

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

WASHINGTON UTILITIES AND)	DOCKET TG-080913
TRANSPORTATION COMMISSION,)	<i>(consolidated)</i>
)	
Complainant,)	ORDER 06
v.)	
)	
POINTS RECYCLING AND REFUSE,)	
LLC,)	
Respondent.)	
.....)	
WHATCOM COUNTY,)	DOCKET TG-081089
)	<i>(consolidated)</i>
Complainant,)	
v.)	ORDER 06
)	
POINTS RECYCLING AND REFUSE,)	
LLC,)	
Respondent.)	
.....)	
RENEÉ COE, SHELLEY)	DOCKET TG-082129
DAMEWOOD, and SHANNON)	<i>(consolidated)</i>
TOMSEN,)	
Complainants,)	ORDER 04
v.)	
)	
POINTS RECYCLING AND REFUSE,)	
LLC, and WHATCOM COUNTY,)	
)	
Respondents.)	
.....)	

PREHEARING CONFERENCE ORDER

NOTICE OF HEARING

(Set for April 20-21, 2009, at 9:30 a.m.)

1 **NATURE OF PROCEEDING.** Docket TG-080913 involves a tariff filing by Points Recycling and Refuse, LLC (Points or the Company) with the Washington Utilities and Transportation Commission (Commission) to remove curbside recycling from the Company's tariff. Docket TG-081089 involves the complaint filed by Whatcom County against Points to revoke the Company's certification as the designated hauler for Point Roberts, Washington. Docket TG-082129 also involves a complaint (Coe Complaint) against Points and Whatcom County filed by Reneé Coe, Shelley Damewood, and Shannon Tomsen (Complainants).

2 **APPEARANCES.** Dan Gibson, Whatcom County Deputy Prosecutor, Bellingham, Washington, represents Whatcom County. James Sells, Ryan Sells and Uptegraft, Inc., Silverdale, Washington, represents Points. Jonathan Thompson, Assistant Attorney General, Olympia, Washington, represents the Commission's regulatory Staff (Commission Staff or Staff).¹ Complainants, Point Roberts, Washington, are appearing pro se. Contact information provided at the conference for the parties' representatives is attached as Appendix A to this order.

3 **PROCEDURAL HISTORY.** On June 27, 2008, the Commission issued Order 01 consolidating Dockets TG-080913, TG-080914, and TG-081089 (consolidated dockets).

4 On December 12, 2008, the Commission issued Order 02 in the consolidated dockets, establishing a procedural schedule following a December 8, 2009, prehearing conference.²

5 On December 31, 2008, the Commission issued Order 03 in Dockets TG-080913, TG-080914, and TG-081089 and Order 01 in TG-082129. The order consolidated the

¹ In formal proceedings, such as this, the Commission's regulatory staff functions as an independent party with the same rights, privileges, and responsibilities as other parties to the proceeding. There is an "*ex parte* wall" separating the Commissioners, the presiding Administrative Law Judge, and the Commissioners' policy and accounting advisors from all parties, including regulatory staff. *RCW 34.05.455*.

²At the December 8, 2008, prehearing conference, Commission Staff asked that the discovery rules be invoked in the consolidated dockets. Following the prehearing conference, the Commission joined Docket TG-082129 with the consolidated dockets. The Commission finds that, with this consolidation, the discovery rules also apply to Docket TG-082129.

four dockets, suspended the procedural schedule established in the December 12, 2008, order in the consolidated dockets, and asserted that the Commission construed Points' December 24, 2008, letter as both an answer and motion to dismiss (Motion).

- 6 The Commission issued Order 04 in Dockets TG-080913, TG-080914, and TG-081089 and Order 02 in Docket TG-082129 on January 13, 2009, denying Points' Motion and denying Complainants' cross motion which requested that the Commission deem the allegations against Points in the Coe Complaint admitted by the Company.
- 7 On January 15, 2009, the Commission entered Order 05 in Dockets TG-080913, TG-080914, and TG-081089 and Order 03 in Docket TG-082129 granting Points' request to withdraw its tariff revision filing in Docket TG-080914.
- 8 **CONFERENCE.** The Commission convened a prehearing conference in these dockets at Olympia, Washington, on January 20, 2009, before Administrative Law Judge Marguerite E. Friedlander.
- 9 **PETITIONS FOR INTERVENTION.** No person or group appeared at the conference seeking to intervene.
- 10 **REQUEST TO DISMISS WHATCOM COUNTY.** On January 14, 2009, Complainants filed a letter with the Commission requesting that the complaint against Whatcom County in Docket TG-082129 be dismissed. Based on Staff's January 9, 2009, response to Points' Motion and Order 04/02, Complainants asserted that they wished to pursue the complaint in Docket TG-082129 against Points only.
- 11 At the January 20, 2009, prehearing conference, Judge Friedlander asked the parties to comment on the Complainants' request. None of the parties commented on the request. Judge Friedlander found that the request was in the public interest and granted Complainants' request to dismiss Whatcom County as a Respondent in Docket TG-082129.
- 12 **PROCEDURAL SCHEDULE.** The parties agreed on a procedural schedule during the conference. The Commission adopts this procedural schedule, which is listed below and attached to this Order as Appendix B.

