

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

WASHINGTON UTILITIES AND)	DOCKET TG-091769
TRANSPORTATION COMMISSION,)	
)	
Complainant,)	ORDER 04
)	
v.)	
)	
HAROLD LEMAY ENTERPRISES,)	FINAL ORDER APPROVING AND
INC., d/b/a JOE’S REFUSE SERVICE,)	ADOPTING SETTLEMENT
)	STIPULATION
Respondent.)	
.....)	

Synopsis: The Commission approves and adopts a Settlement Stipulation, establishing permanent rates for solid waste collection and recycling services provided by Joe’s Refuse in Thurston County, Washington that are reasonable and just. The Commission finds that increased rates are necessary to provide the Company an opportunity to recover its full revenue requirement, determined on the basis of Staff’s review of its financial records.

SUMMARY

- 1 **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 higher rates attributed to an increase in the disposal fee charged by Thurston County. The Commission suspended operation of the tariff revisions by order, but allowed the proposed rates to become effective on January 1, 2010, on a temporary basis subject to refund, pending hearings.

- 2 The Commission also held that the Company’s tariff filing constituted a general rate case pursuant to WAC 480-07-505 and ordered it to file, by March 1, 2010, all documents required for a general rate case as provided in WAC 480-07-520(4).

3 On February 19, 2010, Joe's Refuse filed a letter with the Commission requesting an extension of time and waiving the applicable suspension period under RCW 81.04.130. The Commission granted the Company's request. Following additional process, including a second agreed continuance of the filing requirement, the companies provided the documents Staff agreed were essential to its review.

4 Staff and the Company filed a Settlement Stipulation on September 2, 2010, by which they propose to resolve all issues in this proceeding. The settlement establishes the Company's revenue requirement and provides rates for its recovery.

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).¹

6 **COMMISSION DETERMINATIONS:** The Commission has reviewed the Settlement Stipulation, supporting documents and public comments that were received as part of the record in this proceeding. The Commission determines that the settlement, by its terms, sets rates that are reasonable and just. It is, therefore, in the public interest to approve and adopt the Settlement Stipulation in resolution of the issues pending in this proceeding.

MEMORANDUM

7 Joe's Refuse informed the Commission by letter filed on November 10, 2009, that Thurston County's disposal fees at its landfill would be increased from \$80 per ton to \$110 per ton, a 37.5 percent increase, effective January 1, 2010. The letter also stated that the fee for yard waste disposal would increase by 37.5 percent, from \$32 to \$44 per ton. The Company's letter transmitted to the Commission revised tariff sheets

¹ 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.*

that, if allowed to become effective, would increase the Company's rates to customers by amounts sufficient to recover the increased disposal fees on an annual basis. The Commission suspended the operation of the tariff revisions but allowed them to go into effect January 1, 2010, on a temporary basis, subject to refund.

- 8 The Commission also held that the company's tariff filing constituted a general rate case pursuant to WAC 480-07-505 and ordered it to file, by March 1, 2010, all documents required for a general rate case as provided in WAC 480-07-520(4). The most recent prior general rate increase for Joe's Refuse became effective in July 1996. After additional process, including an agreed continuance of the filing requirement and waiver by the Company of the ten month suspension period that is the default period for processing general rate cases for solid waste collection companies under RCW 81.04.130, the Company filed the documents Staff agreed were essential to its review.
- 9 Staff developed a pro forma income statement (Attachment A to the Settlement Stipulation) restating the Company's test period expenses and revenues. Staff adjusted the Company's net average investment and depreciation to reflect historical cost and straight-line depreciation. In addition, Staff updated the investment and depreciation entries to include the December 2009 completion of storm water improvements at the Company's Centralia facility. These improvements were required to meet state Department of Ecology standards. Staff restated the Company's expenses to include certain billing, accounting wages, and recycle processing costs. Staff also eliminated non-allowable costs such as lobbying and charitable contributions.
- 10 Staff, in accordance with standard ratemaking principles, made pro forma adjustments for known and measurable changes in revenues or expenses that are not offset by other factors. These adjustments included the increased disposal fees expected during 2010, and reflected the most recent 12-month costs of fuel and payroll expenses, including 2010 pay increases.
- 11 Staff's determined on the basis of its analysis of the Company's financial records that its revenue requirement is higher than the revenue generated by the temporary rates that became effective January 1, 2010. Thus, neither the temporary rates, nor the lower permanent rates they supplanted, are sufficient to meet the Company's revenue

requirement. Joe's Refuse initially asked for approximately \$227,800 (13.4 percent) of additional annual revenue to recover its increased disposal fees. Staff found, however, that the Company's financial records show it needs to recover in rates another \$308,000 in addition to the increased disposal fees, for a total increase in revenue requirement of approximately \$535,800 (31.6 percent). In other words, rates for residential and commercial garbage, drop box hauling, residential recycling, multi-family recycling and residential yard waste are all currently below cost. Staff and the Company developed revised rates by allocating the increased revenue requirement to individual program. These are set forth in Attachments B and C of the Settlement Stipulation.

