

11-23-09

**SUMMARY OF COMMENTS**

**CONCISE EXPLANATORY STATEMENT**

**DOCKET NUMBER UW-980082**

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-245 Glossary</b>			
<p>"Potential customer" means anyone to whom the water company has:</p> <ul style="list-style-type: none"> <li>● Given a letter agreeing to provide service;</li> <li>● The letter is currently enforceable and has not expired by its own terms; and</li> <li>● The property is not yet receiving any type of service.</li> </ul>	<p>Investor Owned Water Utilities Association of Washington</p>	<p>"Potential Customer" This needs a time line for keeping record of these "potential customers" or a much clearer definition of the "letter". Many small water systems do not have computer filing capability.</p>	<p>The time line is set by the company when it issues a letter agreeing to provide service and the letter has an expiration date.</p>

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Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-425 Water Company Customer Notice Requirements</b>			
<p>(2) At a minimum, the water company must notify:</p> <p>(a) Anyone who may be affected by the water company's proposal including customers and potential customers</p>	<p>Investor Owned Water Utilities Association of Washington</p>	<p>(2)(a) as defined above;[potential customer] this would be a nightmare of record keeping.</p>	<p>Staff believes that notification of <u>all</u> customers is essential to protect not just current customers but future customers.</p>

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-425 Water Company Customer Notice Requirements</b>			
(5) Notice after commission action is permitted only when the commission approves an increase in federal, state, county or city-imposed taxes, fees or surcharges, and when credits are issued	Investor Owned Water Utilities Association of Washington	Is this [rule] instead of (3) under certain conditions or in addition to (3). This needs clarification.	Staff believes the wording as currently written is clear. (5) is instead of (3).

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-255 Jurisdiction</b>			
<p>(1) (c) The commission does not regulate the following providers of water service:</p> <p>(vii) Facilities such as mobile-home parks, apartment buildings, and office buildings where the facility owner passes through to tenants only the cost the facility owner pays for water the facility receives, plus reasonable third-party costs for reading meters, billing, and collecting. The owner may use a flat-rate approach or use submeters to apportion the cost of water to individual tenants.</p>	<p>George Andre Fields, Esq. Tenants rights attorney</p>	<p>I am very concerned about the proposed rules that would essentially allow a landlord to use any type of system to pass on water costs to tenants...[May 25 1999 e-mail]</p> <p>I am concerned that no one is assuming jurisdiction over mobile home parks, apartment buildings and office buildings who pass on water costs to their tenants. [July 13,1999 letter]</p>	<p>Staff has recommended the removal of this section from the proposed rules. A new CR-102 will be issued beginning a special rule making process with landlord billing the focus.</p>

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-255 Jurisdiction (Cont)</b>			
<p>(1) (c) The commission does not regulate the following providers of water service:</p> <p>(vii) Facilities such as mobile-home parks, apartment buildings, and office buildings where the facility owner passes through to tenants only the cost the facility owner pays for water the facility receives, plus reasonable third-party costs for reading meters, billing, and collecting. The owner may use a flat-rate approach or use submeters to apportion the cost of water to individual tenants.</p>	<p>Thomas H. Hougland (Consumer)</p>	<p>...tenants should have the same regulatory protections as other utility customers. In fact, not to afford tenants the same protections as other utility customers would be a seriously discriminatory practice. ...the re-billing of water utility charges by landlords, often through third-party billing companies, has fallen into a regulatory no-man's land. ...for the sake of fairness and uniformity throughout the state, it seems reasonable that regulatory protections for tenants should be codified at the state level and administered by a state utilities commission.</p>	<p>Staff has recommended the removal of this section from the proposed rules. A new CR-102 will be issued beginning a special rule making process with landlord billing the focus.</p>

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-255 Jurisdiction (Cont)</b>			
<p>(1) (c) The commission does not regulate the following providers of water service:</p> <p>(vii) Facilities such as mobile-home parks, apartment buildings, and office buildings where the facility owner passes through to tenants only the cost the facility owner pays for water the facility receives, plus reasonable third-party costs for reading meters, billing, and collecting. The owner may use a flat-rate approach or use submeters to apportion the cost of water to individual tenants.</p>	<p>Donald L. Nelson (Consumer)</p>	<p>Your proposed rule...appears to condone 3rd party billing. As an apartment tenant faced with 3rd party billing, I would like to say that, not only should it <u>not</u> be condoned, it should be ruled as an illegal practice.</p>	<p>Staff has recommended the removal of this section from the proposed rules. A new CR-102 will be issued beginning a special rule making process with landlord billing the focus.</p>

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-245 Glossary</b>			
<p>"Customer" means:</p> <ul style="list-style-type: none"> <li>● Anyone who has paid water company fees and/or has an accepted application for service; or</li> <li>● Anyone whose service connection is installed and is currently paying a ready-to-serve charge; or</li> <li>● Anyone who is actually receiving water service from the company with the knowledge of the company.</li> </ul>	Richard A. Finnigan Esq.	<p>My first comment is to the definition of the term "customer" in WAC 480-110-245. As proposed, the definition includes "anyone who is actually receiving water service from the company." Literally, that definition would include those who are fraudulently receiving water service. In order to clarify the definition of customer, I suggest the sentence read as follows:</p> <p style="text-align: center;">"Anyone who is actually receiving water service from the company <u>with the knowledge of the company.</u>"</p>	Comment was incorporated into proposed rules.

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-245 Glossary</b>			
<p>"Facilities charge" means a one-time fee that a new customer must pay consistent with WAC 480-110-455, before the company will connect the customer's property to the water system.</p>	<p>Richard A. Finnigan Esq.</p>	<p>Another definition that appears to need a slight adjustment is the definition of "facilities charge." This definition should be clarified so that the term "facilities charge" does not include a service hook-up fee or such other miscellaneous charges that may apply prior to a person connecting to the water system. I suggest the term be defined as follows:</p> <p style="padding-left: 40px;">"Facilities charge" means a one-time fee that a new customer must pay <u>consistent with WAC 480-110-455</u>, before the company will connect the customer's property to the water system.</p>	<p>Comment was incorporated into proposed rules.</p>



Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-295</b> Adopted and initial tariffs			
<p>(2) <b>Incorporate into existing tariff - when a regulated water company acquires a nonregulated company.</b></p> <p>(a) When a regulated water company acquires a nonregulated water company or water system, the acquiring water company must file a separate tariff page indicating the name of the newly acquired company or system with the rates and charges that were in existence before the acquisition.</p> <p>(b) If the acquired nonregulated company or water system was previously subject to commission jurisdiction, the acquiring water company must file a separate tariff page indicating the name of the newly acquired company or system with the rates and charges in effect for the acquired company at the time the acquired company was removed from regulation.</p> <p>approval to charge a different rate.</p>	Richard A. Finnigan Esq.	<p>I continue to believe that the Commission's analysis of the application of tariff requirements to the acquisition of non-regulated systems is inconsistent with statute. Therefore, for purposes of consistency, I must state that I believe WAC 480-110-295 (2) is in error. However, those arguments have been advanced in the past and the Commission has not accepted those arguments.</p> <hr/> <p>WAC 480-110-295(2) (Continued)  (c) No other rates and charges may apply to the customers on the newly acquired system except those specifically shown on the new tariff page unless the company obtains the commission's approval to charge a different rate.</p>	Staff holds the position that the Commission does have the power to direct company to file a tariff that reflects rates charged by the acquired company prior to acquisition.

