

Docket No. TG-181023 - Vol. II

**In the Matter of the Application of: Superior Waste &
Recycle LLC**

August 5, 2019



206.287.9066 | 800.846.6989

1325 Fourth Avenue, Suite 1840, Seattle, Washington 98101

www.buellrealtime.com

email: info@buellrealtime.com



BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION Commission

In the Matter of the)	Docket No. TG-181023
Application of,)	
)	
SUPERIOR WASTE & RECYCLE)	
LLC)	
)	
For Authority to Operate)	
as a Solid Waste Collection)	
Company in Washington)	
)	

EVIDENTIARY HEARING, VOLUME II

Pages 18 - 159

ADMINISTRATIVE LAW JUDGE RAYNE PEARSON

August 5, 2019

9:06 a.m.

Washington Utilities and Transportation Commission
621 Woodland Square Loop Southeast
Lacey, Washington 98503

REPORTED BY: CARMEN L. LUNDY, CCR #2287, RPR

Page 19

1 APPEARANCES

2 ADMINISTRATIVE LAW JUDGE:

3 RAYNE PEARSON
4 Utilities and Transportation
5 Commission
6 621 Woodland Square Loop Southeast
7 Lacey, Washington 98503
8 (360) 664-1136
9 Ryane.pearson@utc.wa.gov

10 FOR COMMISSION STAFF:

11 HARRY FUKANO
12 Assistant Attorney General
13 1400 South Evergreen Park Drive SW
14 PO Box 40128
15 Olympia, Washington 98504
16 (360) 664-1225
17 Harry.fukano@utc.wa.gov

18 FOR SUPERIOR WASTE
19 & RECYCLE:

20 JIMMY GARG
21 Seattle Litigation Group, PLLC
22 500 Union Street, Suite 510
23 Seattle, Washington 98101
24 (206) 407-3300
25 Jimmy@seattlelitigation.net

FOR WASTE MANAGEMENT:

WALKER STANOVSKY
Davis Wright Tremaine, LLP
920 Fifth Avenue, Suite 3300
Seattle, Washington 98104
(206) 757-8259
Walkerstanovsky@dwt.com

ANDREW KENEFICK
Waste Management
720 Fourth Avenue, Suite 400
Kirkland, Washington 98033-8136
(425) 825-2003
Akenefick@wm.com

ALSO PRESENT:

MIKE YOUNG
ALL WITNESSES PRESENT

1 EVIDENTIARY HEARING
2 VOLUME II: INDEX

3	WITNESSES:	PAGE:
4	DANIEL STEIN	
	Cross-Examination by Mr. Stanovsky	30
5	Redirect Examination by Mr. Garg	86
	Cross-Examination by Mr. Fukano	97
6		
	MICHAEL WEINSTEIN & ROBERT RUTLEDGE (Simultaneously)	
7	Redirect Examination by Mr. Stanovsky	102
	Cross-Examination by Mr. Garg	104
8	Cross-Examination by Mr. Fukano	136
9	MICHAEL WEINSTEIN (Individually)	
	Examination by Judge Pearson	133
10	Recross Examination by Mr. Garg	137
11	SCOTT SEVALL	
	Cross-Examination by Mr. Garg	140
12	Redirect Examination by Mr. Fukano	145
	Redirect Examination by Mr. Stanovsky	146
13	Examination by Judge Pearson	153

14 *****

15 ALL EXHIBITS PREVIOUSLY MARKED

16			
		EXHIBIT INDEX	Page
17	No.	Description	Referenced
18		SUPERIOR WASTE & RECYCLE	
		Daniel Stein, Owner	
19			
	DS-1T	Director Pre-filed Testimony of	52
20		Daniel Stein	
		(5-15-19)	
21		6 pages	
22	DS-2	Declaration of Daniel Stein	
		(5-15-19)	
23		3 pages	
24	DS-3	Declaration of Tammy Stein	
		(5-15-19)	
25		3 pages	

Page 21

1

ALL EXHIBITS PREVIOUSLY MARKED

2

EXHIBIT INDEX

Page

3 No.

Description

Referenced

4 DS-4

Customer Support Statements
(5-15-19)

5

52 pages

6 DS-5

Letter from Sondra Even
(5-15-19)

7

2 pages

8 DS-6

Kitsap Sun Article dated 10-29-07
(5-15-19)

113, 114

9

5 pages

10 DS-7

Kitsap Sun Article dated 5-3-19
(5-15-19)

43, 45, 46
113

11

6 pages

12 DS-8T

Pre-Filed Responsive Testimony of
Daniel Stein
(6-28-19)

30, 31, 37
41

13

8 pages

14

CROSS-EXAMINATION EXHIBITS

15

WASTE MANAGEMENT

16 DS-9X

Superior Waste & Recycle LLC
Application for Solid Waste
Collection Certificate Dated
12-11-18

72, 80

17

18

5 pages

19 DS-10X

Superior Waste & Recycle LLC
Business Plan

84

20

5 pages

21 DS-11X

Superior Waste & Recycle LLC
Service Territory Map

74

22

1 page

23 DS-12X

Superior Waste & Recycle LLC
Proposed tariff dated

24

12-11-18

25

6 pages

1	ALL EXHIBITS PREVIOUSLY MARKED		
2	EXHIBIT INDEX	Page	
3	No.	Description	Referenced
4	(Continued)		
5	CROSS-EXAMINATION EXHIBITS		
6	WASTE MANAGEMENT		
7	DS-13X	Superior Waste & Recycle Responses to First Set of Data Requests from Waste Management dated 5-8-19 7 pages	
8	DS-14X	Superior Waste & Recycle LLC Responses to Second Set of Data Requests from Waste Management Dated 6-13-19 14 pages	41
9	DS-15X	Staff Investigation Report from Docket TG-180181 dated May 2019 10 pages	
10	DS-16X	Appendices to Staff Investigation Report from Docket TG-180181 11 pages	47, 48, 91
11	DS-17X	Hearing Transcript from Docket TG-180181 dated 11-29-18 45 pages	
12	DS-18X	Initial Order 02 from Docket TG-180181 dated 12-10-18 11 pages	39, 51
13	DS-19X	Brem-Air Disposal tariff sheets from Docket TG-101248 dated as issued 7-21-10 2 pages	
14	DS-20X	Kitsap County Code Chapter 9.45 dated 7-29-19 8 pages	56
15			

Page 23

1	ALL EXHIBITS PREVIOUSLY MARKED		
2	EXHIBIT INDEX	Description	Page
3	No.	Description	Referenced
4		(Continued)	
5		CROSS-EXAMINATION EXHIBITS	
6		WASTE MANAGEMENT	
7	DS-21X	Superior's Responses to Staff Data Request Nos. 1-5 dated 7-29-19 5 pages	53, 54, 92
8	DS-22X	Superior's Responses to Waste Management's Third Set of Data Requests dated 7-29-19 9 pages	45
9		Commission Staff	
10	DS-23X	See DS-15X and DS-16X	
11	DS-24X	See DS-17X	
12	DS-25X	See DS-18X	
13		COMMISSION REGULATORY STAFF	
14		Scott Sevall, Regulatory Analyst	
15	SS-1T	Direct Pre-filed Testimony of Scott Sevall (5-15-19) 6 pages	110, 144
16	SS-2	Staff Financial Review Worksheets (5-15-19) 4 pages	
17	SS-3	Staff Financial Review Memo (5-15-19) 3 pages	144
18	SS-4	Staff Notes from Meeting with Daniel Stein (5-15-19) 1 page	
19			
20			
21			
22			
23			
24			
25			

1	ALL EXHIBITS PREVIOUSLY MARKED		
2	EXHIBIT INDEX		Page
No.	Description	Referenced	
3	(Continued)		
4	COMMISSION REGULATORY STAFF Scott Sevall, Regulatory Analyst		
5	SS-5T	Pre-Filed Responsive Testimony of Scott Sevall (6-28-10) 7 pages	110, 140
7	SS-6T	Pre-Filed Supplemental Testimony of Scott Sevall (7-30-19) 8 pages	139, 140, 146
9	SS-7C	*** CONFIDENTIAL ***	
10	Waste Management Customer Complaints		
11	SS-8C	*** CONFIDENTIAL ***	
12	Waste Management Survey Notes		
13	SS-9C	*** CONFIDENTIAL ***	
14	Waste Management Survey Notes - B		
15	CROSS-EXAMINATION EXHIBITS		
16	SS-10X	Sponsor: Waste Management Staff Response to Waste Management Data Request No. 1 dated 6-11-19	
17	1 page		
18	SS-11X	Sponsor: Waste Management Selected Staff Responses to Waste Management Data Requests dated 7-29-19	147, 148
20	16 pages		
21	SS-12CX	*** CONFIDENTIAL ***	
22	Sponsor: Superior W&R Selections from UTC Consumer Complaints RE: Waste Management Service, 448 pages		
23			
24	SS-13X	Sponsor: Superior W&R Staff Response to Waste Management Response No. 1, 1 page	
25			

Page 25

1		ALL EXHIBITS PREVIOUSLY MARKED	
2			
3	No.	EXHIBIT INDEX Description	Page Referenced
4		(Continued)	
5		CROSS-EXAMINATION EXHIBITS	
6	SS-14X	Sponsor: Superior W&R Staff Response to Waste Management Nos. 2-4 4 pages	
7			
8			
9		WASTE MANAGEMENT Michael A. Weinstein, Senior Pricing Manager	
10	MAW-1T	Pre-filed Direct Testimony of Michael A. Weinstein (5-15-19) 19 pages	104, 114, 117 132
11			
12			
13	MAW-2	Commission Certificate G-237 Authorizing Waste Management's Solid Waste Collection Services (5-15-19) 21 pages	
14			
15			
16	MAW-3	Map of Superior's Proposed Territory and Customer Locations (5-15-19) 2 pages	
17			
18			
19	MAW-4	Selected Responses from Superior to Waste Management Data Requests (5-15-19) 4 pages	
20			
21	MAW-5T	Pre-Filed Responsive Testimony of Michael A. Weinstein (6-28-19) 11 pages	
22			
23			
24	MAW-6X	Sponsor: Commission Staff Tariff Pages from Docket TG-071785 filed 8-31-07 38 pages	106
25			

1 ALL EXHIBITS PREVIOUSLY MARKED

2
 3 EXHIBIT INDEX Page
 4 No. Description Referenced

(Continued)

CROSS-EXAMINATION EXHIBITS

WASTE MANAGEMENT

Michael A. Weinstein,
 Senior Pricing Manager

8 MAW-7CX *** CONFIDENTIAL ***
 Sponsor: Superior W&R
 9 Selections from Waste Management's
 Customer Complaint Spreadsheet, 6 pages

11 MAW-8CX *** CONFIDENTIAL ***
 Sponsor: Superior W&R
 12 Complete Superior Customer Location
 Notes, 3 pages

13 MAW-9X
 Sponsor: Superior W&R
 14 Waste Management Responses to Superior
 First Set of Data Requests, 8 pages

15 MAW-10X
 Sponsor: Superior W&R
 16 Waste Management First Supplemental
 Responses to Superior's First Set of
 17 Data Requests, 6 pages

Robert Rutledge, District Manager,
 Waste Management (Brem-Air Disposal)

18
 19 RAR-1T Pre-filed Direct Testimony of 102, 124, 128
 20 Robert Rutledge
 (5-15-19)
 21 9 pages

22 RAR-2T Pre-filed Responsive Testimony of 102
 23 Robert Rutledge
 (6/28/19)
 24 8 pages
 25

Page 27

1 LACEY, WASHINGTON; AUGUST 5, 2019

2 9:06 A.M.

3 --o0o--

4 P R O C E E D I N G S

5

6 JUDGE PEARSON: Good morning, today is Monday,
7 August 5th, 2019, at approximately 9:05 a.m. and we're today
8 for an Evidentiary Hearing in Docket TG-181023, which is
9 captioned In The Matter of the Application of Superior Waste
10 & Recycle, LLC for authority to operate as a solid waste
11 collection company in Washington.

12 We took care of several housekeeping matters off the
13 record this morning. The parties have stipulated to the
14 admission of all of the prefiled testimony and exhibits as
15 well as the cross-examination exhibits. And, for the court
16 reporter's benefit, I will provide you with a copy of the
17 exhibit list at the conclusion of the hearing.

18 Also, Staff's unopposed request for lead to file
19 supplemental testimony is granted. So those exhibits are
20 admitted in the record as stipulated.

21 So this morning's proceedings are going to have Superior
22 Waste's witness testifying first, followed by witnesses for
23 Waste Management, and then Commission Staff.

24 So let's start by taking short appearances. Please
25 state your name and who you represent for the record,

1 beginning with Superior.

2 MR. GARG: This is Jimmy Garg, attorney for
3 Superior, the applicant of this proceeding.

4 THE JUDGE: Okay, thank you. And for Waste
5 Management?

6 MR. STANOVSKY: Walker Stanovsky from Davis Wright
7 Tremaine, LLP for Waste Management, and with me at counsel
8 table is Andrew Kenefick.

9 MR. KENEFICK: Andrew Kenefick, senior legal
10 counsel for Waste Management.

11 JUDGE PEARSON: Thank you. And for Commission
12 Staff?

13 MR. FUKANO: Harry Fukano present, Commission Staff
14 from the Utilities & Transportation Commission division.

15 JUDGE PEARSON: Okay, thank you. So, according to
16 the party's agreed order of witnesses, I believe that
17 Mr. Stein will be testifying first.

18 This is the first time we've had witnesses testify in
19 this hearing room. Would you prefer that he stay seated
20 where he is or come sit next to you? What would be...

21 (Discussion off the record.)

22 JUDGE PEARSON: All right, let's go back on the
23 record. Mr. Stein, if you could please stand and raise your
24 right hand, I'll swear you in:

25 Do you swear or affirm that the testimony that you

Page 29

1 give today will be the whole truth and nothing but the
2 truth?

3 MR. STEIN: I do.

4 JUDGE PEARSON: Go ahead and be seated. And,
5 Mr. Garg, if you want to introduce your witness and we'll
6 make him available for cross-examination.

7 MR. GARG: My witness is Daniel Stein, he is the
8 owner of Superior, which is the applicant in this
9 proceeding.

10 MR. STANOVSKY: One moment, Your Honor. Just so
11 we're clear, we're not doing opening statements?

12 JUDGE PEARSON: Correct.

13 MR. STANOVSKY: Okay.

14 JUDGE PEARSON: Okay, is he available now for
15 cross; do you have any corrections to his testimony?

16 MR. GARG: Mr. Stein, are there any--is there
17 anything in your direct testimony that you would like to
18 correct at this time?

19 MR. STEIN: Just minor things. I stated that full
20 size Waste Management vehicles being 52,000 GVW is actually
21 58,000 GVW. And also--I also believe that 26,000 GVW for
22 their smaller pack--their smaller trucks was 28,000 GVW. So
23 just minor things such as that. That's the first and only
24 thing that comes to mind.

25 MR. GARG: My client is ready for

1 cross-examination.

2 JUDGE PEARSON: Mr. Stanovsky?

3 MR. STANOVSKY: Thank you, Your Honor. So it seems
4 the witness doesn't have a copy of the exhibits, so can we
5 get him a copy, or? I apologize. The bulk of my practice
6 has been Alaska so far and they have a copy that's
7 designated for the witness, so my apologies for not knowing
8 the procedure.

9 MR. GARG: Here's a list by numbers and then you
10 can just go off that.

11

12 CROSS-EXAMINATION

13

14 BY MR. STANOVSKY:

15 Q. Good morning, Mr. Stein.

16 A. Good morning.

17 Q. Good to see you again.

18 A. You as well.

19 Q. I would like to start, if you can find your response
20 testimony, it's DS-8T. And if you could turn to Page 7.
21 And just let me know when you're there.

22 A. DS-18?

23 Q. Eight. I'm sorry, 8. I think I said 8T but it may have
24 been only marked as 8 in the exhibit list.

25 JUDGE PEARSON: I've actually corrected that. The

Page 31

1 final exhibit list will reflect that it's DS-8T.

2 MR. STANOVSKY: All right. But DS-8 in that case.

3 A. Page 7.

4 Q. Page 7.

5 A. Okay, we are there.

6 Q. All right, thank you. And up at Line 6 to 8 there, you
7 see the question is: Is it your understanding that a
8 separate category for pack-out service exists; can you
9 please read your answer?

10 A. My understanding is that it does not, however, it is
11 used--however, it is used as it is a very unique and
12 specialized type of collection that requires special
13 vehicles.

14 Q. So your proposed service requires special vehicles;
15 that's correct?

16 A. My proposed service, yeah--well, yes.

17 Q. And your special vehicle is a 2017 three-quarter ton
18 Chevy Silverado pickup truck, correct?

19 A. Correct.

20 Q. Well, would you agree with me that I could probably go
21 buy a similar truck off the lot within Kitsap County today?

22 A. Yes, I do.

23 Q. So your testimony, if I understand it, is that that
24 truck that I could buy off the lot and the service you
25 provide with it is so specialized that it calls for a new

1 category of UTC solid waste service?

2 A. Not based on that vehicle, no.

3 Q. Thank you. So I want to talk a little about the scope
4 of your certificate, as you understand it, that you've
5 applied for.

6 If Superior receives--and I apologize if I--I will
7 attempt to distinguish between you and Superior. Please
8 feel free to correct me if I fail to do that, but I'll do my
9 best not to use the two interchangeably.

10 So if Superior receives the certificate it has applied
11 for, is it your understanding that Waste Management would no
12 longer be allowed to offer drive-in and carry-out service in
13 Superior territory?

14 A. To the best of my understanding that is correct.

15 Q. So would you turn in DS-8 then, where we just had it
16 open, turn it to Page 8. And can you read the question and
17 answer there at the top of the page, the first one?

18 A. Question: Waste Management claims Superior does not
19 have the ability to serve the customers in Waste
20 Management's territory if Superior is granted a certificate.

21 The answer: Waste Management is again attempting to
22 confuse and muddle the matter. Superior is only attempting
23 to gain a certificate to provide pack-out and specialized
24 services to its customers.

25 Q. And my understanding is Superior has 53 customers; is

Page 33

1 that correct?

2 A. Correct.

3 Q. So that's a very different statement from saying that
4 your understanding is that you're seeking a certificate that
5 would exclude Waste Management from providing pack-out
6 service throughout your entire territory, isn't that?

7 A. It does seem to go against itself, it does.

8 Q. Thank you. So based on your response that you are
9 seeking a certificate that would exclude Waste Management
10 from providing these services throughout the territory, that
11 would mean that you would be seeking the exclusive
12 opportunity to provide drive-in or carry-out service even to
13 those customers this in that territory who are already
14 receiving those service from Waste Management; is that
15 correct?

16 A. To the best of my understanding, the way that UTC
17 operates, there is no other way to do it.

18 Q. And that would also be true for the potential to serve
19 those services to Waste Management customers who are
20 currently receiving curbside service, correct?

