

Exhibit No. ___T (MC-13T)
Docket TG-140560
Witness: Melissa Cheesman

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

**WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,**

Complainant,

v.

WASTE CONTROL, INC. (G-101),

Respondent.

DOCKET TG-140560

SUPPLEMENTAL TESTIMONY OF

Melissa Cheesman

**STAFF OF
WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION**

February 2, 2015

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1
2
3 **I. INTRODUCTION**

4 **Q. Are you the same Melissa Cheesman who previously filed testimony in dockets**
5 **TG-140560?**

6 **A. Yes.**

7 **Q. Has your contact information, employment status, or educational and**
8 **professional background materially changed since your prior testimony?**

9 **A. No.**

10
11 **Q. Does Staff's initial brief, filed on November 7, 2014, still accurately summarize**
12 **Staff's arguments and positions?**

13 **A. Yes.**

14
15 **II. PURPOSE AND SCOPE OF SUPPLEMENTAL TESTIMONY**

16
17 **Q. Please explain why Staff is filing supplemental testimony.**

18 **A. Waste Control, Inc. ("WCI"), filed another edition of supplemental testimonies on**
19 **November 7, 2014. The Commission's Order 10 granted Staff the opportunity to**
20 **respond. Staff recognizes an obligation to clarify the record to provide the**
21 **appropriate context for the Commission's final review.**

1 **Q. Please provide a brief outline of your supplemental testimony.**

2 A. Section III briefly restates Staff's positions regarding the remaining four contested
3 issues. Section IV addresses the novel arguments and misstatements included in the
4 Company's most recent supplemental testimonies, filed November 7, 2014.
5

6 **III. FOUR CONTESTED ISSUES**

7
8 As briefly mentioned above, Staff feels that it is important to restate four contested
9 issues and reiterate the manner in which Staff has addressed each issue. The four
10 issues are: The adjustment to Shared Utility Expenses incurred by WCI and two
11 affiliates through shared facilities; the manner in which Affiliate Land Rents are
12 priced and allocated to WCI; The amount of rate case costs that should be included
13 in rates; and last, Staff's recommendation for reimbursement of Staff investigation
14 costs.
15

16 **A. Shared Utilities Expense, Adjustment R-6D**

17
18 **Q. What is Staff's recommendation for Shared Utilities Expense, Adjustment R-**
19 **6D?**

20 A. Staff recommends the Commission allow WCI to recover a total allocation of
21 \$13,975 in Shared Utilities Expense.¹
22

¹ Initial Brief on Behalf of Commission Staff, Section II.A., p. 4, paragraph 9 (Nov. 7, 2014).

1 **Q. Why is the Shared Utilities Expense, Adjustment R-6D important?**

2 A. WCI shares facilities with two other affiliates, WCE and WCR. Regulated
3 ratepayers should not pay more than a fair allocation of Shared Utilities Expense
4 related to those shared facilities. A fair allocation is based on reasonable and
5 supported cost drivers.

6
7 **Q. Briefly explain Staff's recommendation.**

8 A. Utility services (e.g. electricity, water, and sewer) have been used by each affiliate
9 sharing the facilities with WCI. Therefore, to fairly allocate Shared Utilities
10 Expense between affiliates, Staff developed, and later updated an allocator that uses
11 three factors. A thorough description of the three-factor allocator is set forth in my
12 testimony, exhibits, partial settlement, and brief, and need not be repeated.²

13
14 **Q. Why did Staff create its own allocator?**

15 A. Staff created its own allocator because the Company's direct case did not propose an
16 allocator based on reasonable and supported cost drivers.³ Staff was left to either
17 exclude Shared Utilities Expense as unsupported or develop an allocation factor.

