

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MURREY'S DISPOSAL COMPANY, INC.,

Complainant,

v.

WASTE MANAGEMENT OF WASHINGTON,  
INC., WASTE MANAGEMENT DISPOSAL  
SERVICES OF OREGON, INC., AND DANIEL  
ANDERSON TRUCKING AND  
EXCAVATION, LLC,

Respondents.

DOCKET TG-200651

ANSWER OF WASTE MANAGEMENT OF  
WASHINGTON, INC., WASTE  
MANAGEMENT DISPOSAL SERVICES  
OF OREGON, INC., AND DANIEL  
ANDERSON TRUCKING AND  
EXCAVATION, LLC

1 Respondents Waste Management of Washington, Inc. ("WMW") and Waste Management  
Disposal Services of Oregon, Inc. ("WMDSO") answer Complainant Murrey's Disposal  
Company Inc.'s ("Murrey's") Complaint and assert affirmative or other defenses as follows:

**JURISDICTION**

2 Answering the allegations in Paragraph 2, WMW and WMDSO deny that the Commission has  
jurisdiction over WMDSO or over either WMW's or WMDSO's activities described in the  
Complaint.

**STATEMENT OF FACTS**

3 On information and belief, WMW and WMDSO admit that the Complainant holds WUTC  
Certificate G-009. As to what WUTC Certificate G-009 authorizes, it speaks for itself.

4 WMW and WMDSO are without sufficient knowledge to admit or deny the statements set forth  
in Paragraph 4 and therefore deny the same.

5 Admit.

6 WMW and WMDSO admit the allegations in the first sentence of Paragraph 6. Insofar as  
WMW's WUTC Certificate G-237 authorizes WMW to collect and transport certain solid wastes

(e.g., biomedical waste) in both Jefferson County and Clallam County, WMW and WMDSO deny the allegations in the second sentence of Paragraph 6.

7 Admit.

8 WMW and WMDSO are without knowledge to admit or deny the statements set forth in Paragraph 8 and therefore deny the same.

9 WMW and WMDSO are without knowledge to admit or deny the statements set forth in Paragraph 9 and therefore deny the same.

10 WMW and WMDSO admit that their counsel has represented that federal law preempts WUTC regulation of solid waste transportation activities relevant to this Complaint. WMW and WMDSO further admit that the preempted activity is the transportation of solid waste in intermodal containers via motor carrier from PTP to any rail transfer facility where such containers will be transferred to a rail carrier for transportation to the Columbia Ridge Landfill. To the extent that the Complainant alleges that WMW's and WMDSO's federal preemption argument is limited to the summary set forth in Paragraph 10, WMW and WMDSO deny the same. Insofar as Complainant is trying to summarize lengthy oral conversations for which there are no transcripts or recordings, WMW and WMDSO are without knowledge to admit or deny the remaining statements set forth in Paragraph 10 and therefore denies the same.

11 WMW and WMDSO admit that their counsel explained that there are at least several contracting arrangements whereby federal law would preempt WUTC regulation of the solid waste transportation activities relevant to this Complaint and that WMDSO might restructure its contracting arrangement to comply with the criterion for establishing federal preemption of WUTC regulation. To the extent that the Complainant alleges that WMW's and WMDSO's possible contracting arrangements are limited to the arrangements set forth in Paragraph 11,

WMW and WMDSO deny the same. Insofar as Complainant is trying to summarize lengthy oral conversations for which there are no transcripts or recordings, WMW and WMDSO are without knowledge to admit or deny the remaining statements set forth in Paragraph 11 and therefore denies the same.

12 Admit.

13 Denied.

14 Denied.

15 WMW and WMDSO admit that WMDSO does not hold a Certificate issued under RCW 81.77.040 and WMDSO does provide and subcontract for certain solid waste transportation and transfer services in Washington. WMW and WMDSO deny that WMDSO provides solid waste collection and transportation services requiring a Certificate issued under RCW 81.77.040. To the extent that Paragraph 15 contains factual allegations not expressly admitted, WMW and WMDSO deny those allegations.

16 WMW admits that WMW employees load solid waste onto railcars at the Olympic View Transfer Station in Port Orchard Washington. WMW admits that it pays Kitsap County a license fee for the transfer of intermodal containers at the Olympic View Transfer Station. To the extent that Paragraph 16 contains factual allegations not expressly admitted, WMW and WMDSO deny the same.

