

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

In re Application TG-081725 of)	DOCKET TG-081725
)	
NORTHWEST INDUSTRIAL)	
SERVICES, LLC, d/b/a AMERICAN)	
ON SITE SERVICES)	
)	NOTICE OF PREHEARING
For a Certificate of Public Convenience)	CONFERENCE
and Necessity to Operate Motor)	(Set for December 3, 2008,
Vehicles in Furnishing Solid Waste)	at 1:30 p.m.)
Collection Service)	
)	
.....)	

1 On September 22, 2008, Northwest Industrial Services, LLC, d/b/a American On Site Services (Northwest Industrial Services), filed with the Washington Utilities and Transportation Commission (Commission) an application for a certificate of public convenience and necessity to operate motor vehicles in furnishing solid waste collection service consisting of construction demolition, industrial manufacturing waste, and recycling material in that portion of Pend Oreille County, Washington, described as follows:

The West 1/2 of Township 38 N., R43 East, W.M.; the West 1/2 of Township 37 N., R43 East W.M.; and the East 1/2 of Township 37 N. R42 East W.M.; also in that portion of Pend Oreille County described as T39 N., R 44 E, Section 6, 7, and 18 of T. 38 N., R. 44E.

2 Notice of the Application was published in the Commission’s weekly Docket of October 2, 2008.

3 On October 22, 2008, Robert L. Nichols, d/b/a B & N Sanitary Service, filed a protest to the application.

4 **STATUTORY AUTHORITY:** The Commission has jurisdiction over this matter under RCW Title 81, and has legal authority to regulate persons seeking to furnish solid waste collection services under RCW 81.77 and WAC 480-70. The statutes that

apply to this matter include RCW 80.01, RCW 81.04, RCW 81.28 and RCW 81.77, including but not limited to RCW 80.01.040 and RCW 81.77.040.

5 The Commission will hear this matter under the Administrative Procedure Act (APA), particularly Part IV of RCW 34.05 relating to adjudications. The provisions of the APA that relate to this proceeding include, but are not limited to RCW 34.05.413, RCW 34.05.422, RCW 34.05.431, RCW 34.05.440, RCW 34.05.449, and RCW 34.05.452. The Commission will also follow its procedural rules in WAC 480-07 in this proceeding.

6 The issues in this proceeding include whether the issuance of a certificate to Northwest Industrial Services for the service it proposes is necessary and is otherwise consistent with the public interest, and whether other carriers authorized to serve in the requested territory will not provide service to the satisfaction of the Commission.

7 **THE COMMISSION GIVES NOTICE That it will hold a prehearing conference in this matter at 1:30 p.m., on December 3, 2008, in Room 108, First Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.** If you are unable to attend the prehearing conference in person, you may attend via the Commission's teleconference bridge line, **360-664-3846**. Please appear on the teleconference bridge five minutes before the conference is scheduled to begin.

8 The purpose of the prehearing conference is to resolve scheduling matters including establishing dates for distributing evidence and workpapers, to identify the issues in the proceeding and determine other matters to assist the Commission in resolving the matter, as listed in WAC 480-07-430. Appendix A provides information relevant to the prehearing conference and hearing for a certificate of authority to operate motor vehicles in furnishing solid waste collection in the state of Washington.

9 **THE COMMISSION GIVES NOTICE that any party who fails to attend or participate in the prehearing conference set by this Notice, or any other stage of this proceeding, may be held in default under RCW 34.05.440 and WAC 480-07-450.**

10 The names and mailing addresses of all known parties and their known representatives are as follows:

Applicant: Northwest Industrial Services, LLC
d/b/a American On Site Services
3808 N. Sullivan Rd. #107A
Spokane, WA 99216-1608
(509) 244-8404
dave_alvarado@air-pipe.com

Protestant: Robert L. Nichols
d/b/a B & N Sanitary Service
403641 Hwy 20
Cusick, WA 99119
(509) 445-1353

Representative: James K. Sells
Ryan Sells Uptegraft, Inc. P.S.
9657 Levin Road N.W., Suite 240
Silverdale, WA 98383
(360) 307-8860
jimsells@rsulaw.com

Commission: Washington Utilities and Transportation
Commission
1300 S. Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

Representative: Jonathan Thompson
Assistant Attorney General
1400 S. Evergreen Park Drive S.W.
P.O. Box 40128
Olympia, WA 98504-0128
(360) 664-1225
jthomps@utc.wa.gov

11 Administrative Law Judge Adam E. Torem, from the Commission's Administrative Law Division, will preside during this proceeding.

