operating as a solid waste company subject to
2 regulation?

3 A. For compensation, yes.

4 Q. Right. So let's look at the company -- junk
5 hauler, 1-800-GOT-JUNK?®, for example. If I had ten
6 bags of plastic film in my basement, I could haul it out
7 myself, I could put it out on the curbside and have the
8 solid waste company pick it up, or I could call
9 1-800-GOT-JUNK?® and they could come get it; right?

10 A. Yes, that would be one of your options.

11 Q. And -- and if I called up 1-800-GOT-JUNK?® and
12 said, would you come and get me and pick up my ten bags
13 of plastic film, and they said we'll be there Tuesday
14 morning at nine o'clock, are they now a solid waste
15 company?

16 A. No. Because they are providing a service to go
17 into your home and remove junk or remove trash or remove
18 clutter. That is what they do for a living.

19 What we are focused on here is the fact that, as
20 a customer, I leave those things outside to be picked up
21 on a scheduled basis for compensation. And then those
22 recyclables are then taken to a recycle center as a
23 commodity.

24 Q. So to answer my earlier question, whether or not
25 it's sufficient for someone to advertise that they pick

1 up garbage or refuse or recyclables; it's not just that,
2 is it? It's more than that.

3 A. It is the collection -- in this situation, it is
4 the collection of recyclables as a commodity. The
5 commodity is a resalable value, just like the
6 certificated companies have in the state of Washington
7 where recyclable commodities are of value. You are
8 charging the customer for those valuables/objects and
9 then you are reselling those commodities to other
10 outlets in the recycling industry.

11 Q. So let's say in Olympia and, apparently, in
12 Tacoma as well. You know in Olympia the local company
13 no longer picks up glass?

14 A. Mm-hmm.

15 Q. Like Tacoma, apparently.

16 Glass is a recyclable; correct?

17 A. Correct, it is.

18 Q. And it's not picked up by the local carrier; at
19 least in Thurston -- at least in Olympia or Tacoma, as
20 you understand it; correct?

21 A. Yes. It's a drop-off, much like King County's
22 situation.

23 Q. So -- so if -- you know, some teenage
24 entrepreneur decided to earn a little bit of money and
25 he sent an e-mail out to the neighborhood association or

1 posted a notice on the neighborhood association website
2 that said, hey, I'm trying to earn some money for the
3 summer, e-mail me if you want me to take your glass to
4 the drop-off spot. And just put it on your porch,
5 e-mail me and put a \$1 or \$2 in an envelope, and I'll do
6 that for you.

7 Is he a solid waste company?

8 A. Yes. And he would receive a letter from me
9 stating he had violated RCW 81.77.040. He's required to
10 have a certificate.

11 I've had that situation many times. And I spend
12 a lot of time educating small companies on Facebook and
13 other places that they are violating Washington State
14 law by advertising for the collection of solid waste.

15 Q. Okay. So let's go back to the -- the King
16 County Solid Waste Management Plan; that's KM-1.

17 A. Mm-hmm.

18 Q. And if you -- that list of -- of things that are
19 recyclable.

20 A. Mm-hmm.

21 Q. And can you remind me of the page, actually?

22 A. Yes, sir. That is page 98.

23 Q. 98; right. Textiles is on that page; correct?

24 A. Absolutely.

25 Q. So -- and textiles is defined to include old

1 clothes?

2 A. Textiles are defined on this page includes:
3 Rags, clothes, shoes, upholstery, curtains, and small
4 rugs.

5 Q. Right. So let's take my teenager now, who just
6 got a letter from you, said, oh, I better not do glass.
7 That's not going to work out for me, because I don't
8 want to go through the permit process with the Utilities
9 and Transportation Commission, so I'll just let the
10 neighbors take their glass themselves.

11 A. Mm-hmm.

12 Q. But I know a lot of neighbors that have extra
13 old stuff. So I'm gonna send an e-mail to everybody and
14 say, hey, instead of glass, how about if I pick up all
15 your Goodwill pickups. Leave your old clothes and old
16 shoes on the porch, let me know, leave an envelope with
17 a couple of dollars and I'll pick it up. So he takes it
18 to Goodwill. Now what?

19 A. Well, if he was exclusively taking it to
20 Goodwill, he may be considered a common carrier and he
21 should have a permit for that.

22 However, in the situation of Ridwell, only
23 45 percent of those go to donations and approximately
24 50 percent are in the recycled industry; 30 percent go
25 to the company that uses them to decompose the products

1 and turn them into other products; and the other
2 20 percent is used into making new materials, such as
3 bedding, insulation, and other valuables. So,
4 therefore, those would be recyclable commodities.

5 Q. Would you go over percentages again, please?

6 A. Yeah. You can find it on the Ridwell website
7 where they explain their recycling program.

8 Q. Okay. That's fine. I thought you were making
9 some computations.

10 A. No, no. It's all on their website. They are
11 very, very good about letting you understand how they
12 use their recycling instead of having the landfill; they
13 are. They are a recycling company that comes to a
14 residence to reduce the amount of recyclables in a
15 landfill. But all the same, they are a residential
16 recycling company doing great work.

17 Q. So is it your view then that Ridwell actually
18 makes money on its recyclables?

19 A. Absolutely. Plastic film is a major market. It
20 can be sold to companies like Trex, PAC World. I know a
21 company PPG that is taking all the plastic films,
22 reselling them and shipping them across the border for a
23 replacement as a coal substitute.

24 But plastic films is an amazing recyclable
25 product.

1 Q. Right. There may be a market for it somewhere,
2 but you're saying that -- that money changes hands?
3 That Ridwell takes bags of plastic film and -- and in
4 return, gets a check?

5 A. I believe that they have Trex and also PAC World
6 as one of their listed -- that they provide plastic
7 wraps to. I do know that both of those companies PAC
8 World and Trex pay for plastic recovery.

9 Q. And is that true when they take old clothes to
10 places?

11 A. I'm unsure of their market for clothes.

12 Q. Okay. So -- and just so I understand, you
13 understand that Ridwell doesn't pick up from everybody
14 every two weeks; right?

15 A. Yes. They have scheduled every other week. You
16 have to call and request that schedule, but they are
17 providing scheduled regular service. I can have service
18 every other week. Much like what I have with LeMay at
19 my house.

20 Q. Much like you have LeMay at your house when you
21 take it out to the curbside and they come by every week
22 and you have to pay for it?

23 A. Yes. Well, in order for a customer to have
24 Ridwell come by every other week, you have to pay for
25 it.

1 Q. Okay. So let's -- in your -- again, the
2 investigation report, which is Exhibit KM-19, you go
3 through at the end a -- an evaluation of -- this is on
4 page 11 of that report. You go through some factors
5 taken from the Commission's enforcement policy to
6 determine a recommendation for a penalty; correct?

7 A. Correct.

8 Q. And -- and I understand and I appreciate the --
9 the statement that the recommendation is for a suspended
10 penalty, so that's -- the suspension part is good.

11 However, I still want to go through some of
12 this, because (A) I don't think any -- we could argue
13 that no penalty is appropriate. And even if there is
14 one, and it's suspended -- a suspended penalty of \$5,000
15 is worse than a suspended penalty of a lower amount; you
16 understand that, I'm sure.

17 So I want to go first to the -- to the first
18 point you make, and this is on page 11. The first
19 criterion is: How serious or harmful are the violations
20 to the public?

21 And you state that the violations are serious.

22 And you go on to say, the last sentence,
23 "Companies that transport solid waste illegally,
24 negatively impact revenues collected by companies with
25 solid waste certificates."

1 Is that accurate?

2 A. That is an accurate statement; yes.

3 Q. Is it accurate in this context? Did Ridwell
4 transport solid waste such that negatively impacted
5 revenues collected by companies with solid waste
6 certificates?

7 A. I think that Ridwell's market reduced the waste
8 stream as positive. That's why, as I stated before,
9 I've encouraged Mr. Metzger, from the beginning, to
10 apply for a solid waste certificate, because he has a
11 very good chance to receive that if he goes through the
12 proper properties.

13 But yes, it is a factual statement. If he is
14 collecting things that should go into a solid waste
15 disposal barrel; then yes, it is affecting the solid
16 waste companies.

17 Q. Right. But you said "if"?

18 A. Mm-hmm.

19 Q. But he's not, is he? What is he picking up that
20 would go into the -- let's start first with the refuse
21 and garbage can that's picked up usually every other
22 week.

23 What is he collecting that normally would go
24 into that?

25 A. Plastic films. Clothes. More than 95 percent

1 of clothes are going to the landfill process.

2 And as you can see by his -- the waste of the
3 clothes, that is waste that would be going into these
4 landfills and other areas that would affect how much the
5 solid waste companies are --

6 Q. So that's a -- that's a serious violation that
7 he's keeping clothes out of the landfill and taking them
8 to higher uses?

9 A. I don't believe that it states that it's a
10 serious violation. We weren't stating this is a
11 violation. So --

12 Q. I -- I'm -- questioning though -- so you're
13 saying is, is that we should feel sorry for the
14 certificated solid waste companies because they can't
15 put in the garbage stream and take to the landfill,
16 things that are re-usable. You're not saying that?

17 A. I don't think you're asking -- can you re-ask
18 that in a different manner?

19 Q. Well, he's -- if he picks up clothes and takes
20 them to Goodwill --

21 A. Mm-hmm.

22 Q. -- well, those things, if they weren't taken to
23 Goodwill, they would be put in the garbage cans; and
24 then it's possible that the certificated carrier would
25 be able to --

1 A. Oh, he froze --

2 JUDGE KOPTA: We'll need to take a break
3 here for a moment.

4 (Pause)

5 MR. GOLTZ: Hello, this is Jeff Goltz again.
6 I had a technological failure here.

7 JUDGE KOPTA: Let's be off the record for a
8 moment.

9 (Off record.)

10 JUDGE KOPTA: Let's be back on the record.
11 And, Mr. Goltz, resume your
12 cross-examination.

13 MR. GOLTZ: Maybe the court reporter could
14 read back the last, you know, sentence or so.

15 I remember where I was --

16 Could I have the court reporter read that
17 back?

18 THE REPORTER: Yes.

19 (Recording: "You are no longer muted.")

20 MR. GOLTZ: I remember where I was.

21 (Reporter read as requested.)

22 BY MR. GOLTZ:

23 Q. I think I was asking about the impact of Ridwell
24 taking and using an example -- textiles, clothes,
25 shoes that are designated as recyclable under the King

1 County Solid Waste Management Plan, and picking them up
2 and taking them to Goodwill or some other place that
3 would reuse them.

4 And the -- and the -- the sense that I got from
5 Ms. McPherson is that's harmful to the certificated
6 solid waste company because they -- that means that
7 these materials would no longer be in the garbage can,
8 so that customer might be able to reduce the size of the
9 container and thereby save money and thereby cost the
10 certificated carrier money.

11 And is that the concern that the Commission
12 Staff has about impact on other -- on certificated solid
13 waste carriers?

14 A. I think that it goes into more wholly than that,
15 as you were referring to that one section, it says, "It
16 is in the public interest to ensure companies
17 transporting solid waste have necessary training."

18 In the case of Ridwell, from the beginning, they
19 were encouraged to apply for a certificate. When you
20 have a certificate with the Commission, all matters of
21 the public are addressed considering the safety and
22 concerns of the vehicles, the company's handling of the
23 products, et cetera.

24 So to bring them under regulation --

25 MR. CALLAGHAN: Sorry. I think Mr. Goltz

1 has dropped off again.

2 MR. GOLTZ: I'm here. I'm here.

3 MR. CALLAGHAN: Okay. Never mind.

4 MR. GOLTZ: I'm giving up on Skype for the
5 time being.

6 THE WITNESS: By ensuring that we regulate
7 residential recycling companies, such as Ridwell, we're
8 ensuring the public safety. We're ensuring the safety
9 just as we do with any standard solid waste company.

10 When you have a company --

11 BY MR. GOLTZ:

12 Q. Right. But --

13 A. -- that is not trying to conform to regulation
14 and continues to expand without seeking, that my job is
15 not to interpret if they are doing a good job for the
16 waste stream. My job is to ensure that they are obeying
17 the laws of Washington. And right now they are
18 providing residential recycling without a certificate,
19 which is a violation of the law.

20 Q. So that's my question -- when you said in
21 your -- in --

22 (Reporter requested correction with audio
23 feedback.)

24 BY MR. GOLTZ:

25 Q. My question was, Ms. McPherson, was the

1 statement in the -- in the inspection report that says,
2 "Companies that transport solid waste illegally,
3 negatively impact revenues collected by companies with
4 solid waste certificates."

5 And -- and I think I heard you say that -- but
6 Ridwell does by taking things out of the waste stream,
7 it impacts certificated carriers because they won't have
8 as much refuse to dispose of in the dump. Is that
9 basically what you said?

10 A. Basically.

11 Q. Okay. So is that really -- that's not
12 important, is it?

13 A. It's important if it's an obstruction of the law
14 and that's how the law is designated.

15 So my job is to interpret if the company is
16 breaking a RCW or a WAC. And determine if we can bring
17 that company into compliance, which I have been
18 attempting to do with Ridwell since May.

19 Q. Right. And it is the same problem if it's
20 Ridwell or if it's a Boy Scout Troop trying to take
21 stuff to Goodwill?

22 A. No, that is completely different, sir.

23 Ridwell is operating as a residential recycler,
24 collecting recycling curbside from or doorside from a
25 residence, and they are doing that for compensation.

1 They are --

2 Q. So -- so -- in your inspection report, is the --
3 you mentioned that the concern with -- you said solid
4 waste companies not certificated pose consumer
5 protection and safety concerns to the public.

6 Does -- what consumer protection concerns do you
7 have with Ridwell's operations?

8 A. Well, there are structures regarding billing of
9 solid waste, and that would be something during the
10 application, the people in regulatory service would help
11 them through, and as they proceed for attempting to get
12 a certificate, they would address any possible
13 violations that would come up with billing or consumer
14 protection.

15 Q. So are you -- you're aware, are you not, that
16 Ridwell, as an unregulated company, is subject -- is not
17 regulated -- if it is not regulated under 81.77, it
18 would be subject to the State Consumer Protection Act in
19 RCW 19.86, are you familiar with that?

20 A. Yes, if they are not under regulation. And I
21 think that's what we're determining today; right?

22 So are --

23 Q. Right.

24 A. Those would be issues that would be brought up
25 if in case they are deemed that they are a solid waste

1 company. Those issues on how they would bill would be
2 subject during the application process.

3 My only position is to determine if they are
4 transporting residential recycling without a
5 certificate.

6 I believe my investigation report shows plenty
7 of evidence that they are transporting as a residential
8 recycler for compensation without a certificate from the
9 Commission.

10 Anything that would be determined after that
11 that would have to do with regulations, tariffs,
12 consumer protections, that would all come in the
13 application process. And my job isn't really to express
14 opinion on those things that would happen during the
15 application process.

16 Q. And you understand that if they're under
17 regulation, under 81.77, the Consumer Protection Act
18 would not apply to them?

19 A. They would fall under the UTC's laws.

20 Q. Okay. So -- and No. 7, which is now on page 12.
21 Do you see a number -- under the heading "number of
22 customers affected"; that you didn't really say the
23 number of customers that are affected.

24 So is the answer to the question "How many
25 customers are affected by Ridwell's operation" -- and

1 let me add, number of customers affected negatively,
2 that the -- is the answer to that zero? Zero customers
3 are affected negatively.

4 A. Well, you would really have to go into a deep
5 analysis of stuff. And that would go into, again,
6 regulation.

7 But if you are removing things from the waste
8 stream that would affect the solid waste companies, then
9 you're affecting the customers. Because, as you know,
10 all regulation is determined by a number. According to
11 how much a waste is collected, that determines how much
12 is then charged for your solid waste.

13 If you are reducing the amount that the garbage
14 company is collecting, they are going to have to make
15 sure that they are still operating and receiving a
16 fair/just return on providing that public service.

17 If you're removing their waste stream, then not
18 only is it going to affect the solid waste company, they
19 are going to have to come in and reapply for new rates,
20 which is going to affect me as a consumer. My rates may
21 go from 26.32 up to 27.94. It does affect vast amounts
22 of customers, when you look at the long haul. Nothing
23 is able to look at it as a single individual item.

24 In a situation where you have a regulated
25 industry, there is so many different areas that come

1 under that fold. Yes, those customers are affected by
2 what is going on when you have a company like Ridwell
3 that is operating illegally and transporting and taking
4 waste streams out of the certificated companies.

5 Q. So is the answer, then, that Ridwell's customers
6 are a benefit because they are paying for a service they
7 want to pay for, but that the customers who are not
8 Ridwell's customers, who are customers of the
9 certificated carriers, they are impacted negatively
10 because -- because stuff is taken out of the waste
11 stream?

12 A. That would be absolutely untrue, Mr. Goltz.
13 Because the Ridwell customer is a solid waste customer.
14 It is a waste management customer. It is an ecology
15 customer. It is a waste connections customer.

16 So not only are they paying \$10, \$12, or \$14 to
17 an illegal residential recycling company, but then they
18 are also at risk of having their solid waste rates
19 increase by the loss of revenue.

20 Q. So looking at your -- again, your investigation
21 report, where I think you said early that's where you
22 quote, show your work, unquote; is that right?

23 A. I think you said that.

24 Q. I know, you agreed with me?

25 A. I did.

1 Q. So is part of the work there any determine --
2 determination of the overall business of -- of Ridwell?

3 By that, I mean, you're aware, are you not, that
4 not all companies that transport solid waste are
5 regulated -- are required to regulate as solid waste
6 carriers. Would you agree with that?

7 A. My job is to determine if the company is
8 transporting solid waste for compensation without a
9 certificate.

10 If the company is doing that, I simply give them
11 technical assistance and try to assist them in the
12 business process to not do that or to encourage them to
13 apply.

14 Q. So in the case of a junk hauler -- I mean, you
15 would --

16 A. They are not -- I'm sorry.

17 Q. Let me finish.

18 You would admit that a junk hauler transports
19 solid waste and is paid for it; correct?

20 A. No, that would be incorrect. What a junk hauler
21 does is they clean the clutter, deconstruct. I work
22 with junk haulers on a regular basis. Their job is to
23 minimalize the collection of junk on a property.

24 Much like a roofer is paid to remove the roof
25 and replace the roof. The incidental hauling of said

1 solid waste is not what they are paid for. That is an
2 incidental of the job that they have been paid to do.

3 The junk haulers, such as you had mentioned,
4 like, 800-JUNK or other junk haulers in the area are
5 being paid to tear down a shed, to clean out a yard.

6 And if you look closely at the advertising of
7 800-JUNK, they clean, they pressure wash, they remove
8 things from attics, they go in the backyard and remove
9 large amounts of solid waste.

10 And when I talk to junk haulers in the system,
11 here is the difference.

12 LeMay is not going to go into your home and
13 remove the bag of trash from your kitchen, tie it up,
14 and take it out to the curbside to be removed. That's
15 what a junk hauler does. They go into the private
16 properties, into the private homes, and they remove
17 things that the people can't remove themselves;
18 whereas Ridwell collects curbside.

19 Q. Ridwell collects curbside; you don't mean that,
20 do you?

21 A. Curbside, doorside, alleyside; it's all the
22 same. It is. They have a receptacle box for pick up
23 only. They are not assisting the customer with any
24 services other than collecting the commodity.

25 Q. So in your -- in your view, the -- a box on a

1 porch or in the side yard is the same as -- is the same
2 as picking up on curbside?

3 A. Well, as you know, there's no hundred percent
4 curbside.

5 If you are a solid waste company and you're not
6 picking up curbside because the solid waste containers
7 are in the alley, is that still curbside pickup or would
8 that be something different?

9 It is the collection of solid waste and the
10 transportation for compensation.

11 Q. So is the difference if -- that if you put the
12 materials on your porch, that's like curbside, but if
13 you put the materials inside your front door, then
14 that's okay?

15 A. I think that would be a twisting of the
16 definition.

17 Q. Okay. So let me ask about whether or not in
18 your investigation report, you considered the -- the
19 rules of the UTC and 480-70-016.

20 I'm asking you in the preparation of your
21 investigation report, not subsequent to that.

22 A. What's specific about that WAC? Can you ask me
23 a specific questions?

24 Q. The -- you -- are you familiar with that
25 regulation where it -- it's -- it discusses the -- how

1 the Commission may determine whether a carrier should be
2 regulated under 81.80 or 81.77? Are you familiar with
3 that?

4 A. No. I work with the Commission rules that are
5 regarding the transportation of solid waste.

6 So right now I am pulling up that rule
7 specifically so I can give you a more educated answer
8 than off-the-cusp.

9 Q. Are you pulling that rule up?

10 A. So determination of authority required to
11 transport a specific commodity or provide specific
12 services.

13 Q. All I'm asking you -- excuse me. All I'm asking
14 you is whether in preparing your investigation report
15 you considered that rule?

16 A. I consider all of the rules regarding the solid
17 waste.

18 I look at what they are doing specifically.

19 And --

20 Q. So --

21 A. In this situation, I would need a specific
22 question regarding that RCW in order to determine what
23 you're trying to see if I looked at.

24 Q. So you don't know if -- you don't recall if you
25 applied that rule or not?

1 A. Of course that rule is applied as part of the
2 solid waste. What I need is a specific question
3 regarding what part of that rule was applied to this
4 investigation.

5 Was it the intent of the shipper? Well, the
6 shipper would be considered a customer. And the
7 customer -- yes, absolutely that was considered. That
8 customer is wanting to have their residential recycling
9 taken away.

10 What's the intended destination of the shipment?
11 The intended destination was a recycle center in Seattle
12 that was owned by Ridwell.

13 What was the actual destination? That
14 destination, again, was the residential recycling center
15 that was licensed by King County.

16 Was there any special handling and condition?

17 If you look in the investigation reports, the
18 King County had to have environmental health go over and
19 inspect their facility to make sure it could be a
20 licensed residential recycling facility.

21 Q. So, Ms. McPherson, I'm not asking you to go over
22 this now. I'm asking you, when you prepared your
23 investigation report, you went through this -- this rule
24 or not?

25 A. Absolutely. Like I said, I go over all of the

1 rules that pertain to the transportation of solid waste.

2 So yes, the answer would be yes.

3 Q. But you didn't show your work on how you went
4 through this in your investigation report then, did you?

5 A. I think I did. If you look -- we don't directly
6 quote that, because that wasn't what I cited a violation
7 for.

8 But if look at how that is affected, it does
9 talk about the King County facility licensing. It talks
10 about where the commodities are going to, how they are
11 picked up, et cetera.

12 So it absolutely was considered. You could
13 not --

14 Q. Let me --

15 A. -- possibly put in an investigation report all
16 of the work that is put into every single WAC or rule.

17 Q. So let me ask you a different question. Going
18 back to junk haulers. In the Staff response to
19 Ridwell -- their request No. 2, which I'm gonna have to
20 find up here.

21 JUDGE KOPTA: Mr. Goltz, let me interrupt
22 you here for a moment.

23 We are coming up on a time when we normally
24 take our morning break. Do you have much more for
25 Ms. McPherson?

1 MR. GOLTZ: Would you let me go just a
2 little bit longer, I think I can get done, five minutes.

3 JUDGE KOPTA: All right. That's fine.

4 MR. GOLTZ: Because I was asking a question
5 that she might defer to Mr. Perkinson.

6 BY MR. GOLTZ:

7 Q. But I want to just nail down one thing on, what
8 is Exhibit RM-3, which is staff response to Ridwell DR
9 No. 2 and subsection (c) of that talks about -- sort of
10 the -- how junk haulers are regulated; is that correct?

11 A. Ridwell data request No. 2, "If it is not
12 permitted, please state why?" That section?

13 Q. Yes.

14 A. Okay. Well, I think -- I believe that two of
15 the franchises of "You've Got Junk" are permitted as a
16 common carrier. So that -- that number (c) would not
17 pertain to this data request.

18 Q. Right. I guess, I'm saying is that -- but
19 what's the source -- what's the source of that Staff
20 response to DR No. 2? Is there another document and --
21 that is the source of that?

22 And maybe just to refresh your recollection,
23 look at Exhibit RM-6.

24 A. Okay. So what you're asking, if I'm not
25 mistaken, is why were they certificated or permitted as

1 a common carrier versus a certificated solid waste
2 company in this situation?

3 Q. No. I'm not -- all I'm asking you is if your
4 response to the data request -- I'm asking you what the
5 source is of that. There's a paragraph in there and I
6 want to know where it came from.

7 If it came from somebody's head; that's fine.
8 If it came from some other document; that's fine. I
9 just want to know where it came from. And I'm
10 suggesting that it could have come from RM-6. It may be
11 somewhere else. If you know. If you don't know, that's
12 fine. Just say so.

13 A. It came from the definition of RCW 81.77.010(5),
14 defines a private carrier as a person who, in his or her
15 own vehicle, transport solid waste purely as an
16 incidental adjacent to some other establishment.

17 800-JUNK, as I stated before, is much like a
18 roofer. We do not require roofing companies to have a
19 solid waste certificate for the solid waste that is
20 transported from a residence. It is an incidental of
21 the job, and that's where that response came from, was
22 the RCW.

23 Q. Right. No. That's not my question.

24 My question is, the language that describes
25 that, did that come from you? Did that come from

1 somebody else? Did it come from another document?

2 And I want to know if it didn't come from
3 another document and just came from your statement,
4 then --

5 A. It did not come from a different document.

6 Q. It did not?

7 A. No.

8 Q. So did you write -- did you write that DR
9 response?

10 A. No, I did not. That came from after I explained
11 why 1-800-JUNK recently got a common carrier permit.
12 And we determined that it was incidental to the job
13 because they were transporting commercial recycling and
14 they are advised to get a common carrier permit.

15 Q. Right. That's not my question. It's a simple
16 question. And maybe you can look at RM-6.

17 A. But RM-6 was not used in any of the
18 determinations of how I proceeded.

19 Q. Okay. So -- so -- how was RM-3, then, derived?
20 Did that come from -- let me ask this question.

21 Did it come from a Commission rule? Does a
22 Commission rule say that?

23 A. Yes. RCW 81.77.010(5). It describes
24 incidentals. 800 --

25 Q. So that's your --

1 A. -- GOT-JUNK is performing transportation of
2 solid waste only as an incidental. The same as a roofer
3 is transporting solid waste only as an incidental of the
4 work they perform.

5 Ridwell is only transporting residential
6 recycling for the compensation provided by the customer
7 to the company. Two totally different situations.

8 Q. That's still not my question.

9 Sometimes words on a piece of paper are in a
10 rule. Sometimes words on a piece of paper that give
11 just direction to companies are in a policy statement.
12 Sometimes words on a piece of paper are in an
13 interpretive statement.

14 The words on the response to DR 2 is none of
15 those. The words in response to -- the words in -- I'm
16 sorry. The words in RM-6 is not in a policy statement
17 or a rule or an interpretive statement.

18 So I want to know where they came from. If they
19 came from a policy statement or interpretive statement
20 or some other document that was adopted in some formal
21 way by the Commission?

22 MR. CALLAGHAN: Your Honor, at this point,
23 I'm going to object to this question. This is -- if
24 Mr. Goltz has an issue with Staff's legal interpretation
25 from this exhibit, then that be can be dealt in post

1 hearing briefs.

2 But who in Staff wrote the response to this
3 data request is not relevant.

4 MR. GOLTZ: Your Honor, all --

5 (Indecipherable cross-talk)

6 MR. CALLAGHAN: -- in this case --

7 MR. GOLTZ: I think if Mr. Callaghan would
8 maybe stipulate that neither RM-6 nor RM-3 are contained
9 in a Commission rule, a Commission policy statement, or
10 a commission interpretive statement or any other
11 document adopted formally by the Commission. That's all
12 I'm trying to get at. It makes a difference.

13 MR. CALLAGHAN: And, Your Honor, I don't --
14 this is not relevant to the question of a classification
15 in this hearing. Who wrote this document, it's just not
16 relevant. It is Staff's response to a data request.

17 JUDGE KOPTA: Well, we are belaboring this
18 point. And as Mr. Callaghan suggests, I think it might
19 be something better handled in a brief. I don't think
20 that you're going to get anything more from
21 Ms. McPherson on this particular subject, Mr. Goltz, so
22 if you would move on.

23 MR. GOLTZ: So, so -- yeah, I think the way
24 this is going, I think I -- if you want to take a break,
25 it's going to take more than five more minutes.

1 I've already taken up the five minutes I
2 said it would take. So maybe if you want to have a
3 recess now, that would be fine. I'll try to be very --
4 I will try to be concise in the subsequent questioning
5 after the break.

