

NOV 21 1990

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

vs.

MURREY'S DISPOSAL CO., INC., G-9
AMERICAN DISPOSAL CO., INC., G-87,

Respondents.

.....

DOCKET NO. TG-900297

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

vs.

LAKWOOD REFUSE SERVICE, INC.
G-18,

Respondent.

.....

DOCKET NO. TG-900300
DOCKET NO. TG-900360

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

vs.

HAROLD LeMAY ENTERPRISES, INC.,
d/b/a PIERCE COUNTY REFUSE, G-98,

Respondent.

.....

DOCKET NO. TG-900315
DOCKET NO. TG-900357

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

vs.

UNIVERSITY PLACE REFUSE SERVICE,
INC., G-64,

Respondent.

.....

DOCKET NO. TG-900316
DOCKET NO. TG-900356

THIRD SUPPLEMENTAL ORDER

PROCEEDINGS: Each of the respondents filed revisions to their tariffs which would increase rates and charges for solid waste collection services within their respective territories.

The effective date of each of the proposed new tariffs was May 1, 1990. The Commission suspended each of the tariffs on April 25, 1990, and consolidated them for hearing. On November 5, 1990, the parties filed a proposed settlement agreement for Commission consideration and approval.

HEARINGS: An initial session for the purpose of prefiling testimony and exhibits and for ruling on motions to intervene was held in Olympia on September 21, 1990. Hearing was held on the proposed settlement agreement in Olympia on November 5, 1990. Public testimony regarding the proposed settlement agreement was taken on November 8, 1990, in Tacoma, Washington.

APPEARANCES: Murrey's Disposal Co., Inc., American Disposal Co., Inc., Lakewood Refuse Service, Inc., Harold LeMay Enterprises, Inc. d/b/a Pierce County Refuse, and University Place Refuse Service, Inc. ("respondents" or "companies") were represented by Patrick Dunn, Attorney, Seattle. The staff of the Utilities and Transportation Commission was represented by Marjorie R. Schaer and Robert E. Simpson, Assistant Attorneys General, Olympia. Intervenor Washington Waste Management Association was represented by James K. Sells, Attorney, Bremerton. Intervenors Northwest Garbage Co., Inc. and Sno-King Garbage Co., Inc. were represented by Craig Gannett, Attorney, Seattle.

SUMMARY: The Commission accepts the proposed settlement agreement.

MEMORANDUM

I. BACKGROUND

The companies filed revisions to their current tariffs naming increases to become effective May 1, 1990. The increases were filed to reflect increased disposal fees and to implement a curbside recycling collection program that was required by the Tacoma-Pierce County Solid Waste Management Plan.

The Pierce County Council established by ordinance the minimum levels of collection service required for urban and rural residential customers in unincorporated Pierce County. The ordinance also required that certificated solid waste collection companies subject to Commission jurisdiction implement the recycling programs. The county requested that the Commission implement the recycling programs by approving recycling rates for the respondents in this proceeding.

The Commission considered the companies' filed tariffs and Pierce County's recycling program at the open meeting on April 25, 1990. The Commission suspended the proposed rates, but approved temporary rates subject to refund, effective May 1, 1990. The approved temporary recycling rates for each company were as follows:

<u>Company</u>	<u>Rate</u>
Murrey's Disposal Co., Inc. and American Disposal Co., Inc.	\$1.90
Lakewood Refuse Service, Inc.	2.12
Harold LeMay Enterprises, Inc. d/b/a Pierce County Refuse	2.25
University Place Refuse	2.70

An initial hearing was held in Olympia on September 21, 1990. Respondents filed proposed testimony and exhibits on September 28, 1990. Staff filed proposed testimony and exhibits on October 12, 1990. Respondents filed proposed response testimony and exhibits on October 25, 1990. Hearing was held before the Commission in Olympia on November 5, 1990, on a proposed settlement agreement filed by the parties that day. All of the pre-filed testimony was admitted into the record on the parties' stipulation. Ed Nikula, Assistant Director of Water and Transportation for the Washington Utilities and Transportation Commission, appeared to answer questions about the settlement agreement. Four public witnesses gave testimony in support of the settlement agreement.

