

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

DOCKET TG-230778

Complainant,

v.

MURREY'S DISPOSAL COMPANY,

Respondent.

RESPONDENT MURREY'S DISPOSAL COMPANY, INC'S

PREFILED DIRECT TESTIMONY

OF BRANKO TERZIC

MARCH 19, 2024

Table of Contents

I. IDENTIFICATION OF WITNESS..... 1
II. FOCUS OF TERZIC PRESENTATION.....4
III. THE SEVERANCE EXPENSE ADJUSTMENT SHOULD ALSO BE ALLOWED..... 12

SUMMARY OF TESTIMONY

As a regulated industries expert, Mr. Terzic’s Testimony will address two of the largest expenses heretofore not allowed by the Staff: insurance/casualty loss and severance pay and defend why they should be fully allowed by the Commission in this proceeding.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PREFILED DIRECT TESTIMONY OF BRANKO TERZIC
LIST OF EXHIBITS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Exh BT-2 Terzic Branko CV March 2024
Exh BT-3 COVID Cost Recovery Dockets

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I. IDENTIFICATION OF WITNESS

Q. Please state your name, address and occupation?

A. My name is Branko Terzic. I am an independent consultant on public utility regulation. My business address 1791 Brookside Lane, Vienna, Virginia 22182; M Street N.W. Washington, DC 20036.

Q. What is your educational and professional background?

A. I have a B.S. in Energy Engineering (1972) and was awarded an honorary Doctor of Sciences in Engineering both from the University of Wisconsin-Milwaukee (2009). A biography is provided here and a full CV is attached as Exhibit (BT-2).

Q. Can you provide a few more details on our experiences?

A. Yes. My national and international career in energy and the regulated public utility industries has included service as Commissioner on the U.S. Federal Energy Regulatory Commission (FERC), Commissioner on the State of Wisconsin Public Service Commission and as a management consulting engineer and energy company CEO. Prior to establishing my independent practice, I was Managing Director of BRG LLC. Earlier I served as Executive Director of Deloitte Center for Energy Solutions (2011-2014), Global and U.S. Regulatory Policy Leader in Energy & Resources for Deloitte Services (1999-2014) and Regional Managing Partner for Energy, Resources and Infrastructure for Deloitte & Touche Central Europe (1999-2004). I was also Chairman, President and CEO of Yankee Energy System, Inc. and CEO of the subsidiary Yankee Gas Services Company a regulated public utility (1994-1999) Managing Director Arthur Andersen Economic Consulting (1993-1994), Commissioner on the Federal Energy Regulatory Commission (1990-1993), Group Vice President at AUS Consultants (1987-1990), Commissioner on the State of Wisconsin Public Service

1 Commission (1981-1986), Partner in Terzic & Mayer Public Utility Consultants, Vice
2 President Associated Utility Services, Inc., Valuation Engineer at the American
3 Appraisal Company and Special Investigations Engineer and later Environmental
4 Engineer for the Wisconsin Electric Power Company.

5 I have been a member of the National Petroleum Council and National Coal Council
6 and I am a former Chairman of the United Nations Economic Commission for Europe
7 (UN ECE) Ad Hoc Group of Experts on Cleaner Electricity Production (2007-2012).

8 From 1987-1990 I was the founding Chairman of the State of Wisconsin Racing Board.

9 I have published articles in numerous energy and finance publications including the
10 magazines of the EEI and AGA, as well a Public Utilities Fortnightly, Oil & Gas
11 Investor and others. My bi-weekly column Terzic on Strategy was published from 1999
12 to 2009 in New Power Executive. I have also written monthly columns in Public Utility
13 Fortnightly magazine. My chapter on energy appeared in THE WORLD CRISIS: The
14 Way Forward After Iraq (Constable, London 2008) edited by Robert Harvey.

15 I have appeared regularly on CNN International and have appeared as a commentator
16 on numerous TV news programs including CNN, CNBC, Fox Business, PBS, Voice of
17 America, and Al Jazeera.

18 I was elected to the Energy Efficiency Forum Hall of Fame (2009) and was honored
19 with the "Champion Award" by The Women's Council on Energy and Environment
20 (2008) as well as other industry awards.

