

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

<p>WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant,</p> <p>vs.</p> <p>POINTS RECYCLING AND REFUSE, LLC, Respondent.</p> <p>*****</p>	<p>Docket No. TG-080913 (consolidated)</p>
<p>WHATCOM COUNTY, Complainant,</p> <p>vs.</p> <p>POINTS RECYCLING AND REFUSE, LLC, Respondent.</p> <p>*****</p>	<p>Docket No. TG-081089 (consolidated)</p>
<p>RENEE COE, SHELLEY DAMEWOOD, AND SHANNON TOMSEN, Complainant,</p> <p>vs.</p> <p>POINTS RECYCLING AND REFUSE, LLC, Respondent.</p>	<p>Docket No. TG-082129 (consolidated)</p> <p>DIRECT TESTIMONY OF RENEE COE</p>

DIRECT TESTIMONY OF RENEE COE, COMPLAINANT
February 14, 2009

1 **Q. Please state your name and address.**

2 A. My name is Renee Coe and my address is 1986 Cedar Park Drive, Point Roberts, WA
3 98281, Whatcom County. My email address is coe@pointroberts.net.

4
5 **Q. What do you do for a living?**

6 A. I have been the office manager of a technology company for 11 years. I manage all
7 aspects of the business including payroll, accounts receivable and payable, ordering,
8 shipping and receiving, and travel arrangements for our engineers worldwide.

9
10 **Q. What qualifies you to give this testimony?**

11 A. I have lived in Point Roberts for the last 19 years and was here when Mr. Wilkowski
12 bought Points in 1999. In the last two years, I have read the ads and articles in the
13 local paper, the All Point Bulletin (APB), and the letters he has sent to customers.
14 Since August of 2008, I have gathered and analyzed practically all of the
15 correspondences between Mr. Wilkowski, the County, and the WUTC from the last
16 five years.

17
18 **Q. What is the purpose of your testimony?**

19 A. My testimony presents to the WUTC that Points Recycling and Refuse, LLC, (Points)
20 has discontinued curbside recycling in Point Roberts. Points has been in conflict with
21 the WUTC and Whatcom County for a number of years. Points has exhibited a
22 pattern of threatening and manipulative behavior. This all calls into question Points
23 appropriateness as a G Certificate holder, presumably sanctioned by a state agency.

1 **Q. Why did you get involved in these issues?**

2 A. As a regular citizen of Point Roberts, I had to get involved. Point Roberts is isolated
3 from the rest of Whatcom County. I know from past experience that we do not
4 always get the same attention as communities closer to the County's offices. I was
5 very concerned that if we were to lose a public service as basic as curbside recycling,
6 we could likely lose more services. Also, Points was breaking the law by
7 discontinuing curbside recycling. It seemed to me that the County was allowing him
8 to break the law and he was getting away with it.

9
10 **Q. Why did you file a formal complaint with the WUTC?**

11 A. Early on, I made verbal and written complaints to Whatcom County and informal
12 complaints to the WUTC but nothing I did had any impact. After the community
13 meeting held in Point Roberts in August 2008, Ms. Damewood, Ms. Tomsen, and I
14 gave presentations to the Whatcom County Council and the Public Works
15 Department about Points' claims but those also seemed to have no impact. After
16 doing some research, I realized the WUTC was the only entity that had any means of
17 stopping this intimidating and unlawful behavior by either fining Mr. Wilkowski or
18 revoking his G certificate. So, we filed a formal complaint with the WUTC.

