

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant

v.

WASTE MANAGEMENT OF
WASHINGTON, INC., d/b/a WASTE
MANAGEMENT – NORTHWEST,

Respondent.

.....
WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant

v.

WASTE MANAGEMENT OF
WASHINGTON, INC, d/b/a WASTE
MANAGEMENT – SNO-KING,

Respondent.

.....
WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

WASTE MANAGEMENT OF
WASHINGTON, INC., d/b/a WASTE
MANAGEMENT – SOUTH SOUND,
WASTE MANAGEMENT OF SEATTLE,

Respondent.

DOCKETS TG-101220, TG-101221
and TG-101222 (consolidated)

JOINT NARRATIVE
SUPPORTING PARTIAL
SETTLEMENT AGREEMENT

I. INTRODUCTION

1 Pursuant to WAC 480-70-351, WAC 480-07-730(2), and WAC 480-07-740(2), the parties jointly request the Washington Utilities and Transportation Commission (“Commission”) to approve the partial settlement in these consolidated dockets, as set forth in the *Stipulation and Partial Settlement Agreement* filed with this Joint Narrative. Specifically, the parties request that the Commission:

- A. Lift the tariff suspension ordered by the Commission on November 24, 2010 in each of these consolidated dockets;¹ and
- B. Approve on a permanent basis an adjustment to the 2010-2011 Commodity Credit to include the full amount of unexpended revenue (\$212,168) for the three respondent companies from the 2009-2010 period, calculated for ratepayer credits over the 6-month period from March 1, 2011 to August 31, 2011. The proposed revised tariff pages for the three companies are attached to the *Stipulation and Partial Settlement Agreement* as Attachments A, B and C.

2 In support of this request, the parties submit the joint narrative below.² Each party offers to present the following witnesses to testify in support of the Agreement and answer questions, should the Commission desire:³

Mike Weinstein: Witness for Waste Management of Washington, Inc., d/b/a Waste

¹ *Wash. Utils. & Transp. Comm’n v. Waste Mgmt. of Wash., Inc.*, Docket TG-101220, [Order 02](#) ¶ 17 (Wash. Utils. & Transp. Comm’n, Nov. 24, 2010); *Wash. Utils. & Transp. Comm’n v. Waste Mgmt. of Wash., Inc.*, Docket TG-101221, [Order 02](#) ¶ 17 (Wash. Utils. & Transp. Comm’n, Nov. 24, 2010); *Wash. Utils. & Transp. Comm’n v. Waste Mgmt. of Wash., Inc.*, Docket TG-101222, [Order 02](#) ¶ 17 (Wash. Utils. & Transp. Comm’n, Nov. 24, 2010).

² See [WAC 480-07-740\(2\)\(a\)](#).

³ See [WAC 480-07-740\(2\)\(b\)](#).

Management – Northwest; Waste Management of Washington, Inc., d/b/a
Waste Management – Sno-King; and Waste Management of Washington,
Inc., d/b/a Waste Management – South Sound, Waste Management of Seattle

Gene Eckhardt: Witness for Commission Staff

3 The parties do not expect to file additional documents supporting the Partial
Settlement at this time, but they are willing to provide additional documents should the
Commission desire.

II. BACKGROUND

4 Between June 13, 2002 and June 9, 2010, RCW 81.77.185 directed the Commission
to allow solid waste collection companies to retain up to thirty percent of the revenue they
received from the sale of recyclable materials, if certain conditions were met.⁴ The
remaining revenue was to be passed to residential customers. The mechanism for doing that
is described in WAC 480-70-351(2).⁵

5 In orders entered in Dockets TG-090759, TG-090760, and TG-090761, the
Commission authorized the respondents in each of these consolidated dockets (collectively
“Waste Management”) to retain thirty percent of the revenue they received from the sale of
recyclable materials between July 1, 2009 and August 31, 2010. The orders directed Waste
Management to report to the Commission the amount of revenue it retained, the amount of

⁴ Between June 13, 2002, and June 9, 2010, RCW 81.77.185(1) provided:

The commission shall allow solid waste collection companies collecting recyclable materials to retain up to thirty percent of the revenue paid to the companies for the material if the companies submit a plan to the commission that is certified by the appropriate local government authority as being consistent with the local government solid waste plan and that demonstrates how the revenues will be used to increase recycling. The remaining revenue shall be passed to residential customers.

