

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

In the Matter of Amending WAC	)	DOCKET NO. P-041344
480-93-240 Natural Gas Pipeline	)	
Safety Fee, and WAC 480-75-240,	)	
Hazardous Liquid Pipeline Safety	)	GENERAL ORDER NO. R-523
Fee,	)	
	)	
To change the current pipeline safety	)	ORDER AMENDING RULES
fee methodology.	)	PERMANENTLY
.....	)	

1     **STATUTORY OR OTHER AUTHORITY:** The Washington Utilities and Transportation Commission takes this action under Notice WSR # 05-13-103, filed with the Code Reviser on June 16, 2005. The Commission brings this proceeding pursuant to RCW 80.01.040, RCW 80.04.160, RCW 81.04.160, RCW 80.24.060, and RCW 81.24.090.

2     **STATEMENT OF COMPLIANCE:** This proceeding complies with 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 that this Order is entered.

4     **CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE:** RCW 34.05.325(6) 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 Commission's reasons for adopting the rule, a description of the differences between the version of the proposed rules published in the register and the rules as adopted (other than editing changes), a summary of the comments received regarding the proposed rule, and the

Commission's responses to the comments, reflecting the Commission's consideration of them.

- 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 Order amends the following sections of the Washington Administrative Code:

Amend

**480-75-240 Annual pipeline safety fee methodology.**

**480-93-240 Annual pipeline safety fee methodology.**

Amendments change the method by which pipeline safety fees are allocated to regulated pipeline companies from a methodology that allocated costs to companies based on each company's percentage of the total pipeline miles located within Washington to a methodology based on effort expended on each company, using the pipeline safety program's timekeeping system.

Other revisions include clarification that the Commission can set the total fee amount at less than the appropriation amount, conversion to a calendar year instead of a fiscal year for determining the effort data, and removal of incident investigations that result in a penalty issued under RCW 19.122.055 from consideration in the fee allocation.

8 **PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS**

**THEREUNDER:** The Commission filed a Preproposal Statement of Inquiry (CR-101) on August 11, 2004, at WSR # 04-17-056.

9 **ADDITIONAL NOTICE AND ACTIVITY PURSUANT TO PREPROPOSAL**

**STATEMENT:** The statement at WSR # 04-17-056 advised interested persons that the Commission was considering entering a rulemaking to review the fee methodology established in WAC 480-75-240 and WAC 480-93-240, and evaluate alternative methods for allocating pipeline safety program costs to pipeline operators regulated by the Commission.

10 The Commission also informed persons of the inquiry into these matters by providing notice of the subject and the CR-101 to all regulated gas pipeline companies and hazardous liquid pipeline companies and persons on the Commission's list of persons requesting such information pursuant to RCW 34.05.320(3). The Commission posted the relevant rulemaking information on its Internet web site at <http://www.wutc.wa.gov>.

11 As part of the review of its fee methodology, the Commission retained a consultant with Miller & Miller, P.S. to review the pipeline safety program's fee rules, its cost and time accounting systems, and to devise recommendations for alternative fee methodologies.

12 **WORKSHOP; ORAL COMMENTS; WRITTEN COMMENTS:** Pursuant to the notice, the Commission held two stakeholder workshops to consider a variety of alternative fee methodologies. While no single method received universal

support, most participants supported basing the program's fee on the relative program staff effort expended on each company.

- 13 Representatives from BP Olympic Pipe Line, Cascade Natural Gas, Chevron Texaco Pipeline, McChord Pipeline, Northwest Industrial Gas Users, Northwest Natural Gas, Puget Sound Energy, Tidewater Barge Lines, and Williams Northwest attended at least one of the workshops. Puget Sound Energy, Northwest Natural Gas, Williams Northwest, BP Olympic Pipeline, Cascade Natural Gas, McChord Pipeline and Northwest Industrial Gas Users filed written comments on the draft proposed rules.
- 14 **NOTICE OF PROPOSED RULEMAKING:** The Commission filed with the Code Reviser a notice of Proposed Rulemaking (CR-102) on April 20, 2005, at WSR # 05-09-122, inviting written comments, and scheduling the matter for oral comment and adoption on June 15, 2005. Tidewater Barge Lines, Puget Sound Energy, Williams Northwest, BP Olympic Pipe Line and Northwest Industrial Gas Users filed written comments on the proposed rules.
- 15 On June 13, 2005, the Commission filed a continuance with the Code Reviser at WSR # 05-13-070 to change the date of the hearing to receive public comment regarding adoption of the rule proposal from June 15, 2005, to July 29, 2005.
- 16 The Commission filed a Supplemental Notice to WSR # 05-09-122, notifying interested persons of changes to the rules proposed at WSR #05-13-103, inviting written comments on those changes, and scheduling the matter for oral comment and adoption on Friday, July 29, 2005, at 9:30 a.m., in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 Evergreen Park Drive S.W., Olympia, Washington.

- 17 **COMMENTERS (WRITTEN COMMENTS):** The Commission received no written comments from interested persons in response to the supplemental notice of rules proposed at WSR # 05-13-103.
- 18 **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 July 29, 2005, before Chairman Mark H. Sidran, and Commissioners Patrick J. Oshie and Philip B. Jones. The Commission heard oral comments from Tim Sweeney representing Commission Staff. No interested persons commented.
- 19 **COMMISSION ACTION:** After considering all of the information regarding this proposal, the Commission finds and concludes that it should amend and adopt the rules in the Supplemental CR-102 Notice at WSR #05-13-103.
- 20 **STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE:** After reviewing the entire record, the Commission determines that WAC 480-75-240, and WAC 480-93-240 should be amended 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 July 1, 2006. Thus, the current fee methodology will remain in effect for one more fee year and provide companies with a year to adjust to the change in the fee methodology. The new methodology would apply for the first time to the 2007 fiscal year fees, for the period commencing July 1, 2006.

## ORDER

### THE COMMISSION ORDERS:

- 21 (1) The Commission amends and adopts the following sections to read as set forth in Appendix A, as rules of the Washington Utilities and

Transportation Commission, to take effect on July 1, 2006, pursuant to RCW 34.05.380(2): WAC 480-75-240, and WAC 480-93-240.

- 22 (2) 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.

DATED at Olympia, Washington, this \_\_\_\_ day of August, 2005.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner

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

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

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

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 2, 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.