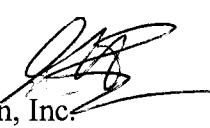


Memorandum

2/2/12 I agree
with the

TO: Gene Eckhardt, Assistant Director of Solid Waste, Water, and Transportation

FROM: Penny Ingram, Regulatory Analyst

recommendation
to deny. 

DATE: January 30, 2012

RE: Deny the temporary application filed by Waste Management of Washington, Inc.

Waste Management of Washington, Inc. (Waste Management), filed a temporary application on December 30, 2011, in Docket No. TG-120034, requesting temporary authority to provide medical waste service statewide.

At the same time, Waste Management filed a permanent application to extend its authority to provide medical waste service on a statewide basis (Docket No. TG-120033).

Staff must analyze the temporary application according to:

WAC 480-70-131 Certificates, temporary.

(2) Public interest. The commission may grant a temporary certificate after determining that granting the requested authority is consistent with the public interest. In determining if the requested temporary authority is consistent with the public interest, the commission will consider factors including, but not limited to:

(a) The fitness of the applicant.

Staff believes the company's UTC annual report, showing close to \$400 million operations, together with the extensive information the company has filed, and staff has audited, to support general rate case filings is sufficient to conclude the company is financially fit to provide the requested medical waste service statewide.

(b) The immediate or urgent need for the requested service due to circumstances such as, but not limited to:

(i) An emergency rendering it impossible for the existing company to provide service.

Waste Management, in its application, did not state there is an emergency making it impossible for Stericycle to provide medical services to this one shipper outside of Waste Management's territory. Therefore, staff concludes this element does not require the commission to grant a temporary application.

(ii) Commission action suspending or canceling the authority of the existing company.

Staff Memorandum

January 30, 2012

Docket No. TG-120034

Waste Management of Washington, Inc. – Medical Waste Temporary Application

Staff found that the commission has not suspended or canceled any existing medical waste certificates; therefore, staff concludes this element does not require the commission to grant a temporary application.

(iii) Lack of service.

Currently, Stericycle provides medical waste service statewide including all locations the customer’s laboratories are located. For the supporting customer, Stericycle serves all laboratories located outside Waste Management’s service area and Waste Management serves all laboratories located within Waste Management’s service area. Staff checked complaints data to determine if there was a potential service issue with Stericycle and staff found no complaints. Therefore, staff must conclude that there is service available for medical waste customers.

(c) Whether the requested service is currently available from an existing company serving the territory.

The following companies provide medical waste service within their certificated territories. Stericycle and Waste Management currently are providing medical waste service to the customer so staff concludes there are existing companies to provide medical waste service.

Solid Waste Certificate Number	Regulated Solid Waste Companies	Companies that provide medical waste collection	Counties Served
G-190	Consolidated Disposal Service, Inc.	Medical Waste Tariff	Adams
G-165	Basin Disposal, Inc.	Medical Waste Tariff	Columbia
G-75	Empire Disposal	Medical Waste Tariff	Spokane
G-9	Murrey’s Disposal	Medical Waste Tariff	Pierce
G-42	Pullman Disposal Service, Inc.	Medical Waste Tariff	Whitman
G-58	Rubantino Refuse Removal, Inc.	Medical Waste Page in solid waste tariff	Snohomish
G-244	Stericycle of Washington, Inc.	Medical Waste Tariff	State Wide Authority – all counties
G-237	Waste Management of Washington	Medical Waste Tariff	Benton, Chelan, Douglas, Grant, Island, King, Kitsap, Kittitas, Lincoln, Mason, Okanogan, Pierce, Skagit, Snohomish, Spokane, and Whatcom

(d) Any other circumstances indicating that a grant of temporary authority is consistent with the public interest.

In Docket No., TG-110553, Stericycle of Washington, Inc.'s complaint against Waste Management, the commission stated in its final order (paragraph 36, page 14-15):

“Waste Management and Staff cite to various authorities that show the Commission recognizes a need for competitive opportunities in this segment of the industry, which is considered a specialized service, in significant part *because of* its public health and safety implications. That is, the Commission has historically found that promoting competition in this segment of the industry is in the public interest because, among other things, it promotes higher quality of service in terms of protecting the public health and safety.

The case cited above involved only Stericycle and Waste Management. The commission regulates six other medical waste companies that would be impacted if the commission granted the temporary application. Staff does not believe the statement by the commission in this docket removes the criteria cited in WAC 480-70-131. Therefore, staff recommends that the temporary application be denied.

(3) Shipper support statements required. Applicants for temporary certificates must include signed and sworn support statements from one or more potential customers identifying all pertinent facts relating to need for the proposed service.

There is one support statement from a laboratory company. Staff enquiry found that the company owns approximately 60 facilities in Washington State. Currently, the company uses Waste Management to provide medical waste service to 39 laboratory facilities that are in its certificated area and Stericycle provides medical waste service to 21 facilities.

The shipper stated that it does have an immediate need so that all of its laboratories can be served by Waste Management statewide. The shipper states that by allowing Waste Management to provide service to its other facilities (currently being served by Stericycle) the shipper will benefit from efficiencies, eliminating administrative redundancies, and reducing internal overhead cost. Staff notes that if the shipper wants to use only one company to provide medical service to all of its laboratory facilities that is available today by using Stericycle, the only company that operates statewide. Staff views this as a preference rather than an actual need, and does not find this argument compelling.

Staff Memorandum

January 30, 2012

Docket No. TG-120034

Waste Management of Washington, Inc. – Medical Waste Temporary Application

Staff understands that the commission has received protests to Waste Management's temporary application; however, staff did not use the various protests in any of its analysis because the rule allows parties to only protest after the commission publishes notice of the temporary application in The Docket.

RECOMMENDATION

Staff recommends that Licensing Services deny Waste Management's temporary application for the reasons stated above. Staff recommends that Licensing Services notify interested stakeholders using The Docket that Waste Management's temporary application to provide medical waste statewide is denied. Staff also recommends that Licensing Services publish Waste Management's request to permanently extend its certificate to provide medical waste statewide in The Docket.