Chapter 480-73 WAC
HAZARDOUS LIQUID PIPELINE COMPANIES

WAC

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PART I—GENERAL PROVISIONS

WAC 480-73-010 Application of rules. The rules in this chapter apply to hazardous liquid pipeline companies regulated as common carriers under Title 81 RCW. The purpose of these rules is to address the economic regulation of liquid pipeline companies regulated as common carriers.

[Statutory Authority: RCW 80.01.040, 80.04.160, 81.04.160 and 34.05.353. 05-06-051 (Docket No. A-021178 and TO-030288, General Order No. R-518), § 480-73-010, filed 2/28/05, effective 3/31/05.]

WAC 480-73-020 Exemptions from rules in chapter 480-73 WAC. The commission may grant an exemption from the provisions of any rule in this chapter in the same manner and consistent with the standards and according to the procedures set forth in WAC 480-07-110 (Exceptions from and modifications to the rules in this chapter; special rules).

[Statutory Authority: RCW 80.01.040, 80.04.160, 81.04.160 and 34.05.353. 05-06-051 (Docket No. A-021178 and TO-030288, General Order No. R-518), § 480-73-020, filed 2/28/05, effective 3/31/05.]

WAC 480-73-030 Additional requirements. (1) These rules do not relieve any company from any of its duties and obligations under the laws of the state of Washington.

(2) The commission retains the authority to impose additional or different requirements on any company in appropriate circumstances, consistent with the requirements of law.

[Statutory Authority: RCW 80.01.040, 80.04.160, 81.04.160 and 34.05.353. 05-06-051 (Docket No. A-021178 and TO-030288, General Order No. R-518), § 480-73-030, filed 2/28/05, effective 3/31/05.]

WAC 480-73-040 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.

[Statutory Authority: RCW 80.01.040, 80.04.160, 81.04.160 and 34.05.353. 05-06-051 (Docket No. A-021178 and TO-030288, General Order No. R-518), § 480-73-040, filed 2/28/05, effective 3/31/05.]

WAC 480-73-050 Tariffs. (1) Each pipeline company must file tariffs in accordance with the requirements set out in chapter 480-149 WAC titled Tariff Circular No. 6.

(2) In addition to the tariff filing requirements in subsection (1) of this section, the tariff must include the pipeline company's nomination and proration policies and procedures.

[Statutory Authority: RCW 80.01.040, 80.04.160, 81.04.160 and 34.05.353. 05-06-051 (Docket No. A-021178 and TO-030288, General Order No. R-518), § 480-73-050, filed 2/28/05, effective 3/31/05.]

WAC 480-73-060 Definitions. "Affiliated interest" means a person or corporation as defined in RCW 81.16.010.

"Business days" means the same as defined in WAC 480-07-120 (Office hours).

"Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a company, whether through the ownership of voting shares, by contract, or otherwise.

"Hazardous liquid pipeline companies" or **"pipeline company"** means any hazardous liquid pipeline company regulated as a common carrier under Title 81 RCW.

"Investment grade" means a pipeline company whose corporate credit/issuer rating is in one of the four highest rating categories of either Standard & Poor's L.L.C. or Moody's Investors Service, Inc.

"Nominations" means the method a shipper uses to reserve pipeline capacity for shipments.

"Proration" means the method the carrier uses to allocate space to shippers when nominations exceed the pipeline capacity.

"Subsidiary" means any company in which the pipeline company owns directly or indirectly five percent or more of the voting securities, unless the pipeline company demonstrates it does not have control.

[Statutory Authority: RCW 80.01.040, 80.04.160, 81.04.160 and 34.05.353. 05-06-051 (Docket No. A-021178 and TO-030288, General Order No. R-518), § 480-73-060, filed 2/28/05, effective 3/31/05.]

PART II—FINANCIAL RECORDS AND REPORTING RULES

WAC 480-73-110 Filing information. (1) **Filing.** The commission records center will accept any filing under WAC 480-73-170 (Issuing securities) delivered in person, by mail, telefacsimile, or electronic mail message. The commission records center will accept all other reports required in Part II

in person, by mail, or when procedures are in place, electronic mail message.

