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1 P R O C E E D I N G S

2 JUDGE RENDAHL: Good morning, my name is Ann
3 Rendahl, I'm the Administrative Law Judge presiding over
4 this proceeding. We're here for another day of hearing
5 before the Washington Utilities and Transportation
6 Commission in Kent, Washington on Tuesday, October the
7 12th, 2004, in Docket Number TG-040248, which is the
8 Application of Kleen Environmental Technologies for a
9 Certificate of Public Convenience and Necessity.

10 So our primary purpose today is to hear from
11 witnesses who are generators of medical waste, so let's
12 begin with the first witness, Mr. Knight, if you would
13 state your full name and work address for the record,
14 please.

15 MR. KNIGHT: It's William Knight, 300 Elliott
16 Avenue West, Suite 300, Seattle, Washington 98119.

17 JUDGE RENDAHL: And if you would raise your
18 right hand, please.

19 (Witness William Knight was sworn.)

20 JUDGE RENDAHL: Please go ahead, Mr. Haffner.

21 MR. HAFFNER: Thank you, Your Honor.

22

23

24

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1 Whereupon,

2 WILLIAM KNIGHT,

3 having been first duly sworn, was called as a witness

4 herein and was examined and testified as follows:

5

6 DIRECT EXAMINATION

7 BY MR. HAFFNER:

8 Q. Mr. Knight, can you please tell us who you
9 are employed by?

10 A. I am employed by Hospital Shared Services
11 Association. It's a regional non-profit purchasing
12 cooperative comprised of approximately 28 non-profit
13 hospitals in the state of Washington.

14 Q. What is your position with that association?

15 A. I am Executive Director of the Association,
16 answer directly to the board of directors of HSSA.

17 Q. How long have you held that position?

18 A. I have been in this position for nine years.

19 Q. What are your responsibilities as Executive
20 Director?

21 A. Managing our staff of two, implementing new
22 programs, educating our membership on the value of the
23 contracts that we generate either regionally or through
24 our national program, which is with Premier, which is a
25 national group purchasing association that we're also

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1 non-profit associated with.

2 Q. If I could have you take a look at what's
3 been marked as Exhibit 205, and can you look at that
4 document and tell us if you're familiar with it?

5 A. Yes, very familiar, I did these minutes.

6 Q. And what does this document reflect, what
7 type of document is it?

8 A. It reflects the record of actions, it
9 reflects the direction and the decisions that were made
10 by the membership in attendance at the meeting.

11 Q. And I see a date of August 31, 2004, is that
12 when this meeting occurred?

13 A. Yes, we meet the last Tuesday of each month.

14 Q. If you would look on the second page under
15 section Roman Numeral II, the sixth item down refers to
16 something identified as Kleen Environmental status
17 report. Can you tell us what the association did with
18 respect to that item?

19 A. There was discussion at a previous meeting
20 about having someone from HSSA, either one of our
21 hospitals or myself, represent the organization and
22 testify before the Commission to encourage an additional
23 supplier in this market, and the group, the people at
24 that meeting felt that it would be best if I represented
25 all six facilities instead of all six of them here. And

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1 so they I guess officially or formally authorized me to
2 represent those facilities at the hearing today.

3 Q. And are the members that are identified as
4 being present at that association, are they the members
5 that make up the board of the association?

6 A. No, they are not.

7 Q. Okay. So are you here today on behalf of the
8 association or on behalf of the members that were
9 present at that meeting?

10 A. I am here on behalf of the members that were
11 present at that meeting. We're a cooperative, and the
12 decisions are made -- each facility has a voice in the
13 cooperative, and so I'm uncomfortable in saying that I'm
14 here on behalf of the other members. But these are our
15 six largest members, they constitute 83% of our purchase
16 volume, and they're all located in the King, Snohomish
17 County areas.

18 Q. Okay. If you could then turn to what's been
19 marked as Exhibit 206, is that a document that you're
20 familiar with?

21 A. Yes.

22 Q. And can you describe how you're familiar with
23 that document?

24 A. This is our membership list that reflects --
25 how can I explain this. HSSA as I mentioned is a not

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1 for profit cooperative. We are owned by our member
2 facilities. These are the owners of the HSSA
3 organization. We do have additional members within HSSA
4 that are approximately another 15 to 20 facilities that
5 we consider as alternate site. So such as a surgery
6 center, a physician clinic, long-term care. Again, they
7 are not owners of the association, so we don't publish
8 them on our membership list. It's kind of a long
9 answer, but it reflects, I guess the point being, it
10 does not reflect all of the members within HSSA, but it
11 only reflects the owner hospitals within HSSA.

12 Q. And are the hospitals that you are here
13 representing today, the ones that are referenced in the
14 minutes, are their locations currently listed in Exhibit
15 206?

16 A. Yes.

17 Q. What type of facilities do the members that
18 you're representing today operate?

19 A. I'm not sure I understand. They're acute
20 care, non-profit hospitals. As I mentioned, we have
21 approximately 28 facilities. 6, our 6 largest are
22 represented on the western part of the state, and then
23 the balance are rural facilities in the 50 bed or less
24 range that are exclusively located in the eastern part
25 of the state. But they all are acute care with the

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1 exception of there's a few, the cancer center, the
2 kidney center, there's a few in there that are not acute
3 care, but are 501C3 classification and are eligible for
4 classification in HSSA.

5 Q. Do each of the facilities that you represent
6 generate medical waste?

7 A. I can only -- definitely the six that were in
8 attendance at the meeting but -- and I'm presuming that
9 yes, they, the others I'm sure do as well.

10 Q. Have you surveyed the members that you're
11 representing to see if they have any problems with their
12 current provider of medical waste transportation and
13 collection services?

14 A. Yes, I did, I did an E-mail survey of the six
15 that were represented at that meeting, and I heard -- I
16 did not -- three did not respond. Two responded that
17 they at this time were not having any problems with
18 Stericycle, but they would definitely love to see some
19 competition in the market. And then I did receive one
20 E-mail from Stevens Hospital in Edmonds that said that
21 they were having problems with an insufficient number of
22 tubs, that the driver had indicated that he didn't have
23 enough room on the truck for more tubs, and so they had
24 to order more tubs, that the lids -- and it was the same
25 situation with lack of a sufficient number of lids.

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1 Another problem was that the lids, some of the lids were
2 not fitting properly on the tubs and that the drivers
3 were refusing to pick them up if the lids were not
4 secure, but they were claiming that the lids in fact
5 were secure. Also that the other last item was the
6 billings, the invoicing in the billing was late, and so
7 it was difficult to match up the overweight charges with
8 the documentation.

9 Q. Have any of your members expressed a problem
10 with certificates of destruction?

11 A. No, no, we haven't -- didn't get into that
12 much detail.

13 Q. Did any of your members indicate a preference
14 for how they would like their waste disposed?

15 A. No, they haven't.

16 Q. You indicated that there was a preference for
17 additional competition. Has your association discussed
18 why any of the members would like to have additional
19 competition?

20 A. My -- well, we have been -- you have to
21 realize that our job as a group is to reduce costs for
22 services and products, and one of the processes that we
23 utilize as an organization is to aggregate our volume
24 and standardize on a common supplier. And as a result
25 of the economies and the efficiencies of scale achieved

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1 through that process, that we have be -- can effectively
2 lower our acquisition costs and also enhance the
3 services provided. We have not had that opportunity in
4 today's market for this type of service, and my sense
5 was from the discussions at this meeting that there were
6 some -- that there was belief that services could be
7 enhanced, could be improved, and I think that's why they
8 wanted me here today. I think that if things were good,
9 then they probably would not have delegated or
10 authorized me to testify today on their behalf.

11 Q. When you refer to services, are you referring
12 to the transportation and collection of medical waste?

13 A. Yeah, I just -- I think in general
14 transportation and collection, invoicing, sales
15 representation, you know, anything that would fall
16 within the realm of servicing a customer.

17 Q. Do you know how your members or do you know
18 if your members are currently using Kleen Environmental
19 Technologies for any service?

20 A. I can't give you specific customers, but I
21 have been told that they, by some of them, that they
22 were using them for hazardous waste disposal.

23 Q. And do you know if any of those members have
24 an opinion about the quality of service they're
25 receiving from Kleen?

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1 MR. JOHNSON: Your Honor, I object to that
2 question as asking for hearsay and stories from people
3 who aren't present. We have actually, you know, had
4 representatives of hospitals and other facilities that
5 use Kleen's services here in front of us that have
6 testified on this subject already, it seems to me
7 unnecessary as well.

8 MR. HAFFNER: I don't think we have had any
9 hospitals testify to that, Your Honor, and certainly
10 none of his members have testified about it.

11 JUDGE RENDAHL: Can you ask a more specific
12 question to Mr. Knight so that maybe he can identify
13 anyone he has spoken to.

14 BY MR. HAFFNER:

15 Q. Mr. Knight, do you know of any of your
16 members that have an opinion of the services they have
17 received from Kleen Environmental Technologies?

18 A. Yes, I have -- and that's -- well, yes, I do.
19 One institution, Stevens Hospital in Edmonds, was
20 utilizing Kleen and had actually sent the Kleen
21 representatives to my attention to follow up to see
22 about approaching this as a group. So she was -- she
23 had indicated that she was pleased with the service that
24 she was currently getting and couldn't see any reason
25 why we couldn't expand that to other waste removal

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1 services.

2 Q. Do you know what that service was that was
3 being provided to Stevens?

4 A. No, not specifically.

5 Q. Would your association like to see this
6 application granted?

7 A. Yes.

8 Q. And why is that?

9 MR. JOHNSON: Your Honor, I have to object
10 both to the question and the response given. Mr. Knight
11 I believe has testified that he is not representing his
12 association, he's just representing the six facilities
13 that were present on August 31, whose names are shown on
14 Exhibit 205.

15 JUDGE RENDAHL: Mr. Haffner, maybe you can
16 rephrase the question.

17 MR. HAFFNER: Yes, Your Honor.

18 BY MR. HAFFNER:

19 Q. Based on the minutes that you provided to us
20 which reference that the committee authorizes you to
21 represent them, does that committee of hospitals
22 represented in those minutes wish to see this
23 application granted?

24 A. Yes.

25 Q. And can you explain why?

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1 A. Because of wanting an alternative or wanting
2 a choice, an option for the service.

3 Q. Have they expressed to you a belief that
4 having a choice or an option will improve things?

5 A. Yes. It has been our experience numerous
6 times that when we find an uncompetitive market that, or
7 even a situation where a supplier may have a large part
8 of the market, that there is a tendency for market
9 complacency. And as a result of that, it ends up
10 reflecting in, well, in one situation uncompetitive
11 pricing, and the other piece of it is degradation of
12 services. And so again as a group we don't -- we see an
13 opportunity, and we would like to have an option, we
14 would like to have an alternative.

15 Q. Did you indicate that you thought that there
16 was an incident of uncompetitive pricing?

17 A. Well, I have -- not in this -- I can't say in
18 this situation, but again numerous times when it comes
19 to anything from pharmaceuticals to medical supplies and
20 capital equipment, that's the type of scenario we see
21 when in an uncompetitive market.

22 MR. HAFFNER: I have no other questions for
23 the witness, Your Honor.

24 JUDGE RENDAHL: All right.

25 Mr. Johnson.

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1 MR. JOHNSON: Thank you.

2

3 C R O S S - E X A M I N A T I O N

4 BY MR. JOHNSON:

5 Q. Mr. Knight, my name is Steve Johnson, I'm an
6 attorney here representing Stericycle of Washington. I
7 would like to ask you a few questions following up on
8 your testimony this morning.

9 A. Sure.

10 Q. And if I confuse you at some point or my
11 question isn't clear, please stop me and ask me to
12 rephrase so I can make it clear and we can clearly
13 understand your testimony. Is that understood?

14 A. Yes.

15 Q. Thank you. I believe you in responding to
16 Mr. Haffner's question indicated that you see -- you
17 have seen in some markets where there is a lack of
18 competition a tendency toward complacency.

19 A. Yes.

20 Q. You're not suggesting that that's a
21 characteristic of the medical waste collection market,
22 are you?

23 A. Based on the discussions at the meeting, that
24 there was some discussion about that, yes, about that
25 there was no way of knowing -- there was no way of -- no

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1 opportunity to reduce costs for this type of service and
2 that I also believe that the service levels were in
3 question or they had some concerns about whether they
4 were getting optimal service levels.

5 Q. Okay. But do you have any details about
6 that? I think in responding to the -- you said that you
7 had surveyed your members or that you had surveyed the
8 six facilities.

9 A. Right.

10 Q. Three did not respond, two said there were no
11 problems, and one identified issues. So is it that one
12 facility's issues that you're referring to?

13 A. The one, yes, that's documented, but the
14 others as I mentioned were it was discussion at the
15 meeting. But as far as any documentation, no, I can't.

16 Q. Can you be specific about the issues that
17 were raised?

18 A. As I mentioned, it was just a feeling that
19 they were not -- that there were some problems, that we
20 didn't get into specific discussion, there was some
21 problems, they didn't feel that there was an opportunity
22 to reduce their costs in this area. It was just simply
23 I think just a business approach to the situation in the
24 market.

25 Q. Basic concern was cost primarily?

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1 A. Yes.

2 Q. Okay. Now you know that costs in this
3 marketplace with this service are set by the Washington
4 Utilities and Transportation Commission, do you not?

5 A. Well, it was my understanding that they're
6 regulated to the point where you have to charge,
7 whatever you charge, you have to charge everyone the
8 same. It was my understanding that it didn't say that
9 pricing couldn't be lower, that you couldn't lower that
10 price and still give the same price to every customer.

11 Q. Right, but, for example, your co-op could not
12 separately negotiate prices and get a separate cost
13 reduction from a biomedical waste collection company in
14 the state of Washington; you understand that, right?

15 A. No, it's my understanding that if we had --
16 if we had another supplier of those services, that our
17 organization could contract with either one of those
18 services based upon a favorable program, whether it's
19 cost or whether it's services, enhanced services or
20 technology. I mean there's value added services,
21 there's other aspects of it that would benefit and lower
22 costs to our member facilities other than the price at
23 the pump as they say.

24 Q. What's the role of the Hospital Shared
25 Services Association currently in the purchasing of

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1 medical waste collection service?

2 A. As an association, we have no role. That is
3 something that is done -- that is handled independently
4 by each member hospital.

5 Q. So you're not currently involved in the
6 purchase or -- either the purchase of biomedical waste
7 collection service on behalf of your member facilities
8 or in negotiating service issues or other --

9 A. No.

10 Q. -- other matters relevant to the biomedical
11 waste collection service?

12 A. No, not at this time.

13 JUDGE RENDAHL: Mr. Knight, if you can wait
14 until Mr. Johnson finishes, it's easier for the court
15 reporter. I think you guys are doing a good job
16 relative to other witnesses we have had, but if you just
17 keep that in the back of your mind to wait, that would
18 be helpful.

19 Q. Mr. Knight, Hospital Shared Services
20 Association is not involved with medical waste
21 management, is it?

22 A. No.

23 Q. You don't get into the facilities to see how
24 their containers are used that they use for collection
25 and transportation of biomedical waste?

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1 A. No.

2 Q. Are you aware of the type of service that
3 Kleen Environmental Technologies has proposed to offer
4 in these hearings?

5 A. Yes.

6 Q. You're aware that they plan to offer only a
7 single sized container?

8 A. Yes.

9 Q. And only cardboard boxes and not a choice
10 between cardboard or reusable plastic tubs?

11 A. Yes.

12 Q. Are your members in favor of choice?

13 A. Yes.

14 Q. So do you think they would prefer to have a
15 choice of sizes of containers that would suit them?

16 A. I couldn't answer that.

17 Q. Wouldn't you expect they would based on the
18 -- your statement that they would like to have choices,
19 be able to make choices?

20 A. Well, I think the choices is in reference to
21 suppliers of the service. Then it would be their
22 decision internally and independently which supplier was
23 more favorable.

24 Q. So if I understand correctly, what you're
25 saying is basic thought that your -- that the group

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1 you're representing, that is the six hospitals that you
2 have identified, their basic thought is that competition
3 would be a good thing in this marketplace?

4 A. Yes.

5 Q. And is it fair to say that they -- if there
6 were competition, then they would come to another step,
7 which would be to evaluate the alternative services
8 available and make a judgment as to which one was --
9 would best serve their needs?

10 A. Yes, if there was competition in this market,
11 the next step would be that HSSA as an association and
12 these six hospitals would act as an organization. The
13 process normally has been where we would define our
14 specifications, interview, meet with the different
15 suppliers, identify those suppliers that meet those
16 requirements or those specifications, and then ask --
17 then the negotiation process of developing a regional
18 HSSA agreement for the members of the association with
19 one of those suppliers based on our -- an aggregation of
20 our volume and our committed volume.

21 Q. But you understand that that kind of
22 negotiated price arrangement is not what the current
23 legal situation in solid waste or biomedical waste
24 collection permits in this state?

25 A. Yes. But again, as I said, that was the

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1 normal process. This is an unusual situation, but again
2 we -- there's still savings available through value
3 added services that we feel as a group we could achieve
4 in a competitive market.

5 Q. Do you have sort of specific -- any specifics
6 with respect to what value added services you would
7 expect to achieve?

8 A. Timely invoicing, sales representation,
9 correct billing, you know, we look at in the technology
10 maybe electronic order entry systems.

11 Q. Mr. Knight -- I'm sorry, did you finish?

12 A. Yeah, I was trying to think of some others,
13 but those come right off the top of my head.

14 Q. Is there anything preventing you from
15 identifying and requesting additional service currently
16 from the biomedical waste collection company that is
17 currently serving the six members you're representing
18 today?

19 A. I can tell you that it has been some time, it
20 has been at least four years, I tried to work with
21 Stericycle to put together some sort of regional program
22 for my hospitals and was pretty much told that they
23 weren't interested, that -- not pretty much told, told
24 that they were not interested. They have a regional
25 program with the Washington State Hospital Association,

1501

1 and I guess they felt that they had their -- the ground
2 covered there. So we had approached them as a group, it
3 has been some time again as I mentioned, but with no
4 success and no interest on their behalf.

5 Q. This was four years ago you think?

6 A. I would say it was at least four years ago,
7 yes, four or five years ago.

8 Q. And did you raise issues with respect to
9 timely invoicing with Stericycle at that time?

10 A. No, not at that time. We were just
11 approaching them to see about additional opportunities
12 to reduce costs for my hospitals.

13 Q. Okay. You gave a list of I think I had asked
14 you a question about value added services, and you
15 talked about timely invoicing; does this relate back to
16 the Stevens Hospital concern?

17 A. Yes, that and overall discussion from our
18 meeting, but I will have to --

19 Q. And what -- I'm sorry, go ahead.

20 A. I will have to rely on the documentation from
21 Stevens Hospital.

22 Q. What was their concern with respect to timely
23 invoicing?

24 A. The E-mail just stated that it was the
25 invoices were late, and it was difficult to, what's the

1502

1 word I want to say, to match with the overweight
2 charges, so they never -- they were -- they never had a
3 chance to resolve or question or verify those overweight
4 charges.

5 Q. Who did you communicate with at Stevens
6 Hospital with respect to this issue?

7 A. Maureen Nevarez who is the materials manager.

8 Q. Is Maureen Nevarez involved in medical waste
9 management?

10 A. No, actually she forwarded the E-mail to the
11 individual that was within Stevens that does manage
12 that, and it was -- and then that individual responded
13 to the E-mail to Maureen, and Maureen forwarded it on to
14 me.

15 Q. Who was it that is involved in medical waste
16 management whose comments we're referring to here?

17 A. I don't know, I can't recall her name. I do
18 have -- I have the E-mail, but I don't have it or I
19 don't recall her name.

20 Q. You have the E-mail here in the hearing room?

21 A. No, I don't. I have it on my computer at the
22 office.

23 Q. Okay, going back to the list of issues --

24 A. Oh, you know what, I'm sorry, actually I
25 might have it with me here.

1503

1 Q. We can check at a break perhaps, and if you
2 have it, that would be helpful.

3 You mentioned something about sales
4 representative issues in connection with the Stevens
5 Hospital concern.

6 A. No, there was no issue about sales
7 representation there.

8 Q. Okay. And how about correct billing, was
9 there an issue about incorrect billing?

10 A. No, not expressed to me, just late invoicing.

11 Q. Okay.

12 A. Late invoicing.

13 Q. I think you said something about perhaps
14 developing an electronic ordering system.

15 A. Yes, it's EDI, that's what the industry is
16 trying to evolve to is more electronic order entry
17 systems.

18 Q. Sort of like --

19 A. Efficient and billing is easier and so forth.

20 Q. I'm not an expert in this kind of thing, but
21 it's like going on the web site for UPS.

22 A. Exactly.

23 Q. And ordering them to come and stop by and
24 pick up a package, so that kind of system?

25 A. Right, over the Internet or over the

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1 supplier's web site, would place the order and have an
2 order confirmation, delivery time confirmation, pricing
3 invoice confirmation, and then it would -- it goes right
4 into the hospital's materials management information
5 systems and so forth.

6 Q. Do you -- have you ever requested such a
7 system from Stericycle?

8 A. No.

9 Q. Do you know whether any of the six hospitals
10 that you're representing here today have ever requested
11 such a system from Stericycle?

12 A. No.

13 Q. Do you have any knowledge as to whether such
14 a system would be practical for a high volume waste
15 generation and collection program such as these large
16 hospitals have to implement?

17 A. Only -- I can't -- no, I can't in this
18 specific product service. But in general, yes, there is
19 efficiencies and other applications that are achieved
20 through that.

