

EXHIBIT B

Stericycle Exhibit No. _____ (JN-4T)

Transcript of the Testimony of

Jeffrey Norton

October 15, 2012

**In the Matter of the Application of Waste Management of
Washington**

No. TG-120033



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BEFORE THE WASHINGTON

UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Application)
of)
)
WASTE MANAGEMENT OF WASHINGTON,) Docket No. TG-120033
INC., D/B/A WM HEALTHCARE)
SOLUTIONS OF WASHINGTON) Order 05
)
For an Extension of Certificate)
G-237 for a Certificate of Public)
Convenience and Necessity to)
Operate Motor Vehicles in)
Furnishing Solid Waste Collection)
Service)

DEPOSITION OF JEFFREY NORTON

October 15, 2012

Seattle, Washington

Byers & Anderson, Inc.

Court Reporters/Video/Videoconferencing

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**Jeffrey Norton
October 15, 2012**

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1 BE IT REMEMBERED that on Monday,
2 October 15, 2012, at 1191 Second Avenue, Suite 1800,
3 Seattle, Washington, at 9:30 a.m., before Karmen M.
4 Knudson, Certified Court Reporter, RPR, CRR, appeared
5 JEFFREY NORTON, the witness herein;

6 WHEREUPON, the following proceedings
7 were had, to wit:

8

9

<<<<<< >>>>>>

10

11 JEFFREY NORTON, having been first duly sworn
12 by the Certified Court Reporter,
13 testified as follows:

14

15

16

EXAMINATION

17

BY MR. VAN KIRK:

18

Q Good morning, Mr. Norton. Can you state and spell your
19 name for the record.

20

A Jeff Norton. I'll give you my full name. Jeffrey
21 Norton. J-E-F-F-R-E-Y N-O-R-T-O-N.

22

Q What's your home address?

23

A 1394 250th Avenue Southeast --

24

(Telephonic interruption.)

25

////

1 Stericycle could offer a range of containers that the
2 smaller competitors out there didn't have or couldn't
3 offer?

4 **A Correct.**

5 When I worked at Stericycle, there -- or when I
6 worked at BFI -- excuse me -- one of our selling points
7 that I didn't mention was our containment versus the
8 Stericycle Steritubs, which is a container they designed.

9 And, yeah, that was a selling point. So being able
10 to offer different containers to customers that had
11 issues with those containers was important.

12 **Q** It was your experience that the large generators at least
13 valued having that choice between different kinds of
14 containers?

15 **A Yes.**

16 **Q** Now, you mentioned Steri-Safe. What is that, briefly?

17 **A** Steri-Safe, when it started, was sort of an OSHA program
18 for mostly small quantity generators.

19 At the time, when I did work for Stericycle, there
20 was a lot of cross-selling. You worked selling small
21 quantity and large quantity, even though that was, you
22 know, generally my job description.

23 So I helped launch the Steri-Safe program in
24 Washington. And at the time, we also offered hazardous
25 waste pickup through -- picking up all the dental waste,

1 **A** **With Stericycle, British Columbia, Alberta, Washington,**
2 **Idaho, Oregon. So Stericycle, I had other areas.**

3 **Q** All right. So sales and consulting. With respect to
4 sales, tell me maybe in a little more detail, what are
5 your sales responsibilities for Waste Management
6 Healthcare Solutions?

7 **A** **To get business via revenue and service, multiple waste**
8 **streams, at a healthcare facility.**

9 **Q** **Is it your explicit goal, then, to try and acquire, as**
10 **you said, multiple waste streams from facilities?**

11 **A** **Yes.**

12 **Q** **And which waste streams are we talking about?**

13 **A** **We're talking about recycling, solid waste, medical**
14 **waste, pharmaceutical type waste, and hazardous waste.**
15 **RCRA, hazardous waste. R-C-R-A.**

16 **Q** Do you ever have any experience working with -- on the
17 waste other than medical waste or pharmaceuticals -- I
18 guess a better way -- strike that.

19 Did you ever have experience with solid waste and
20 recycling before you came to Waste Management?

21 **A** **No. No.**

22 **Q** Did you get any training from Waste Management on solid
23 waste and recycling?

24 **A** **Yes.**

25 **Q** Tell me -- tell me what kind of training you received.

1 **A Yes.**

2 **Q Okay. Are customers more interested in adding recycling**
3 **services, if they don't already have them, or in medical**
4 **waste services from Waste Management?**

5 **A Medical waste services.**

6 **Q And why is that?**

7 **A For the reason I took this job, which I mentioned**
8 **earlier. You know, there hasn't been -- since BFI was**
9 **acquired, there hasn't been another option for a lot of**
10 **folks. And just that alone allows for folks to invite**
11 **you in and want to know what you've got to offer.**

12 **Q So in your experience, since you've been at Waste**
13 **Management, the healthcare customers out there are**
14 **interested in an alternative to Stericycle?**

15 **A They're -- they're interested in having an option. I'll**
16 **say that: having an option. Just -- I mean, it really**
17 **depends on the customer, where they're at with**
18 **Stericycle, where they see our value. If I'm able to add**
19 **value with our medical waste service, where Stericycle**
20 **hasn't been able to, then, you know...**

21 **Q Is this universal, or are there customers out there that**
22 **say, "I'm happy with the medical waste service I have"?**

23 **A There are customers that are satisfied with their service**
24 **and -- yes, their current service.**

25 **Q How many -- I know I can't get an exact number, but just**

1 for my knowledge, how many healthcare facilities are you
2 targeting -- do you target in your job?

3 **A There's 108 hospitals in Washington, and associated with**
4 **that, probably 700 medical facilities that are -- that**
5 **are directly associated with those facilities. And**
6 **that's what I target.**

7 Q And that's the focus of your sales activities in
8 Washington?

9 **A Yes.**

10 Q Is there somebody else out there trying to sell small
11 quantity generators?

12 **A Yes.**

13 Q Okay. Who is that?

14 **A We have a service that -- a call center -- that's the**
15 **word -- in Phoenix, Arizona.**

16 Q And is that call center operated by Waste Management
17 Healthcare Solutions, Inc.?

18 **A Yes.**

19 Q What territory does that call center cover?

20 **A I believe they cover wherever we offer medical waste**
21 **services. So any of our areas that can be covered by our**
22 **medical waste services.**

23 Q Nationwide?

24 **A Nationwide.**

25 Q Do you know how big that call center is?

1 **A I don't.**

2 **Q Do you know how many people work there?**

3 **A I don't.**

4 **Q Okay. So just so I'm clear, there's no dedicated**
5 **employee for Washington that is -- who's out there doing**
6 **account management or sales to small quantity generators**
7 **as the focus of their activity?**

8 **A That's correct.**

9 **Q Let's do a little hypothetical. Let's say I'm a small**
10 **quantity generator out there, say a dentist office or**
11 **something, and I think I might want medical waste from**
12 **Waste Management and I'm in Washington. What do I do?**

13 **A You can call into our 800 number. We have a couple**
14 **different 800 numbers that would direct you. We have a**
15 **customer service line for Washington that's general for**
16 **all waste services.**

17 **We also have a medical waste line, so if they saw**
18 **our number on our truck, that goes directly into our**
19 **medical waste office.**

20 **They would call in and ask to be set up. They would**
21 **either get forwarded to -- sometimes myself, even though**
22 **generally that may not be what I do, but -- or our call**
23 **center to get set up.**

24 **Q How does it get determined which calls go to the call**
25 **center and which calls get handled personally by you?**

1 only?

