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WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION MEETING

(Part 2 Continuation)

Re: Staff-Initiated Proposal to Revise Item 30 in the  
Commissioner's Tariff Template  
Docket No. TG-010374  
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October 25, 2012

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## A P P E A R A N C E S

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3 Judge Greg Kopta, Moderator  
4 Chairman Jeff Goltz  
5 Commissioner Phil Jones  
6 John Cupp, Utilities and Transportation Commission Staff  
7 Gene Eckhardt, Utilities and Transportation Commission Staff  
8 Penny Ingram, Utilities and Transportation Commission Staff  
9 Sally Brown, Assistant Attorney General  
10 Jeff Gaisford, King County Solid Waste  
11 Bill Reed, King County Solid Waste  
12 Amber Jones, Sanitary Service Company  
13 Tim Crosby, Waste Management of Washington, Inc.  
14 Robert Sherman, Waste Management of Washington, Inc.  
15 Brad Lovaas, Washington Refuse and Recycling Association  
16 Andrew Kenefick, Attorney  
17 Polly McNeill, Attorney  
18 Jim Sells, Attorney  
19 Dave Wiley, Attorney  
20 Jeff Brown, Contracts Consultant  
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2 (Meeting reconvened at 1:30 p.m.)

3  
4 CHAIRMAN GOLTZ: And Commissioner Oshie is out all this  
5 afternoon, unfortunately, so -- but we'll bring him up to  
6 speed and have him listen to the tape and read all the  
7 materials.

8 The -- this is a continuation, actually, of this morning's  
9 regularly scheduled open meeting. This is a specially  
10 noticed opportunity to -- of a workshop in Docket TG-010374.  
11 We just -- in strict compliance of the Open Public Meetings  
12 Act, we recessed this morning's open meeting to this  
13 afternoon. So this is going to be done in an informal  
14 manner, less formal than our normal open meetings. And the  
15 Chief Administrative Law Judge Greg Kopta will be the  
16 moderator for today's debate, so I'll turn it over to him.

17 JUDGE KOPTA: Thank you, Mr. Chairman.

18 We sent out a notice on September 28th, 2012, in  
19 Docket TG-010374 giving interested parties the opportunity  
20 to provide comments on whether and how to change Item 30,  
21 "Limitations of Service in the Commission's Tariff Template  
22 for Solid Waste Companies." And we are convened here to  
23 discuss those comments and the issues that arose.

24 I would first like to make a -- an administrative  
25 announcement which is for those of you on the bridge line.

1 Please don't put your phones on hold, because oftentimes we  
2 get music when it's on hold, and while I'm sure that you  
3 have wonderful tastes in music, or your company does, we  
4 would just as soon like to not have accompaniment to our  
5 discussion. So if you need to leave for whatever reason,  
6 then you can either hang up and dial back in or you can put  
7 the phone down or otherwise. Just don't put it on hold.

8 So to get us started this morning, I'd like to go around  
9 the table and introduce everyone so we all know who we are  
10 and can address each other accordingly. We have nametags  
11 here in the room, but obviously we can't know on the phone.  
12 But I'll go first to the folks in the room, and then we'll  
13 go to the folks on the bridge line, starting with Mr. Chair.

14 CHAIRMAN GOLTZ: Okay. Jeff Goltz with UTC.

15 COMMISSIONER JONES: Phil Jones, UTC.

16 MR. CUPP: John Cupp, UTC.

17 MS. INGRAM: Penny Ingram, UTC.

18 MR. WILEY: Dave Wiley, lawyer.

19 MR. SELLS: Jim Sells, WRRRA.

20 MR. LOVAAS: Brad Lovaas, WRRRA.

21 MR. SHERMAN: Rob Sherman, Waste Management.

22 MR. CROSBY: Tim Crosby, Waste Management.

23 MS. JONES: Amber Jones, Sanitary Service Company.

24 MS. MCNEILL: Polly McNeill, Summit Law Group.

25 MR. REED: Bill Reed, King County Solid Waste.

1 MR. GAISFORD: Jeff Gaisford, King County Solid Waste.

2 MR. KENEFICK: Andrew Kenefick, Waste Management.

3 MR. ECKHARDT: Gene Eckhardt, UTC.

4 JUDGE KOPTA: Did you want to introduce or you're okay?

5 MR. GAISFORD: Grab a mic. Jeff Brown, Epicenter  
6 Services, consultants to the contracts.

7 JUDGE KOPTA: Okay. And another point is that if anyone  
8 wants to talk, if we could make sure that we speak into the  
9 mic so that folks on the bridge line can hear us -- and we  
10 are also recording this, as we do most workshops and all  
11 open public meetings -- so that way, we can all be heard  
12 when we're speaking.

13 On the bridge line, who is on the bridge line for  
14 participation in the workshop today? Anyone? I guess not.

15 All right. Well, then --

16 MS. MCNEILL: So we don't need the microphone?

17 JUDGE KOPTA: No. We're still recording, so we still need  
18 the microphone. Sorry, Polly, but you like a microphone  
19 anyway, I know.

20 MALE SPEAKER: Game on.

21 MS. MCNEILL: As do most counsel I --

22 JUDGE KOPTA: I appreciate that. Well, that's something  
23 we have in common so, you know, I'm not casting aspersions.

24 So I don't know whether you all have copies of the notice  
25 in front of you. We'll sort of use that as our agenda and

1 work through the questions that we asked. Most folks that  
2 provided comments structured their comments according to  
3 those questions, and it probably makes the most sense to  
4 have that discussion be ordered similarly. And the first  
5 question we asked, which was a rather broad one, is: Should  
6 the Commission amend Item 30 and its current policy related  
7 to missed pickups resulting from inclement weather and road  
8 conditions and, if so, how?

9 Now, granted, the resulting or the following questions  
10 kind of build on that and add more specifics, so there may  
11 not be a whole lot to talk about under the first point, but  
12 I wanted to give folks, if they had any general comments  
13 about the tariff item as it currently exists, as much as  
14 possible without regard to some of the other issues that  
15 were discussed later. Then I'd give -- wanted to give you  
16 an opportunity to say one way or the other whether it's --  
17 whether the rule is great the way that it is or whether  
18 there are things about the rule, even if we did nothing  
19 else, that you would like to see changed.

20 Brad, I see you --

21 MR. LOVAAS: Yeah, I'll go.

22 CHAIRMAN GOLTZ: May I ask just a question, too, on this.  
23 The language says in the second sentence under "Missed  
24 Pickups Due to Weather or Road Conditions": "If the  
25 accumulated material is collected on the next scheduled or

1 available pickup date the company is not obligated to extend  
2 credit for the missed pickup." So I guess I don't know in  
3 practice how that's read. If it's -- if you miss a  
4 scheduled date but it's picked up the following week, are  
5 you required to extend credit even if it was possible to  
6 maybe do a weekend pickup? I mean, it's not exactly clear  
7 in my mind.

8 MR. CROSBY: In practice -- this is Tim Crosby.

9 In practice, Commissioner Goltz, no, we have not. We can  
10 go back to 2008 when we had the severe winter and the  
11 storms, and the collection companies in the Puget Sound,  
12 anyway, where we had multiple snow events one after the  
13 other, and they seemed to be every Wednesday or Thursday, if  
14 my mind is correct, and that we had some instances where  
15 people held either mostly recycling, but some garbage areas,  
16 because you know the Puget Sound has different demographics,  
17 it's -- there's hills in different places, and some places  
18 you can get to, some places you can't, where it was up to a  
19 month where some people were serviced, and we used that  
20 language as no credit.

21 CHAIRMAN GOLTZ: So no credit, but just --

22 MR. CROSBY: No credit. Just took everything you had, all  
23 extras, everything that -- the next available service day.

24 CHAIRMAN GOLTZ: I know. But I just don't know what  
25 "available" means. Is that just as a -- is that the next



1 week or -- but what if, you know --

2 MR. CROSBY: I don't think --

3 CHAIRMAN GOLTZ: You know?

4 MR. CROSBY: It's generally next -- the -- generally, it's  
5 the next week.

6 CHAIRMAN GOLTZ: I know that's what it --

7 MR. CROSBY: In some cases.

8 CHAIRMAN GOLTZ: But that's not exactly what it says, and  
9 that's what I'm wondering.

10 I think Mr. Lovaas had a comment on this.

11 MR. LOVAAS: Well, I'd agree with Mr. -- this is Brad  
12 Lovaas with WRA.

13 I'd agree with Mr. Crosby that the way it's worked for  
14 both -- and I -- I'll just speak generally first. We think  
15 that the inclement weather, the road conditions -- and one  
16 of the things that also plays into it is just safety. A lot  
17 of times under new developments are people -- similar to  
18 issues you have with putting power poles in very remote  
19 areas, people are putting homes in very remote. And so we  
20 use this same language to deal with inclement weather, the  
21 closed road conditions, and then just unsafe conditions to  
22 resolve issues with customers, and it's just been -- and  
23 your reading, you know, is a little bit more critical, and I  
24 appreciate that.

25 I think what we're used to is just this has kind of been a

1 customary way of doing business that when you have a missed  
2 pickup, the next week we'll pick it up, don't go through the  
3 accounting. And we typically sometimes refer to it as  
4 "grandma's garbage" because not only do you get the week  
5 that's missed, but you get that second week, and then  
6 sometimes there's a little something else set in there as  
7 well. And so we believe in general that's been a big  
8 benefit, both to the companies, where its understanding, and  
9 really the way we can explain it to our customers and the  
10 use of it, so....

11 JUDGE KOPTA: Mr. Eckhardt, did you want to?

12 MR. ECKHARDT: Thanks. Gene Eckhardt with staff.

13 Let me repeat or say my understanding is that if the -- a  
14 company missed the pickup on Monday because of bad weather  
15 and the road conditions, and the customer has weekly pickup,  
16 the next scheduled pickup would be the following Monday.  
17 But in the case of more -- or continuing snow that next  
18 Monday the company may not be operating under the inclement  
19 rule, and so that pickup would not be considered to be  
20 available so there would be no credit. Is that correct?

21 MR. CROSBY: That's correct.

22 MR. ECKHARDT: Okay. Would --

23 MR. LOVAAS: That would be correct, yes.

24 MR. ECKHARDT: Would there be any circumstances other than  
25 -- weather that would result in the next scheduled pickup not

1 being available?

2 MR. LOVAAS: It could be -- again, this is Brad Lovaas.

3 It could be related to weather. It might not be the

4 weather precise. As you know, we have the freeze/thaw

5 conditions, road conditions. I think one of the most

6 humorous complaints we've ever dealt with, and I say that

7 somewhat facetiously, but during the event Tim talked about,

8 we had that situation occur, and I think there were a series

9 of three weeks. And what happened was one of the

10 commissioners who was in charge of the road -- oversaw the

11 Road Department actually had closed the road, so we -- we

12 had a weather event, but then we also over the top of it had

13 the road was closed for not the road conditions. You know,

14 the resulting floods.

15 MR. CROSBY: Yeah. Because of the weight of the trucks,

16 we had have had some issues with tearing roads and streets

17 up with -- so the cities --

18 MR. LOVAAS: But that's -- yeah.

19 MR. ECKHARDT: No, I understand that. My question is,

20 would there be any other event other than related to the

21 weather or roads that would make the next scheduled pickup

22 unavailable? Maybe all your trucks are busy someplace else

23 or -- I don't know. But I'm just trying to get a better

24 understanding. If the only event -- or the only cause of a

25 missed pickup would be weather or road conditions --

1 MR. LOVAAS: That's what --

2 CHAIRMAN GOLTZ: Then the term "or available" may not be  
3 meaningful. You may not need that.

4 MR. ECKHARDT: Yeah, yeah, yeah.

5 CHAIRMAN GOLTZ: If all -- I guess I'm wondering, what is  
6 it -- if it -- if you just go to the next scheduled pickup  
7 date and you pick it up, or you go to the next scheduled,  
8 then there's no credit. If you go to the next scheduled  
9 pickup date and you don't pick it up, I think what  
10 Mr. Eckhardt's saying is if that's because of weather or  
11 road conditions, then you go to the next one. But -- so I  
12 don't know what "available" means. So maybe what it means  
13 is you've got to do something besides just keep on going to  
14 the next scheduled ones. It might be at some point you've  
15 got to trigger and pick up on a Saturday or pick up extra on  
16 Tuesday instead of Wednesday or something.

17 MALE SPEAKER: Yeah. I understand the question better  
18 now, and I think at that -- what that comes down to is  
19 resources. I mean, most of our trash companies are "ready,  
20 set, service." That "ready, set, service" means that they  
21 only have enough to get that day done. We don't carry all  
22 the extra capital and everything to be able to do that.  
23 Working on Saturdays and even Sundays in some time --  
24 instances, yes, that is something that --

25 CHAIRMAN GOLTZ: But all this does is it defines -- but --

1 "all this does." Among the things this does is defines when  
2 you get credit, when the customer gets credit, and that's  
3 what I'm inquiring about.

4 MALE SPEAKER: Correct.

5 CHAIRMAN GOLTZ: It might be that you say, "Well, we  
6 couldn't get there, we couldn't get there" -- resources,  
7 whatever -- and that may be true, but at some point --

8 MALE SPEAKER: Is there the possibility of --

9 CHAIRMAN GOLTZ: But there should have been a credit  
10 given, and that's --

11 MALE SPEAKER: For the service side of the --

12 CHAIRMAN GOLTZ: Yes.

13 MALE SPEAKER: -- business, not the --

14 CHAIRMAN GOLTZ: Yeah.

15 MALE SPEAKER: -- disposal side.

16 CHAIRMAN GOLTZ: Yeah.

17 JUDGE KOPTA: Interestingly enough, as I read this  
18 language as well, there isn't an express obligation to pick  
19 up extra. I mean, there's sort of a contemplation that  
20 that's what's going to happen, and I believe that's what is,  
21 in fact, happening, but the language itself doesn't actually  
22 require that, and so that's one of the things that sort of  
23 struck me, along with in this last sentence of the bolded  
24 section that says "Missed Pickups Due to Weather or Road  
25 Conditions," it talks about picking up extra amount if the

1 extra amount does not exceed the amount that would have  
2 reasonably been expected to accumulate due to missed  
3 pickups. And I understand that a lot of people will try and  
4 take advantage of this and say, "Gee, now it's time to clean  
5 out the garage, and I'm going to put out, you know, 47 bags  
6 instead of just the one that I'm able to do." So I -- my --  
7 I'm curious as to what you do in those circumstances and how  
8 you determine what's a reasonable amount. Is it just double  
9 the amount that you ordinarily would collect, or is it  
10 something less than that, something more than that, or do  
11 you just kind of say, "Aah, I'm not going to worry about it,  
12 I'll just pick up everything."

13 MR. CROSBY: Well -- this is Tim Crosby from Waste  
14 Management.

15 In speaking for our company -- I can't speak for what  
16 other companies do. However, we do just that. When we say  
17 we'll pick everything up, the next time we're -- our  
18 availability is to be at that home or business, or what have  
19 you, is that we pick it all up, we clean it all up, and we  
20 don't charge any extras. We think that the homeowner has  
21 been out enough and discouraged, so we don't want to  
22 continue to discourage them even more by charging for extras  
23 above and beyond what they had. Now, if somebody has tore  
24 down their garage and has stacked it up by the side of the  
25 road, that would be a different abnormality, but that's the

1 way we generally carry that.

2 JUDGE KOPTA: Okay. Is that --

3 Mr. Lovaas is that your understanding of what pretty much  
4 all the companies do?

5 MR. LOVAAS: Yeah, I'd agree with that. I think, frankly,  
6 from a management side, on an ongoing basis we have  
7 challenges getting drivers to mark down the extra stuff for  
8 the extra charge because they're typically moving, trying to  
9 keep to a schedule, get the whole route done and everything,  
10 and I would say that's definitely magnified when they're  
11 trying to catch up after missed pickups.

12 JUDGE KOPTA: Well, yeah. And I guess that's sort of the  
13 flip-side of this. And I know Commissioner Jones had a  
14 follow-up question, too, but have -- has any of this  
15 resulted in delays? I mean, it takes you longer to collect  
16 more, and you have to go back and forth to the transfer  
17 station or something more frequently, and does that impose  
18 extra costs to -- is there enough of people putting out a  
19 whole lot extra that it really impinges on the companies, or  
20 is it something that, from your experience, is just a  
21 manageable cost of doing business whenever you have one of  
22 these kind of delays?

23 MALE SPEAKER: For us, I believe it's a cost of doing  
24 business, and it averages out with the time not worked and  
25 the extra time that is worked afterwards. We do have some

1 extra costs with -- because it's done in overtime a lot of  
2 the times versus straight time, but in the long-term it  
3 seems to have worked well over the 30 years that I've been  
4 involved with the business.

5 CHAIRMAN GOLTZ: But you do have an issue, don't you, of  
6 the -- I mean, in -- I know our garbage was picked up this  
7 morning, and the truck comes along, and the big arm comes  
8 down and picks up the can and flips it into the truck and  
9 puts it back down, and off the driver goes. It's a  
10 one-person operation. But if I had a bunch of bags out  
11 there, he has to stop and get out and go pick up the bags  
12 and -- however they get the bag into the truck. I mean, so  
13 it must take three times as long to do it. I mean, it takes  
14 a lot longer, doesn't it, if you got bags out there all --  
15 everywhere -- everywhere --

16 MALE SPEAKER: Yeah, it does. It takes longer.

17 CHAIRMAN GOLTZ: Yeah.

18 MALE SPEAKER: A lot of times, though, what we'll do is  
19 we'll send out two-man crews, if we can -- if we have the  
20 people and the extra people and -- but we find a way to get  
21 it cleaned up, it seems like, every time.

22 JUDGE KOPTA: Mr. Jones.

23 COMMISSIONER JONES: Just speaking from personal  
24 experience, Mr. Chairman, I've been charged for extra stuff.  
25 It doesn't seem to be too burdensome on the company, and



1 I think -- I live in Seattle. I think it's a two-man crew.

2 So there must be some sort of billing and collection system

3 for things like that where one of the operators is able to

4 assess extra.

5 CHAIRMAN GOLTZ: You actually throw stuff out?

6 JUDGE KOPTA: Okay. The query into Commissioner Jones is

7 beginning.

8 MALE SPEAKER: Inside joke.

9 JUDGE KOPTA: Brad, for -- Brad, I want you to stay silent  
10 on this one.

11 COMMISSIONER JONES: My question sits -- the Chairman  
12 raises "available scheduled" and, you know, the language of  
13 the tariff. Just a higher level, is this language --  
14 it's -- I know it's been around here a long time, but is  
15 this kind of boilerplate language that you use in other  
16 states, municipalities, and contracts, the terms, or is this  
17 a fairly unique tariff compared to other jurisdictions?  
18 Does it just -- it varies?

19 MALE SPEAKER: Yeah. I believe --

20 FEMALE SPEAKER: (Inaudible).

21 MALE SPEAKER: Yeah, that's what I was going to mention.

22 There's not many states that are --

23 COMMISSIONER JONES: Yeah, I know.

24 MALE SPEAKER: -- tariffed, other than maybe one other  
25 that I could think of, and I would have no idea what their

1 language is. All of our city contracts are negotiated  
2 language, so they're -- some of them are all different, but  
3 somewhat all the same, so...

4 COMMISSIONER JONES: So they're embedded in the contracts.  
5 But there must be a provision, a section of a contract that  
6 talks about missed pickups, right?

7 MALE SPEAKER: Yes.

8 MALE SPEAKER: Absolutely.

9 MALE SPEAKER: Yes.

10 COMMISSIONER JONES: Yeah. Yeah. Okay. So we really --  
11 yes, I was aware that we're one of the, what, two states?  
12 Is it two or one? Two, three?

