

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

In re Application No. GA-079178 of)	
)	DOCKET NO. TG -030831
BLAINE-BAY REFUSE, INC.)	
)	
For Extension of Authority Under)	ORDER NO. 01
Certificate No. G-145, for a)	
Certificate of Public Convenience)	PREHEARING CONFERENCE
and Necessity to Operate Motor)	ORDER
Vehicles in Furnishing Solid Waste)	
Collection Service)	
)	
.....)	

1 **Proceeding.** Docket No. TG-030831 is an application by Blaine-Bay Refuse, Inc. for extension of authority under certificate No. G-145, for a certificate of public convenience and necessity to operate motor vehicles in furnishing solid waste collection service.

2 **Conference.** The Commission convened a prehearing conference in this docket at Olympia, Washington on October 6, 2003, before Administrative Law Judge Karen M. Caillé.

3 **Appearances.** Philip A. Serka, attorney, Bellingham, WA, represents Blaine-Bay Refuse, Inc. (Blaine Bay or Applicant or Company). Polly L. McNeill, attorney, Seattle, WA, represents Sanitary Service Company, Inc. (Sanitary Service or Protestant). Don Trotter, Assistant Attorney General, represents the staff of the Washington Utilities and Transportation Commission (Commission Staff). Contact information provided at the conference for the parties' representatives is attached as Appendix A to this order.

4 **Protestants.** Sanitary Service Company, Inc. filed a timely protest to the docketed application:

5 **Discovery.** The parties do not anticipate a need to invoke the discovery rule, WAC 480-09-480, in this proceeding.

- 6 **Hearing Process.** The parties agreed that the proceeding involves both historical issues related to a previous extension application filed in 1971, Hearing No. GA-405, and the present request for extension under Application No. GA-079178. Applicant claims that the legal description accompanying the order granting the extension in Hearing No. GA-405 erroneously omitted the area that is the subject of the instant request for extension of service area.
- 7 The parties agreed that they would first address the historical issues related to Hearing No. GA-405. They agreed that Commission Staff and Applicant would prefile testimony, and Sanitary Service would have the opportunity to file rebuttal testimony, if necessary. All parties agreed that the record and application file in Hearing No. GA-405 should be admitted as exhibits in this proceeding.
- 8 Commission Staff volunteered to compile the record and application file in Hearing No. GA-405, and provide the parties with the certified documents for review by October 13, 2003. The parties will review the documents for completeness and e-mail the results of their review by October 17, 2003.
- 9 Following the period of review, each set of certified documents will be marked for identification as separate exhibits for purposes of hearing in the instant matter. Thereafter, Commission Staff and Applicant will prefile testimony, and the parties will file motions and responses on the historical issues. The Commission may enter an order on the motions, or may carry them with the case.
- 10 **Statement of Issues.** The parties generally identified the issues as the historical issues related to the service area covered in the extension certificate granted in Hearing No. GA-405, and the instant application for extension of Certificate G-145 under RCW 81.77.040. In addition, Applicant specified the following issues:
1. Whether Order No. 646 intended the boundaries to be on both sides of the road to the water when the road was abutting the water body.
 2. Whether Order No. 646 should have included the area of service of those who testified from Birch Bay Village, Birch Bay Park and Drayton Harbor who needed service.

3. In the event that the order establishing the service area for Blaine Bay does not include the areas that were intended to have been served by Blaine Bay, can the Order No. 646 be amended to correct the error?
4. Whether the Blaine Bay application to extend refuse collection service to these areas identified conforms with the criteria set forth in RCW 81.77.
5. Whether Order No. MVG-646 which states: “thence west on the Grandview Road extended to Point Whitehorn” means that the boundary should have extended Grandview Road to Point Whitehorn to the water body.
6. Whether or not Blaine Bay Refuse 29 years of operating in these additional areas accrues a right for Blaine Bay Refuse to continue service.

11 **Hearing Schedule.** The parties agreed to the following schedule for the proceeding:

Applicant and Commission Staff prefile testimony on historical issues	November 17, 2003
Motions on historical issues	December 10, 2003
Response to motions on historical issues	January 8, 2004
Evidentiary Hearing in Blaine, WA	February 18-19, 2004

12 **Document preparation and process issues.** Parties must file **an original plus 9 copies** of each document filed with the Commission. All filings must be made through the Commission Secretary either by mail to the Secretary, WUTC, P.O. Box 47250, 1300 S. Evergreen Park Drive S.W., Olympia, WA 98504-7250, or by other means of delivery to the Commission’s offices at the street address provided above. All filings of substance (e.g. testimony, briefs, motions, answers) must include an electronic copy on a 3.5” IBM-formatted, high density disc in your choice of Word 97 or later, or WordPerfect 6.0 or later. Service on all parties must be simultaneous with filing. The Commission does not accept filings by facsimile without prior permission from the presiding judge.

- 13 Parties must bring 3 copies for the bench of each document or exhibit they plan to offer at the hearing. In addition, parties must supply each other with copies of the exhibit or document.
- 14 Appendix B provides information relevant to a hearing for a certificate of authority to operate motor vehicles in furnishing solid waste collection in the state of Washington.

Dated in Olympia, Washington, and effective this 15th day of October 2003.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

KAREN M. CAILLÉ
Administrative Law Judge

NOTICE TO PARTIES: Any objection to the provisions of this Order must be filed within ten (10) days after the date of mailing of this statement, pursuant to WAC 480-09-460(2). Absent such objections, this prehearing conference order will control further proceedings in this matter, subject to Commission review.

Appendix A

**DOCKET TG-030831
PARTIES' REPRESENTATIVES**

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Appendix B

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 chapter 81.77 RCW and chapter 480-70 WAC. The procedures the Commission uses in its hearings are in chapter 480-09 WAC. Copies of the statutes and rules are available from the Commission's record center, or in your local library.

The Commission provides the information in this Appendix to inform the parties of the hearing process and the type of information the Commission will need to make a decision 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.

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 must come to the hearing prepared to present the above information through documents or the testimony of witnesses.

Hearing

During the hearing, 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