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BEFORE THE WASHINGTON UTILITIES
AND TRANSPORTATION COMMISSION

7 In the Matter of:

8 Waste Management of Washington, Inc. d/b/a
9 Waste Management – South Sound and Waste
10 Management of Seattle

11 Re WAC 480-07-520(4)

CASE NO.

PETITION FOR RULE EXEMPTION

12
13 **I. INTRODUCTION**

14 1. COMES NOW Waste Management of Washington, Inc. (“WMW”) holder of Certificate of
15 Public Convenience and Necessity No. G-237, by and through its attorney, Polly L. McNeill
16 of Summit Law Group PLLC, and in accordance with WAC 480-07-370(1)(b) files this
17 *Petition for Rule Exemption* (“Petition”) respectfully requesting the Commission’s approval
18 to submit Work Papers that vary from a strict interpretation of the filing requirements under
19 WAC 480-07-520(4).¹ The Petition instead requests permission to file Work Papers that
20 comport with the exemption granted in WMW’s most recent general rate increase filing.
21 *WUTC v. Waste Management of Washington d/b/a Waste Management Sno-King*, Docket
22 TG-091933 Order 04 & TG-091945 Order 03 (Consolidated) – Denying Petition For Rule
23 Interpretation; Granting Exemption To Rule (March 23, 2010) (“Sno-King Order”).
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26 ¹ WAC 480-07-520 sets forth the minimum requirements for filing a general rate increase request by solid waste collection companies. Subsection (4) discusses the necessary information and documents to be included in the Work Papers.

1 2. Contemporaneously with this Petition, WMW is today filing a general rate request for its
2 operating division Waste Management of Washington, Inc. d/b/a Waste Management – South
3 Sound and Waste Management of Seattle (“WM South Sound/Seattle”). For that tariff
4 request, WMW respectfully requests an exemption under WAC 480-07-110 to the extent the
5 general rate filing rule stated in WAC 480-07-520(4) would require the company to submit
6 into the public record certain proprietary and confidential business records unrelated to the
7 substantive audit of the tariff filing itself. For the same reasons supporting the Commission’s
8 determination to grant an exemption in the Sno-King Order, approving this Petition would be
9 consistent with the public interest, the purposes underlying the tariff filing regulation, and
10 Ch. 81.77 RCW.

11 **II. PARTIES**

- 12 3. Petitioner’s name and address are as follows:
13 Waste Management of Washington, Inc.
14 13225 N.E. 126th Place
15 Kirkland, WA 98034
- 16 4. Petitioner’s attorney’s name and address are as follows:
17 Polly L. McNeill
18 Summit Law Group PLLC
19 315 Fifth Avenue S.
20 Suite 1000
21 Seattle, WA 98104

22 **III. FACTUAL BACKGROUND**

23 5. WMW is the corporate subsidiary of Waste Management, Inc. that operates in Washington-
24 state. WMW is the holder of Certificate of Public Convenience and Necessity No. G-237,
25 but throughout the State the company has ten different business units providing solid waste
26 collection services. The business units perform solid waste collection under nine different
WUTC tariffs, one for each of the geographically-specific collection entities. Disposal fees,
labor rates, fuel prices, and other costs differ in each of the geographic territories. In
addition, WMW owns three landfills, six transfer stations and four recycling centers.

