



UTC

Washington Utilities
and Transportation
Commission

Investigation Report

Ridwell, Inc.

TG-200058

**Kathryn McPherson
Compliance Investigations**

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PURPOSE, SCOPE, AND AUTHORITY

Purpose

The purpose of this investigation is to determine if Ridwell, Inc. (Ridwell or Company), operated as a solid waste collection company for compensation on the public highways of the state of Washington without the necessary certificate required for such operations by Revised Code of Washington (RCW) 81.77.040.

Scope

The investigation focuses on information obtained by Washington Utilities and Transportation Commission (commission) staff (Staff) relating to Ridwell's transportation of recyclables from residential homes in King county.

Authority

RCW 80.01.040, RCW 81.01.010, and chapter 81.77 RCW collectively require the Commission to regulate persons engaging in the transport of solid waste on public highways for compensation in Washington. RCW 81.04.510 authorizes the Commission to institute a special proceeding when it believes a person is operating or has operated without the necessary authority. Attachment A includes relevant laws and rules.¹

Staff

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¹ Attachment A - Applicable laws and rules.

EXECUTIVE SUMMARY

As a result of an informal complaint, Staff investigated whether Ridwell is in compliance with statutes and rules administered by the Commission. Staff reviewed three online advertisements and two offers for residential recycling services offered by Ridwell. Accordingly, Staff alleges that Ridwell violated RCW 81.77.040, which requires persons to obtain a certificate of convenience and necessity from the Commission before advertising or transporting solid waste on public highways of Washington for compensation, a total of five times.

Penalty Recommendation

RCW 81.04.380-390 authorize the Commission to assess a penalty of up to \$1,000 per violation of public service laws. Staff recommends the commission issue a formal complaint against Ridwell and assess a suspended penalty of up to \$5,000 for five violations of RCW 81.77.040 for two offers of service, one in Kirkland and one in Mercer Island, plus advertisements on three sites: the Company's website, Instagram page, and Facebook page. Staff believes the company knowingly violated state law after it was provided technical assistance. Ridwell acknowledged understanding the rules pertaining to solid waste transportation. The recommended penalty establishes a record of violations and provides Ridwell an incentive to avoid repeat violations.

BACKGROUND

Company Information

Washington Secretary of State (SOS) records indicate Ridwell registered in the state of Washington as a corporation on September 13, 2018. SOS records list Aliya Marder, Justin Gough, Ryan Metzger, and David Dawson as the governors and registered agents. Washington Department of Revenue (DOR) records show Ridwell as an active corporation for profit, starting business on April 12, 2019. The company's UBI number is 604-331-559. The DOR registration lists Aliya Marder, Justin Gough, Ryan Metzger, and David Dawson as the governing officials. DOR lists the company business and mailing address as 415 1st Ave. N., Unit 19737, Seattle, Washington, 98103.² SOS lists the company's physical address as 312 W. Republican St., #A, Seattle, Washington, 98119, and mailing address as P.O. Box 19737, Seattle, Washington, 98109.³

² Attachment B - Business License Department of Revenue.

³ Attachment C - Secretary of State registration.

INVESTIGATION

Overview

On April 23, 2019, Staff received a complaint alleging Ridwell was collecting and transporting residential recycling illegally. Staff investigated Ridwell's operations and determined that the Company is operating as a solid waste collection company without a certificate of convenience and necessity from the commission in violation of RCW 81.77.040.

Staff finds that the Company's operations violate RCW 81.77.040 as follows:

1. Ridwell advertises to provide residential recycling collection services in Washington with the intent to transport residential recycling to the Company's own recycling facility, located at 312 W. Republican St., Unit A, Seattle, Washington, 98119.⁴
2. Ridwell offered residential recycling collection services to Staff on two separate occasions:
 - 1) On September 11, 2019, Ridwell offered to provide residential recycling collection to Staff's fictitious address at 10935 NE 133rd St., Kirkland, Washington, 98034.⁵
 - 2) On October 30, 2019, Ridwell offered residential recycling services to Staff's fictitious address at 6228 84th Ave SE, Mercer Island, Washington 98040.⁶

Ridwell applied to Seattle and King County (Public Health) to permit a solid waste recycling facility for its deliveries of residential recycling, located at 312 W. Republican St., Unit A, Seattle, Washington, 98119.⁷

Commission History

Compliance Investigation

On April 23, 2019, Staff received information alleging Ridwell was providing residential recycling collection services in Seattle. That same day, Staff began an investigation to determine if Ridwell violated RCW 81.77.040 for transporting residential recyclables without first obtaining a certificate of convenience and necessity.

