

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

WASHINGTON UTILITIES AND	)	DOCKETS TG-080913
TRANSPORTATION COMMISSION,	)	TG-080914 (<i>consolidated</i>)
)	
Complainant,	)	ORDER 05
v.)	
	)	INITIAL ORDER GRANTING
POINTS RECYCLING AND REFUSE,	)	REQUEST TO WITHDRAW
LLC,	)	TARIFF REVISION FILING
)	
Respondent.)	
.....)	
WHATCOM COUNTY,	)	DOCKET TG-081089
	)	(<i>consolidated</i>)
Complainant,)	
v.	)	ORDER 05
)	
POINTS RECYCLING AND REFUSE,)	
LLC,)	
)	
Respondent.)	
.....)	
RENEÉ COE, SHELLEY	)	DOCKET TG-082129
DAMEWOOD, and SHANNON	)	(<i>consolidated</i>)
TOMSEN,)	
	)	ORDER 03
Complainants,)	
)	
v.)	
)	
POINTS RECYCLING AND REFUSE,)	
LLC, and WHATCOM COUNTY,)	
)	
Respondents.)	
.....)	

INTRODUCTION

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-080914 involves a tariff filing by Points to add the company-specific definition of "Alternative Daily Landfill Cover" to Points' tariff. Docket TG-081089 involves the 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 (Coe Complaint) against Points and Whatcom County 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. Jonathan Thompson, 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 June 27, 2008, the Commission issued Order 01 consolidating Dockets TG-080913, TG-080914, and TG-081089 (consolidated dockets).²

4 The Commission convened a prehearing conference in the consolidated dockets at Olympia, Washington on December 8, 2008, before Administrative Law Judge Marguerite E. Friedlander.

5 On December 12, 2008, the Commission issued Order 02 in the consolidated dockets, establishing a procedural schedule.

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*.

²The procedural history in this matter is described more fully in Order 03/01 and is not repeated here.

- 6 On December 31, 2008, the Commission issued Order 03 in Dockets TG-080913, TG-080914, and TG-081089 and Order 01 in TG-082129. The order consolidated the four dockets and asserted that the Commission construed Points' December 24, 2008, letter as both an answer and motion to dismiss (Motion).
- 7 The Commission issued Order 04/02 on January 13, 2009, denying Points' Motion and denying Complainants' cross motion which requested that the Commission deem the allegations against Points in the Coe Complaint admitted by the Company.
- 8 **WITHDRAWAL OF APPLICATION.** On January 9, 2009, Points filed a request to withdraw its tariff revision filing in Docket TG-080914. Points had initially mentioned at the December 8, 2008, prehearing conference that it would be withdrawing this filing. The Company asserts that it is requesting to withdraw its tariff filing because it expects this issue to be dealt with in the upcoming rules revision.³ The Company states that it may re-file its request at some point in the future if the solid waste rulemaking does not address 'alternative daily landfill cover.'
- 9 Under WAC 480-07-380(3), a party must seek permission from the Commission to withdraw when the Commission has issued a hearing notice or begun an adjudication, as in this case. The Commission will grant a motion to withdraw when withdrawal is in the public interest. As Points' request will prevent duplicate expenditures of resources and efforts in establishing the definition of the term 'alternative daily landfill cover' in both Dockets TG-080914 and TG-080591, it is reasonable and in the public interest to grant the Company's request. The Company's request to withdraw its tariff revision filing in Docket TG-080914 should be granted.

³While Points do not identify the rulemaking docket in question in its request, Docket TG-080591 is the Commission's rulemaking docket dealing with the definition of 'alternative daily landfill cover.'

ORDER

10 **THE COMMISSION ORDERS** That the request of Points Recycling and Refuse, LLC, to withdraw its proposed tariff revision in Docket TG-080914 is granted without prejudice.

DATED at Olympia, Washington, and effective January 15, 2009.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

MARGUERITE E. FRIEDLANDER
Administrative Law Judge

NOTICE TO THE PARTIES

This is an Initial Order. The action proposed in this Initial Order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order, and you would like the Order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

WAC 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this Initial Order to file a *Petition for Administrative Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within (10) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order any party may file a Petition to Reopen a contested proceeding to permit receipt of evidence essential to a

decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

RCW 80.01.060(3) provides that an initial order will become final without further Commission action if no party seeks administrative review of the initial order and if the Commission fails to exercise administrative review on its own motion.

One copy of any Petition or Answer filed must be served on each party of record with proof of service as required by WAC 480-07-150(8) and (9). An Original and 5 copies of any Petition or Answer must be filed by mail delivery to:

Attn: David W. Danner, Executive Director and Secretary
Washington Utilities and Transportation Commission
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