Exh. BS-1CTr
Docket TG-230778
Witness: Benjamin Sharbono
REDACTED

BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, **Complainant,** **v.** **MURREY'S DISPOSAL COMPANY,** **Respondent**	**DOCKET TG-230778**

TESTIMONY OF

BENJAMIN SHARBONO

STAFF OF
WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

Insurance, Severance, Employee Community Activities, Safety Events,
Asset Sales, Legal Fees, Fuel Expense and Corporate Overhead

May 29, 2024

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LIST OF EXHIBITS

I. INTRODUCTION

Q. Please state your name and business address.

My name is Benjamin Sharbono. My office address is 621 Woodland Square Loop SE, P.O. Box 47250, Olympia, Washington, 98504. My email address is benjamin.sharbono@utc.wa.gov.

Q. By whom are you employed and in what capacity?

A. I am employed by the Washington Utilities and Transportation Commission (Commission) as a Regulatory Analyst. Among other duties, I am responsible for conducting reviews of general rate increase filings by investor-owned solid waste companies under the jurisdiction of the Commission.

Q. How long have you been employed by the Commission?

A. I have worked for the Commission since June 2016.

Q. Would you please state your educational and professional background.

A. I graduated with high honors from Saint Martin's University, Lacey, Washington, in 2015 with a Bachelor of Arts in Accounting. I graduated from Western Governors University in 2020 with a Master of Business Administration. As I just noted, I have worked for the Washington Utilities and Transportation Commission since June 2016. From June 2016 to November 2017, I held the position of Accounting Research Analyst. In November 2017, I transferred to a Regulatory Analyst position, working on annual reports from November 2017 until June 2019. I moved to rate review in 2019.

Q. Have you previously testified before the Commission?

A. I have not testified before the Commission in any formal adjudications. But I have presented Staff's recommendations to the Commission at numerous open meetings since 2018.

II. SCOPE AND SUMMARY OF TESTIMONY

Q. What is the purpose of your testimony?

A. I provide the Commission with Staff's recommendation as to the setting of fair, just, reasonable, and sufficient rates for Murrey's Disposal Company. Specifically, I address the inclusion of insurance deductibles, termination pay, bonus pay programs, "Employee Community Activities," the company providing food for employees at management discretion, safety event expenses, and recovery of an unused or useful asset in the revenue requirement.

Q. What does Staff recommend the Commission do with insurance deductibles, termination pay, bonus pay programs, "Employee Community Activities," company providing food for employees at management discretion, safety event expenses, and recovery of an unused or useless asset?

A. I recommend that the Commission disallow: [redacted] of insurance expenses; [redacted] of termination pay expense; [redacted] of bonus expenses; [redacted] of the "Employee Community Activities" account; [redacted] of Travel food not related to travel; [redacted] of "Safety Events;" and [redacted] of "Sale of Asset". Regarding the expense in the Sale of Asset account, staff further recommends the commission deny recovery of the asset as it is not used or useful.

Q. Have you prepared any exhibits in support of your testimony?

A. Yes. I prepared Exhibits BS-2C through BS-9C.

- Exh. BS-2C Murrey's Responses to Staff DRs 1-6
- Exh. BS-3C Chubb Declaration
- Exh. BS-4C Murrey's Response to Staff DR 19 – 10-Year Insurance History
- Exh. BS-5 Murrey's Response to Staff Informal DR 2 – Incident Report
- Exh. BS-6 2023 Stars Call Stats, CSR Call Stats, Tooty Stats
- Exh. BS-7C Murrey's Response to Staff DR 5 – EE and Community Detail
- Exh. BS-8 Travel Expenses
- Exh. BS-9C Murrey's Response to Staff DR 2 – Food Detail
- Exh. BS-10C Murrey's Response to Staff DR 7

III. RATEMAKING PRINCIPLES

Q. What does staff look at during a general rate proceeding?

A. Staff offers recommendations aimed at ensuring that customers pay fair, just, and reasonable costs associated with the services they receive and that companies receive fair, just, reasonable, and sufficient revenues to cover the expenses of providing services while receiving the opportunity to earn a return on investment.

Q. How does Staff arrive at its recommendation of what constitutes fair, just, reasonable, and sufficient rates?

A. Staff begins with the test period chosen by the carrier as the basis of its general rate case. Staff audits the company's finances and reviews the costs and revenues it has booked in the test year. With regard to the costs, Staff looks to whether the expenses were necessary to provide the service and whether they were prudently incurred.

Q. How does Staff determine whether a carrier prudently incurred a cost?

A. Staff considers whether the company acted reasonably based on what the company knew, or should have known, at the time it made the decision to incur the cost. To do so, Staff looks at, among other things, whether the expense was necessary, whether the company considered alternatives, and whether the company documented its decision-making process for later review.

Q. Does Staff consider anything else with regard to test year costs?

A. Yes. The Commission uses a test year as the basis for rates with the assumption that the carrier's spending during that year indicates what it will spend in the rate year. If that assumption does prove correct, the rates the Commission sets to recover rate year costs will be unfair, unjust, unreasonable, or insufficient. Accordingly, Staff looks to whether the test year's costs were normal and will recur in the rate year.

Q. What does it mean for a cost to be normal and recurring, and how does Staff determine whether a cost meets that standard?