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-295 Adopted and initial tariffs</b>			
<p>(3) Initial tariffs - when a company becomes jurisdictional.  (d) The filing must be accompanied by supporting financial data justifying the proposed rates. See WAC 480-09-337, Filing requirements--General rate increases water companies.</p>	Richard A. Finnigan Esq.	<p>Under WAC 480-110-295(3)(d) I believe it is unduly onerous to expect a company that has come under jurisdiction to file at the time of filing the initial tariff supporting financial data to justify the rates. Many times these are very small companies with very limited financial resources. A good example is Poseidon Water Company which came under Commission regulation in the not too distant past. Because the initial tariff rates are the company's actual rates, subject to investigation by Commission complaint, I do not think it is appropriate to place a financial burden on small water companies to provide this information at the time they make their initial filing. I suggest that WAC 480-110-295(3)(d) be deleted.</p>	<p>This rule merely requires the company to carry the burden of supporting rates they are charging their customers when the company becomes jurisdictional. Staff does not consider the filing of basic financial information as "unduly onerous".</p>

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-325 Application for service</b>			
<p>(1) When establishing initial service to a location the water company must obtain applications for service in writing, on company-supplied forms.</p>	<p>Richard A Finnigan Esq.</p>	<p>WAC 480-110-325 is perhaps the biggest area of concern. As it is now written, virtually every water company will be out of compliance. Most companies do not take an application for service once service has been established to an address and there is a change of ownership of that address. With a company as large as Rainier View, this rule would produce substantial additional costs. Once service is established to a particular location, the nature of that service and its location have been established. A change in the customer served at that address simply requires a change in billing information and should not require a complete new application. Therefore, I suggest the introductory provisions for WAC 40-110-325 be revised to read as follows:  <u>(1) When establishing initial service to a location</u>, the water company must obtain applications for service in writing on company supplied forms. The completed application form must ....  This provision as revised reflects the practical operations of the water companies.</p>	<p>Comment was incorporated into proposed rules.</p>

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-345 Refusal of service</b>			
<p>(3) The water company may refuse to connect an applicant for service, or refuse to increase service to a customer, when one or more of the following conditions exist:</p> <p>(b) The applicant or customer has not complied with state, county, or municipal codes or regulations concerning the approved design or use of the facilities;</p>	Richard A. Finnigan Esq.	I suggest that WAC 480-110-345(3)(b) include the term "use." The company should be able to refuse to connect an applicant for service not only when the design is at issue, but when the use is at issue as well	Comment was incorporated into proposed rules.

Issue/WAC	Interested Persons	Comments Received	Staff Response
<p><b>WAC 480-110-355 Discontinuance of service</b></p>			
<p>(i) <b>First offense:</b> The company may disconnect service immediately and without prior notice when it discovers fraud, unless the customer immediately pays:            B) All company costs resulting from the fraudulent use and all applicable fees; plus</p>	<p>Richard A. Finnigan Esq.</p>	<p>In WAC 480-110-355(1)(c)(i) I suggest that the language dealing with allowing the customer that obtains service fraudulently to remain connected to the water system include the requirement that they pay all of their fees. As currently written, it implies that the only thing that has to be paid is the tariff rate for the water improperly taken. However, they should also be required to pay any applicable service connection charges and facilities charges and other fees that may apply. To allow a customer that has fraudulently obtained service to avoid paying some of the applicable fees would not be a result that meets the ends of justice. Therefore, I suggest this section be rewritten to read as follows:            ... (B) All company costs resulting from the fraudulent use and all applicable fees; plus...</p>	<p>Comment was incorporated into proposed rules.</p>

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-365 Service responsibilities</b>			
<p>(2) <b>Water company responsibility</b> - Water companies must:</p> <p>(a) Install and maintain all equipment at appropriate locations necessary to operate the system;</p> <p>(b) Install additional equipment as required by the commission in connection with performing special investigations; and</p> <p>(c) Notify all affected customers when changes to the service will require customers to adjust their equipment.</p> <p>(i) If the customer has been advised of the needed change prior to taking service, the company has no obligation to pay for any costs in connection with making required changes to the customer's equipment.</p> <p><b>section is too large to cite in its entirety.</b></p>	<p>Richard A. Finnigan Esq.</p>	<p>...add a new sub-section (10) at the end to specify that the standards contained in the rule do not establish a duty of care that can be used in the courts to determine liability. In the Court of Appeals decision in <i>National Union Insurance Co. v. Puget Sound Power &amp; Light</i>, 94 Wn.App. 163, 972 P.2d 481 (1999), the Court looked to service standards contained in the Commission's rules in part to determine the extent of a company's duty of care owed to customers. Since rates that are established to serve customers do not include reserve funds for litigation costs or payment of damages, it is important to the process of keeping rates at a reasonable level that the Commission not inadvertently establish standards of care that would be used to determine a company's liability in litigation. Therefore, I suggest adding the following language: <b>(10) Limitation</b> - <i>The standards and obligations for water companies established in this rule are not intended to establish a standard of care or duty for purposes of tort or other litigation.</i></p>	<p>Staff believes that the courts establish the duty of care based on evidence presented to it. A rulemaking can not be used to limit a judicial inquiry. Any rule attempting to would be held as non-controlling.</p>

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-415 Meters</b>			
<p>(2) Water customer rights and responsibilities: (c) The water company has thirty days from the date of request to install the meter.</p>	<p>Richard A. Finnigan Esq.</p>	<p>WAC 480-110-415 deals with installation of meters. Under sub-section (2) a customer may request that a meter be installed. However, there are some instances in which one customer asking that a meter be installed on a particular system may be unreasonable. For example, there may be a master meter applicable to a trailer park or the service to a system may be configured in such a way that while other systems served by the company can be metered, that particular system would be prohibitively expensive to meter. Therefore, I suggest a minor revision to WAC 480-110-415 (2) (c) to read as follows:</p> <p style="padding-left: 40px;">(c) <u>Where it is reasonable to install such a meter</u>, the water company has thirty days from the date of request to install the meter.</p>	<p>The company has the option to request wavier of any rule under WAC 480-110-215. Staff believes that the burden should rest with the company to show that a meter installation is unreasonable than for the Commission or customer to shoulder the burden of showing an installation is reasonable.</p>