21 A. No.

22 Q. Sorry. I'm not sure we understood each other. Do you
23 understand that the certificate that you believe you are
24 seeking would exclude Waste Management from providing
25 carry-out or drive-in service to customers that it's

1 currently providing curbside service to? So a current Waste
2 Management curbside customer decides they want drive-in
3 service, they would have to get it from you if your
4 certificated is granted, as you understand it?

5 A. The best of my understanding, the way the territories
6 work through the UTC, that is correct.

7 Q. Okay. Mr. Stein, when you were before the Commission at
8 your penalty case in November, do you remember testifying
9 that your goal in picking up people's waste around Seabeck--

10 MR. GARG: Objection. Relevance.

11 JUDGE PEARSON: Sorry, go ahead and finish your
12 question, Mr. Stanovsky. And, Mr. Stein, don't answer until
13 you hear the whole question, okay?

14 MR. STEIN: Okay.

15 Mr. Stanovsky Continuing:

16 Q. When you were before the Commission at your penalty case
17 in November, do you remember testifying that your goal in
18 picking up people's waste around Seabeck wasn't to have a
19 business, it was to relieve people's suffering?

20 JUDGE PEARSON: And you're objecting--

21 MR. GARG: Objection. Relevance. This matter
22 before the Court is Superior's application regarding Waste
23 Management's lack of providing customer service to its
24 customers. It doesn't have anything to do with Seabeck or
25 any previous investigation.

Page 35

1 MR. STANOVSKY: Your Honor, frankly, Waste
2 Management is puzzled by Superior's position that this case
3 has nothing to do with Superior. The Commission's precedent
4 is pretty clear that there are required elements to grant a
5 certificate:

6 The first is whether the incumbent is willing to provide
7 service to the satisfaction of the Commission.

8 The second is whether the public convenience and
9 necessity require the proposed service.

10 And the third is the financial and operational fitness
11 of the applicant.

12 JUDGE PEARSON: Okay.

13 MR. GARG: It still doesn't have anything to do
14 with Seabeck. It does, as you mentioned, have everything to
15 do with Superior but doesn't have anything to do with
16 Seabeck.

17 MR. STANOVSKY: So your position is that the
18 testimony given by Superior's sole employee and owner, six
19 months ago, is not relevant to Superior's proposed service?

20 MR. GARG: Correct.

21 JUDGE PEARSON: I'm going to overrule the
22 objection. You can go ahead with your question.

23 MR. STANOVSKY: Thank you, Your Honor.

24 Mr. Stanovsky Continuing:

25 Q. Mr. Stein, when you were before the Commission at your

1 penalty case in November, do you remember testifying that
2 your goal in picking up people's waste around Seabeck wasn't
3 to have a business, it was to relieve people's suffering?

4 A. That has been from the very beginning of it. I...

5 THE REPORTER: Wait. What was your last word?

6 MR. STEIN: "I."

7 Q. And do you remember testifying that you would do
8 whatever it takes to meet your customers' needs?

9 A. Yes.

10 Q. Was that true?

11 A. Yes.

12 Q. Do you still feel that way?

13 A. I do.

14 Q. So, Mr. Stein, do you understand that the Commission
15 only has jurisdiction over hauling solid waste over the
16 public roads but not on private property?

17 A. I do.

18 Q. And that it wouldn't require any certificate at all for
19 someone who wanted to move people's solid waste around on
20 private property?

21 A. Yes.

22 Q. And the customers that you're concerned with, are you
23 willing to haul their waste to the Waste Management pickup
24 points and then return their carts to their houses for them
25 without hauling their waste on the public highways?

Page 37

1 A. No.

2 Q. So you would do anything for your customers except come
3 back a second time to take the carts back to their houses;
4 do I understand that correct?

5 A. It's not feasible.

6 Q. Thank you. So, let's go back to your response
7 testimony, Page 7 now. This is Exhibit DS-8T. Page 7,
8 Line 7--sorry. Page 7, Lines 19 to 21. Could you please
9 read the sentence starting at 19--Furthermore--the question?

10 A. Yes. Furthermore, the question of this inquiry is not
11 about Superior but whether Waste Management is meeting the
12 needs of its customers that is satisfactory to the
13 Commission.

14 Q. So your testimony is that Superior doesn't have anything
15 to prove about its own service; is that correct?

16 A. Could you restate, or repeat? Excuse me, just repeat
17 it.

18 Q. So isn't it your testimony that Superior doesn't have
19 anything to prove about its own service in this case?

20 A. If you read the whole thing, it does. I believe that
21 that does. I haven't read it but I'm just skimming over it,
22 um, it does show that Superior does have something to show.
23 It's like scripture, you can't just take one passage out;
24 you've got to read the whole thing.

25 Q. That's fair. And as a pastor's kid, I appreciate that.

1 A. Sure.

2 Q. So at the penalty hearing back in November, didn't you
3 testify that when the UTC first contacted you about your
4 illegal operations, you had no idea who the UTC was?

5 A. And what was the date?

6 Q. So at the hearing in November, didn't you testify that
7 when the UTC first contacted you about your illegal
8 operations, you had no idea who the UTC was?

9 A. Correct.

10 Q. And that it all sounded like, quote, make believe and
11 made up? I can direct you to the transcript--

12 A. No--

13 Q. --if that would help?

14 A. --no, it--yeah, it was a shock.

15 Q. And that you thought it was Waste Management, not the
16 UTC on the phone, Waste Management misrepresenting itself to
17 try and scare you off?

18 A. Yes. I'm not sure of the timeline that you're referring
19 would be that particular time that I thought that. When I
20 was served papers I knew it to be true--was blown away.

21 Q. But, the question was about when you were first
22 contacted.

23 A. By UTC?

24 Q. By the UTC, yes.

25 A. I do remember that. Yeah, and that is correct.

Page 39

1 Q. And the testimony was that you thought it--

2 A. Yes, that is correct.

3 Q. --Waste Management pulling the trigger? Thank you.

4 So if we could turn to exhibit DS-18 now--not 8T. And
5 go to Page 7. Well, actually before we go to Page 7, let's
6 go to Page 1 of that exhibits.

7 JUDGE PEARSON: And let's just clarify, this is
8 DS-18X. It's a cross-examination exhibit.

9 MR. STANOVSKY: Yes. Thank you, Your Honor.

10 Mr. Stanovsky Continuing:

11 Q. You there?

12 A. I'm there.

13 Q. Do you recognize this document?

14 A. Yes, I do.

15 Q. And do you recognize it as the Commission's Cease and
16 Desist Order against you from late last year?

17 A. Yes, I do.

18 MR. STANOVSKY: Your Honor, I'd move to admit
19 Exhibit DS-18X.

20 JUDGE PEARSON: We've already stipulated to the
21 admission of all of these exhibits, so you don't need move
22 to admit them.

23 MR. STANOVSKY: I--I'm sorry, I thought I
24 understood that the stipulation was as to the pre-filed
25 direct testimony in exhibits.

1 JUDGE PEARSON: And then we talked about
2 cross-examination exhibits.

3 MR. STANOVSKY: Okay.

4 Mr. Stanovsky Continuing:

5 Q. So as we look at this document, just to clarify, Seabeck
6 Waste in this case, that was just you using a DBA business
7 name, correct?

8 A. Yeah.

9 Q. And if you would go to Page 7 and find Paragraph 25 when
10 you get there.

11 A. Okay.

12 Q. Would you please read that paragraph?

13 A. The evidence establishes that Seabeck Waste has been
14 operating in Washington in violation of applicable laws for
15 many years and acknowledged that it was operating in
16 violation of Commission rules. Seabeck Waste ignored
17 staff's previous attempts to contact the company and provide
18 technical assistance.

19 Q. Thank you. And please look down the page to
20 Paragraph 29, and would you please read just the first
21 sentence of that paragraph?

22 A. Overall, Seabeck Waste has demonstrated very little
23 ability, or willingness, to comply with Commission
24 regulations.

25 Q. Thank you. And now let's go back to your response

Page 41

1 testimony, the DS-8T. Again, at Page 8.

2 So you're there at Page 8?

3 A. I'm there. Page 8, yes.

4 Q. And do you see the question that begins at Line 7?

5 A. I do.

6 Q. Would you please read the first sentence of the answer
7 there?

8 A. Superior is not currently obligated by rules and
9 regulations of UTC such as recordkeeping, office address,
10 office hours as it currently does not have a G Certificate.

11 Q. Mr. Stein, is it your understanding that the
12 Commission's rules don't apply to you if you don't have a
13 G Certificate?

14 A. They do apply, however, if I operate as I do now I'm
15 within good standing; I'm within the law. They still apply.
16 I have to be very careful about how I operate.

17 Q. Would you please find Exhibit DS-14X, and when you get
18 there turn to Page 3 and find Request 28A there. And the
19 request is: State the name and address of each person and
20 residence to which the quoted passage refers. It's
21 referring to an earlier quote from earlier in discovery.
22 The specifics don't matter but the request was for the name
23 and address of some people relevant to a statement. And I
24 would just like you to read the response there.

25 JUDGE PEARSON: I'm sorry, can tell me again which

1 data request?

2 MR. STANOVSKY: This is Data Request 28A from Waste
3 Management to Superior.

4 JUDGE PEARSON: Okay.

5 A. For the record, I have no idea what you just said before
6 that, but I'll read the response.

7 JUDGE PEARSON: Mr. Stein, can you speak closer to
8 the microphone?

9 MR. STEIN: Yes.

10 Mr. Stanovsky Continuing:

11 Q. And, by all means, feel free to ask me to clarify if you
12 don't understand my question, so I appreciate that. But I
13 think it's not necessary to clarify, the context isn't
14 important; I would just ask you to read the response.

15 A. Superior objects--is it A or just the response to A?

16 Q. The response to A.

17 A. Superior objects to this request because WAC 480-70-421
18 strictly limits Superior's use of customer information and
19 providing the requested information to Waste Management is
20 not among the allowed uses.

21 Q. So, it looks to me like when Waste Management is asking
22 for details to backup your testimony, Superior's position is
23 that the Commission's regulations do apply to Superior so
24 that it can't answer; is that right?

25 A. We live in a nation of laws so we have laws on the

Page 43

1 books. And we use the laws--

2 Q. It's a yes or no question, Mr. Stein.

3 A. Okay. Would you please repeat it?

4 Q. Looking at this response it appears to me that Superior
5 is taking the position that the Commission's rules do apply
6 to prohibit it from disclosing customer information in
7 response to Waste Management's discovery. Isn't that what
8 this is?

9 A. It would appear that way.

10 Q. But those rules don't apply when Waste Management is
11 asking how you'll actually comply with them if you're
12 granted a certificate, as we discussed a little earlier,
13 correct?

14 A. I just find it as an interesting question. I would say
15 that, I know that my attorney has--represents me, and I
16 answer the questions and... I believe they do apply.

17 Q. Thank you. Now let's look at Exhibit DS-7. This is one
18 of the exhibits to your direct testimony. And this is the
19 article about you and this case from the Kitsap Sun, fairly
20 recently, I guess--just this last May; is that correct?

21 A. Yes.

22 Q. And would you turn to Page 4 and look about halfway down
23 the page there, there is a paragraph that starts: For the
24 past 8 months. Do you see that? So we're looking at Page 4
25 of Exhibit DS-7.

1 A. I don't see it.

2 Q. So do you see the bold large text heading? Count up
3 from there three paragraphs.

4 A. Yes, I see it.

5 Q. All right. And would you just read from there to the
6 end of the section before the bold text.

7 A. For the past eights months or so, after he was ordered
8 by the State to cease and desist, he says he has continued
9 to serve his customers for free, refusing to accept payment
10 so he isn't breaking the law. Except for one customer,
11 Stein told the Commission he accepts cookies. I did that as
12 my only little protest, Stein said.

13 Q. All right, thank you. And I'm not wondering about some
14 technical violation of the law by accepting cookies as
15 compensation. But what I'd like to know is more about your
16 attitude. Because it looks like what you're protesting is
17 the Commission's order to cease and desist--

18 MR. GARG: Objection. This is something the writer
19 wrote; this is not something Mr. Stein--this is the opinion
20 of a writer, not Mr. Stein's personal opinion.

21 MR. STANOVSKY: Your Honor, we ask foundational
22 questions for this in discovery; if you give me just a
23 moment, I can find this.

24 JUDGE PEARSON: Sure.

25 MR. STANOVSKY: All right, we can come back to that

Page 45

1 question after I ask a couple of others. Can we please look
2 at--if Your Honor would postpone ruling?

3 JUDGE PEARSON: That's fine.

4 Mr. Stanovsky Continuing:

5 Q. So, Mr. Stein, could you turn to Exhibit DS-22X? Are
6 you there?

7 A. Yep.

8 Q. And turn to Page 2, Request No. 50-A.

9 A. Yes, there.

10 Q. And the request says--actually, before we go into A, if
11 you look at the first part of the request right after the
12 number 50, it's referring to Exhibit DS-7, the Kitsap Sun
13 article that we were just looking at; do you see that?

14 A. I do.

15 Q. And the request is: Please admit that Mr. Stein made
16 each of the statements attributed to him in the article. If
17 your response is anything other than a qualified Commission
18 (sic), please state what you believe to be the truth of the
19 matter including identification of each statement Mr. Stein
20 believes is incorrectly reported, how, and what he believes
21 he actually said.

22 Could you please read the response?

23 A. The response to A?

24 Q. Yes.

25 A. I believe the statements that are quoting me are

1 correct, however, the statements being referenced were made
2 sometime back, to the best of my knowledge.

3 MR. STANOVSKY: All right. Your Honor, I think I'm
4 now prepared to ask you to overrule the objection.

5 JUDGE PEARSON: Yeah, and I will allow the
6 question.

7 MR. STANOVSKY: Thank you.

8 Mr. Stanovsky Continuing:

9 Q. So, Mr. Stein, if we can go back to Exhibit DS-7 at
10 Page 4. All right. So to get us back into the flow, would
11 you mind--I apologize--but reading the same passage,
12 beginning from, for the past eight months.

13 A. For the past eight months or so, after he was ordered by
14 the State to cease and desist, he says he has continued to
15 serve his customers for free, refusing to accept payments so
16 he isn't breaking the law. Except for one customer, Stein
17 told the Commission he accepts cookies. I did that as my
18 own little protest Stein said.

19 Q. So, as I was asking before, I'm just curious about your
20 attitude, because it looks to me your attitude,
21 specifically, toward Commission regulation, because it looks
22 to me like you're saying that you're doing that in order to
23 protest the Commission's Cease and Desist Order to stop
24 hauling waste for compensation; isn't that right?

25 A. That is correct.

Page 47

1 Q. Thank you. So, in discovery Waste Management asked
2 about your billing practices and you responded that you
3 destroyed all records pursuant to the Cease and Desist
4 Order; is that correct?

5 A. That is correct.

6 Q. And then later Waste Management asked you, regardless of
7 the existence of any records, could you please describe how
8 you billed your customers and collected and accounted for
9 payment before the Cease and Desist Order. And you
10 responded, didn't you: To the best of my knowledge no
11 activity occurred.

12 A. I did.

13 Q. So your answer was that you never had any billing
14 activity toward your customers?

15 A. To the best of my knowledge.

16 Q. Would you please turn to Exhibit DS-16X and find Page 8.

17 A. What page?

18 Q. Page 8. Are you there?

19 A. Yes.

20 Q. And this is a flier you used to advertise your services
21 as Seabeck; isn't that correct?

22 A. I'm showing this in my records; is that correct?

23 Q. Sixteen X, Page 8. I'm looking at a different flier.

24 Some of the numbers in this exhibit are hard to read where
25 they overlap pictures, but, one moment. The one that you're

1 looking at I have marked as Page 2. The page number should
2 be at the top right corner.

3 A. Oh. Yes.

4 Q. So Exhibit DS-16X, Page 8 of 11; are you there?

5 A. I'm there.

6 Q. All right. And this is a flier you used to advertise
7 Superior services; isn't that right? I'm sorry. To
8 advertise your services as Seabeck.

9 A. Correct.

10 Q. And do you see there's three asterisks there in the
11 right column? And the third one says, doesn't it: Monthly
12 invoice with paid postage?

13 A. I see that.

14 Q. It can't be true that you sent monthly invoices as
15 advertised in this flier, and also that you had no billing
16 activity towards your customers, can it?

17 A. To the best of my knowledge, I have no recollection of
18 billing.

19 Q. So, to restate my question: It cannot be true, both
20 that you had no billing activity and that you actually
21 provided invoices as you advertised, correct?

22 A. No.

23 Q. Thank you.

24 A. Or could--so I'm confused. Can we revisit that question
25 one more time?

Page 49

1 Q. Sure. So you advertised monthly invoice with paid
2 postage. But in discovery when we asked about your billing
3 practices you responded that there never were any billing
4 practices. So, it can't be true that you actually provided
5 invoices, as you advertised, and also that you had no
6 billing practices; isn't that correct?

7 A. Yes, it can be true.

8 Q. Is sending an invoice a billing practice?

9 A. Yes, it is.

10 Q. And so if you sent an invoice that would be a record of
11 a billing practice?

12 A. Yes.

13 Q. And so a question that said, please describe your
14 billing practices, would require a response that said, I
15 sent monthly invoices, would, it not? If you had done that.

16 A. No.

17 Q. It would not?

18 A. There was no invoices sent, same as it's been since the
19 Cease and Desist Order. It was the same as before.

20 Q. So you never sent any invoices to any customers?

21 A. To the best of my recollection, no.

22 Q. All right. So, Mr. Stein, how did you receive payment
23 from your customers before the Cease and Desist Order?

24 A. Payment is something... There wasn't really a transfer
25 of money, it was more of friendships. It was--I didn't

1 understand how to do this business. I didn't understand why
2 it existed. So, by discovering all of this throughout the
3 way, maybe--maybe boat rides from friends, making friends,
4 cookies. As silly as it sounds--as silly as it sounds.

5 Q. So you never received any money from any of your
6 customers for your services prior to the Cease and Desist
7 Order?

8 A. I did, but not for hauling garbage. It wasn't about
9 that. It was about trying to discover how in the heck do I
10 do this? How do I fit and fill this need?

11 MR. STANOVSKY: Just one moment, Your Honor.

12 Q. All right. So going back to your destruction of all of
13 your records of your previous solid waste collection, can
14 you explain why you destroyed those records?

15 A. Cease and desist. It was extremely emotional. It had
16 been years to build that. My notes, my maps--everything.
17 It was like I couldn't believe it. I just--I didn't know--I
18 didn't know how to look these people in the face and tell
19 them no.

20 Q. So, you were emotional about the need to destroy your
21 records; did I understand that right?

22 A. I was emotional about the need to cease and desist. I
23 just--I didn't understand. It took me for blindsight.

24 Q. So if I were to hand you that order, there's nothing in
25 there that tells you to destroy records; is that correct?

Page 51

1 A. I did look that order over after you made that argument
2 and I believe a data request, I believe it was. And it said
3 cease and desist, turn it in. Or get rid of your--get rid
4 of your e-mail address and--that was on the front page, it
5 was destroyed. It was...

6 Q. Well, all right, let's look at that order, which is
7 Exhibit DS-18X.

8 So if you could just take a minute and look at this
9 order and please indicate the passages you were just
10 characterizing.

