

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

MURREY'S DISPOSAL COMPANY,)	
INC., G-9)	
)	DOCKET NO. TG -030673
Complainant,)	
)	ORDER NO. 03
v.)	
)	ORDER APPROVING AND
WASTE MANAGEMENT OF)	ADOPTING SETTLEMENT
WASHINGTON, INC., G-237)	AGREEMENT, AND DISMISSING
)	COMPLAINT
Respondent.)	
.....)	

SYNOPSIS: *The Commission approves and adopts a settlement agreement that adjusts the service territories of Murrey's Disposal Company, Inc., and Waste Management of Washington, Inc. in a manner consistent with the public interest.*

SUMMARY

1 **PROCEEDINGS:** On May 9, 2003, Murrey's Disposal Company, Inc. (Complainant) filed a complaint with the Commission against Waste Management of Washington, Inc. (Respondent). The Complainant requests the Commission revise a portion of Certificate of Public Convenience and Necessity No. G-237 held by the Respondent on the grounds that the Respondent has failed to operate as a regulated solid waste collection company in the certificated area at issue in Clallam County during the 12 months prior to the filing date of the complaint. The parties now propose that the Commission accept their unopposed settlement agreement, as described and memorialized by various documents filed in this docket, as a full and final resolution of the Complaint.

2 **PARTIES:** David W. Wiley, Williams, Kastner & Gibbs, PLLC, Seattle, Washington, represents Complainant Murrey's Disposal, Inc. Polly L. McNeill, Summit Law Group, Seattle, Washington, represents Waste Management of Washington, Inc. (Waste Management). James K. Sells, Ryan Sells Uptegraft, Inc., P.S., Silverdale, Washington, represents WRRRA. Mary Tennyson, Senior Assistant Attorney General, Olympia, Washington, represents the Commission's regulatory staff (Commission Staff or Staff).

3 **WAIVER OF INITIAL DECISION:** Murrey's Disposal and Waste Management filed their respective waivers of Initial Decision on November 4, 2003, and November 7, 2003, pursuant to RCW 34.05.050.

4 **COMMISSION:** The Commission approves and adopts the proposed settlement submitted by Murrey's Disposal and Waste Management as a full and final resolution of the issues pending in this proceeding and dismisses the Complaint.

MEMORANDUM

5 Murrey's Disposal holds WUTC Certificate of Public Convenience and Necessity No. G-9. CPCN No. G-9, among other things, authorizes Murrey's Disposal to provide solid waste collection services in certain areas of Clallam County, Washington. Waste Management, under CPCN No. G-237, is authorized to provide service in areas of Clallam County that overlap, in part, with the areas Murrey's Disposal is authorized to serve.

6 Murrey's Disposal filed a Complaint against Waste Management on May 9, 2003, alleging that Waste Management had failed to operate as a regulated solid waste collection company in a certain certificated area in Clallam County during the 12 months prior to the filing date of the Complaint. Murrey's Disposal requested the Commission to enter an order revising a portion of Certificate of Public Convenience and Necessity No. G-237 held by Waste Management.

7 The Commission convened a duly noticed prehearing conference in Olympia, Washington, on July 1, 2003, before Administrative Law Judge Dennis J. Moss. The Commission granted a continuance on September 4, 2003, in response to the principal parties' request that they be given an opportunity to negotiate a settlement to resolve the pending issues. Waste Management informed the Commission, by letter filed on October 21, 2003, that Waste Management and Murrey's Disposal had succeeded in negotiating a settlement agreement. According to the letter: "The key aspect of [the] proposed settlement is that Waste Management of Washington, Inc. has agreed to relinquish the portion of its authority that overlaps Murrey's Disposal Company."

8 Specifically, as related in a letter to the Commission from Mr. James W. DeSoer, Vice President Waste Management of Washington, Inc., filed on November 7, 2003, the territory that Waste Management agrees to relinquish is described as follows:

SOLID WASTE COLLECTION SERVICE in Clallam County EXCLUDING the following described territory: Starting with the intersection of the south line of T. 30 N, R. 15 W., and the shore line of the Pacific Ocean, thence northerly along said shore line to Cape Flattery, thence easterly along the shore line of the Strait of Juan de Fuca to the east line of T. 31 N., R. 10 W., thence south on said line projected to the south line of said township, thence west to the south line of said township projected to the east line of T. 30 N, R. 15 W., thence south on said line projected to the south line of said township, thence west on the south line of said township projected to the shore line of the Pacific Ocean, the place of beginning.

