

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

In re Application No. GA-079331 of)	DOCKET NO. TG-042089
)	
SURE-WAY SYSTEMS, INC.)	
)	ORDER NO. 02
For a Certificate of Public)	
Convenience and Necessity to)	
Operate Motor Vehicles in Furnishing)	DISMISSAL ORDER
Solid Waste Collection Service)	
)	
.....)	

Synopsis: The Commission grants Sure-Way Systems, Inc.'s motion to withdraw its application pursuant to WAC 480-07-380(3).

- 1 **NATURE OF PROCEEDING.** Sure-Way Systems, Inc., (Sure-Way or Applicant) filed an application with the Washington Utilities and Transportation Commission (Commission) for a certificate of public convenience and necessity to operate motor vehicles in furnishing solid waste collection service consisting of biomedical waste in Asotin, Benton, Columbia, Franklin, Garfield, Klickitat, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, and Yakima Counties.

- 2 Stericycle of Washington, Inc. (Stericycle) and Washington Refuse and Recycling Association (WRRRA) filed timely protests to the application. WRRRA withdrew its protest pursuant to the Commission's acceptance of Applicant's restrictive amendment to the application excluding Grant, Whitman, and Adams counties from Applicant's proposed service territory. The Commission dismissed WRRRA from the proceeding.

APPEARANCES. Greg W. Haffner, Curran Mendoza P.S., Kent, Washington, represents the applicant Sure-Way. Stephen B. Johnson, Garvey Schubert Barer, Seattle, Washington, represents protestant Stericycle. Gregory J. Trautman,

Assistant Attorney General, Olympia, Washington, represents the Commission's regulatory staff (Commission Staff or Staff)¹.

3 **BACKGROUND.** On March 3, 2005, the Commission convened a prehearing conference before Administrative Law Judge Karen Caillé. Among other things, the Commission invoked the discovery rule, granted Applicant's amendment to the application, granted WRRRA's withdrawal of its protest, dismissed WRRRA from the proceeding, and established a procedural schedule. On March 15, 2005, ALJ Caillé held a telephonic prehearing conference to adjust the hearing schedule to accommodate prefiled reply testimony by the Applicant. Hearings were scheduled to begin on August 30, 2005, in Kent, Washington.

4 On August 25, 2005, Sure-Way and Stericycle requested that the Commission stay the procedural schedule to allow the parties to engage in settlement discussions that could possibly lead to a resolution of the issues in this proceeding. On August 26, 2005, the Commission suspended the procedural schedule, and set a status conference for October 4, 2005, which was subsequently continued to November 9, 2005.

5 **MOTION TO WITHDRAW.** On November 9, 2005, Sure-Way filed a Motion to Withdraw its application in this proceeding. In support of its motion, Sure-Way states, "Sure-Way believes, and Stericycle agrees, that it is in the public interest for Sure-Way to withdraw this application at this time." Commission Staff does not object to the withdrawal of the Sure-Way application. Sure-Way requests that the withdrawal be without prejudice and without an award of attorney fees to any party. On November 16, 2005, Stericycle filed a response to the Motion to

¹ In formal proceedings, such as this case, the Commission's regulatory staff functions as an independent party with the same rights, privileges, and responsibilities as any other party to the proceeding. There is an "ex parte wall" separating the Commissioners, the presiding Administrative Law Judge, and the Commissioners' policy and accounting advisors from all parties, including Staff. RCW 34.05.455.

Withdraw, stating that Stericycle “has no objection to the motion filed by Sure-Way Systems, Inc. requesting leave to withdraw its application.”

- 6 **DISCUSSION AND DECISION.** Based on our review of the record in this proceeding, we conclude that it is in the public interest to grant Sure-Way’s Motion to Withdraw. *WAC 480-07-380(3)*. Accordingly, the application should be dismissed without prejudice, and without an award of attorney fees to any party.

ORDER

- 7 THE COMMISSION grants the motion of Sure-Way Systems, Inc. to withdraw its application No. GA-079331 in Docket No. TG-042089, without prejudice, and without an award of attorney fees to any party. Accordingly, the proceeding on application No. GA-079331 in Docket No. TG-042089 is dismissed.

Dated at Olympia, Washington, and effective this 21st day of November, 2005.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner

NOTICE TO PARTIES: This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-07-870.