

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v. MURREY’S DISPOSAL COMPANY D/B/A OLYMPIC DISPOSAL, Respondent.	DOCKET TG-230778 ORDER 07 DENYING PETITION FOR INTERIM RATES AND EXPEDITED REVIEW
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BACKGROUND AND PROCEDURAL HISTORY

- 1 On September 15, 2023, Murrey’s Disposal Company, Inc. d/b/a Olympic Disposal (Olympic or the Company) filed with the Washington Utilities and Transportation Commission (Commission) revisions to its currently effective Tariff No. 25 that if approved would generate approximately \$1,885,000 (15.9 percent) in additional annual revenue.¹ After the tariff revisions were filed, disagreements arose between Commission Staff (Staff) and Olympic regarding the treatment of certain expenses. Olympic in turn, requested to extend its proposed effective tariff date from November 1, 2023, to December 1, 2023, and again to January 1, 2024.² At the December 21, 2023, Open Meeting, after being unable to come to an agreement with the Company, Staff recommended that the Commission suspend the filing and set the matter for hearing.
- 2 On December 21, 2023, the Commission served a Complaint and Order Suspending Tarriff revisions in Order 01 pending an investigation into whether the filed rates were fair, just, reasonable, and sufficient.³

¹ *Washington Utilities and Transportation Commission v. Murrey’s Disposal Company, Inc. d/b/a Olympic Disposal*, Docket TG-230778, Exh. JW-3C “Original Rate Case Submittal – Olympic GRC Pro forma 7.31.2023,” “LG Public – Regulated” worksheet.

² Docket TG-230778, Company’s Requests to Extend dated October 19, 2023, and November 15, 2023.

³ Docket TG-230778, Order 01 ¶ 12 and ¶ 15 (December 21, 2023).

3 On February 5, 2024, the Commission issued Order 02 setting a procedural schedule for this proceeding.⁴

4 On March 19, 2024, Olympic submitted a series of transcripts through the Commission's e-filing portal, and in an email dated April 17, 2024, and Order 05, the former Presiding Administrative Law Judge, Bijan Hughes, instructed the Company to resubmit its filing to comply with Washington Administrative Code (WAC) 480-07-140(5) and WAC 480-07-125.⁵

5 On April 19, 2024, Olympic filed direct testimonies, exhibits, and supporting documentation related to its proposed tariff and incorporated additional uncontested adjustments that effectively reduced the total requested revenue requirement from approximately \$1,885,000 (15.9 percent) to approximately \$1,646,000 (12.9 percent).⁶

6 On May 8, 2024, Olympic filed a Petition for Interim Rate Relief and a Request for Expedited Consideration (Petition) together with revised interim tariff and rate sheets represented as Exhibits A and B that reflected a revised effective date of July 1, 2024.⁷

7 On May 29, 2024, Staff filed a Response in Opposition to the Company's Petition together with an exhibit list, proposed exhibits, testimony of Benjamin Sharbono, and a Declaration of Colin O'Brien. That same day, Public Counsel indicated by letter that it would not be submitting any testimony.

8 On June 4, 2024, Staff filed a Motion for Leave to File Revised Testimony of Benjamin Sharbono.

9 On June 5, 2024, Olympic Filed a Motion for Leave to File a Reply Brief in Support of Petition for Interim Rate Relief and on June 11, 2024, filed its Opposition to Staff's Motion for Leave to Amend the Testimony of Benjamin Sharbono together with a Declaration of Joe Wonderlick opposing Staff's motion.

10 On June 17, 2024, the Commission issued Order 06, which addressed the parties' motions and former presiding Administrative Law Judge, Bijan Hughes, granted Staff's motion to

⁴ Docket TG-230778, Order 2, Appendix B (February 5, 2024).

⁵ Docket TG-230778, Order 5 ¶ 4-15 (April 18, 2024).

⁶ Docket TG-230778, Exh. JW-7C "230778-GRC-Murrey's Olympic-Staff Wkbk-10-16-23," which the Company resubmitted on July 19, 024, in its native excel format, as requested by the presiding Administrative Law Judge in accordance with WAC 480-07-140(6)(a)(ii).

