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**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

<p>In the Matter of the Application of  ADE DUMPSTERS, LLC,  For Authority to Operate as a Solid Waste Collection Company in Washington</p>	<p>DOCKET NO. TG-200250</p>
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**TESTIMONY OF  
MATTHEW O'CONNELL  
MURREY'S DISPOSAL CO., INC.  
AND HAROLD LEMAY ENTERPRISES, INC.**

**DECEMBER 9, 2020**

**TABLE OF CONTENTS**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I. IDENTIFICATION OF WITNESS ..... 1

II. INTRODUCTION..... 1

III. SUMMARY OF TESTIMONY ..... 1

IV. EXHIBITS..... 2

V. THE APPLICANT CANNOT SHOW MURREY’S FAILED TO PROVIDE SERVICE TO THE SATISFACTION OF THE COMMISSION ..... 2

VI. POTENTIAL HARM TO THE PUBLIC CAUSED BY OVERLAPPING SERVICE .. 8

EXHIBIT LIST	
EXHIBIT NO.	DESCRIPTION
Exh. MO-2	Equipment List for Murrey’s
Exh. MO-3	Current Tariff for Murrey’s
Exh. MO-4	Equipment List for LeMay
Exh. MO-5	Current Tariff for LeMay-Pierce
Exh. MO-6	Current Tariff for LeMay-Thurston

**I. IDENTIFICATION OF WITNESS**

**Q: Will you please state your name, place of employment and business address?**

**A:** My name is Matthew O'Connell and I am the Division Vice President for Waste Connections, Inc., the parent company to both Murrey's Disposal Co. Inc. ("Murrey's") and Harold LeMay Enterprises, Inc. ("LeMay"). My business address is 4822 70<sup>th</sup> Avenue E, Fife, Washington 98424.

**II. INTRODUCTION**

**Q: Will you please provide a brief description of your background and experience working with Murrey's Disposal?**

**A:** I have been with the parent company to Murrey's and LeMay, Waste Connections, for nearly 21 years serving in various leadership roles. I was the Operations Manager for Murrey's Disposal from November 2001 until September 2006. In that role I oversaw the hauling operations for our routes located in Pierce and King Counties. Since January 2018 I have been the Division Vice President overseeing our operations in the Northwest area of Washington State that include LeMay and Murrey's. Those operations include 8 hauling operations, 10 transfer stations, and 3 composting operations that currently employ over 900 people.

**III. SUMMARY OF TESTIMONY**

**Q: Will you please describe what you are seeking to accomplish through your testimony?**

**A:** I am offering this testimony in response to the prefiled testimony and exhibits of ADE Dumpsters, LLC ("ADE"). This testimony is filed in opposition to the applicant ADE Dumpsters, LLC, and in support of the protests filed by Murrey's and LeMay to demonstrate that Murrey's has provided residential and commercial roll-off box service

1 to the satisfaction of the Commission, and to demonstrate the harm to Murrey's and the  
2 public if the application is granted.

3 **IV. EXHIBITS**

4 **Q: In support of your testimony, will you be sponsoring any exhibits?**

5 A: Yes, I am sponsoring the exhibits below:

- 6 1) Equipment List for Murrey's – Exh. MO-2.  
7 2) Current Tariff for Murrey's – Exh. MO-3.  
8 3) Equipment List for LeMay – Exh. MO-4.  
9 4) Current Tariff for LeMay – Exh. MO-5.  
10 5) Current Tariff for LeMay – Exh. MO-6.

11  
12 **V. THE APPLICANT CANNOT SHOW MURREY'S FAILED TO PROVIDE  
13 SERVICE TO THE SATISFACTION OF THE COMMISSION**

14 **Q: Have you had an opportunity to review the pre-filed testimony of Anthony  
15 Douglas, offered in support of ADE's application?**

16 A: Yes, I have.

17 **Q: Do you have any general reaction to his statements there?**

18 A: I do. It appears that ADE is attempting to support its application by characterizing the  
19 service it intends to offer as different than those offered by the protestants and  
20 suggesting that the protestants are not providing satisfactory service. I dispute both of  
21 those contentions.

22 **Q: Why do you dispute that ADE is proposing to offer different service than  
23 Murrey's?**

24 A: I dispute that notion for a couple of reasons. First, as I understand it, ADE filed an  
25

1 application to provide residential and commercial “drop box” solid waste collection  
2 service throughout King County, Pierce County and Thurston County. To my  
3 understanding, an unrestricted certificate under RCW 81.77.040, like the one sought by  
4 ADE, authorizes a solid waste collection company to provide various forms of  
5 residential and commercial solid waste collection and transportation service. That  
6 means that if ADE’s application were granted, it would be authorized to duplicate the  
7 services that Murrey’s provides in the areas of Pierce County authorized under  
8 Certificate G-9 and the services LeMay provides in Pierce and Thurston Counties under  
9 Certificate G-98.

