

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Application of

WESTSIDE WASTE, LLC,

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

DOCKET TG-190653

ORDER 01

PREHEARING CONFERENCE
ORDER; NOTICE OF HEARING
**(Evidentiary Hearing set for July 24,
2020, at 8:00 a.m.)**

- 1 **NATURE OF PROCEEDING.** On August 5, 2019, Westside Waste, LLC, (Westside Waste or Applicant) filed with the Washington Utilities and Transportation Commission (Commission) an application for authority to operate as a solid waste collection company in Washington (Application). On January 24, 2020, Rabanco LTD/Republic and Rubatino Refuse Removal, Inc., filed protests to the Application. On January 28, 2020, Waste Management of Washington, Inc., d/b/a Waste Management - North Sound and Waste Management – Marysville, also filed a protest.
- 2 **CONFERENCE.** The Commission convened a telephonic prehearing conference on April 13, 2020, before Administrative Law Judge Michael Howard.
- 3 **APPEARANCES.** Steven Dietrich, Smith & Dietrich Law Offices PLLC, represents Westside Waste. Jeff Roberson, Assistant Attorney General, Olympia, Washington, represents Commission staff (Staff).¹ David W. Wiley, Williams, Kastner & Gibbs PLLC, represents Rabanco LTD/Republic and Rubatino Refuse Removal, Inc. Walker Stanovsky, Davis Wright Tremaine LLP, and Andrew Kenefick, in-house counsel, represent Waste Management of Washington, Inc. James K. Sells and Rod Whitaker represent Washington Refuse and Recycling Association. Contact information for the parties’ representatives is attached as Appendix A to this Order.
- 4 **PETITIONS FOR INTERVENTION.** On April 7, 2020, the Washington Refuse and Recycling Association (WRRRA) filed with the Commission a Petition to Intervene

¹ In formal proceedings such as this, the Commission’s regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners’ policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

(Petition). No party objected to the Petition. The Commission finds that WRRRA has established a substantial interest in this proceeding and that its participation is in the public interest because WRRRA is an industry association that represents the majority of regulated solid waste collection companies in Washington.² Accordingly, the Commission grants the Petition.

5 **DISCOVERY.** The parties agreed that formal discovery is not necessary in this case.

6 **PROCEDURAL SCHEDULE.** The parties presented an agreed procedural schedule at the prehearing conference. The Commission adopts this procedural schedule, which is attached to this Order as Appendix B. WAC 480-07-700(5)(a) requires the Commission to include in the procedural schedule for each adjudicative proceeding the date for at least one settlement conference. Accordingly, the parties must confer and propose a date for a settlement conference by April 21, 2020. The parties may reschedule a settlement conference without seeking to modify the schedule if the parties agree, but the parties must provide notice to the presiding officer of the rescheduled date.³

7 **DOCUMENT FILING AND SERVICE REQUIREMENTS.** Parties must file and serve all pleadings, motions, briefs, and other pre-filed materials in compliance with all of the following requirements:

- (a) Parties must submit electronic copies of all documents by 5 p.m. on the filing deadline established in the procedural schedule (or other deadline as applicable) unless the Commission orders otherwise. Parties must comply with WAC 480-07-140(6) in formatting, organizing, and identifying electronic files.
- (b) The Commission accepts only electronic versions of documents for formal filing. Parties must submit documents electronically through the Commission's web portal (www.utc.wa.gov/e-filing). If a party is unable to use the web portal to submit documents for filing, the Commission will accept a submission via email to records@utc.wa.gov, provided that the email: (1) explains the reason the documents are not being submitted via the web portal, and (2) complies with the requirements in WAC 480-07-140(5)(b).
- (c) Parties must electronically serve the other parties and provide courtesy electronic copies of filings to the presiding administrative law judge (michael.howard@utc.wa.gov) by 5 p.m. on the filing deadline unless the

² WAC 480-07-355.

³ WAC 480-07-700(5)(a).

Commission orders otherwise. If parties are unable to email copies, they may furnish electronic copies by delivering them on a flash drive only.

8 **EXHIBITS FOR CROSS-EXAMINATION.** Parties are required to file with the Commission and serve all proposed cross-examination exhibits by **5 p.m. on Friday, July 17, 2020.** The Commission requires electronic copies in searchable PDF (Adobe Acrobat or comparable software). If any of the exhibits contain information designated as confidential, parties must file an electronic copy of the redacted version in searchable PDF (Adobe Acrobat or comparable software) of each such exhibit. The exhibits must be grouped according to the witness the party intends to cross examine with the exhibits.

9 **EXHIBIT LISTS.** With each submission of pre-filed testimony and exhibits, the party making the submission must include a preliminary exhibit list that identifies each submitted exhibit in the format the Commission uses for exhibit lists it prepares for evidentiary hearings. Westside Waste will prepare its preliminary exhibit list and circulate it to the parties. Each party must file and serve a final list of all exhibits the party intends to introduce into the evidentiary record, including all pre-filed testimony and exhibits, as well as cross-examination exhibits by **5 p.m., Friday, July 17, 2020.**

10 **CROSS-EXAMINATION TIME ESTIMATES.** Each party must provide a list of witnesses the party intends to cross-examine at the evidentiary hearing and an estimate of the time that party anticipates the cross-examination of that witness will take. Parties should not file witness lists or cross-examination time estimates but must provide them to the administrative law judge (michael.howard@utc.wa.gov) and the other parties by email on **Wednesday, July 17, 2020, at 5:00 p.m.**

11 **PUBLIC COMMENT HEARING.** No party requested a public comment hearing, and the Commission does not find such a hearing is necessary in this case.

12 **NOTICE OF EVIDENTIARY HEARING.** The Commission will hold an evidentiary hearing in this docket on **Friday, July 24, 2020, at 8:00 a.m.,** in the Commission's Richard Hemstad Hearing Room, located at 621 Woodland Square Loop S.E., Lacey, Washington.⁴

13 **ALTERNATE DISPUTE RESOLUTION.** The Commission supports the informal settlement of matters before it. Parties are encouraged to consider means of resolving disputes informally. The Commission has limited ability to provide dispute resolution

⁴ If an in-person hearing is not possible on July 24, 2020, due to the ongoing COVID-19 pandemic, the Commission will consider various options, including a telephonic hearing, a video hearing, or continuing the hearing date until a later date.

services. If you wish to explore those services, please contact Rayne Pearson, Director, Administrative Law Division (360-664-1136).

14 **NOTICE TO PARTIES: A party who objects to any portion of this Order must file a written objection within ten (10) calendar days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. The service date appears on the first page of this Order, in the upper right-hand corner. Absent such objection, this Order will control further proceedings in this docket, subject to Commission review.**

DATED at Lacey, Washington, and effective April 14, 2020.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Michael S. Howard

MICHAEL HOWARD

Administrative Law Judge

APPENDIX A
PARTIES' REPRESENTATIVES
DOCKET TG-190653

PARTY	REPRESENTATIVE	PHONE	E-MAIL
Westside Waste	Steven Dietrich Smith & Dietrich Law Offices PLLC 3905 Martin Way E, Suite F Olympia, WA 98506	360-915-6952	steved@smithdietrich.com
Commission Staff	Jeff Roberson Assistant Attorney General Office of the Attorney General Utilities and Transportation Division P.O. Box 40128 Olympia, WA 98504	360-664-1188	jeff.roberson@utc.wa.gov
Rabanco LTD/ Republic	David W. Wiley Williams, Kastner & Gibbs PLLC 601 Union St., Ste. 4100 Seattle, WA 98101-2380	206-233-2895	dwiley@williamskastner.com
Rubatino	David W. Wiley Williams, Kastner & Gibbs PLLC 601 Union St., Ste. 4100 Seattle, WA 98101-2380	206-233-2895	dwiley@williamskastner.com
Waste Management	Andrew Kenefick 720 4th Ave. Ste. 400 Kirkland, WA 98033-8136	425-825-2003	akenefick@wm.com
	Walker Stanovsky Davis Wright Tremaine LLP 920 Fifth Ave., Ste. 3300 Seattle, WA 98104-1610	206-757-8259	walkerstanovsky@dwt.com
	Nancy Foley		nancyfoley@dwt.com
WRAA	James K. Sells, Attorney at Law PMB22 3110 O Judson Street Gig Harbor, WA 98335	360-981-0168	jamesells@comcast.net
	Rod Whitaker, Attorney at Law WRAA 4160 6th Avenue SE, Ste.205 Lacey, WA 98503	360-943-8859	rod@-wraa.org

**APPENDIX B
PROCEDURAL SCHEDULE
DOCKET TG-190653**

EVENT	DATE
Application Filing	August 5, 2019
Prehearing Conference	April 13, 2020
Applicant Testimony	May 22, 2020
Response testimony from Staff, Protestants, and Intervenor	June 19, 2020
Applicant's Rebuttal Testimony	July 10, 2020
Settlement Conference	TBD
Exhibit List, Cross-Examination Exhibits, Witness Lists, Time Estimates, and Exhibit Errata	July 17, 2020
Deadline for dispositive motions	July 17, 2020
Evidentiary Hearing	July 24, 2020