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-445 Service connections and customer service lines</b>			
<p>(1) A service connection must not be longer than the total width of any public rights of ways or public utility easement running along or parallel to the water distribution system connection or the distance from the distribution main to the customers property line, whichever is shorter. If a service connection is longer, it will be treated as an extension.</p>	<p>Richard A. Finnigan Esq.</p>	<p>WAC 480-110-445 deals with service connections and customer service lines. In sub-section 1 (i) there is a definition of the length of the service connection saying that it must be the shorter of the distance between the distribution main to the customer's property line, or the width of a public utilities easement running along or parallel to the water distribution system. However, there are some instances in which there is an easement perpendicular to the water distribution system rather than parallel to the distribution system... It does not seem logical that simply because the easement is perpendicular to the distribution main rather than parallel to it that the service connection then becomes a line extension. The solution would be to delete the words "running along or parallel" from the subsection.</p>	<p>If an easement is running perpendicular to the water distribution system, the length of the water line becomes dependent on the distance from the main to the customers property. This could range from a few feet to miles. In Staff's opinion it is logical to define a line extension based on a minimum length.</p>



Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-455 Water company funding mechanisms</b>			
<p>(ii) Current water utility plant. This surcharge is used to fund financing that pays for current plant improvements required by:</p> <p>(A) Washington department of health order or letter to adequately serve current customers; or</p> <p>(B) Required by department of ecology. This surcharge is tied to the repayment of the debt used for the financing of the required water utility plant.</p> <p>(iii) Special expenses. This surcharge is used to pay for operating expenses that are independent and unique from normal operating expenses or that may be subject to large variations. This type of operating expense may need periodic reevaluation without the need of a general rate case...</p>	Richard A. Finnigan Esq.	WAC 480-110-455 deals with water company funding mechanisms. The Commission staff has done a very good job in addressing this issue within the proposed rule. I have two suggestions to offer. The first is that in WAC 480-110-455(2)(a)(ii)(B) a sentence be added to clarify that the surcharge can include more than the repayment of debt. For example, a surcharge should be able to include such things as the cost of chemicals, if the facility that is constructed is a treatment facility, and maintenance of specialized equipment	The surcharge proposed in WAC 480-110-455(2)(a)(iii) provides for the charges addressed in the comment. The surcharge in (iii) allows for the collection of special expenses.

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-455 Water company funding mechanisms</b>			
<p>(d) A water company may impose a facilities charge by tariff or contract.</p> <p>(e) When seeking approval of a facilities charge the company must file:</p> <p>(i) A cover letter explaining the request;</p> <p>(ii) A tariff page or signed contract, stating the amount of the charge and who must pay;</p> <p>(iii) Supporting justification for the charge;</p> <p>(iv) Requests for a facilities charge must refer to the appropriate sections of the company's submitted comprehensive water system plan, or include a copy of the Washington department of health order or letter requiring plant improvements to serve current or potential customers.</p>	Richard A. Finnigan Esq.	I suggest that WAC 480-110-455(3)(e) be modified to clarify that it applies when seeking approval of facilities charged in tariff. Sub-section (d) allows a facilities charge to be imposed by either tariff or contract. If the facilities charge has been reviewed by Commission staff in the context of a contract, and that contract is subsequently approved by the Commission, then the requirements of (e) should not apply.	If the contract is approved as cited in the comment, the requirements of (e) have been complied with. The proposed rule does not suggest once the contract has been approved that the contract once again be submitted for approval. It is the intent of this section to require the approval only once.

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-255 Jurisdiction <i>cont.</i></b>			
<p>Section (2) To determine jurisdiction the commission uses only those customers receiving water. The commission does not use customers who do not receive water, such as customers who have paid:</p> <p>Section (2)(a) Water availability letter fees.</p>	<p>Rainier View</p> <p>DOH</p>	<p>Second 'sentence' does not constitute a sentence and repeats end of first sentence of subsection.</p> <p>(2) and (2)(a) are repetitive, both include phrase 'only those customers using water.'</p>	<p>Corrected.</p>
<p>Section (3) To calculate the average annual revenue per customer, the commission uses only the money that water-receiving customers pay on a monthly basis, other than contributions in aid of construction. For example, this includes money paid for flat rate service or the metered base charge and all usage charges.</p>	<p>DOH</p>	<p>This section should use the term 'jurisdictional customer.'</p>	<p>Purpose of rule is to determine when customer is jurisdictional. Suggested wording would not clarify section.</p>

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-255 Jurisdiction <i>cont.</i></b>			
<p>Section (3)(b) The commission does not use contributions in aid of construction in determining jurisdiction. Contributions can be money, services or property. Payments can be made in a lump sum or financed over time. Examples of contributions in aid of construction include payments for:</p> <ul style="list-style-type: none"> <li>(I) Connection to system.</li> <li>(ii) Meter installation.</li> <li>(iii) System buy-in.</li> <li>(iv) Facilities charges.</li> <li>(v) Assessments for capital plant and equipment.</li> </ul>	DOH	<p>Section excludes mandatory assessments for capital plant and equipment from being considered by Commission when determining jurisdiction. This appears unreasonable when customers are being required by the company to provide capital that could be obtained in form of a loan to be repaid through tariff established under rules of Commission. What is purpose of exclusion, if it results in systems using this financing tool - rather than rates - to exclude themselves from Commission jurisdiction? Reconsider under Commission's statutory mission.</p> <p>Based on definitions provided, 'Facilities Charges' are essentially the customers giving money to company for future improvement projects. Unclear why these mandatory charges should not be included when determining jurisdiction. Clarify what is included in (3)(b)(v) 'Assessments For Capital Plant and Equipment.' All mandatory fees assessed to property owners should be scrutinized to ensure they are fair and appropriate.</p>	<p>Rule incorporates Commission policy, UW-930006, into rule and interpretive statement.</p> <p>Same as above.</p>



Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-275 Accounting and reporting requirements and regulatory fees</b>			
(1) Water companies must use the uniform system of accounts (USOA) published by the National Association of Regulatory Utility Commissioners (NARUC). The USOA sets out the accounting requirements for class A, B, and C water companies.	DOH	NARUC had a fourth set of accounts, to be used by very small companies. If a number of companies regulated by UTC would have annual revenues significantly below \$200,000, would there be a simplified system of accounts that these very small systems could use?	Staff believes these requirements are appropriate for regulated companies.



Issue/WAC	Interested Persons	Comments Received	Staff Response
WAC 480-110-285 Securities, affiliated interest, transfer of property. <i>Cont.</i>			
	American Water (cont.)	<p>(1) description of purpose for which issuance is made, including certification;</p> <p>(2) description of proposed issuance including terms of financing;</p> <p>(3) statement why transaction is in public interest;</p> <p>(4) public service company undertaking issuance and making filing may request commission to enter written order that such company has complied with requirements. Proposed language lumps securities in with affiliated interest and transfer of property, both require order of approval from Commission. Proposed language requires 'application to the commission,' whereas statute, as amended requires any public service company to file information with Commission.</p>	





Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-295 Adopted and initial tariffs cont.</b>			
Section (3)(a) An initial tariff must be filed in a standard tariff format that the commission will provide upon request.	Rainier View	Initial tariff format that is provided in (3)(a) should not evolve into mandated Commission tariff language. While there may be a standard tariff format, companies should not be told that they must use the sample tariff that the Commission mails out to them. There are certain deficiencies in protecting company's position on liability issues in tariff form that is often provided to companies.	Rule mandates format, not prescribing language.
Section (3)(d) The filing must be accompanied by supporting financial data justifying the proposed rates. See chapter 480-09 WAC, minimum filing requirements.	Rainier View	This section is contrary to the statutory scheme of State of Washington. The requirement to file initial tariffs with cost support is also contrary to law. The initial tariff is exactly that, an initial tariff containing the rates of the company. Is unnecessary burden to require filing be accompanied by supporting financial data to justify proposed rate. They are not proposed rate, but are actual rate. Statutory scheme allows Commission to investigate those rates, but does not require company to justify rates in the first instance.	Statute does not define initial tariffs nor does statute prohibit the requirement for financial data. Staff feels filing financial data is necessary.

