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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

STERICYCLE OF WASHINGTON, INC.,

Complainant,

v.

WASTE MANAGEMENT OF WASHINGTON,
INC., d/b/a WM Healthcare Solutions of
Washington,

Respondent.

Docket No. TG-121597

**WASTE MANAGEMENT'S RESPONSE
TO COMPLAINANT STERICYCLE OF
WASHINGTON, INC.'S PETITION FOR
INTERLOCUTORY REVIEW**

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I. RELIEF REQUESTED

1. Waste Management of Washington, Inc. d/b/a WM Healthcare Solutions of Washington (“Waste Management”) requests that the Commission grant Stericycle of Washington, Inc.’s (“Stericycle”) Petition for Interlocutory Review, grant Waste Management’s cross-motion for summary determination, and affirm the denial of Stericycle’s cross-motion for summary determination.

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II. STATEMENT OF FACTS

2. On January 4, 2013, Administrative Law Judge Adam Torem denied Waste Management’s and Stericycle’s cross-motions for summary determination regarding Stericycle’s claim that Waste Management’s pilot sharps waste recycling program for one Washington hospital should not be treated as recycling.¹ Judge Torem recognized that the Commission’s “rules do not rely on a strictly quantitative definition to differentiate a load of recyclable materials from a load of solid waste but instead require a multi-factor evaluation of not only the load’s content, but also the intentions of the entities involved in generating and transporting the material.”² He “accept[ed], in part, Waste Management’s arguments that its ecoFinity sharps program could be characterized as recycling,” while identifying four factors which he believed required further factual support for a ruling to be issued.³

3. Judge Torem identified the following issues as requiring more information: (1) whether the sharps waste qualifies as recyclable materials under the Whatcom County Comprehensive Solid and Hazardous Waste Management Plan;⁴ (2) whether the recycler Talco Plastics and the company which uses the recycled raw materials, Becton Dickinson, impose any special handling or conditions on the recycled sharps waste;⁵ (3) what the value is of the recycled raw materials;⁶ and (4) whether Waste Management holds itself out as a commercial recycler in addition to being a transporter of solid waste.⁷

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¹ Order 02.

² *Id.* ¶ 23.

³ *Id.* ¶ 24.

⁴ *Id.* ¶¶ 46-50.

⁵ *Id.* ¶ 62.

⁶ *Id.* ¶ 63.

⁷ *Id.* ¶¶ 64-65.

1 **III. STATEMENT OF ISSUES**

2 4. Will interlocutory review make this process more efficient?

3 **IV. EVIDENCE RELIED UPON**

4 5. Waste Management relies on the Declaration of Jessica L. Goldman in Opposition to
5 Stericycle's Motion for Summary Determination filed on November 27, 2012.

6 **V. ARGUMENT**

7 6. Stericycle argues that its Petition for Interlocutory Review is justified under WAC 480-
8 07-810(2)(c) which requires Stericycle to demonstrate that "review could save the commission and the
9 parties substantial effort or expense, or some factor is present that outweighs the costs in time and delay
10 of exercising review." Waste Management agrees that the legal issue posed by the parties' cross-
11 motions for summary determination is ripe for decision as a matter of law on the factual record
12 presented. For all of the reasons set forth in its cross-motion for summary determination, Waste
13 Management requests that the Commission grant Waste Management's cross-motion, dismiss the
14 Second Claim of Stericycle's Complaint and Petition for Declaratory Relief, and affirm Judge Torem's
15 denial of Stericycle's cross-motion for summary determination.⁸

16 DATED this 24th day of January, 2013.

17 SUMMIT LAW GROUP PLLC

18 By 

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23 *Attorneys for Waste Management of
24 Washington, Inc. d/b/a WM Healthcare
25 Solutions of Washington, Inc.*

26 ⁸ Waste Management incorporates herein by this reference its Opposition to Complainant Stericycle's
27 Motion for Summary Determination re Waste Management's Unlawful Biomedical Waste Collection Operations
28 Outside its Certificated Territory and Cross-Motion for Summary Determination and Dismissal, filed
November 27, 2012. Commission Staff filed a brief in response to Stericycle's cross-motion which provides an
important discussion of the Commission's prior dealings with the issues raised here. See Comm'n Staff's Resp. to
Stericycle's Mot. for Summ. Determination re Waste Mgmt.'s Operations Outside Certificated Territory (Nov. 20,
2012).

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 indicated below, pursuant to WAC 480-07-150.

Table with 2 columns: Recipient Information and Service Method. Rows include Washington Utilities and Transportation Commission, Adam E. Torem, Steven W. Smith, Stephen B. Johnson, and James K. Sells.

DATED at Seattle, Washington, this 24th day of January, 2013.

Handwritten signature of Kathy Moll and printed name Kathy Moll.