

FORM OF ORDER AND TRANSMITTAL BY AGENCY HAVING SINGLE HEAD

State of Washington

DIVISION OF BANKING

(agency name)

Administrative Order No. 46

(1) I, MICHAEL D. EDWARDS, Supervisor of Banking

do promulgate and adopt at Olympia, Washington

(place)

the annexed rules relating to:

satellite facilities (amending chapter 50-40 WAC);
schedule of fees (amending chapter 50-12 WAC).

(2) ALTERNATIVE A. Use only for Adoption of Permanent Rules.

This action is taken pursuant to Notice No. filed with the code reviser on. Such rules shall take effect:

- || pursuant to RCW 34.04.040(2).
|| at a later date, such date being

(2) ALTERNATIVE B. Use only for Adoption of Emergency Rules.

I, Michael D. Edwards, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is: Chapter 30.43 RCW authorizes state-chartered financial institutions to establish and operate satellite facilities, as defined therein, subject to the approval of the appropriate supervisor. The current regulations in this area, which are being amended by these emergency regulations, provide for a process whereby individual financial institutions may apply for approval of the appropriate (cont'd on) Such rules are therefore adopted as emergency rules to take effect upon filing with the code reviser. reverse)

(3) Pursuant to the requirements of RCW 34.04.026 that "every agency shall incorporate the most specific, but in no case omit all, of the following language alternatives when adopting or amending rules" (fill in statement (a), (b), or (c) as appropriate):

- [X] (a) This rule is promulgated pursuant to RCW 30.43.020 and 30.43.045 and is intended to administratively implement that statute.
[] (b) This rule is promulgated pursuant to RCW which directs that the

(agency)

has authority to implement the provisions of

(name of act or RCW citation)

- [] (c) This rule is promulgated under the general rule-making authority of the

(agency)

as authorized in RCW

(4) The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

(5) This order after being first recorded in the order register of this agency is herewith transmitted to the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

APPROVED AND ADORSED Sept. 28 19 82

FILED

OCT 8 1982

By Michael D. Edwards
MICHAEL D. EDWARDS
Supervisor of Banking

Title

CODE REVISER'S OFFICE
WSR 80-21-006

NOTE:

RCW 34.04.026 provides:

(1) In addition to the provisions of RCW 34.04.025(1)(a)(i), every agency shall incorporate the most specific, but in no case omit all, of the following language alternatives when adopting or amending rules:

(a) The most specific reference shall be to a section of law which the rule is implementing, and shall be quoted as follows: "This rule is promulgated pursuant to RCW _____ and is intended to administratively implement that statute."

(b) The next specific reference, and one which shall be used only if paragraph (a) of this subsection is not applicable, shall be to that portion of an act which directs an agency to adopt rules and regulations as necessary to implement the act, and shall be quoted as follows: "This rule is promulgated pursuant to RCW _____ which directs that the (agency) has authority to implement the provisions of (name of act or RCW citation)."

(c) The least specific reference, and one which shall be used only if paragraphs (a) and (b) of this subsection are not applicable, is one which indicates that the rule is promulgated under the agency's broad rule-making authority—either in the agency enabling legislation or chapter 34.04 RCW, and shall be quoted as follows: "This rule is promulgated under the general rule-making authority of the (agency) as authorized in RCW _____."

(2) The code reviser is directed to develop a format for placing such specific language in each rule, and agencies shall then comply with the code reviser's direction, and shall include the same in the final rule.

(3) During the promulgation hearings process the public may question whether such rule should have a more specific reference, and the agency shall, pursuant to RCW 34.04.025(1)(b), give consideration to such requests."

supervisor to establish individual satellite facilities. However, these regulations as they now exist did not contemplate and do not provide a process for the approval of shared networks of satellite facilities. The development of such networks has been facilitated by the rapidly changing technology in this area, and these regulations must be amended on an emergency basis to accommodate those technological changes. Failure to implement these regulations on an emergency basis would hinder the development of networks systems within the state of Washington, to the detriment of state-chartered financial institutions and the people of the state as a whole.

AMENDATORY SECTION (Amending Order 40 filed 3/23/79)

WAC 50-12-040 SCHEDULE OF FEES FOR BANKS, TRUST COMPANIES, MUTUAL SAVINGS BANKS, AND ALIEN BANKS. The supervisor shall collect in advance the following fees: (1) \$2,000.00 for filing application for a certificate of authority and attendant investigation for a new bank or trust company. If the cost therefor (computed on the basis of \$20.00 per (~~man~~) employee hour devoted by the division of banking to processing and investigating the application) exceeds \$2,000.00, the applicant shall pay such excess when ascertained by the supervisor.

