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5 BEFORE THE WASHINGTON UTILITIES  
6 AND TRANSPORTATION COMMISSION

7 In the Matter of the Petitions of:

DOCKET NOS.

8 WASTE MANAGEMENT OF  
9 WASHINGTON, INC., d/b/a WASTE  
10 MANAGEMENT – NORTHWEST

TG-101220/111813  
(Consolidated)

11 WASTE MANAGEMENT OF  
12 WASHINGTON, INC., d/b/a WASTE  
13 MANAGEMENT – SNO-KING

TG-101221/111814  
(Consolidated)

14 WASTE MANAGEMENT OF  
15 WASHINGTON, INC., d/b/a WASTE  
16 MANAGEMENT – SOUTH SOUND AND  
17 WASTE MANAGEMENT OF SEATTLE

TG-101222/111815  
(Consolidated)

18 Requesting Authority to Retain Thirty Percent  
19 of the Revenue Received From the Sale of  
20 Recyclable Materials Collected in Residential  
21 Recycling Service

SETTLEMENT AGREEMENT

- 22 1. All parties to these consolidated proceedings enter into this Settlement Agreement as a full  
23 settlement of all issues raised in the above dockets.

24 **I. PARTIES**

- 25 2. The parties to this Settlement Agreement are Waste Management of Washington, Inc. on  
26 behalf of its separately-tariffed divisions, Waste Management of Washington, Inc d/b/a Waste  
Management – Northwest (“WM – Northwest”), Waste Management of Washington, Inc.,  
d/b/a Waste Management – Sno-King (“WM – Sno-King”), and Waste Management of  
Washington, Inc., d/b/a Waste Management South Sound, Waste Management of Seattle

1 (“WM – South Sound/Seattle”) (collectively, “Waste Management”), and the Staff of the  
2 Washington Utilities and Transportation Commission (“Staff”).

## 3 II. AGREED FACTS

- 4 3. RCW 81.77.185 directs the Commission to allow solid waste collection companies to retain up  
5 to fifty percent of the revenue they receive from the sale of recyclable materials, under a  
6 revenue sharing plan that is certified by the appropriate local government authority as being  
7 consistent with the local government solid waste plan and that “demonstrates how the revenues  
8 will be used to increase recycling.” The remaining revenue is to be passed to residential  
9 customers.
- 10 4. On July 16, 2010, Waste Management filed with the Washington Utilities and Transportation  
11 Commission (“Commission”) revisions to three of the Company’s then-effective tariffs under  
12 WAC 480-70-351(2), requesting approval to adjust its recycling commodity credits and  
13 implement a request to retain fifty percent of the revenue estimated from the sale of recyclable  
14 materials collected under its regulated recycling services in King County and Snohomish  
15 County, with an effective date of September 1, 2010.<sup>1</sup>
- 16 5. Waste Management contemporaneously filed a Revenue Sharing Agreement (“RSA”), with  
17 both Snohomish County (for WM – Northwest) and with King County (for WM – Sno-King  
18 and for WM – South Sound/Seattle) for the period of September 1, 2010, to August 31, 2011  
19 (the “2010-2011 RSAs”), intended to implement RCW 81.77.185.<sup>2</sup> The Counties each  
20 submitted letters certifying the 2010-2011 RSAs as consistent with the respective  
21 Comprehensive Solid Waste Management Plans, and recommended that Waste Management  
22 be allowed to retain fifty percent of the actual value of recyclable commodity revenues

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24 <sup>1</sup> *In re Waste Management of Washington, Inc., d/b/a/ Waste Management – Northwest*, G-237, Docket No. TG-  
101220, Tariff No. 17; *In re Waste Management of Washington, Inc., d/b/a/ Waste Management – Sno-King*, G-237,  
25 Docket No. TG-101221, Tariff No. 15, and *In re Waste Management of Washington, Inc., d/b/a/ Waste Management –*  
*South Sound and Waste Management of Seattle*, G-237, Docket No. TG-101222, Tariff No. 22.

26 <sup>2</sup> *Waste Management Recycling and Commodity Revenue Sharing Plan for Snohomish County* (September 1, 2010 –  
August 31, 2011); *Waste Management Recycling and Commodity Revenue Sharing Plan for King County* (September  
1, 2010 – August 31, 2011).

