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UTIL. AND TRANSP.  
COMMISSION

Carole J. Washburn  
Secretary of the Commission  
Washington Utilities & Transportation Commission  
1300 South Evergreen Park Drive S.W.  
Olympia, Washington 98504-7250



Dear Ms. Washburn:

RE:                                 Docket No. UE-990473  
                                      Electric Companies Rulemaking: 480-100-WAC

The Boeing Company ("Boeing") submits the following comments on the proposed amendments to the Refusal of Service rule for electric companies, WAC 480-100-123(3).

The original Refusal of Service rule permits a utility to refuse new or additional service if "such service will adversely affect service being rendered to other customers." The rule also provides that a utility will not be required to provide service if it would be "economically unfeasible." Boeing strongly urges the Commission to strike these exceptions entirely from the rule to preclude a utility from having discretion to refuse service with no effective recourse for the potential customer.

If the Commission does not support complete elimination of these exceptions to the obligation to serve, Boeing believes revision of the existing rule is needed for two reasons. First, revision of the Refusal of

Service rule is necessary for the continued vitality of the economy in Washington. The obligation of electric utilities in Washington to serve has been critical to economic development in the state. For more than half a century, industry in the Pacific Northwest has prospered due to the region's dependable supply of low-cost electric power. When a utility is permitted to refuse new or additional service, this source of economic strength is imperiled.



Second, the current Refusal of Service rule is inconsistent with the statutory and common law obligation of an electric utility to provide service. It is well established that an electric utility in Washington has the legal obligation to serve. RCW 80.28.010(2); *National Union Insurance Co. v. Puget Sound Power & Light Co.*, 94 Wn. App. 163; 972 P.2d 481 (1999). The Commission has jurisdiction to require an electric utility to provide service. *In re Tanner Elec. Co.* 1991 Wash. UTC LEXIS 17 (WUTC 1991). Contrary to these principles, the current rule could give a utility untrammelled discretion to refuse service with no opportunity for Commission oversight and no redress for a customer denied service.

The proposed revision would create Commission oversight into the process when a utility relies on either of the two reasons stated above as the basis for the utility's failure to serve. Boeing supports the Commission's intervention in this process as an appropriate check on the utility's discretion. However, Boeing also recommends additional safeguards be added to ensure that the issue of the utility's obligation to serve is timely resolved. We are concerned that a utility's refusal to serve could delay a project or render a time-sensitive project uneconomic. To

prevent this unintended result, the rule should spell out in detail the timing and procedure that a utility must follow in requesting a waiver from the Commission. The rule should (1) prescribe the time in which a utility must request a waiver, (2) provide the customer with an opportunity to respond; (3) permit the customer to request an expedited hearing, and (4) limit the time for the Commission to rule upon the request.



Accordingly, if the rule is to be revised along the WUTC's recommendations, we propose the following revision to proposed rule:

**(3) Upon request-application by an electric utility made within 10 days after a request for service, the commission may waive the utility's obligation to provide new or additional service when the utility has established by a preponderance of evidence that to do so would:**

- (a) Cause an adverse affect on other customers; or**
- (b) Not be economically feasible.**

**Upon request by any person whose interests would be adversely affected by the utility's refusal to serve, the commission shall conduct a hearing and issue an order pursuant to RCW 34.05.482 (brief adjudicative proceedings) or RCW 34.05.479 (emergency adjudicative proceedings).**

In addition to these revisions, we believe that the Commission also should address the recourse available to the customer denied service.



Specifically, the customer must be granted the right to obtain power from another source. To facilitate this end and as a condition to waiver of the utility obligation to serve, the utility must agree to waive any obstacle – including any restriction contained in any territorial agreement -- that otherwise might impede the ability of the customer to obtain power elsewhere. Also, the utility must agree to deliver any power acquired by the customer over the utility's transmission and distribution lines on a nondiscriminatory basis. Otherwise, the end result of this process could be very unfair; the utility might be relieved of the obligation to serve, while the customer would have no effective recourse to obtain power elsewhere.

We would be happy to discuss these comments in detail with the Commission Staff. Thank you for the opportunity to comment on this important rule change.

Respectfully submitted,

A handwritten signature in black ink that reads "Keith C. Warner".

Keith C. Warner

Company Utility Manager

Cc: Graciela Etchart