BEFORE THE WASHINGTON UTILITIES

AND TRANSPORTATION COMMISSION

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| In the Matter of the Petition of  STERICYCLE OF WASHINGTON, INC.,  For an Order Suspending Tariff Filing and Initiating an Adjudicatory Proceeding concerning the Abandonment of Authority Under G-237 and Proposed Biomedical Waste Collection and Transportation Services of Waste Management of Washington, Inc., dba WM Healthcare Solutions (G-237) |  | Docket No. TG-110553  answer of waste management of washington, inc. to complaint and petition of stericycle |

1. Respondent Waste Management of Washington, Inc. (“Waste Management”) answers Complainant Stericycle of Washington, Inc.’s (“Stericycle”) Complaint and Petition (“Complaint”) and asserts affirmative or other defenses as follows:

**ANSWER**

1. Waste Management admits Paragraph 1.
2. Waste Management denies Paragraph 2.
3. Waste Management denies that Stericycle is entitled to any of the relief requested in Paragraph 3. Waste Management denies each of the remaining allegations in Paragraph 3.
4. Paragraph 4 does not state any factual allegations to which an answer is required. Waste Management denies that Stericycle is entitled to relief under any of the stated laws or rules.
5. Answering Paragraph 5, Waste Management admits that it filed a tariff for biomedical waste collection rates under the one-day notice provision of WAC 480-70-261 on March 18, 2011, and that the filing speaks for itself, and that having a tariff rate in effect will allow Waste Mangement to perform regulated biomedical waste collection and transportation services within the territory authorized by Certificate G-237. Waste Management denies each of the remaining allegations in Paragraph 5.
6. Answering Paragraph 6, Waste Management admits that it hired former Stericycle employees, that the former Stericycle employees had some information about Stericycle’s business, and that Waste Management employees have discussed biomedical waste collection and transportation services and rates with Washington customers including some that previously were served by Stericycle. Waste Management denies each of the remaining allegations in Paragraph 6 and specifically denies the implication that Waste Management’s employees made improper use of any confidential or proprietary Stericycle business information.
7. Answering Paragraph 7, Waste Management denies that Stericycle does not oppose fair competition if in the public interest and initiated in accordance with the requirements of applicable law. Waste Management admits each of the remaining allegations in Paragraph 7.
8. Answering Paragraph 8, Waste Management admits that its parent company and Stericycle’s parent company executed an agreement in 1996 and that the agreement speaks for itself. Waste Management denies each of the remaining allegations in Paragraph 8.
9. Answering Paragraph 9, Waste Management denies that Stericycle is entitled to the relief requested. Waste Management denies each of the remaining allegations in Paragraph 9.
10. Answering Paragraph 10, Waste Management admits that its biomedical waste collection services will be offered in the territory authorized by the Commission in Certificate G-237 and that Certificate G-237 speaks for itself. Waste Management denies each of the remaining allegations in Paragraph 10.
11. Answering Paragraph 11, Waste Management admits that its biomedical waste collection services will be offered in the territory authorized by the Commission in Certificate G-237 and that Stericycle is required to provide services pursuant to Certificate G-244, which Certificate speaks for itself. Waste Management denies that Stericycle is entitled to the relief requested in Paragraph 11. Waste Management denies each of the remaining allegations in Paragraph 11.
12. Answering Paragraph 12, Waste Management admits that biomedical waste collection, transportation and disposal services require specialized expertise and specialized equipment as well as access to a waste processing and disposal facility and that WAC 480-70-426 speaks for itself. Waste Management denies that Stericycle is entitled to the relief requested in Paragraph 12. Waste Management denies each of the remaining allegations in Paragraph 12.
13. Answering Paragraph 13, Waste Management admits that it is the subsidiary of a corporation engaged in solid waste collection and disposal in Washington. Waste Management denies that Stericycle is entitled to the relief requested in Paragraph 13. Waste Management specifically denies that Stericycle is a “smaller competitor” and denies each of the remaining allegations in Paragraph 13.
14. Waste Management denies Subheading D.
15. Waste Management denies the first sentence of Paragraph 14. Waste Management admits that the cited case speaks for itself. Waste Management denies each of the remaining allegations in Paragraph 14.
16. Waste Management denies the first sentence of Paragraph 15. Waste Management admits that the cited case speaks for itself. Waste Management denies each of the remaining allegations in Paragraph 15.
17. Answering Paragraph 16, Waste Management admits that the cited cases and statute speak for themselves. Waste Management denies each of the remaining allegations in Paragraph 16.
18. Answering Paragraph 17, Waste Management admits that pursuant to a 1996 agreement with Stericycle’s parent company, Waste Management’s parent company contractually agreed not to provide biomedical waste collection services in competition with Stericycle for a term of years. Waste Management further admits that the comments it filed in Docket No. TG-110287 speak for themselves. Waste Management denies each of the remaining allegations in Paragraph 17.
19. Answering Paragraph 18, Waste Management admits that it has not had a tariff for biomedical waste collection for the past 15 years. Waste Management denies that Stericycle is entitled to any of the relief requested in Paragraph 18. Waste Management denies each of the remaining allegations in Paragraph 18.
20. Waste Management denies Subheading E.
21. Answering Paragraph 19, Waste Management admits that the cited case speaks for itself. Waste Management denies each of the remaining allegations in Paragraph 19.
22. Waste Management denies Paragraph 20.
23. Answering Paragraph 21, Waste Management admits that the Commission has the authority specified in the cited statutes and that the cited statutes and case speak for themselves. Waste Management denies each of the remaining allegations in Paragraph 21.
24. Answering Paragraph 22, Waste Management admits that the cited statutes and regulation speak for themselves. Waste Management denies each of the remaining allegations in Paragraph 22.
25. Answering Paragraph 23, Waste Management admits that the cited statute speaks for itself. Waste Management denies that Stericycle is entitled to the relief requested in Paragraph 23. Waste Management denies each of the remaining allegations in Paragraph 23.
26. Waste Management denies that Stericycle is entitled to the relief requested in Subheading F.
27. Answering Paragraph 24, Waste Management admits that the cited regulation speaks for itself and that the Commission has the authority granted to it by the Legislature. Waste Management denies that Stericycle is entitled to the relief requested in Paragraph 24. Waste Management denies each of the remaining allegations in Paragraph 24.
28. Waste Management denies that Stericycle is entitled to the relief requested in Paragraph 25.

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

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

**PRAYER FOR RELIEF**

WHEREFORE, Waste Management requests:

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

DATED this 21st day of April, 2011.

By

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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.

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| Steven B. Johnson  Donald B. Scaramastra  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 |
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DATED at Seattle, Washington, this 21st day of April, 2011.

Kathy Moll