2005-2012

Adapting Regulation to the 21st Century:

Legacy and Lessons Learned

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INTRODUCTION

The Utilities and Transportation Commission entered the year 2005 facing a number of institutional and regulatory challenges. The commission's historical role in determining rates and regulating services of utility and transportation companies – and its historical way of doing business – going head-to-head with new technologies, compelling environmental concerns, and increasing needs of underserved communities.

We recognized that the old way of doing business – the one that served us well since 1905, when the Legislature created the state Railroad Commission – was in need of reassessment, fine-tuning, and, in some cases, major overhaul.

For certain industries, we asked ourselves whether the traditional rationales for regulation continued in the 21st Century. In others, we asked whether the traditional role of economic regulator should include a role of supporting environmental objectives or low-income residents. What was the role of the regulator in expanding infrastructure in the absence of specific legislative direction?

We also faced institutional challenges. Our workforce is comprised of many baby boomers who are nearing retirement. Because of our non-competitive pay scale, we lost several of our most productive and promising professional staff to utilities, local governments, and even other state agencies that could offer more pay for less demanding work. Because of state budget cuts, we faced a hiring freeze, travel restrictions, pay cuts, and temporary layoffs that affected our ability to fill vacancies or provide training to newer staff – all the while dealing with a growing and increasingly complex workload with deadlines mandated in law.

Finally, we continued to take our responsibility for public safety seriously. We know we must always strive to improve our safety regulation of pipelines, rail crossings, and passenger buses, among others, even when our programs are recognized as among the best in the nation. In fact, we have made significant strides in making Washington residents safer.

We have tackled these challenges head-on. Our challenges persist, but we have made great progress in meeting our day-to-day workload while taking a step back to critique our processes and chart our reforms. This document describes some of the more significant steps we have taken. While we recognize areas for improvement, we are proud of the work we do and the achievements we have made in the past eight years.

NEW APPROACHES TO REGULATION

Like most regulatory commissions, both state and federal, the commission has used well-established processes and standards for setting rates and regulating services of utilities. The commission is committed to ensuring that its review of companies' rate proposals is thorough and objective, and that parties to contested cases are given the due process to which they are entitled.

At the same time, we are aware of changes in markets, developments in technology, and environmental and social concerns that require us to re-think our processes to ensure that they are the best practices for a 21st Century economy.

TELECOMMUNICATIONS

Commission regulation of the telecommunications industry has been premised historically on the local telephone company's monopoly market power. While the commission has had tools available in law since 1985 to tailor regulation to a telecommunications market in transition from monopoly to competition, the Commission has used those tools sparingly and proceeded cautiously in deregulating the industry.

The telecommunications industry has in recent years been in a state of flux due not only to the transition from monopoly to competition, but also due to technological and federal regulatory changes as the market continues to migrate from traditional narrowband voice service to wireless and broadband services, which under federal law the commission does not regulate. The commission recognized these changes, and used its authority to reduce regulation of wireline telecommunications services subject to effective competition, and to regulate non-competitive companies through a so-called "alternative form of regulation" (AFOR). Services that are competitively classified or operate under AFOR agreements are removed from traditional "rate of return" regulation and can respond more effectively to the increasingly competitive telecommunications market.

Today, all of CenturyLink's business services are classified as competitive, and the commission has reduced its regulation of the company by approving an AFOR in 2007. The commission anticipates that it will consider in the coming months whether to extend or replace the company's current AFOR to include flexibility for residential rates. The commission is also encouraging other companies to pursue these options for reducing their regulatory obligations.

In addition, as part of its Lean initiative, the commission has begun a thorough review and revision of statutory and regulatory requirements to ensure the agency tailors regulation to the telecommunications market in Washington. This effort will involve participation by industry and ratepayer representatives, and will focus on streamlining existing rules to ensure the

commission continues to receive relevant data that meets the agency's needs without creating unnecessary paperwork or regulatory costs to incumbent local exchange companies.

AUTO TRANSPORTATION

By statute, the commission is responsible for regulating the rates, routes, service, and safety of auto transportation companies. These privately-owned companies provide traditional scheduled bus service and airporter service.

However, the commission has concluded that its economic regulation of much of this industry is no longer necessary. Unlike gas or electric companies, airporters and private-bus companies are not natural monopolies. They do not have high costs that serve as barriers to market entry. They are not "essential" services in the way that utilities are.

Indeed, in most areas of the state, particularly urban centers, regulated airporters and buses compete with private automobiles, taxis, limousines, charters, public transit and rail. Given the level of competition and availability of substitute services, it is difficult to justify economic regulation of the auto-transportation industry. The level of competition and relative ease of market entry and exit undermines the argument that the public will not be served if companies have to compete.

Over the past three years, the commission has worked extensively with stakeholders representing auto transportation companies, the Port of Seattle, and transit agencies to determine how to deregulate this industry. While the regulated companies want the commission to give them more flexibility in setting rates, some oppose any easing of entry standards, which give them them exclusive rights to serve within a geographic area. Moreover, the transit agencies and the companies are each concerned about whether the other will have an advantage under deregulation.

This year, the commission is recommending that the Legislature reduce the legal barriers to entry and deregulate auto transportation companies' rates, routes and services. This would allow the companies to compete more effectively with other forms of transportation, thereby probably reducing the costs to consumers. This would also allow the commission to focus more on the safety of the industry and spend more time on other industries that are truly natural monopolies.

At the same time, the commission is pursuing on a parallel path an option for rate flexibility and competition through a rule-making proceeding. While the agency believes legislation is the best way to effect this policy change, the commission plans to use the administrative tools it has available to address the issues.

ENERGY

One of the commission's primary responsibilities is to ensure that the rates charged by monopoly investor-owned utilities are "fair, just, reasonable and sufficient." Rate regulation, done properly, will:

- Require utilities to make prudent decisions when incurring costs and motivate them to manage costs efficiently and effectively;
- Allow companies to recover their costs of operations and allow shareholders the opportunity to earn a fair return on their investment; and
- Protect consumers by ensuring that safe and reliable service is delivered at the least cost.

The commission has undertaken a review of its rate setting process to address concerns about the length of time between incurring expenses and recovering the amounts in rates (regulatory lag), capital cost recovery and the utilities' potential losses of revenues due to conservation. The commission continues to work to address these issues with utlities, ratepayer representatives, and other interested parties in this review, through collaborative discussions and other processes.

Frequency of rate cases. When utilities request increased rates, the commission must follow procedures set out in statute, including those for formal administrative proceedings governed by the state Administrative Procedure Act. By statute, the commission must act on rate case requests within 11 months. In recent years, rate cases have become more frequent, almost annual, events, creating a workload for staff that current staffing levels cannot sustain. Ironically, while commission staff seeks redress from the overwork due to multiple, ongoing rate cases, the utilities complain that the 11-month period is too long compared with that set forth in some other states' statutes, and because expenses incurred earlier cannot usually be recovered until the end of the 11-month period. During the past two years, commission staff has initiated conversations with utilities on ways they can slow the cycle of rate case adjudications. This year we accepted Gov. Gregoire's offer to have her office facilitate discussions on how to expedite consideration of rate cases, create more certainty about when rate cases will be filed, adjust mechanisms to shorten the period before which utilities can recover expenses in rates, and address the commission's staffing and compensation issues. Those discussions are ongoing.