² Staff's updated three-factor allocator calculates the average relative percentage of each affiliate entity's adjusted revenues, number of employees, and fixed assets per book value. For discussion of Staff original three-factor allocator *see* Testimony of Melissa Cheesman, Exhibit No. ____ (MC-1T), p. 15, line 11 through p. 17, line 19 (July 18, 2014). For a summary of Staff's updated three-factor allocator *see* Initial Brief on behalf of Commission Staff, Section II.B., pp. 6-7 (Nov. 7, 2014). For discussions on the updates that modified Staff's original three-factor allocation *see* Testimony of Melissa Cheesman, In Support of Proposed Partial Settlement Agreement, Section V.C., p. 21, lines 10 through 22 (Oct. 13, 2014). For a discussion of Staff's recommended updates based on the Company's August 20, 2014, rebuttal testimony, *see* Initial Brief on behalf of Commission Staff, Section I.B.1., p. 2, paragraph 4 through p. 3 paragraph 5 (Nov. 7, 2014).

³ *See* Initial Brief on behalf of Commission Staff, Section II.C., pp. 8-11 (Nov. 7, 2014) for an accurate summary of Company's incomplete, overly-simplistic, and unreasonable proposed allocators.

1 WCI must consume some amount of utilities, so Staff took on the task of creating a
2 reasonable and supported allocation factor.

3

4 **B. Affiliate Land Rents, Adjustment R-6E**

5

6 **Q. What is Staff's recommendation for Affiliate Land Rents, Adjustment R-6E?**

7 A. Staff recommends the Commission allow WCI to recover \$85,217 for Affiliate Land
8 Rents.⁴

9

10 **Q. Briefly explain the components of Staff's recommendation.**

11 A. Staff recommends the Commission price the Affiliate Land Rents transaction at the
12 lower of cost or market using Staff's cost-plus-return calculation as the appropriate
13 methodology. Staff's recommendation relies on inputs for each individual affiliate
14 landlord's separate total company capital structure, cost of equity, cost of debt, and
15 the allocation of shared facilities' depreciation and average net investment.⁵

16

17 **Q. Briefly explain Staff's recommendation for capital structure.**

18 A. The Commission should use each individual affiliate landlord's separate, total
19 company capital structure.

20

⁴ Initial Brief on Behalf of Commission Staff, Section III., p. 11, paragraph 25 (Nov. 7, 2014).

⁵ Testimony of Melissa Cheesman, p. 18, lines 15 through 21 (July 18, 2014).

1 **Q. Please briefly describe Staff's recommendation for each affiliate's separate cost**
2 **of equity, cost of debt, and the allocation of shared facilities' depreciation and**
3 **average net investment.**

4 A. Staff recommends the Commission set HBI's and HBII's cost of equity at 12.5
5 percent and 13.1 percent, respectively. HBI's and HBII's cost of equity reflects
6 Staff's Discounted Cash Flow calculations for the real estate investment industry⁶.

7 For cost of debt, Staff recommends the Commission use HBI's and HBII's
8 actual costs of debt of 2.2 percent and 4.3 percent, respectively.⁷

9 For allocating shared facilities' depreciation and average net investment,
10 Staff recommends the Commission use the updated three-factor allocator.

11

12 **Q. Why is Affiliate Land Rents, Adjustment R-6E important?**

13 A. WCI is effectively asking the Commission to approve a methodology that allows
14 WCI to manipulate its debt and equity to inflate the amounts of rent paid to HBI and
15 HBII for Affiliate Land Rents. The Company's position is unfair to ratepayers and
16 does not reflect Commission's practice.

17

18 **C. Rate Case Costs**

19

20 **Q. What is Staff's recommendation for treatment of rate case costs?**

⁶ Staff sampled publicly traded companies in the Real Estate Investment industry. The public companies selected included varying capital structures, and had data available on the U.S. Securities and Exchange Commission website and Value Line.

⁷ The cost of debt figures include Staff's recommended updates to amortize the cost of origination fees over the life of the loan. See Initial Brief on behalf of Commission Staff, Section I.B.2, at 3 (Nov. 7, 2014).