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-305 Access to premises.</b>			
<p>Authorized personnel of a water company have the right to enter a customer's property during reasonable hours to perform meter reading, maintenance, testing, installation or removal of the company's property. Customers may ask to see the identification of the water company personnel before allowing entry to the customer's property.</p>	DOH	<p>Suggest that systems be required to include information on access to premises in their service agreements with their customers in order to avoid disputes/conflicts.</p>	<p>Companies are not required to have access to premises information written into their service agreements with customers.</p>

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-325 Application for service</b>			
<p>Section (1) The water company must obtain applications for service from potential customers in writing, on company supplied forms. The completed form must:</p> <p>(a) Include the company's name, address and telephone number;</p> <p>(b) Show the date the person applied for service;</p> <p>(c) Comply with the water company's filed tariffs;</p> <p>(d) Clearly state the type of service requested. (Examples: Residential or commercial, flat rated or metered service, a letter to provide service, ready to serve);</p>	DOH	How does this section relate to Growth Management Act and requirements for local governments to determine whether adequate water service is available prior to issuing a building permit?	Purpose of rule is so that company has record of who requests service and who is provided service. Rule does not address water rights.

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-325 Application for service <i>cont.</i></b>			
<p>(e) Include a property lot description, street number, or other sufficient description of location for service;</p> <p>(f) Include a complete list and description of all applicable charges. (Examples: Account set up, service connection, facilities charge, line extension);</p> <p>(g) Include the date by which a customer can expect service;</p> <p>(h) Include the application expiration date, if any;</p> <p>(I) Include signatures of the potential customer and a company representative.</p>	Rainier View	As defined under WAC 480-110-530, a potential customer is anyone who has been given a letter to provide service for a property but who is not yet receiving any type of service. This translates to developers. Many counties require a water availability letter for developer to get building permit. Letter commits company to provide service to property. Thus, developer meets definition of potential customer. Detailed information required in this section does not make sense to be sought from developer who will not be the ultimate customer getting service. Section (1) is unworkable.	Agree with comment, is not the intent to obtain this information from potential customers as defined under 480-110-530. Removed term potential customer.

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-335 Establishment of credit and deposits.</b>			
Section (8) Cash payments. When payment is made in cash a receipt will be furnished to each applicant or customer for the amount deposited.	American Water	<p>It is unclear whether 'cash payments' referred to apply only to payments of deposits in cash or to any payments by a customer or potential customer in cash. Why is this distinction important? Company practice is to provide receipt to customer who pays on location. Payments received through Mail are entered as arrive with no receipts issued. Suggested amending of language:</p> <p><i>When payment is made by cash in person, a receipt will be furnished to each applicant or customer for the amount deposited.</i></p>	Agree with comment, added "in person" to rule.
Section (10) Additional deposit. Nothing in this rule prevents the requirement of a larger deposit or a new deposit when conditions warrant. Should a larger or new deposit be required, the reasons must be specified in writing to the customer. Any requirement for a new or larger deposit will be in conformity with the standards set forth in this rule.	DOH	Section has no criteria or standards for when higher deposit may be required, any limits on the amount, inclusion within company's tariff, or appeal by the customer to Commission.	No change from current rule. Have not been problems in applying this rule.

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-345 Refusal of Service</b>			
Section (1) A water company must not refuse or discontinue service to an applicant or customer when there are unpaid bills from a prior customer at the same premises unless the company believes, based on objective evidence, that the applicant is acting on behalf of the prior customer with the intent to avoid payment.	DOH	Section should require that utility's refusal is 'reasonable,' considering that the company may have an exclusive service area; and is the refusal to provide service appealable to Commission?	Suggestions would not clarify rule. Rule is clear as to intent.

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-345 Refusal of Service <i>cont.</i></b>			
Section (3)(e) The company is unable to secure all necessary rights of way, easements, and permits;	DOH	<p>List of reasons that a water company may use for refusing to provide service to applicant or customer but does not address DOH approvals. Add word 'approvals' to section;</p> <p><i>The company is unable to secure all necessary rights of way, easements, approvals, and permits.</i></p> <p>Does section apply to 'jurisdictional customers' and 'potential customers?'</p>	<p>Incorporated proposed change.</p> <p>Yes.</p>
Section (3)(f) Furnishing the water is contrary to the provisions of the company's water system plans approved under chapter 43.20 or 70.116 RCW;	DOH	<p>These references should be changed to;</p> <p><i>chapters 246-290 or 246-203 WAC.</i></p>	<p>Removed references from rule. References were extraneous.</p>
Section (3)(g) The location to be served is located outside of the company's service area.	DOH	<p>Term 'service area' could be confused with 'future service area' and 'existing service areas' which are terms used by the Public Water System Coordination Act. Reexamine definition for service area and current service area in all uses in WAC.</p>	<p>The term as used in WAC 480-110 relates solely to WUTC. The term used elsewhere should not be confused with these rules.</p>



Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-355 Discontinuance of Service</b>			
Section (1)(b)(iii) Willful waste of water through improper or defective piping, equipment, or otherwise;	DOH	Include language that includes violations of outdoor watering instructions given to customer by water company to curtail water use during times of shortage.	Changes incorporated.
<p>Section (3)(c) Disconnection notices must:</p> <p>(I) Include detail information pertinent to the situation; and</p> <p>(ii) Include the company's name, address and telephone number by which the customer may contact the company to discuss the pending disconnection of service; and</p> <p>(iii) Expire after ten working days from the first day that the company may disconnect service, unless other mutually agreed upon arrangements have been made and confirmed in writing by the company. If mutually accepted arrangements are not kept, the company may disconnect service without further notice.</p>	American Water	This requirement will cause extreme increase in workload and additional expense to disconnect procedures. Many customers use disconnect notices as 'reminder' notices.	Staff does not agree that the rule will cause <u>extreme</u> increase in workload and does not find the rule, as written, burdensome.

