

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

WASTE CONTROL, INC.,

Respondent.

DOCKET TG-140560

NARRATIVE STATEMENT OF
WASTE CONTROL, INC. IN
SUPPORT OF PARTIAL
SETTLEMENT

I. PRELIMINARY STATEMENT

1 This narrative statement is filed pursuant to WAC 480-07-740(2)(a), in support of and in
response to the Partial Settlement Agreement being filed on October 13, 2014 by the Staff
("Staff") for the Washington Utilities and Transportation Commission and Waste Control, Inc.
("WCI" or "Company").

2 WCI files this statement concurring in the Partial Settlement Agreement and brief
description of agreed-upon accounting adjustments addressing the Partial Settlement for the
general rate increase filed by WCI on April 4, 2014.

3 WCI, as required by 480-07-740(2)(b), will appear at any special hearing on this matter
should the Commission believe that necessary, at a time and location to be fixed by the
Commission, and would be prepared to present evidence and legal argument to assert various
rights devolving to the parties under WAC 480-07-740, supporting the partial settlement.

**II. COMPANY POSITION SUPPORTING PARTIAL SETTLEMENT AS
CONSISTENT WITH THE PARTIES' AND THE PUBLIC'S INTEREST**

4 The parties have now negotiated, after a protracted audit, discovery, mandated discovery
conference and formal settlement sessions interval, a partial settlement of this filing resulting in a
proposed settlement on numerous accounting adjustment issues. Of the original 14 contested

NARRATIVE STATEMENT OF WASTE CONTROL, INC.
IN SUPPORT OF PARTIAL SETTLEMENT

adjustments listed in Table 3, page 11 in Staff Exhibit MC-1 summarizing the various restating and pro forma adjustments in question, the proposed settlement would resolve approximately 10 of those 14 adjustments leaving only four Staff proposed adjustments in dispute following the filing of the Company's rebuttal case on August 20, 2014 in addition to final rate design presentations. As the Commission is aware in reviewing the Company's original filing, with the Staff case of July 18 and the Company's rebuttal, the parties were far apart at the completion of the case filings with the Staff actually advocating a refund after the effect of temporary rate increases for disposal fees of \$176,000, on December 1, 2013.

5 Now, after concerted efforts by the parties and provision of additional data and studies by the Company in support of its rebuttal case and in direct response to additional requests made at the latest settlement conference on August 26, the parties have moved dramatically closer and resolved particularly contentious issues such as the proposed separation of nonregulated operations revenue in the City of Kalama, truck rentals, cost of debt and capital structure with the parties either accepting the other's position (i.e. the Company accepting the asset useful lives position of the Staff or the Staff accepting the Company's position on commingling Kalama operations). These compromises, though protracted and at times arduous, ultimately represent good-faith efforts of the parties to avoid further contest and expense and achieve a reasonable middle ground on many accounting adjustments while earmarking the legal/policy issues that still remain in contention for resolution on a "paper-only" record.

6 The Company has not had any significant opportunity to fully evaluate statements made in Staff's Narrative in support of the parties' proposed Partial Settlement Agreement or even examine the Exhibits it attached. While recognizing that it is the Staff's Statement not its own or a joint narrative, however, the Company is compelled to at least note for the record that it does not concur in many of the Staff's characterizations of "of original and subsequent positions of WCI," particularly with respect to the controversial topic of the commingling of Kalama

operations and the implication that the original separation of Kalama was at the instigation of the Company.¹

7 Moreover, the staff’s repeated references throughout its supporting testimony to “four subsequent workbook versions” fails to acknowledge the basic iterative process typically experienced in deriving pro forma results of operations in general rate case audits where key adjustments are periodically revised and updated to accommodate and reflect accounting adjustments negotiated between the company and staff based on formal and informal data requests and additional clarifying discussions. Additionally, Staff use of adjectives peppered throughout its testimony like “unsupported,” “inaccurate” and “unreliable,” for example, are unfortunate and conclusory in this partial settlement context and the Company believes would be better left for legal argument on the remaining “paper-only” contested issues.

8 The Company understands that while the settlement narrative rule in question, WAC 480-07-740(2)(a), asks for an outline of the scope of the original underlying dispute, it does not necessarily solicit a settling party’s subjective, "blow-by-blow" rendition of a timeline portraying all of the parties’ views on how, when and why compromise on the original contested adjustments was achieved, particularly because the partial settlement is expressly non-precedential on any proposed compromised adjustments. A Settlement Narrative is thus not intended to be one more opportunity to rationalize or reinforce previous party positions that are revised by the proposed compromise.

