BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

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| In Re:<br><br>MURREY'S DISPOSAL COMPANY, INC., G-9,<br><br>Petitioner. | DOCKET TG-111672 |
| In Re:<br><br>AMERICAN DISPOSAL COMPANY,<br><br>Petitioner. | DOCKET TG-111674 |
| In Re:<br><br>HAROLD LEMAY ENTERPRISES, INC. dba PIERCE COUNTY REFUSE,<br><br>Petitioner. | DOCKET TG-120073<br><br>PETITION FOR RECONSIDERATION OF PORTION OF ORDER NOS. 06 and 04 REJECTING TARIFF FILINGS |

## I. PARTIES

1 Petitioners' name and address are as follows:

Murrey's Disposal Company, Inc.
PO Box 399
Puyallup, WA 98371

American Disposal Company
PO Box 399
Puyallup, WA 98371

became effective, the standard the Commission also referenced in its Orders 06 and 04 at Section 25, page 8.

## IV. RECONSIDERATION STANDARDS

4 Petitioners duly recognize the narrow basis for seeking reconsideration under WAC 480-07-850. However, they believe under this exceptional circumstance especially where the challenged Orders result from Cross-Motions on Summary Determination, that reconsideration of targeted portions of Orders 06 and 04 as identified and argued below, is fully appropriate to avoid manifest injustice to Petitioners and concomitantly, to correct errors of law which Petitioners respectfully contend should change the view of the Commission in its summary denial of all revenue share plan expenditures in the 2011-2012 Pierce County Revenue Share Plans. Moreover, that reconsideration is also fully appropriate under the standards identified in Order M.V. No. 140273, *In Re Kolean and Stewart d/b/a Olympic Transport* (Sept. 1989), where correction of the alleged errors of law would materially affect the outcome. It is upon this procedural basis then that companies here seek reconsideration as authorized by rule and statute.

## V. PORTIONS OF ORDER BEING CHALLENGED

5 As described generally above, the specific portions of Order Nos. 06 and 04 which Petitioners here challenge, are set forth in Sections 23-28 of the Order, at pages 7-9, and Section 32 of the Conclusion Section insofar as it relates to the 2011-2012 Pierce County RSA expenditures and finally, parallel Conclusions of Law Nos. 2 and 3, (Sections 34 and 35 at page 11 of the Order), in rejecting the tariff filing and requiring the companies

Harold LeMay Enterprises, Inc.
dba/Pierce County Refuse ("PCR")
4111 192nd St. E.
Tacoma, WA 98446

Petitioners' attorney's name and address are as follows:
David W. Wiley
Williams Kastner
601 Union Street, Suite 4100
Seattle, WA 98101

## II. STATUTES AND REGULATIONS AT ISSUE IN PETITION

2 RCW 34.05.230, RCW 34.05.470, RCW 81.77.030(5), RCW 81.77.030(6), RCW 81.77.185, WAC 480-07-850, WAC 480-70-351.

## III. PRELIMINARY STATEMENT

3 Murrey's Disposal Company, Inc., American Disposal Company, and Harold LeMay Enterprises, Inc. dba Pierce County Refuse ("Petitioners" or "Companies"), hereby file, pursuant to WAC 480-07-850 and RCW 34.05.470, this Petition for Reconsideration of a portion of Final Order Nos. 06 and 04 Rejecting Tariff Filing, in asking that the Commission reconsider its ruling denying recovery of expenditures for the Petitioners' 2011-2012 Pierce County Revenue Share Agreements ("RSA's").[1] Petitioners respectfully believe and therefore now assert that the Commission's Orders err in concluding that the Pierce County Revenue Share Planning expenditures by the Companies failed to meet the statutory standard established in RCW 81.77.185 in demonstrating that revenues "will be used to increase recycling" at the time those plans

[1] Conversely, Petitioners, albeit reluctantly, are not here asking the Commission to reconsider either its rejection of the Mason County Garbage Company, Inc. 2011- 2012 Revenue Share Plan retention or asking to reconsider its mandate that all unspent revenue share for 2011- 2012 be refunded to Pierce County ratepayers. Again, only the denial of the expenditures associated therewith is being challenged in this submission.

to credit residential customers for "all recycling revenues each company retained during its 2011-2012 Recycling Revenue Share Plan."