A. Normal means that the expense occurs through the regular operations of the company, required to provide the service, and not in combination with unusual circumstances. Recurring means that the same or similar expenses occur would be recorded in any randomly selected continuous 12-month period. Staff determines whether costs are normal and recurring by examining the historical records of the company to identify expenses that appear abnormal to general operations, then questions the company to understand the cause of the expense. Where the company's explanation indicates that the expense is unusual, unlikely to recur, or is otherwise abnormal to general ongoing operations, it is removed.

Q. Does Staff consider anything else?

A. Yes. To recover depreciation and earn a return on property, it must be used and useful. An asset is used and useful when it "is in service" and the "company . . . demonstrate[s] that its investment benefits Washington ratepayers."[1]

Q. What does Staff do with the results of its inquiries?

A. The point of these questions is to identify what costs are necessary for the company to provide service under normal operating conditions. These are the above-the-line

[1] In re the Commission Inquiry into the Valuation of Public Service Company Property that Becomes Used & Useful after Rate Effective Date, Docket U-190531, Policy Statement, 2 ¶ 5, 9 ¶ 26 (Jan. 31, 2020).

operating expenses that make up the day-to-day operations of the company. Staff excludes costs that do not meet these standards from rates.

IV. CONTESTED ADJUSTMENTS

A. Insurance

Q. What does your testimony cover in this section?

A. I discuss Olympic Disposal's automotive and liability insurance expense accounts 59341 – A&L Current Year Claims -- and account 59342 – Prior Year Claims. I discuss both accounts here because the accounts both record expenses related to insurance incident expenses, while recognizing the different accounting periods in which the incidents occur.

Q. What expense from account 59341, A&L Current Year Claims, does Staff contest?

A. Staff contests [redacted] of test period insurance claims expenses from account 59341 and recommends removing these expenses from the Company's revenue requirement.

Q. What expense from account 59342, Prior Year Claims does Staff contest?

A. Staff similarly contests the inclusion of a pro forma adjustment of [redacted] to test year insurance claims expenses from account 59342 and also recommends removing these expenses from the Company's revenue requirement.

Q. Can you explain the nature of the booked amounts that staff contests?

A. The costs represent legal and deductible expenses the company recorded for insurance expenses in the test year. Both accounts are used to record payments related to insurance claims and deductible payments made by the company, including a major incident and all minor incidents the paid directly by Murrey's, which include insurable events such as hitting parked cars or structures, knocking over mailboxes, or repairing damage to customer yards.

Q. Why did staff remove the entire amount of the insurance deductible expenses?

A. The primary reason staff removed the expense was due to the unusually large and non-recurring nature of the underlying event and its impact on customer rates. Staff reviewed the company's historical data for similar occurrences. Staff found a few incidents that were unusual, but none of like nature or financial impact. Thus, Staff concludes that accidents resulting in significant claims are not regularly occurring. The Commission's ability to remove such events from rates is well recognized,[2] and Commission rules state that extraordinary items should be eliminated or normalized.

[2] "A commission may remove a large bodily injury award from test year expenses where it considers such an expense an unusual and non-recurring item." Leonard Saul Goodman, THE PROCESS OF RATEMAKING 331 (1998) (hereinafter Goodman).

Additionally, as explained further below, staff's research on the subject indicates insurance deductible expenses should not be included in operating expenses.

Q. Does Murrey's accounting for these costs, and inclusion of them in rates, comport with the accounting rules applied by the Commission?

A. No. Murrey's accounting of those costs is inconsistent with the Commission's Uniform System of Accounts.[3] Account 4530, Public Liability and Property Damage, provides for the booking of amounts for insurance premiums and accounting for self-insurance.[4] Account 4530, however, does not provide for the booking of insurance deductible payments. These expenses should instead be separated into either account 7500, other deductions, which is used for any amounts not defined elsewhere, or account 7600, extraordinary items, which is for booking extraordinary, non-recurring expenses that could materially distort current operating results.[5] Accounts 7500 and 7600 are "below-the-line" items.

Q. What ratemaking consequences flow from the fact that accounts 7500 and 7600 are below the line accounts?

A. "In accounting and rate making parlance, an 'above-the-line' revenue or expense item is one that is included in the rates…. A 'below-the-line' item affects only the

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[3] *See generally* Washington Utilities & Transportation Commission, UNIFORM SYSTEM OF ACCOUNTS FOR CLASS A AND B SOLID WASTE COLLECTION COMPANIES, WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, 1992 (hereinafter USoA).
[4] USoA at 60.
[5] USoA at 70.

company's equity accounts."[6] A public service provider may not pass below-the-line costs on to ratepayers.

Q. What rationale does Murrey's offer for including the deductible amounts in rates?

A. Murrey's witness Wonderlick testifies that the company is sharing the risks and benefits of the company by choosing a high-deductible, low-premium insurance with customers. He states that "[t]he company… merely requires that ratepayers share in the cost of deductibles in addition to low insurance premiums."[7] Mr. Wonderlick's testimony further states, "Although any type of insurance claim… is unfortunate, they are recurring risk… in the transportation industry."[8]

Q. Does that rationale have merit?

A. No. Ratepayers are not sharing either the cost or risk with the company in Murrey's accounting. The transactions booked and the adjustments proposed by Olympic Disposal shift all costs, and therefore all risks, to customers by including the costs in operating expenses. Ratepayers pay Murrey's insurance premiums as an operating expense to cover the risks associated with operating a motor vehicle. Management makes business decisions on the insurance they acquire which can significantly change the costs to ratepayers. Requiring the ratepayers to cover the deductibles essentially insulates shareholders against all financial risks from management

[6] Goodman at 225.
[7] Wonderlick, Exh. JW-1T at 25:21.
[8] Wonderlick, Exh. JW-1T at 18:15.

decisions. But utilities cannot expect that ratepayers will insure their operations from normal business risk.[9] Staff's rejection of the company's insurance deductibles and adjustment returns the risk of a management decision to shareholders' responsibility.

