

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

Establishing Fees to be Paid to the) DOCKET NO. P-040865
Washington Utilities and)
Transportation Commission by Gas) ORDER NO. 02
Companies, Interstate Gas Pipeline)
Companies, and Hazardous Liquid) EXECUTIVE SECRETARY'S
Pipeline Companies under Provisions) ADMINISTRATIVE
of Sections 2 and 3 Chapter 238 Laws) RESOLUTION OF NORTHWEST
of 2001) PIPELINE CORPORATION'S
) PETITION FOR REFUND
.....)

- 1 The Executive Secretary grants the petition of Northwest Pipeline Corporation, also known as Williams Northwest Pipeline (“Williams”), for a refund of \$85,334 of its 2005 pipeline safety fees. This resolution also results in a refund for other interstate companies.
- 2 Williams filed a petition for a refund on September 28, 2004, and an amended petition on October 13, 2004. The Commission delegated the authority to resolve this matter administratively to the Executive Secretary, October 20, 2004, subject to ultimate approval of the Commission.¹

Background

- 3 The pipeline safety program is funded by fees that are billed annually to regulated pipeline companies.²

¹ RCW 80.24.060(7); WAC 480-93-240(5)

² RCW 80.24.060, 81.24.040.

- 4 The Legislature directed the Commission to adopt rules establishing a methodology to set the appropriate fee for each entity that is subject to regulation, within certain general parameters.³ Under the Commission's current pipeline safety fee methodology, fees are allocated among companies based on the cost of standard inspections attributable to each company, with remaining program costs split 63 percent to 37 percent between intrastate and interstate companies.⁴ These costs are then allocated to companies based on their miles of pipeline operated within the state.⁵
- 5 In fiscal year 2004 (July 1, 2003, to June 30, 2004), the pipeline safety program expended 325 more inspector days than it had expected on Williams as a result of two pipeline ruptures. In the Commission's Order determining the fees to be paid by pipeline companies for fiscal year 2005 (July 1, 2004, to June 30, 2005) the Commission directly assigned (or essentially "billed") the cost of these additional pipeline inspection days to Williams as part of the company's fees for the 2005 fiscal year.⁶ The Commission had to waive the ordinary application of its fee methodology in order to allow for this direct assignment of incident costs to Williams.
- 6 The Commission's fee methodology is intended to recover costs of its pipeline safety program up to the program's annual appropriation,⁷ and the Commission is not allowed to collect fees in excess of its appropriation in any given year.⁸ Therefore, in order to keep the total amount of fees collected from all companies at the program's appropriation level for 2005, the Commission reduced the amount of fees that were to be collected in the manner described in the

³ *Id.*

⁴ WAC 480-75-240, 480-93-240.

⁵ *Id.*

⁶ Order Establishing Pipeline Safety Fees for Fiscal 2005, Order No. 1, Docket No. P-040865 (June 28, 2004).

⁷ WAC 480-93-240(2)(a).

⁸ RCW 80.24.060(1)(b).

Commission's rules by an amount equal to William's direct billing for the 2004 incidents.

- 7 This approach was in some ways consistent with prior practice and in some ways novel. The Commission had, in previous years, directly assigned extraordinary inspection costs to Olympic Pipeline and Williams. These costs, however, were for inspections that staff expected it would have to conduct during the coming fiscal year for which the fees were being set. Fiscal year 2005 was the first time the pipeline safety program sought to include in a company's fee a charge for activities that had occurred during the prior fiscal year.

Williams' Refund Petition

- 8 Williams' petition alleges that the Commission applied the Williams' directly-assigned costs to the fee methodology in a different manner than it had in previous years when it had directly billed Olympic Pipeline and Williams for extraordinary costs. Specifically, the Commission applied the benefit of the directly assigned payment by Williams and Olympic to all operators, interstate and intrastate, instead of assigning the benefit to the interstate pool of operators. Furthermore, Williams' alleges that the Commission did not provide "proper notice of its intention to deviate from this policy and the underlying rule."
- 9 Williams seeks a refund for the difference between what it actually paid and what it would have paid had the \$219,500 of directly assigned costs been deducted entirely from the interstate allocation.

10 At the time of the 2005 fee setting, staff believed it was equitable to include in Williams' fee a charge for unexpected inspection activities from the previous year. The Commission has discretion to "provide for an equitable distribution of program costs among all entities subject to the fee."⁹ Staff also believed that, in fairness, the benefit of the extra payment should be spread to all companies, since the unexpected incident activities reduced inspector time available for all other companies. However, in the process of reviewing the petition and working on a new fee methodology, staff has come to believe that the fee statutes require not only that program costs be allocated in an equitable manner, but also that the Commission adhere to a methodology that is consistent from year to year and that does not require deviation from the Commission's adopted rules. Williams agrees that it should, in equity, bear an additional share of the pipeline safety program fees for 2005 because of the incidents on its pipeline in 2004, but it proposes to do so in a manner that it believes is consistent with past practice. Williams request is reasonable and can be effectuated in a manner that is equitable to all companies.

Administrative Resolution

11 The Secretary will recalculate the fees for fiscal year 2005 as requested by Williams. However, instead of providing a refund only to Williams, the Secretary will authorize a refund to all eligible companies—that is, those operators that would have paid a lesser amount under Williams' theory. The total amount of refund will be \$148,618. Of that amount, \$85,334 will go to Williams. A spreadsheet is attached detailing the refunds. Fees will not be increased retroactively for those companies whose fees were lower than they otherwise would have been because of the direct billings. These companies received less service in the previous year because of the extra time devoted to Williams, and the pipeline safety fund balance is sufficient to issue this refund.

⁹ RCW 80.24.060(2), 81.24.010(2).

- 12 This resolution will avoid the expense and uncertainty of litigation and allow for a smooth transition to the proposed new fee methodology should the Commission adopt it later in the year.

DATED at Olympia, Washington, and effective this 10th day of June, 2005.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

CAROLE J. WASHBURN
Executive Secretary