

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

WASHINGTON UTILITIES AND)	DOCKET TG-091774
TRANSPORTATION COMMISSION,)	
)	
Complainant,)	ORDER 05
)	
v.)	
)	
HAROLD LEMAY ENTERPRISES,)	FINAL ORDER APPROVING AND
INC., d/b/a RURAL GARBAGE)	ADOPTING SETTLEMENT
SERVICE,)	STIPULATION
)	
Respondent.)	
.....)	

Synopsis: The Commission approves and adopts a Settlement Stipulation, establishing permanent rates for solid waste collection and recycling services provided by Rural Garbage in Thurston County, Washington that are reasonable and just. The Commission finds that rate adjustments are necessary, including rate increases for some services to provide the Company an opportunity to recover its full revenue requirement, and rate decreases relative to current temporary rates, which will result in refunds for residential and commercial garbage service.

SUMMARY

1 **PROCEEDING:** On November 12, 2009, Harold LeMay Enterprises, Inc., d/b/a Rural Garbage Service (Rural Garbage or Company) filed with the Washington Utilities and Transportation Commission (Commission) revisions to its currently effective Tariff No. 13, reflecting higher rates attributed to an increase in the disposal fee charged by Thurston County. The Commission suspended operation of the tariff revisions by order, but allowed the proposed rates to become effective on January 1, 2010, on a temporary basis subject to refund, pending hearings.

- 2 The Commission also held that the Company's tariff filing constituted a general rate case pursuant to WAC 480-07-505 and ordered it to file, by March 1, 2010, all documents required for a general rate case as provided in WAC 480-07-520(4).
- 3 On February 19, 2010, Rural Garbage filed a letter with the Commission requesting an extension of time and waiving the applicable suspension period under RCW 81.04.130. The Commission granted the Company's request. Following additional process, including a second agreed continuance of the filing requirement, the companies provided the documents Staff agreed were essential to its review.
- 4 Staff and the Company filed a Settlement Stipulation on September 2, 2010, by which they propose to resolve all issues in this proceeding. The settlement establishes the Company's revenue requirement and provides rates for its recovery.
- 5 **PARTY REPRESENTATIVES:** David W. Wiley, Williams Kastner & Gibbs PLLC, Seattle, Washington, represents Rural Garbage. James K. Sells, Ryan Sells Uptegraft, Inc. P.S., Silverdale, Washington, appeared for the Washington Refuse and Recycling Association (WRRRA). Robert D. Cedarbaum, Senior Assistant Attorney General, Olympia, Washington, represents the Commission's Regulatory Staff (Commission Staff or Staff).¹
- 6 **COMMISSION DETERMINATIONS:** The Commission has reviewed the Settlement Stipulation, supporting documents and public comments that were received as part of the record in this proceeding. The Commission determines that the settlement, by its terms, sets rates that are reasonable and just. It is, therefore, in the public interest to approve and adopt the Settlement Stipulation in resolution of the issues pending in this proceeding.

¹ In formal proceedings, such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners' policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See, RCW 34.05.455.*

MEMORANDUM

- 7 Rural Garbage informed the Commission by letter filed on November 12, 2009, that Thurston County's disposal fees at its landfill would be increased from \$80 per ton to \$110 per ton, a 37.5 percent increase, effective January 1, 2010. The letter also stated that the fee for yard waste disposal would increase by 37.5 percent, from \$32 to \$44 per ton. The Company's letter transmitted to the Commission revised tariff sheets that, if allowed to become effective, would increase the Company's rates to customers by amounts sufficient to recover the increased disposal fees on an annual basis. The Commission suspended the operation of the tariff revisions but allowed them to go into effect January 1, 2010, on a temporary basis, subject to refund.
- 8 The Commission also held that the company's tariff filing constituted a general rate case pursuant to WAC 480-07-505 and ordered it to file, by March 1, 2010, all documents required for a general rate case as provided in WAC 480-07-520(4). The most recent prior general rate increase for Rural Garbage became effective in January 2007. After additional process, including an agreed continuance of the filing requirement and waiver by the Company of the ten month suspension period that is the default period for processing general rate cases for solid waste collection companies under RCW 81.04.130, the Company filed the documents Staff agreed were essential to its review.
- 9 Staff prepared a pro forma income statement (Attachment A to the Settlement Stipulation), upon which Staff made the following determinations that are uncontested:
1. The overall annual increase in revenue requirement for all services provided by Rural Garbage in Thurston County should be \$381,827 (14.31percent).
 2. The temporary solid waste collection rates for residential and commercial customers that became effective on January 1, 2010, are too high and should be revised downward. Staff determined that the rates for residential and commercial garbage service should generate \$184,708 (6.92 percent) in additional annual revenue. Because the temporary rates would generate \$204,288 additional annual revenue, a small rate decrease is required to reduce revenue by \$19,580 on an annual basis.

3. The Company's current rates for drop box, residential recycling and yard waste collection service are too low. Staff determined that the rates for these services should increase to generate total additional annual revenue of \$197,119 (6.91 percent) as follows: the drop box revenue requirement should increase \$92,949 (38.26 percent), the residential recycling revenue requirement should increase \$84,238 (16.98 percent), and the yard waste revenue requirement should increase \$19,932 (31 percent). The revenue requirement for multi-family recycling did not change and no adjustment to those rates is necessary.

