

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

In re Application of)	DOCKET TG-081576
)	
FREEDOM 2000, LLC)	ORDER 01
)	
For a Certificate of Public Convenience)	PREHEARING CONFERENCE
and Necessity to Operate Motor)	ORDER GRANTING
Vehicles in Furnishing Solid Waste)	INTERVENTION; NOTICE OF
Collection Service)	CONTINUED PREHEARING
)	CONFERENCE
.....)	(Set for Monday, May 4, 2009, at 9:30 a.m.)

- 1 **NATURE OF PROCEEDING.** Docket TG-081576 involves an application for a certificate of public convenience and necessity of Freedom 2000, LLC (Freedom), to operate as a solid waste collection company within Point Roberts, Whatcom County, Washington.

- 2 **CONFERENCE.** The Washington Utilities and Transportation Commission (Commission) convened a prehearing conference in this docket at Olympia, Washington, on December 8, 2008, before Administrative Law Judge (ALJ) Marguerite E. Friedlander.

- 3 **APPEARANCES.** David Gellatly, owner/operator, Point Roberts, Washington, represents Freedom. Arthur Wilkowski, owner/operator, Point Roberts, Washington, represents Points Recycling and Refuse, LLC (“Points Recycling” or “Protestant”). James Sells, attorney, Silverdale, Washington, represents Washington Refuse and Recycling Association (WRRRA).¹ Jonathan Thompson, Assistant Attorney General, Olympia, Washington, represents the Commission’s regulatory staff (Commission Staff or Staff).² Contact information provided at the conference for the parties’ representatives is attached as Appendix A to this order.

¹The Washington State Department of Ecology (Department of Ecology) filed comments regarding the application.

² 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

- 4 **PETITIONS FOR INTERVENTION.** On October 29, 2008, WRRRA filed its petition to intervene in this docket. No party objected to the petition for intervention, which was granted at the prehearing conference. No other person filed a petition to intervene or appeared at the conference seeking to intervene.
- 5 **MOTION FOR CONTINUANCE.** At the prehearing conference, the parties requested a continuance of the prehearing conference for a period of six months. The parties explained that the application filed by Freedom will be affected by the action the Commission takes in the consolidated matter of Dockets TG-080913, TG-080914, and TG-081089, relating to service by Points Recycling, the existing carrier in Point Roberts, Washington. The Parties note that Whatcom County has requested that the Commission revoke Points Recycling's certification as the designated hauler in Point Roberts, Washington in Docket TG-081089 (Whatcom County complaint).
- 6 RCW 81.77.040 provides that, "[w]hen an applicant requests a certificate to operate in a territory already served by a certificate holder under this chapter, the [C]ommission may, after notice and an opportunity for a hearing, issue the certificate only if the existing solid waste collection company or companies serving the territory will not provide service to the satisfaction of the [C]ommission or if the existing solid waste collection company does not object." Points Recycling has filed a protest in this matter, so the Commission's ruling on the Whatcom County complaint could have a direct impact on Freedom's application. Therefore, the parties request that the Commission continue the prehearing conference until the Whatcom County complaint has been resolved.
- 7 The Commission's procedural rules allow the Commission to grant a timely request for continuance to which all parties expressly agree unless the extension is inconsistent with the public interest or the administrative needs of the Commission.³ WAC 480-07-385(4) provides that the Commission may only grant continuances to a date certain.

Administrative Law Judge, and the Commissioners' policy and accounting advisors from all parties, including regulatory staff. *RCW 34.05.455.*

³WAC 480-07-385(2).

8 All of the parties have agreed to the continuance request. The parties did not initially suggest a specific date on which to continue the conference, since the procedural schedule was only set in the Whatcom County complaint after the prehearing conference in this matter. The Parties tentatively agreed to a continuance to May 4, 2009, pending establishment of the procedural schedule in the Whatcom County complaint.

9 Despite the fact that the procedural schedule in the Whatcom County complaint currently contemplates the case going to the ALJ for an initial order following receipt of post-hearing closing briefs on May 19, 2009, the Commission is hesitant to delay the prehearing conference further than May 4, 2009. As stated previously, the Commission's procedural rules only allow continuances to a date certain, and no specific deadline has been established for the issuance of the ALJ's initial order in that matter.

