

Docket No. TG-181023 - Vol. I

**In the Matter of the Application of: Superior Waste &
Recycle LLC**

April 8, 2019



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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the) Docket No. TG-181023 Application of,)

SUPERIOR WASTE & RECYCLE) LLC)

For Authority to Operate) as a Solid Waste Collection) Company in Washington)

PREHEARING CONFERENCE, VOLUME I Pages 1-17 ADMINISTRATIVE LAW JUDGE RAYNE PEARSON

April 8, 2019 1:00 p.m.

Washington Utilities and Transportation Commission 1300 South Evergreen Park Drive Southwest Olympia, Washington 98504

REPORTED BY: TAYLER GARLINGHOUSE, CCR 3358

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OLYMPIA, WASHINGTON; APRIL 8, 2019

1:00 P.M.

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PROCEEDINGS

JUDGE PEARSON: Okay. So we are on the record in Docket TG-181023, which is an application filed by Superior Waste & Recycle, LLC for authority to operate as a solid waste collection company in Washington.

Today is Monday, April 8th, 2019, at 1:00 p.m., and we're here for a prehearing conference to discuss scheduling and other procedural issues.

My name is Rayne Pearson. I'm the administrative law judge presiding over this case.

So let's get started by taking short appearances beginning with Commission Staff.

MR. FUKANO: Good morning, Judge. My name is Harry Fukano, Assistant Attorney General, here on behalf of Commission Staff.

JUDGE PEARSON: Thank you.

And for the applicant, Mr. Stein?

MR. STEIN: I'm sorry.

JUDGE PEARSON: Go ahead and identify yourself. Just state your full name and spell your last

APPEARANCES

ADMINISTRATIVE LAW JUDGE: RAYNE PEARSON Utilities and Transportation Commission 1300 South Evergreen Park Drive SW Olympia, Washington 98504 (360) 664-1160 rayne.pearson@utc.wa.gov

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FOR WASTE MANAGEMENT:

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ALSO PRESENT:

ANDREW KENEFICK (via bridge) MIKE YOUNG

name.

MR. STEIN: My name is Daniel Stein, D-a-n-i-e-l, S-t-e-i-n. I am the owner of Superior Waste & Recycle, LLC.

JUDGE PEARSON: Okay. Thank you. And, Mr. Stanovsky?

MR. STANOVSKY: Yes, Walker Stanovsky, S-t-a-n-o-v-s-k-y, representing Waste Management.

JUDGE PEARSON: And you have entered an order of appearance -- or a notice of appearance?

MR. STANOVSKY: No, but my information is listed in the protest. Do I need to enter a notice of appearance as well?

JUDGE PEARSON: You do, yes.

MR. STANOVSKY: Okay.

JUDGE PEARSON: And that's fine if we have your contact information, I can accept that for now. Just make sure --

MR. STANOVSKY: Oh, okay. Yeah.

JUDGE PEARSON: -- to submit a notice of appearance.

MR. STANOVSKY: We'll get that in right away.

JUDGE PEARSON: Thank you.

Okay. There were no written petitions to

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1 intervene filed with the Commission. Is there anyone
 2 present or on the bridge line who wishes to orally
 3 request intervention in this matter?
 4 Okay. Hearing nothing, that brings us to
 5 discovery. Would the parties like to have the discovery
 6 rules available?
 7 MR. STEIN: Please.
 8 MR. STANOVSKY: Yes, Your Honor.
 9 JUDGE PEARSON: Okay. And during
 10 proceedings at the Commission, parties often issue a
 11 first data request asking that any subsequent data
 12 requests and responses are shared with every other
 13 party. It would make it easier on the parties if I just
 14 included this requirement in the prehearing conference
 15 order if there is no objection to me doing so.
 16 MR. FUKANO: None from Staff.
 17 MR. STANOVSKY: None from Waste Management.
 18 MR. STEIN: None from Superior.
 19 JUDGE PEARSON: Okay. Sounds good. So
 20 discovery will otherwise be conducted according to the
 21 Commission's procedural rules. And would the parties
 22 like a protective order?
 23 MR. STANOVSKY: Yes, Your Honor. Just a
 24 standard protective order would be fine.
 25 JUDGE PEARSON: Standard, okay.

