

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v. WASTE MANAGEMENT OF WASHINGTON, INC., Respondent.	DOCKET TG-210689 ORDER 01 PREHEARING CONFERENCE ORDER
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- NATURE OF PROCEEDING.** On November 15, 2021, the Washington Utilities and Transportation Commission (Commission), through Commission staff (Staff), issued a complaint against Waste Management of Washington, Inc., (Waste Management or Company) for violations of state law and administrative rule when the Company missed yard waste and recycling pickups in Kitsap County in July and August 2021 and seeking monetary penalties against Waste Management (Complaint). Also, on that date and along with the Complaint, the Commission issued a Notice of Virtual Prehearing Conference set for December 14, 2021, at 2:00 p.m.
- CONFERENCE.** The Commission convened a virtual prehearing conference on December 14, 2021, before Administrative Law Judge Andrew J. O’Connell.
- APPEARANCES.** Jennifer Cameron-Rulkowski, Assistant Attorney General, Lacey, Washington, represents Staff.¹ Walker Stanovsky and Craig Gannett, of Davis Wright Tremaine LLP, Seattle, Washington, and Ame Lewis, Senior Legal Counsel for Waste Management, Portland, Oregon, represent Waste Management. Lisa J. Nickel, Senior

¹ In proceedings such as this, the Commission’s regulatory staff participates like any other party, while the presiding officer(s) make the decision. To assure fairness in such proceedings, the Commissioners, the presiding administrative law judge, and the Commissioners’ policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455. Here, Judge O’Connell has been assigned to preside in this proceeding.

Deputy Prosecuting Attorney for Kitsap County, represents Kitsap County. Contact information for the representatives is attached as Appendix A to this Order.

4 **PETITIONS FOR INTERVENTION.** Kitsap County, by and through the Kitsap County Prosecuting Attorney's Office, filed a petition to intervene. No party objected to the petition. The Commission finds that Kitsap County has established a substantial interest in this proceeding and that its participation will be in the public interest. Accordingly, the Commission grants the petition.

5 **PROCEDURAL SCHEDULE.** The parties presented an agreed procedural schedule at the prehearing conference. The Commission adopts the parties' proposed procedural schedule as presented and discussed at the prehearing conference. It is attached to this Order as Appendix B.

6 **DISCOVERY.** At the prehearing conference, the parties indicated consensus that discovery was not expected to be necessary in this case. The Commission finds that this docket meets the criteria of WAC 480-07-400(2)(b). If discovery becomes necessary in this case, the Parties may conduct discovery pursuant to the Commission discovery rules in WAC 480-07-400 – 425. The Commission urges the Parties to work cooperatively together to avoid having to bring discovery matters forward for formal resolution.

7 **DOCUMENT FILING AND SERVICE REQUIREMENTS.** Parties must file and serve all pleadings, motions, briefs, and other pre-filed materials in compliance with all of the following requirements:

(a) Parties must submit electronic copies of all documents by 5 p.m. on the filing deadline established in the procedural schedule (or other deadline as applicable) unless the Commission orders otherwise. Parties must comply with WAC 480-07-140(6) in formatting, organizing, and identifying electronic files.

(b) The Commission accepts only electronic versions of documents for formal filing. Parties must submit documents electronically through the Commission's web portal (www.utc.wa.gov/e-filing). If a party is unable to use the web portal to submit documents for filing, the Commission will accept a submission via email to records@utc.wa.gov, provided that the email: (1) explains the reason the documents are not being submitted via the web portal, and (2) complies with the requirements in WAC 480-07-140(5)(b). No paper copies of any pleading need to be filed.

(c) Documents filed with the Commission must conform to the formatting and other requirements in WAC 480-07-395 and WAC 480-07-460, and must comply with the requirements in WAC 480-07-160 for documents that include information designated as confidential.

(d) Parties must electronically serve the other Parties and provide courtesy electronic copies of filings to the presiding administrative law judge (andrew.j.oconnell@utc.wa.gov) by 5 p.m. on the filing deadline unless the Commission orders otherwise. If Parties are unable to email copies, they may furnish electronic copies by delivering them on a flash drive only.

