

January 19, 2000

Carole J. Washburn
Secretary
Washington Utilities & Transportation Commission
1300 Evergreen Park Drive S.W.
Olympia WA 98504-7250

Re: In the Matter of Rulemaking Concerning Special Contracts for Electric, Water,
and Natural Gas Utilities
Docket No. U-991928
WAC 480-80-335

Dear Ms. Washburn:

Pursuant to the Washington Utilities and Transportation Commission's ("Commission") Notice of Opportunity to File Written Comments ("Rulemaking Notice"), served December 28, 1999, the Industrial Customers of Northwest Utilities ("ICNU") submit the following comments on the existing provisions of Washington Administrative Code ("WAC") 480-80-335.

ICNU is an incorporated, non-profit association of large industrial electric customers in the Pacific Northwest, with offices in Portland, Oregon. A list of the forty-two ICNU members is included as Attachment A.

As recently confirmed by the Thurston County Superior Court litigation, captioned Arco Products Company, and Puget Sound Energy, Inc. v. Washington Util. and Transp. Comm'n, and Intervenors The Boeing Company, Equilon Enterprises, LLC, and Northwest Industrial Gas Users, Case No. 99-2-00548-9, there is dispute regarding the extent to which the terms and conditions of special contracts approved by the Commission must be disclosed to the public. Due to this confusion, there is a need to revise WAC 480-80-335 and put all interested parties on notice of what types of information contained in special contracts must be publicly disclosed and what types of information the parties entering into a special contract may keep confidential.

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ICNU strongly supports the Commission's proposal to revise WAC 480-80-335 and make public disclosure of the essential terms and conditions of regulated utility services as a prerequisite to Commission approval of all special contracts. Only through disclosure can other customers be assured that there is no undue discrimination through the approval of a special contract.

Although the provisions of WAC 480-80-335 provide a good general description of the filing requirements of special contracts, the current rule does not adequately explain the Commission's public disclosure requirements of special contracts. This lack of explanation makes the current rule unclear. The lack of any specificity in the current rule also fails to ensure that application of the rule will result in equitable treatment for all parties. To resolve these deficiencies in the current rule, ICNU suggests that the Commission open a rulemaking proceeding to develop a new subsection to the current rule that requires applicants to publicly disclose the "essential terms and conditions" of the regulated utility services provided for in the special contract.

ICNU looks forward to working with and assisting the Commission, the Commission's Staff, and all other interested parties in developing a rule that will effectively and equitably establish the public disclosure requirements for the essential terms and conditions for regulated utility services in all special contracts.

Sincerely yours,

Melinda J. Davison