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1 Mr. Stein?
 2 MR. STEIN: Would it -- would it be
 3 appropriate, would it be okay if I asked just what the
 4 order would entail?
 5 JUDGE PEARSON: Sure.
 6 MR. STEIN: Thank you.
 7 JUDGE PEARSON: Mr. Fukano, would you
 8 explain it to him?
 9 MR. FUKANO: And so the purpose of a
 10 protective order would be that if you anticipate
 11 requesting or being requested to provide kind of
 12 sensitive, confidential information that may have either
 13 personally identifiable information or information about
 14 your business that you feel if it was -- were released
 15 to the general public would be a detriment to your
 16 business such as financing or other kind of sensitive
 17 matters, a protective order would kind of keep those
 18 records from being introduced to the public during the
 19 period of the case.
 20 MR. STEIN: And I thank you very much for
 21 that, appreciate that.
 22 I would like a protective order.
 23 JUDGE PEARSON: Okay.
 24 MR. STEIN: My customer accounts, names, and
 25 addresses is very important to me.

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1 JUDGE PEARSON: Okay. Then I will issue a
 2 standard protective order.
 3 And that brings us to the schedule. I'm
 4 assuming that the parties have not had the opportunity
 5 to discuss a procedural schedule in advance, but correct
 6 me if I'm wrong. No?
 7 MR. STANOVSKY: No, that's correct, Your
 8 Honor.
 9 JUDGE PEARSON: Okay. So what I can do is I
 10 can step out of the room and allow you all to talk
 11 amongst yourselves. Please do create a timeline that
 12 allows for two simultaneous rounds of prefiled written
 13 testimony, direct and responsive, and then also please
 14 decide whether there's need for -- a need for
 15 post-hearing briefs after the hearing and then build
 16 that into your schedule as well. Okay?
 17 MR. STANOVSKY: And so, Your Honor, both --
 18 all parties would file their direct at the same time and
 19 then would file the responsive testimony at the same
 20 time?
 21 JUDGE PEARSON: Correct.
 22 MR. STANOVSKY: Thank you.
 23 JUDGE PEARSON: Okay. So with that, we'll
 24 be in recess, and if Mr. Young or Mr. Fukano would come
 25 get me, I'll be in my office when you're ready for me,

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1 okay?
 2 MR. KENEFICK: Judge Pearson?
 3 JUDGE PEARSON: Yes?
 4 MR. KENEFICK: This is Andrew Kenefick with
 5 Waste Management. I -- I don't think we made reference
 6 to the fact that there are people on the bridge line.
 7 So I'm just going to keep on -- I'll stay on the phone.
 8 I just wanted to make sure that others realize it in
 9 case they felt they were discussing something
 10 confidential yet it could be overheard by the
 11 participants on the bridge line.
 12 JUDGE PEARSON: Okay. That's good to know.
 13 And then also, if those on the bridge line want to
 14 participate in the drafting of the schedule, if the
 15 people in the room could use their microphone so that
 16 people on the bridge line could hear, that would be
 17 helpful as well.
 18 MR. KENEFICK: Thank you.
 19 JUDGE PEARSON: Okay? All right. Then we
 20 are in recess.
 21 (Recess taken from 1:05 p.m.
 22 until 1:40 p.m.)
 23 JUDGE PEARSON: Okay. Then we are back on
 24 the record following a brief recess, and I understand
 25 the parties have agreed to a schedule.

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1 Mr. Fukano, would you mind reading that into
 2 the record?
 3 MR. FUKANO: Yes.
 4 And please correct me if I make any mistakes
 5 in this, other parties.
 6 So the proposed schedule we have is -- and
 7 I'll work backwards from the hearing date.
 8 JUDGE PEARSON: Okay.
 9 MR. FUKANO: A hearing date of August 5th
 10 and potentially 6th and with exhibits that would be
 11 due -- exhibits and filings due July 29th, would be one
 12 week prior. Discovery would close July 15th in the
 13 sense that the last attempt to -- or opportunity to
 14 request discovery data requests would be July 15th;
 15 dispositive motions would be due July 3rd; rebuttal
 16 testimony would be filed June 14th; and first round
 17 testimony would be filed May 15th.
 18 JUDGE PEARSON: Sorry, May what?
 19 MR. FUKANO: 15th.
 20 JUDGE PEARSON: Okay. Well, I can tell you
 21 the hearing room is open because we'll be in a different
 22 building, and we've made no reservations in that new
 23 building as far as I know. What day of the week is
 24 August 5th?
 25 MR. FUKANO: Monday.

