WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

Docket No P. 041344

Pipeline Fee Methodology Rulemaking

COMMENTS OF WILLIAMS NORTHWEST PIPELINE

December 15, 2004

Williams Northwest Pipeline ("Williams) is an interstate natural gas pipeline with facilities in the state of Washington. Williams supports WUTC's review of the Pipeline Safety Fee Methodology because the existing system fails to meet the legislative mandate to directly assign the average costs associated with annual inspections and implement of uniform and equitable means of estimating and allocating the remaining costs. As an Interstate Natural Gas Company under the jurisdiction of the Federal Office of Pipeline Safety, Williams is subject fair and equitable national oversight from the Office of Pipeline Safety. Williams appreciates the opportunity to file these comments.

General Comments:

Williams' response and comments may make more sense if we first respond to Question 9.

Question 9: "Are you satisfied with the current fee methodology?"

Williams is not satisfied with the current fee methodology. We believe, as a guiding principle, that the charges to the various pipeline companies should reflect and approximate the workload that any particular pipeline company causes the WUTC. By nearly any metric used, the current methodology does not accomplish this. Consider the following examples:

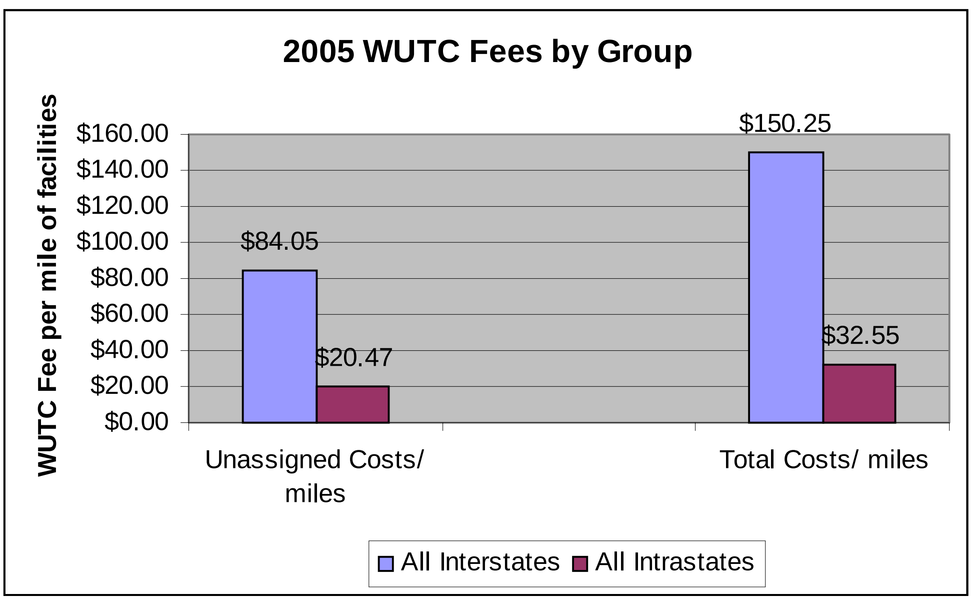
- There are currently 2,459 miles of interstate facilities and 19,328 miles of intrastate facilities in Washington. This means that interstate facilities comprise less than 13% of the total pipeline miles. Absent unusual circumstances, such as the high number of inspections of Williams' facilities in the past year and the earlier Olympic anomaly inspections, inspection activity should approximate the relative mileage of interstate and intrastate pipelines. Consequently, absent unusual circumstances, approximately 13% of the program costs should be borne by interstate pipelines and 87% borne by intrastate pipelines. Under the current fee methodology, interstate pipelines as a group pay 37% of the program costs. Interstate pipelines as a group are grossly overcharged and shoulder a disproportionate share of the costs of the program.

- Another way to quantify the inequitable treatment of interstate pipelines under the current fee methodology is to examine the total charges to the two groups on a per mile basis. The final report of the Joint Legislative Audit and Review Committee (JLARC) of Washington's Pipeline Safety Office dated June 19, 2003 noted that interstate pipeline companies as a group paid seven times more per mile of facilities to the WUTC than the intrastate pipeline companies. (JLARC report page 24).