(2) \$1,500.00 for filing an application for certificate authorizing an alien bank to establish and operate an office in the state of Washington and attendant investigation. If the cost therefor (computed on the basis of \$20.00 per (~~man~~) employee hour devoted by the division of banking to processing and investigating the application) exceeds \$1,500.00, the applicant shall pay such excess when ascertained by the supervisor.

(3) \$500.00 for filing an application for certificate authorizing an alien bank to establish and operate a bureau in the state of Washington. If the cost therefor (computed on the basis indicated in (1) and (2) above) exceeds \$500.00, the applicant shall pay such excess when ascertained by the supervisor.

(4) \$500.00 for filing an application for a certificate of authority for a branch and attendant investigation. If the cost therefor (computed on the basis of \$20.00 per (~~man~~) employee hour devoted by the division of banking to processing and investigating the application) exceeds \$500.00, the applicant shall pay such excess when ascertained by the supervisor.

(5) \$500.00 for filing an application for a certificate conferring trust powers and attendant investigation. If the cost therefor (computed on the basis of \$20.00 per (~~man~~) employee hour devoted by the division of banking to processing and investigating the application) exceeds \$500.00, the applicant shall pay such excess when ascertained by the supervisor.

(6) \$2,000.00 for filing merger, consolidation or reorganizational agreement and attendant investigation. If three or more banks are involved, then the fee for each is \$1,000.00. If the cost therefor (computed on the basis of \$20.00 per (~~man~~) employee hour devoted by the division of banking to processing and investigating the application) exceeds the specified fee, the applicant surviving bank shall pay such excess when ascertained by the supervisor.

(7) \$300.00 for filing an application for a certificate of appropriate adjunct and attendant investigation. If the cost therefor (computed on the basis of \$20.00 per (~~man~~) employee hour devoted by the division of banking to processing and investigating the application) exceeds \$300.00, the applicant shall pay such excess when ascertained by the supervisor.

(8) \$300.00 for filing application to locate main office or branch and attendant investigation. If the cost therefor (computed on the basis of \$20.00 per (~~man~~) employee hour devoted by the division of banking to processing and investigating the application) exceeds \$300.00, the applicant shall pay such excess when determined by the supervisor.

(9) \$100.00 for issuing each branch certificate for branch resulting from merger.

(10) \$100.00 for filing articles of incorporation, or amendments thereof, or other certificates required to be filed with the supervisor.

(11) \$100.00 for issuing a certificate of increase or decrease of capital stock or issuing a certificate of authority.

(12) Fifty cents per page for furnishing copies of papers filed with the supervisor.

(13) \$300.00 for filing an application for approval of the supervisor for a bank, trust company or mutual savings bank to provide a satellite facility or facilities which are to be used exclusively by its own customers. In the event the application is for approval of the supervisor to provide more than one such satellite facility, the filing fee on such a multiple application is \$300.00 for the first such satellite facility and \$100.00 for each additional satellite facility. This fee shall be deemed to include the cost of processing the application and the cost of an attendant investigation, but if the cost therefor (computed at ~~((\$20.00))~~ \$30.00 per ~~((man))~~ employee hour ~~((devoted by the division of banking to processing and investigating the application))~~ plus actual expenses) exceeds the filing fee, the applicant shall pay such excess when ascertained by the supervisor.

(14) \$100.00 for the issuance of a certificate of approval to provide a satellite facility.

(15) ~~((\$200.00 for issuing certificate of approval for capital notes.))~~ \$1,000.00 for filing an application for approval of a network system of satellite facilities as defined in WAC 50-40-010(4). This fee shall be deemed to include the cost of processing the application and the cost of an attendant investigation, but if the actual cost of such processing and investigation (computed at \$30.00 per employee hour plus actual expenses) exceeds the filing fee, the applicant shall pay such excess when ascertained by the supervisor.

(16) \$100.00 for each application to modify a previously approved network system made in accordance with WAC 50-40-060(1) or (2). The fee for application to modify a previously modified network system under WAC 50-40-060(3) shall be computed by the supervisor at \$30.00 per employee hour plus actual expenses, with a minimum fee of \$100.00 per application.

(17) \$200.00 for issuing certificate of approval for capital notes.

AMENDATORY SECTION (Amending Order 27 filed 6/3/74)

WAC 50-40-010 DEFINITIONS. (~~As used in these regulations, the phrase "provide satellite facility(ies)" shall mean to establish a satellite facility or share a satellite facility with other financial institutions.~~) As used in these regulations:

(1) "Supervisor" means supervisor of banking appointed pursuant to RCW 43.19.020.

(2) "Satellite facilities" within the meaning of chapter 30.43 RCW include, without limitation, both "on-line" and "off-line" cash dispensing or automated teller facilities which are not on the premises of the financial institution whose customers use these facilities. Such facilities constitute "satellite facilities" irrespective of whether they are owned by the financial institution or by others.

