

Exhibit No. CB-1T
Docket No. TG-240189
Witness: Chad Brooks

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

WASTE MANAGEMENT OF
WASHINGTON, INC.

Respondent.

DOCKET TG-240189

Direct Testimony of

Chad Brooks

On behalf of Waste Management of Washington, Inc.

November 22, 2024

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I. EXPERIENCE AND SUMMARY OF TESTIMONY

Q. Please state your name and business address.

A. My name is Chad Brooks. My business address is 720 4th Ave, Suite 400, Kirkland, Washington, 98033.

Q. By whom are you employed and in what capacity?

A. I am employed by Waste Management of Canada Corporation, an affiliated company of Waste Management of Washington, Inc. (“WMW” or “Company”), as Director of Collection Operations for the Pacific Northwest Area, which encompasses Washington, Oregon, Idaho, Alaska, and British Columbia.

Q. Would you please describe your educational background?

A. I graduated from the University of Waterloo, Canada in 1996 with a Bachelor of Environmental Studies.

Q. What is your professional employment experience prior to your work at WMW?

A. After college, I worked for Aquaterra Corporation, Canada’s largest supplier of coffee and water to business offices. At Aquaterra Corporation, I started as a dispatcher and worked my way up to a regional manager position in one of the corporation’s beverage divisions. From 2011 through 2015, I was the Vice President of Logistics for Aquaterra Corporation – Canadian Springs. In that role, I oversaw the company’s national operations, including over 500 beverage routes and \$120 million in annual revenue.

1 **Q. Would you please describe your past and current roles at WMW?**

2 A. From 2015 through May 2024, I was a Senior District Manager for Waste
3 Management of Canada Corporation and oversaw the company's operations and
4 safety measures for 250 employees across five collection sites on the South Coast of
5 British Columbia, Canada. In May of 2024, I became a Director of Collection
6 Operations for Waste Management for the Pacific Northwest Area. In this position, I
7 provide site leadership for operations and safety measures across 20 locations,
8 including all of WMW's collection districts in Central and Eastern Washington that
9 provide Washington Utilities and Transportation Commission ("Commission")-
10 regulated services.

11 **Q. Have you previously testified before the Commission?**

12 A. No.

13 **Q. Have you ever given sworn testimony before?**

14 A. In my prior role at Waste Management, I was a witness in an administrative hearing
15 before the City of Vancouver, British Columbia. My sworn testimony was related to
16 an alleged infraction of the City's solid waste collection bylaws.

17 **Q. What are the subjects of the testimony you are offering today?**

18 A. First, I will summarize the background of this proceeding and explain that the basic
19 facts of the violations at issue are not in dispute. I will then testify about some of
20 the major flaws and gaps in the testimony of Commission Staff ("Staff") that
21 undermine its recommendations in this case—particularly its unjustified

1 recommendation of the maximum possible monetary penalty. Along the way, I will
2 fill in facts Staff failed to investigate and explain WMW's longtime commitment to
3 Commission compliance and how we have strengthened it recently. In light of these
4 facts, a reasonable penalty in this case will be far lower than the statutory maximum
5 Staff requests, with a greater proportion suspended pending WMW's future
6 compliance.

7 **Q. Is WMW presenting the testimony of any other witnesses?**

8 A. No.

9 **II. BACKGROUND OF THIS PROCEEDING**

10 **Q. What WMW service is at issue in this proceeding?**

11 A. This case deals with service under Item 240 of WMW's Tariff No. 14, collection of
12 non-compacted material in WMW-owned containers, and dumped in WMW's
13 vehicles. Item 240 defines permanent service as "no less than scheduled, every
14 other week pickup, unless local government requires more frequent service or unless
15 putrescibles are involved."¹

16 **Q. Please describe the events that eventually led to this proceeding.**

17 A. My understanding is that in April of 2022, a WMW customer in unincorporated
18 Douglas County filed an informal consumer complaint with the Commission's
19 Consumer Protection Division. The customer explained that he or she asked WMW

¹ WMW, Tariff No. 14, Item 240, Note 1, Exh. BF-2 at 37 (applicable to unincorporated Douglas County). Ms. Feeser's exhibits are marked "BR-2" and "BR-3." Ms. Feeser's testimony cites them as "BF-2" and "BF-3," aligning with her initials, and WMW will do the same.

1 to provide every-other-week container service, but WMW stated it would only
2 provide monthly service.

