

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

In the Matter of

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

Petitioner,

Tariff No. 10 Revision; Seeking Partial
Exemption from Provisions of WAC 480-
07-520(4)

DOCKET TG-200044

ORDER 01

GRANTING PARTIAL EXEMPTION
FROM RULE; ALLOWING TARIFF
REVISIONS TO BECOME
EFFECTIVE BY OPERATION OF
LAW

BACKGROUND

- 1 On January 17, 2020, Harold LeMay Enterprises, Inc., d/b/a Pierce County Refuse Co., (Pierce County Refuse or Company) filed revisions to its Tariff No. 10 with the Washington Utilities and Transportation Commission (Commission), which would generate approximately \$1,411,000 (4.1 percent) in additional annual revenue. The proposal includes a general rate increase of approximately \$1.7 million (5.6 percent) for customers in Pierce County and a rate decrease of approximately \$289,000 (-13.8 percent) for customers on Joint Base Lewis-McChord (JBLM). The Company serves approximately 53,000 residential garbage and recycling customers, 27,800 yard waste customers, 5,400 commercial customers, and 600 multi-family customers in Pierce County, and approximately 4,200 garbage and recycling customers and 600 yard waste customers on JBLM. The Company's last general rate case took effect November 1, 2011. On April 17, 2020, the Company filed revised tariff pages with a proposed effective date of May 1, 2020.
- 2 On January 21, 2020, Pierce County Refuse filed a petition (Petition) requesting an exemption from the work paper filing requirements set out in WAC 480-07-520(4).
- 3 WAC 480-07-520(4) requires Pierce County Refuse to file work papers that contain detailed financial data for its parent company, Harold LeMay Enterprises, Inc., (LeMay) its affiliated interests, and its business units. The plain language of the rule requires these work papers to address LeMay's finances as a whole rather than only a limited subset of one or more business units.

4 Pierce County Refuse stated that WAC 480-07-520(4) would require the Company to submit certain proprietary and confidential business records unrelated to the substantive audit of the tariffs filed on behalf of Pierce County Refuse. Additionally, Pierce County Refuse claims that preparing some components of the work paper requirements for LeMay as a whole would be a significant hardship because each business unit maintains its own general ledger. Therefore, the analysis would require manually consolidating data into one master ledger, a time-consuming and unproductive process without any commensurate benefit to the Company's ratepayers.

5 Pierce County Refuse thus requests the Commission grant an exemption from portions of WAC 480-07-520(4) consistent with the following:

- (1) WAC 480-07-520(4)(a) (*detailed pro forma income statement*) – The required income statement is limited to the business units providing services under the tariff that Pierce County Refuse is seeking to amend.
- (2) WAC 480-07-520(4)(b) (*revenue impact calculation for proposed tariff revisions*) – The revenue impact calculation may be limited to services provided under the tariff that Pierce County Refuse is seeking to amend.
- (3) WAC 480-07-520(4)(c) (*income statement listing all revenue and expense accounts by month*) – The required income statement may be limited to the business unit that provides services under the tariff that Pierce County Refuse is seeking to amend.
- (4) WAC 480-07-520(4)(e) (*detailed list of all nonregulated operations, including the rates charged for the services rendered*) – For the portion of the rule requiring rates charged for the services rendered for the unregulated operations, Pierce County Refuse may provide all pertinent rates for unregulated services for the business unit providing services under the tariff that Pierce County Refuse is seeking to amend, as well as certain representative rates for unregulated services in other parts of the Pierce County Refuse operations.
- (5) WAC 480-07-520(4)(f) (*detailed price-out information*) – The revenue to be reported may be limited to services provided under the tariff that the Pierce County Refuse is seeking to amend.

