

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

In the Matter of the Petition of	)	DOCKET TG-082059
	)	
HAROLD LEMAY ENTERPRISES, INC., DBA HARBOR DISPOSAL AND EASTERN GRAYS HARBOR DISPOSAL,	)	ORDER 01
	)	
Petitioner,	)	ORDER GRANTING EXEMPTION
	)	FROM RULE; APPROVING
Seeking Exemption from the	)	REVISED COMMODITY
Provisions of WAC 480-70-351(2) to	)	CREDITS ON LESS THAN
Extend the Current Commodity Credits	)	STATUTORY NOTICE; AND
for an Additional Six Months and	)	REQUIRING DEFERRED
Requesting Revised Rates to Become	)	ACCOUNTING TREATMENT
Effective January 1, 2009, on Less	)	FOR RECYCLABLE
Than Statutory Notice	)	COMMODITIES REVENUE
.....	)	

**BACKGROUND**

- 1     On November 14, 2008, Harold LeMay Enterprises, Inc., dba Harbor Disposal and Eastern Grays Harbor Disposal (LeMay or Company) filed with the Washington Utilities and Transportation Commission (Commission) a revised Tariff No. 12.
  
- 2     The filing proposes, among other things, to increase the commodity credits that LeMay pays to residential customers for the value of the recyclable materials that LeMay collects in its recycling service. The stated effective date is January 1, 2009. LeMay filed revised tariff pages on December 16, 2008, that propose to extend the current commodity credits for an additional six months.
  
- 3     RCW 81.28.050 and WAC 480-70-266 require forty-five days' notice to the Commission prior to the effective date of the tariff. The tariff sheets bear an inserted effective date of January 1, 2009. However, the revised pages filed December 16, 2008, decrease the amount of the commodity credit in LeMay's original filing, resulting in customers paying higher rates. LeMay requests less than statutory notice as permitted by WAC 480-70-276, so that the tariff revisions filed December 16, 2008, become effective on January 1, 2009. LeMay requests less than statutory notice treatment because the current commodity credits will expire on December 31, 2008. The Company is required to notify customers after final Commission action.

- 4 In addition to filing revised tariff pages on December 16, 2008, LeMay filed a petition requesting an exemption from WAC 480-70-351(2). WAC 480-70-351(2) requires companies that estimate the revenue from the sale 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 twelve-month historical period to estimate the revenue for the next twelve months.
  
- 5 The Commission allowed the Company's first commodity adjustment to become effective September 29, 2004, by operation of law without an order authorizing deferred accounting treatment. The Company has filed annual commodity adjustments using the same methodology the Commission established for other companies with authorized deferred accounting treatment. The commodity adjustment has two components: a true-up component that, for the previous twelve-month test period, compares the estimated commodity value to actual commodity value, and an estimate of the revenue (cost) of the next twelve months using the average twelve-month test period revenue (cost). Because there would be no true-up component if the current commodity credit is extended, the entire commodity credit would become an estimate of the revenue for the next six months.
  
- 6 LeMay's twelve-month test period ended in September 2008 and showed LeMay received \$114,288 from the sale of recyclable materials. Subsequently, the markets for recyclable materials collapsed in November. LeMay reports that its revenues fell from an average of \$9,524 during the test period to \$4,717 in October and \$584 in November. Staff's review of the commodities markets show that values for recyclable materials have fallen: newspaper (- 65.7 percent), mixed paper (- 95.5 percent), and aluminum (- 42.8 percent).
  
- 7 Residential customers currently receive a \$1.07 per month credit in Grays Harbor County. The established methodology would increase the credit to \$2.27 in Grays Harbor County effective January 1, 2009. LeMay projects that, if the markets stay low, customers may need to pay as much as \$.68 per month in 2010. LeMay proposes to extend the current commodity credits for an additional six months to allow the markets time to adjust and to ensure that the next twelve-month estimate that would be effective July 1, 2009, reflects data from low revenue months.

