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BEFORE THE WASHINGTON STATE.

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UTILITIES AND TRANSPORTATION COMMISSION

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WASHINGTON UTILITIES AND TRANSPORTATION)
COMMISSION,)

5

Complainant,)

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vs.) Docket TG-130502

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AMERICAN DISPOSAL COMPANY, INC. (G-87),)

8

Respondent.)

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PREHEARING CONFERENCE, VOLUME I

11

Pages 1-18

12

ADMINISTRATIVE LAW JUDGE MARGUERITE E. FRIEDLANDER

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10:00 A.M.

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MAY 20, 2013

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Washington Utilities and Transportation Commission
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A P P E A R A N C E S

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OLYMPIA, WASHINGTON, MAY 20, 2013

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10:00 A.M.

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P R O C E E D I N G S

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JUDGE FRIEDLANDER: Okay. This prehearing will come to order.

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It is May 20, 2013, approximately ten a.m., at the offices of the Washington Utilities and Transportation Commission. The Commission has set for prehearing at this time and place the tariff filings of Murrey's Disposal Company, Inc., and American Disposal Company, Inc., Dockets TG-130501 and TG-130502, respectively.

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I am Administrative Law Judge Marguerite Friedlander, and I have been assigned to these matters, specifically Murrey's Disposal, a solid waste company, has filed revised tariff sheets that if approved, would provide for a revenue increase of approximately 1.2 million.

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American Disposal, also a solid waste company, has likewise filed revised tariff sheets that if approved, would provide a revenue increase of approximately \$1 million. Both companies have filed petitions for exemption from the WAC 480-07-520(4), the work paper inclusion requirements for solid waste rate case filings.

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At this time I'll take appearances. I'll note for the record that the parties present have either filed a notice

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1 of appearance or otherwise provided their contact information to
2 the Commission, so I don't feel the need for full appearances
3 today. You can just do the short form, and that would be fine.

4 Starting with Murrey's Disposal and American
5 Disposal?

6 MR. WILEY: Yes. Good morning, Your Honor. Dave
7 Wiley for the Respondents Murrey's Disposal Company and American
8 Disposal.

9 JUDGE FRIEDLANDER: Thank you. And appearing today
10 on behalf of Staff?

11 MR. SMITH: Your Honor, my name is Steven W. Smith,
12 Assistant Attorney General.

13 JUDGE FRIEDLANDER: Thank you.

14 Is there anyone on the conference bridge or in the
15 hearing room today who wishes to also make an appearance?

16 Hearing nothing, I have also received no petitions
17 for intervention. If someone would like to make an oral
18 petition at this time, then now would be the appropriate time to
19 do so.

20 Hearing nothing, I would like to discuss whether or
21 not the parties have considered consolidating these matters, or
22 whether or not we're intending on operating on two different
23 schedules.

24 MR. SMITH: Your Honor, Staff has no objection to
25 consolidation.

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1 JUDGE FRIEDLANDER: Okay.

2 And, Mr. Wiley?

3 MR. WILEY: Your Honor, I think consolidation would
4 be wise for administrative convenience alone.

5 JUDGE FRIEDLANDER: Okay. And is there any
6 objection? Obviously, there are no other parties, so I'm going
7 to go ahead and consolidate those in the prehearing conference
8 order.

9 I do want to note this is the time where I would
10 normally say that we have the ability to utilize a protective
11 order. In this case, we do not, so let's go on to discovery.

12 The case involves suspension of tariffs involving
13 rates, so the discovery rules are automatically available to the
14 parties.

15 And let's go into discussions of a procedural
16 schedule. Off the record, the parties indicated they have not
17 had a chance to confer with each other on a proposed schedule,
18 so is this the time that we want to break so the parties can
19 discuss that?

20 MR. WILEY: Yes, Your Honor. One prior
21 clarification. This is the first time -- and I understand that
22 your office certainly has taken the view, but I have not been in
23 a case where protective orders now are not allowed.

24 Would you just state for the record the view as to
25 why they're not allowed, please?

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1 JUDGE FRIEDLANDER: Certainly.

2 Mr. WILEY: Yeah.

3 JUDGE FRIEDLANDER: Under RCW Title 80, they are
4 allowed. They are specifically referenced, and the Commission
5 has certainly over the years entered protective orders in the
6 utility cases.

7 However, transportation cases under Title 81, there
8 is no provision allowing the Commission to grant or enter a
9 protective order, and so it is the policy of the Commission to
10 not do so.

11 MR. WILEY: I just would note that we have had
12 protective orders in transportation cases, and so I just wanted
13 that on the record.

14 JUDGE FRIEDLANDER: Sure. And I know that there has
15 been a history dating back to -- I don't know exactly when, but
16 certain ALJs have entered protective orders in transportation
17 cases. However, in the Commission's current policy, that just
18 is not an option.

