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October 9, 2013

Steven V. King
Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive SW
P.O. Box 47250
Olympia, WA 98504-7250

2013 OCT 10 AM 8:26
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UTILITY AND TRANSPORTATION COMMISSION

RE: Docket UW-131386

Dear Mr. King:

I understand the UTC is considering the repeal of WAC 480-110-255(2)(e) and (f). I represent several homeowners associations and would like to comment.

I am not particularly familiar with UTC regulatory requirements, but it struck me as some how odd the UTC could change the exempt status of homeowner associations without a legislative change. It seemed to me that the exception was authorized previously, or it was not, and therefore if the current enactment was consistent with the UTC's legislative mandate, then this change could not be consistent, or vice versa.

The powers of the commission seem somewhat vaguely defined. However, its powers seem to derive broadly from RCW 80.01.040. What is interesting is that despite the broad language of that statute, RCW 80.01.040(3), limits the authority of the UTC over those "... in the business of supplying any utility service or commodity to the public for compensation."

While there may be a few limited exceptions, homeowner associations provide service to their members and not to the public. They are supplying water to themselves. Quite simply, in this context, there are acts subject to regulation under the above cited statute.

As a practical matter, the purpose of the UTC's regulatory power is to exercise control over entities whose customers have no say in their operations and are therefore vulnerable to abuses. Homeowner associations are directly controlled by their members and their charges are the result of a democratic process. Consequently, rather than protect these people, you are seeking to override

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that process (which might also raise a few constitutional issues).

In addition, the quality of service is controlled by the Department of Health and UTC regulation in that area is unnecessary. Consequently, UTC jurisdiction will accomplish nothing other than to make the operation of those systems more cumbersome and expensive.

Please include my office in the distribution and mailing list for this docket number.

Thank you for your consideration.

Sincerely,



STEPHEN WHITEHOUSE
Attorney at Law

SW:sb