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  **waste management of washington, inc.’S REQUEST FOR a CONTINUANCE TO FILE LATE ANSWER** |

1. Waste Management of Washington, Inc. d/b/a WM Healthcare Solutions of Washington, Inc. (“Waste Management”) respectfully submits this Request for a Continuance to File a Late Answer, in accordance with WAC 480-07-375(b) and WAC 480-07-370(1)(c)(iv). The Commission’s regulations allow it to alter the time allowed for filing an answer and also to consider requests for continuance that are made after a deadline if the requester demonstrates good cause that prevented a timely request. WAC 480-07-370(1)(c)(iv) & WAC 480-07-385(3)(c). Waste Management had good cause to miss the deadline for filing its Answer.
2. The delay was unintentional. No authorized representative nor any authorized employee had actual knowledge that the time for filing an answer had commenced. Only one employee ostensibly was aware of the Commission’s service by certified mail. *See* McNeill Decl.Service by mail is not as obvious as service by process, and the staff person who received and signed for the mail apparently failed to appreciate the significance of the Commission’s service documents. It was not her normal job, and she was filling in for someone else. The company and its counsel missed the filing deadline due to good faith error.
3. There is no harm to the public interest from the delay. The prehearing conference is not scheduled until the end of November, on a date that was agreed upon by email exchanges of the parties. Filing the Answer any time preceding the prehearing conference is functionally timely, and indeed this filing is sufficiently prior to allow for the parties to consider it in preparation for the conference. The Commission Staff is not adversely affected by the delay. The Staff has not appeared, and determination of whether to participate in this proceeding is presumably not dependent on the timing of Waste Management’s answer. The complainant, Stericycle of Washington, Inc., has suffered no prejudice, either.
4. Moreover, the Commission is authorized to rely on Washington Superior Court rules for civil proceedings as guidelines for handling motions. WAC 480-07-375(2). In civil proceedings, the only consequence to a failure to timely file an answer is that the defendant must file the answer prior to consideration of any subsequent motion for default. *See* CR 55 (a)(2) (“If the party has appeared before the motion is filed, he may respond to the pleading or otherwise defend at any time before the hearing on the motion.”).
5. Waste Management respectfully asks that the Commission order the deadline for filing of an Answer to be continued to today’s date, November 5, 2012, the date of actual filing; or, alternatively, the date of the order itself. *See* WAC 480-07-385(4) (requiring a date certain). The proposed Answer is lodged herewith.

DATED this 5th day of November, 2012.

SUMMIT LAW GROUP PLLC

By

Polly L. McNeill, WSBA #17437

Jessica L. Goldman, WSBA #21856

pollym@summitlaw.com

jessicag@summitlaw.com

*Attorneys for Waste Management of Washington, Inc.*

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 | 🞎 Via Legal Messenger  🞎 Via Facsimile  🗹 Via U.S. Mail  🞎 Via Email |
| Washington Utilities and Transportation Commission  1300 S. Evergreen Park Dr. SW  PO Box 47250  Olympia, WA 98504-7250  360-664-1160  records@utc.wa.gov | 🞎 Via Legal Messenger  🞎 Via Facsimile  🗹 Via Federal Express  🗹 Via Email |

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

Deanna L. Schow