13 MALE SPEAKER: Everybody can't be as smart as us.

14 MALE SPEAKER: Three.

15 COMMISSIONER JONES: Yeah, I know. Okay. Okay. Thanks.

16 MALE SPEAKER: Sorry for the dig.

17 JUDGE KOPTA: Okay. It's all in good fun.

18 All right. Well, unless anyone else had something on just  
19 the general language itself, I thought we'd move to the next  
20 question, which is whether customers should receive a credit  
21 for missed pickups due to inclement weather and road  
22 conditions. Right now, obviously, the language, and as  
23 we've just been discussing, says no. And in many of the  
24 comments, particularly from the company, they said that's  
25 the way that it should be. It works fine. No need to

1 change it. But I noticed some of the local governments had  
2 a slightly different take on things. So just kind of wanted  
3 to hear from -- maybe from King County or someone else  
4 whether credits would be a better way to handle this than  
5 just allowing people to put out more stuff on the curb the  
6 next time they pick up.

7 MALE SPEAKER: Yes. And I think one of the reasons that  
8 we're interested in talking about credits is it's -- it may  
9 mean one thing if it's one week that people missed their  
10 service. Once you get beyond one week, at what point is it  
11 that you're really not providing that service that I'm  
12 paying for in my monthly bill? And I'm hoping when we also  
13 have this discussion we can talk about there are differences  
14 between the frequency of garbage collection, the frequency  
15 of recycling collection, and the frequency of the organics  
16 that might make prolonged, whether it's weather or something  
17 else stopping it from picking up -- if I get one missed  
18 pickup of my every-other-week recycling, then I have a  
19 month's worth of recycling that needs to be picked up at  
20 some point. And I can tell you that's when people start  
21 calling us and saying, "I need to get rid of this stuff.  
22 I'm not going to hang on to it. Can I bring it to you for  
23 free?" Whether it's garbage, recycling. So they do want to  
24 unload it. It may or not be reasonable, but they think that  
25 it should be their choice. And I think part of it that

1 we're here to represent is that they feel like they're  
2 paying for a service, and if at some point they're not  
3 getting adequate service there should be at least the option  
4 of getting some credit.

5 And so I don't know if there's a week threshold. I think  
6 I noticed that Kitsap County in their comments had mentioned  
7 that, you know, maybe a week is an okay period of time.  
8 Beyond that, maybe we need to look at options. And again,  
9 there's different frequencies of service. And I know that,  
10 as Commissioner Jones pointed out, if he puts out an extra  
11 portion of garbage, he's going to get charged, but that's  
12 not necessarily the case for recyclables and for yard waste.  
13 It varies. There are limits on the yard waste, but I  
14 don't -- if I put out -- I'm supposed to be able to put out  
15 extra recycling, but I don't get charged or credited for it.  
16 So there's different service level expectations, and I feel  
17 like we've mostly been talking about garbage and will my  
18 garbage get picked up, because that is obviously a priority,  
19 but there are these other services that people are paying  
20 for, and we want to make sure that that's considered.

21 MALE SPEAKER: Good point.

22 JUDGE KOPTA: How often is it the case that you have  
23 weather or road conditions that last for more than one week  
24 so that this issue would even come up?

25 MALE SPEAKER: Well, I think the event that Tim talked

1 about is kind of recent history, but also the floods down  
2 south here in Lewis County.

3 MALE SPEAKER: Right.

4 MALE SPEAKER: It's just kind of hard. I mean, it flooded  
5 the whole county, and there -- each, I would say almost --  
6 you know, we're in election season so we'll say "precinct,"  
7 but every service area is a little distinct. The closer  
8 ones to the Skookumchuck we were digging out for a month  
9 still. But there, again, is a case where people cleaned out  
10 their whole houses and put it there, and we did everything  
11 in an emergency, in a disaster, under the tariff. So there  
12 are, again, taking the broader perspective and trying to,  
13 again, put it into perspective, really what percentage of  
14 pickups are missed? Again, you're going to hear us say that  
15 the current system works very well, and we even proposed it  
16 for the labor strike, so...

17 JUDGE KOPTA: Well, and that's one of the reasons that I  
18 asked is just to get a sense from you how often this is  
19 going to be the case. I mean, just anecdotally it usually  
20 isn't more than a one-week miss --

21 MR. CROSBY: I would say that's --

22 JUDGE KOPTA: -- when you're talking about snow and ice --

23 MR. CROSBY: Yeah. It may be one time a year in the  
24 winter months, and then every hundred-year flood or big  
25 storm event where it's dumped a foot of snow overnight or

1 something like that, those happen maybe every three or five  
2 years. You know, other than that, at least where I work, I  
3 mean, our misses are around one per thousand on a daily  
4 basis, so it's pretty good. But we know how passionate  
5 people are about having their material picked up. And I'm  
6 sure that King County and Snohomish County and everyone else  
7 doesn't like the phone calls they get when something is  
8 missed.

9 But it's -- you know, we have to make judgment decisions  
10 on a daily basis when we're out there. If there's snow on  
11 the road, the scenario would go something like this: A  
12 route manager would get up at 1:00 in the morning. He would  
13 go out and try it with chains on and try and drive routes  
14 that he can. And then, with his expertise and years of  
15 service, he's going to say, "Okay, we can run these routes  
16 safely and we can't these because of this hill situation."  
17 And because the Puget Sound is so unique with the convergent  
18 zone and things like that, at noon that day we may have been  
19 able to pick that area up, where in the morning we couldn't,  
20 and by then everybody's gone. You know, you don't have your  
21 employee base or -- it's just -- it's really, really hard.  
22 And when you make those decisions, you're making them, as  
23 Mr. Lovaas said, in the realm of safety. These trucks weigh  
24 56,000 pounds empty and they make a mess. When they slide  
25 down a hill, you're not going to stop them, and they'll go

1 through somebody's house. And it's not like a mail truck  
2 that's chained up or something, so...

3 JUDGE KOPTA: One of the other things that companies  
4 mentioned in terms of a credit is the cost that it would  
5 take to put in a system or to at least maybe revise the  
6 existing billing system to have credits. Is that something  
7 that -- I mean, if we went to something like Kitsap County  
8 proposed, you know, that if you miss one week that's -- you  
9 just pick up more the next time. If you miss more than  
10 that, then you need to provide a credit. What kind of  
11 impact would that have on your billing systems and your  
12 ability to bill customers accurately?

13 MR. CROSBY: Speaking for our company, I think it would be  
14 rather difficult. And the reason I say that is because we  
15 would have so many -- we have so many different contracts  
16 and so many different pay scales and charges that to try and  
17 figure out what that service level -- for each one and have  
18 it be an automatic without having -- would be very  
19 cumbersome on -- a lot of data entry and things like that to  
20 do that.

21 CHAIRMAN GOLTZ: Well, but how do you -- so I'm driving by  
22 Commissioner Jones's house and he's got an extra bag out  
23 there.

24 MR. CROSBY: Um-hum.

25 CHAIRMAN GOLTZ: How does he get charged? I mean, there's

1 got to be some -- it's not -- I'm pretty sure that it isn't  
2 just, oh, there's an extra bag slip. I write it down.  
3 There's got to be some automated thing.

4 MR. CROSBY: Believe it or not, Commissioner Goltz, it  
5 truly is a person has a route sheet and they mark down  
6 extras at a house or they'll call in. "Is -- this person's  
7 on cutoff. Have they paid their bill yet?" The only places  
8 we have the ability to use new technology, I'll call it, for  
9 charging extras in places like the city of Seattle where it  
10 was mandated in the contract that we have that interlink  
11 with the city at all times from the truck so that things  
12 could be -- snapshots taken with cameras and a GPS system  
13 that shows where the truck is and that that extra was at  
14 that house. And then the city itself has inspectors that go  
15 out in front of the trucks, and if we don't charge for the  
16 extras, then we lose out on the potential for bonuses from  
17 the city.

18 MR. SHERMAN: I want to add something too.

19 MR. CROSBY: Yes, sir.

20 MR. SHERMAN: All right. Rob Sherman.

21 You had mentioned before about -- so the premise of the  
22 credit would then be allowing an extra to be charged later,  
23 -- right? So if we take a credit --

24 CHAIRMAN GOLTZ: We can talk about that, but that's  
25 what --



1 MR. SHERMAN: But I want to head down that path, and the  
2 reason I want to head down that path is we talk about as we  
3 go to collect -- let's say we've missed a day and you've got  
4 to go back and you pick up the extras and X, and you put --  
5 everybody got grandma's trash, I think we put out there.  
6 We've got grandma's trash.

7 MALE SPEAKER: Right.

8 MR. SHERMAN: That driver is trying to accomplish in that  
9 10- to 12-hour day what he was trying to accomplish in 16  
10 before. And Tim mentioned the route sheet. This route  
11 sheet is fairly thick, and it's got every single account on  
12 there, and so he's got to then find that account, stop what  
13 he's doing, and say "Two bags," "One bag," "Three bags" at  
14 every single stop. We would never be able to collect the  
15 recovery. It would close us. It would shut us down just  
16 trying the recovery -- just trying to catch up from the  
17 previous day if he has to stop. Because right now they're  
18 moving, they're running, they're trying to pick it all up,  
19 and having to stop, each one, find "Mr. Smith, 123 Main  
20 Street, two extra bags," "124 Main Street, one extra bag,"  
21 it would be very difficult.

22 MALE SPEAKER: I guess I was just envisioning, you know,  
23 an iPen -- iPad with wireless connections and --

24 MALE SPEAKER: No.

25 MR. SHERMAN: We're not there yet.

1 MALE SPEAKER: Mr. Chairman, what about smart grid? We --

2 CHAIRMAN GOLTZ: Something like that, yeah. We could --

3 MALE SPEAKER: Smart --

4 MALE SPEAKER: Yeah. Make them think of --

5 MALE SPEAKER: Smart --

6 MALE SPEAKER: Yeah.

7 MALE SPEAKER: -- meter.

8 MALE SPEAKER: Smart meter.

9 JUDGE KOPTA: Ms. Jones, did you want to add something?

10 MS. JONES: I was just (inaudible).

11 JUDGE KOPTA: Oh, okay, okay.

12 Well, I'm just trying to throw out there everything that

13 came out in the comments so that we can air them. Did

14 some --

15 Yeah, Mr. Gaisford.

16 MR. GAISFORD: Jeff Gaisford from King County.

17 I guess one of the things that we're interested in is

18 whether or not everybody -- if you say Route 7 on a

19 Thursday, everyone gets a credit. But having the ability to

20 tell the customer you have the option of getting the credit,

21 because it might be that 99 percent of the people are happy

22 to wait till the next time, or maybe even 90 percent -- only

23 90 percent. But there are people, and maybe those are the

24 ones that call us that either feel they want a credit, they

25 want at least having that option because they're going to

1 come to our transfer station. If there at least were an  
2 option so that a customer could say "I want a credit," and  
3 then -- I think that population might be smaller than just  
4 saying everybody -- you know, everybody needs a credit. But  
5 there might be people -- just, again, to allow that option.  
6 It doesn't seem like good customer service to me to not be  
7 able to at least allow that option to the customer and  
8 letting them know that that's one of your choices up front.

9 MALE SPEAKER: (Inaudible).

10 MALE SPEAKER: In response to that, I don't believe we  
11 weasel ourself out of anything. I do believe that if  
12 somebody calls our Call Center and they request a credit, I  
13 am quite sure that there's many credits that have been given  
14 for those that really push hard. It's going to be up to the  
15 dispatcher or the Call Center person to decide if that's a  
16 creditable event or not, so there is some credits.

17 CHAIRMAN GOLTZ: You know, the issue that Mr. Sherman  
18 raised about, well, if you miss and you get a credit, then  
19 the premise is you get -- you pay for the extra the next  
20 time around. I mean, I understand on a cost basis why  
21 that's important to the company, but, you know, in other  
22 markets if a customer is -- service is less than sort of  
23 bargained for or expected, you know, there sometimes is this  
24 extra -- you know, a credit given and you get the -- I mean,  
25 if you're in a restaurant and the cook doesn't show up, so

1 everything is really late, you know, they'll -- you'll get  
2 your meal late and they might give it to you for free or  
3 they'll give you an appetizer or they'll knock off something  
4 off the bill, and they don't charge you extra because  
5 they -- you know, because it took them more time to -- in  
6 the kitchen. Now, they make that up in -- you know, over  
7 time. You know, they just kind of budget for that.

8 So I mean, is one option that you do give a credit? You  
9 do give a credit and you pick up extra the next time,  
10 because the customer has gotten less service, but that extra  
11 cost that you incur because of that is just baked into your  
12 overall rates, and that's kind of the way you -- that's just  
13 the way you do business so that if there's a missed pickup,  
14 then the customer gets a credit and they get it picked up  
15 next time. They're getting less service than they bargained  
16 for because they've got to -- had smelly stuff around.  
17 They've got a bunch of, you know, extra recycling in the  
18 garage. They get -- or, you know -- and it's a bigger  
19 hassle. They've got to, you know, put stuff into a bunch of  
20 flimsy bags and haul it out there.

21 So I just don't know that it -- you automatically, it's --  
22 in order to make the company whole, you have to -- if you  
23 give a credit, you have to -- you charge extra for the extra  
24 the next time. Couldn't it be possible that you give a  
25 credit, charge -- don't charge extra, but yet that's just

1 part of the overall costs that you do and it gets baked into  
2 your rates?

3 JUDGE KOPTA: Chairman Goltz.

4 CHAIRMAN GOLTZ: Because that's the way -- the way it  
5 might work in a competitive market.

6 MALE SPEAKER: I think -- I would cite everybody to  
7 WAC 480-70-391. As you were unfolding this scenario  
8 factually in terms of individual ability to credit, we do  
9 have that in the rule right now. I think you're talking  
10 more about a blanket uniform policy, but companies also have  
11 that right under your rules to apply credits. And in,  
12 certainly, egregious circumstances during weather problems,  
13 etc., I think, you know, reality would require the company  
14 to look at that rule on a particular fact situation. I  
15 think what we're talking about is concern about sort of  
16 uniform policies that would be over and above that, but I  
17 did want to point out that rule because I think it is used  
18 quite frequently.

19 JUDGE KOPTA: Yeah, go ahead, Ms. McNeill.

20 MS. MCNEILL: Thank you. Polly McNeill.

21 I just wanted to respond to the point that the costs of  
22 issuing credits could be baked into the rates. I mean, I  
23 think that is kind of an appealing compromise and something  
24 that should and could be considered. I'd be interested to  
25 hear from Mr. Eckhardt and staff about how that would work,

1 because you'd -- not to be -- put too fine a point on it,  
2 but you'd have to have an occurrence of a significant missed  
3 collection, regardless of the cause, take place during  
4 that -- during a test period, right? And you'd -- and so  
5 you'd have -- first of all have to wait until you had the  
6 right test period to do that. And then, secondly, you'd  
7 have to do the calculation of the administrative costs. And  
8 I know at this point I -- my -- our colleague Mike Weinstein  
9 would go probably into great detail about what would need to  
10 change to be able to make that happen, but in his absence  
11 maybe I'd like to hear from Mr. Eckhardt about how that  
12 might work.

13 CHAIRMAN GOLTZ: To be fair, I didn't talk to  
14 Mr. Eckhardt. I just thought of it myself on the fly.

15 MS. MCNEILL: Oh, I can tell from his face that you didn't  
16 talk to him.

17 MR. ECKHARDT: Thank you, Chairman Goltz.

18 I was going to have -- make a baseball analogy. He's a  
19 fan. But I'll skip it.

20 I never thought that I would deal with weather  
21 normalization in solid waste, but as any of you who are  
22 familiar with utility regulation know, that weather  
23 normalization is part of the cost analysis for water,  
24 energy. So is -- can we -- can staff figure out how -- a  
25 way to do this? Well, yes, I think we have. We've done

1 that in other industries. It identifies costs, rates  
2 them -- you know, amortizes the costs over a period per  
3 occurrence, and you go on. So it's certainly new, it's not  
4 unprecedented, and with all the bright minds we have here  
5 today I'm confident we could figure that out.

6 COMMISSIONER JONES: That sounds like the subject of  
7 another workshop. We have lots of weather normalization  
8 experts in electric cases. They tend to be somewhat, I  
9 think, expensive, and they are very grounded, let me say  
10 this, in statistical theory. So if -- averages, means, all  
11 this stuff. And for the Columbia River systems, since so  
12 much of our electricity depends on snow pack, they sometimes  
13 go all the way back to the 1920s and '30s. So, I mean, if  
14 we go down that route, we can get very complicated, and I  
15 wouldn't --

16 MALE SPEAKER: Yeah. Well --

17 COMMISSIONER JONES: -- recommend that, but it would --

18 MR. ECKHARDT: You know, you're absolutely correct. It's  
19 certainly, well, a whole new layer of complexity.

20 COMMISSIONER JONES: Sure.

21 MR. ECKHARDT: But it's -- my point is that --

22 COMMISSIONER JONES: It's something we could do, yeah.

23 MR. ECKHARDT: -- it's been done in other areas, and  
24 there's certainly a way to figure it out.

25 MR. LOVAAS: Well, and again, we just need -- this is Brad

1 Lovaas with WRA.

2 Again, we just need some perspective. I mean, we want to  
3 pick it up that day, regardless of weather conditions. What  
4 really enters into it is what Tim talked about. We've got  
5 to think about the safety of the driver, the safety of the  
6 other individuals on the road, and the safety of the  
7 customer and where we're going and whether it's really even  
8 practical, because some of the -- again, whether it be  
9 driveways or the hills or whatever. So, again, the  
10 perspective is we want to pick it up on the scheduled day,  
11 but what's entering into it is really and frankly just a  
12 safety consideration. And let's leave it at that.

13 COMMISSIONER JONES: Sure, yeah. And, Brad, I would just  
14 put in fairness to the customer, too, for a common carrier.  
15 This is a regulated service, common carrier, so you do have  
16 to put in the element of customer service, yeah.

17 MR. LOVAAS: We understand that obligation and -- yeah.

18 COMMISSIONER JONES: Okay. I have a question more for  
19 King County. Is --

20 Judge Kopta, is Kitsap on the phone or not? I guess not.

21 JUDGE KOPTA: No one appeared on the phone.

22 COMMISSIONER JONES: Okay.

23 JUDGE KOPTA: I don't know whether they might have joined  
24 later. I've heard some beeps.

25 COMMISSIONER JONES: So my question, either for Kitsap or



1 King, is if -- this is a hypothetical. If we were to put in  
2 some sort of automatic crediting mechanism through a  
3 rate-making procedure, as the Chairman says, or through an  
4 automatic thing on the bill, what do you think of Kitsap's  
5 distinguishing at one week for garbage? Now, let's talk  
6 about garbage, recycles, yard waste. Because I agree with  
7 you. They're all different. So what would you -- if we  
8 were to craft something like that, where would you have the  
9 cutoff? At one week, ten days, two weeks? How would you do  
10 it?

11 MR. GAISFORD: I think it's an interesting idea to set  
12 some kind of -- you know, it's not always. If you miss me  
13 on Monday, and Tuesday's there -- I mean, I think having  
14 something -- a week might make the most sense because,  
15 again, I think people can deal with one missed pickup. I  
16 think it's just the prolonged part that is challenging for  
17 people. So I think it -- that's something that we'd be  
18 interested in is the setting beyond a certain amount. It's  
19 the prolonged and the uncertainty, I think, is what -- where  
20 we end up hearing from people. And -- you know, and we face  
21 the same safety concerns too when there's weather events of  
22 whether we can be open so that these folks can come to the  
23 transfer stations to bring the trash that they picked up, so  
24 we're making those same kind of decisions, too, while  
25 there's weather events.

