



TO: Jeffrey Goltz, Chairman
Patrick J. Oshie, Commissioner
Philip B. Jones, Commissioner
David Danner, Executive Director

FROM: Roger Kouchi, Consumer Protection staff
Dennis Moss, Administrative Law Judge
Greg Trautman, Assistant Attorney General
Pam Smith, Consumer Protection staff

DATE: December 29, 2010

SUBJECT: Adoption Hearing Briefing Packet, January 4, 2011, Docket U-100523
For the Paperless Billing Rulemaking (WAC 480-90 and 480-100)

RECOMMENDATION:

The Paperless Billing Rulemaking team recommends approval of the revised language in attachment 1 at the adoption hearing currently scheduled for January 4, 2011. The proposed revisions incorporate the December 6, 2010 suggested changes by Puget Sound Energy (PSE), Pacific Power and Light Company (PP&L), Northwest Natural Gas Company (NWNNG).

BACKGROUND:

In February 2010, PSE informally asked staff to look at the need for a rulemaking to implement paperless billing and Electronic Data Interchange (EDI)¹. PSE currently provides paperless billing to approximately 280,000 residential customers. The company states that its commercial customers have requested EDI for invoicing purposes. After receiving PSE's request, staff discussed the issue with representatives of Avista Utilities (Avista) and PacifiCorp and found that both utilities currently provide paperless billing and EDI services to their customers. None of the companies have petitioned for or received a waiver of commission rules regarding billing requirements.

Staff of the Attorney General's Office (AGO) advised that "mailing" is not equivalent to "e-mailing" under Commission rules. AGO staff believe that the changes PSE seeks require an amendment to Commission rules.

¹ **EDI** Electronic Data Interchange. "A series of standards which provide computer-to-computer exchange of business documents between different companies' computers over phone lines and the Internet. These standards allow for the transmission of purchase orders, shipping documents, invoices, invoice payments, etc. between an enterprise and its trading partners. A trading partner in EDI parlance is a supplier, customer, subsidiary, or any other organization with which an enterprise conducts business. EDI is used for placing orders, for billing and paying for goods and services via private electronic networks or via the Internet." [Newton's Telecom Dictionary; 23rd Edition]

Paperless billing is not specifically provided for in the rules governing electric or gas companies, WAC 480-90 and WAC 480-100. In fact, U.S. mail appears to be required due to the varying due dates specified in the rules depending on the location of mailing. E-mail is provided for only in WAC 480-100-195 and 197, relating to certain notices of tariff changes and restrictions in access to service. However, all other electric and gas rules, including rules related to the mailing of disconnection notices, use the words “mail”, “mailing” or “mailed”.

CR-102 Comments

On November 3, 2010 the Notice of Proposed Rulemaking (CR-102) was filed with the Code Reviser. As a result of the comments received on December 6, 2010, staff elected to make some changes to the proposed rules that allow the regulated utilities additional flexibility while still providing sufficient consumer protection. The suggested changes: (1) broadens the language from e-mail to any electronic communications, (2) adds language that clarifies the customer consent box by requiring a box that is prominent on the web page and clearly distinguishable from any other content on the screen or web page, rather than a single screen and (3) eliminates proscriptive language in the requirement that companies keep consent documentation for online payments and equal payment plans.

The comments and suggested staff responses are summarized in the attached Comment Summary Matrix (Attachment 2).

If you have any questions please feel free to contact this rulemaking’s team lead, Roger Kouchi, at 664-1101 or rkouchi@utc.wa.gov.

CONCLUSION

The commission may consider adoption of the proposed rules in WAC 480-90 and WAC 480-100, with changes to WAC 480-90-153, -178, and -179, and WAC 480-100-153, -178, and -179 from the language in the commission’s CR-102 proposed rules.

ATTACHMENTS:

Attachment 1 – Proposed Rule Revisions (CR-102)

Attachment 2 – Comment Summary Matrix