

0011

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

2 COMMISSION

3 In re Application TG-081576)
4 of FREEDOM 2000, LLC) DOCKET NO. TG-081576
5 For a Certificate of Public) Volume II
6 Convenience and Necessity) Pages 11 - 19
7 to Operate Motor Vehicles in)
Furnishing Solid Waste)
Collection Service.)

8 -----
9 A status conference in the above matter was
10 held on July 6, 2009, at 1:29 p.m., at 1300 South
11 Evergreen Park Drive Southwest, Olympia, Washington,
12 before Administrative Law Judge MARGUERITE E.
13 FRIEDLANDER.

14 The parties were present as follows:

15 FREEDOM 2000, LLC, by DAVID GELLATLY (via
16 bridge line), Owner/manager, Post Office Box 1314,
Point Roberts, Washington 98281; telephone, (360)
945-1410.

17 WASHINGTON UTILITIES AND TRANSPORTATION
18 COMMISSION, by JENNIFER CAMERON-RULKOWSKI, Assistant
19 Attorney General, 1400 South Evergreen Park Drive
Southwest, Post Office Box 40128, Olympia, Washington
98504; telephone, (360) 664-1225.

20 WASHINGTON REFUSE AND RECYCLING ASSOCIATION,
21 by BRAD LOVAAS, Executive Director, 4160 Sixth Avenue
22 Southeast, Suite 205, Lacey, Washington 98503;
23 telephone, (360) 943-8859.

24 Kathryn T. Wilson, CCR

25 Court Reporter

0012

1

P R O C E E D I N G S

2

JUDGE FRIEDLANDER: I'm Marguerite

3

Friedlander, the administrative law judge presiding

4

over this proceeding. We are here before the

5

Washington Utilities and Transportation Commission this

6

afternoon, Monday, July 6th, 2009, for a status

7

conference in Docket TG-081576, the Application of

8

Freedom 2000, LLC, for a certificate of public

9

convenience and necessity to operate as a certificated

10

hauler of curbside recycling within Point Roberts,

11

Washington.

12

I would note that the Commission has also

13

received an amendment to Freedom's original application

14

that now requests additional authority to operate as a

15

certificated hauler of solid waste.

16

The Commission convened a prehearing

17

conference in this matter on December 8th, 2008, at

18

which time the parties then requested that the

19

Commission postpone setting a procedural schedule due

20

to the complaints against Points Recycling and Refuse,

21

the certificated hauler in Point Roberts, that were

22

pending before the Commission at that time.

23

Since then, the Commission has entered an

24

order in the Points Recycling matter granting the

25

request of Points Recycling to voluntarily relinquish

0013

1 its certificate. So the purpose of the status
2 conference this afternoon is to take appearances and
3 address any procedural issues that the parties wish to
4 raise, including but not limited to the Points'
5 protest.

6 Before we proceed any further, let's take
7 abbreviated appearances. Just let me know who you are
8 appearing on behalf of, and we will begin with Freedom
9 2000.

10 MR. GELLATLY: David Gellatly on behalf of
11 Freedom 2000.

12 JUDGE FRIEDLANDER: Appearing on behalf of
13 Staff?

14 MS. CAMERON-RULKOWSKI: Jennifer
15 Cameron-Rulkowski, assistant attorney general.

16 JUDGE FRIEDLANDER: Appearing on behalf of
17 the Washington Refuse and Recycling Association.

18 MR. LOVAAS: Brad Lovaas for WRRRA.

19 JUDGE FRIEDLANDER: Appearing on behalf of
20 Points? They are still listed as a protestant, and let
21 the record reflect that no one has appeared on behalf
22 of Points. Is there anyone else on the conference
23 bridge or here in the hearing room who would like to
24 put an appearance on the record?

25 Hearing nothing, the items we need to discuss

0014

1 today include Points' protest, which was originally
2 filed back when the application was filed. The
3 Commission rules provide that pursuant to
4 WAC 480-70-106 that an existing certificate holder may
5 file a protest to an application for a solid waste
6 certificate in its own service territory.

7 Points filed a protest at a time when the
8 company, Points Recycling, was still certificated in
9 Point Roberts to haul solid waste and recycling.
10 Points is no longer certificated with the Commission,
11 and as a result, I would entertain a motion to dismiss
12 their protest.

13 MS. CAMERON-RULKOWSKI: Your Honor,
14 Commission staff moves to dismiss the protest of Points
15 because they no longer hold authority in the Point
16 Roberts area and therefore no longer have standing
17 under the Commission rule you just cited.

18 JUDGE FRIEDLANDER: Do the parties have
19 anything that they would wish to discuss regarding this
20 matter? I would like to hear from Freedom 2000 first.

21 MR. GELLATLY: My intention was going to be
22 the same as what Staff put forward on three different
23 points. One, they no longer a G-certificate Two; the
24 owner and manager no longer reside in Point Roberts,
25 and three, Points Recycling has no desire to provide

0015

1 the services which Freedom has applied to provide.

2 JUDGE FRIEDLANDER: Thank you. Does WRRR
3 wish to make any kind of comment on the protest?

4 MR. LOVAAS: Not at this point, no.

5 JUDGE FRIEDLANDER: I will go ahead and issue
6 an initial order following this status conference
7 dismissing the protest filed by Points in this docket.
8 It is an initial order, so the parties have 20 days to
9 seek review by the Commission. I would also indicate
10 my inclination to suspend the adjudicative proceeding
11 in this matter, which doesn't close the docket. It
12 just suspends the proceeding before me as an ALJ
13 because we do not have a protestant anymore, or we will
14 not. So is there anything else that the parties would
15 wish to raise at this time?