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-365 Service Responsibilities</b>			
<p>Section (1) Customer responsibility - customers must notify the water company in writing prior to making a change in equipment or usage that will materially affect the service being provided by the company. The customer must:</p> <p>(a) Notify the company in time to allow the company the necessary time to install additional facilities or supply, if required; and</p> <p>(b) Pay an equitable share of the cost of necessary facilities, if any, as provided in the company's tariff or through a contract submitted to the commission for approval.</p>	Rainier View	<p>Section implies that if customer notifies company of a change in condition, company must install new facilities to meet that change. While rule requires customer to pay 'an equitable share of the cost of necessary facilities,' customer will argue that entire cost of upgrading is not an equitable share of cost since there may be others who later connect to system and take advantage of upgrade. To force company to bear even a portion of what can be substantial costs for this type of upgrade is not appropriate.</p>	<p>Staff believes these are appropriate requirements. The company is protected by the tariff or by the contract. See wording in (1)(b).</p>



Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-405 Meter accuracy and water pressure complaints.</b>			
<p>Section (1) When the water company receives a meter accuracy or pressure complaint, it must perform a test and share the results with the customer. The test must be at no charge to the customer, except the water company may charge for any additional meter or pressure tests requested by the customer within a twelve-month period as provided in its tariff.</p>	DOH	<p>It is unclear how much investigation will be covered by single 'no charge' pressure test, particularly since a single test taken at wrong time of day may be of no value. A one year time period for prohibiting an additional pressure complaint without fear of being charged does not adequately consider variation in system operation that may occur over this long a time period. Add paragraph such as:</p> <p><i>A continuously recording pressure gauge may be required for a period of up to one week based on customer complaints of low pressure.</i></p>	Incorporated proposed language.

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-405 Meter accuracy and water pressure complaints. (Cont)</b>			
<p>Section (5) If a meter test reveals a meter error in excess of two percent water flow to the detriment of the customer, the company must repair or replace the meter at no cost to the customer. A refund for the over billing must be made for the number of months the meter is in service up to six months of usage.</p>	<p>American Water</p>	<p>Proposed rule is unclear as to amount of water that must be refunded if meter test produces inaccurate meter. If meter is 15 years old, does statement <i>'a refund for the over billing must be made for the number of months the meter is in service up to six months of usage'</i> mean the company must only refund up to six months of usage or full fifteen years is meter was in service for up to six months? If refund is intended to be limited to six months of usage, is calculation based on total usage or amount of consumption above minimum allowance? For companies with base usage allowance in the minimum monthly charge, this distinction is important.</p>	<p>Agree rule unclear, rule. Wording has been clarified.</p>

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-405 Meter accuracy and water pressure complaints. (Cont)</b>			
<p>Section (7) The water company must keep a record of meter and pressure tests and have them available for inspection. The record must list the customer's name and address, type of complaint, resolution, and what test method was used.</p>	<p>American Water</p>	<p>Section (7) requires company to keep record of meter and pressure test along with miscellaneous information including what test method was used. Most companies perform only one type of test for either procedure (meter and pressure). Test is required under Section (4) to be taken using industry standard methods and equipment. Commission in Section (8) can request description of testing procedure and equipment used. WAC should also include statement as to permissible variances from 10 day requirement. In times of inclement weather or other natural occurrences that affect operation, service technicians are frequently inundated with emergency service calls - meter tests and pressure tests a lower priority and responding within 10 days impossible.</p>	<p>Staff feels the rule is rule is not burdensome as written.</p> <p>WAC 480-110-500(2) provides for waivers, therefore a provision for variance in this rule is not needed.</p>

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-415 Meters</b>			
Section (1)The water company must: (I) Bear the cost of the meter and meter installation.	DOH	Clarify intent of this section. Does UTC allow meter installation fee to be collected via a surcharge or other forms of CIAC?	Meter installation fees or other methods are cost recovery not CIAC.
(2)(d) If the water company fails to install the meter within the time limit, the customer will be charged only the meter base charge until the meter is installed.	Rainier View	There are several places where individual metering of customers' homes is not possible. When metering is done, it is through a master meter that measures usage of several homes rather than that of single customer. Suggests adding language as new subsection:  <i>(2)(g) If individual metering of the customer's premises is not feasible, the water company does not have to comply with this subsection.</i>	Any company may request waiver of a rule where appropriate.
<b>WAC 480-110-425 Water company customer notice requirements.</b>			
(2)(a) Anyone who may be affected by the water company's proposal including customers and potential customers;	Rainier View	Potential customers are most often developers. This provision adds additional cost to water company without seeming to have any real purpose.	Staff believes notification to all customers is important.

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-435 Extension Contracts</b>			
<p>Section (1) Each water company must file, as a part of its tariff, a line extension rule that states the conditions required by the company before it will extend its transmission and distribution infrastructure to provide water service to an applicant.</p> <p>(2) Companies entering into any line extension contract must:</p> <p>(a) File the contract with the commission not less than thirty days before the proposed effective date of the contract.</p> <p>(b) Conform the proposed contract to the applicable provisions of WAC 480-80-335.</p> <p>(3) Line extension contracts will include the documentation necessary to show that the proposed charges are fair, just, reasonable, and sufficient.</p>	DOH	There is no reference to line extensions being consistent with DOH-approved water system plan. Add requirement of consistency with WSP.	This rule's focus is on the economic aspect of an extension. To expand it to include WSP issues or enforcement would be outside the scope rule.



Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-445 Service connections and service lines.</b>			
(1) A service connection must not be longer than the width of the road from the distribution system and the point of connection. A service connection longer than the width of the road will be treated as a distribution extension.	Rainier View	The road crossing starts on one end of the right-of-way and goes through to the other side. The right-of-way is almost always wider than the road, the water main is installed in the right-of-way but not under the road. In order to extend a connection to a customer who is on the other side of the road, in all cases, the service connection will be wider than road. A service connection should not be considered a distribution extension.	Agree, wording has be modified to take in to consideration the right-of-way.
General Comments	DOH	Section (1) is a definition for the term 'service connection' which could be located in definition section. Section (6) defines term 'customer service line' which could also be moved to definition section.	Section(1) moved. Section(6) modified

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-445 Service connections and service lines. (Cont.)</b>			
<p>Section (4) There are four types of service connections. A water company may collect a service connection charge for (a) and (b) of this subsection if named in its tariff. The service connection charge for (a) and (b) of this subsection may be based on the average installation cost of the two.</p> <p>(a) Retrofit: Where the water main is buried and in service. The water company must tap the main and install all pipes, valves, and fittings to connect to the customer service line.</p> <p>(b) New construction: A connection installed by the water company at its own expense during construction of the water system. The applicant will pay the service connection charge when connected.</p> <p><i>Cont. next page.</i></p>	<p>American Water</p>	<p>This section attempts to define when it is appropriate to collect service connection charge. In some cases, water company will purchase a developed area that includes all appurtenances to a water service connection with exception of meter for set price. Amount paid is then allocated to each of the types of plant purchased for accounting purposes. Company has paid for service connection and should be allowed to charge a service connection charge just as if it had installed the service connection. Comparison between this and that of raw land versus improved land. Improved land is more expensive than raw land because 'improvements' exist.</p> <p><i>Cont. next page.</i></p>	<p>It is the position of the staff that when an entire water distribution system is purchased, as described, it is appropriate to recover the cost of service lines over the life of the plant. A service connection charge would merely provide rapid recovery of a long term asset.</p>