- 6 The proposed increase will recover the costs of new truck purchases, payroll increases, and growth in operating expenses since the Company's last general rate case. The increase is primarily driven by a revenue deficiency from the Company's recycling operations. The current every-other-week recycling rate of \$5.07 does not cover the cost of providing the service due to customer growth and rising costs since 2011.
- 7 Commission staff (Staff) reviewed the Company's initial filing and determined that the proposed rates would result in excess revenue. Accordingly, Staff made adjustments to the Company's depreciation schedule by removing assets that have been fully depreciated. Staff also removed certain non-allowable bonuses and non-allowable employee appreciation expenses, among other adjustments. Finally, Staff discovered that the proposed decrease to JBLM garbage rates was the result of an incorrect adjustment made to reconcile the difference between the tipping fees assessed in the two areas. The Company is charged \$55 less per-ton on garbage generated by JBLM customers. This difference had already been recognized in the collection rates for JBLM customers. This change effectively results in the same 0.9 percent decrease being applied to both Pierce County and JBLM garbage rates. The Company and Staff have agreed on a revised revenue requirement of approximately \$1.1 million (3.2 percent) additional annual revenue. The increase to Pierce County operations would be approximately \$1,060,000 (3.2 percent), and the increase to the company's JBLM operations would be approximately \$57,000 (2.7 percent). On April 22, 2020, Pierce County Refuse filed revised rates consistent with Staff's recommendation.
- 8 Also on April 22, 2020, Pierce County Refuse filed a Petition for Deferred Revenue Accounting Treatment in Docket TG-200358 in response to the COVID-19 pandemic. The petition requests that rates become effective May 1, 2020, but that the current rates remain in effect until August 31, 2020. The petition would allow the Company to defer charging and billing customers the new approved rates until August 31, 2020, and to defer the associated revenue increase. The Company proposes to track the deferred rate increase charges for each billing cycle as a deferred asset. In addition to seeking authorization to begin billing its customers the rates proposed in this Docket on September 1, 2020, the Company's petition also seeks Commission approval to begin at the same time amortizing the accumulated balance of deferred revenues into rates in the form of a temporary surcharge to be collected over 12 months, after which the surcharge would expire.

9 *Rate Comparison*

Pierce County

Residential Rates (Per Month)	Current Rates	Proposed Rates	Revised Rates	Increase/Decrease
35 Gal. Monthly Garbage (w/ Recy.)	\$ 9.41	\$ 9.52	\$ 9.32	-0.9%
35 Gal. EOW Garbage (w/ Recy.)	\$ 12.87	\$ 13.02	\$ 12.75	-0.9%
35 Gal. Weekly Garbage (w/ Recy.)	\$ 19.39	\$ 19.61	\$ 19.21	-0.9%
65 Gal. Weekly Garbage (w/ Recy.)	\$ 26.84	\$ 27.15	\$ 26.59	-0.9%
95 Gal. Cart Weekly Garbage (w/ Recy.)	\$ 35.61	\$ 36.02	\$ 35.28	-0.9%
Every-Other-Week Recycling	\$ 5.07	\$ 6.73	\$ 6.63	30.7%
Every-Other-Week Yard waste	\$ 5.53	\$ 6.31	\$ 6.24	12.8%
Commercial Rates (Per Pickup)				
1 Yard Container First Pickup	\$ 31.95	\$ 32.32	\$ 31.65	-0.9%
2 Yard Container First Pickup	\$ 52.95	\$ 53.56	\$ 52.45	-0.9%

JBLM

Residential Rates (Per Month)	Current Rates	Proposed Rates	Revised Rates	Increase/Decrease
65 Gal. Weekly Garbage	\$ 22.08	\$ 17.16	\$ 21.87	-0.9%
95 Gal. Weekly Garbage	\$ 28.85	\$ 22.42	\$ 28.58	-0.9%
Every-Other-Week Recycling	\$ 5.07	\$ 6.73	\$ 6.63	30.7%
Every-Other-Week Yard waste	\$ 5.53	\$ 6.31	\$ 6.24	12.8%

10 Staff is satisfied that the revised rates filed on April 22, 2020, are fair, just, reasonable, and sufficient. Accordingly, Staff recommends the Commission allow the tariff pages filed on January 17, 2020, as revised on April 17, 2020, and on April 22, 2020, to take effect May 1, 2020. Additionally, Staff reviewed Pierce County Refuse's request for an exemption from WAC 480-07-520(4) and recommends that the Commission grant the request, as set forth above.

11 Since the Company notified customers by mail on January 24, 2020, Staff received six customer comments regarding the proposed rate increase. One customer commented in favor of the rate increase, and thanks sanitation workers for their hard work. Two customers said the Company is already rich and does not need an increase. Two are

unhappy that Pierce County Refuse forces them to pay for recycling service they don't use. The last customer said they cannot afford an increase.

- 12 In response, Staff explained that Pierce County requires solid waste carriers to charge curbside garbage customers for recycling. Staff also informed customers that state law requires rates to be fair, just, reasonable, and sufficient to allow the Company to recover necessary operating expenses and the opportunity to earn a reasonable return on its investment. Customers were also told that Staff performs a thorough review of rate filings to ensure all rates and fees are appropriate.

