

Docket No. TG-190672 - Vol. I

In the Matter of: Westside Waste, LLC

December 20, 2019



1325 Fourth Avenue • Suite 1840 • Seattle, Washington 98101

206.287.9066

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1 BEFORE THE WASHINGTON
 2 UTILITIES AND TRANSPORTATION COMMISSION

4 In the Matter of Determining the) DOCKET TG-190672
 5 Proper Carrier Classification of,)
 6 and Complaint for Penalties)
 7 Against:)
 8 WESTSIDE WASTE, LLC)

9 PREHEARING CONFERENCE, VOLUME I
 10 Pages 1-13
 11 ADMINISTRATIVE LAW JUDGE RAYNE PEARSON

13 December 20, 2019
 14 1:30 p.m.

16 Washington Utilities and Transportation Commission
 17 621 Woodland Square Loop Southeast
 18 Lacey, Washington 98503

20 REPORTED BY: TAYLER GARLINGHOUSE, CCR 3358
 21 Buell Realtime Reporting, LLC
 22 1325 Fourth Avenue, Suite 1840
 23 Seattle, Washington 98101
 24 (206) 287-9066 | Seattle
 (360) 534-9066 | Olympia
 (800) 846-6989 | National
 25 www.buellrealtime.com

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1 A P P E A R A N C E S
 2 ADMINISTRATIVE LAW JUDGE:
 3 RAYNE PEARSON

6 FOR COMMISSION STAFF:
 7 JEFF ROBERSON
 8 Assistant Attorney General
 9 Attorney General's Office
 P.O. Box 40128
 10 Olympia, Washington 98504
 (360) 664-1188
 jroberson@utc.wa.gov

11 FOR WESTSIDE WASTE:
 12 STEVE DIETRICH
 13 Smith & Dietrich Law Offices PLLC
 14 3905 Martin Way East, Suite F
 15 Olympia, Washington 98506
 (360) 915-6952
 steved@smithdietrich.com

17 * * * * *

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1 LACEY, WASHINGTON; DECEMBER 20, 2019
 2 1:30 P.M.
 3 --o0o--
 4 P R O C E E D I N G S

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

Page 5	<p>1 administrative law processes --</p> <p>2 JUDGE PEARSON: Okay.</p> <p>3 MR. DIETRICH: -- but not UTC in --</p> <p>4 JUDGE PEARSON: Okay.</p> <p>5 MR. DIETRICH: -- specifically.</p> <p>6 JUDGE PEARSON: Okay, perfect.</p> <p>7 So this matter was initiated by Order 01 in</p> <p>8 this docket, which seeks to classify Westside Waste as a</p> <p>9 solid waste collection carrier and alleges that the</p> <p>10 company is operating or has operated without the</p> <p>11 required certificate from the Commission.</p> <p>12 We typically deal with these matters, which</p> <p>13 are called classification proceedings, as brief</p> <p>14 adjudicative proceedings, or BAPs, rather than full</p> <p>15 evidentiary hearings. And you're probably familiar with</p> <p>16 what a BAP is, then, I'm guessing?</p> <p>17 MR. DIETRICH: Yes.</p> <p>18 JUDGE PEARSON: Okay. So the way that we</p> <p>19 conduct our brief adjudicative proceedings, I guess to</p> <p>20 kind of explain the difference between a full</p> <p>21 evidentiary hearing and a BAP, in a full evidentiary</p> <p>22 hearing, parties conduct discovery and are required to</p> <p>23 file written testimony in advance of the hearing that we</p> <p>24 refer to as prefiled testimony, and then at the hearing,</p> <p>25 we conduct cross-examination only. This is a process</p>	Page 7	<p>1 So in light of -- of that fact, and also</p> <p>2 considering the Commission's scheduling needs at this</p> <p>3 time, I'm thinking of setting a hearing about 90 days</p> <p>4 out if that works for the parties, to give you all time</p> <p>5 to work together and then also just to take into</p> <p>6 consideration other scheduling constraints that we have</p> <p>7 here at the Commission.</p> <p>8 MR. DIETRICH: So you would be looking in</p> <p>9 March or we would be looking in March?</p> <p>10 JUDGE PEARSON: That's what I was thinking.</p> <p>11 MR. DIETRICH: And -- and that's fine. I</p> <p>12 would just say, my client has -- who obviously wants to</p> <p>13 be here and testify at the hearing, if there is one,</p> <p>14 he's a -- in addition to owning this company, he's an</p> <p>15 over-the-road trucker.</p> <p>16 JUDGE PEARSON: Okay.</p> <p>17 MR. DIETRICH: So he has very limited</p> <p>18 availability.</p> <p>19 JUDGE PEARSON: Sure.</p> <p>20 MR. DIETRICH: And it's basically Monday</p> <p>21 mornings and Fridays.</p> <p>22 JUDGE PEARSON: Okay.</p> <p>23 MR. DIETRICH: So if -- if at all we can</p> <p>24 accommodate that, that would be great.</p> <p>25 JUDGE PEARSON: We can do that.</p>
Page 6	<p>1 typically reserved for more complex matters with</p> <p>2 multiple parties or multiple issues.</p> <p>3 And historically, the Commission has</p> <p>4 conducted classification hearings as brief adjudicative</p> <p>5 proceedings. And if we do that here, we'll set a</p> <p>6 hearing date a couple of months out, and then parties</p> <p>7 would file any documents they wish to be considered at</p> <p>8 the BAP a week before the BAP. And then at the BAP,</p> <p>9 parties will have an opportunity to testify, present</p> <p>10 other witnesses to testify on their behalf, introduce</p> <p>11 evidence, and then cross-examine Staff's witness or</p> <p>12 witnesses.</p> <p>13 So my question I guess at the outset for the</p> <p>14 two of you is if there's any objection to conducting</p> <p>15 this proceeding as a BAP?</p> <p>16 MR. ROBERSON: Not from Staff.</p> <p>17 MR. DIETRICH: Not from the company.</p> <p>18 JUDGE PEARSON: Okay. So that brings us to</p> <p>19 the schedule. I would like to build at least one</p> <p>20 settlement conference into the schedule because I'm</p> <p>21 optimistic that the parties will be able to negotiate a</p> <p>22 settlement that resolves all of the matters that were</p> <p>23 set out in the complaint, and the Commission always</p> <p>24 prefers that the parties work together to reach an</p> <p>25 agreed outcome.</p>	Page 8	<p>1 So what we could do is we could -- we could</p> <p>2 pick a date now or I could have my paralegal reach out</p> <p>3 to you both with a few dates and you could discuss it</p> <p>4 over email. It's -- it's up to you all.</p> <p>5 MR. DIETRICH: I -- I've got my calendar</p> <p>6 here.</p> <p>7 JUDGE PEARSON: Okay.</p> <p>8 MR. ROBERSON: As do I.</p> <p>9 JUDGE PEARSON: Okay. And you're aware of</p> <p>10 Staff's availability generally speaking or that are at</p> <p>11 least in the room?</p> <p>12 MR. ROBERSON: I brought them with me.</p> <p>13 JUDGE PEARSON: Okay, perfect.</p> <p>14 So let me pull up my calendar as well as the</p> <p>15 hearing room calendar. And you said that you need a</p> <p>16 Monday or a Friday?</p> <p>17 MR. DIETRICH: Yes.</p> <p>18 JUDGE PEARSON: Okay.</p> <p>19 MR. DIETRICH: And I'm -- I'm in a different</p> <p>20 trial the first week of March, so I guess we'd have to</p> <p>21 start the second week.</p> <p>22 JUDGE PEARSON: I'm sorry, what was that?</p> <p>23 MR. DIETRICH: I'm in a -- I'm in a jury</p> <p>24 trial the first week of March.</p> <p>25 JUDGE PEARSON: So would you prefer to do</p>

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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

Page 12

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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CERTIFICATE

STATE OF WASHINGTON
COUNTY OF THURSTON

I, Tayler Garlinghouse, a Certified Shorthand Reporter in and for the State of Washington, do hereby certify that the foregoing transcript is true and accurate to the best of my knowledge, skill and ability.

Tayler Garlinghouse, CCR 3358