

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of:

Petition for Exemption by Harold LeMay Enterprises, Inc. G-98 d/b/a Pacific Disposal and Butlers Cove Refuse Service

Case No. TG-

PETITION FOR EXEMPTION FROM PORTIONS OF WAC 480-07-520(4)

1 COMES NOW Harold LeMay Enterprises, Incorporated, G-98, (“LeMay”), d/b/a Pacific Disposal and Butlers Cove Refuse Service (“Petitioners”), 2910 Hogum Bay Road NE, Olympia, Washington, 98516, by and through their counsel, Williams Kastner & Gibbs PLLC and David W. Wiley, 601 Union Street, Suite 4100, Seattle, Washington, 98101, and hereby petitions the Washington Utilities and Transportation Commission (“the Commission”), pursuant to WAC 480-70-051, WAC 480-07-110 and WAC 480-07-370(1)(b), seeking an exemption from certain requirements of the general rate proceeding workpaper filing requirements. The exemption is sought as applied to LeMay as the “Company,” in interpretation and application of the rule requirement in light of the revised Commission policy for stricter enforcement of the general rate case rule and in light of the Commission’s recent decision in Order No. 4, TG-091933, *Washington Utilities and Transportation Commission v. Waste Management of Washington, Inc. d/b/a Waste Management of Sno-King* and Order No. 3, TG-091945 in re the *Petition of Waste Management, Inc. d/b/a Waste Management of Sno-King* (March, 2010), (hereinafter the “*Sno-King Order*”).¹

I. PRELIMINARY STATEMENT

2 This filing seeks exemptions from portions of WAC 480-07-520(4) in asking that the Commission not require, as a part of the considerable workpapers being filed herewith, that

¹ Like Waste Management of Washington, Inc. (“WMW”), Harold LeMay Enterprises, Inc. is comparable to WMW in operating as a single corporate entity in regulated service with numerous separate operating divisions spanning multiple counties within multiple tariff filing areas.

under WAC 480-07-520, for example 4(a), a detailed pro forma income statement “separated among solid waste, single family residential recycling, multi-family and yard waste, with restating actual and pro forma adjustments, including all supporting calculations and documents for all adjustments” be required with respect to Harold LeMay Enterprises, Inc., as “the Company.” While Petitioners are in fact filing a consolidated income statement for the “Company” (LeMay) as a whole, the range of adjustments required by the subparts of the rule are not all being provided for the Company as opposed to the tariff filing entity, Pacific Disposal and Butlers Cove Refuse Service.

3 As noted, Petitioners are now filing such separated income statements on behalf of Pacific Disposal and Butlers Cove Refuse Service, the actual tariff proponent herein, and are providing income statements and balance sheets separating by county all of LeMay’s operations in the other counties of Pierce, Grays Harbor and Lewis. Requiring the type of detail under subsection 4(a) for LeMay as a whole would work a substantial hardship on the Company at present and, for instance, closely reviewed pro forma income statements for the whole Company separated by individual classes of service are not presently available.

4 Additionally, the Petitioners are requesting a similar relaxation and/or exemption of the general rate proceeding workpaper rule for subparts 4(d) and 4(e), which require: “a detailed separation of all revenues between regulated and non-regulated operations” and “[a] detailed list of all non-regulated operations, including the rates charged for the services rendered. Copies of all contracts must be provided on request.”

5 Petitioners are here seeking exemption or relaxation of the portion of the rule requirement that separation of all revenues between regulated and unregulated operations for the non-tariff filing entity be produced and that all rates charged for the services rendered for the unregulated operations be provided. Again, Petitioners are supplying the separation for the

tariff filing entity's operations and the list of all unregulated operations of Pacific Disposal and Butlers Cove Refuse Service and all pertinent rates performed for those services.

However, the Company is unable to compile all the myriad of income separation and the various rate levels for the broad array of unregulated services they provide as a whole. In addition, they are also reasonably concerned about disclosure of competitive information on unregulated services related to the considerations noted by the Commission in the *Sno-King Order* at section 36 and specifically with respect to the lack of transportation company exemptions under Title 81 RCW that do not mirror RCW 80.04.095. For the reasons described there and more specifically below, Petitioners therefore request exemption from the general rate filing workpapers rule in this limited circumstance as well.

6 Finally, Petitioners are seeking exemption from the application of selected latter portions of the general rate case workpaper rule (WAC 480-70-520(4)(f) and (j)) to the extent that they are asking the rule be applied only to the tariff filing entity/subdivision, and not LeMay as a whole. Specifically they ask information about every transaction with affiliated interests pertain to the Pacific Disposal/Butlers Cove Refuse Service Thurston County tariff entity and its relationship to Waste Connections, Inc. for the purposes of RCW 81.16.030, with a consolidated income and balance sheet also provided for the parent company Waste Connections, Inc. and any other entity qualifying as an "affiliated entity" under the rule.

