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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

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COMMISSION

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|                                   |                      |
|-----------------------------------|----------------------|
| In re Application TG-091259 of )  |                      |
| WEST WASTE & RECYCLING, INC., )   | DOCKET NO. TG-091019 |
| For an Extension of Certificate ) | Volume II            |
| No. G-251 for a Certificate of )  | Pages 23 - 37        |
| Public Convenience and )          |                      |
| Necessity to Operate Motor )      |                      |
| Vehicles in Furnishing Solid )    |                      |
| Waste Collection Service. )       |                      |

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|                                    |                      |
|------------------------------------|----------------------|
| In re Application TG-091019 of )   |                      |
| MURREY'S DISPOSAL COMPANY, INC., ) |                      |
| d/b/a OLYMPIC DISPOSAL )           | DOCKET NO. TG-091019 |
| For an Extension of Certificate )  | Volume II            |
| No. G-9 for a Certificate of )     | Pages 23 - 37        |
| Public Convenience and )           |                      |
| Necessity to Operate Motor )       |                      |
| Vehicles in Furnishing Solid )     |                      |
| Waste Collection Service. )        |                      |

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14                   A prehearing conference in the above matter  
15 was held on February 22, 2010, at 11:08 a.m., at 1300  
16 South Evergreen Park Drive Southwest, Olympia,  
17 Washington, before Administrative Law Judge ADAM TOREM.

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The parties were present as follows:

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20                   WEST WASTE & RECYCLING, INC., by GEORGE  
KARGIANIS (via bridge line), Attorney at Law, 701 Fifth  
21 Avenue, Suite 4760, Seattle, Washington 98104;  
telephone, (206) 624-5370.

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23                   MURREY'S DISPOSAL COMPANY, by DAVID W.  
WILEY (via bridge line), Attorney at Law, Williams  
24 Kastner, 601 Union Street, Suite 4100, Seattle,  
Washington 98101; telephone, (206) 628-6600.

25

Kathryn T. Wilson, CCR

0024

1                    WASHINGTON REFUSE AND RECYCLING ASSOCIATION,  
2                    by JAMES K. SELLS (via bridge line), Attorney at Law,  
3                    Ryan, Sells, Uptegraft, 9657 Levin Road Northwest,  
                     Suite 240, Silverdale, Washington 98383; telephone,  
                     (360) 307-8860.

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1 P R O C E E D I N G S

2 JUDGE TOREM: Let's be on the record in  
3 Docket TG-091259, which is also consolidated with  
4 Docket TG-091019. These are two different  
5 applications, the first docket number pertaining to  
6 West Waste and Recycling, and the second pertaining to  
7 Murrey's Disposal Company. These are both regarding  
8 services in, I believe, portions of the Olympic  
9 National Park.

10 Today is Monday, February 22nd, 2010. It's  
11 a little after 11 o'clock in the morning, and we have  
12 two of the three parties represented on the line. We  
13 are having the status conference today in response to a  
14 request from the parties to suspend the procedural  
15 schedule and avoid a hearing that was scheduled for  
16 earlier this month, and by way of a notice dated  
17 January 27th, we did grant that request under the  
18 understanding we would have presentation today to the  
19 Commission on the ability to settle the case, have that  
20 given today.

21 So I'm going to ask Mr. Wiley and Mr. Sells  
22 to make their appearances, and Mr. Wiley, when you make  
23 yours, will you also state for the record  
24 Mr. Kargianis' whereabouts to the best of your ability.

25 MR. WILEY: Yes, Your Honor, Dave Wiley. The

0026

1 address I think is already in the record. I'm  
2 appearing today on behalf of applicant Murrey's  
3 Disposal Company, Inc., doing business as Olympic  
4 Disposal in Docket No. TG-091019, and as protestant in  
5 Docket TG-091259 of West Waste and Recycling, Inc.

6 I've also learned today, my office has  
7 contacted Mr. Kargianis' office. He is out of the  
8 office, but they are hoping to get him on the phone, on  
9 his cell phone probably, and onto the conference bridge  
10 line. If he is unable to appear, I'm fairly  
11 comfortable in representing the current status based on  
12 my discussion with him last week.

13 JUDGE TOREM: Thank you. Mr. Sells?

14 MR. SELLS: James Sells appearing on behalf  
15 of intervenor in the consolidated dockets Washington  
16 Refuse and Recycling Association. My information  
17 regarding address, phone number, etcetera is the same  
18 as it was at the initial hearing.

