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BEFORE THE WASHINGTON UTILITIES
AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

WASTE MANAGEMENT OF
WASHINGTON, INC. d/b/a WASTE
MANGEMENT OF SPOKANE

Respondent.

DOCKET NO. TG-143889

RESPONSE TO
PETITION TO INTERVENE BY
SPOKANE COUNTY

I. INTRODUCTION

1. COMES NOW Waste Management of Washington, Inc. d/b/a Waste Management of Spokane (“WMW” or “Company”) holder of Certificate of Public Convenience and Necessity No. G-237, by and through its attorneys, Polly L. McNeill and Sara A. Kelly of Summit Law Group PLLC, and in accordance with WAC 480-07-355(2) files this *Response to Petition to Intervene by Spokane County* (“WMW Response”), to communicate that WMW will not oppose the *Petition to Intervene by Spokane County* (“County Petition”), so long as certain conditions are imposed on the scope of the intervention.

2. This matter comes before the Washington Utilities and Transportation Commission (“WUTC” or “Commission”) in a highly unusual administrative posture. Although the docket is nominally styled as a general rate case, there is no dispute between the Commission Staff and the Company with regard to the rates themselves. *See Staff Memo re TG-143889 Waste Management of Washington, Inc. d/b/a Waste Management of Spokane* (February 26, 2015) (“Commission staff has completed its review of the company’s supporting financial

1 documents and responses to data requests and concluded that the company is entitled to
2 revise its rates accordingly.”) (Page 2 of “Staff Memo,” attached).

- 3 3. Instead, Spokane County’s desire to inject itself into the proceedings in order to verify Staff’s
4 audit of the Company’s rate filing prompted the Commission to approve WMW’s rates
5 subject to refund and set this matter for a hearing, thereby allowing the County access to
6 WMW’s confidential documents under the safeguards afforded by a protective order. For
7 that purpose alone, WMW is willing to agree to the County’s intervention. The Company is
8 eager to maintain a positive relationship with the County, and is confident that the County’s
9 further review will validate the results of Staff’s audit. WMW, however, is keenly interested
10 in avoiding unnecessary hearing costs and participating in unwarranted process.

11 II. BACKGROUND

- 12 4. The Company’s proposed rate increase was largely caused by a dramatic reduction in its
13 WUTC-regulated customer base. The cities of Spokane Valley and Liberty Lake elected to
14 enter into contracts for municipal solid waste collection, effective November 17, 2014. As a
15 result of the two cities contracting for solid waste collection services under RCW 81.77.020,
16 the number of WMW’s WUTC-regulated customers in its Spokane territories dropped to
17 approximately 26,500 from about 52,000. With a 51% reduction in the rate base, and loss of
18 the most efficient portion of the Spokane territories, WMW’s per-customer costs for serving
19 the remaining regulated ratepayers in the rural, more sparsely populated areas of the
20 unincorporated County went up.¹ WMW filed tariff revisions on November 14, 2014,
21 proposing rates to become effective on January 1, 2015, in accordance with RCW 81.77.160
22 and WAC 480-70-341.

- 23 5. Prior to the December 30, 2014, open meeting when WMW’s filing was to be presented to
24 the Commission for approval, Spokane County filed a notice of appearance. The County

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26 ¹ Since the Company’s last general rate case in May 2013, there have also been other changes, including increased
plant and equipment investment costs, higher labor costs, decreased fuel costs, and lower disposal fees. The
withdrawal of the two cities from the WUTC-regulated rate base had by far the biggest impact on rates, though.

1 participates with the City of Spokane in a County-wide disposal system that utilizes the City-
2 owned incinerator and County-operated transfer stations. The decision of Spokane Valley
3 and Liberty Lake to contract not only affected WUTC-regulated rates, it also removed a
4 significant portion of the waste stream from the County's system. Unhappy with the
5 Company's request for increased rates, at the open meeting the County expressed distrust in
6 the process and the basic math involved.