⁵ WAC 480-70-351(2) provides: “Companies that estimate the revenue from the sale of recyclable materials collected in residential curbside programs as part of a deferred accounting program to return recycling revenues or charges to customers must use the most recent twelve-month historical period to estimate the revenue for the next twelve months.”

money it spent on the activities identified in its recycling plans, and the effect the activities had on increasing recycling.⁶

6 In 2010, the Washington Legislature amended RCW 81.77.185(1). The amendment directed the Commission to allow solid waste collection companies to retain up to fifty percent of the revenues received from the sale of recyclable materials, but made no other changes to the statute. The amendment became effective on June 10, 2010.⁷

7 In August 2010, pursuant to the orders in Dockets TG-090759, TG-090760, and TG-090761, Waste Management filed with the Commission a Revenue Sharing Report for 2009-2010. The report showed that Waste Management received \$3,720,339 from the sale of recyclable materials and had retained thirty percent, or \$1,102,029. It had spent \$889,861 on recycling program costs, leaving an unspent balance of \$212,168.⁸

8 On July 16, 2010, pursuant to WAC 480-70-351(2), Waste Management initiated these dockets by filing with the Commission proposed revisions to certain tariffs, to reflect the change in commodity credits for residential and multi-family customers receiving recycling collection services. As provided in WAC 480-70-351(2), the proposed revised commodity credits were based on revenues that Waste Management had received from the

⁶ *In re Waste Management of Washington, Inc., d/b/a Waste Management – Northwest*, Docket TG-090759, Orders [01](#) (June 25, 2009) and [02](#) (June 24, 2010); *In re Waste Management of Washington, Inc., d/b/a Waste Management – Sno-King*, Docket TG-090760, Orders [01](#) (June 25, 2009) and [02](#) (June 24, 2010); *Waste Management of Washington, Inc., d/b/a Waste Management – South Sound, Waste Management of Seattle*, Docket TG-090761, Orders [01](#) (June 25, 2009) and [02](#) (June 24, 2010).

⁷ [2010 Wash. Laws ch. 154](#), § 3. As amended, RCW 81.77.185(1) provides:

The commission shall allow solid waste collection companies collecting recyclable materials to retain up to fifty percent of the revenue paid to the companies for the material if the companies submit a plan to the commission that is certified by the appropriate local government authority as being consistent with the local government solid waste plan and that demonstrates how the revenues will be used to increase recycling. The remaining revenue shall be passed to residential customers.

⁸ Docket TG-090759, [2009-2010 Revenue Sharing Report](#) (Aug. 30, 2010); Docket TG-090760, [2009-2010 Revenue Sharing Report](#) (Aug. 30, 2010); Docket TG-090761, [2009-2010 Revenue Sharing Report](#) (Aug. 30, 2010).

sale of recyclable materials during the prior twelve months. Waste Management also filed requests to retain fifty percent of the revenue Waste Management will receive from the sale of recyclable materials that it collects in its residential recycling collection service during the recycling plan period of September 1, 2010, through August 31, 2011.

9 The matters came before the Commission at its August 26, 2010, Open Meeting. The Commission inquired about the manner in which the revenue from sales of recyclable materials is budgeted and spent. Among other things, the Commission asked what would happen to the unspent balance from the revenues that Waste Management had collected during the 2009-2010 plan period.

10 On August 31, 2010, the Commission issued Order 01 in each of these consolidated dockets. The Commission took no action on the revised tariffs that Waste Management had filed, thereby allowing the revised commodity credits under WAC 480-70-351(2) to go into effect on September 1, 2010, by operation of law.⁹ The Commission authorized Waste Management to retain fifty percent of the revenue it received from the sale of recyclable materials collected in its residential recycling programs from September 1, 2010, through December 1, 2010, subject to refund. The Commission directed Waste Management to work with Snohomish and King Counties to devise detailed budgets for the use of the retained revenue, showing how much money Waste Management planned to spend on recycling activities and the anticipated effect the activities will have on increased recycling. The Commission ordered Waste Management to file the budgets and other materials with the Commission by November 1, 2010, and said it would take further action before December 1, 2010.¹⁰

⁹ See RCW 81.28.050.

¹⁰ *In re Waste Management of Washington, Inc., d/b/a Waste Management-Northwest, G-237, Docket*

11 The Commission also ordered:

Revenues retained by [Waste Management], not spent during the previous plan period [July 1, 2009 through August 31, 2010] are to be carried over into the next year, and revenues from this plan period [September 1, 2010 through August 31, 2011] that are not spent are to be carried over to the following year, unless some other treatment as may be ordered by the Commission.¹¹

12 On November 1, 2010, Waste Management filed the information the Commission had requested. The information included an estimate of how much money Waste Management would receive from the sale of recyclable materials during the 2010-2011 plan period, and budgets showing how Waste Management would use the money to increase recycling if it were authorized to retain fifty percent under RCW 81.77.185. Waste Management proposed to spend 92% of the revenues retained under RCW 81.77.185 on recycling activities and to keep 8% as profit.¹² Waste Management asked the Commission to authorize it to retain fifty percent of the revenue Waste Management receives from the sale of recyclable materials that it collects in its residential recycling collection services through August 31, 2011.

