WUTC DOCKET: TG-181023

EXHIBIT: SS-11X Exh. SS-_X

ADMIT ☑ W/D ☐ REJECT ☐ Docket TG-181023

Page 1 of 16

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION STAFF RESPONSE TO DATA REQUEST

DATE PREPARED: 7/29/19 WITNESS: Scott Sevall DOCKET: TG-181023 RESPONDER: Scott Sevall REQUESTER: Waste Management TELEPHONE: 360-664-1230

REQUEST NO. 5:

Please produce all communications since November 29, 2018 between Staff and Mr. Stein or anyone else associated with or representing Superior.

RESPONSE:

Exhibit SS-4 is a copy of Staff's notes from its meeting with Mr. Stein dated January 18, 2019. Attached are copies of Staff's email communication with Mr. Stein. Staff spoke with Mr. Stein once by phone to schedule the January 18th meeting, but does not recall the date.

DATE PREPARED: 7/29/19 WITNESS: Scott Sevall
DOCKET: TG-181023 RESPONDER: Scott Sevall
REQUESTER: Waste Management TELEPHONE: 360-664-1230

REQUEST NO. 6:

- (a) Please identify all facts indicating that Waste Management will not provide service to the satisfaction of the Commission in the area Superior has applied for a certificate to serve.
- (b) Based on the facts identified above, has Staff concluded that Waste Management will not provide service to the satisfaction of the Commission in the area Superior has applied for a certificate to serve? Please explain.

- (a) While the ultimate determination as to satisfactory service is reserved to the Commission, Item 80 of the Waste Management Tariff has a limit of 100 feet for carry-out service and a limit of 1 mile for drive-in service. Staff believes that Waste Management has abandoned carry-out and drive-in service beyond these limits.
- (b) While the ultimate determination as to satisfaction is reserved to the Commission, Staff has concluded that Waste Management does not provide carry-out or drive-in service beyond the limits stated in 6(a), since docket TG-071785. A review of information provided by Waste Management suggests that Superior is presently serving two customers that are not eligible for drive-in service due to the distance limitations in Waste Management's tariff. However, Staff has not concluded that Waste Management's service is unsatisfactory in the territory that is included in its tariff on this basis.

DATE PREPARED: 7/29/19 WITNESS: Scott Sevall
DOCKET: TG-181023 RESPONDER: Scott Sevall
REQUESTER: Waste Management TELEPHONE: 360-664-1230

REQUEST NO. 7:

- (a) Please identify all facts indicating that Waste Management's solid waste collection in Superior's proposed service territory is not sufficiently timely for the satisfaction of the Commission.
- (b) Based on the facts identified above, has Staff concluded that Waste Management's solid waste collection in Superior's proposed service territory is not sufficiently timely for the satisfaction of the Commission? Please explain.

- (a) While the ultimate determination as to satisfactory service is reserved to the Commission, Staff reviewed two complaints produced as part of Staff's response to WM DR 0001where the company either missed a pick-up or did not make a timely delivery.
- (b) While the ultimate determination as to satisfactory service is reserved to the Commission, Staff does not believe that the facts mentioned above demonstrate that Waste Management is not providing satisfactory service on the basis of timely service.

DATE PREPARED: 7/29/19 WITNESS: Scott Sevall DOCKET: TG-181023 RESPONDER: Scott Sevall REQUESTER: Waste Management TELEPHONE: 360-664-1230

REQUEST NO. 8:

- (a) Please identify all facts indicating that Waste Management's solid waste collection in Superior's proposed service territory is not sufficiently regular for the satisfaction of the Commission.
- (b) Based on the facts identified above, has Staff concluded that Waste Management's solid waste collection in Superior's proposed service territory is not sufficiently regular for the satisfaction of the Commission? Please explain.

- (a) While the ultimate determination as to satisfactory service is reserved to the Commission, Staff reviewed one complaint produced as part of Staff's response to WM DR 0001where the company missed a pick-up.
- (b) While the ultimate determination as to satisfactory service is reserved to the Commission, Staff does not believe that the facts mentioned above demonstrate that Waste Management is not providing satisfactory service on the basis of regular service.