19 MR. WILEY: I think this will also tie in with some
20 of the confidentiality concerns that we have in this docket that
21 we do want to bring forward. We do have procedural issues
22 related to that issue, so...

23 JUDGE FRIEDLANDER: Certainly.

24 So if the parties are willing, I think now would be
25 the appropriate time to go off the record so that you may

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1 discuss a potential procedural schedule.

2 And hearing nothing, we'll be off the record. Thank
3 you.

4 (Discussion off the record.)

5 JUDGE FRIEDLANDER: We'll go back on the record.

6 Have the parties reached a proposed procedural
7 schedule?

8 MR. SMITH: Yes, we have, Your Honor.

9 JUDGE FRIEDLANDER: Okay. And, Mr. Smith, would you
10 like to recite that for the record?

11 MR. SMITH: I will, and ask Mr. Wiley to chime in if
12 I have stated something incorrectly.

13 May 24th, the Company will file its direct case with
14 the Staff. Staff will complete its audit of that filing by June
15 14th.

16 JUDGE FRIEDLANDER: Okay. Let me stop you.

17 When you say that the Company will file the direct
18 case --

19 MR. WILEY: This the issue, yeah.

20 MR. SMITH: Yeah.

21 JUDGE FRIEDLANDER: Yeah. You're not talking
22 testimony, you're talking work papers --

23 MR. SMITH: Correct.

24 JUDGE FRIEDLANDER: -- and the like?

25 MR. SMITH: Correct.

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1 JUDGE FRIEDLANDER: Okay. So is the Company actually
2 filing it so that this is a public record?

3 MR. WILEY: Yes. That's -- Your Honor, we were even
4 interchanging in that two seconds ago.

5 What I understand we are going to do is except for
6 the transmittal letter, the tariff pages, and the customer
7 notice, which are all suspended, we are going to refile our
8 accounting stuff that we file. And then the Staff has asked
9 that all the data requests and all the supporting documents to
10 their data requests be put into the case in chief, which is
11 going to require some JumpDrives, as I understand, because it's
12 quite voluminous, and we're going to convert that and get it
13 FedExed, at least, by Friday, we hope, so...

14 JUDGE FRIEDLANDER: So when you say the "case in
15 chief," you mean the record?

16 MR. WILEY: The record that's been developed to date,
17 correct.

18 JUDGE FRIEDLANDER: Okay. And so this will all be
19 available online to anyone who wishes to see it?

20 MR. WILEY: Yeah. We are not providing -- there's a
21 couple issues that could be still contested --

22 JUDGE FRIEDLANDER: Right.

23 MR. WILEY: -- that won't come in --

24 JUDGE FRIEDLANDER: Sure.

25 MR. WILEY: -- attorneys' fee invoices, for instance.

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1 JUDGE FRIEDLANDER: Okay.

2 MR. WILEY: But other than that, I think all the
3 documents are agreed to.

4 JUDGE FRIEDLANDER: Okay.

5 MR. WILEY: Unless I'm wrong, right?

6 Is there something that I have missed? Okay.

7 I have to check with them during this, if you don't
8 mind.

9 JUDGE FRIEDLANDER: Sure. No, I don't mind at all.

10 MR. WILEY: Because they know what's been in the
11 record, and I don't.

12 JUDGE FRIEDLANDER: Right. My question then becomes
13 my understanding is typically in these cases, Staff would
14 receive this information, and it would not become a filing;
15 meaning, this is not something that gets distributed to all
16 parties on the distribution -- or all persons within the
17 Commission on the distribution list. In other words, I don't
18 see it.

19 Am I now getting this stuff? I usually don't see it
20 until it becomes an exhibit at hearing, because we don't get
21 data requests that are transmitted between the parties.

22 MR. WILEY: That's one of our issues, yeah.

23 JUDGE FRIEDLANDER: We don't get any of that stuff.

24 MR. SMITH: Mm-hm.

25 JUDGE FRIEDLANDER: And I prefer it that way, because

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1 this is not stuff that I need to look at until and in the case
2 it gets admitted into the record.

3 MR. SMITH: I think that's correct, Your Honor.

4 As to your not receiving it, I'm not sure how it gets
5 distributed in the Commission, but until it's part of the
6 record, it's not part of the record.

7 JUDGE FRIEDLANDER: Right. Right. Well, there's --
8 right. And there's two different records. There is the public
9 record, and then there's the evidentiary record. It becomes a
10 public record as soon as it's filed, so I believe data requests
11 are actually -- I don't know if this is the workaround that got
12 developed, but I thought they were submitted where they're
13 transmitted between the parties and the Records Center stays out
14 of it.

