

[Service Date May 29, 2008]

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

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,)	DOCKET TG-080159
)	
Complainant,)	ORDER 02
)	
v.)	INITIAL ORDER
)	DISMISSING COMPLAINT
POINTS RECYCLING & REFUSE, LLC,)	AND CANCELLING HEARING
)	
Respondent.)	(Previously Noted for July 22, 2008)
)	
.....)	

MEMORANDUM

- 1 On February 8, 2008, the Commission issued to Points Recycling & Refuse, LLC (Points), a Complaint and Order to Show Cause Why Permit Should Not Be Canceled for Failure to Pay Regulatory Fees and/or Failure to File 2006 Annual Report. In short, the Commission sought to revoke the solid waste collection certificate (Number G-155) held by Points for its alleged failure to abide by Commission rules and orders. The Commission set a hearing date of March 4, 2008.
- 2 On March 3, 2008, Commission Staff and Points jointly requested to stay the cancellation hearing in order to allow Points additional time to file its delinquent annual reports and pay any regulatory fees due and owing. Commission Staff requested that the hearing be rescheduled if Points failed to make the required filings and payments on or before April 15, 2008. On March 3, 2008, the Commission issued a Notice continuing the cancellation hearing until April 29, 2008.
- 3 On April 22, 2008, Commission Staff notified the Commission that the hearing remained necessary because Points had failed to file its delinquent reports and regulatory fees by the agreed-upon date of April 15, 2008.
- 4 On April 28, 2008, Commission Staff sought a second continuance of the hearing based upon Points' electronic filing of its two delinquent annual reports and Points'

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representation that hard copies of those annual reports had been mailed to the Commission the week prior. Commission Staff requested that the hearing be rescheduled until mid-July 2008. On April 28, 2008, the Commission entered a Notice continuing the cancellation hearing until July 22, 2008.

- 5 On May 12, 2008, Commission Staff filed a Motion to Dismiss the Complaint. The Motion stated that Points had made all required filings and payments. The Motion also noted that Staff was satisfied that all delinquencies had been resolved and that a hearing on the matter was no longer required.

DISCUSSION AND DECISION

- 6 Under both statute and regulation, all holders of certificates of public convenience and necessity for solid waste service must file complete and accurate annual reports by May 1 of each succeeding year. Further, statute and regulation also require solid waste collection companies to pay the Commission a regulatory fee of one percent of gross intrastate operating revenues (or such other amount as established by the Commission) on or before the date specified for filing annual reports. The Commission may assess penalties or take action to suspend or cancel a company's certificate for failure to comply with these laws and regulations.

- 7 On July 5, 2006, the Commission issued Points a \$100 penalty assessment for failure to file its 2005 annual report by the May 1, 2006, deadline.

- 8 On June 28, 2007, the Commission issued Points a \$200 penalty assessment for failure to file its 2006 annual report by the May 1, 2007, deadline.

- 9 The Commission sent Points repeated letters offering opportunities to file its delinquent annual reports for 2005 and 2006 and to pay its regulatory fees. Ultimately, after the Commission scheduled and repeatedly continued a hearing on the cancellation of the company's certificate of public convenience and necessity, Points made the required filings in April 2008.

- 10 The Commission is responsible for ensuring that all companies subject to Commission regulation adhere to and timely comply with all regulatory requirements. Under statute and Commission rules, a regulated company may not ignore its responsibility to file annual reports and regulatory fees without risk of penalty or cancelation of its operating authority. In this case, the Commission invoked the ultimate sanction.

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- 11 Given Points' compliance with its statutory and regulatory obligations, albeit quite belatedly, Commission Staff is no longer seeking to cancel Points' solid waste certificate. The Commission's goal of ensuring regulatory compliance has now been achieved. The Commission accordingly finds good cause to grant Commission Staff's Motion to Dismiss the Complaint and cancel the hearing, allowing Points to retain its certificate of public convenience and necessity.

ORDER

- 12 **THE COMMISSION ORDERS** That Commission Staff's Motion to Dismiss the Complaint is granted.

NOTICE

- 13 **THE COMMISSION GIVES NOTICE** That the hearing previously noticed in this matter for Tuesday, July 22, 2008, is cancelled.

DATED at Olympia, Washington, and effective May 29, 2008.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

ADAM E. TOREM
Administrative Law Judge

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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), as amended in the 2006 legislative session, 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. You will be notified if this order becomes final.

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 ten (10) copies** of any Petition or Answer must be filed by mail delivery to:

Attn: Carole J. Washburn, Executive Secretary
Washington Utilities and Transportation Commission
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