

**To: The Washington Utilities and Trade Commission**  
**Fr: Robert Pregulman, Washington Public Interest Research Group (WashPIRG)**  
**Da: 10/19/01**  
**Re: WashPIRG Comments on Customer Notice and Price List Rules (Docket #U-991301)**

WashPIRG 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 as well as attending the November 5, 2001 open meeting.

## **I. General Comments**

As WashPIRG has historically supported policies that give customers the right to know about any changes to rates and policies of by telecommunications companies and utilities, we commend the Commission for its efforts to enhance customer notification by the companies it regulates, and we strongly support the Commission's efforts to enact its recommendations for increased notification 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. Improved notice also increases the ability of the public to participate in Commission proceedings and improves the quality and credibility of the decision making process. As we will point out later in our comments, however, we do not support notice by publication as a substitute for individual notice.

## **II. Price Lists**

**480-80-202 Interpretation of price lists.** WashPIRG strongly supports the provision of this rule which interprets ambiguities or conflicts in favor of the customer because 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.** WashPIRG supports the provisions of this rule making price lists available to customers purchasing price listed services as it is important for customers to be able to get a copy of free price lists if they don't have internet access. 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.

## **III. Customer Notice**

**480-120-04U Posting of tariffs.** WashPIRG 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.** WashPIRG *strongly* supports individual notice to customers as the method of communication most likely to reach a customer's attention, and we believe 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. As a result, WashPIRG believes that the Commission should *NOT* approve notice by publication as a substitute for individual notice to customers as it 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, WashPIRG 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, WashPIRG 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, WashPIRG 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.** WashPIRG 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.** WashPIRG 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**

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

**480-120-X04 Customer notice for competitive classification petitions.** WashPIRG strongly supports customers having at least thirty days notice prior to the requested effective date for the competitive classification of a service.

#### **IV. Conclusion**

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