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1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

2 COMMISSION

3 In re Application TG-081576)
4 of FREEDOM 2000, LLC) DOCKET NO. TG-081576
5 For a Certificate of Public) Volume I
6 Convenience and Necessity) Pages 1 - 10
7 to Operate Motor Vehicles in)
8 Furnishing Solid Waste)
9 Collection Service.)

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9 A prehearing conference in the above matter
10 was held on December 8, 2008, at 10:03 a.m., at 1300
11 South Evergreen Park Drive Southwest, Olympia,
12 Washington, before Administrative Law Judge MARGUERITE
13 E. FRIEDLANDER.

14 The parties were present as follows:

15 FREEDOM 2000, LLC, by DAVID GELLATLY,
16 Owner/manager, Post Office Box 1314, Point Roberts,
17 Washington 98281; telephone, (360) 945-1410.

18 WASHINGTON UTILITIES AND TRANSPORTATION
19 COMMISSION, by JONATHAN THOMPSON, Assistant Attorney
20 General, 1400 South Evergreen Park Drive Southwest,
21 Post Office Box 40128, Olympia, Washington 98504;
22 telephone, (360) 664-1225.

23 POINTS RECYCLING AND REFUSE, by ARTHUR
24 WILKOWSKI, Owner, PMB 1542, 145 Tyee Drive, Point
25 Roberts, Washington 98281; telephone, (360) 945-1516.

26 WASHINGTON REFUSE AND RECYCLING ASSOCIATION,
27 by JAMES K. SELLS, Attorney at Law, Ryan, Sells,
28 Uptegraft, 9657 Levin Road Northwest, Suite 240,
29 Silverdale, Washington 98383; telephone, (360)
30 307-8860.
31 Kathryn T. Wilson, CCR
32 Court Reporter

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1 P R O C E E D I N G S

2 JUDGE FRIEDLANDER: Good morning. I'm
3 Marguerite Friedlander, the administrative law judge
4 presiding over this proceeding. We are here before the
5 Washington Utilities and Transportation Commission this
6 morning, Monday, December 8th, 2008, for a prehearing
7 conference in Docket TG-081576, the application of
8 Freedom 2000, LLC, for a certificate of public
9 convenience and necessity to operate as a solid waste
10 collection company within Point Roberts, Whatcom
11 County, Washington.

12 The purpose of the prehearing this morning is
13 to take appearances, address any petitions for
14 intervention, identify and narrow the issues, discuss
15 the procedural schedule for the application, and any
16 other procedural issues the parties wish to discuss.

17 Before we proceed any further, let's go ahead
18 and take appearances. Please state your full name,
19 spelling the last, the party you represent, your full
20 address, telephone number, fax number, and e-mail
21 address, and then if you are representing multiple
22 individuals, please for purposes of simplifying the
23 Commission's process of service notices and orders, try
24 to identify one representative to receive service via
25 mail and fax while others will receive a courtesy

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1 e-mail. So let's go ahead and begin with the
2 applicant, Freedom 2000, LLC.

3 MR. GELLATLY: David Gellatly, spelled
4 G-e-l-l-a-t-l-y. Mailing address is PO Box 1314, Point
5 Roberts, Washington, 98281. Phone number is (360)
6 945-1410, and fax is the same, and I'm representing
7 Freedom 2000.

8 JUDGE FRIEDLANDER: Thank you, and I believe
9 staff is next?

10 MR. THOMPSON: I'm Jonathan Thompson,
11 assistant attorney general, representing the Commission
12 staff. My street address is 1400 South Evergreen Park
13 Drive Southwest, Olympia, Washington, 98504-0128.
14 Actually, the mailing address is PO Box 40128. My
15 phone number is (360) 664-1225. Fax is (360) 586-5522,
16 and my e-mail is jthomps@wutc.wa.gov.

17 JUDGE FRIEDLANDER: Thank you, and I believe
18 we have somebody from the Department of Ecology on the
19 conference bridge?