Q. Does Staff's recommendation to disallow these expenses comport with recognized authority?

A. Yes. As Goodman's treatise notes, "the better reasoned decisions" commissions have issued regarding casualty losses brought forth by utilities disallow the recovery through rates. As Goodman explains, "[r]atepayers must be protected from permanent rates that include unusual or one-time items of expense."[10] The treatise justifies that statement along the lines just explained above by Staff, namely that including these types of costs, along with insurance deductibles, turns ratepayers into the company's insurers.

Q. Is Staff's recommendation based, in part, on the fact that the company already receives a risk return to compensate it for business risk factors?

A. No. However, Staff notes that the Commission does recognize that solid waste companies are compensated for business risk through the Lurito-Gallagher (LG) model's "relationship between asset turnover ratio and profit margin,"[11] which the

[9] *E.g.*, Goodman at 298 ("In Florida, the commission has reminded its utilities that storm damage is a normal business risk, and ratepayers do not indemnify utilities from this risk.").
[10] *E.g.*, Goodman at 297-98.
[11] Commission policy statement, Docket TG-131255, ¶ 5.

LG model uses private sector transportation companies' market data to generate a market-based return. Regarding risks, Goodman states, "When a utility [seeks] a specific adjustment for 'regulatory risk,' such risk impacts are included in a market study of equity returns."[12] Thus, the company is already collecting a risk premium from ratepayers through the revenue requirement generated by the LG model. To further this point, if the solid waste industry operated competitively, Olympic Disposal's shareholders would have to absorb the loss incurred since competition would dictate the company couldn't simply increase rates for a single instance. Regulation substitutes for competition when competition is impractical; and regulation offers an opportunity for returns, not a guaranty. If the Commission accepts the company's adjustment, the underlying balance of risk would shift to assuring revenues, and the hypotheses of the LG model would need review to revise the financial risk return.

Q. Does the way that Murrey's has insured its operations raise any other issues?

A. Yes. Mr. Wonderlick states that, "[i]n effect, Waste Connections self-insures itself for the first $5 Million in exposure."[13] The company has on more than one occasion represented that it is self-insured for the first $5 Million of an event. For example, in response to a data request from Staff, the company states [redacted]

[12] Goodman at 635.
[13] Wonderlick, Exh. JW-1T at 21:2-3.

[redacted]"[14] As described, the company is engaged in self-insuring operations.

Q. Is Murrey's authorized to self-insure?

A. On looking into the company's being self-insured, staff was unable to find an order granting Murrey's permission to self-insure or a Uniform Motor Carrier Bodily Injury and Property Damage Liability Surety Bond (Form G) on file with the Commission's Licensing Services section.[15]

Q. Why is that notable?

A. Based on Olympic Disposal's statements and documents, it is acting as its own insurer. However, the company has not received Commission permission to self-insure, nor does it carry the necessary bonding, as noted above. By acting as its own insurer, the company is in violation of the revised code and the Commission's rules.

Q. Does the Company have an insurance policy?

A. Yes. The company provided a [redacted][16] However, the company elected to have a $5 Million deductible, which very few events will reach. Instead, the company uses self-insurance methods to calculate the impact of insurable events which will almost always be within the deductible. It sets aside funds in a reserve for use in paying for

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[14] Sharbono, Exh. BS-2C at 3.
[15] WAC 480-70-181(3)(d).
[16] Sharbono, Exh. BS-3C.

those events. The insurance policy provides the company with a maximum it will be liable for before the insurance company will assist, creating a "stop loss" insurance policy. Put another way, the impact of a single event would have to be catastrophic before the insurance policy protects the company, or ratepayers, should the Commission decide the deductibles are a ratepayer burden.

Q. Did Staff consider Murrey's insurance policy quotes?

A. Yes. Staff asked the company to provide documentation of the cost differential between the current insurance scheme and a lower-deductible, higher premium plan. The company provided to staff the two quotes for insurance included in Mr. Wonderlick's testimony.[17] The quotes provided, allocated to regulated services, would equal approximately [redacted] (JW-14C) and approximately [redacted] (JW-15C), with a maximum deductible allocatable to regulated customers being approximately [redacted].[18] Staff's analysis found that using a lower-deductible, higher premium insurance would provide more protection to ratepayers if ratepayers are required to cover deductible costs.