7 6. In response to the County's concerns at the open meeting, the Commission suspended the
8 docket. The Commissioners directed Staff to further review the allocation factors used in
9 this general rate case. Staff was also instructed to include the County in further discussions.
10 On January 16, 2015, prior to the commencement of adjudicative proceedings, Spokane
11 County filed its Petition to Intervene.²

12 7. On January 29, 2015, Staff and the Company convened with County representatives in an
13 attempt to address the County's concerns outside of the adjudicative process. At that
14 meeting, the County indicated that the only way to address its concerns was to independently
15 verify increased costs for ratepayers in the unincorporated area by reviewing the Company's
16 work papers. It had not, however, undertaken any effort to do so. Immediately following the
17 meeting, the Company provided redacted work papers and nonconfidential documents to the
18 County for its review, and offered to have WMW's Mike Weinstein available to answer any
19 questions. *See* attached Letter from Polly L. McNeill to P. Stephen DiJulio (January 30,
20 2015). The County did not respond to this offer, and contacted neither Staff nor the
21 Company about the information contained in the papers provided. The docket was scheduled
22 to return to the Commission at the next open meeting on February 26, 2015. On February 13,
23 2015, the County filed a request for public records with the WUTC.

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26 ² The City of Millwood also submitted a notice of appearance, but on January 20, 2014, filed a Notice of
Withdrawal.

- 1 8. At the open meeting on February 26, 2015, Staff reported that it had conducted further
2 review to double-check cost allocations and to audit regulated expenses, following the
3 Commissioner’s directive at the December 30 open meeting. As a result of this further, in-
4 depth review, both Company and Staff were able to identify a few minor corrections,
5 including an adjustment from updating fuel costs to the most recent twelve-month period.
6 However, no amount of fine-tuning could offset the reduction in efficiencies caused by the
7 loss of the dense, urban customers in the two cities. As Staff succinctly observed, “It now
8 costs the company more, per customer, to serve the remaining regulated customers....” Staff
9 Memo, at 2.
- 10 9. Staff reported that it had completed its review, and concluded the Company was entitled to
11 the revised rates. Staff recommended the Commission approve the newly-revised rates to be
12 allowed on a temporary basis, subject to refund. Staff nonetheless also recommended that
13 the matter be set for hearing, “to afford interested parties, including Spokane County, an
14 opportunity to voice their respective concerns.” Spokane County supported Staff’s
15 recommendation that the matter be set for hearing. The County reiterated its limited
16 objective to merely verify the auditing work conducted by Commission Staff.
- 17 10. Because the adjudicative process affords the Company protections from disclosure of
18 confidential information, WMW also did not oppose commencing the hearing process. It is
19 not common for a local jurisdiction to insert itself outright into the rate process and the
20 County is an important governmental partner to the Company. However, at the open
21 meeting, the Company expressed concerns about how to manage a general rate case that is
22 driven solely by a third-party intervenor.
- 23 11. Following the open meeting, in accordance with the recommendation of Staff, on March 1
24 WMW’s revised rates went into effect on a temporary basis, subject to refund. The
25 Commission set the matter for hearing, so that the County could be given an opportunity to
26 review the audit results.

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III. PARTIES

12. Petitioner's name and address are as follows:

Waste Management of Washington, Inc.
Michael A. Weinstein
720 Fourth Avenue, Suite 400
Kirkland, WA 98033-8136

13. Petitioner's attorneys' names and address are as follows:

Summit Law Group PLLC
Polly L. McNeill & Sara A. Kelly
315 Fifth Avenue S., Suite 1000
Seattle, WA 98104

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IV. RESPONSE TO COUNTY'S PETITION TO INTERVENE

14. WMW strives to maintain positive relationships with local governments involved in solid waste handling. Although Spokane County does not have authority to regulate the rates for collection services, it has considerable involvement in establishing solid waste policies by preparing a solid waste management plan under RCW 70.95.100, and by enacting service level ordinances under RCW 70.95.092. WMW is willing to use the hearing procedures and statutory protections so that the County has an opportunity to verify the auditing work conducted by Commission Staff, while maintaining confidentiality of the Company's papers.

