BEFORE THE WASHINGTON UTILITIES

AND TRANSPORTATION COMMISSION

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| STERICYCLE OF WASHINGTON, INC.,  Complainant,  v.  WASTE MANAGEMENT OF WASHINGTON, INC., d/b/a WM Healthcare Solutions of Washington,  Respondent. |  | Docket No. TG-121597  **answer of waste management of washington, inc. to complaint and petition for declaratory relief** |

Respondent Waste Management of Washington, Inc. d/b/a WM Healthcare Solutions of Washington (“Waste Management”) answers Complainant Stericycle of Washington, Inc.’s (“Stericycle”) Complaint and Petition for Declaratory Relief (“Complaint”) and asserts affirmative or other defenses as follows:

**ANSWER**

1. Paragraph 1 does not state any factual allegations to which an answer is required.
2. Waste Management admits Paragraph 2.
3. Waste Management admits Paragraph 3.
4. Answering Paragraph 4, Waste Management admits that the Commission has the authority specified in the cited statutes and that the cited statutes speak for themselves. Waste Management denies that Stericycle is entitled to relief under any of the stated laws or regulations.
5. Paragraph 5 does not state any factual allegations to which an answer is required. Waste Management denies that Stericycle is entitled to relief under any of the stated laws or regulations cited.
6. Answering Paragraph 6, Waste Management admits that it has solicited generators of biomedical waste to contract for biomedical waste collection services. Waste Management specifically denies that it offers, or has offered in the past, unlawful rebates as an inducement to contract with it for biomedical waste collection services.
7. Answering Paragraph 7, Waste Management admits that it solicited Public Hospital District No. 1, d/b/a Skagit Valley Hospital (“Skagit Valley”) for its biomedical waste collection business, and further admits that it eventually entered into an agreement with Skagit Valley to provide biomedical waste collection services, as well as other waste collection services. Waste Management is without sufficient information to form a belief as to the truth or falsity of the allegations concerning Stericycle’s interactions with Skagit Valley, and therefore denies such allegations. Waste Management specifically denies that it offers, or has offered in the past, unlawful rebates as an inducement to contract with it for biomedical waste collection services, and further denies that it made misleading representations to Skagit Valley. Waste Management states that Exhibit A speaks for itself. Waste Management denies each of the remaining allegations in Paragraph 7.
8. Answering Paragraph 8, Waste Management admits that it solicited Northwest Hospital & Medical Center for its biomedical waste collection business, and further admits that it eventually entered into an agreement with Northwest Hospital to provide biomedical waste collection services, as well as other waste collection services. Waste Management is without sufficient information to form a belief as to the truth or falsity of the allegations concerning Stericycle’s interactions with Northwest Hospital, and therefore denies such allegations. Waste Management specifically denies that it offers, or has offered in the past, unlawful rebates as an inducement to contract with it for biomedical waste collection services. Waste Management further states that Exhibit B speaks for itself. Waste Management denies each of the remaining allegations in Paragraph 8.
9. Answering Paragraph 9, Waste Management admits that it solicited biomedical waste collection services from Valley Medical Center, and further admits that it has contracted to provide Valley Medical Center’s recycling services. Waste Management further states that Exhibit C speaks for itself. Waste Management denies each of the remaining allegations in Paragraph 9.
10. Answering Paragraph 10, Waste Management admits that it has solicited the biomedical waste collection business of other Washington generators. Waste Management specifically denies that it offers, or has offered in the past, unlawful rebates as an inducement to contract with it for biomedical waste collection services.
11. Answering Paragraph 11, Waste Management denies that it has engaged in unlawful rebating, and further denies that it has caused adverse effects on Stericycle’s business. Waste Management denies each of the remaining allegations in Paragraph 11.
12. Answering Paragraph 12, Waste Management admits that it has solicited customers for its “ecoFinity” sharps recycling collection services outside the territory included under its Certificate No. G-237. Waste Management further admits that it entered into an agreement to provide its “ecoFinity” sharps recycling collection services with PeaceHealth St. Joseph Medical Center in Bellingham, Washington (“St. Joseph”), and that it has provided and continues to provide such services to St. Joseph. Waste Management states that Exhibits D and E speak for themselves. Waste Management specifically denies that its collection and transportation of biomedical sharps waste for treatment and disposal outside of its certificated territories violates RCW 81.77.040 or any other applicable law. Waste Management denies each of the remaining allegations in Paragraph 12.
13. Answering Paragraph 13, Waste Management admits that it has solicited customers for its “ecoFinity” sharps recycling collection services within the territory it is authorized to serve under Certificate No. G-237. Waste Management denies that the rates specified in its biomedical waste tariff filed with the Commission are applicable to its “ecoFinity” sharps recycling collection service. Waste Management further states that Exhibit E speaks for itself. Waste Management specifically denies that providing its “ecoFinity” sharps recycling collection services to St. Joseph or soliciting other generators for its “ecoFinity” sharps recycling collection services is unlawful. Waste Management also denies that providing its “ecoFinity” sharps recycling collection services to St. Joseph or soliciting other generators for its “ecoFinity” sharps recycling collection services has adversely affected, or threatens to adversely affect, Stericycle’s business. Waste Management denies each of the remaining allegations in Paragraph 13.
14. Answering Paragraph 14, Waste Management denies that soliciting biomedical waste generators within the territory covered by Certificate No. G-237 for its “ecoFinity” sharps recycling collection services is unlawful. Waste Management denies that the rates contained in the tariff filed with the Commission are applicable to its “ecoFinity” sharps recycling collection services, and further denies that it has adversely affected Stericycle’s business. Waste Management denies each of the remaining allegations in Paragraph 14.
15. Paragraph 15 does not state any factual allegations to which an answer is required. Waste Management states that the statutes cited in Paragraph 15 speak for themselves. Waste Management denies that Stericycle is entitled to relief under any of the stated laws or rules.
16. Paragraph 16 does not state any factual allegations to which an answer is required. Waste Management states that the statutes cited in Paragraph 16 speak for themselves. Waste Management denies that Stericycle is entitled to relief under any of the stated laws.
17. Paragraph 17 does not state any factual allegations to which an answer is required. Waste Management states that the statute cited in Paragraph 17 speaks for itself. Waste Management denies that Stericycle is entitled to relief under RCW 81.28.210.
18. Answering Paragraph 18, Waste Management admits that commercial recycling services are not subject to rate regulation by the Commission. Waste Management denies that the charges offered to its biomedical waste customers are unlawful rebates and denies that Stericycle is entitled to relief under the stated laws or regulations. Waste Management denies each of the remaining allegations in Paragraph 18.
19. Answering Paragraph 19, Waste Management states that the cited statutes, regulations, and Commission decisions speak for themselves. Waste Management admits that it is a solid waste collection company, and further admits that it provides services to St. Joseph under its “ecoFinity” sharps recycling collection services from which some portion is recycled. Waste Management denies that its “ecoFinity” sharps recycling collection services are subject to the requirements of RCW 81.77.040 and further denies that the service provided to St. Joseph is unlawful. Waste Management denies each of the remaining allegations in Paragraph 19.
20. Waste Management denies the allegations in Paragraph 20.
21. Waste Management denies that Stericycle is entitled to the relief requested in Paragraph 21.