21 I have been a faculty member of the Washington Campus consortium of sixteen
22 university MBA programs since 2005. I am a founder of the Society of Depreciation
23 Professionals. I have served on the board of the National Regulatory Research Institute
24 and I am a past chairman of the Natural Gas Roundtable. I was a registered Professional
25 Engineer in Wisconsin from 1985 to around 2010.

1 **Q. Have you testified before in proceedings before the Washington Utilities and**
2 **Transportation Commission and other regulatory Commissions?**

3 **A.** I have not testified previously before the Washington Utilities and Transportation
4 Commission. I have however testified before numerous other state public utility
5 regulatory commissions on issues of ratemaking and regulation as reported on my CV
6 over many years.

7 **Q. What experience do you have in the regulation of public utilities?**

8 **A.** Extensive. I have been involved in regulation and consulting for regulated utilities for
9 five decades. During my first decade in the 1970's, I was as a consultant on valuation,
10 depreciation and rates for electric, gas, water and telephone utilities. In 1981, my
11 second decade, I was appointed and confirmed to a six-year term as Commissioner on
12 the Wisconsin Public Service Commission where I served from March 18, 1981 to
13 December 1, 1986. On the PSC, I presided over hearings, reviewed testimony, and
14 exhibits and voted on numerous rate orders in electricity, gas, water and telephone rate
15 cases. I then served as Chairman of the first Wisconsin Racing Board while also
16 consulting to utilities.

17 In 1990, my third decade, I was appointed by President George H. W. Bush and
18 confirmed as a Commissioner to the Federal Energy Regulatory Commission (FERC). I
19 was appointed twice, once from October 11, 1990 to October 20, 1991 and reappointed
20 on October 17, 1991 to my resignation on May 24, 1993. At the FERC I reviewed and
21 voted on rate case orders involving electric wholesale sales, natural gas and oil
22 pipelines and privately owned hydroelectric facilities. Following that service, I joined
23 Arthur Anderson as a Managing Director for a brief period. After that I was the
24 Chairman, President and CEO of Yankee Energy System, Inc, at that time a New York
25 Stock Exchange listed holding company for a natural gas distribution utility.

1 In the next decade and a half starting in 1999, I was a director with Deloitte & Touche
2 LLP as Global Regulatory Policy Leader and later Executive Director of Deloitte's
3 Center for Energy Solutions. This period also included service as regional managing
4 Partner for Deloitte Central Europe. While at Deloitte I provide training in utility rate-
5 making including revenue requirement, valuation, cost of service and rate design for
6 Deloitte professional staff and a number of investor owned electric utilities. Upon
7 retirement from Deloitte, in 2014 I joined Berkeley Research Group (LLRG LLC) and
8 continued consulting. In 2021 I became an independent consultant offering regulatory
9 policy, review and consulting services.

10 II. FOCUS OF TERZIC PRESENTATION

11 **Q. What is the purpose of your testimony in these proceedings?**

12 **A.** The purpose of my testimony is to support Murrey's Disposal d/b/a Olympic Disposal's
13 request to have a large insurance deductible incurred in 2023 amortized in rates
14 beginning in the current rate case and to also endorse the recovery of severance
15 payments.

16 **Q. What is the basis for your recommendations?**

17 **A.** I believe that such amortization or normalization is accordance with:
18 1) prior Washington Utilities and Transportation Commission decisions;
19 2) accepted regulatory principles; and
20 3) will result in just, fair, reasonable, and sufficient rates.

21 **Q. What is your basis for your assertion that normalization is in accordance with
22 prior decisions?**

23 **A.** My understanding is based on the testimony and exhibits of Mr. Joe Wonderlick that
24 Waste Connections has in the past been allowed to make accounting entries amortizing
25 deductible insurance charges. That to me was and is the correct regulatory position as

1 determined in the past by this Commission and I see no reason for the Commission to
2 change its prior policy now.

