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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In Re Application and Petition for Waiver of  
ECOMED SERVICES, LLC

Docket No. TG-152373

PROTEST OF STERICYCLE OF  
WASHINGTON, INC. TO APPLICATION  
FOR PERMANENT SOLID WASTE  
COLLECTION AUTHORITY AND  
RESPONSE TO PETITION FOR WAIVER  
OF REGULATION

1. STERICYCLE OF WASHINGTON, INC, (“Stericycle”), WUTC Certificate No. G-244, 20320 80th Ave. S., Kent, WA 98032, by and through its attorney Jared Van Kirk, Garvey Schubert Barer, 1191 Second Ave., Seattle, WA 98101, (206) 464-3939, protests the above entitled application for a new certificate of public convenience and necessity to operate as a solid waste collection company filed with the Commission on December 18, 2015, by EcoMed Services, LLC (“Applicant”) in which the Applicant seeks new authority to transport “Medical Waste including biohazardous waste, sharps, pathological waste, chemotherapy waste and pharmaceutical waste” for the Multicare Health System, claimed to consist of 93 healthcare facilities many of which may on information and belief be independently owned and/or operated, in “Pierce County, Kitsap County, Thurston County, and southern King County” (Application No. TG-152373, hereinafter, the “Application”).

2. Stericycle opposes the Applicant’s April 11, 2016 petition seeking a waiver of,

1 or to otherwise be exempted from, “the Commission rules WAC 480-70 – *Rules Relating to*  
2 *Solid Waste Collection Companies, WAC 480-70-091 Certificates, Applications . . .*”  
3 (hereinafter, the Petition).

4 3. This protest and response to petition is submitted pursuant to RCW § 81.77.020,  
5 RCW § 81.77.040 and WAC 480-07-110, 480-07-305, 480-07-370, 480-70-036, 480-70-051  
6 and 480-70-091, and 480-70-106 on the following grounds:

7 **I. PROTESTANT’S INTEREST**

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9 4. Stericycle is the holder of WUTC Certificate No. G-244, a true copy of which is  
10 attached hereto as Exhibit A. Under Certificate No. G-244, Stericycle holds authority to collect  
11 and transport biomedical waste throughout the state of Washington. Stericycle currently  
12 collects and transports certain biomedical waste from facilities within the Multicare Health  
13 System. As a holder of authority to collect and transport biomedical waste in the territory in  
14 which Applicant seeks authority to operate and for customers which Applicant seeks to  
15 potentially provide service, Stericycle has a direct interest in this proceeding adverse to that of  
16 Applicant. Stericycle is in all respects fit, willing and able to provide biomedical waste  
17 collection and transportation services in the territory and for the customers described in the  
18 Application, and has provided biomedical waste collection services within that territory and to  
19 such customers to the satisfaction of the Commission at all times relevant to the Application.

20 **II. BASIS FOR PROTEST**

21 **A. Fitness of the Applicant.**

22 5. Stericycle alleges that the Applicant has not and cannot demonstrate its fitness to  
23 conduct the proposed biomedical waste collection and transportation services. Applicant has  
24 not and cannot demonstrate that it is financially, operationally, legally or otherwise fit, willing  
25 and able to provide its proposed services to the Applicant’s potential customers in the territory  
26

1 and/or under the conditions that are set forth in the Application to the satisfaction of the  
2 Commission.

3 **B. Public Need.**

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5 6. Stericycle alleges that Applicant has not and cannot demonstrate that there is a  
6 public need for Applicant's proposed services to the Applicant's potential customers in the  
7 territory and/or under the conditions that are set forth in the Application. Additionally,  
8 Applicant cannot demonstrate that Stericycle and/or other existing carriers with authority have  
9 failed to provide service to the satisfaction of the Commission to the Applicant's potential  
10 customers within the Applicant's proposed service territory and/or under the conditions that are  
11 set forth in the Application.

12 **C. Impact on the Public Interest and Existing Carriers.**

13 7. Stericycle is fit, willing and able to provide biomedical waste collection and  
14 transportation services to the satisfaction of the Commission to the Applicant's potential  
15 customers and to all biomedical waste generators within the proposed service territory  
16 described in the Application. Stericycle and its affiliates have invested millions of dollars in  
17 developing the capacity to serve all biomedical waste generators throughout the state of  
18 Washington without discrimination. Other solid waste collection companies with authority  
19 from the Commission also serve the Applicant's potential customers and within the Applicant's  
20 proposed service territory.