(3) "Switch" means an electronic or paper-based switching system, pursuant to which transactions in a network system of satellite facilities are effected, routed and processed.

(4) "Network system" means one or more satellite facilities the use of which is shared on a contractual basis among more than one participating financial institution and which are identified with a common trademark or trade name.

(5) "Sponsor" means the owner or operator of a network system.

AMENDATORY SECTION (Amending Order 27 filed 6/3/74)

WAC 50-40-020 APPLICATION. (~~The~~) Application for approval to provide a satellite facility (~~shall be filed with the supervisor at his office in Olympia. The application shall be submitted in duplicate on a form furnished by the division of banking.~~) or facilities which are to be used exclusively by the customers of one state-chartered bank, trust company, savings bank, or mutual savings bank shall be submitted in accordance with this section. The application shall be filed with the supervisor's office in Olympia on the form set forth in WAC 50-40-990 and must include the minimum fee required by WAC 50-12-040(13). (~~A separate application must be made for each satellite facility.~~)

The applicant shall submit the following information with the application form:

(1) Types of transactions to be conducted.

~~((2) Names of other financial institutions expected to share in use of the facility.))~~

~~((3) Arrangements for sharing costs in connection with its installation and operation, including estimates of actual cost to applicant.))~~

~~((4))~~ (2) Details as to ownership and operation of the facility or facilities.

(3) If requested by the supervisor to aid the determination of whether the public convenience will be served by the proposed satellite facility or facilities, an analysis of the trade area to be served by the proposed facility or facilities. Included

within this analysis shall be a study of the number of customers of the applicant living, working and/or shopping in the trade area to be served by the proposed satellite facility or facilities and the likelihood of those customers using the facility.

AMENDATORY SECTION (Amending Order 27 filed 6/3/74)

WAC 50-40-040 ADOPTION OF FORM. The division of banking hereby adopts for use of all persons requesting approval to provide a satellite facility or facilities which are to be used exclusively by the customers of one state-chartered bank, trust company, savings bank, or mutual savings bank, the form attached hereto as Appendix I [WAC 50-40-990], entitled "Application to Provide Satellite Facility."

NEW SECTION

WAC 50-40-050 NETWORK SYSTEMS. Application for approval to establish or operate a network system in which one or more state-chartered banks, trust companies, savings banks, or mutual savings banks participate shall be submitted in accordance with this section. Application may be made either by the sponsor or by one or more participating financial institutions. The application shall include the following:

(1) A copy of a resolution of the governing body of each state-chartered bank, trust company, savings bank, or mutual savings bank participating in the network system, authorizing such participation.

(2) A list showing the exact location of each proposed satellite facility, including the street address, city and state. If a satellite facility is to be located in a retail store, institution, office building or other type of merchant or business establishment, indicate the name and type of establishment. If a satellite facility is to be located in a shopping center, state the name of the shopping center.

(3) A list of all equipment necessary to operate the network system, including the terminal (specify manufacturer), auxiliary equipment, and the data centers where transactions will be routed.

(4) Identification and description of the type of activator and personal identification code (PIC) which will be used by customers at satellite facilities to access their accounts, as well as indication of how and by whom the activator and the PIC will be issued, with a description of the security measures to be taken.

(5) A complete description in full detail of the design and general operating features of the network system. At a minimum, this response must include a discussion of:

(a) the proposed hours of operation;

(b) the mode of operation (i.e., off-line, off-line with

on-line terminals, on-line, or a combination);

(c) transactions and transaction restrictions;

(d) procedures for verification, authorization, storage and posting of transactions;

(e) receipts, audit trails, "hot-card" files, and any other measures used to protect the integrity of the system;

(f) the switch, including (i) an explanation of the means by which a transaction is routed to the appropriate data centers; (ii) a description of logging and audit procedures for the purpose of verifying transactions processed through the switch; (iii) the identity of all data centers involved in the operation of the system; (iv) the identity of any party or parties other than the sponsor responsible for operation of the switch, (v) a description of the sponsor's or such other party's or parties' experience and qualifications in switch operation, and (vi) procedures for operation during terminal, switch, or CPU down-time (whether scheduled or unscheduled).

(6) If there are financial institutions participating in the network system which do not have offices within this state, evidence that satellite facilities in the jurisdiction in which such institutions are organized are made available on a reciprocal basis to financial institutions which have offices in the state of Washington.

(7) Such identification of the party or parties who will own and maintain the satellite facilities as the supervisor may require.

(8) Evidence of bonding and insurance coverage for the sponsor and other parties involved in operation of the switch or network system.