II. PROPOSED SETTLEMENT AGREEMENT

Commission staff and the companies have tracked the actual costs and expenditures of the recycling program since the temporary rates went into effect on May 1, 1990. This settlement agreement is based upon financial data generated during this seven-month test period. The settlement agreement finds that the following recycling rates for the respective companies are fair, just and reasonable and should become the permanent rates on December 1, 1990:

<u>Company</u>	<u>Rate</u>
Murrey's Disposal Co., Inc. and American Disposal Co., Inc.	\$1.90
Lakewood Refuse Service, Inc.	2.12
Harold LeMay Enterprises, Inc.	

d/b/a Pierce County Refuse	2.25
University Place Refuse	2.45

The recycling program started more slowly than originally estimated, resulting in overcollections by the companies. University Place Refuse also overcollected due to a temporary rate of \$2.70 that was higher than the rate in the settlement agreement of \$2.45. Murrey's Disposal Co., Inc. and American Disposal Co., Inc. overcollected \$38,682.00; Lakewood Refuse Service, Inc. overcollected \$23,937.00; Harold LeMay Enterprises, Inc. d/b/a Pierce County Refuse overcollected \$58,032.00; and University Place Refuse Service overcollected \$25,039.00.

Pursuant to the settlement agreement, Murrey's Disposal Co., Inc. and American Disposal Co., Inc. and Harold LeMay Enterprises, Inc. d/b/a Pierce County Refuse are to utilize their respective refund amounts to pay expenses of expanding curbside service to their rural customers. These three companies agreed not to come to the Commission for a rate increase relating to single-family recycling services before May 1, 1991.

Lakewood Refuse Service, Inc. and University Place Refuse Service are required by the settlement agreement to make one-time refunds in the amount of their respective overcollections to their customers effective December 1, 1990. This is a refund of \$2.77 per customer for Lakewood Refuse Service, Inc. and \$4.19 per customer for University Place Refuse Service.

The settlement agreement does not address the proposed rates based upon increased disposal fees. The Staff did not dispute this element of the proposed rate increases. Nor is there indication that the intervenors dispute this element.

III. COMMISSION DISCUSSION

The Commission accepts the settlement agreement as consistent with the public interest. The Commission commends the parties for reaching a settlement. However, as the settlement agreement is the result of a limited experience of seven months, the Commission intends to continue to monitor the companies' recycling programs and will closely scrutinize the amount of money expended and received by the companies. The Commission intends to examine any overcharges that may occur as a result of these programs at each company's next rate hearing.

The Commission also finds that the increases based upon increased disposal fees should be granted.

FINDINGS OF FACT

Having discussed the evidence and having stated findings and conclusions, the Commission now makes the following findings of ultimate facts. Portions of the preceding detailed findings pertaining to the ultimate facts are incorporated by this reference.

1. The Washington Utilities and Transportation Commission is an agency of the State of Washington vested by statute with authority to regulate rates, rules, regulations, practices, accounts, securities, and transfers of public service companies, including companies providing solid waste collection service.

2. Respondent companies are engaged in the business of furnishing solid waste collection service within the State of Washington and are public service companies, subject to the jurisdiction of this Commission.

3. Each of the respondents filed with the Commission revisions to their tariffs which would increase rates and charges for solid waste collection services within their territories. The effective date of the each of the proposed new tariffs was May 1, 1990. The revised rates reflected increased disposal fees and the costs of implementing a curbside recycling collection program required by the Tacoma-Pierce County Solid Waste Management Plan. The operation of each of the tariff revisions was suspended and consolidated for hearing. Investigation was instituted into the justness and reasonableness of the tariff revisions. Interim rates, subject to refund, were approved per Commission orders pending the outcome of the rate proceeding.

4. On November 5, 1990, the parties offered a proposed settlement agreement setting recycling rates and requiring refunds which reflected financial data generated during the period when temporary recycling rates were in effect.

5. The Commission held a hearing concerning the proposed settlement agreement on November 5, 1990. Public hearing on the settlement agreement was held on November 8, 1990.