21 Q. Do you know whether an electronic order
22 entering system of the type you described has been
23 implemented anywhere in the United States for medical
24 waste collection?

25 A. No, I don't know that.

1505

1 Q. Do the six hospitals you're representing here
2 today know that Kleen Environmental proposes to
3 incinerate all elements of the medical waste stream that
4 they generate?

5 A. That I don't know. They made a presentation
6 to our group.

7 Q. Was that the nature of their presentation,
8 did they tell the group that they were going to
9 incinerate all the waste they collected?

10 A. I don't, you know, I don't recall the
11 specifics of the presentation, so I would have to say I
12 -- well, I can't answer that question, I don't know if
13 they did do or not.

14 Q. You don't remember the disposal method that
15 Kleen described in the presentation that's referenced in
16 your minutes of August 31, 2004?

17 A. This was not -- the minutes of August were
18 not the meeting where Kleen Environmental presented to
19 our group. This was discussion that occurred after
20 their presentation.

21 Q. Okay. So Kleen didn't make a presentation on
22 August 31?

23 A. No, they did not.

24 Q. When did they make a presentation?

25 A. I would have to verify, but I believe it was,

1506

1 as I mentioned we meet the last Tuesday of each month,
2 so it was probably the June meeting, possibly the July
3 meeting.

4 Q. Do you have minutes of those meetings that
5 would describe the nature of the presentation that was
6 made?

7 A. Yes.

8 Q. And were written materials passed out by the
9 Kleen representatives who made the presentation?

10 A. Yes.

11 MR. JOHNSON: Your Honor, I would like to
12 make a request of this witness for the minutes of the
13 meetings, any meetings which Kleen Environmental
14 Technologies made a presentation to Hospital Shared
15 Services Association, and any written materials passed
16 out by Kleen or distributed by Kleen to the association
17 or its members at those meetings.

18 JUDGE RENDAHL: So your request is for
19 minutes of any Hospital Shared Services Association
20 meetings with --

21 MR. JOHNSON: At which Kleen --

22 JUDGE RENDAHL: -- representatives of Kleen
23 made a presentation and any materials provided by Kleen
24 to HSSA members at those meetings.

25 MR. JOHNSON: Correct, Your Honor.

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1 JUDGE RENDAHL: That would be Record
2 Requisition Number 4.

3 And, Mr. Knight, the way this works, if you
4 collect those materials and provide them to Mr. Haffner,
5 then he can provide them to Mr. Johnson.

6 THE WITNESS: Okay.

7 JUDGE RENDAHL: Is that something that would
8 be easy for you to do?

9 THE WITNESS: The minutes won't be a problem,
10 because when I get back to the office I can fax them
11 here as soon as I get back. As far as the packet that
12 was distributed, I have that in my office on file. It
13 would just be a matter of trying to physically get it
14 here. I don't know what sort of time frame.

15 JUDGE RENDAHL: Usually the Commission's
16 rules provide for a ten day response.

17 THE WITNESS: Oh, okay.

18 JUDGE RENDAHL: Would that give you enough
19 time to either make copies or identify the information
20 to Mr. Haffner?

21 THE WITNESS: Yes.

22 JUDGE RENDAHL: So Record Requisition Number
23 4 will be the minutes of any Hospital Shared Services
24 Association meetings at which Kleen representatives made
25 presentations to the association and any materials

1508

1 provided by Kleen to HSSA members at those meetings.

2 JUDGE RENDAHL: Okay, go ahead, Mr. Johnson.

3 BY MR. JOHNSON:

4 Q. I don't want to repeat myself, but I am still
5 interested in whether you remember anything about
6 Kleen's presentation earlier in the year to your
7 association with respect to the manner in which they
8 would dispose of medical waste that they collect if
9 their application is granted. Do you have any
10 recollection of a discussion of their disposal
11 methodology?

12 A. No, no, I do not. My approach was that I was
13 more concerned about the reception that my members were
14 getting from the presentation and that it was an
15 opportunity, in the business sense, it was an
16 opportunity for us as an organization to work together
17 and improve our current position.

18 Q. Do you know whether the six facilities you're
19 representing understand that Kleen proposes to
20 incinerate all of the medical waste it collects?

21 A. No, I can't -- I don't know if they know
22 that.

23 Q. Do you know whether the six facilities you
24 represent know that Kleen proposes to provide its
25 service with a single sized cardboard box only?

1509

1 A. No, I do not know that.

2 Q. Are you aware that there is a difference in
3 the maximum weights that can be placed in a cardboard
4 box versus a plastic reusable tub?

5 A. No, I did not until some of the testimony
6 that I heard in front of the Commission last Thursday
7 morning I believe it was. But up until that point, no,
8 I did not.

9 Q. Okay. So do you know whether the facilities
10 you represent have evaluated whether requiring them to
11 use a container with a lower maximum weight limit would
12 affect their cost?

13 A. No.

14 Q. Do you know whether the six facilities you
15 represent here today are aware of Kleen's requirements
16 with respect to waste segregation?

17 A. No, I do not.

18 Q. Do you know what those requirements are?

19 A. I am, yes, I am aware of them, yes.

20 Q. Is that as a result of the hearings?

21 A. No, actually it was a result of an E-mail
22 that I received from someone from Biosystems.

23 Q. I see, okay. Do you know whether if we
24 assume that Kleen is going to require the segregation of
25 sharps waste from path waste and general medical waste

1510

1 that that would affect the costs incurred by facilities
2 you're speaking for?

3 A. No, I don't.

4 Q. Mr. Knight, I'm going to ask you --

5 JUDGE RENDAHL: I'm sorry, I didn't hear a
6 response.

7 THE WITNESS: I said no, I do not.

8 JUDGE RENDAHL: I didn't hear it, so I'm
9 sorry.

10 BY MR. JOHNSON:

11 Q. Mr. Knight, I'm going to refer you to a
12 couple of exhibits that we have marked. Hopefully I can
13 find my copies. The first one is Exhibit 207. It is a
14 series of -- it's a multipage document that reflects
15 printouts from the web site of an organization called
16 Health Care Without Harm. Are you familiar with that
17 organization?

18 A. Actually I am not.

19 Q. Do you know whether your members are familiar
20 with that organization?

21 A. No, I -- it's something we haven't discussed
22 as a group. No, I'm not sure.

23 Q. Okay. Looking at Exhibit 208 if you would,
24 it's a multipage document with printed materials from
25 the web site of Hospitals for a Healthy Environment, are

1511

1 you familiar with that organization?

2 A. I don't have that unless it's in behind.

3 Q. I'm sorry, let me hand you mine. It's not --
4 it's this one.

5 MR. HAFFNER: We did have another copy here.

6 MR. JOHNSON: Oh, you do have another copy
7 there?

8 MR. HAFFNER: It was up here.

9 MR. JOHNSON: Let me take this one back then.

10 A. Here it is.

11 BY MR. JOHNSON:

12 Q. Are you familiar with Hospitals for a Healthy
13 Environment?

14 A. Yes, I am familiar with H2E.

15 Q. And could you tell us what that organization
16 does?

17 A. I'm not familiar with the intimate details of
18 what they do, but I know that my hospitals, we have
19 discussed it, and it seems to be -- it seems to be one
20 of those forefront topics for health care in general and
21 for my membership.

22 Q. So would you say that your members are
23 supportive of the goals of Hospitals for a Healthy
24 Environment?

25 A. Yes, in general I would say yes, that the --

1512

1 yes, I would say in general yes.

2 Q. Are you aware that some of your members I
3 believe are denoted as partners for the Hospitals for a
4 Healthy Environment?

5 A. Are you referring to --

6 Q. Perhaps you could take a look at the third
7 page of this multipage document marked as Exhibit 208.

8 A. None of my member hospitals are listed here.

9 Q. Your members are not on this list?

10 A. No, they are not.

11 Q. Okay. Are you aware that Hospitals for a
12 Healthy Environment is concerned with incineration as a
13 means for disposal of medical waste?

14 A. No, I did not know that.

15 Q. Are you aware that Hospitals for a Healthy
16 Environment is concerned with waste reduction at
17 hospitals?

18 A. No, again not specifically, generally, but
19 no, I did not.

20 Q. Mr. Knight, are you aware that Hospitals for
21 a Healthy Environment was originally the outgrowth of an
22 understanding between the EPA, and that's the
23 Environmental Protection Agency, and the American
24 Hospital Association?

25 A. No, no, I did not.

1513

1 Q. Okay. So, for example, the memorandum of
2 understanding that appears on about the sixth page of
3 the document marked Exhibit 208 is something that you
4 were not aware of?

5 A. No, no, I was not.

6 Q. So am I correct that you don't know of any of
7 the positions that Hospitals for a Healthy Environment
8 has taken on environmental issues?

9 A. That's correct.

10 Q. Do you know anything about their program?

11 A. No, I don't.

12 Q. Has there been discussion among your members
13 of the initiatives of Hospitals for a Healthy
14 Environment to your knowledge?

15 A. No, not with my members.

16 Q. Not by you with your members?

17 A. Correct.

18 Q. How about among your members, are you aware
19 of discussions there?

20 A. I belong to a trade association, which is
21 called Western States Health care Materials Management
22 Association, and some of my members are part of that
23 trade association, and we have an annual conference, and
24 part of -- I believe that part of the conference was a
25 presentation on the H2E program. But that's the only

1514

1 discussion that I -- that's been a part with my
2 membership or outside of that.

3 Q. And some of the hospital members of your
4 association would have attended that group?

5 A. Yes.

6 Q. Do you recall the nature of the presentation
7 that was made?

8 A. No, no, I don't.

9 Q. You were getting coffee at the time?

10 A. Actually I'm President of the association, so
11 I was at another meeting.

12 Q. Okay. Would you expect your members to
13 support minimization of incineration as a means for
14 disposal of environmental, I'm sorry, means of disposal
15 of biomedical waste?

16 MR. HAFFNER: Objection, no foundation.

17 JUDGE RENDAHL: Can you rephrase your
18 question, Mr. Johnson.

19 MR. JOHNSON: Yes, Your Honor.

20 BY MR. JOHNSON:

21 Q. Mr. Knight, has there been discussions among
22 the members of the Hospital Shared Services Association
23 in your presence with respect to the different
24 technologies available for medical waste disposal?

25 A. No, there has not.

1515

1 Q. So you have never been involved in
2 discussions with your members about incineration versus
3 alternative methods of disposal?

4 A. No, we have not.

5 Q. You have actually never discussed biomedical
6 waste collection services with your members other than
7 in connection with the Kleen proposal, have you?

8 A. Yeah, that's correct.

9 Q. So it's basically not been an issue for which
10 your association concerned itself with?

11 A. As an association we did not address this
12 issue, because we had no alternative, there was no
13 strategy, no position to take until there was an
14 opportunity with the introduction of Kleen
15 Environmental. There was no reason to discuss it.

16 Q. I think you mentioned that there was some
17 effort made five years ago, four or five years ago, to
18 work with Stericycle on some issues related to the
19 services being offered to your members; is that correct?

20 A. Correct.

21 Q. Was there -- did you have discussions prior
22 to that time about what you were -- your members were
23 seeking in the way of services in the biomedical waste
24 collection area?

25 A. I think as I recall we were looking for some

1516

1 additional -- some additional incentives based upon
2 further commitment, further increased volume from the
3 member hospitals.

4 Q. Basically cost oriented issues?

5 A. Yes, at that time I would say yes, it was
6 cost oriented issues.

7 Q. There was no discussion at that time among
8 your members to your knowledge with respect to methods
9 of disposal and issues related to disposal?

10 A. No, not at that time.

11 Q. Mr. Knight, did -- when Kleen made its
12 presentation to your association in the, I don't know,
13 summer perhaps of this year, did they make any
14 representations with respect to the Stericycle service?

15 A. No, they did not.

16 Q. They did not discuss the Stericycle service
17 at all?

18 A. I don't recall any comment specific to
19 Stericycle. Actually, well, let me say that -- I can't
20 say that if they said it, but what -- it was brought up
21 that this service would compete with Stericycle. So if
22 there was any mention, that was how it was mentioned.

23 Q. Now the six facilities that you surveyed with
24 your E-mail survey, are they the same six that are
25 identified as attending the meeting referenced in

1517

1 Exhibit 205?

2 A. Yes.

3 Q. And really there was only one of those that
4 had issues; is that right?

5 A. Yes, that's at least through the E-mail.

6 Q. You mentioned that Stevens Hospital E-mail
7 commented with respect to a problem with insufficient
8 number of tubs.

9 A. Right.

10 Q. Could you elaborate on what that means?

11 A. As I recall from the E-mail, it said that the
12 -- that there was an insufficient number of tubs to last
13 for the week, and so -- and the driver commented that it
14 didn't have enough room on the truck for more tubs, and
15 they ended up calling for more tubs.

16 Q. And did they get more?

17 A. Requesting more tubs.

18 Q. I'm sorry. And did they get more tubs?

19 A. I don't know.

20 Q. Was this a one time occurrence as far as
21 you're aware?

22 A. That I don't know either.

23 Q. How about the issue with the lack of a
24 sufficient number of lids, was that a sort of a current
25 problem that was affecting Stevens Hospital at the time

1518

1 the E-mail was issued, or was that something more
2 general?

3 A. I am trying to recall how I -- how I stated
4 the E-mail request. I think I just asked if there were
5 any service issues that you were currently -- that
6 currently -- that were currently occurring with
7 Stericycle. So again, I can't -- I don't know if it was
8 just happened that day that I sent the E-mail or if
9 these were recurring issues. From the -- I got the
10 sense from the E-mail that it was a recurring issue,
11 that it was -- it was stated rather frustratingly in the
12 E-mail.

13 MR. HAFFNER: Your Honor, I think the witness
14 indicated that he might have the E-mail. It might be
15 clearer for the record to try and admit the E-mail if he
16 has it.

17 Mr. JOHNSON: Let's take a break and see if
18 he can find it.

19 THE WITNESS: I would have to go to my car.

20 MR. HAFFNER: Oh, it's in your car?

21 THE WITNESS: Yeah.

22 JUDGE RENDAHL: Let's be off the record for a
23 moment.

24 (Discussion off the record.)

25 JUDGE RENDAHL: We'll be off the record until

1519

1 25 after, and then we'll come back and continue with
2 Mr. Knight. Let's be off the record.

3 (Recess taken.)

4 JUDGE RENDAHL: Before you start again,
5 Mr. Johnson, I realized I didn't identify the exhibits
6 on the record formally, so I'm going to do so before we
7 get started again. Marked as Exhibit 205 is the
8 Hospital Shared Services Association Regional Materials
9 Managers Meeting dated August 31st, 2004, or the minutes
10 of that meeting. Marked as Exhibit 206 is the Hospital
11 Shared Services Association Premier Owners System Member
12 List dated September 2004. Marked as Exhibit 207 is a
13 printout from the Health Care Without Harm web site,
14 it's about a seven page document. Marked as Exhibit 208
15 is a printout from the H2E web site or Hospitals for a
16 Healthy Environment, it's a multipage document. And
17 then marked as Exhibit 209 is another printout from the
18 Health Care Without Harm web site titled Health Care
19 Without Harm -- Medical Waste/Stericycle Watch.

20 So with that, Mr. Johnson, why don't you go
21 ahead.

22 MR. HAFFNER: Your Honor, should we mark also
23 the exhibit that we found during our break, which was
24 the E-mail from Mr. Knight.

25 JUDGE RENDAHL: All right, I will identify

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1 it, and that -- Mr. Johnson, can I see it just for
2 purposes of identifying it for the record.

3 Okay, marked as Exhibit 210 is a October 5th,
4 2004, E-mail from Mary Johanson, J-O-H-A-N-S-O-N, to
5 Maureen Nevarez, N-E-V-A-R-E-Z, and a heading on it
6 reads HSSA Knight, and that will be again marked as
7 Exhibit 210.

8 And, Mr. Haffner, you will provide copies at
9 the lunch break.

10 MR. HAFFNER: Yes, Your Honor.

11 JUDGE RENDAHL: Okay.

12 Please go ahead.

13 BY MR. JOHNSON:

14 Q. Mr. Knight, in the break you were able to
15 find an E-mail that I gather you received from Mary
16 Johanson at Stevens Hospital; is that correct?

17 A. Correct.

18 Q. One of the things that we don't have is your
19 E-mail to the six members requesting input. Would it be
20 possible to get a copy of your E-mail?

21 A. Yes.

22 Q. Do you think you have that in your car?

23 A. No, no, I don't.

24 Q. Okay.

25 JUDGE RENDAHL: So would that be a record

1521

1 requisition?

2 MR. JOHNSON: I would request that Mr. Knight
3 provide us a copy of his inquiry to the six facilities
4 on whose behalf he is appearing today and all of the
5 responses.

6 JUDGE RENDAHL: So you're requesting a copy
7 of the E-mail that Mr. Knight sent to the six members
8 identified during testimony today, and I'm just going to
9 confirm would that be Evergreen Health Care, Valley
10 Medical Center, Stevens Health, Highline Community
11 Hospital, Southwest Washington Medical Center, and
12 Overlake Hospital Medical Center.

13 THE WITNESS: Correct.

14 JUDGE RENDAHL: So those are the six members,
15 and those are the members identified in Exhibit 205, and
16 you would like the other five responses, Mr. Johnson?

17 MR. JOHNSON: Well, I believe Mr. Knight
18 testified that he only got three responses.

19 JUDGE RENDAHL: Okay.

20 MR. JOHNSON: So I would like the three
21 responses, I guess the other two in addition to the one
22 that has been marked as Exhibit 210.

23 JUDGE RENDAHL: All right, so Record
24 Requisition Number 5 would be a copy of the E-mail that
25 Mr. Knight sent to the six members identified in Exhibit

1522

1 205 and the other two responses.

2 And the same protocol we discussed,
3 Mr. Knight, for the other record requisition, if you can
4 provide it to Mr. Haffner, he will provide it to the
5 parties.

6 And again for the attorneys, the documents
7 provided in response to records requisitions are similar
8 to data request responses, I don't see them unless you
9 all request that they be made a part of the record, so
10 that's a separate step. Once you receive them, you have
11 to either coordinate among yourselves to agree whether
12 they would go into the record, or bring that dispute to
13 me if you wish to admit it into the record.

14 MR. HAFFNER: Thank you, Your Honor.

15 JUDGE RENDAHL: Okay, go ahead, Mr. Johnson.

16 BY MR. JOHNSON:

17 Q. So, Mr. Knight, I'm referring or at least I
18 think we're referring in part to the E-mail marked as
19 Exhibit 210. It indicates here that Stericycle does not
20 deliver enough containers to last a week sometimes. Do
21 you know whether the requirements of Stevens Hospital
22 change from week to week with respect to the number of
23 containers they require?

24 A. No, I don't.

25 Q. If their requirements change from week to

1523

1 week, would you think it was strange that Stericycle
2 would not have the right number of containers in a
3 particular week?

4 A. I'm not sure, I guess it would -- I don't
5 know. Not being the person responsible for that type of
6 service internally within a hospital, I wouldn't know if
7 usage would be consistent or if it would fluctuate.

8 Q. And particularly you don't know that with
9 respect to Stevens Hospital?

10 A. Correct.

11 Q. And you don't know whether Stevens Hospital
12 called ahead to change their number of containers that
13 they required for that particular week or what they did;
14 is that right?

15 A. That's right.

16 Q. Do you know what she means about the problem
17 with lids not fitting the containers?

18 A. No, I did not talk with her specifically.

19 Q. So you don't know anything except what's on
20 the page here in Exhibit 210?

21 A. That's correct.

22 Q. You have no personal knowledge of any of
23 these problems?

24 A. Personal experience with these, no.

25 Q. Personal knowledge or experience?

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1 A. Correct.

2 Q. There's a comment here that the billing is
3 usually late. Do you have any idea what late means?

4 A. No, I don't.

5 Q. Do you have any knowledge with respect to how
6 Stericycle responds to these issues if they are raised
7 with Stericycle by Stevens Hospital?

8 A. No, I don't.

9 Q. Do you know what the practices are of
10 Stericycle with respect to providing lids, the number of
11 lids to go with the number of containers delivered or
12 anything like that?

13 A. No, I don't. I would assume that there would
14 be one lid per container, per one container, but no, I
15 don't.

16 Q. That would be the assumption, wouldn't it?

17 A. Yes.

18 Q. So if a facility turns up short of lids, what
19 do you think happened to the lids?

20 A. I wouldn't know.

21 Q. They might have mislaid them, mightn't they?

22 A. That or they received too many containers
23 from the first shipment and not enough lids.

24 Q. I thought we just agreed that they would
25 deliver a lid with every container most likely.

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1 A. Well, but from the E-mail you can assume that
2 she said they didn't get enough containers, she didn't
3 say they didn't get enough lids, so they could have not
4 gotten enough containers but got enough lids and as a
5 result ended up with, do you see what I'm saying?

6 Q. No.

7 A. It could be both ways.

8 Q. No, I don't. I think that we neither of us
9 knows exactly how they -- how that is handled.

10 Mr. Knight, I think your testimony was that
11 you only surveyed the six members who attended the
12 August 31, 2004, meeting with respect to their
13 satisfaction or dissatisfaction with Stericycle
14 services; is that correct?

15 A. That's correct.

16 Q. Why didn't you survey all of your members?

17 A. Because these were the 6 facilities that had
18 heard the presentation, that they were, a presumption on
19 my part that since they're 83% of our purchase volume
20 that they're most likely 83% of our -- of the waste
21 generation. And it was the 80/20 rule, it's just if
22 we're moving forward as an organization, it's better to
23 or I guess it makes more sense to herd 6 cats as opposed
24 to 28.

