SUMMARY OF WRITTEN COMMENTS
Pipeline Fee Methodology Rulemaking to Review
WAC 480-93-240 and WAC 480-75-240
For March 11, 2005 Comments
Docket No. P-041344

Revised March 16, 2005

No.	INTERESTED PERSON	COMMENTS	STAFF RESPONSE
1.	Karl R. Karzmar Director, Regulatory Relations Puget Sound Energy (PSE)	In general the Commission Staff's approach seems reasonable and the calculation is easily understood. While additional complexity may have resulted in a more accurate allocation of costs this method has the advantages of predictability due to the use of historical hours by company and gradual change due to the use of a two-year average of hours and the stop-loss mechanism. This proposal clearly meets the requirements of RCW 80.24.060(2)(a) and (2)(b) by directly assigning costs and by the use of actual time spent for estimating and allocating costs to each company based on the prior two year's inspection activities directly attributable to the company. As seen in the number of different proposals considered, this proposal appears to be the most "uniform and equitable". Nevertheless, PSE continues to believe that using a methodology that spreads a portion of costs on the basis of pipeline miles, while the draft proposal's use of this allocation method has a reduced impact from some earlier proposals, has the effect of not encouraging the operation of a safe pipeline. In addition, while being "uniform" the issue of how "equitable" the results of this method are, is in question. However, as mentioned earlier, this proposal is easily understood and strikes a balance of the various viewpoints offered in writing and the workshops and should be adopted by the Commission.	Staff agrees that this proposal strikes a balance of various viewpoints. A significant consideration is how to balance the allocation of fees based on effort data with the allocation of fees based on a mileage. After adjusting the total fees for the federal credit, over three-fourths of the remaining fee amount is allocated based on effort.

2.	Alan J. Cabodi President McChord Pipeline Co.	1. McChord Pipeline Co. appreciates that there has been an acceptance and willingness upon the part of WUTC to hear the small operator's concerns during this fee rulemaking process. Due to the nature of our business, large fluctuations in the rates have a significant impact. When the stop-loss mechanism is removed in 2009, there is again the potential for large fluctuations in the rates if only a two-year average of directly assigned inspection hours is used for the rate basis. By 2009 the commission will have at least five (5) years of historical data on which to base an average. A longer averaging period will reduce the magnitude of the fluctuations and reduce the adverse business impact. We recommend revising WAC 480-75-240(2)(b)(ii) to include averaging of the preceding five years of the directly assigned hours after 2009 in order to lessen the impact of rapid changes in those direct hours to small businesses. 2. McChord Pipeline Co. agrees with the concept of using the average hours for establishing direct pool charges and pipeline mileage for the indirect pool charges. See Comment No. 1 for concerns regarding the two-year average. 3. Adoption of this fee methodology will result in a very significant increase in fees for McChord Pipeline Co., in fact the highest since the inception of the Pipeline Safety Program. The percentage increase in fees for McChord Pipeline Co. is the largest calculated and is only mitigated by the stop-loss mechanism. McChord Pipeline Co. has been audited for a different program yearly for the last four years (Standard Pipeline Inspection, Drug and Alcohol Program Inspection, Integrity Management Program Inspection, and an Operator Qualification Program Inspection due this year). These audits seem to take the same amount of time regardless of the effort that is spent on the front end to streamline the process. The	1. With the exception of the short- term adjustment associated with changing from our current system to a new system, Staff does not expect large fluctuations in fees for any companies unless a company experiences an incident requiring extraordinary effort on the program's part. Staff would not rule out the possibility of another rule revision in 2009 if it appears warranted at that time. The current proposed rule no longer contains a stop-loss mechanism. 2. Staff believes using average hours is consistent with statute. 3. A one-year delay in implementation will mean the 2003 data will be replaced with 2005 data. This will mean that many of the inspections referred to not will be included in the fee determination. The pipeline safety program intends to move toward risk

