

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Request of

HAROLD LEMAY ENTERPRISES, INC.
d/b/a PACIFIC DISPOSAL AND
BUTLERS COVE REFUSE SERVICE

Petitioner,

Seeking Exemption from the Provisions of
WAC 480-70-351(2) Relating to
Recycling Credits or Charges and Less
Than Statutory Notice in Connection with
Tariff Revisions

DOCKET TG-180969

ORDER 01

ORDER GRANTING EXEMPTION
FROM RULE AND GRANTING
LESS THAN STATUTORY NOTICE;
ALLOWING TARIFF REVISIONS TO
BECOME EFFECTIVE BY
OPERATION OF LAW

BACKGROUND

- 1 On November 20, 2018, Harold LeMay Enterprises, Inc. d/b/a Pacific Disposal and Butlers Cove Refuse Service (Pacific Disposal or Company) filed with the Washington Utilities and Transportation Commission (Commission) a petition requesting an exemption from WAC 480-70-351(2) related to rates, recycling programs, credits, and charges (Petition). The Company provided 30 days' advance notice to educate its customers on the current state of recycling markets and explain how customers are impacted. The cost of the notice to customers is included in the new commodity adjustment because the notice was a requirement by the Commission. The Company also seeks less than statutory notice treatment to allow the commodity adjustment to take effect January 1, 2019.
- 2 WAC 480-70-351(2) states that solid waste companies that estimate the revenue from the sales of recyclable materials collected in residential curbside programs as part of a deferred accounting program to return recycling revenues or charges to customers must use the most recent 12-month historical period to estimate the revenue for the next 12 months.
- 3 In its Petition, the Company asserts that the recycling commodity markets have become more volatile, and a shorter projection period for calculating commodity adjustments would avoid large swings in the credit or debit to customers based on changing commodity values. Due to the decreased value of recyclable commodities, the Company seeks approval to use a 6-month, rather than 12-month, average to calculate its proposed recycling commodity adjustment.

4 RCW 81.28.050 and WAC 480-70-266 require 45 days' notice to the Commission prior to the effective date of the tariff. The tariff sheets bear an effective date of January 4, 2019. This date recognizes statutory notice as required. Pacific Disposal requests, however, less than statutory notice as permitted in WAC 480-70-276, and that the revisions become effective January 1, 2019.

5 Commission staff (Staff) reviewed the Petition and determined that the request for an exemption from the 12-month historical period requirement is reasonable. Staff recommends granting Pacific Disposal's request for exemption and less than statutory notice.

DISCUSSION

6 We agree with Staff's recommendation and grant Pacific Disposal's Petition for exemption from WAC 480-70-351(2). Using the most recent six-month historical period to estimate revenues is reasonable in this case because it reflects a more realistic estimate of recyclable commodity revenue. Accordingly, we find that granting the Company's request for an exemption is consistent with the public interest, the purposes underlying regulation and applicable statutes.¹

7 The Commission also grants the Company's request for less than statutory notice. The Commission was aware of the Company's request prior to the filing date in this docket and the Company was asked to provide 30 days' advanced customer notice. As such, the Commission did not require 45 days' notice in this instance in order to make a fully informed and reasoned decision. Accordingly, we find that the Company qualifies for an exemption from WAC 480-70-276.

FINDINGS AND CONCLUSIONS

8 (1) The Commission is an agency of the State of Washington vested by statute with the authority to regulate the rates, regulations, practices, accounts, and affiliated interests of public service companies, including solid waste companies.

9 (2) Pacific Disposal is a solid waste company and a public service company subject to Commission jurisdiction.

¹ See WAC 480-70-051; WAC 480-07-110.

- 10 (3) Pacific Disposal is subject to RCW 81.28.050 and WAC 480-70-266, which require solid waste companies to file changes in any rate or charge with 45 days' notice. For good cause shown, however, the Commission may allow changes without requiring 45 days' notice by order specifying the changes to be made and the time when it shall take effect.²
- 11 (4) Staff has reviewed Pacific Disposal's request in Docket TG-180969 and recommends the Commission grant the Company's request for less than statutory notice.
- 12 (5) Pacific Disposal is subject to WAC 480-70-351(2), which requires solid waste companies that estimate the revenue from the sales of recyclable materials collected in residential curbside programs as part of a deferred accounting program to return recycling revenues or charges to customers to use the most recent 12-month historical period to estimate the revenue for the next 12 months.
- 13 (6) Under WAC 480-70-051 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.³
- 14 (7) Staff recommends the Commission grant Pacific Disposal's request for exemption from WAC 480-70-051.
- 15 (8) This matter came before the Commission at its regularly scheduled meeting on December 28, 2018.
- 16 (9) After reviewing Pacific Disposal's proposed tariff revisions filed on November 20, 2018, and revised on November 26, 2018, in Docket TG-180969 and giving due consideration to all relevant matters and for good cause shown, the Commission finds that the requested exemptions are in the public interest, are consistent with the purposes underlying the regulation and applicable statutes, and should be granted, and that the proposed tariff revisions should become effective January 1, 2019, by operation of law.

² See also WAC 480-70-276.

³ See also WAC 480-07-110.

ORDER

THE COMMISSION ORDERS:

- 17 (1) Harold LeMay Enterprises, Inc., d/b/a Pacific Disposal and Butlers Cove Refuse Service's request for less than statutory notice is granted, as authorized by WAC 480-70-276.
- 18 (2) Harold LeMay Enterprises, Inc., d/b/a Pacific Disposal and Butlers Cove Refuse Service's petition for an exemption from WAC 480-70-351(2) is granted. Harold LeMay Enterprises, Inc., d/b/a Pacific Disposal and Butlers Cove Refuse Service may use the most recent 6 months of historical revenues to calculate its recycling commodity adjustment.
- 19 (3) The tariff revisions Harold LeMay Enterprises, Inc., d/b/a Pacific Disposal and Butlers Cove Refuse Service filed on November 20, 2018, and revised on November 26, 2018, will become effective on January 4, 2019, by operation of law.

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 December 28, 2018.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK L. JOHNSON, Executive Director and Secretary