## VI. ARGUMENT IN SUPPORT OF RECONSIDERATION OF PORTIONS OF ORDERS 06 AND 04

*6* Orders No. 06 and 04 appear to set up a classic "Catch 22" conundrum for the Petitioners in conforming to the Commission's ruling in the Orders sought to be reconsidered here. On the one hand, the Commission finds that through the procedural mechanism of rate suspension under RCW 81.28.050, it can broadly review the 2011-2012 recycling revenue share plans in Pierce and Mason County to ascertain whether the revenues "will be used" to increase recycling under RCW 81.77.185 either after the fact or somehow retroactively.[2]

*7* On the other hand, the Commission also cites the Interpretive and Policy Statement ("IPS")[3] for the proposition that the Commission cannot review actual expenditures at the end of a plan period to determine acceptability, alluding apparently to the distinction between rates allowed to be effective by operation of law and those subject to suspension, investigation and temporary approval subject to refund. However, the Commission then

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[2] Albeit revenues from a legislative program expressly removed from regulated ratemaking methodology as previously extensively argued on Motion for Summary Determination and in Response in Opposition to Staff's Motion for Summary Determination. For instance, the Petitioners' Response critiqued the Staff argument that discretionary ratemaking authority in the Commission enabled suspended rates in revenue share programs to be rolled back, "transferr[ing] traditional ratemaking theory and jurisdiction to yield post-hoc disallowance of county-approved, certified performance benchmarks that are expressly designed to increase recycling. It does so apparently under the premise that the Commission's independent evaluation of that 'demonstration of recycling' in the companies' plan performance can restore 'removed revenues' to an apparently fully regulated 'revenue requirement' status." Petitioners' Response to Staff Motion for Summary Determination §12, page 11.

[3] *In re The Commission's Investigation of Recycling Revenue Share Plans*, Docket TG-112162, Interpretive and Policy Statement on RCW 81.77.185 (May 30, 2012).

goes on to deny retention of all of the 2011-2012 commodity sale revenues to the Companies. Indeed, in reviewing the Petitioners' 2011-2012 Plan anew in its Order and finding their substantive provisions and organizational format deficient, it observes at Section 25: "[w]e thus consider only whether the plans themselves and relevant evidence in existence at the time those plans became effective to determine whether the plans make the requisite demonstration."[4] The Commission then continues, noting the evidence in existence when the Companies filed their plans requesting to retain a portion of their recycling revenues during the 2011-2012 plan period were the reports the Companies filed on the results of their 2010-2011 Plans.

*8* But that was not in fact the only evidence filed with the Commission in September, 2011 seeking to demonstrate how the revenues in the 2011-2012 Plan "will be used to increase recycling."

*9* Indeed, Order 01 in TG-111674, *WUTC v. American Disposal Company, Inc.* (and the companion Orders in Dockets TG-111672 and TG-120073) all acknowledge in Section 4 of those Orders the filing of what were "updated" company recycling plans for 2011-2012 and summarize actions the Company in the 2011-2012 plan years would take to increase recycling and on what basis performance benchmarks in the plan would be awarded (*See* Section 9 of Order No. 1). Also included at the time was a letter dated September 14, 2011, from Stephen C. Wamback, Solid Waste Administrator for Pierce County, certifying the Companies' performance in 2010-2011, advocating full retention of unspent revenues in that prior period and briefly describing the July-September 2011

[4] Orders 06/05/04 §20 at 8.

interval in which the then existing revenue share program was revised to address the Commission's evident concerns about plan development, content and approach[5] and which noted an ongoing review by the County throughout the year leading to a final follow-up evaluation of plan performance prior to submittal of the completed expenditures and proposed retention at the end of the reporting period.

