

- 4 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 the Company'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.
- 5 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.
- 6 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.
- 7 LeMay's twelve-month test period ended in September 2008 and showed the company received \$1,262,682 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 \$105,224 during the test period to \$42,944 in October and \$3,625 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).
- 8 Residential customers currently receive a \$1.59 per month credit. The established methodology would increase the credit to \$3.07 effective January 1, 2009. LeMay projects that, if the markets stay low, customers may need to pay as much as \$1.70 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.

- 9 Staff recommends the Commission approve LeMay's request for exemption and allow the proposed revised tariff changes to become effective January 1, 2009, 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 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.
- 10 Staff recommends that the Commission grant LeMay's request for an exemption of WAC 480-70-351(2) to allow LeMay to extend the current recyclable commodity credits for an additional six months, and approve the revised commodity credits filed on December 16, 2008, to become effective January 1, 2009, on less than statutory notice.

FINDINGS AND CONCLUSIONS

- 11 (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.*
- 12 (2) 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 (3) This matter came before the Commission at its regularly scheduled meeting on December 23, 2008.
- 14 (4) LeMay is subject to Commission orders issued in Dockets TG-980977 and TG-980978 that require the Company to file annual commodity adjustments.

- 15 (5) 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.
- 16 (6) 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.
- 17 (7) 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.
- 18 (8) 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.
- 19 (9) After reviewing LeMay's tariff filing in this docket, and giving due consideration, the Commission finds that the tariff filing is acceptable and in compliance with the requirements of the orders issued in Dockets TG-980977 and TG-980978.
- 20 (10) 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.

O R D E R

THE COMMISSION ORDERS:

- 21 (1) Harold LeMay Enterprises, Inc., dba Butler's Cove Refuse and Pacific Disposal's tariff filings in this docket comply with the requirements set forth in the Commission's order issued in Dockets TG-980977 and TG-980978.

- 22 (2) After the effective date of this Order, Harold LeMay Enterprises, Inc., dba
Butler's Cove Refuse and Pacific Disposal is granted an exemption from WAC
480-70-351(2) to extend the current commodity credits for an additional six
months.
- 23 (3) The revised tariff revisions Harold LeMay Enterprises, Inc., dba Butler's Cove
Refuse and Pacific Disposal filed on December 16, 2008, will be effective on
January 1, 2009, on less than statutory notice.
- 24 (4) Harold LeMay Enterprises, Inc., dba Butler's Cove Refuse and Pacific Disposal
shall make its next commodity adjustment effective July 1, 2009, and each July 1
thereafter. LeMay shall make all future commodity adjustment filings forty-five
days prior to the proposed effective date.
- 25 (5) The Commission delegates to the Executive Secretary the authority to approve by
letter all compliance filings required in this Order.
- 26 (6) The Commission retains jurisdiction over the subject matter and Harold LeMay
Enterprises, Inc., dba Butler's Cove Refuse and Pacific 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