

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT, Docket No. TG-061052

PLEASE NOTE: You must complete and sign this document, and send it to the Commission within 15 days after you receive the penalty assessment. Use additional paper if needed.

I have read and understand RCW 9A.72.020 (printed below), which states that making false statements under oath is a class B felony. I am over the age of 18, am competent to testify to the matters set forth below and I have personal knowledge of those matters. I hereby make, under oath, the following statements.

1. **Payment of penalty.** I admit that the violation occurred and enclose \$100 in payment of the penalty.
2. **Request for a hearing.** I believe that the alleged violation did not occur, based on the following information, and request a hearing for a decision by an administrative law judge:

3. **Application for mitigation.** I admit the violation, but I believe that the penalty should be reduced for the reason(s) set out below.
- a) I ask for a hearing for a decision by an administrative law judge
- OR b) I waive a hearing and ask for an administrative decision on the information I present here.

I have several issues before Commission staff that are not being addressed to my satisfaction. When the Commission finds the time to address my problems then I will comply to the Commission. Until that time I am occupied trying to deal with these issues.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing, including information I have presented on any attachments, is true and correct.

Dated: July 24, 2006 [month/day/year], at Point Roberts, WA [city, state]

Points Recycling and Refuse LLC
Name of Respondent (company) - please print

Anty Wilkowsky
Signature of Applicant

RCW 9A.72.020:

"Perjury in the first degree. (1) A person is guilty of perjury in the first degree if in any official proceeding he makes a materially false statement which he knows to be false under an oath required or authorized by law. (2) Knowledge of the materiality of the statement is not an element of this crime, and the actor's mistaken belief that his statement was not material is not a defense to a prosecution under this section. (3) Perjury in the first degree is a class B felony."

Point Recycling and Refuse

P.M.B. 1542, 145 Tye Drive, Point Roberts, WA 98281
Business Phone: (360) 945-1516

July 24, 2006

Eugene Eckhardt
Assistant Director for Transportation and Water
Washington Utilities and Transportation Commission
PO Box 47250
Olympia, WA 98504-47250

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RECORDS SECTION
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STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION
COMMISSION

RE: Point Recycling and Refuse Company's curbside recycling program

Dear Mr. Eckhardt:

I have received your letter dated July 20th, 2006. You have informed me that Commission Staff does not comment on the "value" of any county programs.

You are mistaken in your conclusions. In my review of the pertinent RCWs which I have attached, it is very clear that the State Legislature designated the WUTC as the financial oversight organization for County mandated recycling programs. The intent of the Legislature was that recycling programs be designed to meet the needs of each specific community and be economically feasible and reasonable. The WUTC is required to ensure these goals.

The Commission has consistently failed these mandates in regards to Point Roberts. The Commission Staff have reviewed several versions of the County Solid Waste Management Plan without specifically looking at the financial impacts on my customers. The Commission Staff have twice audited this company and auditors have been unwilling to determine the viability of the recycling program. In 1990, I expressed serious concerns about this system design and could not get reasonable evaluation from Staff. At this time, I am requesting a feasibility review, and since under RCW 81.77.030, the Commission controls and regulates every aspect of my Company, when I say that there is a problem, the Commission must listen and take action.

This is not a situation where I will tolerate being punted back and forth between the WUTC and the County.

This system is an economic model, in order to achieve optimum regulated rates and reasonable levels of service, the system must be actually designed. The current unreasonable design is destined for failure and collapse.

I understand my job of serving this community and take it quite seriously. There are problems here that, since I do not control the system design, require the full participation of the Commission and the County.

I expect the Commission Staff to actually look at the economics of this small system and then communicate to the County, that there are concerns and potential problems which need to be addressed.

Sincerely,

A handwritten signature in cursive script, appearing to read "Arthur".

Arthur Wilkowski, Owner/Operator

Cc: Penni Lemperes, Whatcom County Solid Waste Specialist

RCW 70.95.010

Legislative finding — Priorities — Goals.

The legislature finds:

(3) Considerations of natural resource limitations, energy shortages, economics and the environment make necessary the development and implementation of solid waste recovery and/or recycling plans and programs.

* (b) It is the responsibility of state, county, and city governments to provide for a waste management infrastructure to fully implement waste reduction and source separation strategies and to process and dispose of remaining wastes in a manner that is environmentally safe and economically sound, it is further the responsibility of state, county, and city governments to monitor the cost-effectiveness and environmental safety of combusting separated waste, processing mixed municipal solid waste, and recycling programs.

(c) It is the responsibility of county and city governments to assume primary responsibility for solid waste management and to develop and implement aggressive and effective waste reduction and source separation strategies.

(d) It is the responsibility of state government to ensure that local governments are providing adequate source reduction and separation opportunities and incentives to all, including persons in both rural and urban areas, and nonresidential waste generators such as commercial, industrial, and institutional entities, recognizing the need to provide flexibility to accommodate differing population densities, distances to and availability of recycling markets, and collection and disposal costs in each community; and to provide county and city governments with adequate technical resources to accomplish this responsibility.