19 JUDGE TOREM: If Mr. Kargianis calls in, we  
20 will have him make his appearance formally at that  
21 time, but Mr. Wiley, I will take your representation  
22 based on our discussion with Mr. Kargianis about a  
23 month ago that you are working together to resolve the  
24 matter. So why don't you go ahead and present, sounds  
25 like it would be a joint status update.

0027

1           MR. WILEY: Yes, Your Honor, and as you hear  
2 this, you will probably think I'm the more appropriate  
3 person to make the representations because the status  
4 is our clients apparently have a meeting this  
5 afternoon.

6           The reason for some slight delay in the  
7 scheduling is that on my client's side, we've had a  
8 promotion and reshuffling, reporting responsibilities  
9 in the district, which includes Olympic Disposal, so we  
10 have a new person who is sort of the policy-making head  
11 of Olympic Disposal and district vice president as of  
12 around February 8th, so that caused some delay in  
13 addressing this issue, and I think now the transition  
14 is coming together and our clients, as I indicate, are  
15 having an afternoon meeting. There is Mr. Kargianis.

16           MR. KARGIANIS: Yes, Mr. Wiley and Judge, I  
17 apologize. I was out of range with my cell phone. I'm  
18 traveling back to the office. Do we have everybody on?

19           JUDGE TOREM: This is Judge Torem. If you  
20 will quickly state your appearance for your client --  
21 you are in Docket TG-091259 -- then we can be formally  
22 done with that.

23           MR. KARGIANIS: I'm George Kargianis, 47th  
24 Floor, Columbia Center, Seattle, 98104, appearing on  
25 behalf of petitioner.

0028

1           JUDGE TOREM: Mr. Wiley was just telling us  
2 about a meeting that was scheduled between your clients  
3 and his for this afternoon and explaining why it had  
4 taken a little bit of time to get that scheduled, so  
5 Mr. Wiley, why don't you pick up from there.

6           MR. WILEY: I was just explaining that we had  
7 some reshuffling in the management ranks of my client,  
8 and that has changed reporting responsibilities. That  
9 caused some transitional delays in a lot of pending  
10 issues. This is one of them. We now have a meeting  
11 scheduled today, and Your Honor, I was waiting for the  
12 results of that meeting before talking, for instance to  
13 the staff, Penny Ingraham, which I think I mentioned  
14 last time I wanted to speak with, and she just returned  
15 from leave, so I'm waiting on that, and Mr. Kargianis  
16 and I want to talk. I think we both remain consciously  
17 optimistic that things can be resolved.

18           One question that I had for Ms. Ingraham that  
19 I've talked briefly to staff about is the fact that in  
20 PID 17, this company already has the authority for the  
21 Olympic National Park, so I want to know how that  
22 relates to the common carrier application. So we've  
23 got some administrative issues that I want to follow up  
24 on, I think I've indicated, but I've held that until we  
25 have this meeting, and I think again that we should

0029

1 continue on the settlement discussion track. I know  
2 the Commission does not want things to twist  
3 indefinitely, but I think we are still making progress,  
4 and Mr. Kargianis can respond to that if he wants.

5 MR. KARGIANIS: Yes, Judge and Mr. Wiley, I  
6 did have an opportunity to converse with my client last  
7 week, and I recommended to him, and he's acting on my  
8 recommendation, that the two parties get together and  
9 resolve this matter. Apparently, there is a very small  
10 area of this subject matter that is controversial, and  
11 hopefully, the parties can work out with the assistance  
12 of counsel a settlement on this matter, which of course  
13 will be subject to approval by yourself and the  
14 Commission, but we felt that the better part of valor  
15 would be to work this matter out as opposed to taking  
16 administrative time, effort, and expense to resolve an  
17 issue that really should be worked out by the parties.  
18 So hopefully, a short continuance will enable us to  
19 accomplish that and the judge additional time on this  
20 issue.

21 MR. WILEY: Just one other thing. There  
22 isn't much revenue represented by this slipper of  
23 territory with one generator, that being the Olympic  
24 National Park. For all of our interests, we are trying  
25 to resolve this, Your Honor.

0030

1                   JUDGE TOREM: Let me hear from Mr. Sells as  
2 far as the intervenors are concerned, any interests or  
3 concerns.