As part of its investigation, Staff reviewed commission records and determined Ridwell had not applied for a solid waste certificate or common carrier operating authority. Staff then researched the Company's activities online. Ridwell advertises online for residential recycling service. The

⁴ Attachment D - Advertisements from Ridwell.com.

⁵ Attachment E - Confirmation of pick up Kirkland.

⁶ Attachment F - Offer to transport recyclables In Kirkland and Mercer Island.

⁷ Attachment G - Public Health Solid Waste facilities application.

company also has a Facebook and Instagram page advertising collection of residential recyclables.⁸

On January 17, 2020, Ridwell submitted two applications. One application for a Common Carrier Permit.⁹ The second application for a Solid Waste Certificate of Convenience and Necessity.¹⁰

2019 Technical Assistance

On May 3, 2019, Staff sent Ridwell a letter alleging the Company engaged in service that requires a solid waste certificate. Staff requested Ridwell either submit a complete application for a solid waste certificate or explain in writing why the Company does not require authority from the Commission. A response was required by May 16, 2019.¹¹

On May 16, 2019, Staff received a response letter from company representative Ryan Metzger.¹² In the letter, Ryan Metzger alleged that Ridwell should not be classified as a solid waste company because the Ridwell does not transport materials to landfills or transfer stations. Ryan Metzger stated the Company does not pick up comingled recyclables or take material to a materials recovery facility.

On May 23, 2019, Staff received an email from Dawn Marie Maurer, Solid Waste Facilities Specialist at Washington State Department of Ecology (ECY), expressing concerns regarding Ridwell's solid waste transportation.¹³ Staff contacted Maurer by phone that day and discussed the Company's business model. Maurer expressed concerns about Ridwell transporting solid waste without regulation from the commission. Maurer stated the Company was also transporting batteries and lightbulbs that require a special handling license. At the time of the conversation, Maurer stated Ridwell was unresponsive to ECY requests for further information.

On June 17, 2019, Staff spoke with Hans Van Dusen, Contracts Manager for Seattle Public Utilities (SPU), regarding the city's jurisdiction over residential recycling. Hans Van Dusen confirmed SPU has no contract or agreement with Ridwell to provide residential recycling. He explained that prior to April there was absolutely no crossover of collectables for recycling on the city plan. Post April with changes in their recycling program, there is a crossover of some recyclables. At that time, SPU did not plan to address the issue with Ridwell, as city residents typically still have solid waste and recycling from a contracted provider. Hans Van Dusen agreed to follow up with SPU management and respond to Staff regarding jurisdiction determination.

⁸ Attachment H - Ridwell Facebook and Instagram pages.

⁹ Attachment I - Application for Common Carrier Permit.

¹⁰ Attachment J - Application for Solid Waste Certificate of Convenience and Necessity.

¹¹ Attachment K - Staff letter dated May 3, 2019.

¹² Attachment L - Ridwell response letter dated May 14, 2019.

¹³ Attachment M - Email originating from Dawn Marie Mauer, ECY, dated May 22, 2019.

On July 12, 2019, Staff received a call from Ryan Metzger regarding the status of Staff's compliance investigation. Staff explained that because Ridwell was transporting residential recycling in Seattle without having a contract with the city, the Company was in violation of operating as a solid waste transporter without the required solid waste certificate. Ryan Metzger stated that he was told by counsel “. . . the commission did not have jurisdiction in city contract areas. . .” Staff explained that if the city does not assert jurisdiction, the commission retains jurisdiction. Staff reiterated that Ridwell must cease operations until such time that the Company applies for a solid waste certificate from the Commission and is approved to provide solid waste collection services.¹⁴

On July 16, 2019, Staff informed Ridwell by email that Staff had closed the compliance investigation of the Company because Seattle asserted jurisdiction over Ridwell's transportation of residential recycling. Staff informed Ridwell that if the Company expanded its services outside the city of Seattle it would be required to obtain a solid waste certificate from the commission.

