

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Rule-Making  
Proceeding Related To

Commission General – Tariffs:  
Chapter 480-80 WAC

DOCKET NO. U-991301

**Public Counsel  
Attorney General of Washington**

October 22, 2001

Public Counsel files these comments in response to the Commission's October 10, 2001 Notice of Consideration of Proposed Rulemakings (CR 102) and Notice of Extension of Comment Date, as well as the Staff's most recent drafts, also issued October 10, 2001. We look forward to further participation in this rulemaking and to attending the November 5, 2001 open meeting.

**General Comments**

Public Counsel supports a number of the changes made to the price list rules, as noted below.

Public Counsel strongly supports enhanced customer notification by the companies regulated by the Commission. Whether it is in the area of energy general rate cases, public hearings, or potential changes in the prices, terms, and conditions of a competitively classified telecommunications service, the methods used to provide notice to customers need to be enhanced to better inform customers of their rights and obligations. Improved notice also increase the ability of the public to participate in Commission proceedings and improves the

quality and credibility of the decision making process. Public Counsel supports the efforts made by the Commission Staff as part of this rulemaking to enhance and refine the customer notice provisions for the different industry groups. We remain concerned about notice by publication as a substitute for individual notice.

### **Price Lists**

#### 480-80-202

*Interpretation of price lists.* Public Counsel strongly supports the provision of this rule which interprets ambiguities or conflicts in favor of the customer. Informing our position on this issue is the fact that the terms and conditions governing the company's provision of a price listed service are rarely, if ever, subject to negotiation between the customer and the company. Further, many price listed services are marketed to customers via telemarketing where there is a limited opportunity for the customer to gain a complete understanding of the terms and conditions that the company is imposing.

#### 480-80-206

*Price list availability.* Public Counsel supports the provisions of this rule making price lists available to customers purchasing price listed services. We note the importance of having an ability to obtain a copy of the price list at no charge to the customer through a means other than the internet, given that roughly half of Washington citizens still do not have internet access at home. See: [http://www.pewinternet.org/reports/pdfs/PIP\\_Changing\\_Population.pdf](http://www.pewinternet.org/reports/pdfs/PIP_Changing_Population.pdf) While the internet should be a very efficient tool for the companies to communicate with their customers it is appropriate for the Commission to continue to require the companies to make information available to customers upon request when that customer does not have access to the internet.

## Customer Notice

### 480-120-04U

*Posting of tariffs.* Public Counsel supports the Commission's requirement that companies make copies of their tariffs available via the different communications methods that customers may choose to use.

### 480-120-04V

*Publication of proposed tariff changes.* Public Counsel supports individual notice to customers as the method of communication most likely to reach a customer's attention. Public Counsel believes that subsection (2) permitting notice by publication will prove an inferior means of informing customers of the proposed increases in charges or restrictions in services upon which customers rely. For this reason Public Counsel believes notice by publication should be disfavored by the Commission as a substitute for individual notice to customers.

The Commission's current proposal to allow notice by publication provides companies a means to avoid providing direct notice to customers when the company is proposing to raise the price of a tariffed service, limit its accessibility or discontinue it entirely. Given the significance of such changes Public Counsel believes it is appropriate for customers to receive direct notice so that they may raise their concerns directly with the company and the Commission. Notice by publication, if it is the sole method employed, poses a tremendous risk that affected customers would be unaware of a proposed increase in price or a change in the availability of a tariffed service that they rely upon.

In addition, a careful reading of subsection (2) indicates that, as drafted, there is only a requirement that the company make a "good faith effort to publish this information." There is no requirement of notice by actual publication *in fact*. It is unclear why there should be any

difficulty in actually accomplishing publication. There also appears to be no consequences, such as suspension or rejection of the proposed tariff, for failure to achieve notice by actual publication; as opposed to making a good faith effort, but failing for some reason.

The Commission is creating a significant risk of placing itself in a position of trying to determine, in circumstances where neither direct notice to customers occurred, nor notice by publication was provided, whether a company exercised "good faith efforts" to effect notice by publication. Such a fact-finding would be extremely difficult and would have to depend upon an objective examination of the actions of company personnel either through a staff investigation or through a formal hearing process upon complaint to the Commission. This ambiguity poses a significant risk of unnecessary litigation with no commensurate benefit. Given the concerns identified above, Public Counsel cannot support subsection (2) "Published Notice" in its current form for inclusion in this rule. The Commission may wish to require both published and direct notice in all cases.

If the Commission desires to retain the alternative of notice by publication it should only be permitted, pursuant to WAC 480-120-011, when a company petitions for waiver of the direct notice requirement and makes a proper showing that such waiver is justified.

Finally, as stated previously, Public Counsel believes customers should *receive* notice of any proposed change at least 30 days prior to the effective date of such a change. This is particularly important for families that may have to make very difficult budget choices in order to maintain an essential service.

#### 480-120-04X

*Notice of public hearings.* Public Counsel supports enhanced notice of the Commission's public hearings as an appropriate mechanism to enhance public participation in such hearings.

480-120-04Z

*Other customer notice.* Public Counsel supports the provisions of this rule as providing the Commission the flexibility to require notice when the particular factual circumstances may justify such action.

480-100-19U, 480-90-19V, 480-90-19X, 480-90-19Z, 480-90-19U, 480-90-19V, 480-90-19X,  
and 480-90-19Z

Public Counsel reiterates the comments made above regarding the telecommunications rules for the parallel rules identified above for the electric and gas utilities.

480-121-X04

*Customer notice for competitive classification petitions.* Public Counsel strongly supports customers having at least thirty days notice prior to the requested effective date for the competitive classification of a service.

## **Conclusion**

Public Counsel respectfully submits these comments for consideration in this rulemaking docket. We look forward to participating in the November 5, 2001 open meeting.