

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

WASTE MANAGEMENT OF
WASHINGTON, INC.,

Respondent.

DOCKET TG-240189

COMPLAINT

and

NOTICE OF PREHEARING
CONFERENCE

(Set for June 21, 2024, at 1:30 p.m.)

1 The Washington Utilities and Transportation Commission (Commission), on its own motion, and through its regulatory staff, alleges as follows:

I. OVERVIEW

2 The Commission complains against Waste Management of Washington, Inc. (Waste Management or Company) for violations of state law and administrative rule when the Company failed to follow its tariff with respect to service to 25 customers in Douglas County. Commission Staff (Staff) seeks an order finding violations and assessing monetary penalties against Waste Management.

II. PARTIES

3 The Commission is an agency of the state of Washington authorized by statute to regulate the rates, services, facilities, and practices of public service companies, including solid waste collection companies, under the provisions of Title 81 Revised Code of Washington (RCW).

4 Waste Management is a corporation doing business in the state of Washington and is subject to the regulatory authority of the Commission. Waste Management holds a solid waste collection company certificate issued by the Commission (Certificate No. G-237) that authorizes the Company to collect solid waste within its certificated territory in Washington, including Douglas County. Waste Management serves Douglas County with permanent bi-weekly container service under Waste Management of Greater Wenatchee Tariff No. 14, Item 240.

III. JURISDICTION

5 The Commission has jurisdiction over this matter pursuant to RCW 80.01.040; RCW
81.01.010; Chapter 81.04 RCW including RCW 81.04.070, RCW 81.04.110, RCW
81.04.380, and RCW 81.04.460; Chapter 81.28 RCW including RCW 81.28.080; Chapter
81.77 RCW including RCW 81.77.030; and Chapter 480-70 of the Washington
Administrative Code (WAC).

IV. FACTUAL ALLEGATIONS

6 Waste Management operates a solid waste collection company in the state of Washington
under Certificate No. G-237.

7 Waste Management d/b/a Waste Management of Greater Wenatchee provides service in
Douglas County pursuant to its Tariff No. 14.

8 Item 240 of Tariff No. 14 defines permanent service as “no less than scheduled, every
other week pickup, unless local government requires more frequent service or unless
putrescibles are involved.” Item 240 also states that “Customers located in rural Douglas
County residing in areas designated in zip codes 98830, 98858, and 99115...will be
provided service only on every other week basis.”

9 Based on concerns raised about Waste Management’s business practices through an
informal customer complaint received by the Commission’s Consumer Protection
Division, Compliance Investigations Staff initiated a formal investigation into the
Company’s business practices related to permanent container pick-up service scheduled
in Douglas County.

10 Data from the Company for the timeframe September 1, 2021, through April 30, 2023,
demonstrates that 651 Waste Management customers were entitled to and paid for bi-
weekly container pick-up under the Company’s tariff.

11 A total of 29 customers received monthly and not bi-weekly container pick-up service, of
which 25 customers were impacted on or after June 1, 2022.

12 Of the 25 customers impacted on or after June 1, 2022, one customer who ordered
permanent bi-weekly container pickup service received monthly pick-up service for the
period of June 1, 2022, through April 6, 2023.

13 Of the 25 customers impacted on or after June 1, 2022, two customers who ordered
permanent bi-weekly container pickup service received monthly pick-up service for the
period of June 1, 2022, through May 31, 2023, when service ended for those customers.

14 Of the 25 customers impacted on or after June 1, 2022, one customer who ordered
permanent bi-weekly container pickup service received monthly pick-up service for the

period of June 1, 2022, through June 1, 2023, when service ended for that customer.

- 15 Of the 25 customers impacted on or after June 1, 2022, 21 customers who ordered permanent bi-weekly container pickup service received monthly pick-up service for the period of June 1, 2022, through April 30, 2023.

V. APPLICABLE LAW

- 16 The Commission regulates public service companies pursuant to a delegation of authority from the legislature. *See* RCW 80.01.040(2); RCW 81.01.010.
- 17 Pursuant to RCW 81.77.030, the Commission is tasked with supervising and regulating solid waste collection companies that operate in the state of Washington. This task includes fixing rates, charges, classifications, rules and regulations; regulating the accounts, service, and safety of operations; requiring compliance with local solid waste management plans and related implementation ordinances; and supervising and regulating carriers in all other matters affecting the relationship between them and the public which they serve.
- 18 Under RCW 81.28.040, solid waste collection companies must file tariffs with the Commission showing the rates, charges, and classification of their services.
- 19 WAC 480-70-236 requires solid waste companies to file tariffs and comply with the provisions of Commission-approved tariffs.
- 20 RCW 81.28.080 prohibits common carriers, including solid waste collection companies, from charging, demanding, collecting, or receiving a greater or lesser or different compensation for solid waste collection, or for any related service, than the rates and charges specified in a company's tariff. *See also* WAC 480-70-236.
- 21 The Commission may file a complaint upon its own motion setting forth any act or omission by any public service company that violates any law or any order or rule of the Commission. *See* RCW 81.04.110.
- 22 Pursuant to RCW 81.04.380, the Commission may penalize a public service company that violates or fails to comply with any provision of Title 81 RCW or any order, rule, direction, demand, or requirement of the Commission up to \$1,000 for each and every offense. Every violation is a separate and distinct offense.
- 23 The Commission is further authorized, under RCW 81.28.240, after a hearing, to order a solid waste collection company to remedy inadequate or insufficient rules, regulations, practices, equipment, appliances, facilities, or service.

