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BEFORE THE WASHINGTON UTILITIES
AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Case No.: TG-091933

Complainant,

vs.

WASTE MANAGEMENT OF WASHINGTON,
INC., d/b/a WASTE MANAGEMENT OF
SNO-KING,

INTERVENOR WASHINGTON
REFUSE AND RECYCLING
ASSOCIATION'S REPLY TO
COMMISSION STAFF'S
RESPONSE TO PETITION OF
WASTE MANAGEMENT

Respondent.

In the Matter of the Petition of

WASTE MANAGEMENT OF WASHINGTON,
INC., d/b/a WASTE MANAGEMENT OF
SNO-KING,

Docket No. TG-091945

For Rule Interpretation or Alternatively
for Modification or Exemption of
WAC 480-07-520(4)

COMES NOW Intervenor Washington Refuse and Recycling Association
(WRRRA), and respectfully replies to Commission Staff's Response to Waste
Management's Petition as follows:

1 **WRRRA'S INTEREST IN THIS MATTER:** As the Commission is aware,
2 WRRRA is a not-for-profit trade association which represents the interests of
3 the vast majority of solid waste companies in the state, including two
4 publicly-traded companies, as well as virtually all the privately-owned haulers
5 who hold G-Certificates. Waste Management (WMW) is not a member of
6 WRRRA, but both WRRRA and WMW recognize the importance (if not the
7 necessity) or working together on issues such as presented here.

8 Although there has been some assumption that WMW's business model
9 discussed in its Petition is unique to WMW, that is not necessarily the case.
10 There are at least two WRRRA member companies with a similar situation, the
11 "Torre" companies in the Spokane area and the former "LeMay" companies
12 (now owned by Waste Connections, Inc.). However, they are not alone in their
13 interest in this proceeding; every solid waste company, at some point, will find
14 itself seeking rate adjustments, and it is vital that they all know in advance
15 what the "rules of the game" may be.

16 It seems clear to all involved that application of the applicable rules
17 here has been subject to substantial Staff interpretation over the years.
18 Whether this is good or bad for the industry and the consumer in the past is
19 not really the issue. The issue is what happens from this point forward. It is
20 obviously essential for all concerned that we know what the interpretation of
21 the rules will be, as well as what Staff's position will be in regard to exemption
22 petitions. Precedent is a very valuable tool in ratemaking, but only if everyone
23 knows what it is and that it will be equally and fairly applied in similar, or
24 even identical, situations.

25 **WRRRA'S POSITION:** There is a certain reluctance to criticize any
26 agency for explicitly enforcing its own rules. They are, after all, rules and
should be either enforced or changed if literal enforcement is not reasonable,
impractical or just plain unfair. The only thing worse than those situations is
when rules are interpreted inconsistently and, perhaps, even arbitrarily.

There is nothing more important to a regulated industry than knowing with a

1 great deal of certainty what the rules are and how they will be applied in a
2 particular situation. Consistency is the obvious key, and inconsistency of
3 interpretation and application can only create logistical and financial
4 difficulties, not only for the regulators and regulated entities, but for the
5 consumer as well.

6 Perhaps the question should not be whether or not every "related" entity
7 should be examined in a rate case, but which related entities have a
8 relationship with the applicant which may have influence on the requested
9 rates. This certainly must have been on the Commission's collective minds
10 when the "affiliated interests" statute was enacted. However, as WMW points
11 out in its Petition, there should be some reasonable connection between the
12 rates sought and the business of another entity providing a different service,
13 perhaps unregulated, in the opposite corner of the state.

14 The rates sought by a collection company in King County are not based
15 on or dependent upon the tipping fee at a transfer station which only serves a
16 portion of Spokane, whether there is related ownership or not. The request
17 for, and compilation of, such information can only increase the cost of a rate
18 filing, both to the Staff and the applicant, with no apparent resultant benefit
19 to the rate paying public.

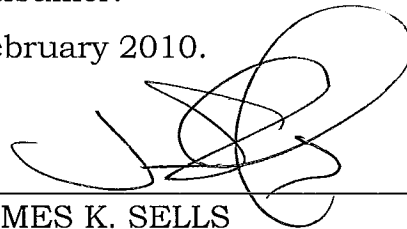
20 The ability for a rate applicant to seek an exemption does provide at
21 least a partial avenue for relief here. However, it would seem much more
22 efficient and beneficial, for both Staff and applicant, to be reasonably certain
23 before a filing whether that option may be necessary. This is particularly the
24 case in a situation such as we have here, where the difference between past
25 practice and "literal application" seem to be at odds. If an exemption must be
26 sought, it makes simple business sense to do so at the time of filing, thereby
27 giving all involved the opportunity to deal with the situation in a timely
28 manner.

29 Finally, WMW makes a valid point concerning unregulated but
30 somehow related entities. These businesses are in competition with others
31 who face no requirement to divulge information to the Commission, which

1 then becomes open to the public and any competitor with a desktop
2 computer. Staff's interpretation of rules and treatment of exemption petitions
3 should keep this in mind and realize the consequences which result.

4 **CONCLUSION:** WRRRA agrees with WMW's Conclusions as to what
5 should happen in this particular matter. Of equal, or even greater,
6 importance is the precedential value of the ruling here. Staff certainly has all
7 the tools it needs to appropriately and thoroughly evaluate a rate application.
8 There is no need to burden the Commission, the applicant or the rate payer
9 with literally reams of printouts and/or boxes of paper which, in practice,
10 have no regulatory effect on the ultimate decision. This Docket provides the
11 Commission the opportunity to simplify the professional lives of all involved,
12 without adverse effects on the consumer.

13 DATED this 2 day of February 2010.



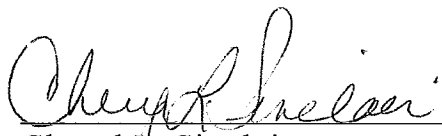
14 _____
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17 Ryan Sells Uptegraft, Inc. P.S.
18 9657 Levin Rd. NW, Suite 240
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20 Attorneys for Washington Refuse
21 and Recycling Association

22 **CERTIFICATE OF SERVICE**

23 I hereby certify that I have this day served this document upon all
24 parties of record in this proceeding, by the method as indicated below,
25 pursuant to WAC 480-07-150.
26

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6 7 8 9	<i>Commission:</i> Washington Utilities and Transportation Commission 1300 S. Evergreen Park Dr. SW PO Box 47250 Olympia, WA 98504-7250 360.664.1160	<input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input checked="" type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email
10 11 12 13 14	<i>Representative</i> Jonathan Thompson Asst. Attorney General 1400 S. Evergreen Park Dr. SW PO Box 40128 Olympia, WA 98504-0128 360.664.1186 jthompso@utc.wa.gov	<input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input checked="" type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email
15 16 17 18 19 20	<i>Respondent</i> Waste Management of Washington, Inc. d/b/a Waste Management of Sno-King Michael A. Weinstein 13225 NE 126 th Place Kirkland, WA 98034 425.814.7840 mweinstein@wm.com	<input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input checked="" type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email

21 DATED at Silverdale, Washington, this 2nd day of February 2010.

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Cheryl L. Sinclair