15. Nonetheless, as expressed at the open meeting on February 26, WMW requests that the Administrative Law Judge impose reasonable constraints on this adjudication. Given the absence of disagreement between the Company and Staff, the County's Petition *a fortiori* broadens the issues in this proceeding. Under the Commission's regulations, an intervenor is required to prepare a statement of proposed issues and an affidavit or declaration that clearly and concisely sets forth the facts supporting its interest in broadening the issues. WAC 480-07-355(1)(c)(iv). Because the County's Petition is actually driving the hearing process, the Administrative Law Judge may establish hearing procedures that prevent the issues from being broadened beyond what is necessary.

16. For that reason, WMW requests that the scope of the County's inquiry be limited to verifying allocation of expenses. The Commission should not allow this to be a venue for an open-ended inquiry into every small detail of the filing. Rate making is a complex process that

1 involves the exercise of discretion and professional judgment. Staff has already thoroughly
2 reviewed WMW's work papers not once, not twice, but several times. The County should
3 not be permitted to delve into every detail of this filing. The County has steadfastly
4 maintained an interest in verifying allocations between regulated and newly-unregulated city
5 operations, and limiting the scope of its inquiry to that stated purpose is consistent with the
6 County's objectives.

7 17. Further, WMW urges the Commission to maintain the proper focus of this proceeding by
8 directing a modified order of presentation. Generally, a company seeking a rate increase has
9 the burden of proof. WAC 480-07-540 and RCW 81.04.130 ("At any hearing involving any
10 change in any schedule, classification, rule, or regulation the effect of which is to increase
11 any rate, fare, charge, rental, or toll theretofore charged, the burden of proof to show that the
12 increase is just and reasonable is upon the public service company.") For that reason, the
13 company usually presents evidence first. WAC 480-07-470(6)(a). In the context of this
14 unique procedural posture, however, the intervenor should be required to present its bases for
15 opposition first. Considering the needs of the parties, the Commission, and the proceeding, it
16 is appropriate for the Administrative Law Judge to exercise the authority granted by WAC
17 480-07-470(6) and direct a modified order of presentation.

18 18. As a threshold matter, the Commission may presume that WMW has already met its burden
19 of proof, as evidenced by the Staff recommendation to approve the rates on a temporary basis
20 and its conclusion that the Company is entitled to the revised rates. There is no dispute
21 between the Company and Staff, and both parties have determined that the temporary rates
22 put into effect are just, fair, reasonable and sufficient.

23 19. The County's intervention should not be used to make this proceeding more formal, more
24 protracted, or more expensive than it needs to be. Solid waste collection companies are not
25 required to prefile direct testimony and exhibits at the time a rate increase request is filed.
26 WAC 480-07-460(1). WMW has not, to this point, been called upon to prepare formal

1 documents supporting its case. To require it to do so would put form over substance. The
2 Company would only be guessing as to what, exactly, should be the subject of any prefiled
3 testimony at this point. Instead, the Company should be told by the County what it should
4 rebut before preparing its testimony.

5 20. In this instance, the County is more like a complainant than an intervenor. However, at this
6 point the County has not articulated a clear basis for its complaints other than general
7 unhappiness with any rate increase at all. Further, its skepticism calls into question the
8 judgment and ratemaking expertise of both the Company and Staff. The County should be
9 required to come forward and state the reasons it has, if any, for challenging whether the
10 rates are just, fair, reasonable and sufficient. WMW should not be required to anticipate
11 every possible objection of the County. If the County's review identifies specific issues,
12 calculations, or methodologies, then the Company and Staff can respond. Indeed, depending
13 on the issues raised by the County, it may be that a response from Staff would be warranted
14 as well.

