

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

In re Application No. GA-079133 of)	DOCKET NO. TG -030325
)	
MATTHEWS, TRYSTAN d/b/a)	ORDER NO. 2
RECYCLE WHIDBEY)	
)	
For a Certificate of Public)	ORDER GRANTING
Convenience and Necessity to)	CONTINUANCE
Operate Motor Vehicles in)	
Furnishing Solid Waste Collection)	NOTICE OF HEARING
Service)	(Set for July 24, 2003)
.....)	

1 **Proceeding.** Docket No. TG-030325 is an application filed on February 14, 2003 by Trystan Matthews, d/b/a Recycle Whidbey, for a certificate of public convenience and necessity. Applicant seeks to operate motor vehicles in furnishing solid waste collection service consisting of source-separated recyclable materials from residences in portions of Island County, generally the southern part of Whidbey Island.

2 **Background.** The Commission convened a prehearing conference in this docket at Olympia, Washington on May 30, 2003, before Administrative Law Judge Theodora Mace. At that conference the parties agreed to a schedule that required evidentiary hearings on July 15 and 16, 2003 on Whidbey Island. The presiding judge advised the applicant that, if he desired to retain counsel, he should do so promptly to avoid the need for counsel to request a continuance so that he or she could prepare for the hearing.

3 On July 1, 2003, the applicant, Mr. Matthews, faxed a letter to the Commission stating that he had been unable to find an attorney and was “grossly underprepared” for the scheduled hearings. Mr. Matthews requested a continuance and indicated he was flexible as to the dates that might be selected.

4 On July 3, 2003, the parties were notified of the opportunity to respond to the request for continuance, and to advise the Commission of dates they would be available if the Commission granted the continuance.

- 5 **Appearances.** Trystan Matthews represents himself. James Sells, Attorney, Silverdale, represents Washington Refuse and Recycling Association. David w. Wiley, attorney, Seattle, represents Island Disposal. Mary Tennyson, Assistant Attorney General, represents Commission Staff.
- 6 **Objections to Continuance.** Both protestants object to granting a continuance. Protestants argue that the applicant had been warned that he needed to hire an attorney expeditiously to avoid last minute requests for more time. They also point out that applicant still does not indicate whether he intends to retain counsel and that further delays could result if late-retained counsel requests a continuance of the new date. Protestants point out that applicant did not comply with WAC 480-09-440(4) that the party requesting a continuance contact the other parties to the proceeding first.
- 7 Protestants recognize that, since this is a first request for a continuance, the Commission may give some latitude to the applicant and grant the request. They are available for hearing on July 24 and 25, 2003.
- 8 **Commission Staff.** Commission Staff has no objection to a continuance. Staff suggests that since this is an application for new authority, and applicant cannot commence operations until the application is granted, Protestants will not be prejudiced by any delay of the hearing date.
- 9 Staff is available on July 24 and 25, 2003 for hearing.
- 10 **Applicant.** Applicant voiced no objection to holding the hearing on July 24 and 25, but stated that he would prefer a hearing location as near to Whidbey Island as possible.
- 11 **Decision.** This is applicant's first request for a continuance. Applicant is unrepresented. The Commission's concern with fairness requires a liberal interpretation of its rules under such circumstances. *WAC 480-09-425.* Furthermore, since applicant cannot operate unless the Commission grants him authority, there is no prejudice to protestants from a short delay of the proceedings. For these reasons, applicant's request for a continuance is granted.

12 Protestants and Staff state they are available July 24 and 25 for evidentiary hearings. Applicant did not respond with regard to his availability, but stated in his request for continuance that he was flexible about rescheduled dates. The hearing will be rescheduled to July 24 and 25, 2003.

13 **ALL PARTIES PLEASE TAKE NOTICE That Evidentiary hearings will begin on Thursday July 24, 2003 at 9:30 a.m. continuing if necessary on Friday, July 25, 2003 at 9:00 a.m., at the City of Anacortes Municipal Building, City Council Chambers, 6th & "Q" Avenue, Anacortes, Washington.**

14 **NO FURTHER CONTINUANCE WILL BE GRANTED APPLICANT, UNLESS EXCEPTIONAL CIRCUMSTANCES ARE SHOWN.**

ORDER

15 Applicant's request for a continuance of the evidentiary hearing is granted. Hearing is now scheduled for July 24 and 25, 2003.

DATED at Olympia, Washington, and effective this 10th day of July, 2003.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

THEODORA M. MACE
Administrative Law Judge

Appendix A

Applicant: Trystan Matthews
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Protestant: Washington Refuse & Recycling Association
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Representative: James Sells
Attorney at Law
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Protestant: Island Disposal
P.O. Box 990
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Representative: David W. Wiley
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