II. BASIS FOR REQUEST FOR EXEMPTION FROM WORKPAPER REQUIREMENT ON DETAILED COMPANY-WIDE PRO FORMA INCOME STATEMENT, REVENUE IMPACT AND INCOME STATEMENT BY MONTHLY EXPENSE ACCOUNTS: WAC 480-07-520(4)(a)

7 As the Commission's records reflect, LeMay was acquired by Waste Connections, Inc. in November, 2008. The test period involved in this filing is April 1, 2011-March 31, 2012.

8 Despite the present inability to prepare a detailed pro forma income statement for separated
classes of service revenue impact and income statement by all accounts by month for all of
G-98 pursuant to subpart 4(a) of the rule, the Company *has* compiled a detailed depreciation
schedule under WAC 480-07-520(4)(h). It has prepared and is filing a lengthy schedule
listing all LeMay assets and pertinent asset purchase, depreciation salvage value expenses,
and test period information, etc., that will clearly identify all Company-wide assets for audit
and allocation purposes at this time so that the requirement identifying all such depreciable
LeMay assets has been satisfied on a Company-wide basis.

III. REQUEST FOR EXEMPTION FROM COMPLETE RATE DISCLOSURE FOR ALL UNREGULATED OPERATIONS: WAC 480-07-520(4)(d) and (e)

9 As also noted above, Petitioners have provided, within this rate filing, both a detailed
separation of regulated and non-regulated revenue and expenses and a detailed list of all
non-regulated operations for Pacific Disposal and Butlers Cove Refuse Service.
Furthermore, they have provided certain schedules of rates charged in various exempt or
unregulated operations within other portions of the LeMay territory.
10 Again, Petitioners are providing all other information they believe is required by a broad
reading of the general rate case workpaper rule, including as to the tariff filing entity
separation of non-regulated revenue and expenses between regulated and unregulated
operations of the tariff filing entity in Thurston County, (but not as the Company as a
whole), and similarly, under WAC 480-07-520(4)(e), for Pacific Disposal and Butlers Cove
Refuse Service (but not for the Company as a whole), and contend their filing represents a
consistent, good faith attempt to comply with the broader substantive requirements of the
rule and is fully consistent with the Commission's recent interpretation and application of
the rule in the recent *Sno-King* Order and other exemption petition decisions.

11 As the *Sno-King Order* further noted, unregulated service rates could be freely discoverable by any commercial competitor scrutinizing this filing. Petitioners believe it is wholly inconsistent with the public interest that those unrelated, non-pertinent service rates be provided or risk rejection of the general regulated rate filing information. Again, Petitioners are providing all other information they believe is required by a broad reading of the general rate case workpaper rule, and contends that their filing represents a consistent, good faith attempt to comply with the broad substantive requirements of the rule and is also fully consistent with the Commission's interpretation of the rule in the recent *Sno-King Order*.

IV. REQUEST FOR EXEMPTION FROM WAC 480-70-520(4)(f) and (4)(j) TO THE EXTENT THOSE PROVISIONS WOULD ONLY APPLY TO THE BUSINESS UNIT REGULATED UNDER THE SUBJECT TARIFF AT ISSUE.

12 Finally, as noted above, Petitioners respectfully request that the scope of the general rate filing workpaper rule be modified in this instance to apply the indicated price out detail and affiliated transaction requirements near the end of the featured rule only to the tariff-filing division of LeMay, not "the Company" as a whole. As described above, company-wide consolidated data have not historically been compiled by LeMay, rather it has internally reported based on separate independent districts and filed tariffs, and made computations relevant to those internally-separated districts. To mandate broad application of the rule now to LeMay as a whole would not result in presentation of correlated data that is any more accurate or more historically consistent and audit-tested than the separated results of the tariffed-divisions. Thus, aggregated totals would actually lack the statistical significance of the separated tariffed areas.

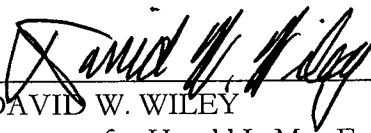
V. PRAYER FOR RELIEF

13 WHEREFORE, based on the foregoing outline of the issues raised by this Petition for Exemption from Rule, Petitioners Pacific Disposal and Butlers Cove Refuse Service, ask that

the Commission permit exemptions of this filing applicable to WAC 480-07-520(4)(a), (d), (e), (f) and (j), finding that it is in the public interest and fully consistent with the purposes of evaluating general rate increases to grant Harold LeMay Enterprises, Inc. d/b/a Pacific Disposal and Butlers Cove Refuse Service an exemption to the workpapers requirements of WAC 480-07-520(4) for the limited purpose of considering the proposed general rate increase filing in this docket for the applicable tariff governing Pacific Disposal and Butlers Cove Refuse Service's operations.

Dated this 15th day of June, 2012.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David W. Wiley", is written over a horizontal line.

DAVID W. WILEY


Attorney for Harold LeMay Enterprises, Inc. d/b/a Pacific
Disposal and Butlers Cove Refuse Service

CERTIFICATE OF SERVICE

I hereby certify that on June 15, 2012, I caused to be served the original and three (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@utc.wa.gov.



Lyndsay C. Taylor