

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

In the Matter of)	
Adopting)	DOCKET NO. UE-991168
)	
WAC 480-100-388; 480-100-393, and)	GENERAL ORDER NO. R-478
480-100-398)	
)	
Relating to)	ORDER ADOPTING RULES
Electric Service Reliability)	PERMANENTLY
)	
.....)	

- 1 **STATUTORY OR OTHER AUTHORITY:** The Washington Utilities and Transportation Commission takes this action pursuant to RCW 80.01.040 .

- 2 **STATEMENT OF COMPLIANCE:** This proceeding complies with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

- 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 requires that the Commission prepare and provide to commenters a concise explanatory statement about an adopted rule. The statement must include the identification of the reasons for adopting the rule, a summary of the comments received regarding the proposed rule, and responses reflecting the Commission’s consideration of the comments.

- 5 The Commission often includes a discussion of those matters in its rule adoption order. In addition, most rulemaking proceedings involve extensive work by Commission Staff that includes summaries in memoranda of stakeholder comments, Commission decisions, and Staff recommendations in each of those areas.

- 6 In this docket, to avoid unnecessary duplication, the Commission designates the discussion in this order as its concise explanatory statement, supplemented where not inconsistent by the staff memoranda presented at the adoption hearing and at the open meetings where the Commission considered whether to begin a rulemaking and whether to propose adoption of specific language. Together, the documents provide a

complete but concise explanation of the agency actions and its reasons for taking those actions.

7 REFERENCE TO AFFECTED RULES: This rule does not repeal, amend, or suspend any sections of the Washington Administrative Code.

8 PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER: The Commission filed a Preproposal Statement of Inquiry (CR-101) on September 22, 1999, at WSR # 99-19-155.

9 ADDITIONAL NOTICE AND ACTIVITY PURSUANT TO PREPROPOSAL STATEMENT: The statement advised interested persons that the Commission was considering entering a rulemaking on the reliability of electric service and electric systems of investor-owned electric companies. The Commission also informed persons of the inquiry into this matter by providing notice of the subject and the CR-101 to those on the Commission's list of persons requesting such information pursuant to RCW 34.05.320(3) or appearing on lists of filing observers and parties of record in: Docket No. UE-990473, regarding rules relating to operations of electric companies; in Docket No. UE-981290, the legislative report on electric utility cost and reliability reports as required by HB 2831; and in Docket No. UE-980694, the legislative report on electricity issues required by ESSB 6560. In addition, the Commission gave notice to organizations including: Washington Cities (Mayors/Council Members), Washington Counties (Council Members), Economic Development Districts/Councils, Hospital Districts, Port Districts, Educational Service Districts, Electric Reliability Issues Consumer Complaint List, Utility Attorneys list, Electric Rulemaking list, and Utilities General Rulemaking list. Pursuant to the notice, the review included:

- Workshops with interested persons/stakeholders on October 13, 1999, March 8, 2000, and July 21, 2000.
- Developing draft rules using the information gathered from stakeholders.
- Circulating discussion drafts of rules on June 22, 2000, July 12, 2000, November 7, 2000, and December 12, 2000, and taking comments on them.
- Updating drafts to incorporate comments that were received.

10 NOTICE OF PROPOSED RULEMAKING: The Commission filed a notice of Proposed Rulemaking (CR-102) on February 7, 2001 at WSR #01-04-081. The Commission scheduled this matter for oral comment and adoption under Notice WSR #01-04-081 at 9:30 a.m., Wednesday, March 14, 2001, in the Commission's Hearing Room, Second Floor, Chandler Plaza 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 COMMENTERS (WRITTEN COMMENTS): The Commission received written comments from two Puget Sound Energy (PSE) customers and PSE.
- 12 The customer comments do not recommend changes in these rules. Rather they recommend that the Commission adopt additional rules addressing two other elements of reliability: reliability of supply; and vegetation management. Nor does the company comment recommend specific changes. After reviewing the comments Staff did not recommend any changes to the rules filed under the CR102. The Commission received written comments from the following:
- 13 George F. Tyler, PSE customer, proposed that WAC 480-100-398 should require companies to include in reliability reports a description of any problems the companies have had with property owners or governmental agencies who have objected to removal of diseased trees or ornamental plantings. Staff did not recommend addition of such language because under the rule companies may already choose to provide such information in their reports if they believe it is important to explain why certain tree trimming was not done. In addition, the Commission will have knowledge of any informal complaints filed with it regarding this matter. The Commission decided not to add a provision to the rules that would require companies to include in reliability reports a description of any problems the companies have had with property owners or governmental agencies who have objected to removal of diseased trees or ornamental plantings.
- 14 Robert Kenny & Julie Glover, PSE customers, indicated that they support the rules “wholeheartedly,” but believe the rules should also require utilities to file plans for acquiring conservation. Staff did not recommend adding language to require utilities to submit conservation plans, noting that electric company plans for meeting supply needs through conservation are included in the Commission’s integrated resource planning rules. The focus of these proposed rules is monitoring and reporting interruptions to service; the rules do not set standards or address the acquisition of supply resources. The Commission decided not to add language regarding conservation plans to the rules.
- 15 George Pohndorf, PSE, informed the Commission that the requirement in the rules to “identify geographic areas of greatest reliability concern,” may have some unintended consequences. First, it may communicate to customers that their reliability is poor when it really is adequate and reasonable, resulting in problems such as lower property values. Second, requiring investor-owned utilities to identify such areas but not requiring the same of publicly-owned utilities may give the publicly-owned utilities an unfair competitive advantage. PSE indicated that it intends to address these concerns by filing parts of its annual reports as confidential. Staff expressed

concern that pockets of poor reliability might be hidden in average, system-wide statistics, and so recommended retaining the requirement in the proposed rules that companies should identify such areas. The Commission has rules governing filing of materials claimed to be confidential; if PSE files portions of its reliability reports with a “confidential” designation, and requests are made for copies of those records, the Commission will follow its rules. The Commission decided that PSE’s concerns do not justify a change in the reporting requirements included in the proposed rules.

16 RULEMAKING HEARING: The rule proposal was considered for adoption, pursuant to the notice, at a rulemaking hearing scheduled during the Commission's regularly scheduled open public meeting on March 14, 2001, before Chairwoman Marilyn Showalter and Commissioner Richard Hemstad. No interested persons made oral comments.

17 COMMISSION ACTION: After considering all of the information regarding this proposal, the Commission adopted the proposed rules.

18 CHANGES FROM PROPOSAL: The Commission adopted the proposed text noticed at WSR #01-04-081.

19 STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE: In reviewing the entire record, the Commission determines that WAC sections should be adopted to read as set forth in Appendix A, 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

20 THE COMMISSION ORDERS:

21 WAC sections are adopted to read as set forth in Appendix A, 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).

22 This Order and the rules 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 chapters 80.01 and 34.05 RCW and chapter 1-21 WAC.

23 The Commission adopts the Commission Staff memoranda, presented when the Commission considered filing a Preproposal Statement of Inquiry, when it considered filing the formal notice of proposed rulemaking, and when it considered adoption of this proposal, in conjunction with the text of this order, as its Concise Explanatory

Statement of the reasons for adoption and for rejection of proposed changes, as required by RCW 34.05.025.

DATED at Olympia, Washington, this day of March, 2001.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, 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 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 3, 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.