*10* While it is true that the 2011-2012 Revenue Share Plan for Pierce County (like all its annual predecessor plans since 2005 at the onset of the Pierce County RSA's), assigned revenue share percentages, rather than dollar amounts to various tasks the companies needed to perform and did not include any projection of anticipated retained revenues or ballpark, extrapolate or otherwise quantity costs, at the time in fall 2011, there was no statute, rule or Policy Interpretive Statement which required that. And again, all previous plans approved by the Commission and certified by the County had not included that design element and were strictly performance, not budget-based plans that enabled the Company to retain a certain percentage of Revenue Share Plan percentages only on conditions subsequent of meeting itemized goals set forth in the Plan.

*11* As the Commission is well aware, and as the record reflects, by late December 2011, the Commission initiated a docketed proceeding to review the increasing disparity in Revenue Share Plan formats and elements among counties and participating haulers and convened stakeholder sessions and received formal written comments throughout the first part of 2012 that eventually culminated in the May 30, 2012 Interpretive and Policy Statement cited above. The Petitioners were active participants in that process, submitted

[5] Order No. 5, *In re Mason County Garbage Co., et al.,* TG-101542 (May 2011).

two rounds of written comments and strenuously advanced their positions in support of retaining performance-based plans in lieu of budgeted performance plans and goals. The Commission ultimately rejected that position and announced that a Plan could not demonstrate how retained "revenues will be used to increase recycling without a detailed budget of how those revenues will be spent.[6]

*12* But the IPS was issued eight and a half months into the 2011-2012 Revenue Share Plan for Murrey's/American which Plans' underlying design had been consistently certified by the County every year since 2006 and similarly approved each consecutive year by the Commission throughout that entire interval, including varying retention percentage amounts tied to described expenditures.

*13* Indeed, with some minor exceptions, the expenditures for 2011-2012 which have now been summarily denied by the Commission for the current reporting year were substantially similar by recycling activity line item and recipient to previous approved plans.[7]

*14* Moreover, neither the Commission nor staff ordered any revisions to extant Revenue Share Plans after the IPS was issued, nor would there likely have been sufficient time to completely recast the Revenue Share Plan along the lines of the IPS to retroactively establish budget project expenditures and allocate dollars to specified tasks as the IPS prescribes.

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[6] Docket TG-112162, IPS at §33 at 10.

[7] *See* for instance, the Harold LeMay Enterprises, Inc. expense recap December 1, 2011-October 31, 2012, Exhibit IV, and compare those submitted for the 2011-2012 year on January 27, 2012 by the company, which were attached to the "2012-2013 Company Recycling Plan, Pierce County Single-Cart Recycling Program updated January 2012."

*15* As Petitioners also clearly acknowledged in their Motion for Summary Determination of October 26, 2012, the IPS has become in effect a "roadmap" for future plan developments despite some fundamental concerns (still unresolved) with portions of the reasoning and identified outcomes announced in the IPS. [8]

A. The IPS Decision Points and Rationale Bleed Into Orders 06 and 04

*16* Yet what most concerns Petitioners here on Reconsideration, is the apparent use of the IPS's rationale and outcomes to disallow the entirety of the Companies' unspent revenue share retention in 2011-2012, including previously-incurred and absorbed expenses which were not intended to be duplicated in any prospective refund in addition to the pass-back of the balance of the unspent revenue share in Pierce County. As argued below and at earlier stages of this proceeding, the Companies believe even an unintentional application of the IPS's decision points would not be permissible under established law, which rationale is unquestionably woven into the fabric of Orders 06 and 04.

*17* For example, in attempting to rationalize and mitigate the implicit harshness of its total denial of revenue share plan proceeds in 2011-2012 including expenses, the Commission provides a quantitative "net proceeds remaining" analysis of expenses and retention for both reporting years at footnote 14, page 10 of its Orders.