4                   MR. SELLS: No, Your Honor. I've been made  
5 aware of the settlement negotiations, and it certainly  
6 appears to me that they should be able to reach  
7 agreement up there.

8                   JUDGE TOREM: The only concern I have,  
9 Mr. Wiley and Mr. Kargianis, is that this case came  
10 on -- the first order is dated back in mid September,  
11 and the prehearing conference order came out a month  
12 later setting this matter for hearing February 2nd, and  
13 some of your prefiled testimony and exhibits came in at  
14 the end of January simultaneous with your ideas that  
15 you could settle this matter rather than spend money on  
16 a hearing.

17                   So on January 27th, I sent out the notice  
18 suggesting we would have a status update, but it  
19 doesn't sound like anything material has occurred other  
20 than on the expected status update there is going to be  
21 a meeting.

22                   MR. WILEY: Your Honor, I think that's  
23 correct, but you didn't mention the witness from  
24 Olympic National Park who was very much unavailable in  
25 terms of talking to either side, I think, November to



0031

1 January.

2 JUDGE TOREM: Is that Ms. Fuller?

3 MR. WILEY: Yes. She was very difficult to  
4 reach. She was out of the office. She was involved in  
5 some emergency road projects in the park, and she's  
6 been very hard to communicate with, and I know that  
7 personally.

8 MR. KARGIANIS: Likewise, Your Honor, and  
9 knowing Mr. Wiley, and I've worked with him in the  
10 past, he isn't one to put things off, nor am I for that  
11 matter, but basically, dealing with the park has not  
12 been the easiest thing in the world, and they are a  
13 critical witness or a critical part of our application.

14 MR. WILEY: Your Honor, I haven't tried to  
15 reach her since we filed the testimony, but in that  
16 critical 60-day period, I have e-mail trails and phone  
17 records. It's been very difficult, so that's part of  
18 the delay, and I think the one bit of optimism I have  
19 is there is this meeting scheduled today, which I  
20 indicated was probably my client's delay because of the  
21 management change, but I think we are on it now, and I  
22 don't want the momentum to be lost if we can make use  
23 of it.

24 JUDGE TOREM: I certainly would not like your  
25 momentum to be lost, but we had momentum going to a

0032

1 hearing date February 2nd, and we are now three weeks  
2 past that as of tomorrow. How long in good faith will  
3 it take if the meeting today has just as much momentum,  
4 as you described, to reduce this almost ready to agree  
5 to writing and submit something with the appropriate  
6 affidavits?

7           You already have Ms. Fuller's testimony. I  
8 don't know if you would both need to obtain new  
9 testimony from her, but from your own clients, you have  
10 control over them and you have their motivation. How  
11 long will it take to reduce this to a written  
12 settlement or know that you can't?

13           MR. WILEY: I would think by the middle of  
14 next month.

15           JUDGE TOREM: Would you propose that based on  
16 the paper, I issue an order approving or denying or  
17 modifying that settlement, or do you want to have  
18 something in front of the commissioners?

19           MR. WILEY: No. I want to be reasonable.  
20 Because they are in the Olympic Peninsula, I want to  
21 make sure -- I don't know if we will have to be in  
22 meetings, Your Honor. That's why I don't want the  
23 trigger to be short, and I do think three weeks to a  
24 month isn't unreasonable under these circumstances, do  
25 you?

0033

1                   JUDGE TOREM: No. I think by a month from  
2 now having something in writing would be good. What I  
3 would like to do to make sure that you understand  
4 that's a solid date is put a hearing date two weeks  
5 after that that if I don't have a written settlement  
6 proposal, we will have a hearing on it, and your folks  
7 will have to come down to Olympia and come off the  
8 Peninsula. So I want to keep the momentum going with a  
9 little fire under the seats to make sure.

10                   MR. KARGIANIS: Makes sense to me, Your  
11 Honor. We have a continuance. We have a date certain.  
12 That will, as you say, put fire under their shoes and  
13 get this matter resolved, and regardless of what the  
14 reasons have been up to date, I think we've brought it  
15 to the point now where we can have a conclusion. My  
16 client is motivated, and I'm sure David's client is  
17 motivated, and the Association also feels the matter  
18 should be resolved in this fashion. So a continuation  
19 and a date certain for a hearing I think makes a lot of  
20 sense, and I would support that.