- 10 When Staff conducted its review of the general rate case documents provided by Rural Garbage, it examined the entire Company results and not just disposal fees. Staff adjusted the Company's books making restating adjustments to correct errors, reclassify amounts into proper accounts, and remove any expenses not allowed for ratemaking. The largest of the restating adjustments was to adjust depreciation expense to current Commission methodology. Assets were recorded at original cost and depreciated over their useful lives using Commission guidelines, increasing depreciation expense and decreasing average investment.
- 11 Staff also made pro forma adjustments to show the effects of known and measurable future expense increases or decreases that are not offset by other factors. The increase in disposal fees was one such adjustment. Adjustments were made to record increases in salaries and wages and the resulting taxes, and for the most recent 12-month cost of fuel.
- 12 Although RCW 81.04.130 expressly states the standard for evaluating proposed increases in rates in terms of their "reasonableness and justness," it is fundamental that this standard requires the Commission to determine, among other things, whether a company's rates are fair to customers and sufficient to allow the Company an opportunity to recover its costs. In this case, based on a thorough review of the Company's financial records, Commission Staff determined the temporary rates authorized for Rural Garbage effective January 1, 2010, for residential and commercial solid waste collection are too high. Thus, in the interest of fairness, it is appropriate that these rates be reduced and that customers receive refunds in the form of a bill credit, as proposed by the parties in their Settlement Stipulation.

13 Staff's review also showed, however, that rates for other services provided by Rural Garbage are not sufficient to recover the Company's costs. Staff and the Company propose by their Settlement Stipulation increased rates that provide Rural Garbage the opportunity to recover its full revenue requirement. The uncontested record supports the parties' determination of the Company's revenue requirement and the allocation of it for recovery from customers who avail themselves of the various individual services Rural Garbage provides in Thurston County. The Commission determines for these reasons that the rates set forth in the parties' Settlement Stipulation are reasonable and just and should be approved as permanent rates.

FINDINGS OF FACT

14 Having discussed above in detail the evidence received in this proceeding concerning all material matters, and having stated findings and conclusions upon the issues and the reasons therefore, the Commission now makes and enters the following summary facts, incorporating by reference pertinent portions of the preceding detailed findings:

- 15 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, practices, and accounts of public service companies, including solid waste collection companies.
- 16 (2) Rural Garbage is a solid waste collection company, a common carrier and a public service company as those terms are defined in RCW 81.04.010 and as those terms otherwise are used in Title 81 RCW.
- 17 (3) The record shows that the current, temporary rates charged by Rural Garbage for residential and commercial solid waste collection are excessive relative to the Company's revenue requirements for those services, but that current rates for other services provided by the Company in Thurston County, Washington are insufficient to yield reasonable compensation.
- 18 (4) The terms of the Settlement Stipulation filed by the parties to this proceeding on September 2, 2010, attached to this Order as an appendix and incorporated by this reference, establish by means of rate decreases for some services and rate increases for other services, rates that are fair to customers and sufficient

to allow the Company an opportunity to recover its revenue requirements. The settlement terms accordingly are consistent with the public interest.

- 19 (5) The rates, terms, and conditions of service that result from this Order are reasonable and just.
- 20 (6) The rates, terms, and conditions of service that result from this Order are neither unduly preferential nor discriminatory.

CONCLUSIONS OF LAW

- 21 Having discussed above all matters material to this decision, and having stated detailed findings, conclusions, and the reasons therefore, the Commission now makes the following summary conclusions of law, incorporating by reference pertinent portions of the preceding detailed conclusions:
- 22 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and parties to, these proceedings.
- 23 (2) The current, temporary rates charged by Rural Garbage for residential and commercial solid waste collection are excessive relative to the Company's revenue requirements for those services. These rates should be reduced as proposed in the parties Settlement Stipulation and refunds in the form of bill credits should be made to customers. Current rates charged by Rural Garbage for other solid waste collection and recycling services provided in Washington State are insufficient to yield reasonable compensation for the services rendered. Rural Garbage requires relief with respect to the rates it charges for regulated services provided in Washington State.
- 24 (3) The Commission must determine the fair, just, reasonable, and sufficient rates to be observed and in force under tariffs that govern the rates, terms, and conditions of service for Rural Garbage in providing solid waste collection and recycling services to customers in Washington State.

- 25 (4) Rural Garbage should be authorized and required to make a compliance filing to recover its revenue deficiency of \$381,827, reducing rates for residential and commercial solid waste collection services and increasing rates for other services as provided in the parties Settlement Stipulation.
- 26 (5) The rates, terms, and conditions of service that will result from this Order are reasonable and just.
- 27 (6) The rates, terms, and conditions of service that will result from this Order are neither unduly preferential nor discriminatory.
- 28 (7) The Commission Secretary should be authorized to accept by letter, with copies to all parties to this proceeding, a filing that complies with the requirements of this Order.
- 29 (8) The Commission should retain jurisdiction over the subject matter and the parties to this proceeding to effectuate the terms of this Order.

ORDER

THE COMMISSION ORDERS THAT:

- 30 (1) The parties' Settlement Stipulation, filed on September 2, 2010, is approved and adopted in full resolution of the issues in this proceeding. The Settlement Stipulation, attached as an appendix, is incorporated into this Order by prior reference, as if set forth in full.
- 31 (2) Rural Garbage is authorized and required to make a compliance filing including revised tariff sheets that meet the requirements of this Order and bear an effective date that affords Staff at least 3 business days for review.
- 32 (3) The Commission Secretary is authorized to accept by letter, with copies to all parties to this proceeding, a filing that complies with the requirements of this Final Order.

33 (4) The Commission retains jurisdiction to enforce this Order.

Dated at Olympia, Washington, and effective October 14, 2010.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

JEFFREY D. GOLTZ, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner

NOTICE TO PARTIES: This is a Commission Final Order. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 and WAC 480-07-870.

APPENDIX
SETTLEMENT STIPULATION