Q. How would higher premiums provide ratepayers additional protection?

A. By providing rate stability and liability limits. Staff's analysis allowing the recovery of the incident through rates compared to the company changing to low-deductible, high-premium insurance quotes the company provided would result in an increase in

[17] Wonderlick, Exh. JW-14C and Exh. JW-15C.
[18] [redacted].

annual premiums from approximately [redacted] to approximately [redacted] per year. However, the maximum liability impact to ratepayers would be substantially lower compared to the company's inclusion of this event in rates. The annual cost would decrease from approximately [redacted] with the inclusion of the incident to a maximum potential liability approximately [redacted] per year, but a normal cost of approximately [redacted] per year with no incidents.[19]

Q. It appears the high-deductible, low-premium insurance will provide lower rates to customers in the long term. Why does staff believe the low-deductible, higher-premium insurance would better serve customers?

A. Again, ratepayers would benefit from the rate stability, should the Commission allow the Company to recover deductible costs. Based on staff's analysis, the costs of the insurance are higher on a continuous basis under the low-deductible, higher premium insurance. However, the company has stated that to keep the low-premium insurance, ratepayers must pay the deductible instead of shareholders. Should the commission allow the Company to recover the deductible through rates, ratepayers will pay higher rates for services for a period of time. After the recovery period, the company would have to request lower rates to remove the deductible costs. There are several issues in this: 1) The customers would thenceforth be liable to pay future deductibles, up to the deductible limit of $5 Million at present; 2) If another event does occur during the current recovery period or in the future, ratepayers will have to

[19] Sharbono, Exh. BS-4C.

cover those costs; 3) The company would have to file to reduce rates, increasing the chances the costs will be over collected.

Q. How would it be a problem for customers to be responsible for the deductible?

A. If the Commission accepts that ratepayers are benefiting from paying the deductible due to the lower cost when they are not paying the deductible, it would also be reasonable to believe that lower premiums could be achieved by increasing the deductible. The logical conclusion of this argument is removing the insurance requirement altogether, allowing the customers to become the company's insurer. Customers would then only pay the insurable liability claims but have minimal insurance costs during periods where no major events occur. This model has already been rejected in the revised code's requirement that solid waste companies carry insurance.

Q. How is it a problem that customers would be liable for future deductibles if the costs are lower when no incident takes place?

A. For the scenario to work in ratepayer favor, deductible incidents must be substantially spaced. Ratepayers would pay [redacted] in premiums and deductibles for the amortization period, which would drop to [redacted] per year after the amortization period. That drop would indeed lower rates. However, if a similar event occurs within several years, the cost/benefit of the low-premium/high-deductible method disappears, becoming more expensive over the long run. It essentially is betting on incidents not occurring in the future, but customers being liable for costs if the gamble comes up short, which is antithetical to Washington's practices of setting rates on historic cost.

Q. Why would the company having to file a new rate case to reduce rates be problematic?

A. Allowing Murrey's to recover these costs would establish precedent for other companies. That creates the possibility, if not the probability, that companies would over earn if costs remained embedded in rates after the end of the amortization period. To ensure costs are removed timely, all rate cases would need to have orders ensuring compliance with cost removal, and extensions to the effective date of those filings would need to be reviewed to ensure customers would not be harmed. It would probably be better for the commission to issue a surcharge for recovery, rather than allow recovery through base rates, as the costs would be collected and once the conditions are met the surcharge terminates without action of the commission.

Q. Are there any caveats to Staff's analysis here?

A. Yes. Mr. Wonderlick testifies that "…the broker also indicated that underwriting might not ultimately accept such a low deductible…"[20] and Mr. Branko Terzic's testimony mirrors the sentiment, stating that "[t]here is even a question as to whether lower deductible insurance is or will in the future even be available in some industries."[21] These points are important since by providing the quotes the company

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[20] Wonderlick, Exh. JW-1T at 25:5-7.
[21] Terzic, Exh. BT-1T at 12:8-9.

indicates that the costs for a lower-deductible insurance would increase costs for customers. However, the quotes were not submitted for underwriting.

Q. Why does it matter to staff that the quote has not been reviewed by or approved by an underwriter?

A. Without going through the underwriting process Murrey's cannot prove the insurance company would provide the coverage quoted as it policies may not fit the insurance companies' risk assessment profiles. This would prevent Murrey's from lowering its deductible to the quoted level. Additionally, the underwriting process sets the final premium rate for the policy. If the deductible was changed during the underwriting process, it would impact the final premiums paid by Murrey's. Since the process was not completed and based on the statements in Mr. Wonderlick's and Mr. Terzic's testimony, staff does not believe the insurance company would ultimately provide the insurance at the coverage or premium quoted.

Q. Did staff analyze the inclusion of the deductibles in the revenue requirement?

A. Yes. Should the Commission not be persuaded by Staff's arguments, Staff considered several options for allowing the deductible into rates and presents them below. Staff's review looked at insurance expenses over the last 10 years. The results of staff analysis based on insurance account information provided by the company[22] are provided below.

[22] Sharbono, Exh. BS-4C.

Staff's analysis reviewed several scenarios of normalization using the last 10 years of data, 2014 to 2023. Staff used the information to identify all transactions related to specific incidents. Incidents in which the total costs exceeded $100,000 were considered major events. Only two incidents met this threshold in the 10-year historical data: In 2014 an incident occurred that cost the company [redacted] between 2014 and 2019; and the most recent incident in 2022, which cost the company [redacted].

