

BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION

In re Application No. GA-079331 of  
SURE-WAY SYSTEMS, INC.  
For A Certificate of Public Convenience and  
Necessity to Operate Motor Vehicles in  
Furnishing Solid Waste Collection Service

DOCKET NO. TG-042089  
PREFILED REPLY TESTIMONY  
OF GARY CHILCOTT

I, Gary Chilcott, declare under penalty of perjury of the laws of the State of Washington, that the following is true and correct:

1. Sure-Way Systems, Inc. ("Sure-Way") can achieve a 25% market share for the following reasons. Sure-Way has broader reusable Sharps container, service and lid offerings than Stericycle. Stericycle has not aggressively offered its sharps disposal program and for that reason has a large untapped medical waste market for that waste stream that is almost entirely untouched. In other markets, Stericycle and Sure-Way have about the same share of the reusable sharps container business. Sure-Way expects to find the same interest that they have found in Northern Idaho and other areas for our cost effective sharps disposal service. Stericycle's restrictive long term contracts with its existing medical waste customers will require more time to allow those customers the opportunity to change to our services but the sharps program will carry us until those contracts are terminated. Reusable sharps containers constitutes new income in the medical waste market, not necessarily much of which is taken away from Stericycle. For customers, the increase in cost, if any, to their medical waste disposal services is offset by the savings of not having to continually buy disposable sharps containers which amounts to \$10's of thousands of dollars a year for the average hospital.

2. Sure-Way's routes will be dependent upon the success of our marketing. Our estimates for our proforma financial statements are based on our experience in rural markets such as Montana, Wyoming, North & South Dakota, and Minnesota. While large metropolitan medical facilities may require weekly service, most rural facilities are serviced once a month. By coordinating pick-ups, we can efficiently collect waste from multiple accounts on our regular scheduled service. We have 3 full time drivers driving 24 ft box trucks and pulling 24 ft trailers servicing all the medical waste customers in Montana and Western Wyoming, an area several times the size of Washington that we are proposing to serve. One well equipped route driver with a standard box van and trailer can pick up 2 Semi loads of waste a week as evidenced by our Western Montana route truck and Central Montana Route Truck and still work only 4 days a week allowing one day for bad weather, holidays and other contingencies. Sure-Way drivers have been doing this for years and see no reason why we

1 cannot do it in Washington as well. At the start, one driver without a trailer can serve a southern  
2 route and a northern route on alternate weeks in no more than 3 days allowing 2 days to serve the  
3 Spokane area with plenty of time to spare. As route density is added a trailer will be added and a  
city/back-up driver will be added in that order.

4 3. In 1999 Sure-Way failed to pay its fees on time for its Solid Waste license in Montana. See  
5 Exhibit JAK-6. At that time, Sure-Way's offices were in a state of confusion with part of the work  
6 being done in California and part being done in Montana. As a result, the payments to the state were  
not made on time, but we did catch up. The state did not send a bill, it was paid about \$600 per  
quarter, and we have since consolidated our offices and have not had that problem again.

7 4. In 2002 Sure-Way was cited for improper burning of Sure-Way paper waste. See Exhibit  
8 JAK-8. A Sure-Way plant employee, who was also a North Dakota farmer, knew that he could burn  
9 non hazardous materials in a burn pit he had on his farm. He tried to help the company by taking  
10 some old records home and burned them in his pit. The state told the employee and Sure-Way that he  
can only burn his own wood and papers and such. It has not and will not happen again. A misguided  
employee just trying to help out.

11 5. In 2000 Sure-Way was cited for improper handling of sharps waste in North Dakota. North  
12 Dakota has a rule unique in the nation of saying that sharps have to be "unsharp" before they can be  
13 placed in a landfill. The shredder that we were using did not break up the sharps enough to make  
14 them unsharp by staff interpretation. Sure-Way after that had its customers source separate the sharps  
15 waste so it could be processed separately and taken to a landfill in Minnesota while the majority of the  
16 treated medical waste is taken to the Waste Management landfill located at Guinner, North Dakota.  
17 Occasionally a customer would forget to separate the sharps and they would be hidden in a red bag  
container and mixed with the treated waste. Sure-Way took corrective actions with it's processing,  
training and engineered equipment to correct this problem. With these changes and by working on  
customer waste management these problems have been managed and we have not had another  
incident.

18 6. Contrary to the allegations of Stericycle, Sure-Way believes it has substantially complied with  
19 Food and Drug Administration ("FDA") regulations. Sure-Way is a medical waste processing  
20 company, not a manufacturer of an FDA regulated medical device. The FDA knows of the  
21 complexity and confusion associated with its rules and is willing and helpful allowing us to call them  
22 when we find problems or one is pointed out to us. Walter Snesko, an FDA employee, concluded  
based on his years of experience in the FDA, that Sure-Way is a refurbisher and not subject to FDA  
regulation. See attached Exhibits GC-24 and GC-25.

23 7. Since Sure-Way did not manufacture the containers we use (L&H Molding did), we did not  
24 realize we needed to register the containers as medical devices with the FDA beyond submitting our  
510(k) premarket notification. We have now done so. See Exhibit JAK 13.

1 8. When we were applying for our 510K everything concerning our containers was pending.  
 2 That is why we used the word "pending" in the application to describe the establishment registration  
 number of the manufacturer and the distributor.

3 9. The use of the word "approved" in our Sharps Disposal Service Contract was intended to  
 4 refer to DOT approval, not FDA approval. We intended the phrase "510k FDA" to indicate we had  
 5 received our notification from the FDA that we could market the containers. We now see how using  
 the two items together could be misconstrued and have corrected it where we can.

6 10. To the best of my knowledge Sure-Way Systems has no violations over the past 15 years  
 7 other than the ones that have been presented in this hearing by Stericycle. Medical waste is a  
 8 regulatory rich environment and over 15 years to have so few fines issued shows that the severity of  
 9 the violations was not considered flagrant. Sure-Way takes great effort as a small company to run a  
 clean effective and reputable company. Reputation is everything in the medical service field. Sure-  
 Way works hard to comply with the laws and if a problem is found we are proactive and quick to  
 correct it.

10 DATED this 1<sup>st</sup> day of August, 2005 at Oster Lodge, Montana.

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 13 Gary Chilcott  
 14 Gary Chilcott