

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of:

Petition for Exemption by Harold LeMay
Enterprises, Inc. G-98 d/b/a Pierce County
Refuse

Case No.

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

1 COMES NOW Harold LeMay Enterprises, Incorporated, G-98, (“LeMay”), d/b/a Pierce County Refuse (“Petitioner” or “PCR”), 4111 192nd Street East, Tacoma, Washington, 98446, 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 workpaper rule and in light of the Commission’s 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 AND SPECIFIC WORKPAPER EXEMPTIONS REQUESTED

2 This request is filed simultaneously with support for a general rate filing this day. This filing seeks exemptions from portions of WAC 480-07-520(4) in asking that the Commission not

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.

require, as a part of the voluminous workpapers being filed herewith, that 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.”

3 Petitioner is now filing such separated income statements on behalf of PCR, the actual tariff proponent herein. Requiring the type of detail under subsection 4(a), 4(b) and 4(c) for LeMay as a whole would work a substantial hardship on the Company at present. For instance, closely reviewed pro forma income statements for the Company separated for individual classes of service are not presently available or readily compiled.

4 WAC 480-07-520(4)(d). No exemption requested.

5 Additionally, the Petitioner is requesting a similar relaxation and/or exemption of the general rate proceeding workpaper rule for subpart 4(e), which requires: “[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.” [Emphasis added].

6 Petitioner is here seeking exemption or relaxation of the portion of the rule requirement that all rates charged for the services rendered for the unregulated operations be provided.

Again, Petitioner is supplying through its workpapers the list of all unregulated operations of PCR and all pertinent rates performed for those services as well as certain representative rates for unregulated services in other parts of the LeMay operations in addition to a list of all unregulated LeMay services. However, the Company is unable to compile all the myriad of various rate levels for the broad array of unregulated services LeMay provides as a whole nor would those rates be relevant to this filing. In addition, it is 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, Petitioner therefore requests exemption from the general rate filing workpapers rule in this limited circumstance as well.

7 WAC 480-07-520(4)(g), (h)² and (i): No exemptions requested.

8 Finally, Petitioner is 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 it is asking the rule be applied only to the tariff filing entity/subdivision, and not LeMay as a whole. Specifically, it asks that detailed price out information and computed net investment be applied to PCR and that information about every transaction with affiliated interests pertain to the PCR 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, consistent with the relevant affiliated interest disclosures discussed under WAC 480-07-520(4)(e), above.

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)-(c)

9 As the Commission’s records reflect, LeMay was acquired by Waste Connections, Inc. in November, 2008 and this is the first general rate filing since acquisition for PCR. The test period involved in this filing is July 1, 2010 – June 30, 2011. Since acquisition, Waste

² WAC 480-07-520(4)(h) is complied with here through the provision of all individual Company districts’ depreciation schedules.

Connections, Inc. has been integrating the LeMay Company operations into its regional accounting, billing and reporting systems, relying on results of operations within the regulated individual tariffed districts comprising it, consistent with prior Commission policy/treatment of rate case proponents. Integration of accounting and billing operations of a company as significant in size as LeMay is a process taking months and in some cases, for some accounting programs, years. As schedules filed with this general rate filing demonstrate, Petitioner has identified all regulated and unregulated operations by district for the Company and depicted for the Commission staff how those multiple districts flow into or are separated from the overall regulated operations of LeMay under G-98 which is, after all, at the heart of the workpaper disclosure rule. Moreover, Petitioner here has similarly split-out, for the individual tariff-filing entity, all separated and pro forma results pursuant to WAC 480-07-520(4)(a), and calculations of the revenue impact and expenses and income statements by account by month for all affected tariff entities/business units, WAC 480-07-520(4)(b) and (4)(c).

10 Finally, the Company *has* compiled and updated for the current test period a detailed depreciation schedule required by WAC 480-07-520(4)(h). It has duly prepared a lengthy schedule listing all LeMay assets and pertinent asset purchases, depreciation salvage value expenses, and relevant test period updates, 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 fully satisfied on a Company-wide basis.

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

11 As noted above, Petitioner has provided, within this rate filing, a detailed list of all non-regulated operations for both the Company and PCR. Furthermore, it has provided certain

schedules of rates charged in various exempt or unregulated operations within other portions of the LeMay territory and within that of PCR.

- 12 As the *Sno-King Order* further noted, however, unregulated service rates could be freely discoverable by any commercial competitor scrutinizing this filing. Petitioner believes it is wholly inconsistent with the public interest that those unrelated, non-pertinent service rates for the Company as opposed to PCR be provided or risk rejection of the general regulated rate filing information. Again, Petitioner is providing all other information it believes is required by a broad reading of the general rate case workpaper rule, including the non-regulated revenue rule disclosure requirement at WAC 480-07-520(4)(d), and contends that its filing represents a consistent, good faith attempt to comply with the broad substantive requirements of the rule and is 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.

- 13 Finally, as noted above, Petitioner respectfully requests that the scope of the general rate filing workpaper rule be moderated in this instance to apply the indicated price out detail, computed net investment and affiliated transaction requirements, near the end of the featured rule, to the tariff-filing divisions of LeMay, not "the Company" as a whole. Company-wide consolidated data have not been consistently compiled by LeMay, rather it has internally reported based on separate independent districts i.e. "Pierce County Refuse" and filed tariffs, and made computations relevant to those internally-separated and often very distinctly different districts. To mandate broad application of the rule now to LeMay as a whole would not result in presentation of correlated data that is more accurate or more historically consistent and audit-tested as the separated results of the tariffed-division. Thus,

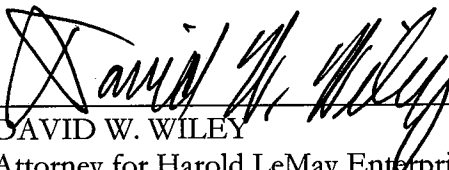
its aggregated totals would lack the statistical significance of the separated tariffed area at this juncture and would elevate form over the quantitative substance of a general rate filing relevant to a stand-alone tariffed division like PCR.

V. PRAYER FOR RELIEF

14 WHEREFORE, based on the foregoing outline of the issues raised by this Petition for Exemption from Rule, Petitioner Pierce County Refuse, asks that the Commission permit exemptions for this filing applicable to WAC 480-07-520(4)(a), (b), (c), (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 Pierce County Refuse 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 PCR's regulated operations.

Dated this 15th day of September, 2011.

Respectfully submitted,



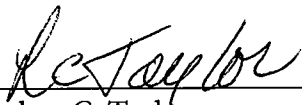
DAVID W. WILEY
Attorney for Harold LeMay Enterprises, Inc. d/b/a Pierce
County Refuse

CERTIFICATE OF SERVICE

I hereby certify that on September 15, 2011, 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