1 received during the period of September 1, 2010, through August 31, 2011.<sup>3</sup> Waste  
2 Management also included with its filing a report of how the revenues from the sale of  
3 recyclable commodities were spent during the immediately-preceding plan period of July 1,  
4 2009, to June 30, 2010 under the previously-effective RSAs with the two Counties (the “2009-  
5 2010 RSAs”).

6 6. The matters came before the Commission at its Open Meeting on August 26, 2010. The  
7 Commission inquired about the manner in which the revenue from the sale of recyclable  
8 materials had been budgeted and spent. The Commission authorized retention of fifty percent  
9 of the revenues derived from recyclable materials collected in Waste Management’s three  
10 residential recycling programs on an interim basis, from September 1, 2010, through  
11 December 1, 2010, subject to refund.<sup>4</sup> All three orders directed that unspent retained revenues  
12 “be carried over to the following year, unless some other treatment as may be ordered by the  
13 Commission.”<sup>5</sup>

14 7. The orders also instructed Waste Management to work with King and Snohomish Counties to  
15 develop a detailed budget showing the amount of revenue the Company estimated to generate  
16 from the sale of recyclable commodities, the amount of money it expected to retain, the  
17 amount of money it planned to spend under the proposed RSAs.<sup>6</sup> On November 1, 2010, with  
18 support from King and Snohomish Counties, Waste Management filed a budget requesting that  
19 the Company be allowed to keep eight percent of the retained revenues as earnings, and  
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21 <sup>3</sup> Letter from Kevin Kiernan, Division Director, King County Solid Waste Division to David W. Danner, Secretary  
22 and Executive Director, Washington Utilities and Transportation Commission (June (sic) 15, 2010); Letter from  
23 Matthew Zybas, Solid Waste Director, Snohomish County Solid Waste Division to David W. Danner, Secretary and  
24 Executive Director, Washington Utilities and Transportation Commission (July 14, 2010).

25 <sup>4</sup> *In re Waste Management of Washington d/b/a Waste Management – Northwest*, Docket No. TG-101220, Order  
26 01 (August 31, 2010); *In re Waste Management of Washington d/b/a Waste Management – SnoKing*, Docket No. TG-  
101221, Order 01 (August 31, 2010); *In re Waste Management of Washington d/b/a Waste Management – South  
Sound/Seattle*, Docket No. TG-101222, Order 01 (August 31, 2010).

<sup>5</sup> Docket No. TG-101220, Order 01 ¶ 25; Docket No. TG-101221, Order 01 ¶ 25; Docket No. TG-101222, Order 01  
¶ 25.

<sup>6</sup> Docket No. TG-101220, Order 01 ¶ 22; Docket No. TG-101221, Order 01 ¶ 22; Docket No. TG-101222, Order 01  
¶ 22.

1 included a line-item for that amount in the budget for expenditures it presented for the  
2 Commission's consideration at its Open Meeting on November 24, 2011.<sup>7</sup>

3 8. The Commission extended the fifty percent revenue sharing plan on a temporary basis, subject  
4 to refund, through August 31, 2012.<sup>8</sup> It suspended the recycling commodity credits and set the  
5 matter for hearing.<sup>9</sup>

6 9. The three Waste Management dockets were consolidated,<sup>10</sup> and at a prehearing conference the  
7 Commission determined that Waste Management's matters were related to a set of similar,  
8 consolidated dockets involving the revenue sharing plans in Pierce and Mason Counties.<sup>11</sup>  
9 Although the issues presented did not warrant consolidation of the two separately-consolidated  
10 dockets, the Commission acknowledged that the filings were sufficiently related to justify  
11 holding Waste Management's procedural schedule in abeyance pending the outcome in the  
12 Pierce/Mason County dockets.<sup>12</sup>

13 10. In May 2011, the Commission ruled in the Pierce/Mason County dockets that RCW 81.77.185  
14 does not authorize the Commission to require a solid waste collection company to carry over  
15 to a subsequent plan period the retained revenue from the sale of recyclable materials that the  
16 company does not spend on recycling activities within a given plan period.<sup>13</sup> The Commission  
17 further ruled that RCW 81.77.185 does not require a company to spend all retained revenues

18 <sup>7</sup> *In re Waste Management of Washington d/b/a Waste Management – Northwest*, Docket No. TG-101220; *In re*  
19 *Waste Management of Washington d/b/a Waste Management – SnoKing*, Docket No. TG-101221; *In re Waste*  
20 *Management of Washington d/b/a Waste Management – South Sound/Seattle*, Docket No. TG-101222, Petition to  
21 Allow Revenue Sharing, Lift Interim Status, and Approve Revised Commodity Credits (November 1, 2010).