⁷ Docket TG-230778, Petition of Murrey's Disposal Company, Inc. d/b/a Olympic Disposal for Interim Rate Relief and Request for Expedited Consideration, Exhibits A and B.

file the revised testimony⁸ and deemed the Company's motion for leave to file a reply brief in Support of Petition for Interim Rate Relief denied in accordance with WAC 480-07-370(5)(b).

- 11 On July 18, 2024, a Brief Adjudicatory Proceeding (BAP) was conducted to address the issues presented by the Company's Petition and the Presiding Administrative Law Judge, Amy Bonfrisco, clarified the above findings at the hearing.
- 12 Staff and Olympic submitted post hearing briefs on July 29, 2024, and August 6, 2024.

I. Interim Relief and Expedited Procedural Schedule

A. Company Arguments

- 13 Olympic provides regulated solid waste services to approximately 15,500 residential customers; 1,900 commercial customers; 117 roll-off customers; and 6,040 residential recycling customers in Clallam and Jefferson Counties, and its last general rate increase became effective approximately thirteen years ago on June 1, 2011.
- 14 Olympic seeks to implement a temporary rate increase, subject to refund, to obtain immediate rate relief that would generate additional revenue of approximately \$989,946 (7.7 percent). Olympic also requests an expedited procedural schedule to establish the proposed interim rates with an effective date of July 1, 2024 and asks that the increase remain in place until the end of the general rate case proceedings.
- 15 Olympic submits that it meets the standards for interim rate relief set forth in WAC 480-07-520(6), *Puget Sound Navigation Company v. Department of Transportation*,⁹ and *WUTC v. Pacific Northwest Bell Telephone Company*¹⁰ (hereinafter referred to *PNW Bell Telephone* or *PNB factors*). Specifically, with regards to WAC 480-07-520(6) and the second *PNB factor*, Olympic contends that the rates under its "outdated tariff are grossly

⁸ Docket TG-230778, Order 06 ¶ 11, 12, and 13 (June 17, 2024).

⁹ *State ex. rel. Puget Sound Navigation Co. v. Department of Transportation*, 33 Wn.2d 448, 206 P.2d 456 (1940).

¹⁰ *WUTC v. Pacific Northwest Bell Telephone Co.*, Cause No. U-72-30, Second Supplemental Order Denying Petition for Emergency Rate Relief (October 1972).

inequitable” and have resulted in a substantial hardship as shown by its “estimated shareholder’s loss in revenue of approximately \$100,000 per month.”¹¹

- 16 Olympic maintains its loss in revenue and financial distress is attributable to factors outside of its control including: (1) the “loss of a contiguous city contract in Port Angeles, which caused extensive rerouting of both regulated and non-regulated services;”¹² (2) “protracted administrative and judicial litigation, from 2020 to 2022 against an unauthorized competitor which diverted substantial revenues;”¹³ (3) “underearning during a time period with the highest inflation rates in over four decades,”¹⁴ compounded by inflationary and fiscal pressures; and (4) the need to “ultimately preserve Olympic’s ability to operate,”¹⁵ serve, and expand its additional services to its customers by obtaining “normal operating capital and cash flow.”¹⁶ The evidence the Company presented consists of the direct testimony of Joe Wonderlick, and Exhibits JW-30 and JW-7C, which explains the Company’s proposed interim rate design, revenue requirements, and underlying calculations. Additionally, Exhibit JW-30 compares the Company’s interim rate request with the expenses Staff contests.
- 17 Next, regarding the remaining *PNB factors*, Olympic argues that it has been operating below sufficient levels and has continued to suffer under the current procedural schedule as it stands and seeks interim relief on an expedited schedule. Olympic reasons that interim rate relief is necessary to address “its cumulative revenue losses” to avert the emergency it faces of its shareholders “enduring losses in revenue of approximately \$100,000 per month...due in large part to recently escalated costs of doing business which have increased over the last 13 years.”¹⁷ It further asserts that its “request is not solely based on its desire to earn an adequate rate of return,” but rather that such relief is necessary to: “(1) address its financial needs, (2) restore positive cash flows, (3) avoid

¹¹ Docket TG-230778, “Petition of Murrey’s Disposal Company, Inc. d/b/a Olympic Disposal for Interim Rate Relief and Request for Expedited Consideration, pursuant to WAC 480-07-520,” (Petition) at ¶12.

