

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

**Comments of Public Counsel
Attorney General of Washington**

December 21, 2001

Public Counsel files these comments in response to the Commission's December 5, 2001 Notice of Consideration of Proposed Rule Adoption Hearing and Request for Written Comments on Proposed Rules, as well as the Staff's most recent drafts, also issued December 5, 2001. We look forward to addressing these issues further at the January 9, 2002 Adoption Hearing.

General Comments

Public Counsel supports a number of the changes made to the price list and tariff rules, as we have noted in comments previously filed in January, February, April, May, and October of this year.

Public Counsel supports direct customer notification by the companies regulated by the Commission, particularly when rate increases are proposed or when existing services are going to be restricted or eliminated. Public Counsel supports the efforts made by the Commission Staff to enhance and refine the customer notice provisions for the different industry groups. We remain concerned about notice by publication as a substitute for direct notice. Due to the length

and depth of this rulemaking proceeding we will not re-iterate all the comments we have previously made and will focus on the most recent changes that are most critical.

WAC 480-80-202

Interpretation of price lists. Public Counsel continues to support the provision of this rule that interprets ambiguities or conflicts in favor of the customer. We look forward to the Commission's adoption of this rule.

WAC 480-80-206

Price list availability. Public Counsel supports the provisions of this rule making price lists available to customers purchasing price-listed services and look forward to its adoption.

WAC 480-XXX-194

Publication of proposed tariff changes to increase charges or restrict access to services. Public Counsel continues to urge the Commission to exercise its authority to regulate in the public interest under RCW 80.01.040 and require direct notice to customers 30 days in advance of the proposed change. To this end we recommend that the Commission delete subsections (2) and (3) and the language associated with their use prior to adopting the rule. We continue to believe that multiple channels of communications (i.e. direct notice, paper publication, internet posting, etc.) would best assure the greatest number of customers receive actual notice of the proposed change. However, at a minimum, each affected customer should receive direct notice at least 30 days prior to the proposed effective date of the increase in rate or restricted access to the service. This direct notice is critical to Washington families who are on limited incomes and may be forced to make difficult choices about their family budgets during this winter of recession and job layoffs when several of the energy companies are proposing 20%+ rate increases.

Public Counsel notes that the administrative and financial burden to the regulated utilities of direct notice via, for example, bill inserts, is not great and may be reasonably included in ratebase. The regulated utilities could begin to develop their customer notice at the same time their board of directors or executive officers decided to propose an increase in tariffed rates or contraction in services, instead of the all too common practice of developing the rate increase first, and considering notice at the time the tariff has been filed with the Commission. If the utilities conducted these activities in parallel instead of in series, a 30-day notice period would not pose the burden described by many industry representatives, and they would be able to include the requisite notice with the customer's bill.

The Washington Utilities and Transportation Commission has the authority to require direct notice to customers under its plenary authority to regulate in the public interest. Public Counsel understands that some have raised the concern that the language regarding "publication" contained in RCW 80.36.100 and 80.36.110 limits the Commission's authority to require direct notice. Public Counsel believes this concern, while valid, is misplaced. Such language arguably constitutes a "floor" as to what the Commission must require regulated utilities to do in requiring notice and not the "ceiling" some would propose.

The Commission has the overarching authority, delegated to it by the Washington state Legislature, to regulate in the public interest under RCW 80.01.040. This Commission could recognize that it is in the public interest for customers to receive direct notice of rate increases or restrictions in services at least 30 days prior to the proposed effective date.

The Commission could also recognize that the "publication" language of RCW 80.36.100 and 80.36.110 is inexorably tied to the language regarding "stations and offices" also found in those statutes. The Commission could take notice of the fact that most of the utilities it regulates

no longer operate "stations and offices" in the communities where they provide service. The Commission should acknowledge that this statutory language from the early part of the last century does not reflect the reality of the 21st century we live in today. The one, certain communication utilities exchange with their customers is their bill, commonly delivered by mail each month. The days where a customer walked into a utility's station or office to pay a bill, in person, in cash, is largely a matter of history and has generally been consigned there by the companies choosing to close these offices. The Commission should acknowledge this and require direct notice to customers at least 30 days prior to the proposed effective date of tariffed rate increases or restricted access to services.

If the Commission determines the three-part methodology proposed in the current draft of this rule is the appropriate set of options to make available to the utilities it regulates Public Counsel would request consideration of the following concerns regarding the new language of subsection (3).

Public Counsel is concerned that mailing 15 days in advance of the proposed effective date means that most customers are likely to receive less than two weeks notice under this method, with some receiving far less notice or perhaps none at all prior to the proposed effective date. If the Commission decides to pursue this option subsection (3) should require the company to take reasonable measures to assure that customers so noticed would receive the notice at least 15 days prior to the proposed effective date.

Conclusion

Public Counsel respectfully submits these comments for consideration in this rulemaking docket. We look forward to participating in the January 9, 2002 adoption hearing.