3 **Q. What regulatory principles support your view that amortization or normalization**
4 **is the correct policy?**

5 **A.** The regulation of Murrey's Disposal by this Commission is based on cost-of-service
6 ratemaking which is universally used in the United States by state public service
7 commissions and the Federal Energy Regulatory commission. This method of
8 regulation requires the regulator to approve an annual revenue requirement and then
9 design rates to give the regulated entity an opportunity to recover the annual revenue
10 requirement in the future. The revenue requirement includes operating and maintenance
11 expense, depreciation expense, taxes, and return.

12 Insurance costs are included in the operating and maintenance expense of a regulated
13 utility and recoverable in rates. As stated in a 1940 text on regulation of utilities:

14 *"Premiums for insurance are held to be necessary cost of operation for a public*
15 *utility."*¹

16 This review is confirmed by Professor Roger A. Morin writing in New Regulatory
17 Finance (Public Utility Reports, Vienna VA 2006):

18 *"Operating costs acceptable for rate making are monitored scrutinized and*
19 *benchmarked by the regulator. Regulators make judgements with respect to which cost*
20 *items authorized for inclusion in the cost of service computation."* (Pg. 14).

21 **Q. Is there another treatise or reference source that you are familiar with that would**
22 **also support this item's rate base inclusion and amortization?**

23 **A.** Yes, one very standard reference, "The Process of Ratemaking"² by Leonard Saul
24 Goodman offers three recognized regulatory approaches which would support the

25 ¹ Bryant J.M. and Hermann R.R., Elements of Utility Rate Determination, McGraw-Hill, New York, 1940. P 204.

² Goodman, Leonard Saul, The Process of Ratemaking", Public Utility Reports, Vienna VA 1998.

1 amortization of the deductible in the present case. The first is that of “matching costs
2 and benefits” (Pg. 285), the second is that of “Adjustments for abnormal,
3 unrepresentative and extraordinary conditions” (Pg. 287), and the third is in a
4 discussion of “standardized and normalized” costs (Pg. 470).

5 **Q. What is the application of the “matching costs and benefits” principle in this
6 instance?**

7 **A.** Goodman states that “...it is commonly followed ratemaking principle that costs,
8 including deferred costs, should be matched with benefits.”³ ((Page 285)

9 The cost of insurance is comprised of the annual premium and any deductible amount
10 incurred during an insurable event claim. As is commonly known, the acceptance of a
11 higher deductible by the insured party results in a lower annual premium paid. In the
12 utility ratemaking case, the annual premiums, which are known in advance, are
13 reviewed and included in the annual revenue requirement. As part of the revenue
14 requirement, the lower premiums benefit the utility’s customers through lower rates. As
15 Goodman observes “...costs incurred in one period can clearly benefit ratepayers over
16 a number of periods.”(Pg. 286).

17 **Q. What is the effect of an insurance claim/incident on rates?**

18 **A.** When an insurable event occurs, the insured party must pay the deductible amount of
19 the claim with the insurer paying the rest. If the deductible is not amortized or
20 normalized, then the cost falls solely on the investor. This would mean that costs and
21 benefits would not be balanced with the customer receiving the benefits of lower annual
22 premiums and the investor absorbing the cost of the deductible when a claim arises
23 which made the lower premium and ensuing rate possible. Application of the principle
24
25

3

1 of balancing costs and benefits would thus strongly support amortization of the
2 deductible in this case.

3 **Q. How would the regulatory view of “Adjustments for abnormal, unrepresentative
4 and extraordinary conditions” apply in this case?**

5 A. Goodman observes that “*An agency is not so bound to the results of a test period
6 sample of company operations that it must accept the experience of the test period as
7 necessarily representative of the future. The agency may depart entirely from the test
8 period and rely upon a multi-year average to determine a particular cost or to exclude
9 nonrecurring cost.*” (Pg. 287).

10 **Q. What significance is this observation to you?**

11 A. To me this means that if the large deductible insurance event did not occur in the test
12 period the regulator can still include all or part of it in the test year. The question of
13 “nonrecurring” is an issue I will discuss below. Clearly here, Goodman is allowing for
14 the amortization of “extraordinary” or “onetime” costs at the discretion of the regulator.