¹² Petition at ¶12.

¹³ *Id.*

¹⁴ Petition at ¶13.

¹⁵ Petition at ¶14.

¹⁶ Petition at ¶15.

¹⁷ Docket TG-230778, Murrey’s Disposal Company, Inc.’s Response to Commission Staff’s Post Hearing Brief Concerning Murrey’s request for Interim Rate Relief (Company’s Post Hearing Brief Response) at ¶ 4.

adverse impacts on its overall credit rating, (4) cover day-to-day operating costs, and (5) obtain reasonable financing.¹⁸

18 Finally, Olympic cites *Washington Utilities and Transportation Commission v. Waste Management of Washington Inc. d/b/a Waste Management of Spokane* (hereinafter *Waste Management of Spokane*),¹⁹ because in that case “neither the regulated company nor its parent were in financial peril when the Commission granted interim rates.”²⁰ Olympic argues that, unlike *Waste Management of Spokane* operations, whose expense percentages remained in line with former operations, it faces a greater urgency due to its escalating costs which include the: (1) “rerouting of regulated and non-regulated services and labor shortages;” (2) “higher operating expenses and costs associated with insurance claims;” (3) “metric-based compensation, travel-related expenses, company-specific severance pay and safety training.”²¹

19 In sum, Olympic maintains that the public has an acute interest in the continuation of its services, and that interim rate relief would provide it with the means necessary to mitigate the gross inequities by creating a pool of funds subject to refund, if such rates were ultimately reduced by final Commission Order.²²

B. Staff Arguments

20 Citing WAC 480-07-520(6) and the same six *PNB* factors, Staff maintains that the Commission generally treats the second *PNB* factor as the most significant in determining whether to grant interim rate relief and argues that Olympic failed to show it meets the high bar for receiving this “extraordinary remedy.”²³

21 In support of its position, Staff references WAC 480-07-520(6), which relies on the same key terms as required in the second *PNB* factor to demonstrate “an emergency, undue hardship, or inequity.” Staff argues that Company failed to show an emergency, any threat to its ability to provide solid waste services, or demonstrate financial distress to justify the imposition of interim rate relief. Instead, Staff maintains that Olympic is attempting to “escape the effects of regulatory lag” all regulated companies experience

¹⁸ Docket TG-230778, Petition at ¶15.

¹⁹ 2015 Wash. UTC Lexis 169, Docket TG-143889 Order 02 (February 26, 2015).

²⁰ Docket TG-230778, Company’s Post Hearing Brief Response at ¶ 5.

²¹ *Id.*

²² Docket TG-230778, Petition at ¶20.

²³ Docket TG-230778, “Commission Staff’s Response in Opposition to Petition of Murrey’s Disposal Company d/b/a Olympic Disposal for Interim Rate Relief” (Staff’s Response) at ¶ 3-4.

when modifying tariffs and having their request placed in a suspension status. The evidence Staff relies upon consists of the testimony of Ben Sharbono accompanied by: (1) Exhibit BS-11C, which includes Staff's revenue requirement workbook and allegedly shows that Olympic is earning positive net revenue;²⁴ (2) Exhibit BS-12, which includes the Regulatory Fee Calculation for Murrey's Disposal Company as a whole showing revenue growth over the last six years from 2018 through 2023; and (3) Exhibit BS-13, which includes the Company's responses to Staff's Data Requests No. 21-31.

- 22 Regarding Exhibit BS-13, Staff argues that the Company did not present any evidence demonstrating it engaged in discussions related to an emergency, draw up contingency plans to avert its claimed crisis, or list expenses or investments it considered refraining from incurring. Staff further contends that the two events Olympic relies upon as principal factors outside its control do not constitute a financial loss given the Company received a \$1.99 million dollar settlement²⁵ as damages for the loss of its contiguous contract in Port Angeles and won the protracted litigation against an unauthorized competitor over service to two paper mill customers. Staff reasons that Olympic "cannot claim that a lost contract forms a primary basis for interim rate relief while also having the Commission ignore the settlement for damages it received. Additionally, Staff maintains that relief based on a protracted litigation, which has concluded, is also not justified since this "past expense...has no negative impact on current operations, and in fact should have increased the revenue stream to Olympic."²⁶
- 23 With regard to the remaining *PNB factors*, Staff notes that "the Olympic division of Murrey's, is but one subdivision of a much larger operation at Murrey's"²⁷ and "is not a separate corporate entity but merely an operating name for Murrey's Disposal within Clallam and Jefferson County."²⁸ Staff contends that because Olympic Disposal does not directly access debt but instead accesses debt through its parent company, "its finances should not be treated as separate from the larger Company operation for the purposes of interim rate relief analysis."²⁹ Staff further contends that the Company's "operating