- There has been some improvement to this discrepancy following JLARC due to the adjustment in the formula for dividing cost between the interstate and intrastate companies (now divided 37%-63%) and the increase in the per day charge for inspectors, but the disparity is still great. The charge to the group of interstate companies for "unassigned costs" is $84.05 per mile of facilities but only $20.46 per mile of facilities to the group of intrastate companies.

- When the total safety fee charges by the WUTC to interstate and intrastate companies are compared on a per miles basis, the charge to the interstates is $150.25 per mile of facilities but only $32.55 per mile of facilities for the intrastates. Thus, the cost of inspections for interstate pipelines in Washington as a group is four to five times as great for each mile of facilities as it is for intrastate pipelines.

  The disparity in the state assessed fees can be graphically represented as follows:



- The two foregoing examples of the disparities in the current fee methodology do not take into account the fact that those companies with transmission pipelines (generally but not exclusively the interstates) also pay the federal Office of

Pipeline Safety a per mile fee that covers the cost of annual pipeline inspections. For Williams Northwest Pipeline, this per mile fee for facilities in Washington was $189,759 for 2005, bringing its total fee for inspection of its facilities in Washington State for the year to $603,643l. The federal fee issue is discussed below in the response to Question 7: the point here is that the disparities in the two foregoing examples do not fully reflect the inequity of the current fee methodology.

- There seems to be a false notion underlying the current fee methodology that interstate pipelines, which tend to have larger diameter pipeline facilities, pose a greater safety concern to the public than small diameter pipelines, and that higher safety fees charged to interstate facilities are therefore justified. This is not the case. By nearly any metric, the dangers presented by intrastate facilities are equal to or greater than those presented by interstate pipelines. For example, the nation-wide pipeline statistics on the OPS website linked to the WUTC website indicate that transmission pipelines comprise 21% of the miles of the combined natural gas transmission and distribution systems in this nation, but transmission pipelines accounted for 16% of the national fatalities on both systems between 1986 and 2004 and 14.5% of the injuries on both systems during this same period. Conversely, distribution pipelines with 78% of the pipeline miles account for 83% of the fatalities and 85% of the injuries during this period. There is no basis to the notion that natural gas transmission pipelines present a greater danger than distribution pipelines.

- There is also no basis to the notion that large diameter, high capacity pipelines (which tend to be interstate pipelines) are more difficult to inspect than smaller diameter pipelines (which tend to be intrastate lines). Smaller diameter intrastate facilities tend to be concentrated more in urban areas, and the interstate pipelines are in more rural areas. Inspections of intrastate facilities in urban areas involve more records and are more complex than inspection of interstate facilities. There is no basis to the notion that interstate pipelines require a greater level of inspection activity than intrastate pipelines.

For the foregoing reasons, Williams must respond to Question 9 that it is not satisfied with the current system. With that general background, Williams responds to the other questions as follows:

Question 1 <u>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.</u>

It appears to Williams that not everyone at the recent workshop is using the term “direct costs” in a consistent manner and that what the WUTC considers a “direct cost” is difficult to determine. There is a big gap between the easily identifiable and directly assigned “inspector days” and the Pipeline Safety Division’s records which are the basis of the 63-37% division in the program between two classes of pipelines. Are the direct costs to be assigned to interstate pipelines the identifiable inspector days, the 37% of identifiable time currently used to assign 37% of the program costs to in interstate companies, or something in between?

With that caveat on terminology, Williams responds that that it believes the program would be more equitable if more program costs were directly assigned to program participants.

Williams submits that as a guiding principle for the program, the charge to any company should reflect the workload that company generates for the WUTC Pipeline Safety Office. Assigning direct costs to companies is one way to implement this guiding principle. Please note that while Williams has protested portions of it 2005 fee, it has not protested being directly charged $219,050 for non-standard inspections related to issues on Williams’ 26” line which began with the Lake Tapps incident. This is because this charge, though substantial, is in line with this underlying philosophy.

