Agenda Date: June 23, 2004
Item Number: A1

Docket: **P-040865**
Annual Pipeline Safety Fees
WAC 480-93-240 (natural gas pipelines) and
WAC 480-75-240 (hazardous liquid pipelines)

Staff: Sondra Walsh, Senior Policy Strategist

Recommendation:

Enter an order setting the annual pipeline safety fees for fiscal year 2005, as calculated on Attachment 1 to Staff's memo.

Grant Staff's requested exemption to WAC 480-75-240(2)(b)(ii) and WAC 480-93-240(2)(b)(ii) to permit the fee calculations to reflect direct assignment of costs in addition to the standard inspection costs, and to true up the prior year's cost recovery where prior estimates have been significantly out of step with actual inspection activity.

Background on the Safety Fee:

Each pipeline company subject to inspection and/or enforcement by the Commission must pay an annual pipeline safety fee. The statutes authorizing the fee pertain to natural gas pipelines (RCW 80.24.240) and hazardous liquid pipelines (RCW 81.24.090). These sections are worded the same, and they set forth both specific and general requirements for setting the fees. They also direct the Commission to adopt rules establishing the appropriate methodology. *RCW 80.24.060(2); RCW 81.24.090(2).* The Commission has adopted rules for calculating the fees. *See WAC 480-93-240 (natural gas pipelines) and WAC 480-75-240 (hazardous liquid pipelines).*

The annual pipeline safety fee is developed using the following methodology: Starting with the projected program cost for the coming year:

1. Deduct the cost of the additional inspection days unknown at the time the inspection schedule for the previous year was established.

2. Allocate the total program cost to intrastate and interstate companies by assigning 63 percent to intrastate companies and 37 percent to interstate companies. This allocation was determined by analyzing actual staff time spent on inspections during calendar year 2002.

3. Split the amount received from the Federal Department of Transportation's Natural Gas Pipelines and Hazardous Liquids Pipeline Safety Program base grant according to the inter / intrastate split (37/63).

4. Deduct the federal grant money from the cost of both the intrastate and interstate programs.

5. If there was an under-collection from the previous year's base grant, deduct the under collection from the program cost. The fee this year reflects a deduction of $81,322 for under-collection during the previous year.

6. Deduct from the program cost the direct assignment of costs associated with standard inspections.

7. Allocate the remaining net program costs to each company based on total pipeline miles subject to safety regulation under the program. Each company's allocated share of these costs is calculated by multiplying the net program costs by the fraction that represents the individual company's mileage to the total (interstate or intrastate) pipeline miles identified.

8. Add the remaining net program costs allocated to each company to that company's individual cost responsibilities associated with standard inspections.

9. The resulting annual fee for each company is divided by four to determine the quarterly fee that is due and payable July 2, October 1, January 1, and April 1 of each year.

FY 2004 to FY 2005 Fee True-up:

This year's pipeline safety fees include a true-up from the prior year's fee resulting from a significant number unanticipated inspection days.

Each year the safety fee is calculated by projecting the number of inspection days related to standard inspections for each company and any additional days that inspectors will spend on a company for construction projects or follow-up to Correction Action Orders (CAO), issued by OPS. As an interstate agent of OPS, the Commission (through its Staff) is required to be present at all compliance activities of a pipeline company required by a CAO.

When setting the 2004 safety fee, Staff estimated that 25 additional days would be spent on Williams Pipeline Company (Williams), and 20 additional days would be spent on Olympic Pipeline Company (Olympic).

The 2004 fee year began with Williams operating under a CAO, and a second incident in December led to an Amended CAO and a Second Amended CAO. Time spent by Commission Staff monitoring Williams' compliance with these Orders resulted in 350 inspection days; 325 more days than were estimated.

The actual days spent on Olympic due to monitoring of CAO compliance, and assisting the city of Bellevue with a land movement issue related to their pipeline, totaled 45 days; 25 days more than anticipated.

Therefore, the 2005 fees adjust for the extra 325 inspection days spent on Williams, and the extra 25 days spent on Olympic.

