

Agenda Date: October 19, 2018
Item Number: B1

Docket: TG-180782
Company Name: Freedom 2000, LLC, d/b/a Cando Recycling and Disposal

Staff: Greg Hammond, Regulatory Analyst
Mike Young, Section Manager, Water and Transportation
John Cupp, Consumer Protection Staff

Recommendations

Issue an Order requiring a compliance filing by August 15, 2019, utilizing data from January through June 2019, and a compliance filing by August 15, 2020, utilizing data from July 2019 through June 2020, and allow the residential rates for 32 gallon every-other week garbage and recycling, listed on page 24A to go into effect January 1, 2019.

Discussion

On September 14, 2018, Freedom 2000, LLC, d/b/a Cando Recycling and Disposal (Cando, or company) filed with the Washington Utilities and Transportation Commission (commission) tariff revisions generating approximately \$398,000 (219.1 percent) additional annual revenue. The company currently serves 300 customers on Point Roberts, and as of January 1, 2019, will be required to provide residential garbage and recycling service to an additional 1,800 customers. The company was granted certificate G-63819 by the commission in 2008. This is the company's first general rate case.

The Whatcom County Health department (County), now responsible for solid waste and recycling services initiated action in 2016 leading up to the recently passed Ordinance 2018-031¹ which: revokes current exemptions and prohibits future exemptions for Point Roberts residents, including seasonal vacation residents. The ordinance also establishes a minimum curbside collection service of 26 annual pickups, or every-other week service, consisting of one 32 gallon garbage can and three-bin set of source separated recyclables.² The ordinance dictates the cost of the minimum level of service, as per the commission tariff, will be billed as an annual fee on the property tax bill for each single family residence. Representing the County, Jeff Hegedus has asserted that November 1 is the County's deadline for embedding the updated every-other-week garbage and recycling rates in the property tax bills. It is for this reason that the proposed revisions are being brought forward at the October 19 open meeting.

¹ Attached as TG-180782 Attachment 1

² While the company offers residential customers weekly pickup service, customers selecting weekly service will be billed an additional amount by the company which is on top of the garbage and recycling collection assessment billed and collected by the county. The additional amount billed by the company to weekly customers will compensate the company for higher costs associated with weekly garbage pickups. Weekly residential service will be considered on the November 30 open meeting.

This docket was initially brought forward to the October 11 open meeting. Customers in attendance pointed out that they had not received proper notice of the proposed increase to commercial garbage rates. Upon review, it was also discovered that weekly garbage rates were not mentioned in the customer notice. The commission decided to delay the proceedings and bring the docket back on the October 19 open meeting. Since that time, staff has worked with the company on preparing an adequate notice for its commercial and weekly garbage customers to notify them of the proposed rate increase. These lines of service are not affected by the County's minimum service level ordinance, and are not affected by the County's November 1 deadline.

For the purposes of the October 19 open meeting, staff and the company have decided to limit the scope of the proposed revisions to the lines of service affected by the County's minimum service level ordinance, the every other week garbage and recycling rates listed on Page 24A. The remaining tariff changes³ would be brought forward at the November 30 open meeting, at which time commercial customers would have had at least 30 days' notice of the proposed rate increase.

Point Roberts is an unincorporated area located in Western Whatcom County but is not contiguous with the mainland; access is by boat, or by road through Canada. The year-round resident population is approximately 1,400 but the area sees a large increase of vacationers in the summer months, increasing population by as much as 3,500 seasonal residents.

Whatcom County implemented a county-wide solid waste collection district in 1996 (Ordinance 1990-096) which requires subscription to residential solid waste and recycling services. The county had granted exemptions to Point Roberts residents up until May 2018, when Ordinance 2018-031 was passed, revoking all exemptions in the Point Roberts area effective January 1, 2019.

In 2008, the prior certificated solid waste collection company ceased offering recycling service citing low participation which made it difficult for the company to recover its costs to provide the service. In the ensuing case before the commission, Dockets TG-081576 and TG-091687 combined, the commission canceled the company's certificate and issued a new certificate to Freedom 2000, LLC, the only other applicant for service on Point Roberts. In the final order, Order 05, the commission identified conditions that made service in the Point Roberts area unique:

“...as Commissioner Jones discusses in his dissent, we are concerned that the current situation in Point Roberts creates an unsustainable market for curbside collection of solid waste and recycling. The small resident population and large number of summer residents – with its variable waste stream – make it difficult for a carrier to maintain regular operations. The County's universal service ordinance is significantly diluted by ordinances providing exceptions for seasonal residents and an option for residents to obtain exemptions from universal service. These ordinances, together with significant non-compliance and a lack of enforcement, create a barrier for any certificated solid waste collection company to develop a sustainable customer base. The geographic location of Point Roberts, requiring transportation through two border crossings for a

³ The remaining tariff changes to be brought forward at the November 30 open meeting include revised commercial rates, roll-off rates, and other proposed rule and language changes.

one-way trip to the U.S. mainland increases the costs of disposal operations for any carrier operating in the area. All of these circumstances combine to create a unique and problematic service territory.