6 JUDGE KOPTA: All right. I think that's
7 what we'll do. Let's be off the record and take a
8 break. Let's come back at 11:10.

9 (A break was taken from 11:01 a.m. to 11:16 p.m.)

10 JUDGE KOPTA: Let's be back on the record
11 after our morning break, and Mr. Goltz will continue
12 with his cross-examination.

13 BY MR. GOLTZ:

14 Q. So a couple of things to follow-up on something
15 you said, Ms. McPherson. And I won't be too much longer
16 I hope. You said LeMay was your carrier, I believe you
17 said?

18 A. Yes, I think I said that.

19 Q. Yeah. And -- and did you say that he comes on
20 request?

21 A. No, I did not say that.

22 Q. Okay. Because he doesn't. He just goes down
23 the street every -- same route every Monday or every
24 Tuesday or every Wednesday depending where you are;
25 correct?

1 A. Yeah. When you sign up for service, the solid
2 waste company comes on the scheduled day.

3 Q. Right. And so -- and also just to be clear
4 about any analogy between what LeMay does and what
5 Ridwell does, LeMay takes garbage and refuse to the --
6 either a transfer station or the dump; correct?

7 A. Yes. And residential recycling.

8 Q. Well, it doesn't take the residential recycling
9 to the dump. It takes residential recycling to
10 someplace that recycles it.

11 A. It takes it to the transfer station as well.

12 Q. Okay. And then from there it goes to the
13 recycling station or does it go to the dump?

14 A. I would hope it doesn't go to the dump.

15 Q. Although, I've heard reports that that sometimes
16 happens, but maybe not with LeMay. I don't know.

17 And so -- also LeMay doesn't break out any
18 things from the waste stream and deliver them to
19 partners that can put it to a better use, does it?

20 A. I think I would need more specifics. And I
21 would not be significantly knowledgeable on how LeMay's
22 recycled projects work. I don't know what they sort or
23 where they distribute to.

24 Q. So if someone puts a bunch of old clothes in the
25 garbage bin, LeMay doesn't take it to Goodwill or

1 anyplace like that?

2 A. No, that wouldn't be part of their recycling
3 program. You would have to ask, like, what is going
4 into their recycle containers are separate from the
5 solid waste containers.

6 So anything, then, put into a solid waste
7 container would automatically go into the solid waste
8 stream. Whereas, they would have a recycle. And I
9 think there is a process, but I'm unsure how that works
10 for that company.

11 Q. Okay. So what -- the Commission regulates Waste
12 Management; correct?

13 I'm just picking a company at random.

14 A. Waste Management has certificates in Washington
15 state.

16 Q. What's the policy reason to regulate Waste
17 Management?

18 A. Can you be more specific?

19 MR. CALLAGHAN: Objection, your Honor.
20 Relevance.

21 MR. GOLTZ: If Mr. Perkinson is going to be
22 the witness on policy issues, and I believe he is, we
23 can defer it to him.

24 But the relevance of this, Your Honor, that
25 there are good policy reasons to regulate a monopoly

1 waste carrier like Waste Management. They are a
2 monopoly. People are stuck with them. With monopoly
3 power, they can rip off customers on price. Their
4 attention to consumer protection might not be as high.
5 They might provide bad service. And you don't want, you
6 know, competing carriers running down the streets --
7 residential streets with a bunch of big trucks.

8 I just wanted to draw that out of this
9 witness. If Mr. Perkinson is the better witness to talk
10 about that -- because then I'm going to go into the
11 question of, okay, what are the policy reasons to
12 regulate Ridwell?

13 JUDGE KOPTA: And I appreciate that,
14 Mr. Goltz. I have the same question.

15 So Mr. Callaghan, is Ms. McPherson the
16 proper witness to address that issue or is
17 Mr. Perkinson?

18 MR. CALLAGHAN: Your Honor, I had intended
19 Mr. Perkinson is the witness to discuss policy issue.

20 JUDGE KOPTA: All right. Then let's
21 preserve it for him, if you will, Mr. Goltz.

22 MR. GOLTZ: Okay. That's fine then. I have
23 no further questions of this witness then.

24 JUDGE KOPTA: All right. Thank you,
25 Mr. Goltz.

1 Ms. McPherson, I have a couple of questions.

2 THE WITNESS: Yes, sir.

3 EXAMINATION

4 BY JUDGE KOPTA:

5 Q. You talk about cleanup services that are
6 provided by companies like 1-800-GOT-JUNK?®.

7 What's your understanding of what a cleanup
8 service is?

9 A. Well, I think cleanup service is part of their
10 business model. Cleanup service and junk haulers, they
11 are responsible to come in. It may be going into a
12 private home's garage, going to the backyard, going into
13 sheds.

14 When I've investigated companies like that, they
15 typically are clearing, decluttering. They do a lot of,
16 like, rental clearouts where people may have left things
17 behind.

18 If you look at the photos when I do an
19 investigation, I look and they have gone to the side of
20 the house and decluttered all of the things from that
21 house. Cleaned -- cleaned up the obstructed area.
22 800-JUNK also adds in pressure washing services to make
23 those areas, because when garbage/trash has been sitting
24 there, it gets icky. Especially, most of theirs are
25 larger jobs. They pressure wash the areas. There's a

1 whole service that gets involved with all of that.

2 So clean-outs, clear-outs, decluttering. The
3 company is doing the work at the property. The customer
4 is not loading a bin or a box or a truck. The trucks
5 are coming in and staff are coming from 800-JUNK to get
6 rid of everything.

7 Q. So if I'm clearing out my garage or I want to
8 clean it out, I can either have them come into the
9 garage and I point out stuff for them to take away, or I
10 could put it in a big pile outside my garage and they
11 will pick it up and take it away, is that kind of --

12 A. No. They are specifically not allowed for you
13 to put it on your driveway side, ready to pick up.

14 And this is something that they are very
15 specific about in their advertising that company. They
16 say, "Just point, we'll do all the work." That keeps
17 them in compliance. They are going and doing the
18 physical lifting. They are loading the trucks themself.

19 Whereas, if I can call Waste Management, Waste
20 Connection, any of these companies and say "I have a
21 sofa. Pick it up." They have a tariff rate that allows
22 that to be picked up.

23 And I am taking it out to the road to say "here
24 it is." They are not going to come.

25 None of the garage companies are gonna come into

1 my garage and take that old sofa away. They are not
2 going to go into my house and take the old refrigerator
3 and remove it.

4 But I can call them and they will pick it up
5 roadside for a fee. They're not going to do any of
6 that.

7 They have yard waste bins; the garbage companies
8 do. And we can go and fill them from all of our debris
9 in the backyard, but 800-JUNK will go in and clear out
10 the yard from last night's storm that took down all of
11 the bushes. They are going to bundle them, they are
12 going to package them, and the only difference is
13 they're going to tote them away as part of the process
14 as an incidental of cleaning up your backyard; whereas,
15 the garage company is going to say we have this bin, you
16 can put it in there, whatever fits.

17 Q. Okay. So in your experience, the companies that
18 engage in these kind of services are very scrupulous
19 about doing all of the work themselves as opposed to
20 just picking up what you've collected out of your house
21 that you want to get rid of.

22 A. Absolutely. Yeah.

23 JUDGE KOPTA: Okay. Thank you, those are my
24 questions.

25 Mr. Callaghan, do you have any redirect?

1 MR. CALLAGHAN: Just very briefly, Your
2 Honor.

3 REDIRECT EXAMINATION

4 BY MR. CALLAGHAN:

5 Q. Ms. McPherson, could you turn your attention to
6 WAC 480-70-011, and let me know when you're there?

7 A. Yes, sir.

8 Q. And could you look at subsection (2) for me, and
9 let me know when you're there.

10 A. I'm at subsection (2).

11 Q. So the questions that Judge Kopta just asked you
12 about these types of carriers, are they under this
13 Commission rule?

14 A. Yes. It's not their primary business.
15 They're -- under "QA" it talks about: What is the
16 company's primary business?

17 And 800-JUNK or JDOG or any of these other junk
18 removal services are doing clear-outs and clean-outs.

19 Their primary business is to make your garage
20 beautiful. Much like the primary business of a roof is
21 to get the new roof on.

22 Both are transporting solid waste at the end of
23 the day. Most of them are going to landfills more often
24 than not. But neither one of them are posing as a solid
25 waste company. Moreover than not, they are posing as a

1 clear-out/clean-out business or as a roofer, and the
2 incidental part of taking the waste out is just a
3 portion of what they do in that day.

4 Q. And is the statutory support for that,
5 essentially, that these are private carriers?

6 A. Absolutely.

7 Q. All right. And if you look at subsection
8 (2)(a). Does it --

9 A. Yes.

10 Q. -- state that this exemption does not apply if
11 the carrier holds itself out to the public as a
12 transporter of solid waste?

13 A. It does state that and that was one of the
14 things I found in my investigation is repetitively in
15 the advertisement Ridwell kept posing -- positioning
16 themselves as a recycling company. And since they are
17 servicing residential houses only, it would be a
18 residential recycling company.

19 MR. CALLAGHAN: No further questions, Your
20 Honor.

21 MR. GOLTZ: Your Honor, may I follow-up with
22 a couple questions?

23 JUDGE KOPTA: Very briefly, Mr. Goltz.

24 //

25 //

1 1-800-GOT-JUNK?®, will they come get it?

2 A. Are they then clearing out the backyard?

3 I think you would have to be specific to the
4 area.

5 I can tell you that if I had a complaint where
6 somebody was picking up bags of garbage or bagged waste,
7 that would be an investigation I would move forward
8 with. Regardless of what company it is.

9 Q. Okay. And you're familiar that some of the
10 exhibits that we've introduced that there's some history
11 and controversy between other carriers, certificated
12 carriers and -- pardon me. Between certificated
13 carriers, WRRRA, and the Commission about whether
14 1-800-GOT-JUNK?® should -- should be regulated under
15 81.77. Are you familiar with that?

16 A. I apologize. My job is to investigate the
17 illegal transportation of solid waste. Every time I
18 receive a complaint regarding any company, whether the
19 800-JUNK or Ridwell or others, I look at the situation,
20 the advertisements, and the jobs that have been noted in
21 that investigation and I proceed as our policies demand.

22 At this time, I have not had an investigation
23 that has lead those -- that company into court.

24 Q. Or to the Commission, is what you're saying?

25 A. I have not had an investigation that has led

1 that to court.

2 I did as -- a commercial recycling, and the
3 company ended up getting a common carrier permit, which
4 has nothing to do with my division.

5 But I don't believe that it would be in my scope
6 of authority to determine what WRRRA has decided on with
7 another company or how they should be licensed.

8 My job is just to determine if a company has
9 transported illegal solid waste without a certificate.

10 MR. GOLTZ: Okay. No further questions.

11 JUDGE KOPTA: All right. Thank you,
12 Ms. McPherson, we appreciate your testimony.

13 THE WITNESS: Thank you.

14 JUDGE KOPTA: You are excused.

15 THE WITNESS: Thank you.

16 JUDGE KOPTA: Mr. Callaghan, your next
17 witness.

18 MR. CALLAGHAN: Thank you, Your Honor.

19 I would like to call Matthew Perkinson.

20 JUDGE KOPTA: Mr. Perkinson, will you raise
21 your right hand?

22 Do you swear or affirm that the testimony
23 you give in this proceeding will be the truth, the whole
24 truth, and nothing but the truth?

25 Mr. Perkinson, I think you are on mute.

1 THE WITNESS: I do. Thank you.

2 JUDGE KOPTA: All right. Thank you.

3 Witness having been sworn, he is available
4 for your examination, Mr. Callaghan.

5 MATTHEW PERKINSON witness herein, having been
6 first duly sworn on oath, was
7 examined and testified as
8 follows:

9 DIRECT EXAMINATION

10 BY MR. CALLAGHAN:

11 Q. Good morning, Mr. Perkinson.

12 A. Good morning.

13 Q. Could you state your name and spell your last
14 name for the record?

15 A. Matthew Perkinson, P-e-r-k-i-n-s-o-n.

16 Q. What is your current occupation?

17 A. Assistant Director of Transportation Safety.

18 Q. And how long have you been in that position?

19 A. I've been in the position for a few years and
20 been with the Commission since 2011.

21 Q. Are you familiar with the Commission's rules and
22 policies related to solid waste carriers?

23 A. Yes.

24 Q. Have you had previous assignments that have
25 dealt with the distinction between motor freight carrier

1 and a solid waste carrier?

2 A. Yes.

3 Q. Have you had previous cases that dealt with the
4 distinction between a solid waste carrier and a private
5 carrier?

6 A. Yes.

7 Q. Are you supervisor of the investigator assigned
8 to this case?

9 A. Yes, I am.

10 Q. And have you been involved in this case?

11 A. Yes.

12 Q. And, Mr. Perkinson, did you write the response
13 to the data request from Ridwell Data Request No. 2?

14 A. Yes, I did.

15 Q. All right. And if you could direct your
16 attention to what's marked as Exhibit RM-6 for me. And
17 let me know when you're there.

18 A. Okay.

19 Q. And what is Exhibit RM-6?

20 A. This is a table that describes essentially
21 Commission policy related to common carriers, solid
22 waste collection companies, and private carriers from
23 2011.

24 Q. And are you familiar with this table?

25 A. Yes.

1 Q. I -- it contains -- does it contain a summary of
2 the distinctions between different types of carriers?

3 A. Yeah. It talks about common carriers, solid
4 waste collections, and private carriers.

5 Q. Is the term "curbside" used throughout the
6 document?

7 A. Yes.

8 Q. In the context, what does "curbside" mean? Is
9 it literal?

10 A. No. As Kathryn testified, the term "curbside"
11 is not, in Staff's opinion, meant to be literal. For
12 example, you could have a solid waste collection company
13 pick something up yardside, if you will. So
14 yardside/curbside would essentially be the same thing.