**AS FURTHER, AFFIRMATIVE, AND OTHER DEFENSES,** Waste Management alleges as follows:

1. The Complaint fails to state a claim upon which relief may be granted.
2. There exists no case or controversy and the Complaint is subject to dismissal under RCW 34.05.240 because it seeks an advisory opinion.
3. Stericycle’s injuries or damages (which are expressly denied) resulted in whole or in part from Stericycle’s own conduct or fault and these claims should be barred accordingly.
4. Granting the relief requested would result in an unlawful taking.

**PRAYER FOR RELIEF**

WHEREFORE, Waste Management requests:

* 1. That the Commission dismiss Stericycle’s Complaint with prejudice; and
  2. That the Commission grant such other or further relief as is just and equitable.

DATED this 5th day of November 2012.

By

Polly L. McNeill, WSBA # 17437

Jessica L. Goldman, WSBA # 21856

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

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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| Steven B. Johnson  Garvey Schubert Barer  1191 Second Ave., Suite 1800  Seattle, WA 98101  (206) 464-3939  sjohnson@gsblaw.com | 🞎 Via Legal Messenger  🞎 Via Facsimile  🗹 Via U.S. Mail  🞎 Via Email |
| Washington Utilities and Transportation Commission  1300 S. Evergreen Park Dr. SW  PO Box 47250  Olympia, WA 98504-7250  360-664-1160  records@utc.wa.gov | 🞎 Via Legal Messenger  🞎 Via Facsimile  🗹 Via Federal Express  🗹 Via Email |

DATED at Seattle, Washington, this 5th day of November 2012.

Deanna Schow