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1 BEFORE THE WASHINGTON

2 UTILITIES AND TRANSPORTATION COMMISSION

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4 In the Matter of Determining the )DOCKET TG-190672

Proper Carrier Classification of, )

5 and Complaint for Penalties )

Against: )

6 )

)

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WESTSIDE WASTE, LLC )

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PREHEARING CONFERENCE, VOLUME I

10

Pages 1-13

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ADMINISTRATIVE LAW JUDGE RAYNE PEARSON

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December 20, 2019

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1:30 p.m.

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16 Washington Utilities and Transportation Commission

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1 LACEY, WASHINGTON; DECEMBER 20, 2019

2 1:30 P.M.

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

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6 JUDGE PEARSON: So let's be on the record.

7 Good afternoon. Today is Friday, December 20th, 2019.

8 The time is approximately 1:30 p.m. This is Docket

9 TG-190672, which is captioned In the Matter of

10 Determining the Proper Carrier Classification of, and

11 Complaint for Penalties Against Westside Waste, LLC.

12 We're here for a prehearing conference today

13 to address procedural and other preliminary matters.

14 My name is Rayne Pearson. I am an

15 administrative law judge presiding over this matter.

16 So let's start by taking appearances for

17 both parties beginning with Commission Staff.

18 MR. ROBERSON: Good afternoon. My name is

19 Jeff Roberson, R-o-b-e-r-s-o-n, Assistant Attorney

20 General, representing Staff, and my contact information

21 is on file.

22 JUDGE PEARSON: Thank you.

23 And for the company?

24 MR. DIETRICH: Yeah, my name is Steve

25 Dietrich. I'm an attorney representing Westside Waste.

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1 JUDGE PEARSON: I'll need to stop you for

2 one second. Can I get you to turn on your microphone.

3 If you press the button, it will illuminate green. You

4 need to just wait a second, press it and wait. There

5 you go, and then if you could just start over.

6 MR. DIETRICH: Okay. How is that? Can you

7 hear me?

8 JUDGE PEARSON: Yes.

9 MR. DIETRICH: My name's Steve Dietrich.

10 I'm an attorney representing Westside Waste, LLC.

11 JUDGE PEARSON: Okay. Have you entered a

12 notice of appearance in this docket?

13 MR. DIETRICH: I did.

14 JUDGE PEARSON: Okay, perfect. So we have

15 all of your information on file.

16 MR. DIETRICH: Yes.

17 JUDGE PEARSON: Okay. So I don't know how

18 familiar you are with the Commission's processes, but I

19 was just kind of going to give some background about why

20 we're here today and what our options are going forward.

21 MR. DIETRICH: Yeah, that would be great. I

22 mean, just for your information, I was an assistant

23 attorney general for about 25 years.

24 JUDGE PEARSON: Okay.

25 MR. DIETRICH: So I'm familiar with

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1 administrative law processes --

2 JUDGE PEARSON: Okay.

3 MR. DIETRICH: -- but not UTC in --

4 JUDGE PEARSON: Okay.

5 MR. DIETRICH: -- specifically.

6 JUDGE PEARSON: Okay, perfect.

7 So this matter was initiated by Order 01 in

8 this docket, which seeks to classify Westside Waste as a

9 solid waste collection carrier and alleges that the

10 company is operating or has operated without the

11 required certificate from the Commission.

12 We typically deal with these matters, which

13 are called classification proceedings, as brief

14 adjudicative proceedings, or BAPs, rather than full

15 evidentiary hearings. And you're probably familiar with

16 what a BAP is, then, I'm guessing?

17 MR. DIETRICH: Yes.

18 JUDGE PEARSON: Okay. So the way that we

19 conduct our brief adjudicative proceedings, I guess to

20 kind of explain the difference between a full

21 evidentiary hearing and a BAP, in a full evidentiary

22 hearing, parties conduct discovery and are required to

23 file written testimony in advance of the hearing that we

24 refer to as prefiled testimony, and then at the hearing,

25 we conduct cross-examination only. This is a process

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1 typically reserved for more complex matters with

2 multiple parties or multiple issues.

3 And historically, the Commission has

4 conducted classification hearings as brief adjudicative

5 proceedings. And if we do that here, we'll set a

6 hearing date a couple of months out, and then parties

7 would file any documents they wish to be considered at

8 the BAP a week before the BAP. And then at the BAP,

9 parties will have an opportunity to testify, present

10 other witnesses to testify on their behalf, introduce

11 evidence, and then cross-examine Staff's witness or

12 witnesses.

13 So my question I guess at the outset for the

14 two of you is if there's any objection to conducting

15 this proceeding as a BAP?

16 MR. ROBERSON: Not from Staff.

17 MR. DIETRICH: Not from the company.

18 JUDGE PEARSON: Okay. So that brings us to

19 the schedule. I would like to build at least one

20 settlement conference into the schedule because I'm

21 optimistic that the parties will be able to negotiate a

22 settlement that resolves all of the matters that were

23 set out in the complaint, and the Commission always

24 prefers that the parties work together to reach an

25 agreed outcome.

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1 So in light of -- of that fact, and also

2 considering the Commission's scheduling needs at this

3 time, I'm thinking of setting a hearing about 90 days

4 out if that works for the parties, to give you all time

5 to work together and then also just to take into

6 consideration other scheduling constraints that we have

7 here at the Commission.

8 MR. DIETRICH: So you would be looking in

9 March or we would be looking in March?

10 JUDGE PEARSON: That's what I was thinking.

11 MR. DIETRICH: And -- and that's fine. I

12 would just say, my client has -- who obviously wants to

13 be here and testify at the hearing, if there is one,

14 he's a -- in addition to owning this company, he's an

15 over-the-road trucker.