3 Shortly thereafter, Staff informed WMW’s Area Customer Experience
4 Manager—who is the Commission’s point of contact for informal complaints—that
5 WMW’s service was not in compliance with Tariff No. 14, Item 240 and recorded
6 14 informal violations. That communication from Staff noted that “WM must
7 provide, and bill for, service in a manner consistent with the conditions described in
8 its approved tariff.”² (This was the “technical assistance” Staff witness Bridgit
9 Feeser refers to.³)

10 **Q. Did WMW correct the issue identified by Staff at that time?**

11 A. No, not until after further action by Staff the next year.

12 **Q. Is that acceptable to WMW?**

13 A. No. Failing to provide service as required by our tariff, in the first place, was
14 unacceptable. So was failing to correct the issue after it came up and we received
15 explicit instruction from Staff through the informal complaint process.

16 **Q. Please describe the subsequent investigation that led to this proceeding.**

17 A. On April 23, 2023, Staff initiated an investigation into WMW’s frequency of service
18 under Tariff No. 14, Item 240 in Douglas County by sending an information request
19 to Mike Weinstein, who was then WMW’s longtime Senior Pricing Manager and

² Staff Investigation Report, Exh. BF-3 at 28.

³ See Staff Investigation Report, Exh. BF-3 at 28; Feeser, Exh. BF-1T at 14:1-2, 16-17 (citing generally Exh. BF-3 at 11-36).

1 the main point of contact for the Commission on tariff issues. The request asked for
2 information about “all customers receiving monthly solid waste residential pick-up
3 service in Douglas County and Grant County from August 1, 2021 through March
4 31, 2023.”⁴ Staff also sent a follow-up information request to WMW’s counsel on
5 June 6, 2023.⁵ Staff’s investigation and the information sent by WMW in response
6 resulted in the investigation report attached to Ms. Feeser’s testimony.⁶

7 **Q. What action did WMW take in response to the investigation?**

8 A. I understand that by May 20, 2023, WMW had restored every-other-week collection
9 service to all the customers identified in WMW’s response as receiving monthly
10 service, except a few who cancelled service.⁷ That was less than a month after Staff
11 sent the investigation letter to Mr. Weinstein, and before Staff’s follow-up request.

12 **Q. What happened after that?**

13 A. Based on the information WMW sent Staff as requested in the April 2023 request
14 and a follow-up request that June, Staff identified that 25 customers who signed up
15 for every-other-week pick-up service were receiving monthly pick-up service
16 between June 1, 2022 and June, 2023.⁸ Staff alleges that WMW committed
17 254 violations of the requirement that WM provide service in accordance with its
18 tariff. Staff based the number of violations on the number of months each of the

⁴ Staff Investigation Report, Exh. BF-3 at 37-38.

⁵ Staff Investigation Report, Exh. BF-3 at 39.

⁶ See generally Staff Investigation Report, Exh. BF-3.

⁷ See Staff Investigation Report, Exh. BF-3 at 7 (table noting account closing dates).

⁸ Staff Investigation Report, Exh. BF-3 at 6.

1 25 customers received service monthly rather than every other week during the
2 relevant period.⁹ These findings appear in the completed investigation report Staff
3 issued in April 2024, after which the Commission filed the formal Complaint
4 against WMW at issue in this proceeding.¹⁰

5 **Q. What were Staff’s findings in its investigation report?**

6 A. The report found that WMW “failed to comply with [Tariff No. 14, Item 240,]
7 which states permanent service is defined as no less than scheduled, every other
8 week pickup, unless local government requires more frequent service.”¹¹ The report
9 also found that “the Company did not correct their [sic] business practices to
10 provide [every-other-week] pick-up service for customers with permanent
11 containers in Douglas County after staff provided technical assistance in the April
12 2022 informal consumer complaint.”¹²

13 **Q. Do you agree with those findings?**

14 A. Yes. WMW fully acknowledges that its service was inconsistent with Tariff No. 14,
15 Item 240, for the 25 customers identified in the investigation report and admits that
16 it committed the 254 alleged violations.

⁹ Staff Investigation Report, Exh. BF-3 at 6.

¹⁰ *See Wash. Utils. & Transp. Comm’n v. Waste Mgmt. of Wash., Inc.*, Docket TG-240189, Complaint and Notice of Prehearing Conference (May 20, 2024) (“Complaint”).

¹¹ Staff Investigation Report, Exh. BF-3 at 7.

¹² Staff Investigation Report, Exh. BF-3 at 7.