15 Q. Would that make a difference in how the company
16 is regulated by the Commission?

17 A. What -- yes.

18 Q. Can you repeat your response for me?

19 A. Yes. It sounded like we had a little bit of
20 lag.

21 JUDGE KOPTA: Just to make sure the record
22 is clear, Mr. Callaghan, would you repeat your last
23 question and then have Mr. Perkinson respond because we
24 are having a bit of a --

25 MR. CALLAGHAN: I'll repeat my question.

1 Hello? Mr. Perkinson, can you hear me?

2 JUDGE KOPTA: None of us heard you. If you
3 repeated your question, we didn't hear you.

4 BY MR. CALLAGHAN:

5 Q. Mr. Perkinson, can you hear me now? I can hear
6 everyone now.

7 A. Yes, I can hear you.

8 Q. Okay. I'll repeat my question now.

9 (Audio/video interruption)

10 JUDGE KOPTA: Let's be off the record.

11 (Pause)

12 JUDGE KOPTA: Let's be back on the record.

13 Proceed, Mr. Callaghan.

14 MR. CALLAGHAN: Thank you, Your Honor.

15 BY MR. CALLAGHAN:

16 Q. So, Mr. Perkinson, if my garbage or recycling is
17 picked up in an alley behind my house, where there is no
18 curb, would that make a difference in how the company is
19 regulated by the Commission?

20 A. Sorry. Nash, can you ask the question, again?
21 I apologize.

22 Q. Yeah.

23 So, for example, if my garage or recycling is
24 picked up in the alley behind my house where there is no
25 curb, would that make a difference in how the company is

1 regulated by the Commission?

2 A. No.

3 Q. Okay. And have you reviewed some of the other
4 companies that Ridwell has mentioned throughout this
5 document, like 1-800-GOT-JUNK?®?

6 A. Yes.

7 Q. Are there differences between those companies
8 and Ridwell?

9 A. Yes.

10 Q. To your knowledge, Ridwell doesn't provide any
11 cleanup services to their residential customers;
12 correct?

13 A. Not that I'm aware of, no.

14 Q. And does that make a difference in how these
15 companies should be classified according to your
16 understanding as Commission statutes and rules?

17 A. Yes, it does.

18 Q. And does Staff's response to data request No. 2,
19 which is Exhibit RM-3 explain that distinction?

20 A. Yes, I believe it does.

21 Q. As part of Staff's review of Ridwell, has Staff
22 considered the factors outlined in WAC 480-70-016
23 subsection (4)?

24 A. Yes.

25 Q. And when you consider all of these factors,

1 based on your experience, should Ridwell be required to
2 have a solid waste certificate?

3 A. Yes.

4 Q. Why is that?

5 A. I believe there's 7 factors that staff is
6 responsible for considering.

7 One of those being the intent of the shipper.
8 Ridwell intends to collect recyclable materials curbside
9 from residences.

10 The indented destination of the shipment. It's,
11 my understanding that the materials are transported to
12 Ridwell's material -- or MRF, material recovery
13 facility.

14 Again, the actual destination of the shipment.
15 It can be the material recovery facility initially.

16 Another factor is whether or not there are
17 special handling conditions for the materials. So
18 initially, when we got information -- a complaint,
19 Ecology expressed concerns with some of the materials
20 that might be transported by the company, such as
21 batteries, for example, that might have special handling
22 conditions placed on them.

23 The value of the commodity being transported is
24 another one. So Staff believes there may be valuable
25 commodities that are being collected.

1 It is also, you know, my understanding, that the
2 solid waste companies regulated by the Commission
3 receive a percentage of the revenues from the recyclable
4 materials that they collect.

5 So another factor is whether the carrier is
6 primarily engaged in the business of providing solid
7 waste collection or it's primarily engaged in the
8 business of providing some other service other than the
9 collection of solid waste.

10 Staff's opinion is that Ridwell is primarily
11 engaged in collecting recyclable material, which are, by
12 law, solid waste.

13 I think -- again, we've covered some of that.
14 And then last factor to consider is whether the company
15 holds itself out to the public.

16 As a transporter of solid waste -- and, again,
17 I'll say that Ridwell holds itself out as a residential
18 recycling company. Again, recyclable materials are
19 solid waste.

20 Q. Thank you.

21 And on a practical level, how are most common
22 carriers regulated by the Commission?

23 A. Lightly regulated. The Commission issues
24 permits, make sure that the companies have insurance
25 requirements, and also that they registered for the

1 Unified Carrier Registration Program.

2 Q. If Ridwell was classified as a common carrier,
3 what regulatory challenges would that present?

4 A. The Commission would have limited oversight of
5 the company. They would have probably no consumer
6 protection or safety oversight.

7 Q. If Ridwell is classified as a common carrier,
8 but collects the same materials from residents as other
9 companies that do have a solid waste certificate, does
10 that present any issues?

11 A. Yes.

12 Q. And what would those be?

13 A. I would say that Ridwell, like any non-permitted
14 company would -- would have an unfair advantage.

15 Something like if -- if a household goods
16 permitted company was required to have a permit and
17 follow safety rules, for example, consumer protection
18 rules, rate bans, things of that nature, the
19 non-permitted company, obviously, has a clear advantage
20 to be able to do business at a reduced cost, without the
21 same accountability as the regulated company.

22 Q. Thank you.

23 Do you believe that the definition of "common
24 carrier" or the definition of "solid waste collection
25 company" is a more accurate description of Ridwell's

1 business model?

2 A. Staff's opinion is that the business model of
3 Ridwell is more in the line with a solid waste
4 collection company.

5 Q. And does the fact that Ridwell provides
6 voluntary services change your opinion on whether or not
7 they are classified as a solid waste carrier?

8 A. No.

9 Q. Would you agree that Ridwell's business model is
10 different from a traditional solid waste carrier?

11 A. Yes.

12 Q. And in your opinion, does that change whether
13 the company should be classified as a solid waste
14 carrier?

15 A. No.

16 Q. And why not?

17 A. Again, I would say, essentially, the company is
18 collecting recyclable materials. It's loading -- the
19 customer is loading materials in a bin. It is operating
20 on a -- on a regular route. All these factors, I think,
21 again, can put the Commission Staff in a position to
22 have to bring forward a company such as Ridwell as a
23 non-permitted solid waste collection company. And
24 that's what Staff has done.

25 MR. CALLAGHAN: Thank you, Your Honor. No

1 further questions.

2 JUDGE KOPTA: Thank you, Mr. Callaghan.

3 Mr. Goltz, cross-examination?

4 MR. GOLTZ: Yes. Thank you.

5 CROSS-EXAMINATION

6 BY MR. GOLTZ:

7 Q. Mr. Perkinson, you said you joined the
8 Commission in 2011.

9 Where were you employed before that?

10 A. I worked for the Department of Licensing.

11 Q. And before that?

12 A. I was into my younger years. I think I was
13 doing some landscaping, miscellaneous work.

14 Q. When you were landscaping, anybody come and pick
15 up the old stuff for you?

16 You don't have to answer that.

17 So let me ask you a little bit about RM-6, which
18 was the table -- Exhibit RM-6, which you testified
19 about.

20 You said that was -- was that basically the --
21 the source document from which -- that you used to draft
22 the response to Ridwell's Data Request No. 2?

23 A. Yeah. The -- I -- I used that document as a
24 reference, yes.

25 Q. Okay. And if -- if there was going to be a

1 document within the Commission building that described
2 the difference between a junk hauler and a solid waste
3 hauler, would it be RM-6?

4 A. Yeah. This document, perhaps, look for previous
5 cases that have dealt with this issue and try to, you
6 know, search our Commission's website internally for any
7 document that spoke to Commission issues. Also the law.

8 Q. So I'll ask you the same question that I was
9 trying to ask Ms. McPherson.

10 Exhibit RM-6 is not a -- is not in a Commission
11 rule -- it is not a Commission rule; isn't that true?

12 A. That is true.

13 Q. And it is not a Commissioned policy statement?

14 A. Correct.

15 Q. Or an interpretive statement?

16 A. Correct.

17 Q. And so there's no official commission adoption
18 of that; is that true?

19 A. That's true.

20 Q. So it's a Staff document?

21 A. Yes.

22 Q. Okay. So you described the facility of Ridwell
23 as a "Merf."

24 Is that what you meant, or did you mean it's
25 more of a storage facility?

1 A. My understanding of the -- the facility is that
2 it's -- it's a place where Ridwell collects --
3 transports those materials that it collects, and then it
4 sorts the materials.

5 Q. Okay. Typically, a MRF -- it's M-R-F -- does
6 more than storage and sorting; right?

7 A. I would agree with that, yeah.

8 Q. And that's -- those other things are not what --
9 what Ridwell does at its facility, are they?

10 A. Can you clarify your question? I'm sorry.

11 Q. Well, I guess, besides storage and sorting, what
12 is your impression of what Ridwell does at its facility?

13 A. That's my impression.

14 Q. Storage and sorting?

15 A. Yeah. Brings material to, sorts the material,
16 and then send it to wherever.

17 Q. Right. And -- and so -- typically a MRF does
18 more than that; correct?

19 A. I think that a MRF may have more incidental
20 waste. A pick line, if you will.

21 Q. A what line? Oh, I understand. Pick line.

22 So you made the point in response to the
23 questions of Mr. Callaghan that curbside/alley, no
24 difference; right?

25 A. Right. Curbside, essentially, is not defined in

1 law.

2 Q. Right. But -- but it's typically -- I think it
3 might even be in that document that we talked about.

4 But typically that's what you referred to with
5 the solid waste company is they collect curbside. But
6 if you have an alley, they collect in the alley.

7 A. Right.

8 Q. And the junk haulers don't do that; right?

9 A. They don't do what?

10 Q. They don't collect curbside or alleyside, or do
11 they?

12 A. Correct.

13 Q. If there's a bunch of junk in your alley,
14 could -- could they come and pick it up?

15 A. As I think Kathryn McPherson answered the
16 question, there's -- it's a broader service that's
17 provided.

18 Q. Right. And so -- but a porch is -- is that like
19 an alley or is that like a curbside or is that like a
20 house?

21 A. Can you clarify your question? A porch, like an
22 alley --

23 Q. What is it more like?

24 A. -- say no.

25 Q. No, is it -- is it more like the house?

1 I guess what I'm wondering is, you're making a
2 distinction between a junk hauler that comes into the
3 house and a -- a solid waste company with a certificate
4 that goes through the alley and picks up stuff or goes
5 to the -- the curb and picks up stuff.

6 And -- and somehow it sounds like you're saying
7 that Ridwell, with picking up on the porch, is more like
8 the alley. Is that what you're saying?

9 A. I think Staff has to consider several factors in
10 making its determination of whether or not a company
11 should be regulated by the Commission. One of the
12 factors is curbside pick up.

13 Q. So -- so you're saying there's a number of
14 factors and -- so it's not a bright line between a
15 common carrier and a solid waste company?

16 A. Yes.

17 Q. Okay. So you mentioned the materials -- their
18 question was, I believe from Mr. Callaghan, I hope I get
19 it right. He asked about what would happen if Ridwell
20 collects materials that are otherwise collected by the
21 certificated solid waste company.

22 Do you recall that question?

23 A. I do.

24 Q. And -- and you said, as I recall, that that
25 would give Ridwell an unfair advantage over the

1 certificated solid waste company in some way; is that
2 right?

3 A. Yes.

4 Q. So what materials does Ridwell collect that
5 other solid waste management companies collect?

6 A. I think there were items identified in staff's
7 investigation report that are also included in the local
8 solid waste comprehensive plans.

9 Q. That's not my question.

10 My question was, which of those -- let me go
11 back.

12 Things that are designated recyclables, under
13 the local Solid Waste Management Plan, are not all
14 collected by the certificated solid waste carrier;
15 correct?

16 A. That's correct.

17 Q. Some things are not. And my question is, which
18 items required to be collected by the solid waste
19 certificate -- certificated solid waste company does
20 Ridwell collect?

21 A. Ask the question again, Mr. Goltz.

22 Q. So -- so -- so your -- your testimony was
23 that -- that solid waste companies pick up things that
24 Ridwell picks up. And I want to find out what those
25 are. I think the answer is they don't. They pick up

1 things that solid waste companies don't pick up.

2 So, for example, textiles. Ridwell picks up old
3 clothes --

4 A. Right.

5 Q. -- that is a recyclable in the Solid Waste
6 Management Plan.

7 But the only -- what we learned from
8 Ms. McPherson, that the only way that the certificated
9 solid waste carrier picks those up, is if instead of
10 giving them to Ridwell or taking them to Goodwill on
11 your own, they put them in the garbage can.

12 Is that what you're referring to is the -- is
13 the problem, quote/unquote, that Ridwell is depriving
14 local solid waste companies of a refuse revenue stream?

15 A. I don't think that -- that a company would have
16 much benefit from collecting additional waste outside
17 of, you know, perhaps a larger container.

18 But if there's a commodity that deems to be
19 available in the marketplace that Ridwell collects, that
20 takes away potential from that material to be placed
21 into a recycling bin, let's say, rather than in the
22 garbage, I think that that could take away from the
23 solid waste collection company's revenues and/or, you
24 know, speak to its incentives of having a recycling
25 program.

1 As I mentioned before, it's my understanding
2 that the Commission allows for a percentage of the
3 recyclable revenues to go back to the solid waste
4 company.

5 Q. So that gets to my question again.
6 Which recyclables does the solid waste -- certificated
7 solid waste company pick up that Ridwell also picks up?
8 I mean, let's make it simple.

9 The certificated solid waste company normally
10 picks up metal and cans; right?

11 A. Correct.

12 Q. Does Ridwell pick those up?

13 A. No. I don't have the list in front of me, but I
14 don't think --

15 Q. Okay. Well --

16 A. Not yet, either, I would say.

17 Q. Is the answer no, they don't?

18 A. No.

19 Q. And -- and what about paper, newspaper, mixed
20 paper? The local certificated solid waste carrier picks
21 that up curbside or alleyside.

22 Does Ridwell pick that up in their bins that are
23 on the front porch?

24 A. You said "paper"?

25 Q. Yeah.

1 A. Is there an exhibit that I could refer to that
2 lists all of what Ridwell provides? I think we --
3 Mr. Goltz, did you enter an Exhibit?

4 Q. Well, it's in the testimony of what he does.
5 And it's also, I think, on the website that was put in
6 by Ms. McPherson.

7 But you tell me your understanding. Is it your
8 understanding that -- that -- and this -- if the answer
9 is "I don't know," that's fine.

10 A. There's a lot of materials, you know, on the
11 list of what Ridwell collects. And I want to be sure
12 that I give you a clear answer.

13 Q. Right.

14 A. That's what I'm trying to --

15 Q. And his testimony -- and you read his testimony,
16 I assume?

17 A. Yes.

18 Q. And he listed a whole bunch of stuff: Wine
19 corks and Halloween candy and clothes and jewelry and
20 eyeglasses and, uh, those aren't picked up by the local
21 solid waste carrier, unless they are in the garbage.