11 MR. GARG: Objection, argumentative. I believe my
12 client has already answered this question.

13 JUDGE PEARSON: Mr. Stanovsky, I think that your
14 point has been made, and I get what you're trying to
15 establish. And I agree that nowhere in this order does it
16 instruct Mr. Stein to destroy any of his records, so you can
17 move on.

18 MR. STANOVSKY: Fair enough, Your Honor. Thank
19 you.

20 Mr. Stanovsky Continuing:

21 Q. So, Mr. Stein, you're not currently collecting any
22 compensation for your waste hauling; is that correct?

23 A. Same as always.

24 Q. Except the cookies?

25 A. I do get some boat rides out of it. I have some deep

1 friendships from it, of knowledge. I've gained a lot of
2 things from this. Immense.

3 Q. But no money?

4 A. No money.

5 Q. So how do you recover the costs that you incur to
6 provide the service at the moment?

7 A. I pay for the service.

8 Q. And you don't have any plans to retroactively charge
9 your customers if the certificate is granted?

10 A. No.

11 Q. But you will begin charging them all the tariff rates if
12 the certificate were granted?

13 A. If it were granted, yes.

14 Q. So, let's look at your direct testimony, just the very
15 start, DS-1T at Page 5.

16 A. There.

17 Q. And would you read just the first sentence on Line 2?

18 A. I don't show lines, line counts on my page.

19 Q. Your copy of DS-1T doesn't have line numbers on the
20 margin?

21 A. Is this the tariff?

22 Q. No. DS-1T should be your direct testimony, the first
23 pre-filed Q and A from you.

24 A. Excuse me. I went to the wrong...

25 Q. It may be at the front of the binder, I don't know how

Page 53

1 yours is organized, but.

2 A. I got it.

3 Q. This will be the first notated for you.

4 A. Page 2?

5 Q. Page 5.

6 A. Okay.

7 Q. And would you please read the first sentence of Line 2?

8 A. I'm familiar with the law regarding collection of solid
9 waste. I--

10 Q. Just the first sentence. So, do you remember in
11 discovery that Commission Staff asked you to provide a copy
12 of Superior's plans to comply with UTC rules and
13 regulations, which you had referred to in your response
14 testimony?

15 A. Yes.

16 Q. And you responded that a consultant had prepared
17 administrative and financial procedures in compliance with
18 the UTC and Washington State regulations, didn't you?

19 A. I have.

20 Q. But you didn't provide those procedures as staff
21 requested, did you?

22 A. I reported to UTC staff that it was, in fact--it has
23 been completed.

24 Q. So let's look at DS-21X. You might--if you can find a
25 way to mark the first exhibit, you know, stick a Post-It or

1 something in there. I can give you one.

2 A. Thank you. Look at that, we're working together.

3 Q. Yeah.

4 A. What was that again?

5 Q. So, DS-21X, Page 3.

6 A. Okay.

7 Q. And this is staff's data request to you. I'm looking at
8 No. 5, around the middle of the page there.

9 A. Yes.

10 Q. And staff asked: Please provide a copy of Superior's
11 plans to comply with UTC rules and regulations. Do you see
12 that?

13 A. I do.

14 Q. And after it says response, the second sentence in that
15 paragraph is: A consultant has prepared administrative and
16 financial procedures in compliance with the UTC and
17 Washington State regulations. But you didn't provide those
18 plans, did you?

19 A. I said looking at this, no.

20 Q. What consultant are you referring to in this response?

21 A. I would be referring to my mother.

22 Q. And would I be right to surmise that her name is
23 Caroline Stein?

24 A. You are correct.

25 Q. Did you pay anything for that service?

Page 55

1 A. I did not.

2 Q. Now turn the page to Page 4 of the same exhibit. And do
3 you see there's a bold underlined text that says, backup
4 action plans?

5 A. Yes.

6 Q. So it looks to me like there's a little less than a page
7 here that makes up Superior's backup action plan in case you
8 or your usual equipment is unable to provide Superior
9 service, correct?

10 A. It continues on to the next page, but I would say it's a
11 page--it's a full page.

12 Q. I'm not sure it does. You're saying under the heading,
13 Historical Success, that paragraph is part of the backup
14 action plan?

15 A. I am.

16 Q. All right. Could we agree that it's about a page?

17 A. I'd say one page, yes.

18 Q. Sure. And it says that Tammy Stein is the backup
19 driver; I understand she's your sister?

20 A. Yes.

21 Q. Does she have all the same driver training and
22 experience that you have?

23 A. She does for this.

24 Q. But not overall?

25 A. Not overall, no.

1 Q. Thank you. And in discovery you told Waste Management
2 that any Superior employees will be paid in accordance with
3 federal and state laws; is that correct?

4 A. Yes, when--when employees are paid.

5 Q. And would Tammy Stein be an employee?

6 A. At some point.

7 Q. And would any other backup driver you might hire be an
8 employee?

9 A. At some point.

10 Q. But suppose the certificate were granted today and you
11 were unavailable to drive the route on the next scheduled
12 service day, would Tammy Stein then be the one to drive it?

13 A. Yes, she would.

14 Q. But not as an employee?

15 A. But not as an employee.

16 Q. Now let's look at DS-20X. And let me know when you're
17 there.

18 A. I'm there.

19 Q. Do you recognize what this is?

20 A. This would be Kitsap County--Kitsap County codes for
21 solid waste, recycling, solid waste collection. I am
22 familiar with this but I have not studied this, but it's
23 currently on my read list.

24 Q. Are you aware that state law requires UTC certificate
25 waste companies to comply with local solid waste ordinances?

Page 57

1 A. Yes.

2 Q. Mr. Stein, Superior's tariff doesn't propose to bill
3 customers separately for recycling service, does it?

4 A. It does not.

5 Q. So if you look at Page 3 of this exhibit, and find your
6 way to Section 040, Paragraph 1A, just a little way down the
7 page; do you see that?

8 A. What exhibit?

9 Q. The same exhibit, 20X.

10 A. 20X, Page 1.

11 Q. Page 3.

12 A. Page 3.

13 Q. Section 040, 1A. It requires single family customers to
14 receive and be billed for curbside recycling service; isn't
15 that correct?

16 A. It does.

17 Q. But your tariff doesn't make provision for that, does
18 it?

19 A. It doesn't. It was an oversight, when I wrote the
20 tariff.

21 Q. And to clarify, if we could look back at the previous
22 page, Page 2, the definition of curbside recycling near the
23 top.

24 A. Which page?

25 Q. Page 2.

1 A. Page 2. Oh--I haven't requested hearing--I am kind of
2 deaf, so I apologize. I don't mean to be rude, why I
3 keep...

4 Q. By all means, let me know if you're having trouble
5 hearing me.

6 A. Okay, thank you. Page 2?

7 Q. Yes, Page 2, definition 6, near the top, Curbside
8 Recycling. If you could just read that to yourself briefly.
9 I just want to confirm that, in the context of the Kitsap
10 County code, the use of the word "curbside" is not used to
11 distinguish or separate, you know, recycling on the public
12 highway from drive-in or carry-out. It's about single
13 family residential. Does that look right? And, actually, I
14 misspoke, it's not specific to single family but it is about
15 residential garage without including or excluding drive-in
16 or carry-out.

17 A. Yeah... So what was the question?

18 Q. I'm just trying to clarify so that we're on the same
19 page, because some of the other sections talk about the
20 requirements for curbside recycling or garage service. But
21 there's nothing in the definition of curbside service that
22 says it doesn't apply to drive-in or carry-out.

23 A. Yes.

24 Q. Okay. Now let's go back to Page 3 and find our way down
25 to 1C in the middle of the page. And the last sentence of

Page 59

1 C, before all the small Roman numerals start, it says:
2 Material will be commingled in each collection container.
3 This is talking about recyclable material; do you see that?

4 A. Yes.

5 Q. But your customers have to sort their materials, their
6 recyclable materials, for you to be able to drop them off at
7 the Dickey Road collection facility; isn't that correct?

8 A. That is correct.

9 Q. So your service doesn't account for this requirement of
10 the Kitsap code?

11 A. I know all you want is just a short answer to this; I'd
12 love to explain it, but.

13 Q. Your counsel will have opportunity to flush it out.

14 A. Okay.

15 Q. So, no, your service doesn't conform to this
16 requirement?

17 A. It does not.

18 Q. Thank you. And you don't, yourself, sort commingled
19 materials; isn't that correct?

20 A. I do not sort, yeah.

21 Q. Thank you. So let's look a little--so let's look down
22 at 1E a little further down the page where it says,
23 Collection Containers?

24 A. Yes.

25 Q. It requires that customers be provided a minimum of one

1 cart, specifically, for recycling, doesn't it? You can take
2 a minute to look at it.

3 A. Yes.

4 Q. But your proposed tariff doesn't have such a requirement
5 that each customer have one cart specific for recycling,
6 does it?

7 A. It does not.

8 Q. And, in fact, a number of your customers have only one
9 can for service of both recycling and garage; isn't that
10 true?

11 A. It is true.

12 Q. So your tariff doesn't meet this requirement in the
13 Kitsap code, correct?

14 A. I do recycle those cus--

15 Q. It's a yes or no question. Your tariff doesn't meet the
16 requirement of having a separate recycling can for each
17 customer, does it?

18 A. No.

19 Q. Thank you. Mr. Stein, do you offer compostable organics
20 collection?

21 A. No.

22 Q. Would you turn the page to Page 4 and find Section 3A on
23 that page about a third of the way down?

24 A. Okay.

25 Q. Now, have a look at that paragraph and it says, doesn't

Page 61

1 it, that compostable organics collection has to be available
2 to all single-family customers within a certain area. And
3 the details aren't here as to what that area is. It cross
4 references an exhibit that would show that area. But there
5 is an area within which a hauler has to offer a curbside
6 compostable organic collection; isn't that correct?

7 A. I see--I read it.

8 Q. And do you agree with me that within an area that's
9 defined by cross reference, haulers have to provide
10 compostable organic collection? Why don't I just read it.

11 A. Sure.

12 Q. Is it says, doesn't it: Curbside compostable organics
13 collection service will be available to all single family
14 and multifamily customers within the curbside collection
15 boundaries designated in Exhibit A. Did I read that
16 accurately?

17 A. You did.

18 Q. So I didn't include the exhibit in my hearing exhibit
19 and, frankly, I wish I had. Because that would make this
20 simpler. But, would you agree with me that this sys that
21 there is an area in Kitsap County within which the hauler
22 has to collect compostable organics?

23 A. I believe so.

24 Q. Do you know if any of your proposed territory is inside
25 that area?

1 A. I'm currently still under review with all of this with
2 the Kitsap County code to see where my shortcomings were
3 when I wrote my tariff, so I am unaware that territory.

4 Q. So you don't know whether compostable organic collection
5 is required in part of your territory?

6 A. I do not.

7 Q. Would it surprise you to find out that compostable
8 organic collection is required in at least part of your
9 territory?

10 A. It would not.

11 Q. And, I'm sorry, just to clarify: The requirement isn't
12 within that area of compostable organic collection being
13 provided; it's that the hauler is required to offer it, just
14 for the record.

15 Mr. Stein, have you had any conversations with the
16 county about the style, color, and printing on your
17 collection containers?

18 A. I've not.

19 Q. Would you look down at Paragraph 4-A at the very bottom
20 of that page, Page 4.

21 It says a solid waste collection company has to
22 determine those features of its recycling containers along
23 with the division; isn't that correct?

24 A. Yes.

25 Q. And do you under the division to mean the Kitsap County

Page 63

1 solid waste division?

2 A. Yes.

3 Q. Thank you. So, you haven't done what this paragraph
4 requires; isn't that correct?

5 A. Currently, the cans are black.

6 Q. So that's a no?

7 A. That's a no.

8 Q. You have not?

9 A. I have not.

10 Q. So on Page 5 about halfway down is Section 050, and do
11 you see Paragraph 1A?

12 A. Yes.

13 Q. It requires solid waste companies to file rates that
14 encourage recycling and compostable organics collection,
15 doesn't it?

16 A. Yes.

17 Q. Could you please explain how your proposed tariff
18 encourages those services?

19 A. How my rates?

20 Q. Your tariff.

21 A. Oh, my tariff, encourages through the rate?

22 Q. I don't read this as being specific to the rate.

23 Oh, no, I'm sorry, it is. Yes. How does the rate
24 structure encourage recycling and compostable organic
25 collection?

1 A. I would call it more as the service rather than the
2 rate. Service is superior, the service sells itself. How
3 the rate would?

4 Q. So there's nothing in the rate structure that encourages
5 recycling, is there?

6 A. It's a good price.

7 Q. The price in your proposed tariff is the same for
8 garbage and recycling collection; isn't that right?

9 A. Correct.

10 Q. So if I'm a customer, wouldn't I be indifferent to
11 whether I throw my aluminum cans in the garbage or the
12 recycling, from a rate perspective?

13 A. From a rate perspective.

14 Q. So your rate structure doesn't encourage recycling; is
15 that correct?

16 A. No.

17 Q. Thank you. And below that, Paragraph b, with small
18 Roman numeral 1, that says: The recycling rates in the
19 tariff must distribute the cost of single-family curbside
20 recycling among all single-family garbage collection
21 services rate payers, doesn't it?

22 A. It does.

23 Q. Can you please explain how your proposed rates do that?

24 A. Currently, the proposed rates don't meet.

25 Q. To clarify, they don't meet that requirement?

Page 65

1 A. They don't meet the current requirement.

2 Q. Thank you.

3 MR. GARG: Your client, my client will stipulate
4 that he's currently lobbying the Kitsap County Court?

5 JUDGE PEARSON: I'm sorry, can you?

6 MR. GARG: My client can stipulate that he's
7 currently lobbying the Kitsap County Court, if we can go to
8 move on?

9 JUDGE PEARSON: Is that acceptable to you,
10 Mr. Stanovsky?

11 MR. STANOVSKY: Yes, for the record I had--well,
12 one moment, let me confer.

13 (Counsel confer briefly.)

14 MR. STANOVSKY: Actually, Your Honor, it's about
15 four or five more questions on this exhibit. I don't think
16 they'll take that long; I'd like to get through them. I do
17 believe it's relevant to fitness for service. and Mr. Stein
18 testified that he's familiar with the laws and regulations
19 governing the service.

20 JUDGE PEARSON: Okay, so maybe you can do it a
21 little bit more quickly, just hit them as bullet points.

22 MR. STANOVSKY: Okay.

23 Mr. Stanovsky Continuing:

24 Q. So Paragraph b, small Roman 3, requires that the
25 customers have the choice of a 35- or a 64-gallon recycling

1 cart for the same price. Do you see that?

2 A. Yes.

3 Q. And your tariff doesn't meet that requirement, does it?

4 A. It does not.

5 Q. And, Paragraph D, which starts at the bottom of the
6 page, it rolls over to the next page and there's several
7 paragraphs of requirements for compostable organics. But we
8 established that you don't offer that service, correct?

9 A. Correct.

10 Q. So you don't meet any of those requirements if, in fact,
11 that service is required as an offering in your territory,
12 correct?

13 A. Under the correct tariff, that is correct.

14 Q. Your proposed tariff defines a can as no more than 45
15 gallons; isn't that correct?

16 A. Yes.

17 Q. And you offer service only in cans, correct?

18 A. Correct.

19 Q. And all your customers are receiving recycling service;
20 is that correct?

21 A. Correct.

22 Q. Will you be buying recycling carts for each of your
23 customers that meet the requirements of the Kitsap code if
24 you're granted a certificate?

25 A. With that, would you mean that to be color, size, all of

Page 67

1 which?

2 Q. Volume?

3 A. Volume. Yes.

4 Q. That cost wouldn't be reflected in the cost information
5 you submitted with your application, would it?

6 A. Under the current tariff that I submitted, no, it does
7 not reflect.

8 Q. Well, and not just the tariff but also the supporting
9 financial information?

10 A. That would be correct.

11 Q. Do you know how much it will cost to provide a compliant
12 cart for each of your customers?

13 A. They're pretty expensive.

14 Q. About how much per cart?

15 A. I believe the carts... I believe that they were \$50.00,
16 or somewhere in there, a piece. Somewhere in there.

17 Q. And roughly 50 customers, correct?

18 A. Uh-huh.

19 Q. So you'd be talking about, if I'm doing my math right,
20 around \$2,500.00?

21 A. Without doing the math myself, good enough.

22 MR. STANOVSKY: You can clarify, but I think it's
23 fair for the witness to say subject to check and then...

24 JUDGE PEARSON: I can do the math, it's \$2,500.

25 MR. STANOVSKY: Fair enough.

1 Ms. Stanovsky Continuing:

2 Q. And if, in fact, you're required to offer compostable
3 organics that would require purchase of some additional
4 carts--

5 A. Two.

6 Q. --wouldn't it?

7 A. It would.

8 Q. And those cost also are not reflected in your--

9 A. Current tariff, correct.

10 Q. --or financial--

11 A. Or financial, correct.

12 Q. Thank you. Okay. So that's Kitsap County. In
13 discovery you identified that Superior has secured an office
14 space at the Seabeck general store, correct?

15 A. Correct.

16 Q. Who will be staffing that office?

17 A. That would be staffed by Seabeck General Store
18 employees.

19 Q. And the hours that you gave for that business office are
20 Monday through Friday, 8:00 a.m. to 5:00 p.m. with only
21 three holidays; on Christmas Eve, Christmas Day, and New
22 Year's Day, correct?

23 A. Correct.

24 Q. So if I come in at 4:00 p.m. on Thanksgiving Day,
25 Superior's office will be open and staffed by an employee at

Page 69

1 Seabeck Landing General Store; is that correct?

2 A. Thank you for pointing that out, it will not be.

3 Q. It will not be open on Thanksgiving?

4 A. It will not be.

5 Q. Are there any other holidays you'd like to add to the
6 list?

7 A. No.

8 Q. So if I come in the day after Thanksgiving at 4:00 p.m.?

9 A. Yes.

10 Q. And Labor Day?

11 A. Yes.

12 Q. And the staffing at all times will be by the employees
13 of the Seabeck Landing General Store?

14 A. Correct.

15 Q. And what is those individuals' training and complying
16 with a Commission's customer service requirements?

17 A. When they come in and they ask about Superior Waste &
18 Recycle, they're pointed to a bulletin board where all the
19 information that is required pursuant to, either it's a WAC
20 or an RCW--I can't state it off the top of my head--that
21 requires me to.

22 Q. And is there a physical space that will be set apart as
23 the--

24 A. Yes.

25 Q. --Superior office in that building?

1 A. Yes.

2 Q. But it won't be staffed as Superior office during all
3 those times?

4 A. It will be.

5 Q. So an employee of the Seabeck Landing General Store will
6 be in that space?

7 A. Correct.

8 Q. Can you describe that space?

9 A. Warm, friendly, good people.

10 Q. Does it have walls and a door that separate it from the
11 rest of the store?

12 A. It can.

13 Q. But it doesn't at the moment?

14 A. It has both abilities.

15 THE REPORTER: Both of those, you said?

16 THE WITNESS: Correct.

17 MR. STANOVSKY: I'm sorry, I thought in your
18 correction you said, both of those. But I understood
19 Mr. Stein to say, it can have both abilities.