- 1 (2) file its audit report as a compliance filing in this docket; and
2 (3) ensure that appropriate WMW employees are properly trained with
3 respect to regulatory compliance.¹⁷

4 Staff also recommends a two-year suspension of part of the monetary penalty
5 (discussed below), followed by WMW “conduct[ing] a follow-up audit regarding its
6 compliance with Item 240, with the audit report being filed in this docket as a
7 compliance filing.”¹⁸

8 **Q. Do you agree with Staff’s recommendations?**

9 A. In part. The non-monetary measures are appropriate and, as I discuss below, WMW
10 is already taking those actions and more to ensure future compliance.¹⁹ WMW also
11 does not object to a reasonable monetary penalty commensurate with Commission
12 precedent and the facts of the case.

13 **Q. Is Staff’s recommendation of the maximum monetary penalty justified?**

14 A. I don’t believe so, and Ms. Feeser’s testimony fails to justify it in three ways: First,
15 in discussing many of the Commission’s enforcement factors, Ms. Feeser simply
16 states facts without connecting them to the Commission’s stated objective in setting
17 penalties (safe, adequate, efficient service at reasonable rates) or explaining how the
18 facts justify the maximum penalty. In particular, Staff concedes that some of the

¹⁷ Feeser, Exh. BF-1T at 10:18-22.

¹⁸ Feeser, Exh. BF-1T at 3:1-4, 10:22-11:2, 19:15-18.

¹⁹ I note that Ms. Feeser recommends a follow-up audit “regarding [WMW’s] compliance with Item 240.” Feeser, Exh. BF-1T at 3:2-3, 10:22-11:2, 19:15-18. WMW assumes that Staff intends the follow-up to have the same scope as the initial audit, that is, “compliance with Item 240 service frequency state-wide[.]” See Feeser, Exh. BF-1T at 2:21-22, 10:19-20, 19:12-13.

1 enforcement factors favor WMW, but Ms. Feeser doesn't explain why those factors
2 don't justify a penalty less than the maximum.

3 Second, instead of presenting any facts relevant to some of the enforcement
4 factors, Staff simply speculates—always to WMW's detriment. Third, Ms. Feeser's
5 testimony fails to provide the Commission a reasonable basis for adopting Staff's
6 recommendation given the Commission's past practice and precedent. Though I do
7 not testify on this third point, WMW will show in this case that there is no
8 Commission precedent for Staff's recommendation.

9 **Q. Do you believe that the Commission's Enforcement Policy supports the**
10 **maximum penalty in this case?**

11 A. No. As I described earlier, the objective of the Commission's Enforcement Policy
12 is to ensure that regulated companies provide safe, adequate, efficient services at
13 reasonable rates. WMW doesn't discount the significance of its violations in this
14 case: it's important from a customer service perspective to follow through with the
15 services we offer in our tariff, and the failure to immediately correct the errors
16 affects the Commission's ability to achieve its enforcement objectives.

17 But Ms. Feeser's testimony, while relying heavily on the Commission's
18 Enforcement Policy, does not even mention the Commission's enforcement
19 objectives and does not argue that WMW's services were actually unsafe,
20 inadequate, inefficient, or at unreasonable rates. It's puzzling that Staff is pushing
21 for the maximum penalty without evidence that WMW's violations directly
22 implicated any of the Commission's ultimate objectives in enforcement.

1 Staff’s push for the maximum penalty is also puzzling in light of the eleven
2 specific factors the Commission says it considers in weighing enforcement options
3 and level of penalties,²⁰ several of which I detail below. In particular, Staff
4 concedes that WMW has been forthcoming throughout the investigations. And as
5 I’ll describe, WMW has voluntarily taken corrective action beyond what Staff
6 recommends.

7 We think all parties and the Commission’s enforcement objectives would be
8 better served by working together on future compliance. Instead, Staff is litigating
9 for maximum penalties against WMW, a company that has always taken its
10 responsibilities under Commission regulation seriously.

11 **Q. What should the Commission do in this case?**

12 A. The Commission should focus on the objectives of its Enforcement Policy and
13 assess a monetary penalty at a reasonable level, far lower than Staff’s unjustified
14 request for the statutory maximum. It should also suspend a larger portion of that
15 penalty than Staff requests.