15 21. The County has been consistent in its request to "trust but verify" the Commission's auditing
16 process. Time and again, the County has expressed its desire to confirm that costs were
17 properly allocated between regulated and unregulated city-contract operations. WMW is
18 hopeful that the County's review of the confidential work papers and nonconfidential filings
19 will assuage the County's concerns. Unless and until the County identifies a meaningful
20 error in the Commission's review, there may be no need for any further process at all. It is
21 possible that once the County reviews the documents, it will be satisfied and the docket can
22 be closed.

V. CONCLUSION

For the reasons stated above, WMW does not oppose the Administrative Law Judge granting the Petition to Intervene by Spokane County, subject to the procedural and substantive constraints requested above.

DATED this 12th day of March, 2015.



By _____

Sara A. Kelly, WSBA # 42409
Polly L. McNeill, WSBA # 17437
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Attorneys for Waste Management of
Washington, Inc.

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I have this day served this document upon all parties of record in this
3 proceeding, by the method as indicated below, pursuant to WAC 480-07-150.

4 Washington Utilities and Transportation Commission 5 1300 S. Evergreen Park Dr. SW 6 PO Box 47250 7 Olympia, WA 98504-7250 8 360-664-1160 9 records@utc.wa.gov	<input checked="" type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input type="checkbox"/> Via U.S. Mail <input type="checkbox"/> Via Email
10 Julian Beattie, Assistant Attorney General 11 Office of the Attorney General 12 Utilities and Transportation Division 13 1400 S. Evergreen Park Dr. SW 14 P.O. Box 40128 15 Olympia, WA 98504-0218 16 jbeattie@utc.wa.gov 17 Attorney for Washington Utilities and Transportation Commission Staff	<input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input checked="" type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email
18 P. Stephen DiJulio 19 Foster Pepper PLLC 20 1111 Third Avenue, Suite 3400 21 Seattle, WA 98101-3299 22 DiJup@foster.com 23 Attorney for Intervenor, Spokane County	<input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input checked="" type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email
24 James K. Sells 25 PMB 22 26 3110 Judson Street Gig Harbor, WA 98335 Email: jamesells@comcast.net Attorney for Interested Party, Washington Refuse and Recycling Association	<input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input checked="" type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email

27 DATED at Seattle, Washington, this 12th day of March, 2015.

28 /s/ Katie Angelikis
29 Katie Angelikis, Legal Assistant

Agenda Date: February 26, 2015
Item Number: B1

Docket: TG-143889
Company Name: Waste Management of Washington, Inc., dba Waste Management of Spokane

Staff: Ann LaRue, Lead Regulatory Analyst
Mike Young, Regulatory Analyst
John Cupp, Consumer Protection Staff

Recommendation

1. Allow the revised rates filed by Waste Management of Washington, Inc., dba Waste Management of Spokane on November 14, 2014, and revised on February 17, 2015, to go into effect March 1, 2015, on a temporary basis, subject to refund.
2. Set this docket for a pre-hearing conference.

Background

On November 14, 2014, Waste Management of Washington, Inc., dba Waste Management of Spokane (WM Spokane or company), filed tariff revisions with the Utilities and Transportation Commission (commission) that would generate approximately \$1,160,000 (10 percent) additional annual revenue. The proposed increase was prompted by increases in labor and other operating and administrative costs, and a reduced regulated customer base. The reduced regulated customer base is due to the cities of Spokane Valley and Liberty Lake contracting with WM Spokane for waste hauling services. In doing so, the number of regulated residential, commercial, and drop box customers being served by WM Spokane has dropped to approximately 26,500 from approximately 52,000. The company's last general rate increase became effective May 1, 2013.

At the December 30, 2014, open meeting the commission issued a complaint and order suspending the tariff revisions filed by WM Spokane on November 14, 2014, and revised on December 19, 2014. The commission also ordered WM Spokane to file replacement pages for disposal only rates, to become effective on January 1, 2015, in accordance with RCW 81.77.160 and WAC 480-70-341.

