

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

In the Matter of a Tariff to Increase Rates	)	DOCKET TG-100087
Due to a Disposal Fee Increase and Petition	)	
Filed By	)	ORDER 01
	)	
	)	
HAROLD LEMAY ENTERPRISES, INC.,	)	
d/b/a PIERCE COUNTY REFUSE, G-098	)	
	)	ORDER AUTHORIZING REVENUE
Petitioner,	)	SHARING FOR RECYCLABLE
	)	COMMODITIES REVENUE AND
Requesting Authority to Retain Thirty	)	ORDER GRANTING EXEMPTION
Percent of the Revenue Received From the	)	FROM RULE AND ALLOWING
Sale of Recyclable Materials Collected in	)	TARIFF TO BECOME EFFECTIVE
Residential Recycling Service	)	BY OPERATION OF LAW
.....	)	

**BACKGROUND**

- 1 On January 13, 2010, Harold LeMay Enterprises, Inc., d/b/a Pierce County Refuse (LeMay or Company), filed with the Washington Utilities and Transportation Commission (Commission) revisions to its currently effective Tariff No. 9 to:
  - Increase rates due to a disposal fee increase from \$108.74 per ton to \$112.94 per ton effective March 1, 2010, as communicated to the Company in Pierce County Recycling, Composting and Disposal, LLC, d/b/a LRI’s letter dated December 16, 2009; and
  - Revise its monthly commodity price adjustment for residential customers from a \$1.59 credit to a \$.22 debit; an increase of \$1.81 per customer per month.

Both of these revisions would generate \$438,348 (2.6 percent) in additional annual revenue. The Company serves approximately 44,000 residential and commercial customers in Pierce County.

- 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 WAC 480-07-110 allows the Commission to grant an exemption from or modify the application of its rules if consistent with the public interest, the purposes underlying regulation, and applicable statutes. *See also WAC 480-70-05.*
- 4 Commission Staff reviewed the tariff request together with other factors and recommends the Commission allow the tariff to become effective by operation of law, and on its own motion, grant an exemption *from the rule for this filing* for the following reason(s):
- a. There have not been any significant changes since the last rate case that became effective March 1, 2008. Since that date there has not been any customer growth, inflation has been low, and the Company has not changed its collection methods.
  - b. Disposal fees are set by Pierce County through its agreement with the landfill operator; Pierce County Recycling, Composting and Disposal, LLC, d/b/a LRI, and are required as a part of LeMay's operations.
  - c. The Company's financial information supports the proposed revenue requirement and the proposed rates.
  - d. Staff concluded the proposed rate increase, by reason of the increase in disposal fees, is fair, just and reasonable.
- 5 The filing also proposes to decrease the amount that the Company pays to residential customers for the value of the recyclable materials that LeMay collects in its recycling service. Each residential customer will pay \$.22 per month instead of receiving a \$1.59 credit; an increase of \$1.81 per customer per month. The Company has requested that the tariff revisions filed January 13, 2010, become effective March 1, 2010.
- 6 Also on January 13, 2010, the Company petitioned the Commission for the authority to retain 30 percent of the revenue generated from the sale of recyclable commodities.
- 7 RCW 81.77.185 states that the Commission shall allow solid waste collection companies collecting recyclable materials to retain up to 30 percent of the revenue paid to the companies for the material if the companies submit a plan to the Commission that is certified by the appropriate local government authority as being consistent with the local government solid waste plan and that demonstrates how the revenues will be used to increase recycling. The remaining revenue shall be passed to residential customers.

8 On January 13, 2010, LeMay filed with Pierce County its recycling plan for calendar year 2010. The plan sets forth specific actions that LeMay will take including: working with Pierce County to better assess recycling efforts in the county; work with Pierce County Solid Waste to keep its website current and continue to promote 96-gallon recycling carts to new users. The plan also requires LeMay to track and maintain recycling data for its operations and report results to Pierce County Solid Waste. The Company states that it will use retained revenue to:

- Provide new customers with information packets outlining garbage, recycling and yard waste services;
- Include notes in customer billings concerning Christmas tree recycling and advantages and benefits of recycling commodities and yard waste;
- Conduct recycling stream characterization efforts to improve recycling data;
- Distribute flyers advertising the recycle center located in Parkland;
- Reach out to the community, mainly through schools, to encourage and promote recycling efforts in the community;
- Participate in regional meetings, city councils, Washington Refuse, Recycling Association (WRRRA), etc. to discuss and develop strategies for increasing recycling in our state; and
- Working directly with Multi-family customers and complexes to educate and help divert waste from landfills through increased recycling.

