

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Application of

ADE DUMPSTERS, LLC,

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

DOCKET TG-200250

ORDER 03

GRANTING MOTION FOR
CONTINUANCE AND REVISING
PROCEDURAL SCHEDULE
**(Evidentiary Hearing set for
Wednesday, February 10, 2021, at
9:00 a.m.)**

- 1 **NATURE OF PROCEEDING.** On March 24, 2020, ADE Dumpsters, LLC, (ADE 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 April 27, 2020, Murrey's Disposal Company, Inc., and Harold LeMay Enterprises, Inc., filed protests to the Application. On May 4, 2020, Rabanco Ltd., d/b/a Emerald City Disposal, Tri-County Disposal, Lynnwood Disposal, Eastside Disposal, Rabanco Companies, Sea-Tac Disposal, Rabanco Connections, Republic Services, and Rabanco Recycling; and Waste Management of Washington, Inc., d/b/a Waste Management – North Sound, Waste Management – Marysville, Waste – South Sound, and Waste Management of Seattle, also filed protests.
- 2 On July 14, 2020, the Commission issued a Prehearing Conference Order and Notice of Hearing (Order 01). The Commission also issued a Protective Order (Order 02).
- 3 On September 3, 2020, ADE filed its Request for Continuance (Motion for Continuance). ADE noted that it retained counsel on September 3, 2020, and that it was not able to provide its prefiled testimony on September 4, 2020, as required by Order 01. ADE submitted that it was difficult to obtain counsel during the COVID-19 pandemic.
- 4 On September 4, 2020, Waste Management of Washington, Inc., (Waste Management) filed its Opposition to ADE's Request for Continuance. Waste Management argued that, pursuant to WAC 480-07-385(3)(a), ADE was required to file its Motion for Continuance at least five business days before the deadline at issue. Waste Management submitted that ADE was well aware of its need for counsel months before September 3, 2020, and that ADE did not demonstrate good cause for its delay.

5 **CONFERENCE.** On September 11, 2020, the Commission noticed a second prehearing conference to discuss the procedural schedule. The Commission convened this virtual prehearing conference on September 25, 2020, before Administrative Law Judge Michael Howard.

6 **APPEARANCES.** Cindy A. Johnson, Acebedo and Johnson, LLC, represents ADE. David W. Wiley, Williams, Kastner & Gibbs PLLC, represents Murrey's Disposal Company, Inc., Harold LeMay Enterprises, Inc., and Rabanco Ltd. 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 (WRRRA). Contact information for the parties' representatives is attached as Appendix A to this Order.

7 **ADE'S MOTION FOR CONTINUANCE.** The Commission grants ADE an exemption from WAC 480-07-385(3)(a). Pursuant to WAC 480-07-110, the Commission may, in response to a request or on its own motion, grant an exemption from its own rules when "consistent with the public interest, the purposes underlying regulation, and applicable statutes." Here, applying the five-day requirement from WAC 480-07-385(3)(a) would cause undue hardship to ADE by effectively forcing the Company to defend its Application without the benefit of counsel. The Commission therefore accepts the Motion for Continuance as timely filed.

8 The Commission also grants ADE's Motion for Continuance. ADE's explanation regarding its ability to retain counsel during pandemic constitutes good cause, as required by WAC 480-07-385(2)(a). The continuance does not prejudice the other parties because the deadlines for responsive testimony are adjusted accordingly. We therefore continue the deadline for ADE's prefiled direct testimony, and all other deadlines, as described in Appendix B.

9 The parties are advised that the Commission modifies only the procedural schedule set out in Order 01. All other terms of Order 01 and Order 02 remain in full force and effect.

10 **PROCEDURAL SCHEDULE.** The parties presented an agreed procedural schedule at the prehearing conference. The Commission adopts the proposed procedural schedule, which is attached to this Order as Appendix B. The parties may modify the date of the settlement conference by providing written notice to the Commission.

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

12 **EXHIBITS FOR CROSS-EXAMINATION.** Parties are required to file with the Commission and serve all proposed cross-examination exhibits by **5 p.m. on Monday, February 1, 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.

13 **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. ADE 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., Monday, February 1, 2021**.

14 **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 **Monday, February 1, 2021, at 5:00 p.m.**

- 15 **PUBLIC COMMENT HEARING.** No party requested a public comment hearing, and the Commission does not find such a hearing is necessary in this case.
- 16 **NOTICE OF EVIDENTIARY HEARING.** The Commission will hold an evidentiary hearing in this docket on **Wednesday, February 10, 2021, at 9:00 a.m., continuing if necessary to Thursday, February 11, 2021. To participate by phone, please call (253) 372-2181 and enter the Conference ID: 324 244 467#. To participate via the Microsoft Teams application, use the following link: [Join Microsoft Teams Meeting](#).**
- 17 **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 services. If you wish to explore those services, please contact Rayne Pearson, Director, Administrative Law Division (360-664-1136).
- 18 **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 September 28, 2020.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Michael S. Howard
MICHAEL HOWARD
Administrative Law Judge

**APPENDIX A
PARTIES' REPRESENTATIVES
DOCKET TG-200250**

PARTY	REPRESENTATIVE	PHONE	E-MAIL
ADE Dumpsters, LLC	Cindy A. Johnson Acebedo and Johnson, LLC 112 Third Street SW Puyallup, WA 98371	253-445-4936	cjohnson@acebedojohnson.com
Murrey's Disposal Company, Inc.	David W. Wiley Williams, Kastner & Gibbs PLLC 601 Union St., Ste. 4100 Seattle, WA 98101-2380	206-233-2895	dwiley@williamskastner.com
Harold LeMay Enterprises, Inc.	David W. Wiley Williams, Kastner & Gibbs PLLC 601 Union St., Ste. 4100 Seattle, WA 98101-2380	206-233-2895	dwiley@williamskastner.com
Rabanco LTD	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-200250**

EVENT	DATE
Application Filing	March 24, 2020
Prehearing Conference	July 13, 2020
Second Prehearing Conference	September 25, 2020
Applicant Direct Testimony and Exhibits	November 4, 2020
Response testimony from Protestants and Intervenor	December 9, 2020
Discovery deadline	December 23, 2020
Rebuttal and Cross-answering Testimony	January 13, 2021
Settlement Conference	January 18, 2021, 10:00 a.m. to 12:00 p.m.
Exhibit List, Cross-Examination Exhibits, Witness Lists, Time Estimates, and Exhibit Errata	February 1, 2021
Evidentiary Hearing	February 10, 2021, at 9:00 a.m., continuing if needed to February 11, 2021