13 Waste Management also filed a revised Revenue Sharing Report for 2009-2010 showing how it proposed to use the unspent balance of \$212,168 from the July 1, 2009 through August 31, 2010 plan period. Waste Management proposed to return \$124,006 to its customers by increasing the commodity credits that had gone into effect on September 1,

TG-101220, [Order 01](#) Authorizing Temporary Revenue Sharing for Recyclable Commodities Subject to Refund ¶¶ 19-23(Wash. Utils. & Transp. Comm'n, Aug. 31, 2010); *In re Waste Management of Washington, Inc., d/b/a Waste Management-Sno-King, G-237*, Docket TG-101221, [Order 01](#) Authorizing Temporary Revenue Sharing for Recyclable Commodities Subject to Refund ¶¶ 19-23(Wash. Utils. & Transp. Comm'n, Aug. 31, 2010); *In re Waste Management of Washington, Inc., d/b/a Waste Management-South Sound and Waste Management of Seattle, G-237*, Docket TG-101222, [Order 01](#) Authorizing Temporary Revenue Sharing for Recyclable Commodities Subject to Refund ¶¶ 19-23(Wash. Utils. & Transp. Comm'n, Aug. 31, 2010).

¹¹ Docket TG-101220, [Order 01](#) ¶ 25; Docket TG-101221, [Order 01](#) ¶ 25; Docket TG-101222, [Order 01](#) ¶ 25.

¹² See Docket TG-101220, [Waste Management Recycling and Commodity Revenue Sharing Plan for King County, September 1, 2010 – August 31, 2011](#), [Waste Management Recycling and Commodity Revenue Sharing Plan for Snohomish County, September 1, 2010 – August 31, 2011](#) (filed Nov. 1, 2010).

and to keep 8% of the total revenue retained during 2009-2010, or \$88,162, as profit.¹³ Waste Management filed revised tariffs showing the increased commodity credits proposed to be in effect from December 1, 2010, through August 31, 2011.¹⁴ Citing the language quoted above in Paragraph 11, Waste Management asked the Commission to approve this treatment of the unspent revenues from the 2009-2010 plan period.

14 The matters came before the Commission at its November 24, 2010, Open Meeting. Commission Staff recommended that the Commission set the matters for hearing, and suspend the tariff revisions that Waste Management had filed on November 1, 2010.¹⁵ Staff explained that the Commission had not previously been asked to authorize revenue sharing under RCW 81.77.185 that specifically included a profit element for the company, adding “Staff believes that the open meeting is not the appropriate forum to decide this industry-wide issue.”¹⁶ The Commission accepted Staff’s recommendation, suspended the tariff revisions, and commenced an adjudicative proceeding.¹⁷

15 During the November 24, 2010, Open Meeting, Waste Management suggested the possibility of a partial settlement. Waste Management said it would be willing to return all of the unspent revenues from the 2009-2010 plan period to customers through commodity credits

¹³ See Docket TG-101220, [Revenue Sharing Report – \(2009-2010\) \(revised 10/29/10\)](#) (filed Nov. 1, 2010).

¹⁴ See Docket TG-101220, [Revised Tariff Pages](#) (filed Nov. 1, 2010).

¹⁵ See [RCW 81.04.130](#).

¹⁶ Dockets, TG-101220, TG-101221, TG-101222, [Commission Staff Open Meeting Memorandum](#) at 5-6 (Nov. 24, 2010).

¹⁷ *In re Waste Management of Washington, Inc., d/b/a Waste Management-Northwest, G-237*, Docket TG-101220, [Order 02](#) Complaint and Order Suspending Tariff: and Authorizing Temporary Revenue Sharing for Recyclable Commodities, Subject to Refund (Wash. Utils. & Transp. Comm’n, Nov. 24, 2010); *In re Waste Management of Washington, Inc., d/b/a Waste Management-Sno-King, G-237*, Docket TG-101221, [Order 02](#) Complaint and Order Suspending Tariff: and Authorizing Temporary Revenue Sharing for Recyclable Commodities, Subject to Refund (Wash. Utils. & Transp. Comm’n, Nov. 24, 2010); *In re Waste Management of Washington, Inc., d/b/a Waste Management-South Sound and Waste Management of Seattle, G-237*, Docket TG-101222, [Order 02](#) Complaint and Order Suspending Tariff: and Authorizing Temporary Revenue Sharing for Recyclable Commodities, Subject to Refund (Wash. Utils. & Transp. Comm’n, Nov. 24, 2010).

and not retain any as profit. Commission Staff reacted favorably to that suggestion. The Chairman of the Commission then proposed that Waste Management and Commission Staff could work together to draft a stipulation addressing the issue:

Chairman Goltz: If what you're saying is that Commission Staff could stipulate with the company to that effect, then you could do that next week—

Gene Eckhardt (Commission Staff): Yes.