²⁴ Docket TG-230778, Sharbono, Exh. BS-11C, "LG Public – Regulated - Staff" worksheet.

²⁵ Docket TG-230778, Sharbono, Exh. BS-13 at 13 of Company's response to Staff DR No.31(b).

²⁶ Docket TG-230778, Commission Staff's Response in Opposition to Petition of Murrey Disposal Company d/b/a/ Olympic Disposal for Interim Rate Relief, filed May 29, 2024 (Staff's Response) at ¶11.

²⁷ Docket TG-230778, Staff's Response at ¶13.

²⁸ *Id.*

²⁹ Staff's Response at ¶13.

revenues have grown every year since 2010 and have more than doubled since 2017,”³⁰ with “roughly \$44.6 million to roughly \$65.4 million,”³¹ and that its credit rating is sound and not in danger of a downgrade.³² Staff also emphasizes that the thirteen year timeframe since Olympic filed its last rate case and its “lack of urgency...even after an order to file from the Commission”³³ to provide a complete picture of its financial situation by May 15, 2023, cannot be used to support its argument for need of interim rate relief. Staff insists that since Olympic sought and obtained a six-month continuance following that compliance date,³⁴ the Commission should not award its lack of urgency with extraordinary relief.

24 Finally, Staff argues that the Company’s reliance on *Waste Management of Spokane* is misguided and that their arguments lack merit given the two cases are “legally and factually dissimilar.”³⁵ Namely, because “the Commission authorized temporary rates for Waste Management at an open meeting after Staff agreed the rates involved were fair, just, reasonable and sufficient;”³⁶ whereas in this case, Olympic is seeking “interim rate relief through a contested adjudication where there is no agreement on the propriety of the rates.”³⁷

DISCUSSION

I. Interim Relief.

25 According to WAC 48-07-520 (6), “the Commission may grant interim rates subject to refund when considering proposed changes to tariffs requested by solid waste collection companies under RCW 81.28.050. Interim rates subject to refund granted pursuant to this section shall be limited to those companies that demonstrate after a brief adjudicative proceeding or limited hearing, an emergency, undue hardship, or inequity. If a solid

³⁰ Docket TG-230778 Staff’s Response at ¶14. *See also* Sharbono, Exh. BS-12.

³¹ Docket TG-230778, Commission Staff’s Post Hearing Brief Concerning Murrey’s Request for Interim Rate Relief (Staff’s Post Hearing Brief), filed July 29, 2024, at ¶ 7 and Sharbono, Exh. BS 12.

³² Docket TG-230778, Exhibit SB-13 Murrey’s Disposal Company, Inc.’s Response to Staff’s Data Request No. 26.

³³ Docket TG-230778, Staff’s Response at ¶15.

³⁴ Docket TG-230778, Order 2 ¶ 2 and 4, Docket TG-210912.

³⁵ Docket TG-230778, Staff’s Post Hearing Brief at ¶ 19.

³⁶ Staff’s Post Hearing Brief at ¶ 20.

³⁷ *Id.*

waste collection company requests interim rate relief, the Commission will consider the request on an expedited schedule.”