25 Q. When you say that these are the six

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1 facilities that heard the Kleen presentation, I think
2 you told us that the Kleen presentation was not made
3 August 31, 2004, but was made at an earlier meeting?

4 A. Right, and those same six facilities were at
5 that earlier meeting.

6 Q. And no other facilities?

7 A. No. This group meets the last Tuesday of
8 each month, so it was specific to these six facilities.

9 Q. Okay. So as far as you know, Kleen hasn't
10 made a presentation to your whole membership?

11 A. That I don't know. I do know just the six
12 largest.

13 Q. Okay. So insofar as what you know about, the
14 Kleen presentation only addressed the six largest
15 facilities in your association; is that correct?

16 A. Correct, as far as I know.

17 Q. Is there some reason that the other members
18 of your association didn't attend the meeting where the
19 Kleen folks made their presentation?

20 A. They weren't invited.

21 Q. Whose decision was that?

22 A. It was the decision of -- it was the decision
23 of the, let me see, it was a collective decision of the
24 organization as a whole.

25 Q. So the other 22 members that were not invited

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1 joined with the 6 who were and agreed that only the 6
2 should be invited?

3 A. Correct. Not that specific, but we had our
4 annual membership meeting last June, much compared like
5 a stockholders meeting, and it was shared with the
6 membership that the big six, the large six facilities
7 would be the driving portion of the membership that
8 would work with the various contracts that we have and
9 the various contract suppliers to work towards reducing
10 cost for every member within the association.

11 Q. So if I understand correctly, you basically
12 orient towards the group you have called the big six
13 with respect to almost all the decisions of your
14 association on group buying?

15 A. No, only in specific to the -- Premier is our
16 national group purchasing organization. They're
17 approximately 1,800 hospitals nationally. They provide
18 a majority of our group purchase contracts that are made
19 available to all the members of Hospital Shared Services
20 Association. There's some of those contracts have an
21 element that allows additional savings and additional
22 competitive pricing if as a system we can meet the
23 criteria of the contracted supplier, and some of the
24 criteria is predicated on our -- the aggregation of our
25 purchase volume. So as an example, a contract may have

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1 five tier levels of pricing, and the first tier, the
2 first four tiers will be pricing based upon the
3 individual hospital's dollar volume, annual spent for
4 those products through that contract. The last tier is
5 what they refer to as an IDN tier, which allows the
6 system to aggregate their volume. And if the
7 aggregation meets the specific dollar volume, then
8 everyone in this system receives the higher price.

9 Q. Or maybe the lower price?

10 A. Yeah, or depending upon the purchase volume
11 of the association. So as a group since those six are,
12 as I mentioned, 83% of our spent that the association
13 understood that if those big six or those six facilities
14 by working toward standardization and aggregating their
15 volume to the benefit of all the members of the
16 association, then they were given -- delegated the
17 responsibility and the authority to proceed in doing so
18 on behalf of every member of the association.

19 Q. If I could rephrase that and see if I've got
20 it right, it's the big six have the most buying power,
21 and therefore they would take the lead on decision
22 making for the association?

23 A. Correct, yeah.

24 Q. But in the context of biomedical waste, isn't
25 it important that the small generators also receive a

1529

1 quality service?

2 A. Oh, certainly, yes.

3 Q. And small rural generators like your other 22
4 members that are not within the big 6?

5 A. In my opinion as director of the association,
6 they're all important to the process.

7 Q. I understand your view on that, but you
8 didn't solicit their views with respect to the
9 satisfactory or unsatisfactory character of the service
10 they're currently receiving from their existing
11 biomedical waste collection company; is that right?

12 A. No, no, we did not involve them in any survey
13 process. They do receive the agenda and the minutes for
14 these meetings, so they know what we're discussing and
15 what areas we're approaching, but that's the
16 communication that's given to those rural facilities.

17 Q. Does your association represent the
18 environmental service people in the hospitals that
19 actually handle medical waste and make decisions about
20 who's going to provide the medical waste collection
21 service for the hospital?

22 A. Our association represents the facility, the
23 hospital in general I guess. They're the -- it's the
24 hospital that's the member of the association and an
25 owner of the association, not any independent person or

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1 department manager. I work with -- I work with all
2 levels, senior levels from CEO, CFO, all department
3 managers within the member hospitals, and facilitate
4 that expertise within those member hospitals to whatever
5 benefit as a cooperative that we can generate for all
6 our members.

7 Q. But isn't it really the purchasing managers
8 that are primarily involved in your association?

9 A. Yes, they are, they are primarily the gate
10 keeper and an integral part in any decision that occurs
11 within a hospital, within a facility.

12 Q. And isn't it the posture of those folks to
13 look primarily at cost; they're not directly involved in
14 the actual handling of the waste itself?

15 A. That's correct, I think that they're
16 generally focused on cost and services.

17 Q. Do you know whether -- let me start over.

18 You mentioned a national group, buying group
19 called Premier; is there a fuller name to that
20 organization?

21 A. No, it's just Premier, Inc.

22 Q. Premier, Inc., okay. And this is a hospital
23 co-op nationally?

24 A. Yes.

25 Q. So you participate in some of their

1531

1 contracts?

2 A. Yes.

3 Q. Do you know whether Premier deals with
4 medical waste contracting in other parts of the country?

5 A. To the best of my knowledge, Premier does not
6 have a contract for any sort of medical or infectious
7 waste, no. Again, some of the other systems within
8 Premier might have something in their region, but I
9 don't know about that.

10 Q. Just so that I understand completely, if the
11 Kleen application is granted, is it your understanding
12 that there would be an additional process of evaluation
13 and judgment to determine which service your members
14 would then choose?

15 A. Yes, I would -- historically that has been
16 the course of action by the association.

17 Q. So your members have, the six members you're
18 representing here today, have not made a decision yet to
19 purchase biomedical waste collection services from Kleen
20 if their application is granted; is that correct?

21 A. That's correct.

22 Q. Mr. Knight, do you have any idea whether
23 allowing additional biomedical waste collection
24 companies to provide service in the urban areas of the
25 state of Washington would affect the ability of existing

1532

1 carriers to serve rural areas within the state of
2 Washington?

3 MR. HAFFNER: Objection, foundation.

4 JUDGE RENDAHL: Mr. Johnson, can you
5 rephrase.

6 BY MR. JOHNSON:

7 Q. Well, my question goes this way, Mr. Knight's
8 membership is 6 large urban hospitals, and 22 smaller
9 rural hospitals; is that correct, Mr. Knight?

10 A. Mm-hm.

11 Q. Are you concerned at all that permitting
12 additional competition for the business of the six large
13 urban hospitals if that were -- if that would affect the
14 ability of existing carriers to serve the remainder of
15 the state?

16 MR. HAFFNER: I'm going to object still on
17 foundation. I don't think he has expressed any
18 knowledge of the economics of the existing carriers.

19 MR. JOHNSON: Well, I guess, Your Honor, I'm
20 asking Mr. Knight since he has a really unique position
21 here it seems to me with a very clear split in his
22 membership group whether he has thought about that.
23 Maybe I can ask him that question.

24 JUDGE RENDAHL: Maybe that's an appropriate
25 question.

1533

1 MR. JOHNSON: Okay, Your Honor.

2 BY MR. JOHNSON:

3 Q. Mr. Knight, have you considered and has your
4 association considered whether allowing additional
5 competition to serve the large urban hospitals would
6 affect or might affect service to the rural parts of the
7 state?

8 A. No, no, we haven't. And I can't recall where
9 we have experienced that, where resources have -- that
10 resources have been consumed by the larger facilities
11 and have actually deteriorated the service from the
12 rural facilities, I can't recall experiencing that.

13 Q. Are you aware that Kleen Environmental has no
14 existing biomedical waste handling operations?

15 A. No, I was again not aware of that until some
16 of the testimony last Thursday.

17 Q. But you are aware now that they have no
18 facility, no truck yard or storage facility or physical
19 location of where they would carry on a biomedical waste
20 collection service?

21 A. That's correct.

22 Q. And you're aware that they do not have trucks
23 that would be suitable for that service?

24 A. That's correct.

25 Q. And are you aware that the testimony is that

1534

1 they have no experience in providing that kind of
2 service?

3 A. I guess it's not my decision. I'm not a
4 customer.

5 Q. I see.

6 A. So those are issues that are not my concern I
7 guess.

8 Q. But those are issues that you would expect
9 your members to take into account in deciding whether
10 the Kleen service is a suitable service for them?

11 A. Oh, yes.

12 Q. Mr. Knight, do you know whether any of the
13 six large hospitals that you're representing today has
14 audited Stericycle's operation?

15 A. No, I don't.

16 Q. Mr. Knight, are you aware of the Biosystems
17 program that Stericycle offers?

18 A. Just a little bit. They did make a
19 presentation to this group as well.

20 Q. To this group meaning the --

21 A. The six that are reflected in the minutes of
22 August.

23 Q. Are you aware whether any of your members are
24 working with Stericycle in the Biosystems program?

25 A. No, I just -- just that there has been -- I'm

1535

1 not aware of any actual conversions, but I believe
2 Valley Medical Center in Renton and one other of my
3 hospitals, I don't recall, are taking a serious look at
4 trialing.

5 Q. And what's your understanding of the
6 Biosystems program?

7 A. Just a rotating of containers, sharps
8 containers, within the facility. Well, what I heard
9 from the hospitals was the value that the containers
10 were being removed by Biosystems and that they did not
11 have to inventory the containers, so they saw some
12 service enhancements there as well as some savings,
13 potential savings.

14 Q. And are you aware that the service involves
15 reusable sharps containers?

16 A. Yes, I did.

17 Q. And do your members see that as a potential
18 benefit?

19 A. That I don't know, that wasn't -- at the
20 presentation they had samples of the containers there,
21 so you could see that they were reusable. I don't
22 recall any specific conversation, I don't recall any
23 specific questions or conversation regarding that.

24 Q. Would you say the Biosystems program is an
25 innovative program?

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1 A. I guess my sense is yeah, that it is.

2 Q. Would you say that that program reflects a
3 service complacency?

4 A. Well, no, I -- that hasn't been evident yet.
5 As I understand it they're a new company with a new
6 service, unusual service in the area, so there hasn't
7 been any time for complacency yet.

8 Q. You are aware that is a Stericycle program,
9 right?

10 A. I am aware that it is a company that's owned
11 by Stericycle, yes.

12 Q. Okay. I think at the end of your direct
13 testimony you indicated that in the absence of
14 competition there is sometimes a tendency toward
15 complacency; isn't that right?

16 A. Yes, that's been my experience.

17 Q. Have you had any evidence of that in the
18 Stericycle context?

19 A. Personally, personal experience, no.

20 Q. How about degradation of services, you
21 mentioned sometimes in the absence of competition there
22 is a degradation of service level, has there been a
23 degradation of service levels to your members that are
24 served by Stericycle?

25 A. Only implied through the E-mail through

1537

1 Stevens, I mean actual documentation. Again, anything
2 else I state would be hearsay from conversations that I
3 have had at our meetings. But as having anything
4 documented, no.

5 Q. Or what I'm looking for is anything really
6 significant in your mind that constitutes a degradation
7 of service; are you aware of any serious service issues
8 involving Stericycle service?

9 A. Specific to any specific hospital, no, only
10 other than what was documented to me.

11 Q. And that's the Stevens Hospital E-mail --

12 A. Right.

13 Q. -- you're referring to?

14 A. Right. Again, the rest of it would be
15 speculation on my part based upon conversations that I
16 have had with those individuals in the sense of the
17 service that they were currently receiving from
18 Stericycle compared to the type of service levels that
19 they get from other suppliers.

20 Q. How about other solid waste collection
21 companies, do your members receive solid waste
22 collection services from multiple providers?

23 A. That I don't know.

24 Q. You don't know how solid waste is handled in
25 your member facilities?

1538

1 A. No, I don't.

2 Q. You're not involved in negotiating contracts
3 for solid waste collection, are you?

4 A. Not currently, but if it's the direction of
5 the group to proceed in that direction, then yes, I
6 would be involved.

7 Q. In other words, you will take direction from
8 your organization?

9 A. Exactly.

10 Q. From your members?

11 A. That's exactly right.

12 MR. JOHNSON: Understood. Thank you, I have
13 no further questions.

14 JUDGE RENDAHL: Mr. Sells, do you have any
15 questions for the witness?

16 MR. SELLS: I do, Your Honor, thank you.

17

18 C R O S S - E X A M I N A T I O N

19 BY MR. SELLS:

20 Q. Mr. Knight, my name is Jim Sells, I represent
21 the Washington Refuse and Recycling Association, which
22 is an association similar to yours, and three other
23 garbage haulers in the state. To follow up on
24 Mr. Johnson's question, are you aware that the solid
25 waste collection and transportation industry in the

1539

1 state of Washington is regulated?

2 A. Yes.

3 Q. Do you know what that means?

4 A. No, I don't, I don't know what the details of
5 that is.

6 Q. Will you take my word for it that that means
7 in most cases that a customer does not have a choice of
8 which garbage company picks up their garbage?

9 MR. HAFFNER: Objection, are you talking all
10 solid waste or biomedical waste?

11 MR. SELLS: I'm talking garbage companies.

12 MR. HAFFNER: Well, I think that there is a
13 legal distinction between the two as to whether there is
14 one carrier or multiple carriers.

15 MR. SELLS: Your Honor, there is no legal
16 distinction between medical waste and solid waste.
17 Medical waste is solid waste.

18 JUDGE RENDAHL: Why don't we take it in two
19 questions.

20 MR. SELLS: Okay.

21 JUDGE RENDAHL: Why don't you first ask the
22 question concerning solid waste generally.

23 MR. SELLS: Okay.

24 JUDGE RENDAHL: And then ask the question
25 about medical waste, and then we'll have a clearer

1540

1 record.

2 BY MR. SELLS:

3 Q. Are you aware that for general garbage
4 service, what we call municipal solid waste, that in
5 most instances, if not all instances, the customer does
6 not have the choice of a company?

7 A. Yes.

8 Q. All right. For example, I don't know where
9 you live, but wherever you live somebody picks up your
10 garbage, right?

11 A. Right.

12 Q. And you are aware that you don't have a
13 choice to have somebody else pick up that garbage?

14 A. That's correct.

15 Q. All right. Now in medical waste or
16 biomedical waste, which is again if you will take my
17 word for it is garbage, solid waste, are you aware that
18 there are some areas in the state where a customer does
19 have a choice?

20 A. No.

21 Q. Are you familiar with a company called Harold
22 LeMay Enterprises?

23 A. No.

24 Q. How about Consolidated Disposal?

25 A. No.

1541

1 Q. And Rubatino Refuse, Incorporated?

2 A. No.

3 Q. All right. Have you received any complaints
4 from any of your members concerning service, medical
5 waste service that's provided by any of those three
6 companies?

7 A. No.

8 Q. Have you received any complaints from any of
9 your members involving medical waste services in
10 Thurston County, for example?

11 A. No.

12 Q. How about in Pierce County?

13 A. No.

14 Q. In Mason County?

15 A. No.

16 Q. In Grays Harbor or Lewis Counties?

17 A. No.

18 Q. And I note that you have a member in Ephrata,
19 which is in Grant County, have you received any
20 complaints from that hospital, which I believe is
21 Columbia Basin Hospital, regarding their medical waste
22 services?

23 A. No.

24 Q. Do you know if Columbia Basin Hospital gets
25 their medical waste services from Stericycle or from

1542

1 Consolidated Disposal?

2 A. That I don't know. As I mentioned earlier --

3 Q. Go ahead.

4 A. -- the only ones that were surveyed were the
5 six, not the balance of the membership, so I haven't
6 asked the question.

7 Q. The Puget Sound Kidney Center apparently is
8 located in Everett; are you familiar with that facility?

9 A. Yes.

10 Q. Do you know whether that facility uses
11 Rubatino Refuse or Stericycle?

12 A. No, I do not.

13 Q. And same question, have you had any
14 complaints about the service from the Kidney Center?

15 A. No, I have not.

16 Q. Have you ever advised your members or has
17 anyone else advised your members that if they have
18 complaints concerning any solid waste service that's
19 regulated by this Commission that they can make a
20 complaint to the Commission?

21 A. I'm sorry, has anyone from our association
22 stated?

23 Q. Well, have you or maybe a guest speaker or
24 something like that advised your members that if they
25 have a complaint regarding their solid waste service, be

1543

1 it medical or general, that they can take that complaint
2 to the Utilities and Transportation Commission?

3 A. No, nobody has.

4 Q. And are you aware if any of the six or any of
5 them for that matter have done so?

6 A. No, I'm not.

7 Q. So you probably don't know what would happen
8 if they did do that?

9 A. No.

10 Q. All right.

11 Are any of the non big six on your board?

12 A. Yes, actually none of those individuals
13 reflected in the minutes serve on the board; however,
14 representatives from their facility do serve on the
15 board.

16 Q. How many members of your board?

17 A. There's a total of ten.

18 Q. And are the big six all represented on the
19 board?

20 A. Five of the big six are represented on the
21 board, with one that is pending. We have asked the CFO
22 at Evergreen to serve on the board, and she still is
23 deciding whether she would like to, and then we have
24 three of the rural hospitals.

25 Q. Which three are those, if you recall?

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1 A. Those are Newport Community Hospital in
2 Newport, Washington, Pullman Memorial Hospital in
3 Pullman, Washington, and East Adams Hospital in
4 Ritzville, Washington.

5 Q. And as far as setting policy, does each board
6 member have one vote?

7 A. Yes.

8 Q. Straight majority on setting policies?

9 A. Yes.

10 Q. And just to be absolutely certain, other than
11 these six who are all located in I think King and
12 Snohomish County; is that correct?

13 A. Yeah, I believe so.

14 Q. You are not offering any testimony from any
15 other area of the state, any other county, in favor of
16 the Kleen application?

17 A. Correct.

18 MR. SELLS: Thank you, that's all I have.

19 MR. HAFFNER: Your Honor, I was just going to
20 say, I think just to clarify the record, I think one
21 representative is from Southwest Washington Medical
22 Center in Vancouver.

23 THE WITNESS: So King, Snohomish, and --

24 MR. SELLS: Clark.

25 THE WITNESS: Clark.

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1 MR. SELLS: All right, I stand corrected,
2 thank you.

3 JUDGE RENDAHL: And are you done, Mr. Sells?

4 MR. SELLS: Yes, Your Honor.

5 JUDGE RENDAHL: Okay, I have a few questions,
6 Mr. Knight.

7

8 E X A M I N A T I O N

9 BY JUDGE RENDAHL:

10 Q. Is it your understanding that if Kleen
11 Environmental was granted a certificate to provide
12 medical waste collection and disposal service in the
13 state or a portion of the state that your association
14 would be able to negotiate a rate with Kleen?

15 A. No, we would hopefully be able to approach it
16 as a competitive market to achieve additional benefits
17 or possible cost reductions reflected in other aspects
18 than rate.

19 Q. So your --

20 A. If we can't approach it -- if we can not
21 achieve as we do in so many other areas the actual cost
22 reduction of the product or the service, then we would
23 approach it from benefits achieved through other value
24 added services and having a choice.

25 Q. So your belief is that if there was a choice

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1 that it would spur greater competition in services and
2 possibly in cost?

3 A. Correct.

4 Q. And your interest is to take advantage of
5 whatever benefits you may gain through competition?

6 A. Correct.

7 Q. Okay. There was some discussion about your
8 understanding of a contract with the Washington State
9 Hospital Association and Stericycle. What is the
10 difference between your association and the Washington
11 State Hospital Association? I guess first of all, are
12 you familiar with the Washington State Hospital
13 Association?

14 A. Yes.

15 Q. Okay. Can you tell me what the differences
16 are between your association and the Washington State
17 Hospital Association?

18 A. Well, the Washington State Hospital
19 Association is more of an advocacy role. They have
20 staff down in Olympia for lobbying efforts. They're
21 more involved in the political regulation side of the
22 industry. They provide -- they have the Washington
23 Health Foundation which provides services to the
24 community, again more of an advocacy role.

25 HSSA, what we do is actual group contracting

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1 where we utilize the collective buying strength of the
2 member facilities and negotiate or develop contracts
3 that lower acquisition costs for products in exchange
4 for increased volume to the members of the association.

5 Another difference is that the Washington
6 State Hospital Association, most of the hospitals in the
7 state are members of the Hospital Association. We,
8 HSSA, has its competitors, we only have as I mentioned
9 the 28 facilities. We probably have at least 4 or 5
10 other competitors in the state that provide the same
11 services to hospitals within the state.

12 It was some years ago that the, my
13 understanding, that the Washington State Hospital
14 Association, which was not for profit, formed a for
15 profit company called Washington Hospital Services, and
16 it's my understanding that that for profit company was
17 designed to generate revenue through services provided
18 to their members to offset the dues expense, the
19 membership dues expense that the members of the
20 Washington State Hospital Association were paying to the
21 association.

22 And so it was WHS that started -- they
23 started competing with HSSA and other group purchasing
24 organizations in the state. They started developing
25 contracts based on the volume or the perceived size of

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1 purchase volume within the Washington State Hospital
2 Association. So they wrote -- they developed a contract
3 for credit and collections, there was some other
4 programs that they offered, and one of them was
5 Stericycle as part of that package. And it's my
6 understanding that these programs pay an administrative
7 fee, which is normally a percentage of the total sales
8 through the contract through the program by the
9 membership back to the association, back to WHS.

10 Q. Okay. So there is some sort of competition
11 then between your association and Washington Hospital
12 Services?

13 A. Yes.

14 Q. But not with necessarily the Washington State
15 Hospital Association?

16 A. That's correct.

17 Q. Okay. And you said there are four or five
18 other competitors to your association in Washington?

19 A. Yes.

20 Q. Okay. So there would be four or five other
21 organizations that seek to provide benefits to their
22 member hospitals?

