

WSR 22-22-073
PERMANENT RULES
UTILITIES AND TRANSPORTATION
COMMISSION

[Docket U-220271, General Order R-605—Filed October 31, 2022, 10:34 a.m., effective December 1, 2022]

In the matter of amending WAC 480-90-252, 480-100-252, 480-110-505, 480-120-382, and 480-120-385, relating to commission regulatory fees.

1 STATUTORY OR OTHER AUTHORITY: The Washington utilities and transportation commission (commission) takes this action under Notice No. WSR 22-17-113, filed with the code reviser on August 22, 2022. The commission has authority to take this action pursuant to RCW 80.01.040, 80.04.160, 81.01.010, and 84.24.010.

2 STATEMENT OF COMPLIANCE: This proceeding complies with 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).

3 DATE OF ADOPTION: The commission adopts these rules on the date this order is entered.

4 CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE: RCW 34.05.325(6) requires the commission to prepare and publish a concise explanatory statement about adopted rules. The statement must identify the commission's reasons for adopting the rules, describe the differences between the version of the proposed rules published in the register and the rules adopted (other than editing changes), summarize the comments received regarding the proposed rule changes, and state the commission's responses to the comments reflecting the commission's consideration of them.

5 To avoid unnecessary duplication in the record of this docket, the commission designates the discussion in this order as its concise explanatory statement. This order provides a complete but concise explanation of the agency's actions and its reasons for taking those actions.

6 REFERENCE TO AFFECTED RULES: This order amends WAC 480-90-252 Federal Energy Regulatory Commission (FERC) Form No. 2, 480-100-252 Federal Energy Regulatory Commission (FERC) Form No. 1, 480-110-505 Accounting and reporting requirements and regulatory fees, 480-120-382 Annual report for competitively classified telecommunications companies, and 480-120-385 Annual report for telecommunications companies not classified as competitive.

7 PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER: The commission filed a preproposal statement of inquiry (CR-101) on July 1, 2022, at WSR 22-14-081. The statement advised interested persons that the commission was considering entering a rule making to implement amendments to RCW 80.24.010 updating the commission's authority to assess regulatory fees. The commission also informed persons of this inquiry by providing notice of the subject and the CR-101 to everyone on the commission's list of persons requesting such information pursuant to RCW 34.05.320(3) and by sending notice to the commission's list of regulated utility companies whose rates could be increased. Pursuant to the notice, the commission invited interested persons to provide written comments to the commission on the contemplated amendments.

8 NOTICE OF PROPOSED RULE MAKING: The commission filed a notice of proposed rule making (CR-102) on August 22, 2022, at WSR 22-17-113. The commission scheduled this matter for oral comment and adoption under Notice No. WSR 22-17-113 at 9:30 a.m. on October 17, 2022, via Zoom. The no-

tice provided interested persons the opportunity to submit further written comments to the commission.

9 WRITTEN COMMENTS: The commission received written comments from the Washington Independent Telecommunications Association (WITA) in response to both the CR-101 and CR-102. In its comments, WITA states that it does not object to the proposed amendments but does object to any future actual increase to the regulatory fees paid by WITA's members. The proposed amendments to the rules only incorporate the legislature's amendment of the statute. The statute and the proposed amended rules all continue to authorize the commission to adjust the regulatory fees that utilities pay, and the commission will address any adjustments to those fees, including WITA's request to maintain the current fee levels for its members, in a separate docket.

10 SMALL BUSINESS ECONOMIC IMPACT STATEMENT: The only substantive change in the proposed revisions to the rules is to incorporate the legislature's amendment of the statute. Accordingly, no small business economic impact statement is required. The commission nevertheless undertook an analysis of the proposed rules' economic impact on small businesses. The commission served a questionnaire on affected companies requesting information on this issue but received no responses. Regulated companies may include their regulatory fees in the rates they charge their customers, and the commission has no indication that any rate increases to recover the proposed increase in fees would have a significant impact on any small business. The proposed rules, therefore, will not have a significant economic impact on small businesses.

11 RULE-MAKING HEARING: The commission considered the proposed rules for adoption at a rule-making hearing on Monday, October 17, 2022, before Chair David W. Danner, Commissioner Ann E. Rendahl, and Commissioner Milton H. Doumit. The commission heard a presentation from commission staff, but no other person made oral comments.