6. The tariff revisions to recycling rates originally filed by Murrey's Disposal Co., Inc. and American Disposal Co., Inc., Lakewood Refuse Service, Inc., and Harold LeMay Enterprises, Inc. d/b/a Pierce County Refuse should be accepted and should go into effect as of December 1, 1990 on a permanent basis.

7. The tariff revisions to recycling rates originally filed by University Place Refuse should be rejected. This company should be authorized to file tariff revisions consistent with the provisions of the proposed settlement agreement on or before November 27, 1990, with an effective date of December 1, 1990.

8. All of the companies should be required to refund or utilize overcollections consistent with the provisions of the proposed settlement agreement.

9. The tariff revisions originally filed by each of the companies reflecting increased disposal fees should be accepted and should go into effect as of December 1, 1990, on a permanent basis.

CONCLUSIONS OF LAW

1. The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of this proceeding and the parties thereto.

2. Approval of the proposed settlement agreement, attached to this order as Appendix A, is consistent with the public interest.

3. The tariff revisions to recycling rates filed by Murrey's Disposal Co., Inc. and American Disposal Co., Inc., Lakewood Refuse Service, Inc., and Harold LeMay Enterprises, Inc. d/b/a Pierce County Refuse, which are currently under suspension, should be accepted and should go into effect as of December 1, 1990 on a permanent basis.

4. The tariff revisions to recycling rates filed by University Place Refuse Service, Inc., which are currently under suspension, should be denied. This company should file tariff revisions consistent with the proposed settlement agreement on or before November 27, 1990, with an effective date of December 1, 1990.

5. All of the companies should be required to refund or utilize overcollections consistent with the provisions of the proposed settlement agreement.

6. The proposed settlement agreement should be approved and adopted in its entirety.

7. The tariff revisions reflecting increased disposal fees should be accepted with an effective date of December 1, 1990 on a permanent basis.

On the basis of the foregoing analysis of evidence, findings and conclusions, the Washington Utilities and Transportation Commission enters the following order.

O R D E R

WHEREFORE, IT IS HEREBY ORDERED That:

1. The proposed settlement agreement, attached to this order as Appendix A and incorporated herein by this reference, is approved and adopted in its entirety.

2. The tariff revisions to recycling rates filed herein by Murrey's Disposal Co., Inc. and American Disposal Co., Inc., Lakewood Refuse Service, Inc., and Harold LeMay Enterprises, Inc. d/b/a Pierce County Refuse, now under suspension and docketed in Docket Nos. TG-900297, 900300, 900360, 900315, and 900357, are accepted and will go into effect as of December 1, 1990 on a permanent basis.

3. The tariff revisions to recycling rates filed herein by University Place Refuse Service, Inc., now under suspension and docketed in Docket Nos. TG-900316 and 900356, are rejected entirely. This company is authorized to file tariff revisions consistent with the proposed settlement agreement on or before November 27, 1990, with an effective date of December 1, 1990.

4. All of the companies are required to refund or utilize overcollections consistent with the provisions of the proposed settlement agreement.

5. The tariff revisions reflecting increased disposal rates filed herein by each of the companies, now under suspension and docketed in Docket Nos. TG-900297, 900300, 900360, 900315, 900357, 900316 and 900356, are accepted and will go into effect as of December 1, 1990 on a permanent basis.

6. Jurisdiction is retained by the Washington Utilities and Transportation Commission to effectuate the provisions of this order.

DATED at Olympia, Washington and effective this 21st day of November, 1990.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

Sharon L. Nelson

SHARON L. NELSON, Chairman

R. D. Casad

RICHARD D. CASAD, Commissioner

A. J. Pardini

A. J. PARDINI, Commissioner

NOTICE TO PARTIES:

This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-09-810, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-09-820(1).

APPENDIX A

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

MURREY'S DISPOSAL CO., INC., G-9
AMERICAN DISPOSAL CO., INC., G-87,

Respondents.