1           COMMISSIONER JONES: Well, and since I reside in your  
2 county, I have -- well, recycles are generally free at the  
3 transfer stations in King County, right?

4           MR. GAISFORD: Yes.

5           COMMISSIONER JONES: Extras. But garbage is not for --

6           MR. GAISFORD: Garbage is not.

7           COMMISSIONER JONES: For a missed pickup. So what you're  
8 talking about, Jeff, is during a prolonged outage when the  
9 customer goes to take that extra garbage, as the Chairman  
10 says, in a flimsy bag that probably breaks during --  
11 en route, whatever, customers get angry when you charge  
12 them, and then you have to have additional personnel to  
13 handle the increase there.

14          MR. GAISFORD: Right. And I think it's both that they --  
15 they'll call us and say, "Are you open? I didn't get a  
16 pickup for the last two or three weeks." They bring it to  
17 us. We're going to charge them \$20 just to come in the  
18 door, and then they'll still pay their hauler for something  
19 they feel like they didn't receive. So I think that's who  
20 we hear from are the people -- and, again, I don't think  
21 it's everybody. I mean, I think there's a lot of people  
22 that are willing to wait and can hold on to stuff, but  
23 there's -- you know, it's the option. It's having some  
24 options and getting some credit.

25          JUDGE KOPTA: I know -- I think Mr. Eckhardt just wanted

1 to chime in on this.

2 MR. ECKHARDT: Yes. Just a caution. We're talking about  
3 a week of service, and I think perhaps people may be  
4 thinking in terms of weekly service, but keep in mind,  
5 customers subscribe to every-other-week service, monthly  
6 service, and certainly commercial accounts are daily or  
7 multiple times per week or in a -- within a week. So not --  
8 you know, just to keep that in mind.

9 JUDGE KOPTA: Yeah. And there are certainly ways that you  
10 could craft around that. You could say, you know, "More  
11 than one scheduled pickup," or if -- in cases of -- you  
12 know, when you have daily, then you can say, you know, "One  
13 week or the next scheduled pickup" or -- I mean, we could  
14 craft a way around it if we wanted to do that. So I think  
15 the issue is maybe a little more complicated because they're  
16 a different timing, but I think --

17 MALE SPEAKER: Yeah.

18 JUDGE KOPTA: -- you still have the fundamental issue of  
19 whether that's a workable solution. And I know we talked  
20 about that a little bit before, but I don't know whether  
21 Waste Management or WRRRA has any thoughts in terms of  
22 whether that's -- whether that would make sense, whether  
23 that would be, you know, more expensive, or how that would  
24 work, from your perspective. Since you didn't have a chance  
25 to respond in writing, I'm kind of talking about it today.

1 MR. LOVAAS: Well, I'll go first, Tim.

2 There are a lot of cases where the word just goes out that

3 we're going to try to catch up the very next day, so --

4 whether it be one-week, two-week, or one-month service.

5 That's not the case for all of our companies, but

6 typically -- let's talk about some of our small, more

7 rural -- the ones who live in this, you know, weather.

8 Because it's sunshine 300 days a year, doesn't mean there's

9 not snow 300 -- or, you know, 150 days a year up in the Omak

10 or Okanogan. They try to, you know, just get the service

11 out, just to be frank. I mean, that's kind of the ethic of

12 the private companies, public companies to provide the

13 service. And so I think they're sensitive to that. I don't

14 think they're trying to strand somebody, you know, for

15 basically two months without garbage service because they're

16 on once-a-month service. I think that would be dealt with,

17 and I don't know that there's ever been a complaint of that

18 at the UTC.

19 But hypothetically how would we deal with it? I think

20 it's on an individual basis where that company's territory

21 is, and I would just tell you that they would -- if they

22 can't get there the next day, if it's -- because if it's a

23 one-day event, then it will be the next time. But I'm

24 telling you, I have never heard of a situation where

25 somebody's gone two months without garbage service in this

1 state.

2 COMMISSIONER JONES: Can -- I have a question for  
3 companies that have been through a rate proceeding recently.  
4 So if during the test year there is a weather event and the  
5 company incurs some extra overtime costs above and beyond  
6 what it would normally incur during if it was just great  
7 weather, does that -- does those extra costs get baked into  
8 the rates?

9 MS. MCNEILL: Polly McNeill. I am not an economist, nor  
10 am I an auditor. My understanding, however, is that there  
11 would be two issues with regard to your question. One is  
12 it's not a normal cost. It's not --

13 COMMISSIONER JONES: Right.

14 MALE SPEAKER: Right.

15 MS. MCNEILL: You know, it could conceivably not be  
16 allowed because it's not considered a recurring normal cost.  
17 The other is that I think some of the operators have  
18 mentioned that there are some savings incurred, you know,  
19 when -- during the snowstorm day. So I think for the most  
20 part there would probably be some adjustments to normalize  
21 that. If that were -- if that time period were in the test  
22 period, there would probably be some normalization of those  
23 costs.

24 MR. ECKHARDT: Right. Gene Eckhardt.

25 Ideally, I agree. I can't -- and a lot of it depends on

1 the company and the circumstances. A one-day event to an  
2 auditor in a rate case on materiality, it may not hit the  
3 radar on the audit itself. If -- I think to contrast that,  
4 the most recent strike was two-plus -- two and a half weeks?

5 MALE SPEAKER: Twelve days.

6 MR. ECKHARDT: In King --

7 MALE SPEAKER: Twelve days.

8 MALE SPEAKER: It was one week, and I thought we were  
9 talking about the weather.

10 MALE SPEAKER: That's a more pleasant topic.

11 MALE SPEAKER: Yeah.

12 MR. ECKHARDT: Well, I'm talking about missed pickups.

13 And so there's -- I really can't say. It depends on the  
14 circumstances. There's partial effects, full company  
15 shutdown, state, you know, company wide, multiple days,  
16 single days. But I agree. It's a nonrecurring cost, it  
17 should be identified and it should be dealt with in some way  
18 to normalize the expense over a period of time, not  
19 necessarily based on traditional electric or water/weather  
20 normalization analysis, but more looking at frequency of  
21 events, etc.

22 MALE SPEAKER: I guess one question and -- I would have is  
23 with the existing language that's been in act forever, and  
24 it's -- I just feel like it's been such a small population  
25 that has had the concerns with it that the companies or the

1 haulers should be able to deal with those concerns on  
2 themselves by themselves with them, and if it's not  
3 satisfiable at that level, then they can -- then they go to  
4 the UTC and the UTC sends me a nasty gram to fix this issue.  
5 And that's where I see that the language has worked for an  
6 awful long time, and I don't really believe that it needs to  
7 be changed.

8 JUDGE KOPTA: And I think -- and this is kind of --  
9 actually kind of where I'm going to segue into the next  
10 question. Part of that may be because everybody accepts  
11 that if it's snowy and icy that you're not going to be able  
12 to pick up the garbage, and, you know, we all have to kind  
13 of make our sacrifices when we can't get out on the roads.  
14 But it may be a little bit different when you've got labor  
15 issues. And I think that's kind of really what kicked off  
16 this proceeding in the first place was the issues that came  
17 up this summer.

18 And so going to the next question, then. Should the  
19 Commission add language to the tariff template that  
20 describes how missed pickups should be handled in a  
21 result -- as a result of labor disputes or strikes? And I  
22 think that definitely adds some complication that weather  
23 and road conditions don't, so I suspect --

24 MALE SPEAKER: I expected to get there.

25 JUDGE KOPTA: And I suspect that that's going to be

1 probably the lion's share of the discussion this afternoon  
2 are the issues that arise under those circumstances. And so  
3 because the companies are -- or several companies are  
4 advocating for a change in the tariff to accommodate labor  
5 disputes, I'm going to let the companies say something  
6 first.

7 Mr. Wiley, did you want to say something?

8 MR. WILEY: Well, I would think that -- I wanted to defer  
9 to Waste Management first, but I do want to say something on  
10 this.

11 MALE SPEAKER: (Inaudible).

12 MR. WILEY: I don't do that often, I admit.

13 JUDGE KOPTA: I was going to say, let's put -- somebody  
14 write that down.

15 MALE SPEAKER: Yeah, I'm actually getting tired of  
16 talking, so...

17 JUDGE KOPTA: Well, yeah. I was going to spare Mr. Crosby  
18 a little while, since -- but if he wants to talk, please go  
19 ahead.

20 MR. CROSBY: Well, as the tariff is, that when it speaks  
21 to labor, labor relations, the bargaining process, I think  
22 it's going to be a lot deeper conversation. I think that  
23 I've heard the commissioners in the last meeting that I  
24 attended about wanting to, you know, stick themselves in the  
25 middle of the bargaining process, but also I -- I do believe



1 that there needs to be some kind of a protection there to  
2 where we -- when we do have a labor issue not drawn out long  
3 term or anything, but something like the weather language  
4 that is there now that gives both sides of the parties that  
5 time to come together and figure it out.

6 I know this last time was an -- it was an eight-day  
7 strike, and so we went past by one day that seven days, and  
8 it was -- part of the reason it went so long was, you know,  
9 we were at loggerheads with the labor group. And from our  
10 past history, they had never went out longer than a day or  
11 two and then came either back to the table and we settled or  
12 we just settled. We worked through the night and we got it  
13 done. This time was a little bit different. There were  
14 some circumstances that I won't get into that happened this  
15 time, and we did not, you know, pull the trigger on our  
16 replacements soon enough. We should have done it earlier,  
17 but we thought with only a couple of days we'd try and save  
18 those costs and that would not happen.

19 But without some kind of language going forward which  
20 allows us the time to be able to continue the bargaining  
21 process and gives us some security that we're not going to  
22 be levied a bunch of fines or, you know, are putting our  
23 tariff at risk or something like that, what it's going to do  
24 is it's -- by not doing anything, it's going to force us  
25 into a lockout situation with our employees.

1 And are you familiar with the difference between a strike  
2 and a lockout? I mean, I think -- okay, you do. And if  
3 every -- for the sake of everybody else here, a lockout is  
4 when the company actually locks the gates, brings in our  
5 people early, and we negotiate with the union, and they  
6 can't work.

7 Now, lockouts can be a -- the reason we don't like them,  
8 as a company we really look like a bad -- big bad ogre doing  
9 that, and they can turn things quite violent. They can drag  
10 things out a lot longer. The elected's don't like it.

11 There's many reasons not to. And they're not as safe. And

12 I'd like Mr. Sherman to maybe share a couple of stories of  
13 some lockouts that he's been through. Luckily, I have not  
14 been through one, but I do see that as one of the key  
15 ingredients to not having some kind of language that by not  
16 having something that the Commission has forced us to go --  
17 our hand a certain way.

18 CHAIRMAN GOLTZ: So maybe before Mr. -- you'd have to  
19 explain to me a little more why this is an issue. I mean,  
20 because one of the things that we -- was suggested to us at  
21 the hearing up in Woodinville was that we put into the  
22 tariffs something analogous to what Waste Management has  
23 negotiated with a number of cities and contracts with  
24 performance standards and penalties. I know they vary from  
25 jurisdiction to jurisdiction, but I think I heard you say

1 that if we were to go that route that would increase the  
2 possibility of a lockout, and I don't understand why that  
3 is. And if that is true, why wasn't that possibility  
4 increased by the contracts you negotiated with the various  
5 cities?

6 MR. SHERMAN: I'll jump in. We've been talking to  
7 multiple cities after the event that happened early this  
8 summer or later this summer, and the bulk of them we've  
9 actually come to agreements. We've come to terms and  
10 agreements after the effect. And in every case so far, it  
11 did not -- those agreements that we reached did not tie to  
12 some punitive liquidated damage clauses, because there's  
13 some question about the legality of those liquidated damages  
14 clauses within those contracts and how they -- what they  
15 actually -- what they truly represent and -- versus a  
16 tariff. It's a little different when something is a tariff.

17 So if I've got a tariff that says this is the  
18 repercussions if you miss a collection for -- whether it's  
19 Day One or Day Seven, if I've got that, then it really puts  
20 me in a box. And to control my destiny, then I have to do  
21 what I consider a very egregious event, which is lock the  
22 gates and lock out. And in 2007, we did that in Oakland.  
23 It was 27 days. Tim alluded to violence. We had threats,  
24 physical altercations, fires. It was extremely damaging  
25 for, you know, both parties, the community itself. But what

1           it does is it allows me to control my destiny because I'm  
2           not going to get in a situation to where the labor group has  
3           the ability to say, "I'm on strike today. Oh, I'm coming  
4           back to work tomorrow." And "I'm on strike today, and I'm  
5           going to come back to work" -- and so -- you know, and  
6           without going into a whole lot of details of this last  
7           event, you know, there was a six-week gap in there that  
8           neither side had reached an agreement and we're all just  
9           kind of waiting. And that's okay because we were, you know,  
10          under the impression that at some point it does -- it's  
11          going to come to an end. But if there is punitive language  
12          as part of a tariff, it's very clear to me that I have no  
13          option. I need to control my destiny.

14          We have -- at our company, Waste Management, we cover a  
15          broad UTC area with, you know, hundreds of thousands of  
16          customers, and the penalties would be exponential extremely  
17          quickly, and so it kind of puts us in a box.

18          JUDGE KOPTA: Well, and just to be clear, we're dealing in  
19          Washington with not just the tariff, but Commission rules.  
20          So at least theoretically if you don't provide service when  
21          you're obligated to under your tariff, and there's nothing  
22          in the tariff right now that excuses that, then you could be  
23          subject to penalties under --

24          MR. SHERMAN: We understand that.

25          JUDGE KOPTA: -- under the statutes now.

1 MR. SHERMAN: Absolutely.

2 JUDGE KOPTA: So would it be, actually, more beneficial to  
3 the company to be required under the tariff to provide  
4 credits in the case of labor strikes so that you wouldn't  
5 have to worry about being penalized by the Commission?  
6 You'd still be subject to having to pay something under  
7 those circumstances that may be different than road or  
8 weather conditions, but not as much as you would face if you  
9 just were being -- come before the Commission in terms of  
10 being penalized for not providing service.

11 MR. SHERMAN: In most cases -- you've got to figure that  
12 we've been around for years and years, and this is the first  
13 time -- and Tim's been in the area for 25 years -- the first  
14 time that we've seen this go beyond the seven days. And so  
15 if you think in the general event -- and I really don't  
16 expect us to go -- have any other issues like this again. I  
17 don't see it on the horizon. And so many of our contracts  
18 have that seven-day window in there that says, hey, you've  
19 got seven days to kind of work things out and then will come  
20 back to us. Other contracts don't have any language in  
21 there. And in all cases, at the end we have an opportunity  
22 to sit down with that contract city and have a dialogue with  
23 them and say, "Okay, here's kind of what happened. Let's  
24 see if we can't come to an understanding." But it's -- you  
25 know, it's very fluid, if you will, depending upon that

1 individual city.

2 And so you're asking me if I -- you know, if I want to do

3 credits. Credits bring their own kind of complications.

4 Right now, for years and years all around, the folks have

5 been able to go in and pick up on the next collect -- next

6 service day, and that has hap- -- that has taken care of the

7 majority of any event. And then you look at that exception,

8 and as Tim mentioned, you work with the Commission and you

9 get a letter from a customer that says, "Hey, we're upset

10 about this," and you work with those unique areas or pockets

11 and kind of come up with a solution.

12 JUDGE KOPTA: And I suppose, you know, one of the issues,

13 too, is how much does what the Commission does or doesn't

14 do, or even the cities or counties do or don't do, that puts

15 a thumb on the scale of the negotiations with your workers.

16 I mean, by imposing or potentially imposing large fines,

17 maybe we're putting too much pressure on the company and

18 advantaging the workers, whereas we could flip it and say,

19 okay, we're going to take you out from under any threat of

20 having a fine and make it a lot easier for you not to have

21 service, and that suddenly empowers the companies more and

22 disadvantages the labor union. So are we -- so do we have

23 to consider that when we're thinking about whether to

24 include labor issues in the tariff?

25 MR. CROSBY: And I think that's why you see us not asking

1 for a month of time. It's more in like with the existing  
2 language that's the seven days. Usually, we can make things  
3 happen. We've got some pretty good confidence that we're  
4 going to be able to work with labor and have labor peace  
5 during that time. We've had one event that's been that long  
6 in all of my memory, and I've been doing labor with the  
7 company for an awful long time, if not leading it, at least  
8 a part of it and a seat at the table. The unions and their  
9 leadership is -- are very smart individuals, and they enjoy  
10 some of the highest rates and benefits in the country in the  
11 Puget Sound, and they're good middle -- middle to upper  
12 class wages and jobs, and we just believe that we need that  
13 language as an opportunity to level the playing field,  
14 because right now we believe that it favors them.

15 JUDGE KOPTA: I know Mr. Wiley has been, you know,  
16 anxiously -- or did --

17 Mr. Chairman, did you want to follow up on that?

18 CHAIRMAN GOLTZ: Well, I guess I -- before we leave this,  
19 you know -- so I think -- let me see if I understood what  
20 you were saying. That essentially one of the issues that we  
21 were contemplating was to include in the tariff -- at least  
22 I was contemplating this, including into the tariff a  
23 performance standard analogous to that which we see in a  
24 number of city contracts whereby if service was not restored  
25 within a certain amount of time -- it might be a week, it

1 might be something different -- that there would be a set of  
2 stipulated penalties. And what I heard you say is that if  
3 we were to do that, that would almost force the company  
4 to -- if there's a labor dispute, to enter into a lockout  
5 with potential for violence and potential for all sorts of  
6 horrible consequences from that, like we saw in Oakland, and  
7 that, then, apparently, would be on our doorstep.

8 As -- but I -- but what I see in this, like, last labor  
9 issue, a number of cities had those provisions. The UTC  
10 tariff provided for no excuse for missing service during a  
11 work stoppage with subjecting you to a whole bunch of  
12 undefined penalties, but yet you didn't find it necessary to  
13 enter into a lockout. So I don't get what this new sort of  
14 specter that we're seeing painted for us today, where that  
15 came from and why it wasn't there in the last labor shortage  
16 and why -- if it wasn't there then, why -- what is there now  
17 other than some sort of tactical thing we're going through  
18 today?

19 MR. SHERMAN: Liquidated damage -- the liquidated damage  
20 clauses in the contract, there's a difference of opinion of  
21 what that represents, absolutely. It's very specific. If  
22 you miss a block, it's \$500 per commodity. So a recycle,  
23 \$500 for that block, and yard waste and whatever. So  
24 it's -- exponentially can get into millions of dollars very  
25 quickly. And so we had all of those languages in all the --



1 you know, most of the contracts in this region have a -- you  
2 know, a lot of them have that language in there. But if you  
3 look back and look at the end of this last period, we've  
4 settled with our very large customers, very large cities.

5 CHAIRMAN GOLTZ: And "settled" meaning with payments?

6 MR. SHERMAN: Come -- right. And we've come back with  
7 some credits. I mean, we use credits for these customers.  
8 But in no event did they anywhere approach those contract  
9 languages that you're talking about right there, the 500,  
10 500, 500. No. It's on some portion -- you know, some  
11 percentage of it, but, you know, it's not that.

12 So when you're looking at duplicating it, it makes me very  
13 nervous. Absolutely makes me very nervous, because if the  
14 UTC in that broad area institutes something, the views of  
15 the UTC are going to be pretty consistent or -- I don't want  
16 to say rigid. I don't want to say harsh, rigid in their  
17 interpretation of what that means.