12 SUGGESTIONS FOR CHANGE THAT ARE REJECTED/ACCEPTED: There were no suggested changes to the proposed rules.

13 COMMISSION ACTION: After considering all the information regarding this proposal, the commission finds and concludes that it should amend the rules as proposed in the CR-102 at WSR 22-17-113.

14 STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE: After reviewing the entire record, the commission determines that WAC 480-90-252, 480-100-252, 480-110-505, 480-120-382, and 480-120-385, should be amended 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) 31 days after filing with the code reviser.

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 5, Repealed 0.

Number of Sections Adopted at the 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 5, Repealed 0.

ORDER

THE COMMISSION ORDERS:

15 The commission amends WAC 480-90-252, 480-100-252, 480-110-505, 480-120-382, and 480-120-385, to read as set forth in Appendix A, as rules of the Washington utilities and transportation commission, to take effect 31 days after the date of filing with the code reviser pursuant to RCW 34.05.380(2).

16 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 Lacey, Washington, October 28, 2022.

Washington Utilities and Transportation Commission
David W. Danner, Chair
Ann E. Rendahl, Commissioner
Milton H. Doumit, Commissioner

Appendix A
[REVISED - RULES]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

OTS-4016.1

AMENDATORY SECTION (Amending WSR 06-08-057, filed 3/31/06, effective 5/1/06)

WAC 480-90-252 Federal Energy Regulatory Commission (FERC) Form No. 2. (1) Each gas utility must use the annual report form (FERC Form No. 2) promulgated by the Federal Energy Regulatory Commission in Title 18 of the Code of Federal Regulations, Part 260, for purposes of this report to the commission. Data required by RCW 80.04.080 (Annual reports), but not included in the FERC Form No. 2, must also be submitted with the annual report. The utility must submit the annual report for the preceding calendar year, along with the regulatory fee, by May 1st of each year. If not presented in the prescribed FERC Form No. 2, the annual report must include the following data per customer class for the calendar year: Revenues, average customer count, and total unit sales. Information about the FERC Form No. 2 regarding the version adopted and where to obtain it is set out in WAC 480-90-999 (Adoption by reference).

(2) Each utility must also submit to this commission, in essentially the same format and content as the FERC Form No. 2, a report that documents the costs incurred and the property necessary to furnish utility service to its customers and the revenues obtained in the state of Washington. The report must include the following data per customer class for the calendar year: Revenues, average customer count, and total unit sales.

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

(4) The total utility results of operations reported by each utility in its annual report to the commission must agree with the results of operations shown on the utility's books and records.

(5) **Regulatory fees.** The gas utility annual regulatory fee is set by statute at one-tenth of one percent of the first (~~(fifty thousand dollars)~~) \$50,000 of gross intrastate operating revenue plus (~~(two-tenths)~~) four-tenths of one percent of any gross intrastate operating revenue in excess of (~~(fifty thousand dollars)~~) \$50,000.

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

(b) The minimum regulatory fee that a gas utility must pay is (~~(twenty dollars)~~) \$20.

(c) The (~~(twenty dollar)~~) \$20 minimum regulatory fee is waived for any gas utility with less than (~~(twenty thousand dollars)~~) \$20,000 in gross intrastate operating revenue.

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

(e) If a company does not pay its regulatory fee by May 1st, 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.

[Statutory Authority: 80.01.040(4), 81.04.160, and 34.05.353. WSR 06-08-057 (Docket A-060085, General Order No. R-531), § 480-90-252, filed 3/31/06, effective 5/1/06. Statutory Authority: RCW 80.01.040, 80.04.160, 81.04.160 and 34.05.353. WSR 05-21-022 (Docket No. A-050271, General Order No. R-521), § 480-90-252, filed 10/10/05, effective 11/10/05; WSR 05-06-051 (Docket No. A-021178 and TO-030288, General Order No. R-518), § 480-90-252, filed 2/28/05, effective 3/31/05.]

OTS-4017.1

AMENDATORY SECTION (Amending WSR 06-08-057, filed 3/31/06, effective 5/1/06)

WAC 480-100-252 Federal Energy Regulatory Commission (FERC) Form

No. 1. (1) Each electric utility must use the annual report form (FERC Form No. 1) promulgated by the Federal Energy Regulatory Commission in Title 18 of the Code of Federal Regulations, Part 141, for purposes of this report to the commission. Data required by RCW 80.04.080 (Annual reports), but not included in the FERC Form No. 1, must also be submitted with the annual report. The utility must submit the annual report for the preceding calendar year, along with the regulatory fee, by May 1st of each year. If not presented in the prescribed FERC Form No. 1, the annual report must include the following data per customer class for the calendar year: Revenues, average customer count, and total unit sales. Information about the FERC Form No. 1 regarding the version adopted and where to obtain it is set out in WAC 480-100-999 (Adoption by reference).