20 MS. WADLEY: This is Diana Wadley,
21 W-a-d-l-e-y. The mailing address here is 3190 160th
22 Avenue Southeast in Bellevue, 98008. Phone number is
23 (425) 649-7056; fax, (425) 649-7098. E-mail is
24 dwad461@ecy.wa.gov, and I'm with the Department of
25 Ecology.

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1 JUDGE FRIEDLANDER: Thank you. Is there
2 anyone else who would like to enter an appearance today
3 appearing in person?

4 MR. WILKOWSKI: I'm Arthur Wilkowski,
5 W-i-l-k-o-w-s-k-i. I represent Points Recycling and
6 Refuse, LLC, G-155. My mailing address is PMB 1542,
7 145 Tye Drive, Point Roberts, 98281. My phone number
8 is (360) 945-1516. My fax is (360) 945-0414.

9 JUDGE FRIEDLANDER: Do you have an e-mail
10 address?

11 MR. WILKOWSKI: Yes. It's
12 prand@pointroberts.net.

13 JUDGE FRIEDLANDER: Mr. Sells?

14 MR. SELLS: If Your Honor please, James
15 Sells, 9657 Levin Road Northwest, Suite 240,
16 Silverdale, Washington, 98383; telephone, (360)
17 307-8860; fax, 360-307-7885; e-mail,
18 jimsells@rsulaw.com, appearing on behalf of proposed
19 intervenor Washington Refuse and Recycling Association.

20 JUDGE FRIEDLANDER: Thank you, and I believe
21 we have additional appearances on the conference
22 bridge. Could you go ahead and make an appearance?

23 MS. TOMSEN: My name is Shannon Tomsen,
24 T-o-m-s-e-n. My address is 2125 Whalen Drive, Point
25 Roberts, 98281, and my phone number is (360) 945-0206.

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1 JUDGE FRIEDLANDER: Was there another
2 appearance on the conference bridge?

3 MS. COE: My name is Renee Coe, C-o-e, 1986
4 Cedar Park Drive, Point Roberts, Washington, 98281, and
5 my phone number is (360) 945-0462.

6 JUDGE FRIEDLANDER: Did you have a fax number
7 or an e-mail?

8 MS. COE: E-mail, coe@pointroberts.net.

9 JUDGE FRIEDLANDER: Anybody else on the
10 conference bridge that would like to enter an
11 appearance? Hearing none, the items we need to discuss
12 today include any petitions for intervention and
13 possible need for a protective order in these
14 proceedings, whether to apply discovery rules,
15 identifying and narrowing issues in this proceeding,
16 whether we need to schedule any settlement conferences,
17 and any other procedural matters that the parties may
18 wish to raise, so at this time, I would like to take
19 requests for intervention, and I believe we have one
20 already filed with the Commission from Refuse and
21 Recycling Association.

22 MR. SELLS: That's correct, Your Honor. If
23 Your Honor please, this is on behalf of the Washington
24 Refuse and Recycling Association, commonly referred to
25 as WRRRA. We are specifically included in the

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1 definitions of the person within WAC 480-07-340, 1(a),
2 and then WAC 480-07-355, sub 1, sub a, provides that
3 any person may petition to intervene.

4 As a trade association, WRRRA represents the
5 interests of the vast majority of solid waste haulers
6 in the state of Washington and obviously has an
7 interest in the G-certificate and any changes in
8 G-certificate holders.

9 We have participated as either a party or an
10 intervenor in, I believe, virtually every, if not
11 every, solid waste hearing in the past 20 or 30 years.
12 We do not intend to broaden the issues in this matter.

13 JUDGE FRIEDLANDER: Thank you. Are there any
14 objections to the granting of the petition for
15 intervention of Refuse and Recycling Association?
16 Hearing none, I find that the Refuse and Recycling
17 Association does have a substantial interest in the
18 subject matter, and I'm going to grant that petition.

