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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Application of:

Docket No. TG-120033

WASTE MANAGEMENT OF WASHINGTON,
INC. D/B/A WM HEALTHCARE SOLUTIONS
OF WASHINGTON

**WASTE MANAGEMENT'S
RESPONSE TO JOINT MOTION FOR
EXTENSION OF TIME TO FILE
PETITIONS FOR ADMINISTRATIVE
REVIEW**

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

1. The Applicant Waste Management of Washington, Inc. ("Waste Management") agrees that Mr. Van Kirk's request for an extension of time to take care of his family during the last month of his wife's pregnancy is reasonable and appropriate. As Mr. Van Kirk stated, Waste Management has agreed to an extension of at least one week and will readily agree to an additional extension if his family situation warrants more time beyond a one-week continuance. Waste Management does not, however, agree that the other bases offered by Protestants warrant any further delay beyond the extension discussed above, and therefore Waste Management objects to Protestants' request.

2. Waste Management filed its application for authority to provide statewide regulated biomedical waste services on December 29, 2011. Over a year of unusually intensive administrative litigation followed. Additional delay will interfere with Waste Management's ability to provide the competitive service which the Presiding Officer has ruled to be in the public interest.

1 3. Protestants justify their request for an **additional** two-week continuance – until
2 March 28, 2013 – based on the vacation plans of Stericycle’s other attorney Steve Johnson, and
3 based on the WRRRA Protestants’ plan to bring on a second attorney in addition to their seasoned
4 attorney James Sells. Neither of these reasons warrants allowing any further delay in resolving
5 this long-standing application.

6 4. Mr. Johnson’s vacation is scheduled to begin on March 9, three days after the
7 current March 6 filing deadline, and still more than a week away. Although Stericycle contends
8 that this vacation will make Mr. Johnson unavailable to review and revise Mr. Van Kirk’s draft
9 petition for administrative review, Stericycle does not suggest that Mr. Johnson has been
10 unavailable this week or is unavailable **now** to prepare, or at least help prepare, the petition
11 himself. Of course, Mr. Johnson is a very experienced UTC lawyer and has been involved in
12 every step of this Application proceeding, including every minute of the hearing. He is more than
13 qualified to prepare Stericycle’s petition without assistance from anyone else. Moreover, the
14 lengthy post-trial briefs Stericycle submitted last month dealt in significant depth with the issue of
15 whether the public’s desire for competition justified the Commission’s serving that public interest.
16 Mr. Johnson has, in fact, “actively participated in preparing every brief filed in this application
17 proceeding.” Van Kirk Decl. ¶ 7. Stericycle and Mr. Johnson are exceptionally well-versed and
18 familiar with the issue Stericycle will address in its petition for administrative review.

19 5. Alternatively, Mr. Van Kirk himself is fully capable of preparing and filing the
20 petition for administrative review. He was “the attorney for Stericycle who was primarily
21 responsible for representing Stericycle at the hearing on this matter and for drafting Stericycle’s
22 post-hearing brief,” which addressed the same issues which will be raised in the administrative
23 appeal. Joint Mot. ¶ 7. Once Mr. Van Kirk returns from taking care of his family matters, he
24 should have ample time to prepare Stericycle’s petition. A further two-week delay to allow for
25 Mr. Johnson’s final review is unreasonable, unnecessary and unwarranted.


26 6. The WRRRA Protestants’ request also is unreasonable. The WRRRA Protestants are
27 not substituting counsel. They are merely adding counsel to their team which does not warrant any
28 additional delay. Mr. Sells is a highly-experienced UTC lawyer who has been involved in nearly

1 every regulated biomedical waste proceeding before the Commission. No reason is offered as to
2 why he is incapable of timely preparing a petition for administrative review on an issue which he
3 briefed in detail last month in the WRRRA Protestants' post-hearing briefs. Moreover, the hearing
4 record in this matter is not voluminous and is capable of being read by his new co-counsel in less
5 than a day. Finally, it is worth noting that the WRRRA Protestants requested an extension until
6 March 18, 2013 to bring their new co-counsel up to speed. Joint Mot. ¶ 4. Waste Management's
7 agreement to continue the filing deadline until March 13 should be more than enough time to
8 accomplish that goal.

9 7. Waste Management requests that the Commission allow Protestants one additional
10 week, until March 13, 2013, to complete their petitions for administrative review. If Mr. Van
11 Kirk's family situation continues past March 6, 2013, Waste Management suggests that he notify
12 the Commission and the parties. Under those circumstances, Waste Management would agree to a
13 further extension.

14 DATED this 28th day of February, 2013.

15 SUMMIT LAW GROUP PLLC

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served this document upon all parties of record in this proceeding, by the method indicated below, pursuant to WAC 480-07-150.

<p>Washington Utilities and Transportation Commission 1300 S. Evergreen Park Dr. SW PO Box 47250 Olympia, WA 98504-7250 360-664-1160 records@utc.wa.gov</p>	<p><input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input checked="" type="checkbox"/> Via Federal Express <input checked="" type="checkbox"/> Via Email</p>
<p>Gregory J. Kopta Administrative Law Judge Washington Utilities and Transportation Commission gkopta@utc.wa.gov</p>	<p><input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email</p>
<p>Steven W. Smith Assistant Attorney General PO Box 40128 Olympia, WA 98504 (360) 664-1225 ssmith@utc.wa.gov kgross@utc.wa.gov</p>	<p><input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email</p>
<p>Stephen B. Johnson Jared Van Kirk Garvey Schubert Barer 1191 Second Avenue, Suite 1800 Seattle, WA 98101 (206) 464-3939 sjohnson@gsblaw.com jvankirk@gsblaw.com v Bowen@gsblaw.com dbarrientes@gsblaw.com <i>Attorneys for Stericycle of Washington, Inc.</i></p>	<p><input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email</p>
<p>James K. Sells 3110 Judson Street Gig Harbor, WA 98335 (360) 981-0168 jamesells@comcast.net cheryls@rsulaw.com <i>Attorney for Protestant WRRRA, Rubatino, Consolidated, Murrey's, and Pullman</i></p>	<p><input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email</p>

DATED at Seattle, Washington, this 28th day of February, 2013.

Deanna L. Schow