18 So where I can sit down with a city, whether it's Seattle  
19 or Federal Way or some of these other ones out here, and  
20 have a discussion about it, it looks differently when you're  
21 talking to a regulator. And so that makes my decision and  
22 Tim's decision when we're deciding what action the company  
23 wants to move toward different. And if I have got now a  
24 large portion of my business at risk for a -- what I  
25 consider a punitive response, and it's not -- then we're

1 going to respond to that.

2 The eas- -- not the easiest, but the answer that comes to  
3 you is you have to lock out. And we considered locking out  
4 this time, absolutely. It is just an egregious step. It is  
5 something that you just don't do unless you're very  
6 convinced it's the right thing to do. For us, you lock out,  
7 you bring in 400 people, 500 people, and you go service the  
8 customers. But at the end of the day, you've got to come  
9 back, and those people who go home -- and then you've got  
10 the employees. And I believe we have some of the best  
11 workers absolutely in the industry. Just simply fantastic.  
12 And when that strike is over, I have to go sit there and  
13 stand in front of them and talk to them about things that we  
14 care about in the company, and you break trust when you lock  
15 out.

16 CHAIRMAN GOLTZ: So I gather what you're saying, though,  
17 is that if you -- if the -- I mean, the premise of my  
18 hypothetical was that our tariff would in effect be  
19 analogous to that which is in the city contract. I think  
20 you interpreted me as saying, no, my proposed -- my  
21 suggestion was that it not be analogous to the city because  
22 the city, as it turned out, was flexible. You're just  
23 assuming that whatever we did would be draconian in nature  
24 and therefore it leads to a lockout?

25 MR. SHERMAN: I would say that my perception, it would be

1 not --

2 Well, Polly, do you want to jump in? Because I don't know

3 that it would be as --

4 MS. MCNEILL: I do.

5 MR. SHERMAN: -- as --

6 MS. MCNEILL: I do, but I also would like --

7 MR. SHERMAN: Help me out, Polly.

8 MALE SPEAKER: Draconian. Please.

9 CHAIRMAN GOLTZ: No. But frankly, you know, I find --

10 MS. MCNEILL: There is a difference --

11 CHAIRMAN GOLTZ: -- it's a little bit of a threat.

12 MS. MCNEILL: There is a -- well, you shouldn't take it

13 that way. We're trying to speak frankly.

14 CHAIRMAN GOLTZ: Yeah.

15 MS. MCNEILL: And you want frank talk --

16 CHAIRMAN GOLTZ: Yeah.

17 MS. MCNEILL: -- from all sides, so I think we should not

18 be at risk of angering you by --

19 CHAIRMAN GOLTZ: Yeah.

20 MS. MCNEILL: -- speaking in this manner.

21 But it sort of gets to the point -- I would put your point

22 differently. And Judge Kopta alluded to it. The Commission

23 does not have the need to justify a liquidated damages as a

24 penalty. The Commission has statutory authority to impose

25 penalties.

1 CHAIRMAN GOLTZ: Right.

2 MS. MCNEILL: Cities do not. And for that very reason  
3 alone, they're not analogous situations. The Commission has  
4 a great deal of discretion in terms of how it assesses  
5 penalties, but if a tariff were to state that you were going  
6 to incur penalties at this point, then the tariff would have  
7 to be enforced, and the tar- -- and the exposure to clearly  
8 an outright denominated punitive penalty would be a risk, as  
9 opposed to the need to negotiate with a contract party about  
10 terms and implementation. And I think it's important to  
11 understand that many of the municipal contracting entities  
12 in King County -- well, first of all, not all of the  
13 contracts do have performance standards of the kind --

14 CHAIRMAN GOLTZ: Right.

15 MS. MCNEILL: -- you're talking about. Secondly, they  
16 are -- despite Jeff Brown's best efforts, they are different  
17 between many of the different cities. Some of them have  
18 waiting periods of various and sundry --

19 CHAIRMAN GOLTZ: Sure.

20 MS. MCNEILL: -- lengths. But some of the cities with  
21 those provisions in them chose not to impose anything and  
22 said, you know, "You did the best thing that you could do."  
23 If a tariff said that you were incurring penalties, it would  
24 have to go through. I suppose a petition for  
25 administrative --

1 CHAIRMAN GOLTZ: Sure.

2 MS. MCNEILL: -- review, some sort of teeing it up to you  
3 as the commissioners to exercise your discretion to bypass  
4 that penalty -- but from the staff's perspective, I would  
5 expect that they would feel that the penalty was stated in  
6 the tariff, and therefore the penalty was going to be  
7 pursued and -- unless and until they received, also, any  
8 direction from the commissioners as their discretion in  
9 terms of implementing it. It would be a different thing.

10 CHAIRMAN GOLTZ: So you would rather have a situation that  
11 we have now where there's no penalty schedule, so to speak,  
12 but rather it's just a penalty -- authorizing a penalty for  
13 any violation of a tariff that can lead up to large amounts,  
14 but that's discretionary within sort of due process  
15 standards within the Commission? You'd rather have that  
16 undefined penalty authority than having a more defined  
17 penalty schedule?

18 MS. MCNEILL: You know, when I was in law school we used  
19 to stay up night -- late at nights playing "Would you  
20 rather?" And it was always a -- two bad choices. "Which  
21 one would you rather?"

22 CHAIRMAN GOLTZ: Yeah.

23 MS. MCNEILL: So I'm not sure that I'm prepared on behalf  
24 of --

25 CHAIRMAN GOLTZ: Yeah, sure.

1 MS. MCNEILL: -- both of my clients --

2 CHAIRMAN GOLTZ: I understand.

3 MS. MCNEILL: -- here today. But I think that I just  
4 wanted to hasten to address, you know, your sort of umbrage  
5 at this and be sure that we're all understanding that  
6 there -- you know, there is a big difference between a  
7 statutory authority of an agency to impose penalties versus  
8 a negotiated liquidated damage provision in a contract.

9 And then one more thing that I would like to say is that  
10 we had -- Waste Management had a situation this summer that  
11 was heretofore unexperienced in this region. And we can't  
12 unring, you know, the bell. It took place. But if the  
13 Commission failed to take any action and we were all in the  
14 same contracts provisions, tariffs situation today -- or in  
15 the future and it were to happen again, I feel pretty strong  
16 in saying that I think that Waste Management would probably  
17 be forced to consider a lockout in that situation too. So  
18 it's not -- it's -- hindsight is 20/20. It was a horrible  
19 situation that occurred this summer. But might it have  
20 precipitated the need for a lockout if we had known how it  
21 was going to play out? Maybe. Maybe.

22 But a lockout is the only means under which, as I  
23 understand it -- and I'm not a labor lawyer, but it is the  
24 only means that gives the company to say: Okay, date  
25 certain we are going to prepare for -- we are not going to

1 wait for you to strike. We're going to go forward and take  
2 care of our customers. But we're going to lose the loyalty  
3 and trust of our drivers.

4 MR. SHERMAN: That's a fair statement. When -- and I'll  
5 apologize if I stated it poorly. We did very much look  
6 at -- in each event we look at a lockout as a viable option.  
7 What I'm saying is, as the scale adds -- things are added  
8 to the scale -- it leads us more toward that direction as  
9 things are added to the scale. And for the reasons Polly  
10 mentioned, the difference in how we look at a contract city  
11 versus, you know, the regulatory body, it puts a lot more  
12 pressure on that scale. That's all we're saying.

13 JUDGE KOPTA: And what's interesting too --

14 And I think you're right, Ms. McNeill, in terms of the  
15 difference between the Commission and the cities in terms of  
16 the penalty authority.

17 But there's another difference, which is that any  
18 penalties that the Commission assesses go into the general  
19 fund, and they help to reduce the billion-dollar shortfall  
20 that the State has, but they don't really do much for  
21 customers of the companies.

22 MS. MCNEILL: That's important.

23 JUDGE KOPTA: Whereas for a county or a city, they can use  
24 those dollars to help directly the company -- the consumers  
25 of the -- that were, you know, disadvantaged or harmed or

1 whatever.

2 So one of the things that we are trying to keep in mind is  
3 that penalties are not the same to us as they are to a  
4 county or city, just as they're not the same to you when  
5 they're talking about two different things. And so that's  
6 why, you know, I posit the idea of having a customer credit  
7 in the tariff, taking out the penalty aspect of things,  
8 saying, "Well, you can do this, but you've just got to  
9 provide customers with something." So we're almost trying  
10 to mimic what the cities and counties are able to do by  
11 doing it in the tariff. And so that's why I throw that out  
12 there as a proposal. So it doesn't get the companies  
13 completely off the hook, but instead provides some money for  
14 consumers, which is -- are ultimately the people that we are  
15 trying to protect.

16 MS. MCNEILL: It -- I --

17 JUDGE KOPTA: Dave has been very patient.

18 MR. WILEY: Now they're clamoring for me? That's a first.

19 JUDGE KOPTA: Your turn now.

20 CHAIRMAN GOLTZ: Thank you, Judge. He's been fidgeting  
21 for the last, I think, about an hour.

22 MR. WILEY: Dave Wiley. And I'm here representing both  
23 Rabanco Allied and the Waste Connections companies, who are  
24 both members of the WRRR, to the larger publicly-traded  
25 company members of the WRRR.



1 I'd like to back up because I think you've gotten way  
2 ahead of us, all of you have, because we haven't addressed  
3 the third question, which is where I really wanted us to  
4 start, which is: Can we make a provision in the standard  
5 Commission tariff template that will give analogous  
6 treatment to work stoppages, labor strikes, etc., that we do  
7 to inclement weather?

8 And I wanted to advocate very strongly that the Commission  
9 do that. And the reason I say that is that, first of all,  
10 the Commission is acknowledging by allowing that language  
11 the reality that work stoppages are tantamount to missed  
12 collections, result in missed collections, and we should try  
13 to anticipate in our tariffs those kind of circumstances.  
14 Those are unfortunate circumstances, but so is inclement  
15 weather, from that standpoint. So we believe that we should  
16 be authorized to do that.

17 And at the open meeting where Polly presented for Waste  
18 Management on the issue, I did hear some comments from the  
19 bench that I wanted to argue now. And it was basically: By  
20 allowing that language, we will be intervening in a labor  
21 dispute. And my view is actually that by not acting, by  
22 omission you are being engaged in the labor dispute.  
23 Because we want to be able to -- you know, the staff looks  
24 at all of our labor costs very closely, very -- asks for  
25 updated collective bargaining agreements, and we have heard

1 questions from the staff that we may not have been as  
2 forceful in negotiations on economic term issues compared to  
3 wage surveys in the area, etc. We're very cognizant of  
4 that, and not allowing a tariff to recognize this reality  
5 would mean that the -- the vacuum would mean that there  
6 would be direct or indirect pressure put on those economic  
7 negotiations that we think shouldn't be put, and thus --  
8 because we want to hold the line for our customers. And we  
9 know that we are not going to be able to pass unreasonable  
10 labor costs through to our customers, so there's a balancing  
11 act.

12 We acknowledge that's a tough thing for the Commission,  
13 but I think you've been in it historically in terms of  
14 scrutinizing labor agreements and looking at whether those  
15 are fair costs to be passed on to rate payers.

16 The issue of penalties is a sort of segue issue that I  
17 have some views on. I don't want to tangle in that right  
18 now, but I do -- what I'd like the group to focus on is  
19 really the permissibility of authorizing this language,  
20 which is in my view a reality of operating circumstances in  
21 2012. And our -- you know, the tariff template was  
22 historically designed by the staff, lived by the industry.  
23 We haven't had a whole lot of problems, but the companies  
24 that at least anticipate the possibility of having a problem  
25 are trying to plug that hole.

1 And actually, it was the staff bringing it to our  
2 attention about, "Hey, by the way, where's the language when  
3 you" -- that really -- and that underscores the rare  
4 occasion that this has been historically. But now that it's  
5 raised, now that it's happened, we really think that we  
6 should be addressing it and that to not do something would  
7 be inviting a whole web of other issues, not the least of  
8 which, of course, are penalties, violating our tariff,  
9 giving free extras without authoriza- -- you know, all the  
10 kind of parade of horrors we started to think about.

11 So...

12 CHAIRMAN GOLTZ: And I will take a little bit of issue  
13 with your saying that we're jumping ahead of ourselves,  
14 because I think one of the issues with including labor  
15 disputes in the tariff language right now is it takes off  
16 the table the Commission's primary enforcement mechanism,  
17 which is ability to fine for violations of statute or tariff  
18 or rule. So if you include labor in this as a force majeure  
19 event or -- and some other way deal with it, then we have to  
20 find some other way that the Commission can feel comfortable  
21 that it can make sure that the companies live up to their  
22 obligations to their customers. So I think -- I'm not sure  
23 you can really separate them out as cleanly as you would  
24 like to do that. I mean, if -- because the mere agreement  
25 to include labor disputes in the tariff has an effect in and

1 of itself, without even considering what -- how we do it,  
2 but just the mere fact that we do it.

3 MR. WILEY: Yeah. But I -- the counterpoint to that is by  
4 not acting, by omitting language, we are also acting by  
5 omission. We are triggering all the problems that have come  
6 to the fore. So I don't disagree that we've got to look at  
7 the converse side, but I'm saying that also by disallowing  
8 the ability of the companies to anticipate this does create  
9 exactly the kind of problems that we're seeing now. And I  
10 don't think it reduces the Commission.

11 I did want to just briefly mention that when you asked --  
12 you tried to pin Ms. McNeill down. I do feel that the  
13 statutory flexibility and discretion that the system at the  
14 Commission provides the regulators as well as the companies  
15 to argue whether they should or should not apply is much  
16 more applicable than a liquidated damage language that's  
17 negotiated between two parties that might not have any kind  
18 of anticipation of other circumstances, etc., that you're  
19 just sort of stuck with. I like the way the Commission  
20 deals with fines and, you know, they -- high or low, there's  
21 always due process involved for both the customer and the  
22 company.

23 JUDGE KOPTA: Commissioner Jones?

24 COMMISSIONER JONES: Yeah. Just a --

25 Dave, just a quick followup on your point that we are

1 already -- staff, not the commissioners, but staff is  
2 heavily involved in -- not heavily, but it is involved in  
3 the collective bargaining process because they closely  
4 scrutinize collective bargaining agreements. I don't get  
5 that, so...

6 MR. WILEY: Well, that's sort of a prudence review.  
7 Historically the staff has asked to see revised, updated  
8 collective bargaining agreements, and then they will --

9 COMMISSIONER JONES: Sure.

10 MR. WILEY: -- question. I can't recall any general rate  
11 case in the last decade that I've been involved in where the  
12 Commission said, "No, you know, we're not allowing these" --

13 COMMISSIONER JONES: Sure.

14 MR. WILEY: -- "additional costs." But there's always  
15 that ability, and the staff does look at collective --

16 COMMISSIONER JONES: Right.

17 MR. WILEY: -- bargaining agreements.

18 COMMISSIONER JONES: But my point is, how does that  
19 translate into what Mr. Crosby was talking about, the  
20 collective bargaining process? I understand if it's a  
21 published tariff, that's --

22 MR. WILEY: Yes.

23 COMMISSIONER JONES: -- publicly available?

24 MR. WILEY: Yes.

25 COMMISSIONER JONES: You know, Item 30 --

1 MR. WILEY: Yes.

2 COMMISSIONER JONES: -- you go to the Commission website,  
3 and the Teamsters or whatever could have access to that and  
4 read it and their lawyers look at it, and I can understand  
5 in that situation why that could be beneficial to, perhaps,  
6 their side in the process, but I don't understand how the  
7 scrutiny -- you know, the normal rate-making process of  
8 looking at costs, just and reasonable rates, how that could  
9 benefit the company or the other side in a collective  
10 bargaining process, because, for one, it's not transparent.  
11 It's usually data requests back and forth between you and  
12 staff.

13 MR. WILEY: If I'm getting -- if I'm understanding your  
14 question, the way I would understand it would work is that  
15 the Commission staff would -- are you talking about the  
16 mechanics of they would make an assessment that --

17 COMMISSIONER JONES: No.

18 MR. WILEY: -- that we were imprudent --

19 COMMISSIONER JONES: No.

20 MR. WILEY: -- or --

21 COMMISSIONER JONES: No. I'm talking about how the  
22 process that has currently been in place under Item 30 for  
23 years and years --

24 MR. WILEY: Oh, okay.

25 COMMISSIONER JONES: -- how that translates from this

1 building to a collective bargaining process. Let's say it's  
2 in Woodinville or Seattle and how it might influence a  
3 collective bargaining process between labor and management.

4 MR. WILEY: Well, what -- I think I go back -- and I hope  
5 I'm answering your question, if I'm understanding it. I go  
6 back to the comments from the bench that by -- that I heard,  
7 at least -- and Ms. McNeill can correct me with my  
8 recollection, but I heard that the Commission was reluctant  
9 to allow the Tariff 30 language because they felt that would  
10 be taking a position in labor dispute.

11 MALE SPEAKER: That was my comment. Those were my --

12 MR. WILEY: Okay.

13 MALE SPEAKER: -- comments, so...

14 MR. WILEY: Okay.

15 MALE SPEAKER: And I was -- my point was in the middle of  
16 this all --

17 MR. WILEY: Okay.

18 MALE SPEAKER: In the middle --

19 MR. WILEY: Okay.

20 MALE SPEAKER: Changing in the middle of a labor dispute,  
21 to change the tariff requirements I thought was  
22 inappropriate.

23 MR. WILEY: I think that's a good distinction.

24 MALE SPEAKER: And -- however, right now -- unless there's  
25 a labor dispute that I'm not aware of.

1 MALE SPEAKER: Yes, there is.

2 MALE SPEAKER: I am in negotiations with --

3 MALE SPEAKER: I know.

4 MALE SPEAKER: -- two different parties right now.

5 MALE SPEAKER: But that's different.

6 MALE SPEAKER: That's different.

7 CHAIRMAN GOLTZ: But we don't have a labor -- we don't

8 have any work stoppage. So I guess what I'm saying is --

9 but it's -- the time to do it, I think is, you know --

10 MALE SPEAKER: Agreed.

11 MALE SPEAKER: -- now.

12 MALE SPEAKER: Yeah. Okay.

13 CHAIRMAN GOLTZ: And I think, you know, that the issue --

14 of course, there's a lot of different ways of doing it, and

15 the -- you know, one is to say, well, we'll just use the

16 same language as weather and let it go and -- or another one

17 is I know that during the -- our meeting with Woodinville we

18 spent a lot -- a fair amount of time looking at the Waste

19 Management strike contingency plan. And they had a

20 schedule, and so there are some, you know, deadlines or who

21 gets served when and first and second, third, and so forth.

22 And you could put that -- something like that into a tariff.

23 I -- or you could do it differently, because I suspect that

24 it might be different for Waste Management, which probably

25 has better access to replacement workers than some other



1 companies, I'm guessing. So it might not be a  
2 one-size-fits-all thing. Or, as I was earlier thinking,  
3 something more like the performance standards that you have  
4 in the -- in some of the contracts, and we can talk about  
5 how those work. But -- so I think there's a number of  
6 different models.

7 But I heard every -- I think everyone said we ought to be  
8 doing -- clarifying the tariff as to how it explain -- or  
9 adding something to have it apply to work stoppages and --  
10 as opposed to just saying nothing, which would mean --  
11 imply, I think, that, oh, you've got to provide service  
12 during every work -- business as usual. And I don't think  
13 that's what anyone is suggesting.

14 MS. MCNEILL: So can I ask what may be a stupid question?  
15 I'm listening to you lay out these different alternatives,  
16 and there are probably more than that, and I'm thinking  
17 about the comments and discussions that we've had so far  
18 today, and I'm wondering if you and Commissioner Jones,  
19 maybe, and Judge Kopta, could help me understand a little  
20 bit what it is that we're trying to do here.