16 **IV. THE COMMISSION’S ENFORCEMENT FACTORS, APPLIED TO WMW’S**
17 **ACTIONS, DO NOT SUPPORT THE MAXIMUM MONETARY PENALTY.**

18 **Q. Now let’s look at some of the Commission’s specific enforcement factors that**
19 **Staff didn’t adequately address. Which of the Commission’s enforcement**
20 **factors will you testify about?**

²⁰ See Enforcement Policy, ¶ 15.

1 A. The Commission’s Enforcement Policy lays out 11 non-exclusive factors that it will
2 consider in determining the level of penalty to impose.²¹ Ms. Feeser addresses
3 all 11, but I will only touch on the following:

- 4 1. How serious or harmful the violation is to the public.
- 5 2. Whether the violation is intentional.
- 6 4. Whether the company was cooperative and responsive.
- 7 5. Whether the company promptly corrected the violations and
8 remedied the impacts.
- 9 8. The likelihood of recurrence.
- 10 10. The company’s existing compliance program.²²

11 **Q. Starting with factor 1: How serious or harmful to the public were WMW’s**
12 **violations?**

13 A. As I stated, WMW acknowledges the importance of providing customers the
14 services offered under its tariffs. WMW prides itself on its long history of providing
15 service consistent with its tariffs to hundreds of thousands of customers under
16 Commission jurisdiction across the state, including about ten thousand under
17 Tariff 14 alone.

18 Here, 25 customers²³ did not receive every-other-week service as required
19 by the tariff. In Ms. Feeser’s view, “[t]he violations are both serious and harmful to
20 the public,” mainly because “[c]ustomers rely on and expect [WMW] to provide the

²¹ Enforcement Policy, ¶ 15.

²² Enforcement Policy, ¶ 15, subparagraphs (1), (2), (4), (5), (8), and (10).

²³ Plus 17 more WMW has discovered outside the scope of this case, as I discuss below.

1 service they sign up for, as required in the Company’s [C]ommission-approved
2 tariff.”²⁴ But WMW informed those customers that they would be receiving
3 monthly service, supplied them with appropriately sized containers for monthly
4 service, and provided the service we told them to expect.

5 **Q. So how do you view the harm to the public in this case?**

6 A. Our customers have a right to receive service in accordance with our tariffs, and
7 WMW fell short in that regard. But there was no health, safety, or public nuisance
8 issue. Does WMW’s uncorrected failure to provide the services required in its tariff
9 merit a penalty? Yes. These were not harmless errors. Do they justify the most
10 severe monetary penalty the Commission can order? No.

11 **Q. Factor 2: Were the violations intentional?**

12 A. Yes, but Staff leaves out important context. I understand that local operations teams
13 made changes to 25 customers’ solid waste pick-up service, which constituted a
14 violation of Tariff 14, Item 240. Our local operations teams should have known
15 better, and we’ve added training to ensure they do. I also agree with Ms. Feeser’s
16 testimony that in May 2022, Staff provided technical assistance to the Company to
17 address the tariff concerns, but the Company disregarded the assistance and did not
18 correct the violations at that time.²⁵

19 **Q. In what sense were the violations unintentional?**

²⁴ Feeser, Exh. BF-1T at 13:14-16.

²⁵ Feeser, Exh. BF-1T at 14:16-15:1.

1 A. Senior management didn't know about the issue. As soon as senior management
2 received the Commission's April 2023 enforcement letter, WMW communicated
3 the every-other-week service change to the affected customers, applied appropriate
4 charges, and replaced their containers with smaller ones for every-other-week
5 service—all in less than a month. There's also no indication anyone at the company
6 hid facts or resisted the investigation at any time, which the Commission would
7 regard as evidence of an intentional violation.²⁶

8 So the violations were unintentional in the sense that they were inconsistent
9 with WMW policy and practice, were unknown to WMW leadership at the time,
10 and were promptly corrected when they became known.

11 **Q. Is Staff's testimony on this factor accurate?**

12 A. No. Ms. Feeser testifies that "The Company ignored the technical assistance
13 provided by Commission Staff, failed to correct business practices, and continued to
14 withhold every-other-week pick-up service for 25 Douglas County customers with
15 permanent container service."²⁷ However, WMW did, in fact, bring those
16 customers' service into compliance immediately after receiving the April 2023
17 letter. WMW made those corrections almost a year and a half before Ms. Feeser's
18 testimony and noted that fact in its filed Answer five months ago.²⁸

²⁶ See Enforcement Policy, ¶ 15, subparagraph (2).

²⁷ Feeser, Exh. BF-1T at 14:20-15:1.

