

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Determining the Proper
Carrier Classification of, and Complaint for
Penalties against:

WESTSIDE WASTE LLC

DOCKET TG-190672

JOINT NARRATIVE SUPPORTING
SETTLEMENT AGREEMENT

I. INTRODUCTION

1 Staff of the Washington Utilities and Transportation Commission (Staff) and Westside Waste LLC (Westside Waste) (collectively “the parties”) submit this Joint Narrative Supporting Settlement Agreement (narrative) pursuant to WAC 480-07-740(3)(a) to describe the disputed issues in this docket and the parties’ proposed resolution of those issues, which is memorialized in the Settlement Agreement (Settlement) filed concurrently with this narrative. This narrative summarizes the Settlement; it does not replace or modify any of the Settlement’s terms.

II. PROPOSAL FOR REVIEW PROCEDURE

2 The parties contend that this is a “less complex matter” under WAC 480-07-740(2)(b). Accordingly, the parties do not believe that conducting a hearing will assist the Washington Utilities and Transportation Commission (Commission) decide whether to approve and adopt the settlement. *See* WAC 480-07-740(2)(e).

3 If the Commission conducts a hearing, however, the parties will each present one or more witnesses to testify in support of the settlement and to answer questions concerning the settlement’s details, costs, and benefits. *See* WAC 480-07-740(3)(b). In addition, counsel for each party will be available to address any legal matters associated with the settlement. If the

Commission requires supporting documents beyond the settlement, narrative, and the other documents on file in this docket, the parties will provide any documentation needed.

III. APPLICABLE LAW

4 RCW 81.77.010 defines a “solid waste collection company” as a person who “own[s], control[s], operat[es], or manag[es] vehicles used in the business of transporting solid waste waste for collection or disposal, or both, for compensation . . . over any public highway in this state as a ‘common carrier’ or ‘contract carrier.’” Under RCW 81.77.040, “[a] solid waste collection company shall not operate for the hauling of solid waste for compensation without first having obtained from the [C]ommission a certificate declaring public convenience and necessity require such operation.”

5 A solid waste collection company operating for the hauling of solid waste for compensation without first having obtained a certificate from the Commission is subject to a penalty of up to \$1,000 per violation. RCW 81.04.380. If the Commission determines that a solid waste collection company has operated for the hauling of solid waste without first obtaining the necessary authority from the Commission, the Commission must order it to cease and desist. RCW 81.04.510.

IV. SCOPE OF THE UNDERLYING DISPUTE

6 On November 8, 2019, the Commission entered Order 01 in this docket. In that order, through its Staff, the Commission alleged that Westside Waste had operated for the hauling of solid waste without first obtaining a certificate of public convenience and necessity 113 times between June 3, 2019, and August 6, 2019. Staff requested that the Commission impose up to the statutory maximum penalty, or \$113,000, for the alleged violations of RCW 81.77.040 and

also that the Commission order Westside Waste to cease and desist from further violations of the RCW 81.77.040.

7 The parties engaged in good faith efforts to resolve the matters disputed in this docket through a negotiated solution. Ultimately, those discussions produced the Settlement that the parties now present to the Commission for consideration.

V. DESCRIPTION OF SETTLEMENT AGREEMENT

8 The Settlement resolves all of the issues in dispute through the parties' agreement on the following terms:

- Violations: The Company admits that it committed 113 violations of RCW 81.77.040 between June 3, 2019, and August 6, 2019 as alleged in Order 01.
- Classification. The Commission will classify Westside Waste as a solid waste collection company.
- Cease and Desist. The Commission will order Westside Waste to cease and desist from operating for the hauling of solid waste until it receives from the Commission a certificate of convenience and public necessity authorizing it to do so.
- Monetary penalty: The Commission will impose a penalty of \$113,000 for Westside Waste's violations of RCW 81.77.040. It will suspend \$105,500 of that amount for two years, and thereafter waive the suspended portion if Westside Waste complies with the order that will be entered in this matter.
- Payment plan. Westside Waste will pay the unsuspended \$7,500 portion of the penalty in six consecutive monthly installments of \$1,250 beginning the month after the Commission approves the settlement.

VI. STATEMENT OF IMPACT ON THE PUBLIC INTEREST

9 The Commission supports negotiated resolutions of enforcement actions where the
settlement “is lawful and consistent with the public interest.” WAC 480-07-700. The parties
contend that their Settlement is lawful and consistent with the public interest for four reasons,
and that the Commission should therefore approve it without condition under WAC 480-07-
750(2)(a).

10 First, the Settlement avoids the costs of a contested hearing. The Settlement allows not
only the parties, but also the Commission itself, to avoid the expense, inconvenience,
uncertainty, and delay inherent in a litigated outcome.

11 Second, the Settlement provides for a fair penalty that incents compliance with the
public service laws. The Commission will impose a \$113,000 penalty on Westside Waste,
with all but \$7,500 of that penalty suspended for a period of two years and then waived if
Westside Waste complies with the order entered in this matter. The unsuspended \$7,500
penalty is an appropriate penalty for a small carrier like Westside Waste. And the suspended
\$105,500 portion of the penalty will incentivize Westside Waste’s compliance with the public
service laws.

12 Finally, the Settlement provides Staff with the means to verify Westside Waste’s
compliance with the public service laws. The Settlement provides for the company’s
classification as a solid waste collection company, allowing Staff to audit and monitor
Westside Waste’s business to ensure that it does not operate for the hauling of solid waste
before it obtains from the Commission authority to do so.¹

¹ Westside Waste applied for a certificate of convenience and public necessity in Docket TG-190653.

VII. CONCLUSION

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The Settlement resolves all of the issues in this docket in a manner that complies with applicable legal requirements and also is consistent with the public interest. The parties respectfully request that the Commission issue an order approving the settlement in its entirety without condition.

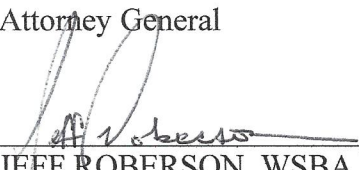
DATED this 20th day of March 2020.

WESTSIDE WASTE LLC

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

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