1 A. Staff recommends the Commission allow the Company to recover 100 percent of the
2 rate case expenses incurred prior to the Notice of Prehearing Conference issued in
3 Docket TG-131794, 50 percent of rate case expenses incurred after the Notice of
4 Prehearing Conference issued in Docket TG-131794, and 50 percent of all rate case
5 expenses incurred in Docket TG-140560. Staff then recommends the allowed rate
6 case costs be amortized over five years.⁸

7
8 **Q. Please briefly explain Staff's recommendation.**

9 A. WCI's management control the Company's rate filing, the strategy employed, and
10 the professionals involved. Ratepayers have no input. It is not fair or reasonable that
11 ratepayers bear the entire cost for the Company's initial failure to file a statutorily
12 adequate rate case and the Company's illogical positions on hardcodes⁹ that created
13 significant, unnecessary litigation. Staff's recommendation is to balance ratepayers'
14 and shareholders' interests.

15 Staff's recommended five-year amortization period is reasonable based on
16 the historical intervals between WCI's rate cases.¹⁰ Five years is also more than fair
17 to the Company because WCI is unlikely to incur a similar level of rate case costs
18 within five years.

19 Staff also believes that an amortization period of 10 to 20 years is reasonable.
20 Because WCI's filings in TG-131794 and TG-140560 are the first litigated solid
21 waste cases in over 20 years, there has never been a dismissed solid waste litigated

⁸ Testimony of Melissa Cheesman, p. 47, lines 1 through 5 (July 18, 2014).

⁹ TG-140560, Order 05, page 9, paragraph 20.

¹⁰ Testimony of Melissa Cheesman, p. 47, line 19 through page 48, line 3 (July 18, 2014).

1 case in the history of the Commission, and TG-140560 was a required filing to
2 resolve temporary rates that WCI chose to litigate. These events may never occur
3 again. At the very least, these events may not repeat for another 10 to 20 years.
4

5 **D. Investigation Fees**

6
7 **Q. What is Staff's recommendation for investigation fees?**

8 A. Staff recommends the Commission bill WCI for \$43,818.82 of costs incurred by the
9 Commission for Staff's investigation as it relates to Dockets TG-131794 and TG-
10 140560.¹¹ To ensure fairness to ratepayers, the Commission should not allow the
11 Company to recoup investigation fees in rates.
12

13 **Q. Please briefly explain Staff's recommendation.**

14 A. Staff devoted an extraordinary amount of time and resources to Dockets TG-131794
15 and TG-140560. The Company's complicated, duplicative, and unsupported filings
16 followed by WCI's refusal to respond to Staff's data requests 7, 8, and 11 (which
17 resulted in Staff's Motion to Compel) led to extensive delay, unnecessary litigation,
18 and extraordinary costs to the Company and the Commission.¹² WCI's shareholders,
19 not ratepayers, should bear those costs.
20

¹¹ Testimony of Melissa Cheesman, p. 54, line 21 through p. 55, line 1 (July 18, 2014).

¹² For a full discussion on why Staff is recommending an assessed investigation fee on WCI, see Testimony of Melissa Cheesman, p. 55, line 21 through p. 56, line 12 (July 18, 2014).

1 **IV. RESPONSES TO WCI NOVEMBER SUPPLEMENTAL TESTIMONIES**

2
3 **A. Staff's Response to Unidentified Staff**

4
5 **Q. Please specify the Company's November 7, 2014, supplemental testimony**
6 **statement to which Staff is responding.**

7 A. Jackie Davis' supplemental testimony filed November 7, 2014, states after the 2009
8 case, "...we were told by the Staff it was unnecessary to separate revenues and
9 expenses in Kalama..."¹³

10
11 **Q. What are Staff's issues with this statement?**

12 A. The Company does not identify the "UTC Staff auditor" who "instructed" the
13 Company to file commingled regulated and non-regulated Kalama operations. WCI
14 provides no support for its statements. There is no record in WCI's 2009 rate case,
15 including the "Top Of File Memo"¹⁴, to support WCI's statements. Despite WCI's
16 claims, WCI filed both of its direct cases in TG-131794 and TG-140560 with a
17 separation of regulated and non-regulated Kalama results of operations, which means
18 the Company ignored the unidentified auditor's undocumented, previously
19 unacknowledged advice.

20

¹³ Exhibit JD-50T, Supplemental Testimony of Jackie Davis, page 2, lines 7 through 13 (Nov. 7, 2014).

¹⁴ Exhibit JW-9 (Nov. 7, 2014).

1 **B. Staff's Response to General Rate Case Costs Related to Kalama**

2

3 **Q. Please specify the Company's November 7, 2014, supplemental testimony to**
4 **which Staff is responding.**

5 A. In general, Staff is responding to Jackie Davis' testimony regarding the general rate
6 case costs associated with the separation of non-regulated Kalama.

7

8 **Q. What is your response to Jackie Davis' testimony regarding the general rate**
9 **case costs associated with the separation of non-regulated Kalama?**

10 A. WCI's actions contributed greatly to costs incurred related to the separation of non-
11 regulated Kalama. Jackie Davis' supplemental testimony fails to discuss WCI's
12 attempts at describing all non-regulated Kalama operations and the unreliability of
13 WCI's test year route study. Staff issued five data requests¹⁵ and engaged in several
14 phone calls to request WCI describe all non-regulated Kalama operations. WCI
15 continually showed an inability to even reasonably describe non-regulated Kalama
16 customer classes (i.e. residential, commercial, or drop-box).¹⁶

17

18 **Q. Please summarize WCI's attempts to describe non-regulated Kalama**
19 **customers.**

20 A. The following table summarizes WCI's attempts to describe non-regulated Kalama:

¹⁵ In TG-131794 Staff issued data request 3, question 2, and in TG-140560 Staff issued data requests 1, 3, 4, and 11.

¹⁶ WAC 480-07-520(4)(e) requires the Company's initial filing work papers to include "A detailed list of all nonregulated operations, including the rates charged for the services rendered. Copies of all contracts must be provided on request."

Date	Residential Cart Customers	Commercial Cart Customers	Commercial Container Customers
September 23, 2013 ¹⁷	789	147	29
November 2013 ¹⁸	789	0	0
April 3, 2014 ¹⁹	789	0	0
May 13, 2014 ²⁰	789	147	0
May 23, 2014 ²¹	642	147	38

1

2

3

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6

Q. Does Staff have anything else it would like to add?

7

A. Yes. Staff's testimony filed on July 18, 2014, relied on customer counts and billing

8

information provided by the City of Kalama to define non-regulated Kalama

9

operations. Staff's testimony also relied on WCI's data, as filed on May 23, 2014, to

¹⁷ WCI's initial general rate filing in docket TG-131794 included non-regulated Kalama customer counts of 789 residential cart customers, 147 commercial cart customers, and 29 commercial container customers.

¹⁸ Staff used the information in WCI's initial filing to calculate a customer count allocation factor for non-regulated Kalama. During informal discussions, WCI disagreed with Staff's calculation and stated that its own filing was incorrect and the customer count allocation factor for non-regulated Kalama needed to only include 789 residential cart customers. Staff asked WCI to provide a copy of the City of Kalama contract. Upon review, Staff discovered that the contract plainly states that WCI collected and disposed of all garbage and refuse in Kalama, and the Company's non-regulated operations in the city were not limited to residential carts.

¹⁹ WCI's TG-140560 initial filed Exhibit JD-11, included non-regulated Kalama customer counts of 789 residential cart customers, 147 commercial cart customers, and 29 commercial container customers. The Company's Exhibit JD-11 contradicted its general filing because Exhibit JD-11's customer count allocation factors for non-regulated Kalama included only 789 residential cart customers.

²⁰ In response to Staff's data requests 1 and 11 and phone discussions, WCI provided a revised results of operations Excel workbook to replace Exhibit JD-11. The revision included a description that stated that non-regulated Kalama includes only residential and commercial cart customers. However, the Company did not change its customer count allocation factors to include the additional 147 commercial cart customers.

²¹ In response to Staff's data request 3 and 4 and after additional phone discussions, WCI provided another revision of Exhibit JD-11. WCI again modified the customer count allocation factor for non-regulated Kalama to include residential cart customers, commercial cart customers, and commercial container customers. WCI changed its customer count allocation factor by reducing the previous 789 residential cart customer count to 642, added the 147 commercial cart customers that WCI had left out of it prior revision, and added 38 commercial container customers.