22 A. Correct.

23 Q. Yeah. And it picks up plastic film and
24 batteries and light bulbs. And those things aren't
25 picked up by the local solid waste carrier either, are

1 they?

2 A. There are some items, I believe, that Kathryn
3 spoke to, that plastic film, or there's some option for
4 drop-off services.

5 Q. I'm not asking you about drop off. I'm asking
6 about picking up.

7 What is there that the local solid waste company
8 with a certificate or operating under contract with the
9 City picks up that Ridwell also picks up? And the
10 answer is either "yes," "no," or "I don't know."

11 A. I don't -- yeah, I don't have a good answer for
12 you. I'm not sure how to answer the question.

13 Q. So let's say -- does it make a difference if
14 they -- if Ridwell doesn't pick -- does not overlap the
15 business of the certificated solid waste company?

16 A. Yes.

17 Q. It makes a difference if they don't? Overlap.

18 A. Again, can you clarify the question?

19 Q. If Ridwell picks up nothing that the local
20 certificated solid waste company picks up, does that
21 make it different -- is that different from a (audio
22 disruption) perspective that if they did overlap, does
23 that make a difference?

24 A. I'm just trying to focus -- you know, from my
25 role and Staff's role, Kathryn's job is to bring forward

1 companies that are operating as, in this case, a
2 residential recycling company. That's what we've done.

3 Q. Okay. So let's go into that a little bit. I'm
4 going to ask you a question that I started to ask
5 Ms. McPherson and she deferred it to you. Or
6 Mr. Callaghan referred it to you. So let's start with a
7 certificated solid waste company. Okay?

8 A. Okay.

9 Q. You can pick Waste Management or you can pick a
10 different one.

11 Why do we regulate -- why, does a matter of
12 policy, does the Commission regulate those companies?

13 A. I would say that items that you mentioned, you
14 know, reduced traffic, public safety, consumer
15 protection, environmental protections, ensuring that the
16 handling of certain materials are done safely and in the
17 interest of the public.

18 Q. And because they're a monopoly service; correct?

19 A. Correct.

20 Q. And so it's important, therefore, to -- because
21 if you're a monopoly, it's been known that monopolists
22 sometimes charge more than they need to, so you want --
23 that's why you want to regulate prices; correct?

24 A. Consumer protection; yes.

25 Q. Right. So protect consumers, keep prices down,

1 make sure everybody gets served. Is that another
2 rationale?

3 A. Yes.

4 Q. Because it's an essential service, right? Solid
5 waste pickup is an essential service?

6 A. Correct.

7 Q. And a lot of governments that made recycling
8 mandatory service as well; correct?

9 A. Yes.

10 Q. Okay. So of those various policy regions --
11 monopoly, essential service, consumer protection prices,
12 universal service -- what policy regions apply to
13 Ridwell's operation for regulating Ridwell?

14 A. I think I would concede that there might be
15 less. But I would say, you know, for example, nonprofit
16 companies, they are regulated by the Commission. And
17 one of the approaches that the Commission has taken in
18 terms of regulating those companies that operate smaller
19 vehicles, for example, is to make slight adjustments to
20 how they deal with enforcement.

21 Q. Right. I guess I'm wondering, so is the
22 concern --

23 A. So it would be the same. I would say it
24 would -- it would be similar, that there's -- to protect
25 consumers and public safety.

1 Q. So is your concern -- would the Commission have
2 a concern about regulating Ridwell's rates?

3 A. I'm not sure that's the purpose of the hearing
4 today.

5 MR. CALLAGHAN: Objection, Your Honor.

6 Again, we're at a classification hearing
7 today. We're not considering the application. We're
8 not considering Ridwell's request for exemption in the
9 alternative to specific rules. This is just a
10 classification hearing, and this is not -- doesn't have
11 any relevance to whether or not Ridwell is classified as
12 a solid waste carrier.

13 JUDGE KOPTA: Well, I appreciate that,
14 Mr. Callaghan. But I'm going to overrule your
15 objection, because I have the same questions.

16 MR. GOLTZ: So you're arguing that I need
17 the opportunity to make my speech on that point?

18 JUDGE KOPTA: I'll give you an opportunity
19 to put it in your brief, Mr. Goltz.

20 BY MR. GOLTZ:

21 Q. Okay. So -- so to answer the question. I think
22 the question was: Is the Commission concerned about
23 Ridwell's rates?

24 A. The Commission would be concerned about the
25 customer, consumer protection, and making sure that the

1 consumers are protected.

2 For example, if Ridwell charges for a month and
3 it gives a discount to those that can afford a 12-month
4 subscription, that's something that the Commission has
5 an interest in.

6 Q. So let's just explore that. So detour for me.

7 But -- so you understand that the company,
8 Ridwell, might have some fixed start-up costs; right?

9 A. Yep.

10 Q. He has to provide the customer with a bin. Has
11 to arrange for billing. It has some -- some fixed
12 start-up cost, whether that customer is a one-month
13 subscriber or a 12-month subscriber; correct?

14 A. Correct.

15 Q. And so the economics of serving a one-month
16 subscriber might be different from the economics of
17 serving a 12-month subscriber?

18 A. Sure.

19 Q. And the Commission is concerned that there might
20 be a differential between a one-month subscriber and a
21 12-month subscriber?

22 A. I would say that the Commission doesn't have
23 jurisdiction to make any determination unless it has
24 classification.

25 Q. I'm assuming that it gets classified as a solid

1 waste company.

2 And just pardon my speech, is what we're doing
3 here, I think, is a classification -- actually, as to
4 Mr. Callaghan, is they are trying to put Ridwell in a
5 box. And part of her argument is, she put it in the
6 solid waste area box. It doesn't fit.

7 And so, I guess, what I'm going to argue in my
8 brief is that if there is a -- that one of the -- their
9 cans of construction in the statutes and how they apply
10 is how the carriers would fit in that box.

11 And, Mr. Perkinson, we're going to get into that
12 a little bit where I'm going to ask you about some of
13 the consequences of going into that solid waste carrier
14 box or a company, whether it be Ridwell or somebody
15 else.

16 But let's proceed further --

17 MR. CALLAGHAN: I would like to object to
18 the form of that question.

19 JUDGE KOPTA: Well, it's not a question,
20 obviously. But I think Mr. Goltz is simply telling
21 Mr. Perkinson why he is exploring these particular areas
22 so that Mr. Perkinson will have a better understanding
23 of the questions themselves. And on that basis, I will
24 overrule your objection.

25 MR. GOLTZ: Thank you.

1 BY MR. GOLTZ:

2 Q. So consumer protection, you had a concern about
3 whether they would allow one-month customers or 12-month
4 customers. Any other consumer protection concerns that
5 the commission might have?

6 A. So I work primarily transportation safety. That
7 was the one that was brought forward as a concern when
8 we had initial conversations.

9 Q. So the concern is, what, that he might be
10 running with -- operating vehicles that -- that don't
11 have insurance and he might run over somebody?

12 A. That's another -- that would be another area
13 of -- in safety, yes.

14 Q. Anything else that's of concern on consumer
15 protection?

16 A. So I think you're -- you're merging the two
17 issues. There's consumer protection and safety.

18 And, you know, my background and more my
19 expertise would be in safety. I'm looking at safety --
20 you would get into things like accident reporting, the
21 qualifications of the drivers; whether or not those
22 drivers are fit to be able to provide the services. You
23 would be looking into -- you know, there's a long list
24 of federal regulations that the Commission adopts for
25 the company that it regulates for safety. Vehicle

1 maintenance, for example. Markings of the vehicles.

2 Things that come to mind.

3 Q. So you understand that Ridwell operates with
4 personal vehicles?

5 A. Yes. A passenger van.

6 Q. Yeah. And so all these safety concerns, how are
7 they applied to 1-800-GOT-JUNK?® or junk haulers that
8 typically drive bigger trucks?

9 A. If a company like 1-800-GOT-JUNK?®, as a common
10 carrier is operating a large vehicle, it's subject to
11 roadside scale inspection.

12 Q. So 81.80 has some protections?

13 A. It does.

14 Q. But it's true, is it not, that not all
15 1-800-GOT-JUNK?® operations have any kind of -- have a
16 common carrier permit. Some have no permit at all;
17 correct?

18 A. That's correct. They are franchises and they
19 all provide different services.

20 Q. Right. So some of the franchises do not have --
21 have neither a common carrier permit nor a solid waste
22 carrier permit?

23 A. Yes.

24 Q. And they are driving big trucks on the road
25 every day.

1 A. I don't know the size of the vehicles that they
2 are operating. I imagine there's a variety, yes.

3 Q. So we talked about rates, or prices. We talked
4 about consumer protection.

5 And on that consumer protection, is -- is
6 there -- you understand that right now Ridwell is
7 subject to the State Consumer Protection Act in RCW
8 19.86; correct?

9 A. I can agree with that.

10 Q. Is there something deficient in that statute
11 that leads you to want to -- would lead the Commission
12 to want to regulate consumer protection for Ridwell?

13 A. I haven't thoroughly reviewed the Consumer
14 Protection Act.

15 Q. So what about universal service; everybody gets
16 served by the certificated waste hauler, right?
17 Everybody gets sort of the essential service?

18 A. Yes.

19 Q. Correct? Is Ridwell an essential service?

20 A. I would say no.

21 Q. So any other -- and -- and no one's mandating
22 customers to take Ridwell's service?

23 A. No.

24 Q. Totally voluntary?

25 A. That's my understanding, yes.

1 Q. So any other reasons for regulating Ridwell
2 that -- other than the ones you've discussed so far?

3 A. No. I would just say, you know, Mr. Goltz, that
4 Staff has been cooperative with the company, you know,
5 as we have done with -- you know, recommending imposing
6 suspended penalties, things of that nature.

7 We recognize that the company is not the same as
8 a traditional solid waste collection company, but it
9 does meet the statute definition of a solid waste
10 collection company in Staff's opinion.

11 Q. So is it your testimony, then, that you think
12 Ridwell should be regulated because they should be
13 regulated? In other words, is it regulation for
14 regulation sake?

15 A. I think if the Commission regulated the Ridwell
16 as a common carrier, it would have limited oversight in
17 those areas of consumer protection and safety.

18 If -- I'm not -- I'm not sure it would make
19 sense to add solid waste rules or conditions to a common
20 carrier permit. The Commission hasn't done that
21 historically or to any that I'm aware of. And I'm not
22 sure if it has that ability to do it.

23 I think it would make more sense to permit a
24 company as a solid waste collection company, and at a
25 later date, outside of today's hearing, consider

1 exemptions or special conditions, if those were
2 appropriate.

3 Q. Okay. So let me ask you a little bit about the
4 consequences of classifying Ridwell as a solid waste
5 carrier and whether you --

6 JUDGE KOPTA: Before we go down that road,
7 Mr. Goltz, I noticed that we're a little bit past the
8 noon hour. And we ordinarily take a lunch break around
9 this time.

10 How much more do you have for Mr. Perkinson?

11 MR. GOLTZ: This would be an appropriate
12 time to take a lunch break, Your Honor. It will be
13 another half hour, if not more.

14 JUDGE KOPTA: Then, yes, we should go ahead
15 and take a lunch break. It's now 12:07. So would 1:15
16 to resume be acceptable to everyone?

17 MR. CALLAGHAN: Yes, Your Honor.

18 MR. GOLTZ: No one is going out to lunch,
19 Your Honor.

20 JUDGE KOPTA: Yeah. And the court reporter
21 is signaling that that is acceptable to her as well.
22 So let's be off the record. And we will resume at 1:15.
23 I will see you all then.

24 (A luncheon recess was taken.
25 from 12:11 p.m. to 1:18 p.m.)

1 JUDGE KOPTA: Let's be back on record after
2 our lunch break, and we will resume with the
3 cross-examination of Mr. Perkinson by Mr. Goltz.

4 MR. GOLTZ: Okay. Thank you, Judge Kopta.
5 BY MR. GOLTZ:

6 Q. First of all, Mr. Perkinson, you stated earlier
7 that you were working with the company for a number of
8 months. And I -- agreed from that or from what I
9 understand, is that the Commission Staff does see some
10 value in what Ridwell is doing as a company; is that
11 correct?

12 A. Yeah, I would certainly concede that what they
13 are doing is good for the environment. I don't think
14 the Commission has any objection to that.

15 Q. Good. But what I want to get into now, as I
16 mentioned, is -- is we're gonna -- I want to see how
17 this would work if -- if they were -- or more
18 accurately, how you think it would work if the -- if
19 Ridwell were classified as a solid waste company under
20 RCW 81.77.

21 So how -- one of the statutory requirements is
22 in RCW 81.77.030, it says, "The Commission shall
23 supervise and regulate every solid waste collection
24 company in this State by fixing and altering its rates,
25 charges, classifications, rules, and regulations."

1 So how would you envision Ridwell's rates be
2 set?

3 A. I think that we would have --

4 MR. CALLAGHAN: I'm sorry. I'm going to
5 object on relevance, again, to this. This hearing is a
6 classification hearing. We are just determining whether
7 the activities Ridwell is engaged in meets the statutory
8 definition; that is all this hearing is determining, and
9 so I don't think that this is a relevant question.

10 MR. GOLTZ: Your Honor, if I may. As I said
11 before, the purpose of this is to figure out what box
12 Ridwell falls into and if it is the 81.77 box, that that
13 makes Ridwell's operations impossible. If that makes
14 them burdensome such that it cannot operate or that it
15 operates in some sort of bureaucratically meaningless
16 way, then I think that's relevant to the decision of
17 whether it goes into that box in the first place.

18 JUDGE KOPTA: Well, I take Mr. Callaghan's
19 point that this is a rather broad question. If you want
20 to explore whether there would be any difference between
21 the way rates are set for Ridwell than they are set for
22 any other solid waste company, then I will allow you to
23 explore that.

24 But I think, in general, getting into rate
25 making is getting a little farther afield than this

1 proceeding.

2 MR. GOLTZ: Okay. Well, let's proceed that
3 way, then.

4 BY MR. GOLTZ:

5 Q. Mr. Perkinson, you understand generally how
6 rates are sets for a company like Waste Management?

7 A. I would say, generally.

8 Q. And generally, would Ridwell's rates be set the
9 same way?

10 A. The rates are set in a couple of different ways.
11 For example, based on the type of service, the level of
12 safety, the size of the company. But I'm not a
13 regulatory analyst.

14 Q. So is that "I don't know"?

15 A. That's fair.

16 Q. But the rules that the Commission has adopted,
17 requires all companies to file tariffs.

18 Would you expect that Ridwell would have to file
19 a tariff with the Commission?

20 A. Yeah, I believe that Ridwell would be required
21 to file a tariff and then could work with regulatory --
22 reg services section to answer any questions that it has
23 on that tariff.

24 Q. So some of the things that Ridwell picks up as
25 part of its service are clearly non-recyclables, would

1 you agree?

2 A. Yes.

3 Q. So -- so they pick up Halloween candy and
4 jewelry and eyeglasses and used clothes and shoes and
5 baby clothes. And they have picked up things -- in this
6 recent public health crisis, they picked up any
7 supplies. They picked up food for the food bank. All
8 of that is included in the basic ten-dollar-a-month
9 charge; do you understand that?

10 A. Yes.

11 Q. So with the tariff that you envision, be it a
12 tariff for everything or would Ridwell have to break out
13 its document -- pardon me, its recyclable pickups from
14 its non-recyclable pickups?

15 A. As I mentioned, I would have to work with our
16 regulatory service program, consult with them about what
17 rates might be best for the company applying for an
18 exemption.

19 Q. So -- so your view would be, say, applying for
20 an exemption, your view is that Ridwell would -- would
21 have to apply for an exemption? In fact there's a
22 pending application to just that fact; right?

23 A. Exactly.

24 Q. For a tariff requirement?

25 A. Yes.

1 Q. And that -- that application by Ridwell has been
2 pending for quite some time; correct?

3 A. I think it's two months. I think it was
4 submitted in January.

5 Q. Right. So -- so would -- I'm sorry, would the
6 tariff just be \$10 a month for everything? Or what
7 would it look like? Do you know?

8 A. I don't know.

9 Q. Okay. And -- and is that -- are you assuming
10 that it is actually legally possible to get an exemption
11 from the -- from the tariff requirement?

12 A. I would say that if the Commission were to
13 classify Ridwell as a solid waste collection company, it
14 would have to go through the process of public protest
15 and -- as part of that, considerations for its
16 application of exemptions would need to be addressed.

17 Q. And so -- you don't know whether the statutory
18 requirement that the Commission was fix -- fix its rates
19 would be a limitation on -- on Ridwell's ability to get
20 an exemption from the tariff requirement?

21 A. I think the Commission has discretion on setting
22 the rates. But again, I would have to defer to a reg
23 analyst in our reg services department.

24 Q. So you're familiar that certificated solid waste
25 companies' rates are set using the so-called

1 "Lurito-Gallagher methodology," are you not?

2 A. Yes.

3 Q. Do you think, if you know, that's what would
4 happen -- to be done with Ridwell?

5 A. I don't know.

6 Q. Do you envision that the Commission, like it
7 does with other solid waste companies, would perform
8 audits on Ridwell's books to ensure they weren't making
9 too much money?

10 A. I think that the Commission would be interested
11 in potentially reviewing the books and records.

12 Q. To make sure they are not making too much money?

13 A. No.

14 Q. Okay. Why would they be interested in reviewing
15 the books and records?

16 A. To ensure things like consumer protection,
17 safety. That there's not, you know, billing that's
18 inappropriate, for example.

19 Q. Okay. So let me ask about the maps. There's a
20 requirement in the rules that solid waste collection
21 companies file an update, service area maps; is that
22 correct?

23 A. That is correct.

24 Q. And so how would that work? Do you know how
25 that would work with Ridwell?

1 A. I believe that would apply like any other
2 company.

3 Q. So right now, Ridwell does business in certain
4 areas in King County, a little bit in Snohomish County.
5 So they would have to file a map showing the areas that
6 they serve?

7 A. Yes.

8 Q. And when they filed the map, is everybody within
9 that map area entitled to service from Ridwell?

10 A. I don't -- I'm not sure.

11 Q. And -- and so then if Ridwell wanted to expand,
12 say, to Thurston County and Pierce County, they would
13 have to file a new map with the Commission?

14 A. That is the requirement, yes.

15 Q. And you're familiar that some rates require
16 certain notice periods to change?

17 A. Yep.

18 Q. Would those apply to Ridwell as well?

19 A. They may.

20 Q. So does it make sense to -- revisiting the
21 question that was earlier up when we talked about
22 consumer protection, the billing period. You seemed to
23 state a preference that you thought the Commission Staff
24 may want them to have a one-month billing period rather
25 than a multi-month billing period. Does that make sense

1 for the Commission to be worried about that in a -- in a
2 competitive company?

3 A. Generally, the Commission is interested in
4 consumer protection. And where there's opportunity for
5 a company to expose vulnerable individuals to being
6 taken advantage of, for example, you know, I subscribe
7 for 12 months and I cancel after two months, what is
8 the -- what is Ridwell doing to refund a company? It's
9 one example that I can think of.

10 Q. So you're concerned that -- that Ridwell might
11 take advantage of less -- of less advantaged customers
12 in some way?

13 A. I believe that's a possibility, yes.

14 Q. Just ask you about regulatory fees. So they
15 would have to pay regulatory fees as a solid waste
16 collection company as well?

17 A. Yes.

18 Q. And that that is -- the regulatory maximum is
19 one percent of intrastate operating revenue?

20 A. I believe that's right.

21 Q. Sure. So --

22 A. I would say it sounds about right, yeah.

23 Q. That's fine. So how would that be calculated?
24 Would it be the number of customers times \$10 a month
25 and that -- then you take 1 percent of that, or -- would

1 because they're -- these people are paying to have their
2 Halloween candy picked up.

3 Is it all the revenue, even though most of it --
4 most of the categories they pick up is not recyclables
5 by any stretch of the imagination. You reach out and
6 get revenue from all those -- all those sources?

7 A. My understanding is, like you said, a percentage
8 of the gross revenue.

9 Q. I understand that. But the gross revenue is
10 because they do a lot of stuff. They pick up food and
11 take it to the food bank. They pick up -- the customers
12 pay for that. They pay \$10 a month. And they pay --
13 and they pick up (audio disruption) and they pay to pick
14 up cleaning supplies. And I guess they also pick up
15 batteries and light bulbs and clothes.

16 But do you envision that the regulatory fee
17 would be paid on their gross revenue from everything?
18 Because they charge \$10 a month for all the pickups.
19 They don't break it out by, oh, batteries are, you know,
20 \$0.98 a month and clothes are a buck fifty and
21 eyeglasses are \$0.03 and something else. They don't
22 break it out that way.

23 A. I would say that companies that are subject to
24 regulation by the Commission would have a fee that they
25 would be required to pay. The operations that are

1 outside of Commission's jurisdiction would not be
2 subject to those fees.

3 Q. So how -- how would you allocate those? Is
4 this something you've even thought about?

5 A. No, I'm not --

6 (Disruption in audio/video.)

7 BY MR. GOLTZ:

8 Q. I'm sorry. I'm sorry, Mr. Perkinson, what
9 did -- what was your answer? You hadn't thought about
10 it?

11 A. No. I think briefly -- I had brief discussions
12 with reg services to talk about, you know, the immediate
13 objections and things like that and concerns that they
14 might have. Same with consumer protection. But we
15 haven't had a full conversation about those exemptions.
16 We've prepared today to address classification of
17 Ridwell and whether or not it meets that threshold for
18 the Commission to have jurisdiction.

19 Q. I don't want to get into the substance of those
20 conversations with reg services, but can you tell me
21 when those conversations took place?

22 A. I don't recall. It's within the last few
23 months.

24 Q. So let me ask you this, then. If -- you said
25 this is a classification proceeding, and then --

1 assuming that they are classified as a solid waste
2 company, then there would be a permit application
3 proceeding?

4 A. That's correct.

5 Q. And -- and again, before Ridwell could get a
6 permit, there's a requirement in RCW 81.77.040 that when
7 an applicant requests a certificate to operate in a
8 territory already served by a certificate holder under
9 this chapter, the Commission may, after notice and
10 opportunity for a hearing, issue the certificate only if
11 the existing solid waste collection company or companies
12 serving the territory, will not provide service to the
13 satisfaction of the Commission or if the existing solid
14 waste company does not object.

15 So that would apply to the petition proceeding,
16 would it not?

17 MR. CALLAGHAN: Your Honor, I'm going to
18 object on relevance again. I know I sound like a broken
19 record, but this is a hearing with respect to
20 classification only at the prehearing conference and
21 previously, AOC has decided that we are dealing with
22 classification at this hearing and we're dealing with
23 applications at the request in the alternative for
24 exemption in subsequent hearings. And so I don't find
25 this question to be relevant to our hearing today.

1 JUDGE KOPTA: Well, I appreciate your
2 objection, Mr. Callaghan, but I'm going to overrule it
3 because I have the exact same question. Exactly what
4 happens once we go from this proceeding to the next, if
5 the Commission were to classify the company as a solid
6 waste collection company.

7 And I do think that there are issues that
8 arise that we need to consider at the -- at the outset
9 other than waiting until they come up. So Mr. Goltz,
10 you may continue.

11 BY MR. GOLTZ:

12 Q. So do recall my question, Mr. Perkinson?

13 A. Go ahead and ask again.

14 Q. I'm not going to quote the whole statute, but
15 you understand that if the permit --

16 A. Yes.

17 Q. -- comfortable or not, the incumbent
18 certificated carrier is serving, quote, "satisfaction of
19 the Commission," end quote?

20 A. Yes. Understood.

21 Q. And you also understand that in -- where Ridwell
22 currently does business, there are a number of
23 certificated carriers?

24 A. Yes.

25 Q. And there's a number of carriers, some carriers

1 that aren't certificated -- right? -- they are under
2 contract with the cities?

3 A. Correct.

4 Q. Or -- or in some cases, they may even be the
5 Cities themselves running the solid waste operation?

6 A. Correct.

7 Q. So would Ridwell -- would all of those
8 companies, assuming Ridwell just wanted to do business
9 in its current area, would all of those have to be
10 joined in a proceeding then, offered an opportunity to
11 be heard on this?

12 A. That's my understanding, yes.

13 Q. And so --

14 A. Opportunity for public protest, I think is --

15 Q. Sure. And so -- then, if they didn't agree,
16 then the Commission would have to make a finding that
17 all those -- that each company is trying to make a
18 finding for each company that it was not serving to the
19 satisfaction of the Commission?

20 A. Yes, I believe that's the process.

21 Q. Right. And so -- right now, Waste Management,
22 does Staff have any idea if they are serving to the
23 satisfaction of the Commission?

24 A. Can you be more specific? Is there any
25 outstanding issues the Commission has with Waste

1 Management? No.

2 Q. Well, the question is, at some point in this
3 proceeding, presumably Commission Staff is going to
4 weigh in. And I just want to know if -- if getting a
5 finding out of the Commission for all of these companies
6 is even a possibility? I mean, if Commission Staff
7 doesn't -- thinks that they are serving to the
8 satisfaction of the Commission, how is Ridwell going to
9 survive this regulatory gauntlet?

10 A. How is Ridwell going to survive regulatory
11 gauntlet? Is that the question?

12 Q. Sorry for the editorializing.
13 I guess what I want to know is, so there's going
14 to be a proceeding and there's going to be Waste
15 Management -- and I forget all of the names of them, but
16 Recology is one of those. City of Tacoma, if they want
17 to provide service in Tacoma, there's Tacoma. There's a
18 couple of thousand in King County where they provide
19 their own service.

20 Do -- will all of those -- do you think that the
21 Commission Staff is going to think that all of those are
22 serving to the -- are not serving to the satisfaction of
23 the Commission?

24 A. I think that -- no, I think that the purpose is
25 to hear from the regulated industries, allow for them to

1 make their objections to the services that are being
2 provided by Ridwell. That is the reason for the
3 platform, to let the -- the incumbent company intervene
4 and put forth its -- its -- how it is meeting the
5 requirements and -- and for Ridwell to then, you know,
6 rebut that or discuss how it believes it's unique and
7 something different, I guess.

8 Q. Yeah. I guess what I'm trying to figure out
9 is -- is though -- if Waste Management is not charging
10 too much, it's serving all its customers just fine, it's
11 doing everything that the King County Solid Waste
12 Management Plan is requiring it to do, how could the
13 Commission determine if they're not serving to the
14 satisfaction of the Commission?

15 A. I don't know that they would.

16 Q. So then Ridwell couldn't provide service in any
17 area where Waste Management is serving?

18 A. That's the probable outcome.

19 MR. GOLTZ: Okay. There's someone not muted
20 who's talking periodically.

21 JUDGE KOPTA: Yes. Thank you, Mr. Goltz.

22 Please, everyone who's -- other than
23 Mr. Goltz or Mr. Perkinson and Mr. Callaghan, please
24 mute your telephone and don't have any comments. Thank
25 you.

1 BY MR. GOLTZ:

2 Q. So if Goodwill wanted to expand its service
3 territory to Olympia or to Pierce County, then it would
4 have to file another application, and we would have
5 another hearing about whether those local companies are
6 serving to the satisfaction of the Commission as a
7 prerequisite to granting a certificate to Ridwell?

8 A. Yeah. I believe that the best approach would be
9 to identifying those in an application if Ridwell
10 intends to expand and address that early.

11 Q. So let me ask you this. Recology serves in
12 Seattle; correct? You know that?

13 A. Yes.

14 Q. And they don't have a certificate from UTC?

15 A. That's correct.

16 Q. So how would the Commission exercise
17 jurisdiction over them to see if they were serving to
18 the satisfaction of the Commission?

19 A. How would the Commission say whether or not
20 Recology is serving to the satisfaction of the
21 Commission?

22 Q. Recology is not jurisdictional to the
23 Commission?

24 A. I don't believe it would.

25 Q. Okay. So let's assume that -- that Ridwell now

1 gets a certificate. Okay? And they are off and doing
2 business. They are doing business up and down in the
3 Puget Sound area. It's going great. Okay? And -- and
4 let's assume that -- further, that they have some
5 pricing flexibility; meaning that the rate regulation
6 isn't going to be overburdensome.

7 A. Okay.

8 Q. Now a company comes along with a better idea of
9 how to collect plastic film and other recyclables that
10 the certified -- the other solid waste carriers don't
11 pick up, but Ridwell does. So we want to -- they have
12 an innovative idea to do it better. So now they file a
13 petition, right? They file an application for -- an
14 application for a solid waste certificate?

15 A. Okay.

16 Q. And now the Commission would have to find that
17 Ridwell is not serving to the satisfaction of the
18 Commission in order for that competitor, that innovative
19 competitor, to get into the business.

20 A. I believe that's a possible outcome, yes.

21 Q. Well, why wouldn't it be the outcome? The
22 outcome would be. But if Ridwell is going great
23 gangbusters, their prices are set, and their customer
24 reviews are great, why wouldn't the Commission just say,
25 sorry, new competitor, Ridwell has got this covered, and

1 they now have a monopoly.

2 A. I'm sorry, Mr. Goltz, that's a lot of
3 hypothetical -- that's a long, long line of questions.
4 Is there something more specific that I can address? I
5 apologize.

6 Q. Well, what it comes down to, once Ridwell gets
7 you in the door and they are picking up stuff, remember
8 they are picking up stuff that the other carriers aren't
9 picking up, they're picking up batteries, they're
10 picking up lights. And they sweeten it up by picking up
11 Halloween candy, jewelry, clothes and all these other
12 things. And another company comes along and says, I've
13 got a better idea. I can pick this stuff up more
14 efficiently than Ridwell. I can make more money than
15 Ridwell. I can please customers better than Ridwell, so
16 I want to get into the business that Ridwell is in. And
17 so they file an application for a solid waste
18 certificate. And in order for them to get that, the
19 Commission would have to find, quote/unquote, that
20 Ridwell is not serving to the satisfaction of the
21 Commission.

22 A. Yes.

23 Q. But Ridwell might be doing just fine. So does
24 Ridwell, in effect, under what you just said, now have a
25 monopoly over what it does?

1 A. If the Commission granted that route, let's say,
2 as a solid waste permit, any -- any company trying to
3 enter the marketplace would be -- have to go through the
4 same process that Ridwell said in the hypothetical
5 scenario that you're providing. They would have to
6 apply for a solid waste permit.

7 Q. So -- so why would any company that wanted to
8 compete with Ridwell even try?

9 A. I'm not -- I don't have an answer for a
10 competing company.

11 Q. Okay. Did you read Mr. Metzger's testimony
12 about how the company got started?

13 A. Yes.

14 Q. Do you agree that it was innovative?

15 A. Yes.

16 MR. GOLTZ: I have -- hang on one second. I
17 have no further questions. Thank you.

18 JUDGE KOPTA: Thank you, Mr. Goltz.

19 Any redirect, Mr. Callaghan?

20 MR. CALLAGHAN: Yes, Your Honor. Thank you.

21 REDIRECT EXAMINATION

22 BY MR. CALLAGHAN:

23 Q. So, Mr. Perkinson, do you recall Mr. Goltz
24 asking you on cross-examination about what exactly
25 curbside means?

1 A. Yes.

2 Q. And is the phrase "curbside" used in the
3 statute? Is it a required part of the statutory
4 definition of a solid waste collection company?

5 A. No.

6 Q. All right. And to your knowledge, does Ridwell
7 go into people's homes and collect up the recyclable
8 materials that it's collecting?

9 A. No.

10 Q. All right. And under the King County Solid
11 Waste Management Plan, items that are picked up by
12 Ridwell that are designated as recyclable, they are
13 picked up at drop-off sites, aren't they?

14 A. There are some options for drop off, yes.

15 Q. So those are picked up by companies at those
16 drop-off sites?

17 A. Yes, some of the items.

18 Q. All right. Could you please turn your attention
19 to Exhibit KM-11? And let me know when you're there.

20 A. Okay.

21 Q. And is Exhibit KM-11 a printout from the Seattle
22 Public Utilities' website?

23 A. Yes.

24 Q. And does Exhibit KM-11 demonstrate that Seattle
25 Public Utilities in fact does have a program that

1 provides for pickup of items like battery, light bulbs,
2 Styrofoam, electronics, things like that?

3 A. Yes.

4 Q. So Ridwell is providing a -- is -- is,
5 essentially, competing with another recyclable
6 collection company?

7 A. Yes.

8 Q. And under the -- under a local Solid Waste
9 Management Plan, can a city change the items they
10 designate as recyclable when they finalize a new plan?

11 A. Yes.

12 Q. And can that new plan change whether or not
13 recyclable materials are picked up from residents?

14 A. I'm not clear on the question. Can you
15 rephrase?

16 Q. Yes. So if a local Solid Waste Management Plan
17 designates recyclable materials that they can be dropped
18 off, rather than picked up from residents. That can be
19 changed in a subsequent local management plan; correct?

20 A. I believe so, yes.

21 Q. All right. So let me ask you a hypothetical.
22 Let's say the Commission classifies Ridwell as a common
23 carrier, then King County changes its Waste Management
24 plan to include pickup of batteries, light bulbs, and
25 has a contract with the company to provide that service.

1 Wouldn't Ridwell be providing the same service in
2 another solid waste carrier's territory?

3 A. Yes.

4 Q. And would that solid waste carrier that has a
5 certificate from the Commission, would they be able to
6 protest?

7 A. I don't believe so, if the Commission classified
8 the carrier as a common carrier.

9 Q. All right. And at the end of the day, isn't
10 Ridwell providing residential recycling collection
11 services?

12 A. Yes.

13 Q. Doesn't the statute set out minimum requirements
14 for companies providing that kind of service?

15 A. Yes.

16 Q. Now, Mr. Goltz asked you on cross about policy
17 goals. Is enforcing the statute an important policy
18 goal?

19 A. Yeah, I believe the Staff and the Commission are
20 limited by the statute in how far they can develop
21 policy.

22 Q. And regardless of your personal opinions about
23 the policies behind the statute, as Commissioned Staff,
24 it's your duty to enforce the statute; correct?

25 A. That's correct.

1 Q. And Mr. Goltz asked you about specific aspects
2 of solid waste carrier commission rules and regulations
3 on cross-examination. Do you remember that?

4 A. Yes.

5 Q. Once a carrier is classified as a solid waste
6 carrier, doesn't the Commission have substantial
7 discretion in how it regulates that -- that carrier?

8 A. Yes.

9 Q. And is staff willing to consider Ridwell's
10 alternative requests for exemptions as they outlined in
11 their petition?

12 A. Yes.

13 MR. CALLAGHAN: All right. Nothing further,
14 Your Honor.

15 JUDGE KOPTA: All right. Thank you,
16 Mr. Callaghan.

17 Mr. Perkinson, thank you for your testimony,
18 you are excused.

19 THE WITNESS: Thank you.

20 JUDGE KOPTA: Any other witnesses or
21 information that you wish to provide, Mr. Callaghan, in
22 support of Staff's position?

23 MR. CALLAGHAN: Your Honor, I was going to
24 ask to call Ryan Metzger for cross-examination.

25 JUDGE KOPTA: All right. I will allow

1 Mr. Goltz to call him first as his supporting witness.

2 Mr. Goltz.

3 MR. GOLTZ: Great. I will call Mr. Ryan
4 Metzger.

5 JUDGE KOPTA: Mr. Metzger, are you
6 available?

7 THE WITNESS: Yes, I'm loading up the video
8 and the audio.

9 JUDGE KOPTA: All right. Terrific. While
10 you are doing that -- I see you now -- would you raise
11 your right hand?

12 RYAN METZGER, witness herein, having been
13 first duly sworn on oath, was
14 examined and testified as
15 follows:

16 JUDGE KOPTA: All right. Thank you.

17 Mr. Goltz, you made proceed.

18 DIRECT EXAMINATION

19 BY MR. GOLTZ:

20 Q. Good afternoon, Mr. Metzger, could you state
21 your name and spell your last name, please?

22 A. Yes, Ryan Metzger. Spelled R-y-a-n,
23 M-e-t-z-g-e-r.

24 Q. And you filed pretrial testimony in this matter;
25 correct?

1 A. That's correct.

2 Q. And a number of exhibits, records you filed
3 also?

4 A. Yep.

5 Q. And is that testimony, testimony you want to
6 provide today?

7 A. Yes.

8 MR. GOLTZ: I offer Mr. Metzger for -- let
9 me ask this, Your Honor. I do have some questions for
10 Mr. Metzger in response to some of the points made by
11 the previous witnesses. Would it be better to inquire
12 of him now in those or wait until after so I can do them
13 all one redirect?

14 JUDGE KOPTA: Well, I think it would be best
15 to do it now so that Mr. Callaghan knows what
16 Mr. Metzger's direct testimony is.

17 BY MR. GOLTZ:

18 Q. So, Mr. Metzger, could you tell me a little bit
19 more about -- you heard testimony analogizing Ridwell to
20 the LeMay or to other carriers, could you just break
21 down some of the differences between Ridwell and the
22 certificated carriers that you're familiar with?

23 A. Yeah, I think there's a lot of them. And they
24 begin really with what our goal is. And our goal is to
25 help people reuse more of their things whenever that's

1 possible. And if not, find recycling opportunities that
2 are not covered by LeMay's and companies like that.

3 How we do that, there is talk of curbside and
4 things like that. Our pickups are purely on the porch.
5 They are by request, as are junk hauling and other
6 companies where a customer will say I want to pick up
7 and then we come get it.

8 And then when we do pick it up, we take it to a
9 warehouse of ours that's used for storage and then we
10 distribute it to many partners. So many of them are
11 non-profit, like eyeglasses and Halloween candy and
12 canned food and things like that.

13 It's paid with a subscription model that
14 consumers do for the convenience of doing this and for
15 the, you know, confidence that their things are getting
16 to good local partners who will do reuse whenever they
17 can.

18 JUDGE KOPTA: Mr. Metzger, I want to caution
19 you that we have a court reporter who's taking down
20 every word that you say. And the faster you speak, the
21 harder it is for her to do that, particularly on this
22 platform. So if you will be cognizant and try to keep
23 your speed of delivery at moderate place.

24 THE WITNESS: I got that feedback in school
25 too. I will look back to those times and try to go

1 slower. Thank you.

2 JUDGE KOPTA: Thank you, Mr. Metzger.

3 Proceed, Mr. Goltz.

4 BY MR. GOLTZ:

5 Q. Mr. Metzger, Ms. McPherson talked about a
6 revenue stream of recyclables that you pick up.

7 Can you describe what that revenue stream has
8 meant to Ridwell?

9 A. Right. The category that we pick up that are
10 recycled are very, very low value and no value in most
11 cases. If they were value, they would have been ones
12 that could work through the traditional system. So
13 plastic film, very low value. Batteries, low value. So
14 we don't make money off of those. We make money off of
15 consumers paying a subscription. So these commodities
16 that were spoken of are things that are not valuable in
17 our case.

18 Q. So how much revenue have you made, you know,
19 previously on -- or by percentage or amount on -- on
20 such recyclables?

21 A. Yes. Under \$300 in the company's history.

22 Q. So you mention that you -- you place your
23 containers on the porch, generally. Or pardon me, the
24 customers place their containers on the porch.

25 Have they ever placed it elsewhere?

1 A. They have. In the very early days, some of our
2 customers thought they were making it easy by bringing
3 it to the curb. And what happened was those bins
4 disappeared. And our belief was that they were taken as
5 part of the trash service that was already being offered
6 in that service. That happened just a handful of times,
7 you know, five or less.

8 So ever since then, you know, we've been very
9 clear, please put it on your porch. This is a
10 convenience for you. Put your bags that we provide in
11 that bin, we'll come and get it, we'll grab it, if you
12 request to pick up from us.

13 Q. There's also some description of your facility
14 that you describe in your pretrial testimony as a
15 "Merf," M-R-F. Could you describe what's done at your
16 facility?

17 A. Yeah. So we have bags that are brought to us.
18 So it's important to note that consumers place their
19 clothing in a bag, for example, a cotton bag that we
20 provide them. That bag was then brought to us. And
21 again they are sorted by these bags. Those are then
22 emptied along with the rest of that category. So all of
23 the clothing is put together. And then those are stored
24 until a partner can come get the clothing, or we can
25 bring it to a partner, depending on who they are.

1 Q. So you, in your testimony, talk about the
2 mission of the company. Could you basically just
3 reiterate what your mission is?

4 A. Yeah. It's to keep things out of landfills and
5 to help the community. We work with many nonprofit
6 partners who want specific things that can still be
7 used. You know, the canned food example is one that has
8 been used. You know, our mission is really to connect
9 valuable stuff within people's homes to partners around
10 the community who can still get value out of those
11 things.

12 Q. And you testified in your pre-trial testimony
13 about a whole list of categories of materials that you
14 have picked up. And do you have any idea of what
15 percentage of those are in the, quote, "reuse," unquote,
16 category?

17 A. I do. During the period that staff asked about,
18 which was, I believe, November 4th, 2019, through
19 April 1st, there were 26 categories that were offered,
20 and 21 of those had at least some reuse in them. So
21 81 percent of the categories had some reuse. And our
22 goal is to drive that as high as we can. If we can find
23 a partner who will reuse something that is ordinarily
24 recycled, we will seek that out and offer that to our
25 customers, because that is what they are trusting us to

1 do.

2 Q. And just to clarify. You pick up things
3 that the regular certificated waste hauler do not pick
4 up; is that correct?

5 A. Correct.

6 Q. And let me ask something that was raised in the
7 exhibits that was not -- that was, pardon me, in the
8 exhibits sponsored by Ms. McPherson that she was not
9 questioned about. I just don't want to leave it
10 hanging. She put in an exhibit -- a couple of exhibits
11 regarding the Governor's "stay home, stay healthy"
12 order. And I was just -- and I can't find my exhibit
13 list right now, so just hang on a second.

14 KM-10 is the -- and then KM-12. And so -- it
15 seemed to be -- suggests that maybe your operating, our
16 compliance with that "stay home, stay healthy" order,
17 can you describe your efforts to comply with the
18 Governor's proclamation?

19 A. Yeah, there's a number of categories that we
20 looked at very carefully and how would it apply to our
21 business. And so there's the delivery and logistics
22 category. And so delivery services, courier services,
23 things like that are things that are deemed essential
24 and so that is why we continued operating. You know, we
25 believe we've demonstrated our essentialness by, you

1 know, doing things like picking up 18,000 pounds of food
2 or picking up hygiene items. Things like that where we
3 are out there picking up from bins on porches and
4 bringing it to partners who will do good with them
5 during these very difficult times.

6 MR. GOLTZ: Okay. I have no -- I have no
7 further questions.

8 JUDGE KOPTA: All right. Thank you,
9 Mr. Goltz.

10 Mr. Callaghan, cross for you.

11 MR. CALLAGHAN: All right. Thank you, Your
12 Honor.

13 CROSS-EXAMINATION

14 BY MR. CALLAGHAN:

15 Q. Good afternoon, Mr. Metzger.

16 A. Good afternoon.

17 Q. I will be asking you questions mostly about your
18 pretrial testimony.

19 A. Okay.

20 Q. So if you could keep that in front of you, I
21 think that would help move us along.

22 A. Sure.

23 Q. Before we begin, none of my questions are
24 seeking a response that includes confidential
25 information.

1 A. Okay.

2 Q. So if the question that I'm asking you that you
3 feel can't be answered without discussing confidential
4 information, let me know and I can rephrase the
5 question.

6 A. Sure.

7 Q. All right. So Mr. Metzger --

8 A. I have to find my pretrial testimony. Okay. I
9 have it.

10 Q. All right. So, Mr. Metzger, your pretrial
11 testimony mentions that Ridwell donates clothes and
12 other reusable items that you collect to nonprofit
13 organization; is that correct?

14 A. Whenever that's possible, we do.

15 Q. All right. And is Ridwell a nonprofit
16 organization?

17 A. We are not. We are -- have been organized under
18 what's called a "social purpose corp," which is
19 something that is sort of in between a for and
20 nonprofit, but with a distinction that we sought out
21 because our mission is one that is both
22 business-oriented but then also environmental and
23 community based.

24 Q. Okay. And are the recycling materials that you
25 collect donated to your specialty recycling partners?

1 A. They are donated; in that they don't pay us
2 money for them. With a very, very small exception,
3 which was brought up earlier.

4 Q. Okay. And, in general, are the recyclable
5 materials that Ridwell collects a larger source of
6 revenue than the reusable items that you donate?

7 A. Well, it would be \$265 versus zero dollars. But
8 neither of them are our revenue source. Our revenue
9 source is consumer subscriptions, which is for the whole
10 package, which incorporates more reuse and then a little
11 recycling where it's not being offered.

12 Q. Okay. So if Ridwell collected only reusable
13 items from customers, would that be a sustainable
14 business model?

15 A. It would be for some portion of our customers.
16 For others, we don't know. You know, our
17 mission is really broad and so we've chosen to be a
18 horizontal player, which there's a lot of different
19 categories. So I can't tell you how many of them would
20 abandon us if we didn't do, you know, a category here
21 and there. Not all of them would go away, but I'm sure
22 some of them would.

23 Q. All right. And could you turn to page 2,
24 beginning at line 19 of your pretrial testimony for me?

25 A. Correct. Yep. I'm there.

1 Q. All right. Do you see where you state, "Our
2 intention was always to offer reuse and recycling
3 categories not offered by local jurisdictions and that
4 is how we designed Ridwell to operate." Do you see
5 that?

6 A. Can you repeat the line you are talking about
7 again?

8 Q. It is page 2 --

9 A. Okay. Our intention. Yes, I see that. Can you
10 repeat the question now that I found it?

11 Q. So on page 2, line 19, it states, "Our intention
12 was always to offer reuse and recycling categories not
13 offered by local jurisdictions, and that is how we
14 designed Ridwell to operate"; is that correct?

15 A. Correct.

16 Q. And when you say "not offered" in this pretrial
17 testimony, do you mean not offered for pickup?

18 A. Correct.

19 Q. Okay. And are you aware that the jurisdictions
20 Ridwell operates and do you have drop-off locations
21 available for the recyclable materials that Ridwell
22 picks up?

23 A. We are aware some of those exist. And that's
24 actually how Ridwell began is I would take my stuff
25 there and saw how it was taking up a large amount of

1 time. And so it inspired me to figure out is there a
2 way to make it even easier than those drop-off
3 facilities are for many people.

4 Q. Okay. And so does your statement on page 2 mean
5 that if, for example, Recology began offering pickup
6 service for battery, light bulbs, plastic film, does
7 that mean that Ridwell would stop offering pickup
8 services for those materials?

9 A. If it was the same category as what we do, yes,
10 we would do that.

11 Q. All right. And could you please turn to page 7,
12 line 3 of your pretrial testimony and let me know when
13 you're there?

14 A. Is it the one that starts "Differences between
15 Ridwell and a solid waste company"; that one?

16 Q. Yes. Do you see the question "Do you consider
17 yourself a solid waste company?"

18 A. Yep.

19 Q. All right. And your response to that question
20 is that while some of Ridwell -- of what Ridwell picks
21 up might be considered recyclable, that is not the focus
22 of our business; is that correct?

23 A. Correct.

24 Q. All right. When you say that it's not the focus
25 of Ridwell, what do you mean by that?

1 A. I mean that we believe that reuse is a -- a
2 better and higher use than recycling for things that are
3 out there, in terms of someone getting rid of them. And
4 so the focus is to find reuse opportunities and bring
5 those to our customers and make them accessible through
6 their porch.

7 Q. Okay. And could you now turn to page 12, lines
8 3 through 4 in your pretrial testimony?

9 A. Yes, I'm there.

10 Q. All right. Do you see where you state, "We pick
11 up four categories of items on an ongoing basis:
12 Clothing/shoes, batteries, light bulbs, and plastic
13 film." Is that statement in your testimony correct?

14 A. That is correct.

15 Q. And would you say that just based on weight
16 those four items are the bulk of what Ridwell collects?

17 A. It depends on the month and the time. Like I
18 mentioned, you know, this month, we've done a lot of
19 these food pickups, which are quite heavy and were not
20 part of those four. So I would say it's probably not
21 accurate that they are the bulk of them.

22 Q. Okay. To your knowledge, are any -- any of
23 those categories classified as recyclable under the King
24 County local Solid Waste Management Plan?

25 A. I believe they are on the designated recyclables

1 list. But are often not picked up curbside. So that's
2 where we look at the customer's perspective and how they
3 view recyclables and provide opportunities that don't
4 exist.

5 Q. All right. So these items are designated as
6 recyclable by the local Solid Waste Management Plan; is
7 that your recollection?

8 A. Yes, I believe so.

9 Q. And that includes textiles?

10 A. Textiles is on that table, yes.

11 Q. All right. So the four categories of material
12 that Ridwell picks up on a regular basis are designated
13 as recyclable under the King County Solid Waste
14 Management Plan; is that correct?

15 A. The four, yes.

16 Q. All right. And the -- has Ridwell continued to
17 pick up recyclable materials from customers since March
18 23rd of this year?

19 A. Yes. Was that the stay-at-home order, the date
20 of that?

21 Q. Yes. Correct. And you testified briefly on
22 direct that you're aware of Governor Inslee's "stay
23 home, stay healthy" order; correct?

24 A. Correct.

25 Q. All right. Ridwell -- you testified that

1 Ridwell is providing an essential business service under
2 one of the categories in the "stay at home, stay
3 healthy" order; right?

4 A. Correct. Things like delivery services and
5 couriers and stuff like that.

6 Q. And Ridwell is not providing an essential
7 business service under the solid waste category?

8 MR. GOLTZ: Your Honor, I'm going to object
9 to this, because -- unless he sets a foundation that the
10 solid waste -- the meaning of "solid waste company"
11 under Utilities Commission statutes is congruent with --
12 or let me put it another way that the -- that the
13 Governor's executive order has some legal impact on what
14 is done by the Utilities Commission.

15 MR. CALLAGHAN: And, Your Honor, I'll
16 withdraw my question.

17 JUDGE KOPTA: Thank you, Mr. Callaghan.

18 BY MR. CALLAGHAN:

19 Q. Now, Mr. Metzger, prior to the COVID-19
20 pandemic, would you say that the four main categories of
21 items that Ridwell picks up on a regular basis, would
22 you say that they were the majority of what Ridwell
23 picks up?

24 A. It depends on how you define that. So if you
25 could clarify the question a little bit, I can answer it

1 in a way you intend.

2 Q. All right. What I mean is Ridwell has different
3 categories for different types of clothes; correct?

4 A. Well, clothing and shoes is a category that we
5 refer to as "threads," which is available every two
6 weeks. We also, though, find nonprofits who want
7 subsets of that category and we highlight those and
8 offer them. So winter coats is an example. Pajamas is
9 an example. All the things that we've offered
10 throughout the year when we identify nonprofits that
11 need those categories. And when that's done, then that
12 is offered -- is something we will pick up from people's
13 porches.

14 Q. All right. And although you classify those
15 textiles as reusable, those are classified -- all of
16 those categories would fall under the textile category
17 in the King County Local Solid Waste Management Plan,
18 wouldn't they?

19 A. I don't know the answer to that. I know what
20 consumers intend and what we do with it, and that's
21 reuse.

22 MR. CALLAGHAN: I have no further questions,
23 Your Honor.

24 JUDGE KOPTA: All right. Thank you,
25 Mr. Callaghan.

1 Mr. Goltz, any redirect?

2 MR. GOLTZ: Hang on a second. It ended
3 quicker than I thought it would, Your Honor.

4 No, Your Honor, I don't have any -- I think
5 Mr. Metzger answered the question I was going to ask.

6 JUDGE KOPTA: All right, then, Mr. Metzger,
7 thank you for your testimony. You are excused.

8 THE WITNESS: Thank you.

9 JUDGE KOPTA: Anything further, Mr. Goltz,
10 in support of the Company's position?

11 MR. GOLTZ: No, Your Honor.

12 JUDGE KOPTA: All right. Well, as you said,
13 that ended quicker as I expected as well. But that
14 doesn't make it any easier. And I remember it from the
15 prehearing conference that we -- that I reserved the
16 decision about whether to have post-hearing briefs until
17 at the hearing. And having considered the exhibits and
18 the testimony today, I believe the Commission would
19 benefit from having briefing on the issues. I can
20 provide a little bit of direction on what I'm looking
21 for, if that would be helpful?

22 MR. GOLTZ: Yes, Your Honor.

23 MR. CALLAGHAN: Yes, Your Honor.

24 JUDGE KOPTA: I'm curious about what
25 discretion or flexibility the Commission has in

1 classifying a company as -- as being a solid waste
2 collection company. And then what discretion and
3 flexibility the Commission has, if it were to classify a
4 company as a solid waste collection company in how it
5 regulates that company.

6 I am not one for hiding the ball, and I take
7 Mr. Goltz's point that statutory and rule box in which
8 solid waste collection companies are housed, let's just
9 say, is not a perfect fit for this particular company.
10 And is it an all-or-nothing kind of thing, or does the
11 Commission have some ability to tailor any regulation
12 that it finds appropriate to a particular company's
13 business plan.

14 Other than that issue, then I would expect
15 you to brief whether Ridwell is a solid waste collection
16 company and should be classified as such.

17 Did that make sense? Do you understand what
18 I'm looking for?

19 MR. CALLAGHAN: Yes, Your Honor.

20 MR. GOLTZ: That's fine. Just a question as
21 to timing and when the transcript might be requested
22 from the court reporter.

23 JUDGE KOPTA: Well, the standard delivery
24 time for transcripts with the Commission is 10 business
25 days. And unless you want to pay for an expedited

1 transcript, that's when we can expect to see the
2 transcript in this proceeding.

3 So with that in mind, I'm open to
4 suggestions in terms of when you would like to file your
5 briefs. I would prefer simultaneous, one-round briefs.

6 MR. GOLTZ: That's fine, Your Honor. I
7 guess I would prefer not to pay for an expedited
8 transcript. So I think we would want two to three weeks
9 out, at least. Is that fine? I don't envision -- I
10 mean, I'm not going anywhere. So there you go.

11 JUDGE KOPTA: None of us are.

12 Two or three weeks from now or two or three
13 weeks from when you get the transcript?

14 MR. GOLTZ: Well, I'd say it could be three
15 weeks from now; that would be fine. I kind of know
16 what -- what was said today and I think I know what
17 parts of it might be useful. So if -- if it is a 10-day
18 turnaround, then a week or two after that would be fine
19 with me.

20 JUDGE KOPTA: Mr. Callaghan, do you have
21 thoughts?

22 MR. CALLAGHAN: Yes, Your Honor. That --
23 that timing would be fine with me. Is there a page
24 limit?

25 JUDGE KOPTA: Well, I was thinking in the

1 neighborhood of 25 pages. Would that be sufficient?

2 MR. CALLAGHAN: Yes, Your Honor.

3 MR. GOLTZ: I think so, Your Honor. It may
4 be subject to a request for more. The reason I say that
5 is the mention at the outset, there is some legislative
6 and administrative history to this statute that is
7 relevant, and so I would like to be able to explore
8 that. And it may be that some of it could be attached
9 as appendices as it goes on count, or at least made
10 available by hyperlinks, perhaps, would be fine. So we
11 can try for 25 pages; that's fine.

12 JUDGE KOPTA: Well, I -- I remember I had a
13 partner in the law firm where I used to work, before
14 joining the Commission, who said: Give me 10 hours and
15 I'll write you a 20-page brief; give me 20 hours and
16 I'll write you a 10-page brief. So my preference would
17 be to give you the time to write the 25-page brief.

18 MR. GOLTZ: We'll go with 25 pages; that's
19 fine.

20 JUDGE KOPTA: All right. Then we will have
21 25 pages, and today is May 12th. Let's make it an even
22 month and have the briefs due on June 12th, if that is a
23 weekday.

24 MR. GOLTZ: It's a Friday, Your Honor,
25 that's fine.

1 JUDGE KOPTA: All right. Is that
2 acceptable, Mr. Callaghan?

3 MR. CALLAGHAN: Yes, Your Honor.

4 JUDGE KOPTA: Very well. Then I will look
5 forward to receiving your briefs on June 12th, and is
6 there anything further that we need to discuss today?

7 MR. GOLTZ: No. Your Honor, just
8 appreciation to the Commission and everyone. I know
9 that the record center staff, Ryan, did tickle stuff and
10 that was great. And I really appreciate how relatively
11 smooth this whole thing went.

12 JUDGE KOPTA: Well, thank you for your
13 patience, parties and witnesses. This is a rather
14 unusual kind of thing to do, and I think it works best
15 when we are cooperative and that seems to be the
16 circumstance today. So I -- you're welcome for our
17 cooperation and thank you for yours.

18 MR. GOLTZ: Thanks.

19 JUDGE KOPTA: And with that, we are
20 adjourned.

21 MR. CALLAGHAN: Thank you, Your Honor.

22 JUDGE KOPTA: Thank you.

23 (Hearing adjourned at 2:19 p.m.)

24

25