DOCKET NO. TG-900297

SETTLEMENT AGREEMENT

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

LAKWOOD REFUSE SERVICE, INC.,
G-18,

Respondent.

DOCKET NO. TG-900300

DOCKET NO. TG-900360

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

HAROLD LeMAY ENTERPRISES, INC.
d/b/a PIERCE COUNTY REFUSE, G-98,

Respondent.

DOCKET NO. TG-900315

DOCKET NO. TG-900357

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

UNIVERSITY PLACE REFUSE SERVICE,
INC., G-64

Respondent.

DOCKET NO. TG-900316

DOCKET NO. TG-900356

Murrey's Disposal Co., Inc. and American Disposal Co., Inc., Lakewood Refuse Service, Inc., Harold LeMay Enterprises, Inc. d/b/a Pierce County Refuse, and University Place Refuse Service, Inc. (together the "Respondents"), the staff of the Washington Utilities Transportation Commission (the "Staff"), and Sno-King Garbage Company, Northwest Garbage Company and the Washington Waste Management Association (together the "Intervenors") (collectively "the Parties"), the Parties in the above-entitled matter, desire to reach a full and final settlement in the above-entitled matter and to attain the approval of the Washington Utilities and Transportation Commission (the "Commission") of such settlement. In order to achieve this result, the Parties hereby stipulate and agree as follows:

BACKGROUND

Since May of 1989 Pierce County has been working with Staff and the Department of Ecology ("Ecology") to develop a curbside recycling collection program (the "Program"). On August 2, 1989, the Pierce County Council adopted by ordinance the Tacoma-Pierce County Solid Waste Management Plan (the "Plan") which established a 50% recycling goal and required Respondents to work with the Commission to establish the Program. The Plan was subsequently approved by Ecology. On March 6, 1990, the Pierce County Council adopted a Minimum Service Level Ordinance setting out the details of the Program. On that same day Pierce County transmitted the Ordinance with a cover letter to the Commission and Staff for the Commission's assistance in implementing the Program by the design and establishment of

rates.

The Minimum Service Level Ordinance required Respondents at a minimum to provide curbside collection for their urban and suburban customers. Respondents were also required by the Ordinance to file rate tariffs with the Commission for the Program and to include a \$1 additive to the rate per can for those customers countywide who did not wish to recycle. All participating customers countywide were to receive recycling bins. For rural customers Respondents were to provide the same bins that they provided to their urban customers and to provide convenient multi-material recycling drop-off centers where these rural customers could dispose of their recyclables. In addition, the Ordinance contained a requirement for a sticker program for those customers who did not wish to have the recycling bins but wished to recycle with private recyclers or non-profit entities. If customers indicated they were recycling with these entities and, when available, attached the official Pierce County sticker to their garbage bill, they would receive the recycling rate.

The Commission considered this Program on April 25, 1990, suspended the proposed Respondents' recycling rates and approved temporary rates subject to refund, effective May 1, 1990. These temporary rates were as follows:

<u>Respondent</u>	<u>Rate</u>
Murrey's Disposal Co., Inc. American Disposal Co., Inc.	\$1.90
Lakewood Refuse Service, Inc.	2.12
Harold LeMay Enterprises, Inc. d/b/a Pierce County Refuse	2.25
University Place Refuse	2.70

The Program began May 1, 1990, and has been very successful (see Exhibit 14, September 28, 1990 Respondents' testimony; Exhibit 1, October 25, 1990 Respondents' response testimony). Certain aspects of the Program began slower than estimated because of late delivery of bins and logistical difficulties following the overwhelming public response to the Program's announcement. At the current time 70.5 percent of all customers of Respondents have signed up to participate in the Program. In the urban areas 79 percent of the customers have signed up.

Because of the difficulty of accurately estimating costs for this new Program Respondents agreed to provide detailed financial data to Staff on a regular basis to track actual expenses and revenue with the estimates. Respondents have provided data to Staff for the actual costs and expenditures of the Program for May, June, July, August and September. Staff has reviewed that data and made estimates for cost and revenue for October and November giving Staff a seven-month test period for this Program. This Settlement Agreement is based on this seven-month test period and any refunds or rate adjustments are to go into effect December 1, 1990.