(2) **Commission may require additional information.** The commission may require information in addition to that specified by statute or in this chapter.

(3) **Information by reference.** When any information required to support a filing is on file with the commission, it is sufficient to make specific reference to the information indicating the proceeding, report, or other filing that contains the referenced information.

(4) **When information is unavailable.** If any required information is unavailable at the time of the filing, the filing must include the reason why the information is not available and state when it will be available.

[Statutory Authority: RCW 80.01.040, 80.04.160, and 81.04.160. 05-17-026 (Docket No. A-021178 and TO-030288, General Order No. R-522), § 480-73-110, filed 8/5/05, effective 9/5/05. Statutory Authority: RCW 80.01.040, 80.04.160, 81.04.160 and 34.05.353. 05-06-051 (Docket No. A-021178 and TO-030288, General Order No. R-518), § 480-73-110, filed 2/28/05, effective 3/31/05.]

WAC 480-73-120 Additional reports. Part II does not supersede any reporting requirement specified in a commission order or limit the commission's ability to request additional information.

[Statutory Authority: RCW 80.01.040, 80.04.160, 81.04.160 and 34.05.353. 05-06-051 (Docket No. A-021178 and TO-030288, General Order No. R-518), § 480-73-120, filed 2/28/05, effective 3/31/05.]

WAC 480-73-130 Accounting system requirements. (1) Each pipeline company must use the uniform system of accounts applicable to pipeline companies as published by the Federal Energy Regulatory Commission (FERC) in Title 18 of the Code of Federal Regulations (18 C.F.R.), Part 352 - Uniform System of Accounts Prescribed for Oil Pipeline Companies Subject to the Provisions of the Interstate Commerce Act. Information about the Code of Federal Regulations regarding the version adopted and where to obtain it is set out in WAC 480-73-999 (Adoption by reference).

(2) Each pipeline company having multistate operations must maintain records in such detail that the costs of property located and business done in Washington can be readily ascertained in accordance with geographic boundaries.

(3) Any deviation from the uniform system of accounts, as prescribed by the FERC, will be accomplished only after due notice and order of this commission.

(4) This rule does not supersede any commission order regarding accounting treatments.

[Statutory Authority: RCW 80.01.040, 80.04.160, 81.04.160 and 34.05.353. 05-06-051 (Docket No. A-021178 and TO-030288, General Order No. R-518), § 480-73-130, filed 2/28/05, effective 3/31/05.]

WAC 480-73-140 Expenditures for political or legislative activities. (1) For ratemaking purposes, the commission will not allow recovery of either direct or indirect expenditures by a pipeline company for political or legislative activities.

(2) For purposes of this rule, political or legislative activities include, but are not limited to:

(a) Encouraging support or opposition to ballot measures, legislation, candidates for a public office, or current public office holders;

(b) Soliciting support for or contributing to political action committees;

(c) Gathering data for mailing lists that are generated for the purposes of encouraging support for or opposition to ballot measures, legislation, candidates for public office, or current office holders, or encouraging support for or contributions to political action committees;

(d) Soliciting contributions or recruiting volunteers to assist in the activities set forth in (a) through (c) of this subsection.

(3) Political or legislative activities do not include activities directly related to appearances before regulatory or local governmental bodies necessary for the pipeline company's operations.

[Statutory Authority: RCW 80.01.040, 80.04.160, 81.04.160 and 34.05.353. 05-06-051 (Docket No. A-021178 and TO-030288, General Order No. R-518), § 480-73-140, filed 2/28/05, effective 3/31/05.]

WAC 480-73-150 Retaining and preserving records and reports. Each pipeline company must retain records and reports in accordance with the 18 C.F.R., Part 356, Preservation of Records for Oil Pipeline Companies, which the commission adopts by reference. Information about the Code of Federal Regulations regarding the version adopted and where to obtain it is set out in WAC 480-73-999 (Adoption by reference).