VI. CAUSE OF ACTION (WAC 480-70-236)

- 24 The Commission re-alleges paragraphs 2 through 23, above.
- 25 Waste Management violated WAC 480-70-236 when it failed to provide bi-weekly service to 25 customers in Douglas County. These customers were provided monthly container pick-up service instead of bi-weekly container pick-up service.

VII. REQUEST FOR RELIEF

- 26 Staff requests up to \$1000 for each violation of WAC 480-07-236, totaling 254 violations, as follows:
- 27 (i) Ten (10) violations with respect to service to one customer who ordered permanent bi-weekly container pickup service and only received monthly pick-up service for the period of June 1, 2022, through April 6, 2023.
- 28 (ii) Twenty-two (22) violations with respect to service to two customers who ordered permanent bi-weekly container pickup service and only received monthly pick-up service for the period of June 1, 2022, through May 31, 2023, when service ended for those customers.
- 29 (iii) Twelve violations (12) with respect to service to one customer who ordered permanent bi-weekly container pickup service and only received monthly pick-up service for the period of June 1, 2022, through June 1, 2023, when service ended for that customer.
- 30 (iv) Two-hundred and ten (210) violations with respect to service to 21 customers who ordered permanent bi-weekly container pickup service and only received monthly pick-up service for the period of June 1, 2022, through April 30, 2023.

VIII. PROBABLE CAUSE

- 31 Based on a review of Commission Staff's investigation report, and consistent with RCW 80.01.060 and WAC 480-07-307, the Commission finds probable cause exists to issue this complaint.

IX. NOTICE OF PREHEARING CONFERENCE

- 32 The Commission will hear this matter under the Administrative Procedure Act (APA), particularly Part IV of RCW 34.05 relating to adjudications. The provisions of the APA that relate to this proceeding include but are not limited to RCW 34.05.413, RCW 34.05.422, RCW 34.05.431, RCW 34.05.440, RCW 34.05.449, and RCW 34.05.452. The Commission will also follow its procedural rules in WAC 480-07 in this proceeding.

33 **THE COMMISSION GIVES NOTICE** That it will hold a virtual prehearing conference in this matter at 1:30 p.m. on June 21, 2024. To attend by phone, dial (253) 215 8782 and enter the Meeting ID: 862 3364 0041# and the Passcode: 814128#. To attend via Zoom, please [click here to join meeting](#).

34 The purpose of the prehearing conference is to consider requests for intervention, resolve scheduling matters including establishing dates for distributing evidence, identify the issues in the proceeding, and determine other matters to assist the Commission in resolving the matter as listed in WAC 480-07-430.

35 **INTERVENTION:** Persons who wish to intervene should file a petition to intervene in writing at least three business days before the date of the prehearing conference. *See* WAC 480-07-355(a). The Commission will consider oral petitions to intervene during the conference, but strongly prefers written petitions to intervene. Party representatives must file a notice of appearance with the Commission no later than the business day before the conference. *See* WAC 480-07-345(2). Parties with more than one representative must identify one individual as the “lead” for purposes of official service. Any party or witness in need of an interpreter or other assistance should fill out the form attached to this notice and return it to the Commission. The Commission will set the time and place for any evidentiary hearings at the prehearing conference, on the record of a later conference or hearing session, or by later written notice.

36 **THE COMMISSION GIVES NOTICE** that any party who fails to attend or participate in the prehearing conference set by this Notice, or any other stage of this proceeding, may be held in default under RCW 34.05.440 and WAC 480-07-450.

37 The names and mailing addresses of all known parties and their known representatives are as follows:

Complainant: Washington Utilities and Transportation Commission
621 Woodland Square Loop SE
P.O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

Representative: Lisa W. Gafken
Office of the Attorney General
P.O. Box 40128
Olympia, WA 98504-7250
(206)714-3551
lisa.gafken@atg.wa.gov

Respondent: Waste Management of Washington, Inc.
720 4th Ave., Suite 400

Kirkland, WA 98033-8136
mweinstein@wm.com

Representative Mike Weinstein
Waste Management of Washington, Inc.
720 4th Ave., Suite 400
Kirkland, WA 98033-8136
(425) 814-7840
mweinstein@wm.com

38 Administrative Law Judge Michael Howard, from the Commission’s Administrative Law Division, will preside during this proceeding.¹

39 The Commission will give parties notice of any other procedural phase of the proceeding in writing or on the record, as appropriate during this proceeding.

DATED at Lacey, Washington, and effective May 20, 2024.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Michael Howard
MICHAEL HOWARD
Director, Administrative Law Division

Inquiries may be addressed to:

Jeff Killip
Executive Director and Secretary
621 Woodland Square Loop S.E.
P.O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

¹ Judge XXX can be reached at 360-664-XXXX or first.last@utc.wa.gov.

NOTICE

Hearing facilities are accessible to persons with disabilities. Smoking is prohibited. If limited English-speaking, hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

If you need an interpreter, or have other special needs, please fill out and return this form to:

Washington Utilities and Transportation Commission
Attention: Jeff Killip
P.O. Box 47250
Olympia, WA 98504-7250

(PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket: _____

Case Name: _____

Hearing Date: _____ Hearing Location: _____

Primary Language: _____

Hearing Impaired: (Yes) _____ (No) _____

Do you need a certified sign language interpreter:

Visual _____ Tactile _____

Other type of assistance needed: _____

English-speaking person who can be contacted if there are questions:

Name: _____

Address: _____

Phone (_____) _____