8 **EXHIBITS.** Parties are required to file with the Commission and serve all proposed exhibits by **5 p.m. on February 10, 2022**. The Commission requires electronic copies in searchable .pdf (adobe acrobat or comparable software). If any of the exhibits contain information designated as confidential, parties must also file an electronic copy of the redacted version in searchable .pdf (adobe acrobat or comparable software) of each such exhibit. The exhibits must be grouped by the witness through whom the party expects the exhibit will be introduced into the evidentiary record.

9 **EXHIBIT LISTS.** Each party must file and serve by **5 p.m. on February 10, 2022**, a list identifying each exhibit it intends to introduce into the evidentiary record and in the format the Commission uses for exhibit lists it prepares for evidentiary hearings.

10 **WITNESS LISTS AND TIME ESTIMATES.** Each party must provide a list of witnesses the party intends to call to provide direct testimony and an estimate of the time the party anticipates each witness will testify. Parties should not file witness lists or time estimates but must provide them to the administrative law judge (andrew.j.oconnell@utc.wa.gov) and the other parties by **5 p.m. on February 10, 2022**.

11 **NOTICE OF HEARING.** Consistent with the agreed procedural schedule presented by the Parties and adopted by this Order, the Commission gives notice that it will hold a virtual evidentiary hearing in this matter **on February 17, 2022, at 1:30 p.m.** To attend by phone, call (253) 215-8782 and enter the Meeting ID: 910 7258 6954# and the Passcode: 755498#. To participate via Zoom, please use the following link: [Click here to join meeting](#). All parties and witnesses are required to participate via Zoom.

12 **ALTERNATE DISPUTE RESOLUTION.** The Commission supports the informal settlement of matters before it. Parties are encouraged to consider means of resolving disputes informally. The Commission has limited ability to provide dispute resolution

services. If you wish to explore those services, please contact Rayne Pearson, Director, Administrative Law Division (360-664-1136).

- 13 **NOTICE TO PARTIES: A party who objects to any portion of this Order must file a written objection within ten (10) calendar days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. The service date appears on the first page of this Order, in the upper right-hand corner. Absent such objection, this Order will control further proceedings in this docket, subject to Commission review.**

Dated at Lacey, Washington, and effective December 17, 2021.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ *Andrew J. O'Connell*

ANDREW J. O'CONNELL
Administrative Law Judge

**APPENDIX A
PARTIES' REPRESENTATIVES
DOCKET TG-210689**

PARTY	REPRESENTATIVE	PHONE	E-MAIL
Waste Management	Walker Stanovsky Counsel Davis Wright Tremaine LLP 920 Fifth Avenue, Suite 3300 Seattle, WA 98104-1610	(206) 757-8259	WalkerStanovsky@dwt.com
	Craig Gannett		CraigGannett@dwt.com
	Ame Lewis Senior Legal Counsel Waste Management 7227 NE 55th Avenue Portland, OR 97218	(206) 919-3236	ALewis6@wm.com
	Mike Weinstein Waste Management of Washington, Inc. 720 4th Ave., Suite 400 Kirkland, WA 98033-8136	(425) 814-7840	mweinstein@wm.com
	Nancy Foley		nancyfoley@dwt.com
	DWT docketing department		seadocket@dwt.com
Commission Staff	Jennifer Cameron-Rulkowski Assistant Attorney General Office of the Attorney General Utilities and Transportation Division P.O. Box 40128 Olympia, WA 98504-7250	(360) 664-1186	jennifer.cameron-rulkowski@utc.wa.gov
	Jeanne Roth		jeanne.roth@utc.wa.gov
	Betsy DeMarco		betsy.demarco@utc.wa.gov

PARTY	REPRESENTATIVE	PHONE	E-MAIL
Kitsap County	Lisa J. Nickel, WSBA #31221 Senior Deputy Prosecuting Attorney for Kitsap County 614 Division Street, MS-35A Port Orchard, WA 98366	(360) 337-4974	lnickel@co.kitsap.wa.us
	Jordan Sheets		jsheets@co.kitsap.wa.us

**APPENDIX B
PROCEDURAL SCHEDULE
DOCKET TG-210689**

EVENT	DATE
Initial Settlement Conference	January 7, 2022
Exhibits, Exhibit Lists, Witness Lists, Time Estimates	February 10, 2022
Evidentiary Hearing (Virtual)	February 17, 2022, 1:30 p.m.