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Submitted via Electronic Filing to *Records@wutc.wa.gov*

Ms. Carole J. Washburn
Secretary
Washington Utilities & Transportation Commission
1300 South Evergreen Park Drive SW
P.O. Box 47250
Olympia, Washington 98504-7250

Re: Pipeline Fee Methodology Rulemaking to Review WAC 480-93-240 and WAC 480-75-240, Docket No. P-041344

Dear Ms. Washburn:

In response to the Commission's November 23, 2004 Notice of Opportunity to File Written Comments in the above-captioned proceeding, the Northwest Industrial Gas Users (NWIGU) submits these initial comments in response to the questions presented by Commission staff. NWIGU appreciates the opportunity to submit written comments today and the ability to have participated in this rulemaking proceeding through the initial workshop conducted by the WUTC Staff and looks forward to further discussion at the next workshop on January 11, 2005.

Overview of Comments

NWIGU is a non-profit association comprised of thirty-two industrial users of natural gas with major facilities in the states of Washington, Oregon and Idaho. Some NWIGU members own gas facilities that directly connect their plants in Washington to the Williams' Northwest interstate pipeline. These operators' intrastate gas pipelines are accordingly subject to safety regulation by the WUTC, and these direct connect customers pay a direct share of Pipeline Safety Program fees under RCW 80.24.060. NWIGU members also pay for interstate pipeline company assessments on TransCanada's Gas Transmission Northwest and Williams' Northwest Pipeline indirectly to the extent the charges are incorporated into the interstate pipeline rates, and industrial customers pay for local distribution companies' assessments indirectly to the extent the utilities'

Pipeline Safety Program costs are included in their respective rates for those that take service behind the utilities.

The overarching concern for NWIGU is that any new methodology be a justified improvement over the current. NWIGU submits that a review is appropriate of current methodology but that the review may well properly conclude that no change is merited at this time. As noted by the 2003 Joint Legislative Audit & Review Committee, "[t]he implementing rules the WUTC adopted in June 2001 were closely congruent with this statutory language [referring to the application of RCW 80.24.060]" See JLARC, http://jlarc.leg.wa.gov/Reports/03-5.pdf at p. 30.

In addition, it is NWIGU's understanding from the initial workshop that a significant amount of the costs included in the Safety Program assessment are general overhead allocations from the functioning of the Commission itself (i.e., the building, the administrative support, etc.). These costs are by their nature indirect and most properly recovered through the current per mile formula.

Questions:

1) What is your position as to what program costs or activities your company should pay for directly? That is, should the program make every effort to directly assign as many of the program costs to company fees as possible or should there be limits on what is directly assigned? Please be as specific as possible and explain how your position is consistent with the applicable statute.

Under the current methodology, each company's fee includes the average cost of conducting the standard inspections that are planned for that company over the year for which the fee is being collected. Under RCW 80.24,060, the Commission's rules must provide for this "direct assignment of average costs associated with annual standard inspections." By statute, the fee methodology established by the Commission must include "direct assignment" of these anticipated standard inspection costs (which may change over time as requirements and industry best engineering practices change).

The governing statutory language also requires a "uniform and equitable means of estimating and allocating costs of other duties relating to inspecting pipelines for safety that are not directly assignable, including but not limited to design review and construction inspections, specialized inspections, incident investigations, geographic mapping system design and maintenance, and administrative support." These activities are not directly assignable but this does not mean that some of these activities cannot be attributed via an appropriate estimate to a specific company for fee making purposes if the method is uniform and equitable (like incident investigations that exceed a set threshold) or to a specific industry group.

NWIGU recommends that the Commission continue use of pipeline miles as the best method for assigning non-directly assignable costs because it correlates to the WUTC's efforts and is a fair, objective measure for such allocation. In addition to directly assigning average costs of planned standard inspections, the program has charged companies for significant incident activities in the past, and NWIGU recommends that this practice be continued with express incorporation into the rule for the charging of such activities above a set threshold. These additional charges should not increase the total amount of fees collected by the program but rather reduce the fees for others. That is, after a year when the program expends more time than was planned for a company because of incidents and construction activities, NWIGU recommends that the program attempt to recoup those costs directly from the company in the next year's fees (recognizing that this would reduce the fees of the other companies for that next year).

2) For those program costs that can be directly assigned to an industry group, should they be allocated to the companies within that industry group (and how should they be allocated) or should they be treated as unassigned costs allocated to all companies?

The most precise method of cost allocation identified by the WUTC Staff consultant at the November 16, 2004 workshop was method 4b using four industry pools with an allocation by miles within each of the four pools (inter/intra/liquid/gas). NWIGU can support this method of allocation based on its configuration in the November 16 workshop. Alternatively NWIGU can support method 3b, which also creates inspection pools based on the four main types of inspection activities with indirect costs allocated by miles, method 5b with two pools (gas and liquids), or method 6b with two pools and direct time allocation. In addition, NWIGU would support retention of the current method. NWIGU does not support allocations that average various methods because they are too difficult to audit and they do not provide cost causation support for a change from the current method. NWIGU also supports mileage as the best basis for indirect cost allocation.

3) What is your position as to what costs or activities should not be directly assignable to companies? Please be specific and explain how your position is consistent with statute.

Please see response to Question 1.

4) What is your preferred method for allocating non-directly assignable program costs to operators and why? (e.g.: 1. allocating non-directly-assignable costs by using pipeline miles is the best method because it directly correlates to the program's effort or 2. allocating non-directly-

assignable costs by using directly assigned time most closely correlates to the program's effort or 3. I have a better idea.)