22 <sup>8</sup> Docket No. TG-101220, Order 02 (November 24, 2010); Docket No. TG-101221, Order 02 (November 24, 2010);  
23 Docket No. TG-101222, Order 02 (November 24, 2010).

24 <sup>9</sup> Docket No. TG-101220, Order 02 ¶ 17 & 18; Docket No. TG-101221, Order 02 ¶ 17 & 18; Docket No. TG-  
25 101222, Order 02 ¶ 17 & 18.

26 <sup>10</sup> *In re Waste Management of Washington d/b/a Waste Management – Northwest, et al.*, Docket Nos. TG-101220;  
TG-101221; TG-101222 (consolidated), Order 03 (December 1, 2010).

<sup>11</sup> Docket Nos. TG-101220; TG-101221; TG-101222 (consolidated), Order 04 (December 21, 2010) (referring to *In*  
*re Mason County Garbage Co., et al.*, Docket Nos. TG-101542; TG-101545; TG-101548 (consolidated)) (the  
"Pierce/Mason County dockets").

<sup>12</sup> Docket Nos. TG-101220, TG 101221, TG-101220 (consolidated), Order 04 ¶ 5.

<sup>13</sup> *In re Mason County Garbage Co., et al.*, Docket Nos. TG-101542/TG-101545/TG-101548 (consolidated), Order  
05 ¶¶ 32-39 (May 6, 2011).

1 on recycling activities and that financial incentives for meeting performance goals may be  
2 included in a recycling plan.<sup>14</sup> It clarified that some portion of the revenue could be used as a  
3 reward to provide an incentive to the participating company to develop and implement  
4 recycling efforts and thereby increase recycling.<sup>15</sup>

5 11. The Commission's decision in the Pierce/Mason County matters did not address whether the  
6 proposal made by Waste Management and its partner Counties for a line-item allocating a  
7 percentage of earnings was an acceptable use of revenues to increase recycling.<sup>16</sup>

8 12. The Commission then turned to Waste Management's dockets.<sup>17</sup> A briefing schedule was  
9 established to litigate whether using a portion of the recycling revenues to provide Waste  
10 Management with an eight percent return on its expenditures constituted a "use[] to increase  
11 recycling" within the meaning of RCW 81.77.185.<sup>18</sup> Also, in light of the 2010-2011 RSAs  
12 impending expiration, the Commission granted the request by Waste Management and its  
13 partner Counties to extend the plan periods and the attendant recycling commodity price  
14 adjustments an additional three months, through November 30, 2011.<sup>19</sup>

15 13. The Commission ultimately denied the Company's request to keep the eight percent of  
16 retained revenues that the 2010-2011 RSAs with King and Snohomish Counties authorized as  
17 a financial incentive and reward because "the plans do not demonstrate that those revenues  
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20 <sup>14</sup> *Id.* ¶¶ 24-31.

21 <sup>15</sup> *Id.* ¶¶ 27.

22 <sup>16</sup> *Id.* FN 25 ("We are not deciding the broader question of whether RCW 81.77.185 would permit a company to  
simply retain a percentage of the recycling revenues as 'profit' where there are no associated performance goals.")

23 <sup>17</sup> The Commission first approved a Partial Settlement Agreement that fully resolved the manner in which  
unexpended revenues from the 2009-2010 RSA plan periods were treated. *In re Waste Management of Washington*  
*d/b/a Waste Management – Northwest, et al.*, Docket Nos. TG-101220; TG-101221; TG-101222 (consolidated),  
24 Order 06 (February 28, 2011). The budget prepared by Waste Management for the 2010-2011 RSA plan periods  
retained a line item for the "Revenue retained by the Company" in an amount of eight percent, and the settlement  
25 acknowledged that prospective application of RCW 81.77.185 to that budget item remained a disputed issue subject to  
additional proceedings in the consolidated dockets.