*18* In concluding that analysis in which the Commission identifies unspent revenues from the previous period to fund its overall payback mandate, the Commission also observes in overviewing the retention by company "...each of which significantly exceeds the five

[8] (*See* particularly, fn. 18, Section 33 Petitioners' Motion for Summary Determination of October 26, 2012).

percent of Plan expenditures the Commission believes is appropriate for an incentive bonus."[9] There is no mistaking that this conclusion is wholly derived from the IPS, specifically Section 32, which reads:

> We will also require the percentage applied to those expenditures to be reasonable. Both King and Snohomish counties recently have negotiated Plans in which they have agreed to 'an incentive equal to 5% of expenditures.' We believe that is an appropriate amount and will expect any bonus or incentive percentage to be no higher than that percentage without compelling justification.[10]

*19* Again, while Orders 06 and 04 only sparingly cite in isolation to the IPS in Section 20 and footnote 3, the IPS's rationale is the proverbial "elephant in the room" throughout the decision. This is true particularly in the latter portion of the Orders which critique the size of the revenues generated, the percentage of expenditures in proportion to those revenues and the "arbitrary assignment of revenue percentages to tasks" (again, a design feature of the Pierce County Plans since 2006 which had never been questioned before this year), and which featured a variable percentage formula to account for the total orientation of the plan to either achieve approved benchmarks in expending funds to increase recycling as quantitatively measured, or alternatively, in failing to recover any relevant proceeds by not attaining the benchmark assigned to the activity section.[11]

*20* The final analytical thread of Orders Nos. 06 and 04 ostensibly justifying the unilateral disallowance of expenditures critiques the perceived disconnect between a description/narrative of plan activities and use of plan revenues. The Commission here anticipates that companies': "[r]evenues fund activities that will increase recycling, and

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[9] Orders 06/05/04, fn. 14, §32 at 10.

[10] IPS §32 at 10.

[11] The Commission in § 20, Orders 06 and 04, also again critiques the County sustainability position it sharply questioned in footnote 14, page 8 of the IPS. Unlike the majority of the expenses for the Pierce County Plan in 2011-2012, that expenditure was in fact able to be cancelled after the admonition of the IPS and was not included as an expense sought to be recovered in revenue share expenditures in Petitioners' November 28, 2012 submission which obviously increased the unspent retention.

both the legislature and the Commission anticipate that companies will retain only the revenues necessary to accomplish that ultimate goal."[12]

*21* While concluding with this observation that the 2011-2012 plans failed because of the omission of linkage of the retention of revenues to an increase in recycling, this ultimate finding is particularly troubling in light of the Commission's previous holding in Order No. 5 in May, 2011 which had interpreted RCW 81.77.185 to provide an incentive for haulers and demonstrate that the revenues produced will be used to increase recycling:

> Stated in terms of the statute, the plan would demonstrate that the local government or the Commission will use at least some portion of the revenue as a reward to provide an incentive to the company to develop and implement recycling efforts and thereby increase recycling. We agree with these parties that such use of the retained revenue is fully consistent with the plain meaning of RCW 81.77.185.[13]

*22* Recall that the 2011 Commission Order No. 5 and subsequent Order No. 6 On Clarification, expressly found, in plans substantially the same (and in fact not yet amended to provide additional program elements that expanded activities to increase recycling such as reflected by the updated 2011-2012 Pierce County Plans), that the "recycling plans submitted to the Commission in these dockets sufficiently demonstrate how the revenue the Company retains from its sale of recyclable materials will be used to increase recycling as required by RCW 81.77.185 only if express recycling goals are set forth that must be met before retention of any revenues would be allowed," a finding which the subsequent July, 2011 Order No. 6 On Clarification expressly made and re-emphasized at ¶14 of that Order.

