

0001

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

1
2
3
4
5
6
7
8

WASHINGTON UTILITIES AND TRANSPORTATION) Docket TG-131794
 COMMISSION,) Pages 1-12
)
 Complainant,)
 vs.)
 WASTE CONTROL, INC. (G-101),)
)
 Respondent.)

PREHEARING CONFERENCE, VOLUME I
Pages 1-12
ADMINISTRATIVE LAW JUDGE STEPHANY A. WATSON

9
10
11
12
13
14
15
16
17
18
19

10:05 A.M.
JANUARY 14, 2014
Washington Utilities and Transportation Commission
1300 South Evergreen Park Drive Southwest
Olympia, Washington 98504-7250

REPORTED BY: SHELBY KAY K. FUKUSHIMA, CCR #2028
Buell Realtime Reporting, LLC
1411 Fourth Avenue
Suite 820
Seattle, Washington 98101
206.287.9066 | Seattle
360.534.9066 | Olympia
800.846.6989 | National
www.buellrealtime.com

0002

1
2
3
4
5
6
7
8

A P P E A R A N C E S

ADMINISTRATIVE LAW JUDGE:
STEPHANY A. WATSON
Washington Utilities and
Transportation Commission
1300 South Evergreen Park Drive SW
P.O. Box 47250
Olympia, Washington 98504
360.664.1136

9
10

FOR WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION:
STEVEN W. SMITH
Assistant Attorney General
1400 South Evergreen Park Drive
Southwest

11 P.O. Box 40128
Olympia, Washington 98504
360.664.1225
12 ssmith@utc.wa.gov

13 FOR WASTE CONTROL, INC.:

14 DAVID W. WILEY
Williams, Kastner & Gibbs
601 Union Street
15 Suite 4100
Seattle, Washington 98101
16 206.233.2895
dwiley@williamskastner.com

17
18 FOR WASHINGTON REFUSE AND
RECYCLING ASSOCIATION:

19 JAMES K. SELLS
PMB 22
2110 Judson Street
20 Gig Harbor, Washington 98335
360.981.0168
21 jamesells@comcast.net

22 * * * * *
23 * * * * *
24 * * * * *

25
0003

1 OLYMPIA, WASHINGTON, JANUARY 14, 2014
2 10:05 A.M.
3 -o0o-
4

5 P R O C E E D I N G S
6

7 JUDGE WATSON: Good morning, everyone.

8 MR. WILEY: Good morning.

9 MR. SELLS: Good morning.

10 JUDGE WATSON: My name is Stephany Watson, and I'll
11 be the ALJ today for the matter of the Washington Utilities and
12 Transportation Commission v. Waste Control, Inc., which is
13 G-101, Docket No. TG-131794.

14 Before we get started, are there any matters that you
15 would like to take care of off the record?

16 MR. SMITH: Yes, Your Honor. We worked on a schedule
17 before this prehearing conference with Staff. But we chatted a
18 little bit this morning, and we think that we can -- off the
19 record we can wrap that piece up, but it'll have to be off the
20 record for that.

21 JUDGE WATSON: We will have to be off the record for
22 that because we need to just sort of do some discussion back and
23 forth?

24 MR. SMITH: Correct.

25 JUDGE WATSON: Okay. And so perhaps what we'll do is

0004

1 take appearances on the record, and then let's see if we can
2 talk through the schedule and memorialize it and the other
3 housekeeping details.

4 So may I please have you introduce yourself and give
5 me your contact information?

6 MR. WILEY: Hi, Your Honor. David Wiley, attorney
7 for Waste Control, Inc. 601 Union Street, Suite 4100, Seattle,
8 98101, appearing, as I said, on behalf of the Respondent, Waste
9 Control, Inc.

10 JUDGE WATSON: Thank you, Mr. Wiley.

11 MR. WILEY: Thank you.

12 MR. SMITH: Your Honor, Steven W. Smith, Assistant
13 Attorney General, for the Commission Staff. My mailing address
14 is P.O. Box 40128, Olympia, 89504.

15 MR. SELLS: Thank you. If Your Honor please, James
16 Sells, attorney, appearing on behalf of proposed Intervenor,
17 Washington Refuse & Recycling Association. Address: PMB 22,
18 3110 Judson, J-u-d-s-o-n, Street, Gig Harbor, 98335, and my
19 e-mail and phone number are on file with the Commission.