17 WMW and WMDSO admit that WMDSO subcontracts with the Union Pacific Railroad (“UPRR”) to transport intermodal containers of solid waste to the Columbia Ridge Landfill. To the extent that Complainant alleges that WMDSO subcontracts with UPRR to transport solid waste in intermodal containers after arrival at the Columbia Ridge Landfill, WMW and WMDSO deny the allegation.

18 WMW and WMDSO admit that DAT provides shipping papers, including waste profile numbers, for the transportation from the paper mill to the Olympic View Transfer Station in Kitsap County. WMW and WMDSO admit that UPRR provides a bill of lading upon the delivery of the solid waste to the WMDSO landfill in Arlington, Oregon. To the extent that Paragraph 18 contains factual allegations not expressly admitted, WMW and WMDSO are without knowledge to admit or deny those allegations and therefore deny the same.

19 WMW and WMDSO are without sufficient knowledge to admit or deny that there is no market for old corrugated container rejects (“OCC Rejects”) and therefore deny the same. WMW and WMDSO admit that WMDSO does not recycle the OCC Rejects received from PTP but instead disposes of them as solid waste. To the extent that Paragraph 19 contains factual allegations not expressly admitted, WMW and WMDSO deny the same.

#### **BASIS FOR COMPLAINT**

20 The allegations in Paragraph 20 consist of statements of law for which no answer is required. To the extent an answer is required, WMW and WMDSO deny the allegations in Paragraph 20.

21 The allegations in Paragraph 21 consist of statements of law for which no answer is required. To the extent an answer is required, WMW and WMDSO deny the allegations in Paragraph 21.

22 Answering the allegations in Paragraph 22, WMW and WMDSO admit that in the weeks preceding the filing of the Complaint WMDSO had contracted with PTP to provide certain solid waste transportation and disposal service for PTP. WMW and WMDSO deny that at the time of the filing of the Complaint WMDSO had contracted with PTP to provide solid waste certain transportation services from PTP to the Olympic View Transfer Station. At that time, PTP had contracted directly with DAT to provide that transportation service. WMW and WMDSO deny each and every other allegation in Paragraph 22.

23 Denied.

24 Denied.

25 WMW and WMDSO deny the allegation that WMDSO is relying exclusively on the exceptions under 49 CFR § 1090.2. Among other bases, WMW and WMDSO are relying on federal preemption of state regulation of solid waste transportation under the Interstate Commerce Commission Termination Act of 1995 (“ICCTA”), as amended. To the extent further answer is required, WMW and WMDSO deny the allegations in Paragraph 25.

26 The allegations in Paragraph 26 consist of statements of law for which no answer is required. To the extent an answer is required, WMW and WMDSO deny the allegations in Paragraph 26.

27 Answering the allegations in Paragraph 27, no facts are alleged for which an answer is required. WMW and WMDSO agree that the Complaint should be resolved in a consolidated proceeding. WMW and WMDSO deny each and every other allegation in Paragraph 27.

28 The allegations in Paragraph 28 consist of statements of law for which no answer is required. To the extent an answer is required, WMW and WMDSO deny the allegations in Paragraph 28.

29 Paragraph 29 contains a prayer for relief for which no answer is required. To the extent an answer is required, WMW and WMDSO deny that Complainant is entitled to any relief.

**AFFIRMATIVE AND OTHER DEFENSES**

30 By way of further answer and without admitting any allegations previously denied, WMW and WMDSO assert the following affirmative and other defenses, subject to supplementation, modification, or withdrawal pending further discovery:

31 Complainant fails to state a claim upon which relief may be granted.

32 The Commission lacks jurisdiction to resolve this dispute.

**PRAYER FOR RELIEF**

- 33 WHEREFORE, WMW and WMDSO request:
- 34 That the Commission dismiss Complainant's Complaint with prejudice; and
- 35 That the Commission grant such other or further relief as is just and equitable.

RESPECTFULLY SUBMITTED this 4th day of August 2020.

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## CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding, by the method as indicated below, pursuant to WAC 480-07-150.

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DATED at Seattle, Washington, this 4<sup>th</sup> day of August, 2020.

s/Karen Lang  
Karen Lang