15 **Q. How does the regulatory treatment of “standardized and normalized” costs apply
16 in this case?**

17 A. Goodman reports that in “.....*State Utility Practice. A normal capitalization or expense
18 level is often used in state regulation to determine an appropriate level of costs for
19 ratemaking purposes...Normalization is appropriate where the test year figure cannot
20 be shown to be representative of the future period.* (Pg. 470).

21 **Q. How would this principle apply here?**

22 A. A regulated utility may not experience an insurance claim every year. Thus, insurance
23 deductible costs may not occur regularly nor predictably. While insurance claims may
24 not occur in the test year, insurance is bought and paid for because an insurable event
25

1 may occur while rates are in effect. This citation by Goodman also allows for the
2 inclusion of a “normal...expense” level amortizing the incurred deductible.

3 **Q. Would you agree with the assertion that the large deductible incurred by**
4 **Murrey’s Disposal in 2022 was a “one time event” and therefore should not be**
5 **amortized?**

6 **A.** No, I would not. First, even if the large claim was a “one-time” event, which it was not,
7 regulatory policies allow for amortization of the costs. Bryant and Herrman state that
8 “...when some larger nonrecurring expense is necessary it should be charged to
9 surplus, or to the depreciation reserve or be amortized over several years, whatever is
10 the appropriate method to use.”⁴ (Pg. 211). In this case, I believe that amortization is
11 the appropriate method.

12 Secondly, the issue is not whether the specific circumstances which led to the insurance
13 claim would ever repeat in the future. There may never be a recurrence of that same
14 type of event.

15 **Q. What is the issue then?**

16 **A.** The question is whether the company might experience a large claim in the future. This
17 is not the same question as whether the **same event** would occur in the future. If
18 someone wants to make the assertion that the company will not have any insurance
19 claims in the future because the 2022 claim was a “one time” event, then it would be
20 logical to argue that the utility does not need insurance – the regulated utility won’t
21 have any insurable events in the future, they incurred a “one time” event and there is
22 no possibility of future insurable events. That is absurd. I would also note that
23 Washington state law implicitly appears not to view insurance claims as a “one time”
24 event, as RCW 81.77 060, “Liability and Property Damage Insurance- Surety”, requires
25

⁴ Ibid.

1 solid waste collections companies “*procure liability and property damage insurance,*”
2 no matter what past insurance claims may have been, in order to conduct authorized
3 regulated operations.

4 **Q. Would the amortization of the large deductible possibly be in accordance with the**
5 **statutory requirement that rates be “just and reasonable?”**

6 **A.** Yes, as the staff memorandum behind Order 01 in Docket: TG-230661, In re: Yakima
7 Waste Systems, Inc. (Sept. 2023) reiterated, the regulatory standard of the WUTC is as
8 follows:

9 *Staff informed customers that state law requires rates to be fair, just,*
10 *reasonable, and sufficient to allow the Company to recover reasonable*
11 *operating expenses and the opportunity to earn a reasonable return on its*
12 *investment. Customers were also told that Commission Staff performs a*
13 *thorough review of rate filings to ensure all rates and fees are appropriate.*

14 An amortization or *normalization*, such as the one requested here is a “reasonable
15 operating expense” and the WUTC has approved normalization of such infrequently
16 recurring but non-periodic or non-predictable expenses as to timing, in the past.
17 Operating expenses are reviewed as part of the cost of service analysis and thus an
18 Order setting “just and reasonable rates” is based on an inspection, analysis and
19 approval of “just and reasonable” costs.

20 Normalization of a cost is an accepted regulatory treatment and just such an example
21 would be the regulatory treatment by staff in Docket No.TG-230182, In re Empire
22 Disposal Inc, (Apr. 2023),where the WUTC Staff memo pertinent to the filing’s
23 acceptance by the Commission in the Open Meeting explained:

24 *“The Company’s outside repairs account included an unusually large repair for a*
25 *necessary and prudent engine replacement. Staff reviewed the annual repair expense*
for the last five years, finding the Company’s expenses significantly varied year to year.

