

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of:

Petition for Exemption by Harold LeMay Enterprises, Inc. G-98 d/b/a Rural Garbage Service

Case No. TG-091774

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

1 COMES NOW Harold LeMay Enterprises, Incorporated, G-98, (“LeMay”), d/b/a Rural Garbage Service (“Petitioner” or “Rural Garbage”), P.O. Box 44459, Tacoma, Washington, 98444, 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 rule and in light of the Commission’s recent 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

2 This request is filed simultaneously with support for the general rate filing ordered by the Commission on December 23, 2009, which, by Order No. 2 of March 10, 2010, granted an

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.

extension of time to file documents required and a waiver of the suspension period. This filing seeks exemptions from portions of WAC 480-07-520(4) in asking that the Commission not 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 both Rural Garbage and the companion filing for Joe’s Refuse, the actual tariff proponents 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 and, for instance, closely reviewed pro forma income statements for the Company separated for individual classes of service are not presently available.

4 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].

5 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 the list of all unregulated operations of Rural Garbage 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 timely compile all the

myriad of various rate levels for the broad array of unregulated services it provides as a whole. 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.

6 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), (i) and (j)) to the extent that it is asking the rule be applied only to the tariff filing entities/subdivisions, and not LeMay as a whole. Specifically, it asks that detailed price out information and computed net investment be applied only to the former and information about every transaction with affiliated interests pertain to the Rural Garbage Co. and Joe's Refuse tariff entities and their 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.

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)

7 As the Commission's records reflect, LeMay was only acquired by Waste Connections, Inc. in November, 2008. The test period involved in this filing is calendar year 2009, immediately after that acquisition. During that initial recent interval, Waste Connections, Inc. was only just beginning to incorporate the LeMay Company operations into its regional accounting, billing and reporting systems and has yet to establish a separate financial statement

consistent with regulatory utility accounting format for the G certificate company as a whole, relying instead 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 many months into years. Isolation of results for the Company as a whole rather than on an incremental tariff level basis is not something that was apparently performed in the predecessor operation since the rule in question had not been so strictly interpreted in previous successive general rate and/or disposal fee filings. 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. Petitioner here, and in the companion filing for Joe's Refuse, 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).

8 Finally, despite the present inability to prepare a detailed pro forma income statement for separated classes of service revenue impact and income statement by all accounts by month² for all of G-98 pursuant to subparts 4(a)-(c) of the rule, the Company *has* compiled a detailed depreciation schedule under WAC 480-07-520(4)(h). It has prepared a lengthy schedule listing all LeMay assets and pertinent asset purchase, depreciation salvage value expenses, and test period information, etc., that will clearly identify all Company-wide assets for audit

² Rural Garbage is also a relatively *de minimis* part of certificate G-98's regulated operations representing approximately 4.8% of the Company's 2009 regulated revenues as reflected in its 2009 Annual Report.

and allocation purposes at this time so that the requirement identifying all such depreciable LeMay assets has been satisfied on a Company-wide basis.

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

9 As also noted above, Petitioner has provided, within this rate filing, a detailed list of all non-regulated operations for both the Company and Rural Garbage. 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 Rural Garbage. Despite focused efforts, particularly since the *Sno-King Order* in mid-March, 2010, LeMay has been unable to assemble all of the myriad of unregulated operations' rates (which Petitioner believes to be well into four figures and some of which are not written) as to type, level and kind of service.³ However, information, for example, on long-haul trucking operations from transfer stations exempt under RCW 36.58.050, and LeMay Mobile Shredding operations etc. are not arguably pertinent to any of the tariffed rates and charges here to be established by Rural Garbage under Commission jurisdiction pursuant to RCW 81.16.030, and thus Petitioner believes failing to provide such rate data should not in any way constitute an omission meriting rejection of this filing.

10 As the *Sno-King Order* further noted, these 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 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 at

³ Petitioner notes that WMW apparently sought to omit the list of all unregulated operations in the *Sno-King Order* Petition for Exemption as well as the rates, while Petitioner here is asking for the waiver in relation to the latter, not the former requirement.

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), (4)(i) and (4)(j) TO THE EXTENT THOSE PROVISIONS WOULD ONLY APPLY TO THE BUSINESS UNIT REGULATED UNDER THE SUBJECT TARIFF AT ISSUE.

11 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. As described above, company-wide consolidated data have not historically been compiled by LeMay, rather it has internally reported based on separate independent districts i.e. "Thurston below 142nd Avenue" and filed tariffs, and made computations relevant to those internally-separated districts. To mandate uniform 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-divisions. Thus, its aggregated totals would lack the statistical significance of the separated tariffed areas at this juncture.⁴

12 Nevertheless, as more time elapses since acquisition and accounting functions are better integrated into regional and national reporting⁵ by Waste Connections, Inc. coupled with the Commission's renewed focus on the scope of its general rate filing rules as recently addressed in the *Sno-King Order*, LeMay hopes to narrow the breadth and hopefully, the

⁴ Similarly, disclosure of affiliated transactions has been made with respect to transactions between Rural Garbage or Joe's Refuse with reference to relationships with Waste Connections, Inc. corporate entity affiliates with whom Rural Garbage and Joe's Refuse provide services under respective tariffs they are seeking to revise.

⁵ For instance, LeMay's billing system within Pierce County just conformed to Waste Connections, Inc. functions in March, 2010. Other LeMay districts are scheduled to be brought on line for billing system incorporation purposes throughout this calendar year.


frequency, of its requests for exemption from the general rate case workpaper rule in the future.

V. PRAYER FOR RELIEF

13 WHEREFORE, based on the foregoing outline of the issues raised by this Petition for Exemption from Rule, Petitioner Rural Garbage, asks that the Commission permit exemptions of this filing applicable to WAC 480-07-520(4)(a), (b), (c), (e), (f), (i) 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 Rural Garbage Service 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 Docket TG-091769 for the applicable tariff governing Rural Garbage operations.

Dated this 12th day of May, 2010.

Respectfully submitted,



DAVID W. WILEY
Attorney for Harold LeMay Enterprises, Inc. d/b/a
Rural Garbage Service

CERTIFICATE OF SERVICE

I hereby certify that on May 12, 2010, I caused to be served the original and 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
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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;

and an electronic copy via email and first class mail, postage prepaid, to:

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