**BEFORE THE WASHINGTON STATE**

**UTILITIES AND TRANSPORTATION COMMISSION**

|  |  |  |
| --- | --- | --- |
| WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,  Complainant,  v.  WASTE CONTROL, INC., G-101,  Respondent. |  | DOCKET TG-140560 |

**REBUTTAL TESTIMONY**

**OF JACQUELINE G. DAVIS,**

**G.L. BOOTH, J.G. DAVIS & ASSOCIATES, PLLC**

**AUGUST 20, 2014**

**TABLE OF CONTENTS**

**Page**

[I. IDENTIFICATION OF WITNESS 1](#_Toc396292481)

[II. PURPOSE OF TESTIMONY 1](#_Toc396292482)

[III. BACKGROUND TO PRESENT PROCEEDING 2](#_Toc396292483)

[IV. CONTESTED RESTATING ADJUSTMENTS   
COMPANY RESPONSE TESTIMONY 9](#_Toc396292484)

[A. Used And Useful Lives. 9](#_Toc396292485)

[B. Utilities-Costs Staff Restating Adjustment, 6-D. 10](#_Toc396292486)

[C. Property Tax, Restating Adjustment R-6G 13](#_Toc396292487)

[D. Restating Adjustment 6E, Land Rents 14](#_Toc396292488)

[E. Restating Adjustment R-6H Spare Truck Rental 21](#_Toc396292489)

[F. Capital Structure Restating Adjustment, R-8. 26](#_Toc396292490)

[G. Restating Adjustment R-9 “Lurito-Gallagher Inputs” 29](#_Toc396292491)

[H. Restating Adjustments R-10, RC-1, RC-1A and Pro Forma Adjustment P-5A -- Kalama Operations. 31](#_Toc396292492)

[V. PRO FORMA ADJUSTMENTS – COMPANY RESPONSE TESTIMONY 43](#_Toc396292493)

[A. Staff Pro Forma Adjustment P-1A, Payroll Increase. 43](#_Toc396292494)

[B. Staff’s Pro Forma Adjustments P-2 and P-3, for Rate Case Expense and Amortized Rate Case Cost Expense and Discussion of Related “Miscellaneous” Staff Recommendation to Assess Investigation Costs Against WCI. 44](#_Toc396292495)

[C. Pro Forma Adjustment P-4, Fuel Expense. 51](#_Toc396292496)

[VI. SUMMARY RESULTS AND CONCLUDING CALCULATIONS 52](#_Toc396292497)

**INDEX TO EXHIBITS**

**DESCRIPTION Page**

JD-42 2/6/14 Email from Dave Wiley to Steven Smith (Emphasis added) 2

JD-43 “Land Rents Schedule – Revised” 17

JD-44 Depreciation Schedule/ Additional Assets 18

JD-45 Spare Truck Rental and Usage Analysis 23

JD-46 Lurito Inputs/Updated Cost of Debt Calculation 30

JD-47 Legal & Accounting Expenses from January 1, 2014- Present 47

JD-48 Professional Fee Unilateral Reductions Applied 47

JD-49 Updated Results of Operations/Response to Staff Exhibit MC-6 54

**INDEX TO TABLES**

Table 1 WCI Kalama Separated Results of Operations 41

Table 2 Company’s Summary Rebuttal Positions on Contested Adjustments 53

# IDENTIFICATION OF WITNESS

Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND POSITION IN RELATIONSHIP TO WASTE CONTROL, INC.

A. My name is Jackie G. Davis. My business address is 1516 Hudson Avenue, Suite 201, Longview, Washington, 98632-0306. I am a CPA and partner in Booth, Davis & Associates. I am testifying on behalf of Waste Control, Inc. (“WCI”). I filed direct and supplemental testimony in this current docket on April 4, 2014.

# PURPOSE OF TESTIMONY

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to respond, on behalf of Waste Control, Inc., to the testimony of Staff, specifically Staff witness Melissa Cheesman, which was filed in this matter on July 18, 2014. The focus here is to reply and respond to all of the contested accounting adjustments set forth in Ms. Cheesman’s testimony and also to respond to other points raised by her with respect to the original filing in TG-131794 and additional issues developed to date in the record of this proceeding, including some of the summary and miscellaneous recommendations found near the end of the Staff’s testimony.

# BACKGROUND TO PRESENT PROCEEDING

Q. **STAFF WITNESS MELISSA CHEESMAN, IN HER TESTIMONY, REPEATEDLY MAKES OBSERVATIONS AND CONCLUSIONS ABOUT THE ORIGINAL CASE FILING IN TG-131794 WHICH WAS REJECTED AND DISMISSED BY ORDER NO. 5 ON MARCH 25, 2014. COULD YOU PLEASE COMMENT ON THE DISPOSITION OF TG-131794 AND HOW IT RELATES TO THE REFILING OF THE GENERAL RATE CASE DOCKETED UNDER TG-140560 ON APRIL 4, 2014?**

A. Yes, obviously the Company and its representatives were particularly disheartened by the dismissal of TG-131794 which created the unusual procedural posture in this case. The Company was frustrated because once the matter was set for hearing after the prehearing conference on January 14, 2014, we began to address the outline for prefiled testimony by the Company. We repeatedly sought to communicate with Staff largely through counsel, including a key email from February 6, 2014 to Mr. Smith attached as Exhibit (JD-42), to address the fact that our case had already been subject to substantial audit and review after it was filed on September 23, 2013. In other words, there had already been numerous informal data requests, Staff site visits in November 2013, multiple telephone conferences, in-person meetings in December and exchange of pro forma proposed results of operations by both sides unfortunately leading to impasse the third week of December 2013. Thus, we sought to balance the need for explanation and presentation of how the audit of the original rate case led to impasse and adjudication (instead of having the case proceed to the Open Meeting Agenda as almost all other solid waste collection general rate cases do). Because of that extensive history, and the fact that our case had already been fully reviewed by staff, we sought to reach out to the Commission Staff to seek its input on how we might streamline the case for filing of Company testimony and avoid duplication of costs and expense in the presentation of the Company’s initial case, particularly since there has not been an adjudicated solid waste general rate case for over two decades, considerably prior to the most recent revision to the Commission’s general rate case procedural rules.

Q. THE STAFF HAS admitted COMMUNICATION DEFICIENCIES ON ITS PART, PARTICULARLY AT THE END OF MAY IN ITS TESTIMONY AT PAGES 56-58. IN YOUR VIEW, WAS THAT THE ONLY TIME DURING THE COURSE OF THE ORIGINAL FILING AND THE SUBSEQUENT reFILING WHERE STAFF WAS ESSENTIALLY “INCOMMUNICADO” WITH THE COMPANY?

A. No. As noted above, in the two weeks leading up to the filing of the Company’s case on February 18, 2014, the Company, through counsel, made repeated efforts to seek clarity with the Commission Staff on how both parties envisioned the Company could adjust for the extensive review and audit of its case that had taken place to date, yet submit a streamlined case for response by Staff and decision by the Commission pursuant to the prehearing conference order in this matter. The Company was singularly unsuccessful in getting anything in response other than acknowledgement by Staff that solid waste cases are essentially “different animals” procedurally as compared to other Title 80 general rate cases i.e., energy and telephone cases, where the Staff sees the Company’s case for the first time on the filing of prefiled testimony accompanying its case in chief.

Q. HOW DID THIS IMPACT THE COMPANY?

A. As the record is clear, after filing of the Company’s original case where, in order to conserve time and expense, it focused its testimony on contested adjustments but also identified the entire original filed case adjustments in an exhibit, which combined case was then in fact subject to a successful motion to dismiss by the Staff for failure to support its case five weeks after filing.

Q. HOW DID THE COMPANY RESPOND ON RECEIVING THE STAFF MOTION?

A. The Company, through counsel and through WRRA counsel, immediately tried to reach out to the Commission Staff counsel to ascertain whether there was specific supplementation that the Staff would accept in order to withdraw its Motion.

Q. WHAT WAS THE RESULT OF THAT CONTACT?

A. Once again, the Company was rebuffed and was told that the Staff would await the Commission’s decision on its Motion.

Q. WHY WAS THAT DISAPPOINTING TO THE COMPANY?

A. Obviously it was disheartening to see that the Company’s attempts to anticipate the very case format presentation issues that it had alluded to in February were in fact the basis of the Commission Staff’s Motion for Dismissal in early March and that the Commission Staff was subsequently singularly disinterested in trying to resolve the formatting issues that it now identified in its Motion. Moreover, for the Staff in its only case to now advocate wholesale reduction in rate case costs because of its successful Motion to Dismiss compounds our frustration with what we perceive to be a punitive, uncooperative approach of Staff at critical times in this and the previous proceeding. Simply because parties are engaged in a formal adversarial process should not mean that communication and cooperation on procedural issues between parties is precluded or not otherwise encouraged and indeed, that is what the spirit of the Commission’s procedural rules (i.e., WAC 480-07-395(4) and WAC 480-07-415) appear to promote.

Q. HOW DID THE TIMING OF THAT ORDER ON MARCH 25, 2014 IMPACT THE COMPANY OR ITS REPRESENTATIVES?

A. Well, it was obviously adverse. It occurred during the height of the tax return preparation season for our accounting firm and we had only ten (10) business days total after March 25 to re-file the case, now docketed as TG-140560, in order to preserve the interim disposal fee increases granted as of December 1, 2013. We nevertheless attempted to be as comprehensive and accurate as possible in that truncated refiling interval, but the abbreviated time period necessarily caused complications particularly with some of the supporting spreadsheets and formatting of the case as the Commission is well aware.

Q. DO YOU AGREE THAT THE ORDERED CASE REFILING HAS, WHEN TAKEN TOGETHER, RENDERED THE RECORD IN THIS PROCEEDING UNNECESSARILY COMPLICATED AND COMPLEX AS THE STAFF HAS ASSERTED IN ITS TESTIMONY?

A. No. The administrative law judge previously ordered the parties to identify and reconcile any “discrepancies” between the two filings and we did so for the benefit of the Staff, in writing, after the telephonic technical conference on May 16, 2014 which the judge had intended be in person but which Staff converted to a telephone conference. While the forecast or rate year has chronologically changed, the test years in TG-131794 and TG-140560 and most expenses are exactly the same. In addition, there are some comparative adjustments which are profiled in my supplemental testimony (JD-11T) in this proceeding but there are really no additional substantive “complexities,” merely some cumulative data request response clarifications where the parties have confirmed their prior responses in TG-131794 and occasional asides in testimony by both parties referencing the prior case. Other than that, there is nothing “unduly complicated” other than the fact that this is a refiling of a general rate case with the same test period and contested adjustment issues persisting.

Q. ARE THERE OTHER FACTORS YOU WOULD CITE THAT MIGHT HAVE RENDERED THIS CASE MORE protracted IN YOUR VIEW?

A. Yes, and none were really of the Company’s making. First, the Staff, in our case, seems to have discarded the concept of audit sampling and instead required production of each and every original expense invoice, not only for operating assets such as trucks that might be expected, but also for substantially all expenses including rather mundane, miscellaneous office expenses of de minimis value and even from rate reviews many years ago and threatened in many cases to disallow the entire expense if not substantiated. These inquiries were also formalized through data requests, particularly in TG-131794, where voluminous responsive supporting data significantly ballooned rate case time and expense.

Q. WHAT WAS THE COMPANY’S EXPERIENCE IN PREVIOUS GENERAL RATE CASES ON INVOICE SAMPLING AND REVIEW?

A. The Staff auditor would make a site visit and inspect pertinent invoice records in the office and request a small number of copies of select invoices.

