

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Amending and Adopting) DOCKET PL-120350
)
) GENERAL ORDER R-568
WAC 480-75-630, Incident reporting,)
) ORDER AMENDING AND
Relating to Hazardous Liquid) ADOPTING RULE PERMANENTLY
Companies - Safety)
)
)
.....)

1 **STATUTORY OR OTHER AUTHORITY:** The Washington Utilities and Transportation Commission (Commission) takes this action under Notice WSR # 12-21-141, filed with the Code Reviser on October 24, 2012. The Commission has authority to take this action under RCW 80.01.040(4), RCW 81.01.010, RCW 81.04.160, RCW 81.88.040, RCW 81.88.065, and Laws of 2007, ch.142, § 1, § 2, and § 5.

2 **STATEMENT OF COMPLIANCE:** This proceeding complies with the Administrative Procedure Act (RCW 34.05), the State Register Act (RCW 34.08), the State Environmental Policy Act of 1971 (RCW 43.21C), and the Regulatory Fairness Act (RCW 19.85).

3 **DATE OF ADOPTION:** The Commission amends this rule to be effective on April 1, 2013.

4 **CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE:** RCW 34.05.325(6) requires the Commission to prepare and publish a concise explanatory statement about an adopted rule. The statement must identify the Commission’s reasons for adopting the rule, describe the differences between the version of the proposed rules published in the register and the rules adopted (other than editing changes), summarize the comments received regarding the proposed rule changes, and state the Commission’s responses to the comments reflecting the Commission’s consideration of them.

OFFICE OF THE CODE REVISER STATE OF WASHINGTON FILED
DATE: January 16, 2013
TIME: 8:27 AM
WSR 13-03-099

5 The Commission amends WAC 480-75-630, Incident reporting, to provide supplemental reporting and evidentiary records and documentation needed by the Commission to assist the Commission in implementing recent amendments to the underground utilities law, Chapter 19.122 RCW. This new law, enacted as chapter 263, Laws of 2011, authorizes the Commission to enforce the underground utilities law as it relates to pipelines. Changes to this law take effect on January 1, 2013. The new rule adds new reporting and records retention requirements for hazardous liquid pipeline companies in the event of damage to a hazardous liquid pipeline and also requires additional reporting of excavations within thirty-five feet of a transmission pipeline if there has been no facilities locate completed and when a person intentionally damages or removes marks indicating the location of pipelines. The Commission designates the discussion in this Order, including Appendix A, as its concise explanatory statement.

6 **REFERENCE TO AFFECTED RULES:** This Order amends the following section of the Washington Administrative Code:

Amend WAC 480-75-630 Incident reporting

7 **PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS**

THEREUNDER: The Commission filed a Preproposal Statement of Inquiry (CR-101) on March 21, 2012, at WSR # 12-07-087. The statement advised interested persons that the Commission was considering establishing rules to require hazardous liquid pipeline companies to report information about damage to their pipeline facilities caused by excavators that have violated the underground utilities law, and to provide to violators information about their rights under the revised law. The Commission also informed persons of this inquiry by providing notice of the subject and the CR-101 to everyone on the Commission's list of persons requesting such information pursuant to RCW 34.05.320(3) and by sending notice to a list of all hazardous liquid pipeline companies. The Commission posted the relevant rulemaking information on its Internet website at <http://www.utc.wa.gov/120350>. Pursuant to the notice, the Commission hosted a stakeholder workshop on May 10, 2012, to discuss the establishment of additional reporting rules, and received written comments by May 25, 2012. On October 26, 2012, the Commission issued draft rules to all interested persons with a November 26, 2012, deadline for filing comments.

- 8 **MEETINGS OR WORKSHOPS; ORAL COMMENTS:** The Commission held one workshop on May 10, 2012, at 1:30 p.m. In addition to staff, the following stakeholders attended the workshop: Gary Hyatt, Northwest Natural; Sharon Banfield and Randy Bareither, Avista Utilities Corporation; Ed Hawthorn, City of Enumclaw; Scott Sammons, Puget Sound Energy; Holly Williamson, Olympic Pipeline; Jason Lambert, Williams-Northwest Pipeline; and Steve Kessie and Tina Beach, Cascade Natural Gas Corporation. There was general consensus that additional reporting requirements would not be financially burdensome to the companies. There was however some confusion among some of the stakeholders regarding staff's proposal for companies to report violators who excavate within 35 feet of a transmission pipeline. They believe it was the Commission's expectation that pipeline companies be required to continuously monitor their transmission pipeline rights-of-way in order to identify violators. This requirement would result in significant costs increases to companies.
- 9 **NOTICE OF PROPOSED RULEMAKING:** The Commission filed a notice of Proposed Rulemaking (CR-102) on October 24, 2012 at WSR #12-21-141. The Commission scheduled this matter for oral comment and adoption under Notice WSR #12-21-141 at 9:30 a.m., Wednesday, December 19, 2012 in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington. The Notice provided interested persons the opportunity to submit written comments to the Commission.
- 10 **WRITTEN COMMENTS:** The Commission did not receive comments on the hazardous liquid rulemaking.
- 11 **RULEMAKING HEARING:** The Commission considered the proposed rule for adoption at a rulemaking hearing on Wednesday, December 19, 2012, before Chairman Jeffrey D. Goltz, and Commissioner Patrick J. Oshie. No other interested person made oral comments.
- 12 **COMMISSION ACTION:** After considering all of the information regarding this proposal. including comments filed by interested stakeholders, the Commission finds and concludes that it should amend the rule as proposed in the CR-102 at WSR # 12-21-141, with an effective date of April 1, 2013, with the changes described below.

13 **CHANGES FROM PROPOSAL:** After reviewing the entire record, the Commission adopts the CR-102 proposal with the following changes from the text noticed at WSR #12-21-141:

14 **WAC 480-75-630, Incident reporting.**

The Commission modifies language in WAC 480-75-630(4)(b), second sentence to read:

The company must include this information in the comment section of the web-based damage reporting tool form or ~~sent~~ **send it** to the commission separately.

The Commission modifies language in WAC 480-75-630(6)(a) and (b) as follows:

- (a) An excavator digs within thirty-five feet of a transmission pipeline, as defined by RCW 19.122.020(26), without first obtaining a **facilities** locate; or
- (b) ~~Some maliciously~~ **A person** intentionally damages or removes marks indicating the location or presence of pipeline facilities.

15 **STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE:** After reviewing the entire record, the Commission determines that WAC 480-75-630 should be amended to read as set forth in Appendix A, as a rule of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380(2) on April 1, 2013 to allow the hazardous liquid pipeline companies adequate time to comply with the new reporting requirements.

ORDER

16 **THE COMMISSION ORDERS:**

17 The Commission amends WAC 480-75-630 to read as set forth in Appendix A, as a rule of the Washington Utilities and Transportation Commission, to take effect April 1, 2013.

18 This Order and the rule set out below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the Code Reviser for filing pursuant to RCW 80.01 and RCW 34.05 and WAC 1-21.

DATED at Olympia, Washington, January 16, 2013.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION



JEFFREY D. GOLTZ, Chairman



PHILIP B. JONES, Commissioner

Note: The following is added at Code Reviser request for statistical purposes:

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 1, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

APPENDIX A

Docket PL-120350

WAC 480-75-630, Incident reporting