²⁸ *Wash. Utils & Transp. Comm'n v. Waste Mgmt. of Wash., Inc.*, Docket TG-240189, WMW's Answer to Complaint, ¶ 2 (June 10, 2024) ("Answer").

1 Ms. Feeser also testifies, still in discussing WMW's intent, that "Waste
2 Management also has not requested to change its tariff, so it is still obligated to
3 provide every-other-week service under Item 240."²⁹ That seems to imply that
4 WMW is still violating its tariff with respect to the affected customers in this case.
5 As reported in WMW's Answer,³⁰ that is not the case.

6 **Q. Factor 4: Was WMW cooperative and responsive during the investigation and**
7 **after the investigation was complete?**

8 A. Yes. WMW has, at all times, been cooperative and responsive to Staff's
9 investigation in this proceeding, and will continue to do so. Staff acknowledges the
10 Company has been responsive to requests for data and information during its
11 investigation.³¹ Again, Ms. Feeser makes no attempt to connect WMW's admittedly
12 good conduct under this factor to the Commission's main enforcement objective
13 (safe, adequate, efficient service at reasonable rates³²) or explain why Staff gave this
14 factor no weight in determining the appropriate penalty.

15 **Q. Factor 5: Did WMW promptly correct the violations and remedy the impacts**
16 **of the violations?**

17 A. Yes. WMW corrected solid waste service for the 25 customers in less than a month
18 after receiving Staff's information request, almost a year before the Complaint in

²⁹ Feeser, Exh. BF-1T at 15:1-3.

³⁰ Answer, ¶ 2.

³¹ Feeser, Exh. BF-1T at 15:9-10.

³² Enforcement Policy, ¶ 9.

1 this case.³³ WMW reported that fact in its Answer over five months ago.³⁴ Yet
2 Ms. Feeser testifies that “Staff is unaware if the Company has remedied pick-up
3 service for customers that fall under Item 240 of [its] tariffs.”³⁵

4 **Q. Did Staff conduct any discovery or other investigation to determine whether**
5 **WMW had corrected the violations?**

6 A. Not to WMW’s knowledge, and Ms. Feeser doesn’t mention any such effort. In
7 other words, Staff argues for the maximum penalty without any investigation of
8 relevant facts from the last year and a half.

9 **Q. Has WMW voluntarily investigated whether this problem extended beyond the**
10 **scope of this proceeding?**

11 A. Yes. Since the formal Complaint was filed, WMW has reviewed service frequency
12 for all of its 12,000-plus Item 240 customers statewide.

13 **Q. What were the results of the service frequency review?**

14 A. We identified 17 more customers who were receiving non-compliant service. That
15 makes up about 0.14% of over 12,000 Item 240 customers statewide, or about one
16 in 700. We are bringing those customers’ service back into compliance, evaluating
17 their charges, and crediting any overcharges we discover. On November 15, 2024,
18 we self-reported these violations to Michael Young, the Commission’s assistant
19 director for the Water and Transportation Section.

³³ See Complaint (dated May 20, 2024).

³⁴ Answer, ¶ 2.

³⁵ Feeser, Exh. BF-1T at 15:14-15.

1 **Q. Factor 8: How likely is WMW to repeat these violations?**

2 A. Here, the Commission says it considers both whether a company has changed its
3 practices and whether the violations are repeat violations made known to the
4 company in an earlier enforcement action.³⁶

5 **Q. What steps has WMW taken to prevent recurrence?**

6 A. Overall, WMW's practices have proven effective in maintaining WMW's
7 compliance with Commission requirements through millions of annual waste
8 pickups *per year* for many years. In addition, WMW has implemented new
9 compliance monitoring procedures to even better prevent, identify, and correct
10 future violations. I discuss WMW's Commission compliance program and recent
11 general improvements below under factor 10. Specific to potential recurrence of
12 Item 240 service frequency issues, we voluntarily reviewed our service frequency
13 and are correcting service in the few non-compliant cases identified, as described
14 above.

15 **Q. How does Staff assess the likelihood of recurrence?**

16 A. Staff does not discuss the likelihood of recurrence or what WMW actually did to
17 avoid it. Instead, Staff speculates about what "could" happen in the future.
18 Ms. Feeser testifies that "Staff believe[s] recurrence is *possible*" and speculates that
19 "without Commission intervention, the Company's practices *could* continue."³⁷ On

³⁶ Enforcement Policy, ¶ 15, subparagraph(8).

