

to provide household goods moving services, and allow carriers to expand their operations. These changes are designed to increase competition and consumer choice.

Additionally, the proposed rules provide for pricing flexibility through the use of an interim rule which allows carriers to price their services within a range of the current tariff rates. This change allows service expansion in the industry, and is expected to increase consumer choice where pricing is a determining factor. The proposed rules strengthen consumer protection. They allow carriers the option to issue binding estimates, clarify credit options, cap the amount a carrier may charge above its estimate, reduce carrier complaint response time, and provide a more complete range of valuation options. The rules also clarify Commission policy and authority in the areas of compliance, complaint resolution, and definition of household goods for the purposes of transportation.

REFERENCE TO AFFECTED RULES: This rule repeals and adopts the following sections of the Washington Administrative Code:

Repeals all of chapter 480-12 WAC, except WAC 480-12-100 and WAC 480-12-370 which pertain to brokers.

Adopts a new chapter of rules, chapter 480-15 WAC, governing motor carriers of household goods.

PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS

THEREUNDER: The Commission filed a Preproposal Statement of Inquiry (CR-101) on November 4, 1997, at WSR # 97-22-082. The notice advised interested persons that the Commission was considering entering a rulemaking to review all rules in chapter 480-12 WAC. The notice stated that all rules might be affected, and new rules regarding entry of household goods carriers, and protection of consumers would be considered. Further, rules would be reviewed for content and readability pursuant to Executive Order No. 97-02.

ADDITIONAL NOTICE AND ACTIVITY PURSUANT TO PREPROPOSAL

STATEMENT: The Commission also informed persons of the inquiry into this matter by providing notice of the subject and the CR-101 to all persons included on the Commission's list of persons requesting such information pursuant to RCW 34.05.320(3), including the transportation rule list, the household goods rule list, the transportation attorneys list, and lists in Commission Dockets No. TV-971477 and TV-950239. In addition, the Commission sent notice to all carriers holding household goods permit authority, to all companies subscribing to the household goods tariff, and to all companies who had been contacted in the previous two years regarding potential household goods moves made without a permit, as identified through the Commission's

compliance database. The Commission accepted written comments regarding the CR-101 through December 5, 1997.

Pursuant to the notice, the Commission hosted several meetings with stakeholders and stakeholder representatives. The Commission sent a letter on January 23, with the first discussion draft of rules, inviting interested persons to the first stakeholders' meeting in Docket No. TV-971477. In addition, the Commission also sent a letter to a wider range of possible interested persons including the Commission's list of Transportation Associations, and the Commission's list of those interested in agency administrative rules, transportation rules, household goods rules, common carrier rules, and transportation attorneys. The Commission held a second meeting on April 14, 1998. A notice of this meeting was issued on March 31, 1998, including a second discussion draft. On May 8, 1998, staff mailed out a third discussion draft and letter inviting stakeholder representatives to attend a rule-drafting session on May 15, 1998. On May 20, 1998, staff mailed out rule discussion draft 3a and a letter inviting participants to attend another rule drafting session May 26, 1998. On June 2, 1998, staff mailed out rule discussion draft 3b and a letter to participants inviting them to attend another rule drafting session June 5, 1998. On June 25, 1998, staff held a meeting regarding possible valuation options which was attended by representatives from each group of stakeholders. Staff mailed out a letter and a fourth revised rule discussion draft on July 15, 1998, along with notice of the final stakeholder meeting held on July 29, 1998.

Through the stakeholder process, stakeholders and staff agreed to withdraw the following issues from the proposed rules. Staff originally proposed establishing a maximum tariff rate. The Washington Movers Conference explained that a minimum tariff rate was necessary to prevent predatory pricing practices. Staff agreed and the final rule reflects a minimum and maximum tariff rate. Staff proposed offering a rule that would provide consumers with the option of getting a "binding estimate or actual cost, whichever is less." The Washington Movers Conference was opposed to this option as a type of binding estimate and indicated they would consider an optional binding estimate if the "or actual cost, whichever is less" portion of the language was eliminated. The more restrictive option was eliminated from the rules. Consumer representatives proposed language that would require competing carriers to assist each other in providing binding estimates where the termination point of the move is a long distance from the bidding carrier's office. Carriers were opposed to this requirement because it could provide an unscrupulous carrier with the opportunity to take away business. This language was eliminated from the rules.