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-445 Service connections and service lines. (Cont.)</b>			
<p>(c) Meter drop in: The service connection has been previously installed during system construction and is set up for meters.</p> <p>(d) Flat rate customers: A valve is already installed and the water company need only open the valve to supply water.</p>	American Water (cont.)	<p>This provision is a disincentive to have foresight and prepare for service connections when time and funds permit. If company has a development of lots where only distribution main exists, installs service connection without meters to prepare the construction of home, company has installed the service connection at its own expense, yet this section prohibits company from collecting service connection charge when customer requests service.</p> <p>Section (4)(c) states that a water company may not collect any fees for the service of a meter drop. Does this make meter drop charges obsolete?</p>	<p>Under this second scenario the company <u>is allowed</u> to collect a service connection charge. The rule has been rewritten to clarify the intent.</p> <p>The rule relates only to service connection fees The rule does not use the term "any fees".</p>

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-455 Water company funding mechanisms</b>			
<p>Section (1) Many small water companies have insufficient funds to respond to emergencies, replace or upgrade failing infrastructure, or add plant(s) to provide for growth. Frequently, they cannot obtain financing through traditional capital markets. The purpose of the surcharge and facilities charge is to provide the water company with a source of capital, provided by customers, to fund capital needs. This rule controls how the company handles and spends the money.</p>	DOH	<p>Use of capital improvement plan developed as part of water system plan should include coordination with DOH to ensure that all projects are still appropriate at time of surcharge request. Clarify extent to which a CIP in a water system plan can be used to establish surcharge on the system. Section (1) suggests that small water companies may not be financially viable. Should reference obligations of all systems subject to WAC 246-290 to demonstrate 'system capacity' under federal SDWA in this section or in WAC 480-110-XXX Service Responsibilities.</p>	<p>Staff does not feel that citing the suggested WAC regarding the requirements of system capacity helps clarify the rule.</p>



Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-445 Water company funding mechanisms (Cont.)</b>			
<p>(3) A water company may impose a facilities charge by tariff or contract when the water company has an approved comprehensive water system plan identifying the plant to add capacity to an existing system, and the Washington department of health (WDOH) requires the additional plant to increase the number of authorized connections on that system.</p>	Rainier View	<p>Suggests that facilities charge issue not be taken up in this rulemaking, but approached on a case-by-case basis to meet individual company needs. Section, as written, prohibits company from charging a facilities charge. Section allows facilities charge only if company has approved comprehensive plan or is required by DOH. Even if Rainier View had a comprehensive plan, language indicates company would have to analyze each customer's connection to a particular system and make determination on requirements. Facilities charge could be collected only on systems that are growing, not where they are self-contained systems. This would substantially increase cost to company of monitoring a facilities charge program and reduce effectiveness.</p>	<p>Rule has been rewritten to address these issues.</p>

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-455 Water company funding mechanisms (cont.)</b>			
<p>Section (6)(b) Surcharge funds and facility charge funds collected pursuant to this rule, and interest earned upon such funds must be held in a separate account by the company for the benefit of customers. Such funds do not become the property of company owners and may not (except as authorized in © of this subsection), be disbursed, alienated, attached, or otherwise encumbered by the company or its owners. In the event of a sale or transfer of the company, the trust obligations established in this rule regarding any unspent facilities charge funds must be transferred to the new owner of the company.</p>	Rainier View	<p>Requiring a separate fund imposes an additional cost on company that would not be appropriate since requirements for separate accounting and quarterly reporting provide adequate protection to be sure that funds are used for appropriate purposes. The ability to borrow money may be inhibited if all assets of company cannot be encumbered. A lender may want to be able to control those funds if a company goes into default on loan obligation. There should be an accommodation of that interest such that lender cannot use funds except for their intended purpose, but can encumber them and step into shoes of company if there is a default.</p>	<p>1) Any additional cost would be nominal since most banks provide this type of service.  2) Separate accounting and reporting does not safeguard the actual funds, they merely account for them.  3) Since staff views the company as a trustee of these funds, the company should not be able to encumber them.</p>

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-455 Water company funding mechanisms (Cont.)</b>			
<p>Section (6)(d) The water company must report for each surcharge and facilities charge information to the commission quarterly:</p> <ul style="list-style-type: none"> <li>(I) Beginning balance;</li> <li>(ii) Amounts received for facilities charge funds, listed by customer;</li> <li>(iii) Amounts spent for capital surcharges and facilities charges listed by project, by plant account; and</li> <li>(iv) Ending balance.</li> </ul>	American Water	<p><i>Referred to in comments as Section (5)(b)</i></p> <p>Surcharges are required to be reported with beginning balance, amounts spent listed by project and plant account and ending balance. There is no accounting of additions to fund, or if used as a prepayment of bank financing (rate guaranteed bank loan), there are no mention of beginning, ending, or principle balances. Facilities charge quarterly report would include beginning balance, additions by customer name, expenditures and ending balance, which appears to produce a full accounting for the report.</p>	Agree in part, rule modified.



Issue/WAC	Interested Persons	Comments Received	Staff Response
General Comments	DOH	Companies should be required to exhaust lower interest rate options (like State Revolving Fund opportunities) before imposing higher interest rate options.	The Commission must assume that the company's management will act in the best interest of the company. Rules should not mandate common sense.

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-465 Political information and political education activities.</b>			
<p>Section (1) Political information and political education activities include, but are not limited to:</p> <p>(a) Encouraging support or opposition to legislation, candidates for an office, or current public office holders.</p> <p>(b) Soliciting support for political action committees.</p> <p>(c) Gathering data for political mailing lists.</p> <p>(d) Soliciting political contributions or recruiting political volunteers.</p>	DOH	Not clear whether participating in DOH Advisory Groups (Water Supply Advisory Committee) and testifying to Legislature as part of this group would be excluded expenses; seems like it should be allowed.	Expenses are reviewed at time of tariff filing. Expenses not within the intent of the rule would be included in allowed rates.