Under the current fee methodology, the WUTC charged Williams for a total of 72 inspector days in 2004 (32 standard inspections, 15 LNG and 25 construction inspections) and for 2005 at total of 113 inspector days (48 standard inspections, 15 LNG and 50 construction inspections) plus the 325 inspector days directly charged for special inspection. As discussed below, Williams has some issues with the total number of inspector days is has been charged for, but Williams does not disagree with the concept of directly assigning to program participants costs that are determined to be associated with that program participant.

Other then the easily identifiable “inspector days,” Williams remains unclear exactly what charges the WUTC might consider to be “direct” and chargeable to participants. We would like to explore this area further but want to go on record as generally supporting the concept of directly assigning as many of the program costs to company fees as possible.

Under the current methodology, the amount directly billed for inspections is dwarfed by the amount paid by some participants for “unassigned costs.” This is true for Williams specifically and for interstate pipelines as a group. In an equitable system, the reverse would be true and collection of funds by directly assigning costs would constitute the majority of the total funding of the program and the collection of funds based on application of formulas to unassigned costs would constitute a small portion of the total funding of the program.

Question 2 <u>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?</u>

Directly assigning certain costs to industry groups sounds somewhat appealing, but Williams believes that this may overcomplicate the program. There would be one set of costs directly assignable to companies, a set of unassigned costs divided up pursuant to a formula and a whole host of industry related costs that would be specially assign to industry groups. Rather than start down this road, Williams prefers a two level system – one where identifiable costs are assigned to companies and the remainder gets assigned pursuant to a formula. There is merit to keeping the system simple, and this simplicity outweighs the benefit of earmarking certain costs to industry groups in Williams view.

Question 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.

The costs that should be directly assignable to companies are those that are easily identifiable in a system that is transparent to all users. "Inspector days" currently fits this criterion. The recordation of time by various personnel within the Pipeline Safety Division does not. For example, per the Interstate Agent Agreement between OPS and the WUTC as its agent, the agent inspects and investigates per the direction of OPS. The Calendar Year Inspection plan addresses the inspection guidelines for each calendar year. WUTC activities outside of this plan may or may not be proper costs to directly assign.

Question 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.)

Williams could support either an allocation based on pipeline miles or an allocation based on directly assigned time. There is merit to each of these allocation methods.

Merits of mileage

The WUTC fee worksheet for 2005 indicates that there are currently 21,787 miles of pipeline facilities in Washington. Allocation based on mileage of facilities is a rational and equitably method for distributing program costs. Williams previously submitted a copy of a federal study that studied whether pipeline diameter should be considered in assessing fees. That study concluded that mileage was the best indicator of the level of workload required to inspect pipeline facilities, and it cost no more to inspect larger diameter lines than smaller diameter lines.

This is true whether the pipeline facilities are interstate or intrastate facilities. Smaller diameter intrastate facilities tend to be concentrated more in urban areas, and the interstate pipelines are in more rural areas. Inspections of intrastate facilities in urban areas involve more records and are more complex than inspection of interstate facilities. There is no basis to the notion that interstate pipelines require a greater level of inspection activity than intrastate pipelines.

While allocating unassigned costs on the basis of miles of facilities is a rational means of spreading unassigned costs, what is completely untenable is to arbitrarily split the program costs between interstate and intrastate participants (with 2,459 and 19,328 miles of facilities, respectively) and then using mileage to allocate costs within each group. This has resulted in interstate pipelines as a group with 13% of the total pipeline facilities by mileage paying for 37% of the cost of the program (42% prior to the reforms brought about by the JLARC review), and intrastate companies with 87% of the total pipeline facilities by mileage paying for only 63% of the program (58% prior to the reforms brought about by the JLARC review). Individual company disparities are greater than these averages by group. In 2004 (a "normal" year for Williams without the special inspections of it's 26" pipeline), Williams, with 6.4% of the miles of pipeline facilities in the Washington (1,387 miles) paid for 24% of the total unassigned costs allocated to all companies ($155,551 of $647,566). This element of the existing system is probably is most egregious element and the primary source of the inequity in the system.

Merits of Time

Williams also believes that allocating unassigned costs proportionately to directly assigned time is rational and could form the basis of a more equitable program. Williams remains confused, however, over what costs might be directly assigned other than "inspector days" and exactly how an allocation based on directly assigned time would work.

As noted in the answer to Question 9, above, under the current fee methodology the WUTC charged Williams for a total of 72 inspector days in 2004 (32 standard inspections, 15 LNG and 25 construction inspections). For 2005 the WUTC charged Williams for a total of 113 inspector days (48 standard inspections, 15 LNG and 50 construction inspections), plus the 325 inspector days directly charged for special inspection.

The 72 inspector days charged to Williams for 2004 were 12% of the total of 599 inspector days charged to all participants. If unassigned costs in that year had been allocated in proportion to inspector days in 2004, Williams would have paid for 12% of the total cost of the program (rather than the 19% of the total program charged to Williams. ($204,079/$1,051,292) The 113 inspector days charged to Williams for 2005 (all inspections other than the special inspections) were 19% of the total of 588 inspector days charged to all participants. If unassigned costs in 2005 were allocated in proportion to inspector days, Williams would have paid for 19% of the total cost of the program.

If non-directly-assignable costs are allocated by using directly assigned time, a close review of what constitutes directly assigned time is needed. Is the allocation to be based just on inspector days, whether special or standard, or is there some other measurement of "directly assigned time" that will be used as the basis for the allocation? Obviously full transparency of the time keeping system is needed so participants can review the basis for the allocation of non-directly-assignable costs.

Another underlying issue is whether the directly assigned time which would become the basis for the allocation of non-directly-assignable costs is warranted in the first place. For example, per the Interstate Agent Agreement between OPS and the WUTC as its agent, the agent inspects and investigates per the direction of OPS. The Calendar Year Inspection plan addresses the inspection guidelines for each calendar year. WUTC activities outside of this plan may or may not form a proper basis for allocation of in-directly-assignable costs, depending on the activity, if the activity is outside of OPS's approved inspection activities.

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

Williams believes that, on the whole, having a portion of the unassigned costs allocated as a flat fee to all participants would make the system more equitable. Any program of this sort, by its nature, has costs that all parties must shoulder. Perhaps the amount of the unassigned costs allocated this way should reflect the $400,000 charge to the Pipeline Safety Division by the WUTC. A flat fee paid uniformly by all companies is a fair and rational means of allocation some portion of the unassigned program costs.

Question 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.

    Williams believes that a guiding principal for this program must be that the charge to any company should reflect the workload that company generates for the WUTC Pipeline Safety Division. This is why Williams did not protest being directly charged $219,050 for non-standard inspections related to issues on Williams' 26" line even though Williams' has serious issues with the inequity in the current fee system and way this direct charge was improperly implemented within the current fee system, as set forth in Williams' outstanding fee protest. While perhaps not supported by current state law, charging companies for the work they properly generate for the WUTC is philosophically in line with how the fee system should operate.

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?

This goes to the issue of how the WUTC records direct time, as discussed in the answer to Question 4, above. There appears to be a huge disparity between the number of actual inspection days of interstate pipelines facilities and WUTC records reflect that 37% of all time is spent on interstate activity. The record keeping that is the basis for charging time directly must be transparent for all program participants to review. Further, the nature of these additional "direct charge" activities needs to be continually assessed. Obviously OPS approved inspection activities should be included in the direct time assessment calculations for interstate pipeline where the WUTC is inspecting pursuant to its Interstate Agent Agreement. Activities outside of the Agreement that the WUTC believe to part of its "enhanced inspection program" may not form a proper basis for direct charges to the interstate participants in the program.