26 In addition to WAC 48-07-520(6), the Commission has often weighed the six factors articulated in *PNW Bell Telephone* referred to as the *PNB factors* when determining whether to grant a request for interim relief. These factors include:

1. Opportunity for adequate hearing before granting interim relief.
2. A demonstration that an actual emergency exists or that interim rates are necessary to prevent gross hardship or gross inequity.
3. An examination of the rate of return earned during operations since the mere failure of the currently realized rate of return to equal that approved as adequate is generally insufficient, standing alone, to justify interim relief.
4. A review of all financial indices as they concern the applicant, including rate of return, interest and earnings coverage, the growth, stability, or deterioration of each, together with immediate and short term demands for new financing and whether the grant or failure to grant interim relief will affect these financing demands in a manner that substantially affects the public interest.
5. Interim relief is a useful tool in an appropriate case to fend off impending disaster. However, the tool must be used with caution and applied only where not to grant would cause clear jeopardy to the utility and detriment to its ratepayers and stockholders. That is not to say that interim relief should be granted only after disaster has struck or is imminent, but neither should it be granted *in* any case where full hearing can be had and the general case resolved without clear detriment to the utility.
6. As in all matters, we must reach our conclusion with the statutory charge to the Commission in mind, that is, to ‘Regulate in the public interest.’ (RCW 80.01.040). This is our ultimate responsibility, and a reasoned judgment must give appropriate weight to all salient factors.

- 27 While the *PNB factors* are not a formula or the only criteria to be considered, the Commission recognizes these factors may not apply in every case and that it should remain open to consider unique circumstances for evolution in the factors.³⁸
- 28 The Company's petition generally fails to satisfy the *PNB factors* for the following reasons. First, although the first factor was not in dispute, the Company met this requirement by proposing a process for evaluating its request for interim rate relief.
- 29 Second, given that WAC 480-07-520(6) places the burden on the Petitioner to demonstrate an emergency, undue hardship, or inequity, the second *PNB factor* should be given significant weight because it "captures the essence of the purpose and the appropriate factors to consider in granting the extraordinary remedy of interim relief."³⁹ Accordingly, to determine if an actual emergency exists, the Commission examines whether there is "an existing or looming threat to the utility's ability to provide service to...customers of a magnitude that will justify imposition of the rates without a full review of all relevant evidence and a determination that the rates are fair, just, and reasonable."⁴⁰ This factor is key, because it contemplates a utility's ability to meet its public service obligation to its rate payers.⁴¹
- 30 Here, although Olympic characterizes its shareholders loss in revenue of approximately \$100,000 per month due to escalated costs over the last thirteen years⁴² as 'its existing and looming threat,' there are other facts at play negating this claim. First, Olympic did not identify any expenses or investments it had foregone or considered forgoing due to its current financial situation.⁴³ Second, Olympic acknowledged it had "not received notice of a credit rating downgrade"⁴⁴ and did not make any plans to deal with a financial emergency, aside from filing its petition for interim rates.⁴⁵ Finally, the Company failed to provide other supporting credible evidence substantiating its risk of failing to meet its public service obligations to ratepayers.

³⁸ *WUTC v. Verizon Northwest Inc.*, Docket UT-040788, Order 11, 10, ¶ 24 (October 15, 2004).

³⁹ *Id* at 17 ¶ 43.

⁴⁰ *Id* at 29 ¶ 78.

⁴¹ *Id.*

⁴² Docket TG-230778, Company's Response to Staff's Post Hearing Brief ¶ 4.

⁴³ Docket TG-230778, Sharbono, Exh. BS-13, Page 4.

⁴⁴ *Id* at Page 5.

⁴⁵ *Id* at Page 4.

31 Turning to financials, Staff asserts that, based on its proposal, Olympic is currently operating with “positive net revenues.”⁴⁶ Staff also argues that, because of Olympic Disposal’s position as an operating unit within the larger Murrey’s Disposal, which has seen significant and steady revenue growth over the past six years, Murrey’s Disposal is financially healthy and faces “no existing or looming threat.”⁴⁷ However, without weighing into the merits of the larger general rate case, we note that both of these pieces of evidence are somewhat imprecise. First, Staff’s “positive net revenue” argument includes the effects of its proposed adjustments, making it difficult to assess this without making judgement on its entire revenue requirement position. Second, in assessing the financial health of Murrey’s Disposal as a whole, Staff relies on total regulated revenue figures which does not necessarily indicate profitability.⁴⁸ On the other hand, Olympic provided no cash flow analysis sufficient to analyze its cash flow needs during the pendency of its general rate case and instead relied primarily on the argument that its shareholders are losing approximately \$100,000 per month. Given that the burden of proof lies with the petitioner, we find this argument, on its own, unpersuasive. Therefore, in consideration of the evidence presented thus far, we agree with Staff that Olympic does not appear to face an emergency warranting immediate interim rate relief.