Prior to the December 30, 2014, open meeting the City of Millwood and Spokane County (the county) filed notices of appearance. The commission tasked staff to further review the allocation factors used in this general rate case, including compressed natural gas (CNG) vehicles and facilities, and the related depreciable lives and depreciation schedules used. Staff was also instructed to include the city and the county in further discussion to the extent they were willing and able to participate to resolve this matter without a hearing. On January 16, 2015, Spokane County filed a Petition to Intervene. On January 20, 2015, the City of Millwood filed a Notice of Withdrawal.

On January 29, 2015, staff, the company, and the county met to discuss issues surrounding this case. The county stated concerns about the increased rates that will impact them, as ratepayers, as well as the other ratepayers in the remaining regulated service area of WM Spokane, primarily located in unincorporated Spokane County. The company provided redacted workpapers to the county on January 30, 2015. On February 13, 2015, the county filed a request for public records (RFPR) which the county subsequently suspended on February 19, 2015.

Discussion

Staff and the company worked diligently to further clarify the cost allocation factors used in this rate case and also reviewed regulated expenses for this rate case in relation to the regulated expenses in the previous case. The regulated cost allocation factors, as well as the regulated expenses have decreased by approximately half, corresponding to approximately half of the company's regulated customers having changed from regulated to nonregulated service due to new contracts with Spokane Valley and Liberty Lake. The similarity of the expense percentages from the prior case to this case, show costs remain in line with former operations.

The loss of more dense, urban customers, and fully automated routes into the now-contracted areas caused a reduction in efficiencies within the regulated service area for WM Spokane. It now costs the company more, per customer, to serve the remaining regulated customers because routes had to be changed, customers are located further apart, and drivers spend more time servicing the remaining customers.

Other changes since the company's last rate case include: a \$6 million (40 percent) increase in plant and equipment investment costs; increased labor cost of \$460,000 (3.7 percent of total labor expenses); decreased fuel costs of \$65,000 (6.5 percent of total fuel expenses); and a \$107,000 (0.01 percent) decrease in disposal fees. While the overall increase is approximately 8.6 percent, there is a big variance in the percentage increases for each line of business:

- garbage rates are increasing approximately 4.5 percent;
- yard waste rates are increasing approximately 26.8 percent, and;
- residential recycling rates are increasing approximately 13.8 percent.

These differences are primarily due to the new, higher investment in plant and equipment for the yard waste and recycling lines of business.

Commission staff has completed its review of the company's supporting financial documents and responses to data requests and concluded that the company is entitled to revise its rates accordingly. Therefore, in order to establish temporary rates, staff and the company have agreed to a revised revenue requirement of approximately \$992,000 (8.6 percent) additional annual revenue and on lower revised rates, to be allowed on a temporary basis, subject to refund. On February 17, 2015, the company filed revised pages at staff recommended levels. However, staff recommends the commission allow the revised rates on a temporary basis, subject to refund, to afford interested parties, including Spokane County, an opportunity to voice their respective concerns. We urge the commission to set this matter for hearing.

Rate Comparison

Residential Monthly Rates (weekly service)	Current Tariff Rate	Company Proposed Rates	Temporary Disposal Only Rate	Staff Revised Temporary Rates	Increase Over Current Tariff Rate
1 32-Gallon Can	\$13.39	\$14.32	\$13.22	\$13.99	4.5%
1 35-Gallon Cart	\$14.45	\$15.46	\$14.26	\$15.09	4.4%
1 64-Gallon Cart	\$21.79	\$23.31	\$21.55	\$22.76	4.5%
1 96-Gallon Cart	\$29.14	\$31.17	\$28.79	\$30.44	4.5%
Residential Yard Waste					
1 96 Gallon Cart	\$10.71	\$13.72	n/a	\$13.58	26.8%
Residential Recycling					
1 96 Gallon Cart	\$7.16	\$8.32	n/a	\$8.15	13.8%
Commercial (per pickup)					
32-Gallon Can	\$3.49	\$3.72	\$3.46	\$3.65	4.6%
2-Yard Container	\$27.33	\$29.14	\$26.95	\$28.55	4.5%
Drop-Box Service					
20-Yard Container	\$65.00	\$65.00	\$65.00	\$67.90	4.5%

