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1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
 COMMISSION

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WASHINGTON UTILITIES AND)	
3 TRANSPORTATION COMMISSION,)	
)	
4 Complainant,)	
)	
5 vs.)	DOCKET NO. TG-080913
)	Volume III
6 POINTS RECYCLING AND REFUSE,)	Pages 26 - 35
7 LLC,)	
)	
Respondent.)	

8

WHATCOM COUNTY,)	
)	
Complainant,)	
)	
10 vs.)	DOCKET NO. TG-081089
)	Volume III
11 POINTS RECYCLING AND REFUSE,)	Pages 26 - 35
12 LLC,)	
)	
13 Respondent.)	

14

RENEE COE, SHELLEY DAMEWOOD,)	
and SHANNON TOMSEN,)	
)	
Complainants,)	
)	
16 vs.)	DOCKET NO. TG-082129
)	Volume III
17 POINTS RECYCLING AND REFUSE,)	Pages 26 - 35
18 LLC,)	
)	
19 Respondent.)	

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 A prehearing conference in the above matter

21 was held on April 6, 2009, at 1:00 p.m., at 1300

22 South Evergreen Park Drive Southwest, Olympia,

23 Washington, before Administrative Law Judge MARGUERITE

24 E. FRIEDLANDER.

25 Kathryn T. Wilson, CCR, Court Reporter

1 The parties were present as follows:

2 WASHINGTON UTILITIES AND TRANSPORTATION
3 COMMISSION, by JENNIFER CAMERON-RULKOWSKI, Assistant
4 Attorney General, 1400 South Evergreen Park Drive
 Southwest, Post Office Box 40128, Olympia, Washington
 98504; telephone, (360) 664-1186.

5 POINTS RECYCLING AND REFUSE, LLC, by JAMES K.
6 SELLS, Attorney at Law; Ryan, Sells, Uptegraft, 9657
 Levin Road Northwest, Suite 240, Silverdale, Washington
 98383; telephone, (360) 307-8860.

7 WHATCOM COUNTY, by DAN GIBSON (via bridge
8 line), Deputy Prosecuting Attorney, 311 Grand Avenue,
 Suite 201, Bellingham, Washington 98225; telephone,
9 (360) 676-6784.

10 RENEE COE, SHELLEY DAMEWOOD, and SHANNON
11 TOMSEN, by SHANNON TOMSEN (via bridge line), pro se,
12 2125 Whalen Drive, Point Roberts, Washington 98281;
13 telephone, (360) 945-0206.

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1 P R O C E E D I N G S

2 JUDGE FRIEDLANDER: Let's be on the record.
3 I'm Marguerite Friedlander, the administrative law
4 judge presiding over this proceeding. I'll start out
5 by cautioning all the parties, as I did off the record,
6 not to discuss anything that has come up in the
7 mediation session from February 25th, or the subsequent
8 news article in the all-points bulletin because that is
9 not why we are here today.

10 We are here today before the Washington
11 Utilities and Transportation Commission on Monday
12 afternoon, April 6th, 2009, for a prehearing conference
13 in Docket TG-080913, tariff revisions proposed by
14 Points Recycling and Refuse, LLC, which would remove
15 curbside recycling collection from its tariff; Docket
16 TG-081089, a complaint filed by Whatcom County against
17 Points, and Docket TG-082129, a complaint filed by
18 Renee Coe, Shelley Damewood, and Shannon Tomsen,
19 against Points. The Commission has convened this
20 prehearing conference because of the request filed by
21 Commission staff on March 18th, 2009, to suspend the
22 procedural schedule until late July at which time the
23 parties would set a new procedural schedule and a
24 hearing in order to allow for additional discovery.

25 Before we get into that matter, let's go

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1 ahead and take short appearances. We've all gotten
2 together before, so just go ahead and state your full
3 name and the party that you represent. Let's go ahead
4 and begin with Points.

5 MR. SELLS: If Your Honor please, Jim Sells,
6 attorney, appearing on behalf of Points Recycling and
7 Refuse, in all three consolidated causes.

8 JUDGE FRIEDLANDER: For Whatcom County?

9 MR. GIBSON: Dan Gibson, deputy prosecuting
10 attorney with the civil division representing Whatcom
11 County.

12 JUDGE FRIEDLANDER: Commission staff?

13 MS. CAMERON-RULKOWSKI: Jennifer
14 Cameron-Rulkowski, assistant attorney general on behalf
15 of Commission staff.

16 JUDGE FRIEDLANDER: Thank you, and on behalf
17 of Complainants?

18 MS. COE: Renee Coe on behalf of
19 Complainants.

20 JUDGE FRIEDLANDER: We also have appearing, I
21 believe, Shelley Damewood and Shannon Tomsen; correct?

22 MS. COE: Yes.

23 JUDGE FRIEDLANDER: There is no one else in
24 the hearing room. Is there anyone else on the
25 conference bridge who would like to state an

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1 appearance? Hearing nothing, let's go back to the
2 substance of why we are here, because when I received
3 Staff's request, I was a little bit concerned because
4 of the fact that this matter has been going on for over
5 a year now, and I guess my concern is that we have
6 canceled a hearing date and we have no hearing day in
7 sight, and we may be pushing this off for another three
8 months. So I would like to have a little bit more, I
9 guess, certainty with regard to the schedule at this
10 point.