10 **Q: What is the second reason?**

11 A: In Exhibit ACD-1T, Mr. Douglas discusses that ADE intends to provide residential and  
12 commercial service using “mid-size” roll-off containers and does not mention any other  
13 forms of service they intend to provide. He then characterizes their proposed mid-sized  
14 roll-off service based on some perceived differences in the manner by which ADE  
15 intends to provide that roll-off box collection service. In my view, those differences do  
16 not change the fundamental character of the service. It is roll-off service, which is a  
17 service Murrey’s definitely provides contained within the scope of its universal solid  
18 waste collection service and applicable tariff including in the “mid-sized” container  
19 range that Mr. Anthony apparently contends is somehow underserved and/or which he  
20 implies Murrey’s and LeMay fail to hold out to perform.

21 **Q: Does ADE identify any customers or particular solid waste collection services that**  
22 **are unavailable from Murrey’s or LeMay?**

23 A: No. Again, ADE’s pre-filed testimony and exhibits appear to focus entirely on a  
24 contrived proposal to provide residential and commercial drop box service, exclusively  
25

1 via containers between 10 and 15 cubic yards. Specifically, Mr. Douglas testified that  
2 “[t]he companies that filed the protests do not serve this sector of the community,”  
3 referring to providing drop box service via 15 cubic yard containers to homeowners,  
4 landscapers, roofers, and arborists. Exh. ACD-1T. 8: 17 – 9: 2. Mr. Douglas is wholly  
5 incorrect in this self-serving and inaccurate assertion. Both Murrey’s and LeMay  
6 provide that service.

7 **Q: Please describe what options Murrey’s and LeMay’s customers have for “mid-  
8 size” roll-off containers?**

9 A: Both Murrey’s and LeMay provide a variety of container sizes for our drop box  
10 customer services. Both provide containers consistent with our tariff in 10 yard, 20  
11 yard, 25 yard, 30 yard, 40 yard, and 50 yard. Both Companies also have available a  
12 number of other sizes in the range of the 13.26 cubic yard containers discussed in Mr.  
13 Douglas’s prefiled testimony used for construction and demolition debris and other  
14 recyclable items. Further we also provide smaller containers that are dumped into  
15 company vehicles from 1 yard up to 6 yards. We are able to provide a number of  
16 options to take care of a customer’s solid waste or recycling removal needs.

17 **Q: Do you also have a response to ADE’s contention that Murrey’s and LeMay are  
18 not providing other ancillary services such as loading and cleaning (Exh. ACD-1T.  
19 8: 24 – 25)?**

20 A: Yes. First of all I would note that these are not services that are integral to solid waste  
21 collection. It appears instead that ADE is simply attempting to open the door to  
22 duplicating service by artificially carving out a package of regulated and unregulated  
23 services and calling it a different service. As far as I am aware, the Commission does  
24 not regulate these ancillary services and does not consider loading and cleaning to be  
25

1 solid waste collection service. Nonetheless, I believe that both Murrey's and LeMay's  
2 services are fully satisfactory and comprehensive and that there is no gap in the service  
3 provided. Instead, it appears that ADE is simply proposing to provide the same drop  
4 box service already performed and offered by Murrey's and LeMay.

5 **Q: What is your reaction to ADE's contentions regarding the need for roll-off service**  
6 **to be provided via different equipment?**

7 A: Well again, first of all, this is self-serving by the applicant putting forth a contention of  
8 need that is not for it to make. However, there are a few points raised by Mr. Douglas  
9 to which I would like to respond. First, he claims that the certificated haulers who  
10 protested all provide roll-off container service in trucks that are too heavy for the  
11 driveways constructed for residential properties, which could result in property damage.  
12 He demonstrates no qualifications to offer such an overbroad and unspecific claim.  
13 Again, I also do not believe he is addressing different service here. But more  
14 importantly, Mr. Douglas has not shown that providing roll-off service via an  
15 articulated trailer is in any way superior to the industry-proven ways of providing  
16 service offered by the protestants.

17 **Q: Does Mr. Douglas address any specific instances where Murrey's damaged a**  
18 **customer's property that was not resolved by Murrey's or LeMay?**

19 A: No. In fact, ADE's exhibit ACD-14 simply appears to be a Better Business Bureau  
20 website printout with customer complaints addressing Waste Connections of  
21 Washington, Inc. which is not the protestant here and does not operate within the  
22 territory requested by the applicant.

23 **Q: Is there any way to discern from Exhibit ACD-14 whether a specific complaint**  
24 **was made regarding service offered in an area served by Murrey's or LeMay?**

1 A: Not from the face of the exhibit, but I was able to obtain information to determine  
2 where that customer resides. It turns out that the customer is in Clark County,  
3 Washington, and clearly not within the territory for which ADE has applied as noted  
4 above.

5 **Q: Was the complaint resolved by the company nonetheless?**

6 A: Yes. In fact, that appears to be evident on the face of Exhibit ACD-14. The only  
7 complaint there relates to drop box service related to a curb that the customer says was  
8 damaged. Although it appears Waste Connections had warned the customer that the  
9 broken curb could be a problem, it seems that it also worked out the complaint to the  
10 customer's satisfaction.

11 **Q: How else does ADE attempt to distinguish the service it proposes to offer?**

12 A: ADE appears to assert that it will offer same-day and multi-trip-per-day roll-off  
13 container service to customers that it contends are not offered by Murrey's or LeMay.

