

[Service Date February 8, 2008]

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

WASHINGTON UTILITIES AND	)	DOCKET TG-080159
TRANSPORTATION COMMISSION,)	
	)	ORDER 01
Complainant,)	
	)	COMPLAINT AND ORDER TO
v.	)	SHOW CAUSE WHY PERMIT
	)	SHOULD NOT BE CANCELED
POINTS RECYCLING & REFUSE, LLC,	)	FOR FAILURE TO PAY
	)	REGULATORY FEES AND/OR
Respondent.	)	FAILURE TO FILE 2006 ANNUAL
	)	REPORT; NOTICE OF HEARING
	)	(Set for Tuesday, March 4, 2008,
	)	1:30 p.m.)
.....)	

1 **Synopsis.** *The Commission orders Points Recycling & Refuse, LLC, to show cause why its solid waste collection certificate should not be canceled for failure to file its annual report and regulatory fees.*

2 **Proceedings.** The Washington Utilities and Transportation Commission (Commission), pursuant to RCW 81.77.030, initiates this complaint on its own motion to determine whether Points Recycling & Refuse, LLC (Points), the holder of solid waste collection certificate Number G-155, has willfully violated or refused to observe the Commission's rules and orders, and whether the Commission should revoke Points' certificate.

COMPLAINT

3 RCW 81.04.080 and WAC 480-70-071 require that the holder of a certificate of public convenience and necessity for solid waste service file a complete, accurate annual report showing all requested information by May 1 of the succeeding year. The Commission may assess penalties¹ or take action to suspend or cancel a certificate if a company fails to file its required annual report.²

¹RCW 81.04.380; RCW 81.04.405.
²RCW 81.77.030; WAC 480-70-071.

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- 4 RCW 81.77.080 and WAC 480-70-076 require that every solid waste collection company pay the Commission a regulatory fee of one percent of its gross intrastate operating revenue, or such other amount as established by Commission order, on or before the date specified for filing annual reports. The Commission may take action to suspend or cancel a certificate if a company fails to pay its required regulatory fees.³
- 5 Points failed to file its 2005 annual report or pay its 2006 regulatory fee.
- 6 On July 5, 2006, in Docket TG-061052, the Commission issued Points a \$100 penalty assessment for failure to file its 2005 annual report by the May 1, 2006, deadline. The Commission received Points' petition for mitigation of the penalty on July 25, 2006. The petition stated Points had several issues before Commission staff that were not being addressed to its satisfaction. Points said it would comply with the Commission (in filing the annual report) when the Commission found the time to address the company's problems.
- 7 On September 14, 2006, the Commission entered Order 02 in Docket TG-061052, denying Points' petition for mitigation and ordering the company to remit payment for the penalty in a timely manner, along with the required annual report, or further enforcement would be likely.
- 8 Although the Commission received Points' \$100 payment for the penalty assessment on November 6, 2006, the company remains in violation of WAC 480-70-071 by failing to file its 2005 annual report or pay its 2006 regulatory fee, which was to accompany the report.
- 9 Although Points received notice in March 2007 of its obligation to file its 2006 annual report and pay 2007 regulatory fees by May 1, 2007, and a reminder of its obligation in April 2007, Points failed to file its annual report or pay its regulatory fee.
- 10 On June 28, 2007, in Docket TG-071244, the Commission issued a \$200 penalty assessment to Points for failure to file its 2006 annual report by the May 1, 2007, deadline.
- 11 On August 13, 2007, the Commission sent Points a letter notifying it the penalty assessment payment was delinquent and that the 2005 and 2006 annual reports and

³ RCW 81.77.030; WAC 480-70-076.

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2006 and 2007 regulatory fee payments must be received by the Commission or the company could face further enforcement action, including cancellation of its certificate.

- 12 The Commission sent Points another letter on December 11, 2007, requesting it file the delinquent reports and remit payment for the delinquent regulatory fees and penalty assessment by December 31, 2007, or the Commission would begin proceedings to suspend, and ultimately cancel, Points' solid waste certificate. Points did not respond.
- 13 RCW 81.77.030 allows the Commission, on a complaint made on its own motion, to suspend, revoke, alter, or amend any solid waste collection certificate at any time, after providing the holder of any certificate with notice and an opportunity for a hearing at which it shall be proven that the holder has willfully violated or refused to observe any of the Commission's orders, rules, or regulations.

