

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Request of

HAROLD LEMAY ENTERPRISES, INC.
d/b/a PIERCE COUNTY REFUSE

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-180754

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 September 4, 2018, Harold Lemay Enterprises, Inc. d/b/a Pierce County Refuse (Pierce County Refuse or Company) filed with the Washington Utilities and Transportation Commission (Commission) a petition requesting an exemption from WAC 480-70-351(2) Rates, recycling programs, credits, or charges (Petition.) Because the proposed commodity adjustment will change from a bill credit to a charge, the Company provided 30 days' advance notice to educate its customers on the current state of recycling markets and explain how customers are impacted. In order to meet the 30-day customer notice requirement, the Company withdrew its previous petition, which would have become effective September 1, 2018, and refiled its commodity adjustment in Docket TG-180754. The Company now seeks less than statutory notice treatment to allow the commodity adjustment to take effect October 1, 2018.
- 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. This same exemption was granted by Commission order in the Company's previous commodity adjustment filing in Docket TG-180058.

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 October 19, 2018. This date recognizes statutory notice as required. Pierce County Refuse requests, however, less than statutory notice as permitted in WAC 480-70-276, and that the revisions become effective October 1, 2018.

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 Pierce County Refuse's requests for exemption and less than statutory notice.

DISCUSSION

6 We agree with Staff's recommendation and grant Pierce County Refuse's Petition for exemption from WAC 480-70-351(2). Using the most recent 6-month historical period to estimate revenues is reasonable 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 because, following discussions with Staff, the Company withdrew its previous petition to allow time for adequate customer notice. As such, the Commission was aware of the Company's request prior to the filing date in this Docket and does not require 45 days' notice. Accordingly, we find that the Company demonstrated that its request is consistent with 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.

¹ See WAC 480-70-051 and WAC 480-07-110.

- 9 (2) Pierce County Refuse is a solid waste company and a public service company subject to Commission jurisdiction.
- 10 (3) Pierce County Refuse 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. See also WAC 480-70-276.
- 11 (4) Staff has reviewed Pierce County Refuse's request in Docket TG-180754 and recommends the Commission grant the Company's request for less than statutory notice.
- 12 (5) Pierce County Refuse 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. See also WAC 480-07-110.
- 14 (7) Staff recommends the Commission grant Pierce County Refuse's request for exemption from WAC 480-70-051.
- 15 (8) This matter came before the Commission at its regularly scheduled meeting on September 27, 2018.
- 16 (9) After reviewing Pierce County Refuse's proposed tariff revisions filed on September 4, 2018, and revised on September 25, 2018, in this Docket 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 October 1, 2018, by operation of law.

ORDER

THE COMMISSION ORDERS:

- 17 (1) The Commission grants Harold Lemay Enterprises, Inc., d/b/a Pierce County Refuse's request for less than statutory notice, as authorized by WAC 480-70-276.
- 18 (2) The Commission grants Harold Lemay Enterprises, Inc., d/b/a Pierce County Refuse's petition for an exemption from WAC 480-70-351(2). Harold Lemay Enterprises, Inc. d/b/a Pierce County Refuse may use the most recent six months of historical revenues to calculate its recycling commodity adjustment.
- 19 (3) The tariff revisions Harold Lemay Enterprises, Inc., d/b/a Pierce County Refuse filed on September 4, 2018, and revised on September 25, 2018, will become effective on October 1, 2018, 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 September 27, 2018.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK L. JOHNSON, Executive Director and Secretary