

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Application of)	DOCKET TG-120033
)	
WASTE MANAGEMENT OF)	
WASHINGTON, INC. D/B/A WM)	ORDER 04
HEALTHCARE SOLUTIONS OF)	
WASHINGTON)	
)	ORDER DENYING MOTION FOR
For an Extension of Certificate G-237)	SUMMARY DETERMINATION
for a Certificate of Public Convenience)	AS TO FINANCIAL AND
and Necessity to Operate Motor)	OPERATIONAL FITNESS
Vehicles in Furnishing Solid Waste)	
Collection Service)	
.....)	

BACKGROUND

- 1 On December 30, 2011, Waste Management of Washington, Inc. (Waste Management or Company), filed with the Washington Utilities and Transportation Commission (Commission) an application for an extension of authority under Certificate G-237, standing in the name of Waste Management of Washington, Inc., d/b/a WM Healthcare Solutions of Washington (Waste Management), for authority to provide solid waste collection service consisting of bio-hazardous waste in the state of Washington. The Washington Refuse & Recycling Association, Rubatino Refuse Removal, Inc., Consolidated Disposal Services, Inc., Murrey’s Disposal, Inc., and Pullman Disposal Service, Inc. (collectively WRRRA) and Stericycle of Washington, Inc. (Stericycle) filed protests against Waste Management’s application.
- 2 The Commission issued Order 01, Prehearing Conference Order (Order 01) on April 16, 2012. On May 14, 2012, the Commission issued Order 02 overruling WRRRA’s and Stericycle’s objections to Order 01 and denying interlocutory review.
- 3 On May 4, 2012, Waste Management filed a Motion for Summary Determination as to Financial and Operational Fitness (Motion).

4 On May 24, 2012, WRRRA filed a reply opposing the WM Motion. On May 25, 2012, Stericycle filed an Opposition to Waste Management’s Motion for Summary Determination and Motion for Continuance.¹

5 On May 30, 2012, Waste Management filed an Opposition to Stericycle’s Motion for Continuance.

DISCUSSION AND DECISION

6 “Financial and operational fitness” is not a term used in the governing statute but is shorthand for three of the factors the legislature has required the Commission to consider when determining whether to issue a certificate of necessity for hauling solid waste for compensation:

[1] an estimate of the cost of the facilities to be utilized in the plant for solid waste collection and disposal, set out in an affidavit or declaration; [2] a statement of the assets on hand of the person, firm, association, or corporation that will be expended on the purported plant for solid waste collection and disposal, set out in an affidavit or declaration; [and 3] a statement of prior experience, if any, in such field by the petitioner, set out in an affidavit or declaration.²

7 The evidence Waste Management provides in support of its Motion is insufficient for the Commission to make a determination on any of these factors. Waste Management offers no evidence whatsoever on the first factor, an estimate of the cost of the facilities to be used. Waste Management also does not specify the assets it intends to devote to the plant necessary to serve the expanded service territory or describe the Company’s experience in the field of biomedical waste collection and disposal.

8 The evidence Waste Management offers consists primarily of its existing biomedical waste certificate and its 2010 annual report filed with the Commission. Such evidence demonstrates only that the Company generates substantial revenues in Washington and has existing authority to collect and dispose of biomedical waste in

¹ Commission Staff (Staff) also filed a Response to Waste Management’s Motion for Summary Determination, but takes no position on the merits of the Motion. Rather, Staff requests only that the Commission not inadvertently remove a restriction in Waste Management’s existing certificate of authority when ruling on the Motion.

² RCW 81.77.040.

some portions of this state. Neither of these facts is in dispute, but neither is germane to the Commission's inquiry in this proceeding.

- 9 The bar for demonstrating financial and operational fitness under RCW 81.77.040 may be low, as Waste Management contends, but it is higher than the Company's showing in the Motion. The statute requires, at a minimum, a description and analysis of the facilities needed, the estimated attendant costs, and the assets the applicant commits to provide, to offer the requested service. The requisite description of the applicant's experience must be sufficient to give credibility to that analysis, as well as reassurance that the applicant will provide service to the satisfaction of its future customers and the Commission. The Commission expects such information to be offered in the form of an affidavit or declaration, if not testimony, from one or more persons with personal knowledge of the facts and how they were developed and analyzed. The Motion falls well short of those requirements and expectations.
- 10 The Commission denies the Motion. Accordingly, Stericycle's request to continue consideration of the Motion is moot. To the extent Stericycle also seeks to conduct discovery on issues of Waste Management's financial and operational fitness, the Commission previously ruled on that issue in Order 01 and Order 02 and will not revisit that ruling here.

ORDER

- 11 THE COMMISSION ORDERS that Waste Management's Motion for Summary Determination as to Financial and Operational Fitness is DENIED without prejudice.

Dated at Olympia, Washington, and effective June 4, 2012.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

GREGORY J. KOPTA
Administrative Law Judge