

BEFORE THE WASHINGTON STATE UTILITIES
AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

MURREY'S DISPOSAL COMPANY, INC.
d/b/a OLYMPIC DISPOSAL,

Respondent.

Docket No. TG-230778

PETITION OF MURREY'S DISPOSAL
COMPANY, INC. d/b/a OLYMPIC
DISPOSAL FOR INTERIM RATE RELIEF
AND REQUEST FOR EXPEDITED
CONSIDERATION, PURSUANT TO
WAC 480-07-520.

I. INTRODUCTION AND IDENTITY OF PETITIONER

- 1 Petitioner Murrey's Disposal Company, Inc d/b/a Olympic Disposal ("Olympic" or "Murrey's") provides regulated solid waste collection services in Clallam and Jefferson Counties to approximately 15,500 residential customers, 1,900 commercial customers, 117 roll-off customers and 6,040 residential recycling customers. Olympic's principal office is located at 808 Washington St., Suite 300, Vancouver, WA 98660.
- 2 On September 15, 2023, Murrey's/Olympic filed with the Washington Utilities and Transportation Commission ("Commission") tariff revisions that would have generated approximately \$1,885,000 in additional annual revenue, i.e., an increase of 15.9%.¹ A revised revenue requirement was subsequently filed, which would generate approximately \$1,646,000 in additional annual revenue, i.e., an increase of 12.88%.² Olympic's most recent general rate increase became effective almost 13 years ago, on June 1, 2011.

¹ Respondent Murrey's Disposal Company, Inc's March 19, 2024 Prefiled Direct Testimony of Joe Wonderlick ("Wonderlick Testimony"), Page 32, Exhibit JW-3C "Original Rate Case Submittal - Olympic GRC Pro forma 7.31.2023 (C).

² *Id.*

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OLYMPIC DISPOSAL FOR INTERIM RATE RELIEF AND
REQUEST FOR EXPEDITED CONSIDERATION, PURSUANT TO
WAC 480-07-520 - 1

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3 After the tariff revisions were filed, the Washington Utilities and Transportation Commission Staff (“Staff”) took issue with a number of expense categories included in the submission, and requested that Olympic supplement its data to show the costs were necessary for the operation of regulated services. Disagreements between Staff and Olympic subsequently arose and, on December 21, 2023, the Commission served a Complaint and Order Suspending Tariff Revisions (“Order 01”). Staff and Olympic endeavored to resolve the issues in the tariff revision through January 2024, but on February 6, 2024, Staff indicated that any further informal settlement discussions should be suspended.

II. OLYMPIC’S REQUEST

4 In light of the continuing suspension and adjudication, Olympic respectfully requests, pursuant to WAC 480-07-395, that the Commission grant interim rate relief to mitigate the substantial hardship Olympic has suffered – and will continue to suffer – due to its current obsolete tariff during the pendency of its general rate case.

5 It is further requested that any interim rate increase remain in place until the end of the general rate case proceedings and, consistent with WAC 480-07-520(6), interim relief be subject to a refund.

6 Specifically, Olympic requests interim rates for the below-listed categories of customers at the indicated increase amount and percentage of revenue. The applicable tariff pages quantifying these rates are attached as Exhibits A and B, reflecting the proposed rates levels and are incorporated by this reference.³

³ Olympic’s proposed interim rates subject to refund are a compromise of the position asserted in its general case for rate relief and associated Prefiled Testimony and Exhibits submitted on March 19, 2024, and Olympic does not now, by submitting this Petition for Interim Rate Relief, revise or otherwise concede its request for its asserted overall revenue requirement which the Final Order in this matter will resolve.

Clallam County

a. Residential Service	\$251,356	6.50%
b. Commercial Service	\$140,584	6.50%
c. Roll-off Service	\$ 68,596	6.50%
d. Residential Recycling Service	\$ 39,167	6.50%

For reference, approximately 11,000 residential, 1,100 commercial, 89 roll-off, and 5,250 residential recycling customers would be affected by this interim change.

Jefferson County

a. Residential Service	\$115,775	7.68%
b. Commercial Service	\$100,983	7.68%
c. Roll-off Service	\$ 11,858	6.50%
d. Residential Recycling Service	\$ 6,961	7.68%

For reference, approximately 4,500 residential, 800 commercial, 28 roll-off, and 790 residential recycling customers would be affected by this interim change.