19
20 **Q. Describe the hauler's behavior that led you to make the complaints.**

21 A. Beginning with the advertisements in APB the winter of 2007, Points has shown
22 behavior that is contrary to any normal business practice in any community. The ads
23 were obviously designed to look like an official notice to the community. They

1 contained very strong language about what he claimed to be solid waste laws and
2 rules. He voided all residential collection exemption forms that the county had issued
3 and he created a new exemption form that had to be submitted directly to Points. He
4 defined new prohibited actions as illegal disposal and threatened anyone violating this
5 new rule with immediate suspension from all services. He put the burden of proof of
6 proper disposal onto the property owner. He also said that construction sites and
7 contractors “prohibited actions” would result in permanent suspension of all services
8 to a parcel. I complained by phone to Penny Lemperes, with the Whatcom County
9 Solid Waste Department. She told me that Mr. Wilkowski should not have put the ad
10 in the paper in the first place and he was told to not run any more ads. Yet, a version
11 of the same ad ran for several more months. I was surprised that the county
12 prosecutor’s office had not filed any charges against Mr. Wilkowski nor was it able to
13 make him stop this behavior. (See exhibits 2, 3, 4, 5).

14

15 **Q. Are you aware of any public comments the hauler made?**

16 A. Mr. Wilkowski made comments to the APB that he knew or should have known
17 would be included in articles and that he knew would be disruptive and
18 counterproductive. For example he claimed he was withholding his fees and reports
19 to the WUTC to try to get their attention (see exhibits 6). He also said “I am putting
20 the firecracker in the anthill” (see exhibit 7). In August 2008 he made assertions to
21 the APB that cutbacks to services were made “as required by the county”. He said
22 that free recycling would be cancelled and would be accepted at five cents per pound
23 and that “the situation is beyond our control.” He said that in August or September

1 there would be no garbage collection and that in November there would be no transfer
2 station (see exhibit 8).

3

4 **Q. Did you receive any of the haulers letters to customers?**

5 A. Yes, I received them from friends. After reading them I found his letters threatening
6 and manipulative. Starting in January 2007 he mailed a 12 page “customer notice”
7 letter to customers (see exhibit 9). It was sent to coincide with the advertisement
8 placed the APB (see exhibit 2). The letter significantly expanded on the threats in his
9 advertisements (see exhibits 2, 3, 4, 5). In July 2008 another mailing was sent (see
10 exhibit 10). In that letter he states “we are in a hostile legal situation; there is no
11 more discussion, mediation or debate. Just a strict interpretation of the law regardless
12 of the impact on this community.” He states that all operations would cease
13 immediately after a hearing, that no other company would service Point Roberts, and
14 that “there could possibly never be garbage collection here again.” In an effort to
15 divide the community against the county he states “you all know that Point Roberts is
16 too small to get county attention on anything.” It appeared to me that all he wanted to
17 do was to cause a backlash against the County and gain support on his behalf.

18

19 **Q. You received a similar letter at the transfer station. Please explain.**

20 A. On Sunday July 13, 2008, my husband and I went to the transfer station to drop off
21 recycling. Upon leaving we were asked to sign a petition in support of free self-haul.
22 I said no. Points’ employee Michael Short then handed me a piece of paper and said
23 that starting next week we would have to pay five cents a pound for recycling. We

1 were surprised and found his demeanor intimidating. The message we received was:
2 if we don't sign we pay. (See exhibit 11).

3

4 **Q. You requested information from the WUTC. What were some of your findings?**

5 A. In February 2001, Points tried to eliminate curbside recycling with a WUTC tariff
6 filing that was subsequently denied. In 2005, 2006, and 2007, Points had not filed its
7 annual reports on time nor paid its regulatory fees within the allotted timeframe
8 mandated by the WUTC. The WUTC assessed penalty payments against Points in
9 the years 2006, 2007 and 2008 (see exhibit 12). Mr. Wilkowski also filed tariffs with
10 the WUTC to permanently remove properties from his service area, apparently
11 because the owner or contractors did not do things according the rules the hauler had
12 made up (see exhibit 13). These were not county or state laws.

