

Agenda Date: August 8, 2001
Item Numbers: **2A and 2B**

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

UE-990473
Electric Companies - Rulemaking

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

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

Recommendation:

Direct Staff to request written comments on alternatives 2 and 3 regarding prior obligation for proposed WAC 480-90-123 and WAC 480-100-123, and defer the decision for adoption to the September 12, 2001, Open Meeting.

Background:

On July 25, 2001, the Commission deferred a decision on the adoption of WAC 480-90/100-123, Refusal of Service, until the open meeting of August 8, 2001. The reason for the delay was to continue discussion of the prior obligation issue. Staff has received additional comments about this rule from the Energy Project, PacifiCorp, and Public Counsel. Details of these comments are included below in the discussion of issues.

Organization of the rule. This rule was subject to extensive comment and the new language reflects consideration of those comments. Staff continues to propose 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. Certain 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 expressed agreement with the language changes made by Staff for subsection (2)(d) as a result of reviewing PacifiCorp’s proposal.

Refusal of Service for economic reasons or for adverse impacts on other customers – WAC 480-90-123(3) & 480-100-123(4).

On July 24, 2001, PacifiCorp submitted comments on WAC 480-100-123, Refusal of Service (electric). Regarding the changes to subsection (4), the Company stated that Staff’s proposed change in response to PSE’s comments eliminates the concept that adverse impacts on existing

customers may be a valid reason for a utility to refuse service. As a result, PacifiCorp proposed the following language:

"Upon prior approval of the commission, the utility may refuse to provide new or additional service for reasons not expressed in subsections (1) through (3) of this section, for example due to an applicant or customer adversely impacting an existing customer. The commission may grant the request upon determining that the utility has no obligation to provide the requested service under RCW 80.28.110. Prior to seeking commission approval, the utility must work with the applicant or customer requesting service to seek resolution of the issues resolved."

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 therefore and be reasonably entitled thereto, suitable facilities for furnishing and furnish all available gas, electricity ... as demanded, ..."

Staff does not believe that the rule language should contain specific examples for reason to refuse service. The phrase "adversely impacting an existing customer" is vague and subject to interpretation. The language should be left flexible and open, but require that denial of service for reasons other than safety, lack of necessary rights-of-way or illegally procured service be left to the Commission's determination, 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).

On July 24, the Energy Project submitted new comments objecting to changes recommended to the language of this rule. The Energy Project based its objection on the fact that the utilities have not provided substantial evidence that the current rule is being abused to a significant degree. The Energy Project also stated that when energy assistance programs can not extend help to the majority of eligible low-income households, the proposed change in the rule will cause hardship to low-income customers when considered together with the rising prices for natural gas and electricity.

Public Counsel also submitted comments on the prior obligation issue stating that:

1) Limiting prior obligation would increase costs because utility billing systems would have to be modified, disconnection and reconnection visits and transaction costs would increase, complaints would increase, and Commission's Staff would bear increased monitoring, enforcement and complaint response costs.

- 2) Limiting prior obligation would not benefit customers. According to Public Counsel, there is no evidence that uncollectables would decline or that any decline would be captured for ratepayers. Disconnections would push fixed cost recovery onto a smaller customer base. The goal of universal service would become less attainable, and some customers would go without essential electric and gas service.
- 3) There is no evidence in the record to support an arbitrary level of access to prior obligation protections, and no evidence to suggest that the current rule unduly burdens the utility.
- 4) If the Commission's goals are to promote the responsible use of prior obligation as an effective consumer protection, Public Counsel recommends a rule that allows companies to identify problem cases and petition for waivers of their obligation to serve, rather than capture all consumers in a change that is, according to Public Counsel, an unnecessary and costly reduction of their access to an essential public service. The proposed subsection (3) of the Refusal of Service rule is an example of such language.

Staff Discussion Of the Prior Obligation Issue:

The Commissioners expressed several concerns with the draft language as it applies to prior obligation. The prior obligation portion of the Refusal of Service rule reads, as drafted for the July 25, 2001, open meeting:

- (1) A . . . utility may refuse to provide new or additional service if: . . .
- (f) A residential applicant or residential customer has three prior obligations in any one calendar year and becomes delinquent and is disconnected a fourth time. A prior obligation is the dollar amount, excluding deposit amounts owed, the utility has billed to the customer and for which the utility has not received payment at the time service has been disconnected for non-payment. This subsection does not apply to customers that have been disconnected for failure to honor the terms of a winter low-income payment program. The company must, once the customer or applicant has paid all amounts associated with the fourth delinquency and disconnection, as well as appropriate deposit and reconnection fees, provide service.