16 JUDGE PEARSON: Okay.

17 MR. DIETRICH: So he has very limited

18 availability.

19 JUDGE PEARSON: Sure.

20 MR. DIETRICH: And it's basically Monday

21 mornings and Fridays.

22 JUDGE PEARSON: Okay.

23 MR. DIETRICH: So if -- if at all we can

24 accommodate that, that would be great.

25 JUDGE PEARSON: We can do that.

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1 So what we could do is we could -- we could

2 pick a date now or I could have my paralegal reach out

3 to you both with a few dates and you could discuss it

4 over email. It's -- it's up to you all.

5 MR. DIETRICH: I -- I've got my calendar

6 here.

7 JUDGE PEARSON: Okay.

8 MR. ROBERSON: As do I.

9 JUDGE PEARSON: Okay. And you're aware of

10 Staff's availability generally speaking or that are at

11 least in the room?

12 MR. ROBERSON: I brought them with me.

13 JUDGE PEARSON: Okay, perfect.

14 So let me pull up my calendar as well as the

15 hearing room calendar. And you said that you need a

16 Monday or a Friday?

17 MR. DIETRICH: Yes.

18 JUDGE PEARSON: Okay.

19 MR. DIETRICH: And I'm -- I'm in a different

20 trial the first week of March, so I guess we'd have to

21 start the second week.

22 JUDGE PEARSON: I'm sorry, what was that?

23 MR. DIETRICH: I'm in a -- I'm in a jury

24 trial the first week of March.

25 JUDGE PEARSON: So would you prefer to do

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1 this after that?

2 MR. DIETRICH: Yes.

3 JUDGE PEARSON: Rather than while you're

4 trying to prepare for that?

5 MR. DIETRICH: Well, I'm -- it's the

6 second -- it's the last week of February, I'll be

7 finishing the first week of March so --

8 JUDGE PEARSON: Okay.

9 MR. DIETRICH: -- starting anytime March 9th

10 I think is what I'm trying to say would be good with me.

11 JUDGE PEARSON: Okay.

12 MR. DIETRICH: Anytime after that.

13 JUDGE PEARSON: How about -- you said Monday

14 mornings are good?

15 MR. DIETRICH: Yes.

16 JUDGE PEARSON: What about Monday, March

17 16th?

18 MR. DIETRICH: That would be great.

19 JUDGE PEARSON: Okay. Does that work for

20 Staff, Mr. Roberson?

21 MR. ROBERSON: I think so. Yes, it does.

22 JUDGE PEARSON: It does, okay.

23 And is a 9:30 start time okay?

24 MR. DIETRICH: That's fine.

25 JUDGE PEARSON: Okay. Okay. Go ahead.

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1 MR. ROBERSON: With regard to settlement,

2 the parties have been in contact, and we're continuing

3 to discuss settlement. So I don't -- I don't know if

4 you want to flag like an official settlement conference,

5 but I think we've pretty much pledged to work together

6 to try to work this out before the hearing date.

7 JUDGE PEARSON: Okay. So what I think I'll

8 do is put a provision in the prehearing conference

9 order. In the schedule, it'll say settlement conference

10 TBD, but I will, consistent with the rule, have to

11 require you to notify me within a certain number of days

12 of the date that you've selected for the settlement

13 conference.

14 MR. ROBERSON: Okay.

15 JUDGE PEARSON: So how long do you think it

16 will take the two of you to pick a day? Do you think

17 you could do it by January 6th?

18 MR. DIETRICH: Oh, sure.

19 MR. ROBERSON: Definitely.

20 JUDGE PEARSON: Okay. So I will just ask

21 that you file a letter, just a brief letter on behalf of

22 both parties, either of you can do it, by January 6th

23 just notifying the Commission of when that first

24 settlement conference will take place. And then we will

25 set also in the prehearing conference order the hearing

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1 for Monday, March 16th at 9:30 a.m. hoping, of course,

2 that we don't make it that far.

3 And just so you know, in the event that the

4 parties are able to reach a settlement, we'll resolve

5 this matter on a paper record and we'll be able to

6 cancel the hearing.

7 MR. DIETRICH: Okay.

8 JUDGE PEARSON: Okay. So I also just want

9 to inform you that the Commission requires electronic

10 filing of all documents in formal proceedings, and the

11 Commission's rules provide for service of electronic

12 doc- -- or electronic service of documents. So we will

13 also serve you all electronically and the parties are

14 expected to serve each other electronically.

15 And also, if either of you would like to add

16 names and email addresses of other representatives or

17 support staff who should receive electronic courtesy

18 copies of documents filed in this proceeding, you can

19 email me their contact information. And my email

20 address is rayne.pearson@utc.wa.gov.

21 Okay. Is there anything else that we need

22 to address while we're here today?

23 MR. DIETRICH: I don't think so, Judge. I

24 think we can -- you know, we're working well together so

25 far. I think, you know, the issues are pretty clear. I

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1 think we can work together and -- and we'll be in touch

2 if we need you.

3 JUDGE PEARSON: Okay.

4 MR. DIETRICH: But I don't anticipate that.

5 JUDGE PEARSON: Okay. That sounds great.

6 Okay. So I will issue an order

7 memorializing what was discussed here today, and I

8 think, then, that we are adjourned. Thank you for

9 coming.

10 MR. DIETRICH: Thank you very much.

11 (Adjourned at 1:39 p.m.)

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3 STATE OF WASHINGTON

4 COUNTY OF THURSTON

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6 I, Tayler Garlinghouse, a Certified Shorthand

7 Reporter in and for the State of Washington, do hereby

8 certify that the foregoing transcript is true and

9 accurate to the best of my knowledge, skill and ability.

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13 Tayler Garlinghouse, CCR 3358

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