13

14 **Q. You requested information from Whatcom County. What were your findings?**

15 A. In May 2008, Mr. Wilkowski sent a lengthy letter to Whatcom County's Director of
16 Public Works in which he states "I will be very clear, that [curbside recycling] is not
17 going to happen." (See exhibit 14). The whole letter was shocking to me. I could not
18 believe that a businessperson would send a letter so full of contempt and
19 condescension to anyone much less the head of a department that oversees his
20 company. In July 2008, Mr. Wilkowski sent a letter to Whatcom County Health
21 Department. In it he threatened to remove all station improvement from the site
22 which would mean it would take several months before the station could meet the
23 minimum standards of operating a solid waste facility (see exhibit 15).

1 **Q. What other information did you request from the WUTC?**

2 A. We requested Points' 2003, 2004, 2005, 2006, 2007 annual reports. For comparison,
3 we later made requests for the annual reports of the other Whatcom County haulers.

4
5 **Q. Points has stated publicly that curbside recycling is economically unfeasible.**
6 **Did you find any data provided by Mr. Wilkowski in the annual reports that**
7 **contradicts his claim that curbside recycling is economically unfeasible?**

8 A. I made a spreadsheet of some of Points' financial data from the 2005, 2006, and 2007
9 annual reports including a section comparing recycling revenues versus profit (see
10 exhibit 16). Based on the information the hauler submitted, Points collected recycling
11 fees from customers totaling over \$21,000 each year as shown on line 3 in my
12 spreadsheet. He had the lowest recycling commodity revenue of all the Whatcom
13 County haulers (see columns 2005(b), 2006(b), 2007(b) lines 7, 21, 39, and 54) but he
14 was still able to make a net profit of over \$18,000 each year for curbside recycling
15 pick-up. Profit amount is on line number 8 of my spreadsheet for all three years.

16
17 **Q. How are you arriving at the \$18,000 profit you mentioned?**

18 A. The hauler collected monthly fees for curbside recycling. For example, in 2007, the
19 hauler reported that he had 335 customers whose garbage and recycling he picked up
20 several times each month. Those customers each paid a separate fee of \$5.44 per
21 month (\$65.23 annually) for curbside recycling. That totals \$21,851 for 2007. Then
22 you deduct the cost of disposal and you arrive at the net profit of \$19,858.

23

1 **Q. Points is now providing free self-haul recycling. From what you have learned do**
2 **you think offering free recycling is economically feasible and what is your**
3 **impression of how this set up is working?**

4 A. With free self-haul, he has lost the income from curbside recycling fees and now has
5 the added expense of disposing of the free recycled material. This makes absolutely
6 no business sense to me. In the first month or two, only people who had previously
7 contracted for curbside garbage and recycling had free self-haul, others had to pay.
8 After that it was changed so everyone had free self-haul. I do like having a free
9 service but I know a lot of people do not like going to the dump. It is dirty, unsafe,
10 and the hours and days often change. I also wonder how long free self-haul will last
11 or if and when we will be required to self-haul our garbage. I still don't understand
12 why someone would give up a consistent source for recycling revenue.

13
14 **Q. Are you familiar with how Mr. Wilkowski characterizes the financial condition**
15 **of his company?**

16 A. Yes. In the March 2007 APB (see exhibit 17), Mr. Wilkowski talked about his
17 company's financial situation in which he stated that "the company is surviving on
18 the depreciation of the infrastructure. This is a serious economic crisis and enough to
19 break the system." In the article he also states his gross revenue is \$375,000 and a net
20 loss of \$15,000 which was absorbed by his \$60,000 annual salary. When Points'
21 2006 annual report to the WUTC was not submitted until April 29, 2008, almost one
22 full year past the due date¹, I was surprised to see that he had listed his gross revenue

¹ WAC 480-70-071 requires haulers to submit annual reports by May 1 of the succeeding year.

1 for 2006 as \$429,366, net income profit as \$18,742, annual officer salary as \$70,400,
2 as well as a shared driver salary of \$72,426. The report states there are two drivers
3 and we know he is one of the two licensed drivers so he would have shared in the
4 driver salary.