DISCUSSION

- 13 We agree with Staff's recommendation and grant Pierce County Refuse's request for exemption from certain provisions of WAC 480-07-520(4). Under WAC 480-70-051, the Commission may grant an exemption from the provisions of any rule in WAC 480-70 if doing so is consistent with the public interest, the purposes underlying regulation, and applicable statutes.
- 14 The purpose of the work paper filing requirements in WAC 480-07-520(4) is to provide the Commission with information to determine whether a proposed rate increase is fair, just, reasonable, and sufficient. Here, the Company has provided sufficient information to enable the Commission to make such a determination. Providing additional information required by the rule would be unnecessary and unduly burdensome. Accordingly, allowing an exemption to this requirement for this docket only is consistent with public interest, the purposes underlying the rule, and applicable statutes.
- 15 We also find that the proposed rates are fair, just, reasonable, and sufficient. The rates appropriately capture costs that were prudently incurred and better align rates with customer class cost-causation.
- 16 We recognize, however, that any rate increase will inevitably contribute to the financial hardship some customers are facing due to the economic uncertainties created by the COVID-19 pandemic. Nevertheless, we determine that the Company's proposal in Docket TG-200358 to delay the onset of the rate increase until September 1 is not the outcome most favorable to customers. First, we have no assurances that economic conditions will have improved by September 1, the proposed rate implementation date. Second, allowing rates to become effective on May 1, 2020, will result in less rate shock to customers than delaying the implementation until September 1 and ultimately

imposing an even greater increase. Accordingly, we conclude that allowing the rates to become effective sooner at a lower rate is the best, albeit not the ideal, outcome in light of the circumstances. We therefore allow the tariff revisions, as revised on April 22, 2020, to become effective on May 1, 2020, by operation of law.

FINDINGS AND CONCLUSIONS

- 17 (1) The 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.
- 18 (2) Pierce County Refuse 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.
- 19 (3) LeMay is subject to WAC 480-07-520(4), which requires Pierce County Refuse to file work papers that contain detailed financial data for the LeMay, its affiliated interests, and its business units. The plain language of the rule requires these work papers to address LeMay's finances as a whole, not a limited subset of one or more business units.
- 20 (4) Pierce County Refuse is a business unit of LeMay, and collects solid waste under one of its six tariffs.
- 21 (5) Pierce County Refuse filed revisions to Tariff No. 10 on January 17, 2020, seeking to increase rates in its business unit by approximately \$1.4 million (4.1 percent), which includes an increase of approximately \$1.7 million (5.6 percent) for customers in Pierce County and a decrease of approximately \$289,000 (-13.8 percent) for customers on Joint Base Lewis-McChord.
- 22 (6) On April 22, 2020, Pierce County Refuse filed tariff revisions seeking a revised revenue requirement of approximately \$1.1 million (3.2 percent) additional annual revenue, which includes an increase of approximately \$1,060,000 million (4.1 percent) in Pierce County, and an increase of approximately \$57,000 (2.7 percent) for customers on Joint Base Lewis-McChord.
- 23 (7) To support its proposed tariff revisions, Pierce County Refuse filed work papers containing financial information only for Pierce County Refuse and some of the

Company's other business units, but not for the entirety of LeMay's statewide operations.

- 24 (8) Under WAC 480-70-051, the Commission may grant an exemption from the provisions of any rule in WAC 480-70 if doing so is consistent with the public interest, the purposes underlying regulation, and applicable statutes.¹
- 25 (9) This matter came before the Commission at its regularly scheduled meeting on April 23, 2020.
- 26 (10) After reviewing the Petition filed in Docket TG-200044 by Pierce County Refuse on January 21, 2020, and giving due consideration, the Commission finds that granting the exemption is in the public interest, consistent with the purposes underlying the regulation and applicable statutes, and should be granted.
- 27 (11) After reviewing the tariff revisions filed by Pierce County Refuse on January 17, 2020, as revised on April 17, 2020, and on April 22, 2020, and giving due consideration, the Commission finds that the tariff revisions will result in rates that are fair, just, reasonable, and sufficient. As such, the tariff revisions should be allowed to become effective on May 1, 2020, by operation of law.

ORDER

THE COMMISSION ORDERS:

- 28 (1) Harold LeMay Enterprises, Inc., d/b/a Pierce County Refuse Co.'s Petition for Exemption from WAC 480-07-520(4) is granted, in part, consistent with the terms of this Order.
- 29 (2) The tariff revisions filed by Harold LeMay Enterprises, Inc., d/b/a Pierce County Refuse Co., to its Tariff No. 10 filing will become effective May 1, 2020, by operation of law.
- 30 (3) The exemption granted to Harold LeMay Enterprises, Inc., d/b/a Pierce County Refuse Co., in this Order applies only to the general rate proceeding in Docket TG-200044.

¹ See also WAC 480-07-110.

- 31 (4) The Commission retains jurisdiction over the subject matter and Harold LeMay Enterprises, Inc., d/b/a Pierce County Refuse Co., to effectuate the provisions of this Order.

DATED at Lacey, Washington, and effective April 23, 2020.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chair

ANN E. RENDAHL, Commissioner

JAY M. BALASBAS, Commissioner