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1 JUDGE PEARSON: Is that a Monday? Okay.
 2 MR. YOUNG: They had a households goods --
 3 I'm sorry, they had a household goods thing scheduled
 4 for the 6th.
 5 JUDGE PEARSON: Okay. Will you use the
 6 microphone?
 7 MR. YOUNG: Yeah.
 8 JUDGE PEARSON: Okay. So do the parties
 9 anticipate it'll be a two-day hearing or...
 10 MR. STANOVSKY: For Waste Management, we
 11 hope not, Your Honor.
 12 JUDGE PEARSON: Okay.
 13 MR. STANOVSKY: But some time on the 6th as
 14 a spillover.
 15 JUDGE PEARSON: Okay.
 16 MR. STANOVSKY: You know, just out of
 17 caution.
 18 JUDGE PEARSON: But there's an all-day
 19 household goods training on the 6th?
 20 MR. YOUNG: On the 7th.
 21 JUDGE PEARSON: Oh, on the 7th. Oh, okay.
 22 MR. FUKANO: The room is occupied in the
 23 afternoon preparing for the 7th training, but --
 24 JUDGE PEARSON: Okay.
 25 MR. FUKANO: -- the morning should be open.

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1 JUDGE PEARSON: Okay. So should we start at
 2 9:00 on the 5th rather than 9:30 just to try and...
 3 MR. STANOVSKY: Fine with us.
 4 JUDGE PEARSON: Try and get it resolved,
 5 okay.
 6 MR. STEIN: That'd be fine.
 7 MR. FUKANO: Staff is fine with that.
 8 JUDGE PEARSON: Okay. So we'll set it for
 9 9:00, August 5th, continuing as needed the following
 10 morning also at 9:00.
 11 Could you -- I'm pretty sure my calendar is
 12 open, but could you pull it up for me? I do have a
 13 vacation in August, but I think it's later than that.
 14 MR. FUKANO: Yeah, I think you're scheduled
 15 for vacation beginning the 19th.
 16 JUDGE PEARSON: Oh, perfect. Okay.
 17 Okay. So that brings to electronic filing
 18 and electronic service. Filing will be in accordance
 19 with Commission rules, which require electronic filing
 20 of documents for formal filings. Also, the Commission's
 21 rules provide for electronic service of documents. So
 22 the Commission will serve the parties electronically and
 23 the parties will serve each other electronically.
 24 And if any party has not yet designated a
 25 lead representative for service, please do so via an

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1 email to me as soon as possible if it's someone other
 2 than counsel who are here today in this room. My email
 3 address for your reference is rayne.pearson@utc.wa.gov.
 4 And also, if anyone would like to add names and email
 5 addresses of other representatives or support staff who
 6 should receive electronic courtesy copies of all
 7 documents filed, please also email that to me as soon as
 8 possible.
 9 Okay. Is there anything else that we need
 10 to address while we're here today?
 11 MR. STANOVSKY: Yes, briefly, Your Honor,
 12 going back to discovery. Just wanted to -- we -- the
 13 parties discussed while you were out and we were off
 14 record that we don't anticipate that depositions will be
 15 necessary. So we thought it might be good to, in your
 16 prehearing order, specify that depositions won't be
 17 allowed without seeking approval from yourself.
 18 JUDGE PEARSON: Okay. And everyone's okay
 19 with that?
 20 MR. STEIN: Yes.
 21 JUDGE PEARSON: Okay. Okay. So I will
 22 issue a protective order as well as a prehearing
 23 conference order that reflects the schedule that was
 24 agreed upon today. And if that's it, then we are
 25 adjourned.

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1 MR. STANOVSKY: Were we going to specify
2 issues to be addressed at the hearing or -- I mean, I
3 guess, specifically Waste Management sort of sees two
4 primary issues; the first being whether the Commission
5 even has authority to issue the certificate as applied
6 for. Waste Management anticipates filing a tariff to
7 provide service as requested in the application to the
8 Commission's satisfaction.
9 So I don't know how -- you know, how we want
10 to address that, but just to, I guess, let you know that
11 that will -- the Company anticipates that being a
12 separate filing that will be concurrent with the
13 progress of this proceeding --
14 JUDGE PEARSON: Okay.
15 MR. STANOVSKY: -- what's related.
16 JUDGE PEARSON: Okay. So I guess I don't
17 have enough information about the situation. I was not
18 the judge that sat on the classification proceeding for
19 Mr. Stein's company. So as it exists right now, is he
20 operating in what is essentially Waste Management
21 service territory but Waste Management is not providing
22 service there also?
23 MR. STANOVSKY: That seems to be the
24 substance of the application.
25 JUDGE PEARSON: Okay.

