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May 20, 2005

Ms. Carole J. Washburn
Secretary
Washington Utilities & Transportation
Commission
1300 South Evergreen Park Drive SW
P.O. Box 47250
Olympia, Washington 98504-7250

VIA ELECTRONIC FILING TO
records@wutc.wa.gov

Re: Pipeline Fee Methodology Rulemaking to Review WAC 480-75-240 and WAC 480-93-240, Docket No. P-041344

Dear Ms. Washburn:

In response to the Commission's April 22, 2005 Notice of Opportunity to Submit Written Comments on Proposed Rule, the Northwest Industrial Gas Users (NWIGU) submits these written comments in response to the proposed rules in the above-captioned rulemaking. NWIGU participated in all phases of these discussions to date with previous written comments and active participation in all workshops conducted by the Commission Staff and Staff's consultant, Mr. Stephen Miller of Miller & Miller, P.S., and appearance at public hearings in this rulemaking.

I. Background Information

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

Ms. Carole J. Washburn
May 20, 2005
Page 2

service behind the utilities. The overarching concern for NWIGU is that any new methodology be a justified improvement over the current.

II. Comments

NWIGU appreciates the WUTC's initial decision to delay implementation of the new method for one year. NWIGU remains concerned with two aspects of the change, however. First, some provision should be made for charging entities directly for incident response, rather than spreading incident response within direct time allocations without express distinction for recovery of the time expended on significant incidents.. Second, a 25 % cap should be imposed on the amount of increase any one operator can realize in safety fees in one year as the WUTC transitions from the current method to the new method.

A. Direct Charges for Incident and Construction Activities

In addition to directly assigning average costs of planned standard inspections, the program has charged companies for significant incident activities in the past. NWIGU supports the Commission's policy of charging operators 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 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. We noted in previous comments that this is part of the consultant's recommendations to the Staff. We ask that the Commission include this change in the final rule.

B. In addition to the one- year delay in implementation, in the first two years of the new program increases should be capped so that no entity receives more than a 25% increase in fees in any given year apart from fees stemming from an incident.

NWIGU appreciates the Commission's preliminary decision to delay implementation of the fee change for one year. NWIGU has consistently raised two concerns regarding immediate implementation. First, the time entry data being used to establish initial allocations was not originally collected in order to form the basis of allocating cost responsibility for the pipeline safety program. Second, as the Commission moves toward a new method, some customers will experience extremely high percentage increases in the fees that will be assessed.

Ms. Carole J. Washburn
May 20, 2005
Page 3

The one- year delay is a responsible step toward mitigating the impacts of the change in fee methodology. We recommend one additional change to ease the transition and build greater equity into the new system. No operator in the first two years after the change is initiated should realize more than a 25% increase in its fees in any one year. The difference between what the operator would have been assessed but for the cap should be collected from all other operators. A 25% stop loss cap is appropriate for two reasons. While NWIGU has never questioned the accuracy of the time data collected, we have also noted that the data from the past was never collected for the purpose of establishing fee responsibility. By imposing a 25 % cap on the amount of increase in fees for any single operator, the impact of any inaccurate data will be eased through the cap. Furthermore, consistent with principles of rate shock, a 25 % cap will mitigate the impact of the methodological change on any one operator. In supporting a cap to mitigate cost increases on a year-to-year basis for two years, NWIGU would also recommend that any cap exclude direct billings for excessive incidents or construction activities.

III. Conclusion

NWIGU appreciates the thorough review that the agency has undertaken and the careful consideration given to our comments.

Very truly yours,



Edward A. Finklea

On behalf of the Northwest Industrial Gas Users

EAF/nh