Q. HOW WAS THAT DIFFERENT HERE?

A. While, as noted, the auditor also made a site visit, she refused the offer to simply inspect original records there and instead insisted that we provide a copy or scan of each and every document she reviewed on site to support an expense, incurring substantial photocopy costs and, more importantly, personnel time to access and copy or scan those records. This was also true regardless of whether a record to support an expense consisted of 12 monthly invoices or a box of several hundred papers.

Q. IN THE CONTEXT OF THIS apparent MOVE AWAY FROM traditional AUDIT SAMPLING IN SOLID WASTE GENERAL RATE CASES, DOES THE COMPANY HAVE ANY FURTHER THOUGHTS?

A. Yes. While Staff clearly is empowered to effect such a “no sampling” policy, this has never been the norm in prior general rate cases for WCI and, as noted, has resulted in significantly higher hours, extra personnel costs and rate case expense to identify original cost invoices and sometimes research archives that go back 25 years or more which was the case with certain fixed assets or the original costs of certain affiliated transactions. If the concept of audit sampling is being jettisoned, the Company should receive some more formal advance notice of the change in Staff policy and not be admonished after the fact that failure to retain documentation will risk either reduction or even elimination of a previously allowed expense.

Q. WERE THERE ANY OTHER TECHNICAL APPROACHES IN THIS GENERAL RATE CASE THAT THE COMPANY HAD NOT EXPERIENCED BEFORE?

A. Yes. Staff has, in the past year or so, apparently developed a software program to identify hardcode and external links that are contained or are otherwise missing in spreadsheets that are used in support of a Company’s rate case. We had never before experienced rejection of rate case spreadsheets and data based upon hardcodes and external links. In fact, in looking back at some previous rate case files, we observed that spreadsheets and schedules prepared by Staff in those previous audits were also populated with hard codes and missing links, too, even including the original TG-131794 case filed in September. The issue of hardcode removal and external links persisted throughout both case dockets and clearly delayed the review of the rate case and indeed, caused further delay in this proceeding and created a procedural morass for the Company in attempts to undo all the linkage created earlier by both sides in TG-131794. A further problem the Company has confronted is the isolated selection of spreadsheet cells as containing hard codes even where the cells are obviously repeated or elsewhere explained. While the Commission is well aware of this problem by now, when spreadsheets were linked at Staff’s request in the iterative stages of development of the proposed results of operations in these filings, the problem was dramatically compounded. It also sharpened the recognition that previous rate case spreadsheets created by both the Staff and the Company in years past contained numerous hardcodes and external links which were never before a problem. This phenomenon could not have been anticipated as a result of the development of the Staff software program. Indeed, even the Commission website’s Lurito-Gallagher formula has random hardcoded cells but those had never before been viewed as an impediment to rate case filings or reviews.

Q. ARE THERE OTHER CONCERNS BESIDES FAILURE TO RELY ON AUDIT SAMPLING AND FORMATTING THAT PROTRACTED THE CASE IN YOUR VIEW?

A. Yes. Staff has proposed to change previous allocators for certain operating expenses like property taxes, utility costs, and land rents, none of which had ever been suggested or utilized by the Staff or Company in prior rate cases. This change in allocators also extends to the removal of the nonregulated Kalama service which will be discussed in great detail below. Additionally, applying novel, and in our view, untested investment return approaches to shared land rents and equipment rentals as well as switching all rented assets to the USOA method of calculating depreciation after the fact triggered the need for the Company to compile numerous new schedules for the case. These include depreciation schedules for rental properties and analysis of the Staff’s proposed return approach, which again, creates the need to go back through decades of records never before sought by Staff in previous general rate cases. In the case of land rents in particular, depreciation schedules for all shared rental properties had to be prepared since the inception of the rentals. We were then asked to provide explanations about the assets contained therein many of which were over twenty years old. This, as indicated, requires significant additional accounting time to produce and present for Staff. Finally, responding to the Staff’s proposed changes in the calculation of the Company’s ultimate revenue requirement under Lurito-Gallagher which the Company asserts materially modifies its results of operations has obviously caused protraction of time and expense for the Company in responding to heretofore unrecognized applications of the Commission’s solid waste ratemaking methodology in the Staff evaluation.

Q. PLEASE now EXPLAIN THE ORGANIZATION OF SECTION IV OF YOUR REBUTTAL TESTIMONY.

A. For clarification, we now address the contested restating and pro forma adjustments set forth in Staff’s Tables 1 and Table 2 at pp. 9 and 10 of Exhibit MC-1T in order, and also note any departure from the analytical sequence which Staff utilizes.

# CONTESTED RESTATING ADJUSTMENTS COMPANY RESPONSE TESTIMONY

## Used And Useful Lives.

Q. WHAT IS YOUR REACTION TO THE STAFF TESTIMONY ON RESTATING ADJUSTMENT, R1-A?

A. Generally, we accept the Staff recommendation on depreciation and used and useful lives of depreciable operating equipment assets. It is also correct that, historically, Waste Control has used longer lives of 10 versus seven years than are reflected in the USOA recommended standards. Ten years reflects the historic utilization of the equipment and our previous understanding of Commission Staff policy acceptance of longer asset lives based on actual practice. Staff did not propose this adjustment in TG-131794 and the Company did not become aware of the recommendation until July 18. However, we accept the Staff’s adjustment of useful lives in this case which, as it indicates, increases the revenue requirement by $24,370 and decreases the average net investment by $29,811.

## Utilities-Costs Staff Restating Adjustment, 6-D.

Q. WHAT IS THE COMPANY’S REACTION TO THE STAFF PROPOSAL TO ALLOCATE UTILITY COSTS ON ITS “THREE-FACTOR” FORMULA AND REDUCE WCI’S revenue requirement, ACCORDINGLY?

A. We strongly disagree with this adjustment.

Q. PLEASE DESCRIBE WHY.

A. First, we do not concur with the “Three-Factor-Allocators” outlined at lines 3-6, page 16 of Exhibit MC-1T, which Staff averages and dispute that it produces a “reasonable result.”

Q. ELABORATE ON THIS CONCLUSION, PLEASE.

A. We have some basic theoretical objections to the Staff’s proposed allocation that uses: gross revenues, number of employees, and fixed asset book values of the affiliated companies to allocate utility costs for commonly-shared facilities. We particularly do not believe that either gross revenues or fixed asset values of nonregulated affiliate operating property has any relevance to allocated regulated expenses. Gross revenues do have limited relevance, for instance on the allocation of WUTC fees and B&O tax allocated shares, but little other value as an allocation factor. Combined fixed asset value is wholly unreliable and when nonregulated operating assets are included, exacerbates the flaws in the Staff’s allocator assumptions. The testimony of Layne Demas on rebuttal will explore Staff’s allocator assumptions in additional detail.

Q. SPECIFICALLY ON THE UTILITY COST ALLOCATION PROPOSAL, WHAT IS THE COMPANY’S RESPONSE?

A. One substantial concern is that the Staff auditor assumes in her allocators that there is no operating cost differential among the Waste Control companies related to cost of sales. This is obviously not the case, since for instance Waste Control Recycling, Inc. (“WCR”) has very high material costs. The effect of WCR’s high material costs being included in its revenue obviously inflates the revenue figure when compared to other affiliate companies. WCR also has a higher cost of sales per dollar of revenue than other Waste Control entities, suggesting that revenues as an allocator would not accurately assign costs, i.e. utility, to that type of enterprise. We also assert that West Coast Paper Fibres (“WCPF”) should not be included at all in the utility cost allocation. WCPF has one single employee who works from home. As Staff notes in footnote #13 in its testimony, WCPF’s overall revenues are an immaterial part of the Companies’ combined financial data. WCPF has no utility costs since the paper brokerage employee works out of his house thus it is also inaccurate to assume any fractional utility charge consumption charge allocator for WCPF.

Q. WHAT IS THE COMPANY’S VIEW OF THE USE OF FIXED ASSET VALUEs AS AN ALLOCATOR OF COSTS, SUCH AS UTILITY EXPENSE?

A. We question what relevance, if any, fixed assets have to utility expense or other costs particularly because for all of these Companies, the fixed assets are almost totally comprised of equipment, not real property. Clearly, for utility consumption, a more appropriate allocator would be square footage of utilization by the regulated company in proportion to the overall square footage of the leased property used by all pertinent affiliates. This allocator would exclude WCPF from any allocation equation and would also avoid the nonspecific and broad-brushed Staff assumptions of the value of a fixed asset to utility cost expenditures.

Q. DOES STAFF HAVE ANY ACTUAL DATA OR EXPERIENCE TO USE SQUARE FOOTAGE, FOR INSTANCE, AS AN ALLOCATOR?

A. Yes, in data request response DR 8 in TG-131794, it was furnished property tax return computations including square footage references to examine valuations of real property and improvements and Staff also made a site visit to Waste Control, Inc.’s and affiliates’ jointly-utilized properties in November, 2013. So it has both quantitative and first-hand information.

Q. DID THE STAFF ALSO APPARENTLY FAIL TO TAKE INTO ACCOUNT OTHER AFFILIATE COSTS IN CALCULATING ITS ALLOCATION FOR AND ADJUSTMENT TO UTILITY EXPENSES IN THE TEST YEAR?

A. Yes, Staff analysis failed to factor into its overall cost of aggregate facility utilities the costs paid directly by Waste Control Recycling, Inc. totaling $59,215 in the test period. Including WCR in proposed allocators based on revenue, employees and fixed assets also is complicated by the fact that Waste Control Recycling, Inc. occupies its own facilities that are not shared, particularly the focal transfer station and Building “E.” Many of Waste Control Recycling’s employees work out of those facilities where much of its revenue is generated and the utility costs for that portion are, in fact, not shared with other affiliates. It is therefore erroneous to derive a reasonable allocation of property utility costs by including i.e, 100% of WCR’s revenues, employees and fixed assets because they exclusively occupy much more real property than the Staff is attempting to allocate in its revised formula which therefore fails to produce either a meaningful or accurate result.

Q. IN THAT REGARD, CAN YOU PLEASE SET FORTH YOUR PROPOSAL FOR ADJUSTMENT OF UTILITY COSTS TO BE RECOVERED IN RATES FOR WCI DURING THE TEST YEAR AND EXPLAIN WHY YOU MAKE THAT RECOMMENDATION?

A. Assuming the $59,215 of utility costs paid by WCR in the test year were included in the Staff calculation, we would then propose to further modify the Three-Factor allocation to eliminate WCPF. Additionally, we would adjust the revenue allocator by omitting the costs of materials purchased by WCR. Those changes would increase the proposed utility cost allowance to a figure of $28,926, translating into an increase of $15,890 in allowable operating costs and a $16,990 increase to the revenue requirement.

## Property Tax, Restating Adjustment R-6G

Q. WE BRIEFLY SKIP THE HEAVILY DISPUTED LAND RENT RECOMMENDATION IN STAFF’S SEQUENTIAL PRESENTATION. WHY IS THAT A LOGICAL SEQUENCE IN YOUR VIEW?

A. Because the property tax proposed adjustment utilizes the same Staff “Three-Factor” allocation formula addressed immediately above for utilities: of percentage of revenue, number of employees and fixed asset values in relation to shared facilities, as depicted in Exhibit MC-7 in allocation of property taxes.

