

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. 01
For a Certificate of Public	)	
Convenience and Necessity to	)	
Operate Motor Vehicles in Furnishing	)	PREHEARING CONFERENCE
Solid Waste Collection Service	)	ORDER
	)	
.....	)	

1     **NATURE OF PROCEEDING.** Docket No. TG-042089 is an application by Sure-Way Systems, Inc., (SWS) for a certificate of public convenience and necessity to operate motor vehicles in furnishing solid waste collection service consisting of biomedical waste in Adams, Asotin, Benton, Columbia, Franklin, Garfield, Grant, Klickitat, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman and Yakima Counties.

2     **CONFERENCES.** The Washington Utilities and Transportation Commission (Commission) convened a prehearing conference in Docket No. TG-042089 at Olympia, Washington on March 3, 2005, before Administrative Law Judge Karen Caillé. On March 15, 2005, ALJ Caillé held a telephonic prehearing conference to adjust the hearing schedule to accommodate prefiled reply testimony by the Applicant.

3     **APPEARANCES.** Greg W. Haffner, Curran Mendoza P.S., Kent, Washington, represents the applicant Sure-Way Systems, Inc. (Sure-Way or Applicant). Stephen B. Johnson, Garvey Schubert Barer, Seattle, Washington, represents protestant Stericycle of Washington, Inc. (Stericycle). James K. Sells, Ryan Sells Uptegraft, Inc., P.S., Silverdale, Washington, represents Washington Refuse and Recycling Association (WRRRA) including Consolidated Disposal Services, Inc., and Pullman Disposal Service, Inc. Gregory J. Trautman, Assistant Attorney

General, Olympia, Washington, represents the Commission's regulatory staff (Commission Staff or Staff). Contact information provided at the conference for the parties' representatives is attached as Appendix A to this order.

- 4 **RESTRICTIVE AMENDMENT TO APPLICATION.** Applicant proposed a restrictive amendment to the Application, specifically the exclusion of Grant, Whitman, and Adams counties from its proposed service territory. The ALJ granted Applicant's request to amend the application. Under WAC 480-07-395(5), the Commission will allow amendments to pleadings, including applications, on "terms that promote fair and just results." A reduction in the territory need not be redocketed, as the change merely limits the scope of the application and will have no adverse effect on parties or persons who are not parties to the proceeding. *See Order M.V.G. No. 1451, In re Sureway Incineration, Inc. Hearing No. GA-868 at 6 (November 1990).*
- 5 **WITHDRAWAL OF WRRRA PROTEST.** WRRRA represented that if the Commission accepted Sure-Way's restrictive amendment, WRRRA would withdraw its protest. After granting Sure-Way's request to amend its application, the ALJ granted WRRRA's request to withdraw its protest and dismissed WRRRA from the proceedings.
- 6 **ADEQUACY OF DOCKET NOTICE.** Counsel for Applicant pointed out that the application, as originally filed, indicated an application to operate under contract, while the authority that Applicant seeks in this proceeding is common carrier authority. Applicant offered to file an amended application that would check the correct box to reflect that this is not an application to operate under a contract. The parties discussed whether the docket notice that went out, which noticed the broader common carrier authority, was sufficient to provide notice to the affected community. Counsel for Protestant reserved the right to object to the adequacy of the docket notice to inform the public of the nature of the application.

7 The docket notice for this application reflects that Sure-way is seeking common carrier authority. There is no mention of contract authority in the docket notice. Moreover, there are no contracts submitted with the application, as required under Section 3 of the application. Accordingly, the Commission finds that the docket notice accurately reflects the scope of authority that Applicant is seeking in this proceeding. The Commission directs Applicant to file a substitute page containing Section 3, that checks the correct box related to contract service, in order to accurately reflect the authority noticed in the docket notice and in this proceeding.

8 **DISCOVERY.** Discovery will be conducted pursuant to the Commission's discovery rules, WAC 480-07-400 through 425, with the exception of WAC 480-07-410 (Discovery – Depositions). The Commission rarely encourages the use of depositions as a discovery tool in its proceedings. Experience has shown that depositions cause added expense for the parties, and are difficult to schedule within the time-frames allotted for discovery. The use of written data requests have proven to be a satisfactory and sufficient method to fulfill discovery needs. Moreover, the parties will be filing pre-filed testimony that addresses Applicant's financial and operational fitness to provide the proposed service. The hearings provide opportunity for cross-examination of the prefiled testimony. The Commission urges the parties to work cooperatively together to avoid having to bring discovery matters forward for formal resolution.

9 **PROCEDURAL SCHEDULE.** The parties agreed upon a procedural schedule during the conferences. The Commission adopts this procedural schedule, which is attached to this order as Appendix B, and incorporated into the body of this Order by this reference.

- 10 **NOTICE OF PREHEARING CONFERENCE.** The Commission convenes a prehearing conference in this matter, to address cross-examination time estimates, identify and mark prefiled exhibits and cross-examination exhibits, and to address any remaining issues prior to hearing. **The prehearing conference will be held on Tuesday, August 23, 2005, at 9:30 a.m. in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 S. Evergreen Park Drive S. W., Olympia, Washington.** Parties must appear in person.
- 11 **NOTICE OF HEARINGS.** The Commission convenes several hearings in this matter to consider the application of Sure-Way Systems, Inc. for a certificate for collection of biomedical waste.
- 12 **A hearing to address the financial and operational fitness of the Applicant will be held August 30, 31, and September 1, 2005, beginning at 9:30 a.m. in the Chambers East Room, located on the First Floor of Kent City Hall, 220 4<sup>th</sup> Avenue S., Kent, Washington.** Separate days of hearing, notice for which is provided below, will be held to address the need for the Applicant's proposed service.
- 13 A hearing to address the needs of shippers for the service proposed by the Applicant will be held **September 7-9, 2005, beginning at 9:30 a.m. in the Spokane Fire Department Training Center, Room "D", 1618 N. Rebecca, Spokane, Washington.**
- 14 A hearing to address the needs of shippers for the service proposed by the Applicant will be held on **September 14, 2005, beginning at 9:30 a.m. in the Benton County Justice Center Commissioner's Conference Room, 7122 West Okanogan Place, Kennewick, Washington, and September 15-16, 2005 in the Benton County PUD Auditorium, 2721 West 10<sup>th</sup> Avenue, Kennewick, Washington.**

- 15 **DOCUMENT PREPARATION AND FILING REQUIREMENTS.** Parties must file with the Commission an original plus **seven** copies of all pleadings, motions, briefs, and other prefiled materials. Paper copies of these materials are required to conform to the format and publication guidelines set forth in WAC 480-07-395 and 480-07-460, and must be three-hole punched with *oversized* holes to allow easy handling. The Commission may require a party to refile any document that fails to conform to these standards.
- 16 All filings must be mailed or delivered to the Executive Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 S. Evergreen Park Drive, S.W. Olympia, Washington 98504-7250. Both the post office box and street address are required to expedite deliveries by the U.S. Postal Service.
- 17 An electronic copy of all filings must be provided by e-mail delivery to <[records@wutc.wa.gov](mailto:records@wutc.wa.gov)>. Alternatively, parties may furnish an electronic copy by delivering with each filing a 3.5-inch IBM-formatted high-density diskette including the filed document(s). The Commission prefers that parties furnish electronic copies in .pdf (Adobe Acrobat) format, supplemented by a separate file in MS Word 6.0 (or later), or WordPerfect 5.1 (or later) format. Parties are required to organize and identify electronic files as specified in WAC 480-07-140(5).
- 18 **ELECTRONIC SUBMISSION OF DOCUMENTS.** Pursuant to WAC 480-07-145(6), the presiding officer may grant parties a one-day extension of the paper-filing requirement, allowing electronic submission of documents with the Commission on the filing deadline. Parties may only submit documents electronically with the Commission in this proceeding with the permission of the presiding officer. If, at any time during this proceeding, parties are authorized to submit documents with the Commission electronically under WAC 480-07-145(6), Parties must submit the document to [records@wutc.wa.gov](mailto:records@wutc.wa.gov), and file an

original, plus **seven** paper copies, of the document with the Commission by the following business day.