³⁷ Feeser, Exh. BF-1T at 16:15, 16:21-17:2 (emphasis added).

1 this factor, Staff again advocates for the maximum penalty without any discussion
2 or citation to evidence to support its presumption.

3 Ms. Feeser also claims WMW “has already created a practice of not
4 providing the level of service required by their tariff if they deem [sic] the distance
5 is too far to drive.”³⁸ I don’t know what she means when she says we have “created
6 a practice,” but *every* action by WMW senior management related to this case is
7 consistent with correcting WMW’s non-compliant service, not perpetuating it, and
8 local practices have followed.

9 Ms. Feeser goes on to speculate that “Staff believes the non-compliance
10 *could* be spread across the Company’s entire service area[.]”³⁹ If Staff had inquired
11 of WMW rather than speculating, it would have learned, as WMW did, that the
12 issue was limited to 0.14% of its Commission-jurisdictional customers under
13 Item 240. Although WMW constantly strives for 100% compliance, 99.86% (or
14 even 99.65%, considering the initial 25 customers in this case) certainly does not
15 indicate a frequently recurring problem.

16 Staff’s speculation aside, this record does not justify the statutory maximum
17 penalty—even before considering the systemic changes WMW has made to reduce
18 the likelihood of recurrence much further.

³⁸ Feeser, Exh. BF-1T at 16:15-17.

³⁹ Feeser, Exh. BF-1T at 16:19-17:1 (emphasis added).

1 **Q. Factor 10 concerns the company's existing compliance program. Please**
2 **describe WMW's process for evaluating and reporting Commission**
3 **compliance-related issues generally.**

4 A. WMW has two employees ordinarily responsible for interacting with the
5 Commission on compliance matters. First, Denie Covert, the PNW Area Manager of
6 Customer Engagement, is responsible for receiving and responding to customer
7 complaints forwarded by Commission Staff. After receiving a complaint,
8 Ms. Covert gathers information from the relevant WMW teams, such as the hauling
9 district and/or a billing specialist, and then responds to Commission Staff.
10 Ms. Covert maintains a centralized log of complaints that will, going forward, be
11 reviewed every other month with members of senior management and the PNW
12 Area legal department as an added safeguard to identify and remedy any systemic
13 compliance issues that may require additional action.

14 Second, Evan Burmester, Senior Financial Analyst for the PNW Area,
15 oversees all financial reporting to the Commission and is the designated contact on
16 WMW's tariffs. In this role, Mr. Burmester occasionally receives tariff issues
17 directly from Commission Staff. Like Ms. Covert, Mr. Burmester communicates
18 with the relevant WMW teams to respond to Staff.

19 Customers can also directly notify WMW of potential complaints or service
20 issues through our customer service channels, such as our customer service phone
21 number or email. When a customer reports an issue directly to WMW, a customer
22 service agent will create a ticket for any missed pickup issue. If the agent is unable
23 to resolve the issue and further action is needed, the agent will open a case in our

1 database and assign it to the applicable hauling district (such as Wenatchee
2 Hauling). The hauling district is responsible for remedying the issue and closing the
3 case once completed.

4 **Q. Please describe WMW’s existing compliance measures for compliance with**
5 **Commission regulation.**

6 A. In addition to the roles just described, Mr. Burmester serves as an internal resource
7 to other departments about Commission regulations and tariff interpretations.
8 Contract managers work with him on Commission regulatory matters across
9 assigned geographic territories.

10 Those contract managers are housed within WMW’s Public Sector Services
11 team. A contract manager is responsible for flagging potential non-compliance
12 issues and offering guidance to operational teams, such as the hauling district and
13 accounting teams, to address regulatory concerns and questions. Currently, WMW
14 has seven contract managers in the State of Washington who assist with
15 Commission regulatory compliance.

16 In addition, WMW uses “Knowledge,” a software program designed to track
17 Commission regulations and tariffs, as well as local requirements in other areas.⁴⁰
18 Knowledge is used by Public Sector Services, Customer Experience, Finance, and
19 hauling districts as a comprehensive resource for all Commission regulatory and
20 tariff requirements. Specifically, when given a potential service address, Knowledge
21 identifies the services available to that address (including frequency of service) and

⁴⁰ In past proceedings, the Commission or Staff may have heard WMW reference “Green Pages.”
“Knowledge” is the new name for that system.