DATE PREPARED: 7/29/19 WITNESS: Scott Sevall
DOCKET: TG-181023 RESPONDER: Scott Sevall
REQUESTER: Waste Management TELEPHONE: 360-664-1230

REQUEST NO. 9:

- (a) Please identify all facts indicating that Waste Management is the subject of complaints about its service in Superior's proposed territory of a sufficient nature, seriousness, or pervasiveness to call into question the Commission's satisfaction with Waste Management's service.
- (b) Based on the facts identified above, has Staff concluded that Waste Management is the subject of complaints about its service in Superior's proposed territory of a sufficient nature, seriousness, or pervasiveness to call into question the Commission's satisfaction with Waste Management's service? Please explain.

- (a) While the ultimate determination as to satisfactory service is reserved to the Commission, Staff reviewed three consumer upheld complaints against Waste Management produced as part of Staff's response to WM DR 0001.
- (b) While the ultimate determination as to satisfactory service is reserved to the Commission, Staff does not believe that the facts mentioned above demonstrate that Waste Management is not providing satisfactory service based on the nature, seriousness, or pervasiveness of the complaints..

DATE PREPARED: 7/29/19 WITNESS: Scott Sevall DOCKET: TG-181023 RESPONDER: Scott Sevall REQUESTER: Waste Management TELEPHONE: 360-664-1230

REQUEST NO. 10:

- (a) Please identify all facts indicating that Waste Management's response to complaints about its service in Superior's proposed service territory calls into question the Commission's satisfaction with Waste Management's service.
- (b) Based on the facts identified above, has Staff concluded that Waste Management's response to complaints about its service in Superior's proposed service territory calls into question the Commission's satisfaction with Waste Management's service? Please explain.

- (a) While the ultimate determination as to satisfactory service is reserved to the Commission, Staff reviewed consumer complaints produced in Staff's response to Waste Management DR 0001 and found 2 consumer complaints that resulted in violations for failure to investigate a consumer complaint and 3 consumer complaints that resulted in violations for failure to timely respond to Staff's request for additional information.
- (b) While the ultimate determination as to satisfactory service is reserved to the Commission, Staff does not believe that the facts mentioned above demonstrate that Waste Management is not providing satisfactory service based on its response to complaints about its service.

DATE PREPARED: 7/29/19 WITNESS: Scott Sevall
DOCKET: TG-181023 RESPONDER: Scott Sevall
REQUESTER: Waste Management TELEPHONE: 360-664-1230

REQUEST NO. 11:

- (a) Please identify all facts indicating that Waste Management's demonstrated ability to resolve complaints calls into question the Commission's satisfaction with Waste Management's service.
- (b) Based on the facts identified above, has Staff concluded that Waste Management's demonstrated ability to resolve complaints calls into question the Commission's satisfaction with Waste Management's service? Please explain.

- (a) While the ultimate determination as to satisfactory service is reserved to the Commission, Staff reviewed consumer complaints produced in Staff's response to Waste Management DR 0001 and found 2 consumer complaints that resulted in violations for failure to take timely corrective action and failure to contact a customer and 3 consumer complaints that resulted in violations for failure to timely respond to Staff's request for additional information.
- (b) While the ultimate determination as to satisfactory service is reserved to the Commission, Staff does not believe that the facts mentioned above demonstrate that Waste Management is not providing satisfactory service based on its ability to resolve complaints.

DATE PREPARED: 7/29/19 WITNESS: Scott Sevall DOCKET: TG-181023 RESPONDER: Scott Sevall REQUESTER: Waste Management TELEPHONE: 360-664-1230

REQUEST NO. 12:

- (a) Please identify all facts indicating that Waste Management's history of compliance with regulations calls into question the Commission's satisfaction with Waste Management's service.
- (b) Based on the facts identified above, has Staff concluded that Waste Management's history of compliance with regulations calls into question the Commission's satisfaction with Waste Management's service? Please explain.

- (a) While the ultimate determination as to satisfactory service is reserved to the Commission, Staff reviewed consumer complaints produced in Staff's response to Waste Management DR 0001, which contained 3 consumer upheld complaints and several violations.
- (b) While the ultimate determination as to satisfactory service is reserved to the Commission, Staff does not believe that the facts mentioned above demonstrate that Waste Management is not providing satisfactory service based on the company's history of compliance with regulation.