Regulatory Lag. Utilities are currently investing in new plant both to replace aging infrastructure and to address statutory requirements to ensure a percentage of their electric load is generated from renewable resources. Because of this investment, and because utilities assert their revenues are declining due to the recent economic down turn and conservation efforts, utilities are requesting rate mechanisms to assist them in recovering capital costs more quickly than through a traditional rate case process. Some utilities currently have such mechanisms, but the terms and processes for these mechanisms differ and do not address capital costs. The commission implemented or proposed new mechanisms, some statutory and some administrative to offset the impact of lag. These include:

- For generation plants that meet state greenhouse gas emissions goals, use of deferred accounting under RCW 80.80 for recovery of costs from the time the plant begins operation;
- In rate cases, forecasting power costs into the future and providing for the recovery fo such costs; and
- A "power cost only" rate proceeding by which the utilty may expeditiously bring into rates the costs of new generation.

The commission also has offered administrative mechanisms to offset the impact of lag, including:

- An "expedited rate" case in which the utility would update its expenses and revenues, in an abbreviated rate proceeding while holding some factors, such as rate of return, constant; and
- An "attrition adjustment" under which a utility to receive a rate adjustment based on trended earnings erosion because of the need for infrastructure additions or other factors.

Further, the commission is evaluating other such mechanisms through a collaborative process and considering how to make such mechanisms more standard across all utilities.

Lost revenue due to conservation. Utilities earn revenue from the sale of electricity and natural gas. However, utility conservation programs result in consumers using less electricity or gas and therefore can lead to less revenue for the company, making it more difficult for the utility to earn its authorized rate of return. To address this issue, the commission has considered "decoupling" mechanisms which can break the link between utility revenue and power or gas sales. Where revenues decline because of conservation, a decoupling mechanism would allow the utility to increase rates to offset a portion of lost revenue. Likewise, if per customer sales of electricity increase, then decoupling would result in a rate decrease to account for the increased utility revenues. The agency has approved limited decoupling proposals from Avista

and Cascade Natural Gas since 2005. In 2010, the commission issued a policy statement setting forth the elements of a decoupling proposal the commission would likely find appropriate for all utilities. The agency will continue to consider decoupling proposals, including elements that may differ from those in the policy statement.

April 4, 2011, bill signing at Gov. Gregoire's office

Electric Vehicle. Sometimes the current regulatory structure just does not make sense. That was the case when Gov. Gregoire announced plans in 2010 to install private electric vehicle charging stations in Washington. Technically, the commission's statutes that provide for rate regulation of the retail sale of electricity for "light, heat, and power" could have required such providers to register and file rates with the commission, even when the service involved neither captive ratepayers nor undue market power. While the commission would likely have forborne administratively from regulating this service, it was aware that even the possibility of such regulation could affect market behavior and dissuade some entrepreneurs from deploying valuable services. So, the commission requested legislation clarifying that we had no business that type of rate regulation. The governor signed HB 1571 on April 4, 2011, and the public will be better off because she did.

HOUSEHOLD GOODS MOVING

The commission is the state's watchdog agency in charge of setting rates, enforcing consumer protection and safety regulations for more than 200 residential moving companies operating within Washington's borders. Moving companies are required to register and obtain a permit from the commission before conducting business. They must charge proper rates, carry insurance to cover a customer's property and keep their vehicles safely maintained. Commission staff conduct regular safety and consumer protection reviews of registered movers to ensure companies comply with these requirements. The commission does not regulate interstate moving companies.

Hiring a moving company is a major investment – one a consumer will typically make only a few times in his or her life. On those few occasions, they will entrust all of their belongings to a company about which they know very little. They will also likely pay thousands of dollars to a company or individual with whom they have never previously done business. Yet unlike permitted companies, most companies operating without a permit do not follow safety and

consumer protection requirements. To protect consumers, it is essential for the commission to have the tools necessary to regulate the business practices of moving companies.

The law requires moving companies to have a state permit to operate, but as the commission attempted to step up enforcement against unregistered companies, it became increasingly convinced the law was cumbersome and inefficient. To bring an unwilling company into compliance, it needed to bring a lengthy "classification proceeding" against the company to prove that a company had engaged in an illegal move. As evidence, the commission had to produce a customer willing to testify against the moving company or a bill of lading showing the move had occurred. The time, staff and resources required to find a willing witness, obtain documents, and prove that a company was engaged in the moving business without a license greatly exceeded those available.