Q. DO YOU AGREE WITH THE STAFF’S ADJUSTMENT OF A $2,000 REDUCTION ($1,946) IN REVENUE REQUIREMENT?

A. No. In so doing, even by its own allocation factors, the Staff understates the portion of property tax expense allocated to WCI and overstates that attributable to other affiliated companies.

Q. WHAT DOES THE COMPANY BELIEVE AN APPROPRIATE TOTAL ALLOCATION OF TEST YEAR PROPERTY TAXES SHOULD BE TO WCI AND WHY?

A. By making the adjustments to the allocators noted above, (eliminating WCPF and cost of materials for WCR), the allowed property taxes increase by $489. Utilizing the same modified allocation factors related to the truck shop which is described in the Land Rents discussion below, yields an additional $1,743 in associated property tax based on an in-service date of the truck shop of March, 2014. Because of Applied Industries ongoing occupancy in a portion of the property, the Company has further reduced the recovery of allowed property taxes to 2/3 of the property allocable to the affiliated Companies. This calculation amounts to a proposed increase of $2,232 for property tax restating adjustment R-6G, and a corresponding increase of $2,387 in the revenue requirement.

## Restating Adjustment 6E, Land Rents

Q. WHAT IS YOUR RESPONSE TO THE STAFF’S PROPOSAL FOR REDUCING THE PER BOOKS AFFILIATE LAND RENTS FROM APPROXIMATELY $138,000 TO $47,000 BY LOWERING THE REVENUE REQUIREMENT RELATED TO LAND RENTS BY $81,233?

A. We thoroughly disagree with this proposed adjustment. Staff inferentially at least tries to justify its wholly unorthodox treatment of land rents here by broadly alluding to the affiliated interest statute on jurisdictional disallowance of affiliated transactions at RCW 81.16.010. However, its recommendation and repeated reference to a “cost plus return” mantra obfuscates the “picking and choosing” allocation methodology in which it engages here that has one apparent goal: that of arriving at the lowest possible rent allowance to be recouped in rates by the regulated solid waste collection company.

Q. WHAT ARE SOME OF THE UNPRECEDENTED IMPACTS OF STAFF’S RECOMMENDATIONS ON LAND RENT ALLOWANCE?

A. Well, both in our original direct testimony, JD-1T, beginning at line 9, page 11 through line 3, page 13 and lines 16-25, page 17 through line 11, page 18, as well as in our Supplemental Testimony beginning at page 6 of JD-11T continuing to page 9 of the Supplemental Testimony, we outline and anticipate the negative impact and effect of Staff’s land rent recommendations which thus need not be restated here. The Staff’s recommendation also blends the affiliate-Landlords’ separate capital structures (Heirborne I and II) in arriving at an allowable rent and refuses to consider the capital structure of the leased asset in question as had *Bremerton-Kitsap Airporter, Inc*. (“BKA”), Docket No. TC-001846 (August 2002), which the Company referred to in proposing its rendition of allowable rent.

Q. WHAT IS YOUR UNDERSTANDING OF WHY THE STAFF REFUSED TO CONSIDER/ISOLATE THE CAPITAL STRUCTURE OF THE INDIVIDUAL RENTED ASSETs SUCH AS THE STAFF HAD PREVIOUSLY ENDORSED IN THE BKA CASE?

A. Apparently, Staff now concludes that “[u]sing an asset specific hypothetical capital structure inflates the calculated return on investment and is not the Commission’s normal practice.” In so concluding, it disregards, as noted, the approach previously taken in BKA and apparently infers other Title 81 cases have adopted its new approach but fails to further support this pivotal contention in its testimony or with citations.

Q. IS IT CORRECT THAT THE COMPANY’S PROPOSAL ON AFFILIATED RENT ALLOWANCE DOES NOT ACCURATELY ADDRESS OR CAPTURE HEIRBORNE I OR HEIRBORNE II’S CURRENT FINANCIAL RISKS?

A. Yes, but only to the extent we believe it is inappropriate and unprecedented to impute the capital structure of a nonregulated affiliate, non-parent entity into the analysis of a reasonable return on a rented asset owned by the nonregulated sister company. Using an asset specific approach, such as occurred in BKA, insures that the actual capital structure of the rented asset will be calculated into the return equation but does not factor in debt and return of all other unrelated properties which the nonregulated affiliate may own but which have no relevance to the regulated affiliate’s operations.

Q. IN THAT REGARD, CAN YOU ANALOGIZE WHAT THE STAFF PROPOSES HERE TO THE CIRCUMSTANCE IN *BREMERTON-KITSAP AIRPORTER*?

A. Yes. What Staff proposes here with imputation of the entire capital structure of HBI and HBII would be as if the entire personal financial holdings of the owner in BKA who leased the office building to the Company were to be used, including residential mortgages and all other personal and commercial properties owned by the BKA principals, in the total debt denominator calculation. This apparently would, in the Staff’s view, capture the complete “financial risk” posed by the aggregate debt of the owner to establish what Staff now asserts is a comprehensive picture of the purported risk facing the regulated company in establishing a fair return. However, obviously, the effect of this recommendation completely disconnects the concept of operating property regulated assets from any correlation to the isolated shared rental asset in question and artificially lowers the allowed rent on the asset by tying that calculation to all other cross-collateralized, nonregulated entity-owned or rented properties.

Q. ARE THERE OTHER EFFECTS YOU WOULD NOTE IN RELYING ON YOUR UNDERSTANDING OF LUrito-GALLAGHER RATEMAKING METHODOLOGY WHICH STAFF’S LAND RENT RECOMMENDATIONS SEEM TO CONTRAVENE?

A. Yes. By utilizing the nonregulated affiliates’ capital structures in ultimately establishing allowable regulated rates, the Staff is attributing a capital structure that is not based on either the regulated company’s or the isolated assets’ actual capital structure. It is therefore effectively “imputing” a capital structure that is “unreasonable” (i.e. using the 93/7 debt-to-equity ratio of a nonregulated, non-parent affiliate) in arriving at cost plus return in violation of the principles set forth in Order Nos. 4-5 in re TG-900657-900658, *WUTC v. Sno-King Garbage Company, Inc. et al*, (Dec. 1991) at 8. Thus, the attribution of capital structure here by Staff is neither reasonable nor is the allowed return on the affiliate-owned asset “fair” in arriving at an allowed rental expense to be recouped by the regulated company in rates.

q. how do staff’s proposed allocators for land rents differ from the company’s and why are the company’s allocators more appropriate in your view?

A. Staff has proposed using the Three-Factor Allocation for land rents for all properties shared by all three companies (WCI, WCE, (“Waste Control Equipment”)and WCR). For the reasons illustrated previously, this is not a reasonable allocator. In addition, WCR’s operations are located in several unshared facilities including the transfer station, building E (used to receive and handle certain recyclable materials) and the portal buildings. Thus allocations to WCR based on its total revenue, employees and equipment results in a very unfair allocation of rents to that Company. Since a smaller portion of WCR’s operations are sharing space with the other two Companies, we suggest the historical allocation of 1/3 to each Company is a more reasonable and consistent allocation. WCI and WCE are very similar in size and WCR, once adjusted for the space it occupies singularly, is actually similar as well. Although of course there is no perfect scientific allocation, we believe the land rent allocations used in past cases have proven reasonable. The exception to all of the above is the new truck shop servicing trucks owned by WCR which thus receives a greater allocation of rent described at pp. 18, 19, below.

Q. HAVE YOU NOW PREPARED AN EXHIBIT FOR YOUR REBUTTAL TESTIMONY On LAND RENTS THAT UPDATES YOUR PRIOR TESTIMONY AND RECOMMENDATIONS AND WHICH ADDRESSES DIFFERENCES BETWEEN THE COMPANY’S POSITION ON PROPERTY RENTALS IN REBUTTAL AND THE STAFF POSITION IN ITS CASE?

A. Yes, and it is featured separately here as Exhibit JD-43. It seeks to present all of our current positions on the contested adjustments for land rents and provides calculations in support, supplanting the extensive amount of narrative testimony we have previously submitted into the record on the material restating adjustment dispute on land rents which in turn is also now a focus in Layne Demas’ testimony.

Q. can you just briefly characterize some of the analysis in that exhibit?

A. Yes. In that exhibit we analyze and present the company’s positions on asset specific capital structure, cost of debt/interest rates, return on equity, usage computations for regulated operating properties and revised rate base computations for additional building and capital improvement assets.

q. Have you currently calculated the cost of debt for buildings financed by the heirborne bond issuance?

A. Yes. The current effective bond interest rate is 2.635% and that is the rate we utilized in computing return on land rents.

q. which financed buildings does this rate apply to?

A. The covered parking and the new truck shop facility (described below) which are used by Waste Control.

Q. have you calculated any other cost of debt for financed buildings used by waste control?

A. Yes. For the Stanley Plaza Warehouse facility where we have applied a 5.27% cost debt versus the Staff’s, 4.28%.

q. what is the basis for your cost of debt analysis for stanley plaza?

A. We calculated the actual cost of debt, including that in the “Swap Agreement” documents which have been provided to Staff and which we also demonstrate in the calculations for Exhibit JD-43, “Warehouse” tab.

Q. HAVE YOU ISOLATED ADDITIONAL NEW ASSETS YOU note IN A SEPARATE EXHIBIT?

A. Yes. We have as well in Exhibit JD-44.

Q. DESCRIBE EXHIBIT JD-44, PLEASE.

A. Exhibit JD-44 is an asset depreciation report highlighting two new facilities both of which were placed into service outside the test period but which are in operation now in the rate/forecast year. They are, as highlighted on the Exhibit, “Boneyard Improvements” which are initially addressed in Exhibit JD-11T and Staff data request responses and involve Department of Ecology-mandated stormwater infrastructure improvements to Heirborne’s real property used by Waste Control, Inc. to facilitate and comply with stormwater management requirements. The original capitalized amount at the end of the test period was $45,239. Since then, another $222,822 has been capitalized. Again, these properties are owned by HB and the Boneyard improvements were placed into service as shown on the attached Exhibit schedule on or before December 31, 2013 and March 31, 2014, respectively. Also included on the exhibit is a new truck shop which opened in the first quarter of 2014 and is used for repair and service of trucks used by Waste Control, Inc. and affiliates in their daily operations and which is capitalized at $1,596,950.

Q. WHAT USE ALLOCATION TO WCI DO YOU ATTRIBUTE to THESE NEWLY-LEASED HEIRBORNE-OWNED PROPERTIES? AND WHAT IS THE BASIS FOR YOUR CONCLUSIONS AND CALCULATIONS PLEASE?

A. The Boneyard improvements are allocated in the same fashion as all the original Boneyard properties which is 33% to the Company. The depreciation allowed on these new assets for the rate year we calculated as $5,897. The return on investment would be $4,861. To calculate this return, we assumed the new improvements were 100% debt encumbered and used the interest rate of 2.635% as calculated in our Exhibit JD-46. We also used the 15% cost of equity return rate as we discussed in previous testimony and as utilized in the *BKA* order. Based on these adjustments, the total return attributed to the additions for the forecast rate year is $16,301. Again, the new shop will be used by all three operating companies for servicing their equipment. Assuming a 24.24% use by WCI of the truck shop, (as allocated by number of trucks), depreciation for the adjusted test year period would total $10,887 with an allowed return on investment of $10,039.

Q. iS THERE ANYTHING ELSE IN THE WAY OF ASSETS USED BY WASTE CONTROL, INC. THAT YOU WOULD PROPOSE BE INCLUDED IN YOUR ADJUSTMENT TO LAND RENTS?