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1 MR. STANOVSKY: Yeah.
2 JUDGE PEARSON: Okay. So it's part of Waste
3 Management's territory, but Waste Management doesn't
4 provide service there?
5 MR. STANOVSKY: At -- at least to some of
6 these particular customers that Mr. Stein's proposing to
7 serve so --
8 JUDGE PEARSON: Okay.
9 MR. STANOVSKY: -- and, you know, Waste
10 Management's figuring out exactly what that filing's
11 going to look like. We don't have the details yet.
12 JUDGE PEARSON: Okay. But Waste Management
13 is proposing to start providing service to these
14 customers that they are not currently --
15 MR. STANOVSKY: Yes.
16 JUDGE PEARSON: -- providing service to?
17 Okay.
18 MR. KENEFICK: Your Honor, if I could just
19 clarify that. This is Andrew Kenefick on the bridge
20 line.
21 JUDGE PEARSON: Sure.
22 MR. KENEFICK: I think to be more precise,
23 it's not that we are not providing service to these
24 customers, it's that we provide service to all the
25 customers, but Mr. Stein has -- has customers request a

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1 service that is not typically included in -- in the
2 tariff, and therefore, some of those customers would be
3 using his services, but were using his services as part
4 of the classification proceeding and may -- I don't know
5 for sure, but may still be using his services because
6 Waste Management does not provide the sort of very
7 specific service that he is providing.
8 So I want just to make it clear, it's not
9 that we don't provide service in these areas, it's just
10 that there's a particular service that he is providing
11 or seeking to provide that we currently do not offer but
12 we will be offering.
13 JUDGE PEARSON: Gotcha, okay.
14 MR. STANOVSKY: Thank you, Andrew.
15 JUDGE PEARSON: That makes sense, okay.
16 And so you just wanted to note that that
17 will be happening?
18 MR. STANOVSKY: Well, yes, and I think
19 that -- that that is likely a dispositive issue but that
20 it will turn in some degree on this other filing that
21 Waste Management will be making outside of the current
22 proceeding.
23 JUDGE PEARSON: Okay. So did you have a
24 specific question about that or --
25 MR. STANOVSKY: Just -- I suppose not.

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1 JUDGE PEARSON: -- just wanted to make it
2 clear?
3 MR. STANOVSKY: Yeah.
4 JUDGE PEARSON: Okay.
5 MR. STANOVSKY: Just in terms of what's
6 going to come up at -- at -- you know, at issue in this
7 docket and particularly because it relates to another
8 filing outside the docket.
9 JUDGE PEARSON: Okay. All right. Anything
10 else?
11 MR. FUKANO: None from Staff.
12 JUDGE PEARSON: Okay.
13 MR. STEIN: I'm very happy to hear Waste
14 Management will be expanding on their service. There's
15 a real need out there. I've seen it firsthand. I deal
16 with these problems, so very pleased to hear that.
17 JUDGE PEARSON: Okay. All right. Well, if
18 there is nothing else, then we are adjourned. Thank you
19 all.
20 (Adjourned at 1:49 p.m.)
21
22
23
24
25

CERTIFICATE

STATE OF WASHINGTON
COUNTY OF THURSTON

I, Tayler Garlinghouse, a Certified Shorthand Reporter 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.



