BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,
Complainant,
v. DOCKET NO. TG-210689
WASTE MANAGEMENT OF WASHINGTON, INC.
Respondent.

VIRTUAL HEARING
ADMINISTRATIVE LAW ANDREW O'CONNELL

December 14, 2021
2:00 p.m.

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DATE TAKEN: DECEMBER 14, 2021
REPORTED BY: CARISA KITSELMAN, RPR, CCR 2018
A P P E A R A N C E S

ADMINISTRATIVE LAW JUDGE:

ANDREW O'CONNELL

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JUDGE O'CONNELL: Let's go ahead and be on the record.

Good afternoon. The time is approximately 2:00 in the afternoon on Tuesday, December 14, 2021. My name is Andrew O'Connell. I am an administrative law judge with the Washington Utilities and Transportation Commission, and I'll be presiding in this matter.

We're here today for our virtual prehearing conference in Docket TG-210689, which concerns a complaint filed on November 15, 2021 by Commission Staff against Waste Management of Washington, Incorporated. The complaint alleges violations of state law and Commission rules regarding Waste Management's alleged missed yard waste and recycling pick ups in Kitsap County in July and August of 2021.

As I stated, we are here today for a prehearing conference to discuss and set a schedule for this proceeding and resolve other preliminary procedural matters.

Let's move forward with short appearances and let's begin with Commission Staff.

MS. CAMERON-RULKOWSKI: Jennifer
Cameron-Rulkowski, assistant attorney general, appearing on behalf of Commission Staff.

JUDGE O'CONNELL: Thank you. And for Waste Management?

MR. STANOVSKY: Hello, Your Honor. I'm Walker Stanovsky with Davis Wright Tremaine representing Waste Management. Also joining us today are Ame Lewis, who is in-house counsel with the Company. And I see on the line is also Mike Weinstein, senior pricing manager for the Company.

JUDGE O'CONNELL: Okay. Thank you. And for Kitsap County?

MS. NICKEL: Good afternoon. I'm Lisa Nickel, Kitsap County deputy prosecutor, with Kitsap County. Also on the line are public works staff Caitlyn Newman, David Tucker, and Chris Piercy.

JUDGE O'CONNELL: Okay. Thank you. We had a little distortion hearing you at the very beginning. We heard all of the names at the end.

But, Ms. Nickel, if you wouldn't mind, please repeating your position and your name for the record.

MS. NICKEL: I'm Kitsap County deputy prosecutor Lisa Nickel on behalf of Kitsap County.

JUDGE O'CONNELL: Okay. Thank you.

So the Commission has received Kitsap County's
petition to intervene. I am unaware of any other
petitions to intervene in this matter.

Let me ask, first of all, is there anyone on the
line now, on the telephone, or virtually online, who
wishes to intervene in this matter?

Okay. Hearing nothing.

About Kitsap County's petition to intervene, I'm
unaware of any filed objection to Kitsap County's
intervention.

Is there any objection?

MS. CAMERON-RULKOWSKI: No objection from
staff, Your Honor.

JUDGE O'CONNELL: Okay. I heard that there's
no objection from --

MR. STANOVSKY: No objection from Waste
Management.

JUDGE O'CONNELL: Okay. So hearing no
objections, I will grant that petition to intervene.

So a couple procedural matters before we get to
the schedule.

First of all, several of you have already been
involved with a proceeding at the Commission, but just to
remind everyone, we require all filing and service to be
done electronically now according to Commission rule.

And the Commission will serve the parties electronically
as well.

If any party has not yet designated a lead representative for service, please do so via an e-mail to me as soon as possible. And I'm aware that the parties, or at least most parties, already have my e-mail address. But for the record, it is andrew.j.oconnell. That's A-N-D-R-E-W, dot, J, dot, O-C-O-N-N-E-L-L, at utc.wa.gov.

Also, if anyone would like to add names and e-mail addresses of other representatives or support staff who should receive electronic courtesy copies of all documents filed in this proceeding, please e-mail that to me as well.