2 **A Yes.**

3 Q Okay. By "Pacific Northwest," is that the same as the
4 territory you said you worked in, or is that a different
5 territory?

6 **A It's a different territory.**

7 Q Okay. What's the Pacific Northwest in the Waste
8 Management customer service?

9 **A Washington, Oregon, northern Idaho, British Columbia.**

10 **Q Besides you, is there anyone in Washington who provides**
11 **direct customer service to medical waste generators for**
12 **medical waste services?**

13 **A No.**

14 Q Is this call center, is this -- does this call center
15 handle all lines of Waste Management's business, or is it
16 just a medical-waste-related call center?

17 **A It's healthcare related. So pharmaceutical; we have**
18 **mail-back programs; we have a compliance program.**

19 **There's -- yeah, there's multiple lines, but**
20 **non-solid waste/recycling. So it's...**

21 Q So all lines that would pertain to healthcare?

22 **A Generally, yes, other than solid waste and recycling.**

23 Q Okay. Fair enough.

24 Is it a 24/7 call center?

25 **A I don't know.**

1 **A** **Yes.**

2 **Q** Okay. Are there plans, that you know of, for how to
3 provide service to a much larger number of customers if
4 you're successful?

5 **A** **Yes.**

6 **Q** What are those?

7 **A** Well, in general, the plans that I'm privy to -- so I
8 don't make these plans, but I've been in meetings that
9 maybe talk about them -- at -- we're already -- and for
10 Washington, we are already set up with transfer stations.
11 We already cover, you know, four corners of the state.
12 So it's really a matter of adding trucks/drivers where
13 needed, and containers, any of the capital equipment
14 that's necessary to provide the service.

15 **Q** Fair enough.

16 Let me be more specific. I was thinking with
17 respect to customer service. You know, when customers
18 call in and need help, are there plans for how to handle
19 increased -- what I assume would be increased call volume
20 with increased customers?

21 **A** Correct. Not -- not a specific plan or a specific amount
22 of customers that I know of right now that would have to
23 be put on, but the plan would be to add account
24 management on the streets that would be able to be face
25 to face, as well as internal representatives to field

1 **calls.**

2 **Q Okay. But you don't know of any specific plans that are**
3 **in place right now?**

4 **A Again, that's not something that I'm in charge of, so I**
5 **don't get to make those plans.**

6 **There are plans, because I've heard of them, but I**
7 **do not know specifics.**

8 **Q You can only talk about what you know about.**

9 **A Okay.**

10 **Q Does Waste Management Healthcare Solutions, Inc., have a**
11 **call center not just dedicated to setting up customers,**
12 **but for providing customer service, as well?**

13 **A They do, but we are not a part of that.**

14 **Q Okay. Do you know where that's located?**

15 **A I believe it's in New Jersey.**

16 **Q But does that provide -- what other parts of the country**
17 **does that provide service to, if you know?**

18 **A I don't know, but I think most of the country.**

19 **Q Okay. But not Washington?**

20 **A Not our Pacific Northwest; Washington, Oregon, northern**
21 **Idaho.**

22 **Q Do you know why?**

23 **A I don't.**

24 **Q So it's possible at least that a solution to increased**
25 **customers would be either rope in the resources of that**

1 call center; right?

2 **A Yes.**

3 Q Do you know if that's been discussed?

4 **A I don't know.**

5 Q Who do you report to at Waste Management?

6 **A Tim Burns.**

7 Q Who is that?

8 **A He is the director for our healthcare -- for the**
9 **healthcare -- for my personal job. And he lives in**
10 **New York.**

11 **Actually, he's worked at Stericycle previously, as**
12 **well.**

13 Q In Washington, are any sales functions performed by or
14 employees of the Waste Management of Washington, Inc., or
15 is it all provided by Waste Management Healthcare
16 Solutions and its employees?

17 MS. GOLDMAN: Objection. Vague and
18 ambiguous.

19 Q (By Mr. Van Kirk) Did you understand --

20 MS. GOLDMAN: Which sales are you
21 talking about?

22 Q (By Mr. Van Kirk) Medical waste sales.

23 **A Medical waste sales? So the solid waste and recycling**
24 **representatives have the ability to sign up a medical**
25 **waste customer.**

1 Q Fair enough.

2 Is there anyone besides you who can do that for or
3 does that for medical waste?

4 A No.

5 Q Do you offer consulting services specific to medical
6 waste streams?

7 A Yes.

8 Q Is this sort of a formalized program, or is it just you
9 sort of showing up and giving your expertise and --

10 A Correct.

11 Q The second?

12 A Correct, the second.

13 Q Okay. So there's no formalized sort of training program
14 for a customer or generator?

15 A No.

16 MR. VAN KIRK: You want to take a
17 break?

18 THE WITNESS: Sure.

19 MR. VAN KIRK: Okay, let's take ten
20 minutes or so.

21 (Recess 10:44-11:03 a.m.)

22 ////

23 ////

24 ////

25 ////

1 testimony?

2 **A Yes.**

3 Q Which ones?

4 **A I can't recall their names. I spoke to some smaller**
5 **quantity generators that did not want to get involved,**
6 **but maybe wrote a support letter, but did not want to be**
7 **a part of the record.**

8 Q But you don't remember who any of those were?

9 **A I can't remember, off the top of my head, their names.**

10 Q Do you remember about how many?

11 **A Maybe three or four.**

12 **Q Did you talk to any medium or large quantity generators**
13 **who didn't end up providing testimony?**

14 **A Not that I can recall.**

15 **Q So you didn't go out, probably, to talk to generators and**
16 **just find out whether they had any needs that weren't**
17 **currently being served?**

18 MS. GOLDMAN: Objection. Vague and
19 ambiguous.

20 **A Not specifically, no.**

21 **Q (By Mr. Van Kirk) You picked customers you already knew**
22 **had expressed interest or concerns?**

23 **A Not just that, but also that I had relationships with**
24 **from previous work.**

25 Q All right. Were these all customers that you had, at

1 **A** **Mm-hm.**

2 **Q** **Okay.**

3 **A** **They like some of our service offerings that we were**
4 **coming to market with, had heard about. Our ecoFinity**
5 **program was one of the -- one of the things they liked.**

6 **They expressed definite want for competition,**
7 **because they felt as though they weren't getting the**
8 **customer service they needed from Stericycle.**

9 **Q** **Did they want to try to get a better price?**

10 **A** **I'm sure that they asked -- I don't know. I can't recall**
11 **if they specifically said anything about price.**

12 **Q** **Did you approach anybody about giving testimony where you**
13 **didn't already know they had an interest in Waste**
14 **Management services?**

15 **A** **Not that I can recall.**

16 **Q** **How about --**

17 **A** **Excuse me, can you ask that question again?**

18 **Q** **I'm going to ask a different question.**

19 **A** **Okay.**

20 **Q** **How about Mr. Daub? Do you know whether he approached**
21 **anybody who hadn't already expressed an interest in Waste**
22 **Management medical waste services?**

23 **A** **I don't know.**

24 **Q** **Did you work together in this endeavor, you and Mr. Daub?**

25 **A** **No, we didn't work together on any of them.**

1 Q Did you tell him who to go talk to, or did he come up
2 with that on his own?

3 A I may have given him some -- a list of some people.

4 Q Okay. Which customers did Mr. Daub speak to about giving
5 testimony?

6 A I believe it was -- I didn't give names. I gave
7 facilities. So Port Angeles, Olympic Medical Center.

8 That's the only one I can remember that I gave him.

9 Q And did you tell Mr. Daub what he needed to do --

10 A No.

11 Q -- when he went to talk to Olympic Medical Center?

12 A No.

13 Q Did he understand what the goal of asking -- asking them
14 for their testimony was?

15 A Yes, we -- yes. It was very recent.

16 Q What did you say to customers when you went to ask them
17 for their testimony?

18 A First of all, I would ask them if they were interested in
19 services that Waste Management could provide for medical
20 waste service, and if they were interested in them, then
21 would they want to provide testimony to help allow us to
22 give -- get -- or give service to their outlying areas.

23 Generally when I was speaking to a customer, they
24 had a facility in our area we can service, and others
25 outside that were affiliated.

1 Q And what did you tell them about the testimony that would
2 be relevant to your ability to get authority?

3 A I would say that we needed to prove that there was a
4 need, public need, for competition, and so they would --
5 yeah, so then we would need to prove that through this
6 process.

7 Q Did you tell them specifically that there was a need to
8 prove -- that there was -- that's going to be awkward.

9 Did you tell them specifically that you would have
10 to prove that there was a need for competition?

11 A I would say generally, yes, but it may have depended on
12 the situation and the customer, what they were wanting.
13 But generally, yes, that's the -- that's what I would
14 tell them.

15 Q Are there any other needs you told them were relevant to
16 your application?

17 A Not that I can recall.

18 Q And were you specific about competition? Did you say we
19 need to show there's a need for competitive pricing or
20 competitive services or customer service or anything like
21 that?

22 A Nothing about pricing. Mostly about probably my own
23 belief that, for customer service reasons, I would
24 just -- there's -- when there's someone out there that
25 could take your business from you, customer service tends

1 to be better in general.

2 Q So that was a belief you shared with these --

3 A That's correct.

4 Q -- testifying generators?

5 A That's correct.

6 Q They didn't tell you they thought there was a need for
7 customer service competition or service competition?

8 A Generally they did. They would tell me that there was --
9 they felt that there was a need for this.

10 They generally shared my belief. And in this
11 specific instance, shared that there was a need for
12 competition for medical waste, which is why they put
13 testimony in.

14 Q Did any of the generators you talked to say they were
15 happy with the service that Stericycle was providing?

16 A Specifically talking about talking to generators that I
17 was asking for -- to do testimony?

18 Q Yes.

19 A No, not that I can recall.

20 Q Did they all say they were unhappy with the services, or
21 did they just want there to be competition out there?

22 A Generally they had some prior issue with service over the
23 past ten years, let's say, where there wasn't two
24 statewide holders of a certificate. So maybe not that
25 specific moment they weren't haven't any issues, but

1 **where they have wanted competition.**

2 Q Was the main idea, though, just the concept or the belief
3 that having competition out there will ensure that the
4 best services are available?

5 MS. GOLDMAN: Objection. Vague and
6 ambiguous.

7 **A That's one of them, yeah. It's -- can you ask the**
8 **question again?**

9 Q (By Mr. Van Kirk) Yes.

10 **A Please.**

11 Q In your summarizing of your conversations with these
12 testifying generators, was an important motivation or
13 thought for them that the existence of competition will
14 ensure that their services out there, whoever they get
15 them from, will be the best?

16 MS. GOLDMAN: I'm going to object.
17 The testifying generators speak for themselves and
18 they've submitted their own testimony, which states what
19 their position is. And this is hearsay.

20 **A That's one of the reasons, I would say. In general, they**
21 **want competition. In general, they've had issues with**
22 **Stericycle in the past or present; their service.**

23 Q (By Mr. Van Kirk) I think you mentioned, a long time
24 ago, there were customers that you worked with -- not
25 your customers, but prospective customers you worked

1 with -- who have been happy with the services they're
2 getting from Stericycle.

3 **A Correct.**

4 Q Did you talk to any of them in trying to determine the
5 need out there?

6 **A I can only recall of one customer that I've talked to,
7 but I didn't ask for their testimony.**

8 Q Who was that?

9 **A That was Evergreen Hospital.**

10 Q Evergreen Hospital?

11 **A Mm-hm.**

12 Q And what did they say when you went there?

13 **A That they were satisfied with the service at the current
14 time.**

15 Q Did they express a need for competition?

16 **A Yes. And in my past conversations with them, he
17 expressed that, yes.**

18 **Q So in your conversations with Evergreen, they thought it
19 would be good to have competition out in the marketplace,
20 but they're also happy with the services they're getting
21 from Stericycle?**

22 **A They were multiple conversations, so, yeah, overall those
23 were both discussed. Both of those statements.**

24 **Q You didn't do anything to find out if that sentiment
25 prevailed anywhere else in the healthcare industry in**

1 Washington?

2 **A No. I was -- I mean, other than selling the services,**
3 **that's -- that's what I concentrated on and -- that I**
4 **could in my area, that I was allowed to. No.**

5 Q Have you discussed -- with any of these testifying
6 generators, have you discussed the kind of deal that you
7 could put in place with them if you are given authority
8 to serve their facilities?

9 **A No.**

10 Q Are there any deals in principal with any of them to
11 accept your services if you are given authority?

12 **A For medical waste services?**

13 Q For medical waste services.

14 **A No.**

15 **Strike that.**

16 **With Pathology Associated Medical Labs, if we get**
17 **statewide service, they will immediately switch all of**
18 **their other labs to our service throughout the state,**
19 **which is about 45 labs. And same with Providence**
20 **Physician Services. They have multiple sites that are**
21 **outside that would -- will switch immediately.**

22 Q And PAML and Providence are related now; right?

23 **A Providence owns a percentage of PAML, correct.**

24 **Providence has many entities, so it's tough to know**
25 **exactly...**

1 **A I did not talk to him.**

2 **Q You did not? Do you know who did?**

3 **A I don't.**

4 **Q Have you spoken with anybody at Lake Chelan Community
5 Hospital?**

6 **A I have not.**

7 **Q Do you have any knowledge of how they become a testifying
8 generator?**

9 **A I do not, although they are part of Peace Health.
10 They're affiliated with Peace Health.**

11 **Q Do they do their own contracting for medical waste
12 services, or does that go through the general contracting
13 for Peace Health?**

14 **A Generally it goes through the contract from Peace Health.
15 Depends on the affiliation and where they are with the
16 affiliation with Peace Health.**

17 **Q Do you know how that works for Lake Chelan Community
18 Hospital?**

19 **A Off the top of my head, I don't know if they're
20 affiliated or owned. So I can't tell you exactly.**

21 **Q Okay. Were you the contact for the PAML, Pathology
22 Associates Medical Laboratories?**

23 **A Yes.**

24 **Q And you talked to Roger Lycan?**

25 **A I did.**

1 Q And about how many times did you talk to Roger Lycan
2 about providing testimony?

3 A **Maybe twice.**

4 Q Was that before or after they switched some of their
5 services over to Waste Management?

6 A **It was after.**

7 Q In his testimony, he -- and Ms. Goldman is right, his
8 testimony will speak for himself. But in his testimony,
9 he discusses something like that he believes Stericycle
10 requires them to accept more service than is necessary.

11 Does that ring a bell?

12 MS. GOLDMAN: Again, same objection.

13 This is not a memory test.

14 Q (By Mr. Van Kirk) Do you remember that testimony?

15 A **I remember him saying that to me, yes.**

16 Q **So my question is: In your conversations directly with**
17 **him, what did he tell you about that?**

18 A **That a lot of his sites he felt were being overserviced;**
19 **serviced too many times, too big of a container, things**
20 **of that nature.**

21 Q Anything else besides too big a container, too many
22 times? Is there any other way you can be overserviced?

23 A **No.**

24 Q **Okay. Did he talk about anything he had done to not have**
25 **his sites picked up too many times?**

1 Q (By Mr. Van Kirk) Do you provide service to PAML's
2 facility in Issaquah?

3 A I don't know.

4 Q Do you provide any service in Issaquah, any medical waste
5 service in Issaquah?

6 A I believe -- I believe we do.

7 Q To which customers?

8 A I don't know.

9 Q How about solid waste? Do you provide solid waste to any
10 healthcare providers in Issaquah?

11 MS. GOLDMAN: I'm going to object that
12 this is not relevant to the issues on which you have been
13 allowed discovery.

14 I'm going to instruct you not to answer.

15 Q (By Mr. Van Kirk) Were you the contact for Providence
16 Hospital with respect to giving testimony?

17 A Yes.

18 Q What's the woman's name who you spoke with there?

19 A Carla Patshkowski.

20 Q I asked you because I didn't know how to say it.

21 How many times did you speak with her about
22 providing testimony?

23 A Once.

24 Q One time? When was that?

25 A That was probably -- it was right -- it was probably like

1 **six weeks ago, six to eight weeks ago.**

2 Q Now, in her testimony, she also mentioned containers that
3 were too big or service that was too frequent.

4 Did you have discussions on those issues in your one
5 meeting with her?

6 **A I did not.**

7 Q Did you discuss with her the Stericycle minimum monthly
8 fee in your meeting with her?

9 **A I did not.**

10 **Q What did you talk to her about?**

11 **A I reached out to her close to the -- kind of our filing**
12 **deadline, and asked her if she was happy with the**
13 **services we had been providing. And I knew that she had**
14 **outlying areas that she wanted us to service, and we**
15 **could not. And I asked her if she would be willing to**
16 **testify, and she jumped at the chance.**

17 Q Did you have any conversations at all about her need --

18 **A I did not.**

19 MS. GOLDMAN: Let him finish the
20 question.

21 THE WITNESS: I'm sorry.

22 Q (By Mr. Van Kirk) It is now finished.

23 **A I did not.**

24 Q Did you discuss with her what you told me before? Your
25 opinion that competition out there will ensure the best

1 **A No.**

2 **Q Had you ever had -- when -- strike that.**

3 When you were talking to these customers -- or
4 strike that.

5 Again, these customer conversations, were they
6 referring specifically to these Rehrig containers, or
7 just talking about characteristics of containers that
8 they would like to have?

9 **A Generally talking about.**

10 **Q When did this happen? Was this at the beginning of your**
11 time with Waste Management or back when you were with
12 Stericycle? Or both, I suppose?

13 **A Both.**

14 **Q Okay. Now, you say in your testimony here, "Stericycle's**
15 black Steritubs were disliked by most of the customers
16 that used them"; is that correct?

17 **A That's correct.**

18 **Q And that knowledge is based on communications that**
19 customers made to you; correct?

20 **A That's correct.**

21 **Q They would come and say, essentially, "We don't like**
22 these containers"; right?

23 **A Essentially.**

24 **Q And you've sort of taken all those communications**
25 together and are now reporting it in your -- that most of

1 the customers disliked the Steritubs; correct?

2 **A That's correct.**

3 Q Can you mention any customers in particular who told you
4 that?

5 **A So I'm going to speak from my time when I worked at**
6 **Stericycle.**

7 Q Okay.

8 **A At one time or another, I can mention -- let's see.**

9 You want me to give you specific examples of -- I
10 mean, I'm not going to remember exactly what was said,
11 but --

12 Q Right now, I'm just asking who expressed that opinion,
13 which --

14 **A Okay.**

15 Q -- customers expressed that opinion to you.

16 MS. GOLDMAN: Make sure you let him
17 finish his question.

18 THE WITNESS: Yeah.

19 MS. GOLDMAN: Thank you.

20 **A Providence; some of the Providence hospitals. Swedish.**
21 **Northwest Hospital. St. Joseph's -- in Bellingham --**
22 **Hospital. Virginia Mason Medical Center.**

23 I know there are others, but I can't recall.

24 Q (By Mr. Van Kirk) All right. Do you have some idea
25 about how many generators might have communicated this to

1 Q Yeah.

2 A **So I did at that time speak to them.**

3 Q Do you believe you should qualify this testimony at all
4 to say something more accurate about the number of
5 customers who had complained, or do you think "most" is
6 still correct?

7 A **I think "most" --**

8 MS. GOLDMAN: Objection.

9 Argumentative.

10 A **I think "most" is correct.**

11 Q **(By Mr. Van Kirk) Okay. Does Waste Management offer any**
12 **medical waste containers other than the Rehrig**
13 **containers? Leaving Sharps aside, maybe.**

14 A **Yes.**

15 Q **What other non-Sharps medical waste containers are**
16 **available?**

17 A **Cardboard box is used.**

18 Q **Fair enough. I didn't think about that.**
19 **Any other plastic ones?**

20 A **Not -- not in our market area, no.**

21 Q Now, earlier you testified that you believed customers
22 appreciated having a choice of containers when you were
23 at Stericycle.

24 Do you believe that's different, coming from Waste
25 Management? Do customers not need a choice of containers

1 from Waste Management?

2 **A I think a choice is good in all aspects of the business.**

3 Q Do you know why Waste Management doesn't offer a choice
4 of different plastic medical waste containers?

5 **A We have not had any complaints. In fact, all positive**
6 **comments about our containers. So there's been no need**
7 **to look into that at this point.**

8 Q In your knowledge of customers, would service offerings
9 where customers could choose between a Rehrig container
10 and several other choices be better than services where
11 only the Rehrig containers were available?

12 MS. GOLDMAN: I'm sorry, could I have
13 that read back, please.

14 (Question on Page 102,
15 Lines 8 through 11,
16 read by the reporter.)

17
18 MS. GOLDMAN: Objection. Asked and
19 answered.

20 **A Yes, choices are good.**

21 Q (By Mr. Van Kirk) And that choice in particular?

22 **A Correct.**

23 Q Are you aware of any Stericycle customers that have tried
24 both the Rehrig and the Steritubs and decided not to go
25 with the Rehrig containers?

1 for at the time, when I worked there.

2 Q Were there ever times when you passed on a direct request
3 for Rehrig containers to Mike Philpott?

4 A **Not Rehrig, but for a different container. Not Rehrig**
5 **specifically, but for a different container that provided**
6 **the same solution for the space, as well as nested better**
7 **and the lids fit.**

8 Q So there was never an occasion, then, when you were at
9 Stericycle where a customer said, "I want to use the
10 Rehrig containers and not these other ones"?

11 A **That's correct.**

12 Q **In your judgment, as -- in your experience, are these**
13 **containers with attached lids, are they the best kind of**
14 **containers to use in all areas of a healthcare facility?**

15 A **No, I don't think there is a container that works in all**
16 **areas of the healthcare facility.**

17 Q What are some uses for which the Rehrig containers might
18 not be the best choice?

19 A **I can't think of one, actually, now that -- with the**
20 **proper attachments with the dollies and the hand and the**
21 **step-on, availability, we have containers that can --**
22 **could be used through most of the hospital.**

23 I'm trying to think. I can't think of a -- a chemo
24 area, where they have chemotherapy drugs which can't go
25 into the reusable Rehrig container would be an area where

1 **you couldn't -- you wouldn't want to put that container**
2 **because it's the wrong containment.**

3 Q Where is chemotherapy supposed to go in the Waste
4 Management system?

5 **A It ends up going for incineration. So in a cardboard**
6 **box.**

7 Q All your incinerated chemo or pathological waste, they go
8 into a lined cardboard box; right?

9 **A That's right.**

10 Q And then the whole box just goes into the incinerator?

11 **A That's correct.**

12 Q Now, is it your belief, then, that Stericycle introduced
13 the Rehrig containers that it now offers to compete with
14 Waste Management?

15 **A Correct.**

16 Q Do you know when Stericycle first offered the Rehrig
17 containers?

18 **A I don't know the exact date. The first time I heard it**
19 **was from customers that I was talking to, that they had**
20 **that option now.**

21 Q Okay. Were you made aware in any way of the discussions
22 at Stericycle about adding Rehrig containers?

23 **A No.**

24 Q You didn't get any inside information?

25 **A No.**

1 Q What's your basis, then, for sort of -- for your opinion
2 that they were offering to compete with Waste Management?

3 A Because they had to file a tariff for those containers at
4 the same price that we were offering them at. And I
5 believe they filed it when we started service. Around
6 that time, around June 2011. So that's -- and then
7 speaking with customers in response to our tariff having
8 a slight lesser charge for some of the containers, the
9 response that they would give me on a few occasions was
10 that, well, Stericycle is going to have these containers
11 now, or they have them, and they're going to offer them,
12 as well, at the same price.

13 Q Okay. And is there any reason you think it's improper or
14 inappropriate to offer the same containers as Waste
15 Management?

16 A No. It's all about competition.

17 Q So when it comes to Waste Management's -- strike that.

18 When it comes to Stericycle's plans for introducing
19 Rehrig, you don't have any personal knowledge of those?

20 A I don't.

21 Q Do you have any knowledge about how Stericycle decided to
22 price the Rehrig containers when it filed the tariff?

23 A No.

24 Q What sort of analysis -- take me through the analysis of
25 the price comparison that you did between the Waste

1 Management Rehrigs and the Stericycle Rehrigs.

2 **A Well, we both charge per gallon or per container; the**
3 **volume. And if you take one of their containers and our**
4 **containers at the same level of service, it's, in**
5 **general, the same price.**

6 I haven't searched -- gone through each container,
7 so there might be some areas where that may differ, but
8 for the most part, for the large quantity generators,
9 it's exactly the same, and for the small quantity
10 generators.

11 So there may be some parts in the middle, but
12 basically taking -- we charge one container, a 43-gallon
13 container, if we charge a dollar-ten per gallon, they're
14 charging the same rate but just charging the container
15 charge, if that makes sense.

16 Q Do you know of any customer outside of Waste Management's
17 current service territory that's asked Stericycle for
18 Rehrig containers?

19 **A Can you ask that question again, please.**

20 Q Yeah.

21 Do you know of any customer outside of the current
22 Waste Management authority for medical waste who's asked
23 Stericycle to provide Rehrig containers?

24 **A No.**

25 Q And you agree that Stericycle could, if it wanted to or

1 needed to, amend its tariff to provide Rehrig containers

2 anywhere that it has authority to serve; right?

3 **A Yeah. Makes sense.**

4 Q Which would be true of Waste Management as well.

5 **A Correct.**

6 Q Is it hard to do, a tariff amendment like that?

7 **A I don't know.**

8 Q Have you ever been involved in tariff filings?

9 **A I have not.**

10 Q Have you been involved in setting prices?

11 **A I have not.**

12 Q Do you have any -- besides not being involved in them, do
13 you have any knowledge at all about how prices got set
14 for Waste Management in Washington?

15 **A Yes.**

16 Q Okay. Without telling me too much about what went on,
17 who was involved in setting prices?

18 **A Mike Weinstein, who is our senior pricing manager for the
19 tariffs. And Jason Kumelski at our corporate office is
20 in charge of pricing corporately.**

21 Q "Corporate office" meaning in Texas?

22 **A Houston. In Houston.**

23 Q Okay. Is Mike Weinstein also a WM Healthcare Solutions,
24 Inc., employee, if you know?

25 **A Not to my knowledge.**

1 that: "Through the Becton Dickinson ecoFinity program,
2 Waste Management collects uniquely marked, reusable,
3 lined tubs filled with sharps containers."

4 The reusable tubs there, they're not the Sharps
5 containers themselves; right?

6 **A That's correct.**

7 Q Okay. These are the containers in which the tubs are
8 moved around? Tell me --

9 **A These are Rehrig biohazard waste containers that are**
10 **marked for sharps recycling.**

11 Q So is the process that you have -- well, strike that.

12 First, is it still true that we're only talking
13 about St. Joseph's Hospital when we're talking about the
14 ecoFinity program customers?

15 **A Yes.**

16 Q So is the method that they're supposed to follow to take
17 the sharps containers and then put them inside other
18 Rehrig containers and then you transport it that way?

19 **A That's correct.**

20 Q What size Rehrig containers are used for that?

21 **A 43-gallon containers.**

22 Q And those are Rehrig containers that are marked for
23 sharps?

24 **A That's correct.**

25 Q Do those containers have biohazard markings on them?

1 Q At this point, when the waste is untreated, does it
2 belong to WM Healthcare Solutions?

3 A Again, I'm not an expert on our entities, and so I
4 don't -- I don't know what entity it's referring to.

5 Q On manifests for waste picked up at generators, is the
6 shipper usually listed as the generator?

7 A Generally, yes. Yep.

8 Q Am I correct, then, in reading that at this point, from
9 when it leaves Seattle, Waste Management no longer
10 considers the generator to be the shipper of waste?

11 MS. GOLDMAN: Objection. Calls for
12 speculation.

13 A I don't know what they assume or -- I'm not sure.

14 Q (By Mr. Van Kirk) To your knowledge, does WM Healthcare
15 Solutions, Inc., have any authority to ship medical waste
16 in the state of Washington?

17 A To my knowledge, no.

18 Q How about in California?

19 A I don't know.

20 Q How about Oregon?

21 A I don't know.

22 Q You talked about the pilot program in St. Joe's, and
23 we're going to talk about that now.

24 First of all, St. Joe's in Bellingham -- or St.

25 Joseph Hospital, to be correct --

1 **A** **Correct.**

2 **Q** **-- that's not in Waste Management's current service**
3 **territory; right?**

4 **A** **That's correct.**

5 **Q** **So if the sharps waste were regulated medical waste, you**
6 **wouldn't be allowed to collect it there?**

7 **A** **Correct.**

8 **Q** **Is this program still a pilot program?**

9 **A** **Yes.**

10 **Q** So how long has it been going on?

11 **A** **I can't -- I think it started last -- probably a year**
12 **ago.**

13 **Q** Okay. When did you say you started?

14 So a year ago being October 2011? Does that sound
15 right?

16 **A** **That sounds about right, but I'm not sure. But around**
17 **there.**

18 **(Exhibit No. 4 marked**
19 **for identification.)**

20
21 **Q** **(By Mr. Van Kirk) I've given you Exhibit 4, Mr. Norton,**
22 **which also came from materials produced by your counsel.**

23 **MR. VAN KIRK: And, Fronda, that's WM**
24 **189 through 192.**

25 **Q** **(By Mr. Van Kirk) Is this the contract for the St. Joe's**

1 ecoFinity pilot program?