In 2009, the commission requested legislation to reduce the evidentiary burden it carried in enforcement actions. The bill, House Bill 1536, provided that in enforcement actions, where a person or company holds itself out as a household goods mover through advertising or other communications, evidence of the solicitation alone was sufficient to presume that the person or company was conducting household goods moves. *The Seattle Times* praised the bill, saying "…[strong] consumer enforcement is necessary in the world of household moving…. HB 1536 clarifies that power." ("*Legislature should pass bill to regulate household movers*," Feb. 3, 2009)

Gov. Gregoire signed the bill on April 15, 2009. As a result, the commission now has authority to take enforcement actions based on craigslist.org and Yellow Pages ads, fliers, yard signs, and other solicitations. Since the law's passage, commission staff have taken action against more than 300 illegal companies, giving them the option to come into compliance or cease and desist their residential moving operations.

To provide more regulatory certainty to potential new entrants into the moving business, the commission this year adopted clear new rules by which it will determine whether applicants for household good moving permits are "fit" to interact with the customers and, particularly, have access to customers' personal possessions. Under the new rules, the commission may deny a permit to an applicant who has a criminal history of theft, burglary, sexual misconduct, identity theft, fraud, false statements or the manufacture, sale or distribution of a controlled substance. Denying permits to these applicants will prevent potentially dangerous individuals from entering into customers' homes and giving them access to and control over a consumer's personal belongings.

WATER

Under state law, the commission has jurisdiction over private water companies with more than 100 customers or average annual revenues of $557 or more per customer. This threshold is set administratively pursuant to a statutory standard. The commission currently regulates 72 investor-owned water companies statewide. The commission does not regulate the rates or services of city, town or county water systems, Public Utility Districts, cooperatives, or homeowners' associations.

Many water company owners are sole proprietors unfamiliar with commission regulations and without resources to retain advice or legal counsel. Their companies' small size limits their potential economies of scale; yet, federal and state regulations require replacement or upgrades to their infrastructure, as well as, requirements to meet ever more stringent and expensive water quality standards. Moreover, the water companies are generally underfunded, lack access to traditional capital markets, and lack knowledgeable accounting, financial and technical expertise.

Nevertheless, a commission adjudication to set rates for such companies can be as contentious and expensive as that for a large power utility -- for the company and for the commission. Each year, the revenue taken in through regulatory fees paid by the companies is far less than the commission resources required to process their permitting and rate proceedings. The water program spends almost $500,000 in some years on its regulatory activities with revenues of about eight percent of that amount.

At a webinar sponsored by the National Regulatory Research Institute (NRRI) in 2012, commissioners and staff from several states confirmed that the problem of covering the costs of private water company regulation is a longstanding one faced by state commissions across the country, and one for which no state commission has yet found a solution. Indeed, the Washington Legislature in 1911 was aware of the problem and committed to coming up with a solution by 1916. That deadline has passed.

The commission has revisited the issue many times in the intervening years, without success. In 2007, the agency again decided to revisit this issue. It opened a docket which resulted in a staff report examining current regulatory processes, and identified specific areas for future consideration, including streamlining regulatory requirements and internal methodologies and procedures to handle the water systems as they become jurisdictional and considering whether the commission's jurisdiction over water companies should be expanded, reduced or eliminated.

In 2008, the agency began discussions with legislators on possible steps to curb the proliferation of small water companies, such as a moratorium on systems under a certain size

or incentives for local governments or public utility districts to take over failing companies. The Legislature declined to consider specific legislation at that time.

Current law does allow the commission to increase the jurisdictional threshold amount annually to reflect the rate of inflation. This year, the commission completed a rulemaking increasing the jurisdictional threshold from $471 a year per customer to $557 a year per customer. While that will reduce the commission's workload by removing several companies from the commission's jurisdiction, it does not significantly change the problem of insufficient regulatory fees.

