

Agenda Date: July 25, 2001
Item Numbers: 2A and 2B

Dockets: **UG-990294**
Gas Companies Operations - Rulemaking

UE-990473
Electric Companies - Rulemaking

Subject: Review of Commission's rules 480-90-123 and 480-90-153 WAC and 480-100-123 and 480-100-153 WAC

Staff: Graciela Etchart, Electric Companies Rulemaking Team Lead
James M. Russell, Gas Companies Operations Rulemaking Team Lead

Recommendation:

Staff recommends that the Commission direct the Staff to prepare a Rule Adoption Order for Commissioners' review to adopt new proposed rules WAC 480-90-123 & 153 and WAC 480-100-123 & 153.

Background:

On July 11, 2001, the Commission deferred a decision on the adoption of WAC 480-90/100-123, Refusal of Service, and WAC 480-90/100-153, Disclosure of Private Information, until the open meeting of July 25, 2001. The reasons for the delay were to allow stakeholders that, for technical reasons, had not been able to provide comments during the open meeting to do so, to allow for further discussion on additional issues raised by some stakeholders, and to clarify the prior obligation procedure.

On July 11, 2001, PacifiCorp submitted comments on WAC 480-100-123, Refusal of Service (electric). Also on July 11, Avista Corporation informed Staff that the Company had no concern with the language proposed for adoption at the open meeting. On July 12, 2001, the Northwest Industrial Gas Users informed Staff that they believed the proposed language crafted an appropriate balance protecting the interests of all consumers against legitimate utility concerns. On July 16, 2001, Puget Sound Energy (PSE) filed new comments on the redraft of WAC 480-90-123, Refusal of Service (gas) and WAC 480-100-123, Refusal of Service (electric).

The Gas and Electric Operations Rulemaking teams have reviewed these additional comments and are now prepared to recommend that the Commission adopt new language for WAC 480-90/100-123 Refusal of Service and WAC 480-90/100-153 Disclosure of private information. Attachments A and B are the revised draft gas and electric 123 and 153 rules proposed for adoption with the Staff-recommended edits in legislative format from the Supplemental CR-102 version.

Issues regarding WAC 480-90/100-123 Refusal of service:

Organization of the rule. This section was subject to extensive comment and the new language reflects consideration of those comments. Staff continues to propose to include a “catch all” subsection that would require a utility to file for Commission approval if the utility proposes to refuse service to a customer when the reason for the refusal is not specifically spelled out in the rule. Some subsections of the rule were revised as follows:

Acquisition of Rights-of-Way – WAC 480-90-123(1)(d) & 480-100-123(2)(d). On July 11, PacifiCorp submitted comments that agree with comments filed by PSE at an earlier date. PacifiCorp proposes to change the language of this subsection to read:

(2)(d): "Necessary rights of way, easements, approvals and permits have not been secured; or"

The Company’s rationale for this suggestion is that, in certain situations, it is the customer's responsibility to obtain rights of ways, easements, and other permits. PacifiCorp is concerned that the proposed language implies that the utility is responsible for securing all rights of way, easements, and other permits.

Most utilities’ line extension tariffs address the responsibility of the applicant to get the necessary rights of way and easements. It is not the intent of this rule that the utility be responsible for actually obtaining, paying for, or holding all rights-of-way, easements, approvals, and permits up to the customer’s burner tip, but that if all necessary right-of-way, easements, approvals, and permits are not in place, after reasonable efforts to secure them, the utility may not be required to provide service. Therefore, Staff proposes to revise this subsection to read:

(d) After reasonable efforts, all necessary rights-of -way, easements, approvals, and permits have not been secured.

Refusal of Service for Economic Reasons or for adverse impacts on other customers – WAC 480-90-123(3) & 480-100-123(4). On July 16, PSE offered additional comments on these issues. The Company suggests the following changes and/or additions to Staff’s proposed language:

“...The commission shall provide such approval upon determining that the utility has no obligation to provide the requested service under RCW 80.28.110. In making such determination, the Commission shall consider the economic feasibility of the utility providing the requested service, any adverse impacts on the utility's existing customers resulting from the utility providing

the requested service and all other relevant factors. Prior to seeking such determination, the utility is encouraged to work with the applicant or customer requesting service to resolve issues bearing upon the economic feasibility of service or upon the impact of such service on the utility's other customers. “

RCW 80.23.110 states that “Every gas company, electric company ..., engaged in the sale and distribution of gas, electricity ..., shall, upon reasonable notice, furnish to all persons and corporations who may apply therefor and be reasonably entitled thereto, suitable facilities for furnishing and furnish all available gas, electricity ... as demanded, ...”

PSE's draft includes economic feasibility and adverse impacts on other customers as reasons for the Commission to allow refusal of service. It also includes a requirement that the utility work with its customers to solve those issues prior to application to the Commission to refuse service. The Company states that the additional language, while not compromising the Commission's interests, also adequately addresses PSE's interests in this regard.

Staff agrees to add language requiring the utility to work with its customers in order to resolve all possible issues before applying to the Commission for approval to ultimately refuse service. But Staff does not believe that the rule language should contain specific examples for reason to refuse service. The language should be left flexible and open, consistent with the open language in RCW 80.28.110. Staff believes that the Commission should adopt the Staff's proposal as outlined in Attachments A and B (see subsections (4) [gas] and (5) [electric]).

Prior Obligation – WAC 480-90-123(4) & 480-100-123(5). Staff has revised the language with the intent of clarifying the procedure in the case where a customers incurs four or more prior obligations. Proposed subsection (4) of 480-90-123 is now included as subsection (1)(f) and proposed subsection (5) of 480-100-123 is now included as subsection (2)(f), in both cases with the necessary language corrections. The appropriate revisions are reflected in the revised rules in Attachments A and B.

Issues regarding WAC 480-90/100-153 Disclosure of private information.

In order to reflect the stakeholders' comments regarding this rule, Staff has deleted subsection (1) of the proposed language that a utility cannot use private consumer information to market services to its customers, except that the utility may use such information to market its own energy related services or products. Staff has also made minor language changes to subsection (2).

Conclusion:

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Staff recommends that the Commission direct the Staff to prepare a Rule Adoption Order for Commissioners' review to adopt new WAC 480-90-123 & 153 and WAC 480-100-123 & 153.

Attachments: Attachment A - Draft 480-90-123 and 153 WAC
Attachment B – Draft 480-100-123 and 153 WAC