

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Amending/Adopting/ Repealing Chapter 480-140 WAC)	DOCKET NO. A-990298
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Relating to)	
)	
Commission General - Budgets)	GENERAL ORDER NO. R-466
)	
)	
)	
)	ORDER REPEALING, AMENDING AND ADOPTING RULES PERMANENTLY
.....)	

STATUTORY OR OTHER AUTHORITY: The Washington Utilities and Transportation Commission takes this action under Notice WSR #99-17-044, filed with the Code Reviser on August 13, 1999. The Commission brings this proceeding pursuant to RCW 80.04.160 and RCW 80.01.040. The statutes being implemented are RCW 80.04.300 through 80.04.330.

STATEMENT OF COMPLIANCE: This proceeding complies with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 34.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

DATE OF ADOPTION: The Commission adopted this rule on October 13, 1999.

CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE: The proposed rules implement the requirements of Executive Order 97-02, requiring agencies to review rules for clarity, intent and statutory authority, need, effectiveness and efficiency, coordination, cost, and fairness. The proposal repeals existing rules, reorganizes and rewrites the current rules, and adds a new section allowing the Commission to grant an exemption of any rule in this chapter. The proposal places into rule a streamlined process for budget reporting, reducing the amount of information required, and permitting utilities to provide the information in their own format.

REFERENCE TO NEW RULE: This order adds the following new section

to chapter 480-140 WAC:

WAC 480-140-015, Exemptions from rules.

REFERENCE TO AFFECTED RULES: This order amends the following sections of the Washington Administrative Code:

WAC 480-140-010 Definitions.
WAC 480-140-020 Who must file.
WAC 480-140-030 When to file.
WAC 480-140-040 Preparation.
WAC 480-140-080 Secrecy provision.

REFERENCE TO REPEALED RULES: This order repeals the following sections of the Washington Administrative Code:

WAC 480-140-050 Approval.
WAC 480-140-060 Supplemental change.
WAC 480-140-070 Emergency expenditures.
WAC 480-140-090 Conformity of accounts.
WAC 480-140-100 Donations.
WAC 480-140-110 Dues.
WAC 480-140-120 Wage scales.
WAC 480-140-130 Tax expenditures.
WAC 480-140-140 Affiliated interests.
WAC 480-140-150 Advertising.
WAC 480-140-160 Salaries.
WAC 480-140-170 Operations covered.

PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS

THEREUNDER: The Commission filed a Preproposal Statement of Inquiry (CR-101) on April 15, 1999, at WSR #99-09-028.

ADDITIONAL NOTICE AND ACTIVITY PURSUANT TO PREPROPOSAL STATEMENT: The statement advised interested persons that the Commission was considering entering a rulemaking on rules relating to Budgets. The Commission also informed persons of the inquiry into this matter by providing notice of the subject and the CR-101 to all persons on the Commission's list of persons requesting such information pursuant to RCW 34.05.320(3), and by sending notice to all affected companies. The Commission accepted written comment regarding the CR-101 through May 14, 1999.

Pursuant to the notice, the Commission engaged in one stakeholder

meeting on June 4, 1999. The workshop participants included representatives from Commission Staff, U S WEST Communications, Inc. (USWC), Sprint Communications Company (Sprint), Puget Sound Energy, Inc. (Puget), Cascade Natural Gas Corporation, Avista Utilities (Avista), PacifiCorp, and Northwest Natural Gas Company (NW Natural). In addition, the Commission received written comments from the attendees and from GTE Northwest, Incorporated (GTE), Stroh Water Company, and Washington Independent Telephone Association (WITA). Workshop participants reached a consensus concerning rules that could be deleted. Staff incorporated comments into a discussion draft.

On June 28, 1999, the Commission mailed a notice and a rule discussion draft to interested persons. The Commission received written comments through July 16, 1999. Avista, PacifiCorp, and GTE submitted written comments. Avista and PacifiCorp supported the proposed rule revisions. GTE had initial concerns about the rules. After discussions with Staff, GTE submitted a letter dated July 27, 1999, acknowledging that the Company did not anticipate that the draft language would require any more time or effort than is currently required by the existing rule.

NOTICE OF PROPOSED RULEMAKING: The Commission filed a notice of Proposed Rulemaking (CR-102) on August 13, 1999, at WSR #99-17-044. The Commission scheduled this matter for oral comment and adoption under Notice WSR # 99-17-044 at 9:30 a.m., Wednesday, August 11, 1999, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington. The Notice provided interested persons the opportunity to submit written comments to the Commission.

