

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

WASHINGTON UTILITIES AND)	DOCKET TG-080913
TRANSPORTATION COMMISSION,)	<i>(consolidated)</i>
)	
Complainant,)	ORDER 09
v.)	
)	
POINTS RECYCLING AND REFUSE,)	
LLC,)	
Respondent.)	
.....)	
WHATCOM COUNTY,)	DOCKET TG-081089
)	<i>(consolidated)</i>
Complainant,)	
v.)	ORDER 09
)	
POINTS RECYCLING AND REFUSE,)	
LLC,)	
Respondent.)	
.....)	
RENEÉ COE, SHELLEY)	DOCKET TG-082129
DAMEWOOD, and SHANNON)	<i>(consolidated)</i>
TOMSEN,)	
Complainants,)	ORDER 07
v.)	
)	
POINTS RECYCLING AND REFUSE,)	
LLC,)	
Respondents.)	
.....)	

ORDER CLARIFYING DISCOVERY SCHEDULE

NOTICE OF STATUS CONFERENCE
(Scheduled for Friday, June 5, 2009, at 1:30 p.m.)

1 **NATURE OF PROCEEDING.** Docket TG-080913 involves a tariff filing by Points Recycling and Refuse, LLC (Points or the Company), with the Washington Utilities and Transportation Commission (Commission) to remove curbside recycling from the Company's tariff. Docket TG-081089 involves a complaint filed by Whatcom County against Points to revoke the Company's certification as the designated hauler for Point Roberts, Washington. Docket TG-082129 also involves a complaint against Points filed by Reneé Coe, Shelley Damewood, and Shannon Tomsen (Complainants).

2 **APPEARANCES.** Dan Gibson, Whatcom County Deputy Prosecutor, Bellingham, Washington, represents Whatcom County. James Sells, Ryan Sells and Uptegraft, Inc., Silverdale, Washington, represents Points. Jennifer Cameron-Rulkowski, Assistant Attorney General, Olympia, Washington, represents the Commission's regulatory Staff (Commission Staff or Staff).¹ Complainants, Point Roberts, Washington, are appearing pro se.

3 **PROCEDURAL HISTORY.** On December 31, 2008, the Commission entered Order 03 in Dockets TG-080913, TG-080914,² and TG-081089 and Order 01 in TG-082129 consolidating the four dockets.³

4 On January 20, 2009, the Commission convened a prehearing conference at Olympia, Washington, before Administrative Law Judge Marguerite E. Friedlander, at which time the Commission established a procedural schedule.

5 On February 3, 2009, the Commission entered Order 07 in Dockets TG-080913 and TG-081089 and Order 05 in Docket TG-082129. Order 07/05 granted the Parties'

¹ In formal proceedings, such as this, the Commission's regulatory staff functions as an independent party with the same rights, privileges, and responsibilities as other parties to the proceeding. There is an "*ex parte* wall" separating the Commissioners, the presiding Administrative Law Judge, and the Commissioners' policy and accounting advisors from all parties, including regulatory staff. *RCW 34.05.455*.

²On January 15, 2009, the Commission entered Order 05 in Dockets TG-080913, TG-080914, and TG-081089 and Order 03 in Docket TG-082129 granting Points' request to withdraw its tariff revision filing in Docket TG-080914.

³ The procedural history in this matter is described more fully in Orders 03/01 and 06/04 and is not repeated here.

request for mediation and amended the procedural schedule to allow additional time for the mediation. On February 25, 2009, the Parties met with Administrative Law Judge Ann E. Rendahl in Bellingham, Washington, for a mediation session.⁴

6 **REQUEST TO SUSPEND SCHEDULE.** On March 18, 2009, Staff filed an agreed request with the Commission on behalf of all the parties, seeking suspension of the procedural schedule. Staff asserted that the suspension would allow additional time to conduct discovery and suggested that the Commission convene a prehearing conference in late July to set dates for a new procedural schedule

7 On March 20, 2009, the Commission granted Staff's request to suspend the procedural schedule to conduct additional discovery but found that the public interest is not served by waiting to set a new procedural schedule until late July.⁵ Instead, the Commission convened a prehearing conference on April 6, 2009, to discuss a new procedural schedule and discovery issues.

8 At the prehearing conference, Staff indicated that it had propounded data requests to Points seeking information that Staff typically seeks when conducting an audit. Staff stated that it had received Points' response on April 3, 2009, but had not had an opportunity to examine the response for compliance with the data request.⁶

9 Points asserts that it will submit its second set of responses to Staff's data requests by April 24, 2009. Staff maintains that it will need approximately four to six weeks to review what will likely be voluminous responses to its data requests. For the sake of administrative efficiency and in order to prevent this case from becoming mired in discovery, a status conference will be convened on Friday, June 5, 2009, to discuss a new procedural schedule.

⁴The Commission scheduled an additional mediation session for March 13, 2009, which was subsequently cancelled at the request of the Parties.

⁵See, Order 08/06.

⁶Staff typically conducts a company audit in person, at the company's location, for ease of access to the company's information and books. However, given the current budget constraints and travel restrictions within the state of Washington, Staff is obtaining this information through data requests and discovery.

- 10 **NOTICE OF HEARING.** The Commission will hold a status conference in this matter on **Friday, June 5, 2009, at 1:30 p.m., in Room 108, Richard Hemstad Building, 1300 S. Evergreen Park Drive SW, 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 line five minutes before the conference is scheduled to begin.
- 11 **NOTICE TO PARTIES: A party who objects to any portion of this Order must file a written objection within ten (10) calendar days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. The service date appears on the first page of the order in the upper right-hand corner. Absent such objection, this Order will control further proceedings in this matter, subject to Commission review.**

DATED at Olympia, Washington, and effective April 8, 2009.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARGUERITE E. FRIEDLANDER
Administrative Law Judge