14 **Q: Does either Murrey's or LeMay offer same-day or multiple-trip service?**

15 A: Yes we do. While most of our customers do not require same-day service, it is  
16 certainly possible to schedule same-day service from either Murrey's or LeMay, and if  
17 a customer requires multiple hauls in a single day that can be scheduled as well.

18 **Q: Moving on to a slightly different topic, what is your response to Mr. Douglas's  
19 testimony that the trucks operated by the protestants are too heavy for the  
20 construction of residential driveways? (Exh. ACD-1T. 4: 5 – 5: 2).**

21 A: I don't believe this is somehow an established deficiency in the service offered by  
22 Murrey's or LeMay whatsoever. Both residential and commercial customers who  
23 require drop box collection service, even those who need containers in the range of 10-  
24 20 cubic yards, are able to obtain that service from their respective hauler. The issue  
25



1 raised by Mr. Douglas is whether the way the protestants provide that service is  
2 somehow unsatisfactory because it is provided using commercial vehicles rather than a  
3 heavy-duty pickup with articulated trailer. I dispute that contention.

4 **Q: Do you agree with Mr. Douglas's assertion that the weight of equipment used by**  
5 **Murrey's or LeMay can cause damage to a customer's property?**

6 A: It is always a risk that the weight of the truck or container could be too much for a  
7 paved surface, but I do not believe that the difference in the weight of the equipment  
8 used by ADE significantly mitigates that risk. Moreover, there are real advantages to  
9 providing roll-off service via a commercial vehicle rather than a heavy-duty pickup  
10 truck. For example, when transporting a loaded container for disposal, the purpose-  
11 built vehicles used by Murrey's or LeMay provide enhanced load securement, which  
12 increases safety. Commercial vehicles are typically equipped with stronger brakes and  
13 higher payload capacities as well. Our trucks can load a container without use of an  
14 articulated trailer as well, which I understand can add a degree of difficulty to vehicle  
15 handling. Thus, the vehicles routinely used by the protestants provide an advantage  
16 when it comes to highway safety. In our view, if we were to offer roll-off service  
17 differently it might decrease the load on a customer's driveway only to also decrease  
18 highway safety. Further our drivers are highly trained, not only on the equipment that  
19 they operate, but in a wide-variety of safety topics. Our drivers and equipment are  
20 regulated at both a state and national level by the WUTC and Federal DOT. This  
21 provides piece of mind to the customer that their needs are being handled by the  
22 correct, safe equipment for the job as well as a highly trained, professional driver  
23 operating it as well.

1 **Q: Have you done anything to confirm whether customers have lodged complaints**  
2 **against Murrey's or LeMay on any of the bases raised by ADE?**

3 A: Yes. For one, we made Public Records Act Requests to the Commission for any  
4 customer complaints against Murrey's in Pierce County or LeMay in Thurston County  
5 for the one-year period ending on the date of ADE's application. The responses we  
6 received was that there were no complaints made to the Commission.

7 **VI. POTENTIAL HARM TO THE PUBLIC CAUSED**  
8 **BY OVERLAPPING SERVICE**

9 **Q: If ADE'S application were granted, what would be the impacts on Murrey's or**  
10 **LeMay and the public?**

11 A: The biggest concern we have is with the fact that if another company is authorized to  
12 provide roll-off service, there would be no requirement for it to provide universal  
13 service like there is for the protestants. If ADE is granted a certificate and fails to  
14 provide service to every customer that requests it, ADE will suffer no economic harm  
15 because it will already have a competitor. Thus, there would be no incentive for ADE to  
16 serve every customer that contacts it. In turn, this would permit ADE to cream-  
17 skim/"cherry pick" and serve only the most profitable customers, and only those  
18 customers it could serve with ADE's existing employees and equipment, leaving all the  
19 remaining customers to be served by Murrey's and LeMay who would be refused  
20 service by ADE who lacks the equipment and personnel to fully serve the solid waste  
21 generating public in Pierce and Thurston Counties.

22 **Q: How would that adversely impact Murrey's and LeMay?**

23 They will still be obligated to provide universal service and ensure that their service  
24 meet the Commission's standards. That means we would need to have available all the  
25

1 same equipment and employees that are currently used to provide roll-off service. Yet  
2 we would lose a portion of our revenue base to ADE, which, with cream-skimming, is  
3 likely to be the segment of our service that incurs the least cost to serve. This means  
4 we would continue to incur expense at a level similar to what is now incurred without  
5 any cream-skimming and preferential service by ADE, but lose the necessary revenue  
6 to acquire and maintain vehicles and employ drivers and support our existing service  
7 infrastructure. As a result of that revenue decline, Murrey's and LeMay would likely  
8 be required to raise the rates it charges to its remaining customers in order to continue  
9 to appropriately recover our costs. Thus, if ADE's application were granted, it would  
10 have decidedly adverse impacts on all other roll-off customers of Murrey's in Pierce  
11 County and of LeMay in Pierce and Thurston County.

12 **Q: Does this conclude your testimony for the present time?**

13 **A:** Yes, it does.