(9) A complete description in full detail of the procedures for protection of customer privacy and the confidentiality of account information.

(10) A complete description in full detail of the procedures to be used to protect against fraudulent use of the network system.

(11) Copies of agreements between financial institution participants and the sponsor. If the agreements are in standardized form, a sample will suffice.

(12) Names and head office addresses of all financial institutions who will participate in the network system.

(13) A description of the method of sharing, including the organizational structure of the network system and the basis for sharing capital expenditures and operating costs.

(14) A certified copy of a resolution of the governing body of the sponsor which (a) authorizes the supervisor to conduct such examinations of the network system and its various component parts as are deemed necessary by the supervisor; (b) sets forth the agreement of the sponsor to pay the supervisor's expenses incurred in such examinations in accordance with the supervisor's rates for special examinations of financial institutions as set forth in WAC 50-44-030; (c) gives assurances to the supervisor that such authorization and agreement shall not be withdrawn until the expiration of at least thirty days after notice of such withdrawal has been given to the supervisor; and (d) confirms the understanding of the sponsor that failure to permit such examination by the supervisor shall be grounds for immediate suspension of the supervisor's approval of the network system.

NEW SECTION

WAC 50-40-060 MODIFICATION OF APPROVED NETWORK SYSTEMS.

(1) A previously approved network system which desires to add satellite facilities shall submit in writing to the supervisor the exact location of each proposed additional satellite facility, including the street address, city and state. If a satellite facility is to be located in a retail store, institution, office building or other type of merchant or business establishment, indicate the name and type of establishment. If a satellite facility is to be located in a shopping center, state the name of the shopping center.

(2) A previously approved network system which desires to add participating financial institutions shall, either separately or in conjunction with the financial institution, submit to the supervisor the name and head office address of each such financial institution. For each such additional financial institution which is a state-chartered bank, trust company, savings bank or mutual savings bank, a copy of a resolution of the governing body of such institution authorizing participation in the network system shall also be submitted.

If the proposed additional financial institutions do not have offices in this state, evidence of the type required under WAC 50-40-050(6) shall be submitted to the supervisor for the jurisdiction in which such institution is organized, unless such information has previously been submitted for such jurisdiction.

(3) A previously approved network system which proposes to modify its system so that the information previously submitted to the supervisor will no longer accurately describe such system, shall submit in writing to the supervisor such information necessary to describe accurately such system as modified.

NEW SECTION

WAC 50-40-070 APPROVAL--DISAPPROVAL--REQUEST FOR HEARING.

The supervisor shall notify the applicant and, in the case of a network system, all participating state-chartered banks, trust companies, savings banks and mutual savings banks, of the approval of the satellite facilities or network system or modification thereto. If the supervisor disapproves the application, reasons for such disapproval shall be set forth in the written notice of disapproval. The applicant may request a hearing before the supervisor by submitting a written request therefor within twenty days of the date of the supervisor's notice of disapproval. Such hearing and all further proceedings shall be governed by the provisions of chapter 34.04 RCW.

AMENDATORY SECTION (Amending Order 27 filed 6/3/74)

WAC 50-40-990 APPENDIX I--FORM--APPLICATION TO PROVIDE SATELLITE FACILITY.

APPENDIX I
FORM--APPLICATION TO PROVIDE
SATELLITE FACILITY
(NOT TO BE CONSTRUED TO BE THE
ESTABLISHMENT OF A BRANCH.)

To the Supervisor of Banking:

(Bank, Trust Company, Savings Bank, or Mutual Savings Bank, hereinafter referred to as the Applicant) _____, (City) _____, Washington hereby initiates application for approval to provide satellite facilities at _____ (Include street designation or approximate location in terms of nearest intersection) _____, (City or Town, indicate direction if outside city limits) _____, (County) _____, Washington.

The location of the proposed satellite facility would be _____ miles distant from the main office and _____ miles distant from the nearest branch _____ (Name) _____ of the Applicant.

We enclose a verified copy of a resolution adopted _____ (Date) by the Board of Directors or Board of Trustees of the Applicant, duly authorizing the undersigned to make this application, and obligate the Applicant for necessary costs. Also enclosed is a check ((~~for \$100~~)) to apply upon the ((~~statutory~~)) costs of investigation. If the cost of investigation to be made exceeds the minimum ((~~of \$100~~)) required by WAC 50-12-040(13), the Applicant will pay such excess in accordance with ((~~WAC 50-40-030~~)) that section.

We also enclose the supporting data required by WAC 50-40-020 ((~~and WAC 50-40-030~~)).

SUBSCRIBED AT _____, Washington this _____ day of _____, 19 _____.

(Please type name and position
under signature)

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 50-40-030 PUBLIC CONVENIENCE.