

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of:

Petition for Exemption by Harold LeMay Enterprises, Inc. G-98 d/b/a Pierce County Refuse

Case No.

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

1 COMES NOW Harold LeMay Enterprises, Incorporated, G-98, (“LeMay”), d/b/a Pierce County Refuse (“Petitioner” or “PCR”), 4111 192nd Street East, Tacoma, Washington, 98446, by and through its 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 exemption from the requirements of the general rate proceeding workpaper filing rule. 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 workpaper rule and in light of the Commission’s 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).¹

I. PRELIMINARY STATEMENT AND WORKPAPER RULE EXEMPTION REQUESTED

2 This request is filed simultaneously with support for a general rate filing this day which covers only residential service dwellings at Joint Base Lewis-McChord (“JBLM”). This filing seeks exemption from WAC 480-07-520(4) in asking that the Commission not require, as a

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.

part of the supporting data being filed herewith, that under WAC 480-07-520, detailed and structured workpapers for a general rate case be required with respect to either PCR or in this very targeted rate filing, Harold LeMay Enterprises, Inc., as “the Company.”

3 As noted, Petitioner is filing supporting schedules with pro forma revenue and expense impacts projected as well as underlying information on service levels, collection, transportation and disposal rates with the filing. In so doing, PCR is also seeking an overall exemption from WAC 480-07-520(4) in this unique circumstance for a couple important reasons:

4 First, is the fact that PCR only recently filed a general rate case which, as revised, was approved by the Commission effective November 1, 2011. Thus, only seven months or so ago, it filed a complete general rate case which allowed the Staff the opportunity for an entire review, audit and reconciliation of the books and records of PCR. The Staff therefore already has a very recent assessment of PCR’s results of operations with a test period considerably less than 12 months old.

5 Secondly, the service that is the subject of the limited tariff/rate adjustment here has been provided for many years by PCR under prior ownership. With recent federal authorities’ clarification of the lack of preemption of state laws and regulations governing solid waste collection on federal facilities, (*see, i.e., Red River Service Corporation*, Comp. Gen. Dec. B-279250, 98-CPDE 142 (1998)), and the expiration of previously-negotiated federal service contracts, Petitioner believes the updating of Tariff 25, Item No. 107 et al. is fully appropriate and consistent with the public interest. Here, PCR is seeking to publish tariff rates essentially identical to collection rates recently approved by the Commission for PCR and disposal rates that reflect the exclusion of JBLM from the Pierce County Solid Waste Management System and many of its system fees and service charges. Thus, the proposed

rates reflect the same collection and transportation rates established by PCR for multifamily, recycling and yard waste service in other regulated territories as established by the Commission on November 1, 2011, but merely apply a different disposal charge than those assessed customers outside the JBLM service territory.

II. ARGUMENT IN SUPPORT OF EXEMPTION

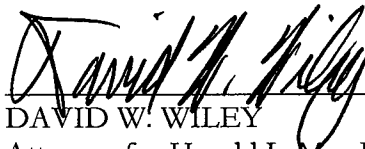
6 As alluded to above, the limited geographic and substantive scope of this filing demonstrates that a blanket application of WAC 480-07-520(4) here would be both redundant (in light of the recently-approved general rate filing) and inapplicable (to the extent this filing implicates only a narrow customer base and involves essentially only a shift to a more universal form of rate and service level regulation in the affected territory). Requiring a whole new general rate case filing with accompanying workpaper support would also clearly unnecessarily expend company and staff resources and concomitantly work a hardship upon both parties when pertinent supporting data and schedules to this very targeted and specific rate filing are already addressed in the revised tariff pages and back up data now supplied. This filing simply represents a more comprehensive transition to and affirmation of Commission jurisdiction and regulation of solid waste collection service levels and rates offered at the JBLM facility consistent with recent clarifications of state law control by federal courts and agencies. As such, it does not constitute a general rate filing in the conventional sense, rather a reformatting of service on the JBLM base fully consistent with Commission rate design and revised disposal charges to be imposed on multifamily customers residing outside of the Pierce County Disposal System and within JBLM serviced by Equity Residential Properties Management.

III. PRAYER FOR RELIEF

7 WHEREFORE, for these reasons and consistent with the public interest standard as noted in WAC 480-07-110, and based on the foregoing outline of the issues raised by this Petition for Exemption from Rule, Petitioner Pierce County Refuse asks that the Commission permit exemptions for this filing applicable to WAC 480-07-520(4), finding that it is in the public interest and fully consistent with the purposes of evaluating rate filings to grant Harold LeMay Enterprises, Inc. d/b/a Pierce County Refuse an exemption to the workpapers requirements of WAC 480-07-520(4) for the limited purpose of considering the proposed rate filing in this Docket for the applicable tariff governing PCR's regulated operations for multifamily housing dwellings at Joint Base Lewis-McChord.

Dated this 15th day of May, 2012.

Respectfully submitted,



DAVID W. WILEY

Attorney for Harold LeMay Enterprises, Inc. d/b/a Pierce County Refuse

CERTIFICATE OF SERVICE

I hereby certify that on May 15, 2012, I caused to be served the original and three (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
P.O. Box 47250
1300 S. Evergreen Park Dr. SW
Olympia, WA 98504-7250

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.



Lyndsay C. Taylor