		scrutiny that has been given to the McChord Pipeline seems disproportionate to the risk. The pipeline is short in length (14.25 miles), carries a product that does not have high volatility characteristics (jet fuel which is less volatile than diesel) and has very low pressure cycles. The pipeline has never experienced a leak, has external coatings, is cathodically protected and carries a product that is non corrosive. These issues do not seem to be taken into account when WUTC establishes the inspection schedules. The issue of inspection scheduling, efficiency of those inspections and frequency based upon risk are issues that McChord Pipeline Co. feels the WUTC Pipeline Safety Section should address, especially since the inspection times are now being used to establish fees. 4. WAC 480-75-240(3) is meant to address hazardous liquid annual reporting requirements yet as written addresses gas and interstate gas companies. This needs to be changed to apply to inter and intrastate hazardous liquid pipeline companies. 5. WAC 480-75-650 already requires submission of an annual report form to the commission no later than April 1 of the succeeding year for hazardous liquids pipelines under the jurisdiction of the commission. The first sentence of WAC 480-75-240(3) needs to be changed to cover only those companies that are not already meeting the annual reporting requirements under WAC 480-75-650.	assessments in the scheduling of inspections. As this happens, operators with low risk factors should see a decrease in their inspections. 4. McChord is correct. This was a typographical error and it has been corrected. 5. McChord is correct. The first line in this section requiring annual reporting has been deleted.
3.	Del M. Draper Williams Gas Pipeline-West	Williams is not going to file formal comments at this time. Williams has filed extensive comments in this proceeding previously and its views are set forth in detail in those comments.	No response.

		While there are components of the new system that are less than perfect in Williams view, Williams supports the general direction the WUTC is taking by moving towards a system where fees charged to any company more closely reflect the time the WUTC spends on activities related to that company.	
4.	Edward A. Finklea Northwest Industrial Gas Users (NWIGU)	1. **<u>Overview of Comments</u>** Fundamentally NWIGU is concerned that the Commission Staff has proposed a rule change that is not a justified improvement over the current methodology. The end result of the Staff's proposed rule change is an increase of 80% to 200%, with but one exception, for the annual fee assessments for smaller intrastate facilities. While NWIGU appreciates the Staff's incorporation of a 25% stop loss mechanism in mitigation of the annual fee increases that would take place from now to 2009 under the proposal, the Staff and Commission should not proceed without looking at this end result, which NWIGU submits is unjustified at this time. This is a significant shifting of costs from large interstate and intrastate regulated entities to smaller intrastate facilities. This shift is predicated upon the use of 2003-2004 average hours incurred that have been assigned to companies and contemporaneous study of time use or from a historically complete allocation of time data. Instead the data consists of that which was recorded at the time (when allocation did not have this purpose) coupled with a review done in the process of this rulemaking with reassessment for allocation now. NWIGU is not at all questioning the good faith attempt by the Staff or its consultant at such reassessment. The result, however, is not a justified basis for such fee increases as are proposed with the draft rule.	1. Staff believes that although the timekeeping data was not collected for fee allocation purposes, it is nonetheless a reliable reflection of the relative amount of effort expended on each company by program staff. As such, it is the most equitable means of allocating program costs that is available to the Commission at this time. Further, those companies that are projected to experience an increase in their fees have likely benefited from our current fee system which does not as accurately reflect the effort devoted to individual operators. The effort data will change as the pipeline program continues to adjust its inspection schedules

		The Staff and Commission should instead continue with the current methodology for fee use with direct billing for construction and incidents. Any shift to greater actual time allocation should be done based upon a comprehensive time study over a reasonable cycle of inspection activity. In other words, the Staff should keep actual complete contemporaneous time for all of its efforts for the next two-year cycle and then move forward with a rulemaking change if one is justified. It is not sufficient to reallocate costs in such a significant way and simply update the data over time by incorporating a rolling two-year average of actual timekeeping as Staff suggests. 2. **<u>Background Information</u>** NWIGU is a non-profit association comprised of thirty-two industrial users of natural gas with major facilities in the states of Washington, Oregon and Idaho. Some NWIGU members own gas facilities that directly connect their plants in Washington to the Williams' Northwest interstate pipeline. These operators' intrastate gas pipelines are accordingly subject to safety regulation by the WUTC, and these direct connect customers pay a direct share of Pipeline Safety Program fees under RCW 80.24.060. NWIGU members also pay for interstate pipeline company assessments on TransCanada's Gas Transmission Northwest and Williams' Northwest Pipeline indirectly to the extent the charges are incorporated into the interstate pipeline rates, and industrial customers pay for local distribution companies' assessments indirectly to the extent the utilities' Pipeline Safety Program costs are included in their respective rates for those that take service behind the utilities.	based on risk assessments and operator history. 2. No comment necessary.