5
6 **Q. Mr. Wilkowski has been the only officer of Points since 2006. The WUTC**
7 **audited his books when he requested and he received a general rate increase in**
8 **2005. Please describe the changes in revenue and salary in that time frame.**

9 A. I reviewed five years of Points' WUTC annual reports (2003-2007) and was taken
10 aback by the numbers (see exhibit 18). I am not a CPA but I have a general
11 understanding of an income statement. For example, in 2007 the total revenue was
12 \$422,331. Officer salary was \$78,489; driver wages and benefits were listed as
13 \$161,473; office and administration is listed at \$41,052. In 2004, total revenue was
14 \$329,695; officer salary \$54,000; driver wages and benefits \$40,085; office and
15 administration \$52,613. The increase in the salaries and benefits between the audit
16 year of 2004 and 2007 seems high. The three salary groups added together make up
17 67% of the gross revenue for 2007. In 2004, they are 44% of gross revenue. The
18 biggest portion of the profit is being spent on payroll and benefits for two drivers and
19 officer salary. The officer is also a driver. I do not believe many businesses could
20 stay afloat if 67% of the revenue is being spent for payroll and benefits.

21

1 **Q. Mr. Wilkowski claimed that he had to stop recycling because his truck broke**
2 **down and was not repairable. Mr. Wilkowski also claimed he was not able to**
3 **afford a new truck. Did you find anything that contradicts this claim?**

4 A. Stopping service because of equipment failure is not an option for businesses that
5 serve the public or any business that wants to remain viable (see exhibit 19). Points
6 could have continued curbside recycling by replacing the broken recycling truck with
7 the pickup truck he owns and uses in other parts of his business. Our community is
8 only five square miles, some roads are very narrow. A truck made for large cities,
9 like the one he had, was too big. If the pickup had been used to continue curbside
10 recycling, none of us would be here; this whole issue would be moot. Points' 2005,
11 2006 and 2007 annual reports show a combined total of \$81,341 being expensed for
12 depreciation. I know that if you are taking the deduction for depreciation on
13 equipment, it is necessary to fund depreciation for future equipment failure.

14
15 **Q. In your complaint against Points to the WUTC you included 31 exhibits. After**
16 **reviewing so much information, why do you want the WUTC to cancel Points' G**
17 **Certificate or impose fines?**

18 A. Ten years is a long time for bad behavior like this. It is clear from the hauler's
19 interactions with the WUTC that fines and penalties have no effect on him. Instead of
20 laws and ordinances influencing what happens here, I feel that our community is
21 being held hostage by the whims of the hauler. He has systematically and
22 intentionally alienated and divided the community, the county, and the WUTC. He
23 bullies his customers with false and misleading information about his dealings with

1 the county and the WUTC in his mailing, ads, and customer letters. He believes he
2 knows what is best for this community yet he breaks the law and bullies county
3 officials with threats and refuses to comply with the law. He misinterprets and
4 misrepresents the law to suit his needs whenever it is convenient. He publicly talks
5 about financial hardships yet has provided no documentation to support his claims to
6 either the county or the WUTC and everything I have seen contradicts that assertion.
7 In his May 27, 2008 letter to Whatcom County Public Works Director, Frank Abart,
8 he says, “we are partners in service and should cooperate.” I don’t believe that Points
9 can serve anyone but himself or cooperate with anyone as demonstrated by the string
10 of tariff filing with the WUTC since 2001. In my opinion, the county does not want
11 to put a stop to Points’ bad behavior. The WUTC is the only one who can.²

12

13 **Q. What qualities would you like to see in a solid waste provider?**

14 A. I would like to have a professional businessperson who can sign a contract, follow
15 the law, cooperate, and treat the public they serve in a decent and respectful manner.

16

17 **Q. Does this end your testimony?**

18 A. Yes.

² RCW 81.77.030(4) requires the commission to supervise and regulate all matters affecting the relationship between solid waste companies and the public they serve. RCW 81.77.030(5) The commission, by law, must require compliance of the local solid waste plans and related implementation ordinances.