A. Yes. In once again reviewing Staff and Company leasehold asset schedules in response to recent data requests, we noticed that despite listing of the 1998 office building on the 2009 rate case asset list, that building was somehow left off of all pertinent schedules in TG-131794 and TG-140560. Neither WCI nor the Staff noticed this omission until a few weeks ago possibly due to the sheer volume of schedules prepared for this filing. The remaining original cost of this building (after a partial disposal in 2011 to allow for new construction) was $343,211.62 and is owned by Heirborne and used for daily operations by Waste Control, Inc.

Q. wHAT IS YOUR DERIVED ALLOCATED USAGE FACTOR FOR THIS OFFICE BUILDING? WHAT IS YOUR SUPPORTING CALCULATION AND HOW DOES ITS ADDITION in combination with the changes above AFFECT THE INCREMENTAL REVENUE REQUIREMENT FOR THE COMPANY?

A. 33% and thus $13,359, which is now incorporated into the office building rental schedule and is now a part of the Company’s overall land rents calculation. In total, the Company’s land rent calculation would increase overall operating costs by $118,658 and the revenue requirement would increase $126,818.

Q. HOW DOES THE INCLUSION OF THIS OFFICE BUILDING ASSET DIFFER FROM THAT OF THE REFERENCED BONEYARD IMPROVEMENTS AND TRUCK SHOP?

A. This building was “used and useful” as a regulatory asset throughout the rate case test period.

Q. with these additional buildings noted in the proposed rate base, CAN YOU PLEASE SUMMARIZE WHY YOU again BELIEVE THE STAFF’S RESTATING ADJUSTMENT OF $81,233 IS FLAWED AND ERRONEOUS for land rents?

A. Yes. Using Heirborne’s capital structure, as Staff proposes, completely skews WCI’s revenue requirement which, since Heirborne’s debt structure is heavily debt-laden due to the bond offering for the Waste Control Recycling construction and operation of the transfer station in 2006, dramatically alters the allowable returns on all rental properties to be recouped in rates by Waste Control, Inc., in a fashion never before employed in a WCI general rate case.

Q. finally, IS THE COMPANY PREPARED TO ADJUST ITS CALCULATION OF AFFILIATED RENT ALLOWANCE BY THE revised COST OF DEBT that is referred to above with respect to loans on financed buildings?

A. Yes. The Company is willing to use the actual cost of debt for HB’s bond interest rate of 2.635% which again, has been used to fund the truck shop and covered parking, if the Staff agrees to utilize the asset-specific approach to affiliate-owned rental property it employed in the *Bremerton-Kitsap Airporter* case for the reasons the Company described above and as shown in Exhibit JD-43 in opposing the Staff’s “hybrid” approach to nonregulated affiliate capital structure return calculations. If the Staff were accepting of the BKA asset approach, the Company could in turn accept the use of the 2.635% bond interest rate the Company has calculated as the applicable cost of debt on the financed leased properties.

## Restating Adjustment R-6H Spare Truck Rental

Q. DID YOU generally CORRECTLY ANTICIPATE THE POSITION OF STAFF ON ITS SPARE TRUCK RENTALS RESTATING ADJUSTMENT IN YOUR PREFILED TESTIMONY?

A. Yes. Like “Land Rents,” we foreshadowed the dispute on this adjustment in extensive detail and need not redundantly reiterate our position here in generalized rebuttal to that Staff position.

Q. FOR THE COMMISSION’S BENEFIT WOULD YOU PLEASE REFER TO THAT PREVIOUS TESTIMONY ON EQUIPmENT RENTALS AND ANY PERTINENT EXHIBITS HERE?

A. Yes. First of all, in TG-131794, we provided Exhibits JD-5 and JD-6 which were detailed analyses of truck rental asset return computations both applicable to the current and previous general rate case. At JD-1T, page 10 lines 14-25 through line 21 page 14, and Exhibit JD-39 in TG-140560, I, by narrative and by computations, explain the effect of the Staff’s analysis and prospective impact on the use of affiliates’ capital structures. This recommendation reduces the per-books, and proposed-Company allowance for equipment rental to the very paltry amount formally proposed by Staff in this case and decreases the proposed revenue requirement adjustment by over two-thirds, versus the modest $36,000 in expense sought by the Company to be recovered in rates in the test period.

Q. DO YOU HAVE ADDITIONAL COMMENTS ON THE STAFF’S TESTIMONY ON SPARE TRUCK RENTALS?

A. Yes. Quite a few.

Q. WHAT ARE SOME OF THOSE, PLEASE?

A. The Staff indicates it’s using the same interpretation of cost plus return on the spare truck expense it used in the dramatic reduction in Land Rent expense. Here, it calculates that on truck rentals with respect to owner-affiliate Waste Control Equipment’s most recent capital structure, actual cost of debt and comparable cost of equity employing a discounted cash flow analysis based on data derived from the national truck rental industry.

Q. AS TO THE LATTER, UTILIZING DISCOUNTED CASH FLOW AND STATISTICS RELATED TO THE NATIONAL TRUCK RENTAL INDUSTRY, WHAT ARE YOUR Theoretical responses?

A. First of all, obviously using statistics compiled, by i.e. Hertz-Penske, or other large publicly-traded truck rental companies has no relationship whatsoever to the requisite stand-by use of trucks for a privately-held regulated solid waste collection company that is generating under $5 million in annual revenues in Cowlitz County, Washington. That is an “apples and oranges” comparison that is, in our view, absolutely indefensible by suggesting that risk analyses, cash flow and access to debt are in any way comparable between Waste Control, Inc. and Hertz-Penske rental trucks for instance. Additionally, renting a spare garbage truck is not something you do by simply going down to the corner store. Assuming solid waste collection vehicle rentals were even available on an on-call basis in the locality upon which the Commission Staff’s calculation for usage is computed is not only dubious but would also suggest a per diem charge far in excess of the per-books or Company-requested rental equipment increment in rates that is sought to be recovered here.

Q. REMIND THE COMMISSION AGAIN ABOUT THE BASIC MECHANICS OF THE STAFF’S PHILOSOPHY ON TRUCK RENTALS VIS-A-VIS CAPITAL STRUCTURE.

A. Well, in utilizing the capital structure of lessor-affiliate Waste Control Equipment, the Staff is artificially inflating the debt component in a return on investment scenario for assets that are older and fully depreciated and which would therefore necessarily yield a minimal return for ratemaking purposes.

Q. WHERE HAS THE COMPANY previously SET FORTH ITS ANALYSIS OF the methodology of APPROPRIATE TRUCK RENTS TO BE CONTRASTED WITH THE STAFF’S TESTIMONY?

A. Previously in Exhibit JD-39. That exhibit is now supplanted by Exhibit JD-45 in analysis of the Company’s proposed adjustments for truck rentals.

Q. has the staff ASKED the company to retroactively VALIDATE a percentage of TRUCK usage by the company?

A. Yes, in formal data requests. We responded to data requests that we could not address the records retroactively and that that would be unduly burdensome to accomplish and in response to Staff DR16 on June 12, 2014, we provided a good faith estimate of 75% use of the trucks by WCI in that interval.

q. what was staff’s response?

A. Without actual contemporaneous proof of that good faith estimate, Staff refused to accept our allocation even though truck rents for the Company have been previously allowed for instance, at a $45,000 level in the 2009 case. Here we had requested only $36,000.

q. in response to staff’s formal testimony on truck rents what have you now done?

A. The Staff rejected use of our estimate and imputed a hypothetical usage factor. Now the Staff has assigned a hypothetical usage factor that was highly adverse. Upon seeing their proposed allowance and theory for vastly diminishing the Company’s use of the spare truck equipment, we have had a CPA in our office go through the entire test period individual disposal ticket records to separate days of usage by the regulated company and to calculate total days the trucks were actually operated by any company. Although this was indeed “unduly burdensome” and took an inordinate amount of time and expense, it did yield a more accurate usage allocation as sought by Staff initially in its data request.

Q. WHERE HAVE YOU COMPILED THOSE DAYS OF TRUCK USAGE DATA?

A. In new Exhibit JD-45 which notes the days of usage in the test period by truck number in addition to providing a revised truck rental return analysis.

q. what was the result of that study?

A. It yielded a figure of overall usage by Waste Control Inc. of 64% during the test period as shown through a review of Exhibit JD-45.

q. have you done anything else with that calculation?

A. Yes. As noted, we have broken the usage amount factor down by truck and by day, relying here on the Staff’s own methodology and replaced the “available days” denominator with actual days used.

q. what does this calculation yield?

A. This analysis alone would increase the allowable truck rents under Staff’s own contested allocation formula to in excess of $35,000. Additionally, we have further modified Staff’s proposal calculation to allow a cost of equity of 15% and reflected no debt on the trucks as is the reality.

q. have you done anything else in your calculation in addition to utilizing a 64% usage factor for Wci and actual truck days?

A. Yes. Finally, we have included in allowable expense the sales tax paid by WCI to WCE on the truck rentals and included that in the truck rental amount of $36,000. At an 8% rate, the sales tax amounts to $2,667.

q. How do these figures compute in the final calculation?

A. These changes in total result in allowed truck rentals of $40,013 as opposed to Staff’s proposed allowed amount of $8,404 or an increase of $31,609 in operating expense and a related increase in revenue requirement due to this provision, of $32,866.

Q. WHAT IS THE impact OF the staff’s current OVERALL RECOMMENDATION ON TRUCK RENTS?

A. Effectively almost 80% of the previously allowed expense in the 2009 case for truck rentals is removed, which freezes management decision-making with respect to the acquisition and deployment of spare trucks. Spare trucks are of course a necessity of the common carrier obligation in being “ready, willing and able” to serve customers on demand, particularly when public health and safety is implicated. Moreover, as we said in our original testimony, one very deleterious effect of utilizing a capital structure of a nonregulated affiliate is that calculation of allowable rent for a depreciated asset results inherently change although the essential nature of the affiliated transaction is unchanged.

Q. HAVE YOU PREVIOUSLY NOTED ANY OTHER CONSEQUENCES, IN ADDITION TO MANAGEMENT DILEMMAS, POSED BY THE SPARE TRUCK RENTAL ANALYSIS OF STAFF?

A. Yes. As I have suggested before, I believe that Staff’s recommendation, if adopted by the Commission, will result in inherent operational inefficiencies by its implicit directive to the Company that it purchase spare truck equipment for its exclusive use in order to yield a fair return on assets essential to a regulated solid waste company’s viability. If a truck goes down on a route, Waste Control must be able to deploy a replacement on an almost instantaneous basis. The Staff’s proposed cost plus return rendition for truck rentals, in reversing consistent past Staff accounting practice and implementing a new theory for rate non-recovery, seems singularly and/or simultaneously designed either to disincentivize the shared use of rental truck equipment between affiliates and/or exact the lowest possible return in rates, clearly imperiling the sufficiency of the spare truck rental component of Waste Control’s prospective rates.

## Capital Structure Restating Adjustment, R-8.

Q. STAFF’S TESTIMONY REJECTS USING THE COMPANY’S “HYPOTHETICAL CAPITAL STRUCTURE” AND INSTEAD RECOMMENDS USING THE MOST CURRENT CALCULATION OF WASTE CONTROL’S ACTUAL CAPITAL STRUCTURE BASED ON WCI’S CALENDAR YEAR BALANCE SHEET WHICH IN TURN REDUCES THE REVENUE REQUIREMENT BY $15,000. WHAT IS THE COMPANY’S RESPONSE TO THAT RECOMMENDATION?