1 any jurisdiction-specific requirements. WMW employees use Knowledge to set up
2 and change accounts, answer questions for customers and local governments, review
3 city or Commission service boundaries, and evaluate compliance. Employees are
4 assigned to review specific Washington jurisdictions in Knowledge for accuracy and
5 completeness no less than once a year. Exhibit CB-2 is the 2024 schedule of audits
6 for WMW's service areas in Washington.

7 **Q. How are WMW customer service agents trained to use Knowledge?**

8 A. The Customer Experience team trains new customer service agents—who are
9 responsible for setting up new customer accounts—on how to use Knowledge.
10 Knowledge training details how each Commission tariff area is regulated, what
11 services are available, and how to use this information in properly setting up
12 customer accounts and addressing customer service issues of all types.

13 **Q. What new employee training has WMW added to its program for compliance**
14 **with Commission regulations?**

15 A. WMW has instituted new mandatory employee training and reporting requirements.
16 Specifically, the PNW Area legal department provides Commission-related
17 regulatory training to all district managers, route managers, and contract managers
18 in the state. Exhibit CB-3 is the presentation used in this training, titled
19 “Washington Utilities and Transportation Commission Compliance – Training for
20 Managers.” The training outlines the Commission’s regulatory framework and
21 requirements, how to avoid compliance issues, available internal resources, and
22 what to do if a compliance issue is identified. WMW will give the training at least

1 once a year for all the identified manager groups. It will also be incorporated into
2 onboarding programming for employees new to district manager, route manager,
3 and contract manager positions.

4 **Q. How has WMW improved its complaint tracking and review system as it**
5 **relates to Commission regulatory compliance?**

6 A. In April 2024—before the Complaint in this proceeding—WMW’s Customer
7 Experience team began keeping a centralized log of all complaints received through
8 the Commission. Recently, as we continue working to improve on our existing
9 compliance record, we assigned a member of the PNW Area legal team to review
10 that log each month as an added check against systemic compliance issues falling
11 through the cracks. We will convene a meeting every other month with members of
12 senior management to review any identified issues. Together, the legal team and
13 senior management will review, evaluate, and act as needed to address any potential
14 violations.

15 **Q. In addition to these formal processes, does WMW look for opportunities to**
16 **emphasize the importance of compliance informally?**

17 A. Yes. On an ongoing basis, WMW’s managers informally convey to employees the
18 importance of compliance with regulatory requirements, including but not limited to
19 Commission regulations. Compliance discussions frequently occur at all-manager
20 meetings, employee “huddles,” and management-led department or section-wide
21 meetings.

1 **Q. In requesting the Commission’s maximum penalty, how does Staff evaluate**
2 **WMW’s compliance program?**

3 A. Staff has no knowledge and made no inquiry as far as WMW can tell. Ms. Feeser’s
4 entire testimony under factor 10 is: “Staff is unaware of a compliance program to
5 ensure the Company provides services to its customers as outlined in [its] tariff.”⁴¹
6 I don’t understand Staff’s thinking in pushing for the maximum penalty without
7 knowing anything about our compliance program. Staff’s position is even harder to
8 understand given all the actual compliance measures I’ve testified to.

9 **Q. What monetary penalty should the Commission order in light of all the facts?**

10 A. That’s beyond the scope of my testimony, in part because I understand it’s a matter
11 of Commission precedent. But based on all the gaps and problems with Staff’s
12 testimony and all of WMW’s efforts that I’ve testified to under the Commission’s
13 enforcement factors, only a far lesser monetary penalty seems reasonable.

14 **V. THE COMMISSION SHOULD SUSPEND MORE OF THE PENALTY**
15 **THAN STAFF REQUESTS**

16 **Q. Can the Commission suspend a portion of a penalty?**

17 A. Yes. The Enforcement Policy establishes several factors that the Commission will
18 consider to determine whether to suspend a portion of a penalty.⁴²

19 **Q. Did Staff recommend suspension of a portion of the penalty?**

⁴¹ Feeser, Exh. BF-1T at 17:19-20.

⁴² Enforcement Policy, ¶ 20.

1 A. Yes.⁴³ Ms. Feeser testifies that “[i]f the Commission chooses to suspend a portion of
2 a regulatory penalty to encourage future compliance in this case, Staff recommends
3 that no more than 50 percent be suspended for a period of two years and then
4 waived on the condition that no further violations of this nature occurred during the
5 suspension period.”⁴⁴

6 **Q. How does Staff justify its suspension recommendation in light of the suspension
7 factors in the Enforcement Policy?**

8 A. It doesn’t. Ms. Feeser quotes the factors in the course of summarizing Commission
9 enforcement generally,⁴⁵ but never mentions the factors for suspension again.

