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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

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

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

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1 **I. Introduction.**

2 1. On January 14, 2013, Stericycle of Washington, Inc. (“Stericycle”) filed a
3 timely petition for interlocutory review of Administrative Law Judge Adam Torem’s decision
4 in Order 02 denying Stericycle’s motion for summary determination regarding Waste
5 Management’s unlawful sharps recycling program.

6 2. On January 24, 2013, Waste Management of Washington, Inc. filed a response
7 to Stericycle’s petition. In its response, Waste Management agreed that the Commission
8 should accept interlocutory review, stating that the legal issue is ripe for decision on summary
9 determination as a matter of law on the existing factual record. WM Response, ¶6.

10 3. However, in its response brief Waste Management also purported to request that
11 after the Commission accepts interlocutory review of the denial of Stericycle’s motion for
12 summary determination it should grant *Waste Management’s separate* motion for summary
13 determination concerning the sharps recycling program, despite having filed no petition for
14 interlocutory review of Judge Torem’s order denying Waste Management’s motion for
15 summary determination. WM Response, ¶6.

16 4. Waste Management’s off-hand request to the Commission is, in fact, an
17 untimely request for interlocutory review of the denial of its own motion for summary
18 determination and must be rejected as untimely under WAC 480-07-810(3).

19 **II. Relief Requested.**

20 5. Stericycle respectfully requests that the Commission deny Waste Management’s
21 untimely request for interlocutory review of Judge Torem’s decision in Order 02 denying
22 Waste Management’s motion for summary determination.

23 **III. Argument.**

24 6. WAC 480-07-810(3) provides that a party may petition for review of an
25 interlocutory order, but that such petitions “must be filed and served on other parties within ten
26

1 days after service of the order or issuance of the ruling for which review is requested.” WAC
2 480-07-810(3) (emphasis added). Judge Torem denied Waste Management’s motion for
3 summary determination in Order 02 on January 4, 2013. Thus, Waste Management was
4 required by the rules to file petition for interlocutory review no later than January 14, 2013.
5 Although Stericycle timely filed a petition requesting interlocutory review of the denial of *its*
6 motion for summary determination on January 14, 2013, Waste Management did *not* file a
7 petition for review of the decision denying *its* separate motion for summary determination.
8

9 7. Now, on January 24, 2013, ten days *after* the deadline to petition for
10 interlocutory review, Waste Management includes in its response to Stericycle’s petition a
11 purported request that the denial of *its* separate motion for summary determination be reversed.
12 This untimely and veiled request for interlocutory review must be denied under WAC 480-07-
13 810(3). Only *Stericycle’s* timely petition for interlocutory review of the denial of *Stericycle’s*
14 motion for summary determination is properly before the Commission.
15

16 8. Moreover, WAC 480-07-810(3) provides that a petition for interlocutory review
17 “must state why the ruling is in error or should be changed and why interlocutory review is
18 necessary, and must cite reasons that support the petition.” WAC 480-07-810(3) (emphasis
19 added). Waste Management’s off-hand request for interlocutory review does not meet any of
20 these requirements, stating only that the denial of Waste Management’s motion for summary
21 determination should be reversed “[f]or all of the reasons set forth in its cross-motion for
22 summary determination.”
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1 **III. Conclusion.**

2 9. For the foregoing reasons, Stericycle respectfully requests that the Commission
3 deny Waste Management's untimely request for interlocutory review of Judge Torem's
4 decision in Order 02 denying Waste Management's motion for summary determination.
5

6 DATED this 1st day of February, 2013.

7 Respectfully submitted,
8 GARVEY SCHUBERT BARER

9 By 

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12 Attorneys for Protestant Stericycle of
13 Washington, Inc.
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1 **CERTIFICATE OF SERVICE**

2 I, Dominique Barrientes, certify under penalty of perjury under the laws of the State of
3 Washington that, on February 1, 2013, I caused to be served on the person(s) listed below in the
4 manner shown a copy of COMPLAINANT STERICYCLE OF WASHINGTON, INC.'S
5 RESPONSE TO WASTE MANAGEMENT'S UNTIMELY PETITION FOR
6 INTERLOCUTORY REVIEW:

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8 Transportation Commission
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14 Administrative Law Judge
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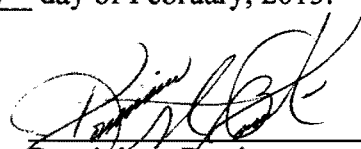
- Via Legal Messenger
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- Via FedEx
- Via Email

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Dated at Seattle, Washington this 1st day of February, 2013.



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