For this reason, the commission this year began consideration of the following steps to improve the financial viability and sustainability of water companies:

- Researching and identifying alternate equity setting methodologies, including minimum equity requirements, deferred accounting treatment and alternative rate designs;
- Selecting and implementing a revised method for establishing rate of return;
- Initiating a rulemaking if the efforts above result in a significant change to how the agency sets rates; and
- Considering legislation that allows the commission to require a failing water company under its jurisdiction to sell and transfer its assets to a viable water company.

These proposals are likely to receive opposition and concern from some small water companies and the developers who historically have started and then sold the companies after building homes with small systems to support them. The commission hopes to take action on these items no sooner than the middle of the 2013-15 biennium.

SUPPORTING RENEWABLES AND CONSERVATION

Initiative 937 (I-937), approved by Washington voters in 2006, established a renewable portfolio standard (RPS) and directed utilities to meet a portion of their load through qualified renewable resources such as wind and solar. It also required energy utilities to "pursue all available conservation that is cost-effective, reliable and feasible."

The core role of the commission under I-937 is to ensure that investor-owned utilities do not pay too much for the resources they acquire to meet the RPS. Before the commission will allow recovery of the cost of renewable energy in rates, it must be convinced that the energy is the lowest-cost renewable energy available, and that all associated costs are prudently incurred.

The commission soon identified potential regulatory barriers to helping utilities to meet their 1-937 obligations in the most cost-efficient manner. For example, by law, utilities may only

recover costs for investments that are "used and useful" – that is, in service to Washington consumers. Yet utilities knew that if they waited to invest in, for example, a wind facility until just before it was needed to comply with the law, they risked losing access to the more attractive sites, or risked paying considerably more for assets in the event of high demand for land or facilities.

As a result, the commission in 2011 issued policy statements supporting renewable energy and conservation by allowing the "preapproval" of renewable energy projects, allowing acquisition of renewable projects in advance of any I-937 deadlines, and establishing a process by which companies can get binding orders determining whether proposed projects at I-937 compliant. This established a process by which Puget Sound Energy (PSE) could obtain approval of PSE's Lower Snake River Project, and allow for cost recovery within three months after the project was put in service.

Regulated energy utilities must also comply with I-937's requirement that they achieve all "cost-effective conservation." However, determining what is cost-effective, how much conservation is available, and whether a utility has complied with the requirement is a complex undertaking involving coordination of utility planners, industrial customers, environmental advocates, and regulators.

Earlier this year, the commission established a new Conservation and Energy Planning Section (CEP), which is charged with focusing on conservation and renewable energy requirements, energy reliability, greenhouse gas emissions and low-income programs. In doing so, the commission recognized that conservation and renewable energy have become larger and more visible parts of our work.

This year, the CEP worked with investor-owned utilities in the successful implementation of the first two-year cycle of conservation programs under I-937. All three investor-owned electric utilities have surpassed their approved conservation targets, together achieving more than 890,000 megawatt hours of conservation savings during the past two years.

MANAGING BUSINESS PERFORMANCE IN CHALLENGING TIMES

The work of the commission requires a skilled and well-trained workforce. However, in the past few years, there have been several forces at work that have made it difficult for the commission to be "on its game."

First, for some industries, regulatory fee revenues have declined. Except for a small amount of federal funds, the commission relies entirely on fees paid by regulated companies, most of which are calculated as a percentage of intrastate revenues from company operations. Fee revenues from some industries have declined over the past ten years as the recession lowered

transportation industry revenues and the ongoing changes in the telecommunications industry continued to cause incumbent local telephone companies to lose customers to cellular and cable-based services, which the commission does not regulate.