1 *Staff normalized the expense by adjusting the account to the average of the last five*
2 *years to best reflect a normal operating year.”⁵ Thus, regulatory principles as*
3 *practiced in Washington would indeed appear to allow for such an amortization as*
4 *requested by the company. This Commission previously observed in a 1958 case that*
5 *...“However, our past decisions, and our rules, recognize that some expenses or*
6 *investments that do not take place in the test year that, nonetheless, should be included*
7 *in the rate-making formula.”⁶*

8 **Q. Have you identified any recent orders of this Commission which supported the**
9 **amortization of an exceptional cost?**

10 **A.** Yes, In a series of Covid-19 cost recovery orders issued in August and September 2021,
11 appended as Exhibit BT-2, the Commission authorized these seven companies to
12 recover via amortization costs incurred by the companies unique to the Covid-19
13 emergency. In the order for Murrey’s Disposal Company, Inc. – TG-210459 – August
14 1, 2021 the Commission noted that:
15 “Staff believes allowing the expenses to be recovered separately from a general rate
16 case over a specified period will ensure the costs are recovered, but not over collected.”
17 In this case the Commission recognized that amortization of “...abnormal costs
18 incurred during a state of emergency,” was “...in the public interest” and that “...the
19 Company’s proposed tariff revisions to recover costs related to the COVID-19
20 pandemic are fair, just, reasonable, and sufficient.”⁷ I believe the same rationale would
21 apply in the instance of this rate case requesting amortization of the insurance
22 deductible and severance payments. These are expenses that are not routinely incurred

24 ⁵ Docket No.TG-230182, In re Empire Disposal Inc, (Apr. 2023).

25 ⁶ 2010 WL 1383928 (Wash U.T.C.) 281 P.U.R. 4th 329.

⁷ Docket No.TG-210459, Order 01, In re Murrey’s Disposal (Aug. 2021)./(
RESPONDENT’S PREFILED DIRECT TESTIMONY OF BRANKO TERZIC - 10
7866252.1
7866252.1

1 but they do in fact occur, and a regulated business must confront them. I would also
2 note that the Commission did not appear to predicate its allowance of the expense on
3 the issue of whether the Covid-19 expenses were recurring or not in granting the relief
4 sought by the regulated solid waste collection companies in these instances. A
5 pandemic's impact on the workplace is hopefully not a recurring expense to confront,
6 but it is the type of expense a business cannot avoid incurring or otherwise deflect in
7 fulfilling its regulated service obligations to the public.

8 **Q. What regulatory implications would there be if the Commission rejected the**
9 **amortization of the deductible amount?**

10 **A.** In this case, the approximate \$2 million deductible is very large compared to the \$22
11 million annual revenue requirement of the subject company, An Order disallowing this
12 would simply eliminate any possibility that the company could earn a reasonable return
13 for the period. Regulatory principles of ratemaking require that a regulated
14 Utility be afforded an "opportunity" to earn a "fair return." That opportunity would be
15 precluded by that adverse regulatory action.

16 **Q. Do you see any other danger signs in the disallowance of amortization of the**
17 **deductible amount here?**

18 **A.** Yes. Additionally, if the rejection of the deductible normalization should become
19 Commission policy, the message sent and likely received would be that utilities should
20 seek higher priced insurance with lower deductibles as the higher deductibles would not
21 be recoverable in cost-of-service rates in the future. This has other negative cost
22 implications for customers.

23 **Q. What other factors might be at play here?**
24
25

1 A. Unfortunately, insurance rates for regulated utilities⁸ and transportation⁹ and other
2 enterprises, have been increasing with additional risks from interest rates rising,
3 inflations rate, climate change, and risk of cyber-attack.

4 For example, Deloitte reports: “*For the third straight year, the nonlife insurance sector*
5 *is boosting top-line growth with higher-than-average price increases across nearly all*
6 *lines of business—yet rising loss costs are making bottom-line profitability elusive for*
7 *many carriers and the industry as a whole.*”¹⁰

8 There is even a question as to whether lower deductible insurance is or will in the future
9 even be available in some industries.

10 I therefore urge the Commissioners not to change their policies and to continue
11 allowing amortization of insurance deductibles.

