

## PSE's Suggested Revisions to Staff's Preliminary Draft Rule

### **WAC 480-80-335 Special contracts for electric, water, and natural gas companies.**

(1) Contracts to be filed. Electric, water, and natural gas companies must file with the commission all contracts for the retail sale of regulated utility services to end-use customers that:

- (a) Contain or state charges or conditions that do not conform to any applicable tariff; or
- (b) Provide for utility services not specifically addressed in the company's published tariffs.

(2) Substantial modification of a previously executed contract will be treated as a new contract for purposes of this section.

(3) All contracts filed pursuant to this section have the same effect as filed tariffs and are subject to enforcement, supervision, regulation, and control as such. The provisions of this chapter will apply except for those provisions governing the filing, notice, and form of tariffs, including those stated in WAC 480-80-060 through 480-80-320.

(4) Filing and effective dates. The contract will become effective on the effective date stated on the contract or thirty days after the filing date, whichever occurs later, unless suspended or rejected by the commission. The commission, for good cause shown, may approve an earlier effective date. In no event will a contract become effective on a date that precedes commission approval. The request for an earlier effective date must include a complete explanation of why an earlier effective date is appropriate.

(5) Documentation.

(a) Companies must provide documentation to the commission showing that:

~~(i) The customer has a viable alternative to taking service from the company under its tariff;~~

(ii) The contract does not result in discrimination between customers receiving like and contemporaneous service under the same or substantially similar circumstances; and

(iii) At a minimum, the contract charges recover all incremental costs associated with providing service during its term plus provide a contribution to the utility's fixed costs.

(b) Documentation will include the following information:

~~(i) Identity of other service providers not regulated by the commission that are available to provide service to the customer;~~

(ii) A statement summarizing the basis of the charge(s) proposed in the contract and an explanation of the derivation of the proposed charge(s);

(iii) An explanation of all cost computations involved in the derivation of the charge(s) in the contract; and

(iv) A statement indicating the basis for using a contract rather than a filed tariff for the specific service involved.

~~(6)~~ Duration of contract. All contracts must be for a stated time period. The commission may approve terms and conditions that prescribe the charge(s) to be applied during the time period, if such charges are found to be appropriate.

~~(7)~~ Unless the utility requesting the special contract proposes otherwise, provided by the commission; such approval or action allowing a special contract to take effect will shall constitute a rebuttable presumption as to the reasonableness of the utility's actions ~~not be determinative~~ with respect to the expenses and revenues of the

company for subsequent ratemaking considerations.

(8) Filings under this section may be submitted with portions designated "confidential" pursuant to Chapters 42.17 RCW, RCW 80.04.095, and WAC 480-09-015. However, unless the company receives a waiver from the commission of this section as described below in section 9, any special contract filing which designates the following essential terms and conditions as "confidential" may be rejected by the commission: ~~Essential terms and conditions include, but are not limited to, the:~~

- (a) Identity of the customer;
- (b) Nature and characteristics of the service provided, including interruptible, firm, or peak delivery;
- (c) Duration of the contract, including any options to renew;
- (d) Charge(s) for service, including minimum charge provisions;
- (e) Geographic location where service will be provided; and
- (f) Additional obligations specified in the contract.

(g) The statement required in (5) (b) (iv) *[and/or (5) (a) (i) and (5) (b) (i) if those provisions are retained]* above explaining why a special contract is being used rather than a filed tariff.

(9) A utility or special contract customer may request a waiver of any or all the public disclosure requirements listed above in (8) a-g. The commission will act on such requests within 31 days of its filing. To obtain a waiver of these public disclosure requirements, the utility or special contract customer must demonstrate the following:

The information requested to be accorded confidential treatment is required to be protected under Chapter 42.17 RCW or 80.04.095 RCW; or,

The party applying for the waiver demonstrates to the commission that the public interest is, on balance, advanced by affording confidential treatment of the specific information.