

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

WASHINGTON UTILITIES AND	)	DOCKET TG-091769
TRANSPORTATION COMMISSION,	)	
	)	ORDER 03
Complainant,	)	
	)	PREHEARING CONFERENCE
v.	)	ORDER;
	)	
HAROLD LEMAY ENTERPRISES,	)	INTERLOCUTORY ORDER
INC., d/b/a JOE’S REFUSE SERVICE,	)	APPROVING SETTLEMENT
	)	STIPULATION CONCERNING
Respondent.	)	PETITION FOR EXEMPTION FROM
	)	FILING REQUIREMENTS;
	)	
	)	and
	)	
	)	<b>NOTICE OF SECOND</b>
	)	<b>PREHEARING CONFERENCE</b>
	)	<b>(July 20, 2010, at 1:30 p.m.)</b>
.....	)	

1 **NATURE OF PROCEEDING.** On November 10, 2009, Harold LeMay Enterprises, Inc., d/b/a Joe’s Refuse Service (Joe’s Refuse or Company) filed with the Washington Utilities and Transportation Commission (Commission) revisions to its currently effective Tariff No. 9.3, reflecting an increase in rates due to an increase in a disposal fee. The operation of such tariff revisions has been suspended, allowing rates to become effective on January 1, 2010, on a temporary basis subject to refund, by order of the Commission pending hearing or hearings concerning such changes and the justness and reasonableness thereof.

2 On February 19, 2010, Joe’s Refuse filed a letter with the Commission requesting an extension of time to file a general rate case. The Company agreed to waive the applicable suspension period under RCW 81.04.130.

3 On March 11, 2010, the Commission entered *Order 02 – Order Granting Extension of Time to File All Documents Required for a General Rate Case as Provided in WAC 480-07-520 and Waiving 10-Month Suspension Period Under RCW 81.04.130.*

4 On May 12, 2010, Joe’s Refuse filed with the Commission a petition for exemption from portions of WAC 480-07-520(4). On June 11, 2010, Joe’s Refuse and Staff filed a stipulation with respect to the exemption request.

5 **PARTY REPRESENTATIVES.** David W. Wiley, Williams Kastner & Gibbs PLLC, Seattle, Washington, represents Joe’s Refuse. James K. Sells, Ryan Sells Uptegraft, Inc. P.S., Silverdale, Washington, appeared for the Washington Refuse and Recycling Association (WRRRA). Robert D. Cedarbaum, Senior Assistant Attorney General, Olympia, Washington, represents the Commission’s Regulatory Staff (Commission Staff or Staff).<sup>1</sup>

6 **STIPULATION.** Joe’s Refuse and Staff filed a Settlement Stipulation on June 11, 2010, to resolve all issues in this docket regarding the Company’s Petition for Exemption from Portions of WAC 480-07-520(4), filed on May 12, 2010. WAC 480-07-110 provides that the Commission may grant an exemption from or modify the application of its rules in individual cases if consistent with the public interest and the purposes of the underlying regulation:

The standard for consideration is the public interest standard. Factors the commission may consider include whether application of the rule would impose undue hardship on the requesting person, of a degree or a kind different from hardships imposed on other similarly situated persons, and whether the effect of applying the rule would be contrary to the underlying purposes of the rule.

7 The Commission has reviewed the Settlement Stipulation and determines it is consistent with the public interest to ease the administrative burden of the Company, but in a manner that still provides Staff and the Commission the necessary

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<sup>1</sup> In formal proceedings, such as this, the Commission’s regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners’ policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See, RCW 34.05.455.*

information to assess the reasonableness of the Company's proposed allocation of common costs between internal business districts and any affiliates. The Settlement Stipulation, therefore, meets the requirements of WAC 480-07-110 and should be approved by the Commission in its entirety.

8 **THE COMMISSION ORDERS That the Settlement Stipulation filed by Joe's Refuse and Staff on June 11, 2010, is approved in full resolution of the issues raised by the Company's Petition for Exemption from Portions of WAC 480-07-520(4).**

9 **PETITIONS TO INTERVENE.** WRRRA filed a written petition to intervene, but withdrew its petition considering the Commission's approval of the stipulation between Joe's Refuse and Staff concerning the Company's request for exemption from certain filing requirements. No other petitions were filed.