On July 24, 2019, Staff met with Ryan Metzger and Aliya Marder of Ridwell, Rory O'Rourke and Yolanda Pon of Public Health, Dawn Marie Mauer of ECY, and Hans Van Dusen of SPU. The purpose of the meeting was to determine the role of each agency in Ridwell's compliance. Meeting notes reflect Ridwell's acknowledgment of transporting recyclables and identifying destinations for those materials.¹⁵

On September 12, 2019, Staff received an email advertising that Ridwell was expanding its operations to Kirkland, Washington, offering full services beginning October 8, 2019.¹⁶ Staff had previously advised Ridwell that if the Company expanded its business into areas outside Seattle, it would need a solid waste certificate from the commission.

On September 16, 2019, Staff emailed Hans Van Dusen regarding the status of Ridwell with SPU.¹⁷ Hans Van Dusen replied September 19, 2019, informing Staff that SPU had not taken any action, nor did they plan to at this time.¹⁸

On September 25, 2019, staff reopened the compliance investigation to determine if current activities required action. Based on Seattle Public Utilities opting not to act and the company expanding to Kirkland, staff believed that Ridwell violated RCW 81.77.040. Ridwell expanded its business into areas outside Seattle after they were provided technical assistance that they would need a solid waste certificate to transport residential recyclables.

¹⁴ Attachment N - Staff notes from phone call July 12, 2019.

¹⁵ Attachment O - Notes from meeting July 24, 2019.

¹⁶ Attachment P - Email advertisement from Ridwell for Kirkland services.

¹⁷ Attachment Q - Email to Hans Van Dusen dated September 16, 2019.

¹⁸ Attachment R - Email from Hans Van Dusen dated September 19, 2019.

On September 25, 2019, Rory O'Rourke of Public Health emailed Ryan Metzger regarding compliance with King County Public Health.¹⁹ The email specifically mentioned Ridwell's proposed expanded service to Kirkland and stated in part that Ridwell is required to apply for a certificate with the commission if the City of Kirkland opted not to pursue a contract with the Company.

On October 8, 2019, Staff communicated with John MacGillivray, Solid Waste Programs Supervisor for the City of Kirkland, regarding Ridwell transporting residential recycling in Kirkland and asked if the City intended to assert jurisdiction over the company.²⁰ John MacGillivray responded on October 8, 2019, stating the City would not pursue jurisdiction over Ridwell's operations. John MacGillivray provided a link for the City's recycling website showing items Ridwell collects as recyclables, though not collected in scheduled curbside recycling.²¹

On October 22, 2019, Staff sent Ridwell a second compliance letter after confirming that the cities of Seattle and Kirkland solid waste programs opted not to assert jurisdiction over the Company transporting residential recycling.²² The letter provided detailed technical assistance regarding the laws and rules for the definitions regarding transporting solid waste, including residential recycling. The Company was instructed to cease operations until it applied for and was approved for a solid waste certificate, or provide information why its operations do not require a certificate. A response was due by November 4, 2019.

On November 4, 2019, Staff received an email from Ryan Metzger stating the Company's response letter was "on its way" and in the mail.²³ Ryan Metzger did not attach a copy of the letter to the email and therefore did not meet the response deadline of November 4, 2019.

On November 6, 2019, Staff emailed Ryan Metzger notifying him that the Company's response had not been received and requested Ryan Metzger send a copy of the letter by email.²⁴ Ryan Metzger responded with the USPS tracking verification showing the letter was delivered to the Commission on November 5, 2019.²⁵ Staff emailed Ryan Metzger a digital copy would suffice, and Ryan Metzger responded with an email attachment of the letter.²⁶ In its response Ridwell states that drop-off locations exist outside the city and county provided areas. This information is not supported by the City of Kirkland's solid waste plan.

¹⁹ Attachment S - Email from Rory O'Rourke dated September 25, 2019.

²⁰ Attachment T - Email to John MacGillivray dated October 8, 2019.