10 **Q. Do you agree with Staff’s recommendation to suspend no more than 50 percent
11 of the penalty?**

12 A. No. WMW has demonstrated a commitment to preventing future violations under
13 Tariff No. 14, Item 240 specifically, as well as multiple broader changes to improve
14 on our historical record of compliance. Given the inadequacy of Staff’s testimony
15 regarding suspension, more of the penalty should be suspended than the 50 percent
16 maximum Staff proposes.

17 I believe that a suspension of 75 percent of the penalty is appropriate based
18 on the Commission’s factors.

19 **Q. Which of the Commission’s suspension factors will you address?**

⁴³ Feeser, Exh. BF-1T at 18:11-12.

⁴⁴ Feeser, Exh. BF-1T at 2:16-20, 10:15-18, 19:7-11; *see also* Feeser, Exh. BF-1T at 18:12-15.

⁴⁵ Feeser, Exh. BF-1T at 12:16-13:5 (citing Enforcement Policy, ¶ 20).

1 A. I will testify about the Commission’s second, third, and fourth factors regarding
2 suspension:

3 2. Whether the company has taken specific actions to remedy the
4 violations and avoid the same or similar violations in the future.

5 3. Whether the company agrees to a specific compliance plan that will
6 guarantee future compliance in exchange for suspended penalties.

7 4. Whether Staff and the company have agreed that Staff will conduct a
8 follow-up investigation at the end of the suspension period and that if
9 a repeat violation is found, the suspended penalties are re-imposed.⁴⁶

10 **Q. Factor 2: Has WMW taken specific actions to remedy the violations and avoid**
11 **the same or similar violations in the future?**

12 A. Yes. WMW has taken a variety of actions to remedy the violations and avoid their
13 recurrence. In particular, please refer to the background discussion of actions
14 WMW took after the April 2023 information request and before the Commission
15 filed the Complaint, and my discussion of WMW’s compliance program under
16 enforcement factor 10.

17 **Q. Factor 3: Does WMW agree to a specific compliance plan that will guarantee**
18 **future compliance in exchange for suspended penalties?**

19 A. Yes. Staff recommends that the Commission require WMW to: “(1) audit its
20 compliance with Item 240 service frequency state-wide, including all routes to
21 which Item 240 applies, (2) file its audit report as a compliance filing in this docket,

⁴⁶ See Enforcement Policy, ¶ 20 (suspension factors).

1 and (3) ensure that appropriate [WMW] employees are properly trained with respect
2 to regulatory compliance.”⁴⁷ Staff recommends that after a two-year suspension,
3 WMW be required to conduct a follow-up audit regarding its compliance with
4 Item 240 service frequency state-wide.⁴⁸

5 WMW agrees to these recommendations. As I’ve discussed, WMW is
6 already well along the way to implementing the measures Staff wants the
7 Commission to require and is willing to review its progress and file the results in a
8 follow-up audit after the suspension period.

9 **Q. Factor 4: Does WMW agree that Staff can conduct a follow-up investigation at**
10 **the end of the suspension period, and that if a repeat violation is found, the**
11 **suspended penalties may be re-imposed?**

12 A. Yes. We have no objection to such an investigation, though we recognize that with
13 or without our agreement, Staff has significant freedom to investigate WMW as a
14 Commission-regulated company.

15 VI. CONCLUSION

16 **Q. In summary, what should the Commission do in this case?**

17 A. The Commission should assess a reasonable penalty for WMW’s violations and
18 order the non-monetary measures Staff requests, which WMW does not oppose.

19 The Commission should decline Staff’s invitation to issue an unreasonable,

⁴⁷ Feeser, Exh. BF-1T at 2:20-3:1, 10:18-22, 19:11-15.

⁴⁸ Feeser, Exh. BF-1T at 3:1-4, 10:22-11:2, 19:15-18 (also recommending that WMW then file the audit report in this docket as a compliance filing).

1 factually unsupported order inflicting the maximum possible penalty. And given
2 Staff's failure to justify its recommended suspension, the Commission should
3 suspend 75 percent of the eventual penalty, conditioned on WMW's compliance
4 over the next two years.

5 **Q. Does this conclude your testimony?**

6 **A. Yes.**