*23* These previous Orders and findings involving the same Petitioners authorized the retention of *all* unspent revenue share after expenditures, unquestionably a more difficult analytical hurdle than approval of the RSA dollars *spent* on recycling activities which

[12] Orders 06/04 ¶ 28 at 9.
[13] Order No. 05, *In re Mason County Garbage, Co.*, TG-101542 et al. (May 2011) ¶ 27 at 12.

present Orders 06 and 04 summarily disallow contrary to long-established County and Commission-approved performance benchmark plan designs. Those plan design provisions were again previously found in less developed plan versions to have satisfactorily established the linkage between revenue expenditures and increased recycling. The Commission's new announced finding of ellipsis in the 2011-2012 overall plan design and recycling increase demonstration to invalidate even expenses (as opposed to unspent revenue retention) is not only wholly contrary to past Commission plan approval practices, but relies once again on the lack of budgetary and line item activity dollar quantification featured in the May, 2012 IPS to substantiate its holding here. Section 27 in Orders 06 and 04 provides the basis for that denial and implicitly reinforces and echoes the rationale of the IPS which found that "[a] plan cannot demonstrate how retained 'revenues will be used to increase recycling' if it does not include a detailed budget of how those revenues will be spent." IPS ¶35 at 10. In the Commission's now resurgent view, the 2011-2012 Pierce County Plans lack that essential linkage, and therefore, fail.

### B. Orders 06 and 04 Err In Applying the Interpretive and Policy Statement As a Matter of Law

*24* As Petitioners have demonstrated, Orders 06 and 04 both implicitly and explicitly rely upon the IPS's findings and rationale throughout to disqualify all of the 2011-2012 revenue share plan revenues, including the expenditures, and do so under the premise that suspended tariffs allow them to retroactively apply standards developed in an after-the-fact 2012 Policy and Interpretive Statement to revenues removed from regulated

ratemaking and upon evidence supposedly only "in existence at the time those plans became effective to determine whether the plans make the requisite demonstration."[14]

*25* Petitioners previously expressed concerns that the May 2012 IPS not be applied to plans already designed and implemented before the issuance of the Policy Statement. As noted in prior pleadings, the Washington Supreme Court has articulated the advisory, non-binding nature of RCW 34.05.230(1), policy and interpretive statements and characterized the statute and process by which such Statements are rendered as "a cooperative partnership between agencies and regulated parties that emphasizes education and assistance before the imposition of penalties [which] will achieve greater compliance with laws and rules." *Wash. Educ. Ass'n. v. Pub. Disclosure Comm'n.,* 150 Wn. 2d 612, 618-9, (2003).

*26* Petitioners, on Motion for Summary Determination, had foreshadowed…

> …here the WUTC Staff may now, indirectly at least in buttressing its litigation position in opposition to the size of the unspent retention, be attempting to apply the May 30 determinations retrospectively against Respondents, subjecting them in effect to "penalty or administrative sanctions" (*i.e.* the loss or reduction of certified plan unspent revenues) in contravention of the legal effect afforded to IPS, under Washington law. In other words, the IPS should only be used to aid and assist the parties with the *law in the future.* Any attempt to apply select elements of the May 30 determinations retrospectively to the 2010-2011 and 2011-2012 RSA's with the force and effect of law will overstep the "advisory" intent afforded IPS's potentially raising constitutional and administrative due process concerns.[15]

*27* Portions of Orders 06 and 04 as noted above, however, indisputably rely upon the rationale of the IPS (*i.e.* footnote 14's reference to the level of retention remission considered "reasonable") as well as the indispensability of budgetary plan design as the

[14] Orders 06 and 04 ¶25 at 8.
[15] Petitioners' Motion for Summary Determination, ¶37 at 20.

solution for linkage between revenues expended and demonstrative increases in recycling.

*28* The Companies understand the Commission's justification for reaching this result in denying all revenue share plan revenues in 2011-2012 to be the procedural mechanism of suspension and investigation. Not only does that appear to classically elevate procedural form over legal substance (the latter being the unmistakable reliance on decision points from an IPS issued eight and a half months after the plans filing), but it once again applies statutory mechanisms for general rate case filings to revenues that are expressly *removed* from regulated ratemaking processes.

*29* The procedural advisory "roadmap" nature of the IPS has not been contested by Petitioners on a prospective basis despite expressed misgivings with some elements of the Statement that are addressed in its Petition for Summary Determination in its Response in Opposition to the Staff's Cross Motion for Summary Determination and need not be repeated here. Indeed, in September 2012, Mason County Garbage Company filed a revised revenue share agreement for the new reporting period incorporating major elements of the IPS, including budget-based plan design and retention levels determined in the IPS to be "reasonable." The Commission referenced that plan in Orders 06 and 04, and has now approved revised tariff pages on December 27, 2012 which addressed additional concerns raised by the Staff relevant to the 2012-2013 new plan year.

