

**BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION**

STERICYCLE OF WASHINGTON, INC.,	)	DOCKET TG-110553
	)	
	)	
Complainant,	)	MOTION FOR LEAVE TO FILE
	)	REPLY IN SUPPORT OF
v.	)	STERICYCLE'S MOTION FOR
	)	SUMMARY DETERMINATION
	)	
WASTE MANAGEMENT OF	)	
WASHINGTON, INC.,	)	
	)	
Respondent.	)	
	)	
.....	)	

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1. Stericycle of Washington, Inc. (“Stericycle”), through its attorneys, respectfully requests leave to file a consolidated Reply to the Responses of Waste Management of Washington, Inc. (“Waste Management”), Washington Refuse and Recycling Association (“WRRRA”), and the Commission Staff (collectively, the “opposing parties”) to Stericycle’s Motion for Summary Determination in the form attached.

2. On May 6, 2011 Stericycle filed its Motion for Summary Determination with the Commission seeking a determination that Waste Management has abandoned its authority to collect and transport biomedical waste and amending G-237 to delete that authority. Stericycle’s Motion was opposed by Waste Management, WRRRA, and in part by the Commission Staff.

3. The opposing parties’ responses make arguments that require clarification or response. In particular, the opposing parties have misconstrued or misrepresented several of Stericycle’s arguments in a way that is misleading and must be clarified for the Commission to have a clear understanding of each party’s position. For example, the opposing parties contend that Stericycle has relied primarily or exclusively on past Commission common carrier precedent to establish the Commission’s authority to find abandonment and the legal standard for abandonment. This is a misrepresentation of Stericycle’s Motion for Summary Determination that must be corrected so that the Commission can evaluate all legal authority in the correct context, giving each its appropriate weight. In addition, the opposing parties have asserted that Stericycle advocates a simple disuse standard for finding abandonment. Again, this is patently not the case, and correction is necessary to prevent the Commission from being confused by

the opposing parties' misrepresentation of the applicable evidentiary standard and confusion regarding the Commission precedent relevant to abandonment.

4. The opposing parties have also made new arguments and offered new evidence that was not known to Stericycle at the time of the filing of its Motion. For example, Waste Management has asserted various preparatory activities that it contends establish willingness or ability to perform biomedical waste services in the test year and alleged unregulated programs that it apparently contends establish actual services. None of this evidence proves what it is offered to prove and reply is necessary to explain that conclusion.

5. The Administrative Law Judge's Prehearing Conference Order does not include scheduled dates for filing any request to reply or a reply. Therefore, Stericycle respectfully requests that the Commission allow filing of the attached Proposed Reply, consistent with the ordinary Superior Court practice for filing replies in support of dispositive motions pursuant to CR 56.

Respectfully submitted,

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By 

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## CERTIFICATE OF SERVICE

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

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Dated at Seattle, Washington, this 1<sup>st</sup> day of June, 2011.

  
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