

[Service Date November 23, 2004]

November 23, 2004

**NOTICE OF OPPORTUNITY TO FILE WRITTEN COMMENTS
(Wednesday, December 15, 2004)**

RE: Pipeline Fee Methodology Rulemaking to Review WAC 480-93-240 and WAC 480-75-240, Docket No. P-041344

TO ALL INTERESTED PERSONS:

The Commission Staff held a workshop on November 16, 2004, to solicit discussion regarding the pipeline safety program's current fee structure and possible changes to the fee methodology. As part of the discussion, a consultant retained by the WUTC introduced several alternative fee methods for the purpose of illustrating various fee concepts. The afternoon of the workshop was spent discussing issues such as what program costs and activities should be directly assigned to company fees and how to treat non-directly assignable program costs. The consultant's options and worksheets are available for inspection on the Commission's web site at www.wutc.wa.gov/041344.

Based on the workshop discussion, staff has prepared questions for stakeholders to help guide the rulemaking.

WRITTEN COMMENTS

Written comments to the attached questions should be filed with the Commission no later than Wednesday, **December 15, 2004**, and submitted to the Commission at:

Washington Utilities & Transportation Commission
1300 South Evergreen Park Drive SW
P.O. Box 47250
Olympia, Washington 98504-7250

Electronic copies. The Commission requests that comments be provided in electronic format to enhance public access, for ease of providing comments, to reduce the need for paper copies, and to facilitate quotations from the comments. Comments may be submitted by electronic mail to the Commission's Records Center at records@wutc.wa.gov. Please include:

- The docket number of this proceeding (P-041344)
- The commenting party's name
- The title and date of the comment or comments

An alternative method for submitting comments may be by mailing/delivering an electronic copy on a 3-1/2 inch, IBM-formatted, high density disk, in .pdf Adobe Acrobat format or in Word 97 or later. Include all of the information requested above. The Commission will post on the Commission's web site all comments that are provided in electronic format. The web site is located at www.wutc.wa.gov/041344. If you are unable to file your comments electronically or to submit them on a disk, the Commission will always accept a paper document.

Opportunity for further comment is anticipated. A second workshop is scheduled for January 11, 2005. Information about scheduling and other aspects of the rulemaking will be posted on the Commission's web site as it becomes available. If you wish to receive further information on this rulemaking you may (1) call the Commission's Records Center at 360-664-1234, (2) e-mail the Commission at <records@wutc.wa.gov>, or (3) mail written comments to the address above to the attention of Carole J. Washburn, Secretary. When contacting the Commission, please refer to Docket No. P-041344 to ensure that you are placed on the appropriate service list.

If you have any questions regarding this rulemaking, please contact Tim Sweeney, tsweeney@wutc.wa.gov or by calling (360) 664-1118.

Sincerely,

CAROLE J. WASHBURN
Executive Secretary

Questions

Under the current methodology, each company's fee includes the average cost of conducting the standard inspections that are planned for that company over the year for which the fee is being collected. Under the statutory language this is referred to as "direct assignment of average costs associated with annual standard inspections." By statute, the fee methodology established by the Commission must include "direct assignment" of these anticipated standard inspection costs.

The governing statutory language calls for a "uniform and equitable means of estimating and allocating costs of other duties relating to inspecting pipelines for safety that are not directly assignable, including but not limited to design review and construction inspections, specialized inspections, incident investigations, geographic mapping system design and maintenance, and administrative support." Some of these activities, however, can be directly attributed to a specific company for fee making purposes. Over the course of a year the pipeline safety program is able to track actual inspection and safety-related activities to specific companies. Other activities though, such as mapping and rulemaking, can only be specifically assigned to an industry group.

- 1) What is your position as to what program costs or activities your company should pay for directly? That is, should the program make every effort to directly assign as many of the program costs to company fees as possible or should there be limits on what is directly assigned? Please be as specific as possible and explain how your position is consistent with the applicable statute.
- 2) For those program costs that can be directly assigned to an industry group, should they be allocated to the companies within that industry group (and how should they be allocated) or should they be treated as unassigned costs allocated to all companies?
- 3) What is your position as to what costs or activities should not be directly assignable to companies? Please be specific and explain how your position is consistent with statute.
- 4) What is your preferred method for allocating non-directly assignable program costs to operators and why? (e.g.: 1. allocating non-directly-assignable costs by using

pipeline miles is the best method because it directly correlates to the program's effort or 2. allocating non-directly-assignable costs by using directly assigned time most closely correlates to the program's effort or 3. I have a better idea.)

- 5) Should some portion of the unassigned program costs be covered by a flat base fee paid uniformly by all companies?
- 6) In addition to directly assigning average costs of planned standard inspections, the program has charged companies for significant incident and construction-related inspection activities. This additional charge did NOT increase the total amount of fees collected by the program but rather reduced the fees for others.
 - a) Do you support an additional fee or charge to cover unexpected incident and construction-related activities that occurred over the previous year? That is, after a year when the program expends more time than was planned for a company because of incidents and construction activities, should the program attempt to recoup those costs directly from the company in the next year's fees (recognizing that this would reduce the fees of the other companies for that year)? If yes, please indicate how state law supports this type of billing.
 - b) Should the program recoup costs from companies for every incident and construction-related activity or should the program do so only in those situations when the company-related activities significantly exceeded the program's plan for incident and construction activities?
 - c) How should assignment of actual program costs for such activities affect the fees paid by other companies?
- 7) Currently, the program's federal grant is received in a hazardous liquid component and a natural gas component, but the sum of the two grants is divided between the interstate and intrastate companies. The federal grant is deducted from these two cost pools before specific operator fees are set and no distinction is made whether a company pays a federal fee or not. What other method would your company suggest for crediting companies for the federal grant? For those companies who pay a pipeline safety fee to the federal program, what portion, if any, should be returned directly to them through the grant and fee methodology?

- 8) State law states that "average costs" should be used with direct assignment. The current fee method estimates what the average costs will be to conduct an average standard inspection for that fee year. Many of the options presented at the Nov. 16 workshop uses a two-year average of the program's historical costs in setting the next year's fee. What is your position regarding how to determine average costs?
- 9) Are you satisfied with the current fee methodology?
- 10) If current fee method was retained, what changes would you suggest?
- 11) Below are some of the fee concepts presented at the workshop, either by our consultant or by participants. Please indicate which of the concepts below you would like to see as part of an improved fee method:
 - a) Single pool where fee is based on company's two-year average of directly assignable inspection time.
 - b) Inspection pools where fee is based on company's two-year average of inspection time as a percentage within each of the four major inspection activities. (See Option 3a in workshop materials)
 - c) Industry pools where fee is based on company's two-year average direct charged time as a percentage within one of the four industry pools. (See Option 4a in workshop materials)
 - d) Gas/Liquid Pools where fee is based on company's two-year average direct charge time as percentage within either the gas or hazardous liquid pool. (See Option 5a)
 - e) Inter/Intrastate Pools where fee is based on company's two-year average direct charge time as percentage within interstate or intrastate pools. (See Option 6a)
 - f) Indirect costs, however defined, are allocated on a per mile basis.
 - g) Annual company fee increases are limited to 20 percent per year.
 - h) Indirect costs, however defined, are reduced by a minimum base charge assessed to all companies.

- i) Directly assign as much of the costs as possible so as to limit the amount of indirect costs that have to be allocated.

12) Please submit any suggestions you have for developing a regulatory incentive program consistent with state statute?

What other comments, suggestions would you like to offer?