ORDER AND NOTICE OF HEARING

- 14 **IT IS HEREBY ORDERED** that Points Recycling & Refuse, LLC, appear before the Commission in this proceeding conducted pursuant to RCW 81.77.030 at **1:30 p.m. on Tuesday, March 4, 2008, in Room 108, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington**, to answer the complaint herein and show cause, if any, why the Commission should not cancel or revoke its solid waste collection certificate for failure to file annual reports and pay regulatory fees. Points shall appear at the time and place set forth above unless the Executive Secretary of the Commission, by notice of hearing, specifies a different time and place.
- 15 The hearing in this matter is being held pursuant to Part IV of the Administrative Procedure Act (APA), RCW 34.05, pertaining to adjudicative proceedings, including, but not limited to RCW 34.05.413, RCW 34.05.434, RCW 34.05.440, RCW 34.05.449, and RCW 34.05.452, and pursuant to WAC 480-07, including but not limited to WAC 480-07-145, WAC 480-07-150, WAC 480-07-320, WAC 480-07-440, WAC 480-07-450, WAC 480-07-470, WAC 480-07-490, and WAC 480-07-495. The Commission has jurisdiction over in matter under RCW 81.77.030, which authorizes the Commission to regulate solid waste collection companies. In addition to the foregoing statutes, this matter involves RCW 80.01.040, RCW 81.04.080, and RCW 81.77, including but not limited to RCW 81.77.020 and RCW 81.77.080. This

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matter also involves the administrative rules set forth in WAC 480-70 and WAC 480-07.

16 **NOTICE IS FURTHER GIVEN THAT ANY PARTY WHO FAILS TO ATTEND OR PARTICIPATE IN THE HEARING SET BY THIS NOTICE, OR ANY OTHER STAGE OF THIS PROCEEDING, MAY BE HELD IN DEFAULT IN ACCORDANCE WITH RCW 34.05.440 AND WAC 480-07-450.**

17 If a limited English-speaking or hearing-impaired party needs an interpreter, a form is attached to this notice to be filled out and returned as indicated, so that a qualified interpreter may be appointed at no cost to the party or witness.

18 The names and mailing addresses of all parties and their known representatives are shown as follows:

Complainant: Washington Utilities and
Transportation Commission
1300 S. Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

Representative: Jennifer Cameron-Rulkowski
Assistant Attorney General
1400 S. Evergreen Park Drive S.W.
P.O. Box 40128
Olympia, WA 98504-0128
(360) 664-1186

Respondent: Points Recycling & Refuse, LLC
PMB 1542
145 Tyee Drive
Point Roberts, WA 98281-9602

Representative: Unknown

19 Administrative Law Judge Adam E. Torem, from the Commission's Administrative Law Division, will preside during this proceeding.

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- 20 Based on a review of the Commission's records, and consistent with RCW 80.01.060, the undersigned finds probable cause exists to enter this order and commence this proceeding.
- 21 The Commission will give parties notice of any other procedural phase of the proceeding in writing or on the record, as appropriate during this proceeding.

DATED at Olympia, Washington, and effective February 8, 2008.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

ANN E. RENDAHL
Administrative Law Judge

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NOTICE

Hearing facilities are accessible to persons with disabilities. Smoking is prohibited. If limited English-speaking, hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

If you need an interpreter, or have other special needs, please fill out this form and return it to Washington State Utilities and Transportation Commission, Attention: Carole J. Washburn, 1300 S. Evergreen Park Drive SW, P. O. Box 47250, Olympia, WA 98504-7250. (PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket : _____

Case Name: _____

Hearing Date: _____ Hearing Location: _____

Primary Language: _____

Hearing Impaired (Yes) _____ (No) _____

Do you need a certified sign language interpreter:

Visual _____ Tactile _____

Other type of assistance needed: _____

English-speaking person who can be contacted if there are questions:

Name: _____

Address: _____

Phone No.: () _____