1 define regulated operations. Staff required WCI's results of operations be separated
2 between regulated and non-regulated Kalama operations so that the revenue
3 requirement calculated using the Lurito-Gallagher methodology only reflects
4 regulated operations.

5 Ultimately, Staff agreed in settlement to commingle regulated and non-regulated
6 operations because:

- 7 1. WCI's changing descriptions of customers for non-regulated Kalama.
- 8 2. Staff could not rely on WCI's test period route study.²²
- 9 3. WCI acknowledges no longer tracking non-regulated operations.²³
- 10 4. Staff determined that its own allocators were unreliable because they relied
11 on the inaccurate data included in WCI's filings.
- 12 5. WCI's new route study is also unreliable because the route study is more
13 than a year outside of the test year.
- 14 6. Non-regulated Kalama operations represent 5.5 percent of total Company
15 revenues.
- 16 7. Staff and the Company agreed to assign a portion of the final revenue
17 requirement to non-regulated Kalama.

18
19 **C. Staff's Response to Recovery Associated with General Rate Case Costs**

20
21 **Q. Please specify the Company's November 7, 2014, supplemental testimony**
22 **statement to which Staff is responding.**

23 A. Jackie Davis' supplemental testimony filed November 7, 2014, describes how WCI's
24 rate case expenses increased and attempts to document the "volume of focused

²² For the discussion of the Company acknowledging problems with WCI's test period route study *see*, Rebuttal Testimony of Jackie Davis, p. 34, lines 5 through 8 (Aug. 20, 2014).

²³ Rebuttal Testimony of Jackie Davis, p. 32, lines 5 through 11 (Aug. 20, 2014).

1 analytical work performed” in support of the Company’s rate case costs. Ms. Davis’
2 testimony argues that Staff’s practices caused WCI’s rate case costs and supports the
3 Company’s argument that Staff’s recommendation to limit recovery of rate case
4 costs is arbitrary.

5
6 **Q. Would Staff like to provide greater clarification on its recommended recovery**
7 **associated with general rate case costs??**

8 A. Yes. On December 19, 2013, WCI and Staff convened a settlement conference, but
9 did not reach agreement. December 24, 2013, is a logical and reasonable starting
10 date for 50 percent recovery because that is the Notice of Prehearing Conference date
11 that marks the beginning of the formal adjudication process in TG-131794. Staff
12 believes that on or after December 24, 2013, WCI began preparing its direct case.

13 Staff’s proposed general rate case recovery is logical and reasonable because
14 half recovery of each formal adjudicated general rate case allows recovery of one
15 fully supported formal adjudicated general rate case. WCI is requesting the
16 Commission allow full recovery of two formal adjudicated general rate cases. The
17 ratepayers should bear 100 percent of the general rate case costs prior to TG-131794
18 Notice of Prehearing Conference, 50 percent of the general rate case costs related to
19 WCI’s failed direct case in TG-131794, and 50 percent of costs related to the unduly
20 complex filing of TG-140560.²⁴

21

²⁴ For Staff’s explanation for the proposed general rate case recovery see, Testimony of Melissa Cheesman, p. 48, lines 5 through p. 49, line 11 (July 18, 2014).

1 Q. Is there anything else Staff would like to add with regards to why Staff thinks
2 that WCI's ratepayers should not bear 100 percent of the formal adjudication
3 general rate case costs in TG-131794 and TG-140560?