(7) Environmental and economic considerations in solving the state's solid waste management problems requires strong consideration by local governments of regional solutions and intergovernmental cooperation.

(11) Steps should be taken to make recycling at least as affordable and convenient to the ratepayer as mixed waste disposal.

* This comes from 70.95.010(6), not 70.95.010(3) which appears to support issues the hauler favors.

RCW 70.95.090

County and city comprehensive solid waste management plans — Contents.

Each county and city comprehensive solid waste management plan shall include the following:

(1) A detailed inventory and description of all existing solid waste handling facilities including an inventory of any deficiencies in meeting current solid waste handling needs.

(2) The estimated long-range needs for solid waste handling facilities projected twenty years into the future.

(3) A program for the orderly development of solid waste handling facilities in a manner consistent with the plans for the entire county which shall:

(c) Contain a six year construction and capital acquisition program for solid waste handling facilities; and
(d) Contain a plan for financing both capital costs and operational expenditures of the proposed solid waste management system.

(5) A current inventory and description of solid waste collection needs and operations within each respective jurisdiction which shall include:

(a) Any franchise for solid waste collection granted by the utilities and transportation commission in the respective jurisdictions including the name of the holder of the franchise and the address of his or her place of business and the area covered by the franchise;

(c) The population density of each area serviced by a city operation or by a franchised operation within the respective jurisdictions;

(d) The projected solid waste collection needs for the respective jurisdictions for the next six years.

(6) A comprehensive waste reduction and recycling element that, in accordance with the priorities established in RCW 70.95.010, provides programs that (a) reduce the amount of waste generated, (b) provide incentives and mechanisms for source separation, and (c) establish recycling opportunities for the source separated waste.

(b) Source separation strategies, including:

(f) Programs for the collection of source separated materials from residences in urban and rural areas. In urban areas, these programs shall include collection of source separated recyclable materials from single and multiple family residences, unless the department approves an alternative program, according to the criteria in the planning guidelines. Such criteria shall include: Anticipated recovery rates and levels of public participation, availability of environmentally sound disposal capacity, access to markets for recyclable materials, unreasonable cost impacts on the ratepayer over the six-year planning period, utilization of environmentally sound waste reduction and recycling technologies, and other factors as appropriate. In rural areas, these programs shall include but not be limited to drop-off boxes, buy-back centers, or a combination of both, at each solid waste transfer, processing, or disposal site, or at locations convenient to the residents of the county. The drop-off boxes and buy-back centers may be owned or operated by public, nonprofit, or private persons;

(8) An assessment of the plan's impact on the costs of solid waste collection. The assessment shall be prepared in conformance with guidelines established by the utilities and transportation commission. The commission shall cooperate with the Washington state association of counties and the association of Washington cities in establishing such guidelines.

RCW 70.95.092

County and city comprehensive solid waste management plans — Levels of service, reduction and recycling.

Levels of service shall be defined in the waste reduction and recycling element of each local comprehensive solid waste management plan and shall include the services set forth in RCW 70.95.090. In determining which service level is provided to residential and nonresidential waste generators in each community, counties and cities shall develop clear criteria for designating areas as urban or rural. In designating urban areas, local governments shall consider the planning guidelines adopted by the department, total population, population density, and any applicable land use or utility service plans.

RCW 70.95.096

Utilities and transportation commission to review local plan's assessment of cost impacts on rates.

Upon receipt, the department shall immediately provide the utilities and transportation commission with a copy of each preliminary draft local comprehensive solid waste management plan. Within forty-five days after receiving a plan, the commission shall have reviewed the plan's assessment of solid waste collection cost impacts on rates charged by solid waste collection companies regulated under chapter 81.77 RCW and shall advise the county or city submitting the plan and the department of the probable effect of the plan's recommendations on those rates.

[1988 c 431 § 12.]

RCW 81.77.030

Supervision and regulation by commission.

The commission shall supervise and regulate every solid waste collection company in this state,

- (1) By fixing and altering its rates, charges, classifications, rules and regulations;
- (2) By regulating the accounts, service, and safety of operations;
- (3) By requiring the filing of annual and other reports and data;
- (4) By supervising and regulating such persons or companies in all other matters affecting the relationship between them and the public which they serve;
- (5) By requiring compliance with local solid waste management plans and related implementation ordinances;
- (6) By requiring certificate holders under chapter 81.77 RCW to use rate structures and billing systems consistent with the solid waste management priorities set forth under RCW 70.95.010 and the minimum levels of solid waste collection and recycling services pursuant to local comprehensive solid waste management plans. The commission may order consolidated billing and provide for reasonable and necessary expenses to be paid to the administering company if more than one certificate is granted in an area.