20 A. Yes.

21 THE REPORTER: When we get to a good stopping
22 point, could we take a break, please?

23 JUDGE PEARSON: Absolutely. Mr. Stanovsky, how
24 much--many more questions do you have?

25 MR. STANOVSKY: Enough more that we could take a

Page 71

1 break now. I'm through most of them but there is another
2 chunk.

3 JUDGE PEARSON: All right. Well, let's go ahead
4 and be in recess. Let's take 10 minutes--

5 MR. STANOVSKY: Sure.

6 JUDGE PEARSON: --and reconvene again here at
7 10:45.

8 MR. STANOVSKY: Thank you.

9 THE REPORTER: Thank you.

10 (Recess taken from 10:17 to 10:29 a.m.)

11 JUDGE PEARSON: And we will be back on the record
12 following a brief recess and, Mr. Stanovsky, will resume
13 your questioning where we left off.

14 MR. STANOVSKY: Thank you.

15 CROSS-EXAMINATION (Continued)

16 BY MR. STANOVSKY:

17 Q. So, Mr. Stein, we were talking about the office space
18 that Superior has secured at Seabeck Landing General Store,
19 and you indicated that the office will be staffed by the
20 store's employees.

21 A. Correct.

22 Q. How much are you paying them?

23 A. I'm not.

24 Q. And Superior is not I should ask?

25 A. Correct.

1 Q. How much is Superior paying for the office space?

2 A. Zero.

3 Q. Is there any expectation it will ever have to pay for
4 office space there?

5 A. At some point I imagine it would, the store owner.

6 Q. But there's no indication of any of that in your
7 financial information submitted with your application,
8 correct?

9 A. It's been provided. I have a office location.

10 Q. But there's no costs associated with that in your
11 financial information?

12 A. Nor is there a cost for having it.

13 Q. At the moment. So, in your application--I'm going to
14 talk about your project--your proposed territory boundary
15 now. In your application it says at one point that the
16 boundary line runs from the intersection of Nolita and
17 Teague Roads, quote, eastward as the crow flies to the dead
18 end of Lewis Road West; from that point, as the crow flies
19 to the Chico Way Highway 3 cross point. Does that sound
20 right? We can look at it, if you prefer.

21 A. That's not what's on record for my tariff.

22 Q. Well, okay, let's look at it then. This is exhibit
23 DS-9X, Page 2. And let me if know when you're there.

24 JUDGE PEARSON: I'm sorry, did you say 9X?

25 MR. STANOVSKY: 9X. Yes.

Page 73

1 A. Yes.

2 Q. And at the bottom of the page, the very last sentence
3 says, please refer to map. But just before that, it says--
4 to be clear this is only a part of the boundary as defined
5 in your proposed tariff, but, the second to last sentence
6 says: From natural border of Hood Canal, Nolita Road
7 Northwest and Teague Road Northwest merger point, running
8 eastward as the crow flies to the dead end of Lewis Road
9 West; from that point as the crow flies to the Chico Way
10 Highway 3 cross point. Correct?

11 A. That is correct.

12 Q. So those lines, as the crow flies, what would you do if
13 you received a service request from a customer who was close
14 to that line?

15 A. I would have to refer to--refer to my map.

16 Q. And that's--that kind of question is precisely why the
17 Commission has detailed mapping requirements; is that fair?

18 A. Fair.

19 Q. And do you understand that a map that meets the
20 Commission's requirements is required as part of a
21 certificate application?

22 A. Yes.

23 Q. And, in fact, it says that at the top of the very next
24 page on the Application Form, doesn't it?

25 A. It does.

1 Q. But you haven't filed a map that meets Commission
2 requirements, have you?

3 A. It was accepted with the UTC with the Commission Staff,
4 my map was, along with the explanation.

5 Q. Is it your understanding that the map you submitted
6 meets the requirements and the Commission's regulations?

7 A. It was accepted at the UTC.

8 Q. But you don't know if it meets the Commission's
9 regulations? The regulation is cited there at the top of
10 Page 3.

11 A. I don't believe it conforms to that WAC code.

12 Q. Thank you. So what would you do if you received a
13 service request from someone outside your service territory?

14 A. I would decline them and tell them to go with whomever
15 the provider was.

16 Q. Mr. Stein, I understand you have a customer on Kings Way
17 West; is that right?

18 A. I do. Hank.

19 Q. And I understand that customer's location is near Tahuya
20 Lake; is that right?

21 A. That is correct.

22 Q. Would you turn to Exhibit DS-11X? And this is the map
23 submitted with your application, correct?

24 A. Correct.

25 Q. Could you please indicate on this map where Kings Way is

Page 75

1 located?

2 A. (Pointing.) Approximately.

3 Q. So could you--I don't know that there's a good way to--

4 A. (Pointing.) Approximately.

5 Q. And did I see correctly that your fingertip was outside
6 the area shaded as Superior's proposed territory?

7 A. You did.

8 Q. Thank you. Can you indicate Tahuya Lake is on the map?

9 A. (Pointing.)

10 Q. Also outside the service territory, correct?

11 A. Correct.

12 Q. But Tahuya Lake doesn't actually show up on the map?

13 A. I know where it's approximately at.

14 Q. But the map--this question is now about the map.

15 A. Yes.

16 Q. It doesn't show Tahuya Lake, does it?

17 A. It does not.

18 Q. Or Kings Way?

19 A. No.

20 Q. You said previously you would refer to the map if got a
21 customer request and you weren't sure if the customer was
22 inside or outside the territory; but, it seems like a number
23 of features that might be useful for that determination are
24 not on this map; isn't that fair?

25 A. Very.

1 Q. Would you turn, please--you might need a different
2 binder for this--but if you find Mr. Weinstein's testimony
3 for Waste Management and find Exhibit MAW-3. Actually,
4 never mind, I don't think we need to do that; I'll just save
5 the time.

6 Do you understand the service territory boundaries and
7 the Commission's G Certificates to be guidelines or
8 suggestions?

9 A. No.

10 Q. But you currently--

11 A. Guidelines.

12 Q. Say again?

13 A. The territory boundaries?

14 Q. Let me say it this way: The territory boundaries and
15 the Commission's G Certificates are requirements, they're
16 not suggestions or recommendations; is that your
17 understanding?

18 A. Yes.

19 Q. But you currently have a customer that's outside your
20 proposed service territory, correct?

21 A. I do.

22 Q. Mr. Stein, when you were doing business as Seabeck, did
23 you have a business license from the State?

24 A. As Seabeck?

25 Q. Uh-huh.

Page 77

1 A. No.

2 Q. Did you register with the State Department of Revenue
3 for a tax registration endorsement?

4 A. No.

5 Q. Did you pay any state taxes for your business operation?

6 A. No.

7 Q. Did you collect any solid waste collection taxes from
8 your customers as required by WAC 458.20.250?

9 A. No.

10 Q. Did you pay the Business and Occupation tax, as required
11 from solid waste companies by WAC 458.21.018?

12 A. No.

13 Q. Did you know that solid waste companies are subject to
14 those taxes?

15 A. For those that collect money, yes.

16 Q. And, again, your testimony is that you've never
17 collected any money for your services?

18 A. Correct.

19 Q. Is it your understanding that no tax would be due on
20 valuable compensation other than money?

21 A. Say that again, please?

22 Q. Is it your understanding that no tax would be due for
23 valuable compensation received in a form other than money?

24 A. To clarify, you mean like the trade of goods or--

25 Q. Sure.

1 A. --or tangible goods or something?

2 Q. For example.

3 A. I would--I would imagine that the State of Washington
4 would probably put a tax on that.

5 Q. Mr. Stein, are you aware that tax-paying entities in
6 Washington are generally required to maintain their
7 financial records for five years and keep them open for
8 inspection by the Department of Revenue?

9 A. Yes.

10 Q. And would it surprise you if unregistered businesses are
11 also liable for state business taxes?

12 A. Yes.

13 Q. It would surprise you if an--

14 A. Oh.

15 Q. Just to clarify.

16 A. Yeah.

17 Q. I may have worded it confusingly. Let me start over.
18 Would you expect that an unregistered business would be
19 liable for state business taxes?

20 A. If somebody was operating for compensation and not
21 paying tax and not registered and things like that, yeah, I
22 would. I would expect them--

23 Q. You would expect that they would be required to pay tax
24 even though they hadn't registered?

25 A. Yes.

Page 79

1 Q. You have no records of how much you billed, or collected
2 for your services, prior to the Cease and Desist Order,
3 correct?

4 A. I have no records at all.

5 Q. You don't have any records of your disposal tickets or
6 costs that you paid to dispose of your customers' wastes,
7 correct?

8 A. Correct.

9 Q. How did you destroy all those records?

10 A. Threw them away.

11 Q. In the garage or the recycle?

12 A. Cute.

13 MR. STANOVSKY: Withdrawn.

14 A. I believe garbage.

15 Q. Is it possible that those records contained evidence of
16 other violations that the Commission didn't find you guilty
17 of in the Cease and Desist Order last year?

18 A. I don't believe so. The chief reason that I was brought
19 in for was soliciting services.

20 Q. My understanding from the order was that it was for two
21 specific instances, one being on the phone with the UTC
22 staff investigator, and the other being the flier that the
23 UTC received in 2017?

24 A. Jason Hoxit, yes, believe so.

25 Q. And so there would have been no evidence other than

1 those two specific instances? There were no other fliers in
2 the records you destroyed?

3 A. No other fliers?

4 Q. Fliers or advertisements?

5 A. I threw everything away.

6 Q. So you don't know?

7 A. I just, yeah, and I...

8 Q. So if you don't know isn't it possible that the records
9 you destroyed contained evidence of other violations that
10 the Commission didn't cite you for?

11 A. I don't believe so.

12 Q. But you don't know?

13 A. I don't know.

14 Q. So you can't rule it out?

15 A. I can't rule it out.

16 Q. Thank you. Okay, Mr. Stein, we talked through some
17 county requirements, State requirements. Can we please turn
18 to page--Exhibit DS-9X. This is your application again, and
19 go to Page 5. And let me know when you're there.

20 A. Okay.

21 Q. Do you see Section 8 at the bottom, Declaration of
22 Applicant?

23 A. Yes.

24 Q. And could you please read the second sentence beginning,
25 as the applicant?

Page 81

1 A. As the applicant for a solid waste collections company
2 certificate, I understand the responsibilities of a solid
3 waste collection company, and I am in compliance with all
4 local, State, and federal regulations governing business in
5 the State of Washington.

6 Q. And below you signed that certificate when you submitted
7 your application, correct?

8 A. Correct.

9 Q. Thank you. One other question about the office space at
10 the general store there. Do you have an agreement that
11 gives you the right to use that space or is that just
12 provided on sort of an at-will basis? Do you have a lease
13 or anything like that?

14 A. No.

15 Q. Mr. Stein, in discovery and in your financial
16 information with your application it looks like you expect a
17 business expense of \$300.00 for accounting services; is that
18 right?

19 A. Yes.

20 Q. And what's the basis for that assumption?

21 A. The basis for that was, that was to include office
22 supplies. Also, if there was a program of sorts for the
23 USOA.

24 Q. You mean like software?

25 A. Yeah. Like a Quickbooks or something like that.

1 Q. So not for any professional services by anyone other
2 than yourself?

3 A. Professional services as well.

4 Q. As well?

5 A. Yeah.

6 Q. So how much of the \$300.00 would you expect would go
7 toward professional services?

8 A. Zero.

9 Q. And in the financial information that you submitted with
10 your application and in your follow-up conversation with
11 staff, did you include any estimate or provision for legal
12 costs?

13 A. I did not.

14 Q. Thank you. So going back briefly to the recycling
15 service, you drop-off your customers' recyclable materials
16 primarily at the Dickey Road facility, correct?

17 A. I do.

18 Q. And that facility doesn't charge for recycling drop-off,
19 does it?

20 A. Correct, it does not.

21 Q. So your rates and your financial model don't include any
22 costs of hauling and processing recyclables from the time
23 you drop them off, correct?

24 A. No, it's not--

25 Q. Sorry?

Page 83

1 A. --true. It's not true.

2 Q. So could you please tell us how your rates and
3 your--well, let's start with your rates. How do your rates
4 include the cost of hauling and processing recyclables after
5 you drop them off at the Dickey Road facility?

6 A. So the idea around this is, currently the way that I
7 operate is, I have to utilize the Dickey Road or Olympic
8 View transfer station as my recyclable drop off point. With
9 the certificate then, hopefully, I would be allowed to
10 drop-off the recyclables in commingled, like Waste
11 Management does, or Waste Connections, or any other company
12 out there. And those weights were taken into account when
13 the rates were made.

14 Q. Sorry, what "weights"?

15 A. Correct, weights.

16 Q. What weights were taken into account?

17 A. The weights of recyclables. Because it doesn't charge
18 by volume, to the best of my understanding, at the Olympic
19 View. I haven't--I haven't had the ability to really talk
20 with too many people at the scale house so I made an inquiry
21 once about dropping off commingled there, and it was
22 rejected. So it forced my hand to go to the Dickey Road or
23 to Olympic View in a segregated, which is not ideal.

24 Q. So just to clarify. You're saying that your rates were
25 set with the assumption that you would have to pay to

1 dispose of recyclables?

2 A. Correct.

3 Q. Could you please look at DS-10X, Page 5. This is your
4 business plan. Are you there?

5 A. I am.

6 Q. Do you see halfway down it says, dump fees?

7 A. Yes.

8 Q. And just for the record at the top it says Business
9 Expenses Annually. Can you say the number that you estimate
10 annually for solid waste dump fees? About halfway down.

11 A. Dump fees--yes, got it. Yes, that would be under--
12 these are projections is what these are. So I'm waiting to
13 see that final number, but I believe that my--so the total
14 dump fees of \$3,900.00. There was recyclables cost that was
15 built into that. I don't know exactly what that would be.
16 It's kind of...

17 Q. So the blank line next to recyclables doesn't indicate
18 no cost to dispose of recyclables?

19 A. No. It's yet to be seen.

20 Q. So, can you tell us how you work the cost of--the
21 anticipated cost of disposing of recyclables into your
22 rates?

23 A. My understanding is that recyclables are charged by
24 weight. They're the same as solid waste. So I took what I
25 projected to be the weight of the recyclables and then I

Page 85

1 added it to the cost of the solid waste dump fee. Does that
2 make sense?

3 Q. Assuming the same cost per ton?

4 A. No. I figured it would probably be a reduced rate, so.
5 I had figured that recyclables probably didn't cost as much.
6 And that's part of...

7 Q. Okay. And how do those dump fees translate into your
8 proposed tariff rates?

9 A. So the proposed tariff rates go with the cost, also all
10 the costs associated. And--okay, so your question was: Is
11 how does my recyclables come into play; is that correct?

12 Q. Well, I understand your estimate for garbage and
13 recyclables is all lumped together.

14 A. Correct.

15 Q. But, that being so, how do you allocate that anticipated
16 cost to your proposed rates? More, specifically, to your
17 customers to generate the proposed rates?

18 A. So the idea around the charge is, because of the
19 structure of the business itself, because the driveways are
20 tight, they're rough, they're hard to get to. My vehicle in
21 which I've chosen to use, which is required to use something
22 very similar to it, it doesn't have the ability of
23 squashing, you know, compaction. So space is a value, you
24 know?

25 Q. Did you use any kind of a formula or allocation

1 methodology to figure out how to distribute those costs into
2 the rates?

3 A. I projected weight. That's--yeah, the weight of the
4 recyclables.

5 Q. Are you familiar with the concept of a revenue
6 requirement?

7 A. That sounds like something that might fall under the
8 USOA.

9 Q. But, it sounds like not; is that correct?

10 A. What's that?

11 Q. You're not familiar with the concept of a revenue
12 requirement?

13 A. No.

14 MR. STANOVSKY: One moment, Your Honor.

15 I have no further questions, Your Honor.

16 JUDGE PEARSON: Mr. Garg, do you have any redirect
17 for your client?

18 MR. GARG: I do, Your Honor.

19

20 REDIRECT EXAMINATION

21

22 BY MR. GARG:

23 Q. Earlier in your testimony, Mr. Stein, you mentioned that
24 your specialized service is not based on the vehicle, which
25 can be bought by anyone, what is your specialized service

Page 87

1 based on?

2 A. It's based on need. Need of the customers.

3 Q. Can you further describe what makes it specialized, why
4 Waste Management is unable to provide the service?

5 A. Why is Waste Management not--

6 Q. What makes your service specialized, why Waste
7 Management is unable to provide it?

8 MR. STANOVSKY: Objection, Your Honor. Compound.

9 JUDGE PEARSON: Do you want to separate questions?

10 Mr. Garg Continuing:

11 Q. What makes your service different than the service Waste
12 Management is currently providing?

13 A. There's a laundry list of reasons why. The biggest and
14 foremost reason would be that my service is outside of what
15 Waste Management will do; they won't go past one mile; they
16 won't go past one hundred feet carry-out or pack-in.

17 MR. STANOVSKY: Your Honor, objection. There was
18 no cross-examination about Waste Management's services.

19 JUDGE PEARSON: So, I think he's just trying to
20 respond to--you did ask questions about the specialized
21 nature of the service, so he's responding to that. I'm
22 going to allow it.

23 Mr. Garg Continuing:

24 Q. Go ahead.

25 A. So the service that I provide to this customer base are

1 cut off. They don't have any other resource. I'm the only
2 guy; I'm the only one. And it's tough.

3 Q. Waste Management previously mentioned that if you were
4 to be granted a certificate, that you would also be taking
5 over their customers that they currently serve that they
6 provide a drive-in service to. Would you be open to taking
7 on 1 to 53 customers if you were granted a certificate?

8 MR. STANOVSKY: Your Honor, objection. That
9 misstates the record. Waste Management did not represent
10 that that is what would happen. We were trying to clarify
11 Mr. Stein's understanding of the results in this case. But
12 by no means does Waste Management concede that granting
13 Mr. Stein a certificate would necessitate Waste Management
14 losing the right to provide that same service.

15 JUDGE PEARSON: I agree that was the nature of your
16 question.

17 MR. STANOVSKY: Thank you.

18 JUDGE PEARSON: So I'll sustain the objection and--

19 MR. STANOVSKY: Thank you.

20 MR. GARG: I'll rephrase. Actually, let's move on.
21 Mr. Garg Continuing:

22 Q. Waste Management bought up the Cease and Desist Order
23 from Seabeck; what was the conclusion at the end of that
24 investigation?

25 A. The conclusion of that investigation was that I was

Page 89

1 offering services through means of solicitation, I
2 guess--advertisement. I pleaded guilty to it and was found
3 guilty.

4 Q. You were found guilty? Were there any penalties
5 assessed?

6 A. There was.

7 Q. Did pay the penalties?

8 A. I did.

9 Q. After the conclusion of the investigation, is there
10 anything left from the investigation that--any order that
11 you need to abide by?