23 A. Yes, correct.

24 Q. And is there any overlap between the
25 membership in your association and the Washington State

1549

1 Hospital Association?

2 A. Yes, there is.

3 Q. Okay. But there wouldn't -- is there an
4 overlap between your association and I guess to your
5 knowledge are there any members of the Washington
6 Hospital Services?

7 A. That are -- well, I think --

8 Q. Is that a membership organization,
9 Washington, do you know if --

10 A. No, I think --

11 Q. -- WHS is a membership organization?

12 A. No, I believe it's just a for profit
13 subsidiary of the Washington State Hospital Association.

14 Q. Okay.

15 A. So I don't believe there's any members,
16 member facilities that belong to WHS.

17 Q. Okay.

18 A. To my knowledge.

19 Q. Okay, well, thank you for indulging me in
20 that discussion.

21 In your discussions with Stericycle four to
22 five years ago, did you express only cost concerns to
23 Stericycle, or did you express other concerns to
24 Stericycle?

25 A. No, at that time it was only approaching them

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1 based upon the volume, purchase volume of our member
2 hospitals to see if there was an opportunity to reduce
3 their costs.

4 Q. All right. And just to make sure, in
5 reference to what's been marked as Exhibit 205, which is
6 the minutes of the August 31st meeting, now the
7 committee authorized you to speak here at this meeting;
8 is that correct?

9 A. Correct.

10 Q. But the board itself has not approved your
11 appearance here?

12 A. No, they have not.

13 Q. They have not?

14 A. They are not aware of it.

15 JUDGE RENDAHL: All right, I have nothing
16 further.

17 Mr. Haffner, do you have any redirect?

18 MR. HAFFNER: Yes, Your Honor.

19

20 R E D I R E C T E X A M I N A T I O N

21 BY MR. HAFFNER:

22 Q. Along the same lines as the Judge was just
23 inquiring, I guess just to make this clear, the minutes
24 that are reflected in 205 are for a regional materials
25 managers meeting; is that correct?

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1 A. Correct.

2 Q. So it's not a meeting of the board of the
3 association?

4 A. That's correct.

5 Q. And what is the purpose of the regional
6 materials managers meeting?

7 A. To take a look at opportunities for further
8 reducing costs or enhancing services by and through
9 aggregating our volume and standardizing with a
10 supplier, a common supplier.

11 Q. By the title of the meeting, are we to assume
12 that the members present are materials managers for
13 their facilities?

14 A. Most, yes, most are, most are. They're the
15 materials manager, the director of purchasing, or the
16 contract specialist, and in some cases the -- it will
17 vary, the mix will vary, but in most cases it's the
18 materials manager.

19 Q. Does this committee make recommendations to
20 the board, or has the board delegated responsibility to
21 this committee?

22 A. This committee -- this committee has the
23 authority to make contractual commitments on behalf of
24 the association. They also make recommendations to the
25 board of directors. But the board, the board of

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1 directors has not -- has not and would not be
2 responsible for giving authority to this committee, if
3 that answered that last part of your question.

4 Q. When you say has not given authority to this
5 committee, what authority are you talking about?

6 A. Well, the board wouldn't be involved at that
7 level. The board is responsible for the budget, myself,
8 our strategic plan, the fiduciary responsibility of the
9 association. It's the member committees themselves when
10 it comes to contracts, when it comes to the -- when it
11 comes to the development of contracts, that authority is
12 given to the advisory committees or to the management
13 committees. I work with the pharmacy council, the
14 laboratory managers council, dietary council, I work
15 with the advisory committee that represents the
16 expertise within each of my member hospitals as we try
17 and work together towards reducing costs in specific
18 areas.

19 Q. Has the board then delegated the authority to
20 not only enter into those contracts but to evaluate the
21 contracts that this committee proposes to enter into?

22 A. No, no, they wouldn't even be involved in
23 that. They're -- as far as the board, as far as the
24 board of directors involvement, I would report to the
25 board my actions here today, but that would be -- that

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1 would be the extent of it.

2 Q. I'm confused, I thought I asked you if the
3 board had delegated the authority to this committee to
4 evaluate and enter into those contracts, and I thought
5 you said no, the board wouldn't make those decisions.
6 I'm not quite sure if you understand my question.

7 A. Maybe I don't.

8 Q. Is the board delegating the authority to this
9 committee to evaluate contracts that this association
10 would enter into?

11 A. I guess they're endorsing the activity. The
12 approach would be that, as I mentioned, that like at our
13 meeting, our annual meeting in June, that we had a
14 materials managers council meeting, which all the
15 materials managers from all the facilities are invited
16 to participate, and it was at -- it's at that meeting
17 that that specific council would give authority to their
18 peers, these six, to act on and make decisions on behalf
19 of their facility specific to the materials management.

20 Q. Okay.

21 A. And the same with the pharmacy managers. And
22 so I think the board authorizes that activity and
23 endorses that activity, but I can't provide any
24 documentation where the board has specifically
25 authorized this activity. Does that make sense?

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1 Q. Well, let me go back and I guess try and
2 clarify one more time. Has the board do you think
3 delegated to this committee the authority to allow you
4 to speak on behalf of the six members that are
5 represented by the committee?

6 A. I would have to say yes.

7 Q. You talked about a contract with Washington
8 Health Services and Stericycle I believe.

9 A. Right.

10 Q. Do you know what the services to be provided
11 pursuant to that contract are?

12 A. No, I don't, I don't know the details of that
13 relationship.

14 Q. You answered I believe in response to
15 Mr. Johnson's cross-examination regarding degradation of
16 service that you had direct knowledge about the Stevens
17 Hospital responses via their E-mail and that you had
18 some conversations with other members. Do you remember
19 who those other members were or are?

20 A. Again, just the ones that were represented at
21 that meeting.

22 Q. So the --

23 A. And again, I -- it was -- it seemed there was
24 -- there was some discussion regarding it. I don't
25 remember any -- I don't recall any favorable -- anyone

1555

1 speaking favorably of the service, but again the minutes
2 don't reflect every piece of conversation, they only
3 reflect the action or the path forward.

4 Q. So you don't recall what any one of these
5 individuals may have said about the Stericycle service?

6 A. No, I don't.

7 Q. Okay.

8 You were asked about the Biosystems service,
9 and I believe you testified that you were aware that the
10 program was being provided by a company owned by
11 Stericycle?

12 A. Yes.

13 Q. Are you aware that that service is being
14 provided by a company owned by Stericycle, Inc., and not
15 Stericycle of Washington, and maybe I should ask you if
16 you know the distinction between Stericycle, Inc., ad
17 Stericycle of Washington?

18 A. No, I don't.

19 Q. Okay.

20 I believe you testified that the minutes of
21 this regional managers meeting were distributed to all
22 of the members; is that correct?

23 A. Yes.

24 Q. So that went to all 28 of your members?

25 A. Yes.

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1 Q. Did you receive any complaints back from any
2 of those members about the contents of this meeting or
3 any of the actions recorded in that meeting?

4 A. No, I didn't.

5 MR. HAFFNER: Your Honor, those are all the
6 questions I have of the witness. I guess I realize
7 Mr. Johnson will have a chance to do some recross, I
8 think we may want to clarify the exhibits before the
9 witness is let go also.

10 JUDGE RENDAHL: All right.

11 MR. HAFFNER: I would offer the Exhibits 205
12 and 206.

13 JUDGE RENDAHL: Are you intending to withdraw
14 209?

15 MR. HAFFNER: 209 I'm not offering, I haven't
16 offered yet, because it was only depending on the
17 admission or exclusion of 207 and 208.

18 JUDGE RENDAHL: Okay, well, let's first take
19 up 205 and 206. Mr. Johnson, do you have any objection
20 to admitting what's been marked as Exhibits 205 and 206?

21 MR. JOHNSON: I don't think I do, Your Honor.
22 I did want to go back to Exhibit 205 on recross, but I
23 can do that.

24 JUDGE RENDAHL: Okay, so but you wouldn't
25 object to the admission of 205 and 206, or do you wish

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1 to wait?

2 MR. JOHNSON: No, I don't object to their
3 admission.

4 JUDGE RENDAHL: All right.

5 Mr. Sells, any objection?

6 MR. SELLS: No objection.

7 JUDGE RENDAHL: So what's been marked as
8 Exhibits 205 and 206 are admitted.

9 Mr. Johnson, why don't you go ahead with your
10 recross, and then I'm assuming you will make an offer
11 for your exhibits.

12 MR. JOHNSON: Yes, Your Honor.

13 JUDGE RENDAHL: Please go ahead.

14

15 R E C R O S S - E X A M I N A T I O N

16 BY MR. JOHNSON:

17 Q. Mr. Knight, does your association have a
18 contract or other kind of agreement with Kleen
19 Environmental?

20 A. No, we do not.

21 Q. On Exhibit 205, the minutes, if I understand
22 your testimony correctly, the first sentence of that on
23 page -- of that squib on page 2 under the heading Kleen
24 Environmental status report.

25 A. Mm-hm.

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1 Q. The first sentence would seem to be in error,
2 is that not correct? It says that you would be
3 representing HSSA members in providing testimony, but
4 isn't it the case that you have testified you're only
5 representing the six members of the committee?

6 A. Yes, I think it was intended to represent the
7 members in attendance at the meeting as you mentioned.
8 Because you will see it throughout the minutes, it says
9 the members agreed to provide their usage, so it's
10 generic in the sense of indicating those present at the
11 meeting. But correct, I am here for the six, not the
12 membership.

13 Q. I think you mentioned, Mr. Knight, that there
14 is perhaps an annual meeting in June of the material
15 managers council.

16 A. Yes.

17 Q. Is that correct?

18 A. Correct.

19 Q. And that would include purchasing managers
20 basically from all of your 28 member organizations?

21 A. Yes, they're all invited to participate. We
22 don't always get, you know, 100% attendance.

23 Q. Was it at that meeting that Kleen
24 Environmental Technologies representatives made a
25 presentation with respect to their proposed service?

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1 A. No, no, it wasn't.

2 Q. Can you clarify when that presentation was
3 made then?

4 A. I believe it was in, you know, it was
5 definitely within the last I believe three months, so it
6 very likely could have been -- it could have been the
7 June or July meeting. Our membership meeting, the
8 annual membership meeting was June I believe it was the
9 10th and 11th if that's a Monday and a Tuesday, and then
10 this committee would have met the last Tuesday of the
11 month of June, so it was a separate meeting.

12 Q. Have you been in contact with Kleen
13 Environmental since prior to the June membership
14 meeting?

15 A. No, no, I haven't. Again, if it -- the time
16 line was, you know, I would say no, I haven't, I
17 haven't.

18 Q. Okay. So your contacts with Kleen came after
19 the June meeting?

20 A. I believe so, yes.

21 Q. Do you make a recording of your meetings,
22 either the big six meetings of purchasing managers or
23 your annual meetings?

24 A. Yes, we do, we have records of actions as
25 well.

1560

1 Q. But there's an actual like a tape recording?

2 A. No, no, we don't record.

3 Q. So the only record you have are the minutes
4 and whoever's notes might have been?

5 A. Correct.

6 Q. On which the minutes were based presumably?

7 A. Correct.

8 Q. Do you yourself take the notes, or does
9 somebody else in your organization take notes of the
10 meetings for the purposes of creating minutes?

11 A. I take notes and my assistant takes notes,
12 and I use both those as resources that I personally
13 generate the minutes or records of action.

14 Q. Would it be fair to say those notes have more
15 in them than what ends up in the minutes?

16 A. Yes, yeah, I would say that the notes have
17 more detail than the record of actions.

18 MR. JOHNSON: I think I have no further
19 questions for Mr. Knight.

20 JUDGE RENDAHL: Okay, did you wish to offer
21 the exhibits --

22 MR. JOHNSON: Oh, yes, I would like to offer
23 Exhibits 207 and 208 at this time. I know Mr. Knight
24 has indicated that he is not aware, I believe he said he
25 is not aware of the Health Care Without Harm

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1 organization, so it may be that we want to defer that
2 and deal with it later, but I think he did reflect that
3 he was familiar with Hospitals for a Healthy
4 Environment, the H2E organization.

5 JUDGE RENDAHL: All right.

6 Mr. Haffner, your thoughts on 207 and 208.

7 MR. HAFFNER: I would object to the admission
8 of both documents, Your Honor. I don't think there has
9 been any foundation laid for this witness's knowledge of
10 the contents of the documents. He didn't author the
11 documents, he did not receive the documents, he clearly
12 didn't even -- is not even aware of the Health Care
13 Without Harm organization, which is document 207. I
14 think that these documents are so voluminous and have so
15 much information, you know, I don't even want to ask
16 what the intent of them is other than what I believe is
17 an expression of opinion on incineration, which I think
18 should come in from direct witnesses as opposed to this
19 type of documentation.

20 JUDGE RENDAHL: Okay, well, at this point I
21 will not, I'm going to hear from you too, Mr. Johnson,
22 but I don't believe I will admit 207 through this
23 witness, but I will leave it marked because it may be
24 appropriate for a later witness.

25 Mr. Johnson, on 208, anything you would like

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1 to add?

2 MR. JOHNSON: I would like to particularly
3 point out that on page 3 there's a list of Washington
4 hospitals that are partners in a health care initiative
5 that's reflected in the web site material, and, you
6 know, we have had quite a bit of testimony from
7 Mr. Haffner's clients and witnesses about things they
8 had heard from others at the hearing. This material
9 reflects the activities of a particular organization,
10 and it shows a substantial number of significant
11 Washington hospitals are members of that organization,
12 which suggests at least that they subscribe to the goals
13 and objectives of the organization. Mr. Knight
14 indicated that he thought his members generally
15 supported the H2E program. It's true he didn't know a
16 lot of the details, but I think in light of the desire
17 of the Commission to have evidence of the sentiment in
18 the community with respect to matters that are relevant
19 to the decision in this matter, I think that the H2E
20 materials are relevant and should be admitted and can be
21 admitted based on Mr. Knight's testimony.

22 JUDGE RENDAHL: Mr. Haffner.

23 MR. HAFFNER: Well, I renew my continued
24 objection. Again, none of the members of this witness's
25 association are represented in this document. If they

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1 want to submit a written statement from one of these
2 witnesses or bring them in as a live witness, I suppose
3 that might be a different situation, but they have not
4 chosen to do that. They're trying to bring this in
5 through a witness that has identified he's aware of the
6 organization, but to try and use this document to
7 establish positions by these people I think is
8 inappropriate.

9 MR. JOHNSON: Your Honor, that goes to the
10 weight and sort of relevance in kind of in detail of the
11 information presented. You know, Mr. Haffner has
12 presented Mr. Knight for the sole purpose of
13 representing people that aren't present here and the
14 views of people that aren't present here.

15 MR. HAFFNER: But they authorized him to
16 speak.

17 JUDGE RENDAHL: I believe Mr. Menaul also was
18 here speaking on behalf of members, so I think there's
19 an equal relationship there.

20 Mr. Haffner, I'm assuming if I admit this
21 Exhibit 208 that you would be offering 209.

22 MR. HAFFNER: Yes, Your Honor.

23 JUDGE RENDAHL: And, Mr. Johnson, what's your
24 perspective on 209?

25 MR. JOHNSON: I need to look at it first,

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1 Your Honor. I don't imagine we would have any objection
2 to it since it comes from the same web site. We're not
3 concerned about materials that are on that web site
4 being admitted.

5 JUDGE RENDAHL: All right, I think at this
6 point I'm going to admit Exhibit 208, not as coming from
7 the witness but just as a general statement of what H2E,
8 their position on the incineration, understanding it's
9 not provided through any particular witness. And as
10 Mr. Johnson states, it really goes to the weight that I
11 might assign this kind of evidence. And I will admit
12 Exhibit 209 to round out and make more complete the
13 exhibit of what's represented on the web site. So those
14 two exhibits are admitted into the record, but again I'm
15 not assigning them through Mr. Knight, because I don't
16 believe he's represented any true understanding of the
17 information presented.

18 All right, with that, Mr. Haffner, did you
19 have anything further for Mr. Knight?

20 MR. HAFFNER: No, Your Honor.

21 JUDGE RENDAHL: And then we have the Exhibit
22 210, which is the E-mail, and who would be sponsoring
23 that one?

24 MR. HAFFNER: That would be Mr. Knight, Your
25 Honor.

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1 JUDGE RENDAHL: Mr. Johnson, are you offering
2 that exhibit or is Mr. Haffner, are you offering that
3 exhibit?

4 MR. HAFFNER: I'm offering it as
5 clarification for the testimony that was elicited.

6 JUDGE RENDAHL: All right.

7 And, Mr. Johnson, do you have any objection
8 to admitting that Exhibit 210?

9 MR. JOHNSON: Your Honor, I would suggest
10 that we defer admission of Exhibit 210. I think it is
11 modestly helpful in clarifying the basis for
12 Mr. Knight's testimony, but we have asked for
13 Mr. Knight's E-mail outbound to which this is the
14 response, and we have asked for the other responses that
15 he received, and my suggestion would be that until we
16 see the question that was asked, we can't really
17 determine what this is, this document that's marked as
18 Exhibit 210. So I would like to -- my own thought is we
19 should defer until we have those additional materials.
20 We would very likely put them all in either together or
21 in a series and proceed.

22 JUDGE RENDAHL: Mr. Haffner, would you have
23 any objection once the information is provided to you
24 from Mr. Knight to have the E-mail question and the
25 other responses admitted?

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1 MR. HAFFNER: I think we can do that.

2 JUDGE RENDAHL: All right, so I think at this
3 point I will withhold ruling on that, and when the
4 record requisition is offered as an exhibit, I will have
5 them all admitted into the record.

6 MR. JOHNSON: Would we reserve 210 as sort of
7 the spot for those?

8 JUDGE RENDAHL: Well, I would likely reserve
9 210 and then have maybe 210 be all of the responses and
10 then 211 be the question, E-mail question.

11 MR. HAFFNER: Okay.

12 JUDGE RENDAHL: So let's reserve 211 as the
13 E-mail from Mr. Knight, I don't have a date on that yet,
14 and then 210 would be all three responses of which we
15 have one right now. Is that a fair way of putting it
16 into the record?

17 MR. HAFFNER: That's fine with me, Your
18 Honor.

19 JUDGE RENDAHL: So at this point I will
20 reserve those two numbers.

21 Okay, is there anything further we have for
22 this witness?

23 MR. HAFFNER: No, Your Honor.

24 JUDGE RENDAHL: All right.

25 Thank you very much, Mr. Knight, for

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1 appearing here this morning, we appreciate your presence
2 here. You're excused.

3 Let's be off the record.

4 (Discussion off the record.)

5 JUDGE RENDAHL: Let's be back on the record.

6 We're starting with our next witness, Mr. Rogers.

7 Mr. Rogers, if you would state your full name
8 and work address for the record, please.

9 MR. ROGERS: Jack F. Rogers, 315 Martin
10 Luther King Junior Way, Tacoma, Washington 98405.

11 JUDGE RENDAHL: And if you would raise your
12 right hand, please.

13 (Witness Jack F. Rogers was sworn.)

14 JUDGE RENDAHL: Please go ahead, Mr. Haffner.

15 MR. HAFFNER: Thank you, Your Honor.

16

17 Whereupon,

18 JACK F. ROGERS,
19 having been first duly sworn, was called as a witness
20 herein and was examined and testified as follows:

21

22 D I R E C T E X A M I N A T I O N

23 BY MR. HAFFNER:

24 Q. Mr. Rogers, can you state the name of your
25 employer, please.

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1 A. It's MultiCare Health Systems working out of
2 Tacoma, Washington.

3 Q. What is your position with that company?

4 A. I am the safety coordinator.

5 Q. How long have you held that position?

6 A. Moving on -- took the position in September
7 1987.

8 Q. What are your responsibilities in that
9 position?

10 A. Primarily I'm the safety coordinator is the
11 title it suggests, but I have an additional
12 responsibility of dangerous waste coordinator.

13 Q. Does that include coordination of medical
14 waste transportation and collection?

15 A. Does not. I manage those wastes that can't
16 be put in the solid landfill, down the sewer, or sent
17 through the medical waste streams. Typically they're
18 chemicals and gases and those kinds of waste streams,
19 but some of them are medically related waste.

20 Q. Are you authorized by your company to be here
21 today and speak on behalf of your company's treatment of
22 waste?

23 A. No, I'm here on my own based on a
24 relationship I have with Kleen Environmental
25 Technologies.

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1 Q. And what is that relationship with Kleen you
2 have?

3 A. For approximately five years now they have
4 been my primary contract for dealing with the
5 transportation and the paperwork and waste designation
6 testing and transporting as I said to the TSD or the
7 storage disposal facility that is permitted to take the
8 waste that we need to dispose.

9 Q. What types of waste are we talking about that
10 you're involved with?

11 A. Oh, multiple varieties. We have engineering
12 waste streams, we have chemicals that are no longer used
13 or need be -- had to be replaced, we have laboratory
14 waste streams, we have pharmacy waste streams, we got
15 radiology waste streams, and then a wide variety of
16 other departments including print shops, and so across
17 the spectrum, many types of industry.

18 Q. Do you know who the current provider to your
19 companies, current provider or providers to your
20 companies are for medical waste services?

21 A. Yes, I'm aware. Stericycle does the bulk of
22 the organization with the exception of the Tacoma
23 General and Mary Bridge facility, and we do the majority
24 of that including sharps containers by steam autoclave
25 and then landfill, so we're unique in that sense. The

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1 whole organization outside of those two large facilities
2 are Stericycle uses as the contract that takes care of
3 the medical waste for MultiCare.

