

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

WASTE CONNECTIONS OF)	DOCKET TG-071194
WASHINGTON, INC.)	
)	
Complainant,)	ORDER 01
)	
v.)	PREHEARING CONFERENCE
)	ORDER
ENVIRO/CON & TRUCKING, INC., a)	
Washington Corporation,)	
ENVIROCON, INC., a Corporation,)	NOTICE OF PREHEARING
and WASTE MANAGEMENT)	CONFERENCE
DISPOSAL SERVICES OF OREGON,)	(Set for November 28, 2007 at
INC.,)	1:30 p.m.)
)	
Respondents.)	
)	
.....)	

- 1 **NATURE OF PROCEEDING.** This matter involves a complaint, or in the alternative, a petition for a declaratory order, filed by Waste Connections of Washington, Inc., against Enviro/Con & Trucking, Inc. (ECTI), Envirocon, Inc.,(Envirocon), and Waste Management Disposal Services of Oregon, Inc. (Waste Management), (Respondents). The complaint alleges that respondents are engaging in the collection and transportation of solid waste from the Evergreen Aluminum remediation site in unincorporated Clark County for disposal without certificated authority.

- 2 **CONFERENCE.** The Washington Utilities and Transportation Commission (Commission) convened a prehearing conference in this docket at Olympia, Washington on August 2, 2007, before Administrative Law Judge Theodora M. Mace.

- 3 **APPEARANCES.** David W. Wiley, Willams, Kastner & Gibbs, PLLC, Seattle, Washington, represents Waste Connections of Washington, Inc. (Waste Connections). Polly L. McNeil, Summit Law Group, PLLC, Seattle, Washington, represents ECTI

and Waste Management. John R. Herrig, Herrig, Vogt & Stoll, LLP, Kennewick, Washington, and Stephen A. Watson, attorney, Missoula, Montana, represent Envirocon. James R. Sells, Ryan Sells Uptegraft, Inc. P.S., Silverdale, Washington, represents Washington Refuse and Recycling Association (WRRRA). E. Bronson Potter, Sr. Deputy Prosecuting Attorney for Clark County, Washington, represents Clark County.

4 Contact information provided at the conference for the parties' representatives is attached as Appendix A to this order.

5 **PETITIONS FOR INTERVENTION.** Clark County filed a petition to intervene in this proceeding. ECTI and Waste Management objected that the petition is grounded on Chapter 24.12 of the Clark County Code, which does not address the delivery of waste to a transfer station. Envirocon objected to the petition on grounds that the ordinance cited is a criminal statute, inappropriate for enforcement by the Commission.

6 Clark County and Waste Connections respond that Chapter 24.12 of the Clark County Code relates to the county's solid waste plan, which includes provisions related to collection and disposal of solid waste, and that RCW 70.95.030 provides for coordination of state and local regulation of solid waste providers with respect to the counties' plans for solid waste disposal.

7 The Commission concludes that it should grant Clark County intervenor status in this proceeding. RCW 70.95 contemplates a coordination of the efforts of state and local regulators with regard to solid waste disposal. In addition, Section 24.12.060 of the Clark County Code applies to "all persons...engage[d] in the collection, storage, handling, utilization or disposal of solid waste within the unincorporated areas of Clark County." The Commission notes, however, that the Code provisions calling for criminal penalties are not enforceable by this Commission. Finally, because the solid waste disposal that is the subject of this proceeding occurs in Clark County, it would serve the public interest to have Clark County participate and assist the Commission in creating a record.

8 WRRRA filed a petition to intervene to which no party objected. The petition is granted.

9 **PROTECTIVE ORDER.** The parties reserved the right to ask the Commission to enter a Protective Order at a later date if it became necessary.

10 **DISCOVERY.** The parties stated that even though most transportation cases do not require discovery, this one is an exception. This matter is one that qualifies for discovery, and the discovery rules, WAC 480-07-400 through 425, are invoked. The Commission urges the parties to work cooperatively together to avoid having to bring discovery disagreements forward for formal resolution.

11 **PROCEDURAL SCHEDULE.** The Commission adopts the following procedural schedule, which is also attached in matrix format to this Order as Appendix B.

Initial discovery requests	September 5, 2007
Responses due	September 26, 2007
Second round discovery	October 26, 2007
Responses due	November 15, 2007
Second Prehearing Conference	November 28, 2007 at 1:30 p.m.