Second, out of necessity, the Legislature enacted a number of austerity cuts, such as restrictions on hiring and travel, as well as, the same requirements for temporary layoffs and across-the-board pay cuts. The commission was subject to these just like other agencies. Though these cuts resulted in the building up of the commission's fee "reserves," the Legislature appropriated more than $10 million of those reserves to help address the general fund budget problems caused by the Great Recession.

Finally, and perhaps most significantly, in the past five years, the commission has lost a number of key employees to utilities, both public and private, and to other state agencies all of which are able to pay more competitive salaries to qualified accountants, economists, and other valuable commission staff. We expect this will continue in the coming years as the economy improves. Compounding this trend will be a number of retirements. Forty-three percent of our work force will be eligible to retire within the next few years. Because the state's financial challenges are likely to continue into the future, the loss of senior staff remains a challenge.

Recognizing that these trends are not sustainable for the commission's work in the long run, since 2008 the commission did what it could to muddle through the state's financial crisis.

MAINTAINING A HIGHLY QUALIFIED WORKFORCE

For the long term, the commission needed to approach professional staff development in a more systematic and cost-effective way. Through the use of succession planning, training and formal mentoring, we brought some training "in-house." We conducted a "gap analysis" for existing staff, seeking to determine what training was essential. To close the competency gaps, we identified agency-required core and technical training, and provided additional professional development opportunities to our employees. We brought trainers to the commission from NRRI and the Institute for Regulatory Law and Economics at the University of Colorado-Boulder. We have made sure that newly-hired staff are assigned a mentor and set up to receive required training. We are monitoring and reporting progress through our internal Government Management Accountability and Performance (GMAP) process.

STREAMLINED RECRUITMENT AND HIRING PROCESSES

When the hiring freeze was lifted, we needed to move expeditiously to fill important vacancies. Accordingly, in our attempt to maintain a highly-qualified workforce, we examined the hiring process. Our job vacancies were open too long. When critical positions go unfilled, productivity falls. In some cases, we have risked losing qualified applicants to other organizations that act

more quickly. We began to develop a hiring process that makes it easier for applicants to apply and quickly know the outcome.

The commission streamlined the hiring process by developing standardized policies, procedures, processes and forms. We tracked the source of our best candidates to help us focus our efforts when recruiting. We identified roles and responsibilities at the beginning of recruitment and created a timeline to keep the recruitment on target. We developed a marketing approach to showcase the commission as a great place to work and developed relationships with new stakeholders in order to find the best talent.

By these actions, the commission has reduced the time to fill position vacancies and the average time from hiring approval to the date the last candidates are notified of the outcome was reduced.

IMPROVING PUBLIC SAFETY

Finally, as noted above, the commission takes its responsibility for public safety seriously.

We are proud that our Pipeline Safety Program has been recognized as among the best in the country. For example, a New York Times article critical of many states' pipeline safety enforcement programs, noted that Washington was ranked by observers "as doing a far better job." ("Gas Blast Spurs Questions on Oversight," September 24, 2010). The national Pipeline Safety Trust ranked Washington's Pipeline Safety Program first among all states in the transparency of information – including contact information for agency staff, incident data, enforcement and inspection records, pipeline maps, and evacuation data damage (http://www.pstrust.org/initiatives_programs/transparency-of-pipelines/statewebsites.htm).

PIPELINE SAFETY – STRONGER LAWS TO PROTECT THE PUBLIC FROM WHAT LIES BELOW

Damage to underground facilities across the United States causes death or serious injury to the public and utility workers, substantial damage to buildings and utility infrastructure, and disruption of essential gas, telecommunications and electricity services.

May 5, 2011 bill signing at Gov. Gregoire's office

Over the past eight years, the commission has maintained and improved its efforts in pipeline safety

enforcement. Since 2005, there have been significant and successful enforcement actions against PSE, Avista, Cascade Natural Gas and the City of Enumclaw. Since 2003, the Commission has worked with the federal Pipeline and Hazardous Materials Safety Administration (PHMSA) to inspect and identify interstate transmission pipelines that were potentially susceptible to stress corrosion cracking.