Staff and stakeholders reached agreement on the following issues: Cargo Insurance, WAC 480-15-550; Valuation Coverage, WAC 480-15-620; Payment Options, WAC 480-15-795; and, Reduction in Time to Acknowledge Receipt of Claim or Complaint, WAC 480-15-810. In reaching agreement on these issues, stakeholders

representing the Washington Movers Conference, consumer interests and other carriers all provided information that was essential in drafting the final language.

NOTICE OF PROPOSED RULEMAKING: The Commission filed a notice of Proposed Rulemaking (CR-102) on September 16, 1998, at WSR #98-19-060. The Commission scheduled this matter for oral comment and adoption under Notice WSR #98-19-060 at 9:30 a.m., Monday, November 16, 1998, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 S. Evergreen Park Drive SW, Olympia, Washington. The time of the adoption hearing was changed to 1:30 p.m. and an errata notice was sent to interested persons noting the time change. No one appeared at 9:30 a.m. on Monday, November 16, 1998, to comment on the rules. The notice provided interested persons with the opportunity to submit written comments on the proposed rules to the Commission on or before October 30, 1998.

MEETINGS OR WORKSHOPS; COMMENTS: The Commission received oral and written comments from individual consumers, representatives of the Consumer Protection and Public Counsel Divisions of the Washington State Attorney General's Office, representatives and members of the Washington Movers Conference, representatives of the container storage and transportation industry, representatives of the Office of State Procurement for the State of Washington, representatives of the Better Business Bureau, non-permitted carriers, representatives and members of the Washington Association of Independent Movers, and state legislators. A chart summarizing the comments and staff's response is included as Appendix A to this order.

Based on the comments received, Commission staff suggested revised clarifying language that did not change the intent or ultimate effect of the proposed rule.

Staff sent notice of the clarifying changes to all interested persons on October 28, 1998. This gave interested persons the opportunity to comment on the language at the November 16, 1998, adoption hearing.

RULEMAKING HEARING: The rule changes were considered for adoption, pursuant to the notice, at the Commission's regularly scheduled open public meeting on November 16, 1998, before Chairwoman Anne Levinson and Commissioner William R. Gillis. The Commission heard oral comments from Kim Dobyms and Gene Eckhardt representing Commission staff; Jeffrey Goltz and Ann Rendahl representing the Utilities and Transportation Division of the Office of the Attorney General; Karen Bernd representing Bernd Moving Systems; Doug Bernd, President of the Washington Movers Conference; John Woodring, J. Lawrence Coniff, and Jim Tutton representing the Washington Movers Conference; Rick Smith representing Corporate Moving Systems; Brian McCulloch representing the Association of Independent Movers; Robert Manifold representing the Public Counsel and Consumer Protection Divisions of the Office of the Attorney General; Rob Outcalt representing Door-to-Door Storage; and Chris McKay representing Shurgard Storage-To-Go. Some commenters supported

staff's proposed rules and some commenters repeated concerns that were provided in their written comments.

SUGGESTIONS FOR CHANGE THAT ARE REJECTED: The Commission believes the adopted rules represent a good balance between consumer protection and regulatory requirements, and that all participants worked toward achieving consensus. However, there are some areas where participants and Commission staff did not reach agreement. A summary of those areas follows:

- **Statutory Authority Issues Regarding RCW 81.80.020:**

Commenters assert the proposed rules represent policy changes that are not consistent with RCW 81.80.020. Commenters claim that the Commission staff cannot use the Commission's strategic plan as a basis for changing Commission policy because it is in conflict with the statute. They claim the types of entry changes staff proposes in the rulemaking can be accomplished only through changes in statutes. The Commission disagrees. The rules are consistent with the intent of the legislature and are within the Commission's statutory authority.

- **WAC 480-15-280 When must I apply for temporary authority? and, WAC 480-15-300 What conditions may be attached to my temporary authority?**

Commenters first claim that the current rule provides that the Commission must hold a hearing, make findings, and enter an order on every protested application for a temporary permit. They then posit that this provision is eliminated, and that the elimination is not consistent with RCW 81.80.170 which states:

The Commission may issue temporary permits to temporary "common carriers" or "contract carriers" for a period not to exceed one hundred eighty days, but only after it finds that the issuance of such temporary permits is consistent with the public interest. It may prescribe such special rules and regulations and impose such special terms and conditions with reference thereto as in its judgement are reasonable and necessary in carrying out the provisions of this chapter.

