

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

HAROLD LEMAY ENTERPRISES,
INC., d/b/a PACIFIC DISPOSAL AND
BUTLERS COVE REFUSE SERVICE

Petitioner,

Seeking Exemption from the Provisions of
WAC 480-70-351(2) Relating to
Recycling Credits or Charges

DOCKET TG-180426

ORDER 01

ORDER GRANTING
EXEMPTION FROM RULE

BACKGROUND

- 1 On May 14, 2018, Harold LeMay Enterprises, Inc., d/b/a Pacific Disposal and Butlers Cove Refuse Service (Pacific Disposal or Company) filed with the Washington Utilities and Transportation Commission (Commission) a petition requesting an exemption from WAC 480-70-351(2) Rates, recycling programs, credits, or charges (Petition).
- 2 WAC 480-70-351(2) states that solid waste 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 must use the most recent 12-month historical period to estimate the revenue for the next 12 months.
- 3 In its petition, the Company asserts that the recycling commodity markets have become more volatile, and a shorter projection period for calculating commodity credits would avoid large swings in the credit or debit to customers based on changing commodity values. The Company's work papers show commodity values have declined since July 2017, and are projected to decline significantly over the next 12 months. The Company provided information illustrating a decrease from a net revenue of \$94.10 per ton in July 2017 to a charge to the Company of \$80.73 per ton in April 2018. Due to the decreased value of recyclable commodities, Pacific Disposal seeks approval to use a 6-month, rather than 12-month, average to calculate its projected recycling commodity credit.

4 Commission staff (Staff) reviewed the Petition and determined that the request for an exemption from the 12-month historical period requirement is reasonable. Using the most recent 12-month period to estimate future revenues would include the time period prior to the change in recycling markets, when revenue from the sale of recyclable commodities provided a net positive amount (a credit) back to customers, and would not accurately reflect the anticipated market down-turn. Changing the calculation should also decrease customer rate shock. Instead of receiving a larger credit for 12 months followed by a much larger charge, customers will see a smaller debit for the first six months, which will decrease less significantly in the next six months thereafter. It will also prevent the Company from providing a credit it will not actually receive while instead incurring significant processing charges.

5 Based on these factors, Staff recommends granting Pacific Disposal's request for exemption, subject to the following condition(s):

- (a) The Company will calculate the true-up for the commodity credit paid in 2017 using the full 12 months of actual revenue received from the sale of recyclable commodities;
- (b) The Company will use the most recent six months of historical revenue to calculate the commodity credit or debit that will go into effect July 1, 2018;
- (c) The Company will file another commodity credit adjustment to become effective January 1, 2019, at which time it will include the previous six months' actual revenue in the calculation and estimation of the credit. This filing can be for a 6-month period or 12-month period at the Company's discretion.

DISCUSSION

6 We agree with Staff's recommendation and grant Pacific Disposal's petition subject to the conditions set out in paragraph 5 above. Using the most recent 6-month historical period to estimate revenues is reasonable because it reflects a more realistic estimate of recyclable commodity revenue.

FINDINGS AND CONCLUSIONS

- 7 (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.
- 8 (2) Pacific Disposal 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.
- 9 (3) Pacific Disposal is subject to WAC 480-70-351(2), which requires solid waste companies that estimate the revenue from the sales 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 12-month historical period to estimate the revenue for the next 12 months.
- 10 (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. See also WAC 480-07-110.
- 11 (5) This matter came before the Commission at its regularly scheduled meeting on June 28, 2018.
- 12 (6) After reviewing the Petition filed in Docket TG-180426 by Pacific Disposal, on May 14, 2018, and giving due consideration, the Commission finds that the requested exemption is in the public interest, and is consistent with the purposes underlying the regulation and applicable statutes, and should be granted.

ORDER

THE COMMISSION ORDERS:

- 13 (1) The Commission grants Harold LeMay Enterprises, Inc., d/b/a Pacific Disposal and Butlers Cove Refuse Service's Petition for an exemption from WAC 480-70-351(2); Harold LeMay Enterprises, Inc., d/b/a Pacific Disposal and Butlers Cove Refuse Service may use the most recent six months of historical revenues to calculate its recycling commodity credit.

- 14 (2) The tariff pages implementing this credit, filed on May 14, 2018, will become effective by operation of law on July 1, 2018, subject to the following conditions:
- (a) Harold LeMay Enterprises, Inc., d/b/a Pacific Disposal and Butlers Cove Refuse Service will calculate the true-up for the commodity credit paid in 2017 using the full 12 months of actual revenue received from the sale of recyclable commodities;
 - (b) Harold LeMay Enterprises, Inc., d/b/a Pacific Disposal and Butlers Cove Refuse Service will use the most recent six months of historical revenue to calculate the commodity credit or debit that will go into effect July 1, 2018;
 - (c) Harold LeMay Enterprises, Inc., d/b/a Pacific Disposal and Butlers Cove Refuse Service will file another commodity credit adjustment to become effective January 1, 2019, at which time it will include the previous six months' actual revenue in the calculation and estimation of the credit. This can be for a 6-month or 12-month period at Harold LeMay Enterprises, Inc., d/b/a Pacific Disposal and Butlers Cove Refuse Service's discretion.
- 15 (3) The Commission retains jurisdiction over the subject matter and Harold LeMay Enterprises, Inc., d/b/a Pacific Disposal and Butlers Cove Refuse Service to effectuate the provisions of this Order.

The Commissioners, having determined this Order to be consistent with the public interest, directed the Secretary to enter this Order.

DATED at Olympia, Washington, and effective June 28, 2018.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK L. JOHNSON, Executive Director and Secretary