Docket No. TG-200250 - Vol. II

In the Matter of the Application of: ADE Dumpsters, LLC

September 25, 2020



COURT REPORTING AND LEGAL VIDEO

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Docket No. TG-200250 - Vol. II - 9/25/2020

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	BEFORE THE WASHINGTON	1	A P P E A R A N C E S (Cont.)
	UTILITIES AND TRANSPORTATION COMMISSION	2 3	FOR WASHINGTON REFUSE & RECYCLING:
	In the Matter of the Application of) DOCKET TG-200250	4	ASSOCIATION: RODERIC E. WHITTAKER JR.
	ADE DUMPSTERS, LLC,))		Attorney at Law
	For Authority to Operate as a) Solid Waste Collection Company) in Washington)	5 6	4160 Sixth Avenue Southeast Suite 205 Lacey, Washington 98503
	TELEPHONE PREHEARING CONFERENCE, VOLUME II Pages 19 - 33 ADMINISTRATIVE LAW JUDGE MICHAEL HOWARD	7 8	(360) 943-8859 rod@wrra.org
	September 25, 2020 1:33 P.M.	9 10 11	
	Washington Utilities and Transportation Commission 621 Woodland Square Loop Southeast Lacey, Washington 98503	12 13 14 15 16	
	REPORTED BY: SHELBY KAY K. FUKUSHIMA, CCR #2028	17 18	
	Buell Realtime Reporting, LLC	19 20	
	1325 Fourth Avenue, Suite 1840 Seattle, Washington 98101	21 22	
	206.287.9066 Seattle 360.534.9066 Olympia	23	
	800.846.6989 National www.buellrealtime.com	24 25	
	Page 20		Page 22
1	APPEARANCES	-	-
2	ADMINISTRATIVE LAW JUDGE: MICHAEL HOWARD	1 2	LACEY, WASHINGTON, SEPTEMBER 25, 2020 1:33 P.M.
4		3	-000-
5	FOR ADE DUMPSTERS, LLC: CINDY A. JOHNSON	4	PROCEEDINGS
6	Acebedo & Johnson, LLC 112 Third Street Southwest	5	
7	Puyallup, Washington 98371-5344	6	JUDGE HOWARD: Good afternoon, everyone.
8	(253) 445-4936 cjohnson@acebedojohnson.com	7	Let's be on the record. The time is 1:33 p.m.
9 10	FOR MURREY'S DISPOSAL COMPANY.	8 9	My name is Michael Howard, and I'm an administrative law judge with the Washington Utilities
	HAROLD LeMAY ENTERPRISES, and	10	and Transportation Commission. We are here today for a
11	RABANCO LIMITED: DAVID W. WILEY	11	second prehearing conference in Docket TG-200250, which
12	Williams Kastner	12	is captioned In the Matter of the Application of ADE
13	601 Union Street, Suite 4100 Seattle, Washington 98101-1368	13	Dumpsters I'm sorry ADE Dumpsters, LLC, for
14	(206)628-6600 dwiley@williamskastner.com	14	Authority to Operate as a Solid Waste Collection Company
15		15	in Washington.
16	FOR WASTE MANAGEMENT: ANDREW M. KENEFICK	16	We had a prehearing conference in this case
17	Waste Management - Legal Department	17	when ADE Dumpsters was proceeding pro se. The company
18	720 Fourth Avenue, Suite 400 Kirkland, Washington 98033-8136	18	has now retained counsel and filed a motion for
19	(425) 825-2003 akenefick@wm.com	19	continuance of the procedural schedule. Waste
20		20	Management has filed an opposition to that motion.
21	WALKER C. STANOVSKY Davis Wright Tremaine LLP	21	I will be granting the motion for
	920 Fifth Ävenue, Suite 3300	22	continuance. Given the particular circumstances here,
22	Seattle, Washington 98104-1610 (206)757-8259	23	I'm going to exempt ADE from the requirement that such a
23 24	walkerstanovsky@dwt.com	24	motion must be filed at least five business days before
24 25		25	the deadline at issue. As a general matter, though, I

1 (Pages 19 to 22)

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	Page 23		Page 25
1	do expect that all parties, including ADE, will adhere	1	independently.
2	to the Commission's rules going forward.	2	I did want to (phone feedback) moment
3	So this prehearing conference is going to be	3	understand sort of the two-month issue. I think we're
4	a chance for the parties to discuss a new procedural	4	three weeks after the deadline that was continued, so
5	schedule. I anticipate that we will modify the	5	I'm not sure we're looking at two months to for all
6	procedural schedule from Order 01 and the first	6	of the deadlines to be extended.
7	prehearing conference with each of those deadlines, and	7	JUDGE HOWARD: Well, I would that's
8	the hearing date extended by approximately two months	8	understandable the parties did not have a chance to
9	depending on the parties' schedules.	9	discuss this issue yet. I would expect that the parties
10	After today's conference, I'll enter an	10	could discuss it with me off the line, and then we come
11	order setting out a new procedural schedule and	11	back on the record.
12	resetting the date for the hearing. I do not plan on	12	Ms. Johnson, what does your timetable look
13	revisiting the other issues already resolved in the	13	like for having the direct pre-filed testimony ready?
14	first prehearing conference.	14	So it would have been due on September 4th.
15	Let's start by taking short appearances.	15	If we did, essentially, a 30-day extension
16	Could we have an appearance for ADE	16	of time, that would put it in early October; would that
17	Dumpsters?	17	be sufficient?
18	MS. JOHNSON: Yes, Cindy Johnson.	18	MS. JOHNSON: I guess my question for that
19	JUDGE HOWARD: Thank you.	19	would be if that's going to include the discovery that
20	And could we have an appearance for Murrey's	20	we obtain. I don't think that's going to be enough
21	Disposal?	21	time.
22	MR. WILEY: Yes, Your Honor. Dave Wiley.	22	JUDGE HOWARD: Yeah. That is a concern I
23	JUDGE HOWARD: Thanks, Mr. Wiley. And	23	have as well. I think just due to how this is working
24	you're representing Harold LeMay Enterprises and Rabanco	24	out, this is going to end up being approximately a
25	as well?	25	60-day extension of each of those deadlines in the
	Page 24		Page 26
1	MR. WILEY: That's correct, Your Honor.	1	procedural schedule. So just one moment here. Sorry.
2	MR. WILEY: That's correct, Your Honor. Thank you.	2	procedural schedule. So just one moment here. Sorry. So along those lines, I would suggest a
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21 JUDGE HOWARD: That's correct. So early 21 Applicant direct testimony and exhibits	
	her
23 MR. STANOVSKY: Okay. 23 4th; response testimony from Protestants and Interve	
24 (Simultaneous cross-talk) 24 on December 9th. Discovery deadline. The deadline	
25 MR. WILEY: Your Honor? 25 propounding discovery would be December 23rd. Re	
	Jutta
Page 28 Page	e 30
1 JUDGE HOWARD: Yes? 1 testimony, and we're also adding cross-answering	
2 MR. WILEY: I have a full week arbitration, 2 testimony, would be January 13th. Settlement	
3 AAA arbitration, the first week in February. This is 3 conference, of course, subject to your availability,	
4 Dave Wiley. It would have to be after that first full 4 would be January 18th, if that's a time that's	
5 week, okay? 5 available. Exhibit list, cross-examination exhibits,	
6 JUDGE HOWARD: That is perfectly fine to 6 witness list, time estimates, and exhibit errata would	
7 have it after that first week of February. 7 be February 1st. And the hearing would be set for	
8 MR. WILEY: And I assume this will be a 8 February 10th, and, if necessary, Thursday February	11.
9 virtual hearing as far as everything we know right now? 9 JUDGE HOWARD: Okay. Thank you,	
10 JUDGE HOWARD: I think it's very likely. 10 Mr. Kenefick.	
11 MR. WILEY: Yeah. 11 Was someone about to speak there?	
12 JUDGE HOWARD: In this order I would 12 Okay. I will confirm those dates work.	
13 probably include language that the Commission will 13 They should work very well. Thank you everyone for	
14 determine that issue going forward. And it is hard to 14 negotiating on that schedule, and I will incorporate	
15 say, but it's likely it would be a virtual hearing. 15 that into the order following our conference today.	
16 MR. WILEY: Okay. Thank you. 16 MR. KENEFICK: I would suggest this. With	
17 JUDGE HOWARD: Do we have any other 17 respect to the settlement conference, if that date	
18 questions or concerns before I go off the line 18 becomes a date or that time is an issue, obviously, ye	4.1
19 temporarily? 19 know, just let us know. And I would think that, you	
20 MS. JOHNSON: Yes, this is Cindy Johnson. I 20 know, plus or minus a few days is probably absoluted	,
21 have a trial February 22nd, so maybe we could do it 21 fine since that's more of a conference than a deadline	
22 between the two dates. 22 for submitting a document.	
23 JUDGE HOWARD: Okay. I think that would be 23 JUDGE HOWARD: Certainly. On some occ	asions
24 a good topic for the parties to discuss. 24 when we include the settlement conference in these	
25 So let's be off the record, and I will leave 25 procedural schedules, that refers to the parties meet	
	na