26 <sup>18</sup> Docket Nos. TG-101220; TG-101221; TG-101222 (consolidated) Order 07 (June 7, 2011).

<sup>19</sup> Docket Nos. TG-101220; TG-101221; TG-101222 (consolidated) Order 08 (July 14, 2011).

1 will be used to increase recycling.”<sup>20</sup> The Commission held that “increasing revenues from the  
2 marketing of recyclable materials, without more, is not equivalent to an increase in recycling  
3 under RCW 81.77.185.”<sup>21</sup>

4 14. On October 17, 2011, Waste Management initiated these consolidated dockets, starting a new  
5 revenue-sharing plan cycle by filing revised recycling commodity price adjustments under  
6 WAC 480-70-351(2).<sup>22</sup> The Company sought adjustment to its recycling commodity credits  
7 for residential and multi-family customers receiving recycling collection services, under new  
8 RSAs with King and Snohomish Counties for the period of December 1, 2011, to August 31,  
9 2012 (the “2011-2012 RSAs”), intended as implementation of RCW 81.77.185 in light of the  
10 limited guidance provided by the Commission’s decisions in the Pierce/Mason County dockets  
11 and its rejection of the eight-percent budget item in Waste Management’s preceding dockets.<sup>23</sup>

12 15. This time, the revenue assumptions were based on an approach that permitted the Company to  
13 earn financial rewards for increasing recycling by reference to certain performance standards,  
14 plus a five percent return on recycling plan expenditures.<sup>24</sup> Waste Management’s recycling  
15 commodity price adjustments were calculated to allow the Company to retain thirty-percent of  
16 the projected revenue for funding the King and Snohomish County 2011-2012 RSAs’ program  
17 activities. The budget projecting expenditures for the activities under the revenue-sharing  
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21 <sup>20</sup> Docket Nos. TG-101220, TG 101221, TG-101220 (consolidated) Order 09 ¶ 40(b) (August 26, 2011). *See also*  
22 Order 10 ¶ 12 (October 25, 2011) (“The provision granting Waste Management eight percent ... does not make the  
23 requisite demonstration.”).

24 <sup>21</sup> Order 10 ¶ 10.

25 <sup>22</sup> *In re Waste Management of Washington, Inc., d/b/a/ Waste Management – Northwest*, G-237, Docket No. TG-  
26 111813, Tariff No. 17; *In re Waste Management of Washington, Inc., d/b/a/ Waste Management – Sno-King*, G-237,  
Docket No. TG-111814, Tariff No. 15, and *In re Waste Management of Washington, Inc., d/b/a/ Waste Management –  
South Sound and Waste Management of Seattle*, G-237, Docket No. TG-111815, Tariff No. 22.

<sup>23</sup> *Waste Management Recycling and Commodity Revenue Sharing Plan for Snohomish County* (December 1, 2011  
– August 31, 2012); *Waste Management Recycling and Commodity Revenue Sharing Plan for King County*  
(December 1, 2011 – August 31, 2012).

<sup>24</sup> *Id.*

1 programs included line items for rewards to the Company under formulas allocating certain  
2 percentages for achieving specified performance standards.<sup>25</sup>

3 16. Staff reviewed the initial filing of October 17, along with a draft of the Company's 2011-2012  
4 RSAs with King and Snohomish Counties. The parties convened at a meeting with Staff,  
5 Waste Management representatives and County solid waste officials on November 9, 2011.  
6 Also discussed at the meeting was the Commission's decision rejecting the approach taken in  
7 Docket Nos. TG-101220 *et al.*, and its implications to the recycling commodity credit filed in  
8 Docket Nos. TG-111813 *et al.* under the 2011-2012 RSAs.

9 17. As a result of input from Staff, the Company made a number of changes to the 2010-2011  
10 RSAs and filed replacement pages on November 16, 2011. Both Snohomish County and King  
11 County filed certifications with the Commission.<sup>26</sup>

12 18. Waste Management's revised tariffs and the King County and Snohomish County 2011-2012  
13 RSAs came before the Commission at its Open Meeting on November 23, 2011. The  
14 Commission once again suspended the tariffs, while allowing the rates and revenue sharing to  
15 be in effect on a temporary basis, subject to refund or credit, pending the outcome of an  
16 adjudicative proceeding.<sup>27</sup> The Commission referred the matters for hearing.

17 19. In the meantime, on January 9, 2012, the Commission conducted a workshop on RCW  
18 81.77.185, and solicited written comments on various issues and complexities about its role in  
19 implementing the statute.<sup>28</sup> The Commission announced that it expected to issue an

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21 <sup>25</sup> *Id.*

22 <sup>26</sup> *Letter from Kevin Kiernan, Division Director, King County Solid Waste Division to David W. Danner, Secretary*  
23 *and Executive Director, Washington Utilities and Transportation Commission* (November 18, 2011); *Letter from*  
24 *Matthew Zybas, Solid Waste Director, Snohomish County Solid Waste Division to David W. Danner, Secretary and*  
25 *Executive Director, Washington Utilities and Transportation Commission* (November 18, 2011).

26 <sup>27</sup> *In re Waste Management of Washington, Inc., d/b/a/ Waste Management – Northwest, G-237, Docket No. TG-*  
*111813, Order 01* (November 30, 2011); *In re Waste Management of Washington, Inc., d/b/a/ Waste Management –*  
*Sno-King, G-237, Docket No. TG-111814, Order 01* (November 30, 2011), and *In re Waste Management of*  
*Washington, Inc., d/b/a/ Waste Management – South Sound/ Seattle, G-237, Docket No. TG-111815, Order 01*  
*(November 30, 2011).*

<sup>28</sup> *Revenue Sharing Docket, Docket No. TG-112162, Notice of Opportunity to Comment* (January 13, 2012).

1 interpretive and policy statement under RCW 34.05.230. It conducted a second workshop on  
2 March 28, 2012.

3 20. In light of the imminent policy inquiry, Waste Management's consolidated dockets<sup>29</sup> were  
4 again held in abeyance to allow for the Commission's deliberations and guidance.<sup>30</sup> The  
5 parties agreed on a procedural schedule that effectively stayed further proceedings until after  
6 the Commission had issued its expected interpretive and policy statement on RCW  
7 81.77.185.<sup>31</sup>

8 21. The Commission issued an Interpretive and Policy Statement on May 30, 2012.<sup>32</sup> Among  
9 other things, the Commission stated:<sup>33</sup>

10 [I]ncreasing revenues from the marketing of recyclable materials,  
11 without more, is not equivalent to an increase in recycling under  
RCW 81.77.185.

12 \* \* \*

13 Bonus or incentive payments . . . are permissible to the extent they  
14 are reasonably designed to encourage the company to achieve or  
exceed plan goals or objectives.

15 \* \* \*

16 [P]ayments should be structured as a percentage of revenues or  
17 expenses, rather than a fixed dollar amount. We find particularly  
18 appealing King and Snohomish County's proposal that incentive  
19 payments should be determined based on a pre-determined  
20 percentage of company expenditures to achieve the goal or  
21 objective, rather than a percentage of revenues. . . . 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.

22 <sup>29</sup> *In re Waste Management of Washington, Inc., d/b/a/ Waste Management – Northwest, G-237, Docket No. TG-*  
23 *111813, Order 02; In re Waste Management of Washington, Inc., d/b/a/ Waste Management – Sno-King, G-237,*  
*Docket No. TG-111814, Order 03; and In re Waste Management of Washington, Inc., d/b/a/ Waste Management –*  
*South Sound/ Seattle, G-237, Docket No. TG-111815, Order 03 (January 23, 2012).*

24 <sup>30</sup> Docket Nos. TG-111813, Order 04; TG-111814, Order 05, TG-111815, Order 05 (February 8, 2012).

25 <sup>31</sup> *Id.*

26 <sup>32</sup> *In re Commission's Investigation of Recycling Revenue Sharing Plans, Docket No. TG-112162, Interpretive and*  
*Policy Statement on RCW 81.77.185 (May 30, 2012).*

<sup>33</sup> *Id.* ¶¶ 13, 29, 31, 32.