2 **A Yes. To Peace Health, their parent company.**

3 Q So the contract was associated with Peace Health?

4 **A That's correct.**

5 Q And the contract provides for a pilot facility location,
6 which is St. Joseph Medical Center; correct?

7 **A That's correct.**

8 Q Is this contract still in effect?

9 **A Yes.**

10 Q And if you look at the final page, it was signed on
11 August 3rd, 2011.

12 **A Mm-hm.**

13 Q Does that help you narrow down any -- with any more
14 specificity when the pilot program actually started?

15 **A It was probably a month after that. So September. I'll
16 say September, first part of September.**

17 Q Okay. Great.

18 So it's been going on a little over a year now.

19 **What about this program makes it a pilot program as**

20 **opposed to just a regular service?**

21 **A Because we only offered it to start out at some**

22 **facilities that we can handle, for throughput reasons.**

23 Part of it, the expansion had to do with statewide
24 authority, because offering just one service to an area,
25 we wanted to be able to pick up medical waste, if

1 **possible, at the same facility.**

2 **Q What's the throughput issue you mentioned? You said**
3 **there's some reason you didn't want to take on more --**

4 **A Well, because our current process would handle a certain**
5 **amount, and they gave me one pilot facility to offer it**
6 **to, basically, in Washington.**

7 Q Is there some bottleneck in the pipeline that keeps you
8 from taking on more?

9 Where's the -- what point in the process is the
10 pressure point for having too much waste coming in?

11 **A I have authority for one hospital in Washington at this**
12 **point.**

13 Q So it's an authority issue, not so much an operational
14 issue?

15 **A I don't know the exact -- all the exact reasons, but...**

16 **Q So let me ask this: Do you know why it's only being**
17 **piloted at one facility right now?**

18 **A I know that part of it has to do with throughput at the**
19 **processing, where we recycle it, it can only handle so**
20 **many sharps containers in the facilities that we have in**
21 **Vernon.**

22 Q Has anybody said that having more customers in Washington
23 would sort of take you over the threshold for how many
24 containers can be handled?

25 **A Not specifically, no. Just that I have authority for**

1 Q Is there any particular parameters for customer
2 satisfaction, or do you just say, "Are you still happy?"

3 A That's -- in general. I mean, it's more of a
4 conversation than that, but yes.

5 Q What feature of the service are the ones you're looking
6 at for customer satisfaction?

7 A In general, making sure that he's -- we're picking up
8 timely; you know, the service aspect. We're not taking
9 up dock space too long, you know, those kinds of items.

10 Q So you make sure it's timely.

11 A The collection part of the service.

12 Q Yeah.

13 Make sure that your people aren't dilly-dallying in
14 exam rooms or anything like that?

15 A Right.

16 Q Anything else you ask about or look at?

17 A I have -- no.

18 Q Was this marketed to Peace Health or St. Joe's as a
19 sustainable service or an environmentally friendly
20 service?

21 A Yes.

22 Q Is there any aspect of that marketing pitch that's
23 involved in your monitoring of the pilot program?

24 A No.

25 Q Okay.

1 anywhere else where you know that ecoFinity is
2 operational?

3 **A Not that I could -- not that I know of, no. Not that I**
4 **can recollect.**

5 **Q Do you report to -- I forgot his name at St. Joe's. What**
6 **was his name again?**

7 **A Bill.**

8 **Q Do you report to Bill about anything about the recycling**
9 **aspects of the program?**

10 **A I don't.**

11 **Q Do you know if anybody reports to him?**

12 **A I don't.**

13 Q Are there reports generated about recycling content or
14 recycling yield?

15 **A I believe there are through our corporate office, but I'm**
16 **not sure.**

17 Q Are they intended for the customer or just for internal
18 use?

19 MS. GOLDMAN: Objection. Calls for
20 speculation.

21 **A And I don't know.**

22 **Q (By Mr. Van Kirk) Has Bill asked you about those issues?**
23 **Does he want to know?**

24 **A He has not.**

25 Q Why not, if you know?

1 **A** **Correct.**

2 **Q** Your testimony says that the ecoFinity program offers a
3 more sustainable way to handle RMW.

4 The testimony I just read to you, that's actually --
5 you're just addressing sharps there; right?

6 **A** **I'm addressing anything that could be inside of a sharps**
7 **container. And that generally could be other medical**
8 **waste, as well.**

9 **Q** I just want to clarify, because this testimony I just
10 read could be implied to -- could be read to read that
11 the pilot program, ecoFinity, is a more sustainable way
12 to handle all RMW.

13 That's not true; right?

14 **A** **Correct.**

15 **Q** We're just talking about whatever makes it into the
16 ecoFinity sharps containers?

17 **A** **Correct.**

18 **Q** Which is hopefully mostly sharps?

19 **A** **Correct.**

20 **Q** Okay. What do you mean when you say the service is more
21 sustainable or offers a more sustainable way?

22 **A** **What I mean is that as we are able to increase the**
23 **recovery, most of the items that are in a sharps**
24 **container, including the sharps container, is recyclable**
25 **content.**

1 Q Okay. So to you, when you say "sustainable," you mean
2 it offers more -- it offers recycling, whereas the
3 disposable option obviously does not?

4 A That's correct.

5 Q So in your testimony, the parameter for sustainability is
6 the production of recyclable process at the end of the
7 processing; right?

8 A Correct.

9 Q So when you say "more sustainable," what are you
10 comparing it to? More than what?

11 A The regulated medical waste in general going to the
12 landfill.

13 Q So your claim here is that ecoFinity is more sustainable
14 than regular single-use landfill sharps; right?

15 A That's correct.

16 Q Okay. St. Joe's is the only one using this. Have you
17 talked about ecoFinity to other customers besides Peace
18 Health?

19 A In general, yes, but not -- not serious presentations,
20 that I can think of.

21 Q All right.

22 A It was pretty much Peace Health and when they agreed for
23 St. Joe's, and that was the pilot program for hospitals.

24 Q Have any presentations to anybody else gotten down to the
25 level of talking about the recycling benefits, or is it

1 Q Is that --

2 A **With always a clarifying "up to."**

3 Q Is that what you told them, to the best of your
4 knowledge?

5 A **I believe so. To the best of my knowledge, that's the
6 number I used, yes.**

7 Q But this exhibit also doesn't say that.

8 A **No, it does not.**

9 Q But you think you communicated that orally?

10 A **Yes.**

11 Q Have you since corrected that, now that you have more
12 accurate information?

13 A **No.**

14 Q So at this point in time, Peace Health, to your
15 knowledge, still understands that they can recycle up to
16 60 percent?

17 A **Possibly recycle up to 60 percent.**

18 Q **All right. Do you know how much of those other recycled
19 materials get put into new BD products?**

20 A **I don't.**

21 Q Do you have any knowledge of what happens to these
22 pelletized plastics once they get sent to BD, I guess?

23 A **Oh, once they get sent to BD?**

24 Q Or once they get sent away from the recycler.

25 MS. GOLDMAN: Objection. Vague and

1 MS. GOLDMAN: Are you okay or do you
2 want to take a break?

3 THE WITNESS: I can go a little bit.

4 MR. VAN KIRK: I'll find a stopping
5 point within the next five minutes. How's that?

6 THE WITNESS: Okay. 6.

7 (Exhibit No. 6 marked
8 for identification.)

9

10 Q (By Mr. Van Kirk) Exhibit 6 is a copy of BD promotional
11 materials. And I think these were also attached to your
12 testimony.