Using this information, staff generated the following scenarios:

1. Averaging the cost per year after removing major incidents from the costs, allowing only minor incidents in rates.
2. Averaging the cost per year after amortizing major incident costs over a 5-year period from the date the costs were incurred.
3. Averaging the cost per year after amortizing major incident costs over a 10-year period from the date the costs were incurred.
4. Amortizing the current incident over 5 years.

	Insurance Premium	59341 Current Year Claims	59342 Prior Year Claims	Total Insurance Cost
Major incidents removed	[redacted]	[redacted]	[redacted]	[redacted]
10-year data with Major Incidents Amortized 5 years	[redacted]	[redacted]	[redacted]	[redacted]

10-year average with Major Incidents Amortized 10 years	[redacted]	[redacted]	[redacted]	[redacted]
Amortized 2022 Incident over 5 years	[redacted]	[redacted]	[redacted]	[redacted]
Amounts shown are for regulated operations only.				

B. Termination Pay

Q. What expenses in account 70037, termination pay, does staff contest?

A. Staff contests the inclusion of the [redacted] in account 70037 as an operating expense.

Q. What does that expense represent?

A. The company issued severance payments to two employees after dismissing them from service. The company paid a severance of [redacted] on terminating one employee, and [redacted] on terminating the second.

Q. What does the company justify the severance payments?

A. The company states severance payments are an increasingly common business practice used to protect the company from litigation and benefits customers due to preventing pass-through of litigation expenses.

Q. Does Staff accept that justification?

A. No. Murrey's explains these severance payments as used to secure the release of claims, and Mr. Wonderlick specifically describes the company as using the payments to secure the release of claims under the Washington Law Against Discrimination. Since any released claims would never be adjudicated, the Commission can never know which of those claims were valid. And that leaves the Commission in position to potentially pass along to ratepayers the costs of short-circuiting claims that may have been valid. Ratepayers should not pay the costs of cutting off liability for Murrey's torts.

Q. How does Murrey's calculate the severance payments?

A. Staff questioned the company about the items, requested information on how they are calculated and what conditions the company had for granting severance payments, both during the informal and formal process. Murrey's Response to Staff Data Request 6 states, "Severance payment issues are carefully considered by management, human resources professionals, and attorneys. … there is no binding approach to crafting severance offers, 'one size does not fit all.'"[23]

Q. Does that explanation raise any issues?

A. Yes. Murrey's basically argues that Staff must review severance payments on a case-by-case basis. But Murrey's defends the payments here with blanket statements indicating that the payment of severance is simply a cost of doing business. Murrey's

[23] Sharbono, Exh. BS-2C at 14.

has thus provided no evidence that its management reasonably decided to make these particular severance payments. It does not explain the context in which they arose, nor does it provide any contemporaneous records that explain the decision. This is another case of the company shifting the entire risk from shareholders to ratepayers, who either pay the severance cost calculated by management, or potentially the litigation cost to defend management. The Company has failed in its duty to justify the decision as prudent, and the Commission should decline to allow the company to include the severance payments in its revenue requirement.

C. Bonuses

Q. What does your testimony address in this section?

A. In this section staff will discuss Olympic Disposal's bonuses, or incentive pay, expense accounts 50036, Other Bonus/Commission - Non-Safety, 52036, Other Bonus/Commission - Non-Safety, 55036, Other Bonus/Commission - Non-Safety, 56036, Other Bonus/Commission - Non-Safety, and 70036, Bonuses, because the costs represented in these accounts all reflect the same type of expense, although the accounts differentiate between employee activity or function.

Q. What is the company's requested expense in account 50036, Other Bonus/ Commission - Non-Safety, 52036, Other Bonus/Commission - Non-Safety, 55036, Other Bonus/Commission - Non-Safety, 56036, Other Bonus/Commission - Non-Safety, and 70036, Bonuses?

A. By account, the amounts are:

50036	[redacted]
52036	[redacted]
55036	[redacted]
56036	[redacted]
70036	[redacted]

Q. What do those expenses represent?

A. These amounts represent payments to employees for several bonus and incentive programs, including payments for "Tooty" bonuses, culture bonuses, sign-on and referral bonuses, collection bonuses, tool purchase allowances, and other payroll items not directly paid through hourly, salary wages, or safety bonuses which are recorded in separate accounts.

Q. What is staff's recommended adjustment?

A. Staff recommends disallowing the following amounts, by account:

50036	[redacted]
52036	[redacted]
55036	[redacted]
56036	[redacted]
70036	[redacted]

Q. Why did staff remove the bonus expense?

A. Staff adjustments removed or modified bonuses, performance pay, and incentive pay because the Commission has indicated that allowable bonus and incentive pay programs require demonstrable evidence that customers benefit from the expenses. The documentation provided by the company did not show the programs enhance service or customer experience.

Q. What was the company's response to requests for information around the subject of bonuses? Did staff attempt to help?

A. In response to staff requests for information during the informal process, the company stated it does not track data on the effectiveness of the programs. In fact, it has no criteria for measuring whether the programs accomplish their stated goals.[24] As Mr. Mark Gingrich's testimony states "These results may often be hard to quantify…."[25] As such, staff provided ideas the company could use to document ratepayer benefits to the company, such as: the company safety bonus supported by the "I-rate" data showing incidents counts; "Tooty" bonuses supported by Tooty's scoring data; or a cost-benefit analysis of hiring using referral bonuses verse traditional hiring.

Q. After discussions, what information did the company provide? Did the company support the bonus programs?

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[24] The company did provide documentation for another operation it recently acquired in the docket. Exh. JW-22C. But Staff considers this information inapplicable as the operations are separate operating entities and Murrey's offers no evidence that what is true of one operating entity is true of any of the others.
[25] Gingrich, Exh. MG-1T at 11:16.

A. After the conversations referenced above, the company provided staff with documents using the "I-rate"[26] to support for safety bonus and 3 quarters of aggregated scores for the "Tooty" program.[27] However, most of the programs the company provided statements to the effect of, "Our ratepayers benefit from the heightened satisfaction, efficiencies, experience, and commitment"[28] or "[t]he company asserts that every goal outlined by these programs…all benefit the ratepayers"[29] Based on the Commission's guidance, simply stating does not suffice to support inclusion of the costs. Guidance from the Commission has been consistent that the company needs to prove the existence of benefits to ratepayers to justify inclusion in rates.

Q. Did the company provide other evidence that staff reviewed?

A. Yes. The company provided online articles to describe the benefits companies experience in granting referral bonuses.[30] Staff did not consider the articles sufficient evidence because the information was general statements that all companies could see these benefits, but did not provide evidence that the company had experienced the benefits or how they applied to ratepayers. Staff had discussions with the company requesting documentation to show that the bonuses lowered costs or improved service through its own documentation. The company was unable to provide such documentation.

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[26]Sharbono, Exh. BS-5.
[27] Sharbono, Exh. BS-6.
[28] Gingrich, Exh. MG-1T at 4:2-3.
[29] Wonderlick, Exh. JW-1T at 28:5-7.
[30] Sharbono, Exh. BS-8.

Q. How did Staff incorporate the information it was able to obtain from the company into its review?

A. Staff reviewed the information provided by the company. When the company provided supporting documentation, staff did not remove the costs from the revenue requirement. Where the company could not, or would not, provide documentation showing benefits to customers, staff removed the costs.

Q. Does staff have other concerns with the bonus programs?

A. Yes. Staff has concerns about the continuity of the bonus programs, as all programs included statements that the amount of the bonus is the discretion of management and condition receipt of a bonus on management approval. In other words, management could decide to adjust the bonus amounts, eligibility criteria, or even cancel a bonus program entirely for any given year. In that case, the bonus program would not be recurring and normal, or meet the known and measurable criteria for including in rates. Changing or cancelling bonus programs certainly casts doubts on the benefits of the program to customers.

Q. What does staff mean regarding the programs being at management discretion?

A. The program documents provided to staff state that management can modify or discontinue a bonus program. Staff's concern is that management can revise or eliminate bonus programs in order to affect earnings.

Q. Would staff have an issue if this language was removed and the bonus programs were permanent?

A. Staff would have fewer issues with the bonus programs if the language was removed. However, staff would also question why the bonuses were not regular wages.

Q. What does staff mean regarding the management approval is necessary to earn bonuses?

A. Mr. Gingrich states that "employees are eligible to earn recognition in the form of Safety Culture Incentive Pay for each *pre-planned, approved,* and intentional action they complete."[31] In order for an employee to qualify for the bonus, they would need management's approval to earn the bonus. This allows management to determine who will be allowed to qualify for the bonus, and potentially favor certain employees over others.

Q. Does staff have other concerns with the bonus programs?

A. Yes. Staff has concerns that rate-year employees will earn the bonuses granted. This can be evidenced by the data provided by the Tooty scores. To qualify for the incentive/bonus pay, employees must receive scores of [redacted]. To qualify for the team bonus, the Monthly Average Team Score must be [redacted].[32] The data provided by Olympic shows the Tooty average team scores fell through 2023, dropping from [redacted] in Q1, 2023, to [redacted] in Q3, 2023.[33] The data was provided

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[31] Gingrich, Exh. MG-1T at 10:13-15 (emphasis added).
[32] Wonderlick, Exh. JW-21C.
[33] Sharbono, Exh. BS-6.

in aggregate, so specific employee scores cannot be reviewed, but the average score falling indicates fewer personnel received bonuses in the later part of the year. This concerns staff since the bonuses are built into rates whether employees receive them or not, in which instance employees are not earning the bonuses, the shareholders receive the benefit instead.

D. Employee Community Activities

Q. What is the company's requested expense in account 70095, Employee Comm (Community) Activity?

A. The company's income statement shows that it included [redacted] in expense in account 70095.

Q. What types of expenses are booked in the Employee Community Activity account?

A. The Employee Community Activity account includes transactions for activities such as [redacted]

Q. What was staff's adjustment?

A. Staff removed [redacted]. Staff left expenses related to employee tool procurement coded to this account.

Q. Why did staff remove the Employee Community Activity expense?

A. Staff contests the necessity and prudence of the company's Employee Community Activity account, which includes parties, tickets to sporting events and comedy clubs, food, meals with employees, and other employee appreciation expenses.[34] As these activities are to "increase camaraderie and foster satisfaction and commitment,"[35] the costs should be borne by shareholders. Olympic can readily provide the services without incurring these costs, and thus those costs are inappropriate for rate inclusion under RCW 81.04.250(2), which states that "the commission… may consider… [t]he public need for adequate transportation... *service at the lowest level of charges* consistent with the provision, maintenance, and renewal of … service" (emphasis added).