COMMENTERS (WRITTEN COMMENTS): The Commission received written comments from Puget and USWC. Following the filing of the CR-102, Staff worked with interested parties through individual discussions to further clarify the rules and resolve concerns. USWC continues to believe that either all telecommunications companies should be required to file an annual budget or all telecommunications companies should be exempt from filing an annual budget. As currently drafted, Staff recognizes that RCW 80.04.530(1)(a) exempts telecommunications companies that serve less than 2% of the access lines in the state of Washington from filing a budget and, further, that telecommunications companies classified as competitive by the Commission are exempted from filing a budget. Due to these existing exemptions, this rule applies only to Washington's four largest telecommunications companies. When these four companies are classified as competitive, they will no longer be required to file a budget.

Puget offered three primary suggestions: (1) change major "construction" projects to major "capital" projects, (2) restructure the rules for clarity, and (3) include language to clarify that budget information will be on a total company basis, except for

major construction projects, which would be listed individually. Staff recommends that the term “construction” remain to assure the language is consistent with the statute. Staff developed clarifying language changes in consultation with Puget to address suggestions (2) and (3). Staff incorporated Puget’s suggestion to change the title of WAC 480-140-080 from Secrecy provision to Confidential provision. Likewise, Staff removed the phrase “in no event” from WAC 480-140-030 as suggested by Puget.

On September 24, 1999, interested persons received the amended rule proposal. No one responded with written comments.

RULEMAKING HEARING: The rule proposal was considered for adoption, pursuant to notice, at a rulemaking hearing scheduled during the Commission’s regularly scheduled open meeting on October 13, 1999, before Chairwoman Marilyn Showalter, Commissioner Richard Hemstad, and Commissioner William R. Gillis. The Commission heard oral comments from Fred Ottavelli, representing Commission Staff. No other interested person made oral comments.

COMMISSION ACTION: After considering all of the information regarding this proposal, the Commission repealed, amended, and adopted the proposed rules, with the changes described below.

CHANGES FROM PROPOSAL: The Commission adopted the proposal with the following changes from the text in the Proposed Rule Making (CR-102) at WSR #99-17-044 (underlined text added).

To clarify the intent of WAC 480-140-020, Who must file, as it relates to water companies, the adopted rule adds language to WAC 480-140-020(4) stating, “Water companies required to file water system plans with the department of health must concurrently file a copy with the commission.” This additional language is for clarification only; it does not change the intent of the rule. The proposal removes the phrase “in no event” from WAC 480-140-020, and changes the title of WAC 480-140-080 from Secrecy provision to Confidentiality provision.

To clarify the filing format accepted from companies, the proposal adds language to WAC 480-140-040, specifying “Budgets, in a format selected by the reporting company”. Additional language clarifies that budget information will be on a total company basis except for major construction projects.

The Commission also adopts minor typographical changes.

STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE: In reviewing the entire record, the Commission determines that WAC 480-140-050, 060, 070, 090, 100, 110, 120, 130, 140, 150, 160, and 170 should be repealed, WAC 480-140-010, 020, 030, 040, and 080, should be amended, and WAC 480-140-015, should be adopted to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-

first day after filing with the Code Reviser.

ORDER

THE COMMISSION ORDERS:

1. WAC 480-140-050, 060, 070, 090, 100, 110, 120, 130, 140, 150, 160, and 170 are repealed, WAC 480-140-010, 020, 030, 040, and 080 are amended, and WAC 480-140-015 is adopted as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect on the thirty-first day after the date of filing with the Code Reviser, pursuant to RCW 34.05.380(2).

2. This Order and the rules set out in Appendix A, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the Code Reviser for filing pursuant to chapters 80.01 and 34.05 RCW and chapter 480-09 WAC.

3. The Commission adopts the Commission Staff open public meeting memoranda, presented when the Commission considered filing a Preproposal Statement of Inquiry, when it considered filing the formal notice of proposed rulemaking, and when it considered adoption of this proposal, in conjunction with the text of this Order, as its Concise Explanatory Statement of the reasons for adoption as required by RCW 34.05.025.

DATED at Olympia, Washington, this day of November, 1999.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

WILLIAM R. GILLIS, Commissioner

***Filed with Code Reviser's Office on November 15, 1999 at 11:19 a.m.
WSR #99-23-065***