A. We similarly and not surprisingly dispute this proposed adjustment and do not agree with the effective use here of one theory of accounting to establish debt and another to arrive at capital structure under Lurito-Gallagher, again echoing the “picking and choosing” Staff trait critiqued above. Here, for depreciation purposes in its calculation, the Staff uses the USOA method to arrive at a computation of average net investment, but then relies on Company financials, not the Uniform System of Accounts schedules for its equity calculation. These are inherently related calculations and we believe it inappropriate to use different methodologies to calculate allowable depreciation expenses, average net investment and shareholder equity. That simply is not consistent and we believe the capital structure debt/equity computation must be calculated under a consistent methodology.

Q. can you clarify what you mean here?

A. The average investment calculation for Lurito-Gallagher uses assets depreciated under the USOA schedule for useful lives and salvage values measurement. Then the debt/equity ratio under the Lurito formula is determined using the Company’s GAAP financial balance sheet. Here, Staff used the stockholders’ equity from the end of test period balance sheet to determine the Lurito equity percentage.

Q. WHAT RESULT DOES THIS HAVE?

A. The balance sheet stockholders’ equity is lower because the net income has been reduced by the book basis depreciation rather than that calculated under USOA. Faster depreciation with no salvage value increases depreciation expense thereby lowering net income, which in turn lowers stockholders’ equity.

Q. what adjustment are YOU THEN advocating?

A. If the Company balance sheet assets were restated to show the same depreciation and salvage value used in the Lurito average investment calculation, as we’ve previously asserted, stockholders’ equity would increase to over 60%.

Q. WHAT IS YOUR UNDERSTANDING OF THE STAFF’S TESTIMONY REGARDING WHY THEY BELIEVE IT IS MORE ACCURATE TO USE ONE ACCOUNTING THEORY TO ASSESS average net investment and depreciation AND ANOTHER TO ASSESS EQUITY?

A. Apparently they believe that utilizing the actual balance sheet of the Company for equity computation purposes more accurately “reflects the Company’s actual economic risks and obligations.” (MC-1T page 30, lines 17 and 18), and appear to broadly interpret the concept of Lurito-Gallagher ratemaking to sanction such a disparate accounting approach.

Q. PLEASE ELABORATE ON THIS.

A. Staff’s adjustment to assets affects only one side of the assets-liability = equity equation. In order to appropriately balance that basic equation under Lurito-Gallagher methodology, you must adjust shareholders’ equity for the effect of changes in useful lives and salvage values proposed by Staff which it fails to do in its testimony in support of a revised hypothetical capital structure in Restating Adjustment R-8.

q. can you provide another specific example of staff’s lurito-gallagher inputs theory going awry?

A. Yes. For example, in the test period, the per-books aggregate depreciation is $248,000 for WCI. Under the USOA (regulated) method, as cited by the Staff in Exhibit MC-6, Schedule 4, R1-A, R-10, their computation is $209,766, resulting in less allowable depreciation expense for ratemaking purposes and an increase in net average investment. We have no quarrel with Staff’s recommendation of depreciation and average investment for the results of operations and the Lurito average investment calculation. But, then, in order to accurately calculate rates under Lurito-Gallagher, the equity computation for the Lurito capital structure must be determined using the same USOA (regulated) depreciation method and salvage value approach. Here, the effect of the Staff’s recommendation results in less allowable depreciation expense without a corresponding increase in equity. In other words, using the USOA (regulated) depreciation expense will increase net book income which increases shareholder equity, thereby increasing the Lurito equity percentage in excess of the 60% recommended maximum. This disequilibrium is an example of manipulation, intentional or otherwise, when different accounting approaches are applied to capital structure computations for debt and equity factors under Lurito-Gallagher.

Q. ARE THERE ANY OTHER eFFECTS THAT YOU WOULD NOTE ABOUT THE STAFF’S CAPITAL STRUCTURE ADJUSTMENT?

A. Yes. Particularly troubling to us is the related statement by the Staff at lines 11-12 at page 31 of its testimony that “…WCI’s proposed adjustment ignores all other net changes to its pro forma that impact net income.”

Q. WHY IS THAT A CONCERN?

A. Because it is not true. We considered all changes that affect net income. Whether an expense is lowered for ratemaking purposes, or not, it still qualifies as a company expense.

Q. WHAT OTHER OBSERVATIONS WOULD YOU MAKE ON THE CAPITAL STRUCTURE ADJUSTMENT PROPOSED BY STAFF?

A. The “mix and match” approach the Staff recommends in its restating adjustment on capital structure overlooks the fact that all the components of the Lurito-Gallagher ratemaking methodology formula which derive recommended rates are intrinsically related and depend on consistent application of accounting principles to arrive at meaningful and accurate results which the Staff’s capital structure adjustment simply does not. Just because Lurito-Gallagher is a theory of regulated ratemaking does not imply that consistent accounting adjustments can be ignored or “deselected” in deriving fair, just, reasonable and sufficient rate computations from the vital capital structure formula employed in that ratemaking calculation.

## Restating Adjustment R-9 “Lurito-Gallagher Inputs”

Q. ON REVIEW OF STAFF’S TESTIMONY DO YOU SIMILARLY CONTEST ITS RESTATING ADJUSTMENT ON THE RECOMMENDED COST OF DEBT FOR THE LURITO-GALLAGHER COMPUTATION WHICH FURTHER REDUCES THE REVENUE REQUIREMENT BY ANOTHER $24,000?

A. Not to the degree we do with the Staff’s immediately prior Lurito-Gallagher computation.

Q. CAN YOU EXPLAIN WHAT YOU MEAN HERE?

A. Yes. We acknowledge that the Lurito-Gallagher formula allows for an actual, reasonable cost of debt to be established for a regulated company and that some of the Staff’s proposal which was suggested for the first time to the company in the Staff testimony contains some plausible rationale.

Q. DOES THAT MEAN YOU FULLY ACCEPT THE STAFF PROPOSAL SUPPOSEDLY DERIVED BY THAT RATIONALE?

A. No.

Q. WHY NOT?

A. Because it does not fully reflect the actual cost of debt obtainable either by its nonregulated sister companies Heirborne, HB-II or by WCI.

Q. PLEASE EXPLAIN THAT ANSWER.

A. The Staff-computed 1.93% cost of debt is incomplete to the extent that it fails to fully reflect the actual and true market borrowing costs of current available debt interest rates of Heirborne.

Q. AND HAVE YOU CALCULATED WHAT THAT ACTUAL COST OF DEBT IS AT THE PRESENT TIME?

A. Yes. The current term loan debt for HB is a calculated rate of 3.66%. These term loans are the funding source for intercompany financing at present. Therefore, we believe 3.66% is the appropriate cost of debt percentage to use for the Lurito-Gallagher formula input.

Q. HAVE YOU ATTACHED A SCHEDULE WHICH PURPORTS TO DEMONSTRATE THIS?

A. Yes, attached is Exhibit JD-46 which reflects that updated calculation.

Q. IS THE COMPANY NOW PREPARED TO ACCEPT THAT FIGURE AS ITS ACTUAL REASONABLE COST OF DEBT FOR THE PURPOSE OF LURITO-GALLAGHER FORMULA INPUTS?

A. Yes we are.

Q. THEN HOW DOES THAT REVISED COST OF DEBT AFFECT THE RECOMMENDED REVENUE REQUIREMENT?

A. It increases it by $12,171. The $23,897 reduction recommended by Staff should now be $11,726.

## Restating Adjustments R-10, RC-1, RC-1A and Pro Forma Adjustment P-5A -- Kalama Operations.

q. please describe the “omnibus” approach you are now taking to the staff wholesale adjustments to results of operations revenue requirement and average net investment for the city of kalama.

A. Staff focuses the balance of its restating adjustments at page 37 through 44 of its testimony and later, in pro forma adjustments, and at pp. 51, 52 on a Kalama disposal ton adjustment. All of these adjustments relate to City of Kalama contract operations and we believe are most efficiently addressed as a group in rebuttal.

q. as a preliminary matter, was the company surprised by the staff’s rendition of separation of city of kalama nonregulated operations and its position in removal of revenues and expenses associated therewith?

A. Yes. We were very surprised for a number of reasons.

q. what are some of those reasons?

A. Well first, after the last rate case in 2009, we were advised by the WUTC Staff not to separate Kalama revenues as had been done in previous audits for the future.

q. why to your understanding was that the approach?

A. Because under the general rate case workpaper rules at WAC 480-07-520(4)(d), a company is not required to separate nonregulated revenues that are under 10 % of total company revenues.

q. is, in fact, kalama in the aggregate such a circumstance?

A. Yes, as will be described, we calculate that in the test year period, the City of Kalama amounted to approximate 5.5% of overall company revenues and the Company’s total nonregulated operations were well under 10% of total Company revenues.

q. as a result of the advice of staff after the 2009 rate case, what did the company do with RESPECT to monitoring and refining revenue and expense data with respect to the City of Kalama?

A. In many cases, we simply curtailed careful monitoring of those revenues and expenses because we believed their split-out was superfluous in reference to the regulation and its impact on overall Company revenue and Kalama had historically had a negligible impact on the Company’s ultimate effective rates.

q. Then, how did we get to the present point in terms of the staff’s proposal?

A. From our knowledge, Kalama became an issue in the refiled rate case of Staff’s focus and was the subject of some very specific and detailed data requests to the Company in May, 2014.

q. and what did those data requests and responses result in?

A. In our view, they provided the purported framework for the Staff to attempt a calculation whereby City of Kalama revenues and expenses were pro formaed completely out of the regulated Company results of operations and have served as the basis for some very, we believe, draconian recommendations by the Staff as a result thereof including its effective across-the-board removal of 10% of regulated expenses.

q. tell us again how Kalama was treated by the COmpany initially in this case?

A. In TG-131794, we did not separate Kalama results as we were instructed earlier by previous Staff. Nevertheless, during the course of the audit, Staff, on its own, likely owing to past audit practices, removed and recreated the Kalama operations and provided their rendition for Kalama as separated. In refiling TG-140560, we retained that Staff rendition of Kalama operations as they had intentionally separated them in the prior case review in the fall as we had no major objections to their proposed results. Now, after the substantial data requests in May referred to above, they have predicated Staff testimony that dramatically, in our view, “reinvents” the results of Kalama operations. We necessarily therefore focus substantial time evaluating and critiquing those results.

q. what is your informed view about separating out Kalama revenue and expenses in terms of an accurate rendition of the company’s overall operations?

A. We essentially believe that separating Kalama revenues and expenses is an exercise in futility. Kalama and County customers are charged the exact same rates. As noted, Kalama is approximately 5.5% of test period revenues. There is no overarching regulatory accounting or operational rationale for separating Kalama results.

q. are there other attributes of kalama service that suggest staff’s broad allocations of costs are suspect?

A. Yes. As the Staff is aware, Kalama receives a 15% administrative fee from gross revenues generated in the city by the Company. However, the City does all of the billing and incurs all the costs therefor. They also perform all of the customer account collection and handle all customer service complaints.

q. what other observations would you note?

A. Because of the complete alignment of service and rates in Kalama to regulated service, the imputed allocations imposed by Staff are both inaccurate and wholly speculative in the Company’s opinion.

q. how does the company respond to the staff’s decision to ignore the route hour study performed by the company and substitute in its stead an allocator based on number of pickups?

