

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

In the Matter of)	
Adopting)	DOCKET NO. UG-010522
)	
WAC 480-93-240 and)	GENERAL ORDER NO. R-497
WAC 480-75-240)	
)	
Relating to)	ORDER ADOPTING RULES
Pipeline safety funding)	PERMANENTLY
)	
.....)	

1 **RULES CONSIDERED:** The Washington Utilities and Transportation Commission takes this action under Notice WSR #01-20-058, filed with the Code Reviser on September 28, 2001.

2 **STATUTORY OR OTHER AUTHORITY:** The Commission brings this proceeding pursuant to RCW 80.01.040, RCW 80.04.160, RCW 81.04.160 and Section 2, Chapter 238, Laws of 2001.

3 **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 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

4 **DATE OF ADOPTION:** The Commission adopts this rule on the date that this Order is entered.

5 **EMERGENCY RULES:** Emergency rules establishing a methodology for collection of pipeline safety fees pursuant to legislative authority were filed with the Code Reviser under Notice WSR #01-13-045 and effective June 14, 2001. The notice and workshop, and the written comments received before the adoption of the emergency rule are described in the order filed under Notice WSR #01-13-045. An identical emergency rule was filed with the Code Reviser under Notice WSR #01-21-039 and effective October 12, 2001.

6 **CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE:** RCW 34.05.325 requires that the Commission prepare and provide to commenters a concise explanatory statement about an adopted rule. The statement must include the identification of the reasons for adopting the rule, a summary of the comments

received regarding the proposed rule, and responses reflecting the Commission's consideration of the comments.

- 7 The Commission often includes a discussion of those matters in its rule adoption order. In addition, most rulemaking proceedings involve extensive work by Commission Staff that includes summaries in memoranda of stakeholder comments, Commission decisions, and Staff recommendations in each of those areas.
- 8 In this docket, to avoid unnecessary duplication, the Commission designates the discussion in the Staff memoranda presented at the adoption hearing and at the open meetings where the Commission considered whether to begin a rulemaking and whether to propose adoption of specific language. Together, the documents provide a complete but concise explanation of the agency actions and its reasons for taking those actions.
- 9 **REFERENCE TO AFFECTED RULES:** These rules adopt the following sections of the Washington Administrative Code:
- WAC 480-93-240 Annual pipeline safety fee methodology.**
New section to establish a methodology for collecting pipeline safety fees pursuant to legislative authority to meet the cost of conducting the pipeline safety program established in Title 80 and Title 81 RCW.
- WAC 480-75-240 Annual pipeline safety fee methodology.**
New section to establish a methodology for collecting pipeline safety fees pursuant to legislative authority to meet the cost of conducting the pipeline safety program established in Title 80 and Title 81 RCW.
- 10 **PREPROPOSAL STATEMENT OF INQUIRY:** The Commission filed a Preproposal Statement of Inquiry (CR-101) on April 26, 2001, at WSR # 01-01-047.
- 11 **ADDITIONAL NOTICE AND ACTIVITY PURSUANT TO PREPROPOSAL STATEMENT:** The statement advised interested persons that the Commission was considering entering a rulemaking to establish the methodology for collecting pipeline safety fees. 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 pipeline operators. Pursuant to the notice, the Commission called for three rounds of comments and held stakeholder workshops on May 17, and August 2, 2001. Representatives from the following companies and organizations submitted written comments, attended workshops, or both: BP Amoco/Olympic Pipeline Company, Trans Mountain Pipeline, Northwest Industrial Gas Users, Western States Petroleum Association, Puget Sound Energy, Williams

Gas Pipeline/West, Tidewater Barge Lines, Inc., Avista Corporation, Weyerhaeuser Paper Company, and Gary Chandler, State Representative.

- 12 Oral and written comments received from the stakeholders proposed a number of language changes which the Commission adopted in making its rule proposal.
- 13 **NOTICE OF PROPOSED RULEMAKING:** The Commission filed a notice of Proposed Rulemaking (CR-102) on September 28, 2001, at WSR #01-20-058. The Commission scheduled this matter for oral comment and adoption under Notice WSR #01-20-58 at 9:30 a.m., Friday, November 16, 2001, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington. The Notice also provided interested persons the opportunity to submit written comments to the Commission.
- 14 **COMMENTERS (WRITTEN COMMENTS):** The Commission received no additional comments subsequent to filing the CR-102.
- 15 **RULEMAKING HEARING:** The rule proposal was considered for adoption, pursuant to the notice, at a rulemaking hearing scheduled during the Commission's regularly scheduled open public meeting on November 16, 2001, before Chairwoman Marilyn Showalter, Commissioner Richard Hemstad and Commissioner Patrick Oshie. The Commission heard oral comments from Sondra Walsh, representing Commission Staff. No other interested person made oral comments.
- 16 **COMMISSION ACTION:** After considering all of the information regarding this proposal, the Commission adopts the proposed rules without change.
- 17 **STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE:** In reviewing the entire record, the Commission determines that WAC 480-93-240 and WAC 480-75-240 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

- 18 **THE COMMISSION ORDERS:**
- 19 WAC 480-93-240 and WAC 480-75-240 are adopted to read 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). When adopted these rules will replace the emergency rules adopted under Notice WSR #01-21-039 and effective October 12, 2001.

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This Order and the rule set out below, 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 1-21 WAC.

DATED at Olympia, Washington, this day of January, 2002.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner

Note: The following is added at Code Reviser request for statistical purposes:

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.