Prefiled Direct Testimony	February 3, 2009
Prefiled Responsive Testimony	March 9, 2009
Prefiled Rebuttal Testimony	March 30, 2009
Witness Lists	April 15, 2009
Hearing	April 20-21, 2009
Post-hearing opening briefs	May 12, 2009
Post-hearing closing briefs	May 19, 2009

- 13 **NOTICE OF HEARING.** The Commission will hold a hearing in this matter, to begin on **Monday, April 20, 2009, at 9:30 a.m., in Room 206, the Richard Hemstad Building, 1300 S. Evergreen Park Drive SW, Olympia, Washington.** The hearing will continue and be completed, if needed, through **Tuesday, April 21, 2009**, in the same location.
- 14 **DOCUMENT PREPARATION.** Parties must file an original plus 5 copies of all pleadings, motions, briefs, and other prefiled materials. These materials must conform to the format and publication guidelines in WAC 480-07-395 and WAC 480-07-460. The Commission prefers that materials be three-hole punched with *oversized* holes to allow easy handling. The Commission may require a party to refile any document that fails to conform to these standards.
- 15 **ELECTRONIC SUBMISSION OF DOCUMENTS.** All filings must be mailed or delivered to the David W. Danner, Executive Director and Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 S. Evergreen Park Drive, S.W. Olympia, Washington 98504-7250. Both the post office box and street address are required to expedite deliveries by the U.S. Postal Service.
- 16 An electronic copy of all filings must be provided through the Commission's Web Portal (www.utc.wa.gov/e-filing) or by e-mail delivery to records@utc.wa.gov. Alternatively, parties may furnish an electronic copy by delivering with each filing a 3.5-inch IBM-formatted high-density diskette or CD including the filed document(s). Parties must furnish electronic copies in MS Word 6.0 (or later) supplemented by a separate file in .pdf (Adobe Acrobat) format. Parties must follow WAC 480-07-140(5) in organizing and identifying electronic files.

- 17 **ALTERNATE DISPUTE RESOLUTION.** The Commission supports the informal settlement of matters before it. Parties are encouraged to consider means of resolving disputes informally. The Commission does have limited ability to provide dispute resolution services; if you wish to explore those services, please call the Director, Administrative Law Division, at 360-664-1144.
- 18 **NOTICE TO PARTIES: A party who objects to any portion of this Order must file a written objection within ten (10) calendar days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. The service date appears on the first page of the order in the upper right-hand corner. Absent such objection, this Order will control further proceedings in this matter, subject to Commission review.**

DATED at Olympia, Washington, and effective January 22, 2009.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARGUERITE E. FRIEDLANDER
Administrative Law Judge

APPENDIX A

**PARTIES' REPRESENTATIVES
 DOCKETS TG-080913, TG-080914, and TG-081089 (consolidated)**

PARTY	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
Whatcom County	Dan Gibson Whatcom County Deputy Prosecutor 311 Grand Avenue, Ste. 201 Bellingham, WA 98225	360-676-6784	360-738-4561	dgibson@co.whatcom.wa.us
Points Recycling and Refuse, LLC	James Sells Ryan Sells and Uptegraft 9657 Levin Rd. NW, Ste. 240 Silverdale, WA 98383	360-307-8860	360-307-8865	jimsells@rsulaw.com
Commission Staff	Jonathan Thompson Assistant Attorney General 1400 S. Evergreen Park Dr. SW P.O. Box 40128 Olympia, WA 98504	360-664-1225	360-586-5522	jthomпсо@utc.wa.gov
Complainants	Reneé Coe P.O. Box 1010 Point Roberts, WA 98281 Shelley Damewood 119 Kilarney Place Point Roberts, WA 98281 Shannon Tomsen 2125 Whalen Drive Point Roberts, WA 98281	360-945-3090 360-945-6966 360-945-0207	360-945-0206 (fax is not left on, call first)	coe@pointroberts.net cshelld@whidbey.com shannon.prwa@gmail.com
Admin. Law Judge	Marguerite E. Friedlander 1300 S. Evergreen Park Dr. SW P.O. Box 47250 Olympia, WA 98504	360-664-1285	360-664-2654	mrusSELL@utc.wa.gov

APPENDIX B
PROCEDURAL SCHEDULE
DOCKETS TG-080913, TG-080914, and TG-081089

<i>EVENT</i>	<i>DATE</i>
Prefiled Direct Testimony	February 3, 2009
Prefiled Responsive Testimony	March 9, 2009
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