12 A. Yes. I need to not violate anymore UTC laws.

13 Q. At the end of the investigation you filed this
14 application with UTC; what was the purpose of filing this
15 application?

16 A. The purpose of filing this application is exactly what I
17 said in open court; I said at the end of that--Laura
18 Chartoff was the sitting judge on that. And I told The
19 Court, and open, and Harry was there and I said, I will be
20 filing an application to be a solid waste company for the
21 people that you see behind me, at that time--it was a
22 customer base--to give them the service.

23 Q. Waste Management brought up a data request in which they
24 asked for customer information and you made an objection
25 based on a WAC code; did you actually provide the

1 information to Waste Management?

2 A. Which one was that?

3 Q. It was a question on the list that Waste Management
4 asked for.

5 A. Oh.

6 Q. While you made an objection, did you actually end of
7 providing them the list that they asked for?

8 A. I did.

9 Q. Let's talk about the Kitsap Sun article that Waste
10 Management brought up. In the article, you mentioned--or,
11 the writer mentioned, that you were making a protest against
12 the UTC; was that protest against UTC or was that protest
13 against another company?

14 A. In a fit of emotion it was--it was a protest against
15 Waste Management; it was a protest against how can this be?
16 It was a protest against how is this possible? How is this
17 happening? How can all of these people be so stranded and
18 there I am to help them out and I'm just cut down--told to
19 cease and desist. It was my protest against that.

20 Q. To clarify, what are your feelings toward the UTC?

21 A. Favorable. I think they're--I called Jason Hoxit on the
22 phone, maybe a week after receiving the Cease and Desist
23 Order, and I just leveled with him. They don't--I just
24 talked to him just like a human being, and he talked to me
25 just like a human being. And I've had nothing but

Page 91

1 professional interactions with the UTC. Michael Dotson,
2 Scott Sevall, even Laura Chartoff who found me guilty and
3 fined me--everyone was just doing their job and I think that
4 they're doing it in a professional manner.

5 Q. Waste management brought up DS-16X, some fliers that
6 mentioned that you would send a monthly invoice. Do you
7 believe there's a difference in advertising something and
8 actually doing something?

9 A. Very much.

10 Q. So to my understanding, no invoices were ever sent, even
11 though it was mentioned on the flier?

12 A. Correct. It's hard--it's hard to reach out and beta
13 test something to go out there and see how deep the need is.
14 Without putting a face on it, you can't have some guy just
15 come to your door in a dirty pair of jeans, you know?

16 (Knocked twice on the table with hand) Hi, you know? I'm
17 here to pick up your garage, you know, and I'm going to do
18 is for free. It just doesn't work that way, you know? So
19 there's a representation of what I wanted to get across to
20 the people in my community, like, hey, you know, if you--I
21 would assume that you have this problem because, you know,
22 you are--you're up a road.

23 At that time, I didn't even know the UTC even existed.
24 So, I was just, started going up all these roads--and
25 they're everywhere. These arterial roads are just--they're

1 everywhere. And they're steep and--and, yeah. So I wanted
2 to represent something professional, something that they
3 could see that's tangible that they could--like, oh. You
4 know, there's a difference; there's a different choice.

5 Q. All right. Let's move on to the destruction of records
6 of Seabeck that Waste Management brought up.

7 Is it fair to say that your understanding of Cease and
8 Desist Order was to destroy the records?

9 A. Yes.

10 Q. Regardless of the what the language of the actual order
11 says, your mindset at the time required--

12 MR. STANOVSKY: Objection, Your Honor, leading.

13 Q. What was your mind set at the time when you read the
14 Cease and Desist Order?

15 A. I cried like a baby. It was terrible. It was horrible.
16 I threw it all away. I was--and then I was going to go pick
17 up all the garage cans and all of this and... It was
18 terrible. It was years and years and years of work. All my
19 notes. It was horrible.

20 Q. Waste Management brought up Exhibit DS-21X where you
21 mentioned Caroline Stein, your mother, was the consultant
22 that prepared the plans; does your mother have any
23 experience preparing such documents?

24 A. She does.

25 Q. Can you tell me in what capacity?

Page 93

1 A. She has a business degree. She has multiple bachelor's
2 degrees. And I rely on her for clear understanding of what
3 it is, that part of the administration. So the USOA, it's
4 an 89-page document. Basically it's a whole lot of
5 instructions to fill out two pages. And that's a lot of
6 instructions. So her credentials and her background is key
7 in this. Also to include, she's been an advocate for
8 elderly and disabled people for quite a many decades. And
9 yeah, it was a perfect fit. It was completely perfect.

10 Q. Has she done something similar for other businesses?

11 A. She has.

12 Q. Can you give us a few examples?

13 A. Some of the examples would be Power of Attorneys over
14 people that are at risk. That would be quite a number.

15 Q. And is it our understanding that your mother will also
16 be handling the accounting?

17 A. She will.

18 Q. Waste Management brought up quite a few Kitsap County
19 codes that you're currently not abiding by. Do you have
20 plans to abide by them once you are granted a certificate?

21 A. Yes. It is within--it is Superior's plan to abide by
22 every--every single county code, state code, UTC code, and
23 to include federal code.

24 Q. Waste Management also brought up the employees at the
25 general store and lack of training; will you be providing

1 any training based on the UTC regulations?

2 A. Yes.

3 Q. Waste Management brought up your map and post territory.
4 You mentioned your map you submitted--your map was submitted
5 to the UTC?

6 A. Yes.

7 Q. Did UTC make any objections?

8 A. No.

9 Q. Based of that information, did you have any concern that
10 UTC would not approve the map, or the map was not following
11 regulations?

12 A. No, not at that--at that moment.

13 Q. Waste Management also brought up a customer that's
14 outside the area that you've highlighted on the map, can you
15 explain why there's a customer outside that area?

16 A. It's unfortunate. I would love to save everybody in
17 Kitsap County from--from what Waste Management won't do.
18 I'm not saying Waste Management is a bad company; I'm saying
19 Waste Management--they don't provide what it is I provide.
20 So, by doing so, I've stepped in and I have to determine
21 what it is with inside a zone that I can handle responsibly.
22 I can't bite off more than I can chew. I would love to take
23 on the whole county--I would love to--but I can't do that.
24 But what I can do is the zone inside, and I hope that given
25 a certificate from the UTC, that Waste Management would step

Page 95

1 up to that one customer on the outside and provide service.

2 Q. So if you were granted a certificate, you're willing to
3 stay within your territory?

4 A. Yes.

5 Q. Let's go back to destruction of records prior--for
6 Seabeck. Waste Management brought up that there might be
7 some other violation that may have occurred that you're
8 unaware of. Did you have a chance to provide those records
9 to UTC while the investigation was going forward?

10 A. No.

11 Q. What information did the UTC look at when they
12 determined the penalties for your infractions?

13 A. What did they look at? They looked at exhibits
14 for--there was an exhibit for a flier. And there was a
15 phone call, I believe.

16 Q. Do you believe that if there were more infractions at
17 that time, UTC would have found them?

18 A. No.

19 Q. One last question: You mentioned you're not--in fact,
20 Waste Management brought up that you're currently not
21 charging a separate tariff for recycling. Waste Management
22 also brought up the fact that you are required to provide a
23 rate that encourages recycling; do you not believe that not
24 charging for recycling is encouraging people to recycle?

25 MR. STANOVSKY: Objection, Your Honor, I didn't

1 understand the question. I think there were a couple not's.

2 JUDGE PEARSON: I think I understand it. You're
3 asking whether not charging for recycling either encourages
4 or discourages people from recycling.

5 MR. STANOVSKY: I'm sorry, could you--

6 MR. GARG: Yes. I'll--

7 MR. STANOVSKY: Thank you.

8 Mr. Garg Continuing:

9 Q. So you mentioned in your testimony to Waste Management
10 that you were currently not charging a tariff for recycling.
11 Waste Management also mentioned a specific Kitsap County
12 code that requires you to encourage recycling via your rate.
13 Not charging for recycling, do you believe that makes the
14 Kitsap County code for encouraging people to recycle?

15 MR. STANOVSKY: Objection. Your Honor, that
16 misstates the evidence. The tariff does not show that he
17 does not charge for recycling; it shows that he charges the
18 same for recycling and garbage.

19 JUDGE PEARSON: Okay. Sustained. Do you want to
20 try to rephrase your question? I know what you're getting
21 at. I understand.

22 MR. GARG: No, Your Honor.

23 JUDGE PEARSON: You're good?

24 MR. GARG: I'm good.

25 JUDGE PEARSON: Okay.

Page 97

1 MR. GARG: No further questions.

2 MR. STANOVSKY: I'm not sure the order here, if the
3 staff should go or--I would move for a very brief recross.

4 JUDGE PEARSON: What do you want to recross about?

5 MR. STANOVSKY: One, about the discovery response
6 and whether information was actually provided. And one
7 question about the UTC's response to the map that was filed.

8 JUDGE PEARSON: Okay, I don't believe that answers
9 to those questions will be helpful to me at this point.

10 MR. STANOVSKY: Fair enough.

11 JUDGE PEARSON: So let's just move on at this
12 point. And, Mr. Fukano, do you have questions for
13 Mr. Stein?

14 MR. FUKANO: A very few questions.

15

16 CROSS-EXAMINATION

17

18 BY MR. FUKANO:

19 Q. Mr. Stein, as of today in the capacity of Superior,
20 there's been some discussion as to whether or not the
21 Commission WACs apply to you. Do you believe that the
22 Commission WACs applied to you prior to receiving a
23 certificate as Superior?

24 A. I do.

25 Q. So you do?

1 A. If I violate, I'm going to hear from you guys. That's
2 what that means. I do.

3 Q. And there have been some questions regarding your
4 compensation while you were operating as Seabeck. Were you
5 receiving compensation while you were operating as Seabeck?

6 A. No.

7 Q. So you would say that you were receiving no compensation
8 while you were operating with Seabeck?

9 A. How do you define compensation?

10 Q. As broadly as possible.

11 A. I'm sorry.

12 Q. As broadly as possible.

13 A. I didn't receive any tangible goods by any means or
14 money, but I did--I mean, I received cookies.

15 Q. While you were operating at Seabeck did you advertise
16 rates for services to potential new customers?

17 A. Yes.

18 Q. So you would have collected compensation from those
19 customers?

20 A. No. Well, so yes, that was the plan. The plan was to
21 move and have a business license and form an LLC and all
22 these things. These were the goals that I was moving
23 towards. I was still in the beta test of figuring out how
24 to operate this solid waste company.

25 Q. Okay. During your redirect you discussed your business

Page 99

1 plan; did you state how long that plan is? I might have
2 misheard.

3 A. How long the business plan is?

4 Q. In terms of pages, perhaps?

5 MR. GARG: I believe that was a backup plan, not
6 the business plan.

7 MR. FUKANO: Oh, I see. Not the consultant report?

8 MR. GARG: No.

9 MR. FUKANO: Oh, I must have misheard.

10 No further questions.

11 JUDGE PEARSON: Mr. Garg, do you have any redirect
12 based on Mr. Fukano's questions?

13 MR. GARG: No redirect, Your Honor.

14 JUDGE PEARSON: All right. Then, Mr. Stein, you
15 are excused.

16 THE WITNESS: Thank you.

17 JUDGE PEARSON: You can step down.

18 (Witness excused.)

19 JUDGE PEARSON: Mr. Weinstein, a witness, correct,
20 and I don't have the table of time estimates in front of me;
21 does someone have access to that?

22 MR. GARG: It will be about a half hour, Your
23 Honor.

24 JUDGE PEARSON: About half an hour?

25 MR. GARG: I would prefer if Mr. Weinstein and

1 Mr. Rutledge testify together. Some of their answers are
2 similar, so I'm not sure which one will be able to answer my
3 questions.

4 JUDGE PEARSON: Okay.

5 MR. GARG: So if they can testify together, it will
6 be less than one hour.

7 JUDGE PEARSON: Okay. Mr. Stanovsky, I don't know
8 if you have objection to that. I've actually done that
9 before on an application case where it saves a lot of time
10 rather than saying, oh, he should answer the question rather
11 than me. I can swear them both in and then they can confer
12 amongst themselves and whoever is more--best suited to
13 answer the question can answer then.

14 MR. STANOVSKY: And I've seen in the rules where
15 that's an option as well but, frankly, I hadn't thought
16 about it. So if I could, two minutes to confer.

17 JUDGE PEARSON: Sure, sure. And why don't we just
18 take a five-minute break. And then what we'll do, we'll
19 come back, we'll have Mr. Garg do cross-examination and then
20 I think we'll break for lunch after that. But let's just
21 take a quick five-minute break now for anyone who needs it.

22 (Recess taken from 11:14 to 11:27 a.m.)

23 JUDGE PEARSON: So, let's be back on the record
24 following a brief recess. Attorneys have conferred and
25 Mr. Stanovsky has agreed that Mr. Weinstein and Mr. Rutledge

Page 101

1 can testify at the same time. And what we'll do is we'll
2 have--Mr. Garg, I'll have you direct your questions to
3 Mr. Weinstein primarily. And if he thinks that Mr. Rutledge
4 is better suited to answer the question he'll defer to him
5 for the answer. Does that work?

6 MR. GARG: Yes. Yes, Your Honor.

7 JUDGE PEARSON: So if you come up to these last two
8 seats here on the bench and turn your microphones on.

9 (Witnesses: Michael Weinstein and Robert Rutledge
10 moved to the bench to testify simultaneously.)

11 (Discussion off the record.)

12 JUDGE PEARSON: If you could both just stand and
13 raise your right hands. Do you swear or affirm that the
14 testimony you give today will be the whole truth and nothing
15 but the truth?

16 (Mr. Weinstein and Mr. Rutledge confirmed oath.)

17 JUDGE PEARSON: Okay. Go ahead and be seated.
18 And, Mr. Stanovsky, if you could just have them each,
19 individually, state their names for the record, and if you
20 want to make those corrections to the testimony now.

21 MR. STANOVSKY: Yes.

22 JUDGE PEARSON: Okay.

23 //

24 //

25

1 REDIRECT EXAMINATION

2

3 BY MR. STANOVSKY:

4 Q. Mr. Rutledge, would you please state your name for the
5 record?

6 A. Yes. My name is Robert Rutledge.

7 Q. And, Mr. Weinstein?

8 A. Michael Weinstein.

9 Q. And, Mr. Rutledge, you have what's marked as
10 Exhibit RAR-1T in front of you, your direct testimony,
11 correct?

12 A. Yes.

13 Q. And do you have any corrections to that testimony?

14 A. Yes. On Page 1, Line 14 where it states almost five
15 years, should read one year as district manager. I
16 was--well, I've been with the company for five years. Four
17 years of that--my first four years was as route manager with
18 our Seattle branch.

19 Q. Thank you. And do you have RAR-2T, your response
20 testimony?

21 A. Yes.

22 Q. And can you tell us your first correction to that?

23 A. Yes. On Page 3, Line 23, the No. 11 should be a 10. I
24 reviewed my notes in preparation, I realized that I made a
25 copy paste there on the spreadsheet.

Page 103

1 And the next is on Page 4, Line 1 the 34 should be 35.

2 And then on Line 5, the 34 should also be 35.

3 And then Line 6, 33 should be 34.

4 Q. Thank you. And the next correction?

5 A. On Page 5, Line 11, 6 should be 3, and the 2 should be a
6 5.

7 And then also on Line 13, the 2 should be a 5.

8 Q. Thank you. And I believe you had one more correction?

9 A. Correct. Page 6, there is a correction in the
10 terminology, code red. It should be followed by code red
11 for commercial customers is what it's pertaining to, and
12 customers with escalations are residential customers.

13 And the rest of the paragraph is correct.

14 Q. Thank you. And, Mr. Weinstein, I believe you had one
15 correction to your direct testimony?

16 A. Yes. On Page 1 of direct testimony, just Line 14. It
17 states that I am a certified public accountant; it should
18 state I was a certified public accountant.

19 MR. STANOVSKY: Thank you. With that, Waste
20 Management tenders them for cross-examination.

21 JUDGE PEARSON: Okay, thank you. Mr. Garg, you can
22 proceed.

23 //

24 //

25

CROSS-EXAMINATION

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

BY MR. GARG:

Q. Mr. Weinstein, as mentioned before, I'll direct the question to you and if it's something Mr. Rutledge is better informed, then feel free to pass the question off to him.

My first question actually refers to your direct testimony. This is Exhibit MAW-1T. If you look on Page 5.

A. Yes.

Q. The very first paragraph there that starts on Page 5, can you read the first sentence?

A. On Page 5? Commission finds that Waste Management will not provide service to the Commission's satisfaction?

Q. No, it would be the next paragraph, the first sentence.

A. Oh. As a practical matter, allowing competition and providing such services tends to result in duplication of services and, in turn, increased rates for everyone.

Q. In your opinion, does providing competition decrease rates or does monopoly decrease rates?

A. In my opinion, with regards to the regulatory environment that we operate in, in Washington State, that the competition where you have two certificates that would be awarded in the same geographical area, that would increase costs and increase rates, ultimately.

Q. Let's move on to the next page. The question regarding

Page 105

1 the specialized service to customers in Superior's proposed
2 territory. You mentioned Item 80, can you explain what that
3 tariff is?

4 A. Item 80 in the tariff is rates that are regarded to the
5 carry-out and drive-in services provided as additional
6 ancillary charges to customers.

7 Q. It is understanding that this tariff was revised using
8 TG-071785. Can you tell me what the revisions were
9 regarding?

10 A. What--would you please repeat that date?

11 Q. This tariff was recently revised using Docket TG-071785.
12 Are you aware of any revisions to this tariff?

13 A. Yes. This tariff was revised several years ago, I
14 believe.

15 Q. What did the revisions include?

16 A. Well, there was a rate filing, I believe, in 2010. And
17 at that time there was a general rate filing where all rates
18 to customers were increased as a result of our proposed
19 filing that we filed with Commission.

20 Q. Are you aware of any distance limitations that this new
21 revision proposed?

22 A. I don't believe that that filing that happened in 2010
23 revised the distance of limitations at that time.

24 Q. Are you aware of anything like that, Mr. Rutledge?

25 A. (Mr. Rutledge) No.

1 Q. Are you aware of any distance limitations that the new
2 tariff proposed?

3 A. (Mr. Rutledge) No.

4 MR. STANOVSKY: Objection, Your Honor. I
5 apologize, I didn't catch it before Mr. Rutledge's answer,
6 but I'm not clear what Mr. Garg is referring to as the "new
7 tariff." I believe he cited a Docket number beginning with
8 '07, which I think would be 2007. And I understood Mr.
9 Weinstein to be testifying about a 2010 revision. So I'd
10 just like to clarify.