Mill Hauling: \$297,859 16.60 %.

Two mill hauling customers would be affected by this interim change.

III. OLYMPIC MEETS THE APPLICABLE LEGAL STANDARD FOR INTERIM RATE RELIEF

7 Pursuant to WAC 480-07-520(6) and RCW 81.04.250(3), the Commission may grant interim rates subject to refund when considering proposed tariff changes under RCW 81.28.050 where the petitioner demonstrates, after a brief adjudicative proceeding or limited hearing, an emergency, undue hardship, or inequity. If a solid waste collection company requests interim rate relief, the Commission shall consider the request on an expedited schedule.

8 The Washington Supreme Court recognized the Commission’s authority to issue interim rate adjustments in *State ex rel. Puget Sound Navigation Company v. Department of Transportation*, 33 Wn. 2d 448, 206 P.2d 456 (1949). Interim rate relief may also be granted while a rate case is pending if an applicant satisfies the six standards for relief established in *WUTC v. Pacific Northwest Bell Telephone Co.*, Cause No. U-72-30, Second Supplemental Order Denying Petition for Emergency Rate Relief (October 1972) (hereinafter *Pacific Northwest Bell*). Olympic satisfies the six *Pacific Northwest Bell* standards, which are explained and applied to the facts at bar, below.

9 **Factor No. 1.** *The Commission has authority under proper circumstances to grant interim rate relief, but only after an opportunity for adequate hearing:* On March 19, 2024, Olympic filed its rate increase request, which included a full set of proposed direct testimony and accompanying exhibits (“Testimony and Exhibits”) demonstrating the need for rate relief. As a part of its request, Olympic proposed the adoption of a procedural schedule that would allow the Commission to reach a decision only after it considers evidence as part of a brief adjudicative proceeding or limited hearing. Specifically, Olympic requests such a hearing take place in late May or June, 2024 or on such date that is convenient to the Commission.

10 Olympic furthermore proposes, consistent with WAC 480-07-520(6), that interim rate relief be granted on a “subject to refund” basis. Therefore, in the event that Olympic’s request for temporary rate relief is granted, a refund would be issued if the Commission ultimately enters a decision on Olympic’s general rate case that diverges from and is below the interim rate relief level requested.⁴

⁴ Indeed, the Commission recently approved, with Staff support (on the same day Murrey’s/Olympic’s filing was suspended), Interim Rates Subject to Refund in Docket No. UG-230968. *In re Puget Sound Energy (Dec. 2023)*.

11 To be sure, all parties shall have an adequate opportunity to submit evidence, conduct cross-examination if necessary, and present argument as part of an adjudicative process prior to the Commission making its decision on interim relief. For these reasons, Olympic satisfies *Pacific Northwest Bell* Factor No. 1.

12 **Factor No. 2.** *An interim rate increase is an extraordinary remedy and should be granted only where an actual emergency exists or where necessary to prevent gross hardship or gross inequity:* Rates under the outdated tariff are grossly inequitable as demonstrated by Olympic’s estimated shareholder’s loss in revenue of approximately \$100,000 per month.⁵ This loss of revenue is largely due to gross hardships and inequities outside of Olympic’s control, including the following: (1) Olympic’s loss of a contiguous city contract in Port Angeles which caused extensive rerouting of both regulated and nonregulated services, and (2) protracted administrative and judicial litigation, from 2020 to 2022 against an unauthorized competitor which diverted substantial revenues from two large industrial generators over lengthy time periods and upon which Olympic ultimately prevailed (after incurring significant legal expense).⁶

13 Hardships and inequities, including rerouted services, disputes and litigation, are expensive, time-consuming and detrimental to business operations, particularly to service providers such as Olympic, which has endured underearning during a time period with the highest inflation rates in over four decades. Taken together, these conditions have threatened Olympic’s reinvestment in the ordinary course of its operations which, if unrestrained, will adversely impact its customers.

⁵ Wonderlick Testimony, Page 15, Exhibit JW-3C “Original Rate Case Submittal – Olympic GRC Pro Forma 7.31.2023(C).

⁶ Wonderlick Testimony, Pages 4-5, Exhibit JW-3C “Original Rate Case Submittal – Olympic GRC Pro Forma 7.31.2023(C).