20 JUDGE WATSON: Do the parties have any objections to
21 the intervention?

22 MR. SMITH: No objection, Your Honor.

23 MR. WILEY: No objection, Your Honor.

24 JUDGE WATSON: And it seems to me that the
25 Association does have the interests that are similar or

0005

1 connected with the issues that are raised in this case, so the
2 petition will be granted.

3 MR. SELLS: Thank you, Your Honor.

4 JUDGE WATSON: We can go off the record now, if you'd
5 like, to discuss the schedule.

6 (Discussion off the record.)

7 JUDGE WATSON: Ladies and gentlemen, we are going to
8 go back on the record.

9 Counsel has met offline, so to speak off the record,
10 to discuss the schedule, I gather, and am hopeful has come up
11 with something.

12 I want to clarify a couple little things procedurally
13 in this case, and that is that there have actually been two
14 orders that have been issued in this case. The first one, Order
15 01, was denying the request of Waste Control for exemption from
16 WAC 480-07-520(4)(j), and the order that brings us here today,
17 the complaint and suspension, was issued on November 27th and
18 was also denominated as Order 01, but it should be Order 02, and
19 the order that I issued today will be Order 03. Pretty small
20 housekeeping matter.

21 So have the parties come up with a schedule?

22 MR. SMITH: Yes, we have, Your Honor. I guess the
23 only caveat is we haven't checked with Ms. Walker on the
24 availability of, well, you and the hearing room for the hearing
25 date.

0006

1 JUDGE WATSON: Right. It's always subject to that.
2 But to the extent that you've come up with something, we'll try
3 to accommodate it.

4 MR. SMITH: May I, Your Honor?

5 JUDGE WATSON: Would you like to go ahead?

6 MR. SMITH: Yes, Your Honor. The parties have agreed
7 to that the Company would prefile on February 14th, and this is
8 all, of course, 2014; Staff and Intervenors would prefile
9 responsive testimony on March 26th; and the Company would file
10 rebuttal testimony and the Staff and Intervenors would file
11 cross-testimony, if necessary, on April 14th; the hearing would
12 be May 13th; and simultaneous briefs on June 6th.

13 JUDGE WATSON: Mr. Wiley and Mr. Sells, is that
14 accurate?

15 MR. WILEY: Yes, Your Honor.

16 MR. SELLS: Yes, Your Honor.

17 JUDGE WATSON: Tell me about discovery.

18 Are the parties going to want to conduct discovery
19 according to the Commission's rules or informally or, you know,
20 everything and not at all?

21 MR. WILEY: As is the case with solid waste rate
22 cases, the parties have been engaged in informal data requests.
23 As a matter of fact, the Company, I am told today, has answered
24 approximately 90 individual data requests before this date.

25 We, of course, understand that the discovery rule is
0007

1 triggered under WAC 480-07-400(2)(b)(i) for this case. The
2 parties, during the scheduling interval, discussed the fact that
3 we would agree generally to five business days turnaround on
4 answers to data requests rather than -- the rule provided ten
5 days. That would be a reciprocal provision.

6 And, obviously, if the parties are in extremis amount
7 of answering that, they, hopefully, would work that out between
8 themselves, but that's what we have informally agreed to.

9 JUDGE WATSON: That sounds good.

10 MR. SMITH: Yeah. I agree, Your Honor.

11 JUDGE WATSON: You agree?

12 MR. SMITH: Yeah.

13 JUDGE WATSON: Mr. Sells?

14 MR. SELLS: Yes. As an Intervenor, Your Honor, we
15 try and go along with what the primary parties come up with
16 always.

17 JUDGE WATSON: We appreciate that.

18 MR. SELLS: Yeah. Thank you.

19 JUDGE WATSON: A couple of more things. I have --
20 and this will be in the order, but I just thought I'd tell you
21 that the filing requirements, the numbers for this case, will be
22 nine plus the original. And like I say, the order, of course,
23 will set forth all this stuff in detail.

24 MR. WILEY: Your Honor, could I ask on that?

25 Are we moving towards the rule revision number? I

0008

1 mean, is there a possibility we could cut that down to be
2 consistent with what is being discussed in the procedural rules?