E. Food

Q. What is the company's requested expense in accounts 70206, Travel Meals?

A. The company's initial request in account 70206 is the inclusion of [redacted] for meals provided to company personnel.

Q. What do these expenses involve?

A. These expenses include food for employees provided by the company. The company provided food for employees during travel, training, and company meetings. In

[34] Sharbono, Exh. BS-7C.
[35] Wonderlick, Exh. JW-1T at 31:21.

several instances, food was provided to employees who traveled from and returned to their domicile on the same workday.[36]

Q. What was staff's recommended adjustment?

A. After reviewing the information provided by the company, staff contests the inclusion of [redacted] in account 70206.

Q. Why does staff contest these expenses?

A. Staff contests the necessity and prudence of the company providing meals to employees for work travel at ratepayer expense where the person would have normally been expected to provide their own meals. RCW 81.04.250(2) states, "service at the lowest level of charges" When travelling for business purposes providing meals may be necessary, such as overnight or multiday travel in which an employee is unable to access normally available self-provision, *e.g.*, trips qualifying for per diem. However, the company's costs include multiple instances of providing meals to employees who are traveling from and returning to their home on the same day or providing meals for meetings and other activities.

Q. Why does staff disagree with including meals in rates?

A. Staff specifically disagrees with the inclusion meals that are provided at managements discretion which employees would normally have been expected to

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[36] Sharbono, Exh. BS-9C.

provide during their shifts being included in rates. Meals for meetings, sit-downs with employees, employee on-the-job reviews, and other activities where management decides to provide food should not be a ratepayer expense. Management can choose to increase, decrease, or eliminate the meals. Those decisions would not affect the company's requirement to provide service to ratepayers. As such, the costs are unnecessary to the provision of services, and should not be allowed in rates.

Q. How does Murrey's justify its request for recovery of travel meal costs?

A. In Mr. Gingrich's testimony, he states "Travel meals… are meals provided when employees are away from their operations base… making it difficult to safely or conveniently store food…. This could be out of town travel for a long day."[37]

Q. Does Staff accept that rationale?

A. Staff does not. Employees would normally have to procure or bring their own meal, at their own expense, and the relevant meals should be no more difficult to manage than during a normal day at their operations base. In this instance, it may be more convenient, or to entice workers to aid other operations, but it is not necessary to provide as employees could bring their normal meal.

Q. How does Murrey's justify its request to recover the costs of training meals?

[37] Gingrich, Exh. MG-1T at 15:10.

A. Mr. Gingrich states, "Training meals… [are] purchased to accompany important training presentations … group meals foster teamwork and camaraderie."[38]

Q. Does Staff accept that argument?

A. No. The company is required to provide service, which requires the training of its personnel. However, for onsite or local training, employees can provide their own meals as they would be required to on a normal day and would be able to dine together without costing ratepayers. As such the costs should be borne by shareholders.

Q. How does Murrey's justify its request for rate recovery of coaching meal costs?

A. Mr. Gingrich states, "Coaching meals: Supervisors and employees often find it easier to break through communications issues or solve work problems when sharing a meal."

Q. Does Staff find that explanation meritorious?

A. No. Employees and supervisors would normally need to provide their own meal for the day and can eat together, which would add no additional ratepayer costs. The cost should be borne by shareholders.

Q. On what basis does Murrey's seek recovery of celebration meals?

[38] Gingrich, Exh. MG-1T at 15:20-21.

A. The fourth category Mr. Gingrich identified is "Celebration meals", which he states are "presented in the form of an all-employee BBQ, celebrate an achievement,… encourage recognition and acknowledgement of accomplishments."[39] Some of these activities are similar to activities in account 70095, Employee Community Activity, which I discuss above.

Q. Does Staff find any merit in that claim?

A. No. Like other meals, staff contends the company providing a celebration meal, for a birthday, a goal met, or for team building, has little or no impact on customer services and the company should not recover those costs from ratepayers.

F. Safety Events

Q. What is the company's requested expense in account 70330, Safety Events?

A. The company request included [redacted] for a Safety Rodeo.

Q. What does that expense represent?

A. The Safety Events account covers the cost of the company's "Safety Rodeo."[40] The event allows exceptionally safe drivers to join a competition where they show their skill in multiple areas of providing safe operations.

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[39] Gingrich, Exh. MG-16 at 16:1-3.

[40] Gingrich, Exh. MG-1T at 18.

Q. What was staff's adjustment?

A. Staff removed [redacted].

Q. Why did staff remove the expense?

A. Again, RCW 81.04.250(2) states "service at the lowest level of charges consistent with the provision, maintenance, and renewal of… service." This is a program offered for employees who show they are exceptionally safe to compete with others to demonstrate skills. It may provide benefits to employees motivated by competition to perform better. However, the company is required to provide ratepayers with adequate and safe service with or without this event and, as such, this should be a shareholder burden.

G. Stranded Asset

Q. What is the company's requested expense in accounts 91010, Sale of Asset?

A. The company requested to amortize [redacted] over a period of three years, equaling [redacted] in annual revenue.

Q. What underlies Murrey's request to amortize that expense?

A. This expense covers an engineering report prepared for the company while investigating installation of a transfer station at a company facility. However, the project was discontinued.