19 MR. SELLS: Thank you, Your Honor.

20 JUDGE FRIEDLANDER: I also noted there have
21 been some comments and protests that have been filed
22 with the Commission. Do any of the people who have
23 submitted comments or protests wish to become
24 intervenors? Okay, then I'll note for the record that
25 those have been filed, and they are available on our

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1 RMS. Do the parties wish to enter a protective order
2 in this proceeding pursuant to WAC 480-07-420 through
3 423?

4 MR. THOMPSON: This is Jonathan Thompson. It
5 might be advisable to talk first about whether the
6 parties intend to engage in discovery and to seek
7 information from each other that might be of a
8 sensitive nature and will require a protective order
9 before we get to the point of deciding whether they
10 think a protective order would be necessary.

11 JUDGE FRIEDLANDER: Okay. Let's go ahead and
12 discuss discovery. Have the parties had a chance to
13 discuss what type of discovery they would like to have
14 in this matter?

15 MR. GELLATLY: No.

16 JUDGE FRIEDLANDER: Why don't we go ahead and
17 go off the record so the parties can confer. I would
18 note that the Commission's discovery rules are under
19 WAC 480-07-400 to 425, and we can invoke those rules,
20 but if the parties would like to have a quick, brief
21 discussion about whether or not discovery will
22 encompass confidential matters, that would be advisable
23 as well, so we will go off the record briefly.

24 (Discussion off the record.)

25 JUDGE FRIEDLANDER: As we went into a break,

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1 we were previously talking about discovery issues as
2 well as the potential for having a protective order in
3 this matter, and I recessed for a moment and went off
4 record so the parties could discuss the options
5 available, and I understand, Mr. Thompson, that there
6 is some discussion that was had.

7 MR. THOMPSON: While we were off the record,
8 we discussed the fact that given that there is a
9 complaint proceeding going on concurrently as to
10 whether the existing certificate upholders would be
11 canceled, that could substantially change the landscape
12 or possibly moot the questions raised by this
13 application in the present docket.

14 So both the applicant and the protestant
15 agree that the best course here might be to postpone
16 this case until after the final order in the complaint
17 docket. So I think the proposal is to schedule another
18 prehearing conference some period of time after the
19 final order in the complaint docket and at that point
20 decide whether to go forward on the application in this
21 docket.

22 JUDGE FRIEDLANDER: Is that the sentiment of
23 all the parties involved?

24 MR. GELLATLY: Yes, it is.

25 MR. WILKOWSKI: Yes, it is.

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1 MR. SELLS: Yes, Your Honor.

2 JUDGE FRIEDLANDER: Why don't we go ahead
3 then, and it will be difficult to forecast what's going
4 to happen in the prehearing conference that will take
5 place later this afternoon. However, if we are going
6 to do a continuance, the rules require that we have a
7 date certain, so we can establish a preliminary date
8 for, as Mr. Thompson said, six months out, and we can
9 always come back to that and deal with it if it proves
10 unworkable.

11 So by looking at the calendar, I'm looking at
12 sometime in May then, early May. Did the parties have
13 a particular date that they would like to propose? Are
14 any dates in May unworkable? It looks like the
15 Commission schedule and the hearing rooms are available
16 pretty much the entire time in May, so if the parties
17 are amenable to it, why don't we go ahead and look at
18 May 4th at 9:30, if that doesn't receive any
19 objections.

20 MR. THOMPSON: That would be fine.

21 JUDGE FRIEDLANDER: Mr. Sells, will that work
22 for you?

23 MR. SELLS: Yes.

24 MR. GELLATLY: That will work for me.

25 JUDGE FRIEDLANDER: Then I will go ahead and

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1 continue this prehearing conference until May the 4th.
2 I'll also issue a prehearing conference order granting
3 the petition for intervention from Refuse and Recycling
4 Association, and do the parties have any other
5 procedural matters they would like to deal with at this
6 time? Hearing nothing, we are adjourned. Thank you.

7 (Prehearing conference adjourned at 10:37 a.m.)

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