12 **III. THE SEVERANCE EXPENSE ADJUSTMENT SHOULD ALSO BE ALLOWED**

13 **Q. What is your recommendation with respect to the Company’s request that similar**
14 **amortization treatment be given for the claimed severance expense?**

15 A. As labor costs are an element of the annual revenue requirement, the payment of
16 severance should be included as part of that overall expense. Similar to the insurance
17 deductible issue, severance payments may not occur on an annual or regular basis but it
18 can be expected that severance costs would be incurred at some point going forward. In
19 response to Staff Data Requests 1-6 the company has indicated that while no severance
20 expenses were incurred in the years 2019-2021, there were two occurrences in 2022 and
21

22
23 ⁸Maloney, Peter and DeRivi, Tanya, “*Special Series: How Utilities Are Addressing Rising Risks And Insurance*
Premiums”, American Public Power Association, August 24, 2021,
24 <https://www.publicpower.org/periodical/article> (Last accessed March 19, 2024).

25 ⁹Lockridge, Deborah, “*ATRI Report Takes on Rising Trucking Insurance Costs*” February 18, 2022, HDT
Trucking Info, <https://www.truckinginfo.com/> (Last accessed March 19, 2024).

¹⁰ Hersch, Karl, “2024 Global Insurance Outlook” *Deloitte*, 2024, <https://www2.deloitte.com> (Last accessed
March 19, 2024).

1 one occurrence in 2023. The case for the need for severance is presented in the
2 testimony of Mr. Wonderlick

3 **Q. Why is Paying Severance a Valid/Allowable Expense for a Public Service**
4 **Company today?**

5 A. While I will not elaborate in detail here, I believe that in modern business, the option of
6 severance versus litigation is a benefit to consumers in that it provides certainty as to
7 cost and timing of the resolution of a labor dispute. Paying severance and often
8 obtaining releases from recipient employees allows a Company to “cordon off” and
9 permanently cap its potential liability for any going forward expense related to the
10 employment separation and is the type of managerial decision typically left to the
11 reasonable discretion of management of business upon which regulators do not
12 typically intrude. This factor was observed by former regulator and Professor Alfred
13 E. Kahn: *“This society has never been willing to have commissions fill the role of*
14 *management and doubtless for good reason; it is difficult to see how any company*
15 *could function under two separate co-equal managements, each with an equally*
16 *pervasive role in its operations.”*¹¹(Pg. 30).

17
18
19 Severance normalization is also simultaneously consistent with the ratemaking goal of
20 “known and measurable” expense quantification.

21 For both the issue of deductible costs and the possibly more contemporary issue of
22 severance costs, regulators have also had guidance from regulatory texts. For example,
23 the late Francis X. Welch an attorney and editor of Public Utilities Fortnightly, wrote:
24
25

¹¹ Kahn, Alfred E, The Economics of Regulation: Principles and Institutions, MIT Press, Cambridge V. 1 1990.
RESPONDENT’S PREFILED DIRECT TESTIMONY OF BRANKO TERZIC - 13
7866252.1
7866252.1

1 *“A number of commissions seem disposed to follow the reasonable rule laid down by*
2 *the District of Columbia Commission in Re; Capitol Transit Co. (1950)...which gave*
3 *consideration to items of cost which are not reflected on the books for the test period,*
4 *but which may reasonably be expected to occur in the future.”¹² (Pg. 229).*

5 It is indisputable that both an insurable event and severance payments may “reasonably
6 be expected to occur in the future.” Denial of their recovery is thus unreasonable in my
7 opinion.

8 **Q. Does this end your testimony?**

9 **A.** Yes, it does with the additional anecdotal comment that this is a rare instance where I
10 have testified that a regulator should continue a regulatory policy rather than change
11 one. With the respect to the largest monetary item in dispute here, the
12 insurance/casualty loss claim, that certainly is the case here.

13
14
15
16
17
18
19
20
21
22
23
24
25

¹² Welch, Francis X. , Preparing for the Utility Rate Case, Public Utility Reports Inc., Washington DC 1954.
RESPONDENT’S PREFILED DIRECT TESTIMONY OF BRANKO TERZIC - 14
7866252.1
7866252.1