A. We are obviously very surprised by this methodological change and were never told that a route study of one week in the test period was insufficient. Clearly, the route study that was performed for a week during the test period had imperfections which we freely acknowledged to the Staff but recall we were under the belief that there was no regulatory requirement for continuing separation of Kalama operations and revenues.

q. what is your specific response to the allocated use of number of pickups and customer counts to separate kalama expenses that the staff indicated was derived through contact directly with the city of kalama and customer count information furnished thereby?

A. We believe that the data compiled by the City of Kalama is very nonspecific and relatively rudimentary and is based upon “billed customers” which data cannot be equated to number of pickups.

q. are there other indicators?

A. Yes quite a few. The inaccuracy of an allocator formula that uses customer counts to allocate expenses such as office salaries. Here the Staff is apparently proposing an allocation of $18,170 for office salaries and $16,397 for management fees alone based again on the number of Kalama customers.

q. what are some of the problems with that allocation?

A. Because Kalama is paid an administrative fee to manage services, the allocation of these expenses is too high. Remember, again, Kalama does all of its own billing and the city staff manages and oversees all of its solid waste service operations for contracted services. Thus a 10% rough wholesale office salary reduction from Company-wide operations is unreasonable in this circumstance. Similarly, the 10% across-the-board reduction for administrative overhead i.e., accounting and computer supplies, is also erroneous. Administrative corporate overhead related to Kalama is much lower due to City management of these services. In addition, it appears “extra labor costs” are similarly allocated by the Staff to Kalama and there are no such services.

q. what other ANOMALIES exist in the staff’s proposal?

A. Well first of all, you start off with the recognition that Staff has removed approximately 7.8% of total Company expenses for 5.5% of the test period Company revenues. Specifically, Staff is here proposing to remove $222,136 worth of revenue and expenses of $274,684. This is not reconcilable based on Staff’s own rationale for its allocators.

q. Other than your dispute of some across-the-board expense reductions due to Kalama, do you have other objections on drivers for allocators to Kalama operations?

A. We also believe that customer counts is not a good allocator for expenses that are directly attributable to Kalama operations because there are huge variations in individual customer locations, density and type and kind of solid waste services provided that need to be accounted for in a company-wide allocation of expenses. Kalama, as you would imagine, is a more densely populated service territory than unincorporated, rural Cowlitz County. It also has far more proximate pickups between stops and far better road conditions all of which reduce cost of service which is obviously not the circumstance in the County at large. During the test period, it was also far closer to the transfer station than the balance of the Company’s customers in the County. However, the Staff appears to make no adjustment for the denser, easier-to-serve Kalama territory in relying on its customer count allocator for expenses and thereby skews the resulting calculations.

Q. are there any other observations about serving a municipal territory versus County you would make?

A. Well obviously there are numerous criteria upon which to distinguish service circumstances in a small city versus unincorporated county territory. Truck wear and tear and equipment maintenance would clearly be proportionately higher in unincorporated regulated service territory which an allocation based on number of pickups would also overlook. Route hours here would simply be a more accurate allocator.

Q. does The Staff allocation theory for Kalama contain any other basic flaws in your view?

A. Yes. Staff fails to properly account for the small number of drop box pickups and customers and the relatively large amount of time required to service drop box customers. Two fulltime drivers pick up drop boxes out of the Company’s total of seven drivers, yet drop boxes account in Kalama for less than 1% of the total number of pickups. Therefore, any allocation based on customer counts or pickups must be scrutinized for the very material differences in route hours required to service drop boxes versus regular cart and container customer statistics. Route hours, due to their temporal orientation, are again better for this differentiation.

q. regarding the drop box service factor differential do you have other concerns?

A. Again yes, remember all drop box service is regulated. In other words, Kalama’s contract does not cover drop box service, and therefore using customer pickups as the determinant for expense allocation to Kalama operations distorts that expense allocator element by failing to account for this very basic difference in level of service. Customer pickups as an allocator would work better if drop box services were provided equally in both regulated and Kalama contract service territory, but because there is no nonregulated drop box service in Kalama, this allocator is distorted and thus produces an erroneous result of significantly overstated expenses for all categories of expense using customer counts and pickups.

q. Will another company witness also address flaws in specific allocators proposed by the staff with regard to kalama?

A. Yes. Mr. Demas’ testimony will more specifically focus on the symptoms and the problems of the reformulated Staff separation of Kalama results of operations.

Q. but hasn’t the staff referred to errors made in the original COMPANY route study that INVOLVED Kalama?

A. Yes, we have acknowledged the few Kalama pickups that were inaccurately reported in our original case and have also identified regulated pickups in the Monday route operated by driver Kyle Miller that were all originally reported as nonregulated in the study and some nonregulated pickups on Thursday and Friday on those days which were erroneously reported as regulated service. While we acknowledge that in a route study such as is involved in Kalama, minor adjustments and qualifications may still be necessary, we again believe route hours is a far more accurate allocator of Kalama expenses than the customer count and number of pickups utilized by Staff in its testimony.

Q. realizing the original route study the Company submitted had flaws and then seeing the Staff’s radical revision on separated Kalama results, what did the company do in response?

A. We commissioned another study utilizing largely route hours and customer pickups.

q. what time PERIOD was covered in the study?

A. August 4-8, 2014.

q. and broadly, what was the purpose of that new study and what did it find?

A. The goal of the route study was to determine regulated and nonregulated route hours and pickups over a recent interval to use as a basis for allocating expenses between regulated and nonregulated operations in Kalama should the Commission determine that this should be done.

q. and again, what were the results of the study?

A. The results of the study showed regulated hours were 94.9% of total Company hours and nonregulated City of Kalama hours were 5.1%. Additionally the updated study found regulated pickups totaled 92.1% of pickups and 7.9% for nonregulated City of Kalama pickups.

q. what do you feel these results reflect?

A. Importantly these results support our previous assertion and conclusion that route hours should be less of a percentage than the pickup percentages due to the density of the City of Kalama customer service base. Additionally, these are reasonable in comparison to the billings generated as a percentage of total revenues. Further, we would note that drop box pickups are very low as a percentage of total pickups as referred to above, yet route hours are significantly higher. Drop box services average 1.2 hours each compared to just over one minute per pickup for residential and commercial services company-wide. Because drop boxes again, are all regulated services, use of pickups as an allocator disproportionately distorts the removal of nonregulated Kalama expenses.

q. finally, does anything else broadly stand out to you in the staff’s recommendation on kalama?

A. Yes. The separated results of operations by Staff in July derives an annualized 107% operating ratio which amounts to approximately a $50,000 annual loss on $222,000 in annual revenues. These projected results are occurring for a service area that historically, as stated, has been profitable when separated for previous rate reviews which raises significant red flags for the Company. As noted, we believe that the Kalama results should be included, not bifurcated in and from the Company’s overall results of operations. The initial conclusions and very strained results of the Staff’s computations in recommending the wholesale reductions in revenue requirement and average net investment only corroborate that conclusion to retain Kalama in the overall results of WCI operations in our view.

q. before we get to the FINAL RESULTS of the recommendation as you understand the staff’s TESTIMONY, what is your view of why the staff PROPOSED this dramatic reallocation of company results in the first place?

A. We are not certain, but we believe that the Staff is deflecting the application of WAC 480-07-520(4)(d) by asserting that the one-time aside in the first paragraph of the rule to “minimum requirements,” allows the Staff in its investigation to broadly hypothesize numerous theories of ratemaking which here involve removal and isolation of Kalama operations and reassignment of costs and revenues throughout the Company’s case accordingly.

q. what are the results of that application here?

A. As can be demonstrated in reviewing the Staff’s table 3, removing nonregulated city of Kalama operations by the Staff’s calculations reduces the underlying revenue requirement initially by $126,687, and, by then proposing across-the-board allocation of average investment to nonregulated, it reduces the revenue requirement a further $17,131. The disposal fee removal takes a further $25,124 from the overall Company revenue requirement.

q. in broad terms, how does that impact the company-wide revenue requirement?

A. As can be seen, the effect of proposing separation of Kalama results under the latest Staff approach amounts to a reduction of $168,942 as a whole in the restating adjustments revenue requirements and therefore diminishes the Company-proposed results of operations by a dramatic amount.

q. place this reduction in further context, please.

A. As the Commission will recall, the Staff in its rebuttal testimony, is proposing an overall revenue requirement of $132,000 total. And, after the effect of temporary disposal fees in December 2014, is proposing a net refund even before the requested investigation fee imposition which, of course, is devastating to the Company’s underlying financial position.

q. regarding the staff’s kalama disposal tonnage adjustment, pro forma adjustment, p-5a, do you have additional concerns?

A. Yes, I do. The Meeks-Pollnow Cost of Service study weights in the Lurito-Gallagher formula is a starting point and obviously broadly used in rate design but there are problems with the Staff’s application of the Meeks study here in imputing disposal tonnage to Kalama.

q. Will mr. demas be DEVELOPING this point in his testimony?

A. Yes, he will briefly, and he is the more appropriate Company witness to elaborate on the flaws in Staff’s pro forma adjustment on Kalama disposal tonnage.

q. what else about the staff calculation on kalama disposal tonnage seems erroneous to you?

A. Well, on doing this calculation, Staff’s assumptions used to normalize disposal tons per the Company records clearly do not produce a realistic result. Staff is proposing removal of $58,445 in disposal fee expense out of a total disposal fee Company-wide expense of $576,667, or over 10% of disposal fees. In the 2009 general rate case, Kalama operations were removed at a level of $50,981 on $605,725 of disposal fees, an 8% reduction, further calling into question the accuracy of the Kalama disposal tonnage adjustment ratio by Staff.

q. have you prepared a chart including your separated kalama operation results?

A. Yes we have in Table 1, below.

q. why have you done that in light of your advocacy for not bifurcating kalama results of operations?

A. Because, should the Commission somehow agree with the Staff testimony and decide to separate Kalama operations, the Company wishes to present its separated results that it would advocate as more accurately representing WCI separated Kalama operations.