		3. The overarching concern for NWIGU is that any new methodology be a justified improvement over the current. NWIGU submits that a review is appropriate of current methodology but that the review should conclude that no change is merited at this time. As noted by the 2003 Joint Legislative Audit & Review Committee, "[t]he implementing rules the WUTC adopted in June 2001 were closely congruent with this statutory language [referring to the application of RCW 80.24.060]" See JLARC, http://jlarc.leg.wa.gov/Reports/03-05.pdf at p.30. Under the current methodology, each company's fee includes the average cost of conducting the standard inspections that are planned for that company over the year for which the fee is being collected. Under RCW 80.24.060, the Commission's rules must provide for this "direct assignment of average costs associated with annual standard inspections." By statute, the fee methodology established by the Commission must include "direct assignment" of these anticipated standard inspections costs (which may change over time as requirements and industry best engineering practices changes).	3. Parties split on whether the current system is fair and equitable. Staff believes the proposed fee rule is an improvement over current methodology and is consistent with statute.
		4. **Recommendations** **Current Methodology Retention** NWIGU recommends that the Staff and Commission continue retention of the current methodology and make only one change at this time to incorporate the prospective application of direct bills for incident and construction activities. Under current methodology about 60% of current fees are allocated by pipeline miles and about 40% are recovered through federal pipeline safety awards. The use of mileage as an allocation base is an objective fair measure for cost allocation and is vastly preferable over subjective and partial timekeeping being used for significant cost shifts.	4. Staff believes that the effort data demonstrates that pipeline miles are not an accurate reflection of the program's costs. Our timekeeping system has met the test and review of federal certification requirements and is as contemporaneous accounting of the program's effort as is practical and

		Within the Staff's proposal, NWIGU supports the use of pipeline miles as the best method for assigning non-directly assignable costs because it correlates to the WUTC's efforts and is a fair, objective measure for such allocation. This is reflected in Staff's proposal for the general overhead costs, but with an incredible shift of costs based on average hours from Staff's time reassessment rather than use of direct assignment through standard inspection days. This is the core of the issue in this rule change because any analysis of fees and hours correlation is based upon historical data that was not kept for this purpose. The data is inherently flawed despite good faith efforts at reassessment during this process. Rather than tweaking the limited data that does exist, the Staff and Commission should instead keep the current method in place and do an actual time use study for the next 24 months on all time (not just standard inspections) and then revisit fee allocation methods. The only change that should be made at this time is to provide for incident and construction activity direct billing. 5. **<u>Direct Charges for Incident and Construction Activities</u>** In addition to directly assigning average costs of planned standard inspections, the program has charged companies for significant incident activities in the past. NWIGU recommends that this practice be continued with express incorporation into the rule for the charging of such activities. These additional charges should not increase the total amount of fees collected by the program but rather reduce the fees for others. That is, after a year when the program expends time for a company because of incidents and construction	sustainable. 5. Staff agrees that a company's fee should reflect costs caused by unexpected activities related to that company. The proposed rule achieves this goal. Rather than periodically assigning the direct cost of certain incidents to the particular company involved and then

		activities, NWIGU recommends that the program attempt to recoup those costs directly from the company in the next year's fees (recognizing that this would reduce the fees of the other companies for that next year). NWIGU supports the Commission's policy of charging operator for unexpected incident and construction-related activities that occurred over the previous year in a direct billing. NWIGU recommends that this practice be continued with express incorporation into the rule for the charging of such activities. These additional charges should not increase the total amount of fees collected by the program but rather reduce the fees for others in the next year, as the total fees should be offset by the direct billings. That is, after a year when the program expends time than because of incidents and construction activities, NWIGU recommends that the program recoup those costs directly from the company in the next year's fees (recognizing that this would reduce the fees of the other companies for that next year). As long as the application is done in a uniform manner for all operators, the allocation of costs should be supported under the statute as an appropriate direct billing. This is part of the consultant's recommendations to the Staff as well. c. **<u>If the Current Proposal Moves Forward at This Time, Any Increases Should be Capped at a Lower Threshold Per Year</u>** If the Staff and Commission decide to alter the current methodology to incorporate the new cost allocations suggested by Staff at this time (which is not the outcome that NWIGU believes is justified), it should change the stop loss cap to 10% from the 25% proposed, moving to the new basis in ten years rather than four (i.e., 2015). New time allocations	adjusting other companies fees accordingly, it is simpler and more accurate to base a portion of the fee on the total company-specific effort conducted by the pipeline program. If the timekeeping system is sufficient to charge companies for incident activities, it should also be sufficient for allocating costs based on all company-specific effort. Furthermore, allocating fees based on all inspection and company-specific program effort avoids confusion over what activities should be direct charged and what should not. 6. The stop loss mechanism has been removed in favor of at least a one-year delay in implementing the new fee methodology.

