



ATTORNEY GENERAL OF WASHINGTON

Public Counsel

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November 2, 2020

SENT VIA WUTC WEB PORTAL

Mark L. Johnson
Executive Director and Secretary
Washington Utilities and Transportation Commission
621 Woodland Square Loop SE
Lacey, Washington 98503

Re: *Freedom 2000, LLC, d/b/a Cando Recycling and Disposal*
Docket TG-180782, Comments of Public Counsel

Dear Mr. Johnson:

The Public Counsel Unit of the Washington State Attorney General's Office ("Public Counsel") respectfully submits the following comments regarding the tariff revisions filed by Freedom 2000, LLC, d/b/a Cando Recycling and Disposal ("Company") on August 27, 2020, and revised on October 21, 2020, that will take effect January 1, 2021, for the above-entitled docket. The Washington Utilities and Transportation Commission ("UTC" or "Commission") considered the filing at its Open Meeting on October 29, 2020. Public Counsel appreciates the discussion and decision, but would like to raise three items.

Public Counsel's Topics

1. The Company should issue a revised customer notice on or before December 1, 2020 to clarify that a decrease rather than an increase in rates will go into effect pursuant to the Company's revised tariff filing of October 21, 2020, which will take effect on January 1, 2021;
2. While Public Counsel recognizes that the UTC does not set tax rates for regulated companies, the UTC should verify that taxes included in customer rates are accurate; and
3. Public Counsel asks that the Company include Public Counsel on its service list for future rate filings before the UTC, and that the Records Center include Public Counsel in the Master Service List.

Public Counsel received questions from customers regarding an October 10, 2020, customer notice from the Company stating a proposed rate increase for garbage and recycling collection services in Point Roberts, Washington. However, the Company's August 27, 2020, compliance filing submitted pursuant to the Final Order in the Company's 2018 general rate case requested

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an overall rate decrease.¹ The compliance filing requested to decrease rates to reflect actual costs associated with garbage and recycling collection operations covering the twelve-month period from July 1, 2019 through June 30, 2020.² After UTC Staff review, on October 21, 2020, the Company submitted a revision to the compliance filing requesting to further decrease rates.³ The UTC Staff memo posted to the UTC website for this Docket explains that the additional decrease is a reflection of adjustments to correct errors in the initial filing and to pass back to customers cost savings that occurred from March through June of 2020 in connection with the Covid-19 pandemic.⁴

Public Counsel communicated with the UTC staff regarding the compliance filing and attended the October 29, 2020, open meeting discussion on the matter. At the open meeting, the Commission, UTC Staff, the Company, and members of the public discussed the Company's October 21, 2020, filing that revised the Company's initial August 27, 2020, filing.

The discussion also addressed questions related to the accuracy of amounts stated in the compliance filing corresponding to excise tax collected by the Company through rates that it remits through Whatcom County to the Washington State Department of Revenue. The Commission asked questions during the open meeting about how the UTC staff review might address tax amounts over-collected in rates. The ensuing discussion was unclear on how the UTC staff verifies the accuracy of these tax amounts that "pass-through" in the calculation of rates that the Commission approves in tariff revision proceedings. Public Counsel would like to offer our perspective.

- 1. Public Counsel believes that on or before December 1, 2020, the Company should issue a revised customer notice to clarify a decrease rather than an increase in rates will go into effect pursuant to the Company's revised tariff filing of October 21, 2020, which would take effect on January 1, 2021.**

The Company's tariff revisions filed on August 27, 2020, and revised on October 21, 2020, will take effect January 1, 2021. The Company's October 21, 2020, filing and the UTC Staff's October 29, 2020, Open Meeting Memo clarify that the tariff revision should effect a rate decrease larger than what the Company requested in the initial August 27, 2020, filing. The Commission-approved rate decrease appears to contradict certain statements that the Company

¹ Compliance Filing, on behalf of Freedom 2000, LLC, d/b/a Cando Recycling and Disposal, TG-180782 (Aug. 27, 2020); Revised Compliance Filing Workpapers, on behalf of Freedom 2000, LLC, d/b/a Cando Recycling and Disposal, TG-180782 (Aug. 27, 2020).

