

SUMMIT LAW GROUP®

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May 2, 2011

David W. Danner
Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 South Evergreen Park Drive, SW
P.O. Box 47250
Olympia, WA 98504-7250

**Re: Docket No. TG-110553 – Stericycle, Inc. v. Waste Management of
Washington, Inc. – Amended Answer**

Dear Secretary Danner:

A prehearing conference was conducted in the above-identified proceeding on Friday, April 29, and Order 01 was issued forthwith documenting the decision of Administrative Law Judge Moss to grant Waste Management's motion to amend its Answer for the purpose of adding counter-claims and affirmative defenses.

This letter is to communicate the decision by Waste Management to refrain at this time from asserting a complaint for anticompetitive behavior under RCW 81.04.110 and an affirmative defense of laches. The company has reason to be concerned about the pricing and sales techniques used by Stericycle, Inc. and especially in light of the fact that complainant's tariff rates were established in 1993 and have not been audited. However, claims for protection from Stericycle's potentially anticompetitive behavior are not yet ripe for Waste Management to assert. For the same reasons that Waste Management argued in its Motion to Dismiss that Stericycle's requests for relief under RCW 81.04.110 should be dismissed as premature, Waste Management cannot now in good faith pursue a claim for its own protection.

We specifically by this action do not intend to waive Waste Management's ability to pursue complaint actions against Stericycle in the future, and explicitly reserve the company's rights to initiate a different complaint proceeding at the appropriate time. However, because Waste Management's potential claims do not arise out of the

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transaction or occurrence that is the subject matter of Stericycle's lawsuit, Waste Management is not now required to plead these matters. *See* CR 13 (describing the judicial standards for compulsory counter-claims).

Thank you for your consideration of this submittal. We appreciate the willingness of Administrative Law Judge Moss to allow us time to consider this action. If you have any questions, please contact me.

Sincerely,

SUMMIT LAW GROUP PLLC



Polly L. McNeill

cc: Administrative Law Judge Dennis J. Moss
Parties