21 8. The granting of overlapping authority to the Applicant to provide its proposed  
22 services to an affiliated system of potential customers, many of which may be independently  
23 owned or operated, in territory already universally served by Stericycle and other certificated  
24 solid waste companies would harm the public interest by, without limitation: introducing  
25 service and rate discrimination, introducing financially unsound and/or transitory biomedical  
26 waste collection and transportation services, undermining the breadth, quality, reasonable cost

1 and long-term viability of existing universal biomedical waste collection and transportation  
2 services, adversely impacting existing efficient transportation networks, raising the cost of  
3 universal services, increasing congestion, and increasing the environmental impact of  
4 biomedical waste collection and transportation.

5 9. The granting of overlapping authority to the Applicant to provide its proposed  
6 services to certain potential customers in territory already universally served by Stericycle and  
7 other certificated solid waste companies would harm Stericycle and the other certificate holders  
8 and jeopardize their ability to provide quality and reasonably priced biomedical waste  
9 collection and transportation services to biomedical waste generators throughout the state and  
10 would therefore be detrimental to the public interest.

11 **D. Public convenience and necessity.**

12 10. Stericycle alleges that the Applicant has not and cannot demonstrate that  
13 granting its application is warranted by the public convenience and necessity. Granting of the  
14 Application would in fact be contrary to the public interest and is not required by present or  
15 future public convenience or necessity.

16 **III. RESPONSE TO PETITION**

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18 11. Stericycle requests that the Applicant's Petition be dismissed for failing to  
19 identify the specific rule or rules that it believes the Commission should waive or any special  
20 circumstances that would justify such an exemption. Pursuant to WAC 480-70-051 and WAC  
21 480-07-110 a party seeking waiver of or exemption from any WAC 480-70 rule governing  
22 solid waste collection and transportation must file "a written petition identifying the rule for  
23 which an exemption is sought, and provide a full explanation of the reason for requesting the  
24 exemption." The Applicant has fulfilled neither requirement and its Petition should be  
25 dismissed.

26 12. Applicant is seeking permanent certificate authority to collect and transport

1 biomedical solid waste for compensation and that no special circumstances justify an  
2 exemption from any Commission rule applicable to its application for or provision of such  
3 services.

4 13. Neither the public interest, the purposes of the Commission's regulations,  
5 Chapter 81.77 RCW, nor the purposes of those statutes justify waiver of or exemption from any  
6 Commission rule applicable to the Applicant's application for or provision of biomedical waste  
7 collection and transportation services.

8 14. Complying with the Commission's regulations will not cause Applicant any  
9 undue hardship different in degree or kind from the hardships imposed on other prospective or  
10 current biomedical waste collection and transportation companies.

11 15. To the extent Applicant seeks to be exempted from the certificate and  
12 application requirements of RCW 81.77.020 and RCW 81.77.040, or from any other statutory  
13 requirements of Chapter 81.77 RCW, such statutory requirements cannot be waived or  
14 exempted by the Commission.

15 16. For the foregoing reasons, and for other reasons to be determined through the  
16 adjudicative process, the Applicant's Petition should be dismissed and/or denied.

#### 17 **IV. CONCLUSION**

18 17. Stericycle has a direct interest in this proceeding which can only be represented  
19 through its active participation in the development of the record for, and ultimate disposition of  
20 the docketed Application and Petition in an adjudicative proceeding. Stericycle is unaware of  
21 any restrictive amendment that would fully satisfy its interests herein and therefore asks that the  
22 Application be denied in its entirety. The Petition does not conform to the Commission's rules,  
23 is insufficient, is not supported by adequate or appropriate grounds under applicable rules and  
24 statutes, and Stericycle therefore asks that the Petition be dismissed and/or denied in its  
25 entirety.  
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**CERTIFICATE OF SERVICE**

I, Dominique Barrientes, certify under penalty of perjury under the laws of the State of Washington that, on June 17, 2016, I caused to be served on the person listed below in the manner shown a copy of the attached PROTEST OF STERICYCLE OF WASHINGTON, INC. TO APPLICATION FOR PERMANENT SOLID WASTE COLLECTION AUTHORITY AND RESPONSE TO PETITION FOR WAIVER OF REGULATION:

Steven V. King,  
Executive Director and Secretary  
Washington Utilities and  
Transportation Commission  
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records@utc.wa.gov

- Via Legal Messenger
- Via Facsimile
- Via FedEx
- Via Email

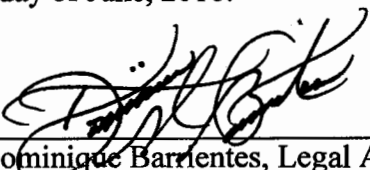
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- Via Legal Messenger
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Postage Prepaid
- Via Email

Dated at Seattle, Washington this 17th day of June, 2016.

  
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Dominique Barrientes, Legal Assistant

GSB:7833946.1