[Statutory Authority: RCW 80.01.040, 80.04.160, 81.04.160 and 34.05.353. 05-06-051 (Docket No. A-021178 and TO-030288, General Order No. R-518), § 480-73-150, filed 2/28/05, effective 3/31/05.]

WAC 480-73-160 Annual reports. (1) Each pipeline company must use the commission's annual report form and attach FERC Form No. 6 promulgated by the Federal Energy Regulatory Commission in 18 C.F.R., Part 357 (Annual, Special or Periodic Reports), for purposes of annual reporting to this commission. Information about the FERC Form No. 6 regarding the version adopted and where to obtain it is set out in WAC 480-73-999 (Adoption by reference).

(2) Each pipeline company must also submit to the commission, in essentially the same format and content as the FERC Form No. 6, a report that documents the costs incurred and the property necessary to provide service to its customers and the revenues obtained in the state of Washington.

(3) Combination and multistate pipeline companies must submit with the annual report their cost allocation methods necessary to develop results of operations in the state of Washington. Approval of cost allocation methods for ratemaking purposes is accomplished only by commission order.

(4) The pipeline company must submit the annual report for the preceding calendar year by May 1 of each year.

(5) Economic regulatory fees. An economic regulatory fee is an annual assessment paid by each company to cover the costs of economic regulation of the industry. The economic regulatory fee is separate from the pipeline safety fee identified in WAC 480-75-240 (Annual pipeline safety fee methodology). The maximum economic regulatory fee is set by statute at one-tenth of one percent of the first fifty thousand dollars of gross intrastate operating revenue plus two-tenths of one percent of any gross intrastate operating revenue in excess of fifty thousand dollars.

(a) The maximum economic regulatory fee is assessed each year, unless the commission issues an order establishing the economic regulatory fee at an amount less than the statutory maximum.

(b) The minimum economic regulatory fee that a pipeline company must pay is twenty dollars.

(c) The twenty-dollar minimum economic regulatory fee is waived for any pipeline company that reports less than twenty thousand dollars in gross operating revenue.

(d) A pipeline company must pay its economic regulatory fee by May 1 each year.

(e) The commission does not grant extensions for payment of regulatory fees.

(f) If a company does not pay its economic regulatory fee by May 1, the commission will assess an automatic late fee of two percent of the amount due, plus one percent interest for each month the fee remains unpaid.

(g) The commission may issue penalty assessments or take other administrative action if a company fails to pay its regulatory fee.

[Statutory Authority: RCW 80.01.040, 80.04.160, 81.04.160 and 34.05.353. 05-06-051 (Docket No. A-021178 and TO-030288, General Order No. R-518), § 480-73-160, filed 2/28/05, effective 3/31/05.]

WAC 480-73-170 Issuing securities. (1) Before a pipeline company issues stocks, stock certificates, other evidence of interest or ownership, bonds, notes, or other evidences of indebtedness, or assumes any obligation or liability as guarantor subject to reporting under RCW 81.08.130, it must file with the commission:

(a) A description of the purposes for which the issuance will be made, including a certification by an officer authorized to do so, that the proceeds from any such financing is for one or more of the purposes allowed by RCW 81.08.030;

(b) A description of the proposed issuance, including the terms of financing; and

(c) A statement as to why the transaction is in the public interest.

(2) Filing a Registration Statement with the Securities and Exchange Commission using a shelf registration process does not constitute undertaking the issuance of a security, and therefore a filing with the commission is not required under the provisions of RCW 81.08.040. A shelf registration filing is defined under the General Rules and Regulations promulgated under the Securities Act of 1933, Rule 415 - Delayed or Continuous Offering and Sale of Securities.

(3) An authorized representative must sign and date the filing and include a certification or declaration that the information is true and correct under penalty of perjury as set forth in chapter 9A.72 RCW. The certificate or declaration must be in substantially the following form:

"I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct."