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-475 Reports of accidents.</b>			
<p>Each water company must notify the commission within seventy-two hours after every accident resulting in death or serious injury to any person occurring in its plant or through contact with its facilities. At a minimum, the report must include the name of the injured person, time and place of the accident, and an explanation of the accident. The water company may notify the commission by phone, but must provide a written report within five business days.</p>	DOH	<p>There are both federal and state laws governing this type of reporting. The WAC should refer to these.</p>	<p>Rule only governs reporting to WUTC, not to other agencies.</p>

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-485 Retention and preservation of records and reports.</b>			
<p>Section (1) The water company must retain all records and reports for three years unless otherwise specified in subsection (2) of this section. No records will be destroyed prior to the expiration of the time specified in subsection (2) of this section.</p> <p>Section (2) <i>The Regulations to Govern the Preservation of Records of Electric, Gas and Water Companies</i>, published by the National Association of Regulatory Utility Commissioners is prescribed as the requirement for the state of Washington. This document is available at the commission branch of the Washington state library. The commission secretary will provide a copy of the document on request, subject to any charge, or it may be ordered directly from the National Association of Regulatory Utility Commissioners.</p>	<p>DOH</p> <p>Rainier View</p>	<p>It is unclear if record keeping requirements include records required by other agencies. Clarify type of records required and reference applicable WACs.</p> <p>Commission is adopting a standard for records retention, but is going to charge companies to get a copy of the standard so that they know what to do. Charge should be dropped.</p>	<p>Only records required by WUTC.</p> <p>Commission does not control cost; NARUC charges.</p>

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-495 Maps</b>			
<p>Each water company shall maintain a current map of each of its water systems showing the current service area. The company must provide the current maps to the commission for review within five days of a request. The maps must contain enough detail to answer questions related to rates and charges and obligations to serve.</p>	DOH	<p>This section refers to service areas, which may be confused with service areas established pursuant to the Public Water System Coordination Act.</p>	<p>Service area as used in this section refer only to service area defined at WAC 480-110-530(10)</p>

Issue/WAC	Interested Persons	Comments Received	Staff Response
<p><b>WAC 480-09-337 Filing requirements - General rate increases water companies</b></p>			
<p>Section (2) A detailed general ledger or expanded checkbook available for the test year.</p>	<p>American Water</p>	<p>Requires a general ledger or expanded checkbook be filed at time of a general rate increase filing. Request not contested provided Commission is willing to entertain waiver requests for this rule. For Calendar Year 1998, our ledger would be 156 pages.</p>	<p>WAC 480-110-500(2) provides for waiver. Note that a 156 page general ledger is not considered large by staff.</p>

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-09-337 Filing requirements - General rate increases water companies</b>			
<p>Section (3)(b) Balance sheet and income statement;</p> <p>Section (3)(d) Results of operations, including restating adjustments, proforma adjustments with effect of proposed rates;</p>	<p>American Water</p>	<p>(3)(b) requires a balance sheet and income statement, (3)(d) requires a detailed results of operations statement. Income statement produced by most regulated water companies is a 'for tax purposes' document and does not coincide with regulatory methodology, whereas the results of operations statement is the adjustment of a 'for tax purposes' statement to a regulatory basis. What is the purpose of this redundant request for information that is not applicable for regulatory purposes?</p> <p><b>Staff Response (cont):</b>  The comment that most companies maintain tax basis financials concerns staff. <u>All</u> regulated water companies are <u>required</u> to maintain their accounting records on a regulatory basis. See WAC 480-110-031 (current) or WAC 480-110-560.  The difference between the two requested statements is one is the source statement the second is a workpaper.</p>	<p>The rule has been rewritten to address the confusion. Both terms "income statement" and "results of operations" have been replaced by the term "statement of revenues and expenses".</p>

<i>Issue/WAC</i>	<i>Interested Persons</i>	<i>Comments Received</i>	<i>Staff Response</i>
<b>WAC 480-09-337 Filing requirements - General rate increases water companies (Cont)</b>			
<i>Section (3)(g) Public water system identification number and the water facility inventory number for each system that the new rates will affect.</i>	<i>American Water</i>	<i>This section should include a provision for waiver of this subsection for companies who have a water system plan filed with Commission. Commission staff requested that water companies produce copy of water system plan for Commission records in addition to copy on file with WDOH. Water companies go through a large amount of time and expense to produce water system plan and submit second copy to Commission. Included in this document is all of the identifying information numbers and a copy of the WFI. There is no such thing as a water facility inventory number. The PWSID is frequently called the 'WFI number' because it is used as an identifier on the WFI.</i>	<p><i>1) Water system plans will not include systems acquired after the date the plan was filed.</i></p> <p><i>2) Agree, rule modified</i></p>



11-23-49

**SUMMARY OF COMMENTS**

**COMMENTS TO WITHDRAWN CR102  
DOCKET NUMBER UW-980082**

**CONCISE EXPLANATORY  
STATEMENT**

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-225 Saving clause</b>			
The commission may impose additional or different requirements on any water company in response to a complaint or on its own motion. These rules do not relieve any water company from any of its duties and obligations under the laws of the state of Washington.	DOH	Delete 'additional or different,' and add at the end of first sentence:  <i>relative to any element of the water company's operations that are subject to the Commission's jurisdiction.</i>  This will clarify and address situations of receivership of privately owned systems by public entity.	Comments would change intent of rule. Purpose is to retain flexibility where needed.

RMS

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-235 Definition of control</b>			
<p>Section (1) For purposes of determining commission jurisdiction over a water company as defined in RCW 80.04.010, "control" means the water system operator or manager has discretion over the property or finances or operations of a water system which is normally exercised by an owner. Factors indicating control include, but are not limited to, whether the operator or manager:</p> <ul style="list-style-type: none"> <li>(a) May authorize the purchase or sale of all or part of the water system or its water rights;</li> <li>(b) May authorize capital additions or improvements to the system;</li> <li>(c) May accept contributed plant;</li> <li>(d) May authorize the expenditure or acquisition of funds which encumber any asset of the company;</li> </ul>	DOH	<p>Would help to clarify the intent of this section, and give more examples of factors contributing to the decision. Support the language re SMA's. <i>(Proposed Change)</i> Refer to underlying legislation and statement of intent for this concept, or include sentence like <i>"The purpose of this section is to establish criteria for ensuring that water systems/companies do not avoid appropriate regulation by using legal or administrative devices, such as fictitious owners."</i> Add factors, such as those in Iliad contracts, for determining control (e.g., take action to respond to DOH or UTC order) or add general statement that the person/entity may take actions without prior approval from another person or group.</p>	To add a general statement as proposed.

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-235 Definition of control cont.</b>			
<p>(e) May authorize the expenditure of funds for nonwater company purposes;</p> <p>(f) Receives compensation of a type or amount having no reasonable relationship to the work performed or to be performed.</p> <p>(2) Control shall not include management by a satellite management agency as defined in chapter 70.116 RCW if the satellite management agency is not an owner of the water company.</p>	Rainier View	<p>Rainier View does not believe it is appropriate to gauge control over a water system by what a person does with non-water revenues.</p> <p>Suggests deleting (1)(e).</p>	<p>If a manager has the ability to spend water company funds in this way it can effect the company and is an indicator of control:</p>
<b>WAC 480-110-245 Glossary</b>			
<p>Section (2) Water company or company - any corporation, company, association, joint stock association, partnership or person, their lessees, trustees or receivers appointed by any court whatever, owning, controlling, operating or managing any water plant within the state of Washington for the purpose of furnishing water service to the public for hire and subject to the jurisdiction of the commission.</p>	Rainier View	<p>An entity which manages water plant within state is included in definition of a water company. As written, this would include Satellite Management Agency activity.</p> <p>Suggests exception be put in place that entity is not a 'water company' if management activity is management by a Satellite Management Agency as defined in Chapter 70.116 RCW if Satellite Management Agency is not owner of water company.</p>	<p>Incorporated suggestion; add exception for SMA activity.</p>

