

In the Matter of the Application of: PNW Composts, Inc.

Docket No. TG-230798 - Vol. I

November 30, 2023



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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Application of)
)
 PNW COMPOSTS, INC.,)
)
) Docket No. TG-230798
)
 For Authority to Operate as a Solid)
 Waste Collection Company in)
 Washington)
)

PREHEARING CONFERENCE - VIA ZOOM
BEFORE ADMINISTRATIVE LAW JUDGE BIJAN HUGHES
VOLUME I | PAGES 1-14

Washington Utilities and Transportation Commission
 621 Woodland Square Loop SE
 Lacey, Washington 98504

DATE: November 30, 2023
TRANSCRIBED BY: ELIZABETH PATTERSON HARVEY,
FAPR, RPR, WA CCR 2731

1 A P P E A R A N C E S:

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17 WASTE CONTROL, INC.:

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360-943-8859

ALSO PRESENT:

Elaina Young
Michael Young

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1 November 30, 2023 1:30 p.m.

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4 JUDGE HUGHES: Good afternoon. We're on the
5 record. The time is 1:31 p.m.

6 My name is Bijan Hughes, and I'm an
7 administrative law judge with the Washington Utilities
8 and Transportation Commission.

9 We're here today for a prehearing conference
10 in Docket TG-230798, which is captioned In the Matter of
11 the Application of PNW Composts, Inc. For Authority to
12 Operate as a Solid Waste Collection Company in
13 Washington.

14 Today I ask that we all try our best to speak
15 slowly, clearly, and most importantly, one at a time.
16 Let's not make the reporter's job any more difficult than
17 it needs to be.

18 Okay. So before we get into the nitty
19 gritty, let's start by taking appearances. PNW Compost,
20 will you give your names, address, and phone number,
21 please, for the record.

22 UNIDENTIFIED SPEAKER: Sorry. Can you hear
23 us?

24 JUDGE HUGHES: Can now, yes, sir.

25 UNIDENTIFIED SPEAKER: Great. This is Nathan
26 and Derek Scott.

1 DEREK SCOTT: I'm Derek Scott here.

2 JUDGE HUGHES: I would ask when you guys
3 speak through sharing to please just start every sentence
4 with your name for the reporter, all right?

5 And can we get your address, phone number,
6 and email, please.

7 DEREK SCOTT: Yes, this is Derek. It's --
8 email is PNWcompost@gmail.com. Address is 220 George
9 Taylor Road, Silver Lake, Washington, 98645.

10 Phone number is 503.975.6435.

11 JUDGE HUGHES: Okay. And then -- okay.
12 Staff?

13 ATTORNEY ROBERSON: Good afternoon, Judge
14 Hughes. My name is Jeff Roberson. I'm an AAG appearing
15 for commission staff. My contact information is on file
16 and in the notice of appearance.

17 And with me virtually at counsel table are
18 staff analysts Mike Young and Elaina Young, one, both of,
19 or neither of whom will provide staff's testimony in this
20 matter.

21 JUDGE HUGHES: Okay. Thank you.

22 Waste Connections of Washington, Waste Control
23 Inc.?

24 ATTORNEY WILEY: Hi, your Honor. Dave Wiley.
25 Welcome. My information, contact information, is on our
26 protest, but I will provide it for the court reporter

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1 right now.

2 Mr. Leake is my colleague also on the line.

3 Our law firm address is Suite 4100, Two Union
4 Square, Seattle, Washington, 98101. And my email address
5 is DWiley@wkg.com and Mr. Leake's is SLeake@wkg.com.

6 JUDGE HUGHES: Thank you.

7 And Washington Refuse and Recycling
8 Association?

9 ATTORNEY WHITTAKER: Thank you, Judge. This
10 is Rod Whittaker for the Washington Refuse and Recycling
11 Association, inhouse counsel. Our address is 4160 Sixth
12 Avenue SE, Suite 205, Lacey, Washington, 98053. Phone
13 number is 360.943.8859, and email is Rod@wrra.org.

14 JUDGE HUGHES: Okay. Thank you.

15 So I want to start our conference today by
16 checking in with the owners of PNW Composts, Nathan and
17 Derek Scott.

18 So because Waste Connections of Washington,
19 Inc. and Waste Control, Inc. filed protests to your
20 company's application, the commission set this matter for
21 adjudication. You will not have to write any testimony
22 or argument in support of your application today. But
23 this conference is a chance for us to clarify the issues
24 and discuss procedures in the case.

25 Since you're not represented by a lawyer, I
26 want to take a few minutes to check in with you before we

1 discuss the specific procedural issues, okay?