4 Q. Let me back up a bit as to the locations that
5 MultiCare operates at. Where does your company have
6 locations, have facilities?

7 A. Well, we have three acute care hospitals, one
8 of them pediatric and two adult acute care in Tacoma,
9 Washington, and then we have large clinic ambulatory
10 surgery centers in Pierce County, King County, and then
11 we have multiple physician clinics, medical center
12 services spread throughout Pierce County, King County,
13 down into Olympia and et cetera.

14 Q. So you operate facilities in Pierce, King,
15 and Thurston Counties?

16 A. Yeah, and the county over there the other
17 side of Bremerton clear out to Silverdale we go, so,
18 yeah. I forgot the name of the county, but.

19 Q. But you have a facility in Silverdale?

20 A. We do.

21 Q. I believe that's Kitsap County.

22 MR. SELLS: That is Kitsap County.

23 A. Thanks.

24 Q. Do you have any knowledge about your
25 company's history of service that it's received from

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1 Stericycle?

2 A. I have a couple of kind of nuisance incidents
3 that occurred from customer service where I got involved
4 in. I don't get involved in the day-to-day operations,
5 but on the peripheral I had -- I know of several
6 nuisance incidents that occurred. And then one incident
7 that I deal with directly because it impacted a
8 dangerous waste stream.

9 Q. Now when you refer to nuisances, what are you
10 talking about specifically? Do you have any specific
11 instances?

12 A. Well, yeah, for example I got a call from our
13 compacter room at the TG Mary Bridge campus. While the
14 bulk of the medical waste is disposed by steam
15 autoclave, we still do residual chemotherapy and
16 pathology waste, and Stericycle ships those to their
17 incinerator. At that time I got the call, it's been
18 several years, it was the plant in Oregon, and we had a
19 couple of containers rejected allegedly because the
20 background radiation was higher than what was at that
21 place in Oregon. It was my impression that came from a
22 Stericycle employee. And our investigation on our end,
23 including some top rank people with respect to radiation
24 detection and stuff, we could not find any levels above
25 our background there, which was actually less than the

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1 background at the Oregon plant. So essentially I wrote
2 a letter and forwarded it through my -- to the person at
3 MultiCare that takes care of this Stericycle, Karen Van
4 Gelder, and asked, you know, what's going on here, why
5 did this happen, and it was a nuisance. All we ended up
6 doing was reshipping it through them and then it went
7 through, but there was no radioactive contamination.

8 Q. Is it your testimony that you believe that
9 Stericycle was responsible for handling that waste for
10 you?

11 A. That was my -- that was my impression, yes.

12 Q. Did you attempt to contact Stericycle when
13 the waste was returned?

14 A. I didn't, because I don't have direct control
15 of that contract. Karen Van Gelder did, so I contacted
16 her.

17 Q. Did she respond to you in terms of your
18 contact to her?

19 A. As I recall, she did, but I think she was as
20 mystified as I was how it could occur. But it hasn't
21 happened since or again, so it's kind of one of those
22 oddball nuisance things that occurred.

23 Q. Were you satisfied with the response -- well,
24 let me back up.

25 A. I --

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1 Q. Hold on for a moment.

2 Do you know if Ms. Van Gelder was satisfied
3 with the response that she received from Stericycle?

4 A. I believe so. I really don't recall. I'm
5 not even sure we got a response.

6 Q. Was that the only instance of a nuisance
7 involving Stericycle that you're aware of?

8 A. Well, this is an ongoing thing. The other
9 thing that's kind of a nuisance but it impacts on me
10 personally because I have to be the one that does it is
11 when our chemotherapy hoods within, we have like eight
12 of these throughout the system, the filters need to be
13 changed, and they protect the environment and the
14 workers from harm, any potential harm from the
15 chemotherapy agents, but they have to be changed by a
16 vendor, and they're designated as special handling waste
17 and must be incinerated. When we used to send them to
18 Bellingham in their original containers, the new filters
19 came in and they pack them all up, but Stericycle won't
20 take them in that way I have been advised. And so they
21 have to be cut up to make fit in their shipping
22 containers, and we're talking something that's four to
23 five feet by two feet made of wood, and so I have to cut
24 those up and wearing some pretty sophisticated
25 protective equipment. But my experience handling the

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1 dangerous waste, that's a nuisance, there's -- I see no
2 reason why we couldn't safely ship this. But my problem
3 is I have to deal with Stericycle on this issue, so we
4 have to do it that way.

5 Q. And have you attempted to resolve that with
6 Stericycle?

7 A. Again, I have not directly. I have spoken to
8 Karen Van Gelder who controls them, and that's the
9 outcome of the -- we're still doing it that way. When I
10 get some more, I will have to do that again.

11 Q. Has she expressed to you her feelings about
12 how that is going in terms of working that out with
13 Stericycle?

14 MR. JOHNSON: Your Honor, I have to object to
15 this question. If we want -- if Mr. Haffner wants
16 Ms. Van Gelder to come in and testify, I suggest that he
17 asks her to do so. This series of questions involving
18 what Ms. Van Gelder did or didn't do or what she thought
19 or didn't think I think is highly inappropriate.

20 JUDGE RENDAHL: Mr. Haffner, I tend to agree
21 that it's difficult for this witness to testify as to
22 what somebody else understands or believes, so if you
23 can rephrase your question in a way that doesn't involve
24 a response by a person that's not here, that would be
25 helpful.

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1 MR. HAFFNER: Well, the problem is, Your
2 Honor, Ms. Van Gelder is not able to be here.
3 Mr. Rogers is testifying on behalf of the organization
4 that Ms. Van Gelder is a part of. I realize that this
5 is hearsay evidence, but the Commission does take
6 hearsay evidence in and gives it the weight that it's
7 determined to deserve at the time. This is what happens
8 when we can't get the direct person in.

9 JUDGE RENDAHL: Okay, but I understand he's
10 not here speaking on behalf of the organization but he's
11 here on his own behalf. That's what I heard the witness
12 speak to.

13 MR. HAFFNER: That is correct.

14 JUDGE RENDAHL: All right. And I guess I
15 will allow a bit more inquiry into this, but I think I
16 will assign it the weight that it's accorded, but let's
17 see if you can rephrase your question in a way that
18 might be more appropriate.

19 MR. HAFFNER: Okay.

20 BY MR. HAFFNER:

21 Q. Mr. Rogers, are you aware of whether the
22 handling of these chemo hood filters has been resolved
23 in any way to your satisfaction?

24 A. No, because I'm still doing the same process.

25 Q. Are there any other nuisance issues that

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1 you're aware of involving Stericycle and your company?

2 A. There was one other issue that occurred, and
3 it came to my attention actually through Kleen, an
4 assessment when they did of my facilities' waste
5 streams. Specifically when we went to the pharmacy and
6 our chemo mixing areas, we were at that time, and it's
7 been changed now, we were mixing our non -- some of our
8 non empty U-listed waste in Stericycle's waste stream.
9 In other words we were giving them a waste that they are
10 not permitted to incinerate. And from that consult, we
11 rectified that situation by essentially separating that
12 waste stream out, and it saved me from a pretty
13 significant problem with the Department of Ecology when
14 they did a compliance inspection, I was actually ahead
15 of where they were going when they came in to look at
16 me, so I was -- but I didn't get that from Stericycle, I
17 got that from a consult from Kleen when they came in and
18 looked at a waste stream.

19 Q. What type of waste was that that was going
20 into the biomedical waste stream?

21 A. It was called -- it's actually in the
22 chemotherapy residual waste stream. We put them in
23 yellow buckets, that's how I refer to it, the yellow
24 bucket stream, and it gets incinerated at their plant.
25 It was U-listed waste or waste that is on the EPA U-list

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1 codes, and it requires a permitted process to dispose of
2 that waste. It can't be, it may have changed it now,
3 but at the time they were not permitted to take that
4 waste.

5 Q. Are you aware of whether your facilities have
6 received any training from Stericycle?

7 A. Not specifically, no.

8 Q. And let me clarify that. Are you not
9 specifically aware of whether they received any
10 training, or are you aware that they have not
11 specifically received any training?

12 A. I'm not aware of any training, but I don't --

13 Q. Okay.

14 A. I'm not the one that would know that.

15 Q. Do you know if your company has a preferred
16 method, well, I guess since you're not here on behalf of
17 the company, do you have a preferred method for how
18 waste and particularly medical waste should be handled
19 at your facilities?

20 MR. JOHNSON: Your Honor, I'm wondering about
21 the relevance of this question. Mr. Rogers is
22 testifying for himself, he's testified that he doesn't
23 have responsibility for medical waste matters, I'm
24 wondering about the relevance of his personal view on
25 this issue.

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1 MR. SELLS: I join in that, Your Honor.

2 MR. HAFFNER: I will withdraw the question.

3 BY MR. HAFFNER:

4 Q. Mr. Rogers, are you familiar with the
5 Biosystems program that's been discussed in these
6 hearings?

7 A. Yes, very familiar.

8 Q. And how is it that you're familiar with that?

9 A. I have been to several discussions,
10 presentations, and it's been agreed by my organization
11 to contract with Biosystems to perform that function for
12 I believe it's just the hospitals themselves. I don't
13 think they're going beyond that.

14 Q. And do you have an opinion on that decision
15 to contract with Stericycle?

16 A. Yes, my opinion is essentially the same as
17 when they first proposed it, while it's unproven within
18 my facilities, I see some pitfalls that potentially
19 could take place. You know, after 18 years of working
20 with my nurses and things like that, I can see where I'm
21 concerned about the safety of not only the environment
22 but also of the Stericycle employees or the Biosystem
23 employees, and I'm also concerned that we're having
24 non-employees going in the patient rooms. Those are --
25 so at this point my verdict is out on that.

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1 Q. How long have you been receiving services
2 from Kleen Environmental Technologies?

3 A. Approximately five years.

4 Q. During that time, have they provided you and
5 your company with any training in the area of their
6 services?

7 A. Sure. They come down and do emergency
8 responder training for me for spill response, and he's
9 came down and spoke on several occasions to management
10 groups concerning a variety of issues, indoor air
11 quality, waste management, those kinds of things.

12 Q. Has Kleen expressed an ability or do you have
13 an experience with Kleen of their ability to comply with
14 the laws regarding the waste stream that you handle?

15 A. Yes, very much so. I have never had an
16 incident. I always get my manifest back on time within
17 the 30 days signed. They're prepared. Rarely if
18 there's any changes or modifications to the manifest
19 it's something that I create, I will scratch a waste.
20 But I'm very pleased with their service. They come when
21 they're supposed to, they take care of their vehicles,
22 they placard those things right. And essentially in my
23 experience with this issue, they are one of the best
24 people I have worked with in this area.

25 Q. Do you have any experience with the

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1 regulations regarding medical waste?

2 A. Not directly. I'm aware of them. I
3 primarily -- I learned something today that the UTC has
4 some control over vendors that handle it, but the local
5 health departments govern rules and issue permits. I am
6 aware that there is a, it's been reserved in the
7 Department of Ecology rules and regulation on it, but
8 they don't have -- they exclude it from their
9 responsibilities.

10 MR. HAFFNER: Thank you.

11 I have no other questions for the witness,
12 Your Honor.

13 JUDGE RENDAHL: All right, with that I'm
14 suggesting that we take our lunch break. Let's be off
15 the record.

16 (Luncheon recess taken at 12:00 p.m.)

17

18 A F T E R N O O N S E S S I O N

19 (1:15 p.m.)

20

21 JUDGE RENDAHL: Let's be back on the record
22 after our lunch break, and now there will be
23 cross-examination from Mr. Johnson.

24 MR. JOHNSON: Thank you, Your Honor.

25

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1 C R O S S - E X A M I N A T I O N

2 BY MR. JOHNSON:

3 Q. Mr. Rogers, my name is Steve Johnson, I'm an
4 attorney, I represent Stericycle of Washington, and I'm
5 going to ask you a number of questions related to the
6 testimony you have given today. And if at any point in
7 time my questions are unclear or you would like
8 clarification, please don't hesitate to stop me and ask
9 for clarification, and I will do that, all right?

10 A. Yes, sir.

11 Q. And you need to answer audibly as you just
12 did so that the court reporter can take down your
13 answer.

14 Now if I understand your testimony correctly,
15 you do not have responsibility for biomedical waste
16 collection matters at your facility; is that correct?

17 A. That's correct.

18 Q. And that person who does have responsibility
19 is Karen Van Gelder; is that right?

20 A. That's right.

21 Q. And what is her title?

22 A. Director of Environmental Services.

23 Q. And is there a director above you on the
24 safety side as well?

25 A. I report to Gary Barth, who is the director

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1 of security, safety, and grounds.

2 Q. And does Gary report to someone else?

3 A. Yes, he reports to the environment of care
4 administrator, Rick Booth.

5 Q. And which of these people, if any, is sort of
6 on a level equal to Karen Van Gelder?

7 A. It would be Gary Barth.

8 Q. So, I'm sorry, and the person below Gary is?
9 You report upstream to one person, and who is that
10 again?

11 A. Gary Barth.

12 Q. That is Gary?

13 A. Yes, sir.

14 Q. All right. And Gary then is on a par with
15 Karen Van Gelder?

16 A. That's true.

17 Q. Okay. So you're not involved in decision
18 making at any of the MultiCare facilities with respect
19 to which biomedical waste collection company they use;
20 is that right?

21 A. Not directly, only on a consultant role, but
22 no, the answer would be no, I'm not.

23 Q. Did Karen Van Gelder ask you to come down
24 here and represent her views?

25 A. No.

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1 Q. You're not authorized to speak for her, are
2 you?

3 A. No.

4 Q. I was having a little trouble following you
5 when you talked about the different facilities that
6 MultiCare has. Could you go back through that again for
7 me. I think you said you had three acute care
8 hospitals.

9 A. That's correct.

10 Q. And that would be Tacoma General, Mary
11 Bridge, and Allenmore?

12 A. Mary Bridge Children's Hospital and Allenmore
13 Hospital.

14 JUDGE RENDAHL: And Allenmore is
15 A-L-L-E-N-M-O-R-E?

16 THE WITNESS: Yes, ma'am.

17 BY MR. JOHNSON:

18 Q. And those are all in Pierce County I believe
19 you said?

20 A. Yes, sir.

21 Q. Now in addition to that, you had another
22 category of clinics or what are your other categories?

23 A. We have three ambulatory surgery centers.

24 Q. All right. And then you had -- and then in
25 addition the third category would be clinics; is that

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1 correct?

2 A. Yes, sir.

3 Q. And that's primary --

4 A. More than I can remember, there's a lot of
5 them.

6 Q. Okay. And would that be primary care
7 clinics?

8 A. Yes, sir, primary care, family practice,
9 internal medicine, urgent care centers, those kind of
10 things.

11 Q. And I think you mentioned that at least the
12 hospitals, am I correct, autoclave their sort of general
13 regulated medical waste?

14 A. That's partially correct. Tacoma General and
15 Mary Bridge autoclave the bulk of their biomedical waste
16 including sharps. Allenmore does not because we do --
17 we're not authorized or will we transport medical waste
18 to the on site steam autoclave.

19 Q. And that's on site at the Tacoma General,
20 Mary Bridge location?

21 A. That's correct.

22 Q. And those two facilities are sort of adjacent
23 to one another I gather; is that true?

24 A. I would say they're co-located, correct.

25 Q. Okay. And I think you mentioned that Kleen

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1 Environmental was doing some work with you on hazardous
2 waste or chemical waste; is that correct?

3 A. Yes, sir.

4 Q. And is that only at some of these facilities
5 or one of them or can you clarify that?

6 A. Routinely it's at the three hospitals and
7 then some at the clinics, but it's more on a random
8 basis, depends on what the waste is that we're going to
9 dispose.

10 Q. So is that because the clinics don't generate
11 that kind of waste very much?

12 A. Yes, sir, that's basically correct.

13 Q. And did you say that they transport your
14 hazardous waste?

15 A. Yes, sir.

16 Q. And where do they take it?

17 A. Typically it goes to a TSD in Seattle.

18 Q. What's the name of that facility; do you
19 know?

20 A. Burlington Environmental.

21 JUDGE RENDAHL: And can you state what TSD
22 means?

23 THE WITNESS: Yes, ma'am, it's TSD stands for
24 transportation, storage, and disposal facility.

25 JUDGE RENDAHL: Thank you.

1586

1 BY MR. JOHNSON:

2 Q. And, Mr. Rogers, do you know whether Kleen
3 transports the waste in its own trucks?

4 A. Yes, sir, I believe they do.

5 Q. And is this service something they do in
6 conjunction with any other activities at your
7 facilities?

8 A. Not in conjunction with. They perform other
9 services, but we do this on a as, you know, I hire them,
10 I call them and say come out, we're going to do waste,
11 and then they bill me, and I pay them.

12 Q. Okay. So when you have your waste ready for
13 disposal, you call them to provide transportation to the
14 Burlington TSD facility?

15 A. Yes, sir, and many times they package the
16 materials as well on site, so I don't have to.

17 Q. Well, I'm going to ask you a few questions
18 about some of the I think you called them nuisance
19 instances involving Stericycle that you were aware of.
20 At one point you mentioned that there was a problem with
21 a container that somebody indicated showed radioactivity
22 higher than background; is that correct?

23 A. Yes, sir.

24 Q. And do you know -- well, let me start -- let
25 me go back one more step.

1587

1 I think you suggested that this waste was
2 being transported to a plant in Oregon?

3 A. Yes, sir.

4 Q. Do you know what plant that was?

5 A. I think it's Covanta, the incinerator in
6 Oregon.

7 Q. Covanta?

8 A. Yeah.

9 Q. Do you know whether it was Covanta that
10 determined that the radioactivity level was above
11 background for this particular container or some other
12 company?

13 A. My recollection it was a Stericycle person
14 that would -- advised us of that and I talked to about
15 that. Wasn't somebody from the incinerator, it was
16 somebody from Stericycle.

17 Q. But do you know whose meter, whose
18 radioactivity meter was tripped by this particular
19 container?

20 A. I do not.

21 Q. Could it have been a radioactivity detector
22 at the Covanta facility itself?

23 A. It's possible.

24 Q. Have you ever been to the Covanta incinerator
25 in Oregon?

1588

1 A. I have not.

2 Q. You deal with radioactive wastes from time to
3 time I gather in your position?

4 A. Actually, I don't, I just deal with problems
5 as they relate to them. That's dealt by the radiation
6 therapy department.

7 Q. So they deal with the disposal of that kind
8 of waste?

9 A. Yes, sir.

10 Q. Well, let me ask you this, maybe you know, if
11 you know, does radioactivity of the waste that the --
12 that your facilities generate change over time?

13 A. My understanding is they will decay but not
14 in three days.

15 Q. Do you know how rapidly radioactive materials
16 decay?

17 A. Just from knowledge I know that most of the
18 radioactive waste that we generate takes around six to
19 eight weeks to decay to background, and then we dispose
20 of it. So that's my knowledge of -- I depend on experts
21 at the organization to answer that for me.

22 Q. Do you -- but you do handle radioactive waste
23 to some extent or not?

24 A. No, only at the incident when a phone call is
25 -- that's kind of my role is to be the investigative

1589

1 side of for, you know, the administrative folks. They
2 depend on me to investigate and resolve incidents such
3 as that.

4 Q. Okay. Other than this one incident that you
5 referred to where a container was thought to be
6 radioactive in excess of background, do you get involved
7 in other matters involving radioactive waste?

8 A. No.

9 Q. And I think you indicated that Karen Van
10 Gelder was responsible for dealing with that issue with
11 Stericycle or with someone; is that right?

12 A. She is your -- she is the Stericycle primary
13 contact person that oversees the contract with them.

14 Q. Okay. So if you were going to go to somebody
15 in your facility that would be most knowledgeable about
16 Stericycle's services to MultiCare, would it be Karen
17 Van Gelder?

18 A. It would be.

19 Q. And would you say it's fair that Karen Van
20 Gelder is in touch with Stericycle on a regular basis?

21 A. Yes, I believe that's correct.

22 Q. Would that be weekly?

23 A. That I don't know.

24 Q. Okay. Mr. Rogers, you mentioned an issue
25 with chemotherapy hood filters.

1590

1 A. Yes, sir.

2 Q. Did you indicate that at one time or another
3 that someone had agreed to transport those filters in
4 their original boxes that they came in?

5 A. Yes, that's the way it used to work years ago
6 when they went to the incinerator in Bellingham.

7 Q. Who was it that handled that waste for you in
8 that way?

9 A. I don't remember, it's been so long ago, but
10 it wasn't Stericycle, I think it was prior to that.

11 Q. You understand that hazardous materials need
12 to be shipped in DOT approved containers, do you not?

13 A. Possibly, if it's a hazardous material.

14 Q. Okay. Aren't these chemotherapy hood filters
15 a problem because they're, I will use the word and maybe
16 you can correct me if I'm wrong, but aren't they loaded
17 with chemicals used in chemotherapy, isn't that what the
18 filter is intended to collect?

19 A. That's what the recommendation is, yes.

20 Q. So aren't they hazardous materials?

21 A. By I believe NIOSH guidelines that's correct,
22 yes.

23 Q. And NIOSH would be --

24 JUDGE RENDAHL: Can you identify NIOSH?

25 THE WITNESS: Oh, I'm sorry.

1591

1 JUDGE RENDAHL: Or spell it.

2 THE WITNESS: Sorry, National Institute of
3 Occupational Safety and Health. I will try not to use
4 those again.

5 MR. JOHNSON: It's all right, we have it on
6 the record, we know what it is.

7 BY MR. JOHNSON:

8 Q. But if that's the case, if this is a
9 hazardous, a chemical hazardous waste, why would you
10 think that you could put it in the biomedical waste
11 stream?

