BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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| WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION Complainant, v.WASTE CONTROL, INC. Respondent. | DOCKET TG-140560STAFF’S RESPONSE TO WASTE CONTROL INC.’S MOTION TO ALLOW TEMPORARY RATES SUBJECT TO REFUND AT THE PROPOSED SETTLEMENT LEVEL FILED IN OCTOBER 2014 |

1. **INTRODUCTION**
2. Washington Utilities and Transportation Commission Staff (“Staff”) files the following, limited response to Waste Control, Inc.’s (“Waste Control” or “Company”) recent motion seeking temporary rate relief.
3. **STAFF’S POSITION ON ADDITIONAL TEMPORARY RATES**
4. **Staff does not object to the Company’s proposal**
5. Staff has been unable to find precedential authority supporting or refuting what the Company clearly acknowledges as a unique request. Given the lack of precedent and Staff’s obligation to prepare for the upcoming hearing and briefing in the above-referenced case, Staff has no substantive argument for or against Waste Control’s motion for temporary rates.
6. **If the Commission grants the Company’s request for temporary rates, the Commission should employ Staff’s proposed rate design**
7. Should the Commission allow the Company’s request, Staff recommends the Commission set additional interim temporary rates subject to refund on the basis of Staff’s recommended rate design. For ease of reference, Staff’s Attachment A1 to this response reflects an updated version of Staff’s previously-filed rate design spreadsheet, Exhibit MC-12.[[1]](#footnote-2) Attachment A1 reflects Staff’s proposed rate design methodology in Staff’s testimony MC-11T filed on August 15, 2014, the adjusted revenue requirement based on the Parties’ proposed settlement,[[2]](#footnote-3) and Staff’s response to Bench Request No. 1. Specifically, Staff’s Attachment A1 reflects a $339,912 revenue deficiency (i.e. additional annual revenue), and assigns $317,649 to regulated operations with the remaining $22,264 assigned to non-regulated Kalama operations.
8. Staff disagrees with Waste Control’s rate design[[3]](#footnote-4) for the following reasons:
9. The Company’s “Price Out” worksheet utilizes unsupported adjusted customer counts for each line of service (which are different from the actual customer counts used by Staff and provided by the Company in Exhibit JD-11, worksheet “WP-8 – Cust Count (x per wk)”).
10. The Company’s proposed rates generate approximately $15,000 more additional annual revenue than Staff’s recommended revenue deficiency.
11. The Company’s “Price Out” worksheet proposes rates for non-regulated Kalama operations which are not included in this proceeding.
12. The Company’s “Rate design” worksheet uses two separate calculated increase percentages to increase rates instead of increasing all rates by the same calculated increase percentage.
13. The Company’s “Rate design” worksheet includes proposed rates for Toutle hauls and rents that are not already included in Tariff 14 or suspended Tariff 15.
14. **STAFF CANNOT CONFIRM THE COMPANY’S CLAIMS**

**REGARDING UNION BANK LOAN COVENANTS**

1. The Company argues that its declining financial position requires a request for additional temporary rate relief. Specifically, Waste Control’s motion and the accompanying declaration of Ms. Jacqueline Davis state that an affiliated entity, Heirborne Investments I (“HBI”), is in violation of loan covenants due to the current financial position of Waste Control.
2. Staff cannot weigh in on the Company’s claims regarding the violation in terms in affiliates’ loan covenants. The Company has not identified the specific, relevant loan covenants and supporting details. Thus, Staff cannot provide analysis or a recommendation regarding the covenants’ requirements and whether Waste Control has forced other affiliated entities into violation of creditor terms and conditions.
3. **THE COMPANY’S MOTION DEMONSTRATES THE CLOSE TIES BETWEEN WASTE CONTROL AND ITS AFFILIATES**
4. Although indifferent to the Company’s present motion, Staff does want to point out that Waste Control’s proposal further supports Staff’s fundamental argument that the Company and its various affiliates are inextricably intertwined.[[4]](#footnote-5) The Company’s motion and the Declaration of Jackie Davis expressly state that HBI is out of compliance with loan covenants because of Waste Control’s purported financial position. Due to the inherent possibility of cross subsidies between entities with common management that also secure and collateralize loans for one another, the Commission should look very closely to ensure common costs are fairly allocated and affiliate transactions support regulatory accounting principles.
5. **CONCLUSION**
6. Staff does not object to the Company’s motion requesting interim temporary rates subject to refund. Staff does not, however, support the Company’s proposed rates. If the Commission allows the Company’s motion, Staff recommends the Commission set temporary rates subject to refund on the basis of Staff’s recommended rate design rather than Waste Control’s. Staff cannot provide any analysis or recommendation on the Company’s declaration regarding being out of compliance with loan covenants.

DATED this \_\_\_\_\_ day of February 2015.

 Respectfully submitted,

ROBERT W. FERGUSON

Attorney General

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1. *WUTC v. Waste Control, Inc.*, Docket TG-140560, Supplemental Testimony of Melissa Cheesman (for rate design), Exhibit No. MC-11T and Exhibit No. MC-12, August 15, 2014. [↑](#footnote-ref-2)
2. *WUTC v. Waste Control, Inc.*, Docket TG-140560, Partial Settlement Agreement (proposed), October 14, 2014; *see also* Testimony of Melissa Cheesman in Support of Proposed Partial Settlement Agreement, October 14, 2014. [↑](#footnote-ref-3)
3. Staff is unclear as to whether the Company has officially proposed a rate design with its motion for additional temporary rates. Waste Control does not appear to have filed a proposal with the Commission’s Records Center but did email a rate design spreadsheet to Staff counsel and the Administrative Law Judge included as file “WCI Operations for temp rate increase incl design 021315.xlsx”, on worksheets “Rate design”, Price Out”, and “Summary Price Out”. Staff’s disagreement refers to the spreadsheet file provided to Staff’s counsel and the ALJ. [↑](#footnote-ref-4)
4. *See* *WUTC v. Waste Control, Inc*., Docket TG-140560, Testimony of Melissa Cheesman, Exhibit No. MC-1T, pp 6-7, July 18, 2014; *see also WUTC v. Waste Control, Inc.*, Docket TG-140560, Prefiled Testimony of Joe Willis, Exhibit No. JW-1T, April 4, 2014. [↑](#footnote-ref-5)