Q. What is staff's recommended adjustment?

A. Staff recommends the commission not allow the [redacted] in its entirety.

Q. Why did staff remove the sale of asset expense?

A. The expense represents a stranded asset that is not used or useful, and customers will not benefit from unless the company is able to use the report in a future project. If the report is used in a future asset, it would become part of that asset's costs and would be handled through depreciation of that asset. As it stands, the cost of the report should not be included in customer rates, as it has no relation to services provided by the company nor provides benefit to customers.

H. Legal Fees

Q. What amount did the company include in account 70235, Legal?

A. The company includes [redacted] in legal expenses.

Q. What amount does staff contest?

A. Staff contests the inclusion of [redacted] of amortized legal expenses for planning and advising on a transfer station that was not being built. Staff also contests the inclusion of [redacted] of amortized defense costs related to the company's mill hauls case.

Q. Why does staff contest the legal expenses for the planning and advising related to a transfer station?

A. Per Data Request No. 7, the company stated, "The Hillis firm assisted throughout this period in evaluating, advocating, and negotiating with the existing facility owner (Port Angeles) and advising Murrey's on the overall strategy in consideration of constructing a new transfer station in the Port Angeles/Clallam County area that would potentially offer significant savings~~,~~ on disposal fees for regulated customers. This work was in conjunction with goals set forth in the county comprehensive solid waste management plan in considering a new transfer station in eastern Clallam County. While the project has to date not been initiated, much of the legal work and advice performed by Hillis is pertinent to solid waste planning now and in the future in the County."[41]

According to the company's own statement, this facility has not been constructed. Furthermore, as discussed above in Section IV.G, the transfer station project was discontinued. The costs related to the transfer station are for a stranded asset and not used or useful to ratepayers. Therefore, those costs are not properly attributable to ratepayers or recoverable through rates, and should not be included in rates.

Q. Why does staff contest the legal expenses for the mill hauls case?

A. Staff contests the inclusion of out of test period defense costs related to the mill hauls dockets because the company did not request or receive commission permission to

[41] Sharbono, Exh. BS-10C.

defer the costs into a future rates case. Staff reviewed the orders and did not find language that would allow the carrying of the costs to a future period or allow the company to recover the costs through surcharge or general rates. Staff has, accordingly, removed non-test period costs.

~~II~~I. Fuel Expense

Q. What is the company's requested expense in account 52142, Fuel Expense?

A. Initially the company, after restating and pro forma adjustments, included [redacted] in fuel expenses.

Q. What was staff's adjustment?

A. Staff adjusted the fuel expense was based on data through the end of October 2023 in the amount of [redacted].

Q. Why did staff adjust the fuel expense?

A. Per WAC 480-70-346, Fuel expense is required to be updated to the most recent 12-month period of actual cost. This account will need to be revised as this formal process progresses.

~~I.~~ J. Division Overhead

Q. Does staff have concerns with the company's divisional overhead expenses?

A. Yes. The parent company allocates division overhead expenses to Olympic, including expenses that staff recommends the Commission disallow. The costs staff recommends disallowing consists of indirect charges to the company for activities that are not allowable, or staff recommends are disallowed, into rates directly. Staff reasons that if a cost is not allowable directly, it logically cannot be allowable indirectly. The company has agreed to this adjustment.[42]

Q. What divisional overhead accounts should be excluded from being allowed in rates?

A. The following accounts from the division overhead allocation should be excluded:

70036 Other Bonus/Commission - Non-Safety
70105 Employee Relocation
70195 Dues and Subscriptions
70200 Travel
70201 Entertainment
70202 Excursions Meetings
70203 Lodging
70205 Travel - Auto
70206 Meals

[42] Wonderlick, Exh. JW-6C.

70207 Meals with Customers

70225 Advertising and Promotions

70336 Coffee Bar

~~J.~~K. Corporate Overhead

Q. Does staff have concerns with the company's corporate overhead expenses?

A. Yes. Like the divisional overhead, the company's parent company allocates corporate overhead expenses to Olympic, including expenses that staff recommends the Commission disallow. The costs staff recommends disallowing are indirect charges to the company for activities that are not allowable, or staff recommends are disallowed, into rates directly. Staff repeats that if a cost is not allowable directly, it logically cannot be allowable indirectly. The company has agreed to this adjustment.[43]

Q. What corporate overhead accounts should be excluded from being allowed in rates?

A. The following accounts from the division overhead allocation should be excluded:

[43] Wonderlick, Exh. JW-6C.

56037 Termination Pay

70037 Termination Pay

70106 Corporate Office Relocation

70195 Dues and Subscriptions

70200 Travel

70202 Excursions Meetings

70203 Lodging

70205 Travel - Auto

70206 Meals

70273 Directors and Officers Insurance

~~K.~~L. Other Adjustments

Q. What adjustments did staff and the company agree upon that staff still supports?

A. Staff recommends the commission adopt the adjustments that staff and the company do not contest.

56036-Other Bonus/Commission - Non-Safety	[redacted]
70105-Relocation	[redacted]
70195-Dues & Subscriptions	[redacted]
70230-External Recruiting Fee	[redacted]
57324-Penalties	[redacted]
70335- Miscellaneous	[redacted]

70225-Advertising [redacted]

70050-Payroll Taxes [redacted]

Q. Does this conclude your testimony?

A. Yes.