12 A. The answer to your question is it's a
13 residual chemotherapy just like what you're taking now
14 and incinerating.

15 Q. Well, that's your understanding, is it?

16 A. Yes, and it is, it's not -- it's not the
17 dangerous waste stream that I deal directly with, it's
18 more of this than that. There's no -- there's no
19 residual contamination that I'm aware of that requires
20 it. If there was, then I would be shipping it another
21 method to another place.

22 Q. Well, isn't the problem with the filter that
23 it collects chemical products from chemotherapy?

24 A. That's my understanding what they're basing
25 the recommendation on, yes.

1592

1 Q. I'm sorry, whose recommendation?

2 A. The NIOSH recommendation.

3 Q. And the NIOSH recommendation is what again?

4 A. That they need to be incinerated.

5 Q. I see. So your thought is that NIOSH

6 requires a certain kind of disposal?

7 A. That's correct, sir.

8 Q. Have you asked Kleen Environmental about how

9 you dispose of your chemotherapy hood filters?

10 A. I have asked them on a consulting role, what

11 if, like I have with many waste issues, and their

12 determination is that I can -- in their opinion it does

13 not qualify under the RCRA or EPA guidelines or

14 Washington State Department of Ecology rules as a waste

15 that must be handled --

16 Q. As a --

17 A. -- as a dangerous waste as opposed to a

18 special handling waste if I could say that.

19 Q. Earlier in the hearing we talked about RCRA

20 type waste, Resource Conservation and Recovery Act waste

21 or hazardous waste, is that are we talking about the

22 same thing when you refer to dangerous waste?

23 A. Yes, sir.

24 Q. Or --

25 A. Dangerous waste in the state of Washington

1593

1 means hazardous waste to the EPA. I prefer to use
2 dangerous waste because all of the waste including
3 medical waste is hazardous. It's dangerous waste meets
4 this set of criteria as opposed to a different set of
5 criteria for medical waste, much different.

6 Q. I'm going to ask you to look at a couple of
7 things that are in the exhibit book in front of you. If
8 you could look at Exhibit 83.

9 JUDGE RENDAHL: Let's be off the record for a
10 moment.

11 (Discussion off the record.)

12 BY MR. JOHNSON:

13 Q. I'm referring to Exhibit 83, Mr. Rogers, and
14 actually there's several documents collected in this
15 particular exhibit. You might thumb through them just
16 for a moment, but do you recognize that document or that
17 form?

18 A. Do not.

19 Q. Okay. The heading is service agreement for
20 Washington state customers only, Stericycle, right?

21 A. (Nodding head.)

22 Q. But you're not familiar with this agreement?

23 A. No, I'm not, it's the first time I have seen
24 it.

25 Q. Okay, so -- and you wouldn't know whether

1594

1 MultiCare has an agreement with Stericycle of this type
2 or of any other type?

3 A. I would not.

4 Q. Okay. If you turn, just take the top one and
5 turn to the fourth page, there's a document entitled
6 Stericycle waste acceptance policy checklist; do you see
7 that?

8 A. Okay.

9 Q. Does that document or anything similar to
10 that look familiar to you; have you ever seen anything
11 from Stericycle identifying the waste they accept and do
12 not accept?

13 A. No, this is the first time I have seen this.

14 Q. If you look down past the first major
15 division, you will see a line that reads in the center,
16 accepted waste which must be identified and segregated
17 for incineration. Do you see the first one there, it
18 says trace contaminated chemotherapy waste?

19 A. Yes.

20 Q. Could you just look at that language for a
21 second.

22 A. (Reading.)

23 Q. Have you had a chance to read it?

24 A. Yes, sir.

25 Q. Is it your view that chemotherapy hood

1595

1 filters fall within that definition of trace
2 contaminated chemotherapy waste?

3 A. It does mine, but.

4 Q. Okay. So your testimony is that these hood
5 filters would fall within that definition there?

6 A. Yes, sir.

7 Q. Okay. Do you see down below waste not
8 accepted by Stericycle there's a list of things?

9 A. Okay.

10 Q. If you would thumb down there or move your
11 finger down you will see bulk chemotherapy waste?

12 A. Yes.

13 Q. Would you not -- would you think that the
14 hood filters contain bulk chemotherapy waste?

15 A. No, I don't, but that's my opinion. I'm not
16 sure what you're -- the checklist that you have here,
17 what that's referring to. If I would have been shown
18 this, I would have asked you what you meant by that.

19 Q. There you go, that would be the right thing
20 to do, wouldn't it?

21 A. Yes.

22 Q. Have you ever asked Stericycle how they would
23 categorize the chemotherapy hood filters?

24 A. No. As I said in my previous testimony, I
25 had brought this to the attention of Karen Van Gelder,

1596

1 who was your contact.

2 Q. Okay.

3 A. And I haven't got a response from her, so I'm
4 assuming she didn't get a response from you, but maybe I
5 was wrong.

6 Q. She hasn't indicated -- she hasn't responded
7 to your inquiry then?

8 A. No, other than to say -- can I clarify?

9 Q. Sure.

10 A. Clarifying, other than to say my response was
11 it has to fit into your shipping containers.

12 Q. Was that in response to a question from you
13 about whether you could ship these hoods in the same
14 boxes that they came in?

15 A. Yes, I would -- I put it in that way, I
16 wanted to ship them like they were given to me by the
17 hood contractor.

18 Q. Okay. And so the answer was no, you've got
19 to use the containers that Stericycle provides?

20 A. That's correct, that was the answer given to
21 me from environmental services, my environmental
22 services.

23 Q. Okay.

24 And, Mr. Rogers, would you look at Exhibit 62
25 briefly. In the middle of, this is a multidocument

1597

1 exhibit, in the middle of it there is a document that I
2 think we can find that is headed tariff number 1 of
3 Stericycle of Washington. There you go, right there.

4 A. Here?

5 Q. Yeah.

6 A. Okay.

7 Q. Have you ever seen this document before?

8 A. I have not.

9 Q. If you would turn in that document to first
10 revised page 8, item 90, there's a tariff item here that
11 deals with rates for pathological waste, chemotherapy
12 waste, and pharmaceutical waste; is that right?

13 A. Yes, sir.

14 Q. Okay. If you look down, there's a definition
15 of chemotherapy waste there. Would you take a moment
16 and review that definition.

17 A. (Reading.)

18 Yes, sir.

19 Q. Based on that definition of chemotherapy
20 waste, do you have any question in your mind as to
21 whether the hood filters would be chemotherapy waste
22 within that definition?

23 A. I don't believe it -- I don't think it
24 changes my opinion that -- I know what non empty means
25 and I recognize the greater than 3%, and that's how I

1598

1 manage another chemo waste stream that you should not be
2 receiving. I just don't see how the hood filters, the
3 Hepa filters are -- have greater than 3% of volume,
4 because they never condense. All they are is
5 particulate filters that may have some residual
6 chemotherapy contamination, and that's why they're not
7 allowed to be landfilled or I don't want to landfill
8 them.

9 Q. Understood. So that would be one of the
10 issues, whether this -- whether the chemical
11 contaminants in the hood filters would exceed 3% would
12 be a question?

13 A. That's right.

14 Q. But if I understood your earlier testimony,
15 you consulted with Kleen Environmental about this, and
16 they thought it was not a problem to put this material
17 into the biomedical waste stream; is that correct?

18 A. No, let me clarify. They didn't believe it
19 was a dangerous waste under the or hazardous waste under
20 EPA rules that I had to -- required manifesting and all
21 of that. They just didn't believe that. Neither did I.
22 I just didn't see -- we looked at it, and it just
23 doesn't qualify under those. But we wanted to
24 incinerate it or I did because I didn't just feel
25 comfortable putting it in a landfill, especially in its

1599

1 present condition.

2 JUDGE RENDAHL: Let's be off the record for a
3 minute.

4 (Siren interruption.)

5 JUDGE RENDAHL: Go ahead, Mr. Johnson.

6 BY MR. JOHNSON:

7 Q. Why is that, why wouldn't it be suitable to
8 put in a landfill?

9 A. Because it's possible it has residual
10 contamination of cytotoxic drugs, and some of them are
11 fairly dangerous, so I was concerned about that.

12 Q. Did you contact the Department of Ecology to
13 ask them what they thought you should do with the
14 chemotherapy hood filters?

15 A. I didn't in this case, no.

16 Q. And I believe it's your testimony that you
17 did not contact Stericycle about this?

18 A. No, I did not.

19 Q. I think you mentioned a third item in terms
20 of a nuisance issue that you were aware of involving the
21 Stericycle service, and that involved something to do
22 with mixing pharmacy wastes in with the Stericycle
23 biomedical waste stream. Could you explain that again?

24 A. Yes, I will, it's to this point here, and you
25 recognize it in your document here, the revised, first

1600

1 revised page 8.

2 Q. Yes.

3 A. What I discovered that I didn't know that our
4 pharmacy, several of the pharmacy drugs are U-listed
5 chemicals, and I found that out on consult from Kleen
6 Environmental Technologies. So what I had to -- I must
7 do at that point is I needed to segregate anything, any
8 volume greater than 3% coming out of those hoods, an IV
9 bag, or a vial into a separate waste stream, because it
10 didn't -- it would be -- unless you have a permit now or
11 didn't, I didn't believe you did then, then you would be
12 required -- it's a U-listed waste that requires a
13 different process.

14 Q. When you refer to you when you're speaking to
15 me, you mean Stericycle I think. Aren't you saying that
16 you weren't sure Stericycle had the right permit to
17 handle what would be either a dangerous waste or a
18 hazardous waste?

19 A. That's right, that's right, or where it was
20 going to be incinerated at.

21 Q. Right, or whether the disposal facility met
22 the requirements for disposal --

23 A. That's right.

24 Q. Wait until I finish.

25 A. I'm sorry.

1601

1 Q. -- disposal of dangerous waste or hazardous
2 waste, right? You had a question about whether the
3 disposal facility that Stericycle was using would meet
4 the requirements of the law for disposal of dangerous
5 waste or hazardous waste?

6 A. That's right.

7 Q. Okay. So but you do see in this tariff item
8 90 in here in Exhibit 62 that there is a definition of
9 chemotherapy waste that excludes items in excess of 3%
10 by volume of chemicals, right?

11 A. Yes, I do, I see that.

12 Q. Is that the standard you're following now?

13 A. It is.

14 Q. And that's the standard that Kleen informed
15 you should be applied to that waste stream?

16 A. Yes, they recommended.

17 Q. You have never contacted Stericycle with
18 respect to the issue of what chemotherapy waste belongs
19 in the biomedical waste stream or what should be sent to
20 a RCRA approved disposal facility?

21 A. No, I did not.

22 Q. Do you know whether Stericycle has ever
23 performed a waste audit for any of the MultiCare
24 facilities?

25 A. No, I do not.

1602

1 Q. Would you be the one who would know if there
2 had been such an audit performed?

3 A. Not primarily, but I would hope I would at
4 least get to review the results of such an audit.

5 Q. The person that would be primarily involved
6 or primarily informed would be Karen Van Gelder, right?

7 A. That's true.

8 Q. Mr. Rogers, isn't it your responsibility to
9 determine which waste stream a particular waste belongs
10 in?

11 A. Yes, MultiCare is the generator of that
12 waste, we have responsibility.

13 Q. Now I believe you testified in response to
14 Mr. Haffner's questions that MultiCare has entered into
15 a contract with the Stericycle Biosystems program. Were
16 you involved in the decision by your facility, by your
17 organization, to enter into that contract?

18 A. Yes, I was involved in it.

19 Q. But other people made the decision to do it?

20 A. Yes, they did.

21 Q. And was Karen Van Gelder the primary person
22 responsible for that decision?

23 A. Yes, she was.

24 Q. And she apparently thought the Biosystems
25 program was something that your organization should do;

1603

1 is that right?

2 A. Yes, sir.

3 Q. Mr. Rogers, do you know whether Kleen
4 Environmental has a permit to transport dangerous waste
5 or hazardous waste for disposal in Washington?

6 A. Yes, they do.

7 Q. Do you know whether that permit is issued by
8 the Washington Utilities and Transportation Commission?

9 A. No, I don't know that.

10 Q. Do you know whether a permit is required from
11 the Washington Utilities and Transportation Commission
12 to transport hazardous waste for disposal?

13 A. Are you referring to -- can I ask a point of
14 clarification?

15 Q. Please.

16 A. Are you talking about medical waste or
17 dangerous waste or all waste?

18 Q. Let me clarify. I'm talking about what I
19 consider hazardous waste, it would include dangerous
20 waste in Washington I believe.

21 A. I'm not aware if there is a requirement.

22 MR. JOHNSON: I have no further questions for
23 you, sir, thank you.

24 JUDGE RENDAHL: Mr. Sells.

25 MR. SELLS: Thank you, Your Honor.

1604

1 C R O S S - E X A M I N A T I O N

2 BY MR. SELLS:

3 Q. Just a couple, Mr. Rogers. TG and Mary
4 Bridge share an autoclave, but I think you indicated
5 that Allenmore does not take part in that program?

6 A. Yes, sir, that's correct.

7 Q. Who takes care of Allenmore's medical waste?

8 A. I believe it's Stericycle, but.

9 Q. Are you aware of a company Harold LeMay
10 Enterprises?

11 A. I am.

12 Q. I'm sorry, I interrupted you.

13 Do you know if Harold LeMay Enterprises
14 provides medical waste services for any of the MultiCare
15 facilities?

16 A. I believe they get involved in it in some
17 way, but I'm not sure of their relationship or where.

18 Q. Okay. Do you have any facilities in Everett?

19 A. I believe we don't have anything that far
20 north, sorry.

21 Q. How about in Grant County, Moses Lake,
22 Ephrata, over there?

23 A. No, we do not.

24 MR. SELLS: That's all I have, thank you.

25 JUDGE RENDAHL: And I don't have any

1605

1 questions for the witness.

2 Mr. Haffner, do you have any redirect?

3 MR. HAFFNER: No, Your Honor.

4 JUDGE RENDAHL: All right.

5 Is there anything from Mr. Sells' cross that
6 you had any questions about, Mr. Johnson?

7 MR. JOHNSON: No, Your Honor.

8 JUDGE RENDAHL: All right.

9 Thank you very much.

10 THE WITNESS: You're welcome.

11 JUDGE RENDAHL: You are free to go,
12 Mr. Rogers, we appreciate your attendance here.

13 THE WITNESS: Thank you.

14 JUDGE RENDAHL: You're excused.

15 Let's be off the record, let's take a ten
16 minute break to 2:00.

17 (Recess taken.)

18 JUDGE RENDAHL: While we were off the record,
19 we discussed the issue of exhibits. Mr. Haffner offered
20 a letter from Karen Van Gelder of MultiCare that was
21 sent to the Commission in mid February, and I also noted
22 in my files that I have a letter from Valley Medical
23 Center dated July 21st, 2004, that was received on the
24 26th to the Commission directly concerning the Kleen
25 application and determined off the record that

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1 consistent with the Commission's practice in other
2 proceedings that if there are any other letters similar
3 to these two, I will include them in one illustrative
4 exhibit in the record. And that is what it states, it's
5 an illustrative exhibit, it's not the kind of evidence
6 that comes in through a particular witness who appears
7 here. And so I have marked the MultiCare letter and the
8 Valley Medical Care Center letter as Exhibit 192, and
9 then we'll look at our files at the Commission to see if
10 there are any other letters that the Commission has
11 received of this nature and place them both in that
12 exhibit, place them all in that exhibit.

13 Mr. Haffner also provided a letter today from
14 the National Indian Health Board, and so we will need to
15 get into that. And we also had some discussion off the
16 record about the last day for providing shipper
17 generator witness statements either in written form or
18 in person. Mr. Johnson has requested until the 22nd,
19 and Mr. Haffner has argued that I should keep with the
20 date that I gave for today, and I have indicated I will
21 let the parties know by the end of the day.

22 So with that, Mr. Haffner, I'm going to mark
23 the National Indian Health letter as Exhibit 203.

24 MR. JOHNSON: Your Honor.

25 JUDGE RENDAHL: Just a moment.

1607

1 So I'm going to mark it as Exhibit 203, and
2 first I would like to hear from Mr. Haffner as to the
3 purpose of the letter, and then I will hear from you,
4 Mr. Johnson.

5 Mr. Haffner.

6 MR. HAFFNER: Yes, Your Honor, I was just
7 looking to see, okay, we don't have a 203, we skipped.

8 JUDGE RENDAHL: We skipped.

9 MR. HAFFNER: Yes, Your Honor, the letter is
10 being offered as sentiment in the community from the
11 National Indian Health Board and the clinics and medical
12 facilities they represent throughout the state of
13 Washington that are listed on the second or the
14 attachment to the letter. Mr. Birdinground was unable
15 to testify, and when Your Honor stated last week that
16 you would consider written testimony from other shipper
17 witnesses, we went back to him and asked him if he would
18 provide the letter.

19 JUDGE RENDAHL: Okay.

20 Mr. Johnson.

21 MR. JOHNSON: I have a couple questions about
22 the letter. For one, it's on a letterhead of a body
23 called the National Indian Health Board, but it's being
24 signed by somebody who is identifying himself as a board
25 member. It's not clear to me that this individual has

1608

1 authority to sign this letter on behalf of the health
2 board or even that it is on behalf of the health board.
3 And I would like to know whether Mr. Haffner can -- if
4 there's any testimony or other evidence that would be
5 offered to support Mr. Lancing Birdinground's authority
6 to speak for the National Indian Health Board.

7 JUDGE RENDAHL: Mr. Haffner.

8 MR. HAFFNER: I have no other evidence other
9 than what is contained in the letter itself, which is I
10 believe Mr. Birdinground's representation. I think he
11 states in the last sentence of the first paragraph that:

12 After speaking directly with our
13 regional membership, it was decided
14 unanimately that it was within the best
15 interests of our region to support Kleen
16 Environmental in their effort before the
17 Washington Utilities and Transportation
18 Commission.

19 MR. JOHNSON: Your Honor, may I? I guess
20 what I'm wondering is some of these folks appear to be
21 in Oregon, and I'm wondering if that representation
22 indicates that Mr. Birdinground spoke to all the people
23 in Oregon that are on this list as well as the people in
24 Washington. I guess there's some Idaho folks here too.

25 JUDGE RENDAHL: Mr. Haffner, do you have any

1609

1 information?

2 MR. HAFFNER: I have no information to
3 address that, Your Honor.

4 MR. JOHNSON: I guess I'm also wondering when
5 Mr. Birdinground spoke to his membership, if that -- if
6 they are his membership, or the clinics that are
7 represented by the health board, and what he
8 communicated with them. It's -- he's got a list of,
9 what is this, is this 100 clinics on here?

10 MR. HAFFNER: I don't think it's 100 clinics.

11 JUDGE RENDAHL: Well, there's two pages, and
12 I don't know how many are on each page. Well, I think,
13 you know, it is what it is and --

14 MR. JOHNSON: That's my question is what is
15 it.

16 MR. SELLS: Well, a further question I have,
17 Your Honor, is what is the National Indian Health Board?
18 I don't know what that is.

19 MR. JOHNSON: Or whether it is authorized to
20 speak for clinics operated by the different tribes in
21 the state of Washington.

22 MR. SELLS: It's in Illinois, Your Honor.

23 JUDGE RENDAHL: Mr. Haffner.

24 MR. HAFFNER: I can't address that any more
25 beyond what's in the document, Your Honor.

1611

1 there are whole tribes identified as well as tribal
2 councils identified in addition to clinics.

3 JUDGE RENDAHL: Well, it is what it says,
4 it's a health clinic and tribal directory. So as you
5 say, there are tribes listed, and then there are clinics
6 listed. So, you know, there are some questions about
7 this document. So at this point, Mr. Haffner --

8 MR. HAFFNER: To address that one issue about
9 the distinction between tribes and clinics, I believe
10 that it's only where a medical facility is indicated
11 that that's to indicate an actual facility. In other
12 words, if it says tribe, that alone is not an indication
13 that there is a medical facility at that location unless
14 it specifically says so.

15 JUDGE RENDAHL: And to the extent that there
16 is anything out of state, obviously this state, this
17 Commission can't grant authority for other states, so it
18 would be limited, if this is admitted, it would be
19 limited to whatever clinics are referenced in Washington
20 state.

21 Well, I'm going to mark it at this time, and
22 I'm going to bring it back up on the 22nd to allow
23 Stericycle some time and Mr. Sells' clients some time to
24 consider the document and for Mr. Haffner to think about
25 this as well how we can best deal with this document.

1612

1 It's a little more problematic than the other exhibits
2 that are provided.

3 MR. JOHNSON: I would note, Your Honor, that
4 in terms of the other exhibits we at least appear to
5 have letters directly from an individual health care
6 facility, where in this case we have something that
7 appears to refer to a whole host of other facilities
8 with nothing directly from them.

9 MR. HAFFNER: I don't think that this
10 organization is any different than some of the
11 organizations we have already had represented here by
12 different individuals, and that is that this person is
13 speaking with respect to the members that are a part of
14 or deal with this health board.

15 MR. JOHNSON: Your Honor, the main difference
16 I see is that we had people from those organizations in
17 here to testify, and we could cross examine them, and we
18 could elicit the basis for their representations about
19 positions of members or people they claim to represent.
20 We don't have that here.

21 JUDGE RENDAHL: Right, and I think that's
22 fair, and that's part of why I'm reserving ruling on it
23 at this point. So with that, I'm going to reserve
24 ruling on what's been marked as Exhibit 203.