- 1 6. In submitting its general rate request, for certain elements of WAC 480-07-520, WM South
2 Sound/Seattle has limited some of the financial data included in its Work Papers to the
3 business entity providing services under the tariff that WMW is seeking to amend, and has
4 not provided the analysis for WMW as a whole. This general rate filing for WM South
5 Sound/Seattle includes financial information that is the same in scope as the Work Papers
6 approved by an exemption in the Sno-King Order. Thus, the Work Papers for WM South
7 Sound/Seattle address the separate requirements of WAC 480-07-520(4) as follows:
- 8 7. *WAC 480-07-520(4)(a) (detailed pro forma income statement)* – The required income
9 statement is limited to WM South Sound/Seattle, the business unit providing services under
10 the tariff that WMW is seeking to amend.
- 11 8. *WAC 480-07-520(4)(b) (revenue impact calculation for proposed tariff revisions)* – The
12 revenue impact calculation is limited to services provided by WM South Sound/Seattle under
13 the tariff that WMW is seeking to amend.
- 14 9. *WAC 480-07-520(4)(c) (income statement listing all revenue and expense accounts by
15 month)* – The required income statement is limited to WM South Sound/Seattle, the business
16 unit that provides services under the tariff that WMW is seeking to amend.
- 17 10. *WAC 480-07-520(4)(d) (detailed separation of all revenue and expenses between
18 regulated/nonregulated operations if nonregulated revenue exceeds ten percent of total
19 company test period revenue)* – The filing provides a detailed separation of all revenue and
20 expenses between (1) WM South Sound/Seattle, the business unit that provides services
21 under the tariff that WMW is seeking to amend and (2) other business units within Waste
22 Management with which WM South Sound/Seattle has intra-company transactions or
23 arrangements that, but for the fact that the business units are not separate corporations, would
24 be affiliated interest transactions. The filing also includes a detailed separation of all
25 revenues and expenses for each of the other WMW business units performing collection
26 operations, with expenses allocated proportionately on the basis of regulated and unregulated

1 revenues, and a combined statement of detailed revenues and expenses for all of WMW's
2 unregulated, non-collection operations added together.²

3 11. *WAC 480-07-520(4)(e) (detailed list of all nonregulated operations, including the rates*
4 *charged for the services rendered)* – The filing includes a list of all regulated and
5 nonregulated operations within WMW, including the rates charged. No exemption is sought
6 for this filing requirement, but due to the extensive number of municipal contracts under
7 which WM South Sound/Seattle operates, information related to those unregulated operations
8 will be provided upon Staff's request.

9 12. *WAC 480-07-520(4)(f) (detailed price-out information)* – The revenue reported is limited to
10 services provided by WM South Sound/Seattle under the tariff that WMW is seeking to
11 amend.

12 13. *WAC 480-07-520(4)(g) (consolidated balance sheet)* – The required consolidated balance
13 sheet includes Waste Management, Inc., and Waste Management of Washington. No
14 exemption is sought for this filing requirement.

15 14. *WAC 480-07-520(4)(h) (detailed depreciation schedule)* – The assets for which a
16 depreciation schedule is provided is limited to those utilized by WM South Sound/Seattle, the
17 business unit that provides services under the tariff that WMW is seeking to amend.

18 15. *WAC 480-07-520(4)(i) (computed average investment)* – The assets for which the average
19 investment is computed is limited to those utilized by WM South Sound/Seattle, the business
20 unit that provides services under the tariff that WMW is seeking to amend.

21 16. *WAC 480-07-520(4)(j) (information about every transaction with affiliated interests or*
22 *subsidiaries)* – Affiliated interest transactions under this requirement are limited to those
23 between WM South Sound/Seattle, the business unit that provides services under the tariff
24 that WMW is seeking to amend, on the one hand, and Waste Management, Inc., for

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26 ² These last two analyses were not specifically alluded to in the Sno-King Order, nor were they mentioned in the exemption that Staff supported in that case. But because the information was included with the Sno-King filing, it has been updated and included in this filing for WM South Sound.

1 administrative overhead services performed by the area and corporate offices. The filing
2 includes an income statement and balance sheet for Waste Management, Inc. No exemption
3 is needed for this requirement.

4 IV. PETITION FOR EXEMPTION

5 17. WAC 480-07-110 provides that the Commission may grant an exemption from or modify the
6 application of its rules in individual cases if consistent with the public interest and the
7 purposes of the underlying regulation:

8 The standard for consideration is the public interest standard.
9 Factors the commission may consider include whether application
10 of the rule would impose undue hardship on the requesting person,
11 of a degree or a kind different from hardships imposed on other
similarly situated persons, and whether the effect of applying the
rule would be contrary to the underlying purposes of the rule.

12 18. In the Sno-King Order, the Commission concluded that granting an exemption was in the
13 public interest and met the standards for consideration of a rule exemption under WAC 480
14 07 110(c) – and the same policy applies in this filing for WM South Sound/Seattle.

15 19. As the Commission observed in the Sno-King Order, Waste Management's corporate
16 structure is unusual with respect to having so many organizationally distinct regulated and
17 nonregulated lines of business within one corporation. The burdens imposed on WMW by
18 the general rate filing requirements of WAC 480-07-520(4) are different in degree and kind
19 than those imposed on other solid waste collection companies.

20 20. The purpose of WAC 480-07-520(4) is to ensure that all information necessary to determine
21 whether existing or proposed rates are fair, just, reasonable and sufficient is available to the
22 Commission by requiring solid waste collection companies seeking to increase their rates to
23 file Work Papers that account for a variety of data supporting the request, including
24 information about commercial relationships with affiliated enterprises. The limited Work
25 Papers filed for the WM South Sound/Seattle tariff increase satisfies the purpose of the rule.
26 Because the data for which this exemption is sought is not relevant to the tariff filing for WM

1 South Sound/Seattle and because some of that analysis is valuable and proprietary
2 commercial information, granting this Petition is not inconsistent with the underlying
3 purposes of the general rate filing rule stated in WAC 480-07-520(4).

4 21. In addition, to prepare some components of the Work Paper requirements for WMW as a
5 whole would impose a significant hardship on the company because each business entity has
6 its own general ledger, and the analysis would require manually consolidating data into one
7 master ledger, a time-consuming and unproductive process without any commensurate
8 benefit to the ratepayers.

9 22. Granting this Petition would allow WMW to file Work Papers that explain the services
10 provided under WM South Sound/Seattle's tariff, and that list all relevant data for any and
11 every part of Waste Management as a whole that conducts intra-company transactions or
12 arrangements affecting the services provided under the tariff. Allowing limitations to the
13 financial information included in the Work Papers avoids filing immaterial and unnecessary
14 Work Papers and relieves the administrative burden to both WMW and Commission. If this
15 Petition is granted, then Staff will have the information needed to fully analyze the WM
16 South Sound/Seattle rate request, and WMW will have partial relief from the burdens of the
17 literal application of the filing requirements in WAC 480-70-520(4).

18 23. Finally, if the Commission grants this Petition to allow for a rule exemption in the filing for
19 WM South Sound/Seattle similar to the one accepted under the Sno-King Order, WMW also
20 asks for a ruling that the terms of the proposed exemption be made generally applicable to
21 WMW's future filings. Staff opposed this request in the Sno-King proceeding because Staff
22 felt that one rate case was not enough to give Commission auditors certainty that these partial
23 exemptions would give provide the information necessary to fully evaluate other tariff
24 requests made by WMW. For that reason, the Commission ultimately rejected WMW's
25 request for a prospective application in the Sno-King proceeding. However, if Staff
26 concludes that this exemption does not hinder its ability to perform its auditing function on

1 the tariff request of WM South Sound/Seattle, then at some point, to require a petition for a
2 rule exemption for each of WMW's filings is administratively inefficient and costly to both
3 the company and its rate payers. If a prospective exemption were conditioned on meeting the
4 filing standards summarized above, which comport with the limitations approved by the
5 Commission in the Sno-King Order, then unless there is a change of corporate circumstances,
6 the exemption could be applied not just in this filing, but in any future filings by WMW
7 business units as well. However, WMW conditions its request for a prospective exemption
8 on support from Staff, and does not wish this aspect of the Petition to interfere with the
9 Commission's determination on the requested exemption in the context of the specific filing
10 for WM South Sound/Seattle.

11 V. CONCLUSION

12 For the reasons stated above, WMW respectfully requests that the Commission grant an
13 exemption of WAC 480-07-520(4) to WMW for today's WM South Sound/Seattle filing to limit
14 the Work Papers required under WAC 480-07-520(4) in the manner stated above.

15 WMW also conditionally requests that the Commission grant an exemption prospectively
16 for any future filing by WMW for a general rate request filed for a business entity operating
17 under a tariff.

18 DATED this 16th day of June, 2010.

19
20 By *Polly L. McNeill*
21 Polly L. McNeill, WSBA # 17437 (*By Kay*)
22 SUMMIT LAW GROUP PLLC
23 315 Fifth Avenue South, Suite 1000
24 Seattle, WA 98104
25 T: (206) 676-7000
26 F: (206) 676-7001
Attorneys for Waste Management of
Washington, Inc. d/b/a/ Waste Management –
South Sound and Waste Management of
Seattle