Commenters claim that issuing temporary permits prior to holding a hearing on protested applications does not allow the Commission to determine fitness or public interest.

The Commission can and has determined fitness and public interest for temporary permits without holding a public hearing. The current rule governing

issuance of a temporary permit **does not** provide for a hearing prior to the issuance of permits. The current rule, WAC 480-12-033 (4) provides:

The Commission will publish notice of the issuance of temporary authority under this section in its weekly application docket

[* * *]

Any interested carrier may, within ten days after the publication, file a protest to the grant of authority.

The proposed rules do not change existing processes for protesting temporary authority. New Section, WAC 480-15-310 states:

(1) "We publish an application docket listing temporary authority we have granted or denied. We mail the docket to each applicant and, upon written request, to any person interested in application proceedings." and, (2) "Anyone having an interest in an application appearing on the docket may file written comments within ten days following publication."

The proposed rules do provide that the Commission will issue an order making findings that issuance of a permit is consistent with the public interest, prior to granting temporary authority. The proposed rules clearly identify what factors the Commission will consider when determining the public interest, as well as fitness, prior to issuing a temporary permit. New Section, WAC 480-15-280 states:

(2) We will grant or deny an application for temporary authority after we have conducted a complete review of your application, any supporting statements, reports or other information necessary to determine your fitness, and determine whether granting the application is in the public interest.

(3) When determining if an applicant is fit, willing and able to provide the proposed service we will consider any information provided by the applicant and other members of the public regarding:

(a) The applicant's experience in the industry; knowledge of safety regulations; financial resources and equipment; compliance with tax, labor, employment, business, and vehicle licensing laws and rules; and

(b) Whether the applicant has been cited for violation of state law or commission rules, and has been convicted of a Class A or Class B felony, or has previously been denied

authority on the basis of fitness; or has had permanent authority canceled.

(4) When determining if the proposed service is in the public interest, we will consider any information provided by the applicant, shippers and other members of the public supporting the proposed service, and whether granting the temporary authority will:

(a) Enhance choices available to consumers, promote a viable yet competitive household goods industry, or fill an unmet need for service; and

(b) Allow us to more efficiently regulate the household goods industry, and provide increased consumer protection through regulation.

The new rules allow any interested person to provide comment to the Commission about the grant of temporary authority, and to provide comment on a pending application for permanent authority. The rules allow anyone, including existing carriers, an opportunity to provide information to the Commission which will be considered when determining whether to grant or deny an application for permanent authority.

- **WAC 480-15-190 Where may I operate with a household goods permit?**

This rule grants authority to operate throughout the state of Washington. It also allows household goods carriers the option to operate in only a certain county or counties. The Commission may also restrict a carrier's operations to a certain county or counties for cause. "Local cartage" and "commercial zone" authority is no longer required to operate within metropolitan areas of the state or within certain cities.

Commenters argue that eliminating local cartage area limitations is not in the public interest, and will create problems for consumers. Their specific example is: if a consumer in Tacoma requests moving service from a carrier in Lynnwood and the consumer does not ask for an estimate, the consumer must, under the existing tariff, pay for drive time from Lynnwood to Tacoma and return. Commenters believe the additional drive time charge would take unfair advantage of the consumer.

The Commission disagrees. The proposed rules provide consumers the option of paying more for a service when time is the primary consideration rather than cost. Using the same scenario, under existing rules, only those with local cartage authority in Tacoma are able to provide service to the consumer. If the existing permitted carriers in Tacoma are unable to meet the consumer's time requirements, the consumer must wait until a carrier has an opening in its schedule. Such a situation creates an incentive for consumers to use non-permitted carriers. A consumer may be willing to pay more in order to meet a critical time requirement. Otherwise, we expect a consumer to check for more than one price quotation, and to self-protect by hiring the

carrier that does not have the extra charge for drive time included in its estimate (unless its estimate is still lower). It is in the public interest to eliminate restrictions that limit consumer choice, and make enforcement more difficult.