16 MS. CAMERON-RULKOWSKI: Yes, Your Honor. As
17 you noticed there is an intervenor in this proceeding,
18 WRRR, and under the rule that you cited, which is
19 WAC 480-70-106, subsection 2, covers protests and
20 addresses a solid waste collection association and
21 further states that the association may file protest on
22 behalf of existing certificate holders specifying the
23 names of the persons or companies in whose interest the
24 protest is filed, and then that same rule also
25 addresses interventions, and at this time, I believe

0016

1 that WRRRA is an intervenor.

2 However, there is no WRRRA member serving in
3 the Point Roberts area at this time and no application
4 for that territory has been received by a WRRRA member,
5 and so I question whether WRRRA is, indeed, interested
6 in continuing to intervene or protest in this
7 proceeding.

8 I would ask Your Honor to perhaps include in
9 the Order a request to WRRRA to confirm or clarify its
10 interest in intervention in this proceeding, and I'm
11 aware that Mr. Lovaas is present, but I'm also aware
12 that the attorney, Jim Sells, for WRRRA was unable to be
13 here at this time, so therefore, I'm suggesting that it
14 could be handled later.

15 JUDGE FRIEDLANDER: Thank you. Mr. Lovaas,
16 did you want to address that, or would you prefer to
17 leave to it Mr. Sells to handle?

18 MR. LOVAAS: Well, I'll go ahead and relay it
19 as we've discussed it. For the record, Brad Lovaas.
20 I'm the executive director of the WRRRA. Obviously, we
21 intervened because the matter has changed
22 substantially. At this point, whether we are
23 intervenor or just interested party, unless one of our
24 members does go ahead and make application, we don't
25 have an interest in going forward. If you want to

0017

1 leave it to get further clarification from Mr. Sells,
2 but I think that's the bottom line.

3 We intervened under a set of different
4 circumstances. The circumstances have changed. We no
5 longer have a member. If one of our members does make
6 application, we will probably become involved again
7 under that.

8 JUDGE FRIEDLANDER: Staff, does that satisfy
9 your concern, or in the Order, would you like the
10 Commission to ask for a more definitive statement from
11 Mr. Sells?

12 MS. CAMERON-RULKOWSKI: Your Honor, we would
13 like the record to be quite clear as to WRRRA's
14 intentions, and therefore, to have it in writing would
15 probably be best at this point.

16 JUDGE FRIEDLANDER: That's perfectly fine.
17 The Commission will include that in an order directing
18 that the WRRRA indicates to the Commission its intention
19 as far as its intervention goes within this docket and
20 whether it intends to file a protest.

21 Given Mr. Lovaas's comments, I would imagine
22 that that answer is going to be no, but it certainly
23 doesn't hurt to have it in the record.

24 MS. CAMERON-RULKOWSKI: Your Honor, could we
25 go off the record for a moment?

0018

1 JUDGE FRIEDLANDER: Sure.

2 (Discussion off the record.)

3 JUDGE FRIEDLANDER: When we went off the
4 record, we were discussing the intervention filed by
5 WRRRA. While off the record, Mr. Lovaas clarified that
6 he has no problem withdrawing the intervention filed by
7 WRRRA. Is that correct, Mr. Lovaas?

8 MR. LOVAAS: That's correct.

9 JUDGE FRIEDLANDER: Unless someone has an
10 issue to raise, I see no reason not to go ahead and
11 dismiss the intervention. As indicated by Mr. Lovaas,
12 should a WRRRA member apply for certificated authority,
13 they are more than welcome to file a petition for
14 intervention in that docket. Did Staff have anything
15 else to add?

16 MS. CAMERON-RULKOWSKI: Your Honor, Staff is
17 simply interested in resolving this docket as quickly
18 as possible, and we will be exploring with
19 Mr. Gellatly, the remaining party in this proceeding,
20 about how to resolve it as quickly as possible.

21 JUDGE FRIEDLANDER: Certainly. Mr. Gellatly,
22 I hope I'm pronouncing your name correctly.

23 MR. GELLATLY: Yes, you are.

24 JUDGE FRIEDLANDER: I would indicate that as
25 I stated previously on the record, with the dismissal

0019

1 of the lone protestant and now the dismissal of the
2 intervenor, this is a nonadjudicatory matter in that
3 you won't be appearing before me. This is something
4 that Staff is investigating and reviewing on its own
5 and will bring before the Commission. I want to make
6 sure you are aware of that.

7 MR. GELLATLY: Yes. Thank you very much,
8 Judge.

9 JUDGE FRIEDLANDER: Do any of the two
10 remaining parties have anything else they would like to
11 bring up at this time?

12 MS. CAMERON-RULKOWSKI: No, Your Honor.

13 JUDGE FRIEDLANDER: Did you have anything
14 else, Mr. Gellatly.

15 MR. GELLATLY: No, Your Honor.

16 JUDGE FRIEDLANDER: Hearing nothing, this
17 status conference is adjourned.

18 (Status conference adjourned at 1:46 p.m.)

19

20

21

22

23

24

25