The Commission expressed its desire for additional information, including:

- To the extent available, information from the regulated utilities about the number of customers who use prior obligation as a way to reconnect service;
- Methods used by Washington state public utilities to manage a customer's service when the customer has not paid his/her bill for service; and
- The level of bad debt experienced by regulated utilities.

Staff has gathered the information requested by the Commission, as follows:

Avista, the only company able to supply data, tells us that, in 1999 in the Spokane area, 1,240 electric customers used prior obligation. The frequency distribution of that use is as follows:

- 1,240 used it once
- 422 used it twice
- 168 used it three times
- 87 used it four times
- 60 used it five times
- 30 used it six times
- 18 used it seven times
- 15 used it eight times
- 6 used it nine times
- 3 used it ten times
- 3 used it eleven times

Staff gathered information from the four largest public utilities in the state (Seattle City Light, Snohomish County PUD, City of Tacoma, and Clark County PUD). All four utilities can, if a customer fails to pay the bill, disconnect service after giving notice to the customer. Further all four utilities can refuse to reconnect service until the bill is paid in full. Generally, each utility tries to make payment arrangements for the past-due amount agreeable to both itself and the customer, but it has no obligation to do so. In addition, all four utilities have a discounted rate program for qualifying low-income customers, where the customer can receive a discount of anywhere from 23% to 69% from rates charged to other ratepayers (See Attachment C for more detail).

Bad debt, or uncollectable accounts, for regulated companies are less than 1% and, in most cases, less than .5% (see Attachment D). This amount includes both residential and commercial customers, so only some portion of that is applicable to prior obligation (since only residential customers can use prior obligation and even then, not all residential customer's bad debts can be attributed to prior obligation).

As a result of gathering additional information, reviewing the information it already has (including prior draft language), Staff has formulated the following three alternatives for the Commission to consider at today's open meeting.

Alternative 1:

Adopt the language as proposed at the July 25, 2001, Open Meeting, where each customer is allowed three prior obligations and, on the fourth delinquency and disconnection, the customer must pay all past-due amounts associated with the fourth delinquency and disconnection before

service is reconnected. The customer would be allowed three prior obligations each calendar

year.

Alternative 2:

Adopt language that allows each customer two prior obligations and, on the third delinquency and disconnection, the company must allow the customer to pay back all amounts associated with the third delinquency and disconnection over a period of six months. If the customer enters into this payment arrangement, he/she would be required to pay each month of the current month's usage plus one-sixth of the delinquent amount associated with the third delinquency. If a customer fails to keep the payment arrangement at any time during the six-month period, the company could disconnect the customer without prior notice and refuse to reconnect the customer until the full delinquent amount (associated with the third delinquency) is paid. The customer would be allowed two prior obligations and one six-month payment arrangement each calendar year.

Alternative 2 is similar to language proposed by Staff in its first draft, where it proposed a limit of two prior obligations plus a separate rule that required mandatory six-month payment arrangements for delinquent amounts.

Alternative 3:

Combine Alternative 1 and 2: Adopt language that allows each customer three prior obligations and, on the fourth delinquency and disconnection, the company must allow the customer to pay back all amounts associated with the fourth delinquency and disconnection over a period of six months. If the customer enters into this payment arrangement, he/she would be required to pay each month of the current month's usage plus one-sixth of the delinquent amount associated with the fourth delinquency. If a customer fails to keep the payment arrangement at any time during the six-month period, the company could disconnect the customer without prior notice and refuse to reconnect the customer until the full delinquent amount (associated with the fourth delinquency) is paid. The customer would be allowed three prior obligations and one six-month payment arrangement each calendar year.

Conclusion:

Staff believes that a thorough discussion of the issues outlined above will provide important input to allow Staff to bring this matter back before the Commission for adoption at the September 12, 2001, Open Meeting.

Attachments: Attachment A – Draft WAC 480-90-123 Refusal of Service
Attachment B – Draft WAC 480-100-123 Refusal of Service
Attachment C – Public Utility Low-Income Programs
Attachment D – Historical Utility Bad Debt