

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Rule-Making  
Proceeding Related To

Reporting of Transactions Between  
Regulated Companies and Their  
Subsidiaries.

DOCKET NO. A-021178

INITIAL COMMENTS  
OF PUBLIC COUNSEL

**Initial Comments of Public Counsel  
Attorney General of Washington**

**November 27, 2002**

Public Counsel files these initial comments in response to the Commission's October 28, 2002, Notice of Opportunity to File Written Comments. Public Counsel may file additional comments as the rulemaking develops.

1. This Rulemaking Addresses an Important Deficiency in Existing Law.

Public Counsel strongly supports the Commission's decision to address the issue of subsidiary transactions through rulemaking. As the attached article from Standard and Poor's reflects, transactions between regulated utilities and parent corporations, affiliates, and subsidiaries are an important current cause of concern. Events have shown how these transactions can threaten the financial health of regulated utilities. This impairment of financial stability can negatively impact the rates, service quality and reliability of regulated companies to the direct detriment of consumers. Proliferation of affiliate and subsidiary transactions has rendered state regulatory protection of consumers ever more difficult. Like affiliated interest transactions, subsidiary transactions pose a significant risk of less than arm's-length dealing. This rulemaking provides an opportunity to fill a gap in the Commission's toolbox.

2. The Rules Should Be Broad In Scope.

In general, the existing affiliated transaction rules can provide guidance for the structure of these new rules. However, as the Commission observed in its Notice, recent troubling instability in the regulated industries may provide the lessons new approaches are required. These may need to go beyond those rules envisioned in the environment when the existing affiliated interest rules were adopted. Public Counsel recommends that the Commission adopt rules, which are broad in scope as to the type of transactions covered and as to the contents of the filings. Public Counsel recommends in this respect that the rules cover not only transactions between regulated industries and their subsidiaries, but also transactions between regulated utilities and their parent corporations, to the extent not addressed by existing law. Practices such as assumption of financial obligations by the regulated utility to assist the parent, or dividends sent to the parent can present serious financial risks to ratepayers.

3. Timing and Contents of Filings.

Public Counsel supports an examination in this rulemaking of the extent to which pre-filing or pre-approval of transactions may be advisable to a greater extent than in the past. It may be that experience with the affiliated interest filing requirements will shed valuable light on this question. In general, Public Counsel is concerned that current requirements in some instances have permitted companies to proceed with transactions that are difficult to unravel when later it becomes apparent that they are harmful to consumers. The reservation of ratemaking treatment may not always be an adequate protection of the Commission's ability to later review transactions. The Commission should also consider whether to require additional certifications or representations from senior company officials in connection with transactional filings as to the impact of the transactions on the regulated company.

4. Conclusion.

The framework announced by the commission in the September 25, 2002, Staff Open Meeting memorandum and reiterated in the Notice of Opportunity to File Written Comments provides a reasonable basis upon which to begin drafting the appropriately balanced rules. Public Counsel looks forward to working with the Commission and all stakeholders during the development of these rules.