- 12 The Commission will give parties notice of any other procedural phase of the proceeding in writing or on the record, as appropriate during this proceeding.

DATED at Olympia, Washington, and effective November 13, 2008.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER
Executive Director and Secretary

Inquiries may be addressed to:

Executive Director and Secretary
Washington State Utilities and
Transportation Commission
Richard Hemstad Building
1300 S. Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

NOTICE

Hearing facilities are accessible to persons with disabilities. Smoking is prohibited. If limited English-speaking, hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

If you need an interpreter, or have other special needs, please fill out this form and return it to Washington State Utilities and Transportation Commission, Attention: David W. Danner, 1300 S. Evergreen Park Drive SW, P. O. Box 47250, Olympia, WA 98504-7250. (PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket : _____

Case Name: _____

Hearing Date: _____ Hearing Location: _____

Primary
Language: _____

Hearing Impaired (Yes) _____ (No) _____

Do you need a certified sign language interpreter:

Visual _____ Tactile _____

Other type of assistance needed: _____

English-speaking person who can be contacted if there are questions:

Name: _____

Address: _____

Phone No.: (____) _____

Appendix A

The Commission may issue a certificate of authority to operate motor vehicles in furnishing solid waste collection in the state of Washington if the applicant satisfies the requirements that are set out in RCW 81.77 and WAC 480-70. The procedures the Commission uses in its hearings are in WAC 480-07. Copies of the statutes and rules are available from the Commission's record center, the Commission's web site at www.utc.wa.gov or in local libraries.

The Commission provides the information in this Appendix so that the parties can discuss at the prehearing conference the process for the hearing and the issues involved in this case. The parties and any interested persons should not use this Appendix as a substitute for review of the applicable statutes and rules, which may contain additional requirements applicable in this matter.

Prehearing Conference

At the prehearing conference we will plan how the case will proceed. We will discuss schedule, obtaining information (discovery), whether there is a need for protections to be put in place for confidential information, how parties will exchange information, and how information will be provided to the Commission. We will also discuss framing the issues in the proceeding.

At hearing, but not the prehearing conference, a solid waste applicant needs to provide information including, but not necessarily limited to, the following:

- (1) A description of any present service provided by the Applicant, and the cost of that service for the area proposed in the application to be served;
- (2) An estimate of the cost of the facilities to be used in providing solid waste collection and disposal service;
- (3) The condition of the equipment and the program for equipment maintenance;
- (4) A statement of the assets available to the person, firm, association or corporation that will be expended to provide solid waste collection and disposal;

- (5) The Applicant's prior experience, if any;
- (6) The Applicant's familiarity with the statutes and rules that govern the operations it proposes;
- (7) The public need for the service that the applicant proposes, including the sentiment in the community that the applicant proposes to serve as to the necessity for service;

The applicant does not need to provide this information at the prehearing conference; the applicant does need to come prepared to discuss how it *plans* to present this information at the next hearing. The applicant should think through what witnesses and documents will be part of its case, how long it will take to present that case, and be prepared to discuss that information at the prehearing conference. Please review the following description of the hearing process in planning your presentation.

Hearing

The following is a description of the process for the hearing, if a hearing is necessary; it may be determined at the prehearing conference that one or more of these requirements do not apply or that additional requirements are necessary:

The Applicant will need to present testimony and documents establishing:

- (1) That there is a public need for the service proposed by the applicant.
 - Need for new service must be established by the testimony of members of the public who actually require the service. The Commission does not accept statements of an applicant that the authority is needed. The applicant must support its application with independent witnesses knowledgeable about the need for service in the territory in which the applicant seeks authority.
 - If the application is protested, the Commission will not consider written statements of witnesses whom the applicant has not made available for cross examination at hearing; the Commission will generally only consider live testimony.

(2) That the applicant is fit, willing, and able to provide the proposed service.

- The applicant must show that it has sufficient financial resources and assets to conduct the proposed operations.
- The applicant must show that it is willing and able to comply with the applicable laws and the Commission's rules.

(3) If the applicant requests a certificate to operate in a territory already served by another certificate holder, the applicant must also show that the existing transportation company or companies will not provide service in that territory to the satisfaction of the Commission.