21 CHAIRMAN GOLTZ: Well, I think a number of things. I  
22 mean, it's -- it goes to kind of both sides. On the one  
23 hand, I think the customers are entitled to know what  
24 they're entitled to in any service situation. And just like  
25 it's been done -- I mean, in theory, that -- you know, that

1 they have their -- they know what it is during -- what the  
2 obligations are during a storm or inclement weather. And,  
3 second, to give some certainty to the companies, I think,  
4 because right now I think the obligation, if I read this  
5 correctly, is you have to prov- -- if there's a work  
6 stoppage, you have to provide service, end of story.

7 MS. MCNEILL: Um-hum.

8 CHAIRMAN GOLTZ: And so you miss people, and you're in  
9 violation of your service obligation. And yet it seems to  
10 me that it might be that there ought to be some sort of a  
11 clearer and more flexible result than that during a work  
12 stoppage. I mean, I understand why there's a strike, you're  
13 going to be disrupted for a while, and you can't get all  
14 your "Green Team" here in -- you know, in eight hours  
15 notice.

16 MALE SPEAKER: "Mean Team"? Is that what --

17 CHAIRMAN GOLTZ: Green Team. Isn't that what you call  
18 the --

19 MALE SPEAKER: Oh, what you call -- I'm sorry.

20 JUDGE KOPTA: Is that the name of it?

21 MALE SPEAKER: The Green Team refers to a lockout  
22 situation.

23 CHAIRMAN GOLTZ: So, anyway, you see what I mean?

24 MS. MCNEILL: And there -- I do. And there's --

25 JUDGE KOPTA: Well -- and Polly?

1 MS. MCNEILL: There's --

2 MALE SPEAKER: Yeah.

3 MS. MCNEILL: There's huge gaps in between there, right?

4 MALE SPEAKER: Yeah.

5 MS. MCNEILL: Commissioner Jones, I'm --

6 COMMISSIONER JONES: Just let me add on.

7 MS. MCNEILL: Yes, please.

8 COMMISSIONER JONES: I largely -- I agree with everything

9 that the Chairman said, but I think the other thing is, as I

10 recall, you came into the Commission kind of at the last

11 minute, at the end of July, and wanted a changed Item 30 at

12 the very --

13 MALE SPEAKER: Trying to help you.

14 COMMISSIONER JONES: At the very last minute. And I think

15 the feedback we gave to all of you is not only the

16 Chairman's point about not getting involved in collective

17 bargaining agreement, but there's a better way to do

18 business, like let's talk through these things before a

19 crisis.

20 MS. MCNEILL: Well --

21 COMMISSIONER JONES: More --

22 MS. MCNEILL: The filing was made in June, in fairness.

23 COMMISSIONER JONES: It didn't come to me before then,

24 okay, so...

25 MS. MCNEILL: But --

1 COMMISSIONER JONES: So for whatever reason, it appeared  
2 to me -- you asked me for my opinion, okay? So it appeared  
3 to be very last minute. So the only supplement to what the  
4 Chairman said was what we're trying to do here, I think  
5 we're trying to get something in place. Whether it's an  
6 amendment to Item 30 or something else that we do that  
7 clarifies the situation so if a crisis happens, if a work  
8 stoppage happens, for whatever reason -- let's hope it  
9 doesn't. I understand what Mr. Crosby and Mr. Sherman were  
10 saying, but life is strange. Climate change could be  
11 happening. We may have more floods. It's a very uncertain  
12 world we live in, so why not try to fix it now rather than  
13 wait for a crisis?

14 MS. MCNEILL: Thank you.

15 Judge Kopta?

16 JUDGE KOPTA: I don't have a vote, so I will defer to  
17 the --

18 MALE SPEAKER: Oh, come on.

19 JUDGE KOPTA: -- Chairman and Commissioner Jones.

20 MALE SPEAKER: (Inaudible).

21 JUDGE KOPTA: I guess I could, you know, channel  
22 Commissioner Oshie, but that's always dangerous.

23 Well, I sort of feel like we've left King County out of  
24 this discussion. I've been looking toward this other end of  
25 the table, and I wanted to give you the opportunity to chime

1 in on this issue. I know that you referenced it in your  
2 comments and --

3 MR. GAISFORD: Right.

4 JUDGE KOPTA: -- may want to contribute now.

5 MR. GAISFORD: Well, and I guess it's clear that -- I  
6 think it's clear, at least from the tally that we've seen,  
7 that I think all of us around the table are interested in  
8 seeing some clarification on how customers will be served  
9 and what the plans will be when there's labor disputes. So  
10 I think we're hopeful that that will be addressed, whether  
11 it's with Item 30 or something separate. It seems like  
12 maybe it's more appropriate to be something separate because  
13 it is unique. Because we think having a requirement for a  
14 strike response plan, maybe not being in tariff because each  
15 situation is unique, but more of having something that would  
16 be required so that we all know how is service going to be  
17 provided. Because we know everyone thinks about that:  
18 Let's do garbage first and public health, and we'll get on  
19 with the other stuff later.

20 But the other important part for us, too, is once the  
21 dispute is over, how is service going to be restored and to  
22 who? Who gets it first? And at least, you know, some of  
23 the perception that we got from our customers, and it may or  
24 may not be a reality, that those penalty provisions which  
25 get negotiated later have actually -- whether or not are

1 applied, the perception was if you had those in the contract  
2 you had more force to have your service restored in Renton  
3 before you have your service restored in unincorporated  
4 Renton. And we don't want our customers to either have that  
5 be a reality or have that be their perception. That they  
6 know service is going to come on Saturday, whether you're in  
7 Renton or in the street next to it that's in an  
8 unincorporated area, so that we're interested in seeing  
9 something so that -- we're mainly interested in the  
10 customers knowing what's available to them and when are they  
11 going to see service.

12 CHAIRMAN GOLTZ: You know, and in further response to your  
13 question, you know, I'd sort of turn it around and ask you.  
14 I mean, your proposal included this language in case of a  
15 labor strike: "In such event, the company will take all  
16 necessary actions consistent with the collective bargaining  
17 agreement and applicable law to continue to provide service  
18 to customers." I mean, wow. I mean, you really want that  
19 in the tariff that the company in a work stoppage will do  
20 everything necessary to resume service? That's a pretty  
21 hefty obligation.

22 MS. MCNEILL: No. And I appreciate you pointing out at  
23 the work --

24 CHAIRMAN GOLTZ: Yeah.

25 MS. MCNEILL: Up at Woodinville that that perhaps was not

1 the best language. And I certainly believe that there can  
2 be better language. I think we're learning a lot in this  
3 process.

4 I'm not ignoring King County, and I think that they're  
5 actually providing some good ideas. Some of the comments  
6 have been a good idea to get to the level of certainty that  
7 you were -- that -- you know, that you have identified as  
8 one of the goals here. It's --

9 CHAIRMAN GOLTZ: Yeah.

10 MS. MCNEILL: But there's -- you know, there's the need  
11 for certainty. But, of course, you could have certainty  
12 very quickly, but it might not be the best service to the  
13 customer. You know, I mean, as you identified, the two  
14 boundaries of the end of the spectrum are that -- you know,  
15 that the company can do whatever it wants versus -- you  
16 know, and just be sure the customers know about it.

17 CHAIRMAN GOLTZ: Yeah.

18 MS. MCNEILL: Versus the customers have absolutely no  
19 inconvenience and no economic -- you know, are given credits  
20 and not charged for extras and have no economic impact at  
21 all, so -- and the companies just have to eat that cost. So  
22 there's a lot of things in between there for us to provide.

23 CHAIRMAN GOLTZ: Not necessarily have to eat that cost,  
24 but those -- that those are just costs that -- I mean, they  
25 eat, but they might -- you know, they might get baked into a

1 rate. You see what I'm saying? It just strikes me that you  
2 could -- I mean, you know, in weather with Puget, you know,  
3 with the electric utility, I mean, they recover all their  
4 costs of providing service in a storm. Well, maybe not in  
5 a -- I don't know about a labor shortage -- I haven't  
6 thought -- stoppage. I haven't thought about that, but --

7 MS. MCNEILL: Right. But after the storm is over, I don't  
8 get to turn on two TVs, you know? I mean, I could, but, I  
9 mean, I don't get twice as much power as -- I mean, it's not  
10 really an analogous situation, you know.

11 CHAIRMAN GOLTZ: Yeah.

12 MS. MCNEILL: The picking up the extras, I guess, you  
13 know, our --

14 CHAIRMAN GOLTZ: Yeah.

15 MS. MCNEILL: -- view is that at the end of the day the  
16 customer is not harmed, putting aside the customers that may  
17 pick up -- you know, put their pick-up truck and take their  
18 own -- take their stuff to the transfer station and then  
19 still have to pay for it, you know. But for the most --  
20 most of the bread-and-butter customers, they put their stuff  
21 out, it wasn't picked up, the next week it is, plus  
22 everything that they've got there, plus maybe some grandma  
23 stuff. I don't know. But in any event, the customer seems  
24 to me to be -- to come out of it at the end of the day --

25 CHAIRMAN GOLTZ: Yeah.



1 MS. MCNEILL: -- pretty much unscathed.

2 And I feel like we've identified a couple of -- one thing  
3 that I feel like we've identified is that there seems to be  
4 a difference between something that takes seven days and  
5 something that takes longer, and whether that is because of  
6 some sequence of snowstorms or whether it's because of the  
7 extension of a labor strike, there seems to be a sense  
8 around the table that maybe there should be a different  
9 treatment between those kinds of time periods, right?

10 That's one thing. And then -- and the problem with the  
11 labor negotiations is much more thorny because of the  
12 perception that it does influence some kind of ability for  
13 the company to meaningful negotiate -- meaningfully  
14 negotiate rates with regard to its obligations even to its  
15 customers to keep the rates down.

16 So I guess the -- that's where -- that's why I started to  
17 wonder, well, what really is the goal here? Is it  
18 certainty? Is it protection of the company? Is it  
19 protection of --

20 CHAIRMAN GOLTZ: I think it's the same goal that you had  
21 when you put it -- when you proposed this language. I  
22 think.

23 JUDGE KOPTA: Well, and --

24 MS. MCNEILL: I wanted to get my clients some certainty.

25 It's --

1 CHAIRMAN GOLTZ: Well, but --

2 MS. MCNEILL: And some protection and --

3 CHAIRMAN GOLTZ: Yeah, that's right.

4 MS. MCNEILL: Yeah, uh-huh.

5 CHAIRMAN GOLTZ: That's right, but --

6 MALE SPEAKER: I agree.

7 MALE SPEAKER: Yeah. It's a combination of --

8 JUDGE KOPTA: And I guess --

9 MALE SPEAKER: Well --

10 JUDGE KOPTA: Well, go -- well, did you want --

11 MR. CROSBY: Well, I was going to say that I think one  
12 thing, as being the person most involved with labor probably  
13 at the table, is that -- I know that Mr. Wiley had said  
14 something to the point to where I can see that if a -- on a  
15 rate case that one of the staff people asks for your  
16 contracts and they get your contracts and it's 2 1/2 to  
17 3 percent, or it's, you know, like a CPI or something like  
18 that, it's reasonable. And are they going to -- if we come  
19 in and somebody has demanded 9 percent and we give them 7,  
20 are they going to take that into consideration and say that  
21 that's part of the rate-making process? That's -- I mean,  
22 that's one of the things that I'm concerned about as far as  
23 negotiating at the table, which I think is -- it's a very  
24 legitimate concern. It -- and it makes a difference on how  
25 it -- the outcomes at the table are.

1 MALE SPEAKER: Is there --

2 COMMISSIONER JONES: There --

3 MALE SPEAKER: Oh, go ahead, Commissioner Jones, if you --

4 COMMISSIONER JONES: Well, just a quick rejoinder on that.

5 If it gives you any assurance, Mr. Crosby, we've

6 occasionally had labor groups come in and wonder about the

7 rate-making process just informationally, and they have

8 exactly the other concern, you know. And we say, "We don't

9 want to get involved in the" --

10 MALE SPEAKER: Yeah.

11 COMMISSIONER JONES: -- "collective bargaining process."

12 Because their concern is that our staff or the commissioners

13 are being too hard on either basic wages and benefits or

14 pensions. You know, "Every other company offers a 401(k).

15 Why don't you get rid of your defined" -- so that's what I

16 think we mean when we say we don't want to get involved in

17 the collective bargaining process. That's your job to

18 manage.

19 And I can tell you, if you had one -- Polly or one of your

20 lawyers look at the electric and gas rate cases that we do

21 here at the Commission, I think it's very, very unusual for

22 staff or the Commission to change what is the product of

23 collective bargaining agreement. In my memory -- I've been

24 here seven years -- I don't think we've ever done that.

25 MALE SPEAKER: Okay.

1 COMMISSIONER JONES: And generally we're fairly lenient.

2 We -- you know the difference between test year and a

3 pro-formed --

4 MALE SPEAKER: Yes.

5 COMMISSIONER JONES: -- future --

6 MALE SPEAKER: Yes, I do.

7 COMMISSIONER JONES: -- rate period? Actually, this is my

8 opinion. I don't know what the Chairman's is. But

9 generally I've noticed that our staff, we're pretty lenient

10 in pro-forming, you know, collective bargaining costs into

11 the rate -- or the rate-making period for, you know, the

12 perspective period.

13 MALE SPEAKER: The low rate (inaudible) curb, yeah.

14 COMMISSIONER JONES: Right. So if you did your research

15 on that, I don't think you'd be as concerned as you think

16 you are right now.

17 MALE SPEAKER: All right. Thank you.

18 COMMISSIONER JONES: Okay.

19 MS. MCNEILL: Just one point on that. You know, that

20 is -- I believe that is true, in my observation, and the

21 only concern that we have is that we would not want the

22 unions to take that information to mean that we can cave on

23 whatever they want.

24 CHAIRMAN GOLTZ: Absolutely. Sure.

25 MS. MCNEILL: So -- because nobody's going to care. We're

1 just going to pass it right on through to the rate base.

2 MALE SPEAKER: Right.

3 MALE SPEAKER: Yeah. And --

4 MS. MCNEILL: And so that's the other tension.

5 MALE SPEAKER: Yeah. You know, that's absolutely right,  
6 and we -- you can't have a situation where we just had a  
7 rule that said, "Hey, all labor costs just get" --

8 MALE SPEAKER: Yeah.

9 MALE SPEAKER: -- you know, passed right through. We just  
10 can't do that, so...

11 CHAIRMAN GOLTZ: I guess another fundamental question that  
12 I have just thinking about the language that Waste  
13 Management originally proposed to their own tariff -- and I  
14 know that there are proceedings that we have suspended  
15 tariffs for several companies -- do we want to do something  
16 on a global basis in this tariff for Item 30 or would we  
17 better off maybe just referencing it, saying each company  
18 needs to have a plan to address labor shortages or labor  
19 strikes or labor issues, and then make it an individual  
20 company kind of thing that they --

21 MALE SPEAKER: You plan.

22 CHAIRMAN GOLTZ: -- file with the Commission individually?  
23 I throw that out there as a pure question just because I  
24 don't know whether it makes sense, whether there's enough  
25 uniformity between all the companies, whether everybody has

1 a unionized labor force and everybody has the same kind of  
2 deals, or whether we're better off just saying, you know, in  
3 general you guys need to address this, and we'll figure out  
4 with each company that really seems to have an issue with it  
5 how to deal with it with respect to that company.

6 And, Mr. Lovaas, I'm going to look -- turn to you since  
7 you're the association representative. Do you have some  
8 thoughts in terms of your membership whether something  
9 uniform is better or whether individual company-negotiated  
10 resolutions would be preferable?

11 MR. LOVAAS: Well, we do represent both unionized  
12 companies and nonunionized companies. They all pay, whether  
13 they're unionized or not, a living wage. We appreciate the  
14 opportunity to be informal on this workshop, and we think  
15 that, frankly, the standard should be the standard that we  
16 use 99 percent of the time when there's missed pickups. And  
17 that, again, is back to the road condition and inclement  
18 weather. People are used to that. You were talking what  
19 should they expect. People know -- I mean, you know how our  
20 weather is around here. First thing you do is you turn on  
21 the news and you find out which schools are being closed and  
22 what city halls and city libraries, and then at the bottom  
23 they say, "And there's expected to be a missed pickup, and  
24 the company reports today that they're going to try to pick  
25 it up tomorrow." Or, if it's looking to be a major weather

1 event with road closures, they usually say that at this  
2 point they're announcing that they're going to pick it up in  
3 the following pickup period. And I think that that's --  
4 covers about 99 percent of the missed pickups that we're  
5 dealing with. And I think one of the things we're all  
6 looking for is some surety. So I think that would be the  
7 standard we would propose, and then if companies want to go  
8 beyond that and work with the Commission on something  
9 specific, that would be our suggestion.

10 COMMISSIONER JONES: So you're putting a heavy value on  
11 precedent and the way this has been implemented in the past.

12 MR. LOVAAS: And what we all have to --

13 COMMISSIONER JONES: That's --

14 MR. LOVAAS: -- deal with, whether it be Jeff and Bill  
15 taking the phone calls at the county, or John and the folks,  
16 you know, that are --

17 COMMISSIONER JONES: Right.

18 MR. LOVAAS: -- taking it at the Consumer Protection here.  
19 I think that what we're going to want to do in all these  
20 cases is get back to some kind of normalcy. I mean, it's an  
21 emergent situation, an emergency situation, so...

22 COMMISSIONER JONES: So that would argue, though, Brad,  
23 for not doing anything in -- for Item 30. Just leave it the  
24 way it is. It's working well.

25 MR. LOVAAS: Oh, I think that --

1 COMMISSIONER JONES: Let's not --

2 MALE SPEAKER: Clarify that it applies to work stoppages.

3 MR. LOVAAS: Yes.

4 COMMISSIONER JONES: Through an amendment to Item 30?

5 MALE SPEAKER: Yeah, yeah, correct.

6 COMMISSIONER JONES: Okay. That's what you're saying.

7 CHAIRMAN GOLTZ: But aren't there at least two differences  
8 with a work stoppage and with inclement weather?

9 MALE SPEAKER: Probably at least two.

10 CHAIRMAN GOLTZ: I mean -- first of all, I mean, oh, it's  
11 snowing. You know, I get it. They can't come down the  
12 road. You know, I understand that. The -- I care about the  
13 truck driver and his safety. I care about I don't want him  
14 skidding into my parked car. You know, all those things.  
15 You know, we're kind of all in this together. A work  
16 stoppage, though, people -- you know, that's -- I don't  
17 think they view that as some sort of, you know, fluke. You  
18 know, they say that maybe that could have been avoided. So  
19 I think there's -- I think a public perception is going to  
20 be a little bit different.

21 And the second one is, at least with Waste Management, I  
22 mean, you know, there's nothing you can do, really, about  
23 the weather. You know, if we have a blizzard for two weeks,  
24 I mean, that's just the way it goes. You can't do anything.  
25 But at least with Waste Management, at least they said after



1 a certain amount of time we can get in there and take care  
2 of this. You know, "After the first day or so, we'll get in  
3 there and handle -- get the hospitals, and we'll -- the  
4 critical accounts. We'll get the commercial accounts." And  
5 within a week or, I think -- I forget all that your strike  
6 plan had, but within a couple weeks you were going to be  
7 back up there and -- or in the second week. And so that's  
8 another difference is there is this ability to do that.