3 JUDGE WATSON: I can discuss that with the Records
4 Center, but that's who I called to get the number nine.

5 MR. WILEY: Yeah. We're trying to save some trees
6 and some costs if we can.

7 JUDGE WATSON: I think that everybody wants to do
8 that.

9 MR. WILEY: Yeah.

10 JUDGE WATSON: And to that end, I want to point out
11 that the parties may agree, if they wish, to serve documents on
12 each other electronically. But if you do so, please put that in
13 writing and send it to the Commission so that's part of the
14 record.

15 I don't have anything else today.

16 Gentlemen, do you?

17 MR. WILEY: A couple things, Your Honor, for the
18 Respondent. First, we are very eager, and I know -- I've talked
19 during the break with Mr. Smith about our interest in narrowing
20 down the issues. I don't think the Staff's ready to do that
21 yet. The Company certainly is focused on the accounting issues
22 that are in dispute in terms of leading us to a suspended case
23 and an adjudication, so we would like to -- we hope that we'll
24 have some encouragement on distilling the issues and focusing
25 the case so that we don't have to file on issues that are

0009

1 already resolved. And there are issues that are tentatively
2 resolved now, and we would like to continue that.

3 The second matter that I discussed with Mr. Smith
4 that I just put on the record because we're in a suspension mode
5 here, and that is the Company intends to file to lift the
6 suspension for the purpose of allowing fuel surcharges to be
7 restarted for this Company. Of course, that's by the stay order
8 in the suspension. They are unable to do that. The Company is
9 losing money in this interval period despite the fact the
10 disposal fees have been granted subject to refund. And the
11 first item on trying to address that for us will be to seek the
12 Commission's approval to lift the suspension order for
13 allowing -- for allowance of monthly fuel surcharges during this
14 process.

15 JUDGE WATSON: Mr. Smith?

16 MR. SMITH: Your Honor, we have no comment on what
17 would be their petition to lift the fuel surcharge. We're
18 always happy to narrow the issues, but we're not prepared to do
19 so today.

20 JUDGE WATSON: I think that makes sense. It was
21 mostly an FYI, I think, from Mr. Wiley.

22 MR. WILEY: Right.

23 JUDGE WATSON: And we encourage you to settle or
24 narrow the issues as much as you can.

25 MR. WILEY: Your Honor, one final point that I meant

0010

1 to mention. I apologize. In the spirit of the movement that is
2 in the draft rules for the general rate case procedural rules,
3 we would ask that the Administrative Law Judge Division consider
4 a mediation date between what would probably be most
5 appropriate, the Staff case filing and the rebuttal or
6 cross-examination filing, squeezing in a half day in that
7 process. We're strongly in favor of alternative dispute
8 resolution, as I know the Commissioners are, and we would
9 propose that that become fairly routine.

10 We know it isn't right now, but we would ask that
11 Your Honor consider the possibility of assigning a date in that
12 interval and assigning a judge from your division. Obviously,
13 you have to work with Judge Kopta on that issue, but I just
14 raise it on the record now.

15 JUDGE WATSON: I appreciate that. That seems like a
16 good idea to me.

17 Mr. Smith?

18 MR. SMITH: Yes, Your Honor. We have no objection to
19 that and support that process.

20 JUDGE WATSON: So the interval that you're talking
21 about would be between March 26th and April 14?

22 MR. WILEY: I think that's the most appropriate time.
23 I don't know what prior parties have done. I believe that the
24 recent Waste Management case didn't get to the prehearing
25 conference stage, but did involve a mediation. But I think

0011

1 that's the most logical, because each side will have seen the
2 others formal cases by that point.

3 JUDGE WATSON: But at this time you're not giving me
4 a date or specifically requesting that, so I will look forward
5 to seeing some communication --

6 MR. WILEY: Sure.

7 JUDGE WATSON: -- with a date proposed and request
8 for a mediator.

9 All right. Anyone else have anything for the good of
10 the order?

11 MR. WILEY: No, Your Honor.

12 JUDGE WATSON: Okay. Thank you. We can go off the
13 record.

14 (Proceeding concluded at 10:34 a.m.)

15 -o0o-

16

17

18

19

20

21

22

23

24

25

0012

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

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

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 22nd day of January, 2014.

SHELBY KAY K. FUKUSHIMA, CCR

My commission expires:
June 29, 2017