

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

In the Matter of Amending and Adopting) DOCKET U-100523
)
)
WAC 480-90-103, WAC 480-90-153,) GENERAL ORDER R-563
WAC 480-90-178, WAC 480-90-179,)
WAC 480-90-194, WAC 480-100-103,)
WAC 480-100-153, WAC 480-100-) ORDER AMENDING AND
178, WAC 480-100-179, AND WAC) ADOPTING RULES
480-100-194) PERMANENTLY
)
Relating to Paperless Billing for)
Electric and Gas Customers)

.....
1 **STATUTORY OR OTHER AUTHORITY:** The Washington Utilities and Transportation Commission (Commission) takes this action under Notice WSR # 10-22-112, filed with the Code Reviser on November 3, 2010. The Commission brings this proceeding pursuant to RCW 80.01.040 and RCW 80.04.160.

2 **STATEMENT OF COMPLIANCE:** This proceeding complies with the Administrative Procedure Act (RCW 34.05), the State Register Act (RCW 34.08), the State Environmental Policy Act of 1971 (RCW 43.21C), and the Regulatory Fairness Act (RCW 19.85).

3 **DATE OF ADOPTION:** The Commission adopts this rule on the date this Order is entered.

4 **CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE:** RCW 34.05.325(6) requires the Commission to prepare and publish a concise explanatory statement about an adopted rule. The statement must identify the Commission’s reasons for adopting the rule, describe the differences between the version of the proposed rules published in the register and the rules adopted (other than editing changes), summarize the comments received regarding the proposed rule changes, and state the Commission’s responses to the comments reflecting the Commission’s consideration of them.

OFFICE OF THE CODE REVISER STATE OF WASHINGTON FILED
DATE: February 25, 2011
TIME: 12:33 PM
WSR 11-06-032

5 To avoid unnecessary duplication in the record of this docket, the Commission designates the discussion in this Order, including appendices, as its concise explanatory statement. Together, these documents provide a complete but concise explanation of the agency actions and its reasons for taking those actions.

6 **REFERENCE TO AFFECTED RULES:** This Order amends and adopts the following sections of the Washington Administrative Code:

Amend	WAC 480-90-103	Information to consumers.
Amend	WAC 480-90-153	Disclosure of private information.
Amend	WAC 480-90-178	Billing requirements and payment date.
Adopt	WAC 480-90-179	Electronic information.
Amend	WAC 480-90-194	Publication of proposed tariff changes to increase charges or restrict access to services.
Amend	WAC 480-100-103	Information to consumers.
Amend	WAC 480-100-153	Disclosure of private information.
Amend	WAC 480-100-178	Billing requirements and payment date.
Adopt	WAC 480-100-179	Electronic information.
Amend	WAC 480-100-194	Publication of proposed tariff changes to increase charges or restrict access to services.

7 **PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS**

THEREUNDER: The Commission filed a Preproposal Statement of Inquiry (CR-101) on April 7, 2010, at WSR # 10-08-094. The statement advised interested persons that the Commission was considering entering a rulemaking to address the use of electronic bills, notices of tariff revisions, bill inserts, documents in adjudicative proceedings, and reports required by settlement stipulations. The Commission also informed persons of this inquiry by providing notice of the subject and the CR-101 to everyone on the Commission's list of persons requesting such information pursuant to RCW 34.05.320(3) and by sending notice to all regulated electric and gas utilities and the Commission's list of utility attorneys. The Commission posted the relevant rulemaking information on its Internet web site at <http://www.utc.wa.gov/100523>. Pursuant to the notice, the Commission received written comments.

8 On June 11, 2010, the Commission issued a discussion draft of electric and gas rules to all interested persons with a July 14, 2010, deadline for filing comments.

- 9 The Commission filed an amended CR-101 on August 4, 2010, at WSR # 10-16-143.¹ This inquiry amends the original CR-101 filed at WSR # 10-08-094 to also consider whether to modify existing rules in WAC 480-90 (Gas Companies) and WAC 480-100 (Electric Companies) to allow utilities to obtain and retain a customer's authorization to share personal information electronically with the utility's affiliates, subsidiaries or any other third party for the purpose of marketing services or product offerings to a customer who does not already subscribe to that service or product.
- 10 **NOTICE OF PROPOSED RULEMAKING:** The Commission filed a notice of Proposed Rulemaking (CR-102) on November 3, 2010, at WSR # 10-22-112. The Commission scheduled this matter for oral comment and adoption under Notice WSR #10-22-112 at 1:30 p.m., Tuesday, January 4, 2011, in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington. The Notice provided interested persons the opportunity to submit written comments to the Commission.
- 11 **WRITTEN COMMENTS:** The Commission received written comments on the notice of proposed rulemaking from Northwest Natural Gas (NWNNG), Pacific Power & Light (PacifiCorp), Public Counsel, and Puget Sound Energy (PSE). Summaries of all written comments and Commission responses are contained in Appendix A, attached to, and made part of, this Order.
- 12 **RULEMAKING HEARING:** The Commission considered the proposed rules for adoption at a rulemaking hearing on Tuesday, January 4, 2011, before Chairman Jeffrey D. Goltz, Commissioner Patrick J. Oshie, and Commissioner Philip B. Jones. The Commission heard oral comments from Mr. Roger Kouchi representing Commission Staff and Ms. Barb Coughlin representing PacifiCorp.
- 13 **SUGGESTIONS FOR CHANGE THAT ARE ACCEPTED:** Written and oral comments suggested changes to the proposed rules. Suggested changes and the Commission's reason for accepting the suggested changes are included in the Staff Response column to the Comment Matrix included in Appendix A. The following specific changes are accepted after considering the oral presentation by PacifiCorp at the adoption hearing on January 4, 2011.