²¹ Attachment U - City of Kirkland recyclable information.

²² Attachment V - Staff letter dated October 22, 2019.

²³ Attachment W - Email from Ryan Metzger dated November 4, 2019.

²⁴ Attachment X - Email to Ryan Metzger dated November 6, 2019.

²⁵ Attachment Y - Email from Ryan Metzger with attachment dated November 6, 2019.

²⁶ Attachment Z - Email November 6, 2019, with attached compliance response letter dated November 4, 2019.

On December 13, 2019, Staff sent a third compliance letter to Ridwell, providing additional technical assistance, including information on exemptions and service modifications. The letter required the company to apply for a solid waste certificate by December 27, 2019, or cease all regulated operations.²⁷

2019 Investigation

On April 23, 2019, staff received information alleging Ridwell was providing residential recycling in Seattle. Staff reviewed commission records and determined Ridwell had not applied for a solid waste certificate or common carrier operating authority. Research of the company indicated Ridwell was registered with the DOR as of April 12, 2019. Records indicate the company registered with the SOS on September 13, 2019.

On April 23, 2019, staff researched the company's activities online. Ridwell advertises online for residential recycling service. The company also has a Facebook and Instagram page advertising services for collection of recyclables.

On May 3, 2019, staff sent a compliance letter requesting the company cease all operation until and unless the commission grants a solid waste certificate.

On May 23, 2019, staff discussed the company's business model by phone with Dawn Marie. Dawn Marie expressed concerns the company is transporting solid waste without regulation from the commission. Dawn Marie stated the company was transporting batteries and lightbulbs that require special handling license. At the time of the conversation, Dawn Marie stated Ridwell was unresponsive to ECY request for further information.

On June 17, 2019, staff spoke with Hans Van Dusen, Contracts Manager for Seattle Public Utilities (SPU). Hans Van Dusen confirmed SPU has no contract or agreement to provide residential recycling. He explained that prior to April there was absolutely no crossover of collectables for recycling on the city plan. Post April with changes in their recycling program, there is a crossover of some recyclables. SPU does not plan to address the issue with Ridwell, as the residents typically still have solid waste and recycling from a contracted provider. Hans Van Dusen will follow up with SPU management, and respond to staff regarding jurisdiction determination.

On December 13, 2019, staff sent a third compliance letter to Ridwell stating staff's opinion is the company is operating as a solid waste company. The letter provided Ridwell with a deadline to apply or cease operation by December 27, 2019. Staff provided information regarding exemptions or modifications. An email was sent with the letter attached as a courtesy to the company.

On December 24, 2019, Staff received an email from Ryan Metzger with an attached letter.²⁸ The letter requested an extension to provide time for the company to research exemptions,

²⁷ Attachment AA - Staff letter dated December 13, 2019.

²⁸ Attachment AB - Email dated December 24, 2019 from Ryan Metzger with attached letter.

petitions, and applications for solid waste transportation. Staff responded to Ryan Metzger granting an extension until January 17, 2020, as requested.

On January 17, 2020, Ridwell submitted applications for a common carrier permit and a solid waste certificate, along with a petition for exemptions. The company did not have an up to date application for a solid waste certificate, and the application was returned to the company for revision.

On February 5, 2020, Ridwell's applications for solid waste certificate, common carrier permit, and petition were consolidated under Docket TG-200083. The Company requested temporary authority, providing one statement of support for urgent need.

STAFF FINDINGS AND RECOMMENDATIONS

Findings

Commission staff finds that Ridwell knowingly violated RCW 81.77.040, after being provided technical assistance on at least three separate occasions, by engaging in the business of solid waste transportation without first obtaining a certificate from the commission to do so.

Specifically, Ridwell operated illegally when it:

1. Collected and transported residential recycling after receiving technical assistance from Staff on May 3, 2019, October 22, 2019, and December 13, 2019.
2. Continued to advertise on the Company's website, Facebook and Instagram.
3. Offered to provide service to two separate locations, one in Kirkland and one in Mercer Island.

Penalty

Upon finding, at the conclusion of an investigation, that a company violated an applicable statute, rule, order, or tariff, the commission will consider whether an enforcement action, beyond technical assistance, is appropriate and, if so, which action to take.

Staff typically recommends a "per violation" penalty when the violations result in serious harm to the consumer; for repeat violations of a rule after the company receives technical assistance; or for intentional violations of commission laws or rules.

The commission has the authority to assess penalties of \$100 per violation, per day.²⁹ The commission also has the authority to assess penalties of up to \$1,000 per violation, per day, through a formal complaint process.³⁰

²⁹ RCW 80.04.405 allows the commission to assess an administrative penalty for any violation by a regulated company of a statute, rule, the company's own tariff, or commission order.

³⁰ RCW 80.04.380 allows the commission to assess a penalty of up to \$1,000 for each violation following a hearing.

In this investigation, Staff documented Ridwell’s violations of RCW 81.77.040, after Staff provided significant technical assistance on how to comply with the commission’s regulations. Staff considered the following factors to determine the recommended penalty amount:³¹

1. How serious or harmful the violations are to the public.

The violations cited in this report are serious. Solid waste companies not certificated with the commission pose consumer protection and safety concerns to the public. Improper methods of disposing of solid waste pollute our land, air, and water resources, adversely affect land values and damage the overall quality of our environment. It is in the public interest to ensure companies transporting solid waste have the necessary training, equipment, and resources to ensure safe and sanitary transportation. Further, companies that transport solid waste illegally negatively impact revenues collected by companies with solid waste certificates.

2. Whether the violations were intentional.

On May 3, October 22, and December 13, 2019, Ridwell received technical assistance from Staff directing the Company to applying for a solid waste certificate. The Company on each occasion was compelled to cease operations until such time Ridwell received Commission authority to transport solid waste. Ridwell continued to provide service to the Seattle area, and expanded into other areas of King and Snohomish counties.

3. Whether the Company self-reported the violations.

The Company did not self-report these violations.

4. Whether the Company was cooperative and responsive.

The Company has been responsive, but not cooperative. Ridwell has disregarded Staff’s direction to cease transporting residential recycling, as well as Staff’s significant technical assistance efforts. Ridwell continued to provide service to existing consumers and continued to expand its operations without applying for authority until January 17, 2020.

5. Whether the Company promptly corrected the violations and remedied the impacts.

The Company continued to transport solid waste after receiving and acknowledging technical assistance from Staff, and being aware that a certificate was required. The Company did not correct the violations.

6. The number of violations.

Staff documented Ridwell’s advertising services via social media, the Company’s webpage, Instagram, and Facebook. Ridwell sent Staff offers to pick up residential recycling to at two addresses. On the Company’s application, Ridwell lists a mailing list of 20,000, which indicates a large-scale advertisement campaign. Each advertisement could be considered an individual violation of RCW 81.77.040.

³¹ Docket A-120061 – Enforcement Policy of the Washington Utilities and Transportation Commission – Section V.

7. The number of customers affected.

The violations documented in this report may affect the solid waste companies that hold certificates in King and Snohomish counties. Ridwell's residential recycling services are offered in addition to the certificated companies' comingled recycling services.

8. The likelihood of recurrence.

The Company has continued to expand areas of service without authority. The Company would like the opportunity to present before the commission why it doesn't require a solid waste certificate and asks the commission to determine the appropriate authority. The likelihood of the Company continuing service is high.

9. The Company's past performance regarding compliance, violations, and penalties.

The Company has no record of past performance regarding violations or penalties with the Commission. However, the company did take a significant amount of time in applying or requesting determination of authority.

10. The Company's existing compliance program.

The Company is not required to have nor does it have a compliance program in place with the commission.

11. The size of the Company.

The Company submitted a profit and loss statement with its solid waste application indicating a net worth of \$3,886,997.

Recommendation

Staff recommends that the commission institute a classification proceeding under RCW 81.04.510 to determine whether Ridwell is operating as a solid waste carrier in Washington without the certificate required for such operations by RCW 81.77.040. Staff also recommends the commission assess a suspended penalty of up to \$5,000 for five violations of RCW 81.77.040 for two offers of service, one in Kirkland and one in Mercer Island, plus advertisements on three sites: The Company's website, Instagram page, and Facebook page.