15 But, again, that's done on your side of the building
16 as opposed to on my side, and I really don't know how that
17 works. I just know that if something does get filed, I get it,
18 so -- and I don't have to be included on courtesy e-mails or
19 anything.

20 MR. WILEY: I'll let them talk because that was an
21 issue.

22 JUDGE FRIEDLANDER: Sure. Sure.

23 (Pause in the proceedings.)

24 JUDGE FRIEDLANDER: And I don't mean to interrupt,
25 but I may be able to move it along a little bit -- move us along

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1 a little bit in the respect that since I don't see this stuff,
2 you guys can work out when you give the information or when you
3 exchange it amongst yourselves, whenever you choose to do so,
4 and I won't put any of that information in the prehearing
5 conference order because it's not actually given to the
6 Commission.

7 So really what I was wondering about is you had
8 mentioned status conferences. I don't know if you want to
9 schedule a hearing yet, but -- you know, the dates where the
10 Commission itself will be getting involved, so we could put
11 those on the record. I can go back, do the prehearing
12 conference order, and then if there are some discovery issues,
13 you can always bring those to me at another time.

14 Will that work?

15 MR. WILEY: Yeah. I mean, the only thing that's a
16 little ironic is the first deadline coming up appears to be the
17 one that we're most unclear about what we should be doing.

18 JUDGE FRIEDLANDER: I see.

19 MR. WILEY: Meaning, the May 24th deadline.

20 JUDGE FRIEDLANDER: Right.

21 MR. WILEY: I think everything else is pretty clear.

22 JUDGE FRIEDLANDER: Okay. And when you say you're
23 unclear about what you need to do --

24 MR. WILEY: Right.

25 JUDGE FRIEDLANDER: -- from a standpoint of

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1 exchanging information?

2 MR. WILEY: Yes, Your Honor, to the extent that we
3 have in conventional solid waste rate cases, file all of our
4 accounting stuff and then filed responses to Staff data requests
5 that they have, and there's an issue about what we should have
6 to do now to put in your record.

7 We are going to address prefiled testimony dates
8 separately, which would be normally coming in, as you know, in
9 an opening case by the Company. We don't -- we're not doing
10 that now, and we don't think we have to, unless we know there
11 are contested issues, so...

12 JUDGE FRIEDLANDER: Okay. So as far as the confusion
13 about what you have to do with regards to the May 24th --

14 MR. WILEY: Right.

15 JUDGE FRIEDLANDER: -- date, are you specifically
16 wondering whether or not you have to file the information, or is
17 there something else that's causing concern?

18 MR. WILEY: Yeah. I mean, you have raised the
19 concern that I had under the rule about data request responses.
20 The Staff seems to want all of the those in the record, right,
21 Steve?

22 MR. SMITH: I think I agree with Your Honor that what
23 we need now is to set the prefiled testimony dates, the status
24 conference date, the Staff's prefiled testimony date, and a
25 hearing date.

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1 MR. WILEY: Right.

2 MR. SMITH: And I think the other stuff is best
3 hammered out --

4 JUDGE FRIEDLANDER: Sure.

5 MR. SMITH: -- off the record.

6 JUDGE FRIEDLANDER: Sure.

7 MR. WILEY: Although we might have to call you if
8 I...

9 JUDGE FRIEDLANDER: That's fine. That's fine.

10 And I guess I'm working off my understanding gained
11 from other cases that I have worked on, and like I said, my
12 understanding is that I have never gotten data requests.

13 MR. WILEY: Right.

14 JUDGE FRIEDLANDER: I don't mind taking the
15 information received, the responses, during the hearing, or if
16 they are exhibits attached to prefiled testimony, but I'm a
17 little leery of doing so and having it in the record when it may
18 or may not enter the evidentiary record.

19 So, you know, that stuff, like as Mr. Smith
20 indicated, can be worked out amongst the parties. If there's a
21 disagreement or any kind of confusion, you can feel free to
22 contact me, and we'll discuss it.

23 MR. WILEY: Okay. Fair enough.

24 JUDGE FRIEDLANDER: And so what were the other
25 procedural dates?

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1 MR. SMITH: Okay. Your Honor, the Company would
2 prefile its testimony exhibits on June 21st, and that would be
3 subject to extension, if the parties could agree. And we
4 realize we've fast tracked this, so it may be necessary.

5 Staff would file its responsive testimony and
6 exhibits on June 28th, again, subject to extension, if agreeable
7 to the parties.

8 We would propose a subsequent scheduling conference
9 on July 12th, just to plug it in there and see if we need it,
10 and we may.