The Commission enforcement staff, under current rules, must stake-out a carrier operating out of its territory and catch it in the act in order to enforce geographic restrictions. The enforcement staff time can be better spent seeking out the kinds of violations that harm consumers.

The Commission also believes many carriers will benefit from this rule. Opportunities for business growth will not be hampered by artificial boundaries. Carriers will not waste time determining whether a house on a certain street is in a city, adjoining city, or county, but will be able to serve areas that are economic to serve with their resources.

- **WAC 480-15-490(2)(b) How are tariff rates and charges established?**

This rule sets an interim band of rates and charges that carriers may charge consumers. The rule allows carriers to charge no more than 15 percent above nor less than 35 percent below the existing tariff rates.

Commenters object to the proposed banded rates percentages, claiming that inadequate and unrepresentative data were used to establish the rates. Further, commenters propose that a range of banded rates should be set only after a fully allocated cost study has been completed.

The Commission disagrees. A staff economist and the assistant director for transportation and water analyzed this issue in a memorandum which is attached to the open meeting memorandum presented on November 16, 1998. A copy of the open meeting memorandum, and the attachments to it, are included in the rule making file maintained by the Commission. The memorandum indicates that a fully allocated cost study based on the current market environment would not be useful in setting rates for a more competitive environment. The memorandum describes the methodology used by the analysts to set the percentages above and below the current tariff rate. The staff memorandum points out that a fully allocated cost study would measure the market structure as it exists today. It would not measure the new, more open, market structure these rules are designed to promote.

The heart of the objection to this rule seems to be that the option of charging rates at a lower band limit of 35 percent below the existing tariff rates would result in rates that are too low, and may lead to predatory pricing. The memorandum by the economists addresses these concerns, and concludes that the cost structure of the household goods carrier industry is not conducive to predatory pricing.

In deciding this issue, the Commission asked itself “What is the potential harm?” If the rate band is too narrow, an effectively competitive price would be lower than the banded rate, and consumers would be harmed. A high band and open entry would encourage uneconomic entry. If the band is too wide, the commenters claim that predatory pricing may occur. If true, that could harm carriers. However, based on its history of regulating this industry, and upon information received from the industry, the Commission believes the cost structure in this industry has a wide range of variable costs. The variable cost factor, in addition to easing entry, will make it difficult for any carrier to practice predatory pricing.

In reality it would be irrational for a firm to attempt to engage in predatory pricing, as it would hurt the firm’s short-term profitability without improving its long-term profitability. The interim rule, which allows the 35 percent discount in prices, is conservative enough to prevent predatory pricing while allowing consumers to benefit from lower prices and greater choice. The solution to “predatory pricing” is effective competition, and more service options for both consumers and carriers. In the event that allegations of predatory pricing, or any other illegal behavior, are made, the Commission is charged with, and able to, investigate and intervene under RCW 81.04.110.

The lower limit to the rate band in the rule is supported by sound economic analysis. The Commission, therefore, supports its use until such time as data are available about the new market that will emerge after the rules have been in effect for a period of time. When the Commission staff develops a cost-study methodology, it should provide information to set rates that will support our stated goals. The current rate setting methodology, uniform rates using fully-allocated costs, does not support the goals of the present rule making. It is, therefore, not an appropriate methodology to consider. The Commission staff will study such factors as variable costs, marginal costs, and average costs. The Commission staff has not yet determined the appropriate methodology, but commits to considering carrier input as it works toward developing a methodology. The Commission staff expects to complete that process by October 1999.

- **WAC 480-15-630(2) Estimates**

This rule allows a carrier the option of providing a binding estimate to consumers. The current rules do not allow this option. Commenters are opposed to binding estimates as an option, alleging it will cause consumer confusion and that it is not appropriate to take a model that has been used for long-distance moves at the interstate level and apply it to local moves.

The Commission believes that the option of a binding estimate will minimize the confusion that consumers experience under existing rules. Currently, consumers may believe that an estimate is binding, then have a rude awakening when

their final bill greatly exceeds the estimate. Consumer representatives in this rule making initially sought to require binding estimates for all moves, but eventually accepted the general consensus that binding estimates should be an available option. In all consumer protection measures the Commission seeks a balance between giving consumers the best information possible, and writing the least onerous rules that a regulated industry must follow. This rule allows the carrier to choose whether it will give a binding estimate for consumers seeking both long-distance and local-intrastate moves. It is a business decision each carrier will make based on its market and the needs of its customers. No carrier is required to offer binding estimates.

One of the Commission's roles is to provide consumers with the information needed to make informed decisions. Commission publications and industry sales personnel will be able to explain adequately binding estimates. Optional binding estimates are already available at the federal level for interstate rules. This change makes the state rule consistent with the interstate rule. The Commission expects that many of the household goods carriers are already familiar with the federal rule, and that this change may ease, rather than complicate, compliance. This rule increases consumer choice and promotes competition in the industry, as well as increases consumer confidence regarding the amount a move will cost.

- **WAC 480-15-020(14) Household Goods.**

This rule clarifies the definition of household goods by stating that household goods are residential rather than commercial goods, and indicating which services fall under Commission regulation. The rule excludes from regulation "the transportation of customer packed and sealed self storage containers when no accessorial services are provided by the carrier in connection with the transportation of the container." This exclusion puts in rule form the policy currently followed by the Commission staff, based upon a decision by the Commission Permits and Interpretations Committee. That decision concluded that a packed container, for which no accessorial services were provided, was "freight". Carriers of "freight" are regulated under chapter 480-14 WAC. The Commission, here, indicates its agreement with the interpretation currently followed by its staff.

Commenters are opposed to the exclusory language in the rule, arguing that the materials defined in the exclusion should fall under Commission jurisdiction as household goods, rather than as freight. They claim it does not matter whether household goods are packed and sealed into a container by consumers.

The Commission disagrees. The transportation of customer packed and sealed self-storage containers does not encompass the same need for consumer protection as a typical household goods move. The Commission has reviewed and considered opinions and opinion letters concerning the classification of the

transportation of storage containers issued by the Federal Highway Administration and several other states. The proposed rule is consistent with the Federal determination, and is consistent with previous staff interpretations.

- **Part 1.3**

The proposed rules in Part 1.3 describe authority the Legislature has given to the Commission to enforce the state laws and rules, the actions the Commission may take in any given circumstance, and the Commission policy on compliance. These rules are offered so a carrier may know what to expect, and what options are available to the Commission to address non-compliance.

Commenters believe the Commission does not have enough staff to enforce existing rules, and that the proposed rules will result in an increase in both consumer complaints and the number of carriers who are not in compliance with the rules. They argue that new rules should not be considered until additional compliance staff are hired. The Commission believes staffing is a separate issue and must be considered apart from the rulemaking. Meeting the challenges of sufficient staffing and efficient use of resources concern all governmental agencies, and the Commission is no exception.

In writing these rules, the Commission has focused on the areas of greatest need, in order to allow scarce enforcement resources to be used to best serve consumers. For example, this is one reason the Commission is simplifying the definition of the geographic areas that permitted carriers may serve in WAC 480-15-190.

The Commission also recognizes the need for and supports a greater emphasis on technical assistance prior to enforcement. This is one reason why the Commission seeks to use the period after a temporary permit is granted as a trial period in which carriers can be trained in areas of weakness. WAC 480-15-280, WAC 480-15-300. Putting resources here, rather than in unneeded hearings, is another appropriate action. When hearings are needed, they will be held. The Commission will allocate staff and resources to the areas of highest concern based on public need and its obligations. The Commission will strive to accomplish its compliance and enforcement goals in the household goods industry.

WAC 480-15-030 Waiver of Rules. The proposed rules include a provision allowing carriers to request, and the Commission to consider granting, rule waivers.

Commenters believe the Commission does not have authority to grant rule waivers.

The Commission disagrees. Comparable rule waiver provisions presently exist in rules governing other industries regulated by the Commission. RCW 81.04.040 obligates the Commission to regulate in the public interest. This statute provides the Commission the flexibility and discretion to make such rules and regulations as may be necessary to carry out its powers and duties. The Commission takes its responsibilities and obligations seriously. Rules are written to apply to the most general situations; the Commission recognizes that there may be instances when a rule may not pertain to a specific situation, or may cause an undue burden on a carrier in a specific situation. The ability to grant a rule waiver is aimed to respond to the public interest in a timely and fitting manner, especially where prior need was not or could not be anticipated. However, rule waivers are rare and are considered on a case-by-case basis in an open public meeting by the Commissioners. Waivers are granted only when consistent with the public interest, the purposes underlying regulation, and sound public policy, and consistent with applicable statutes.

DISCUSSION: This rulemaking is one of the most important that has faced the Commission in recent times. The magnitude of change that is proposed with regard to this industry is the most significant this industry has seen in this state in all the decades it has been in existence. There are obviously quite diverse perspectives on a number of very important issues, and those have been fought out in an appropriate fashion for matters of import before this Commission.

The Commission has experience with a transition to lesser regulation in the motor carrier industry. Experience with those companies regulated under chapter 480.14 WAC has been more successful than the Commission anticipated, with fewer unsatisfactory consequences than we feared. The Commission has heard on numerous occasions from permitted carriers, non-permitted carriers, and consumers that citizens of Washington are hiring illegal carriers to perform their moves. The Commission has seen evidence of these moves in proceedings in which it has sought to restrain the activities of non-permitted movers. Non-permitted carriers seeking entry into this industry have been significant stakeholders in this proceeding. Any time consumers in our state are incited to seek illegal options for the activities that they want to pursue, they are making a statement about their lack of consumer choice. When this occurs, something is wrong with the system. This is an example of where the government is viewed by the consumers we exist to serve as being in the way of what they need, rather than being there to help.

It is unfortunate that members of the Washington Movers Conference believe they have not been listened to and the Commission does not doubt their sincerity. The Commission's experience with its staff is that they are highly professional and are committed to independent evaluation. It is much more likely that there is a difference of position, rather than that staff did not listen to any particular position. Commissioners do not rely on filtered information. Commissioners do read the staff

documents, but also request and receive regular briefings on rule makings of this import, as well as read directly written comments, seek legal opinions and, upon request, meet with stakeholders. Commissioners do their own evaluation.

There has been a lot of information that has formed the framework for this rule making. The Commission has no doubt that a good faith effort on the part of everyone involved was made to develop the best possible set of rules while addressing the stakeholders' concerns. The Commission believes most of the concerns of commenters have been addressed, as evidenced by the many rewrites of this chapter of rules.

The rules represent good public policy for the Commission and for the state by promoting open markets and consumer choice, by eliminating barriers to entry, and by enhancing consumer protection. They should be adopted.

COMMISSION ACTION: After considering all of the information regarding this proposal, the Commission repeals all of chapter 480-12 WAC except WAC 480-12-100 and WAC 480-12-370, and adopts the proposed rules governing household goods carriers in new chapter 480-15 WAC. See Appendix B of this order for the adopted rules.

CHANGES FROM PROPOSAL: The Commission adopted the proposal with the following changes from the text noticed at WSR #98-19-060.

- a. WAC 480-15-630 (b)(iii) A binding estimate cannot exceed the highest authorized tariff rate. If a binding estimate exceeds the highest tariff rate, the carrier may not collect more than the highest authorized tariff rate.
- b. WAC 480-15-660 (2) What rates must I use to prepare a supplemental estimate? You must use the same rates as you used in determining charges for the original estimate.
- c. WAC 480-15-780 (8) When may I refuse to provide service to a shipper? You do not have suitable equipment necessary to perform the service.
- d. WAC 480-15-800 What must I do if a shipper is not satisfied with my service? ... The shipper has nine months, from the date of delivery or the date the household goods should have been delivered, to file a claim for loss and damage. ...

STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE: In reviewing the entire record, the Commission determines that all rules in chapter 480-12 WAC should be repealed except WAC 480-12-100 and WAC 480-12-370 and a new chapter 480-15 WAC governing Household Goods Carriers should be adopted to read

as set forth in Appendix B, 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

THE COMMISSION ORDERS:

1. Chapter 480-12 WAC, except WAC 480-12-100 and WAC 480-12-370, is repealed and chapter 480-15 WAC is adopted to read as set forth in Appendix B, 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).

2. This order and the rule 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.

3. The Commission adopts the Commission staff memoranda, and any attachments thereto, 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 required by RCW 34.05.025.

DATED at Olympia, Washington, this _____ day of December
1998.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

ANNE LEVINSON, Chairwoman

RICHARD HEMSTAD, Commissioner

Appendix B - New Rules

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 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 97, amended 0, repealed 77.

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.