

**Docket No. TG-210689 - Vol. I**

**WUTC v. Waste Management of Washington, Inc.**

**December 14, 2021**



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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.

VOLUME I  
Pages 1 - 14

DATE TAKEN: DECEMBER 14, 2021

REPORTED BY: CARISA KITSELMAN, RPR, CCR 2018

1 A P P E A R A N C E S

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19 ALSO PRESENT:

20 RYAN SMITH  
21 JOHN CUPP  
22 AME LEWIS  
23 MIKE WEINSTEIN  
24 CAITLYN NEWMAN  
25 DAVID TUCKER  
CHRIS PIERCY  
ANDREW MacMILLEN

\* \* \* \* \*

1 December 14, 2021

2 2:02 p.m.

3 \* \* \* \* \*

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

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

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

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

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

25 MS. CAMERON-RULKOWSKI: Jennifer

1 Cameron-Rulkowski, assistant attorney general, appearing  
2 on behalf of Commission Staff.

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

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

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

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

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

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

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

24 JUDGE O'CONNELL: Okay. Thank you.

25 So the Commission has received Kitsap County's

1 petition to intervene. I am unaware of any other  
2 petitions to intervene in this matter.

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

6 Okay. Hearing nothing.

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

10 Is there any objection?

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

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

15 MR. STANOVSKY: No objection from Waste  
16 Management.

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

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

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

25 And the Commission will serve the parties electronically

1 as well.

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

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

13 MS. CAMERON-RULKOWSKI: Your Honor --

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

16 MS. CAMERON-RULKOWSKI: Thank you.

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

21 JUDGE O'CONNELL: Let me address that.

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

25 Mr. Stanovsky?

1 MR. STANOVSKY: I'm happy to clarify. No  
2 objection. Correct. Thank you.

3 JUDGE O'CONNELL: Okay. Thank you.

4 MS. CAMERON-RULKOWSKI: Thank you, Your Honor.  
5 I --

6 JUDGE O'CONNELL: Always best to be sure.

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

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

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

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

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

22 MS. CAMERON-RULKOWSKI: Yes, Your Honor.

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

25 So we would like to -- we would like to hold a



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

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

8 MS. CAMERON-RULKOWSKI: Correct.

9 JUDGE O'CONNELL: Okay.

10 MS. CAMERON-RULKOWSKI: By close of business.

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

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

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

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

21 JUDGE O'CONNELL: Okay.

22 MS. CAMERON-RULKOWSKI: But I --

23 MR. STANOVSKY: Nor does Waste Management.  
24 Sorry. That was crosstalk there.

25 Just to be clear, Waste Management also does

1 not.

2 MS. NICKEL: And neither does Kitsap County.

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

4 Thank you, Mr. Stanovsky.

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

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

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

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

15 I haven't looked at the Commission's calendar.  
16 I did ask the administrative law division about your  
17 calendar. So I'm not sure if anything else was checked.

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

25 Was that also the understanding of the parties?

1 MS. CAMERON-RULKOWSKI: Yes, it was.

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

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

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

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

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

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

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

24 JUDGE O'CONNELL: Okay. Anything else from  
25 the Company or from Kitsap County?

1           MR. STANOVSKY: One question, Your Honor,  
2 about the potential for a protective order. I think from  
3 our side, we don't see any reason that one is likely to  
4 be needed.

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

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

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

14           MR. STANOVSKY: Sure.

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

17           MR. STANOVSKY: I understand.

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

20           The Commission does have rules about protecting  
21 confidential information and the information of customers  
22 already. And I know the parties don't expect any -- or  
23 significant discovery. But those discovery rules are  
24 available and they are in effect. I think that covers  
25 it.

1           Mr. Stanovsky, was there anything else that you  
2 needed to hear from me as far as direction on the  
3 protective order?

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

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

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

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

17           MS. NICKEL: No, Your Honor.

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

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

22           And if there is documentation or evidence that  
23 we would provide that you would consider needed to be  
24 redacted or something, we can work with you on that to  
25 avoid release of confidential information.

1 JUDGE O'CONNELL: Ms. Cameron-Rulkowski, do  
2 you have any response? I anticipate that you would about  
3 the protective order, but I'll give you the opportunity  
4 to state your position.

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

11 JUDGE O'CONNELL: Okay. Very good.

12 Well, at this point, I will give the parties the  
13 expectation that I will issue a prehearing conference  
14 order by the end of this week. And I will approve the  
15 procedural schedule agreed by the parties with the  
16 settlement conference on January 7th. And an evidentiary  
17 hearing to be held virtually on February 17th at  
18 1:30 p.m. With the parties to file exhibit lists,  
19 witness lists, by February 10th, 5 p.m.

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

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

C E R T I F I C A T E

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



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