12 **NOTICE OF PREHEARING CONFERENCE.** The Commission will hold a prehearing conference in this matter on **Wednesday, November 28, 2007, at 1:30 p.m.** in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S. W., Olympia, Washington. The purpose of the conference is to set a schedule for filing dispositive motions, stipulated facts, briefing dates, and, if necessary, a date for evidentiary hearing.

13 **DOCUMENT PREPARATION AND FILING REQUIREMENTS.** Parties must file an original plus **six (6)** copies of all pleadings, motions, briefs, and other prefiled materials. These materials must conform to the format and publication guidelines in WAC 480-07-395 and WAC 480-07-460. The Commission prefers that materials be three-hole punched with *oversized* holes to allow easy handling. The Commission may require a party to refile any document that fails to conform to these standards.

- 14 All filings must be mailed or delivered to the Executive Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 S. Evergreen Park Drive, S.W. Olympia, Washington 98504-7250. Both the post office box and street address are required to expedite deliveries by the U.S. Postal Service.
- 15 An electronic copy of all filings must be provided through the Commission's Web Portal (www.utc.wa.gov/e-filing) or by e-mail delivery to <records@utc.wa.gov>. Alternatively, parties may furnish an electronic copy by delivering with each filing a CE or a 3.5-inch IBM-formatted high-density diskette including the filed document(s). Parties should furnish electronic copies in .pdf (Adobe Acrobat) format, supplemented by a separate file in MS Word 6.0 (or later), or WordPerfect 5.1 (or later) format. Parties are required to follow WAC 480-07-140(5) in organizing and identifying electronic files.
- 16 **ELECTRONIC SUBMISSION OF DOCUMENTS.** Pursuant to WAC 480-07-145(6) the presiding officer may grant parties a one-day extension of the paper-filing requirement, allowing electronic submission of documents with the Commission on the filing deadline. Parties may only submit documents electronically with the Commission in this proceeding with the permission of the presiding officer. If, at any time during this proceeding, parties are authorized to submit documents with the Commission electronically under WAC 480-07-145(6), parties must submit the document through the Commission's Web portal (www.utc.wa.gov/e-filing) or by e-mail to records@utc.wa.gov, and file an original, plus **six (6)** copies, of the document with the Commission by the following business day. Finally to perfect filing, parties must provide courtesy copies of filings to the presiding officer and advisory staff, as well as the parties to the proceeding.
- 17 **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 does have limited ability to provide dispute resolution services; if you wish to explore those services, please call the Director, Administrative Law Division, at 360-664-1144.

18 **NOTICE TO PARTIES:** Any objection to the provisions of this Order must be filed within ten (10) days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. Absent such objection, this Order will control further proceedings in this matter, subject to Commission review. Parties must provide courtesy copies of filings to the presiding administrative law judge.

Dated at Olympia, Washington, and effective August 17, 2007

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

THEODORA M. MACE
Administrative Law Judge

APPENDIX A				
PARTIES' REPRESENTATIVES				
DOCKET TG-071194				
PARTY	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
Waste Connections of Washington, Inc.	David W. Wiley Williams, Kastner & Gibbs, PLLC P.O. Box 21926 601 Union Street Seattle WA 98111-3926	206-233-2895	206-628-6611	dwiley@williamskastner.com
Waste Management Disposal of Oregon, Inc. and Enviro/Con Trucking Inc.	Polly L. McNeill Summit Law Group PLLC 315 Fifth Avenue South, Suite 1000 Seattle WA 98104	206-676-7000	206-676-7001	pollym@summitlaw.com
Envirocon, Inc.	Stephen A. Watson, III and John R. Herrig Envirocon, Inc. 101 International Way Missoula, MT 59808	406-523-1751	406-543-7987	swatson@envirocon.com jherrig260@aol.com
Washington Refuse and Recycling Association	James K. Sells Ryan Sells Updegraff, Inc., P.S. 9657 Levin Rd. NW, Suite 240 Silverdale, WA 98383	360-307-8860	360-307-8865	jimsells@rsulaw.com
Clark County	E. Bronson Potter Sr. Deputy Prosecuting Attorney Clark County Prosecutor's Office – Civil Division PO Box 5000 Vancouver WA 98666-5000	360-397-2478	360-397-2184	bronson.potter@clark.wa.gov

APPENDIX B
PROCEDURAL SCHEDULE
DOCKET TG-071194

EVENT	DATE	INTERVAL
Initial discovery requests	September 5, 2007	
Responses due	September 26, 2007	21 days
Second round discovery requests	October 26, 2007	30 days
Responses due	November 15, 2007	20 days
Second Prehearing Conference	November 28, 2007 at 1:30 p.m.	13 days