An interim rate increase would provide Olympic with the means necessary to avert present and future hardships and inequities.⁷

14 **Factor No. 3.** *The mere failure of the currently realized rate of return to equal that approved as adequate is not sufficient, standing alone, to justify the granting of interim relief:* The prevailing tariff is inadequate, and the relief requested is not merely to compensate Olympic for the “failure to earn a currently realized rate equal to that approved” but rather to ultimately preserve Olympic’s ability to operate, at all. As originally filed, Olympic requested an increase of approximately \$500,000 (17%) for Jefferson County regulated operations, approximately \$1,100,000 (15%) for Clallam County regulated operations, and approximately \$281,000 (16%) for regulated Mill Haul operations.⁸ Disputed adjustments aside, it is clear the company was and is operating below “sufficient” levels. More than eight months have passed since Olympic filed this rate case and, as the Procedural Schedule currently stands, the matter may not be resolved for an additional approximate six months, i.e., until November 2024.

15 Olympic’s interim request is not solely based on its desire to earn an adequate rate of return; rather, interim rate relief is necessary for Olympic to, *inter alia*: (1) address its financial needs, (2) restore positive cash flows, (3) avoid any adverse impact on its overall credit rating, (4) cover day-to-day operating costs, and (5) obtain reasonable financing. In sum, Olympic’s request for interim rate relief is not to generate a specific rate of return but to obtain normal operating capital and cash flow necessary to operate and ensure fully satisfactory service.

16 **Standard No. 4.** *The Commission should review all financial indices as they concern the applicant, including rate of return, interest coverage, earnings coverage and the growth,*

⁷ Wonderlick Testimony, Pages 15, Exhibit JW-3C “Original Rate Case Submittal – Olympic GRC Pro Forma 7.31.2023(C).

⁸ *Id.*

stability or deterioration of each, together with the immediate and short term demands for new financing and whether the grant or failure to grant interim relief will have such an effect on the financing demands as to substantially affect the public interest: Olympic’s pre-filed direct testimony includes the financial indices and workpapers demonstrating Olympic’s on-going losses and their impact on its ability to operate and the need for immediate fiscal relief, as opposed to waiting another half-year for the general rate case to conclude.

17 In *Washington Utilities and Transportation Commission v. Waste Management of Washington, Inc. d/b/a Waste Management of Spokane*, 2015 WL 863028, Order Allowing Revised Rates to Become Effective on a Temporary Basis (Wash. U.T.C, 2015) (hereinafter “*Waste Management of Spokane*”), the Commission found an interim tariff provision “fair, just, reasonable, and sufficient because the Company . . . demonstrated the need for additional annual revenue and for revision of the Company’s rate structure” where (1) Waste Management of Spokane filed revised tariff pages on December 19, 2014, less than two years after its most recent general rate increase became effective, on May 1, 2013,⁹ (2) it cost the Company “more, per customer, to provide service due to route changes, distance between customers, and time spent servicing customers,”¹⁰ (3) the Company experienced a \$6 million (40%) increase in total investment expenses, an increased labor cost of \$460,000 (3.7% of total labor expenses), decreased fuel costs of \$65,000 (6.5% of total fuel expenses), and a \$107,000 (0.01%) decrease in disposal fees,¹¹ and (4) the revised revenue requirement increased by \$992,000 (8.6%).¹²

⁹ *Waste Management of Spokane* at *1.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* at *2.

18 Like Waste Management of Spokane, Murrey's/Olympic should be granted temporary rate relief in light of the circumstances surrounding its request and the variables adversely impacting its financial condition. Specifically, (1) Olympic filed its request for tariff revision on September 15, 2023, more than 12 years since its most recent general rate increase, i.e., June 1, 2011, which period is ten years longer than the period at issue in *Waste Management of Spokane*, (2) as with Waste Management of Spokane, Olympic faced increasing costs due to rerouting of regulated and nonregulated services and labor shortages, particularly for "front-line workers,"¹³ (3) Olympic faced increased operating expenses and costs associated with insurance claims, metric-based compensation, travel-related expenses, company-specific severance pay, and safety training, and (4) Olympic requested a revised revenue requirement increase of approximately \$1,646,000 in additional annual revenue (12.88%) which is admittedly a greater rate increase than that at issue in *Waste Management of Spokane* but which is reasonable considering Olympic has operated for 10 years longer than Waste Management of Spokane under its most recent general rate increase.¹⁴