9 LeMay provided a summary of its recycling plan in a letter it filed with the Commission on January 13, 2010. This letter was then followed by correspondence addressed to the Executive Director and Secretary of the Commission from Stephen Wamback, Solid Waste Administrator for Pierce County Washington. Mr. Wamback states that; “In my position as Solid Waste Administrator, I have been delegated the authority to make the certification of the revenue sharing plan as required in RCW 81.77.185 statute. I hereby certify that the plan submitted to you by Harold LeMay Enterprises, Inc. d/b/a Pierce County Refuse is consistent with our local solid waste management plan.”

10 Staff recommends that the Commission approve the proposed commodity debit to become effective March 1, 2010, and grant LeMay’s request to retain 30 percent of the revenues it receives from the sale of recyclable materials that it collects in its residential recycling service from March 1, 2010, to February 28, 2011, and require LeMay to report to the Commission no later than January 15, 2011, the amount of revenue it retained, the

amount of money it spent on the activities identified in LeMay's recycling plan and the effect the activities had on increasing recycling.

- 11 Staff further recommends the Commission allow the tariff to increase rates by reason of the increase in disposal fees to become effective by operation of law, and on its own motion, grant an exemption from the rule WAC 480-07-520 requiring the company to file a general rate case for this filing as such exemption is consistent with the public interest, the purposes underlying regulation and applicable statutes.

### FINDINGS AND CONCLUSIONS

- 12 (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, rules, 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.*
- 13 (2) LeMay 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.
- 14 (3) LeMay is subject to the filing requirements of WAC 480-07-520, for general rate increase proposals.
- 15 (4) Under WAC 480-07-110, 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 480-70-051.*
- 16 (5) RCW 81.77.185 states that the Commission shall allow solid waste collection companies collecting recyclable materials to retain up to 30 percent of the revenue paid to the companies for the material if the companies submit a plan to the Commission that is certified by the appropriate local government authority as being consistent with the local government solid waste plan and that demonstrates how the revenues will be used to increase recycling. The remaining revenue shall be passed to residential customers.

- 17 (6) Pierce County is responsible for managing waste through its Comprehensive Solid Waste Management Plan. The Administrator of Pierce County's Solid Waste Program certified that LeMay's recycling plan is consistent with the County's Comprehensive Solid Waste Management Plan and his recommendation that the Commission allow LeMay to retain thirty percent of the revenue the Company receives from the sale of recyclable material is accepted by the Commission.
- 18 (7) After reviewing the tariff revisions LeMay filed in Docket TG-100087 on January 13, 2010, and giving due consideration, the Commission finds:
- (a) An exemption from the general rate increase filing requirements set forth in WAC 480-07-520 is in the public interest and consistent with the purposes underlying regulation, and applicable statutes and should be granted; and
  - (b) It is in the public interest to allow the tariff revisions to Tariff No. 9 to become effective on March 1, 2010, by operation of law.
- 19 (8) This matter came before the Commission at its regularly scheduled meeting on February 25, 2010.

**O R D E R**

**THE COMMISSION ORDERS:**

- 20 (1) The Commission retains jurisdiction over the subject matter and Harold LeMay Enterprises, Inc., d/b/a Pierce County Refuse, to effectuate the provisions of this Order.
- 21 (2) On the effective date of this Order, Harold LeMay Enterprises, Inc., d/b/a Pierce County Refuse is granted an exemption from WAC 480-07-520 for purposes of the tariff filed in Docket TG-100087 on January 13, 2010.
- 22 (3) The tariff revisions Harold LeMay Enterprises, Inc., d/b/a Pierce County Refuse, filed on January 13, 2010, will be effective on March 1, 2010.

- 23 (4) Harold LeMay Enterprises, Inc., d/b/a Pierce County Refuse, is authorized to retain 30 percent of the revenue it receives from the sale of recyclable materials collected in its residential recycling program from March 1, 2010, to February 28, 2011. Harold LeMay Enterprises, Inc., d/b/a Pierce County Refuse, will report to the Commission no later than January 15, 2011, the amount of revenue it retained, the amount of money it spent on the activities identified in its recycling plan and the effect the activities had on increasing recycling.
- 24 (5) Harold LeMay Enterprises, Inc., d/b/a Pierce County Refuse, shall make its next commodity adjustment effective March 1, 2011, and each March 1 thereafter.
- 25 (6) The Commission delegates to the Secretary the authority to approve by letter all compliance filings required in this Order.

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

DATED at Olympia, Washington, and effective February 25, 2010.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Executive Director and Secretary