9 And I worry if we just said, no, that there's no real big  
10 obligation, you know, on the company to do something above  
11 and beyond the weather obligation, that that's kind of  
12 tipping the scales in the labor management negotiations. I  
13 mean, don't we want the -- you know, the company to be able  
14 to provide options, maybe, and we want the customers to be a  
15 little bit riled up. I mean, you know, this is -- kind of  
16 puts pressure on everybody to come together. But you want  
17 the pressure to be on both labor and management to come  
18 together and resolve this thing, and I just think by sitting  
19 out we're doing a disservice to that.

20 MALE SPEAKER: I don't disagree. I've -- in my years at  
21 Transportation -- I first started there, they shut down the  
22 ferry system. It was the strike back in the early '80s.

23 CHAIRMAN GOLTZ: Yeah.

24 MALE SPEAKER: Teachers go out.

25 CHAIRMAN GOLTZ: Yeah.

1 MALE SPEAKER: You know, disruption of service. You can  
2 never make up the ferry service.

3 CHAIRMAN GOLTZ: Yeah.

4 MALE SPEAKER: They struggle to make up lost days in  
5 schools. It's not a rebate of property taxes, whatever. I  
6 think we have fairly -- a good system --

7 MALE SPEAKER: Not yet.

8 MALE SPEAKER: -- in place for 99 percent. Well, and it  
9 would happen in a --

10 MALE SPEAKER: Part of --

11 MALE SPEAKER: -- strike. I mean --

12 MALE SPEAKER: Yeah.

13 MALE SPEAKER: -- you don't see those kind of -- I'm  
14 straining. But the fact is, again, we just suggest that we  
15 have a pretty darned good policy, and let's not overlook it.  
16 Let's bring the work stoppage -- let's modify it to give  
17 this ability, and then let's not preclude the individual  
18 companies from proposing on how they would deal with it  
19 individually.

20 CHAIRMAN GOLTZ: But what would be the -- I mean, the  
21 company -- "the company." Waste Management had the strike  
22 contingency plan, and you said, "Here's what we're going to  
23 do." And now I assume that over the years you've had a  
24 number of such plans over the years or over the -- your  
25 service territory or around the country, and they're

1 probably all pretty much similar. You start with critical  
2 accounts first, and then -- what if the tariff  
3 responsibility -- what if the requirement was that people --  
4 that companies file something like that in advance, not  
5 during the strike, but in advance, as a tariff revision  
6 specific to the company or generically and you set forth  
7 that sort of thing? Is that problematic? Because I imagine  
8 it's different -- that the ability of Waste Management to  
9 come back in a hurry within a week and service all their  
10 residential customers, which I think is what you're saying  
11 in Week Two, is going to be different than some other  
12 companies.

13 MALE SPEAKER: Let me draw an analogy. All work stoppages  
14 are different, but --

15 CHAIRMAN GOLTZ: Yeah.

16 MALE SPEAKER: -- one of the things that we're dealing  
17 with with our local governments is emergency preparedness.

18 MALE SPEAKER: Right.

19 CHAIRMAN GOLTZ: Yeah.

20 MALE SPEAKER: Following the big floods, we've been  
21 through all sorts of exercises. Let's -- what are we going  
22 to do if there's the big event, the big shake? What are we  
23 going to do? We've been through exercises. What are we  
24 going to do with anthrax? So there are emergency  
25 preparedness plans being put in place and in conjunction

1 with our local officials, so what you're saying is not  
2 unreasonable. And what I'm trying to suggest is that I  
3 think that for 99 percent of the circumstances, again, we  
4 have a good standard to gravitate towards. And then the  
5 counties -- or, excuse me, the companies, in working with  
6 the counties, primarily, have put together emergency  
7 contingency plans for service. So it's not a far stretch.

8 But, again, we would tell you that we would look to treat  
9 labor stoppages, very infrequent for missed pickups, very  
10 similar to how we deal with other emergencies and, again,  
11 just so our customer base has a feeling of how we're going  
12 to deal with them.

13 CHAIRMAN GOLTZ: But, I mean --

14 MALE SPEAKER: And it's --

15 CHAIRMAN GOLTZ: And what -- if you have a weather event  
16 and you have got some capacity, but limited capacity, to get  
17 through, you're going to hospitals first, right? I mean,  
18 you're going to go --

19 MALE SPEAKER: There is a priority. I -- that's correct.

20 CHAIRMAN GOLTZ: -- to the critical accounts. I mean, and  
21 you're going to go where you can get to. But if you have a  
22 choice between coming to my house and to St. Peter's  
23 Hospital, you're going to St. Peter's Hospital.

24 MS. MCNEILL: No. Your house would be first.

25 MALE SPEAKER: No.

1 COMMISSIONER JONES: On -- after his jab at me -- after  
2 the Chairman's jab at me, we've got to get back at him now.

3 MALE SPEAKER: I mean, and that's just a practical thing  
4 and I'll let the operation people talk to it.

5 MALE SPEAKER: Yeah.

6 MALE SPEAKER: But public health --

7 MALE SPEAKER: Sure.

8 MALE SPEAKER: -- whether it be from the trash sitting out  
9 or serving the hospitals and nursing homes, the schools --

10 MALE SPEAKER: Yeah.

11 MALE SPEAKER: And then, where are the bulk of the people?  
12 Again, we get back to -- I'm sorry to the guy that lives way  
13 out on top of the hill, but that might just be the lowest  
14 priority.

15 MALE SPEAKER: But --

16 MALE SPEAKER: That's just kind of practical.

17 CHAIRMAN GOLTZ: But wouldn't the public be better off and  
18 more content if there was in the tariff, like there is in  
19 the ordinance or in the contract, a service obligation, just  
20 like there is in the case of inclement weather, a service  
21 obligation in case of a work stoppage that provides some  
22 sort of certainty about how long this is going to go before  
23 there's credits, before there's something that helps bring  
24 that customer -- gives them a little bit of satisfaction so  
25 they know it's not going to go on forever without them

1 getting some credits? And eventually their stuff is going  
2 to all get picked up, and they're going to understand that  
3 in the case -- events of -- event of a work stoppage, just  
4 like they would in the event of a storm, you're going to go  
5 to the critical accounts first, you might go to business  
6 accounts second, you're going to get residential, you know,  
7 when you can, and you might even have Saturday pickups, but  
8 have some sort of a certainty in the tariff that then gets  
9 publicized so people have this kind of confidence? Because  
10 right now, I mean, it's -- you know, I don't know what it  
11 is. And under the proposal that Waste Management made, you  
12 know, it's "Whatever" -- we'll do whatever is necessary."  
13 Well, that's not very precise. So I think --

14 MR. GAISFORD: I think it would help the customers to  
15 know, you know, what is the plan. I mean, it's useful to be  
16 able to tell them that up front. And also, for us at least,  
17 of course, most of the residents seem to believe that we  
18 have contracts with the companies. They don't know the good  
19 work of the UTC and the -- and they're like, "Why aren't you  
20 enforcing your contract? You must have a provision." So if  
21 we at least had something to point to that said, "It is  
22 taken care of. You are protected. Here's what's going to  
23 happen." And that's what people want to know.

24 JUDGE KOPTA: Okay. We are now at about 3:15. We  
25 probably have a little bit more to discuss, but let's take a

1 break.

2 MS. BROWN: Can I say something before?

3 JUDGE KOPTA: Oh, yeah, yeah, sure.

4 MS. BROWN: First of all, I need to confess that I kind of  
5 read -- this is Sally Brown with the Attorney General's  
6 Office.

7 I need to confess that I have not made it through the two  
8 recording files and the binders of comments, but I've been  
9 listening, and there were a couple of things. First, I  
10 guess in response to the Chairman I want to say that I agree  
11 with you that I really don't think that weather-related  
12 events are particularly analogous to work stoppages, for the  
13 reasons you suggest. Number one, you know, you -- I think a  
14 customer could say, "Well, this is like Congress. We've got  
15 partisanship here. What's going on? This is not the  
16 weather."

17 CHAIRMAN GOLTZ: Yeah.

18 MS. BROWN: And so, "I'm not going to cut you any slack."  
19 And the second thing is you can't manage expectations, such  
20 as you suggest. I mean, the weather we can look out the  
21 window, if we have windows.

22 Okay. The other thing I'm trying to figure out here is it  
23 seems to me that one of the chief goals here is not to  
24 discriminate against those customers who reside in  
25 unincorporated areas. Because to follow up on your point, I

1 mean, the customer is going to say, "Why am I being  
2 punished? This seems punitive to me. I put out the same  
3 garbage that my neighbor puts out in a corporated area." So  
4 if that's one of the objectives here, and perhaps I'm wrong,  
5 but if it's one of the objectives, I guess I need to get a  
6 sense from the companies here whether or not your opposition  
7 to including the same sort of performance standards in your  
8 tariff is somehow tied to your perception that your risk of  
9 financial exposure liability is greater because in the labor  
10 employment context you lack the flexibility you think you  
11 would have if the Commission maintains this vague, ambiguous  
12 tariff that doesn't really pin down under which statute  
13 you're going to face penalties at a thousand dollars a day  
14 for a number of given days.

15 So does that make any sense?

16 JUDGE KOPTA: Well, and just --

17 MALE SPEAKER: Some. Some.

18 JUDGE KOPTA: Just to dovetail a little bit on that, and  
19 something to think about over the break in terms of a  
20 discussion we're going to have after that, one  
21 possibility --

22 And I understand your point, Mr. Sherman, that there may  
23 be more flexibility with the counties than there is with the  
24 Commission, but one possibility would be to state in the  
25 tariff that you will provide to customers that are regulated



1 by the Commission the same types of credits, the same types  
2 of penalties, the same types of things that you do to the  
3 counties in areas where they're governing the service. So,  
4 I mean, just to sort of try and --

5 MALE SPEAKER: Just "favored nation" clauses.

6 JUDGE KOPTA: Yeah. Well, yeah, exactly. Something that  
7 makes sure that nobody -- I mean, at least we could make the  
8 argument that nobody's getting treated differently so that  
9 if you do have some flexibility, maybe it's the Commission  
10 and King County at the table. I'm just throwing that out as  
11 a suggestion. Something to think about to address your  
12 concern, which I understand, but let's take about -- well,  
13 till 3:30 and we'll be back then, thanks.

14 (Break taken.)

15 JUDGE KOPTA: Okay. I think we have most people back, and  
16 as I had prepared folks for before the break, and this is  
17 really probably a more general question than the one that I  
18 asked right before the break, which is, are there some  
19 creative solutions that we can come up with to address the  
20 perceived discrimination issue, whether or not an actual  
21 discrimination exists, and also to address the companies'  
22 concern of not sort of getting a worse deal than they have  
23 now.

24 And I'd -- you know, I'm not going to ask necessarily for  
25 people to come up with things on the fly. I think that's

1 something that we'll probably want to get some more comments  
2 from after this workshop. But I do want people to keep that  
3 in mind, that really, as I said at one point, and I hope the  
4 commissioners share my view, our primary concern is the  
5 customers, consumers of the service, and to make sure that  
6 they get the service that they pay for and that they  
7 perceive that they're getting the service that they pay for.  
8 We're not interesting in fining companies. That's really  
9 not our -- that should be a last resort, not a first resort.  
10 So we are open to creative solutions, open to different ways  
11 of doing things that would provide the service to the  
12 customers and also make sure that the companies are kept in  
13 a good position, because we also have to make sure that  
14 rates are fair, just, reasonable, and sufficient.

15 So I don't know whether folks, you know, want to kick  
16 around some ideas or just think about them for now, but I  
17 throw it open for anybody that wants to give any suggestions  
18 or some thoughts in terms of some different ways of doing  
19 things.

20 I mean, I'd ask Brad to just -- to address the issue of  
21 whether or not it would make more sense to just have a  
22 general provision in the tariff and then have folks do  
23 something specific. Another possibility, I guess -- I mean,  
24 there's a whole range of things that could be done that --  
25 you know, we will allow you to treat labor unrest the same

1 as you do any other kind of weather or road condition as  
2 long as you provide a plan to the Commission that  
3 demonstrates that you will actually take steps and be  
4 proactive in restoring service as soon as you reasonably  
5 can. I mean, I'm just throwing things out off the top of my  
6 head, but these are the sorts of things that I think the  
7 Commission would certainly be willing to entertain and  
8 things that I hope that you all will think about, because  
9 lawyers and executives are paid for their creativity.

10 Yes, Mr. Brown.

11 MR. BROWN: Okay. Just because the commissioners may not  
12 know who I am, I am a consultant that works only for cities,  
13 and I do city negotiations and procurements and contract  
14 negotiations. So I've dealt with this issue in a lot of  
15 cities during negotiations and trying to go through these  
16 customer service issues. I'm not here representing any  
17 particular city at the moment; however, I couldn't keep  
18 mouth shut. So I wanted to go through a couple of these  
19 things in order and just at least talk about sort of where I  
20 ended up and where I've ended up with a lot of the cities.

21 On the inclement weather, I'm actually okay with the  
22 status quo right now in that I don't see a lot of other  
23 alternatives in regulated areas. The issue for cities often  
24 is, and where cities are starting to land, is when there's  
25 inclement weather that lasts more than one cycle or one

1 week, then you go ahead and spot a roll-off container for  
2 the city customers, and, you know, there is an  
3 alternative -- a viable alternative rather than going to a  
4 county transfer station and paying a minimum fee for your  
5 two bags of garbage. That's really an unacceptable  
6 position. However, for the certificated areas, I wouldn't  
7 even know how you'd start to do that, with the exception of,  
8 you know, Whatcom County with a collection district where in  
9 theory everybody is, you know, on mandatory collection. But  
10 for most areas, you can't do that. There's no place you're  
11 going to spot a drop off and staff and make sure people are  
12 customers and all that kind of stuff. So I don't see that  
13 there's a lot of alternatives for inclement weather that you  
14 really have.

15 The one thing that's been talked about is credits. The  
16 fact is, when we've looked at credits we've gone down the  
17 rabbit hole because in inclement weather there's really no  
18 cost savings if you're picking up the excess material in the  
19 next cycle. If you've got drivers that show up for two  
20 hours or three hours and go home, there's no cost savings.  
21 The trucks still have to be paid for. So in -- at some  
22 point, there was a lot of demand for credits, and we started  
23 to think about artificial credits. But we know there's not  
24 any savings, so we'll come up with a credit, and the money  
25 that's going to pay for that is going to get artificially

1 baked into the rates, so we're going to raise customers'  
2 rates in order to provide this pool of money to provide  
3 credits for nonexistent savings and -- you know, there's  
4 where you end up. You're done.

5 CHAIRMAN GOLTZ: Everyone's laughing. Everyone's  
6 laughing, but what's wrong with that?

7 MR. BROWN: What's wrong?

8 CHAIRMAN GOLTZ: Seriously. Because the customer's  
9 happier, the company's no worse off, and so -- but the  
10 customer is less miffed because of the missed service.

11 MR. BROWN: Well, I can tell you --

12 CHAIRMAN GOLTZ: So what's wrong with that?

13 MR. BROWN: I can tell you what ended up killing it in a  
14 particular city that I negotiated, which was not a small  
15 city, and that is that we started asking the hauler, "Well,  
16 what's your cost?" If this isn't a call in -- let's say  
17 it's not a blanket credit, because that would be very  
18 expensive, that -- you'd really have to increase rates in  
19 order to create that pool. If it's on-demand credit, what's  
20 your cost for handling a call through your Call Center and  
21 what's the credit? If the credit's \$1.50, you know, is that  
22 call costing you \$5 to actually manage that system? We  
23 started spiraling out of control, frankly. And once we  
24 really looked at the numbers, and we looked at there are  
25 three services being picked up weekly, the -- and one

1 service gets missed on one week and the customer would be  
2 due a credit -- proportional credit of maybe \$1.30, you were  
3 at the point where it just didn't work.

4 So I guess my comment on inclement weather is -- that's  
5 why I get back to the status quo is it's clunky, it's  
6 uncomfortable. I think the real issue, probably, is to talk  
7 about how to deal with every-other-week services because  
8 that's when things fall apart. It's not so much the weekly  
9 garbage, it's, you know, people going for a month with their  
10 food waste. You know, what kind of other system do you set  
11 up for that?

12 But I also wanted to address the labor disruption issue  
13 because I've been dealing with that a lot in rewriting some  
14 draft contract language. And, actually, for the  
15 certificated areas, I think it does make sense to handle it  
16 separately for some of the reasons that were talked about  
17 right before break. But I'd almost -- in terms of just  
18 throwing out ideas, I'd just, because you don't want to put  
19 your thumb on the scale, maybe just suspend charges for any  
20 customer that's missed. So instead of -- and the tariff  
21 would just basically say if your collection is missed,  
22 there's no credit, there's nothing else. It's just that if  
23 you get missed for whatever period, you don't owe us -- you  
24 don't owe the company any money. But also --

25 CHAIRMAN GOLTZ: What's the difference between that and

1 the credit?

2 MR. BROWN: Well, no, a credit you go back and  
3 retroactively say, okay, you get a portion of whatever. I  
4 would just say suspend things and then pick up the excess  
5 later and not have it as a separate tariffed credit where,  
6 you know, there's an arbitrary amount or non-arbitrary  
7 amount that you're crediting. You just credit. If somebody  
8 has yard waste, recycling, and garbage service, and one of  
9 those is missed, they just get that automatic credit for  
10 whatever, only under labor, not under inclement weather.

11 CHAIRMAN GOLTZ: But I still don't understand. So the --  
12 my garbage isn't picked up for -- in my -- on schedule. The  
13 strike's over in six days, so I put it out the next week and  
14 it's picked up?

15 MR. BROWN: Yes.

16 CHAIRMAN GOLTZ: And I also -- the charge for the week  
17 before is suspended?

18 MR. BROWN: Yes.

19 CHAIRMAN GOLTZ: Am I charged extra for the extra bag?

20 MR. BROWN: No.

21 CHAIRMAN GOLTZ: Okay. So what's the difference between  
22 that and giving me a credit for the week that I missed as  
23 opposed to suspending charges?

24 MR. BROWN: Oh, well, you --

25 MS. MCNEILL: It's --

1 MR. BROWN: It's semantics, actually. But basically, what  
2 I would say --

3 CHAIRMAN GOLTZ: Yeah.

4 MR. BROWN: -- is that there's an organized way to do it  
5 without a separate rate-making or any other separate  
6 processes, basically. Unlike inclement weather. If there's  
7 actually a strike --

8 CHAIRMAN GOLTZ: Yeah.

9 MR. BROWN: -- where there's that public perception this  
10 could have been avoided. It's not like inclement weather  
11 where you know those trucks are out there --

12 CHAIRMAN GOLTZ: Sure, yeah, yeah.

13 MR. BROWN: -- and they're -- you know, the fact is, it's  
14 shut down --

15 CHAIRMAN GOLTZ: Yeah.

16 MR. BROWN: -- as far as you're concerned as a customer.  
17 You just don't have to pay for that service, because I think  
18 that's what really bothers people --

19 CHAIRMAN GOLTZ: Yeah.

20 MR. BROWN: -- is paying for something where the trucks  
21 aren't even rolling.

22 CHAIRMAN GOLTZ: Right.

23 MR. BROWN: So, anyway, that was just my --

24 MR. SHERMAN: Can I comment on that?

25 CHAIRMAN GOLTZ: Yeah.



1 MR. BROWN: Yeah. Oh, I -- I'm -- that's --

2 CHAIRMAN GOLTZ: Sure.

3 MR. BROWN: -- off the top of my head.

4 MR. SHERMAN: I think there's a lack of understanding,  
5 though, on how we work operationally out there. There -- I  
6 have a certain -- a very small subset of my fleet that  
7 operates in a -- on a couple of contract areas in the city  
8 of Seattle where I have an onboard computer, and when I go  
9 by that home I press "I got that" or "I didn't get that" or  
10 "He has an extra." And it's 50 out of my 500 trucks. The  
11 other trucks, it's very fluid, and our ability to know to  
12 the level that, you know, Jeff proposes -- and I love the  
13 suggestion if it was capable of doing it. I simply am not  
14 capable of doing that right now because -- whether it's a  
15 labor disruption or even in a weather disruption, where I'm  
16 breaking off.