9 While the Company appreciates Staff’s effort to outline and support all of the proposed settled accounting adjustments which clearly saved it further time and expense, it would, at the same time, suggest that the goal of a Settlement Narrative is to explain the proposed settlement and advance the rationale for reaching compromise which both sides accomplished here while

¹ See particularly, the testimony of Jackie Davis, Exhibit JD-41T, at p. 32 lines 24-26 and p.33, lines 1-13. The separation occurred at the filing of TG-140560 only because the staff had insisted on separating Kalama revenues in its audit of TG-131794 where it prepared a formerly reasonable pro forma results of operations for separated Kalama revenues and expenses and wound up dramatically revising it on filing of the TG-140560 Staff case, in July, 2014.

acting in concerted good faith. Resisting the inherent adversarial tendency to critique or controvert the other sides' previous positions by attributing blame, alleging errors and omissions, or characterizing motives for advancing prior, now superseded accounting adjustment recommendations seems far more conducive to the mutual goal of advocating approval of the partial settlement agreement.

10 Finally, the Company would also note this protracted case involved some fundamental, technical and/or experimental theories of accounting adjustments during the extended audit phase and that these alternative ratemaking approaches or theories necessarily deepened and protracted the disagreements between Staff and the Company in both proceedings. That acknowledgment is not intended as a pejorative toward the other side, merely a recognition that the issues that divided the parties here and the remaining ones which continue in dispute often represent deviation from past Staff accounting treatments of Company solid waste general rate cases which necessarily caused resistance by the Company, such as the issue of return on equity on rental property investments and the combination of capital structures of nonregulated affiliates for establishing rents paid by the regulated company to its affiliated landlords. These ratemaking expense theories required substantial discovery to develop, including voluminous loan and other debt instrument reviews which begat additional data requests, all of which cumulatively multiplied the areas for challenge and argument by the parties in defending and/or developing their respective positions on the general rate case filing.

11 The Company nevertheless asserts the Partial Settlement Agreement and evidence supplied by the Staff meet the focal rule criterion for supplying sufficient evidence to support the partial settlement's adoption which should bolster its likelihood for acceptance by the Commission. While the rationale for the parties' original positions, their respective justifications for adopting those positions and the disagreements on the appropriateness of their litigation positions to this juncture may underscore the contrast in approaches by each side of the validity of their views, ultimately again, the parties have arrived at a position of reasonable compromise

on the majority of the contested accounting adjustments which led to the original Order of Suspension in this matter.

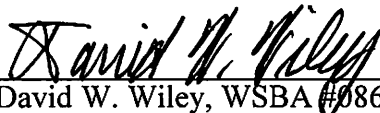
III. CONCLUSION

12 For all the various reasons outlined in this and the Staff's narrative in support of the Partial Settlement Agreement, the Company contends that approval of the Partial Settlement Agreement is consistent with the public interest in establishing just, reasonable and sufficient rates under RCW 81.28.230.

DATED this 13 day of October, 2014.

Respectfully Submitted,

WILLIAMS, KASTNER & GIBBS PLLC

By 
David W. Wiley, WSBA #08614
dwiley@williamskastner.com
Attorneys for Waste Control, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on October 13, 2014, I caused to be served the original and two (2) copies of the foregoing document to the following address via first class mail, postage prepaid to:

Steven V. King, Executive Director and Secretary
Washington Utilities and Transportation Commission
Attn.: Records Center
P.O. Box 47250
1300 S. Evergreen Park Dr. SW
Olympia, WA 98504-7250

I certify I have also provided to the Washington Utilities and Transportation Commission's Secretary an official electronic file containing the foregoing document via email to:
records@utc.wa.gov

and an electronic copy via email and first class mail, postage prepaid, to:

Marguerite Friedlander, Administrative Law Judge
Washington Utilities and Transportation Commission
P.O. Box 47250
1300 S. Evergreen Park Dr. SW
Olympia, WA 98504-7250
Email: mfriedla@utc.wa.gov

Brett Shearer
Office of the Attorney General
Washington Utilities and Transportation Commission
1400 S. Evergreen Park Dr. SW
PO Box 40128
Olympia, WA 98504-0128
Email: bshearer@utc.wa.gov

James K. Sells
Attorney at Law
PMB 22, 3110 Judson St.
Gig Harbor, WA 98335
E-mail: jamessells@comcast.net


MAGGI GRUBER
Legal Assistant
Williams Kastner
mgruber@williamskastner.com