(2) Each utility must also submit to this commission, in essentially the same format and content as the FERC Form No. 1, a report

that documents the costs incurred and the property necessary to furnish utility service to its customers and the revenues obtained in the state of Washington. The report must include the following data per customer class for the calendar year: Revenues, average customer count, and total unit sales.

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

(4) The total utility results of operations reported by each utility in its annual report to the commission must agree with the results of operations shown on the utility's books and records.

(5) **Regulatory fees.** The electric utility annual regulatory fee is set by statute at one-tenth of one percent of the first (~~fifty thousand dollars~~) \$50,000 of gross intrastate operating revenue plus (~~two-tenths~~) four-tenths of one percent of any gross intrastate operating revenue in excess of (~~fifty thousand dollars~~) \$50,000.

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

(b) The minimum regulatory fee that an electric utility must pay is (~~twenty dollars~~) \$20.

(c) The (~~twenty dollar~~) \$20 minimum regulatory fee is waived for any electric utility with less than (~~twenty thousand dollars~~) \$20,000 in gross intrastate operating revenue.

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

(e) If a company does not pay its regulatory fee by May 1st, 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.

[Statutory Authority: RCW 80.01.040(4), 81.04.160, and 34.05.353. WSR 06-08-057 (Docket A-060085, General Order No. R-531), § 480-100-252, filed 3/31/06, effective 5/1/06. Statutory Authority: RCW 80.01.040, 80.04.160, 81.04.160 and 34.05.353. WSR 05-06-051 (Docket No. A-021178 and TO-030288, General Order No. R-518), § 480-100-252, filed 2/28/05, effective 3/31/05.]

OTS-4018.1

AMENDATORY SECTION (Amending WSR 06-08-057, filed 3/31/06, effective 5/1/06)

WAC 480-110-505 Accounting and reporting requirements and regulatory fees. (1) Water companies must use the uniform system of accounts (USOA) published by the National Association of Regulatory Utility Commissioners (NARUC). Information about the USOA regarding the version adopted and where to obtain it is set out in WAC 480-110-999 (Adoption by reference). The USOA sets out the accounting requirements for Class A, B, and C water companies.

Water companies are classified by revenues.

Class	Annual Gross Operating Revenue
A	\$1,000,000 or more
B	\$200,000 to \$999,999
C	Less than \$200,000

(2) A water company may use the accounting requirements for a higher class if it chooses.

(3) The commission will distribute an annual report form that each water company must complete and file with the commission for the prior calendar year. The annual report must be filed, and the company's regulatory fee paid, no later than May 1st of each year.

(4) A written request for the extension of the time for filing the annual report can be made prior to May 1st. The commission does not grant an extension of time for payment of regulatory fees.

(5) The maximum water company regulatory fee is set by statute at one-tenth of one percent of the first (~~(fifty thousand dollars)~~) \$50,000 of gross intrastate operating revenue plus (~~(two-tenths)~~) four-tenths of one percent of any gross operating revenue in excess of (~~(fifty thousand dollars)~~) \$50,000.

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

(b) The minimum regulatory fee that a water company must pay is (~~(twenty dollars)~~) \$20.

(c) The (~~(twenty-dollar)~~) \$20 minimum regulatory fee is waived for any water company with less than (~~(twenty thousand dollars)~~) \$20,000 in gross intrastate operating revenue.

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

(e) If a company does not pay its regulatory fee by May 1st, 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.

[Statutory Authority: RCW 80.01.040(4), 81.04.160, 34.05.353. WSR 06-08-057 (Docket A-060085, General Order No. R-531), § 480-110-505, filed 3/31/06, effective 5/1/06. Statutory Authority: RCW 80.01.040, 80.04.160, 81.04.160 and 34.05.353. WSR 05-06-051 (Docket No. A-021178 and TO-030288, General Order No. R-518), § 480-110-505, filed 2/28/05, effective 3/31/05.]