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

By definition, direct assignment of certain program costs should reduce the pool of unassigned costs to be allocated among the parties. That is the benefit the other companies should receive when program costs are charged directly. Nothing else is needed.

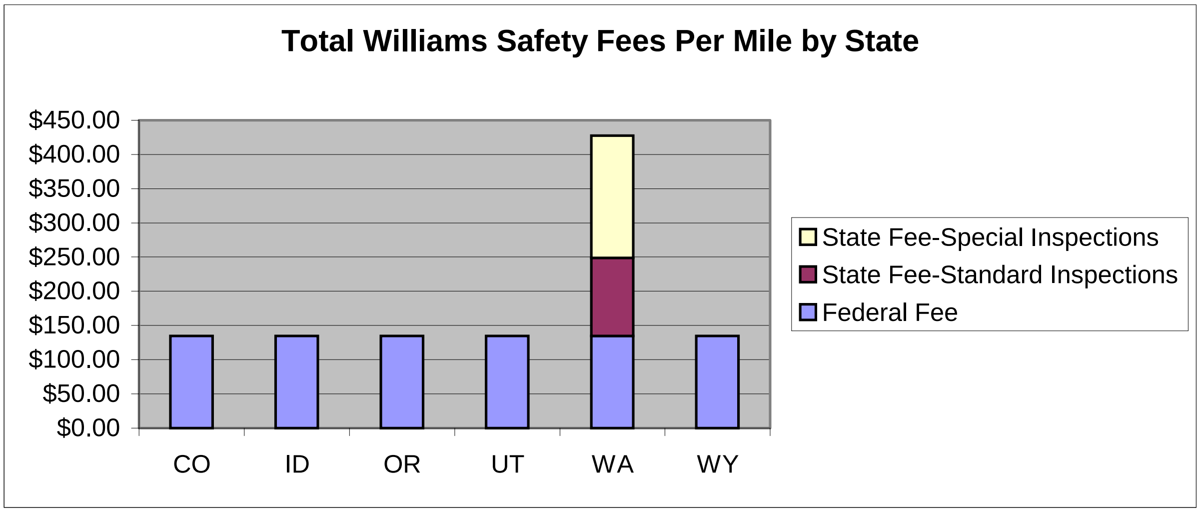
Currently the WUTC operates a bifurcated system where the division between interstate and intrastate companies is a key determinant of how all fee calculations are made. In this system, direct charges, whether standard or special inspections, benefit the other companies in the same class and not all companies. As noted above, Williams thinks that this should be changed, but until it is changed, the WUTC must operate consistently for all participants, as set forth more fully in Williams protest of its 2005 fee.

Question 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?

Each year since the delegation of inspection authority from OPS to the WUTC, Williams has paid two fees to have its Washington State facilities inspected even though a single inspection occurs. In 2005, the fee assessed by WUTC was $413,884 and the fee assessed by OPS for Williams' Washington state facilities was $189,759. Thus, Williams' total fee for inspection of its facilities in Washington State for the year was $603,643.

Although OPS has delegated inspection authority to Washington, since Williams gets no credit for the fee paid to OPS for inspection oversight, our fees are substantially higher in Washington than other states.

The following chart compares the fees Williams pays to each state on a per mile basis. The fees equate to $134.39 per mile in every state except Washington where we pay $248.51 per mile. The special inspections charged to Williams for 2005 take this to $427.51 per mile.



Some credit should be given to those program participants who pay mileage based fees to OPS for inspection of facilities in Washington. These are mainly the interstate companies, but some transmission lines are also operated by intrastate companies, and anyone paying these fees should be given some credit.

Williams recognizes that though OPS has delegated substantial inspection activities in Washington to the WUTC as its inspection agent, OPS still has a role in overseeing interstate pipelines in Washington. Further, OPS does not transfer the fees it receives from interstate companies operating in Washington to the WUTC but rather funds a portion of the WUTC program. Williams therefore proposed that the credit the WUTC gives to interstate companies for the fees they pay to OPS for inspection of their facilities be 50% of the amount paid to OPS. This credit would be given to the operators of transmission facilities before the remainder of the funds WUTC receives from OPS was used to reduce the costs of the program for all participants.