Comment Summary

On December 1, 2014, the company notified its customers of the proposed rate increase. Customers were notified by mail that they may access relevant documents about this rate increase on the Commission's website, and they may contact John Cupp at 1-888-333-9882 or jcupp@utc.wa.gov with questions or concerns. Staff received 47 consumer comments regarding the proposed rate increase; 43 opposed to the rate increase, one in favor, and three undecided.

General Comments

Twenty-four customers commented that fuel prices are down, and should not be a reason for the company's rates to increase. Four customers stated that the current rates are already too high. Several customers stated that the company needs to cut costs rather than pass everything through to customers.

Staff Response

The customers were advised that state law requires rates to be fair, just, reasonable and sufficient to allow the company to recover reasonable operating expenses and the opportunity to earn a reasonable return on its investment. Regulatory staff reviews filings to ensure that all rates and fees are appropriate.

The Spokane Office of County Commissioners and the City of Millwood provided comments on this case. They disagree with the claim of a reduced customer base because the company still

provides service to residents of Spokane Valley and Liberty Lake. Additionally, Spokane County commented that it has reduced disposal rates at county-owned transfer stations, further reducing the need for a rate increase.

Staff Response

Staff is aware of these concerns and has considered them in the analysis of this case. The customers' comments do not change staff's opinion that the company's financial information supports the proposed revenue requirement and the revised rates and charges are fair, just, reasonable, and sufficient.

Conclusion

1. Allow the revised rates filed by Waste Management of Washington, Inc., dba Waste Management of Spokane on November 14, 2014, and revised on February 17, 2015, to go into effect March 1, 2015, on a temporary basis, subject to refund.
2. Set this docket for a pre-hearing conference.



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January 30, 2015

P. Stephen DiJulio
Foster Pepper LLC
1111 Third Avenue, Suite 3400
Seattle, WA 98101-3299

Re: Waste Management Rate Case Documents

Dear Steve:

Enclosed with this letter please find a CD containing the documents filed by Waste Management of Washington, Inc. d/b/a Waste Management of Spokane ("WM") for its general rate case requesting tariff revisions.

These are the filed documents. They do not reflect the revisions made by the auditors in the course of their reviews. These are also the "nonconfidential" documents.

In addition to providing these documents to the County, Mike Weinstein can be available in person or by telephone to talk through these various spreadsheets and explain the analysis to address the concerns you articulated about the County's desire to confirm that allocations have been properly made between regulated and nonregulated operations.

Mike can also talk with the personnel reviewing this information on the County's behalf about any relevant "confidential" information that is redacted. The company cannot provide the County with documents containing the confidential information, but WM believes the enclosed documents, embellished by Mike's explanations, will enable the County's critique of cost allocations. If there are any other measures that we can take to assist the County in its analysis, we are open to suggestions.

If you would like us to arrange for Mr. Weinstein to be available, or if the County's reviewer would like to visit the corporate offices, I will be happy to facilitate it. Otherwise, please let us know if you have any questions.

P. Stephen DiJulio
January 30, 2015
Page 2

Sincerely,

SUMMIT LAW GROUP PLLC

Sara Kelly for

Polly L. McNeill

Enclosures

cc: Mike Weinstein
Sara Kelly

**Waste Management Spokane / WUTC
Dkt. TG-143889**

**NON-CONFIDENTIAL WORKPAPERS &
REDACTED WORKPAPERS**