13 Do these look familiar to you?

14 A They do.

15 Q Have you used these promotional materials?

16 A I would say, yes, I've given them to somebody.

17 Q Who have you given them to?

18 A I don't know.

19 Q Do you think you gave them to Peace Health or anybody --

20 A No.

21 Q -- at Peace Health?

22 How about Fred Hutchinson?

23 A Possibly.

24 Q And if you know, these are available on BD's website;
25 correct?

1 **A** **Correct.**

2 **Q** Do you tell people if they want more information, they
3 can go look at the materials on BD's website?

4 **A** **Never have.**

5 **Q** How about your own? Do you tell them to go look at the
6 Waste Management website?

7 **A** **No.**

8 **Q** This document --

9 This is WM 174 and 175, Fronda.

10 **Q** **(By Mr. Van Kirk) It says, "The BD EcoFinity Life Cycle**
11 **solution can help hospitals achieve their sustainable**
12 **goals by safely and economically recycling 70 percent or**
13 **more of their sharps waste stream."**

14 Do you see that?

15 **A** **Yes.**

16 **Q** Do you know what data that's based on?

17 **A** **I do not.**

18 **Q** That's not true, is it?

19 **A** **I don't know what data it's based on. So can you make**
20 **the question more specific?**

21 **Q** Well, you told me that the number -- that the amount
22 of -- let me use the right language here -- that the
23 amount of the sharps waste stream that is recycled is
24 between 17 to 28 percent, and here it says it's 70
25 percent or more.

1 So based on the information you have, this isn't

2 accurate; correct?

3 **A For our hospital here, yes.**

4 **Q For the services in Washington?**

5 **A Correct.**

6 Q And since this is part of your testimony, is it fair to
7 correct that statement in this document?

8 MS. GOLDMAN: Objection. He didn't
9 write this.

10 MR. VAN KIRK: He included it in his
11 testimony.

12 MS. GOLDMAN: Okay. And what does it
13 testimony say about it?

14 MR. VAN KIRK: It says, here's some
15 promotional materials, I think.

16 MS. GOLDMAN: Okay. And that's true.
17 So I don't believe there's anything for him to correct.

18 Q (By Mr. Van Kirk) When you gave this -- the people you
19 gave this to, were they in Washington?

20 **A I can't recall if I gave it to anybody in Washington.**
21 **Again, when we had our one pilot program, I'm not -- it's**
22 **not a big deal on promoting to sell it to other people.**

23 Q Did you qualify that this number probably isn't accurate
24 based on your experience?

25 MS. GOLDMAN: I'm going to object as

1 Q When you talk to customers, I guess Peace Health or
2 Fred Hutchinson, about sort of the ecological -- or
3 environmental benefits of ecoFinity, did you discuss the
4 issue of transportation and fuel use in transportation?

5 **A No.**

6 Q Was there any question about that being an element of the
7 services?

8 **A No.**

9 Q Did you inform them that the processing of the waste
10 occurs in California?

11 **A Yes.**

12 Q The customers you've talked to just haven't been
13 concerned about that aspect of the -- that environmental
14 aspect of the services?

15 **A I'd be speculating.**

16 Q They haven't expressed any concern about that?

17 **A No, not directly.**

18 Q You mentioned way back when we started this -- and then
19 I'll move on to a new topic -- that, in your testimony,
20 this was a more sustainable service because it basically
21 diverts a lot of waste from -- that would otherwise end
22 up in the landfill; right?

23 **A Correct.**

24 MS. GOLDMAN: Objection. Asked and
25 answered.

1 MR. VAN KIRK: I was just getting on
2 the same page again.

3 Q (By Mr. Van Kirk) So it's true that Stericycle also
4 offers a sustainable service under that definition;
5 right?

6 A They offer, yeah, a reasonable sharps container program.

7 Q That you would also consider sustainable?

8 A Yes.

9 Q Okay. New topic. That was a big one. The next one
10 should go a little faster.

11 You bring up in your testimony, on Page 5, the issue
12 of some benefits of having a processing facility in
13 Seattle, which is closer to some generators. So that's
14 the topic I'm talking about.

15 You say it's closer to most facilities generating
16 medical waste in Washington. Have you studied that?

17 A I have.

18 Q You've studied the proximity of the Seattle facility to
19 all the generators --

20 A I have.

21 Q -- in Washington?

22 A Yes.

23 Sorry.

24 Q Every single one of them?

25 A The ones that I would be calling on. The 108 hospitals.

1 Q Okay. And the 700 associated medical facilities, or just
2 the hospitals?

3 A Just the hospitals.

4 Q And you've determined that most of those 108 would be
5 closer to Seattle than to Morton, Washington?

6 A That's correct.

7 Q Of course, you didn't say large generators. You said it
8 was closer to most of the facilities generating RMW in
9 Washington; correct?

10 A Correct.

11 Q Should this be amended to say most of the large generator
12 facilities or most of the hospitals?

13 A I'm just trying to think how I did my...

14 I don't know. I'd have to go back and see how I did
15 the research and then remember what I did, if I did it
16 exactly from that location or I took a radius of the
17 cities surrounding it.

18 So maybe it wasn't just from the 108 hospitals.

19 Q Okay. But you said a minute ago that it was just the
20 108. I said did you look at any other 700 medical
21 facilities, and you said no.

22 A I did not look at facilities, but I can't remember if I
23 took the 108 and I did a radius, because I know that
24 that's where all of those medical office buildings, or
25 lot of them, associated with those accounts are.

1 Q So at this time, though, you can't say with certainty
2 that the Seattle treatment facility is closer to most
3 facilities generating RMW in Washington?

4 A I can't. But again, I made the statement and I believe
5 it could be true.

6 Q When you've been talking to generators, these testifying
7 generators, or I guess other generators, what have you
8 said about transportation, the risk that comes with
9 transporting medical waste?

10 A Well, in general in this industry, you talk about risk
11 and limiting risk, and that's why you choose a company
12 that handles the waste correctly. And if you can
13 mitigate any of that, which includes your waste is your
14 own, you own your waste from cradle to grave, so if you
15 can handle it less when it's untreated to the final
16 disposition, then you're thereby limiting your risk,
17 because the highest risk you have with untreated medical
18 waste is from point of pickup to the transfer -- to the
19 facility that's processing it.

20 Q Okay. And why is that the highest risk?

21 A Well, because there's more risk associated with the waste
22 itself. After it's treated, there's no risk for
23 potential infection.

24 Q So the waste is inherently risky before treated; true?

25 A Correct.

1 Q Is there something about the waste being transported over
2 the highways or the roads that increases the risk as
3 opposed to untreated waste sitting in your facility or
4 sitting on the loading dock or being transferred from one
5 truck to another?

6 **A Can you restate the question, please?**

7 Q You have said less travel time for untreated waste from
8 the generator to the treatment facility reduces the risk
9 of liability; which I take to mean the less time you're
10 driving the waste over the roads, the less risk you have.

11 My question to you is: First of all, to explain
12 that to me; and second of all, have you communicated that
13 to customers?

14 MS. GOLDMAN: Objection. Compound.

15 MR. VAN KIRK: True.

16 Q (By Mr. Van Kirk) Take the first question first.

17 MS. GOLDMAN: What was the first
18 question again?

19 Q (By Mr. Van Kirk) Are you saying that there is a risk
20 inherent in transporting waste over the roads, other than
21 just the fact that the waste isn't treated yet?

22 **A Yes.**

23 Q What is that?

24 **A Well, there's driving. You know, there's risk in driving**
25 **your car, so there's risk in driving a truck with medical**

1 waste in it.

2 Q Okay.

3 A So if you don't have to have it on the road as long or
4 you don't have to drive as far, your risk is probably
5 mitigated because you don't have as many opportunities to
6 have an accident or a problem.

7 Q And how do you know that? Is that just your commonsense
8 guess, or is that --

9 A It's my commonsense guess and -- yeah, yes, and just
10 being in the industry, the transportation industry, for a
11 long time.

12 Q Now, have you told any customers that such a risk exists
13 and it's something they should be concerned about?

14 MS. GOLDMAN: "Such a risk" being the
15 risk of being on the highway?

16 MR. VAN KIRK: Yeah.

17 Q (By Mr. Van Kirk) The increased risk of liability from
18 travel time.

19 A I have told customers that there's an increased -- there
20 could be an increased risk of untreated medical waste
21 over the roadways, yes.

22 Q Did you tell that to any of the testifying generators?

23 A I can't remember exactly, but possibly.

24 Q How about the woman from U-Dub?

25 A No. I didn't talk to her until after she had already

1 **filed testimony.**

2 Q How about the -- oh, you didn't talk to the man from Lake
3 Chelan. You told me that.

4 Have you done any study of the effect of increased
5 highway transportation on this risk?

6 **A No.**

7 Q Okay. Have you read any such study, other than doing it
8 yourself?

9 **A No. My research has been from just being in this**
10 **industry with other management folks trying to reduce**
11 **liability for customers.**

12 Q Okay. Let me try and unpack this a little more.

13 Tell me if you disagree, but I think you'll agree,
14 that a risk from untreated waste is that it might cause
15 somebody who comes in contact with that waste to become
16 infected with something.

17 Does that basically state what the risk of --

18 **A Yes.**

19 Q -- medical waste is? Okay.

20 So risk raises whenever you have a greater chance of
21 people coming in contact with that waste; is that right?

22 **A Correct.**

23 Q Wouldn't it be the case that increasing the amount of
24 waste that you transport through a populated area would
25 increase risk a lot more than driving waste over highways

1 in unpopulated areas?

2 **A That sounds like a stretch to me, personally.**

3 Q But you agree if you take --

4 MS. GOLDMAN: I think he was not done
5 with his answer.

6 Q (By Mr. Van Kirk) Go ahead and finish.

7 **A A risk comes with an accident on the road, the items or a**
8 **truck or a trunk not being closed or a truck door and**
9 **something falling out.**

10 Q Wouldn't it be worse if an accident happened in a
11 populated area than an unpopulated area?

12 **A Well, you can't get around transporting medical waste**
13 **from a populated area. You transport the same amount.**

14 Q True. But you can, if you want to, try to limit how much
15 you travel your waste through populated areas?

16 **A I don't know how you do that, when it's all generated in**
17 **the populated areas.**

18 Q How about where it's treated?

19 MS. GOLDMAN: What's the question?

20 **A What's the question?**

21 MR. VAN KIRK: Let me try it again.

22 That wasn't a question.

23 Q (By Mr. Van Kirk) Could you reduce risk by having a
24 treatment facility in a less populated area?

25 **A No -- I see what you're trying to say. Possibly.**

1 Q What's your understanding of the definition of a
2 commercial recyclable?

3 A For all intents and purposes, the commodity is being sent
4 for -- to be reclaimed, either by parts or processed to
5 reclaim parts of the commodity that could be resold and
6 have value.

7 Q Does it matter, in your understanding, how much of the
8 collected waste ends up getting recycled --

9 A No.

10 Q -- or ends up being recyclable?

11 A Doesn't matter to me, no.

12 Q Do you have any knowledge of whether that matters for
13 whether it's properly characterized as a commercial
14 recycling?

15 A I don't.

16 Q Has this definition ever been revisited, now that you
17 have these 17 and 28 percent numbers, to your knowledge?

18 A Not to my knowledge.

19 Q Let's talk about minimum monthly billing.

20 Now, you testified many small doctors and dentist
21 offices do not generate enough waste to warrant monthly
22 pickup, and dislike Stericycle's minimum fee.

23 Your testimony that they dislike the minimum fee,
24 that's based on what various customers have told to you;
25 right?

1 **A** **Correct.**

2 **Q** So if it weren't for those communications, you wouldn't
3 really know whether they disliked it or not?

4 **A** **I do know, because I know when we implemented when I**
5 **worked at Stericycle, that it was not liked.**

6 **Q** Because customers told you that?

7 **A** **Correct. That's correct, yes.**

8 **Q** Okay. Do you have conversations with customers or
9 potential customers about Stericycle's minimum monthly
10 fee?

11 **A** **If they -- yeah, usually. If it's -- a certain customer**
12 **falls in that category or they don't generate that much**
13 **waste, then they're usually wanting a quote to know what**
14 **our tariff rates are. And so that's usually discussed.**

15 **Q** How does Waste Management do billing for these -- I'm
16 assuming -- strike that.

17 I'm assuming most of these are going to be smaller
18 generators. Is that a fair statement?

19 **A** **Correct.**

20 **Q** So how does Waste Management handle its billing of the
21 small generators? Is there any fee at all for a small
22 generator other than just the fee for the amount of waste
23 picked up?

24 **A** **Correct, just the fee, the tariff rate for the**
25 **collection.**

1 Q I saw in some of the contracts we looked at, there was a
2 minimum fee. Is that ever applied?

3 A **It's in our tariff. It's a minimum pickup fee of \$20.**

4 Q Okay, so there is a minimum pickup fee of \$20?

5 A **Correct. And that's a part of our tariff.**

6 Q Now, does Stericycle charge its minimum fee in a month
7 where it actually goes and actually performs real
8 service, or is it just in a month where they perform no
9 services at all?

10 MS. GOLDMAN: The question was
11 Stericycle?

12 MR. VAN KIRK: Yes.

13 A **They have two minimum fees. So they have a minimum**
14 **pickup fee if they go to a site and it's not picked up**
15 **and it doesn't reach the threshold. And I think it's \$20**
16 **or \$25. And then if they don't have -- if the customer**
17 **has no service that month, then they get the \$10 minimum**
18 **monthly fee.**

19 Q (By Mr. Van Kirk) Okay. Do you know why Stericycle has
20 that fee?

21 Strike that.

22 **Were you there when it was started? I think you**
23 **sort of implied that you were before.**

24 A **Yes.**

25 Q **And why was it put in place?**

1 **A** **I don't know.**

2 Q Okay. Fair enough.

3 **Do you have any basis to believe that it doesn't**
4 **cover real expenses of Stericycle?**

5 **A** **No.**

6 Q Now, do you believe Waste Management will continue this
7 policy if it gets authority and I imagine, you hope,
8 acquires thousands of small generators instead of a
9 couple hundred?

10 **A** **Yes.**

11 Q Okay. I can't remember whether we talked about this
12 before, but are some of your small generator customers
13 on-call customers?

14 **A** **Yes.**

15 Q What's the rough breakdown, do you think, between people
16 who are on on-call service or pickup service, scheduled
17 pickup service?

18 **A** **Since I don't set them all up, I don't -- you know,**
19 **generally -- although I have set up a number of them. I**
20 **would say maybe 20 percent of them are on call.**

21 Q Now, you do have fees for on-call pickups; right?

22 **A** **Yes.**

23 Q You have a \$20 per pickup fee?

24 **A** **Correct.**

25 Q And that's on top of whatever is charged for the waste?