DATE PREPARED: 7/29/19 WITNESS: Scott Sevall DOCKET: TG-181023 RESPONDER: Scott Sevall REQUESTER: Waste Management TELEPHONE: 360-664-1230

REQUEST NO. 13:

- (a) Please identify all facts indicating that Waste Management's history of compliance with regulations on matters central to regulation in the public interest calls into question the Commission's satisfaction with Waste Management's service.
- (b) Based on the facts identified above, has Staff concluded that Waste Management's history of compliance with regulations on matters central to regulation in the public interest calls into question the Commission's satisfaction with Waste Management's service? Please explain.

- (a) While the ultimate determination as to satisfactory service is reserved to the Commission, Staff reviewed consumer complaints produced in Staff's response to Waste Management DR 0001, which contained 3 consumer upheld complaints and several violations.
- (b) While the ultimate determination as to satisfactory service is reserved to the Commission, Staff does not believe that the facts mentioned above demonstrate that Waste Management is not providing satisfactory service based on the company's history of compliance with regulation on matters central to regulation in the public interest.

DATE PREPARED: 7/29/19 WITNESS: Scott Sevall DOCKET: TG-181023 RESPONDER: Scott Sevall REQUESTER: Waste Management TELEPHONE: 360-664-1230

REQUEST NO. 14:

Some Brem-Air customers or potential customers are within the distance limitations for carry-out or drive-in service under Item 80 of its tariff, but are ineligible for those services due to the unsuitability of private roads for access by Brem-Air's collection vehicles. In this regard:

- (a) Please identify all facts indicating that Waste Management's service to such customers is not to the satisfaction of the Commission.
- (b) Based on the facts identified above, has Staff concluded that Waste Management's service to such customers is not to the satisfaction of the Commission?

- (a) While the ultimate determination as to satisfactory service is reserved to the Commission, Staff does not believe that the safety exemptions which Waste Management utilizes and are authorized by WAC 480-70-366 result in Waste Management providing unsatisfactory service.
- (b) While the ultimate determination as to satisfactory service is reserved to the Commission, Staff has not concluded that Waste Management's use of safety exemptions establishes that Waste Management's service is unsatisfactory.

DATE PREPARED: 7/29/19 WITNESS: Scott Sevall DOCKET: TG-181023 RESPONDER: Scott Sevall REQUESTER: Waste Management TELEPHONE: 360-664-1230

REQUEST NO. 15:

REQUEST FOR ADMISSION: Please admit that all of Superior's proposed service territory is currently within Waste Management's exclusive service territory. If your response is anything other than an unqualified admission, please state what you believe to be the truth of the matter.

RESPONSE:

Superior's proposed service territory is wholly within Waste Management's territory.

DATE PREPARED: 7/29/19 WITNESS: Scott Sevall DOCKET: TG-181023 RESPONDER: Scott Sevall REQUESTER: Waste Management TELEPHONE: 360-664-1230

REQUEST NO. 16:

At page 3 of his response testimony, Mr. Sevall testifies, "There are some Waste Management tariffs that are missing rates for walk-in and drive-in service. I did not consider those as limitations to service." In this regard:

- (a) Which Waste Management tariffs is Mr. Sevall referring to?
- (b) When Mr. Sevall says those tariffs are "missing rates for walk-in and drive-in service," does he mean that such services are not offered under the referenced tariffs?
- (c) When Mr. Sevall says he "does not consider those as limitations to service," does he mean that service is *not* limited by the entire absence of walk-in or drive-in service under a tariff, but that service *is* limited by offering such service subject to limitations? Please explain.
- (d) Does Staff believe that a "gap in service" exists any time a customer in the exclusive territory of a certificated hauler desires solid waste collection on terms not available under the hauler's Commission-approved tariff? If not, why not, and how would Staff determine when a "gap in service" exists?

- (a) The tariffs for Waste Management of Kennewick and Waste Management of Greater Wenatchee.
- (b) It means the table showing the rates under item 80 do not have a rate for all walk-out or drive-in increments. Staff does not mean the service is not offered.
- (c) Staff does not consider service to be limited when a rate is missing. Rather Staff interprets it as no customer has requested that service. If a customer did request a service that had no rate the company would be required to file to add the rate per WAC 480-70-261 in order to charge for it.
- (d) No. Staff does not believe a "gap in service" exists any time a customer desires service which does not have a rate in the tariff. In this case a "gap in service" exists when the company changed their tariff limiting what it offered to customers.

DATE PREPARED: 7/29/19 WITNESS: Scott Sevall DOCKET: TG-181023 RESPONDER: Scott Sevall REQUESTER: Waste Management TELEPHONE: 360-664-1230

REQUEST NO. 17:

REQUEST FOR ADMISSION: At page 3 of his response testimony, Mr. Sevall indicates that his review of Waste Management's tariffs "suggests to [him] that Brem-Air, [sic] is not providing drive-in and carry-out service beyond the limitations identified in its Brem-Air tariff." Please admit that it would be a violation of the Commission's regulations for Brem-Air to provide service beyond the limitations identified in its tariff. If your response is anything other than an unqualified admission, please state what you believe to be the truth of the matter.

RESPONSE:

Staff agrees that Waste Management would be in violation of its tariff if it charged rates that are different from the rates contained it its tariff. WAC 480-70-236(2). Staff also notes that WAC 480-70-261 allows a company to add a service option or service level that is request by a customer through a one day filing.

DATE PREPARED: 7/29/19 WITNESS: Scott Sevall DOCKET: TG-181023 RESPONDER: Scott Sevall REQUESTER: Waste Management TELEPHONE: 360-664-1230

REQUEST NO. 18:

At page 5 of his response testimony, Mr. Sevall claims that Waste Management's testimony "suggests there is a gap in [Waste Management's] service."

- (a) REQUEST FOR ADMISSION: Please admit that service is available to all of Superior's customers under the terms of standard residential service under the Commission-approved Brem-Air tariff. If your response is anything other than an unqualified admission, please state what you believe to be the truth of the matter.
- (b) REQUEST FOR ADMISSION: If your response to (a) is to the effect that Staff does not know, please admit that Staff is not aware of any facts indicating that Waste Management service is not available to any of Superior's customers under the terms of standard residential service under the Commission-approved Brem-Air tariff. If your response is anything other than an unqualified admission, please state what you believe to be the truth of the matter.
- (c) What significance does Staff attach to the purported "gap in service" in the context of this proceeding?

- (a) Service is not offered to any customer requesting drive-in or carry-out service who is beyond the limitation stated in Item 80.
- (b) Service is not offered to any customer requesting drive-in or carry-out service who is beyond the limitation stated in Item 80.
- (c) Waste Management abandoned carry-out service beyond 100 feet and drive-in service beyond 1 mile.

DATE PREPARED: 7/29/19 WITNESS: Scott Sevall
DOCKET: TG-181023 RESPONDER: Scott Sevall
REQUESTER: Waste Management TELEPHONE: 360-664-1230

REQUEST NO. 19:

Regarding Superior's certificate application:

- (a) Has Staff concluded that Superior's application meets the requirements of a successful application for a certificate of public convenience and necessity?
- (b) If your response to (a) is affirmative, please explain why.
- (c) If your response to (a) is negative, please identify and describe each shortcoming with the application that Staff is aware of or suspects.

- (a) While the ultimate determination is reserved to the Commission, Staff has concluded that Superior has not demonstrated that a certificate of public convenience and necessity should be issued.
- (b) N/A
- (c) While the ultimate determination is reserved to the Commission, Staff has determined that Superior has not met the burden that Waste Management is not providing service to the satisfaction of the Commission. Furthermore, based on the information provided there does not appear to be public need for a new certificate.

DATE PREPARED: 7/29/19 WITNESS: Scott Sevall DOCKET: TG-181023 RESPONDER: Scott Sevall REQUESTER: Waste Management TELEPHONE: 360-664-1230

REQUEST NO. 22:

- (a) Does Staff believe the Commission should issue a certificate to Superior?
- (b) If your response to (a) is affirmative, please explain why.
- (c) If your response to (a) is affirmative, please describe any limitations or conditions on Superior's service that Staff believes appropriate in any certificate issued to Superior.
- (d) If your response to (a) is negative, please identify each shortcoming with the application of which Staff is aware.

- (a) While the ultimate determination is reserved to the Commission, Staff does not believe that the Commission should issue a certificate to Superior.
- (b) N/A
- (c) N/A
- (d) While the ultimate determination is reserved to the Commission, Staff believes that Superior has not met the burden that Waste Management is not providing service to the satisfaction of the Commission. Furthermore, although there are two Superior customers that are not eligible for drive-in service based on Waste Management's current tariff, the small number of presently ineligible customers does not appear to demonstrate a public need for a new certificate.