25 MR. JOHNSON: 203 I believe.

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1 MR. HAFFNER: I thought we just marked 203
2 as --

3 JUDGE RENDAHL: 203 is the National Indian
4 Health Board letter, and again I'm going to reserve
5 ruling on that, and we'll take it up on our last day of
6 hearing on the 22nd.

7 And I guess this highlights the issue,
8 Mr. Johnson, of why I'm concerned about extending the
9 date for more paper that might create more issues like
10 this one. At some point there needs to be an end to
11 this. And, you know, to some extent they all become
12 part of the illustrative file, because there is no
13 person to back it up.

14 All right, with that I think we need to get
15 on to our next witness who is Mr. Radder. Are you here,
16 Mr. Radder?

17 MR. SELLS: Before the witness is sworn, Your
18 Honor, I may have to or I will have to leave about
19 halfway through his testimony.

20 JUDGE RENDAHL: All right.

21 MR. SELLS: To a MultiCare facility I might
22 add.

23 JUDGE RENDAHL: Now, Mr. Sells, before you do
24 leave, are you going to be at the hearing on the 22nd?

25 MR. SELLS: I will at least be there to start

1614

1 with, yes, Your Honor.

2 JUDGE RENDAHL: All right, because I would
3 like to take care of some of the administrative issues
4 such as briefing and that sort of thing, and I wanted to
5 make sure we included you in that discussion.

6 MR. SELLS: Thank you.

7 MR. HAFFNER: One other matter, Your Honor, I
8 don't know if I gave you copies of what's been marked
9 for Exhibit 210.

10 JUDGE RENDAHL: No, I don't have copies.

11 MR. HAFFNER: I do have two copies to hand up
12 to you.

13 JUDGE RENDAHL: Let's be off the record for a
14 moment.

15 (Discussion off the record.)

16 JUDGE RENDAHL: Good afternoon, Mr. Radder,
17 if you could state your full name and your business
18 address for the record, please.

19 MR. RADDER: My name is Mike Radder, business
20 address is 1100 Fairview Avenue North, Seattle,
21 Washington.

22 JUDGE RENDAHL: All right, and if you would
23 raise your right hand, please.

24 (Witness Mike Radder was sworn.)

25 JUDGE RENDAHL: If you could remember to wait

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1 for your answer until counsel finishes their questions,
2 maybe just pause for a second, it keeps the record
3 clearer. And likewise, counsel, if you can wait until
4 the witness is finished before you ask your next
5 question, that will be great too.

6 Let's go ahead, Mr. Haffner.

7 MR. HAFFNER: Thank you, Your Honor.

8

9 Whereupon,

10 MIKE RADDER,

11 having been first duly sworn, was called as a witness
12 herein and was examined and testified as follows:

13

14 DIRECT EXAMINATION

15 BY MR. HAFFNER:

16 Q. Mr. Radder, can you identify your employer
17 for us, please.

18 A. Fred Hutchinson Cancer Research Center.

19 Q. What is your position with Fred Hutchinson?

20 A. I am the hazardous materials manager.

21 Q. How long have you been in that position?

22 A. About three years.

23 Q. Can you describe your responsibilities in
24 that position?

25 A. Yeah, I'm responsible for ensuring proper

1616

1 handling, management, and disposal of hazardous
2 materials.

3 Q. And you --

4 A. Including --

5 Q. Pardon me.

6 A. Including chemicals, radioactive materials,
7 and biohazard.

8 Q. And are you authorized by your company to be
9 here today and speak on behalf of this application by
10 Kleen Environmental?

11 A. Yes, I am.

12 Q. Are you responsible for making decisions
13 regarding your company's transportation and collection
14 of biohazardous waste?

15 A. Yes.

16 Q. What type of facility or facilities does Fred
17 Hutchinson Cancer Research Center have?

18 A. It's primarily a laboratory research
19 facility, you know, all the hazardous materials that we
20 use and dispose of are generated or used in
21 laboratories.

22 Q. Does it have any more locations other than
23 the address you gave earlier?

24 A. No, everything is consolidated at 1100
25 Fairview.

1617

1 Q. And that's in the Seattle area?

2 A. Yes.

3 Q. What types of biomedical waste does your
4 facility generate?

5 A. We generate sharps waste, you know, needles
6 and scalpels, glass, pipe heads. We generate non sharps
7 biohazard waste, medical waste, which is generally
8 laboratory waste, you know, petri dishes and gloves and
9 things that have come into contact with infectious
10 materials, etiologic agents.

11 JUDGE RENDAHL: Can you spell etiologic, I'm
12 sorry.

13 THE WITNESS: E-T-I-O-L-O-G-I-C.

14 JUDGE RENDAHL: Thank you.

15 BY MR. HAFFNER:

16 Q. Anything other than the sharps and other
17 medical waste that your company generates?

18 A. Well, yeah, we, you know, pathological waste,
19 you know, tissue samples, and also animal types of
20 waste, you know, research animal carcasses that may be
21 infected with infectious substances.

22 Q. Is it possible for you to give a rough
23 estimate of the percentage of your waste stream that
24 those three different wastes comprise?

25 A. I would say it's probably 80%, 85% sharps

1618

1 waste that we're shipping off site. I should clarify
2 actually, you know, in terms of what we generate, most
3 of the waste we generate is actually treated on site,
4 the non sharps waste from the laboratories.

5 Q. All right.

6 A. And since that's managed through a department
7 other than my own, I don't have counts on that.

8 Q. How do they currently treat that other waste?

9 A. It's autoclaved on site.

10 Q. So 85% of the medical waste that you take off
11 site or have taken off site for you is sharps waste?

12 A. Yes.

13 Q. And of the other 15%, how is that broken up
14 between the other two types of waste?

15 A. The other two types of waste being?

16 Q. Pathological.

17 A. Oh, I would say the remaining waste is
18 probably 90% animal, types of animal carcasses.

19 Q. So the bulk of the remaining 15% --

20 A. Yeah.

21 Q. -- is animal?

22 A. Exactly.

23 Q. How frequent do you have your waste picked
24 up?

25 A. Every other week.

1619

1 Q. And who provides that service to you?

2 A. Stericycle.

3 Q. Have you contacted any other providers of
4 medical waste collection service in the last three
5 years?

6 A. No, not for medical waste.

7 Q. Have any other companies contacted you to
8 provide medical waste collection service in the last
9 three years?

10 A. I received a letter in the mail probably
11 within the last year from a LeMay company, that they
12 were expanding or looking to expand service into the
13 Seattle area just I guess letting us know. I don't, you
14 know, it was a very short letter.

15 Q. Was that a request for a survey?

16 A. I don't recall. I mean it was -- seemed to
17 be like a letter letting us know that they were
18 interested in expanding into the Seattle market and if,
19 you know, if we were interested there was a phone number
20 to call I believe.

21 Q. Did you respond to that letter?

22 A. No.

23 JUDGE RENDAHL: I'm sorry, what was the
24 response?

25 THE WITNESS: No.

1620

1 JUDGE RENDAHL: Okay.

2 BY MR. HAFFNER:

3 Q. Does your company have a preferred method for
4 the disposal of its medical waste?

5 A. Yeah, the waste that's shipped off site we
6 would prefer to incinerate.

7 Q. And you mentioned that that's 85% sharps, so
8 is it correct to say then that you would prefer to have
9 your sharps incinerated?

10 A. Yes.

11 Q. Is the distance that your waste travels an
12 important issue for your company?

13 A. Yes, it's a factor in deciding where our
14 waste is treated and disposed of.

15 Q. What type of containers is your company
16 currently using?

17 A. For shipping?

18 Q. For shipping, yes.

19 A. Primarily the cardboard boxes provided by
20 Stericycle, except for those pathological waste that
21 need to be incinerated, and those are shipped in tubs,
22 plastic tubs, the remaining 15%.

23 Q. So are your sharps -- how are your sharps
24 currently being disposed of?

25 A. They are -- most of the sharps are sent to

1621

1 the Stericycle Morton facility, electrothermal
2 deactivation.

3 Q. Have you asked them if you could have those
4 sharps incinerated?

5 A. Yes, they can be incinerated, yeah, we choose
6 to send them to Morton.

7 Q. Has Stericycle ever provided your company
8 with any training?

9 A. No.

10 Q. Have they provided your company with any
11 training manuals?

12 A. No.

13 Q. Are you aware that Stericycle once received a
14 notice of violation for not immediately reporting a
15 spill after boxes of medical waste that were being
16 transported by Stericycle were found along the roadway?

17 A. Yes, I'm aware.

18 Q. Does that concern you?

19 A. Yes.

20 Q. Why is that?

21 A. Well, it concerns me because it seems to be a
22 mishandling of the waste that we wouldn't want to find
23 our waste on the side of the freeway. We would hope
24 that all the waste is handled in the same manner and
25 secured to the truck so that it doesn't fall out.

1622

1 Q. Do you think that you would receive better
2 medical waste transportation and collection services if
3 there was more competition in this field?

4 A. Yes, I do believe that.

5 Q. Why is that?

6 A. Just from experience in managing other
7 hazardous waste, chemical waste, and radioactive waste
8 in which we have competition in the market. We can
9 choose from different waste vendors and disposal
10 facilities, and firsthand experience is that our service
11 and the way in which our waste is handled by the vendor
12 and managed has improved when we, you know, we evaluate
13 the different options out there and, you know, decide on
14 a facility that meets all of our criteria and there's
15 competition. We find that, you know, the different
16 vendors want to satisfy our needs and provide service
17 that meets regulations and our service expectations.

18 Q. Has your company experienced any service
19 problems with Stericycle?

20 A. You know, just occasional things that have
21 come up in the years that I have worked at Fred Hutch,
22 just a few instances.

23 Q. And can you describe those instances for us?

24 A. Well, for example, probably two years ago,
25 maybe three years ago, we had a pickup of our biomedical

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1 waste scheduled, and it was scheduled for, you know, a
2 certain time in the morning, so we had packaged up all
3 of our biomedical waste including these frozen animal
4 wastes, which takes us about an hour to pack up. They
5 were sitting there ready for pickup, and Stericycle
6 didn't show up at the scheduled time. And so we called
7 them a couple hours later, asked when they would be
8 here, found out that there was no way they were going to
9 be able to make it to our facility. So, you know, we
10 can't let the frozen waste thaw out overnight, you know,
11 so we had to unpack everything, put it back into our
12 freezers, and wait for a pickup the following day. On
13 that following day we had to repackage everything again
14 for shipment and have it taken by Stericycle.

15 Q. How has your relationship been with the
16 Stericycle customer service representatives?

17 A. For the most part it's good. Occasionally in
18 the past I have noticed that if I have questions I will
19 call the person and it may take a couple calls or
20 E-mails to get a response. It has on occasion been
21 slightly frustrating.

22 Q. How do you or how is your company or are you
23 personally familiar with the current services provided
24 by Kleen Environmental Technologies?

25 A. I'm sorry, can you repeat that?

1624

1 Q. How are you or your company, and I guess I
2 will limit it to you, how are you personally familiar
3 with the current services provided by Kleen
4 Environmental Technologies?

5 A. Our experience with Kleen is a hazardous
6 materials spill response agreement that we have in which
7 should we need additional assistance in cleaning up a
8 hazardous materials spill, Kleen is available and on
9 call to help us respond.

10 Q. And have they been responsive to your needs
11 in that regard?

12 A. Yes, they have.

13 Q. Have they demonstrated a knowledge of the
14 regulations that apply in those areas?

15 A. Yes.

16 Q. Are you confident that they could become
17 knowledgeable of the regulations that handle or apply to
18 biomedical waste?

19 A. Oh, yes.

20 Q. Have they provided your company with any
21 training?

22 A. No.

23 Q. How long have you been a customer or how long
24 has your company been a customer of Kleen?

25 A. Well, as long as I have worked at the center.

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1 I have been in my department at the center for six and a
2 half years, and the agreement for spill response was in
3 place before I started working there, so over six and a
4 half years.

5 Q. Are you satisfied with the current services
6 provided by Kleen?

7 A. Yes.

8 Q. Are you aware that in this application Kleen
9 is proposing to provide transportation and collection of
10 medical waste primarily in cardboard boxes and primarily
11 for incineration?

12 A. Yes.

13 Q. And is that acceptable to your company?

14 A. Yeah.

15 Q. Would you like to be able to use Kleen as a
16 source for your medical waste transportation needs?

17 A. Yeah, should your services become available,
18 it's definitely something we would explore, consider.

19 Q. And would you like to see this application
20 granted?

21 A. Yes.

22 MR. HAFFNER: Thank you.

23 No other questions for the witness, Your
24 Honor.

25 JUDGE RENDAHL: Mr. Johnson.

1626

1 MR. JOHNSON: Thank you.

2

3 C R O S S - E X A M I N A T I O N

4 BY MR. JOHNSON:

5 Q. Mr. Radder, I'm Steve Johnson, I represent
6 Stericycle of Washington, I would like to ask you a few
7 questions about the testimony you have just given in
8 response to Mr. Haffner.

9 A. Sure.

10 Q. If there's some part of my question you don't
11 understand or I have confused myself to the point where
12 you're also confused, please stop me and I will try to
13 clarify, okay?

14 A. Okay.

15 Q. I was a little unclear with respect to the
16 biomedical waste stream that your facility produces. If
17 I'm right, a large part of your total biomedical waste
18 treatment goes to the autoclave operation; is that
19 right?

20 A. Correct.

21 Q. And that's on your own site, that's your own
22 autoclave?

23 A. Yes.

24 Q. And you think autoclave is an appropriate way
25 to treat biomedical waste, correct?

1627

1 A. Yes.

2 Q. And you would continue to autoclave a
3 substantial portion of your biomedical waste regardless
4 of whether the Kleen application is granted if I
5 understand correctly?

6 A. Not necessarily true. The waste we ship off
7 site we would prefer incineration as a disposal method.
8 All other things being equal, you know, travel distance
9 to the facility, cost, you know, there's a lot of
10 different factors there. Currently we're choosing to
11 incinerate some of our waste, and we're choosing to send
12 other waste to the Morton facility.

13 Q. Understood. But whatever happens with this
14 application, you would continue to autoclave at your own
15 site, would you not?

16 A. Yes.

17 Q. So that portion of the waste stream is sort
18 of not at issue in this proceeding?

19 A. Correct.

20 Q. Okay. So then 80% to 85% of the waste that
21 you send off site is sharps waste?

22 A. Yes.

23 Q. And then I was a little unclear what
24 percentage of your off -- the waste you send off site
25 would fit within the category of lab waste.

1628

1 A. Well, I would say that the sharps waste is
2 mostly lab waste. It's coming from laboratories, it's
3 laboratory sharps waste, so sharps waste coming from
4 laboratories.

5 Q. Okay. So you mentioned I think gloves, petri
6 dishes, that kind of thing.

7 A. Right.

8 Q. Does that go in the sharps waste category as
9 you have testified?

10 A. No, that waste is the waste that we autoclave
11 on site.

12 Q. Okay. So the off site, the stuff that -- the
13 material you send off site is two categories, sharps
14 waste including the laboratory materials like glass and
15 those sorts of things, and pathological waste is the
16 second category that goes off site?

17 A. Yeah, in addition animal waste.

18 Q. Right, and I was including the research
19 animal carcasses in the pathological waste category.

20 A. Yes, that's correct.

21 Q. Okay. And so that's the 15%, and it adds up
22 to 100%, so there, now I follow you.

23 You indicated that you would prefer
24 incineration for your sharps waste; is that correct?

25 A. Yes, all other things being equal, you know,

1629

1 the distance that it needs to travel to the facility and
2 the cost associated with the disposal.

3 Q. But I think you also said you are currently
4 sending your sharps waste to the Morton processing plant
5 that Stericycle operates in Morton, Washington?

6 A. That's correct, most of the waste does go to
7 Morton now.

8 Q. So you are not choosing to incinerate that
9 waste; is that correct?

10 A. Yes, we made a decision a few years ago when
11 Stericycle switched incineration facilities from Oregon
12 to Salt Lake City. At that time, the tariff was
13 increased like three times. It used to be about \$10 per
14 container for us to incinerate, the cost suddenly went
15 to \$30 per container, and so we had a triple in cost, in
16 our cost, if we decided to continue incinerating that
17 waste, which doesn't need to be incinerated but we
18 prefer to incinerate it. So we take into consideration,
19 you know, the other factors, the cost obviously, but
20 also Morton is a little bit closer than Salt Lake City.
21 So, you know, we're satisfied using Morton. We have
22 made that decision to send that waste to Morton.
23 Although if there was a incineration facility within
24 similar distance that meets our requirements or our
25 satisfaction, you know, we would much prefer

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1 incineration.

2 Q. I'm assuming that your answer about
3 preferring incineration would mean -- would require that
4 the cost be comparable to what you're paying to send the
5 waste to Morton currently; is that correct?

6 A. Yeah, I would say comparable. I mean we
7 would be willing to pay more but not three times more,
8 maybe, you know, it depends. You know, we would have to
9 evaluate the facility and everything involved.

10 Q. You're satisfied that your sharps waste are
11 being processed and treated properly at Morton now?

12 A. Yes.

13 Q. Have you ever visited the incinerator that
14 Kleen Environmental proposes to use in Brooks, Oregon?

15 A. I have not personally.

16 Q. Have you ever visited the incinerator that
17 Stericycle operates in Salt Lake?

18 A. Yes.

19 Q. And could you tell us what the occasion was
20 and what you found when you went there?

21 A. Yeah, we -- our department that I work in, we
22 try to audit facilities in which our waste is sent for
23 disposal. So Morton, I'm sorry, the incinerator in
24 Oregon that we previously used had been audited by
25 predecessors, you know, before my time. When Stericycle

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1 started using the incinerator in Salt Lake City a few
2 years back, shortly after we went down there and audited
3 that facility. And it was to our satisfaction, we found
4 no problems there with our waste being handled or
5 treated there at that facility.

6 Q. Are you part of the group called Health
7 Environmental Laboratory Professionals known in short as
8 HELP?

9 A. I'm on their mailing list, I get notices
10 about their meetings. I have gone to a couple in the
11 past.

12 Q. Have you relayed to them the experience you
13 had when you visited the Salt Lake facility?

14 A. No.

15 Q. Are you aware of the differences in the
16 systems used at the Covanta facility versus north Salt
17 Lake, for example the fact that north Salt Lake can use
18 reusable tubs and wash them and return them whereas
19 Covanta can not; were you aware of that difference?

20 A. I think I have heard that in the past, you
21 know, differences between the two facilities I'm not
22 generally aware of for the most part, no, but I have
23 heard that in the past.

24 Q. You're currently using reusable plastic tubs
25 for your pathological waste now, are you not?

1632

1 A. Yes.

2 Q. And are they satisfactory?

3 A. Yes.

4 Q. I think in response to Mr. Haffner's comments
5 that you indicated that cardboard boxes would also be
6 satisfactory; is that correct?

7 A. Yeah.

8 Q. Do you see any problems with cardboard in
9 terms of issues of the integrity of the box comparing
10 cardboard to plastic?

11 A. Well, the difference between the plastic tub
12 and the cardboard box offered by Stericycle is that the
13 box has a lower weight capacity than the tub, and so for
14 some wastes that are heavier than the weight approved
15 for the cardboard box, you know, a more strong container
16 would be preferred, you know, like a tub. But that I
17 guess doesn't mean that, you know, a cardboard box or
18 some other type of container wouldn't work just as well
19 as the tub.

20 Q. Take frozen laboratory animal carcasses,
21 would that be the kind of heavy dense material where a
22 stronger container would be advantageous?

23 A. Yes.

24 Q. So, for example, with your -- in your case
25 with the lab animals that you ship out in a frozen

1633

1 condition, wouldn't there be an advantage to using the
2 reusable plastic tubs with the higher weight limit?

3 A. In some cases. Most of our animal waste that
4 is frozen like that is very small, and if necessary we
5 can easily segregate that down into smaller segments.
6 It would be the occasional large piece of waste, large
7 carcass that's frozen that would need to go in some kind
8 of a special container that's weighted for a higher
9 weight capacity.

10 Q. For that purpose, would you like to be able
11 to choose whether to use a plastic tub or a cardboard
12 box?

13 A. Well, you know, something should be available
14 that is, you know, adequate to meet that weight
15 requirement for that. And so if there's a cardboard box
16 constructed such that it could be used for that weight,
17 then, you know, it may be fine, you know. But yeah,
18 something that is adequate for the weight in which we
19 need to ship our waste is needed.

20 Q. But isn't choice an advantage, isn't being
21 able to choose between cardboard and different sizes of
22 cardboard --

23 A. Sure.

24 Q. -- and plastic and different sizes of
25 plastic, isn't that a benefit to you?

1634

1 A. Yes, it is.

2 Q. Are you aware that Kleen is going to offer
3 only a single size of cardboard box and no other
4 container whatsoever?

5 A. That's my understanding.

6 Q. How does that reconcile -- how does --
7 doesn't that suggest that the service they're offering
8 will not give you the choices that would be
9 advantageous?

10 A. Not to me. I mean we would still have choice
11 in what they offer and we would have choice in what
12 Stericycle offers. So should we need to dispose of
13 those heavier objects, we would if necessary use another
14 vendor such as Stericycle. You know, so I guess I don't
15 see that as a disadvantage. Like I said, that type of
16 waste that's that heavy is very occasional, it's not a
17 regular type of waste.

18 Q. When you package frozen lab animal carcasses
19 for shipment, I presume you package them in plastic
20 bags; is that right?