19 **ELECTRONIC SERVICE OF DOCUMENTS AMONG PARTIES.** The parties agreed to electronic service of all filings.

20 **NOTICE TO PARTIES: Any objection to the provisions of this Order must be filed within ten (10) days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. Absent such objection, this Order will control further proceedings in this matter, subject to Commission review.**

Dated at Olympia, Washington, and effective this 22nd day of March, 2005.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

KAREN M. CAILLÉ  
Administrative Law Judge

APPENDIX A

PARTIES' REPRESENTATIVES  
DOCKET NO. TG-042089

COMPANY	REPRESENTATIVE and ADDRESS	PHONE NUMBER	FAX NUMBER	E-MAIL ADDRESS
Sure-Way Systems, Inc.	Greg W. Haffner Curran Mendoza P.S P.O. Box 140 555 W. Smith Street Kent, WA 98035	(253) 852-2345	(253) 852-2030	<a href="mailto:gwh@curranmendoza.com">gwh@curranmendoza.com</a>
Commission Staff	Greg J. Trautman Assistant Attorney General 1400 S. Evergreen Park Drive SW P.O. Box 40128 Olympia, WA 98504	(360) 664-1187	(360) 586-5522	<a href="mailto:gtrautma@wutc.wa.gov">gtrautma@wutc.wa.gov</a>
Stericycle of Washington	Stephen B. Johnson Garvey, Schubert & Barer 1191 2 <sup>nd</sup> Avenue, Floor 18 Seattle, WA 98101-2939	(206) 464-3939	(206) 464-0125	<a href="mailto:sjohnson@gsblaw.com">sjohnson@gsblaw.com</a>
Administrative Law Judge	Karen M. Caillé 1300 S. Evergreen Park Dr. SW P.O. Box 47250 Olympia, WA 98504-7250	(360) 664-1139	(360) 664-2654	<a href="mailto:kcaille@wutc.wa.gov">kcaille@wutc.wa.gov</a>

**APPENDIX B  
PROCEDURAL SCHEDULE  
DOCKET NO. TG-042089**

EVENT	DATE	INTERVAL
Discovery Period Ends	May 27, 2005	
Applicants' Prefiled Testimony and Exhibits on financial and operational fitness due	June 17, 2005	21 days
Protestants', Intervenors' and Staff's Prefiled Responsive Testimony and Exhibits on financial and operational fitness due	July 18, 2005	31 days
Applicant's Reply Testimony and Exhibits on financial and operational fitness due	August 1, 2005	14 days
Cross-examination time estimates, proposed cross-examination exhibits filed with Commission	Monday, August 22, 2005, by Noon	21 days
Prehearing Conference, <b>in Olympia</b> . Parties must appear in person.	Tuesday, August 23, 2005, at 9:30 a.m.	7 days before hearing
Hearing on Applicants' Financial and Operational Fitness, <b>in Kent</b> at Kent City Hall, 220 4 <sup>th</sup> Avenue S.	Aug. 30 – Sept. 1, 2005	
Disclosure of Shipper Witnesses to testify in Spokane	August 31, 2005	7 days before witnesses appear
Hearing on Shipper Need <b>in Spokane</b> at Spokane Fire Dept. Training Center, 1618 N. Rebecca	September 7-9, 2005	
Disclosure of Shipper Witnesses to testify in Kennewick.	September 7, 2005	7 days before witnesses appear
Hearing on Shipper Need <b>in Kennewick</b> <b>Sept. 14</b> at Benton Co. Justice Center, 7122 West Okanogan Place <b>Sept. 15-16</b> at Benton County PUD 2721 West 10 <sup>th</sup> Avenue	September 14-16, 2005	
Simultaneous Initial Briefs Due	October 14, 2005	28 days after hearing
Simultaneous Responsive Briefs Due	October 28, 2005	14 days