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	Page 31		Page 33
1	amongst themselves. That's how I would normally read	1	CERTIFICATE
2	-	2	GERTITICATE
2 3	such a deadline in the schedule. As the ALJ hearing the case, if it's going	3	STATE OF WASHINGTON
4		4	COUNTY OF KING
	to, you know, an adjudication on the merits, if it	5	COUNTFORMING
5	doesn't resolve, I would be somewhat concerned about	6	L Challey Kay K. Evyly shime a Cartified Charthand
6	trying to act as mediator at the settlement conference		I, Shelby Kay K. Fukushima, a Certified Shorthand
7	earlier.	7	Reporter in and for the State of Washington, do hereby
8	MR. KENEFICK: Of course, yeah. I wasn't	8	certify that the foregoing transcript is true and
9	thinking that through.	9	accurate to the best of my knowledge, skill and ability.
10	JUDGE HOWARD: Oh, no. No problem. It's	10	IN WITNESS WHEREOF, I have hereunto set my hand
11	just one thing that occurred to me, so I would	11	and seal this 1ST day of OCTOBER, 2020.
12	understand the settlement conference to be a meeting	12	KUTCA .
13	among the parties.	13	sally kay k. I kusaing
14	MR. WILEY: Judge Howard? Dave Wiley. I	14	
15	agree particularly in application or a certificate case	15	SHELBY KAY K. FUKUSHIMA, CCR #2028
16	versus a rate case, it's kind of an up-or-down issue,	16	
17	typically, so I don't think we'd need a third-party	17	
18	mediator to attempt to resolve that. It's either going	18	
19	to happen or it isn't.	19	
20	JUDGE HOWARD: Yes, I agree.	20	
21	Okay. If that resolves the issue of the new	21	
22	schedule, I would just point the parties again to Order	22	
23	01, which has instructions on electronic filing,	23	
24	electronic service, and other issues, such as discovery.	24	
25	And, then, of course, we have the protective order in	25	
	Page 32		
1	Order 02.		
2	If any party has corrections or updates to		
3	the master service list, please file a written notice of		
4	appearance or email me at michael.howard@utc.wa.gov.		
5	Is there anything else that we should		
6	address today?		
7	All right. Hearing nothing, I will issue an		
8	order shortly containing this new schedule. We are		
9	adjourned.		
10	Thank you.		
11	MR. KENEFICK: Thank you.		
12	MR. WILEY: Thank you.		
13	MS. JOHNSON: Thank you.		
14	(Adjourned at 2:01 p.m.)		
15	· · · · · · · · · · · · · · · · · · ·		
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