19 **Standard No. 5.** *In the current economic climate, the financial health of a utility may decline very swiftly and interim relief stands as a useful tool in an appropriate case to stay off impending disaster. However, this tool must be used with caution and applied only in cases where not to grant such relief would cause clear jeopardy to the utility and detriment to its ratepayers and stockholders. That is not to say that interim relief should be granted only after disaster has struck or is imminent, but neither should it be granted in any case where full hearings can be*

¹³ Wonderlick Testimony, Pages 4-5, 18-19, Exhibit JW-3C "Original Rate Case Submittal – Olympic GRC Pro Forma 7.31.2023(C)."

¹⁴ Wonderlick Testimony at Page 32, Exhibit JW-7C "230778-GRC-Murreys Olympic-Staff Wkbk-10-16-2023-Company Offer (C)."

had and the general case resolved without clear detriment to the utility: As noted, since 2011, Olympic has operated on its current tariff, except for fuel surcharges, disposal fee increases, and a rate adjustment for the two mills at issue in the unauthorized service complaint case, which tariff schedule is simply no longer viable as economic conditions have changed materially over the last 13 years. As mentioned above, the current tariff has yielded shareholder revenue loss of approximately \$100,000 per month, which not only strains Olympic's business operations but also potentially threatens its ability to serve and expand additional services to its customer base. Olympic asserts that interim relief would serve to avoid further significant financial deterioration and be realized only after an adjudicative process that establishes rates subject to refund. This process would achieve the aims of avoiding jeopardy to the utility, maintaining superior service to its ratepayers, and ensuring resolution of the case only after a complete adjudicative process.

20 **Standard No. 6.** *There exists a statutory charge to the Commission to “regulate in the public interest,” which is the ultimate responsibility and a reasoned judgment must give appropriate weight to all salient factors:* As comprehensively detailed in the evidence filed on March 19, 2024 in support of Olympic's general rate case, the public has an acute interest in maintaining Olympic's services. For a protracted period, Olympic has shouldered significant cost increases and attrition which have adversely impacted Olympic's ability to operate and there exists no sign that Olympic's financial outlook will improve in the short-term. Meanwhile, the public has an obvious interest in the continued operation of its solid waste collection service and its rate sufficiency which the Commission is statutorily-required to sustain. The restoration of Olympic's health by granting interim rates subject to refund clearly serves that interest. Interim relief would allow Olympic to avoid continued financial hardship.

IV. OLYMPIC REQUESTS EXPEDITED REVIEW

21 Consistent with WAC 480-07-520(6), which states: “[i]f a solid waste collection company requests interim rate relief, the commission will consider the request on an expedited schedule,” Olympic respectfully requests the entry of an expedited procedural schedule that allows for the issuance of an order to establish interim rates by July 1, 2024.

V. CONCLUSION AND REQUEST FOR INTERIM RATE RELIEF

22 Olympic’s request for interim rate relief, subject to refund, should be granted pursuant to WAC 480-07-520(6) because it satisfies the six standards articulated in *Pacific Northwest Bell*, particularly where it has been almost 13 years since the service-provider’s most recent general rate case. Specifically, the relief should be granted because: (1) the Commission shall have an opportunity to consider the request via hearing; (2) interim relief will prevent Olympic’s gross hardship and inequity; (3) factors beyond mere fiscal concerns justify rate relief, including Olympic’s ability to viably operate, et al.; (4) consistent with *Waste Management of Spokane*, rate relief is merited given Olympic’s financial indices and the prevailing demands to support its ongoing business operations, and Olympic’s improved financial health would ultimately benefit Olympic’s customers; (5) rate relief is an appropriate and useful tool to avoid Olympic’s ongoing financial distress; and (6) considering all salient factors, granting rate relief subject to refund via reasoned judgment will serve and be fully consistent with the public interest.

23 Therefore, Olympic respectfully requests the Commission’s issuance of an order approving an overall interim rate increase of: \$989,946 or 7.75%, subject to refund.

RESPECTFULLY SUBMITTED, this 8th day of May, 2024.

s/David W. Wiley

s/Sean D. Leake

s/Christopher Luhrs

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