MS. CAMERON-RULKOWSKI: Your Honor --

JUDGE O'CONNELL: Okay. Let's -- yes, Ms. Cameron-Rulkowski.

MS. CAMERON-RULKOWSKI: Thank you.

I heard Mr. Stanovsky saying something in response to your question about Kitsap County's intervention. But I couldn't hear what he said. And I'm wondering if you heard him say anything.

JUDGE O'CONNELL: Let me address that.

Mr. Stanovsky, I heard you say you did not have any objection. But let me go back and verify because perhaps I misheard.

Mr. Stanovsky?
MR. STANOVSKY: I'm happy to clarify. No objection. Correct. Thank you.

JUDGE O'CONNELL: Okay. Thank you.

MS. CAMERON-RULKOWSKI: Thank you, Your Honor.

I --

JUDGE O'CONNELL: Always best to be sure.

MS. CAMERON-RULKOWSKI -- I didn't hear him.

JUDGE O'CONNELL: I am hearing a little bit of distortion from everyone. And I don't know if the court reporter is also, so this is not an unwelcomed question. So I would rather make sure it's clear for everyone here and on the record. So thank you.

Okay. About a schedule. Have the parties discussed a procedural schedule prior to this prehearing conference?

MS. CAMERON-RULKOWSKI: Yes, Your Honor, we have. And I believe we have an agreed procedural schedule to present to you.

JUDGE O'CONNELL: Okay. Would you like to please go ahead and present it? Can you read it verbally into the record?

MS. CAMERON-RULKOWSKI: Yes, Your Honor.

It's a very simple schedule. And if we need to have more events in there, just let us know.

So we would like to -- we would like to hold a
settlement conference on Friday, January 7th. We would like to have the evidentiary hearing take place on Thursday, February 17th, at 1:30 p.m. And in advance of that hearing, parties would file and serve their exhibits and exhibit lists Thursday, February 10th.

JUDGE O'CONNELL: File and serve the exhibit list for each party on February the 10th.

MS. CAMERON-RULKOWSKI: Correct.

JUDGE O'CONNELL: Okay.

MS. CAMERON-RULKOWSKI: By close of business.

JUDGE O'CONNELL: Is there any other date of note that the parties had contemplated?

MS. CAMERON-RULKOWSKI: No. We hadn't discussed any other dates or events. Or I should say we hadn't discussed any other particular events. Yes, we discussed dates.

JUDGE O'CONNELL: Okay. Is there going to be a need for discovery?

MS. CAMERON-RULKOWSKI: Staff does not anticipate a need for discovery.

JUDGE O'CONNELL: Okay.

MS. CAMERON-RULKOWSKI: But I --

MR. STANOVSKY: Nor does Waste Management.

Sorry. That was crosstalk there.

Just to be clear, Waste Management also does
MS. NICKEL: And neither does Kitsap County.

JUDGE O'CONNELL: Thank you, Ms. Nickel.

Thank you, Mr. Stanovsky.

If it is only me -- I hope it is only me that I'm experiencing a delay from when I see all of you speaking to when I hear you. So I hope that is just me.

I will -- or Ms. Cameron-Rulkowski, have you looked at the Commission's calendar in regard to the evidentiary hearing date to see if there's another public hearing going on at that same time?

And Ms. Cameron-Rulkowski, you're muted. I can see your lips are moving.

MS. CAMERON-RULKOWSKI: Thank you, Your Honor.

I haven't looked at the Commission's calendar.

I did ask the administrative law division about your calendar. So I'm not sure if anything else was checked.

JUDGE O'CONNELL: Okay. I do know that that day is free for me and that will not be a conflict for me. I will check to see if there is any other conflict as far as public hearings at the Commission. It's not such an insurmountable obstacle these days because I'm expecting that we're going to hold this evidentiary hearing virtually.

Was that also the understanding of the parties?
MS. CAMERON-RULKOWSKI: Yes, it was.