NWIGU finds the use of miles for allocating non-directly assignable program costs to operators to be the most equitable and reasonable choice possible. Not only does mileage directly correlate to the program's efforts, but it is also much more objective. Indirect costs do not necessarily correlate with the cost assignment of direct time.

5) Should some portion of the unassigned program costs be covered by a flat base fee paid uniformly by all companies?

No, NWIGU does not support a flat base fee, as there is no real cost support for doing so. Such a structure would in effect penalize the small entities.

6) In addition to directly assigning average costs of planned standard inspections, the program has charged companies for significant incident and construction-related inspection activities. This additional charge did NOT increase the total amount of fees collected by the program but rather reduced the fees for others.

a) Do you support an additional fee or charge to cover unexpected incident and construction-related activities that occurred over the previous year? That is, after a year when the program expends more time than was planned for a company because of incidents and construction activities, should the program attempt to recoup those costs directly from the company in the next year's fees (recognizing that this would reduce the fees of the other companies for that year)? If yes, please indicate how state law supports this type of billing.

b) Should the program recoup costs from companies for every incident and construction-related activity or should the program do so only in those situations when the company-related activities significantly exceeded the program's plan for incident and construction activities?

c) How should assignment of actual program costs for such activities affect the fees paid by other companies?

NWIGU supports the Commission's policy of charging operators for unexpected incident and construction-related activities that occurred over the previous year in a direct billing. NWIGU recommends that this practice be continued with express incorporation into the rule for the charging of such activities above a set threshold from that previous year's budget (e.g., 20% above that budgeted). These additional charges should not increase the total amount of fees collected by the program but rather reduce the fees for others in the next year, as the total fees should be offset by the direct billings. That is, after a year when the program expends more time than was planned for a company because of incidents and construction activities above a predetermined threshold applied uniformly to all operators, NWIGU recommends that the program attempt to recoup those costs directly from the company in the next year's fees (recognizing that this would reduce the fees of the other companies for that next year). As long as the threshold is set in a uniform manner for all operators, the allocation of costs above that threshold should be supported under the statute as an appropriate direct billing.

7) Currently, the program's federal grant is received in a hazardous liquid component and a natural gas component, but the sum of the two grants is divided between the interstate and intrastate companies. The federal grant is deducted from these two cost pools before specific operator fees are set and no distinction is made whether a company pays a federal fee or not. What other method would your company suggest for crediting companies for the federal grant? For those companies who pay a pipeline safety fee to the federal program, what portion, if any, should be returned directly to them through the grant and fee methodology?

NWIGU recommends that current practice continue with the same percentage of allocation between interstate and intrastate used for grant offset as is used for cost allocation. Redoing the allocation every two years keeps the allocation sufficiently updated.

8) State law states that "average costs" should be used with direct assignment. The current fee method estimates what the average costs will be to conduct an average standard inspection for that fee year. Many of the options presented at the Nov. 16 workshop uses a two-year average of the program's historical costs in setting the next year's fee. What is your position regarding how to determine average costs?

NWIGU would continue to support the updating of average costs by using a two- year average of the program's historical costs in setting the next year's fee (with the offset for direct billings for excessive incident and construction activities).

9) Are you satisfied with the current fee methodology?

NWIGU finds the current methodology acceptable.

10) If current fee method was retained, what changes would you suggest?

Express rules for direct billing of excessive incident and construction activities to satisfy statutory considerations.

11) Below are some of the fee concepts presented at the workshop, either by our consultant or by participants. Please indicate which of the concepts below you would like to see as part of an improved fee method:

a) Single pool where fee is based on company's two-year average of directly assignable inspection time.

No, NWIGU does not support this method as cost based, and it has no mileage correlation for indirect costs.

b) Inspection pools where fee is based on company's two-year average of inspection time as a percentage within each of the four major inspection activities. (See Option 3a in workshop materials)

NWIGU supports only version 3b and is opposed to any method not using mileage for indirect costs.

c) Industry pools where fee is based on company's two-year average direct charged time as a percentage within one of the four industry pools. (See Option 4a in workshop materials)

NWIGU supports only version 4b.

d) Gas/Liquid Pools where fee is based on company's two-year average direct charge time as percentage within either the gas or hazardous liquid pool. (See Option 5a)

NWIGU supports only 5b.

e) Inter/Intrastate Pools where fee is based on company's two-year average direct charge time as percentage within interstate or intrastate pools. (See Option 6a)

NWIGU supports only variation 6b.

f) Indirect costs, however defined, are allocated on a per mile basis.

NWIGU as previously detailed supports this method for indirect cost allocation.

g) Annual company fee increases are limited to 20 percent per year.

NWIGU support a cap to mitigate cost increases on a year-to-year basis, but would exclude direct billings for excessive incidents or construction activities from this cap.

h) Indirect costs, however defined, are reduced by a minimum base charge assessed to all companies.

NWIGU is opposed to a base charge structure, as it is inherently not cost based.

i) Directly assign as much of the costs as possible so as to limit the amount of indirect costs that have to be allocated.

NWIGU does not believe the agency can go further down the path of direct assignment than it already has done, given the significant level of expenses that are purely agency overhead.

11) Please submit any suggestions you have for developing a regulatory incentive program consistent with state statute?

Direct billing for excessive incidents is a regulatory incentive structure the Commission should consider.

What other comments, suggestions would you like to offer?

NWIGU would like to reserve the opportunity for further comment at the January 11, 2005 workshop and to respond to the comments of others at that time. NWIGU appreciates the thorough review that the agency has undertaken and would only note that the effort may well result in current structure retention as being the optimal solution and would ask for that option to remain a specific consideration in the deliberations going forward.

Respectfully submitted,

/s/

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Northwest Industrial Gas Users

cc E. Finklea
C. Stokes