Washington law (RCW 19.122) seeks to limit damage to underground utilities. The commission recently was instrumental in coordinating a successful effort to improve the state's damage-prevention law and in 2011; Gov. Gregoire signed into law the Underground Utility Damage Prevention Act (E2SHB-1634). The new law, which becomes effective January 1, 2013, corrects many of the deficiencies in the current law, including vague and undefined terms, and lack of a forum for resolving disputes among facility owners and excavators or for enforcing the law without going to court.

The most significant change to Washington's dig law is the creation of a Safety Committee that will engage in dispute resolution as well as hear complaints of alleged violations of RCW 19.122 and recommend action by the commission to assess penalties. Such a dispute resolution process is significant to PHMSA's evaluation of state programs.

The law also adds a new reporting requirement. Facility operators or contractors who observe or cause damage must report any scrapes, gouges, cracks, dents or other visible damage to a utility's underground facilities to the commission within 45 days of the incident through a new online reporting system.

Every owner of underground facilities must comply with the law, including gas and hazardous liquids pipeline companies, public and private energy, water and sewer providers, and private telecommunications companies. The law also applies to anyone who excavates below a depth of twelve inches.

Railroad Crossing Safety

There are approximately 3,000 public railroad grade crossings in Washington. Over the past five years, there has been an average of 46 vehicle-train collisions per year at public crossings in the state. The commission has undertaken a number of activities to improve motor-vehicle safety at railroad crossings in Washington.

The data since 2005 reveal both good and bad

news. The rate of train-vehicle collisions in Washington has declined since 2005. However, there were fatal accidents in both 2010 and 2011. This may be due in part to increasing population and urban development near railroad tracks. Commission staff is working to identify strategies to improve safety at rail crossings to address this problem.

Since 2005, changes in federal law and state-level priorities have reduced funding for installing or improving warning devices and other improvements at hazardous crossings. For this reason, the commission has determined that the best, and often least expensive alternative, is closing at-grade crossings altogether where traffic can be diverted to a safer crossing with a minimum of disruption.

By developing criteria for identifying unnecessary rail crossings, commission staff developed a targeted list of crossings appropriate for closure. Staff continues to work with cities, counties, the Washington State Department of Transportation, railroads, and other stakeholders to close unnecessary crossings.

INCREASED CONSUMER PROTECTION THROUGH EXPANDED OUTREACH AND EDUCATION

The commission operates a consumer protection helpline that assists customers of regulated companies file complaints about billing or service issues, find information about their rights and responsibilities as a regulated utility customer, or submit comments on proceedings before the commission.

Over the past eight years, consumer complaint numbers have shown a slow decline. This was due, in part, to the commission's significant strides in addressing problems with several large companies; getting tough on telephone slamming the illegal practice of switching a consumer's traditional wireline telephone company for local, local toll, or long distance service without permission; and the competitive classification of many telecommunications companies and services, thereby taking them out of commission jurisdiction. However, the commission still receives nearly 2,000 consumer contacts each month. The industries receiving the most complaints remain telecommunications, electricity, and natural gas. The top three issues remain: disputed bills, service disconnections and service quality. Though the commission's message is getting out – the number of consumer complaints received leveled off between 2010 and 2011 – we have more work to do.

A 2011 random telephone survey of consumers indicated that only 18 percent knew that they could turn to the commission for assistance with regulated utility or transportation companies – that's significantly better than a 2003 survey that found only nine percent. But we know that if a consumer has a problem with a regulated company, it is a high priority issue for them – so it is important that consumers know of the assistance we can offer.

We cannot help people who don't know the commission exists. Through strategic outreach, the commission's goal is to increase that number to 25 percent by 2015 and reach 1.6 million Washingtonians. A follow-up survey will be conducted in 2015 to evaluate again the public's knowledge of the commission's consumer services.

We have expanded our education and outreach program to better educate consumers and regulated companies about their rights and responsibilities and help people understand how to navigate the laws and situations they face regarding regulated essential services. The commission has developed a comprehensive outreach program that includes speaking engagements, resource fairs, a consumer newsletter and social media presence, using a number of outlets to reach multiple audiences. These include placement of op-ed articles, visits to newspaper editorial boards, and the production of a video on how rates are set to be used at public hearings and in public presentations. These efforts will continue.

LEVERAGING REGULATION

We share the governor's concerns about environmental, social and economic issues facing the people of Washington. While the commission is first and foremost a regulatory body, we are aware that regulatory objectives are often met through negotiated settlements among regulated companies and other parties to cases before it. In these cases, the commission is aware that it is possible to leverage finite legal authority to further important state policies and interests, even when it does not have direct authority. As a result, we have been able to support the governor's interests in a number of settings.

BROADBAND EXPANSION

Improving access to modern, high-speed information network services is a top priority for the governor and federal and state government officials, and expanding broadband networks to rural Washington state is key to Washington's success in the 21st Century economy. The commission lacks direct jurisdiction over broadband services. However, by approving conditions on merger settlements and a property transfer, the commission has received commitments of $120 million in broadband investments in Washington. The commission is mindful of and will continue to adjust its oversight and regulatory efforts in light of broadband service's increasingly vital role in supporting the state's economic, educational, and other objectives for Washington residents.

LOW-INCOME ENERGY ASSISTANCE PROGRAMS

In the first week of the 2006 legislative session, Gov. Gregoire signed a measure providing $7.6 million to help families pay heating bills. The money came from the commission's Public Service Revolving Fund, a fund comprised of regulatory fees and enforcement fines. Approximately

14,000 more households received assistance and 350 homes were winterized. In Pierce County, approximately 942 households received assistance and 23 homes were winterized. This bill helped vulnerable families and seniors throughout the entire state stay warm in the winter months. In the past eight years, the commission also has bolstered low-income energy assistance for all three investor-owned utilities.

LESSONS LEARNED

We are both proud of our successes over the past eight years, and frustrated where our efforts have not yet succeeded.

In 2005, the commission was comfortable in its day-to-day work. It had processes and procedures that had worked for decades, and which, for the most part, were sufficient to achieve what the law required it to do. However, in the face of changing technologies, markets and environmental mandates, the commission needed to step back, critique its processes, and chart a new course going forward. This was a challenge because it came on top of our heavy and relentless day-to-day workload, because of some staff's comfort with the old ways and resistance to change, and because the future path was uncharted.

What lessons have these efforts taught us so far?

- Legislative mandates must be followed, but not followed blindly. We must critique the legal framework continually to ensure that it serves the public interest. Where it can be improved, the commission must advocate for that change.
- The commission must be flexible in its regulatory operations. As conservation and renewable resource issues gain salience, or as technologies and markets change, the commission must embrace the change. We will continue to stay at the forefront of such issues in the future.
- Success in streamlining internal processes requires executive sponsorship, communication and perseverance. We must continue to develop a culture within the commission that strives for continual improvement.
- A performance-based culture is necessary to increase productivity and reduce turnover. We must continue to seek resources and opportunities for our employees for professional growth, including training, interesting work, and networking and promotional opportunities.

Even as we work to transform the commission's work and improve its efficiency and effectiveness, we commit to stay true to our mission. The commission will continue to "protect consumers by ensuring that investor-owned utility and transportation services are fairly priced, available, reliable, and safe."

In doing so, we will stay true to our state's values. We will look for opportunities to realize our environmental ethic, to protect consumers, to assist low-income residents, and to ensure that Washington has the telecommunications, energy and transportation infrastructure it needs to thrive in the 21st Century economy.

We are grateful to Gov. Gregoire for her support of our efforts.