² *See id.*

³ Replacement Pages, on behalf of Freedom 2000, LLC, d/b/a Cando Recycling and Disposal, TG-180782 (Oct. 21, 2020).

⁴ Open Meeting Memo for the October 29, 2020 Open Meeting, Freedom 2000, LLC, d/b/a Cando Recycling and Disposal, TG-180782, UTC Staff (Oct. 10, 2020).

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communicated to customers in an October 10, 2020, customer notice that suggest residential monthly rates will increase on January 1, 2021.

Although the Company's combined net rates for garbage and recycling will decrease as a result of the compliance filing, the rate for recycling alone will increase. The Commission's regulations in WAC 480-70-271 do not require customer notification for a rate decrease. Despite this, Public Counsel believes that the Company should clarify its communications with its customers because the rates that are going into effect are significantly different than the rates the Company notified customers of earlier. Additionally, Public Counsel understands that the Company will send a notice to customers regarding recycling rates. Therefore, Public Counsel asks the Company to issue a revised customer notice on or before December 1, 2020, to correct its earlier statement to customers that net rates will be increasing rather than decreasing. The Commission's regulations in WAC 480-70-271 are in place to promote transparency and clarity of communications to customers regarding rates. Failing to make this clarification to customers proactively would otherwise lead to unnecessary confusion regarding what rates customers are actually required to pay the Company for garbage and recycling collection services.

2. Public Counsel recognizes that the UTC does not set the tax rates for regulated companies, but believes that the UTC should verify that taxes included in rates are accurate.

Public Counsel agrees with statements made at the October 29, 2020, open meeting that Washington state and county authorities separate from the UTC set tax amounts that "pass-through" to customers through rates approved by the Commission. The Commission does not determine or have the authority to change tax rates. However, Public Counsel views the issue surrounding taxes discussed at the open meeting as one regarding whether the amounts collected in rates approved by the Commission are accurate and whether and how the UTC Staff review confirms the accuracy of these tax amounts in tariff revision requests. The Commission can ensure that the tax amounts stated in tariff revision requests are correct and do not lead to an over-collection.

Public Counsel believes that Commission-approved rates should reflect accurate tax calculations, and if rates are over-collecting amounts attributable to taxes, the Commission can address this by requiring rates to reflect the correct tax rates and amounts. Public Counsel participated in separate discussions with the UTC Staff related to this issue in Docket TG-180782, and understands that the Staff did review the tax amounts stated in the instant tariff revision request, as it does for all tariff revision requests. Public Counsel understands the complexities involved and appreciates the staff effort already devoted to this part of its review. Because the accuracy of the amount of tax collected versus remitted in TG-180782 has come into question, Public Counsel believes further follow up with Whatcom County to Washington State Department of

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Revenue to verify the accuracy of the amount of pass-through taxes stated in this Docket and to correct for any over-collection of tax amounts from customers.

3. Public Counsel also asks that the Company include Public Counsel on its service list for future rate filings before the Commission.

Public Counsel would like to be included among the individuals and entities served in any future rate filing submitted by Freedom 2000, LLC, d/b/a Cando Recycling and Disposal. We ask that the Company serve Public Counsel with its next rate filing. Public Counsel also asks that the UTC Records Center include Public Counsel on the master service list for filings made by Freedom 2000, LLC, d/b/a Cando Recycling and Disposal.

* * *

We appreciate the opportunity to submit comments. If you have any questions about this filing, please contact Ann Paisner, at (206) 521-3211 or Ann.Paisner@ATG.WA.GOV, or Shay Bauman, at (206) 379-4211 or Shay.Bauman@ATG.WA.GOV.

Sincerely,

/s/ *Ann Paisner*
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Assistant Attorney General
Public Counsel Unit
(206) 521-3211

AP/KMB
Enclosures