21                   MR. WILEY: I think that's reasonable too. I  
22 just want to point out, and I know Mr. Sells is out  
23 around the same time, the Easter week, which is the  
24 4th, I'm out the 31st of March through the 7th of  
25 April.

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1                   JUDGE TOREM: So it would sound as though we  
2 would want to get a written settlement in ahead of your  
3 departure.

4                   MR. WILEY: Yes.

5                   MR. KARGIANIS: Absolutely.

6                   JUDGE TOREM: Mr. Kargianis, do you have any  
7 concerns about that last full week of March submitting  
8 something in writing?

9                   MR. KARGIANIS: Not at all, Your Honor.

10                  JUDGE TOREM: Would it be better to have  
11 Friday, March 26th, or Monday the 29th as a submission  
12 date?

13                  MR. KARGIANIS: Monday the 29th.

14                  MR. WILEY: Monday the 29th.

15                  JUDGE TOREM: Mr. Sells, I don't know if you  
16 are planning on filing any supporting testimony. Would  
17 you be able to do that in conjunction with the parties?

18                  MR. SELLS: Yes. No problem there, Your  
19 Honor.

20                  MR. KARGIANIS: I want to point out Mr. Sells  
21 has been very cooperative in a resolution about this  
22 matter. In fact, I think once we made the suggestion,  
23 he was helpful in pushing this matter forward, and I  
24 appreciate it.

25                  JUDGE TOREM: Then what I will do is issue

0035

1 another notice scheduling March 29th as the filing date  
2 for this by five o'clock, and that in April then, the  
3 week of the 12th, I will look for when I have an  
4 available date, and I won't, based on your  
5 representations today, have anybody call to consult you  
6 for your availability, so speak now for the week of the  
7 12th as to which day you would prefer it not fall.

8 MR. KARGIANIS: We are fairly open.

9 MR. WILEY: So am I.

10 MR. KARGIANIS: We are pretty fine right now.

11 MR. WILEY: I think you've got carte blanche,  
12 Judge Torem.

13 JUDGE TOREM: I will check my other schedules  
14 the week of the 12th to the 16th of April.

15 MR. KARGIANIS: I think we are agreed, Your  
16 Honor. Maybe the best thing to do is just hang up and  
17 get rid of this advertisement, as you say.

18 MR. WILEY: What do you think, Judge Torem?

19 JUDGE TOREM: I'm going to push "1" so we can  
20 get to Mr. Kargianis.

21 MR. KARGIANIS: Why don't I get off the line,  
22 Your Honor. That might help the situation.

23 JUDGE TOREM: So let me reiterate. I'm going  
24 to issue a notice setting March 29th as a deadline, and  
25 if there is no submission by that date, then we will

0036

1 have a hearing the 12th to the 16th of April, and I  
2 will just set that to fit the needs of the rest of the  
3 schedule. I haven't heard anybody else say they are  
4 not available that week.

5           When you submit your settlement agreement,  
6 make sure it comes with any supporting testimony to  
7 create a record in this case. If there is a joint  
8 stipulation of facts that works in Ms. Fuller's  
9 testimony as well, that's fine. Those exhibits are  
10 already there. If you need supplemental affidavits  
11 from your clients, feel free to submit those as well,  
12 but please don't forget the Commission's rules on  
13 settlements that require a supporting narrative that  
14 explains how this works out to the benefit of both  
15 sides, and if there is anything you can submit from  
16 Ms. Ingraham as a joint exhibit indicating staff's  
17 position on the settlement, that will be helpful as  
18 well, but I would think you would have to get her a  
19 copy of the settlement at least a week in advance and  
20 sort out what her proposed affidavit might have.

21           MR. WILEY: Fair enough.

22           MR. KARGIANIS: David, you and I can sit down  
23 and work out a joint position if we can to facilitate  
24 this.

25           MR. WILEY: Yes.

0037

1 JUDGE TOREM: Anything else, gentlemen?

2 MR. KARGIANIS: No.

3 MR. WILEY: Nothing.

4 JUDGE TOREM: I appreciate the status update,  
5 and, Mr. Kargianis, I appreciate you getting on the  
6 call when you did.

7 MR. KARGIANIS: I apologize. I had to pull  
8 over to the side of the road to find a quiet place  
9 because the cell phones don't work in the car,  
10 particularly in the Olympic Peninsula.

11 JUDGE TOREM: At 11:23, we are adjourned.

12 (Status conference adjourned at 11:23 a.m.)

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