The failure of the County to recognize and address the detrimental impact of its County-wide ordinances and policies on solid waste collection in the small community of Point Roberts has created a very difficult situation. We are further frustrated by the County's conspicuous absence from this application proceeding. However, our ability to address the issue of solid waste collection in Point Roberts is limited to determining if there is a qualified carrier to provide service: We have no jurisdiction to address the underlying policies and requirements for solid waste collection in Point Roberts in a comprehensive manner, something the residents in Point Roberts have requested from the County. We can only hope that the recent events in Point Roberts will result in some further attention by the County."⁴

In his dissenting opinion, Commissioner Jones identified the difficulty of providing long term, sustainable service to Point Roberts when the county allowed many exemptions from mandatory subscription, resulting in fewer customers to share the cost of the service:

"I am not persuaded that the current policies of the County would allow for a sustainable business case to be developed. Although I recognize that Freedom 2000 would be a "start-up" organization in both financial and operational terms, I am not convinced the County's regulatory framework will allow it to succeed, even it executes perfectly on its business plan... Under the circumstances presented in the record in this proceeding, I would find it difficult to determine whether any applicant is able to provide service in Point Roberts.

I am especially concerned about the substantial time and effort it will take to "win back" the previous subscribers of curbside service who have grown accustomed to self-hauling to the transfer station, and may likely continue to do so in the future. The applicant will have to devote substantial resources in communication and marketing with these previous customers, which could distract the management of Freedom 2000 from the myriad challenges of a start-up organization."⁵

Commissioner Jones goes on to suggest that if no qualified applicant was found, the county might have to provide the service itself. Although the commission ultimately found that Freedom 2000, LLC, should be issued a certificate, the point was clear to the county that the unique issues posed by the Point Roberts area should be addressed. The County Health department, now responsible for solid waste and recycling services initiated action in 2016 leading up to the recently passed Ordinance 2018-031⁶ which: revokes current exemptions and prohibits future exemptions for Point Roberts residents, including seasonal vacation residents; establishes a minimum curbside collection service of 26 annual pickups consisting of one 32 gallon can and three-bin set of source

⁴Docket TG-081576 Order 05 and Docket TG-091687 Order 02 Consolidated, 69-70

⁵ Ibid, 139-140

⁶ Attached as TG-180782 Attachment 1

separated recyclables; and dictates the cost of the minimum level of service, as per the commission tariff, will be billed as an annual fee on the property tax bill for each single family residence.

The company will invoice the county according to a signed agreement. The benefit to the customers of this arrangement is consistent service, a billing cycle that does not require Canadian citizens to be billed and to remit payment to a US company monthly, and creates a disincentive for illegal burning and dumping. This solution also provides a predictable customer base for the company to sustain services over the long term.

The company has offered several concessions to ease the transition from voluntary to mandatory participation, most significantly, the option to use their 26 32-gallon can pick-ups, the equivalent of every other week service, in any combination they wish. This would be a benefit to summer-only residents who can put out more than one can for pick up for two or three months without incurring extra charges or having to go through the administrative process of starting or stopping service. The company has also stated they will provide regular statements to customers in lieu of billings for those customers that take the basic level of service and pay through the county.

Cando currently serves approximately 300 residential customers, and will be required to provide service to all 2,100 residential customers in Point Roberts. In order to increase the level of service, the company has had to acquire additional resources such as trucks and containers, and will incur an increased cost for the additional labor. These are the driving costs of the rate proposal filed by the company which also includes increased customer service costs, pay increases for drivers and helpers, increased insurance, and new software and computers.

Commission staff (staff) has reviewed the company's books and records, and the proposal by the county and found that if the company had filed a rate case for just the current service provided to the current 300 customers, the company would be entitled to approximately \$34,000 additional annual revenue, or an increase of 18.7 percent. After adjusting for the additional 1,800 garbage and recycling customers, and taking into account the increased cost of service and increased investment, the revised rates would generate approximately \$384,000 in additional annual revenue, or an increase of 211.9 percent. For the sake of comparison and to illustrate the effects of economies of scale, using the current 300 customer count, these revised rates would generate approximately \$15,000 in additional annual revenue, or an increase of 8.5 percent.

