

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

MURREY'S DISPOSAL CO., INC., Complainant, v. WASTE MGMT. OF WASH., INC., WASTE MGMT. DISPOSAL SERVICES OF OR., AND MJ TRUCKING & CONTRACTING, Respondents.	DOCKETS TG-200650 and TG-200651 (<i>Consolidated</i>) ORDER 01 CONSOLIDATING DOCKETS; DENYING REQUEST TO FILE REPLY
MURREY'S DISPOSAL CO., INC., Complainant, v. WASTE MGMT. OF WASH., INC., WASTE MGMT. DISPOSAL SERVICES OF OR., AND DANIEL ANDERSON TRUCKING AND EXCAVATION, LLC, Respondents.	and NOTICE OF VIRTUAL HEARING ON MOTION TO DISMISS (set for September 11, 2020, at 10:30 a.m.)

BACKGROUND

1 On July 15, 2020, Murrey's Disposal Company, Inc. (Murrey's Disposal or Company), filed with the Washington Utilities and Transportation Commission (Commission) two separate complaints, the first in Docket TG-200650 against Waste Management of Washington, Inc. (WMW), Waste Management Disposal Services of Oregon, Inc. (WMDSO), and MJ Trucking & Contracting, Inc. (MJ Trucking), and the second in

Docket TG-200651 against WMW, WMDSO, and Daniel Anderson Trucking and Excavation, LLC (DAT) (collectively, Respondents), asking the Commission to order WMW, WMDSO, MJ Trucking, and DAT to cease and desist from engaging in the collection and transportation of solid waste without a certificate of public convenience and necessity from the Commission, and to find that certain intermodal motor carrier transportation services offered by WMW or WMDSO are not preempted by 49 C.F.R. § 1090.2.

- 2 On August 4, 2020, Respondents filed with the Commission an Answer to the Complaint and a Motion to Dismiss pursuant to WAC 480-07-380(1) (Motion) in each docket.
- 3 On August 6, 2020, the Commission issued a Notice of Opportunity to Respond requiring any party intending to file a response to Respondents' Motion to file a written response by August 20, 2020.
- 4 On August 20, 2020, Murrey's Disposal filed with the Commission a Response to the Motion in each docket.
- 5 On August 24, 2020, Respondents filed with the Commission a Motion for Leave to File a Reply to Murrey's Disposal's Response.¹ That same day, Murrey's Disposal filed with the Commission a Response in Opposition to Respondents' Motion for Leave to File a Reply.
- 6 Administrative Law Judge Andrew J. O'Connell, from the Commission's Administrative Law Division, will preside during these proceedings.²

DISCUSSION AND DECISION

- 7 Pursuant to WAC 480-07-320, the Commission may act on its own motion to consolidate matters for hearing. In this instance, the Commission determines that the facts and principles of law in Dockets TG-200650 and TG-200651 are related and that consolidation will allow the Commission, as well as the parties, to direct resources more efficiently.

¹ Due to the Commission's closure on August 21, 2020, Respondents' filing was therefore received on August 24, 2020.

² Judge O'Connell can be reached at andrew.j.oconnell@utc.wa.gov or (360) 878-0578.

8 Based on its review of the both Respondents' and Complainant's arguments, the Commission has several detailed legal questions for both parties, the answers to which will assist the Commission with reaching a decision on Respondents' Motion. The Commission determines that a virtual hearing on the Motion is necessary for its resolution.

9 **THE COMMISSION GIVES NOTICE That it will hold a virtual hearing on Respondents' Motion to Dismiss at 10:30 a.m. on September 11, 2020.**

10 The Commission conducts virtual hearings using the Microsoft Teams software. To attend the September 11, 2020, hearing via Microsoft Teams, please use the following link: https://teams.microsoft.com/l/meetup-join/19%3ameeting_OWU2OTJiNTUtZDFmYy00NDM3LTgwZjAtNWUwYzI5MmJlOUIz%40thread.v2/0?context=%7b%22Tid%22%3a%2211d0e217-264e-400a-8ba0-57dcc127d72d%22%2c%22Oid%22%3a%22e087eca4-4cd8-416f-8fc0-53ed60dbc833%22%7d. Attorneys, and attorneys only, should turn on their video for the duration of the virtual hearing, but should keep their microphones muted unless recognized by the bench. To attend the hearing via telephone, please call (253) 372-2181 and enter the conference ID: 214 937 546#.

11 During the hearing, the Commission will afford Respondents and Complainants 15 minutes each to present their arguments. Respondents, as the movant, will present first and may reserve some of their time for rebuttal. If the oral presentations by the parties fail to resolve the Commission's legal questions, each side's time for argument will be supplemented with the time necessary to answer any of the Commission's remaining questions. Each party is encouraged to prepare a list of any legal citations it will reference in its presentation (without written argument or narration) and submit that list to the presiding administrative law judge via email at the conclusion of the virtual hearing.

12 The Commission finds that a written reply by Respondents to Murrey's Disposal's response is unnecessary and duplicative in light of the Commission's determination to hear oral arguments from both Respondents and the Complainant. Accordingly, the Commission determines that Respondents' Motion for Leave to File a Reply should be denied.

ORDER

THE COMMISSION ORDERS THAT:

- 13 (1) Dockets TG-200650 and TG-200651 are consolidated.
- 14 (2) Respondents' Motion for Leave to File a Reply to Complainant's Response is denied.

DATED at Lacey, Washington, and effective August 27, 2020.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ *Andrew J. O'Connell*
ANDREW J. O'CONNELL
Administrative Law Judge

NOTICE TO PARTIES: This is an Interlocutory Order of the Commission. Administrative review may be available through a petition for review, filed within 10 days of the service of this Order pursuant to *WAC 480-07-810*.