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December 7, 2012

VIA ELECTRONIC FILING & ABC/LMI

David Danner
Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Pk. Dr. S.W.
P. O. Box 47250
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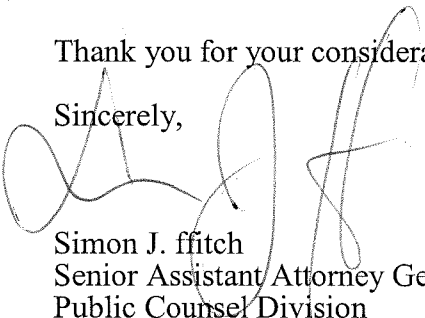
RE: Commission Investigation in the Need to Enhance the Safety of Natural Gas Distribution
Systems, Docket UG-120715
Public Counsel's Comments In Response to Notice of Opportunity to File Response

Dear Mr. Danner:

Enclosed please find an original copy of the Comments of Public Counsel for filing in the above-entitled docket. For confirmation of receipt, I have enclosed a copy to be date-stamped and sent back to us with the ABC Legal Messenger. A copy was also sent via e-mail on December 7, 2012 .

Thank you for your consideration.

Sincerely,



Simon J. Ffitch
Senior Assistant Attorney General
Public Counsel Division
(206) 389-2055

SJf:cjw
Enclosure

**BEFORE THE WASHINGTON STATE UTILITIES AND TRANSPORTATION
COMMISSION**

Commission Investigation Into the Need to
Enhance the Safety of Natural Gas Distribution
Systems

DOCKET UG-120715

FOURTH COMMENTS OF PUBLIC COUNSEL

DECEMBER 7, 2012

I. INTRODUCTION

1. Public Counsel files these comments in response to the Commission's Notice of Opportunity to File Written Comments (Notice) regarding the Draft Statement of Commission Policy (Draft Policy) in this docket, dated November 28, 2012. Public Counsel attended the workshops and previously filed comments in this docket on June 8, 2012, September 14, 2012, and September 28, 2012. The prior comments are incorporated herein by this reference.

II. COMMENTS

2. As a threshold matter, Public Counsel states again that it supports pipeline safety regulation by the Commission. It is the natural gas utilities' duty under Washington law to provide safe and adequate service. The existing regulatory framework provides the utilities a means by which to recover the related costs, and the Commission has broad authority to enforce the utilities' obligations and to impose penalties for non-compliance, as evidenced by past investigation and enforcement dockets.

3. Public Counsel notes that no persuasive evidence was presented in this docket that this existing framework is inadequate for maintaining a safe and reliable natural gas system. In fact, as a general matter, companies have reported that their systems are safe and in compliance with state and federal laws and regulations, and that priority areas are being addressed. Moreover, the evidence presented in this docket revealed that companies are currently evaluating pipe, identifying and prioritizing high risk pipe, and replacing and remediating it where needed.
4. Having said that, Public Counsel has no objection to the Commission requiring companies to file pipeline replacement plans, as outlined in Section B of the Draft Policy, if the Commission believes these requirements will better focus company efforts on improving safety.
5. While we do not object to Section B of the Draft Policy, for the numerous reasons detailed in our previous comments, Public Counsel does not support the Special Pipe Replacement Cost Recovery Mechanism (CRM) included in Section C.¹ Specifically, we believe it is problematic to develop such a mechanism when no evidence was presented in this docket that companies are not recovering their costs for replacing defective pipe. Public Counsel respectfully disagrees with the statement in the Draft Policy that “there is a general consensus that an interim recovery mechanism would provide an incentive to accelerate replacement of pipe that presents an elevated risk of failure.”² While Public Counsel and NWIGU both opposed a special recovery mechanism in comments and in discussion at the workshops, it is noteworthy that enthusiasm or urgency to pursue such a mechanism was noticeably absent from the majority

¹ Public Counsel’s concerns with the cost recovery proposals under consideration in this docket were presented in detail in three prior rounds of comments and, as mentioned above, are incorporated here by reference.

² Draft Policy, ¶ 23.

of companies. There was disagreement among the companies about the degree to which it was necessary, or whether it would make a difference to their existing practices.

6. There are a number of drawbacks to the CRM approach outlined in the Draft Policy. First, the CRM would allow cost recovery through a single-issue ratemaking mechanism, despite the fact that no company has yet provided evidence that complying the requirements in Section B of the Draft Policy would create extraordinary financial circumstances. Second, the mechanism does not require a general rate case before implementation of the CRM, and will allow companies to operate for up to four years without review of its impacts in a general rate case. This increases the risk that rates will not be fair, just, and reasonable for customers. A better approach would be to require the CRM to be filed in conjunction with a rate case filing.³ Third, the proposal inappropriately fails to recognize that the CRM will shift risks to customers and should be reflected in a lower return on equity for shareholders. Fourth, as noted above, there is no clear requirement that special recovery will result in actual accelerations in replacements or enhancements to the system. As a result, the program potentially will provide additional financial rewards to shareholders for actions a company is already undertaking, and are required under existing law. Creating such a special recovery mechanism places additional cost burdens on customers without providing demonstrable additional benefits.

7. For these reasons, Public Counsel recommends that Section C of the proposal not be adopted. At a minimum, a decision on any need for special recovery should be reserved until plans are filed under Section B, and after that is done, it may be determined that the cost

³ Two of the natural gas utilities affected by this policy have not filed a general rate case in several years, and their current allowed return on equity and rate of return are considerably higher for these companies than what has recently been approved by the Commission.

recovery mechanism is not necessary unless the proposed plan would impose extraordinary financial circumstances on a company. Additionally, Public Counsel respectfully suggests that if the CRM is adopted, the Section B should require that the companies provide specific information that will demonstrate how the plan will result in pipeline replacement that is accelerated or broader in scope than that what is already budgeted and planned for under existing legal requirements and/or company programs.

8. Public Counsel reserves its right to examine all legal and factual issues raised by any CRM proposals that are filed.

III. CONCLUSION

9. Public Counsel continues support the position that before any alternative cost recovery mechanisms are approved for any company, the Commission should ensure it is necessary, fair to customers and consistent with ratemaking principles. Public Counsel appreciates this opportunity to comment on the Draft Policy.