21 A. That's correct.

22 Q. If you package them that way, does
23 condensation form on the outside of the container, let's
24 say on the outside of the plastic as they wait to be
25 picked up or in other --

1635

1 A. On the outside of the plastic tubs?

2 Q. No, I'm thinking on the outside of the
3 plastic container, the plastic bags.

4 A. I have not observed that. The way in which
5 our animals are bagged up is they're first bagged up
6 into a thick plastic bag, and then they're double
7 bagged, and then we take that double bag and we put it
8 into a tub that's then lined within another bag. So in
9 essence they're triple bagged inside the tub, and once
10 they're closed I never open them up, and so they're
11 coming out of the freezer, going into the bag inside the
12 tub, and then they're sealed, you know, the bags are all
13 sealed, and I don't see them after that.

14 Q. Let's see, Mr. Radder, I believe you
15 indicated you had held your current position for
16 something like three and a half years; is that right?

17 A. That's correct.

18 Q. And you mentioned that you had had some
19 service issues with Stericycle, and I believe you
20 mentioned a few instances. Are we talking about two or
21 three over that three and a half year period or
22 something more?

23 A. Yeah, I would say two, three, four, five
24 times that stick out in my mind.

25 Q. Okay. And the one time you specifically

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1 mentioned there was a missed pickup?

2 A. Correct.

3 Q. And the pickup was made the following day; is
4 that right?

5 A. That's correct.

6 Q. Do you know the reason for the miss of the
7 pickup; was it explained to you?

8 A. It was explained to me, and I don't remember
9 specifically. This particular example happened more
10 than once. Yeah, I don't -- I don't know the exact
11 reason, but we of course call and try to find out a
12 reason, but, you know, I don't recall.

13 Q. Is it possible that Stericycle called you to
14 let you know that they wouldn't be able to make the
15 pickup?

16 A. I have never gotten a call from Stericycle.

17 Q. So you indicated this happened more than
18 once; are we talking once or twice?

19 A. Twice.

20 Q. Twice?

21 A. Yeah.

22 Q. And I guess the only other instance or
23 example that you gave of a service issue with Stericycle
24 related to calls to customer service reps; is that -- am
25 I correct?

1637

1 A. Correct.

2 Q. And who is your customer service rep at
3 Stericycle?

4 A. Currently it's Eric Jacobsen I believe.

5 Q. And is that a new arrangement, or has he been
6 there for a while in terms of dealing with you?

7 A. Relatively new, I think that we have dealt
8 with him the last, I don't know, six, eight months,
9 year. I can't recall specifically.

10 Q. And before Mr. Jacobsen who did you deal with
11 as your customer service representative?

12 A. I believe it was Jeff Norton.

13 Q. Now do you handle all the contacts with
14 Stericycle in your position, or are there other folks in
15 your group that talk to Stericycle?

16 A. I would say that I mainly am the primary
17 contact for Stericycle. There are two technicians that
18 work for me. They may call Stericycle if they have a
19 question about a pickup or if, you know, if the driver
20 doesn't show up at the expected time they may call
21 directly.

22 Q. Is it possible that either the Stericycle
23 customer service representative or others at Stericycle
24 would call these other people in addition to yourself?

25 A. I wouldn't think so. They -- what happens is

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1 my technicians usually let me know, and I might tell
2 them to go ahead and call Stericycle, or I might call
3 Stericycle myself depending on what the question is.
4 But I'm not aware of Stericycle contacting my
5 technicians directly other than the direct interaction
6 between the driver and myself and my technicians.

7 Q. How long was Jeff Norton your customer
8 service representative?

9 A. I believe as long as I have been in this
10 position, probably as long as I have worked at the
11 center.

12 Q. Until Eric Jacobsen took over it sounds like?

13 A. Yeah.

14 Q. And did Mr. Norton return your calls promptly
15 when you called him?

16 A. Yeah, yeah, he did.

17 Q. Okay. So how about Eric Jacobsen, has he
18 responded to your calls?

19 A. For the most part.

20 Q. Perhaps not quite as responsive as
21 Mr. Norton?

22 A. Well, I can think of one time when I still
23 haven't gotten an answer. I think the non return calls
24 would be more to the primary phone number, the 1-800
25 number. You know, if it's something, you know, just a

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1 question or I need a copy of something or, you know, a
2 document or something, a lot of times we just call the
3 main 1-800 number at Stericycle, and they will tell me
4 that, oh, Jeff will call you back or Eric will call you
5 back. And then if I don't get a call back in a couple
6 of days, then I either call the rep directly or I call
7 again and, you know, try it again. But yeah, I would
8 say the calls not returned are more so from the primary
9 number, the 1-800 number that we use.

10 Q. Okay. And that number reaches the Kent,
11 Washington facility, does it not?

12 A. I believe so.

13 Q. Did you say you remembered a specific
14 question that you had asked that you didn't get a
15 response to?

16 A. Yes.

17 Q. What was that question?

18 A. Basically I needed a copy of a couple of
19 invoices that had already been forwarded to our
20 accounting department. I retain copies in my office as
21 well, but these ones we didn't get copies of. And so I
22 think they, you know, there was some questions as to
23 that, and so I wanted to get the copies, and I was told
24 they would be forwarded, and I never got those.

25 Q. And when did you make that call?

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1 A. Oh, this was months ago.

2 Q. Months ago?

3 A. Yeah, like I say, it, you know, it wasn't
4 anything, you know, that imperative that I needed, you
5 know, right away or anything, so just for my records,
6 you know, I just would like to get those.

7 Q. Are you still looking for those?

8 A. I know where I can get them, yeah.

9 Q. Okay. So you know who to call to follow up
10 on that?

11 A. Yeah.

12 Q. Mr. Radder, you mentioned that you currently
13 have a relationship with Kleen Environmental for
14 hazardous material spill response.

15 A. Yes.

16 Q. You're aware that Kleen is a relatively small
17 company, are you not?

18 A. Yes, I am.

19 Q. That they have one truck?

20 A. I am not aware of how many vehicles they
21 have, no, I don't know.

22 Q. Have you ever audited their facilities?

23 A. No, we don't use Kleen for waste disposal.
24 The service from Kleen is an agreement in which they
25 assist us with personnel and personal protective

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1 equipment, you know, trained personnel to respond on
2 site and assist our personnel in cleaning up spills. We
3 would then manage the waste or the spill materials and
4 dispose of that through one of our other vendors.

5 Q. Okay. So you're not looking to Kleen if you
6 have a spill to come and clean it up on your -- on site?

7 A. No, not really. The idea behind the
8 agreement is additional support for our somewhat small
9 hazardous materials response team that we have on site.

10 Q. Are you satisfied with the documentation that
11 Stericycle provides for handling of your waste?

12 A. Yes.

13 Q. What is the schedule for pickup with your
14 facility?

15 A. It's every other Friday.

16 Q. Is there a certain window of time when you
17 expect a driver to be there?

18 A. Well, up until a couple of weeks ago it was
19 in the mornings, and recently that's changed to I guess
20 afternoons. Stericycle didn't notify us, we called and
21 we were expecting a pickup a couple of weeks ago, didn't
22 show up so we called Stericycle to find out why they
23 haven't shown up, and we were notified at that time that
24 we now have a new driver for this facility and our
25 pickups will be in the afternoon, so that's only been a

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1 couple weeks.

2 Q. Is that a problem for you to have the pickup
3 in the afternoon versus the morning?

4 A. No, as long as it's during our business
5 hours.

6 Q. What's the approximate quantity of waste that
7 you generate on a monthly basis that Stericycle picks
8 up, the off site material?

9 A. Right. Probably about 140 containers a
10 month, maybe up to 150.

11 Q. Are you aware that Kleen Environmental has at
12 least referenced a possibility of using a backup
13 processing facility in Canada for treatment of the
14 biomedical waste it collects if it's allowed to provide
15 service in Washington?

16 A. Yes, I had heard that.

17 Q. And have you considered that possibility that
18 your waste would be exported to Canada, and do you have
19 any concerns or issues with respect to that?

20 A. No, we have not considered that just because
21 it's not an option yet. Should it become an option, you
22 know, should they get this approval, we would explore
23 that and consider that further. Generally we do try to
24 keep our waste within the state's, you know, disposal.

25 Q. So exporting to Canada might be a problem for

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1 you?

2 A. It may be.

3 Q. If I understand your testimony correctly, you
4 would like to have as many options as you could have for
5 service, and if you had multiple options, you would then
6 be in a position to evaluate and make a judgment as to
7 which service would best suit your company's needs; is
8 that accurate?

9 A. Yeah, yeah, that's accurate.

10 Q. And here we've got at least two possibilities
11 if the application is granted, one is Kleen
12 Environmental and the other is Stericycle. Is it your
13 testimony that when and if the application is granted,
14 you would then sit down and look at the two services and
15 decide which one would best suit your needs?

16 A. Yes.

17 Q. So you haven't made a decision at this point
18 that you would use Kleen?

19 A. No.

20 MR. JOHNSON: That's all I have, Mr. Radder,
21 thank you.

22

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25

1 E X A M I N A T I O N

2 BY JUDGE RENDAHL:

3 Q. Mr. Radder, I just have a few questions for
4 you. Going back to the issue of your waste stream at
5 Fred Hutchinson, and I'm just focusing first on the
6 waste that you ship out that you don't autoclave
7 yourself, my understanding was you said 85% of that
8 waste is sharps waste.

9 A. Yes.

10 Q. And then 90% of the remaining waste was the
11 pathological waste. What else is there?

12 A. Actually, I think if that's what I said I
13 misspoke. The 90% is like the animal waste and
14 pathological waste combined. So yeah, the remaining
15 amounts would be very small amounts of other types of
16 biohazardous waste that are not acceptable for
17 autoclave. Those might be laboratory waste, sharps or
18 not sharps, they might have trace amounts of
19 chemotherapy residues on those.

20 Q. Thank you. And of the waste that you
21 autoclave, what do you do with it after it's autoclaved?

22 A. The waste autoclaved on our site is bagged
23 up, and it goes to landfill.

24 Q. So it's picked up by your regular solid
25 waster hauler?

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1 A. Correct.

2 Q. Okay. And I also want to make sure I didn't
3 misunderstand your testimony about the types of
4 containers you use. I thought I heard you say you use
5 the cardboard boxes provided by Stericycle for the
6 nonpathological waste; is that correct?

7 A. That's correct for the sharps waste.

8 Q. For the sharps waste?

9 A. Yeah.

10 Q. So you do not use any red tubs or other types
11 of Rubbermaid containers for the nonpathological waste?

12 A. We have on a couple of isolated occasions
13 where -- we have a freezer facility that sometimes they
14 go through and clean out the freezers, old samples,
15 blood samples, cell samples. And so on a one time case
16 they will clean out their freezers, they will have a lot
17 of waste to dispose, and so we will call up Stericycle
18 and request a tub for that waste, and then it's
19 collected and it's disposed of. It's not an ongoing
20 waste stream, it's just a one time basis we may request
21 the tubs for, you know, other than pathological type
22 waste.

23 Q. Has Fred Hutchinson used the cardboard boxes
24 for the sharp waste ever since you have been there, or
25 has there been any change in that?

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1 A. Now as long as I have been in this position,
2 so for the last three years as hazardous materials
3 manager, I believe we have been using the cardboard
4 boxes for the sharps. That's about the same time as a
5 lot of the changes occurred at Stericycle, change in
6 facility, change in tariff and everything. So in that
7 time frame, yeah, I would say that we have been using
8 the cardboard boxes. Now my previous three and a half
9 years at Fred Hutch I have been in the same department
10 but not in this position, so I can't recall for sure
11 whether or not we were using the cardboard boxes or
12 tubs, but I think it's been about the same for as long
13 as I have been there.

14 Q. Okay. And you said you have never had any
15 issues with the tubs you receive from Stericycle?

16 A. No, I mean not with the quality of the tubs.
17 Sometimes we may be short on lids or something, you
18 know, we may have to call in and get some extra lids and
19 get more tubs, but, you know, in terms of the quality of
20 the tubs, they're fine.

21 JUDGE RENDAHL: Okay, and that's all I have.

22 Mr. Haffner, do you have any redirect?

23 MR. HAFFNER: No, Your Honor.

24 JUDGE RENDAHL: All right.

25 Mr. Johnson, did you have anything based on

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1 my questions?

2 MR. JOHNSON: Well, I do have one question
3 with respect to the cardboard box question.

4

5 C R O S S - E X A M I N A T I O N

6 BY MR. JOHNSON:

7 Q. And this goes to your experience either in
8 your present position or before that with using
9 cardboard for the frozen animal carcass waste. During
10 that experience, have you found cardboard to be -- to
11 have any problems with -- in handling that kind of
12 waste?

13 A. Using cardboard for the?

14 Q. Transportation container.

15 A. Just any kind of biomedical waste?

16 Q. No, the frozen carcasses.

17 A. We have never used the cardboard for the
18 animal carcasses.

19 Q. Oh, I see, so you didn't use those even
20 during your whole six and a half years?

21 A. No. Previous to my experience in my current
22 position, what I'm thinking is we may have at some point
23 exclusively used some form of a tub in the past and no
24 cardboard.

25 Q. I see.

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1 A. But that's, yeah, it wouldn't have been the
2 other way around I don't think.

3 Q. So as far as you know, you have never used
4 cardboard for the frozen animal carcass waste?

5 A. No.

6 MR. JOHNSON: Thank you.

7 JUDGE RENDAHL: Okay, is there anything else
8 for this witness?

9 MR. HAFFNER: No, Your Honor.

10 JUDGE RENDAHL: Okay, thank you very much,
11 Mr. Radder for appearing this afternoon, you may be
12 excused, and we will be off the record for a moment.

13 (Discussion off the record.)

14 JUDGE RENDAHL: Is there anything else we
15 need to address this afternoon besides the issue of the
16 additional generator witnesses?

17 I think at this point let's limit the 22nd to
18 just the rebuttal witnesses that we have. I understand
19 that it's been since the first few days of the hearing
20 September 27th and 28th, that there's been an
21 understanding of the current Kleen proposal. But I
22 think that there's been enough on the record about that
23 that I think today is the day for shipper generator
24 witnesses, so with that I think let's just proceed to
25 the 22nd and have our rebuttal witnesses at that point,

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1 and we'll close the record. So that's my preference.

2 Mr. Johnson.

3 MR. JOHNSON: I'm not going to argue with you
4 about your point there, Your Honor. I just wanted to
5 identify one possible additional rebuttal witness in the
6 same vein as the others, another customer service rep at
7 Stericycle by the name of Laura Batte.

8 JUDGE RENDAHL: Laura?

9 MR. JOHNSON: Laura Batte, B-A-T-T-E, and she
10 would also speak with respect to response to generator
11 questions and inquiries.

12 JUDGE RENDAHL: So at this point we have
13 Mr. Philpott, and if you all can turn to the agenda or
14 the draft agenda that I had put together, is it your
15 understanding, Mr. Johnson, that you have about an hour
16 of questions for Mr. Philpott?

17 MR. JOHNSON: I think so.

18 JUDGE RENDAHL: All right. And you had said
19 about 10 minutes of questions for each of the customer
20 service reps, and I put in 15; would that be
21 appropriate?

22 MR. JOHNSON: I think so, Your Honor.

23 JUDGE RENDAHL: All right. Now I did have
24 only about five minutes, should I up that, Mr. Haffner,
25 understanding this is really just kind of a placeholder,

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1 and I think no matter what we wouldn't need the entire
2 day.

3 MR. HAFFNER: It probably would help to put
4 ten minutes in just to be safe.

5 JUDGE RENDAHL: All right. And we will not
6 have Mr. Perrollaz?

7 MR. HAFFNER: Correct.

8 JUDGE RENDAHL: All right. So at this point
9 we'll just be hearing from Mr. Philpott, and we'll begin
10 at 9:30, then hear from Mr. Stromerson, Mr. Norton,
11 Mr. Jacobsen, and Ms. Batte. And so if you want to just
12 move up the time for your own references in letting your
13 witnesses know when to appear. We will be in Room 108
14 of the Commission offices in Olympia. That's where we
15 have had prehearing conferences before, so you all
16 should be familiar with that room. And we will not have
17 access to the conference bridge, so you will need to be
18 there in person. And so we'll see you there at 9:30 on
19 Friday, the 22nd.

20 All right, I think with that if there's
21 nothing further -- actually, there is one other issue,
22 and that was, Mr. Johnson, you had brought to my
23 attention I believe late last week Exhibit 32. Just so
24 we make it clear on the record, that is the revised
25 tariff of Kleen Environmental Technologies, and it's

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1 been redlined. At this point it would include both a
2 redlined and a unredlined version, and that's how I am
3 including it in the exhibit. Does that clarify the
4 issue you had, Mr. Johnson?

5 MR. JOHNSON: Yes, it does, Your Honor, thank
6 you.

7 JUDGE RENDAHL: All right, so that is on the
8 record now as to what is in Exhibit 32.

9 At this point the only exhibits I have that
10 we have not addressed are Exhibit 88 under Mr. Philpott,
11 which is the Stericycle lease. Then there is Exhibit 52
12 and 53 which we will address based on pleadings that
13 will be filed on the 25th. I will enter an order
14 probably in the next day or two dealing with the
15 additional day of hearing on the 22nd and the timing of
16 the procedural schedule for Exhibits 52 and 53 and also
17 the withdrawal of LeMay's application. Is there any
18 other procedural issue that needs to be addressed in
19 that sort of an order?

20 MR. HAFFNER: We also had in response to the
21 lease that was presented because it does not include the
22 square footage of the facility, we do have some
23 documents from the County off the Internet site that
24 clarify the square footage of the building and the
25 premises themselves.

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1 JUDGE RENDAHL: And so you would be offering
2 those in the sense as a cross exhibit?

3 MR. HAFFNER: Yes.

4 JUDGE RENDAHL: And do you have those
5 available today?

6 MR. HAFFNER: I do, Your Honor.

7 JUDGE RENDAHL: All right, why don't we
8 distribute those and mark them, and they will be for our
9 hearing on the 22nd, and I will mark them as Exhibit 89.

10 MR. HAFFNER: I don't know if I handed those
11 out to everybody before.

12 MR. JOHNSON: I got a copy before.

13 JUDGE RENDAHL: All right, so you may have
14 circulated a copy to Mr. Sells?

15 MR. HAFFNER: I don't recall, but I will keep
16 an extra copy for Mr. Sells and Mr. Trautman.

17 JUDGE RENDAHL: All right. And I will mark
18 as Exhibit 89 would it be web site printouts from King
19 County: Assessor Property Characteristics Report for --
20 is it just for the one parcel number, Mr. Haffner?

21 MR. HAFFNER: Yes, Your Honor.

22 JUDGE RENDAHL: For parcel number 0122049120.
23 All right, so that will be marked, and we'll address the
24 admissibility, et cetera, at our hearing on the 22nd.

25 Is there any other exhibit we need to

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1 identify for the record?

2 I have also not addressed the admissibility
3 of what's been marked as Exhibit 192, I will do that on
4 the 22nd, nor what's been marked as Exhibit 203, which
5 is the National Indian Health Board letter, nor what's
6 been marked as Exhibits 210 or 211, and that will be
7 addressed hopefully prior to or on the 22nd having to do
8 with the E-mails from Mr. Knight and the responses.

9 So is there anything else for the record that
10 I haven't discussed?

11 MR. JOHNSON: Your Honor, there just is one
12 other exhibit that's floating out there and has not yet
13 been admitted, and that's Exhibit 207. It's the only
14 one you didn't mention.

15 JUDGE RENDAHL: I'm sorry, 207, the Health
16 Care Without Harm web site printout.

17 MR. JOHNSON: That's correct.

18 JUDGE RENDAHL: Then we'll address that also
19 on the 22nd. Well, as I'm looking here, I have admitted
20 the Health Care Without Harm Stericycle Watch, I think
21 my understanding was that if you had offered 207, then
22 Mr. Haffner would offer 209.

23 MR. JOHNSON: I think that's right.

24 JUDGE RENDAHL: I think I intended to admit
25 both not relating to Mr. Knight, but maybe I didn't

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1 state that.

2 MR. HAFFNER: Yeah, I didn't think that we
3 had a ruling on that yet I guess. Maybe I missed that.

4 JUDGE RENDAHL: All right, well, I think all
5 three of them, the Health Care Without Harm and the
6 Stericycle add in to that and then the Hospitals for a
7 Healthy Environment, I think all three should be
8 admitted with the same relative weight given that the
9 Stericycle watch part was admitted, I think it's only
10 appropriate to allow the initial part in, and they will
11 all be given, you know, they're not provided through
12 Mr. Knight, but will all be given the same weight.

13 MR. HAFFNER: And, Your Honor, I should
14 clarify for the record, I think you had asked me if 208
15 came in then I would ask for 209 to come in.

16 JUDGE RENDAHL: Okay.

17 MR. HAFFNER: It really is related to 207.

18 JUDGE RENDAHL: Correct, and I may have
19 misspoke on that.

20 MR. HAFFNER: And that was based on the third
21 page of Exhibit 207 makes a reference to a link to a
22 Stericycle watch.

23 JUDGE RENDAHL: Right.

24 MR. HAFFNER: And that was where that came
25 from.

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1 JUDGE RENDAHL: So I don't think I was
2 tracking exactly what I meant to say. So what I would
3 do at this point is admit 207 through 209, not through
4 Mr. Knight but just as facts out there on the Internet
5 as to what various opinions are out there on the
6 Internet, so that's what those will be. So 207 is now
7 admitted, and we'll address the remaining exhibits on
8 the 22nd.

9 So with that, is there anything else that we
10 need to address today?

11 I think that about covers it, let's be
12 adjourned for the day, and we'll see you all on the 22nd
13 at 9:30. Let's be off the record.

14 (Hearing adjourned at 3:20 p.m.)

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