17 In this event, all the drivers came back in at 10:00 a.m.  
18 in the morning. They didn't come in with a route sheet that  
19 said, "I finished on Main Street on the third house down."  
20 I have no clue where they finished, had none whatsoever.  
21 And that's the challenge. And then when we send replacement  
22 drivers out there, you're looking to pick up as much as  
23 possible. But you want to talk about a logistical nightmare  
24 of trying to figure out specifically on that day where I  
25 ended on that block or with that particular customer...

1 And so that's just a great idea. I understand it. My  
2 technology is not there that allows me to do it, and I'm  
3 surprised if some of the rural -- some of the smaller  
4 haulers that don't have, actually, the resources of a public  
5 company like Waste Management would be able to do that as  
6 well.

7 CHAIRMAN GOLTZ: But don't you have GPS trackers in all  
8 your trucks so you know where they are?

9 MR. SHERMAN: No.

10 CHAIRMAN GOLTZ: Because, I mean, I -- last time I rented  
11 a car, it said: We have a GPS tracker on this, we know  
12 where you are. You know, and --

13 MR. SHERMAN: You know, we -- our trucks, some of them do,  
14 but, no, we don't.

15 MALE SPEAKER: (Inaudible).

16 MR. SHERMAN: It has to be bargained in the union  
17 contract.

18 JUDGE KOPTA: Oh, boy. There we come --

19 MALE SPEAKER: Not the black box.

20 MALE SPEAKER: Not about --

21 JUDGE KOPTA: Okay. Add that to your list.

22 Mr. Eckhardt?

23 MALE SPEAKER: What if the city required it?

24 MALE SPEAKER: Now we're really getting -- okay.

25 MALE SPEAKER: Folks getting involved in the CBA.

1 JUDGE KOPTA: Mr. Eckhardt, I know you had something --

2 MALE SPEAKER: Sorry. Somebody just had to do that.

3 JUDGE KOPTA: -- that you wanted to add.

4 MR. ECKHARDT: Just a followup for Mr. Sherman.

5 Yeah, I understand the day of the strike you likely don't  
6 know exactly which customers were scheduled for pickup that  
7 day were picked up, but you do know the pick- -- the  
8 customers the next day and the day after and the day after  
9 that. And this -- my comments are getting perhaps, a little  
10 premature since No. 5 is titled "Performance Standards."

11 And if there are to be performance standards, the companies  
12 must maintain records adequate to demonstrate service so  
13 there can be a determination whether those performance  
14 standards have been met or not. My comments are based on my  
15 experience in that those records do not exist today --

16 MR. SHERMAN: It makes --

17 MR. ECKHARDT: -- or for past events.

18 MR. SHERMAN: It makes sense what you're asking, but I  
19 want to go back to the premise of where we started from, and  
20 I really like it, is we want to take care of the customer.  
21 That is every hauler's desire is to take care of that  
22 customer. That's what we're in business for. We save the  
23 world one home at a time. That's what we do. It's the best  
24 bargain, ever, utility out there is the waste business,  
25 absolutely. Three times a week we'll come by to your house

1 with a \$250,000 or a \$300,000 truck. And so nobody else can  
2 do that for you. We'll come right to your front door, so...

3 The kicker is, is when we layer on expectations of  
4 tracking and monitoring it inhibits our ability to get as  
5 much done with limited resources. Generally when you're in  
6 an off-schedule operation, some event, whether tragedy  
7 somewhere with a hurricane or something like that, or in a  
8 labor situation, our ability to recover is dependent on our  
9 employees getting as much done in as quick a matter as  
10 possible for the resources available, and that's the  
11 struggle. It's not saying it can't be done. I do it in  
12 Seattle. I have 50-plus trucks out there every day that I  
13 go by and I do that. So the capability is there. It is a  
14 unique situation, and Jeff is very familiar with it, I would  
15 imagine, but a very unique situation but in the aggregate of  
16 what the industry does. Because, no, we don't, and if we  
17 were required to, we would not be able to serve as many  
18 customers as we desire to serve in one of these events.  
19 That's my point.

20 COMMISSIONER JONES: Mr. Sherm- --

21 MR. ECKHARDT: Well taken, and I understand.

22 MALE SPEAKER: (Inaudible) I agree.

23 COMMISSIONER JONES: Okay, Mr. Sherman, have you ever  
24 looked as a business case, though, of putting in that  
25 technology that the --

1 MR. SHERMAN: Oh, absolutely.

2 COMMISSIONER JONES: -- that the city of Seattle has  
3 required you to do?

4 MR. SHERMAN: Absolutely.

5 COMMISSIONER JONES: And done a full cost-benefit  
6 analysis? The benefits would be what we see in the  
7 little -- the electric business outage management or  
8 restoration of service, fewer truck rolls or whatever. I  
9 mean, you'd have your benefit column, your cost -- I --

10 MR. SHERMAN: Absolutely. As an organization, we have --

11 COMMISSIONER JONES: So you have done that.

12 MR. SHERMAN: -- an initiative called "Service Delivery  
13 Optimization."

14 COMMISSIONER JONES: Right.

15 MR. SHERMAN: And by 2013 our company (inaudible) company,  
16 will have that in probably just about every truck in our  
17 area.

18 COMMISSIONER JONES: Okay.

19 MR. SHERMAN: Absolutely. I would say that we are not  
20 your prototypical company. We are the largest waste hauler  
21 in the --

22 COMMISSIONER JONES: True.

23 MR. SHERMAN: -- in the nation.

24 COMMISSIONER JONES: True.

25 MR. SHERMAN: And so that's what you have to risk. What

1 we may have to do, that cost-benefits and able to do that  
2 expenditure, others may not.

3 COMMISSIONER JONES: What about the other companies?

4 MR. SELLS: Well, that's a good --

5 COMMISSIONER JONES: Mr. --

6 -- MR. SELLS: That's a good point. And if it's one thing  
7 we'd like to leave you with, or I would, is that -- don't  
8 mix up the large union companies with the small, nonunion  
9 companies. Our small, nonunion companies don't have labor  
10 disruptions. If there's a labor disruption, the guy's fired  
11 when he comes in, and hire somebody -- you know, the third  
12 cousin instead of the second cousin next day. So if -- you  
13 know, if the large companies who are unionized have to  
14 submit a contingency plan or something like that, great, but  
15 that doesn't necessarily mean that our small company should  
16 have to go out and hire a consultant and -- or hire somebody  
17 to do it or have us do it because it's never going to be  
18 used. And also, keep in mind that weather disruptions --  
19 although the last here in Seattle it could take a while to  
20 get the snow off, but, you know, weather disruption up in  
21 Okanogan is a different breed of cat than some snow on the  
22 streets --

23 COMMISSIONER JONES: Right.

24 MR. SELLS: -- on the hills of Seattle. Those roads may  
25 be closed for the winter, and I think the customers up there

1 understand that, and they know the company and the driver  
2 personally, and the driver's been coming to that same farm  
3 for 20 years, and it's just a different situation. And  
4 these folks don't sit around at night and say, "What are we  
5 going to do tonight, honey?" "Well, let's read Item 30, you  
6 know, and see if we can come up with some" --

7 MALE SPEAKER: They don't?

8 MR. SELLS: No. I -- that's only at Wiley's house, you  
9 know, that that happens. But --

10 FEMALE SPEAKER: But --

11 COMMISSIONER JONES: Mr. Sells, I grew up in a family  
12 business --

13 MR. SELLS: Yes.

14 COMMISSIONER JONES: And my father always -- you know,  
15 nonunion.

16 MR. SELLS: Yeah.

17 COMMISSIONER JONES: And so he put me to work in the --

18 MR. SELLS: Absolutely.

19 COMMISSIONER JONES: -- in the lowliest job possible. And  
20 so I'm very familiar with family-run companies. And I agree  
21 with you. One size doesn't fit --

22 MR. SELLS: Yeah.

23 COMMISSIONER JONES: -- all. But are you suggesting that  
24 we have Item 30, one for Waste Management and then one for a  
25 family-run -- small, family-run bus- --

1 MR. SELLS: No, no, not at all.

2 COMMISSIONER JONES: -- enterprises in north -- in Ferry  
3 County or Pend Oreille?

4 MR. SELLS: Well, not at all, except that's what you have  
5 now, and --

6 COMMISSIONER JONES: Yeah.

7 MR. SELLS: -- as Brad has said, it's worked now for  
8 forever.

9 COMMISSIONER JONES: Forever.

10 MR. SELLS: And what I'm saying -- and this -- I meant to  
11 jump in a little bit earlier when we were talking about the  
12 plan for labor disputes and strikes and that sort of thing.  
13 You know, if you're union or if you're of a certain size,  
14 then maybe you should have to put in a plan, but everybody  
15 shouldn't --

16 COMMISSIONER JONES: Okay.

17 MR. SELLS: -- have to put in a plan.

18 COMMISSIONER JONES: I hear you.

19 CHAIRMAN GOLTZ: But if -- in your example, though, if --  
20 you know, so the drivers, who's -- knows -- the customer  
21 knows the driver and the -- if that customer gets skipped  
22 for whatever reason, that customer just picks up the phone  
23 and calls, you know, his cousin, and out he comes and picks  
24 it up --

25 MR. SELLS: Yeah.



1 CHAIRMAN GOLTZ: -- or he says, "Oh, I'll just" --

2 MALE SPEAKER: (Inaudible).

3 CHAIRMAN GOLTZ: -- "I'll just take five bucks off your  
4 bill."

5 MR. SELLS: Yeah.

6 CHAIRMAN GOLTZ: Or something, right? So there's that --

7 MR. SELLS: It's handled.

8 CHAIRMAN GOLTZ: Yeah, it's handled. And, you know, if  
9 you miss your newspaper in the morning and you call, you get  
10 a credit. And I just think that customers would expect if  
11 they get missed they're going to get a credit.

12 MALE SPEAKER: Or you could do it like Comcast and just  
13 say you're going to give a credit and then don't do it, you  
14 know, and people like me give up.

15 CHAIRMAN GOLTZ: So, I mean, I guess I just think that,  
16 you know, if a little tiny, you know, company up in Omak is  
17 able to kind of work it out, you know, Waste Management  
18 ought to be able to work it out. You know, with cust- -- if  
19 there's going to be missed, and we want -- if we wanted to  
20 have a credit mechanism.

21 MALE SPEAKER: Well --

22 CHAIRMAN GOLTZ: Right?

23 MALE SPEAKER: I guarantee you that company in Omak  
24 doesn't have --

25 MS. MCNEILL: But everybody keeps talking about --

1 MALE SPEAKER: -- a computer in its truck.

2 MALE SPEAKER: I know. That's what I mean, yeah.

3 MS. MCNEILL: Everybody keeps talking about credits,  
4 but -- and ignoring the fact that there's this extra thing.  
5 I mean --

6 CHAIRMAN GOLTZ: I know, I know, I know.

7 MS. MCNEILL: -- the customers seem to be under the  
8 impression that they have missed the service and therefore  
9 they shouldn't have to pay for it. But then when you say to  
10 them, "Well, okay, then you're going to have to pay twice as  
11 much next week," they're like, "Well, why should I have to  
12 do that? It's your fault that you missed my collection,  
13 that I have twice as much out there next week."

14 MALE SPEAKER: Um-hum, right.

15 MS. MCNEILL: So it -- I mean, I just -- there's a lot of  
16 focus on the credit, and a lot of, I think, ignoring,  
17 certainly -- and I bet you guys would agree from the  
18 customer perspective the fact that on that second round of  
19 pickup they get more than what they bargained for. And as  
20 Mr. Wiley pointed out, the UTC 's regulations allow the  
21 companies to have the discretion to issue a credit if  
22 there's a missed collection. The regulations do not give  
23 the company discretion to excuse an extra charge if they  
24 incur one.

25 CHAIRMAN GOLTZ: We can figure that out.

1 COMMISSIONER JONES: I think we can figure that out. So  
2 you're saying --

3 MS. MCNEILL: Well, it would be more than a tariff  
4 amendment to do that.

5 COMMISSIONER JONES: Okay.

6 CHAIRMAN GOLTZ: I'm not sure what --

7 MR. WILEY: I'm glad we brought it around to this because  
8 I think that's the point, really, about the extras. Right  
9 now under the tariff, if we're going to be strictly applying  
10 them to us, we're not allowed to not charge for extras,  
11 which we obviously don't want to do when there's been a work  
12 stoppage and there's been a missed collection.

13 COMMISSIONER JONES: Okay.

14 MR. WILEY: Because that's just adding insult to injury  
15 with your customer relations, obviously.

16 But I did want to get back to the -- Gene said that we  
17 were jumping to performance standards.

18 COMMISSIONER JONES: Mr. Wiley?

19 MR. WILEY: Oh, sorry.

20 COMMISSIONER JONES: Before you go forward --

21 MR. WILEY: Yeah.

22 COMMISSIONER JONES: Does -- do "extras" equate Brad's  
23 definition of "grandma's garbage"?

24 MR. WILEY: What they do -- no. What extras are --

25 COMMISSIONER JONES: What do they do?

1 MR. WILEY: -- as we've defined them, and I think Penny  
2 could refer to the specific lang--

3 COMMISSIONER JONES: Because I don't know the rule. I  
4 don't have the rule in front of me.

5 MR. WILEY: It's equivalent service. It's basically  
6 double your subscribed service level.

7 COMMISSIONER JONES: Double?

8 MR. WILEY: Yeah.

9 COMMISSIONER JONES: Two.

10 MR. WILEY: So in other words, if you have one can --

11 COMMISSIONER JONES: Okay.

12 MR. WILEY: -- you can put up two cans. That's how we  
13 define it in the tariff.

14 Now, speaking of the tariff, I'm hoping we still have  
15 consensus on the fact that we should have some language  
16 about work stoppage in Item 30, or wherever.

17 And then, in terms of the contingency plans, I don't think  
18 the companies would object -- and, actually, Ms. Wallace's  
19 section has been asking for -- and in conjunction with  
20 Mr. Eckhardt's section, have been asking about those. Most  
21 of the larger companies have them anyways, and they're happy  
22 to provide them, and I don't think that's an unreasonable  
23 expectation of the regulatory agency at all to know what's  
24 going to happen in terms of the contingent circumstances and  
25 when they'll go into effect.

1 I just did want to say on the performance standards, I  
2 think I'm somewhat familiar with the concept of performance  
3 standards in another of your statutes, which is revenue  
4 share. And I do think performance standards are very, very  
5 difficult to apply uniformly in all jurisdictions. I think  
6 they really are going to have to relate to the operating  
7 conditions in the -- maybe you can somehow tie this whole  
8 issue with existing service levels in counties. I don't  
9 know. But when you talk about performance standards being  
10 uniform, we already have had a lot of controversy about  
11 variations in performance standards, and that makes me very  
12 nervous. I'd really want to see that -- as Mr. Kopta would  
13 suggest, offline that's going to require quite a bit of  
14 discussion because I think we'll all have some differing  
15 ideas. And the WRRRA comments were basically, you know,  
16 somebody in Twisp or Eastern Washington rural could not  
17 possibly conform to some of the standards in Pierce and King  
18 and Snohomish counties, so we'd have to obviously watch that  
19 carefully.

20 JUDGE KOPTA: Well, and I suppose it makes sense, then, to  
21 segue to that question. We're sort of skipping No. 4, which  
22 is other types of force majeure events, but I'm not sure  
23 that there was a whole lot --

24 COMMISSIONER JONES: Yeah.

25 JUDGE KOPTA: -- (inaudible) that there is to say about

1 that.

2 FEMALE SPEAKER: (Inaudible).

3 JUDGE KOPTA: Yeah. We'll deal with that separately.

4 But one of the things that occurs to me, and having dealt  
5 with performance standards in a different industry when I  
6 was in private practice I understand this all too well, but  
7 one of the hardest things, certainly, is measurement. And I  
8 think Mr. Eckhardt raised this earlier. And as a  
9 prerequisite to any kind of performance standards you have  
10 to have the amount to measure performance, because it's only  
11 when you can measure performance that you can actually put  
12 in any kind of standards and enforce those standards.

13 So I will sort of echo his question to the companies. And  
14 I know Mr. Crosby or Mr. Sherman talked about this a little  
15 bit, but what are the capabilities of the carriers to  
16 measure not only just in a labor dispute or in a weather  
17 event, but, you know, just sort of generally when you miss a  
18 pickup for whatever reason? You know, maybe a driver calls  
19 in sick and you can't get everything done that day. I mean,  
20 whatever the reason is, are there -- what are your  
21 limitations in terms of -- or your abilities to track that  
22 sort of thing?

23 MR. SHERMAN: We track things on exception basis. So  
24 every day we send out all the trucks and -- with the  
25 expectation that everything is picked up. You asked about

1 people coming in sick. We do not leave trash on the ground.  
2 As a general rule, it's a rare, rare day. Out of 365  
3 days -- take out a strike situation or a snow situation --  
4 we do not leave trash on the ground. Just do not. We send  
5 people to help. We know. There's communication all day,  
6 all throughout the day. Five trucks go out, one breaks  
7 down, four are out there, we know where he drove -- where he  
8 broke off, and we go -- the other four come and help pick  
9 up. So that's the normal.

10 Now we talk about what about extras or what about things  
11 that are missed? Well, the extras, the driver is required  
12 to then get that route sheet out, flip through those 20  
13 pages. And these route sheets could have, you know, 30, 40  
14 pages. Flip through, find that location, and mark it on  
15 his -- manually mark it. They turn that paperwork in when  
16 they get back to the Dispatch Office. That dispatcher goes  
17 through the sheets. And it's real clear. You know, you  
18 have 30 sheets of paper, but a big "1" and "2" on a pencil  
19 or a pen, it stands out real quick, and they'll go in and  
20 enter that in the system so the charge and the billing can  
21 handle it appropriately.

22 Now, what about that -- what we missed? Mrs. Johnson, who  
23 lives down the lane, whose son takes out the trash can and  
24 doesn't put it in front of the bush, puts it behind the  
25 bush, and our driver looks down there and knowing where

1 Mrs. Johnson always puts out the can sees it's not in front  
2 of the bush and drives on. Those we handle on an exception  
3 basis also. Those customers will call the Customer Service  
4 Center. Sometimes it may be a city. Seattle takes their  
5 calls. Some cities take their calls. We take our calls,  
6 most of them, at Oak Harbor. And then a ticket is ordered  
7 or issued to retrieve that by noon the next day. And so  
8 it's an exception basis, not on a -- the city contract with  
9 Seattle, it's a real-time basis. Within two hours of the  
10 service, that contract requires the city to have  
11 notification. So if a customer calls in and says, "You did  
12 not pick me up," the city, within two hours -- and they  
13 don't even receive phone calls until a certain time of day,  
14 will say, "No, Mrs. Jones, your trash wasn't out that day.  
15 We actually have a record. The driver was there at that  
16 point in time." So it's exception based. It's a very  
17 manual process, and that's kind of where we're at.

18 JUDGE KOPTA: Commissioner Jones.

19 COMMISSIONER JONES: So, Mr. Sherman, earlier I think you  
20 said that you track this. You track the misses on a daily  
21 basis, right?