- 8 Staff recommends the Commission approve LeMay's request for exemption and allow the proposed revised tariff changes to become effective January 1, 2009, on less than statutory notice, because there is substantial uncertainty in the markets and LeMay's proposal may decrease the volatility of the commodity adjustments in the short run. Staff recommends that the Commission require LeMay to implement deferred accounting treatment for the revenue (cost) received (paid) from the sale (disposal) of recyclable commodities collected in the Company's recycling service using the most recent twelve-month test period to true-up the estimated revenue to actual revenue, and to estimate revenue for the next twelve-month period. Staff also recommends that the Commission condition its approval on LeMay making its next commodity adjustment effective July 1, 2009, and each July 1 thereafter, and that LeMay make all future commodity adjustment filings forty-five days prior to the proposed effective date to give Staff sufficient time to review the filing.
- 9 Staff recommends that the Commission grant LeMay's request for an exemption of WAC 480-70-351(2) to allow the Company to extend the current recyclable commodity credits for an additional six months, approve the revised commodity credits filed on December 16, 2008, to become effective January 1, 2009, on less than statutory notice, and require the LeMay to implement deferred accounting treatment for the revenue (cost) received (paid) from the sale (disposal) of recyclable commodities collected in the Company's recycling service.

### FINDINGS AND CONCLUSIONS

- 10 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington vested by statute with the authority to regulate the rates, rules, regulations, practices, accounts and affiliated interests of public service companies, including solid waste companies. *RCW 80.01.040, RCW 81.01, RCW 81.04, RCW 81.16, RCW 81.28 and RCW 81.77.*
- 11 (2) This matter came before the Commission at its regularly scheduled meeting on December 23, 2008.
- 12 (3) LeMay is engaged in the business of providing solid waste services within the state of Washington and is a public service company subject to Commission jurisdiction.

- 13 (4) LeMay 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 forty-five days' notice. Under WAC 480-70-276, the Commission may allow, for good cause shown, changes in rates or charges without requiring forty-five days' notice in an order specifying the changes to be made and the effective date.
- 14 (5) LeMay asks the Commission to allow the revised rates filed on December 16, 2008, to become effective January 1, 2009, on less than statutory notice, because the current commodity credits will expire December 31, 2008.
- 15 (6) WAC 480-70-351(2) requires companies that estimate the revenue from the sale 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 twelve-month historical period to estimate the revenue for the next twelve months.
- 16 (7) LeMay requests an exemption from WAC 480-70-351(2) to allow it to extend the effective date of the current commodity credits for an additional six months because of the dramatic fall in prices paid for recyclable materials in the commodity markets.
- 17 (8) After reviewing LeMay's requests for an exemption to WAC 480-70-351(2) and to allow the revised commodity credits filed on December 16, 2008, to become effective January 1, 2009, and giving due consideration, the Commission finds that LeMay's requests are reasonable and should be granted. The Commission also finds it is reasonable to require LeMay to implement deferred accounting treatment of the revenue (cost) received (paid) from the sale (disposal) of recyclable commodities collected in the Company's recycling service.

## **O R D E R**

### **THE COMMISSION ORDERS:**

- 18 (1) After the effective date of this Order, Harold LeMay Enterprises, Inc., dba Harbor Disposal and Eastern Grays Harbor Disposal is granted an exemption from WAC 480-70-351(2) to extend the current commodity credits for an additional six months.

- 19 (2) The revised tariff revisions Harold LeMay Enterprises, Inc., dba Harbor Disposal and Eastern Grays Harbor Disposal filed on December 16, 2008, will be effective on January 1, 2009, on less than statutory notice.
- 20 (3) Harold LeMay Enterprises, Inc., dba Harbor Disposal and Eastern Grays Harbor Disposal is required to use deferred accounting treatment of the recycling commodity revenues and costs related to its residential recycling services. Harold LeMay Enterprises, Inc., dba Harbor Disposal and Eastern Grays Harbor Disposal shall make its next commodity adjustment effective July 1, 2009, and each July 1 thereafter. Harold LeMay Enterprises, Inc., dba Harbor Disposal and Eastern Grays Harbor Disposal shall make all future commodity adjustment filings forty-five days prior to the proposed effective date.
- 21 (4) The Commission delegates to the Executive Secretary the authority to approve by letter all compliance filings required in this Order.
- 22 (5) The Commission retains jurisdiction over the subject matter and Harold LeMay Enterprises, Inc., dba Harbor Disposal and Eastern Grays Harbor Disposal to effectuate the provisions of this Order.

The Commissioners, having determined this Order to be consistent with the public interest, directed the Executive Secretary to enter this Order.

DATED at Olympia, Washington, and effective December 23, 2008.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Executive Secretary