Table 1 WCI Kalama Separated Results of Operations

|  | REVENUES | Per Books Income Statement | NonRegulated Kalama and Contract Hauling | Regulated | Allocation | |
| --- | --- | --- | --- | --- | --- | --- |
| 1 | Residential | 2,077,767 |  | 2,077,767 | Booked |  |
| 2 | Commercial | 599,531 | - | 599,531 | Booked |  |
| 3 | Drop Box | 1,097,756 | 154,085 | 943,671 | Actual |  |
| 4 | Fuel Surcharge | 45,570 | 2,370 | 43,200 | RT HR |  |
| 5 | Contract Hauling | - | - | - | Actual |  |
| 6 | Pass Thru | - | - | - | Actual |  |
| 7 | Kalama | 222,137 | 222,137 | - | Actual |  |
| 8 | Refunds | (9,743) | - | (9,743) | Booked |  |
|  | Total Revenue | 4,033,018 | 378,592 | 3,654,426 |  |  |
|  |  |  |  |  |  |  |
|  | OPERATING EXPENSES |  |  |  |  |  |
| 9 | Wages Drivers | 339,419 | 17,650 | 321,769 | RT HR |  |
| 10 | Wages Drop Box Drivers | - | - | - | Actual |  |
| 11 | Wages Mechanics | 223,688 | 11,632 | 212,056 | RT HR |  |
| 12 | Wages Supervisor | - | - | - | RT HR |  |
| 13 | Wages Extra Labor | 28,068 | 1,460 | 26,608 | RT HR |  |
| 14 | Fringe Benefits | - | - | - | RT HR |  |
| 15 | Contract Labor | 1,172 | 61 | 1,111 | RT HR |  |
| 16 | Maintenance | 119,888 | 6,234 | 113,654 | RT HR |  |
| 17 | Maintenance/ Cont./Dr Bx | 9,093 | 473 | 8,620 | RT HR |  |
| 18 | Truck Rental | 36,000 | 1,872 | 34,128 | RT HR |  |
| 19 | Equipment Rent | - | - | - | RT HR |  |
| 20 | Tires | 90,731 | 4,718 | 86,013 | RT HR |  |
| 21 | Fuel | 311,518 | 16,199 | 295,319 | RT HR |  |
| 22 | Contract Hauling | 154,085 | 154,085 | - | Actual |  |
| 23 | Disposal Fees - Cowlitz County | 516,693 | 40,819 | 475,874 | Pickups |  |
| 24 | Disposal Fees - G-49 Packers | 59,974 | - | 59,974 | Actual |  |
| 25 | Disposal Fees - G-49 | 24,816 | - | 24,816 | Actual |  |
| 26 | Disposal Fees Pass Thru | 417,042 | - | 417,042 | Actual |  |
| 27 | Storm water management | 12,000 | 624 | 11,376 | RT HR |  |
| 28 | Liability Insurance | 28,170 | 1,465 | 26,705 | RT HR |  |
| 29 | Officer Salaries | - | - | - | Pickups |  |
| 30 | Office Salaries | 200,831 | 15,866 | 184,965 | Pickups |  |
| 31 | Management Fees | 180,000 | 14,220 | 165,780 | Pickups |  |
| 32 | Bad Debt Expense | 50,168 | - | 50,168 | Actual |  |
| 33 | Office Supply | 52,733 | 4,166 | 48,567 | Pickups |  |
| 34 | Postage | 1,684 | 133 | 1,551 | Pickups |  |
| 35 | Bank Charges | 4,631 | 366 | 4,265 | Pickups |  |
| 36 | Maintenance | 9,097 | 473 | 8,624 | RT HR |  |
| 37 | Rate Case Expense | - | - | - | Actual |  |
| 38 | Accounting | 17,658 | 1,395 | 16,263 | Pickups |  |
| 39 | Legal | 6,764 | 352 | 6,412 | RT HR |  |
| 40 | WUTC Fee | 16,810 | 1,513 | 15,297 | Revenue |  |
| 41 | Franchise | 7,712 | - | 7,712 | Actual |  |
| 42 | Communications | 19,159 | 1,514 | 17,645 | Pickups |  |
| 43 | Utilities | 59,824 | 3,111 | 56,713 | RT HR |  |
| 44 | Laundry/Uniforms | 19,185 | 998 | 18,187 | RT HR |  |
| 45 | Miscellaneous | - | - | - |  |  |
| 46 | Dues and Subscriptions | 16,599 | 1,311 | 15,288 | Pickups |  |
| 47 | Dues Non-deductible | 3,682 | - | 3,682 | Actual |  |
| 48 | Travel | 717 | 57 | 660 | Pickups |  |
| 49 | Seminars | 5,970 | 310 | 5,660 | RT HR |  |
| 50 | Meals and Entertainment | 148 | 8 | 140 | RT HR |  |
| 51 | Advertising | 1,985 | 103 | 1,882 | RT HR |  |
| 52 | Truck License | 7,114 | 370 | 6,744 | RT HR |  |
| 53 | Taxes and Licensing | - | - | - | RT HR |  |
| 54 | Permits | 276 | 14 | 262 | RT HR |  |
| 55 | Contributions | 1,150 | 60 | 1,090 | RT HR |  |
| 56 | B & O Tax | 71,263 | 6,414 | 64,849 | Revenue |  |
| 57 | Land Rent | 138,000 | 7,176 | 130,824 | RT HR |  |
| 58 | Computer Expense | 5,181 | 269 | 4,912 | RT HR |  |
| 59 | Workmen’s Comp | 35,983 | 1,871 | 34,112 | RT HR |  |
| 60 | Payroll Taxes | 67,327 | 3,501 | 63,826 | RT HR |  |
| 61 | Employee Relations | 23,940 | 1,245 | 22,695 | RT HR |  |
| 62 | Life Insurance | 447 | 23 | 424 | RT HR |  |
| 63 | Counseling Services | 1,848 | 96 | 1,752 | RT HR |  |
| 64 | Employee Medical Insurance | 109,017 | 5,669 | 103,348 | RT HR |  |
| 65 | Property Taxes | 12,129 | 631 | 11,498 | RT HR |  |
| 66 | Drug Testing | 1,318 | 69 | 1,249 | RT HR |  |
| 67 | SEP Benefits | 45,389 | 2,360 | 43,029 | RT HR |  |
| 68 | Interest | 50,614 | 2,632 | 47,982 | RT HR |  |
| 69 | Freight | 505 | 26 | 479 | RT HR |  |
| 70 | Consulting | 23,975 | 1,894 | 22,081 | Pickups |  |
| 71 | Safety Equipment Expense | 7,943 | 413 | 7,530 | RT HR |  |
| 72 | Depreciation: | 248,516 | - | 248,516 | Actual |  |
|  | Trucks |  |  |  | RT HR |  |
|  | Service Cars |  |  |  | RT HR |  |
|  | Shop |  |  |  | RT HR |  |
|  | Office Furniture and Fixtures |  |  |  | Cust |  |
|  | Leasehold Improvements |  |  |  | Cust |  |
|  | Containers |  |  |  | Cust |  |
|  | Carts |  |  |  | Cust |  |
|  | Drop Box Truck |  |  |  | Cust |  |
|  | Drop Boxes |  |  |  | Cust |  |
|  | Overtime Adjustment |  |  |  |  |  |
|  | Total Expenses | 3,899,649 | 337,921 | 3,561,729 |  |  |
|  |  |  |  |  |  |  |
|  | NET OPERATING INCOME | 133,369 | 40,671 | 92,697 |  |  |
|  |  |  |  |  |  |  |
|  | OPERATING RATIO % | 97% | 89% | 97% |  |  |

# PRO FORMA ADJUSTMENTS – COMPANY RESPONSE TESTIMONY

## Staff Pro Forma Adjustment P-1A, Payroll Increase.

Q. WHAT IS YOUR RESPONSE TO STAFF’S RECOMMENDATION ON PRO FORMA PAYROLL INCREASES?

A. We generally are in agreement with their adjustments which are actually better described as “fringe benefit” computations, with two caveats/qualifications.

Q. WHY ARE YOU IN GENERAL AGREEMENT ON THE MEDICAL INSURANCE PREMIUM COST ADJUSTMENTS?

A. Because when we filed the rate case we calculated a 15% increase in premiums for 2014 which had been the previous recent experience and due to changes in medical insurance plans, that was not the actual effect of 2014 medical insurance costs for the Company.

Q. why are there QUALIFICATIONS/”CONDITIONS?”

A. Because the Company did not end up renewing the existing health insurance policy with the same provider and also instituted a high deductible, health savings account (“HSA”) feature for electing employees for the first time in the current year. This resulted in variations in medical insurance premium costs for WCI which the April 2014 invoice reviewed by Staff reflects, and which reduces the pro forma medical and dental expense amount adjustment the Company requested.

Q. DO YOU THEN AGREE WITH STAFF’S AGGREGATE REVENUE REQUIREMENT REDUCTION FOR MEDICAL/DENTAL COSTS OF APPROXIMATELY $30,000?

A. No.

Q. WHY NOT?

A. Because in analyzing the current year medical/dental premiums, the Staff failed to note the $755 monthly Company-paid contributions for WCI employee HSA account contributions that was documented in a spreadsheet in Data Request Response 10(b) served May 23, 2014.

Q. AND HOW MUCH DOES THIS TOTAL FOR THE YEAR?

A. $9,060 in additional expense, which results in an addition to the revenue requirement of $9,691.

Q. ARE THERE ANY OTHER PAYROLL PRO FORMA ADJUSTMENTS TO BE MADE?

A. Yes, one. The cost of living increase granted on July 1, 2014 was actually 2.67%, not the 2% we assumed in our case on April 4, 2014 and which the Staff included in its testimony.

Q. HAVE YOU CALCULATED WHAT THE EXTRA 0.67% INCREMENT would mean for the wci revenue requirement?

A. Yes, approximately a $7,395 increase in the proposed revenue requirement.

## Staff’s Pro Forma Adjustments P-2 and P-3, for Rate Case Expense and Amortized Rate Case Cost Expense and Discussion of Related “Miscellaneous” Staff Recommendation to Assess Investigation Costs Against WCI.

Q. FIRST, PLEASE EXPLAIN the GROUPING OF THESE PRO FORMA ADJUSTMENTS AND THE STAFF’S ADVOCACY OF AN INVESTIGATION FEE HERE?

A. Yes. For Pro Forma Adjustments P-2 and P-3, the Staff logically combines discussion and its recommendation as do we. As for the investigation fee imposition recommendation, we believe that proposal stems from related rationale all of which in effect seek to sanction the Company for the case presentation, formatting and handling of this case and we thus respond in combination. In so stating, we also refer the Commission to our testimony discussion above in Section III, which attempts to provide context for the nature of the disputes which have unfortunately developed in this record and which also foreshadow the Staff’s defense of communication lapses at pp. 56-58 of its testimony.

Q. FIRST, PLEASE ADDRESS THE STAFF RECOMMENDATION TO DISALLOW 50% OF ALL RATE CASE EXPENSES FROM DECEMBER 24, 2014 IN TG-131794 AND THuS, IN TURN, 50% FROM THE INCEPTION OF TG-140560?

A. Yes. We are dismayed by this recommendation, not only in its effect of denying the Company full recovery of all legitimate rate case expense costs but also because of its obvious arbitrary and punitive nature which is only sharpened by the Company’s belief that its good-faith efforts to communicate with the Staff on material procedural issues at critical times in this case were in turn met by indifference, silence or, under a worst case scenario, intentional neglect, which proximately contributed to the dismissal of the initial case. The Company obviously does not make these assertions lightly but in the harsh reality of the Staff’s rate case expense recommendation, it is forced to “connect the dots.” In making this characterization, the Company also notes that since the Commission’s Order Granting the Staff Motion to Compel and the Company’s Motion for a Discovery Conference of July 2, 2014, communications between the parties have measurably improved in WCI’s view, and particularly, without the prevalent standard rejoinder to clarifying inquiries that “Staff cannot assist the Company in presentation of its case.” The Company notes the marked improvement at present also to underscore its belief that the Staff rate case cost recovery recommendation seeks to impose blame on the Company for the creation of procedural complexity that the Company unquestionably sought to avoid in adjudicating the first contested solid rate case at the Commission in well over 20 years. The Commission, in Docket No. A-130355, is also presently considering changes to the general rate case procedural rules which may also assist future parties in avoiding the procedural concerns arising in this case, some of which were foreshadowed in the initial stakeholder session with the Commissioners on October 1, 2013.

Q. what is your understanding of what the staff is actually proposing in its rate case expense disallowance recommendation?

A. Apparently it seeks to disallow half of all rate case expenses incurred since December 24, 2013 under its premise that because the original case was subject to dismissal and was therefore in its view a “failed case,” ratepayers and the Company owners should share the considerable rate case expenses from that point on.