2 So PNW Composts, are you aware that you can
3 have a lawyer represent you before the commission?

4 UNIDENTIFIED SPEAKER: Yes, we are.

5 UNIDENTIFIED SPEAKER: I do.

6 JUDGE HUGHES: Very good. And have you
7 discussed the procedural schedule with the other lawyer
8 prior to this hearing? Seeing head shakes; is that
9 correct, sir?

10 UNIDENTIFIED SPEAKER: That is correct. I'm
11 sorry.

12 JUDGE HUGHES: Okay. Are you familiar with
13 the legal issue in the case?

14 UNIDENTIFIED SPEAKER: Not 100 percent, no.

15 JUDGE HUGHES: Okay. So I'll just -- I'm not
16 your attorney. I can't give you advice.

17 But under Washington state law, when we have
18 an objection to an application, we can only grant your
19 application if the existing companies are not providing
20 service to the satisfaction of the commission. So if you
21 have pen and paper, RCW 81.77.040 would be just a helpful
22 citation to know.

23 So okay. Let's get to the intervention. So
24 we have a petition for intervention that I'm aware that's
25 been filed. Are there any other petitions besides the
26 one by WRRRA? Nope.

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1 Seeing none, are there any objections to
2 WRRRA's petition to participate?

3 PNW Compost, I'm going to take your silence
4 as a no?

5 UNIDENTIFIED SPEAKER: No.

6 JUDGE HUGHES: Cool. Okay. Okay. So
7 hearing no objections, I find that WRRRA's intervention is
8 in the public interest, so I will be granting the
9 petition. The petition is granted. And I will address
10 it further in the prehearing conference order.

11 ATTORNEY WHITTAKER: Thank you, Judge Hughes.

12 JUDGE HUGHES: Yes.

13 Okay. So discovery, would parties like to
14 have the discovery rules available?

15 We'll start with the protester.

16 ATTORNEY WILEY: Your Honor, my feeling at
17 this juncture is that we would reserve a request for
18 discovery until after the direct case is filed.

19 And I may then motion for discovery. As you
20 know, in transportation application matters, discovery is
21 not automatic.

22 JUDGE HUGHES: Okay. So you'd like to
23 reserve it.

24 Staff, any thoughts?

25 ATTORNEY ROBERSON: Staff would like to see
26 the discovery tools available early. I think from

1 staff's perspective, if the parties can engage in
2 discovery, they can figure out if they have a chance of
3 settling the case before testimony's filing, which kind
4 of benefits all parties.

5 JUDGE HUGHES: Okay. And any thoughts from
6 the company, or from the applicant, rather?

7 UNIDENTIFIED SPEAKER: I would agree with
8 staff.

9 JUDGE HUGHES: Okay. Very good. Then I will
10 address that in the order.

11 So is there a desire for a protective
12 order?

13 UNIDENTIFIED SPEAKER: No.

14 ATTORNEY WILEY: Your Honor, I would think
15 yes, there are. And if we are going to order discovery
16 at this stage, the solid waste industry under Title 81.77
17 is protected in terms of confidentiality, and we would
18 like a protective order issued as a matter of course in
19 this matter.

20 JUDGE HUGHES: Okay. All right. So I will do
21 a standard protective order unless PNW, you said you
22 don't want a protective order or are you ambivalent?

23 Any arguments for or against?

24 UNIDENTIFIED SPEAKER: No arguments against
25 that, no.

26 JUDGE HUGHES: Okay. Very good.

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1 Okay. So I will have asked this earlier, if
2 we've had a chance to talk scheduling. And I believe
3 that was a no. So we can take a brief recess to allow
4 the parties time to discuss the schedule.

5 You have to schedule at least one settlement
6 conference. You're free to schedule as many as you want.
7 I think we're planning on having probably prefiled direct
8 or response testimony in this case.

9 So if I pop off, can you collectively figure
10 out a schedule, and then one of you call me or email when
11 it's been resolved?

12 ATTORNEY ROBERSON: I'll make sure one of the
13 staff members texts you on Teams.

14 JUDGE HUGHES: Very good. Very good. So I
15 will pop off, and we will be going off the record, then,
16 and take a brief recess.

17 (Recess.)

18 JUDGE HUGHES: Back on the record. It is
19 1:46. So do we have a schedule?

20 ATTORNEY ROBERSON: We have an agreed
21 schedule amongst the parties. I guess it remains to be
22 seen whether it works for you and the commission. But
23 I'm happy to list out some dates.