10 The Commission understands the parties' concerns and the affect the Whatcom County complaint could have on Freedom's application. As all parties have agreed to the continuance and given the fact that the Whatcom County complaint proceeding could have a direct impact on Freedom's application, the Commission finds good cause to continue the prehearing conference to May 4, 2009.

11 Due to the length of the continuance and the interdependence of this matter and the Whatcom County complaint, the Commission directs the parties to file Joint Status Reports on February 9, 2009, and April 6, 2009, to alert the Commission to any developments with regard to the status of this proceeding.

12 **THE COMMISSION GIVES NOTICE That the Commission will continue the prehearing conference in this matter until 9:30 a.m., on May 4, 2009, in Room 206, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.**

13 **DOCUMENT PREPARATION AND FILING REQUIREMENTS.** Parties must file an original plus **four (4)** copies of all pleadings, motions, briefs, and other prefiled materials. These materials must conform to the format and publication guidelines in WAC 480-07-395 and WAC 480-07-460. The Commission prefers that materials be three-hole punched with *oversized* holes to allow easy handling. The

Commission may require a party to refile any document that fails to conform to these standards.

- 14 All filings must be mailed or delivered to the David W. Danner, Executive Director and Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 S. Evergreen Park Drive, S.W. Olympia, Washington 98504-7250. Both the post office box and street address are required to expedite deliveries by the U.S. Postal Service.
- 15 An electronic copy of all filings must be provided through the Commission's Web Portal (www.utc.wa.gov/e-filing) or by e-mail delivery to records@utc.wa.gov. Alternatively, parties may furnish an electronic copy by delivering with each filing a 3.5-inch IBM-formatted high-density diskette or CD including the filed document(s). Parties must furnish electronic copies in MS Word 6.0 (or later) supplemented by a separate file in .pdf (Adobe Acrobat) format. Parties must follow WAC 480-07-140(5) in organizing and identifying electronic files.
- 16 **ELECTRONIC SUBMISSION OF DOCUMENTS.** Parties may submit documents electronically to the Commission on the filing deadline to expedite the filing process, but must file an original, plus **four (4)** paper copies, of the documents with the Commission by 12:00 noon on the first business day following the filing deadline established in the procedural schedule. *WAC 480-07-145(6)*. Parties may submit documents electronically through the Commission's Web Portal (www.utc.wa.gov/e-filing) or by e-mail to records@utc.wa.gov. Finally, to perfect filing, parties must simultaneously provide e-mail courtesy copies of filings to the presiding administrative law judge identified on Appendix A to this Order as well as to the parties to the proceeding.
- 17 **ALTERNATE DISPUTE RESOLUTION.** The Commission supports the informal settlement of matters before it. Parties are encouraged to consider means of resolving disputes informally. The Commission does have limited ability to provide dispute resolution services; if you wish to explore those services, please call the Director, Administrative Law Division, at 360-664-1144.

18 **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 December 9, 2008.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

MARGUERITE E. FRIEDLANDER
Administrative Law Judge

APPENDIX A

**PARTIES' REPRESENTATIVES
DOCKET TG-081576**

PARTY	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
Freedom 2000	David Gellatly Owner/Operator P.O. Box 1314 Point Roberts, WA 98281	360-945-1410	360-945-1410	david@kordlyn.com
Points Recycling and Refuse, LLC	Arthur Wilkowski PMB 1542 145 Tye Drive Point Roberts, WA 98281	360-945-1516	360-945-0414	prand@pointroberts.net
Commission Staff	Jonathan Thompson Assistant Attorney General 1400 S. Evergreen Park Dr. SW P.O. Box 40128 Olympia, WA 98504-0128	360-664-1225	360-586-5522	jthomps@utc.wa.gov
Washington Refuse and Recycling Association	James Sells Ryan Sells and Uptegraft 9657 Levin Road NW, Ste. 240 Silverdale, WA 98383	360-307-8860	360-307-8865	jimsells@rsulaw.com
Admin. Law Judge	Marguerite E. Friedlander 1300 S. Evergreen Park Dr. SW P.O. Box 47250 Olympia, WA 98504-7250	360-664-1285	360-664-2654	mfriedla@utc.wa.gov

APPENDIX B
PROCEDURAL SCHEDULE
DOCKET TG-081576

EVENT	DATE
First Joint Status Report	February 9, 2009
Second Joint Status Report	April 6, 2009
Continued Prehearing Conference	May 4, 2009, at 9:30 a.m.