

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

WASHINGTON UTILITIES AND)	DOCKET TG-080913
TRANSPORTATION COMMISSION,)	<i>(consolidated)</i>
)	
Complainant,)	ORDER 07
v.)	
)	
POINTS RECYCLING AND REFUSE,)	
LLC,)	
Respondent.)	
.....)	
WHATCOM COUNTY,)	DOCKET TG-081089
)	<i>(consolidated)</i>
Complainant,)	
v.)	ORDER 07
)	
POINTS RECYCLING AND REFUSE,)	
LLC,)	
Respondent.)	
.....)	
RENEÉ COE, SHELLEY)	DOCKET TG-082129
DAMEWOOD, and SHANNON)	<i>(consolidated)</i>
TOMSEN,)	
Complainants,)	ORDER 05
v.)	
)	
POINTS RECYCLING AND REFUSE,)	
LLC,)	
)	
Respondents.)	
.....)	

**ORDER GRANTING REQUESTS FOR MEDIATION AND TO AMEND
PROCEDURAL SCHEDULE**

REVISED NOTICE OF HEARING
(May 5-6, 2009, at 9:30 a.m.)

- 1 **NATURE OF PROCEEDING.** Docket TG-080913 involves a tariff filing by Points Recycling and Refuse, LLC (Points or the Company) with the Washington Utilities and Transportation Commission (Commission) to remove curbside recycling from the Company's tariff. Docket TG-081089 involves the complaint filed by Whatcom County against Points to revoke the Company's certification as the designated hauler for Point Roberts, Washington. Docket TG-082129 also involves a complaint against Points filed by Reneé Coe, Shelley Damewood, and Shannon Tomsen (Complainants).
- 2 **APPEARANCES.** Dan Gibson, Whatcom County Deputy Prosecutor, Bellingham, Washington, represents Whatcom County. James Sells, Ryan Sells and Uptegraft, Inc., Silverdale, Washington, represents Points. Jennifer Cameron-Rulkowski, Assistant Attorney General, Olympia, Washington, represents the Commission's regulatory Staff (Commission Staff or Staff).¹ Complainants, Point Roberts, Washington, are appearing pro se.
- 3 **PROCEDURAL HISTORY.** On December 31, 2008, the Commission entered Order 03 in Dockets TG-080913, TG-080914,² and TG-081089 and Order 01 in TG-082129 consolidating the four dockets.³
- 4 On January 20, 2009, the Commission convened a prehearing conference at Olympia, Washington, before Administrative Law Judge Marguerite E. Friedlander, at which time the Commission established a procedural schedule.

¹ In formal proceedings, such as this, the Commission's regulatory staff functions as an independent party with the same rights, privileges, and responsibilities as other parties to the proceeding. There is an "*ex parte* wall" separating the Commissioners, the presiding Administrative Law Judge, and the Commissioners' policy and accounting advisors from all parties, including regulatory staff. *RCW 34.05.455*.

²On January 15, 2009, the Commission entered Order 05 in Dockets TG-080913, TG-080914, and TG-081089 and Order 03 in Docket TG-082129 granting Points' request to withdraw its tariff revision filing in Docket TG-080914.

³ The procedural history in this matter is described more fully in Orders 03/01 and 06/04 and is not repeated here.

5 **REQUEST FOR MEDIATION.** On January 28, 2009, counsel for Points filed a request for mediation with the Commission, asserting that all parties have indicated their support for alternative dispute resolution.

6 The Commission supports parties' informal efforts to resolve disputes without the need for contested hearings when doing so is lawful and consistent with the public interest, and subject to approval by Commission order. *See WAC 480-07-700.* The Commission's procedural rules provide for mediation provided all parties agree to participate in good faith in the mediation.

7 The parties' joint request for mediation is granted. All parties jointly seek mediation to resolve issues informally instead of through contested hearings. Mediation may allow the parties and the Commission to save time and resources that may otherwise be spent in litigation. By separate notice, the Commission will assign a qualified mediator and establish a schedule for the first mediation session.

8 **REQUEST FOR EXTENSION.** On February 2, 2009, Complainants filed a request to amend the procedural schedule to allow the parties additional time to explore alternative dispute resolution prior to filing testimony. Commission Staff, Points, and Whatcom County have stated that they do not oppose the request.

9 WAC 480-07-385(2) provides that the Commission will grant a timely request for continuance to which all parties expressly agree unless the extension is inconsistent with the public interest or the administrative needs of the Commission. In order for a written motion to be timely it must be filed at least five business days prior to the deadline for which the extension is requested.⁴ The Commission may consider requests which are not timely filed if the requester demonstrates good cause for the delay.⁵

⁴WAC 480-07-385(3)(a).

⁵WAC 480-07-385(3)(c).

- 10 Complainants filed their request to amend the procedural schedule only two business days after service of Points' request for mediation. Further, Complainants are acting as pro se litigants and may not be aware of many of the Commission's procedural regulations. Thus, the Commission finds good cause to consider the late-filed request for continuance, but reminds the Complainants that requests for a continuance need to be made at least five business days prior to the deadline for which the extension is sought.
- 11 The Commission will grant a continuance if the requesting party demonstrates good cause for the continuance and the continuance will not prejudice any party or the Commission. Complainants assert that the additional time will allow the parties to explore alternative dispute resolution of the contested issues. According to Complainants, the continuance may result in the resolution of some or all of the issues and avoid the expense of a hearing.
- 12 The Commission finds and concludes that Complainants have demonstrated good cause for the continuance. Complainants have only requested a two week extension of the existing procedural schedule, are attempting to resolve contested issues that are currently before the Commission, and all of the parties have agreed to the request. The Commission finds and concludes that it should grant the relief requested and amend the procedural schedule as outlined in Appendix A.
- 13 **NOTICE OF HEARING.** The Commission will hold a hearing in this matter, to begin on **Tuesday, May 5, 2009, at 9:30 a.m., in Room 108, the Richard Hemstad Building, 1300 S. Evergreen Park Drive SW, Olympia, Washington.** The hearing will continue and be completed, if needed, through **Wednesday, May 6, 2009**, in the same location.
- 14 **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.

DOCKET TG-080913 and TG-081089 (consolidated)
ORDER 07
DOCKET TG-082129 (consolidated)
ORDER 05

PAGE 5

DATED at Olympia, Washington, and effective February 3, 2009.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

MARGUERITE E. FRIEDLANDER
Administrative Law Judge

APPENDIX A
PROCEDURAL SCHEDULE
DOCKETS TG-080913, TG-081089, and TG-082129

<i>EVENT</i>	<i>DATE</i>
Prefiled Direct Testimony	February 17, 2009
Prefiled Responsive Testimony	March 23, 2009
Prefiled Rebuttal Testimony	April 13, 2009
Witness Lists	April 29, 2009
Hearing	May 5-6, 2009
Post-hearing Opening Briefs	May 29, 2009
Post-hearing Closing Briefs	June 12, 2009