

Agenda Date: July 30, 2009
Item Number: B3

REVISED July 28, 2009

Docket: TG-081576
Company Name: Freedom 2000, LLC, d/b/a/ Cando Recycling and Disposal

Staff: Penny Ingram, Regulatory Analyst

Recommendation

Take no action on the application filed by Freedom 2000, LLC d/b/a Cando Recycling and Disposal to provide solid waste collection in Point Roberts, Washington.

Update

The commission discussed this matter at its July 16, 2009, open meeting and, after hearing comments from staff and David Gellatly, concluded that Freedom 2000, LLC d/b/a Cando Recycling and Disposal (Freedom 2000 or company) be allowed additional time to complete its application. Staff met with Mr. Gellatly, owner of Freedom 2000, to explain the deficiencies in its application and provided, in detail, what the company needed to file to demonstrate its financial resources, projected budget, and the information needed to present a complete business plan. Mr. Gellatly indicated he had most of the required information and detail, and he would file the additional information to complete his application by Tuesday, July 21.

On July 23 and 24, staff received additional financial information. The financial information reflected combined operations of the regulated solid waste collection company and the non-regulated operation of the county transfer station. Staff requested the company to resubmit the financial documents separating the transfer station operations and the solid waste collection operations.

On July 26, at 8:30 p.m., Mr. Gellatly filed additional financial information. Although staff has not completed its review of the latest information, the company is close to completing its application. When the company completes its application and staff completes its analysis, staff will issue the 30 day notice required by WAC 480-70-106.

Background

Point Roberts is a geographically isolated area of Whatcom County (county). The county has established a collection district that requires all owners of developed property to subscribe to solid waste collection service, but has also issued many exemptions to property owners. The county's comprehensive solid waste management plan and solid waste ordinance requires all residential garbage customers to pay for residential recycling service, whether or not the customer uses the recycling service. Points Recycling and Refuse, LLC, (Points) has provided regulated residential and commercial garbage collection and residential curbside recycling collection for many years in Point Roberts under a solid waste certificate G-155 granted by the Washington Utilities and Transportation Commission (Commission).

The county owns a transfer station located in Point Roberts and has, for some period, contracted with Points to operate the transfer station¹. During the term of the lease, Points made a number of tenant improvements to the transfer station. On April 30, 2009, Whatcom County and Points renewed the lease allowing Points to operate the transfer station for an additional five years ending on or before 2014. The lease contains a clause that allows the county to terminate the lease if Points loses its certificate to provide solid waste collection services. Similarly, the lease allows Points to remove tenant improvements made to the transfer station upon termination of the lease.

On June 5, 2009, the commission received a letter from Points voluntarily relinquishing its solid waste certificate, G-155, and requesting that the commission cancel the certificate.

On June 12, 2009, the commission posted a Notice of Opportunity on its Web site and published a similar notice in the Bellingham Herald newspaper seeking applicants interested in providing solid waste collection service in Point Roberts. The notice requested applicants to respond by June 26, 2009. The commission received only one application, that is, an application from Freedom 2000.

On June 17, 2009, the commission issued its final order, Order 11 in Docket TG-081089 (consolidated), granting Points' request to cancel its certificate of public convenience and necessity to provide solid waste and residential recycling collection service in Point Roberts under certificate G-155, effective July 1, 2009.

On June 18, 2009, the commission issued a letter advising Whatcom County Executives of the commission's order and, in accordance with RCW 36.58A.030, finding that Points is unwilling to provide service in Point Roberts.

On June 29, 2009, Freedom 2000 amended its application to include the following conditional language:

If the county does not provide Freedom 2000 with a lease for the Transfer station, Freedom 2000 will be unable to provide services as outlined in this application and will be forced to withdraw.

On June 30, 2009, Points reported to commission staff that Points had collected all of its commercial solid waste containers and ceased business. On July 15, 2009, Freedom amended its application to remove the condition it placed on the application regarding receiving the lease to operate Whatcom County's transfer station in Point Roberts. Freedom 2000 "declares that it can and will provide services as outlined in the application, without further amendment to the application."

Conclusion

Take no action on the application by Freedom 2000, LLC d/b/a Cando Recycling and Disposal to provide solid waste collection in Point Roberts, Washington.

¹ A transfer station is a staffed, fixed supplemental facility used by persons and route collection vehicles to deposit solid wastes into transfer trailers for transportation to a disposal site.