32 Next, we note the Company’s reliance on *Waste Management of Spokane* as instructive for the proposition that a regulated company and its parent company do not need to be in financial peril, on the verge of bankruptcy, or insolvency to obtain interim relief. However, we agree with Staff that *Waste Management of Spokane* is factually and legally distinguishable from this matter. To be more specific, in *Waste Management of Spokane*, there was an agreement between the parties, Commission staff, and Waste Management of Spokane that the temporary rates involved were fair, just reasonable and sufficient, whereas in this matter, several expense categories are contested and being adjudicated. Further, in *Waste Management of Spokane* the Commission authorized those temporary rates at an open meeting. The Commission has held in prior proceedings that temporary rates approved in open meetings are not precedential for matters concerning contested requests for interim rates. To that point, Order 13 in *WUTC v. Verizon*⁴⁹ specifically states, “the grant of temporary rates in open meetings is not precedent for a contested request for interim rates, as the open meeting result is almost always agreed by the

⁴⁶ Docket TG-230778, Staff’s Post Hearing Brief at ¶ 2, and Sharbono, Exh. BS-11C.

⁴⁷ Docket TG-230778, Staff’s Post Hearing Brief at ¶ 7 – 8.

⁴⁸ Docket TG-230778, Sharbono, Exh. BS-12.

⁴⁹ *WUTC v. Verizon Northwest Inc.*, Docket UT-040788, Order 13, 2 ¶ 4 (October 25, 2004).

Company and staff.”⁵⁰ The Commission goes on to explain that the reasoning for the differing outcomes at an open meeting versus an adjudication is that it has greater flexibility in arriving at a settlement when all parties are in agreement. Based on our review of the law and facts, *Waste Management of Spokane* is inapplicable and does not bolster Olympic’s argument.

- 33 Moreover, we observe that Olympic provides relatively little evidence substantiating an undue hardship or gross inequity. The Commission has defined undue hardship or gross inequity as occurring “when a condition results in the occurrence or realistic threat of an event such as a drop in the price of stock or in the downgrading of bonds harms the owner.”⁵¹ Here, Olympic identified three key factors outside of its control as justifying its undue hardship including: (1) the loss of its contiguous contract with the City of Port Angeles; (2) protracted litigation from 2020 to 2022; and (3) outdated tariff.
- 34 Specifically, while the Company highlights that the loss of the city contract adversely impacted its overall operations, it did not specifically quantify how this impacted it as a whole or describe the detrimental effects to its regulated operations. Further, Olympic did not explain how it would be allocating the \$1.99 million dollar settlement it received for the loss of its city contract. Rather it only indicated that “none of the activities rendered under the contract were regulated,” and that the settlement payment was not “associated with any regulated services.”⁵² Olympic also failed to provide any direct testimony or exhibits illustrating the increased expenses and resulting harm to its owners and shareholders. Finally, with regards to the impact of the Company’s outdated tariff, the onus of bringing a general rate case before the Commission is on the Company. For this reason, we agree with Staff that the Company’s argument of its urgency for relief is undermined given that the Commission ordered it to submit filings no later than May 15, 2023, and then it subsequently filed a six-month continuance of that filing.⁵³
- 35 Regarding the third *PNB factor*, the mere failure to realize the authorized rate of return does not justify interim rate relief. As Staff correctly notes in its response, the Company’s analysis of this third factor is lacking in data sufficient to evaluate its claim that it is operating below “sufficient levels.”⁵⁴ Given the revenue requirement positions of both Staff and Olympic in their general rate proposals, we recognize that the Company is

⁵⁰ *Id.*

⁵¹ *Id.* at 36-37 ¶ 101.

⁵² Docket TG-230778, Sharbono, Exh. BS-13 at 13 (Company’s response to Staff DR No. 31(b)).

⁵³ Docket TG-230778, TG-21-912, Order 01, 3-4 ¶ 13, 4 ¶ 19 (January 27, 2022).

⁵⁴ Docket TG-230778, Staff’s Response at ¶12.

likely operating below the rate of return it would earn under the Lurito-Gallagher methodology. However, in conjunction with our findings under factor two, we determine that this alone does not warrant the granting of interim rate relief.