22 MR. SHERMAN: Right.

23 COMMISSIONER JONES: And you said one per 1,000?

24 MR. SHERMAN: Actually, he gave you an old standard.

25 COMMISSIONER JONES: Oh.



1 MR. SHERMAN: It's one per 1,250. It's -- right?

2 MALE SPEAKER: I can only hope.

3 MR. SHERMAN: Okay. It's -- our standard is one per  
4 1,250.

5 COMMISSIONER JONES: Okay. The question is, is that miss  
6 included in there?

7 MR. SHERMAN: Absolutely.

8 COMMISSIONER JONES: Okay.

9 MR. SHERMAN: Absolutely. So every day I get a report  
10 that says every single miss that was called in, not by name,  
11 but by account, by city. And I will know in some cities --  
12 and generally we have some folks that we were nowhere near  
13 one per 1,200. You know, the -- our -- that may be our  
14 standard, but nobody's happy. If anybody gets that, they  
15 don't make their incentive plan or whatever, but that's --  
16 that's kind of giving you an idea of what it's like.

17 JUDGE KOPTA: Mr. Eckhardt, did you have something that  
18 you wanted to --

19 MR. ECKHARDT: Well, I don't understand all the tracking  
20 mechanisms and performance standards of any of the  
21 companies. My point is if the Commission is going to  
22 establish performance standards, the companies need to  
23 maintain records to demonstrate it. And what I heard or  
24 understood from your comment is if a customer was missed the  
25 second day of the strike, you, the company, can't tell me

1 when that customer was next picked up. You can't do that.  
2 And if that's true, how could you possibly demonstrate you  
3 even met the performance set forth in Item 30 today?

4 MR. SHERMAN: If you were to ask me how many UTC customers  
5 were missed two days ago, I would be able to give you an  
6 answer because a very small number of them would have called  
7 and told me. If you would have asked me how many -- if I  
8 sent out 20 trucks and I needed to send out a hundred trucks  
9 which customer I missed, that's a different question.  
10 That's exponentially that much more difficult.

11 MR. ECKHARDT: Okay. I'm not -- but the question is not  
12 how many customers you missed. The question is, which  
13 customers did you serve?

14 MR. SHERMAN: Right. And if I only had 20 trucks --

15 MR. ECKHARDT: And that's different.

16 MR. SHERMAN: Right. And if I only have 20 trucks to go  
17 out there, I'm spending my time to get as many customers as  
18 I possibly can in today's environment. I'm talking today's  
19 environment. I'm doing everything I can, and that is not  
20 looking at that route sheet for every customer. He goes on  
21 a road, and he starts picking up as many as he possibly can.

22 MR. ECKHARDT: I -- yeah, I understand that, and that's --  
23 but let me characterize that as the way it's always been  
24 done.

25 MR. SHERMAN: Right.

1 MR. ECKHARDT: But I think the point is here that the  
2 company is saying, "We do good work. We're working hard and  
3 honest. We're concerned about you, and we'll take care of  
4 you. And it's -- we've done that in the past. Don't worry  
5 your pretty little heads about this." I think those -- that  
6 day has passed, and we're at a point where we're trying to  
7 understand what some of the, you know, operational issues  
8 are in regards to these missed pickups and how to deal with  
9 them going forward. So -- and peop- -- we are talking about  
10 performance standard. So if that's true that, you know, the  
11 day -- the way we've always done it, that's gone.

12 MS. INGRAM: I've got a question.

13 MS. MCNEILL: Or else it could be that that's not the  
14 appropriate performance standard. If it's going to cost all  
15 of the rate payers more to prove compliance with a  
16 performance standard because the Commission is going to  
17 require Garmins in all the trucks or something like that,  
18 then maybe that's not the appropriate performance standard.  
19 And, you know, if you're the 50th customer and the  
20 requirement for the driver to document his missed and extras  
21 causes him to stop collecting at Customer No. 45, you're  
22 going to be kind of irritated that there's good  
23 documentation about the first 45, but because of that  
24 documentation you didn't even get picked up, and I think  
25 that's really what Mr. Sherman is saying.

1 We need to get out there when there's been situations like  
2 this and actually get the garbage in the trucks, and it's --  
3 it seems -- it would not seem to me to be really a  
4 productive or positive policy to say we're very inter- --  
5 we're more interested in your ability to track and document  
6 your compliance with performance standards than we are in  
7 your ability to actually get the work done. So I just  
8 wouldn't want -- I wouldn't want performance standards -- it  
9 would be kind of like the tail wagging the dog. The  
10 performance standards should be the driver for service.

11 JUDGE KOPTA: Well, and I think we -- you know,  
12 unfortunately, the way that we phrased this question in the  
13 notice was rather broad. I mean, performance can --  
14 standards can do almost anything from, you know, daily you  
15 missed one customer to, you know, a labor shortage kind of  
16 thing.

17 So I think in the context of this particular proceeding  
18 what we would like to focus on are performance standards in  
19 terms of as Mr. Eckhardt was asking about. When you have a  
20 service disruption, either because of weather-related  
21 instance, whether because of labor-related instances,  
22 whether, you know, for whatever reason that you're talking  
23 about a significant number of customers. Not, you know, the  
24 one-in-1,200 kind of situation. And I -- you know,  
25 obviously we take Ms. McNeill's point that, you know, the

1 precise can be the enemy of the good, but by the same token  
2 if we're going to be dealing with a situation where  
3 customers are entitled to something more than their daily  
4 pick- -- their periodic pickup, whether it's extra on the  
5 next pickup or a credit of some kind, then it really kind of  
6 gets back to how are we able to measure that -- you know,  
7 whether a customer was entitled to that, and how does the  
8 company know whether the customer is entitled to that so  
9 that if somebody -- you know, you left off at House No. 45  
10 and, you know, so you've got 46 through 100, how do we know  
11 that 46 through 100 got their extra pickup that they were  
12 entitled to or got their credit?

13 And as Mr. Eckhardt said, we -- at this point, maybe we  
14 do, maybe we don't. And so that's where we're trying to  
15 focus in terms of performance standards is measurements so  
16 that we can make sure that customers get what they're  
17 entitled to. And so how do we go about doing that?

18 CHAIRMAN GOLTZ: So looking at the current tariff,  
19 Item 30, it says that the --

20 FEMALE SPEAKER: Item 100.

21 CHAIRMAN GOLTZ: -- if the accumulated materials,  
22 collection on the next scheduled or available pickup date,  
23 the company is not obligated to extend credit for the missed  
24 pickup.

25 So you got a snowstorm. The snow melts. The next week

1 comes along, and off you go, and you've got all this extra  
2 stuff. And it's a hassle because it -- you either have to  
3 have -- if you don't have extra drive- -- extra staff on  
4 each truck, the driver has to drive along, stop the truck,  
5 get out of the truck, pick up the bag, put it into the --  
6 somehow get it into the truck, so it takes a long, long  
7 time. So I'm assuming -- maybe I'm wrong -- that there's  
8 times with inclement weather, even though the streets are  
9 clear, you can't get to everybody at the next available --  
10 the next scheduled pickup date because it takes so long to  
11 get through the route. At that point, the tariff says you  
12 have to extend a credit, so you must have to deal with that  
13 somehow.

14 So how do you do -- how does that person -- and let me  
15 just ask this, if this is -- this helps. Because during the  
16 contingency plan for the recent labor disruption, it says --  
17 at the bottom of the first page, it says, "During a labor  
18 disruption, each truck will be equipped with a GPS unit  
19 preprogrammed with a customer transfer station and recycling  
20 facility locations for each route. Additionally,  
21 traditional route maps will be generated for each route."  
22 That sounds pretty high tech to me. I mean, I don't get why  
23 it -- you know, maybe you don't go house by house, but you  
24 at least think under the existing Tariff 30 for inclement  
25 weather or during a work stoppage the truck will at least

1 say, "Yeah, here's my route. I did A Street and B Street  
2 and C Street and First, Second, and Third, but I couldn't  
3 get to E, F, and G or Fourth, Fifth, and Sixth."

4 MR. SHERMAN: When a green -- we call it the "Green Team."  
5 When our replacement --

6 CHAIRMAN GOLTZ: Yeah.

7 MR. SHERMAN: -- drivers come in, there's a question  
8 sometimes asked, "How do they know where to go?"

9 CHAIRMAN GOLTZ: Yeah.

10 MR. SHERMAN: So we provide each Green Team member with a  
11 GPS.

12 CHAIRMAN GOLTZ: Right.

13 MR. SHERMAN: It's what you buy at a Best Buy, a Target.  
14 When -- those are not units that are permanently mount.  
15 Nowadays you can mount a GPS unit on a truck, and some of  
16 our trucks have that. So there's -- that's why there's a  
17 little discrepancy when I'm describing what a replacement  
18 team would have with them --

19 CHAIRMAN GOLTZ: Okay.

20 COMMISSIONER JONES: Okay.

21 MR. SHERMAN: -- versus what our regular fleet has with  
22 them. All our Green Team members personally own GPS's.  
23 They bring them with you. They're -- these are experienced  
24 folks. And those who are maybe new, we actually provided  
25 them there.

1           As far as the technology that allows you to trigger where  
2           I end on a route, well, all you've got is that little GPS  
3           there. It doesn't show you when you end. You can load.  
4           Nowadays on the Garmins you can load a route, and our  
5           critical routes we do. We load those routes that say, "You  
6           need to go to Evergreen Hospital first, and then you're  
7           going to go down here to this place and this place and this  
8           place." And so, therefore, we load the routes on there, and  
9           then we'll often know which ones of those that we have. But  
10          it's the granular level of detail that is required to do,  
11          whether a suspension or an actual credit, a suspension of  
12          charges or credit, is just physically not there right now.

13          CHAIRMAN GOLTZ: But how -- so during the work stoppage,  
14          so you launch a truck and it says, "Go pick up this area,  
15          residential area," and you know you can't get it done, so  
16          off they go and they do what they can and they work 12 hours  
17          and they come back. And the next day where does the next  
18          guy go? Does he -- how does he know what's been done? Does  
19          he do it all over again? I mean, you --

20          MR. SHERMAN: I'd rather talk about a weather event than a  
21          work stoppage.

22          CHAIRMAN GOLTZ: Well, either one. I guess my point is,  
23          is that you'd think that if someone -- it sounds like you're  
24          saying a guy goes out and he picks up and he can't pick up  
25          everybody --



1 MR. SHERMAN: You bet.

2 CHAIRMAN GOLTZ: -- so he comes back. But --

3 MR. SHERMAN: In many cases.

4 CHAIRMAN GOLTZ: And he doesn't say where he's been.

5 MR. SHERMAN: No, no, no, no. No, no, no, no. You're --

6 I want to do a better job of trying to --

7 CHAIRMAN GOLTZ: Yeah.

8 MR. SHERMAN: -- explain. In many cases when we get a  
9 situation, it's generally a particular area. I think Tim  
10 had alluded to, you know, that route manager that goes out  
11 at 1:00, 2:00 in the morning is looking at streets, can see  
12 that this area I can service, but this area I cannot. And  
13 that information is then communicated to the Customer  
14 Service Center, who does out dials. And so then you make  
15 attempts to get to an area that may not finish something and  
16 what you just alluded to. The guy gets out there and he  
17 left a hundred homes. Now, once again, I want to back up.  
18 On our normal day, we don't leave trash on the street. In  
19 an off-schedule operation, we can leave trash on the street.

20 CHAIRMAN GOLTZ: Yeah.

21 MR. SHERMAN: So in that situation, yes, when you are  
22 confined to a controllable event. And the strike, I had 535  
23 people that was off immediately. That's hard to manage  
24 through. But on a normal event, you may have 20, 50, 30,  
25 60, 60 routes that may be impacted. On those, I know

1 exactly where I dropped off. I know I stopped at this block  
2 at this street, and then if we have missed -- if we have  
3 that opportunity -- and I'm mixing examples here -- I've  
4 missed now twice, there are times that we'll go back the  
5 next day, but -- that's where that person will start the  
6 next morning. That driver finished. He's got a hundred  
7 homes, so at 6:00 in the next morning. And that's why I  
8 think sometimes the language says, hey, the next scheduled  
9 service day or available day -- because there's going to be  
10 incidents where that guy can get to it the next day and has  
11 capacity on his route to do that. But in a normal  
12 off-schedule situation, normal to where you're not shut  
13 down, the entire area is not shut down? Yeah, you have much  
14 better control of information. When everything's off the  
15 tracks? Much more difficult.

16 But when you write regulations, that variance between, oh,  
17 you know, "This is kind of a bad day," "This is a really bad  
18 day," and "This day is just terrible"? It's just one  
19 regulation. And that's the difficulty for me to have the  
20 technology that would go in and says, "I got this gentleman  
21 and this -- and Penny and Mr. Wiley, but I didn't get Brad."  
22 That's -- because Mr. Wiley may say, "Wait a minute. You  
23 know, you didn't get me." "Well, I thought I did." And  
24 that's the problem. It's not a hard card punch.

25 I think we could get there. I think technology is getting

1 there. Waste haulers across the industry are moving toward  
2 technology, and there will come a time to where what we have  
3 in Seattle -- and that's an independent. We don't use that  
4 anywhere else in our organization. But what we have there,  
5 yeah, that may happen. But they also pay -- that  
6 organization pays for it, and it's part of our rates to do  
7 that. And we're -- a company like Waste Management have the  
8 capital to invest in that technology. I'm not convinced  
9 that every other organization is going to have the capital  
10 to invest in that technology.

11 MR. LOVAAS: And I don't mean to take it so low tech  
12 but --

13 JUDGE KOPTA: Microphone.

14 MR. LOVAAS: -- other than --

15 COMMISSIONER JONES: Mic, Brad.

16 MR. LOVAAS: Yeah. Other than the gentleman that lives at  
17 the end of my cul-de-sac that never takes his can in, his  
18 container, and never takes his Christmas lights down, most  
19 people leave the containers out. They don't bring them in.  
20 And we -- we've seen that even during these snow events. I  
21 mean, the containers stay out there. It's not like they're  
22 pulling them in and putting them back out the next morning  
23 or putting them back out, you know, for the next service.  
24 Some cases they do, but a lot of times the containers just  
25 stay out there.

1 MALE SPEAKER: So you know where you've been.

2 MALE SPEAKER: Yeah.

3 MR. LOVAAS: So...

4 MR. BROWN: I actually wanted to address one thing. I --  
5 this probably won't be helpful at all, but in all the  
6 compet- -- so five or so cities in King County last year  
7 went through competitive processes for their garbage  
8 collection contracts, and I can say that in every one of  
9 them the presence or absence and sophistication of the  
10 onboard computing system was a major component in the  
11 service award and actually awarding the contract. And all  
12 three competitors have systems and they are all integrated  
13 with customer service and they all cost money. You know,  
14 there's no doubt about that. But I would point out that,  
15 you know, even if it's \$10,000, it's \$10,000 on a \$200,000  
16 truck, and when you look at that over a depreciation period,  
17 it's not a lot. It's more the operating costs of  
18 integrating the system. And I think you're getting there,  
19 but to do anything like that on a broad basis in the state,  
20 I think it's premature.

21 And I think it's -- Gene's -- the problem he alluded to is  
22 actually if you don't track it, you can't measure and you  
23 can't do performance fees. And even in cities where they  
24 have had the starts of the ability to track it, there's the  
25 question of, you know, are you dealing with the contract

1 reported data on what you're making a decision on  
2 performance fees or are you doing independent audits? Are  
3 you going out there and actually seeing what's on the street  
4 versus what's reported electronically? This is all still  
5 emerging. This has not gotten straightened out, and I think  
6 it will probably get straightened out in some of the  
7 contract cities first. You know, as times goes on and these  
8 sorts of performance fees and all that stuff gets ironed  
9 out, I think there will be a lot more information within two  
10 or three years as to what might actually be applicable to  
11 certificated areas.

12 So I just wanted to throw that out there because I think  
13 there's some issues with performance that I've struggled  
14 with in cities, and that's a contract. And to deal with in  
15 the --

16 COMMISSIONER JONES: Yeah.

17 MR. BROWN: -- certificated environment was very  
18 difficult.

19 MALE SPEAKER: So our service territories that we regulate  
20 are getting all the old trucks?

21 MALE SPEAKER: Old technology.

22 JUDGE KOPTA: Ms. Ingram, did you have -- did you still  
23 have a question that you wanted to ask?

24 MS. INGRAM: No. I thought about it in my mind.

25 JUDGE KOPTA: Oh, okay. All right.

1 MS. INGRAM: I answered it myself.

2 JUDGE KOPTA: Oh, wow. Great. Well, I'm sorry you didn't  
3 share it with us.

4 MALE SPEAKER: We're dealing with vehicle fleets. We've  
5 (inaudible) each year, we typically add something to the  
6 fleet and something's retired, so what we've done --

7 MALE SPEAKER: Yeah.

8 MALE SPEAKER: -- in discussions with both gubernatorial  
9 candidates one of the questions they asked of us is: When  
10 are you going to get to natural gas? Well, over time as we  
11 (inaudible) incorporate new vehicles into the fleet and we  
12 get the infrastructure into some of those locations so  
13 (inaudible) as we -- you know, you just don't necessarily  
14 put up new onboard systems into the whole fleet, I guess  
15 (inaudible).

16 JUDGE KOPTA: Commissioner Jones, did you -- okay.

17 My sense is that we've kind of gotten as far as we're  
18 going to get today. And so as far as next steps go, we will  
19 consider the comments that have been filed and also the  
20 discussion that we've had today, which I think I can safely  
21 say has been very helpful in terms of our understanding of  
22 the issues and the limitations and the concerns. And,  
23 obviously, if folks have some additional comments that they  
24 want to provide we're always welcome -- we always -- will  
25 always welcome them.

1           What I would anticipate is that we will probably issue  
2 another notice for comment, either with some proposed  
3 language or perhaps asking for proposed language for  
4 revision to this particular tariff item. But I'm -- we'll  
5 have to figure out what makes the most sense, whether we  
6 think we have enough to float a trial balloon or whether we  
7 think we need some suggestions from the folks that have  
8 participated today to give us some ideas on language.  
9 But one way or the other, we will send out another notice  
10 to let people know that we'll have some more, and I'm hoping  
11 that we can do that in short order. I won't promise any  
12 particular time, but I would hope that it would be within  
13 the next couple of weeks.

14 FEMALE SPEAKER: When's your next collective bargaining  
15 (inaudible)?

16 JUDGE KOPTA: Yeah.

17 MALE SPEAKER: Tuesday.

18 JUDGE KOPTA: Hopefully Mr. Crosby doesn't present us with  
19 something that we have to deal with in the meantime.

20 MALE SPEAKER: (Inaudible).

21 JUDGE KOPTA: We appreciate that. You probably appreciate  
22 it even more.

23 So unless there's something more from either of the  
24 commissioners, then I will thank everyone for their  
25 participation, and we look forward to continuing to have the

1 dialogue and hopefully come up with some resolutions that  
2 make things better.

3 MALE SPEAKER: Thank you for the workshop.

4 JUDGE KOPTA: All right. Thanks.

5 MALE SPEAKER: Thank you.

6 MALE SPEAKER: Thank you.

7 (Meeting adjourned at 4:25 p.m.)

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C E R T I F I C A T E

STATE OF WASHINGTON )

) ss

COUNTY OF KING )

I, the undersigned, under my commission as a Notary Public in and for the State of Washington, do hereby certify that the foregoing recorded statements, hearings and/or interviews were transcribed under my direction as a transcriptionist; and that the transcript is true and accurate to the best of my knowledge and ability; that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this                    day of                    , 2013.

NOTARY PUBLIC in and for  
the State of Washington,  
residing at Redmond.  
My commission expires 6-23-15.