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May 18, 2001

VIA FAX and EXPRESS MAIL

Carole Washburn
Executive Secretary
Washington Utilities and Transportation Commission
PO Box 47250
Olympia, WA 98504

RE: In the Matter of the Rule-Making Proceeding Related to Gas and Electric Companies--Chapters 480-90/100-123 Refusal of Service and 480-90/100-153 Disclosure of Private Information, Docket Nos. UE-990473 and UG-990294

Dear Ms. Washburn:

Public Counsel appreciates the opportunity to provide comments on the final remaining rules in these dockets, and commends Staff and the other stakeholders for the work that has gone into this process. These comments apply to both the electric and natural gas dockets, since the two rules are substantively the same.

I. 480-90/100-123 Refusal of Service

Public Counsel remains opposed to the proposed change to the prior obligation rule 480-90/100-123(5) that limits the use of this fundamental consumer protection to three times per year. We believe this limit to be arbitrary, capricious, and completely without merit or support in the record of this proceeding. We have filed comments in this proceeding on five separate occasions, each detailing our reasons for opposing the change to the current, effective rule. In summary:

- No gas or electric company has made a showing that the existing prior obligation rule is unduly burdensome or causes expenses unrecoverable in rates. No company has demonstrated a linkage between prior obligation and the level of uncollectables.
- Pacificorp, Northwest Natural and Avista have all recovered uncollectable bill expenses in rate cases before the Commission during the pendency of this proceeding.
- No participant has made a showing that the proposed changes to the prior obligation rule will in fact benefit consumers. There is no evidence that lower uncollectable costs, administrative costs, or billing costs will result or that the companies will flow such savings to ratepayers.
- Public Counsel's assertion that higher costs to consumers will result from changes to billing systems to allow companies to track each customer's use of the three allotted prior obligation exemptions is undisputed.

We note that the issue around refusal of service for economic reasons (formerly contained in 480-90/100-123(2)(e)) has been resolved by providing for a company's ability to petition for a waiver that would allow the company not to provide service (see proposed 480-90/100-123(3)(b)). If the Commission is inclined to modify the prior obligation rule, we see no reason why a waiver petition should not be employed when a company believes it can demonstrate good cause for denying a customer continued protection under the rule.

Public Counsel has no comments on the remaining sections of 480-90/100-123.

II. 480-90/100-153 Disclosure of Private Information

Public Counsel continues to support the inclusion of consumer protections for customer proprietary information. We note the Commission has adopted similar and reasonable protections for telecommunications customers in 480-120-151 through 480-120-154. We are concerned that the proposed revisions to 480-90/100-153(1) render the subsection effectively moot. The corresponding section in the telecommunications rules is 480-120-151(2) and (3) where (2) provides the prohibition and (3) allows for exceptions, with (3)(c) containing specific services that do not require prior customer approval. The energy rules, by contrast, contain no such delineation of specific services. As a result, electric and gas companies would appear to be precluded from using private information to market services, except to market their own, energy-related services, a considerable loophole. If it is the intent of the rule to prevent regulated utilities from capturing a competitive edge in the provision of unregulated services by virtue of their position, this rule would appear to provide little

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likelihood of success. If it is the intent of the rule to prohibit companies from marketing unregulated, non-energy products to customers without their consent, it appears to be sufficient. We suggest the Commission consider which policy goal it is pursuing and modify the rule as necessary.

Sincerely,

Matt Steuerwalt
Public Counsel Section