

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Rule-Making  
Proceeding Related To

Reporting of Transactions Between  
Regulated Companies and Their  
Subsidiaries.

DOCKET NO. A-021178

FOURTH ROUND COMMENTS  
OF PUBLIC COUNSEL

**Fourth Round Comments of Public Counsel  
Attorney General of Washington**

**May 18, 2004**

Public Counsel files these comments in response to the Commission's April 28, 2004, Notice of Opportunity to Comment and the discussion draft rules issued on that date.

**General**

As we have stated in previous comments , Public Counsel is strongly supportive of the purpose behind this rulemaking – strengthening reporting and oversight of transactions between utilities and their affiliate and subsidiaries. While specific affiliate or subsidiary dealings may only periodically be the subject of headlines and public attention, it is important that the Commission have ongoing access to adequate information about the activities of regulated companies which may affect company financial health and impact ratepayer interests in reasonable rates and good service. We commend Staff for its careful work on the rules and appreciate the recognition of issues we have raised in prior rounds. In this round we only have limited comment, but incorporate by reference our prior filings.

## **Definitions**

Public Counsel supports the adoption of definitions for “subsidiary” and “control” as proposed in the April 28 draft as a useful addition to aid in implementation of the rule consistent with the underlying policy goal of the rulemaking.

## **Thresholds**

Public Counsel supports the thresholds in the draft rules. These triggers are consistent with prior drafts and strike a reasonable balance between mitigating the burden on industry, and keeping the Commission informed of events with significance for regulatory purposes. Industry proposals for higher triggers, for example in the range of 10 percent, simply exclude too much activity from Commission review.

## **Affiliated Interest Transaction Advance Filing Requirements**

The latest draft rules (e.g. WAC 480-90-245) eliminate a specific advance filing deadline for affiliated interest contracts or arrangements, and now simply require filing “prior to the effective date.” The previous draft rules regarding “Affiliated Interests – Contracts or arrangements” (e.g. WAC 480-90-X05) required filing of contracts or arrangements five days in advance of the effective date. While we supported the pre-effective date filing requirement, Public Counsel was concerned that even five days was so short as to preclude any meaningful opportunity for review by Staff or others.

We note that five-day advance filing is still required for cash transactions and for securities. In the interests of consistency we recommend that at, at a minimum, the five-day rule be retained for affiliate transactions. While, as a practical matter, most substantive affiliate transaction review is reserved for rate making or other adjudicative contexts, the five-day rule

would preserve the ability to react in those cases where unusual or especially questionable transactions were reported.

### **Telecommunications Essential Services Contracts**

Public Counsel continues to recommend that the “essential services contract” reporting requirement for electric and gas utilities be included in the telecommunications portion of the rules, WAC 480-120. As we argued previously, with the increased outsourcing by utilities, it seems reasonable to provide for the eventuality that telcos, like electric or gas utilities, may enter into contracts for operation and maintenance of infrastructure, computer systems, purchase of services, and construction of infrastructure. Again, if telecommunications carriers are doing so, or will in the future do so, Public Counsel still sees no logical reason to leave this requirement out of the telecommunications portion of the rules.