24 JUDGE HUGHES: Hit me, please.

25 ATTORNEY ROBERSON: So starting with the
26 first relevant date, the settlement conference would be

1 February 7, 2024.

2 JUDGE HUGHES: Okay.

3 ATTORNEY ROBERSON: Applicant's opening
4 testimony would be due February 21, 2024.

5 JUDGE HUGHES: Okay.

6 ATTORNEY ROBERSON: Response testimony would
7 be due March 27, 2024.

8 JUDGE HUGHES: Okay.

9 ATTORNEY ROBERSON: Rebuttal and
10 cross-answering testimony would be due April 10, 2024.

11 JUDGE HUGHES: Okay.

12 ATTORNEY ROBERSON: The discovery cutoff
13 would be April 24, 2024.

14 JUDGE HUGHES: Okay.

15 ATTORNEY ROBERSON: Exhibit list, witness
16 list, cross exhibits and cross-examination time estimates
17 would be due May 1, 2024.

18 JUDGE HUGHES: Okay.

19 ATTORNEY ROBERSON: The merits hearing would
20 be May 8, 2024.

21 JUDGE HUGHES: Okay. Very good.

22 ATTORNEY ROBERSON: The opening brief would
23 be due June 5, 2024.

24 And then reply briefs would be due June 19,
25 2024. And I would imagine that that is a subject we can
26 revisit at the hearing if necessary.

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1 JUDGE HUGHES: Okay. Sounds fair enough.
2 Thank you for settling that. I will check my calendar,
3 and if this works for us at the commission, we will issue
4 it. Otherwise, I can reach out to modify dates.

5 Okay. Let's move on. Okay. The parties --
6 No. We covered that.

7 Okay. Some boilerplate: So electronic
8 filing, I want to remind the parties that documents
9 should be filed online through the electronic filing link
10 on the commission's web page.

11 If the parties intend to submit exhibits,
12 there will be requirements for filing exhibits and an
13 exhibit list in advance of the hearing, which will also
14 be done only electronically. I (inaudible) a prehearing
15 order with the details on this topic.

16 Also, the commission's rules provide for
17 electronic service of documents. The commission will
18 serve the parties electronically and the parties will
19 serve each other electronically.

20 If you have any corrections or updates to our
21 master service list in this docket, please file a written
22 notice of appearance or email me at
23 Bijan.Hughes@utc.wa.gov.

24 If any parties would like a designated lead
25 representative for service, please do so via email to me
26 as soon as possible. My email is

1 Bijan.Hughes@utc.wa.gov.

2 Also, if anyone would like to add names and
3 email addresses of other representatives or support staff
4 who should receive electronic courtesy copies of all
5 documents filed in this proceeding, please email me about
6 that as well.

7 Did the schedule discuss errata sheets? I
8 forget if that was mentioned. No. Okay. So under WAC
9 480-07-460(1)(b), the deadline for filing errata sheets
10 to exhibits may be established at the prehearing
11 conference order.

12 Does anyone have an objection to setting a
13 deadline a week prior to the evidentiary hearing, so it
14 would be May 1?

15 ATTORNEY ROBERSON: No objection from staff.

16 ATTORNEY WILEY: No objection from
17 protesting.

18 UNIDENTIFIED SPEAKER: No objection.

19 JUDGE HUGHES: Thank you.

20 All right. So hearing none, we will
21 incorporate that date on the prehearing conference order.

22 Okay. Is there anything else anyone thinks
23 that we need to address today?

24 ATTORNEY WILEY: Your Honor, Dave Wiley.
25 Just one point, which for our newcomer applicant at
26 least, discovery should -- answers and questions should

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1 not be served on the judge. Just wanted to underscore
2 that. That has come up in past proceedings.

3 JUDGE HUGHES: Thank you. Thank you for
4 adding that.

5 Okay. Is there anything else?

6 Okay. Hearing nothing, I will be issuing an
7 order shortly containing the procedural schedule and the
8 other guidelines for the disposition of this case.

9 So it is 1:51 p.m. We are adjourned. Thank
10 you.

11 (Proceedings concluded at 1:51 p.m.)

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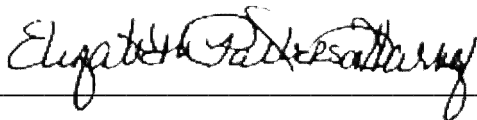
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C E R T I F I C A T E

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2
3 STATE OF WASHINGTON)
4)
5 COUNTY OF KING)

6 I, the undersigned, do hereby certify under penalty
7 of perjury that the foregoing recorded statements, hearings,
8 and/or interviews were transcribed under my direction as a
9 Washington Certified Court Reporter; that the transcript is
10 true and accurate to the best of my ability, that I am not an
11 employee or relative of any attorney or counsel employed by
12 the parties hereto, nor financially interested in its outcome.

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 11th day of December, 2023.

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17 
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19 Elizabeth Patterson Harvey, WA CCR 2731
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