1 22. In Paragraph 7 of the Interpretive and Policy Statement, the Commission said:

2 The statement the Commission is issuing in this docket reflects our  
3 current interpretation of RCW 81.77.185, but it is not binding on the  
4 Commission or interested persons and thus does not preclude parties  
5 from raising these issues in the context of specific Plans.

6 23. According to RCW 34.05.230(1), "Current interpretive and policy statements are advisory  
7 only."

### 8 III. AGREEMENT

9 24. In light of the Interpretive and Policy Statement, the parties have reached agreement on the  
10 disputed issues in these consolidated dockets. In sum, the Settlement Agreement allows Waste  
11 Management to retain up to five percent of its program expenditures for all plan periods  
12 subject to this consolidated docket based on evidence that demonstrates achieving performance  
13 objectives which indicate an increase in recycling under the King County and Snohomish  
14 County Plans. Waste Management and Staff reserve the right to raise the issues in the  
15 Interpretive and Policy Statement in the context of future specific revenue-sharing plans.

16 25. Under the relevant RSA plan periods, an increase in recycling can be demonstrated by  
17 reference to increased recycling tonnages, decreased landfill disposal volumes, and increased  
18 voluntary subscriptions to yard/food waste collection services in both Counties.<sup>34</sup> Therefore,  
19 under the Interpretive and Policy Statement and prior Commission orders, Waste Management  
20 is eligible to retain a reward for increasing recycling if it meets these program objectives. The  
21 parties agree that these are legitimate performance objectives, but also reserve the right to  
22 identify other meaningful standards by which an increase in recycling may be indicated in  
23 addition to the ones used in this case, and by entering into this Settlement Agreement do not  
24 intend to preclude the use of other performance standards that could be used as plan goals or  
25 objectives, consistent with the Interpretive and Policy Statement.<sup>35</sup>

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26 <sup>34</sup> The evidence of increasing commodity values is not included in the calculations supporting this Settlement Agreement.

<sup>35</sup> Interpretive and Policy Statement at 12 (The Commission "should not be prescriptive in the types of recycling-related activities that a Plan may properly encompass and that 'recycling' includes all phases of the solid waste company's process of collecting, sorting, and selling recyclable materials.")

- 1 26. Although the performance objectives in the RSAs are legitimate, the parties acknowledge that  
2 the formulas proposed in the RSAs for measuring Waste Management's financial incentives  
3 are not consistent with the Interpretive and Policy Statement. The rewards proposed in the  
4 RSAs are measured by reference to revenues, not program expenditures. Therefore, under this  
5 Settlement Agreement, the parties agree to assign rewards to Waste Management by reference  
6 to program expenditures instead of the approach articulated in the RSAs. The parties agree to  
7 rewarding the Company in the amount of 2.5% of budgeted program expenditures for  
8 increasing voluntary subscriptions to yard/food waste collection services, and 2.5% for  
9 increasing volumes, as measured by either recycling tonnages or diversion tonnages.
- 10 27. Under this agreed-upon approach, for the 2010-2011 RSAs the amounts of the actual revenues  
11 and expenditures are known and measurable. For achieving benchmarks demonstrating an  
12 increase in recycling, Waste Management will retain a five percent profit on 2010-2011 RSA  
13 program expenditures less capital, in an amount totaling \$75,305. The Company's original  
14 filing proposed that incentives worth \$422,862 would be included in the amount retained by  
15 the Company for the 2010-2011 RSA plan period. The parties hereby agree to revise this  
16 number downward to the cap of five percent, i.e., \$75,305. When taking into account  
17 \$179,427 in excess retained recyclable commodity revenues already credited to customers, an  
18 additional \$347,557 will be refunded to customers for the 2010-2011 RSA plan period.
- 19 28. For the King and Snohomish County RSA plan periods that are currently set to expire on  
20 December 31, 2012, the recycling commodity credit proposed for the next period will include  
21 a true-up of the Company's incentive reward capped at five percent of budgeted expenditures  
22 for the entire 2011-2012 RSA plan periods, including the extension, with any remaining  
23 disparity between that amount and the originally-budgeted amount refunded to the customers.  
24 That specific dollar amount is not yet capable of being determined. For the 2011-2012 RSAs,  
25 five percent of budgeted expenditures representing the sum that may be retained by Waste  
26

