

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

BEFORE THE WASHINGTON UTILITIES
AND TRANSPORTATION COMMISSION

STERICYCLE OF WASHINGTON, INC.,

Complainant

v.

WASTE MANAGEMENT OF
WASHINGTON, INC., d/b/a WM Healthcare
Solutions of Washington,

Respondent.

Docket No. TG-121597

**DECLARATION OF
POLLY L. MCNEILL**

I, Polly L. McNeill, declare as follows:

1. I am counsel for Waste Management of Washington, Inc. (“Waste Management”) in this matter and I make this declaration based on personal knowledge.

2. Until Monday, October 29, neither I nor, to my knowledge, any authorized representative or employee of Waste Management had knowledge of the fact that the Commission had served Waste Management with Stericycle’s Complaint and Petition for Declaratory Relief (“Stericycle Pleading”).

3. On October 3, the offices of Garvey Schubert Barer submitted an email with the Stericycle Pleading to the Commission’s Records Center. I, as well as Jessica Goldman of Summit Law Group, received a courtesy copy of the Stericycle Pleading that had been filed with the Commission. Also on October 3, Stericycle served Waste Management by hand delivery of

1 process to the company's registered agent, CT Corporation. Waste Management's Senior Legal
2 Counsel Andrew Kenefick provided me and Ms. Goldman with a copy by email.

3 4. We were therefore aware that Stericycle had initiated an administrative
4 proceeding, but based on my own legal analysis, we concluded that until the Commission itself
5 served Waste Management, the twenty-day clock for filing an answer had not started. Indeed,
6 we viewed Stericycle's Pleading as an application for adjudication under WAC 480-07-
7 305(3)(a). We speculated that the Commission could have been determining its response to
8 Stericycle's application as the reason for the delay in being officially served by the agency. I
9 even opined that the Commission might have been considering to reject the application, which it
10 is authorized to do if the application is presented during an existing adjudication. *See* WAC 480-
11 07-305. We thus had reason for not questioning the fact that, as far as we knew, the complaint
12 was not served yet.

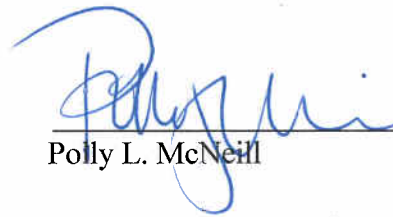
13 5. Nonetheless, as the twentieth day approached, we wanted to be certain. I
14 therefore called Director/Administrative Law Judge Greg Kopta for the purpose of confirming
15 that service by the complainant does not require an answer, and that only until service is
16 perfected by the Commission does the twenty-day period commence. We discussed the
17 administrative procedures generally, without reference to any specific parties or pleadings, but
18 Judge Kopta confirmed my understanding of the proper sequence of process. Ironically, at the
19 time, I was completely unaware that, in fact, the Commission had served Waste Management.

20 6. On October 29, I saw an email alluding to the fact that Waste Management had
21 not timely filed an answer. Alarmed, I immediately contacted the Records Center, and learned
22 that, indeed, the Commission had served Waste Management by placing the Stericycle Pleading
23 in the mail on October 3, return receipt requested, addressed to the company's offices in
24 Kirkland, Washington. The return receipt was signed by a Waste Management employee named
25 La Quita Adolphson.

1 7. I immediately reported this information to Mr. Kenefick and to Mike Weinstein,
2 who is the designated contact person for WUTC matters. Neither had any knowledge of the
3 service. They reported that Ms. Adolphson is a billing clerk who was staffing the front desk
4 while the permanent receptionist was on break. Ms. Adolphson is not authorized to "accept"
5 service for Waste Management and she is not an authorized representative of the company – but
6 of course, the company's protocols about receiving service apply to service by process because
7 service by mail is not the usual way litigation is started. When service is made on the company's
8 registered agent, the receipt of process is recorded, and the paperwork is delivered to the relevant
9 persons for any necessary response. It avoids the exact problem that occurred here. Of course,
10 the Commission does not follow the procedure employing service to registered agents, and as a
11 result, the relevant Waste Management representatives were not aware that the documents had
12 been sent through a different procedure.

13 8. Waste Management agrees that the documents must have been received; however,
14 I have been informed that neither Mr. Kenefick nor Mr. Weinstein have been able to confirm or
15 locate copies of the served papers that were actually received.

16 EXECUTED this 5th day of November, 2012 at Seattle, Washington

17
18
19 
20 Polly L. McNeill

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

CERTIFICATE OF SERVICE

I hereby certify that I have this day served this document upon all parties of record in this proceeding, by the method as indicated below, pursuant to WAC 480-07-150.

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

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


Deanna Schow