OTS-4019.1

AMENDATORY SECTION (Amending WSR 15-08-043, filed 3/26/15, effective 4/26/15)

WAC 480-120-382 Annual report for competitively classified telecommunications companies. The commission will distribute an annual report form including a regulatory fee form. A competitively classified company must:

(1) Complete both forms, file them with the commission, and pay its regulatory fee, no later than May 1st of each year;

- (2) Provide total number of access lines as required on the annual report form;
- (3) Provide income statement and balance sheet for total company;
- (4) Provide revenues for Washington and Washington intrastate operations subject to commission jurisdiction;
- (5) Keep accounts using generally accepted accounting principles (GAAP), or any other accounting method acceptable to the commission. In addition, the accounts must allow for the identification of revenues supporting subsection (4) of this section; and
- (6) **Regulatory fees.** The telecommunications annual regulatory fee is set by statute at one-tenth of one percent of the first (~~fifty thousand dollars~~) \$50,000 of gross intrastate operating revenue plus (~~two-tenths~~) four-tenths of one percent of any gross intrastate operating revenue in excess of (~~fifty thousand dollars~~) \$50,000.
 - (a) The maximum regulatory fee is assessed each year, unless the commission issues an order establishing the regulatory fee at an amount less than the statutory maximum.
 - (b) The minimum regulatory fee that a company must pay is (~~one hundred fifty dollars~~) \$150.
 - (c) The commission does not grant extensions for payment of regulatory fees.
 - (d) If a company does not pay its regulatory fee by May 1st, 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.
 - (e) The commission may take action to revoke a company's registration certificate if it fails to pay its regulatory fee.

[Statutory Authority: Chapter 19.122 RCW, RCW 19.122.053, 80.01.040, and 80.04.160. WSR 15-08-043 (Docket UT-140680, General Order R-580), § 480-120-382, filed 3/26/15, effective 4/26/15. Statutory Authority: RCW 80.01.040(4), 81.04.160, and 34.05.353. WSR 06-08-057 (Docket A-060085, General Order No. R-531), § 480-120-382, filed 3/31/06, effective 5/1/06. Statutory Authority: RCW 80.01.040, 80.04.160, 81.04.160 and 34.05.353. WSR 05-06-051 (Docket No. A-021178 and TO-030288, General Order No. R-518), § 480-120-382, filed 2/28/05, effective 3/31/05.]

AMENDATORY SECTION (Amending WSR 15-08-043, filed 3/26/15, effective 4/26/15)

WAC 480-120-385 Annual report for telecommunications companies not classified as competitive. (1) Annual reports for companies not classified as competitive. The commission will distribute an annual report form, a regulatory fee form, and financial information templates. A telecommunications company not classified as competitive must:

- (a) Return the annual report and regulatory fee forms and pay its regulatory fee, no later than May 1st of each year;
- (b) Provide total number of access lines (as required on the annual report form referred to in (a) of this subsection); and
- (c) Complete the financial information templates. The financial information templates include income statement, balance sheet, and rate base items. The templates also include sections on total company and results of operations for Washington and Washington intrastate.

The commission will provide the templates each year and the company must return the completed templates as follows:

- (i) Class A companies must file the required financial information templates no later than May 1st each year.
- (ii) Class B companies must file the required financial information templates no later than July 1st of each year.
- (iii) Class B companies are not exempt from these filing requirements.

(2) Methods used to determine Washington intrastate results of operations must be acceptable to the commission.

(3) This rule does not supersede any reporting requirements specified in a commission rule or order, or limit the commission's authority to request additional information.

(4) **Regulatory fees.** The telecommunications annual regulatory fee is set by statute at one-tenth of one percent of the first (~~fifty thousand dollars~~) \$50,000 of gross intrastate operating revenue plus (~~two-tenths~~) four-tenths of one percent of any gross intrastate operating revenue in excess of (~~fifty thousand dollars~~) \$50,000.

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

(b) The minimum regulatory fee that a company must pay is (~~one hundred fifty dollars~~) \$150.

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

(d) If a company does not pay its regulatory fee by May 1st, 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.

[Statutory Authority: Chapter 19.122 RCW, RCW 19.122.053, 80.01.040, and 80.04.160. WSR 15-08-043 (Docket UT-140680, General Order R-580), § 480-120-385, filed 3/26/15, effective 4/26/15. Statutory Authority: RCW 80.01.040(4), 81.04.160, and 34.05.353. WSR 06-08-057 (Docket A-060085, General Order No. R-531), § 480-120-385, filed 3/31/06, effective 5/1/06. Statutory Authority: RCW 80.01.040, 80.04.160, 81.04.160 and 34.05.353. WSR 05-06-051 (Docket No. A-021178 and TO-030288, General Order No. R-518), § 480-120-385, filed 2/28/05, effective 3/31/05.]