- 12 Although RCW 81.04.130 expressly states the standard for evaluating proposed increases in rates in terms of their "reasonableness and justness," it is fundamental that this standard requires the Commission to determine, among other things, whether a company's rates are sufficient to recover its costs. In this case, based on a thorough review of the Company's financial records, Commission Staff determined the temporary rates authorized for Joe's Refuse effective January 1, 2010, are not sufficient to recover the Company's costs. Staff and the Company propose by their Settlement Stipulation rates that provide Joe's Refuse the opportunity to recover its full revenue requirement. The uncontested record supports their determination of the revenue requirement and the allocation of it for recovery from customers who avail themselves of the various individual services Joe's Refuse provides in Thurston County. The Commission determines for these reasons that the rates set forth in the parties' Settlement Stipulation are reasonable and just and should be approved as permanent rates.

FINDINGS OF FACT

- 13 Having discussed above in detail the evidence received in this proceeding concerning all material matters, and having stated findings and conclusions upon the issues and the reasons therefore, the Commission now makes and enters the following summary facts, incorporating by reference pertinent portions of the preceding detailed findings:
- 14 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, practices, and accounts of public service companies, including solid waste collection companies.

- 15 (2) Joe's Refuse is a solid waste collection company, a common carrier and a public service company as those terms are defined in RCW 81.04.010 and as those terms otherwise are used in Title 81 RCW.
- 16 (3) The record shows that the current rates charged by Joe's Refuse are insufficient to yield reasonable compensation for the services it provides in Washington.
- 17 (4) Joe's Refuse requires relief with respect to the rates it charges for solid waste collection and recycling services it provides in Washington so that it can recover its revenue requirement.
- 18 (5) The terms of the Settlement Stipulation filed by the parties to this proceeding on September 2, 2010, attached to this Order as an appendix and incorporated by this reference, are consistent with the public interest.
- 19 (6) The rates, terms, and conditions of service that result from this Order are fair, just, reasonable, and sufficient.
- 20 (7) The rates, terms, and conditions of service that result from this Order are neither unduly preferential nor discriminatory.

CONCLUSIONS OF LAW

- 21 Having discussed above all matters material to this decision, and having stated detailed findings, conclusions, and the reasons therefore, the Commission now makes the following summary conclusions of law, incorporating by reference pertinent portions of the preceding detailed conclusions:
- 22 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and parties to, these proceedings.
- 23 (2) The existing rates charged by Joe's Refuse for solid waste collection and recycling services provided in Washington State are insufficient to yield reasonable compensation for the services rendered.

- 24 (3) Joe's Refuse requires relief with respect to the rates it charges for regulated services provided in Washington State.
- 25 (4) The Commission must determine the fair, just, reasonable, and sufficient rates to be observed and in force under tariffs that govern the rates, terms, and conditions of service for Joe's Refuse in providing solid waste collection and recycling services to customers in Washington State.
- 26 (5) Joe's Refuse should be authorized and required to make a compliance filing to recover its revenue deficiency of \$535,800.
- 27 (6) The rates, terms, and conditions of service that will result from this Order are fair, just, reasonable, and sufficient.
- 28 (7) The rates, terms, and conditions of service that will result from this Order are neither unduly preferential nor discriminatory.
- 29 (8) The Commission Secretary should be authorized to accept by letter, with copies to all parties to this proceeding, a filing that complies with the requirements of this Order.
- 30 (9) The Commission should retain jurisdiction over the subject matter and the parties to this proceeding to effectuate the terms of this Order.

ORDER

THE COMMISSION ORDERS THAT:

- 31 (1) The parties' Settlement Stipulation, filed on September 2, 2010, is approved and adopted in full resolution of the issues in this proceeding. The Settlement Stipulation, attached as an appendix, is incorporated into this Order by prior reference, as if set forth in full.
- 32 (2) Joe's Refuse is authorized and required to make a compliance filing including revised tariff sheets that meet the requirements of this Order and bear an effective date that affords Staff at least 3 business days for review.

- 33 (3) The Commission Secretary is authorized to accept by letter, with copies to all parties to this proceeding, a filing that complies with the requirements of this Final Order.
- 34 (4) The Commission retains jurisdiction to enforce this Order.

Dated at Olympia, Washington, and effective October 14, 2010.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

JEFFREY D. GOLTZ, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner

NOTICE TO PARTIES: This is a Commission Final Order. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 and WAC 480-07-870.

APPENDIX
SETTLEMENT STIPULATION