10 **PROTECTIVE ORDER.** The Commission will enter a protective order in this docket, as requested by the Company. This will promote the efficient exchange during discovery of documents that are represented as including sensitive commercial information.

11 **DISCOVERY.** Discovery will proceed in accordance with the Commission's procedural rules.

12 **PROCEDURAL SCHEDULE.** The parties agreed to work cooperatively to satisfy the requirements of their stipulation, which will require Joe's Refuse to provide Staff with certain data and workpapers. The parties requested that the Commission not set a full procedural schedule until that process is completed, and requested that the Commission set a date for a second prehearing conference on July 20, 2010.

13 **THE COMMISSION GIVES NOTICE That it will conduct a second prehearing conference in this proceeding at 1:30 p.m., on Tuesday, July 20, 2010, in Room 206, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.**

- 14 **DOCUMENT PREPARATION AND FILING REQUIREMENTS.** Parties must file the original plus **11copies** of the unredacted versions of all pleadings, motions, briefs, and other prefiled materials. Parties must also file the original and one copy of any redacted version(s). These materials must conform to the format and publication guidelines in WAC 480-07-395 and WAC 480-07-460. The Commission prefers that materials be three-hole punched with *oversized* holes to allow easy handling. The Commission may require a party to refile any document that fails to conform to these standards.
- 15 All filings must be mailed or delivered to the Executive Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 S. Evergreen Park Drive, S.W. Olympia, Washington 98504-7250. Both the post office box and street address are required to expedite deliveries by the U.S. Postal Service.
- 16 **ELECTRONIC SUBMISSION OF DOCUMENTS.** Parties may submit documents electronically to the Commission on the filing deadline to expedite the filing process, but must file an original, plus **11paper copies**, of the documents with the Commission by 12:00 noon on the first business day following the filing deadline established in the procedural schedule. *WAC 480-07-145(6)*. Parties may submit documents electronically through the Commission’s Web Portal ([www.utc.wa.gov/e-filing](http://www.utc.wa.gov/e-filing)) or by e-mail to [records@utc.wa.gov](mailto:records@utc.wa.gov). Finally, to perfect filing, parties must simultaneously provide e-mail courtesy copies of filings to the presiding administrative law judge and advisory staff identified on Appendix A to this Order as well as to the parties to the proceeding.
- 17 **ALTERNATIVE DISPUTE RESOLUTION.** The Commission supports the informal settlement of matters before it. Parties are encouraged to consider means of resolving disputes informally. The Commission does have limited ability to provide dispute resolution services; if you wish to explore those services, please call the Director, Administrative Law Division, at 360-664-1144.
- 18 **NOTICE TO PARTIES.** A party who objects to any portion of this Order must file a written objection within ten calendar days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. The service date appears on the

first page of the order in the upper right-hand corner. Absent such objection, this Order will control further proceedings in this matter, subject to Commission review.

Dated at Olympia, Washington, and effective June 15, 2010.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

DENNIS J. MOSS  
Administrative Law Judge

**NOTICE TO PARTIES: This is an Interlocutory Order of the Commission. Administrative review may be available through a petition for review, filed within 10 days of the service of this order pursuant to WAC 480-07-810.**

**APPENDIX**

**PARTIES' REPRESENTATIVES**  
**DOCKET UE-091769**

<b>PARTY</b>	<b>REPRESENTATIVE</b>	<b>PHONE</b>	<b>FACSIMILE</b>	<b>E-MAIL</b>
Joe's Refuse	David W. Wiley Williams Kastner & Gibbs PLLC Two Union Square 601 Union Street, Suite 4100 Seattle, WA 98101	206-233-2895	206-628-6611	<a href="mailto:dwiley@williamskastner.com">dwiley@williamskastner.com</a>
Commission Regulatory Staff	Robert D. Cedarbaum Assistant Attorney General 1400 S. Evergreen Park Dr. SW P.O. Box 40128 Olympia, WA 98504-0128	360-664-1188	360-586-5522	<a href="mailto:bcedarba@utc.wa.gov">bcedarba@utc.wa.gov</a>