Question 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?

Question 9 <u>Are you satisfied with the current fee methodology?</u>

No. A more complete response to this question is set forth at the beginning of this document.

Question 10 <u>If current fee method was retained, what changes would you suggest?</u>

As set for the answer to Question 9 and elsewhere in this document, there are numerous problems with the current fee method. The overall program is divided between interstate and intrastate companies in a completely inequitable manner. The WUTC has identified a percentage split between the interstate and intrastate programs that guides all fee calculations. This percentage split is not trued up on a regular basis but is very static, regardless of how the WUTC is spending its time. The records that form the basis of this percentage split are not subject to meaningful review. The percentage split has been changed only once, and that was in conjunction with a legislative audit of the safety program.

The percentage split is then employed in various ways with the result that interstate companies pay a disproportionate share of the program costs. Unassigned costs are allocated on a mileage basis only after the percentage split is made with the result that interstates as a group consistently pay four to seven times more for inspection of any given mile of their facilities than intrastate pipelines. For individual companies the disparities are often even greater.

This percentage split at the base of all calculation, currently 63-37%, takes on an overarching purpose in the current program. For example, one might think that interstate pipelines would be allocated a 37% share of unassigned costs since the program is currently divided 37-63%. In a recent year, however, interstates as a group were allocated 42% of all unassigned costs so that the total amount paid by the interstate group (direct charges plus unassigned costs) would total the 37% of total program costs the WUTC believes is mandated by the percentage split. Williams suggests that if the program going forward should not include this overarching percentage split calculation.

There also needs to be a meaningful true-up mechanism. Some program costs can be projected in advance; other cannot be project. Annual inspections are an example of the former; inspections related to incidents are an example of the latter. Ideally, the program should be looking backwards and the fees charged reflect the actual experience of the WUTC in the prior year. This would result in the most accurate fees. It may be possible to do this because pipeline facilities do not come and go in Washington – they are static investments tied to location so they are always around to charge for safety inspection services. If the WUTC does not believe that it can look backwards and charge fees after the fact, it should at least build into its fee methodology some method of truing up the fees in any year based on projected activity with the level of activity that actually occur.

Question 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.

As indicated in the response to Question 4, allocating unassigned costs based on directly assignable inspection time is a concept Williams supports. Williams also supports the single pool concept as a means of correcting the inequities that occur under the current program bifurcated into interstate and intrastate components. This is discussed above in response to Question 10.

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)

Williams is somewhat leery of the concept of dividing the participants into subgroups and then treating that subgroup differently from other subgroups. The division into subgroups under the current methodology, an interstate company subgroup and an intrastate company subgroup, has resulted in very different treatment of participants.

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)

See response to Question 11(b).

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)

See response to Question 11(b).

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)

See response to Question 11(b).

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

As indicated in response to Question 4, there are merits to allocating costs on a mileage basis. Though not perfect, it is rough yardstick of inspection burden placed on the WUTC. As noted in the response to Question 10, the assignment of certain costs to subgroups, (currently interstate and intrastate subgroups) has been a major factor in disparate treatment of program participants. While mileage may form a valid basis for allocation of costs, it probably works best in conjunction with the single pool concept.

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

Williams does not support this concept since it counters what it believes is the guiding principle that should underpin this program: the charge to any company should reflect the workload that company generates for the WUTC Pipeline Safety Office. A fee increase cap works to defeat this principle.

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

As indicated in the response to Question 5, Williams supports this concept. Williams believes that, on the whole, having a portion of the unassigned costs allocated as a flat fee to all participants would make the system more equitable. Any program of this sort, by its nature, has costs that all parties must shoulder.

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

See response to Question 1.

Question 12 Please submit any suggestions you have for developing a regulatory incentive program consistent with state statute?

Williams has no proposals at this time.

Submitted electronically this 15th day of December, 2004

William Northwest Pipeline
By Del Draper