

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

WASHINGTON UTILITIES AND)	DOCKET TG-091769
TRANSPORTATION)	
COMMISSION,)	ORDER 01
)	
Complainant,)	
)	
v.)	COMPLAINT AND ORDER
)	SUSPENDING TARIFF;
HAROLD LEMAY ENTERPRISES,)	ALLOWING RATES ON A
INC., d/b/a JOE'S REFUSE)	TEMPORARY BASIS, SUBJECT TO
SERVICE, G-98)	REFUND; AND, ORDERING
)	COMPLIANCE WITH WAC 480-07-
Respondent.)	520
.....)	

BACKGROUND

- 1 On November 10, 2009, Harold LeMay Enterprises, Inc., d/b/a Joe's Refuse Service, (Joe's or Company) filed with the Washington Utilities and Transportation Commission (Commission) revisions to its currently effective Tariff No. 9.3 designated as 10th Revised Page No. 1, 2nd Revised Page No. 16, 3rd Revised Page No. 25, 2nd Revised Page No. 26, 1st Revised Page No. 31, 1st Revised Page No. 35, 2nd Revised Page No. 37, 2nd Revised Page No. 39, and 2nd Revised Page No. 41. The purpose of the filing is to increase rates due to an increase in a disposal fee. The stated effective date is January 1, 2010.

- 2 A disposal fee increase falls within the definition of a general rate increase pursuant to WAC 480-07-505. WAC 480-07-520 lists the minimum required information the Company must provide in a general rate increase filing. The Company provided information pertinent to the disposal fee increase but did not provide the remainder of the information required by the rule.

- 3 If the Commission suspends a tariff that includes rates to recover disposal fees, RCW 81.77.160 requires the commission to allow the rates related to the disposal fees to become effective on the originally filed effective date on an interim basis, subject to refund, pending the Commission's final order.

4 Because this matter involves an increase to recover a disposal fee, Commission Staff recommended that the Commission take no action and allow the proposed rates to become effective on January 1, 2010, by operation of law.

5 However, Staff's review of the Company's filing shows that the proposed rates, as filed in this Docket, may generate more revenue than the Company requires in order to pay reasonable operating expenses and earn a reasonable return. Therefore, Joe's rates that will become effective January 1, 2010, may be unjust and unreasonable, in which case, the Commission should issue a complaint against those rates.

6 In this filing, Joe's proposes to increase charges and rates for service it provides. Because those increases might injuriously affect the rights and interests of the public and Joe's has not demonstrated that the increases would ultimately result in rates that are fair, just, reasonable, and sufficient, the Commission suspends the tariff filing but allows the proposed rates to become effective on a temporary basis on January 1, 2010, subject to refund, and will hold public hearings if necessary.

FINDINGS AND CONCLUSIONS

7 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington vested by statute with the authority to regulate the rates, regulations, practices, accounts and affiliated interests of public service companies, including solid waste companies. *RCW 80.01.040, RCW 81.01, RCW 81.04, RCW 81.16, RCW 81.28 and RCW 81.77.*

8 (2) Joe's is a solid waste company and a public service company subject to Commission jurisdiction.

9 (3) This matter came before the Commission at its regularly scheduled meeting on December 23, 2009.

10 (4) If the Commission suspends a tariff that includes rates to recover disposal fees, RCW 81.77.160 requires the commission to allow the rates related to the disposal fees to become effective on the originally filed effective date on an interim basis, subject to refund, pending the Commission's final order.

- 11 (5) The tariff revisions Joe's filed on November 10, 2009, would increase charges and rates for service provided by Joe's, and might injuriously affect the rights and interest of the public.
- 12 (6) As required by RCW 81.70.160, the Commission allows the proposed rates to become effective, subject to refund.
- 13 (7) Joe's has not yet demonstrated that the tariff revisions would ultimately result in rates that are fair, just, reasonable and sufficient.
- 14 (8) In order to carry out the duties imposed upon the Commission by law, and as authorized in RCW 81.04.130 and RCW 81.04.220, the Commission believes it is necessary to investigate Joe's books, accounts, practices and activities, and to investigate and appraise various phases of Joe's operations.
- 15 (9) As required by RCW 81.04.130, Joe's bears the burden of proof to show that the proposed increases are just, reasonable and sufficient. Nothing in this Order is intended to limit the issues as to the fairness, justness, reasonableness and sufficiency of the proposed increases.
- 16 (10) In addition, the Commission invokes the rights, remedies and procedures contained in the reparations statute, RCW 81.04.220, to the extent the Commission finds that any rate subject to this investigation is excessive or exorbitant.
- 17 (11) Joe's may be required to pay the expenses reasonably attributable and allocable to such an investigation consistent with the provisions of RCW 81.20.

ORDER

THE COMMISSION ORDERS:

- 18 (1) The tariff revisions that Harold LeMay Enterprises, Inc., d/b/a Joe's Refuse Service, filed on November 10, 2009, are suspended.

- 19 (2) The tariff revisions that Harold LeMay Enterprises, Inc., d/b/a Joe's Refuse Service, filed on November 10, 2009, shall become effective on January 1, 2010, on a temporary basis, subject to refund if the Commission determines that different rates will be fair, just, reasonable and sufficient.
- 20 (3) The Commission orders Harold LeMay Enterprises, Inc., d/b/a Joe's Refuse Service, to file all documents required for a general rate case as provided in WAC 480-07-520 by March 1, 2010, together with any additional documents that may be requested by Commission Staff.
- 21 (4) The Commission will hold hearings at such times and places as may be required.
- 22 (5) Harold LeMay Enterprises, Inc., d/b/a Joe's Refuse Service, must not change or alter the tariffs filed in this Docket during the suspension period, unless authorized by the Commission.
- 23 (6) The Commission will institute an investigation of Harold LeMay Enterprises, Inc., d/b/a Joe's Refuse Service's books, accounts, practices, activities and operations as described above.
- 24 (7) Harold LeMay Enterprises, Inc., d/b/a Joe's Refuse Service, shall pay the expenses reasonably attributable and allocable to the Commission's investigation consistent with RCW 81.20.

DATED at Olympia, Washington, and effective December 23, 2009.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

JEFFREY D. GOLTZ, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner