

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

Docket: P-040865
Annual Pipeline Safety Fees

Northwest Pipeline Corporation's AMENDED Petition for Refund

Northwest Pipeline Corporation, also known as Williams Northwest Pipeline ("Northwest"), respectfully submits this AMENDED Petition for Refund of \$85,334.00 (Eighty-Five Thousand Three Hundred & Thirty-Four Dollars and 00/00 cents) in unassigned program costs imposed by the Washington Utilities and Transportation Commission ("WUTC") as part of its 2005 allocation of pipeline safety fees. Northwest submitted its initial Petition for Refund on September 10, 2004. It erroneously sought a refund in the amount of \$118,674, due to Northwest's error in the mathematical calculation underlying the unassigned cost allocation. Northwest submits this Amended Petition in accordance with WAC 480-93-240 to correct the mathematical error in the initial Petition.

ARGUMENT

In its order setting the annual pipeline safety fees for fiscal year 2005, WUTC departed in a significant manner from its own rules and prior practice to the detriment of Northwest and the other interstate pipelines participating in the pipeline safety program. It did so without giving Northwest or other interested parties formal notice and comment opportunities in accordance with state law. WUTC's departure from its rules and prior practice resulted in Northwest's annual pipeline safety fee improperly including a component for \$85,334.00 in unassigned program costs. Had WUTC calculated the fees in accordance with its rules and prior practice, Northwest would not have had to bear this portion of unassigned costs and, in fact, there would have been fewer unassigned costs to divide among participants in the interstate program.

In prior years, after WUTC divided costs between the interstate and intrastate programs. All inspections, whether regular or special, were directly billed to the pipeline requiring the inspection and these directly billed inspections were used to offset the particular interstate or intrastate program's costs. Special inspections directly billed to an interstate pipeline were used to offset the interstate pipeline program's portion of otherwise unassigned costs. Under WUTC's prior practice, the intrastate pipeline program, having been free from the imposition of a direct bill for special inspections, was

not allowed to benefit from an offset of special inspections to unassigned costs. This practice was consistent with WAC 480-93-240(b) which clearly provides for dividing costs between “gas companies (intrastates) and interstates” as the initial step in WUTC’s calculation of safety fees. This practice was also recognized in the June 19, 2003 Proposed Final Report by the JLARC on “Oversight and Review of Washington’s Pipeline Safety Office” at p. 23.

Under its prior fee allocation process, WUTC directly billed Olympic Pipeline for the costs necessitated by its significant number of anomaly dig-related special inspections. These special inspection costs were then used to offset the unassigned costs which would otherwise have been assessed to the interstate pipeline group. The intrastate pipelines did not benefit from this offset. Without providing Northwest with proper notice of its intention to deviate from this policy and the underlying rule, for fiscal year 2005, WUTC unilaterally determined that it would give both the interstates and the intrastates, who were free from any special inspection direct bill, the benefit of the offset from unassigned costs. Because of this change in process, Northwest was assessed an additional \$85,334 in unassigned costs. Northwest believes that it is entitled to a refund of the overpayment. Northwest will accept a prospective adjustment of the balance of its fees owed for 2005 in lieu of a refund.

If WUTC upholds its current allocation of special inspection costs along with the resulting impact on unassigned costs, then Northwest believes that WUTC has, in effect, amended its existing regulations without following the rulemaking procedures required under Washington law. RCWA §34.05.310 (2003) *et seq.* sets forth the requirements state administrative agencies must follow in adopting new regulations or amending old ones. These requirements insure that affected parties have notice of proposed regulatory changes and an opportunity to provide comments prior to their implementation. RCWA § 34.05.375 (2003) invalidates rules unless they are adopted in substantial compliance with RCW 34.15.310 *et seq.* Northwest believes that WUTC should separately apply the special inspection offsets to the interstate and intrastate programs’ unassigned costs or properly follow procedure, including providing rulemaking notice and comment, in making a change to its interpretation of the rule.

Respectfully submitted this 12th day of October, 2004.

/s/ Teresa Silcox Torrey

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