Q. DOES STAFF EXPLAIN WHY THE PREHEARING CONFERENCE notice DATE IS THE BENCHMARK MEASURING POINT IN ITS TESTIMONy?

A. No, not at all, and considering that the Company did not even file its direct case until seven weeks after, on February 18, 2014, that makes little sense to the Company even if the Commission were to accept this harsh approach to rate case cost reduction for a “failed” case.

Q. SINCE JANUARY 1, 2014, approximately HOW MUCH HAS BEEN INCURRED BY THE COMPANY FOR LEGAL AND ACCOUNTING RATE CASE EXPENSES over how many total hours of professional time?

A. As can be seen in Exhibit JD-47, $239,554, consisting of 402.3 accounting hours and 420.6 hours of legal time through July 31, 2014.

Q. HOW MUCH WOULD A 50% REDUCTION THEN AMOUNT TO from January 1?

A. $119,777.

Q. have the pertinent accounting and law firms also applied any unilateral reductions or discounts to those fees already?

A. Yes. Attached as Exhibit JD-48 is a summary of the professional fee reductions granted by Booth, Davis & Associates and Williams Kastner by month and dollar amount since the case inception which reflect recognition of the considerable costs this rate case has involved and which were provided without request by the regulated Company.

Q. AND WHAT ARE YOUR THOUGHTS AS TO THE RATIONALE FOR THE STAFF’S RECOMMENDED FIVE YEAR rate case AMORTIZATION period?

A. Well, unfortunately, it is consistent with the Staff’s pattern here of choosing the most disadvantageous expense adjustment for the Company. We initially offered the four-years amortization interval based on the previous general rate case filing date of October 15, 2009 and the TG-131794 filing date of September 23, 2013, which is slightly less than four years. Now, the Staff ignores the date of the dismissed case original filing and uses the April 4, 2013 date of the refiled case (despite expressly recognizing the value of the work in the earlier case for the refiled one at line 12, page 50 of its refiled case). It then calculates a 4.5 year interval and falls back on the effective date in the 2009 case in projecting to the statutory effective date of the current case to hypothesize a 5.2 year factor to support the alleged reasonableness of its maximum five-year amortization interval.

Q. WHAT IS THE COMPANY’S RESPONSE TO THIS CALCULATION?

A. It artificially extends the amortization period and importantly does not match the Company’s recent experience in general rate case filing dates. The Company should also not be doubly sanctioned by the Staff in ignoring the filing date of the underlying case TG-131794 which it did not unilaterally withdraw but was involuntarily dismissed over the Company’s strenuous objections.

Q. do you have any further thoughts in summary about the staff’s rate case cost adjustment recommendation?

A. Yes, in our view the punitive reality of the proposal is brought into focus even discounting the Company’s perception of how the Staff’s communication pattern assisted in creating the environment under which the original case was subject to dismissal. December 24 and the prehearing conference notice issuance is an arbitrary and unsupported benchmark for reduction of rate case costs indefinitely from that point forward. Secondly, the extension of the amortization period from four years to five years utilizes an incorrect and inaccurate amortization interval to project recurring rate case expenses for the Company. While the Company believed it was being reasonable and conservative in proposing the four year interval between the filing of its underlying rate case which again uses the same historic test period of TG-131794, the Staff stretches to extend that to the maximum colorably-plausible amortization period. Finally, considering the significant and far-reaching accounting adjustments proposed by the Staff here it is not credible to propose a rate case cost interval any greater than four years for amortization.

Q. YOU LINK IN YOUR TESTIMONY HERE THE INVESTIGATION FEE IN OPPOSING THE STAFF’S RECOMMENDATION FOR REDUCING RATE CASE COSTS AND PROTRACTING THE AMORTIZATION PERIOD. WHY?

A. Because it directly relates to the Staff’s “failed rate case” theme and seeks to inflict further financial cost on the regulated company for what it terms the “extremely complicated” rate case, yet again.

Q. do you DISPUTE THE basis or authority TO IMPOSE INVESTIGATIVE FEES?

A. Absolutely not. RCW 81.20.020 allows for that. However, to our knowledge and even the Staff’s knowledge (verified through a data request response) we know of no other solid waste general rate case proponent upon whom this fee has ever been imposed by the Commission.

Q. IN YOUR VIEW IS THERE A DISTINCTION TO BE dRAWN HERE?

A. Yes, if this were a penalty assessment or show cause complaint case against the Company for alleged overearning,that would be one thing. But here the Staff is proposing not only to impose investigation fees, but also effectively to halve our rate case costs and stretch even that reduced repayment amount out over an additional year term.

Q. WHAT IS THE effECT OF THIS PRoPOSAL?

A. Call it “double jeopardy” or “double dipping” in the vernacular, if you will, but it all results in or equates to punitive and cumulative sanctions in our view.

Q. IS THERE ANY OTHER ASIDE IN THE sTAFF’S RENDITION OF THE CASE COMPLEXITY AND CONCOMITANT INVESTIGATORY FEE IMPOSITION discussion THAT THE COMPANY TAKES PARTICULAR UMBRAGE AT and WHICH YOU FEEL COMPELLED TO ADDRESS?

A. Yes, and it has occurred previously in formal pleadings, too: the broad-brush statements at line 8, p. 3 and line 4, p. 56 of Ms. Cheesman’s testimony noting “. . .WCI’s refusal to respond to Staff’s data requests.” The record clearly reflects, culminating in Order No. 5 Granting Staff’s Motion in Part and the Company’s Discovery Motion in Part that the Company never refused to answer any uncontested data requests. Instead, that reference is exclusively directed to the challenged “hard code and missing link” spreadsheet issue which the administrative law judge has now resolved by interpreting WAC 480-07-140(6). To our knowledge, the Commission had never previously formally interpreted that for a solid waste general rate case proponent and after the mandated scheduling conference, the Company complied with that interpretation and has moved forward. There are *no* “refusal to respond” circumstances and such recurring representations are wholly inaccurate and should cease.

q. DO YOU THINK A GOOD-FAITH RULE INTERPRETATION/DISCOVERY CHALLENGE IS A FAIR COMPONENT OF AN INVESTIGATORY FEE SANCTION?

A. Absolutely not, but that only typifies what we frankly view as a retaliatory tendency of Staff to signal that requiring it to formally justify its positions before the Commission will carry economic risk for affected companies.

Q. ARE THERE OTHER SIGNALS HERE THAT YOU ARE Sensing?

A. Absolutely, yes. Recall that in its allocators formulae, land and equipment rents and de facto hypothesis of HB-I as a “parent” company, there are at best novel and generally unprecedented approaches to expense adjustments and rate computations being espoused and prosecuted by Staff, here all at a time where Lurito-Gallagher is being reviewed in a pending rulemaking. Staff’s recommendation is effectively saying: if you have the audacity to refuse to accept our untried adjustments to many of your previously-accepted and allowed expenses and refuse to settle and force us to a contested case proceeding, not only do you have, through your burden of proof, to disprove a negative, but take us through a formal hearing and we will seek to assess you all our costs in having to defend our untried (and clearly unrecognized by the Commission)-ratemaking theories and we will impose our own costs on you to boot for formally challenging us.

Q. DO YOU THINK ANY OF THAT IS AN OVERSTATEMENT?

A. Honestly no. We think that’s exactly what they are saying in between the lines in their recommendations on rate case costs, amortization period and investigation fee imposition. We think its effect on the regulated solid waste collection industry is singularly chilling, and is formulated to discourage any other future similarly-situated solid waste collection company from challenging adverse Staff allocators, “fluid” interpretations of Lurito-Gallagher involving debt/equity ratios, data inputs and underlying workpaper rule interpretations, all of which are consistently contrary to the solid waste collection company’s ultimate revenue requirement, economic interest and ultimate viability.

Q. DO YOU HAVE ANY final THOUGHTS ON THIS TOPIC?

A. Particularly the rate case cost/amortization and investigatory fee imposition proposals seem to us unnecessarily cumulative and frankly, mean-spirited. No one disputes the broad supervisory, discretionary and investigatory power of the Commission and Staff over regulated companies, but these particular recommendations truly smack of “piling on” and overreaching in a fashion we have not before seen, simply for filing, presenting and adjudicating a rather standard general rate case. While intervenor WRRA can speak to any broader industry concerns, the implications of these proposals are tremendously troubling and the Company and its representatives want to be unusually candid about that.

## Pro Forma Adjustment P-4, Fuel Expense.

Q. IN CONTRAST to the pro forma adjustments on rate case costs and amortization thereof, what is the company’s response to the reduction of $6,000 in operating expenses and $7,000 in revenue requirement by the Staff?

A. We accept those proposed adjustments as we do not have a basis to identify what portion of the “miscellaneous shop supplies” relate to equipment requiring fuel to run them.

Q. DOES THAT COMPLETE YOUR COMMENTS ON PRO FORMA ADJUSTMENT P-4?

A. No. As the Staff cites, the regulation in question, WAC 480-70-346, requires updating of test period fuel costs through the most recent twelve-month period. Through July 31, 2014, (the most recent period at the time of filing this testimony) that adjustment adds an additional $ 832 to the revenue requirement. We propose that reduction be offset accordingly.

# summary results and concluding calculations

q. have you now prepared a table summarizing the COMPANY’S REBUTTAL positions on all restating and pro forma adjustments FEATURED in your testimony In response to the Staff’s Table No. 3 at MC-1T, page 11?

A. Yes and it is provided below to synthesize the narrative and exhibit presentations addressing adjustments in my testimony above.

Table 2

Company’s Rebuttal Positions on Contested Adjustments

| **Adjustment** | **Revenue**  **Requirement** | **Average Net**  **Investment** |
| --- | --- | --- |
| Per Staff filing 7/18/14 | 132,252 | 1,417,479 |
| Kalama Operations | 65,649 | 132,834 |
| Kalama Disposal | 19,613 |  |
| Cost of Debt | 12,171 |  |
| Utilities | 16,990 |  |
| Property taxes | 2,387 |  |
| Land rents | 126,818 |  |
| Spare trucks | 32,866 |  |
| Labor increase | 7,395 |  |
| Fuel | 832 |  |
| Capital structure | 18,443 |  |
| Fringe benefits | 9,691 |  |
| Rate case cost | 51,835 |  |
| Total adjustments | 364,690 | 132,834 |
|  | 496,942 | 1,550,313 |

q. finally, to further summarize your testimony and to depict the results of the company’s pro forma statement of operations have you also now prepared another revised statement of operations updating all of the results of operations which include kalama non-separated results of operations therein?

A. Yes.

q. again, why are you submitting another revised pro forma?

A. Well, keep in mind that Staff has proposed its own version of a pro forma in Exhibit MC-6 and relies there on a revised statement of operations. The Company, on May 22, 2014, had separated Kalama operations at the instigation and a result of inquiries by Staff on those separated results which “May 22 WCI Statement of Operations” is not in the record and which Staff used in creating Exhibit MC-6. Those results now require updating for more contemporaneous, complete costs such as various pro forma adjustments on cumulative rate case expenses, fuel, etc. While we understand it is unusual to produce successive pro forma results of operations versions, we did not want the Commission to be left to ascertain what the Company’s presentation of revised results would now look like.

q. And where is that exhibit please?

A. It is attached hereto and is marked Exhibit JD-49 and includes calculations that have been generally and/or specifically addressed throughout this rebuttal testimony.

q. does this coNcLUde your rebuttal testimony and response to staff recommended restating, pro forma and miscellaneous adjustments in this case?

A. Yes, it does.