*30* Further, it is important that the Commission understand the prospective effect of its advisory, expressly non-binding Interpretive and Policy Statement is not being collaterally challenged here, nor even the dubious application of its rationale/decision points to seek reconsideration of the return of all unspent revenue dollars in the Pierce

County 2011-2012 Plan. The targeted challenge is again only to the denial of the expenditures incurred by the Petitioners in good faith as elements of a County-certified and approved plan which updated and revised, but maintained the underlying RSA plan design that the companies had jointly developed with the County since the creation of revenue sharing in Pierce County in 2006.

*31* In the Position Statement of Respondents, the Companies attempted to elaborate, by narrative and Declaration, upon the details of its executory plans on just how the Plan revenues were used in the present reporting year to increase recycling. Indeed, the Declaration of Mark Gingrich pointedly responded to concerns about the Plan designs in contrast to the specificity for budgeting and other elements of the May 2012 IPS (Gingrich Declaration at ¶4), and sought to explain changes in the 2011-2012 Plan in terms of renewed or increased recycling performance goals, additional personnel and outreach that revenue share expenditures were directed to (Gingrich Declaration at ¶12), and other developments relating to use of revenues from the program to increase recycling. With this Declaration and a corresponding one from John Olnick of Pierce County Refuse, the Petitioners believed they had fully supplied sufficient detail to make the statutory showing consistent with historic practice and policy.[16]

[16] Because the November, 2012 revenue share statistics were unavailable on November 28, the final statistical linkage to establish that these described activities resulted in demonstrable reduction in per household waste and increased recycling in Pierce County, there was no cumulative reporting period results for the extended reporting year. If that is the "demonstrative link" the Commission finds lacking in this performance-based plan, it is both premature and unfair to deny 2011-2012 Plan retention, and the Commission should have allowed the reporting period to conclude without venturing such an unanticipated finding. As the Commission has now reminded, the statutory showing is a prospective one on how the revenues "will be used to increase recycling" and its own "linkage ellipsis" finding serving as expenditure denial justification here appears rather arbitrary here in its "look back/look forward" analysis.

32 Finally, as a result of those filings on November 28, 2012, the Commission Staff filed a brief letter the same day acknowledging its review of the various documents supporting the Petitioners' Statement and indicated its independent satisfaction that Petitioners had in fact demonstrated how the retained revenues expended on Plan activities will be used to increase recycling, a significance that merits merely a one-sentence aside in the antecedent procedural fact section of Orders 06 and 04.

## VII. CONCLUSION/THE ROAD AHEAD

33 Certainly no party to these long-contested consolidated dockets relishes the nature of the protracted issues, costs, burdens, or the unfortunate characterizations (i.e. "windfall profits") that have evolved from this proceeding. We are confronted here with a two-sentence legislative provision, apparently divergent views from the outset of the revenue share program, widely fluctuating fiscal outcomes year over year, untraditional treatment of revenues excluded from regulated rates, and a host of other timing, "look-back/look-forward" mechanics compounding the complexities and confusion developed over the years in assessment of revenue share plans under the law. Despite some of the pejorative labels affixed to recent plan year results, since May 2011 there has been a developing body of Commission decisions clarifying at least the Commission's perceptions of legislative standards that will aid plan participants in the future, much of which is now embodied in the May 2012 IPS.

34 Against that evolving articulation of administrative standards, Orders 06 and 04's unilateral, unanticipated and unprecedented disallowance of Pierce County's RSA expenditures is particularly unsettling. Petitioners have here outlined why and how they

respectfully believe the Commission's Orders erred in this regard. But nowhere along the continuum of developing agency opinion on revenue share could Petitioners have anticipated the true "gotcha" effect of this particular ruling, specifically to the extent that it completely jeopardizes out-of-pocket expenditures of *any* revenue share dollars for all recycling activity in the current plan year, at least as concerns any plan subject to rate suspension.