(4) Within sixty days after the issuance of any securities, except for dividend reinvestment and employee benefit plans, a pipeline company must file with the commission a verified statement:

(a) Outlining the final terms and conditions of the transaction; and

(b) Setting forth actual proceeds from the issuance and, to the extent known, the disposition of proceeds stating the final amount to be used for each purpose allowed by RCW 81.08.030.

[Statutory Authority: RCW 80.01.040, 80.04.160, and 81.04.160. 05-17-026 (Docket No. A-021178 and TO-030288, General Order No. R-522), § 480-73-170, filed 8/5/05, effective 9/5/05.]

WAC 480-73-180 Transferring cash or assuming obligations. (1) At least five business days before a pipeline company whose corporate/issuer rating is not in one of the four highest rating categories of either Standard & Poor's L.L.C. or Moody's Investors Service, Inc., or its subsidiary transfers cash to any of its affiliated interests or subsidiaries or assumes an obligation or liability of any of its affiliated interests or any of its subsidiaries, the company must report to the commission an estimate of the amount to be transferred and the terms of the transaction when the transaction will exceed thresholds as described in (a) or (b) of this subsection.

(a) The company must report if the cumulative transactions to a subsidiary or affiliated interest for the prior twelve months exceed a threshold of five percent, which is based on the prior calendar year gross operating revenue.

(b) When the threshold in (a) of this subsection has been reached, the company must report each subsequent transaction exceeding a threshold of one percent for the prior twelve-month period, which is based on the prior calendar year gross operating revenue.

(2) The reporting requirements in subsection (1) of this section do not include payments for:

(a) Federal and state taxes;

(b) Goods, services, or commodities;

(c) Transactions, attributed to the regulated entity, previously approved or ordered by the commission, other regulatory agencies, or the court; or

(d) Dividends to the extent the level of such dividends over a twelve-month period does not exceed the larger of:

(i) Net income during such period; or

(ii) The average level of dividends over the preceding three years; or

(e) Payments for sweep or cash management accounts. The foregoing provisions will have no application to sweep and cash management account transfers used to transfer funds to or from a subsidiary or affiliate as part of the customary and routine cash management functions between or among the pipeline company and its subsidiary or affiliate.

[Statutory Authority: RCW 80.01.040, 80.04.160, 81.04.160 and 34.05.353. 05-06-051 (Docket No. A-021178 and TO-030288, General Order No. R-518), § 480-73-180, filed 2/28/05, effective 3/31/05.]

WAC 480-73-190 Affiliated interests—Contracts or arrangements. Prior to the effective date of any contract or arrangement described in RCW 81.16.020, each pipeline company must file a verified copy or a verified summary, if unwritten, of contracts or arrangements, except for transactions provided at tariff rates, with any affiliated interest. Prior to the effective date of any modification or amendment, the company must file verified copies of the modifications or amendments to the contracts or arrangements. If the contract or arrangement is unwritten, the company must file a verified summary of any modification or amendment. The commis-

sion may institute an investigation and disapprove the contract or arrangement if the commission finds the company has failed to prove that it is reasonable and consistent with the public interest.

[Statutory Authority: RCW 80.01.040, 80.04.160, 81.04.160 and 34.05.353. 05-06-051 (Docket No. A-021178 and TO-030288, General Order No. R-518), § 480-73-190, filed 2/28/05, effective 3/31/05.]

WAC 480-73-200 Securities report. Each pipeline company that has issued securities must file with the commission an annual securities transaction report. The report is due ninety days from the end of the company's reporting period, whether a fiscal or calendar year. At a minimum, the report must contain:

(1) A schedule of the securities issued during the reporting period including a detailed description of the final agreements;

(2) A description of the use of proceeds stating the amounts used for each purpose allowed by RCW 81.08.030;

(3) The level of expenses for each of the securities transactions for the reporting period;

(4) A schedule of securities retired, refunded, repurchased, or otherwise removed from the company's capitalization; and

(5) A schedule of securities scheduled to mature in the fiscal or calendar year following the reporting period.