1 Management is \$94,829.<sup>36</sup> The amount of revenue to be returned to ratepayers will be  
2 calculated to reflect actual revenues, as well as actual expenditures. Under this Settlement  
3 Agreement the parties hereby agree to use the methodology set forth in Paragraph 26 above for  
4 determining the Company's financial incentive. The amount is to be capped at five percent of  
5 budgeted expenditures, and based on demonstrating an increase to recycling as evidenced by  
6 reference to the performance standards in the original filings of the 2011-2012 RSAs. The  
7 Company agrees to file, and Staff agrees to recommend approval of, tariff pages reflecting the  
8 attendant recycling commodity price adjustments calculated in accordance with this agreed-  
9 upon methodology.

#### 10 IV. GENERAL PROVISIONS

- 11 29. The parties agree that this Settlement Agreement reflects the settlement of all contested issues  
12 between them in these consolidated dockets. It resolves all disputes regarding the treatment of  
13 revenues generated during the 2010-2011 RSA and the 2011-2012 RSA plan periods, subject  
14 to the compliance filing contemplated herein. The parties understand that this Settlement  
15 Agreement is not binding unless and until accepted by the Commission.
- 16 30. The parties agree to cooperate in submitting this Settlement Agreement promptly to the  
17 Commission for acceptance. The parties agree to support adoption of this Settlement  
18 Agreement in proceedings before the Commission through testimony or briefing. No party to  
19 this Settlement Agreement or their agents, employees, consultants, or attorneys will engage in  
20 advocacy contrary to the Commission's adoption of this Settlement Agreement.
- 21 31. The parties have entered into this Settlement Agreement to avoid further expense,  
22 inconvenience, uncertainty, and delay of continuing litigation. The parties recognize that this  
23 Settlement Agreement represents a compromise of the parties' positions. As such, conduct,  
24 statements, and documents disclosed during negotiations of this Settlement Agreement shall

25  
26 <sup>36</sup> The 2011-2012 RSAs have two periods. For the initial plan period of December 1, 2011 to August 31, 2012, the budget for program expenditures was \$1,133,566; and for the extension plan period of September 1, 2012 to December 31, 2012, the budget was \$763,000.

1 not be admissible as evidence in this or any other proceeding, except in any proceeding to  
2 enforce the terms of this Settlement Agreement or any Commission order fully adopting those  
3 terms. This Settlement Agreement shall not be construed against either party because it was a  
4 drafter of this Settlement Agreement.


5 32. The parties have negotiated this Settlement Agreement as an integrated document to be  
6 effective upon execution and Commission approval. This Settlement Agreement supersedes  
7 all prior oral and written agreements on issues addressed herein. Accordingly, the parties  
8 recommend that the Commission adopt this Settlement Agreement in its entirety.

9 33. The parties shall take all actions necessary, as appropriate, to carry out this Settlement  
10 Agreement.

11 34. In the event that the Commission rejects or modifies any portion of this Settlement Agreement,  
12 each party reserves the right to withdraw from this Settlement Agreement by written notice to  
13 the other party and the Commission. Written notice must be served within ten (10) business  
14 days of the Order rejecting part or all of this Settlement Agreement. In such event, neither  
15 party will be bound or prejudiced by the terms of this Settlement Agreement, and either party  
16 shall be entitled to seek reconsideration of the Order.

17 WASHINGTON UTILITIES AND  
18 TRANSPORTATION COMMISSION  
19 STAFF

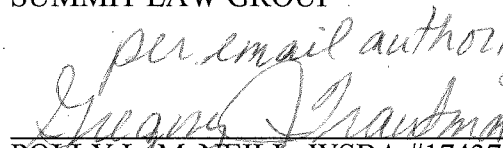
20 ROBERT M. MCKENNA  
21 Attorney General

22   
23 GREGORY J. TRAUTMAN, WSBA 15501  
24 Senior Counsel  
25 Counsel for Utilities and Transportation  
26 Commission Staff

Dated: September 5, 2012

WASTE MANAGEMENT OF  
WASHINGTON, INC.

SUMMIT LAW GROUP

22   
23 POLLY L. McNEILL, WSBA #17437  
24 Attorneys for Waste Management of  
25 Washington, Inc.

Dated: September 5, 2012