

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

HAROLD LEMAY ENTERPRISES,  
INC.,

Petitioner,

Seeking Exemption from the Provisions of  
WAC 480-07-900; Request Relief from  
Provisions of RCW 81.28.050 Relating to  
45-Day Notice to Commission and  
Customers for Good Cause

DOCKET TG-240048

ORDER 01

GRANTING EXEMPTION FROM  
RULE; GRANTING LESS THAN  
STATUTORY NOTICE;  
GRANTING FUEL SURCHARGE

**BACKGROUND**

- 1 On January 17, 2024, Harold Lemay Enterprises, Inc. d/b/a East Gray's Harbor Disposal (East Gray's Harbor or Company) filed with the Washington Utilities and Transportation Commission (Commission) a petition requesting less than statutory notice and an exemption from WAC 480-70-900.
- 2 WAC 480-70-900 requires solid waste companies that request a filing become effective on less than statutory or other required notice must make that request and a complete filing at least seven business days prior to the next regular open meeting to have the Commission consider the filing at that meeting.
- 3 East Gray's Harbor stated it did not receive information necessary for the Company to make a submission to the Commission until after the deadline for less than statutory notice had already passed. The Company submitted the tariff revisions and less than statutory notice requests as soon as practical after receiving the documents from Commission Staff (Staff).
- 4 RCW 81.28.050 requires solid waste companies to notify the Commission and customers 45 days prior to any tariff revision.
- 5 The Company requests relief from the 45-day notice requirement and to be allowed to notify customers on the first invoice after approval by the Commission as previously allowed under WAC 480-70-471(2)(a).

6 The Company further requests approval of a fuel surcharge in the amount of 0.64 percent  
to take effect February 1, 2024, and expire on March 31, 2024, to recover fuel expenses  
incurred during the months of November and December 2023.

7 Commission Staff (Staff) has reviewed the Company's filing and recommends that the  
Commission grant the relief requested.

### DISCUSSION

8 On review of the Company's request to waive the less than statutory notice to the  
Commission, we agree that the Company made efforts to submit the filing as soon  
practical after receiving information from Staff necessary to complete the filing. Pursuant  
to WAC 480-07-110, the Commission may, in response to a request or on its own motion,  
grant an exemption from its own rules when "consistent with the public interest, the  
purposes underlying regulation, and applicable statutes." The one-time exemption from  
WAC 480-70-900 is approved in this case, but the Company should be aware that this  
exemption will not be granted in all instances.

9 Per RCW 81.28.050, the Commission may by order allow changes to the tariff with less  
than 45-day notice for good cause shown. Pursuant to WAC 480-70-271(2)(a), the  
Commission permits companies to notice customers of fuel surcharge changes on the first  
invoice. The Commission finds there is good cause to allow the Company to continue the  
practice of notice after approval on the first invoice, and the requested relief is granted.

10 The Commission further grants the Company's request to implement the fuel surcharge  
requested in its January 17, 2024, filing.

### FINDINGS AND CONCLUSIONS

11 (1) The Commission is an agency of the State of Washington vested by statute with  
the authority to regulate the rates, rules, regulations, practices, accounts, and  
affiliated interests of public service companies, including solid waste companies.

12 (2) East Gray's Harbor is engaged in the business of providing solid waste services  
within the state of Washington and is a public service company subject to  
Commission jurisdiction.

- 13 (3) East Gray’s Harbor is subject to WAC 480-70-900, which requires solid waste companies requests for less than statutory be at least seven business days prior to the next regular open meeting to have the Commission consider the filing at that meeting.
- 14 (4) Under WAC 480-70-051, the Commission may grant an exemption from the provisions of any rule in WAC 480-70, if consistent with the public interest, the purposes underlying regulation and applicable statutes. See also WAC 480-07-110.
- 15 (5) East Gray’s Harbor is subject to RCW 81.28.050, which requires solid waste companies to provide 45-day notice to the Commission and customers before a tariff revision can take effect.
- 16 (6) Under RCW 81.28.050, the Commission may allow tariff changes to rates with less than 45-day notice for good cause shown.
- 17 (7) The Commission allows the tariff rate revision filed on January 17, 2024, to take effect on February 1, 2024, and expire on March 31, 2024, in the amount of a surcharge of 0.64 percent on all rates and charges for increased fuel costs incurred by the Company during the months of November 2023 and December 2023.
- 18 (8) This matter came before the Commission at its regularly scheduled meeting on January 25, 2024.
- 19 (9) After review of the petition filed in Docket TG-240048 by East Gray’s Harbor on January 17, 2024, and giving due consideration, the Commission finds that the exemption and relief requested is in the public interest and is consistent with the purposes underlying the regulation and applicable statutes and should be granted.

**ORDER**

**THE COMMISSION ORDERS:**

- 20 (1) After the effective date of this Order, Harold Lemay Enterprises, Inc. d/b/a East Gray’s Harbor Disposal is granted an exemption from WAC 480-70-900, which requires less than statutory notice 7 days prior to an open meeting for the fuel surcharge filing received January 17, 2024.

- 21 (2) Harold Lemay Enterprises, Inc. d/b/a East Gray's Harbor Disposal is granted relief from RCW 81.28.050, for good cause shown.
- 22 (3) Harold Lemay Enterprises, Inc. d/b/a East Gray's Harbor Disposal is required to notify customers of the surcharge in compliance with WAC 480-70-471(2)(a), by noticing customers of the changes on the first billing invoice.
- 23 (4) Harold Lemay Enterprises, Inc. d/b/a East Gray's Harbor Disposal's Tariff No. 14, Fuel Surcharge No.1 rates will become effective on February 1, 2024, in the amount of 0.64 percent fuel surcharge on all rates and charges.
- 24 (5) Harold Lemay Enterprises, Inc. d/b/a East Gray's Harbor Disposal's Tariff No. 14, Fuel Surcharge No.1 rates will expire on March 31, 2024.
- 25 (6) The Commission retains jurisdiction over the subject matter and Harold Lemay Enterprises, Inc. d/b/a East Gray's Harbor Disposal to effectuate the provisions of this Order.

The Commissioners, having determined this Order to be consistent with the public interest, directed the Secretary to enter this Order.

DATED at Lacey, Washington, and effective January 25, 2024.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

KATHY HUNTER  
Acting Executive Director and Secretary