RUBBISH COLLECTION SERVICE not requiring the use of a dump truck in those portions of Jefferson and Clallam Counties currently contained in Certificate G-237.

9 Commission Staff supports the proposed settlement and assisted the parties by filing with the Commission on October 30, 2003, a revised description of Waste Management's permit authority, in legislative format, that would effect the settlement terms upon Commission approval. Staff also filed a letter on November 3, 2003, stating that: "It is Staff's view that this proposed resolution is in the public interest."

10 On November 6, 2003, Mr. Eric Merrill, Region Vice President for Murrey's Disposal, filed a letter describing the parties' agreement that Waste Management will voluntarily relinquish that portion of Certificate No. G-237 that was the subject of the Complaint, and that Murrey's Disposal will assume service to all affected customers. Mr. Merrill states "the parties have agreed to work together to implement a transition in coordinated fashion to avoid any disruption in service for affected customers." Mr. Merrill states further that this resolution serves the public interest by resolving this matter promptly, without the necessity for further litigation, while ensuring no disruption in customer service.

11 On, Waste Management, November 7, 2003, Mr. James W. DeSoer, Vice President, Waste Management of Washington, Inc., filed a letter confirming the parties' agreement. Mr. DeSoer states that the parties have agreed to work together to implement a transition for customers in a coordinated fashion that will minimize disruption to customers, including notice to the approximately 40 to 50 commercial customers who will be affected. Mr. DeSoer states further that:

This means of addressing the matters raised in the complaint is fully consistent with the public interest in that it eliminates the costs and expense of pursuing litigation, as well as the continued uncertainties to both the regulated companies and their customers in the area.

12 On November 5, 2003, WRRRA filed a letter stating that it does not oppose the proposed settlement, and the organization's belief that "this resolution is in the best interest of the parties, the industry and the public."

FINDINGS OF FACT

- 13 (1) Murrey's Disposal Company, Inc., holds WUTC Certificate of Public Convenience and Necessity No. G-9, which, among other things, authorizes the company to provide solid waste collection services in portions of Clallam County, as described in its Certificate.
- 14 (2) Waste Management of Washington, Inc., holds WUTC Certificate of Public Convenience and Necessity No. G-237, which, among other things, authorizes the company to provide solid waste collection services in portions of Clallam County, as described in its Certificate. Waste Management's authorized service territory in Clallam County overlaps, in part, the service territory that Murrey's Disposal is authorized to serve.
- 15 (3) The parties' dispute concerning whether Waste Management has failed to provide solid waste collection service or has refused or otherwise been unable to serve potential customers in the overlapping service territory in Clallam County can be resolved in the public interest by Waste Management's voluntary relinquishment of authority to serve in the subject territory, as proposed by Waste Management and Murrey's Disposal via their proposed settlement in this proceeding.

CONCLUSIONS OF LAW

- 16 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and parties, to these proceedings. *Title 81 RCW.*
- 17 (2) The Commission should approve and adopt the unopposed settlement proposed in this proceeding by Waste Management and Murrey's Disposal as a full and final resolution of the pending issues that is in the public interest.
- 18 (3) WUTC Certificate of Public Convenience and Necessity No. G-237 should be modified by revising the description of Waste Management's permit authority in accordance with the parties' agreement, as described in the body of this Order and as documented in the attachment to Staff's letter filing in this proceeding on October 30, 2003.

ORDER

THE COMMISSION ORDERS THAT:

- 19 (1) The settlement agreement proposed by Waste Management and Murrey's Disposal is approved and adopted as a reasonable resolution of the contested issues in this proceeding.
- 20 (2) WUTC Certificate of Public Convenience and Necessity No. G-237 shall be amended in accordance with the terms of this Order. Certificate No. G-237, as amended by this Order, will become effective at 12:01 a.m. on the day following the Commission's receipt of waivers from all parties of their right to petition for reconsideration or rehearing of this Order, or, if sooner, the eleventh day following the service date of this Order, if no

party files a petition for rehearing or reconsideration by 5:00 p.m. the preceding day.

- 21 (3) The Complaint filed in this proceeding by Murrey's Disposal Company, Inc., on May 9, 2003, is dismissed.
- 22 (4) The Commission retains jurisdiction over the subject matter and the parties to effectuate the terms of this Order.

DATED at Olympia, Washington, and effective this 13th day of November 2003.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner

NOTICE TO PARTIES: This is a final order of the Commission with respect to certain issues resolved. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-09-810, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-09-820(1).