11 My other concern with regard to the
12 procedural schedule is the application in Freedom 2000,
13 LLC. Because this docket must progress before that
14 docket is possibly even necessary, Freedom 2000 LLC's
15 application is being put in limbo until this proceeding
16 has been through the process completely, and I would
17 like to know a little bit more about where we are with
18 the schedule and if there is a possibility that we
19 don't have to wait until July in order to set these
20 dates. Since it was Staff's request, why don't I go
21 ahead and start with Staff.

22 MS. CAMERON-RULKOWSKI: Your Honor, Staff has
23 issued a series of data requests to Points, and we do
24 not yet have a deadline for Points to respond. The
25 ten-day deadline has passed, but we have not been able

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1 to come up with a deadline. So at this point, we do
2 not know when we will get those responses, and when we
3 do, Staff will need up to several months in order to go
4 through those responses and analyze them.

5 JUDGE FRIEDLANDER: Mr. Sells, as far as
6 speaking on behalf of Points Recycling, is there a
7 reason?

8 MR. SELLS: Several. If Your Honor, please,
9 that is correct. We've received some data requests,
10 but in fact what the data requests are is an audit,
11 which is fine. We don't have any problem undergoing an
12 audit. Generally, an audit is a 45-day period, and I
13 could be wrong about that, but something like that, and
14 generally, there is an auditor involved from the
15 Commission that goes up to the company and tells the
16 company what they want and don't want and so forth. We
17 understand the traveling restrictions and we understand
18 there is not going to be an auditor sent up there.

19 What we've done, just as of Friday, is
20 submitted a list, basically, of questions from Points
21 trying to get some sort of input from an auditor here
22 as to if we are going in the right direction. Is this
23 what you want. Is this not what you want. What kind
24 of allocations do you want and that sort of thing. If
25 we could get some sort of response, some sort of input

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1 from that, I don't think it's going to take very long
2 to put it together. This is not a large company. How
3 long, I don't know. We could have filed something by
4 now, but it would probably be totally useless to Staff
5 and to the Commission because there wasn't an auditor
6 involved, and Mr. Wilkowski is not an auditor and
7 neither am I.

8 I guess I look to Staff to see if those
9 things I sent down on Friday are helpful or useless or
10 somewhere in between.

11 MS. CAMERON-RULKOWSKI: Your Honor, may I
12 respond?

13 JUDGE FRIEDLANDER: Sure.

14 MS. CAMERON-RULKOWSKI: Quickly to say that
15 Mr. Gene Eckhardt is sitting next to me, and he told me
16 that he expects that it will take considerably shorter
17 than the three months that I just stated to go through
18 those responses. He estimates about one month, but we
19 know that there is always some back and forth when an
20 auditor does go through the information that a company
21 provides.

22 As to the document that Mr. Sells provided me
23 with last week, this is very similar to a document that
24 Staff has already received, and it may be helpful to go
25 off the record at this point and discuss that in more

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1 detail.

2 JUDGE FRIEDLANDER: Okay. Why don't we go
3 ahead and do that. When we come back on the record, I
4 have a few questions about the request that Staff has
5 made of Points regarding is this an audit for one
6 year's worth of figures, or are we talking about a much
7 more expanded audit? That will kind of give me a
8 better gauge of how long it's going to take for Staff
9 to process it if it's more than one year's worth of
10 numbers.

11 MS. CAMERON-RULKOWSKI: Your Honor, it's for
12 a test year. Basically, the data request encompasses
13 most of what a company would normally file for a
14 general rate increase, and I believe we will need to
15 set a deadline to get these responses in before we can
16 proceed to set a procedural schedule.

17 JUDGE FRIEDLANDER: So then that goes into my
18 second question which was do you anticipate going back
19 to prefiling testimony, et cetera, or of the deadlines
20 that have been previously suspended, picking up where
21 we left off, or are you anticipating that this might
22 become a much shorter proceeding once you have all your
23 figures?

24 MS. CAMERON-RULKOWSKI: Your Honor, the
25 reason that I originally suggested suspension, and this

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1 is speaking from my perspective, is that once this
2 information was in, it could be that it would help the
3 parties resolve the case, and if not the parties,
4 perhaps the ultimate decision maker, but we just don't
5 know at this time.

6 JUDGE FRIEDLANDER: That's understandable.
7 If no one has anything else to add, we will go off the
8 record, and I will leave the room and let the parties
9 discuss what needs to be discussed as far as Mr. Sells'
10 filing from Friday. We are off the record.

11 (Discussion off the record.)

12 JUDGE FRIEDLANDER: While we were off the
13 record, the parties discussed possible discovery
14 scheduling revisions, and I believe that April 24th has
15 been decided as the date for responses to the second
16 set of data requests?

17 MS. CAMERON-RULKOWSKI: That's correct, Your
18 Honor.

19 JUDGE FRIEDLANDER: We have agreed that
20 Staff needs approximately six weeks to go over those
21 before the parties will be in a better position to know
22 whether discovery needs to continue or we can set
23 another schedule, so we will have a telephonic status
24 conference on Friday, June 5th, at 1:30 p.m. Is there
25 anything else that the parties needed to discuss with

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1 me procedurally? Hearing nothing, this hearing is
2 adjourned. Thank you.

3 (Prehearing adjourned at 1:45 p.m.)

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