As filed, the company's Lurito-Gallagher revenue requirement would have entitled the company to approximately \$492,000 in additional annual revenue. The company's proposed rates, however, would have generated approximately \$398,000 in additional annual revenue. While staff made several adjustments that significantly lowered the Lurito-Gallagher revenue requirement, the revised rates are relatively close to the initially proposed rates. The rate comparisons are shown in the tables below, both at the current customer level, and future customer levels.

| Line of Service | Current Rate | Staff Calculated Rate (Current Customer Count) | Percent Increase (Current Customer Count) | Revised Rate (Future Customer Count) |
|---------------------|--------------|--|---|--------------------------------------|
| 32 Gal. EOW Garbage | \$10.80 | \$ 11.12 | 3.0% | \$ 11.68 |
| EOW Recycling | \$ 5.33 | \$ 13.53 | 153.8% | \$ 5.28 |

| Line of Service | Current Rate | Company Proposed Rate | Revised Rate | Percent Increase/Decrease |
|---------------------|--------------|-----------------------|--------------|---------------------------|
| 32 Gal. EOW Garbage | \$ 10.80 | \$ 12.12 | \$ 11.68 | 8.1% |
| EOW Recycling | \$ 5.33 | \$ 5.59 | \$ 5.28 | -0.9% |

Customer Comments

On September 11, the company notified its customers by mail of the proposed rate increase. Customers were notified that they may access relevant documents about this rate increase on the commission's website, and that they may contact John Cupp at 1-888-333-9882 or john.cupp@utc.wa.gov with questions or concerns. Staff received 44 consumer comments regarding the proposed rate increase, 15 opposed to the rate increase, and 29 comments which addressed issues not regulated by the commission.

General Comments

Most customers who commented against the proposed rate increase say they were promised a rate decrease. They believe the company should delay any investment in equipment to handle the increase in customers until actual usage statistics are available.

Staff Response

Staff explained that the company must have equipment to handle service to all its customers when the exemptions to mandatory curbside services are eliminated. Staff also explained that regulated companies can invest in new equipment as and when they see fit, and the commission only includes used and useful equipment in the determination of rates.

Staff explained to commenters that state law requires rates to be fair, just, reasonable, and sufficient to allow the company to recover reasonable operating expenses and the opportunity to earn a reasonable return on its investment. Commission staff performs a thorough review of rate filings to ensure that all rates and fees are appropriate.

Commenters have been told that mandatory curbside service and charging a fee with property taxes for curbside services are county issues, and are not issues the commission will address at the October 11 open meeting. Customers were instructed to direct comments on these issues to Whatcom County. Customers were also advised to contact the county with comments about levels

of service, services at the transfer station, what materials are considered recyclable, and which properties should or should not be considered for garbage and recycling fees. They were informed that these are not issues that fall under the commission's jurisdiction.

Staff recognized that Freedom 2000 had a mailing list for only its customers, and not for the additional Point Roberts property owners who will be affected by Whatcom County's actions. Mr. Hegedus of Whatcom County Environmental Health was very cooperative and agreed to mail a customer notice and other information to all 2,300 potentially affected property owners. As a result, some of the comments received are from residents who are currently not customers of Freedom 2000.

Conclusion

Commission staff has reviewed the filing and determined that the company has sufficiently demonstrated there is a need for additional annual revenue. The company and staff agreed upon revised rates that are fair, just, reasonable, and sufficient. Because the company's customer base is increasing by a large amount, and the actual cost of service is based on estimates to provide service, staff recommends the commission require the company to file again by August 15 next year and August 15 of 2020 to review the company's investment and review actual revenue and cost data. The August date is necessary so a rate increase can be reviewed by the commission before October to accommodate the county's property tax billing process. The proposed tariff revisions brought forward at the October 19 open meeting only address the every-other-week rates affected by the County's minimum service level ordinance, all other tariff revisions will be addressed at the November 30 open meeting.

Recommendation

Issue an Order requiring a compliance filing by August 15, 2019, utilizing data from January through June 2019, and a compliance filing by August 15, 2020, utilizing data from July 2019 through June 2020, and allow the residential rates for 32 gallon every-other week garbage and recycling, listed on page 24A to go into effect January 1, 2019.