36 Accordingly, based on a review of the Company's needs, financial performance, and concern that the requested temporary increase might injuriously affect the rights and interests of the public, given that Olympic did not meet its burden under WAC 480-07-520(6) or the second *PNB* factor, for the reasons stated above, the request for interim rate relief is denied.

FINDINGS AND CONCLUSIONS

- 37 (1) The Washington Utilities and Transportation Commission is an agency of the state of Washington vested by statute with the authority to regulate the rates, rules, regulations, practices, accounts, securities, transfers of property and affiliated interests of public service companies, including solid waste companies under Chapters 81.04 RCW.
- 38 (2) Olympic is a solid waste company and public service company subject to Commission jurisdiction.
- 39 (3) Olympic filed on September 15, 2023, certain tariff revisions that were suspended by Commission Orders entered in Docket No. TG-230778 on December 21, 2023. In its May 8, 2024, filing the Company asked that its rates be authorized on an interim basis, subject to refund. This order considers only the application for the requested interim rates.
- 40 (4) Olympic has not demonstrated an immediate need for funds for operations or capital investment prior to the expected conclusion of the general rate proceeding.
- 41 (5) Olympic has not demonstrated that it faces an emergency, undue hardship, or inequity, as required under WAC 480-07-520(6) and consistent with the second *PNB* factor.
- 42 (6) The evidence demonstrates that it is more probable than not that Olympic's achieved rate of return is below that which would be granted through the Lurito-Gallagher methodology. However, this fact alone does not warrant interim rate relief.

43 (7) Olympic has not demonstrated with credible evidence of record that clear detriment to the utility will result before a full hearing can be had and the Company's pending general case resolved with a final order, which will be issued no later than November 1, 2024.

44 (8) Olympic's proposed interim tariffs should be rejected in their entirety.

CONCLUSIONS OF LAW

45 Having discussed above in detail all matters material to our decision, and having stated general findings and conclusions, the Commission now makes the following summary conclusions of law. Those portions of the preceding detailed discussion that state conclusions pertaining to the ultimate decisions of the Commission are incorporated by this reference.

46 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and parties to, these proceedings. Title 80 RCW.

47 (2) The rates proposed by the tariff revisions (Original Tariff No. 25) filed by Olympic with its petition for interim rates on May 8, 2024, are not just, fair, or reasonable, and should be rejected. *See* RCW 81.04.130.

48 (3) The existing rates for solid waste service provided in Washington State by Olympic appear to be sufficient to fund cash needs, pending resolution of the Company's general rate proceeding in this docket. The Company appears to have sufficient capital available for it to meet its projected needs and those of its operations, pending resolution of the Company's general rate proceeding in this docket.

49 (4) Olympic has not demonstrated with credible evidence of record that it requires immediate rate relief, subject to refund, before a full hearing can be had for the pending general rate proceeding in this docket.

50 (5) Olympic's proposed interim tariffs and request for expedited review should be rejected in their entirety.

ORDER

THE COMMISSION ORDERS:

- 51 (1) That the application for interim effect of tariff revisions filed by Murrey's Disposal Company, Inc. d/b/a Olympic Disposal on May 8, 2024, and request for expedited review is denied.

DATED at Lacey, Washington, and effective this 22nd day of August 2024.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Amy Bonfrisco
AMY BONFRISCO
Administrative Law Judge

NOTICE TO PARTIES

This is an Initial Order. The action proposed in this Initial Order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order, and you would like the Order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

WAC 480-07-610(7) provides that any party to this proceeding has twenty-one (21) days after the entry of this Initial Order to file a *Petition for Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-610(7)(b). WAC 480-07-610(7)(c) states that any party may file a *Response* to a Petition for review within seven (7) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order any party may file a Petition to Reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

RCW 80.01.060(3) provides that an Initial Order will become final without further Commission action if no party seeks administrative review of the Initial Order and if the Commission fails to exercise administrative review on its own motion.

Any Petition or Response must be electronically filed through the Commission's web portal as required by WAC 480-07-140(5). Any Petition or Response filed must also be electronically served on each party of record as required by WAC 480-07-140(1)(b).