And, actually, when we had exchanged dates, I had indicated it was virtual. It was my understanding that all of the hearings were going to be conducted virtually at the Commission in the coming months.

JUDGE O'CONNELL: Yes. I wanted to make sure we all understood that that's what was going to be happening. And because of that, it's not such a big obstacle if there is another hearing that might overlap just because we don't have to use the same hearing room.

Okay. I will double-check those dates. And I will approve the procedural schedule presented by the parties.

What else procedurally do we need to address today, if anything?

MS. CAMERON-RULKOWSKI: This is Jennifer Cameron-Rulkowski from Commission Staff. And I don't think there is anything else procedurally that we need to address.

If we need to move any of those dates, we'll try to come up with an agreed proposal for amendment.

Other than that, I can't think of anything right now.

JUDGE O'CONNELL: Okay. Anything else from the Company or from Kitsap County?
MR. STANOFSKY: One question, Your Honor, about the potential for a protective order. I think from our side, we don't see any reason that one is likely to be needed.

But thought we would ask the question more broadly if there were the likelihood of confidential customer information or things that are customarily protected under the Commission's rules.

If the other parties anticipate any of that coming into play, we just thought we would ask the question.

JUDGE O'CONNELL: Well, you can always request for a protective order if the need comes up.

MR. STANOFSKY: Sure.

JUDGE O'CONNELL: You're not limited to asking for one now. So if the need comes up --

MR. STANOFSKY: I understand.

JUDGE O'CONNELL: -- yeah, we will consider that in the future.

The Commission does have rules about protecting confidential information and the information of customers already. And I know the parties don't expect any -- or significant discovery. But those discovery rules are available and they are in effect. I think that covers it.
Mr. Stanovsky, was there anything else that you needed to hear from me as far as direction on the protective order?

MR. STANOFSKY: No, no. Just on the chance that one of the other parties had something in mind, I thought I would ask for it. But don't know exactly what that would be.

JUDGE O'CONNELL: Okay. Turning to Kitsap County and Staff, I would like to hear if you do expect it as Mr. Stanovsky is asking. It wasn't something that I had anticipated. But I'll give you, both parties, the chance to give your thoughts on that.

But let me turn last to Ms. Nickel for Kitsap County.

Is there anything else from your perspective that we need to address today procedurally?

MS. NICKEL: No, Your Honor.

JUDGE O'CONNELL: And I'll give you an opportunity to respond to Mr. Stanovsky.

MS. NICKEL: No. Kitsap County doesn't think of anything else we need to address today procedurally.

And if there is documentation or evidence that we would provide that you would consider needed to be redacted or something, we can work with you on that to avoid release of confidential information.
JUDGE O'CONNELL: Ms. Cameron-Rulkowski, do you have any response? I anticipate that you would about the protective order, but I'll give you the opportunity to state your position.

MS. CAMERON-RULKOWSKI: In fact, I don't have anything substantive. I don't expect to see competitively sensitive information in this proceeding. And we don't have any customer lists, for example, in the evidence. So I'm not anticipating we would need a protective order at this point.

JUDGE O'CONNELL: Okay. Very good.

Well, at this point, I will give the parties the expectation that I will issue a prehearing conference order by the end of this week. And I will approve the procedural schedule agreed by the parties with the settlement conference on January 7th. And an evidentiary hearing to be held virtually on February 17th at 1:30 p.m. With the parties to file exhibit lists, witness lists, by February 10th, 5 p.m.

Okay. I do not believe we have anything left to discuss today. So unless there's anything else, I'll pause for a moment. Okay. Thank you all for being here today and getting this schedule worked out. And we will adjourn. Thank you. And we're off the record.

(Adjourned at 2:17 p.m.)
CERTIFICATE

STATE OF WASHINGTON
COUNTY OF KITSAP

I, Carisa Kitselman, a Certified Court Reporter in and for the State of Washington, do hereby certify that the foregoing transcript of the virtual hearing is true and accurate to the best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 20th day of December, 2021.

CARISA KITSELMAN, RPR, CCR #2018