

December 16, 2008

89010.0186

David Danner, Executive Director
Policy and Legislative Issues
Washington Utilities and Transportation Commission
P.O. Box 47250
1300 S. Evergreen Park Dr. SW
Olympia, WA 98504-7250

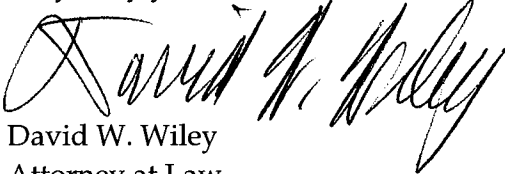
Re: TG-082201 – Petition for Exemption From/Modification to WAC 480-70-351 for a Deferred Accounting Mechanism for Residential Recycling/Harold LeMay Enterprises, Incorporated G-98 d/b/a City Sanitary, Joe's Refuse and White Pass Garbage

Dear Mr. Danner:

Enclosed please find an original Petition and three copies for Exemption From/Modification to the above cited rule. Filed under separate cover today are replacement pages relevant to this filing. Also provided under separate communication from petitioner's controller will be some projection calculations supporting this Petition which are being submitted separately in order to expedite consideration of this request due to approaching time deadlines for action by the Commission.

Please contact the undersigned should you have any further questions on this matter.

Very truly yours,



David W. Wiley
Attorney at Law
(206) 233-2895
dwiley@williamskastner.com

DAV:lct
Encls.

cc: Irmgard Wilcox
Dan Schooler
Eddie Westmoreland

Williams, Kastner & Gibbs PLLC
Two Union Square
601 Union Street, Suite 4100
Seattle, Washington 98101
main 206.628.6600 fax 206.628.6611
www.williamskastner.com
SEATTLE . TACOMA . PORTLAND

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of:

Petition for Exemption From/Modification
by Harold LeMay Enterprises,
Incorporated G-98 d/b/a City Sanitary,
Joe's Refuse and White Pass Garbage

Case No. TG-082201

PETITION FOR EXEMPTION
FROM/MODIFICATION TO WAC 480-70-
351 FOR A DEFERRED ACCOUNTING
MECHANISM FOR RESIDENTIAL
RECYCLING CUSTOMERS

COMES NOW Harold LeMay Enterprises, Incorporated, G-98, d/b/a City Sanitary, Joe's Refuse and White Pass Garbage ("LeMay"), by and through their counsel Williams Kastner & Gibbs and David W. Wiley, and hereby petitions the Washington Utilities and Transportation Commission ("the Commission"), pursuant to WAC 480-70-051 and 480-07-110, seeking modification of the deferred accounting commodity credit mechanism historical period in this current recycling commodity market environment, to extend the 12-month period under the rule effectively freezing the current commodity credit historical period applicable to customers of Petitioner until July 1, 2009.

I. PRELIMINARY STATEMENT

The Commission approved the deferred accounting mechanism for LeMay residential recycling customers in Thurston and Lewis Counties in Tariff 9.1 in September, 1998, in Dockets TG-981088 and TG-981089.

As the Commission is aware, that order and comparative treatment of other regulated haulers' accounting methodologies essentially established a two-phase process for setting residential recycling rates, encompassing a true-up and projection mechanism which involves calculation of average actual revenues and expenses in the

PETITION FOR EXEMPTION FROM/MODIFICATION TO WAC 480-70-351
FOR A DEFERRED ACCOUNTING MECHANISM FOR RESIDENTIAL
RECYCLING CUSTOMERS - 1

most recent historical period and which calculations are then used to project expenses on a going-forward basis which are then reflected in a debit/credit format in estimating commodity values over the next year. This feature is in addition to the true-up component/phase intended to reflect the actual price experience in the prior year's charge/credit to the customer all combined as a single line item in the customer's periodic statement.

With the modification of the recycling credit premise by rule in WAC 480-70-351 in 2001, the original projection period of three months as set forth in the Commission's order in TG-981088 and 981089 was modified to provide for revenue projections over "the most recent twelve-month historical period." After an intervening series of rate filings since 1998, LeMay's present deferred accounting residential recycling rates are now set to expire December 31, 2008.

II. CRUX OF REQUEST

To blunt the looming "rate shock" impact that has been precipitated by the recent "perfect storm" of consistently performing commodities markets for approximately 9 1/2 months of 2008, followed by an almost overnight downturn thereof recently featured in general periodic and industry trade publication articles, LeMay now asks that the Commission exercise its discretion in setting fair, just and reasonable rates, consistent with the public interest under RCW 81.04.250 and RCW 81.77.030, and allow modification of WAC 480-70-351(2) to extend the historical period now in place for calculation of recycling revenues for another six month period.

As the Commission noted in its original orders allowing LeMay to institute the residential recycling deferred accounting mechanism, this approach of setting rates

“balances the interests of solid waste providers against the risks of changing commodity values.” LeMay submits that the risk of changing commodity values in the current atmosphere has never been higher and that its instant request attempts to mitigate or blunt the longer term reflection of those risks to its customers in its invoices and assist in diminishing the rate shock undoubtedly looming in future quarters if the current unprecedented market patterns continue.

III. PRAYER FOR RELIEF

Based on the foregoing, LeMay asks that the Commission allow modification of WAC 480-70-351 to suspend the currently-approved twelve month historical period for the projection of commodity values for its affected residential recycling tariffs and allow that period to remain in place. As reflected by its proposed replacement revised tariff pages separately submitted today, LeMay thus asks that the Commission permit those pages to become effective January 1, 2009 in preserving the existing historical twelve month tracking period until July 1, 2009.

Dated this 16th day of December, 2008.

Respectfully submitted,



DAVID W. WILEY
Attorney for Harold LeMay Enterprises, Incorporated

CERTIFICATE OF SERVICE

I hereby certify that on December 16, 2008, I caused to be served the original and 3 copies of the foregoing document to the following address via first class mail, postage prepaid to:

David Danner, Executive Director
Policy and Legislative Issues
Washington Utilities and Transportation Commission
P.O. Box 47250
1300 S. Evergreen Park Dr. SW
Olympia, WA 98504-7250

I certify I have also provided to the Washington Utilities and Transportation Commission's Secretary an official electronic file containing the foregoing document via email to:

records@wutc.wa.gov

and an electronic copy via email and first class mail, postage prepaid, to:

Jonathan C. Thompson
Assistant Attorney General
1400 S. Evergreen Park Drive SW
P.O. Box 40128
Olympia, WA 98504-0128
Email: jonat@atg.wa.gov



Lyndsay C. Taylor