11 A. (Mr. Weinstein) If it was '07, I believe that was a
12 filing where--

13 MR. STANOVSKY: Could we--

14 JUDGE PEARSON: Mr. Garg, can you clarify which--

15 MR. GARG: I was referring to the '07, the 2007
16 revision.

17 JUDGE PEARSON: And which--which exhibit is that?
18 I think it's MAW-6X.

19 MR. GARG: 6X. Do you have Exhibit MAW-6X in front
20 of you, Mr. Weinstein?

21 MR. WEINSTEIN: I don't believe I do have it in
22 front of me.

23 MR. STANOVSKY: AND, Your Honor, I apologize. I
24 didn't print out all of the cross exhibits for my witnesses,
25 but I... In fact, I don't think I have that one for myself

Page 107

1 either. So I could show it to Mr. Weinstein on the computer
2 or if you can lend him your copy--I apologize for that.

3 JUDGE PEARSON: I only have it electronically, and
4 my computer has been frozen for about 10 minutes. So,
5 doesn't anyone else--Mr. Fukano, do you have a copy.

6 MR. FUKANO: I do have a copy of that.

7 JUDGE PEARSON: Okay. It is Staff's cross exhibits
8 that he's regarding to.

9 MR. STANOVSKY: I have the exhibit electronically,
10 I just didn't print it; I apologize for that.

11 JUDGE PEARSON: Supposedly, I do, too.

12 MR. FUKANO: It's not a--properly labeled.

13 JUDGE PEARSON: That's okay.

14 (Copy of exhibit was provided to Mr. Weinstein.)

15 MR. WEINSTEIN: I have the tariff in front of me
16 now.

17 Mr. Garg Continuing:

18 Q. Can you tell me the changes that were proposed in this
19 tariff?

20 A. With regards to the carry-out charges--

21 Q. The distance. With any dis--

22 A. The distance--are you talking about the distance for the
23 drive-in or are you talking about the distance for the
24 carry-out charges?

25 Q. Both.

1 A. With regards to the carry-out charges, I believe it
2 was--A denotes that there was a rate increase at that time.
3 And C is with regards to there was a change in some of the
4 verbiage.

5 Q. Can you read off what that verbiage is?

6 A. I can't recall offhand, no.

7 JUDGE PEARSON: I'm sorry, what page are you on,
8 Mr. Garg?

9 MR. SEVALL: It should be Item 80.

10 JUDGE PEARSON: Thank you. I just got it to work.
11 Just give me a second to get there, please.

12 MR. GARG: Sure.

13 JUDGE PEARSON: Okay, I am at it now.

14 Mr. Garg Continuing:

15 Q. So it would be Page No. 19. Are you at Page No. 19?

16 A. Yes, I'm here.

17 Q. So, Page No. 19 has specifics as far as the distance
18 that wage management will go for carry-out service and
19 drive-in service; can you tell me what those distances are?

20 A. Yes. I'm sorry?

21 Q. Can you tell me what those distances are?

22 A. Yes. The distance with regards to carry-out was, up to
23 50 feet. And with regards to drive-ins, we were going up to
24 one mile.

25 Q. Can you tell me why these distances--can you tell me if

Page 109

1 the distances were higher or lower prior to this change in
2 tariff?

3 A. I believe the--best of my recollection, there was no
4 change in distance with regards to the carry-out. With
5 regards to the drive-in charges, both the drive-ins from
6 over 250 feet to 1/10th of a mile, and from 1/10th of a
7 mile--for each additional 1/10th of a mile up to a maximum
8 of one mile, those were new rates that were placed into the
9 tariff. Previous to this tariff, I believe there was no
10 rates for those services at all.

11 Q. Can you tell me why these limitations were placed in the
12 new tariff?

13 A. I can't recall, specifically, it's been 12 years.

14 Q. Can you tell me any other location besides the proposed
15 area where you have similar--similar limitations on
16 distance?

17 A. I believe all of our tariffs are somewhat different from
18 one another depending on the requirements in each of those
19 geographical locations. But I can't recall specifically if
20 there are limitations in any of those other territories.

21 Q. I will point you out to Mr. Sevall's testimony, he
22 actually had an opportunity to take a look at it. And he
23 mentioned in his testimony that there are no other locations
24 besides Skagit County that have these limitations.

25 JUDGE PEARSON: Are you referring to Mr. Sevall's

1 direct responses?

2 MR. GARG: His direct, Your Honor.

3 MR. STANOVSKY: So that would be SS-1T?

4 JUDGE PEARSON: Correct.

5 MR. WEINSTEIN: And what page of his testimony?

6 MR. GARG: Give me one second. It's actually, if
7 you go to SS-5T, Page 3.

8 Mr Garg Continuing:

9 Q. Mr. Sevall writes: Driving and carrier services are
10 offered in Waste Management's other tariffs without a
11 limitation to a maximum distance except Skagit County.
12 Would you disagree with that statement?

13 A. No, I wouldn't disagree.

14 Q. Would you tell us why Skagit County is the only county
15 with those limitations placed?

16 MR. STANOVSKY: Objection, Your Honor. Just so the
17 record is clear, it's Skagit and Kitsap.

18 JUDGE PEARSON: Correct. Mr. Garg that--

19 Q. Can you tell me why those two counties are the only
20 counties where these limitations are placed?

21 A. I really can't recall specifically. I will tell you
22 that many of these tariffs are adopted tariffs initially
23 from acquisitions that, when we acquire a company we acquire
24 their tariff, so. But I cannot recall as to why there were
25 limitations in those tariffs, specifically.

Page 111

1 Q. Do you know how many customers this change in tariff
2 effected?

3 MR. STANOVSKY: Your Honor, just to clarify, we're
4 talking about the 2007--

5 MR. GARG: 2007 tariff, correct.

6 A. No, I do not.

7 Q. Do you know how many customers does drive-in and
8 carry-out services currently provided to?

9 A. I do not know the specific number of customers. I will
10 tell you that the amount of revenue that we collect from
11 customers is very small. So I would say that it is--there
12 are very few customers that currently--that subscribe to
13 this additional service.

14 Q. Again, Mr. Rutledge, feel free to jump in if there's any
15 question that you can answer.

16 MR. RUTLEDGE: Okay.

17 Q. Let's go to your testimony, Page 9.

18 MR. STANOVSKY: And you're addressing
19 Mr. Weinstein?

20 MR. GARG: Mr. Weinstein.

21 Q. The question is: When you investigated the number of
22 customers Waste Management is unable to serve with carry-out
23 or drive-in service, what did you discover? Can you read
24 the first sentence of that answer?

25 A. Waste Management does not directly track cases in which

1 it cannot provide service requested by a customer.

2 Q. Is there a reason why Waste Management does not track
3 that information?

4 A. We track--if--we can't--for every request that is made,
5 we don't track what we--I can't really respond to that,
6 quite honestly. I mean, we track what we can serve but we
7 don't necessarily track what we can't serve.

8 Q. So there may be many customers in your territories that
9 are not getting the service at all?

10 A. If they've requested the service we would have a record
11 as to whether or not they requested it in customer notes
12 that we have.

13 Q. And what is the action that you take after someone
14 requests a service and you believe you cannot provide the
15 service?

16 A. We inform the customer that--the reasons for which we
17 cannot provide the service.

18 Q. Can you tell me what some of those reasons would be?

19 A. That is a question that would probably be answered by
20 Mr. Rutledge.

21 A. (Mr. Rutledge) So when we receive a request from a
22 customer it comes across in the form of a case, it gets sent
23 to one of my route managers who will go out in the area
24 onsite and review the property to determine whether it is,
25 or isn't, eligible for service. Some of the contributing

Page 113

1 factors are the safety aspect of it. For example, a
2 carry-in or a walk-in service, can our truck be safely
3 parked on the road, can our drivers still visibly see the
4 vehicle at all times while walking up to grab the
5 containers.

6 In regards to drive-in service, we look at several
7 variables; that would be maintenance of the roadway to get
8 up to the resident's house as well as once up to that house
9 do we have adequate safe turnaround so that we won't
10 potentially jeopardize any landscape or any property on the
11 customer's premises.

12 Q. Would it be possible for Waste Management to serve these
13 customers with different vehicles?

14 MR. STANOVSKY: Objection, Your Honor, vague as
15 "these customers."

16 Q. The customers that are refused service based on concerns
17 that you mentioned, would it be possible to serve those
18 customers if Waste Management had different vehicles?

19 A. Yes.

20 Q. Going back to my previous question, if we look at the
21 Kitsap Sun article of 2007. I believe that was
22 Exhibit DS-7?

23 MR. STANOVSKY: I believe that's the 2019 article.
24 I think the 2007 article, I believe, is DS-6.

25 Q. Do you have a copy of that in front of you,

1 Mr. Weinstein?

2 A. DS-6?

3 Q. If you look at Page 2 of that article, going to the
4 fifth paragraph. Can you read that sentence starting
5 with--read that paragraph starting with, Bickle said.

6 A. You said that's Page 2?

7 Q. Yeah, Page 204 (sic).

8 A. Bickle said about 250 people in Kitsap County are
9 effected by the new 50-foot limit for pack-out service.
10 Only two, including Gearlaush (phonetic), have complained
11 that the adjustment is unfairly difficult.

12 Q. Would you agree with that statement, that 250 people
13 were effected by your change in tariff?

14 A. I can't--I don't recall. I don't know.

15 Q. Going back to your testimony, the very next page, Page
16 10 of 17--and this is to Mr. Weinstein.

17 MR. STANOVSKY: And this is the direct testimony?

18 MR. GARG: This is the direct testimony, MAW-1T.

19 A. I'm here.

20 Q. You mentioned a few options for Superior, one of the
21 options--can you read that last paragraph, just the first
22 sentence?

23 A. Another option would be to offer hauling from the
24 customer's home to regular Waste Management collection
25 points, much like the Trash Maidz model, as an optional add-

Page 115

1 on service.

2 Q. Can you describe what this Trash Maidz model is?

3 A. Best of my understanding, the Trash Maidz model would be
4 that they essentially would take the material that's located
5 at the customer's doorstep, or wherever, and transports the
6 material down to the collection site and, in turn, returns
7 the can back to the where the household.

8 Q. And Trash Maidz, or a similar company, would be charging
9 for the service?

10 A. I believe they do charge for the charge. I believe this
11 is a company in California that does that.

12 Q. Now, would Waste Management not charge these same
13 customers that a company such as this provided a service
14 for?

15 MR. STANOVSKY: I'm sorry, Your Honor, I think I'm
16 going to just ask you to rephrase that. I don't think I
17 followed that. It may be my fault, I apologize.

18 MR. GARG: Sure.

19 Mr. Garg Continuing:

20 Q. So if a company like--if Superior was to operate
21 similarly to Trash Maidz, would Waste Management still
22 charge those customers that Superior is providing a service
23 to?

24 A. We would charge them for the collection of the material
25 in accordance with our tariff. However, what Superior

1 charges to bring that material down to the collection site
2 and back up to that household, again, that would be between
3 the customer and Superior directly.

4 Q. So, essentially, these customers that are mentioned here
5 would be paying for the service twice; they would be paying
6 Superior and to Waste Management?

7 A. That's not correct. They would just be paying Superior
8 for the time involved to collect the--take the material from
9 their home down to a collection point and back. They would
10 be paying Waste Management for the actual collection of
11 material to take it for disposable and for the collection of
12 not only the garbage but the recyclables as well to be
13 processed.

14 Q. But if one company can provide these two same services,
15 would the charges for the customers be less or more?

16 MR. STANOVSKY: Objection, Your Honor, calls for
17 speculation.

18 JUDGE PEARSON: I'm going to sustain it. Do you
19 want to rephrase the question?

20 MR. GARG: Withdrawn.

21 Mr. Garg Continuing:

22 Q. The very next page under the same question, the very
23 last paragraph, under this question, can you read that first
24 sentence?

25 JUDGE PEARSON: Sorry, can you tell me what page

Page 117

1 you're on?

2 MR. GARG: Page 11 of 17, MAW-1T.

3 JUDGE PEARSON: And then how about a line number?

4 MR. GARG: Line No. 4.

5 Mr. Garg Continuing:

6 Q. Can you start with Line No. 4 and read that first
7 sentence?

8 A. Separate from the current docket, Waste Management is
9 considering a submission of new or revised tariff sheets to
10 implement a new service.

11 Q. Can you give me details on that new revised tariff
12 sheets that you're implementing?

13 A. We are, you know, currently exploring the possibility of
14 offering services with limited access vehicles, smaller
15 vehicles, that can provide this service similar to bring--to
16 be able to safely bring a collection vehicle closer to the
17 customer's location to be able to collect the material from
18 the customer's household.

19 Q. Have you purchased these vehicle?

20 A. No, we have not yet.

21 Q. Have you placed an order for these vehicles?

22 A. No, we have not yet.

23 Q. What is the time estimate that you think you can get
24 these vehicles on the road?

25 A. I probably should defer this to Mr. Rutledge.

1 A. (Mr. Rutledge) Yeah, at this point, it's unknown, the
2 exact time frame. We're, ultimately, waiting to see what
3 the results of this hearing will--in determining what the
4 next steps would be for Waste Management.

5 Q. So it's unknown how long it will take before these
6 customers start receiving service, that are currently not
7 receiving a drive-in service beyond a mile, or carry-out
8 service beyond 50 feet?

9 A. (Mr. Rutledge) Correct.

10 MR. STANOVSKY: Objection, Your Honor. The
11 question misstated the evidence. Mr. Garg, I believe,
12 indicated that the limit for carry-out was 50 feet, which it
13 is not.

14 MR. GARG: It's part of the previous exhibit that
15 Mr. Weinstein read.

16 MR. STANOVSKY: That tariff sheet was effective in
17 2007, it's not currently effective.

18 JUDGE PEARSON: Okay, I'm confused now. So what is
19 the current--yes, Mr. Weinstein?

20 MR. WEINSTEIN: Yes. The current carry-out
21 limitation is two--one hundred feet. And it's my
22 understanding from my--you know, that that was changed in
23 2010. I would say, to a certain extent related to the
24 article in Kitsap Sun in 2007 we extended the carry-out from
25 fifty feet to a hundred feet.

Page 119

1 JUDGE PEARSON: Okay, thank you for that
2 clarification.

3 Mr. Garg Continuing:

4 Q. So, let me point you to MAW-8CX.

5 MR. STANOVSKY: And, Your Honor, this is an exhibit
6 that has been marked confidential. And, consistent with the
7 Protective Order, my witnesses don't have a copy of that at
8 this point.

9 JUDGE PEARSON: Okay. And, just to be clear, I do
10 not want to have to reference any confidential information.

11 MR. GARG: It will not--it will just reference
12 generalized information.

13 JUDGE PEARSON: Okay.

14 MR. STANOVSKY: Shall we provide the witnesses a
15 copy? Would your Your Honor waive the Protective Order as
16 necessary to allow the witnesses to look at it?

17 JUDGE PEARSON: So, direct me again to which is 8CX
18 for Mr. Weinstein; is that correct? I'm still having
19 computer difficulties so I have to actually go into our
20 system and individually find each exhibit because my exhibit
21 list is broken.

22 So this is--just direct me to the exhibit number.

23 MR. GARG: Sure. 8CX, Your Honor. Hold on one
24 second.

25 MR. GARG: We can go to a different exhibit that

1 provides similar information.

2 JUDGE PEARSON: Okay, so can you just describe for
3 me what this exhibit is?

4 MR. GARG: This is a list of customers where--that
5 have made complaints against Waste Management regarding
6 missed pickups or Waste Management's inability to provide a
7 pickup.

8 JUDGE PEARSON: And are these customers who made
9 complaints with the Commission or with Waste Management
10 directly?

11 MR. GARG: Sorry, Your Honor?

12 JUDGE PEARSON: Are these customers who made
13 complaints with the Commission or with Waste Management
14 directly?

15 MR. GARG: I believe this Waste Management
16 directly, Your Honor.

17 MR. STANOVSKY: Maybe we can check the exhibit
18 list. I understand Exhibit MAW-8CX to be Superior's sort of
19 restatement of Waste Management's information about
20 Superior's customers.

21 JUDGE PEARSON: This looks like a document that was
22 created. It did not come the Commission, so it looks like
23 it was a document that was created by Superior.

24 MR. STANOVSKY: And, Your Honor, your exhibit list
25 indicates MAW-8CX, Confidential, Complete Superior Customer

Page 121

1 Location notes.

2 JUDGE PEARSON: Right.

3 MR. STANOVSKY: Which is consistent with what I
4 have.

5 JUDGE PEARSON: Okay. But I'm still not clear what
6 exactly--who created the document and what it's based on.

7 MR. GARG: I believe this was a list that was
8 submitted as part of data request by Waste Management and
9 we, our office--

10 JUDGE PEARSON: Compiled and summarized it?

11 MR. GARG: Right. Correct, Your Honor.

12 JUDGE PEARSON: Okay.

13 MR. STANOVSKY: And this is one that I've alluded
14 to before we began examination where, you know, we have no
15 objection in principle to their sort of redistillation of
16 Waste Management's discovery response, but a--you know,
17 aren't prepared to accept without verifying that it's an
18 accurate representation of what we disclosed.

19 JUDGE PEARSON: Sure. And so I'm fine with the
20 witnesses being provided a copy of the witness. It contains
21 personally-identifying information of Waste Management
22 customers, I believe--unless they are Superior's customers;
23 that's the part I'm confused about.

24 MR. GARG: They're currently Waste Management
25 customers.

1 JUDGE PEARSON: Oh. Okay. So someone has that
2 exhibit?

3 MR. STANOVSKY: Yeah. So shall I provide them 8CX?

4 MR. GARG: Yes.

5 JUDGE PEARSON: Sure. And then, again, I'm sure
6 you can ask questions that don't refer to any of their
7 personally-identified information that's contained within
8 this exhibit.

9 MR. GARG: Yes, Your Honor.

10 JUDGE PEARSON: Okay.

11

12 CROSS-EXAMINATION (Continuing)

13

14 BY MR. GARG:

15 Q. Without providing any customer-identifying information,
16 can you tell me generally what this exhibit refers to?

17 A. I think what I'll do is I'll defer to Mr. Rutledge with
18 regards to those questions.

19 Q. Sure.

20 A. (Mr. Rutledge) Yes, it refers to the current conditions
21 of these customers' locations as to whether they can or
22 cannot receive carry-in or pack-out service under our
23 current tariff.

24 Q. Can you, without providing any identifying information,
25 can you tell me how many customers are listed on this

Page 123

1 exhibit?

2 MR. STANOVSKY: And, again, Your Honor, subject to
3 check because this is Superior's version of what appears to
4 be Waste Management's disclosures.

5 A. (Mr. Rutledge) I have 53 on here.

6 Q. Can you tell me the steps that have been taken, thus
7 far, to provide service to these customers?

8 A. (Mr. Rutledge) In regards to?

9 Q. Well, first, can you establish that these customers are
10 currently not getting service from Waste Management? Based
11 on the notes?

12 A. (Mr. Rutledge) They are eligible for service under our
13 current tariff. But in regards to pack-out and walk-in,
14 you're right, not all of them--after I went out in a truck
15 similar to Mr. Stein's to run the route to observe all these
16 customers' properties. And looking and determining
17 whether--are there customers that are currently serviced by
18 him that would be eligible for our current--under our
19 current tariff and--or would they not be eligible and as to
20 why, under my observations.

21 Q. But you went in, like you said, in a truck similar to
22 Mr. Stein's, you didn't go out in a Waste Management vehicle
23 that you currently use for these roads?

24 A. (Mr. Rutledge) It was a Waste Management route manager
25 truck, which is a Chevy Silverado.

1 Q. But it wasn't a Waste Management trash pickup vehicle?

2 A. (Mr. Rutledge) No.

3 Q. Would you believe your results would be different if you
4 had gone in a Waste Management trash pickup vehicle?

5 A. (Mr. Rutledge) Without doing that, I wouldn't be able
6 to say.

7 Q. Have any of these customers, according to your
8 knowledge, complained about not getting service from Waste
9 Management?

10 A. (Mr. Rutledge) Not directly to me, no.

11 Q. Are there any steps being taken to provide service to
12 these customers currently?

13 A. (Mr. Rutledge) In regards to which specific customers?

14 Q. All 53 on the list?

15 A. (Mr. Rutledge) All 53? Like Mr. Weinstein had
16 mentioned, we are seriously and actively looking at
17 potential options that Waste Management can look at moving
18 forward but to ensure we can provide service to all 53.

19 Q. So, actually, going to your testimony, Mr. Rutledge,
20 RAR-1T.

21 A. (Mr. Rutledge) Okay.

22 Q. Can you tell me when this testimony was provided?

23 A. (Mr. Rutledge) When was it provided?

24 Q. It's on the very first page.

25 A. (Mr. Rutledge) May 15.

Page 125

1 Q. Page 407, starting with Line 14, can you read that
2 sentence for me?

3 A. (Mr. Rutledge) We only recently received a list of
4 Superior's customers and service locations and are actively
5 working to ground truth the accessibility of those locations
6 under Waste Management's existing service terms.

7 Q. So since May 15th, it's been two and a half months; can
8 you describe to me what active steps you've taken?

9 A. (Mr. Rutledge) In regards to improving--

10 Q. You said you're actively working to ground truth the
11 accessibility?

12 A. (Mr. Rutledge) Yeah, and that's like I had stated
13 earlier, where Waste Management is looking at potential
14 objects with different vehicles to be able to provide
15 services. We have deemed that a smaller vehicle would be
16 necessary in order for Waste Management to be able to
17 provide the service that Mr. Stein is providing.

18 Q. But, again, no proactive steps have been taken, so no
19 timeline?

20 A. (Mr. Rutledge) Not--

21 MR. STANOVSKY: Objection, Your Honor. Vague as to
22 "proactive steps."

23 MR. GARG: Withdrawn.

24 Mr. Garg Continuing:

25 Q. Were you aware of the complaint and investigation

1 against Seabeck that occurred last November?

2 A. (Mr. Rutledge) Can you repeat the question, please?

3 Q. This is for both, whoever can answer, Mr. Weinstein or
4 Mr. Rutledge. Were you aware of the investigation against
5 Seabeck?

6 MR. STANOVSKY: And, can I clarify? Did you ask,
7 are they aware? Or were they aware?

8 MR. GARG: Are they aware.

9 A. (Mr. Weinstein) Yes, I'm aware of it.

10 Q. When did you become aware?

11 A. Earlier this year, after the investigation.

12 Q. And yourself, Mr. Rutledge?

13 A. (Mr. Rutledge) Yes--

14 Q. When did you become aware?

15 A. (Mr. Rutledge) I became aware after the investigation
16 in December.

17 Q. So, what were you made aware of? Give me your brief
18 synopsis of what do you think the investigation was about
19 and what you believe happened?

20 A. (Mr. Weinstein) Well, the--this is Mike Weinstein
21 speaking. The investigation was with regards to the fact of
22 whether or not there was an illegal person that was hauling
23 waste without a G Certificate. And based on the results of
24 the investigation the UTC determined that Mr. Stein was
25 illegally hauling waste.

Page 127

1 Q. Did you do anymore research on the investigation, or was
2 that the only information that you received?

3 A. The only information I received was the information that
4 was on the record, you know, through the investigative
5 report and the Commission's order.

6 Q. And as part of that testimony, I can--I can point you to
7 exhibit--but as part of that testimony there were some
8 customers present, just like there are behind us today, were
9 you aware that these customers were making complaints about
10 Waste Management's service?

11 A. I wasn't aware of that at that time, no.

12 Q. And how about yourself, Mr. Rutledge?

13 MR. STANOVSKY: Objection, Your Honor, assumes
14 facts not in evidence.

15 JUDGE PEARSON: Can you expand on that?

16 MR. STANOVSKY: He asked if they're aware that
17 these customers were making complaints, and I don't believe
18 the record reflects that they were making complaints to
19 Waste Management. I think that was the phrasing.

20 MR. GARG: Well, I'm just asking to the knowledge
21 of Mr. Rutledge and Mr. Weinstein's knowledge of the
22 investigation of the results. If they are unaware then...

23 JUDGE PEARSON: Okay. So without specifically
24 saying that complaints were made, were they aware--

25 MR. GARG: Were they aware.

1 JUDGE PEARSON: --of the investigation and its
2 results. Which I think they have affirmatively both said
3 yes, they were.

4 Mr. Garg Continuing:

5 Q. However in your testimony (inaudible)--

6 THE REPORTER: Your testimony with who?

7 Q. With Mr. Rutledge, RAR-1T, Page 4. You mentioned he
8 only recently received a list of Superior's customers and
9 service locations; did you not receive this information back
10 in January as well?

11 A. (Mr. Rutledge) No.

12 JUDGE PEARSON: Mr. Garg, do you know about how
13 much longer this will be?

14 MR. GARG: Ten to fifteen minutes, Your Honor.

15 JUDGE PEARSON: Okay. Let's take a short break
16 then, and--just a short five-minute break, or would everyone
17 prefer to just take a lunch break now and complete this
18 afterwards? I'm fine either way--take a short break now,
19 press through until you're done with your cross-examination
20 or we can just break for lunch now and come back.

21 MR. GARG: It will be 10 minutes, Your Honor, So we
22 can take a 5-minute break now would be my preference and I
23 can finish up in 10 minutes after that.

24 MR. STANOVSKY: I think I'm, personally, happy to
25 press on.

Page 129

1 JUDGE PEARSON: Okay.

2 MR. STANOVSKY: But I'd check with my witnesses as
3 well. You're okay?

4 MR. RUTLEDGE: Yes.

5 MR. FUKANO: I would be fine pressing on or with a
6 break.

7 JUDGE PEARSON: Okay, so let's just take a quick
8 break then; we'll take a 5-minute break and we'll come back
9 and then we'll finish and go to lunch, okay?

10 (Recess taken from 12:13 to 19:19 p.m.)

11 JUDGE PEARSON: If everyone could please take a
12 seat, we're going to get started again. Let's go back on
13 the record and, Mr. Garg, you can finish your
14 cross-examination of these two witnesses.

15 MR. GARG: Yes, Your Honor.

16

17 CROSS-EXAMINATION (Continuing)

18 BY MR. GARG:

19 Q. Now referring to Mr. Weinstein's testimony, MAW-5T. Go
20 to Page 3 of 9. And read that--

21 Mr. WEINSTEIN: I'm still trying to locate it.

22 JUDGE PEARSON: Hold on one second. You said
23 Page 3?

24 MR. GARG: Page 3 of 9.

25 JUDGE PEARSON: Line 9?

1 MR. GARG: Yes.

2 JUDGE PEARSON: Mr. Garg?

3 Mr. Garg Continuing:

4 Q. Starting with Line 12, can you read the next two
5 sentences?

6 A. (Mr. Weinstein) This is the direct testimony?

7 Q. Yes.

8 A. Waste Management's willingness to provide the service
9 proposed by Superior to the Commission's satisfaction--

10 Q. I don't think we're on the right one. This is the
11 response testimony, 5T, I believe. MAW-5T.

12 A. Page 5?

13 Q. Page 3 of the response testimony.

14 WEINSTEIN: Oh, response.

15 Q. Exhibit MAW-5T.

16 A. Is it Page 3?

17 Q. Page 3, correct.

18 A. Line 12: In addition, I am working to develop a new
19 service option for specialized carry-out and drive-in
20 service.

21 Q. Continue reading, next sentence as well.

22 A. This option would be an add-on to the Waste Management
23 basic residential surcharges and options and would extend
24 drive-in service to residential customers not currently
25 eligible for drive-in or carry-out service under the current

Page 131

1 primary tariff rules.

2 Q. That's good. Now, can you tell me if there would be
3 additional charges for this service, for the add-on service?

4 A. Yes, there--well, for the specialized service there will
5 be new charges if--if we decide to--once we decide to go
6 forward with that. And there will be a change in the
7 distance requirements as well.

8 Q. Can you tell me what those new charges would be or?

9 A. We haven't completed the analysis on these new charges
10 yet.

11 Q. Can you tell me what's preventing you from starting the
12 service?

13 A. Well, what's preventing us from starting the service is
14 to first determine the resolution of this case.

15 Q. Are you saying if Superior is able to get a certificate
16 for Kitsap County and Skagit County and in the proposed
17 area--just Kitsap and the proposed area, would Waste
18 Management refuse to provide this service in other areas if
19 it could?

20 A. If Kitsap--that is a very difficult thing to answer, but
21 if, um... If the UTC were to grant a certificate to
22 Superior, then we would provide whatever services are
23 necessary to compete with Superior in our certificated
24 territory.

25 Q. Can you describe me the area that Superior proposes as

1 its territory? Can you tell me the environmental area? Is
2 it developed? Is it...

3 A. I think that's a question that Mr. Rutledge would be
4 better to answer.

5 A. (Mr. Rutledge) Can you repeat the question for me,
6 please?

7 Q. What type of area--can you describe the area that
8 Superior proposes the certificate in?

9 A. (Mr. Rutledge) In regards to?

10 Q. The territory, the environment, the landscape?

11 A. (Mr. Rutledge) Yes. It's very rural, a lot of
12 overgrown, a lot of winding dirt roads. The Seabeck area
13 doesn't have a whole lot of development--large developments
14 like you'd see in the larger areas of Kitsap County.
15 There's a higher level of challenges that you're faced with
16 out in the Seabeck area.

17 Q. Are you familiar with other areas in Washington that
18 provide similar challenges?

19 A. (Mr. Rutledge) No.

20 Q. Just one more question for you, and this is from
21 Mr. Weinstein's direct testimony. MAW-1T, Page 17 of 17,
22 Line 15. If you can read that first sentence.

23 A. (Mr. Weinstein) It seems unlikely that Superior is in a
24 position to correct all the shortcomings and uncertainties
25 identified above, even if Waste Management were not.

Page 133

1 Providing service to the satisfaction of the Commission.

2 Q. Do you believe Waste Management, a direct competitor--
3 better position to make that judgment? Or is UTC in a
4 better position to make that judgment?

5 A. Could you be more specific? Judgment with regards to
6 what?

7 Q. Judgment to whether Superior is in a position to operate
8 under the UTC?

9 A. Well, that would be the Commission's prerogative to make
10 that determination.

11 MR. GARG: Thank you. That is all, Your Honor.

12 JUDGE PEARSON: Good, thank you. I have one
13 clarifying question for you, Mr. Weinstein regarding your
14 responsive testimony, which I've now taken off my screen so
15 give me a minute to get back to it. But I can tell you
16 that--well, actually, I think it was Page 3.

17

18

EXAMINATION

19

20 BY JUDGE PEARSON:

21 Q. Okay. Yes, it is Page 3. So this is just a clarifying
22 question to help me understand better. Lines 16 through 18.
23 Actually, it starts on Line 15. You refer to customers not
24 currently eligible for drive-in or carry-out service. Under
25 the current ground/air tariff rules. And then it says,

1 either because they are beyond the distance limits for those
2 services under Item 80 of the tariff, or because they are
3 not safely accessible to the standard collection vehicles
4 used by Brem-Air.

5 So I would just like clarification that--why would there
6 be distance limits for services for reasons other than
7 safety? What other reasons would exist besides safety to
8 put distance limits for service?

9 A. Other reasons besides safety, and I'll respond first and
10 then Mr. Rutledge can also address the issue, would be
11 regarding to whether or not we believe our vehicles could
12 damage the property that the customer is on. Or that you
13 don't have access, easily accessible turnaround space.

14 So we're concerned about whether or not we create damage
15 to the customer's property and whether or not our vehicles
16 can safely navigate the areas.

17 JUDGE PEARSON: Okay, thank you. I was just
18 clarifying. I guess in my mind I would have lumped in
19 damage to customer property with safety concerns so I just
20 wanted to clarify what the distinction was. Okay. So it
21 sounds like they're all related to hazards, potential hazard
22 to property damage, or safety concern?

23 A. Yes.

24 Q. There are no other reasons?

25 A. No other reasons that I can really think of now.

Page 135

1 JUDGE PEARSON: Okay. So it's 12:27, I think we
2 should go ahead and take a lunch break, if you're okay,
3 Mr. Stanovsky? I don't know if you have any redirect.

4 MR. STANOVSKY: We do have some redirect.

5 JUDGE PEARSON: Okay, but we can handle that after
6 lunch?

7 MR. STANOVSKY: Yeah.

8 JUDGE PEARSON: Okay, it's 12:28, we will be in
9 recess until 2:00 p.m. Everybody have a nice lunch and I
10 will see you back in an hour and a half.

11 (Recess from 12:27 to 2:00 p.m.)

12 JUDGE PEARSON: So let's be back on the record.

13 It's 2:00 p.m. and following a recess for lunch we are
14 now going to resume. Actually, I believe we are moving on
15 to redirect with Mr. Stanovsky before Mr. Weinstein and
16 Mr. Rutledge. I'll just remind you two, of course, that
17 you're both still under oath. And whenever you're ready,
18 Mr. Stanovsky.

19 MR. STANOVSKY: Just to clarify then, the State
20 will go--or the UTC staff will go after and then I will have
21 another chance to redirect?

22 JUDGE PEARSON: Correct.

23 MR. STANOVSKY: No redirect at this time, Your
24 Honor.

25 JUDGE PEARSON: Okay. Mr. Fukano?

1 MR. FUKANO: Yes. Actually, I have a very brief
2 question, and I'm not sure who is this is most properly
3 directed to, I guess, beginning with Mr. Rutledge.

4

5

CROSS-EXAMINATION

6

7 BY MR. FUKANO:

8 Q. How does Waste Management distinguish between a driveway
9 and a privately-maintained road for public access?

10 A. (Mr. Rutledge) A driveway is technically deemed at the
11 start of where a--where it starts off of the private road.
12 So the driveway--I'm trying to think of an example to give
13 you. It might be off of Larson Lane. The driveway starts
14 once it's leading off of Larson lane.

15 Q. And, again, I'm not certain who this question is best
16 directed to so I'll start with Mr. Rutledge.

17 Do you know why Waste Management has not previously
18 invested in smaller collection vehicles similar to what's
19 been discussed in you and Mr. Weinstein's testimony for the
20 service area?

21 A. (Mr. Rutledge) I do not.

22 A. (Mr. Weinstein) With regards to why we haven't invested
23 it, because quite honestly there's been so very little
24 demand for it. You know, these vehicles cost hundreds of
25 thousands of dollars, and until there's a sufficient amount

Page 137

1 of demand, then we would take another look at that. But up
2 until now, the demand has been such that it didn't require
3 the investment of that type of vehicle.

4 MR. FUKANO: Thank you. No further questions.

5 JUDGE PEARSON: Okay. Do you have any redirect?

6 MR. STANOVSKY: No, Your Honor.

7 JUDGE PEARSON: Then you are both excused.

8 MR. GARG: Your Honor, with your lead, I would like
9 to ask one recross.

10 JUDGE PEARSON: What is it regarding?

11 MR. GARG: This is regarding clarity on the
12 one-mile restriction.

13 JUDGE PEARSON: So is it a follow-up on an earlier
14 question?

15 MR. GARG: On your question, Your Honor.

16 JUDGE PEARSON: Oh, on my question. Okay, go
17 ahead.

18

19 RECCROSS-EXAMINATION

20

21 BY MR. GARG:

22 Q. So you have previously testified that the only reasons
23 you're placing limitations is because of safety; is that
24 correct? The limitations on the driveway and curbside?

25 JUDGE PEARSON: I don't think your microphone is

1 on; I see a red light. There you go. Thank you.

2 Q. You have previously testified that the limitations
3 placed for drive-in and curbside, the one mile and the
4 hundred feet restrictions, they're for safety; is that
5 correct?

6 A. (Mr. Weinstein) It's for safety and I also mentioned in
7 the question by the Judge is that that's also due to with
8 regards to potentially causing damage to the individual's
9 property.

10 Q. So is your testimony that at one mile it's safe but at
11 1.1 mile it's no longer safe? The same thing for curbside,
12 a hundred feet is safe but for 101 feet it's not safe?

13 A. You know, previously these limitations were put on to
14 try to encourage customers to utilize our curbside service.
15 And we felt--and I can't speak to this too much because I
16 can't recall when these limitations were put on, but at some
17 point in time we felt that limitations were necessary
18 to--for the safety of the customers' property and for the
19 safety of the vehicles.

20 Q. So let me clarify if I'm hearing you correctly. So
21 you're testifying that these arbitrary limitations were put
22 because for what determination why one mile, why not two
23 miles or 100 feet, not 200 feet. Why these specific
24 regulations, why--

25 A. I can't recall why those limitations were put on at the

Page 139

1 time.

2 MR. GARG: All right. No further questions, Your
3 Honor.

4 JUDGE PEARSON: Okay, thank you. Questions?

5 MR. STANOVSKY: No.

6 JUDGE PEARSON: All right. Then you are both
7 excused, you may step down.

8 (The witnesses were excused.)

9 JUDGE PEARSON: And at this time we'll call
10 Mr. Sevall. If you can stand and raise your right hand.

11 Do you swear or affirm that the testimony you give today
12 will be the whole truth and nothing but the truth?

13 MR. SEVALL: I do.

14 JUDGE PEARSON: Please be seated. Mr. Fukano, go
15 ahead.

16 MR. FUKANO: This is Scott Sevall testifying on
17 behalf of Utilities Division Commission Staff. And I
18 believe he has one small correction to make to his
19 testimony.

20 MR. SEVALL: Correct. There is a--

21 JUDGE PEARSON: Is that microphone on?

22 MR. SEVALL: I got a green light.

23 JUDGE PEARSON: Is it a bright green light?

24 MR. SEVALL: Oh, there is a bright green light.

25 I believe it is an error in SS-6T, Page 4, Line 19

1 reference to DR0002 should be DR0001. And I believe that's
2 the only fix.

3 MR. FUKANO: I would make the witness available for
4 cross.

5 JUDGE PEARSON: Thank you. Mr. Garg?

6 MR. GARG: Yes, Your Honor.

7

8 CROSS-EXAMINATION

9

10 BY MR. GARG:

11 Q. Mr. Sevall, you've submitted Exhibit SS-5T, which is
12 your response testimony on June 28th. And you submitted a
13 supplemental testimony on July 30th, which is Exhibit SS-6T.
14 Can you inform us why was there a need for submitting a
15 supplemental testimony?

