

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

In re Application No. GA-079251 of	)	DOCKET NO. TG-040221
)	
HAROLD LEMAY ENTERPRISES,	)	ORDER NO. 06
INC.)	
	)	ORDER GRANTING
For an Extension of Certificate No.	)	WITHDRAWAL OF
G-98 for a Certificate of Public	)	APPLICATION; CLOSING
Convenience and Necessity	)	DOCKET
)	
.....)	
In re Application No. GA-079254 of	)	DOCKET NO. TG-040248
)	
KLEEN ENVIRONMENTAL	)	ORDER NO. 06
TECHNOLOGIES INC.)	
	)	ORDER MODIFYING
For a Certificate of Public	)	PROCEDURAL SCHEDULE
Convenience and Necessity)	
)	
.....)	

- 1 **NATURE OF PROCEEDING.** Docket Nos. TG-040221 and TG-040248 are applications by Harold LeMay Enterprises, Inc. (LeMay) and Kleen Environmental Technologies, Inc. (Kleen Environmental), respectively, for certificates and extensions of certificates of public convenience and necessity for collection of solid waste, in particular biomedical waste. The applications are consolidated for hearing and determination under WAC 480-07-320 and WAC 480-70-111, as the applications request overlapping territory and were filed within the time period required in the rule.

- 2 **PROCEDURAL HISTORY.** On September 9, 2004, Le May filed a letter with the Commission notifying the Commission that it was withdrawing its Application No. GA-079251.

3 On September 23, 2004, the Commission held a prehearing conference in Olympia, Washington, before Administrative Law Judge Ann E. Rendahl, at which counsel for LeMay confirmed the withdrawal of the application.

4 The Commission held hearings concerning Application No. GA-079254 of Kleen Environmental in Kent, Washington, from September 27 to 30, 2004, from October 6 to 8, 2004, and on October 12, 2004. During the hearings, it became apparent that it was necessary to schedule an additional day of hearing, and a dispute arose over the admissibility of certain proposed rebuttal exhibits.

5 **APPEARANCES.** James K. Sells, Ryan Sells Uptegraft, Inc., P.S., Silverdale, Washington, represents LeMay as applicant, as well as LeMay, Rubatino Refuse Removal, Inc., Consolidated Disposal Services, Inc., and Washington Refuse and Recycling Association (WRRRA) as protestants to the Kleen Environmental application. Greg W. Haffner, Curran Mendoza P.S., Kent, Washington, represents Kleen Environmental as applicant and as an intervenor in the LeMay application. Stephen B. Johnson, Garvey Schubert Barer, Seattle, Washington, represents Stericycle of Washington, Inc. (Stericycle) as a protestant to both applications. Gregory J. Trautman, Assistant Attorney General, Olympia, Washington, represents the Commission's regulatory staff (Commission Staff or Staff).

6 **WITHDRAWAL OF LE MAY APPLICATION.** On September 9, 2004, counsel for LeMay filed a letter with the Commission advising that LeMay was withdrawing its application No. GA-079251 for an Extension of Certificate No. G-98. Counsel for LeMay confirmed the Company's withdrawal of the application during the August 23, 2004, prehearing conference. The withdrawal of Application No. GA-079251 is granted, and Docket No. TG-040221 is closed.

7 **CHANGES TO PROCEDURAL SCHEDULE.** During the hearing on October 8, 2004, Stericycle objected to the admission of documents marked as Exhibit Nos. 52 and 53, offered by Kleen Environmental as rebuttal exhibits through its witness Mr. Kenneth Lee. The administrative law judge allowed testimony by Mr. Lee, but did not admit the exhibits, pending a determination of the availability of the transcript of the September 30, 2004, hearing. **Parties may file pleadings with the Commission by Monday October 25, 2004, concerning whether the documents marked as Exhibit Nos. 52 and 53 are properly rebuttal exhibits, whether the proposed exhibits should be admitted or rejected, and whether the testimony of Mr. Lee concerning the proposed exhibits should be allowed or stricken from the record.** The administrative law judge will enter a decision on the issue by Friday, November 5, 2004.

8 **NOTICE OF ADDITIONAL DAY OF HEARING.** The Commission convenes an additional day of hearing in this matter to consider rebuttal testimony by protestant Stericycle. **A hearing to consider rebuttal testimony will be held on Friday, October 22, 2004, beginning at 9:30 a.m. in Room 108 of the Commission's offices located in the Chandler Plaza Building, 1300 S. Evergreen Park Drive, SW, Olympia, Washington.**

9 **CANCELLATION OF HEARING DATE.** On September 9, 2004, the Commission rescheduled the hearing in Spokane, Washington, for Monday, October 25, 2004. During the hearings concerning the Kleen Environmental application, the parties indicated that it was not necessary to hold a hearing in Spokane. The hearing scheduled for October 25, 2004, in Spokane, Washington, is cancelled.

- 10 **NOTICE TO PARTIES: Any objection to the provisions of this Order must be filed within ten (10) days after the service date of this Order, pursuant to WAC 480-07-810. Absent such objection, this Order will control further proceedings in this matter, subject to Commission review.**

Dated at Olympia, Washington, and effective this 14th day of October, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

ANN E. RENDAHL
Administrative Law Judge