*35* The detrimental effect of this ruling will surely be to discourage any increased expenditure or innovation of any performance-based plan elements and proportionately increase unspent revenue retention which the Commission so harshly criticizes in the latter portion of its Orders here. While some of that growing retention trend may well be mitigated by elements of budget-based plans and the periodic adjustments the IPS discusses, the Commission has in these proceedings, whether intentional or not, squarely introduced the risk factor it found so conspicuously absent in these programs in the IPS: ". . .[a] company takes no financial risk when it uses those revenues to fund Plan Activities" (IPS § 27 at 8). Subjecting *all* 2011-2012 RSA expenditures to total disallowance is certainly a *huge* risk that these Companies did not realize they were assuming either on initial county certification or filing and presentation to the Commission, let alone tariff suspension, which has now culminated in total expense disapproval.

*36* At present, and without at least the expenditure denial portion of Orders 6 and 04 being reconsidered, there is obvious pause, trepidation and a lack of enthusiasm on the part of these Petitioners to expend additional efforts to rework any performance-based elements

of revenue share plans if the present fluidity of review standards can result in just the opposite of a "no risk" operating environment the Commission has pointedly described as characterizing revenue share programs for regulated haulers.

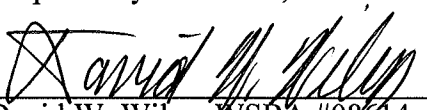
37 Ultimately, Petitioners contend Orders 06 and 04 on Petition for Reconsideration speak to a continuing need for further clarity in the revenue share program under the statute. As the Commissioners themselves have noted in Open Meetings, RCW 81.77.185 is a prime candidate for further legislative clarification. Barring that, Petitioners also believe more process and perhaps more formality (and with the present result, maybe even some rules) need to be considered which would enable key IPS decision points to be better debated and which would potentially accommodate variations in local comprehensive solid waste management plans and divergent county government perspectives on what their RSAs should achieve.

## VIII. PRAYER FOR RELIEF

38 WHEREFORE, Petitioners Murrey's Disposal Company, Inc., American Disposal Company, Inc. and Harold LeMay Enterprises, Inc., dba Pierce County Refuse ask the Commission to reconsider the featured portions of Orders 06 and 04, and in so doing, act to fully restore expenditures summarized in their November 28, 2012 Section IV "2011-2012 Expenditure Recap" submission relative to the 2011-2012 Pierce County Revenue Share Plan.

DATED this 7th day of January, 2013.

Respectfully submitted,



David W. Wiley, WSBA #08614
Attorneys for Murrey's Disposal Company, Inc., American Disposal Company, and Harold LeMay Enterprises, Inc., dba Pierce County Refuse

CERTIFICATE OF SERVICE

I hereby certify that on January 7, 2013, I caused to be served the original and nine (9) copies of the foregoing document to the following address via legal messenger to:

David Danner, Executive Director and Secretary
Policy and Legislative Issues
Washington Utilities and Transportation Commission
P.O. Box 47250
1300 S. Evergreen Park Dr. SW
Olympia, WA 98504-7250

I certify I have also provided to the Washington Utilities and Transportation Commission's Secretary an official electronic file containing the foregoing document via email to: records@utc.wa.gov.

I also certify that I have served via email and first class mail the foregoing document on:

Hon. Gregory J. Kopta
Administrative Law Judge
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Dr. SW
PO Box 47250
Olympia, WA 98504-7250
Email: gkopta@utc.wa.gov

Greg Trautman
Assistant Attorney General
1400 S. Evergreen Park Drive S.W.
PO Box 40128
Olympia, WA 98504-0128
Email: gtrautman@utc.wa.gov

James K. Sells
Attorney at Law
PMB 22
3110 Judson Street
Gig Harbor, WA 98335
Email: jamessells@comcast.net

Ruth Beckett

Ruth Beckett
Legal Assistant to David W. Wiley