16 A. The need for the supplemental testimony was due to
17 responses to the outstanding data requests that staff had
18 issued.

19 Q. We'll go off the supplemental testimony first, if you
20 can go to SS-6T.

21 A. I have SS-6T supplemental filed on July 30, 2019.

22 Q. Correct. Now, if you go to Page 2--I'm sorry, no,
23 Page 3 of the document, and you mentioned Line 3, how many
24 customers Superior Waste provide--provided ground service
25 to; the number is 53; is that correct?

Page 141

1 A. Yes, I believe it's 53.

2 Q. And going to Line 19, you mentioned 34 customers were
3 not receiving service from Waste Management because of
4 safety concern; is that correct?

5 A. Correct.

6 Q. So are you implying with this document that there are 19
7 customers that are receiving service from Waste Management?

8 A. No. There are 53 customers who are not receiving
9 service that Mr. Stein--Superior Waste--is providing service
10 to. What I'm saying is that 34 of those customers are not
11 receiving service from Waste Management. Waste Management
12 is excluding them from being able to have drive-in or
13 walk-in service because of safety-related reasons.

14 Q. From your research, can you testify whether you believe
15 it's safety related reasons or is it above and beyond the
16 one-mile threshold, the hundred feet threshold for curbside?

17 A. So, why--why I primarily believe that, that information
18 came from data request that we finally received from Waste
19 Management; I forget what number that is off the top of my
20 head--where they provided a table of information of
21 Mr. Rutledge's survey that he submitted designating the
22 reasons why Waste Management could not provide service to
23 any of these 53 customers. Or, if they could provide
24 service--and any that were beyond the stipulated limitation
25 in the tariff. And the instructions in that DR, if my

1 memory serves me right, was that if it was both safety and
2 the limitation, they were to mark both reasons.

3 Q. Same page, Line 15, can you read that sentence at the
4 end?

5 A. So this is Page 3, Line 15?

6 Q. Page 3, Line 15, that's correct.

7 A. And so it starts with the word, "because"?

8 Q. Right. So the last sentence in the paragraph.

9 A. Okay. The rest of the customers seem to be dissatisfied
10 with Brem-Air Disposal's tariff rates or drive-in service.

11 Q. Were you able to estimate what that dissatisfaction was?

12 A. So looking at the information from Waste Management in
13 the data request and the customer complaints, which the UTC
14 responded with in, I believe it was DR001, we looked at
15 those. There were customer surveys--or, 23 customer
16 complaints to the Commission from January 2017 to current.
17 Of that, 3 of the 23 complaints were upheld in the
18 customer's favor. Only one of the 23's was for refusal of
19 service, and that was actually upheld in the company's
20 favor; so it was not found to be that needed to be--that was
21 a yard waste issue.

22 So there were 23 total customer complaints from Kitsap
23 County. So that is the entire Kitsap County of which only
24 one was for refusal of service; that was made to the
25 Commission. So there is zero records sitting in this

Page 143

1 Commission as far as I can see of actual refusal of service.
2 Q. We're actually just going off your testimony, not the
3 complaints. You mentioned two customers are excluded from
4 the tariff due to tariff limitations. Thirty-four customers
5 are not provided service because of safety-related concerns.
6 And the rest of the customers seem to be dissatisfied with
7 Brem-Air Disposal's tariff rates for drive-in service.

8 Going off your testimony alone, would you believe if
9 Superior was to receive a certificate, that it would
10 alleviate any customer problems, any customer complaints in
11 that area?

12 A. That is one possible solution that the Commission could
13 decide if they were to decide to issue a certificate.

14 Q. Waste Management, in the testimony, mentioned that
15 they're working on certain avenues, purchasing new vehicles,
16 maybe a new tariff on the way, have they corresponded--have
17 you seen any correspondence, any communication regarding
18 their intentions to move forward with servicing those
19 customers?

20 A. No, I have not received any communications as far as a
21 tariff revision to add any new service to the Brem-Air
22 tariff.

23 Q. Do you believe it is proper to give Waste Management a
24 deadline to meet the needs of these customers?

25 A. Yes. The Commission has full jurisdiction over the

1 certificated area and if they deem something to be improper
2 they can issue a compliance.

3 Q. One final question. Based on your review of the
4 financial records and everything Superior provided to you,
5 do you believe Superior is capable of handling the territory
6 that it is asking a certificate for?

7 A. With the information provided at the time, I published a
8 memo that I testified to in my first testimony, SS-T1,
9 1T--hold on one second, let me grab that exhibit. So
10 Exhibit SS-3, this is my staff memo to assistant director
11 Dan Kermod, under the Conclusion:

12 Staff has reviewed Superior Waste & Recycling financial
13 information submitted in Docket TG-181023 and concludes the
14 company made reasonable efforts to estimate its finances
15 under the proposed application. Based on the company's
16 financial records provided, the company has adequate
17 resources and therefore staff concludes Superior Waste &
18 Recycling, LLC, has the financial resources to operate for
19 the proposed service for at least twelve months.

20 Q. So your testimony--to clarify--is that Superior is very
21 capable of performing the duties for a waste management
22 company if granted a certificate?

23 A. I believe I testified to that.

24 Q. No further questions--

25 A. To this memo in SS-1T.

Page 145

1 MR. GARG: No further questions.

2 JUDGE PEARSON: Thank you. Mr. Fukano, do you have
3 any redirect?

4 MR. FUKANO: Not at this time.

5 JUDGE PEARSON: Okay. Mr. Stanovsky, do you have
6 questions for Mr. Sevall.

7 MR. STANOVSKY: We do. Just a few, Your Honor.

8 MR. FUKANO: Actually, I did have one brief on--

9 JUDGE PEARSON: Sure.

10 MR. STANOVSKY: Sure.

11

12 REDIRECT EXAMINATION

13

14 BY MR. FUKANO:

15 Q. Mr. Sevall, in your review of the company, did you
16 examine any aspects of the company beyond the financial
17 capabilities when you determined fitness?

18 A. No. In application review I was only doing financial
19 fitness review.

20 MR. FUKANO: Thank you.

21 JUDGE PEARSON: Go ahead.

22 MR. STANOVSKY: All right. Thank you, Your Honor.

23 //

24 //

25

1 REDIRECT EXAMINATION

2

3 BY MR. STANOVSKY:

4 Q. Mr. Sevall, good afternoon, good to see you.

5 A. It is afternoon now.

6 Q. Do you have SS-6T, your supplemental testimony there?

7 A. I do. I have to flip back to it.

8 Q. And would you go to Page 1. Let me know when you're
9 there.

10 A. SS-6T, Page 1.

11 Q. Yes. And you see at the bottom, the question: Does
12 Superior Waste appear fit to provide service?

13 A. Yes.

14 Q. And would you read--obviously the answer, yes, but then
15 the next sentence after that?

16 A. The record in this case supports the conclusion that
17 Superior Waste has provided service to its customers since
18 2015. Staff's financial review, while not required by law,
19 found that Superior Waste has the means to continue service
20 for at least twelve months going forward.

21 Q. Thank you. And based on Mr. Fukano's question a moment
22 ago, do I understand correctly that your analysis only
23 regards the financial fitness and not the operational
24 fitness of Superior?

25 A. Correct.

Page 147

1 Q. And that you didn't evaluate any of the information
2 related to Superior's operational fitness?

3 A. Correct.

4 Q. Thank you. Do you have SS-11X there?

5 A. That's the a...

6 Q. That is Staff's responses to Waste Management discovery
7 requests, starting with No. 5.

8 A. I've got those electronically, hold on.

9 Q. Sure. Actually, we may not need to actually look at the
10 response. We can just do a Q and A, I think, unless we need
11 to refer to the document.

12 A. Well, I've got it--

13 Q. Sure.

14 A. --up here, so if we need it.

15 Q. Mr. Sevall, does Staff believe that the record in this
16 case shows that Waste Management is not providing
17 satisfactory service on the basis of the timeliness of the
18 service its provides in the relevant territory?

19 A. No.

20 Q. No, you believe the record does not show a lack of
21 satisfactory service on that basis? I'm just trying to be
22 clear.

23 A. Way too many negatives.

24 Q. My fault for phrasing the question awkwardly. In your
25 opinion, does the record show that Waste Management--the

1 timeliness of Waste Management service is not to the
2 Commission's satisfaction?

3 A. There is no--nothing in this record as far as I see that
4 says Waste Management has not provided timely service.

5 Q. Thank you. Anything on this record to show that Waste
6 Management's service is not sufficiently regular for the
7 satisfaction of the Commission?

8 A. Related to curbside pickups, no. And staff concludes in
9 that testimony, at the end of that testimony, that Waste
10 Management--let me read it.

11 Q. Well, it may be simpler to just go with the discovery
12 request--

13 A. Okay.

14 Q. --and if we need to refer back to the testimony,
15 Mr. Fukano can do that, if need be. But, if you would find
16 Staff's response to Waste Management data request No. 8.
17 For the record, this is exhibit SS-11X at Page 4.

18 A. All right, Question No. 8, right?

19 Q. Yes. And would you just read Staff's response to sub
20 part B?

21 A. Sub part B: While the ultimate determination as to
22 satisfactory service is reserved to the Commission Staff--
23 Staff does not believe that the facts mentioned above
24 demonstrate that Waste Management is not providing
25 satisfactory service on the basis of the regular service.

Page 149

1 Q. And the facts mentioned above, if you look up at the
2 request of sub part A, it says: Please identify all facts
3 indicating that Waste Management solid waste collection is
4 not sufficiently regular, correct?

5 A. Correct.

6 Q. So, the meaning of B is that Staff doesn't conclude that
7 Waste Management service is unsatisfactorily irregular?

8 A. Correct.

9 Q. All right, thank you. Now if you just go to the next
10 page. And I'll just note, the structure is similar, so A
11 asks for identification of all facts with respect to another
12 factual element that. And, with that noted, I'll just ask
13 you to read the response to B.

14 A. While the ultimate determination as to satisfactory
15 service is reserved for the Commission, Staff does not
16 believe that the facts mentioned above demonstrate that
17 Waste Management is not providing satisfactory service,
18 based on the nature, seriousness of persuasiveness of the
19 complaints.

20 Q. Thank you. And the next page, Page 6 of 16, and if you
21 would just read sub part of B again. I'll note that the
22 structure is somewhat...

23 A. So that's the response to No. 10?

24 Q. Yes.

25 A. While the ultimate determination as to the satisfactory

1 service is reserved to the Commission, Staff does not
2 believe that the facts mentioned above demonstrate that
3 Waste Management is not providing satisfactory service based
4 on the response to the complaints about this service--or its
5 service.

6 Q. Thank you. And the next page, Page 7, data request
7 No. 11. Similar structure, and just please read B--the
8 response to B.

9 A. While the ultimate determination as to the satisfactory
10 service is reserved to the Commission, Staff does not
11 believe that the facts mentioned above demonstrate that
12 Waste Management is not providing satisfactory service based
13 on its ability to resolve complaints.

14 Q. Thank you. And I wish I had thought of this a couple of
15 minutes ago, but could you just turn the page to the next
16 one, Page 8, and confirm that it has a comparable answer
17 with respect to Waste Management's history of compliance
18 with regulation?

19 A. So you don't want me to read that one?

20 Q. You're welcome to but it doesn't seem necessary at this
21 point. They're fairly similar.

22 A. It is. It is answered in the same fashion as the
23 previous answers.

24 Q. With respect to Waste Management's history of compliance
25 with regulations?

Page 151

1 A. Correct.

2 Q. And the next page, Page 9. Similar, but the request is
3 about Waste Management's history of compliance with
4 regulations on matters central to regulation in the public
5 interest. And the response is the same?

6 A. Correct.

7 Q. Thank you. And then, if you would, go down one more
8 page, Page 10, and this one is a little different. So if
9 you would just read Staff's response to B; this is data
10 request No. 14.

11 A. While the ultimate determination as to the satisfactory
12 service is reserved to the Commission, Staff has not
13 concluded that Waste Management's use of safety exemptions
14 establishes that Waste Management's service is
15 unsatisfactory.

16 Q. And so that's the safety exemptions we've discussed
17 earlier in the hearing here as you understand, items like
18 the condition of roads or availability of adequate
19 turnarounds?

20 A. Correct.

21 Q. Thank you. And if you would go down a couple of pages
22 to Page 15 of the exhibit, request No. 19. Actually, this
23 one I can probably just ask you: Do I understand that
24 you've concluded that Superior has not demonstrated that a
25 Certificate of Public Convenience & Necessity should be

1 granted to it in this case?

2 A. That is true. I have not--I have concluded that.

3 THE REPORTER: What? I have concluded that?

4 MR. SEVALL: I have--I messed that all up. Just,
5 please request--redo the question.

6 Q. Certainly. Is it your conclusion that Superior should
7 not receive a certificate in this case?

8 A. That is my conclusion.

9 Q. And, specifically, is it your conclusion that Superior
10 has not shown that Waste Management service will not be to
11 the satisfaction to the Commission?

12 A. That is correct.

13 Q. And also, that Superior has not shown that the public
14 convenience and necessity require its proposed service?

15 A. That is correct.

16 MR. STANOVSKY: Thank you. No further questions,
17 Your Honor.

18 JUDGE PEARSON: Okay, thank you.

19 MR. FUKANO: No redirect.

20 JUDGE PEARSON: I do have a follow-up question,
21 just to put you on the spot, Mr. Sevall.

22 MR. SEVALL: Go.

23 //

24 //

25

Page 153

1 EXAMINATION

2

3 BY JUDGE PEARSON:

4 Q. I understand that your recommendation is that the
5 Commission not grant Superior's application. Do you have
6 any other recommendations with respect to the service that
7 Waste Management is providing or should be providing?

8 A. Yes. This is the first time, ultimately, that the
9 complaints like this, specifically for Brem-Air come in
10 front of the Commission and it has highlighted areas that
11 there can be improvement in the service. But, at the same
12 time, that improvement may--may have some burden on the
13 customer side and on Waste Management side. We can only
14 regulate Waste Management.

15 Privately maintained roads are tricky and the
16 stipulation here really is around that, or this decision is
17 really around that. And Waste Management has to be safe in
18 their operations; we require that. We give them a safety
19 exemption for that reason. But, does that mean that
20 somebody should have to walk three miles to have their
21 garage collected? I do not think that's what it means.

22 Q. Okay.

23 A. So do you want specific recommendations?

24 Q. Yes, I would like a specific recommendation.

25 A. Staff would like, at a minimum of result coming from the

1 Commission, if they were able to go with Staff's
2 recommendation, that would require tariff filings from Waste
3 Management, which would resolve this issue--or help resolve
4 this issue. And, specifically, what the tariff would look
5 like, I don't know. But discussing it is Step 1.

6 Q. Okay, thank you.

7 JUDGE PEARSON: Mr. Fukano, do you have any further
8 questions?

9 MR. FUKANO: No further questions.

10 JUDGE PEARSON: All right. So then Mr. Sevall, you
11 are excused.

12 (Witness excused.)

13 JUDGE PEARSON: That brings us to the end of
14 cross-examination for our witnesses. So let's go back to
15 the question I had at the start of the hearing about whether
16 counsel wanted to give closing arguments and/or post hearing
17 briefs.

18 MR. FUKANO: Staff would be neutral towards either
19 option, whichever is most helpful to the bench.

20 MR. GARG: Superior would prefer a brief.

21 JUDGE PEARSON: Okay.

22 MR. STANOVSKY: A brief is fine, Your Honor; I've
23 expressed a reservation before but we accept that.

24 JUDGE PEARSON: Okay. And so timeline for
25 briefing. What would be reasonable, given the need for

Page 155

1 transcripts, most likely?

2 MR. STANOVSKY: How long do transcripts typically
3 take?

4 JUDGE PEARSON: I think they are--they'll be
5 available for you to purchase them after 10 business days?

6 THE REPORTER: Yes.

7 JUDGE PEARSON: They're free on the Commission's
8 website after 30 days.

9 Mr. Fukano, do you have a recommendation?

10 MR. FUKANO: Perhaps two to three weeks after
11 receiving the transcript.

12 JUDGE PEARSON: Okay.

13 MR. STANOVSKY: So that would be 30 days from now--
14 would take us to early September. So, Your Honor, I'm in
15 hearing in Alaska from Wednesday until--scheduled for a week
16 and a half after that, and then back in hearing in Alaska, I
17 think the following Monday--the last week of August through
18 September 17.

19 JUDGE PEARSON: Why don't we go off the record
20 while we have this discussion--

21 MR. STANOVSKY: Sure.

22 JUDGE PEARSON: --and then we'll memorialize it so
23 you don't have to get everything they say.

24 (Off the record 2:34 to 2:37 p.m.)

25 JUDGE PEARSON: Let's go back on record. Following

1 a brief recess, we worked on the details for post hearing
2 briefs. There will be simultaneous post hearing briefs due
3 to the Commission by close of business on Friday,
4 October 4th. And we have agreed to a 20-page limit,
5 excluding introductory and table of contents pages.

6 Is there anything else that we need to address before we
7 go off the record today?

8 MR. GARG: My client would like to know whether
9 Superior can continue to provide service without
10 compensation until this Court decides one way or the other.

11 JUDGE PEARSON: I think that's fine. Mr. Sevall,
12 have do you have any objection to that? The issue is
13 collecting compensation from the service provided.

14 MR. SEVALL: Correct. So my understanding is, your
15 client as long as he wished could continue with zero
16 compensation.

17 JUDGE PEARSON: Correct.

18 MR. SEVALL: So even, regardless of the outcome of
19 this, if he wanted to continue for zero compensation.

20 MR. GARG: My client is okay with not collecting
21 any compensation as long as he's allowed to provide the
22 service.

23 JUDGE PEARSON: Okay. Anything else?

24 MR. FUKANO: Nothing further from Staff.

25 MR. GARG: Nothing further from Superior.

Page 157

1 MR. STANOVSKY: Nothing from Waste Management, Your
2 Honor. Thank you.

3 JUDGE PEARSON: Well, thank you all for coming
4 today and thank you all that have observed from the audience
5 as well; thanks for making the trip.

6 THE REPORTER: I'm required to go around the table
7 to ask who, if they need to order.

8 JUDGE PEARSON: Do you want it on the record or off
9 the record?

10 THE REPORTER: On the record. Do you want to ask
11 them? Or, I can ask them.

12 JUDGE PEARSON: Sure. Who would need to order a
13 transcript for availability in 10 business days?

14 MR. FUKANO: Staff would. We'd appreciate it.

15 JUDGE PEARSON: Well, you'll get one. We've
16 already paid for our copy, so who else wants to pay for a
17 copy?

18 MR. GARG: You said it's available in 30 days?

19 JUDGE PEARSON: It is. And I think with this
20 schedule being what it is, I don't know that you would need.

21 MR. GARG: Superior will wait.

22 JUDGE PEARSON: Okay.

23 MR. STANOVSKY: Waste Management is happy to wait,
24 too.

25 JUDGE PEARSON: All right. Well, if that's

1 everything, then we are adjourned.

2 (Hearing adjourned at 2:39 p.m.)

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