[Statutory Authority: RCW 80.01.040, 80.04.160, and 81.04.160. 05-17-026 (Docket No. A-021178 and TO-030288, General Order No. R-522), § 480-73-200, filed 8/5/05, effective 9/5/05.]

WAC 480-73-210 Affiliated interest and subsidiary transactions report. (1) By June 1 of each year, each pipeline company must file a report summarizing all transactions, except transactions provided at tariff rates, which occurred between the company and each of its affiliated interests, and the company and each of its subsidiaries, during the period January 1 through December 31 of the preceding year.

(2) The information required in this section must be provided for total company and for total state of Washington. The report must include a corporate organization chart showing the pipeline company and how it is related to its affiliated interests and subsidiaries.

(3) When total transactions with an affiliated interest or a subsidiary are less than one hundred thousand dollars for the reporting period, the company must provide the name of the affiliated interest or subsidiary participating in the transactions and the total dollar amounts of the transactions. When total transactions with an affiliated interest or subsidiary equal or exceed one hundred thousand dollars for the reporting period, the company must provide:

(a) A balance sheet and income statement for such affiliated interest to the extent such information is publicly available, and if not publicly available but the balance sheet and income statement of a parent of such affiliated interest is publicly available, then the balance sheet and income statement for such parent must be provided;

(b) A description of the products or services provided to or from the company and each such affiliated interest or subsidiary;

(c) A description of the pricing basis or costing method, and procedures for allocating costs for such products or services, and the amount and accounts charged during the year;

(d) A description of the terms of any loans between the company and each such affiliated interest or subsidiary and a listing of the year-end loan amounts and maximum loan amounts outstanding during the year;

(e) A description of the terms and total amount of any obligation or liability assumed by the company for each such affiliated interest or subsidiary;

(f) A description of the activities of each such affiliated interest or subsidiary with which the company has transactions; and

(g) A list of all common officers and directors between the pipeline company and each such affiliated interest or subsidiary, along with their titles in each organization.

(4) The company is obligated to file verified copies of affiliated interest contracts and arrangements as stated in WAC 480-73-190 (Affiliated interest—Contracts and arrangements).

[Statutory Authority: RCW 80.01.040, 80.04.160, 81.04.160 and 34.05.353. 05-06-051 (Docket No. A-021178 and TO-030288, General Order No. R-518), § 480-73-210, filed 2/28/05, effective 3/31/05.]

PART III—ADOPTION BY REFERENCE

WAC 480-73-999 Adoption by reference. In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publications, effective date, references within this chapter, and availability of the resources are as follows:

(1) **Title 18 Code of Federal Regulations,** cited as 18 C.F.R., is published by the United States Government Printing Office.

(2) The commission adopts the version in effect on April 1, 2010.

(3) This publication is referenced in WAC 480-73-130 (Accounting system requirements), WAC 480-73-150 (Retaining and preserving records and reports), and WAC 480-73-160 (Annual reports).

(4) Copies of Title 18 Code of Federal Regulations are available from the U.S. Government Online Bookstore, http://bookstore.gpo.gov/, and from various third-party vendors.

[Statutory Authority: RCW 80.01.040, 80.04.160, 81.04.160, and 34.05.353. 11-04-041 (Docket A-101466, General Order R-562), § 480-73-999, filed 1/25/11, effective 2/25/11; 09-01-171 (Docket A-081419, General Order R-554), § 480-73-999, filed 12/23/08, effective 1/23/09; 06-17-087 (Docket A-060475, General Order No. R-537), § 480-73-999, filed 8/14/06, effective 9/14/06; 05-21-022 (Docket No. A-050271, General Order No. R-521), § 480-73-999, filed 10/10/05, effective 11/10/05; 05-06-051 (Docket No. A-021178 and TO-030288, General Order No. R-518), § 480-73-999, filed 2/28/05, effective 3/31/05.]