4 A. Yes. WCI and Staff had an opportunity to, at a minimum, partially settle
5 adjustments during the informal proceedings of TG-131794 general rate case. WCI
6 terminated settlement discussions.²⁵

7 The extraordinary general rate case costs associated with TG-131794 and
8 TG-140560 are the fault of the Company. In TG-131794, WCI's direct case was
9 dismissed for failure to meet its burden of proof by producing insufficient evidence
10 to support its rate request.²⁶ In TG-140560, WCI filed supplemental testimony and
11 exhibits to accompany its direct testimony and exhibits from its failed dismissed case
12 which made the filing overly complicated and duplicative. WCI has filed four sets of
13 testimony and continues to provide additional supporting information almost a year
14 from its initial filing on April 3, 2014. Additionally, WCI's filing did not meet
15 minimum filing requirements even though WCI used Staff's provided Solid Waste
16 General Rate Case Checklist. The Company has the burden to demonstrate that the

²⁵ Staff's Response to TG-131794 WCI Formal Data Request 8: "On December 19, 2013, staff made no proposal on a revised revenue requirement because the company ended settlement discussion and requested a Prehearing Conference. Staff's current pro forma is a work-in-process and will provide its position in its testimony, which will be filed on March 26, 2014."

Staff's Response to TG-131794 WCI Follow-up Formal Data Request 8: "Yes, when staff did not agree to the company's position on rental payments for the regulated company, the company terminated settlement discussion without considering the other nine identified issues. Before engaging in settlement discussions, the company, by email dated December 17, 2013, (copy attached), identified eight issues and attached Excel files to demonstrate its proposed revenue requirement. After review, staff identified two additional issues, sent to the company by email dated December 17, 2013 (copy attached). On December 19, 2013, staff and the company engaged in a phone conference to discuss settlement of the ten issues. The first issue discussed was Waste Control, Inc.'s rental payments to its affiliates. Staff did not agree to the company's position, but stated we would consider revising the cost of equity based on a review of the affiliate companies' financial risk. The company terminated the settlement discussion without any discussion of the remaining nine issues."

²⁶TG-131794, Order 05, page 9, paragraph 26.

1 proposed expenses are prudent and reasonable. If Staff determines the supporting
2 information provided by the Company is insufficient, Staff requests, both informally
3 and formally, for additional information to support the proposed expenses.

4 Staff's review in TG-131794 and TG-140560 are based on affiliate
5 transactions and financial information as provided by the Company in its initial
6 filings and subsequent responses to data requests. The more incomplete and
7 unsupported the Company's initial filings and responses to Staff's data requests, the
8 more data requests Staff issued to seek completeness and support.

9 WCI criticizes Staff for not using audit sampling during Staff's review of the
10 Company's filings. Staff disagrees with this criticism. Staff did not use audit
11 sampling²⁷ because Staff is not preparing to communicate an opinion on whether
12 WCI's financial statements are free from material misstatement. In TG-131794,
13 Staff selected a limited number of accounts to review based on a trend analysis, in
14 addition to reviewing all restating and pro forma adjustments, and all affiliate
15 transactions. Staff did not select additional accounts to review in TG-140560,
16 because WCI used the same test year and included adjustments based on Staff's
17 review of selected accounts in TG-131794.

18
19 **D. Staff's Response to Affiliate Landlord Capital Structure**

20
21 **Q. Please specify the Company's November 7, 2014, supplemental testimony**
22 **statement to which Staff is responding.**

²⁷ As defined in Auditing Standards Section 350.

1 A. Joe Willis' supplemental testimony filed November 7, 2014, states "Here, Staff is
2 advocating commingling the capital structures of the affiliate landlords for
3 calculating the overall rate of return factors on the leased properties."²⁸

4
5 **Q. Does Staff agree with this statement?**

6 A. No.

7
8 **Q. Please explain.**

9 A. Staff used a separate total company capital structure for each individual affiliate
10 landlord, HBI and HBII, which captures and takes into account each of the
11 companies' actual financial risk.²⁹ Therefore, if Staff used separate total company
12 capital structures to calculate a separate return for each affiliate landlord, HBI and
13 HBII, then Staff did not advocate commingling the capital structures of the affiliate
14 landlords.

15
16 **Q. Does this conclude Staff's supplemental testimony?**

17 A. Yes.

²⁸ Exhibit JW-8T, Supplemental Testimony of Joe Willis, p. 3, lines 5 through 7 (Nov. 7, 2014).

²⁹ Testimony of Melissa Cheesman, p. 20, lines 1 through 3 (July 18, 2014).