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-245 Glossary cont.</b>			
<p>Section (4) A "potential customer" is anyone who has been given a letter to provide service for a property but who is not yet receiving any type of service, and who may not have paid any fees to the company.</p> <p>Section (6) A "jurisdictional customer" is anyone who is actually receiving water service, but does not include persons who pay standby fees to a water system. A standby Charge denotes only a potential customer.</p>	DOH	<p>These terms are new. How compatible are these terms with terms used by DOH and local government? Do these terms properly define relationship between company, developer, and owner of platted lot? Note that most recent revision of WAC 246-290 includes 'consumer' in definition section, rather than customer. Clarify, particularly as it may affect jurisdiction.</p>	<p>These new terms are defined to clarify when persons must be given notice of certain water company actions.</p>
<p>Section (10) Service area - that area that the company has an obligation to serve.</p>	DOH	<p>Term is new and ambiguous. Under DOH rules, no system is 'obligated' to serve any connections. If the obligations is because of UTC rule, it could be cited in the definition. Is it compatible with any of our service area definitions? Revise definition to reflect service area as identified in an approved Water System Plan, pursuant to Chapter 246-290 WAC.</p>	<p>Definition revised to indicate area company intends to serve with current infrastructure.</p>

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-245 Glossary cont.</b>			
Section (11) Standby charge - a charge for having transmission and distribution infrastructure installed without the current ability to provide water.	DOH	Term 'standby charge' is new while term 'standby fee' us used several times in document. Resolve.	Inconsistencies corrected.
Section (13) Service connection - the pipes, valves, and fittings between the water company's distribution system and the service line for the property.	DOH	Term different from DOH WAC 246-290. Reference DOH WAC, at least as alternative definition.	DOH rules do not use term 'service connection.'
Section (14) Water system - all plant, equipment, and other assets used to provide water service for a specific location.	DOH	Term different from statute and from DOH definition in WAC. Use statutory definition for public water system in chapter 70.119A RCW.	Use of statutory language in Chapter 70.119A RCW is not appropriate for the use of the definition of 'water system' by the WUTC.

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-245 Glossary <i>cont.</i></b>			
<p>Section (16) Primary contaminants are substances present in drinking water which may adversely affect the health of the consumer by exceeding the permissible maximum contaminant level (MCL) that may be present in the water the purveyor delivers to any consumer. These MCLs are established as water quality "primary standards" and are based on chronic, nonacute, or acute human health effects. Under WAC 246-290-310, all water systems are responsible for complying with standards for water quality established within that section.</p>	DOH	<p>Change first sentence in definition to read;</p> <p><i>Primary contaminants are substances which, when present in drinking water at levels exceeding designated maximum contaminant levels (MCLs), may adversely affect the health of consumers.</i></p> <p>Referring to WAC 246-290-310 for definition of 'primary contaminants' does not seem necessary. Some water systems could be Group B systems regulated in accordance with WAC 246-291. If there is a definition of 'primary contaminants,' there should be one for secondary contaminants. However, DOH WAC does not have one, just has one for secondary standards. Delete last sentence. Add definition for secondary contaminants (if to be used in remainder of the WAC).</p>	Change to accept DOH proposal language.

Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-245 Glossary cont.</b>			
<p>Section (18) Facility charge - a facilities charge is a one-time fee that a new customer must pay before the company will connect the customer's property to the water system. The facilities charge is a means by which the company may recover from the new customers causing the need for a portion of budgeted future capital costs required to meet system growth.</p>	<p>DOH</p> <p>Rainier View</p>	<p>Clarify term 'facility charge.' Requires more complete definition to understand how appropriate charge is determined.</p> <p>As now written, facilities charge limited to recovery from customers 'causing the need' and only for 'budgeted' capital costs. A facilities charge provides source of funds which can be used for major capital project. And particular customer may not be cause of a particular project. Causation from legal sense is a problem, could result in arguments about whether customer is required to pay facilities charge if that customer is not causing specific construction project at the time customer connects to system. If facilities charge not deleted, suggesting revision:</p> <p><i>The facilities charge is a means by which the company may recover from the new customers a portion of capital costs required to meet system growth.</i></p>	<p>New wording of facilities charge rule will clarify.</p> <p>Agreed with comment, clarified wording in line with suggested revision.</p>

Issue/WAC	Interested Persons	Comments Received	Staff Response
WAC 480-110-245 Glossary <i>cont.</i>	DOH	<p>Consider adding definitions for other terms, e.g., owner, purveyor, normal operating conditions, fire flow, that are in recent revisions to WAC 246-290. Also other statutory terms from Title 80 of the RCW (public service company? Water company?)</p> <p>In this section add definitions for Plant and Contributed Plant.</p>	<p>Term not used in proposal rules; no definitions needed.</p> <p>Definitions are elsewhere in the rule.</p>
<b>WAC 480-110-255 Jurisdiction</b>			
Section (1) The commission only regulates investor owned water companies:	DOH	<p>Inaccurate that UTC only regulates investor-owned systems; statutory authority extends to systems offering service for hire. Conform to statutory language, maybe adding:</p> <p><i>investor-owned water companies</i></p>	Definition properly reflects WUTC policy on jurisdiction.
Section (1)(a) That own, operate, control, or manage one or more water systems;	Rainier View	Suggests exception be included in this provision for management by Satellite Management Agencies. (1)(a) again uses term 'manage' and a distinction should be made.	Agree to add language.
Section (1)(b) Meet jurisdictional thresholds of one hundred or more customers, or receive average revenue of four hundred twenty-nine dollars per customer per year.	DOH	Note that if the \$429 figure included in WAC, will have to be amended every year to add consumer price increase to threshold.	There is no legal requirement to amend yearly.



Issue/WAC	Interested Persons	Comments Received	Staff Response
<b>WAC 480-110-255 Jurisdiction <i>cont.</i></b>			
<p>Section (1)(c) The commission does not regulate the following providers of water service:</p> <ul style="list-style-type: none"> <li>(I) Cities, towns, or counties.</li> <li>(ii) Public utility districts.</li> <li>(iii) Water districts.</li> <li>(iv) Local improvement districts.</li> <li>(v) Homeowner associations, cooperatives and mutual corporations, or similar entities that provide service to only their owners or members.</li> <li>(vi) Homeowner associations, cooperatives and mutual corporations, or similar entities that provide service to nonmembers unless they serve one hundred or more nonmembers, or charge nonmembers more than four hundred twenty-nine dollars average annual revenue per nonmember.</li> <li>(vii) Facilities such as mobile home parks, apartment buildings, and office buildings where the facility owner passes through to tenants only the cost the facility owner pays for water the facility receives, plus reasonable third-party costs for reading meters, billing, and collecting. The owner can use a flat rate approach or use submeters to apportion the cost of water to individual tenants.</li> </ul>	DOH	Inaccurate to state that Commission does not regulate all entities described here. Restate to reflect actual statutory provision that restricts activities of those systems that Commission may regulate (RCW 80.04.500)	Rule is intended to clarify what entities the Commission regulates for purposes of rates.