

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

WASHINGTON UTILITIES AND)	
TRANSPORTATION COMMISSION,)	
)	
Complainant,)	
)	DOCKET NO. TG-010202
v.)	
)	
POINTS RECYCLING AND REFUSE,)	ORDER REJECTING
LLC,)	TARIFF FILING
)	
Respondent.)	
.....)	

MEMORANDUM

- 1 On February 13, 2001, Points Recycling and Refuse, LLC (Points Recycling), filed with the Washington Utilities and Transportation Commission (Commission) proposed Tariff No. 1 naming rates to become effective April 1, 2001, and replacing in its entirety current Tariff No. 4. The new tariff proposes to eliminate the Whatcom County residential curbside recycling program currently implemented by the company throughout its service territory in Point Roberts, Washington. Consistent with this reduction in service, proposed rates are equal to present rates absent the current \$5.21 recycle component of the combined garbage and recycling rate. Other proposed changes substantially include reformatting and additional services.
- 2 Whatcom County has adopted a Comprehensive Solid Waste Management Plan (Plan) pursuant to chapter 70.95 RCW. The original Plan was approved by the Department of Ecology in 1991. Service levels under the Plan are implemented by Whatcom County Ordinance. Both the Plan and the Ordinance mandate curbside residential recycling. *See* Ordinance Section 8.10.050(A). The Commission, by law, must require compliance with local solid waste plans and related implementation ordinances. RCW 81.77.030(5). A solid waste company must comply with the solid waste management plan applicable in the company's franchise area. RCW 81.77.040.
- 3 The Commission considered this matter at its regularly scheduled Open Meeting on March 28, 2001. Commission Staff argued that the filing should be rejected as unlawful. The owner of Points Recycling, Arthur Wilkowski, urged the Commission to allow the tariff to become effective as written, or to allow some portions of the tariff, but not others, to go into effect.
- 4 Based on the record and file in this matter, including the written and oral arguments of Commission Staff, Mr. Wilkowski, and others who made comments at the Open Meeting,

including Whatcom County Councilwoman Barbara Brenner, and Whatcom County Deputy Prosecuting Attorney Daniel Gibson, the Commission makes and enters the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

5 On February 13, 2001, Points Recycling filed with the Commission proposed Tariff No. 1 naming rates to become effective April 1, 2001. The matter came before the Commission at its regularly scheduled Open Public Meeting on March 28, 2001.

6 The proposed tariff eliminates the Whatcom County residential curbside recycling programs of Points Recycling. That program is required by the 1999 Whatcom County Comprehensive Solid Waste Management Plan and its Service Level Ordinance, as amended in 1997.

CONCLUSIONS OF LAW

7 The Commission is an agency of the State of Washington with jurisdiction to regulate rates, services, and practices of solid waste collection companies operating under chapter 81.77 RCW.

8 Points Recycling is a solid waste collection company subject to regulation by the Commission under chapter 81.77 RCW.

RCW 81.77.030 provides in relevant part:

The commission shall supervise and regulate every solid waste collection company in this state,

* * *

(5) By requiring compliance with local solid waste management plans and related implementation ordinances;

(6) By requiring certificate holders under chapter 81.77 RCW to use rate structures and billing systems consistent with the solid waste management priorities set forth under RCW 70.95.010 and the minimum levels of solid waste collection and recycling services pursuant to local comprehensive solid waste management plans. . . .

RCW 81.77.040 provides in relevant part:

No solid waste collection company shall hereafter operate for the hauling of solid waste for compensation without first having obtained from the commission a certificate

declaring that public convenience and necessity require such operation. A condition of operating a solid waste company in the unincorporated areas of a county shall be complying with the solid waste management plan prepared under chapter 70.95 RCW applicable in the company's franchise area.

9 The new filing, if approved, would be contrary to the provisions specified in the above statutes.

10 Based on the above Memorandum, Findings of Fact, and Conclusions of Law, the Commission enters the following Order:

ORDER

11 IT IS ORDERED that Tariff No. 1 filed by Points Recycling and Refuse, LLC, Inc., G-155, in Docket No. TG-010202 is hereby rejected.

DATED at Olympia, Washington, and effective this day of March 2001.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner