

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

STERICYCLE OF WASHINGTON,)	DOCKET TG-110553
INC.,)	
)	
Complainant,)	ORDER 01
)	
v.)	
)	PREHEARING CONFERENCE
WASTE MANAGEMENT OF)	ORDER
WASHINGTON, INC.,)	
)	
Respondent.)	
)	
.....)	

1 **NATURE OF PROCEEDING.** On March 21, 2011, Stericycle of Washington, Inc. (Stericycle), filed a complaint and petition (complaint), with the Washington Utilities and Transportation Commission (Commission) against Waste Management of Washington, Inc. (Waste Management). The complaint challenges the authority of Waste Management to engage in biomedical waste collection and transportation for compensation under Certificate G-237 without a specific grant of authority by the Commission. Stericycle alleges, among other things, that Waste Management has abandoned any authority once provided by Certificate G-237 for such services and that the initiation of such services by Waste Management is therefore unauthorized and unlawful. Stericycle requests the Commission issue an order amending and restricting Certificate G-237 to expressly exclude biomedical waste collection and transportation services. The Commission set the matter for hearing..

2 **CONFERENCE/PRESIDING OFFICER.** The Commission convened a prehearing conference at Olympia, Washington on April 29, 2011, before Administrative Law Judge Dennis J. Moss, whom the Commission appoints as presiding officer in this proceeding.

3 **PARTY REPRESENTATIVES.** Stephen B. Johnson, Garvey, Schubert & Barer, Seattle, Washington, represents Stericycle. Polly L. McNeill and Jessica L. Goldman, Summit Law Group, Seattle, Washington, represent Waste Management. James K. Sells, Ryan, Uptegraft & Montgomery, Inc., P.S., Silverdale, Washington, represents

the Washington Refuse and Recycling Association (WRRRA). Fronda Woods, Assistant Attorney General, Olympia, Washington, represents the Commission's regulatory staff (Commission Staff or Staff).¹

4 **PETITION FOR INTERVENTION.** The WRRRA petitioned to intervene. No one opposed the petition, which shows the organizations substantial interest in the proceeding and that its participation would be in the public interest. The petition accordingly is granted.

5 **PROTECTIVE ORDER.** The Commission sees no reason at this time to enter a protective order to facilitate discovery.

6 **DISCOVERY.** Discovery, if any, will be pursuant to the Commission's discovery rules, WAC 480-07-400 – 425. The Commission urges the parties to work cooperatively together to avoid having to bring discovery matters forward for formal resolution.

7 **PROCEDURAL SCHEDULE.** The Commission adopts a preliminary procedural schedule to receive dispositive motions and responses as set forth below and in Appendix B to this Order. The dates indicated are for electronic submission and service of documents with a printed original and copies due for receipt by the Commission's Records Center on the next business day. The Commission will provide due notice of any change in this schedule.

Waste Management Amended Answer and Counterclaim	May 2, 2011
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Stericycle Response to Waste Management Motion to Dismiss; Answer to Counterclaim; and Motion for Summary Determination	May 6, 2011
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¹ In formal proceedings, such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners' policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See, RCW 34.05.455.*

Waste Management Motion for Summary Determination on Counterclaim	May 10, 2011
Waste Management Response to Stericycle Motion for Summary Determination	May 26, 2011
Stericycle Response to Waste Management Motion for Summary Determination on Counterclaim	May 30, 2011

It does not appear that Staff or WRRRA will file any dispositive motions. Staff and WRRRA may file any responses to others' dispositive motions on the dates that are appropriate to their positions on the issues.

- 8 **DOCUMENT PREPARATION AND FILING REQUIREMENTS.** Parties must file the original plus **seven (7)** copies of the unredacted versions of all pleadings, motions, briefs, and other prefiled materials. Parties must also file the original and one (1) copy of any redacted version(s). These materials must conform to the format and publication guidelines in WAC 480-07-395 and WAC 480-07-460. The Commission prefers that materials 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.
- 9 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.
- 10 An electronic copy of all filings must be provided through the Commission's Web Portal (www.utc.wa.gov/e-filing) or by e-mail delivery to records@utc.wa.gov. Alternatively, parties may furnish an electronic copy by delivering with each filing a 3.5-inch IBM-formatted high-density diskette or CD including the filed document(s). Parties must furnish electronic copies in MS Word 6.0 (or later) supplemented by a separate file in .pdf (Adobe Acrobat) format. Parties must follow WAC 480-07-140(5) in organizing and identifying electronic files.

- 11 **ELECTRONIC SUBMISSION OF DOCUMENTS.** The presiding officer granted a one-day extension of the paper-filing requirement under WAC 480-07-145(6), allowing electronic submission of documents with the Commission on the filing deadline. Parties must submit documents through the Commission's Web Portal (www.utc.wa.gov/e-filing) or by e-mail to records@utc.wa.gov, and file an original, plus seven (7) paper copies,² of the documents with the Commission by the following business day. Parties must provide courtesy copies of their electronic submissions to the presiding administrative law judge and the parties to the proceeding.
- 12 **ALTERNATE DISPUTE RESOLUTION.** The Commission supports the informal settlement of matters before it. Parties are encouraged to consider means of resolving disputes informally. The Commission does have limited ability to provide dispute resolution services; if you wish to explore those services, please call the Director, Administrative Law Division, at 360-664-1355.
- 13 **NOTICE TO PARTIES: A party who objects to any portion of this Order must file a written objection within ten (10) calendar days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. The service date appears on the first page of the order in the upper right-hand corner. Absent such objection, this Order will control further proceedings in this matter, subject to Commission review.**

Dated at Olympia, Washington, and effective April 29, 2011.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

DENNIS J. MOSS
Administrative Law Judge

² See, supra, ¶ 8 for detailed filing requirements when documents include material designated confidential.

APPENDIX A

**PARTIES' REPRESENTATIVES
DOCKET TG-110553**

PARTY	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
Stericycle	Steven B. Johnson Donald B. Scaramastra Garvey Schubert Barer 1191 Second Ave., Suite 1800 Seattle, WA 98101	206 464-3939		sjohnson@gsblaw.com
Waste Management	Polly L. McNeill Jessica L. Goldman Summit Law Group 315 – 5 th Avenue S. Seattle, WA 98104	206-676-7040		pollym@summitlaw.com Jessicag@summitlaw.com
Commission Staff	Frona Woods 1400 S. Evergreen Park Dr. SW P.O. Box 40128 Olympia, WA 98504-0128	360-664-1225	360-586-5522	fwoods@utc.wa.gov
WRAA	James K. Sells Ryan, Uptegraft & Montgomery, Inc. P.S. PMB 22, 3110 Judson St. Gig Harbor, WA 98335	360-981-0168		jamesells@comcast.net

**APPENDIX B
PROCEDURAL SCHEDULE
DOCKET TG-110553**

<u>EVENT</u>	<u>DATE</u>
Complaint by Stericycle	March 21, 2011
Motion to Dismiss by Waste Management	April 12, 2011
Answer by Waste Management	April 21, 2011
Waste Management Amended Answer and Counterclaim	May 2, 2011
Stericycle Response to Waste Management Motion to Dismiss; Answer to Counterclaim; and Motion for Summary Determination	May 6, 2011
Waste Management Motion for Summary Determination on Counterclaim	May 10, 2011
Waste Management Response to Stericycle Motion for Summary Determination	May 26, 2011
Stericycle Response to Waste Management Motion for Summary Determination on Counterclaim	May 30, 2011