11 JUDGE FRIEDLANDER: Mm-hm.

12 MR. SMITH: And then, if necessary, we would have the
13 hearing on August 14th.

14 MR. WILEY: Just to clarify, the prefilings are --
15 we're working with two vacations schedules, meaning,
16 Mr. Eckhardt's and mine, that don't overlap at all, and that
17 would be we would prefile on the remaining contested issues.
18 And we have agreed between ourselves to work out to request
19 extensions if the contested issues are so voluminous or numerous
20 that we need more time, but we're hoping, in the interest of
21 expediting this, that we can stay on that time schedule.

22 JUDGE FRIEDLANDER: Understood. That's fine. Thank
23 you.

24 And the August 14th date, I am not seeing anything on
25 the Commission's schedule. I don't know if that's been checked

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1 or not, but there's nothing on my schedule or the Commission's
2 that would indicate that would be unacceptable.

3 Are we anticipating posthearing briefs at all?

4 MR. SMITH: If...

5 MR. WILEY: If it goes to hearing, yes.

6 MR. SMITH: Yeah. If it goes to hearing, we would.

7 MR. WILEY: Yes.

8 JUDGE FRIEDLANDER: Okay. Okay.

9 MR. SMITH: Yeah. It doesn't lend itself, I don't
10 think, to oral --

11 MR. WILEY: No.

12 MR. SMITH: -- oral argument, so, yes.

13 JUDGE FRIEDLANDER: Sure. Do we want to plug in a
14 date, then, just as a placeholder, or do you want to --

15 MR. WILEY: Talk about that --

16 JUDGE FRIEDLANDER: -- talk about that at the
17 hearing --

18 MR. WILEY: -- at status conference.

19 JUDGE FRIEDLANDER: -- or at the status conference?

20 MR. WILEY: Status conference, I think.

21 JUDGE FRIEDLANDER: That's fine.

22 MR. WILEY: Yeah.

23 JUDGE FRIEDLANDER: That's fine.

24 Okay. Were there any other procedural issues or
25 questions addressed to that procedural schedule that I need to

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1 talk about? I guess I should say that we'll need an original
2 and seven for filing requirements.

3 And also I have a couple of questions. I noted that
4 we went off the record a couple of times, and I've been working
5 kind of haphazardly on the prehearing conference order right
6 now. And I have noticed two different things. The first is the
7 parties did not provide the Commission with fax numbers. I'm
8 perfectly fine with that. I don't know a lot of people that
9 still use fax for service; however, I need to get on the record
10 that the parties have waived any kind of exchange of documents
11 through fax, and then I won't even put a category in the
12 prehearing conference order for that.

13 MR. WILEY: We would.

14 MR. SMITH: Likewise.

15 JUDGE FRIEDLANDER: Okay. Thank you.

16 Mr. Wiley?

17 MR. WILEY: Yes. The electronic issue does --
18 original and seven brought up another issue, which is I would
19 have no objection to electronic filings by five o'clock in this.
20 And particularly on these shortened time periods, I think we're
21 going to need the extra two hours from three.

22 JUDGE FRIEDLANDER: Sure.

23 MR. WILEY: So if we could file and serve, meaning,
24 electronically by five p.m., each of our cases?

25 MR. SMITH: That would be agreeable to Staff, yeah.

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1 JUDGE FRIEDLANDER: Okay. Okay. I don't have a
2 problem with that either.

3 So the last item I have is I have seen both
4 companies' names spelled two different ways. One has Company
5 spelled completely out, and the other is C-o, period.

6 Just for continuity's sake, we have it in the caption
7 as Company, yet the tariffs read C-o.

8 MR. WILEY: The formal certificate name, I think, has
9 Company spelled out, which is why we've captioned it that way,
10 but...

11 JUDGE FRIEDLANDER: Okay. Okay. That's fine.
12 That's fine, then. I just wanted to make sure I have it
13 correct.

14 MR. WILEY: Yeah. That's a good point, though.

15 JUDGE FRIEDLANDER: Okay. Is there anything else
16 before we adjourn?

17 MR. SMITH: No.

18 JUDGE FRIEDLANDER: All right. Hearing nothing, I
19 will get the prehearing conference order out shortly, and we are
20 adjourned. Thank you.

21 MR. SMITH: Thank you, Your Honor.

22 MR. WILEY: Thank you. I appreciate your patience.

23 JUDGE FRIEDLANDER: Thank you.

24 (Proceeding concluded at 12:35 p.m.)

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C E R T I F I C A T E

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3 STATE OF WASHINGTON)

) ss

4 COUNTY OF KING)

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6 I, SHELBY KAY K. FUKUSHIMA, a Certified Shorthand Reporter
7 and Notary Public in and for the State of Washington, do hereby
8 certify that the foregoing transcript is true and accurate to
9 the best of my knowledge, skill and ability.

10 IN WITNESS WHEREOF, I have hereunto set my hand and seal
11 this 31st day of May, 2013.

12

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SHELBY KAY K. FUKUSHIMA, CCR

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16 My commission expires:

June 29, 2013

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