Chairman Goltz: —and then get it out of the case.

Gene Eckhardt: Yes.

Chairman Goltz: And so I think that, procedurally, is just easier to do, because Ms. McNeill could send you a draft stipulation, you tweak it, and send it back, and it's done, it seems to me—or done subject to approval.¹⁸

16 Waste Management and Commission Staff have worked together to draft a partial settlement for presentation to the Commission in accordance with the above exchange at the November 24, 2010 Open Meeting.

III. DESCRIPTION OF THE PARTIAL SETTLEMENT

17 As of August 31, 2010, Waste Management had an unspent balance of \$212,168, from the revenues it had received from the sale of recyclable materials during the 2009-2010 plan period. Under the partial settlement, Waste Management will return all of that unexpended revenue to its residential customers through credits on the customers' bills between March 1, 2011, and August 31, 2011. Attached to the *Stipulation and Partial Settlement Agreement* are revised tariffs showing those credits. The partial settlement and revised tariffs, if approved, will make moot those portions of the Commission's November 24, 2010, orders in these dockets that suspended the tariffs that Waste Management filed on November 1, 2010.¹⁹

¹⁸ November 24, 2010 Open Meeting Hearing 1:26:06 – 1:26:34.

¹⁹ Docket TG-101220, Order 02 ¶¶ 17, 19; Docket TG-101221, Order 02 ¶¶ 17, 19; Docket TG-101222, Order

18 The partial settlement fully settles the manner in which the unexpended revenue (\$212,168) from the 2009-2010 period shall be treated under RCW 81.77.185. The parties recognize that legal issues related to the interpretation of RCW 81.77.185 are currently the subject of an adjudicative proceeding before the Commission in Dockets TG-101542, TG-101545, and TG-101548 (consolidated). The outcome of that adjudicative proceeding and any judicial review thereof shall not be a basis for seeking a modification of the partial settlement agreement or for revising the treatment of the unexpended revenue (\$212,168) from the 2009-2010 period.

19 The partial settlement does not address the parties' dispute about the treatment of revenues Waste Management that receives from the sale of recyclable materials during the 2010-2011 plan period. The parties dispute whether Waste Management may keep a portion of those revenues as profit. That dispute will continue to be the subject of adjudication in these dockets. Those portions of the Commission's November 24, 2010, orders in these dockets that authorize Waste Management to retain fifty percent of the revenue it receives from the sale of recyclable materials, subject to refund and other conditions, will remain in effect.²⁰

IV. STATEMENTS OF PARTIES' VIEWS ABOUT WHY THE PROPOSAL SATISFIES THEIR INTERESTS AND THE PUBLIC INTEREST

Waste Management

20 To achieve a certainty on the amount of the recycling commodity credit current being passed on to rate payers, the unspent revenues from the 2009-2010 Revenue Sharing

02 ¶¶ 17, 19.

²⁰ Docket TG-101220, Order 02 ¶ 16; Docket TG-101221, Order 02 ¶ 16; Docket TG-101222, Order 02 ¶ 16.

Agreement plan period are included in the calculation of the proposed recycling commodity credit. The partial settlement does not require the Commission to approve “some other treatment” of the revenues retained by Waste Management and not spent during the previous plan period. It does not set any precedent on that question, and does not result in a decision regarding company profits that would affect any other companies participating in revenue sharing plans.

21 Under WAC 480-70-351, the recycling commodity credit is intended to be effective for a twelve-month period, and then trued-up and recalculated based on the revenue estimated for the next twelve-month period. The partial settlement proposes a means for having the recycling commodity credits for regulated ratepayers served by Waste Management’s WUTC operations in King County and Snohomish County established with certainty for the remainder of the effective twelve-month period. The partial settlement eliminates the need for any ongoing and further revisions to the recycling commodity credit for the currently-effective period.

Commission Staff

22 The partial settlement is in the Commission’s interest because it simplifies the issues in this adjudication.

23 The partial settlement is in the public interest because it will reduce the rates of Waste Management customers between March 1 and August 31, 2011. Rates will be reduced because unspent revenues from the 2009-2010 plan period will be returned to customers in the form of credits.

V. CONCLUSION

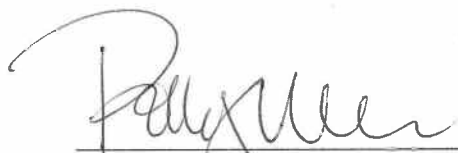
24 The partial settlement meets all pertinent legal and policy standards. The Commission should approve it.

DATED this 4th day of February 2011.


Respectfully submitted,

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