Exemption:

According to WAC 480-75-240(2)(b)(ii) and WAC 480-93-240(2)(b)(ii), all costs other than a company's directly-assigned standard inspection costs are to be allocated based on mileage. In other words, Commission rules appear to preclude the direct assignment of any costs other than standard inspection costs. The statutes, however, do not expressly preclude additional direct assignment of costs. In addition, the rules do not contain a procedure for truing up a prior year's fee that turned out to be significantly out of step with the actual inspection activity that was conducted.

The Commission may exempt portions of WAC 480-75 "if consistent with the public interest, with the purpose of the underlying regulation, and with applicable statutes." *WAC 480-75-260(1).* While no similar language appears in WAC 480-93, Staff assumes the same standards would apply to an exemption of any requirement in WAC 480-93.

The over-arching policy underlying the fee statutes is that the methodology "shall provide for an equitable distribution of program costs among all entities subject to the fee." *RCW 80.24.060(2); RCW 81.24.090(2).*

It is fair and equitable to directly assign inspection costs other than just the costs of the standard inspections. In addition, where it appears that a prior estimate of inspection costs is significantly out of step with actual experience, it is fair and equitable to account for that. The result is that to a reasonable degree, the "cost causer" pays an appropriate amount of the costs it causes the Commission to incur. In this instance, significant events on the Williams Pipeline, and to a lesser degree on the Olympic Pipeline, caused additional Staff time to be directly expended on each company, substantially in excess of estimates. The result was that less than anticipated time was spent on other companies. It is appropriate, fair and equitable to take account of this.

Accordingly, an exemption from WAC 480-75-240(2)(b)(ii) and WAC 480-93-240(2)(b)(ii) is requested, in order to permit the fee calculation to contain a direct assignment of costs in addition to the costs of the standard inspections, and to true up the prior year's cost recovery where prior estimates have been significantly out of step with actual inspection activity.

Public Comment:

The Commission received a letter from Williams, among other things, criticizing the allocation of direct billing amounts against the program cost. Staff believes this criticism is unwarranted because the WUTC's inspection program as a whole has been affected due to the number of days required to oversee the CAO activity imposed on Williams by the Federal Office of Pipeline Safety, therefore, the cost of the additional days spent due to the Williams incident should be deducted from the total program cost, then the percentage split between interstate and intrastate should be applied.

Conclusion:

Staff recommends that the Commission enter an order setting the annual pipeline safety fees for fiscal year 2005, as calculated on Attachment 1 to Staff's memo and grant the exemption from WAC 480-75-240(2)(b)(ii) and WAC 480-93-240(2)(b)(ii).

FEE CALCULATION	Interstate	Intrastate
Start with the projected program cost for the coming year:	1,913,000	
1. Deduct the cost of the additional inspection days unknown at the time the inspection schedule for the previous year was established.	235,900	
2. Allocate the total program cost to intrastate and interstate companies by assigning 63 percent to intrastate companies and 37 percent to interstate companies. This allocation was determined by 2002 actual staff inspection time.	620,527	1,056,573
3. Split the amount received from the Federal Department of Transportation's Natural Gas Pipelines and Hazardous Liquids Pipeline Safety Program base grant according to the inter / intrastate split (37/63).	281,162	478,735
4. If there was an under-collection from the previous year's base grant, deduct the under-collection from the program cost. The fee this year reflects a deduction of $81,322 for under-collection during the previous year.	30,089	51,233
5. Deduct from the program cost the direct assignment of costs associated with standard inspections.	162,771	233,541
6. Allocate the remaining net program costs to each company based on total pipeline miles subject to safety regulation under the program. Each company's allocated share of these costs is calculated by multiplying the net program costs by the fraction that represents the individual company's mileage to the total (interstate or intrastate) pipeline miles identified.	206,683	395,529
7. Add the remaining net program costs allocated to each company to that company's individual cost responsibilities associated with standard inspections.		
8. The resulting annual fee for each company is divided by four to determine the quarterly fee that is due and payable July 2, October 1, January 1, and April 1 of each year.		

Example:

Company Name	Standard Inspection Cost	Pipeline Miles	Unallocated Amount	Company Cost Col. 2+3
Northwest Natural	$12,860	1,414 7.3 % of total intratstate miles	$28,936	$41,742