Tayler Garlinghouse
Tayler Garlinghouse, CCR 3358

<p style="text-align: center;">A</p> <p>ability 17:9 accept 4:17 accounts 6:24 accurate 17:9 add 12:4 address 12:3,10 13:10 addressed 13:2 addresses 6:25 12:5 adjourned 12:25 16:18,20 administrative 1:12 2:2 3:15 advance 7:5 afternoon 10:23 agreed 8:25 12:24 ahead 3:24 all-day 10:18 allow 7:10 allowed 12:17 allows 7:12 Andrew 2:23 8:4 14:19 15:14 anticipate 6:10 10:9 12:14 anticipates 13:6,11 appearance 4:10 4:10,13,21 appearances 3:17 applicant 3:22 application 1:4 3:7 13:7,24 applied 13:5 appreciate 6:21 appropriate 6:3 approval 12:17 April 1:14 3:1,11 areas 15:9 asked 6:3 asking 5:11 Assistant 2:9 3:19 assuming 7:4 attempt 9:13 Attorney 2:9 3:19</p>	<p>August 9:9,24 11:9 11:13 authority 1:7 3:8 13:5 available 5:6 Avenue 1:22 2:19</p> <hr/> <p style="text-align: center;">B</p> <p>back 8:23 12:12 backwards 9:7 beginning 3:17 11:15 behalf 3:20 best 17:9 Box 2:10,14 bridge 2:23 5:2 8:6 8:11,13,16 14:19 brief 8:24 briefly 12:11 briefs 7:15 brings 5:4 7:3 11:17 Buell 1:21 build 7:15 building 9:22,23 business 6:14,16</p> <hr/> <p style="text-align: center;">C</p> <p>C 2:1 3:4 17:1,1 calendar 11:11 case 3:15 6:19 8:9 caution 10:17 CCR 1:20 17:13 certificate 13:5 Certified 17:6 certify 17:8 clarify 14:19 classification 13:18 15:4 clear 15:8 16:2 close 9:12 collection 1:7 3:9 come 7:24 16:6 Commission 1:2,16 2:4,7 3:17,20 5:1 5:10 11:19,22</p>	<p>13:4 Commission's 5:21 11:20 13:8 company 1:8 3:9 13:11,19 concurrent 13:12 conducted 5:20 conference 1:10 3:12 5:14 12:23 confidential 6:12 8:10 contact 4:17 continuing 11:9 copies 12:6 correct 7:5,7,21 9:4 counsel 12:2 COUNTY 17:4 courtesy 12:6 create 7:11 current 15:21 currently 14:14 15:11 customer 6:24 customers 14:6,14 14:24,25,25 15:2</p> <hr/> <p style="text-align: center;">D</p> <p>D 3:4 D-a-n-i-e-l 4:3 Daniel 2:14 4:2 data 5:11,11 9:14 date 9:7,9 Davis 2:19 day 9:23 deal 16:15 decide 7:14 degree 15:20 depositions 12:14 12:16 designated 11:24 details 14:11 detriment 6:15 different 9:21 direct 7:13,18 discovery 5:5,5,20 9:12,14 12:12</p>	<p>discuss 3:13 7:5 discussed 12:13 discussing 8:9 dispositive 9:15 15:19 docket 1:4 3:7 16:7 16:8 documents 11:20 11:21 12:7 doing 5:15 drafting 8:14 Drive 1:17 2:4,9 due 9:11,11,15</p> <hr/> <p style="text-align: center;">E</p> <p>E 2:1,1 3:4,4 17:1,1 easier 5:13 either 6:12 electronic 11:17,18 11:19,21 12:6 electronically 11:22 11:23 email 12:1,2,4,7 entail 6:4 enter 4:12 entered 4:9 essentially 13:20 Evergreen 1:17 2:4 2:9 everyone's 12:18 exactly 14:10 exhibits 9:10,11 exists 13:19 expanding 16:14 explain 6:8</p> <hr/> <p style="text-align: center;">F</p> <p>F 17:1 fact 8:6 far 9:23 feel 6:14 felt 8:9 Fifth 2:19 figuring 14:10 file 7:18,19 filed 3:8 5:1 9:16</p>	<p>9:17 12:7 filing 11:17,18,19 13:6,12 15:20 16:8 filing's 14:10 filings 9:11 11:20 financing 6:16 fine 4:16 5:24 11:3 11:6,7 first 5:11 9:16 13:4 firsthand 16:15 following 8:24 11:9 foregoing 17:8 formal 11:20 Fourth 1:22 Fukano 2:8 3:18,19 5:16 6:7,9 7:24 9:1,3,9,19,25 10:22,25 11:7,14 16:11 full 3:25</p> <hr/> <p style="text-align: center;">G</p> <p>G 3:4 Garlinghouse 1:20 17:6,13 general 2:9 3:19 6:15 Go 3:24 going 8:7 12:12 13:1 14:11 16:6 good 3:18 5:19 8:12 12:15 goods 10:2,3,19 Gotcha 15:13 guess 13:3,10,16</p> <hr/> <p style="text-align: center;">H</p> <p>happening 15:17 happy 16:13 Harry 2:8 3:19 harry.fukano@u... 2:11 hear 8:16 16:13,16 hearing 5:4 7:15 9:7,9,21 10:9 13:2</p>
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