¹ As a result of the extensive comments received on July 14, 2010, staff elected to file an amended CR-101 and circulate a revised draft as part of the CR-101 process.

- 14 PacifiCorp proposed that the timeframes to respond to undelivered electronic message notifications be extended to five business days. PacifiCorp stated that requiring additional delivery attempts within one business day is administratively burdensome and technologically impossible with the current third party vendor PacifiCorp uses to send e-mail bill notifications. The Commission agrees to allow the additional time provided that the utility extends the due date of the bill by the number of days the electronic notification (second attempt) was delayed beyond the requirement of one business day, not to exceed five business days.
- 15 **SUGGESTIONS FOR CHANGES THAT ARE REJECTED:** Written and oral comments suggested changes to the proposed rules. Suggested changes and the Commission's reason for rejecting the suggested changes are included in the Staff Response column to the Comment Matrix included in Appendix A. The following specific changes are rejected after considering the oral presentation by PacifiCorp at the adoption hearing on January 4, 2011.
- 16 PacifiCorp also requested that it be allowed to keep a customer on paperless billing (*i.e.*, bills, bill inserts, and notices of tariff revisions) despite receiving undelivered electronic message notifications. PacifiCorp did not offer a sufficient reason to support making this change.
- 17 **COMMISSION ACTION:** After considering all of the information regarding this proposal, the Commission finds and concludes that it should amend and adopt the rules as proposed in the CR-102 at WSR # 10-22-112 with the changes described in this order.
- 18 **CHANGES FROM PROPOSAL:** The Commission addressed the written comments from NWNG, PacifiCorp, PSE, and Public Counsel earlier in this Order. The suggested changes and the Commission's reason for accepting or rejecting the suggested changes are discussed in paragraphs 13 through 16 of this Order.
- 19 The utilities have 90 days from the effective date of this order to implement procedural or computer system changes required by the amendments and new rules.
- 20 **STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE:** After reviewing the entire record, the Commission determines that WAC 480-90-103, WAC 480-90-153, WAC 480-90-178, WAC 480-90-194, WAC 480-100-103, WAC 480-100-153, WAC 480-100-178, and WAC 480-100-194 should be amended and WAC 480-90-179 and WAC 480-100-179 should be adopted to read as set forth in

Appendix B, as rules of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the Code Reviser.

ORDER

21 **THE COMMISSION ORDERS:**

22 The Commission amends WAC 480-90-103, WAC 480-90-153, WAC 480-90-178, WAC 480-90-194, WAC 480-100-103, WAC 480-100-153, WAC 480-100-178, and WAC 480-100-194, and adopts WAC 480-90-179 and WAC 480-100-179 to read as set forth in Appendix B, as rules of the Washington Utilities and Transportation Commission, to take effect on the thirty-first day after the date of filing with the Code Reviser pursuant to RCW 34.05.380(2).

23 This Order and the rule set out below, after being recorded in the register of the Washington Utilities and Transportation Commission shall be forwarded to the Code Reviser for filing pursuant to RCW 80.01 and RCW 34.05 and WAC 1-21.

DATED at Olympia, Washington, February 25, 2011.

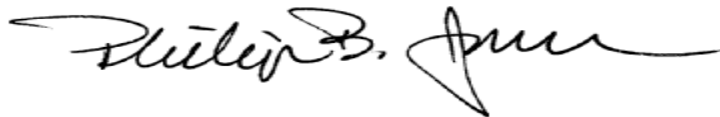
WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION



JEFFREY D. GOLTZ, Chairman



PATRICK J. OSHIE, Commissioner



PHILIP B. JONES, Commissioner

Note: The following is added at Code Reviser request for statistical purposes:

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 2, amended 8, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Appendix A
(Comment Summary Matrix)

Appendix B (Adopted Rules)