A pre-hearing in this matter was held in Olympia on September 21, 1990. Respondents filed proposed testimony and exhibits on September 28, 1990. Staff filed proposed testimony and exhibits on October 12, 1990 and Respondents filed proposed response testimony and exhibits on October 25, 1990. A preliminary settlement meeting was held between Respondents' representative and Staff on Friday, October 26, 1990. A

settlement conference of all parties was held on Thursday, November 1, 1990. This matter is to be heard by the Commission and the Administrative Law Judge on Monday, November 5, 1990 at 9:30 a.m. at Commission headquarters in Olympia and there will be a public hearing on the Program by the Commission on Thursday, November 8, 1990 at 10:00 a.m. in Pierce County.

During this process, Mr. Nikula, Assistant Director, Water and Transportation, for the Washington Utilities and Transportation Commission, met a number of times with Respondents. In addition, he was available to answer phone inquiries and personally audited the recycling expenses of Respondents at their offices in Pierce County. Throughout this entire process, Respondents have appreciated the assistance of Mr. Nikula and Staff. As a result of the review of Respondents' expenses and revenue by Staff, this agreement has been reached by the Parties on the appropriate permanent rates and refunds for each Respondent.

Two Respondents, Murrey's Disposal Co., Inc. and American Disposal Co., Inc. and Harold LeMay Enterprises, Inc. d/b/a Pierce County Refuse, at the urging of many of their customers, the Pierce County Council and Pierce County, began in August and September to expand their collection service to all of the customers in their certificated area with bins. Respondents and Staff agreed that to serve these rural customers as requested by Pierce County Respondents should apply for a small rate increase. However, it was felt by all involved that providing a refund to the customers of these Respondents and then immediately filing for a rate increase to continue service currently being provided

would send the wrong signal to the customers and hurt recycling efforts in Pierce County. Pierce County strongly concurred in this opinion. As a result, the recommendation is that the refunds in the case of these Respondents be charged against the additional expenses in the future of providing service to the rural customers. As a result, these Respondents would agree not to approach the Commission for rate increases for their residential single-family curbside recycling programs until at least May 1, 1991. Pierce County strongly supports this proposal. (See October 25, 1990 testimony of Mr. Marty Erdahl, Assistant Director, Pierce County Department of Utilities.)

There are a number of unique aspects of the Pierce County Program that make this County-wide approach appropriate. Unlike other counties, Pierce County has the cost of the recycling bins paid through their landfill and has the landfill lease the bins at a very low rate to the Respondents. This was done to spread the cost of these recycling bins to all residents of the County and to keep down the cost to the individual customers taking the recycling service. In addition, in this Program recycling bins are given to all of Respondents' customers who sign up for recycling whether they are in urban or rural areas. In the urban areas they receive curbside service. In the rural areas the Respondents were required to provide multi-material recycling drop-off centers in locations convenient to the homes of the rural residents where the rural customers could dispose of their recyclables. This proposal makes the service levels the same for all customers. In addition, the Pierce County Program provides for the sticker program county-wide which encourages all

customers who are currently recycling at buy-back centers or through non-profit agencies to continue to support that recycling system. The Pierce County Program also spends substantial resources providing recycling educational services to rural residents. Finally, the two Respondents with the rural areas have a broad customer rate base including large urban areas which allow them to spread the cost of the service over a large rate base and to keep the rate for the service to their rural customers at a very reasonable rate.

AGREEMENTS

1. Murrey's Disposal Co., Inc. and American Disposal Co., Inc. The temporary recycling rate of \$1.90 is fair, just and reasonable and should become the permanent rate on December 1, 1990. Because the recycling program started slower than original estimates, Respondent overcollected \$38,682.00. Respondent is to utilize this amount to pay expenses of expanding the curbside service to Respondent's rural customers and, as a result, Respondent agrees to not come to the Commission for a rate increase relating to these single-family recycling services before May 1, 1991 (See attached Exhibit 1).

2. Lakewood Refuse Service, Inc. The temporary recycling rate of \$2.12 is fair, just and reasonable and should become the permanent rate on December 1, 1990. Because the recycling program started slower than original estimates, Respondent is required to make a one-time refund of \$23,937.00 to its customers effective December 1, 1990. This is a refund of \$2.77 per customer. This refund will be administered as a one-time credit to current customers to become effective December 1,

1990. Respondent will work with the Staff to implement this credit. (See attached Exhibit 1).

3. Harold LeMay Enterprises, Inc. d/b/a Pierce County Refuse. The temporary recycling rate of \$2.25 is fair, just and reasonable and should become the permanent rate as of December 1, 1990. Because the recycling program started slower than original estimates, Respondent overcollected \$58,032.00. Respondent is to utilize this refund amount to pay expenses of expanding the curbside service to its rural customers and, as a result, Respondent agrees not to come to the Commission for a rate increase relating to these single-family recycling services before May 1, 1991 (See attached Exhibit 1).

4. University Place Refuse Service. A recycling rate of \$2.45 is fair, just and reasonable and this rate should take effect as the permanent rate December 1, 1990. The temporary rate is \$2.70. Because of the rate adjustment, and because the recycling program started slower than original estimates, Respondent is required to make a one-time refund of \$25,039.00 to its customers effective December 1, 1990. This is a refund of \$4.19 per customer. The refund will be administered as a one-time credit to current customers to be effective December 1, 1990. Respondent will work with Staff to implement the credit program and will file an amended tariff to implement the new rate

(see attached Exhibit 1).

DATED this 5th day of November, 1990.

For the Washington Utilities
and Transportation Commission:

KENNETH O. EIKENBERRY
Attorney General

Marjorie R. Schaefer
MARJORIE R. SCHAER
Assistant Attorney General

For Respondents:

HELLER EHRMAN WHITE & MCAULIFFE
Patrick W. Dunn
PATRICK W. DUNN
Attorney at Law

For Sno-King Garbage Company
and Northwest Garbage Company:

DAVIS WRIGHT TREMAINE
Craig Gannett
CRAIG GANNETT
Attorney at Law

For Washington Waste Management
Association:

John P. Jones
J. P. JONES
Executive Director

Pierce County haulers
Staff recommended refunds

Line no.	Description	Murray, s and American	Lemay	University place	Lakewood
1	Operating Revenues May and June	\$107,488	\$103,773	\$37,180	\$44,614
2	Operating Revenues July and Aug (Sept)	161,710	103,374	54,621	66,922
3	Total revenues	269,198	207,147	91,801	111,536
4	Operating expenses May and June	72,647	63,231	32,376	35,183
5	Operating expenses July and Aug (Sept)	128,600	89,064	37,493	54,088
6	Total expenses	201,247	152,295	69,869	89,271
7	Refund amount for reported months	\$67,951	\$54,852	\$21,932	\$22,265
8	Estimated monthly recycling revenues	\$53,903	\$51,687	\$18,207	\$22,307
9	Number of months to adjust	2	3	2	2
10	Staff recycling revenue level	\$107,807	\$155,061	\$36,414	\$44,615
11	Annualized recycling expenses	\$589,961	\$607,525	\$194,008	\$257,659
12	Monthly expense level (divided by 12)	\$49,163	\$50,627	\$16,167	\$21,472
13	Number of months to adjust	2	3	2	2
14	Staff recycling expense level	\$98,327	\$151,881	\$32,335	\$42,943
15	Refund for the additional months	\$9,480	\$3,180	\$4,079	\$1,672
16	Rebuttal adjustments	(\$38,569)	\$0	(\$972)	\$0
17	Total refund	\$38,862	\$58,032	\$25,039	\$23,937
18	Customers	22,476	19,715	5,977	8,652
19	Refund per customer	\$1.73 ***	\$2.94 ***	\$4.19	\$2.77
20	Temporary rate	\$1.90	\$2.25	\$2.70	\$2.12
21	Staff recommended rate	\$1.90	\$2.25	\$2.45	\$2.12

*** To be utilized to extend the recycling program into the rural portion of the county.