		can then be absorbed over time, but without such level of impact based on incomplete 2003-2004 data. Drawing out the time frame and creating a lower threshold for annual increases would minimize the distortion arising from incomplete data from 2003-2004. In supporting a cap to mitigate cost increases on a year-to-year basis, NWIGU would also recommend that any cap exclude direct billings for excessive incidents or construction activities. 6. **Conclusion** NWIGU would like to reserve the opportunity for further comment at the March 31, 2005 open meeting and to respond to the comments of others at that time. NWIGU appreciates the thorough review that the agency has undertaken and would only note that the effort supports retention of the current structure retention as being the optimal solution for the time being with appropriate direct billing for incident and construction activities as they occur.	
5.	Daniel E. Meredith P.E. Senior Director, Safety & Engineering Cascade Natural Gas Corp. (CNG)	Cascade supports the general direction of the proposed fee calculation methodology but has a serious concern with the resulting allocation of indirect costs. The shift of basic philosophy toward direct assignment of pipeline safety program costs is good. This approach provides an inherent incentive mechanism for companies to reduce pipeline fees through careful management of pipeline safety compliance. This positive reinforcement is an appropriate result goal of the pipeline safety program. Cascade does not support the current proposal for allocation of pipeline safety program overhead costs based solely on pipeline miles within the state. Under this scenario, the Local Distribution Companies (LDC) are responsible for 87% of the indirect program costs. This is very	Less than 20 percent of the total program costs are allocated to companies based on miles. Pipeline miles are an indicator of the program's potential workload and its need to maintain a certain level of readiness and support. Staff believes it is fair and equitable to assign agency overhead costs by pipeline miles. The alternatives Cascade proposes would increase fees even more on

		inconsistent with the allocation of direct program costs to the LDC group of 39% of program costs. The LDC companies will always have the majority of pipeline mileage installed in the state given our position of service to end users. In any given year, including the years in this study, the focus and effort of the WUTC pipeline safety program and the mere existence of the program is not attributable almost solely to the existing of LDC utilities. Transmission pipeline and hazardous liquid pipeline issues have taken the majority of WUTC staff time, as shown by the direct cost allocations in the fee methodology worksheets. The allocation of indirect costs should closely follow the actual direct cost assignment. Two alternatives to address the allocation of indirect program costs include direct assignment on an hourly basis to the direct costs or establishing a minimum threshold of indirect program cost each company is responsible for as an operator. In the current proposal, eight operators are assessed less than $100 in indirect program costs and 14 (more than half) are assessed less than $1,000. The support structure of the pipeline safety program is certainly sized with all operators in mind. Each operator should support a reasonable share of the cost.	those companies whose fees increase the most under this proposed rule.
6.	Gary Bauer Manager, Government Relations Northwest Natural Gas (NWN)	As stated in our earlier comments, while it is important to determine the appropriate fee methodology, it is just as important to periodically review the program to ensure that the program level and costs are providing the greatest value possible to the citizens of Washington. NW Natural's underlying approach to developing the fee methodology is that the "cost causer" should pay. If an entity's actions cause the pipeline safety program to incur costs, then it should pay for those costs. Any fee methodology adopted should be easy to understand and administer. The fee methodology set forth in the draft rules appears	Less than 20 percent of the total program costs are allocated to companies based on miles. Pipeline miles are an indicator of the program's potential workload and its need to maintain a certain level of readiness and support. Staff believes it is fair and equitable to assign agency overhead costs by pipeline miles.

		overly complex. NW Natural recommends that the Commission adopt a methodology that makes every effort to assign costs in relation to the level of work the staff performs related to a specific company. This is consistent with RCW 80.24.060 (2) "…The methodology shall provide for an equitable distribution of program costs among all entities subject to the fee…" NW Natural does not support the allocation of overhead costs based on pipeline miles as proposed in WAC 480-75-240 (2) (b) (i) and ((2) (d) and WAC 480-93-240 (2) (b) (i) and ((2) (d). The number of miles does not necessarily correlate to the level of work that is expended by the staff in regards to their oversight of a company. Adoption of this methodology may cause customers of NW Natural to pay a higher portion of program costs than is appropriate. There are costs associated with administering the pipeline safety program that are applicable to all companies (i.e. this rulemaking) and should be shared by all of the entities subject to the Commission's jurisdiction. Pipeline miles have no bearing on these costs. In our earlier comments, we indicated these costs could be factored into the hourly rate charged for inspections. Another method would be for the Commission to spread these costs evenly among the companies.	The alternatives Cascade proposes would increase fees even more on those companies whose fees increase the most under this proposed rule