

WAC 480-54-050 Modification costs; notice; temporary stay. (1)

The costs of modifying a facility to create capacity for additional attachment, including but not limited to replacement of a pole, shall be borne by the requester and all existing occupants and owner that directly benefit from the modification. Each such occupant or owner shall share the cost of the modification in proportion to the amount of new or additional usable space the occupant or owner occupies on or in the facility. An occupant or owner with an existing attachment to the modified facility shall be deemed to directly benefit from a modification if, within sixty days after receiving notification of such modification, that occupant or owner adds to its existing attachment or otherwise modifies its attachment. An occupant or owner with an existing attachment shall not be deemed to directly benefit from replacement of a pole if the occupant or owner only transfers its attachment to the new pole.

(2) The costs of modifying a facility to bring an existing attachment into compliance with applicable safety requirements shall be borne by the occupant or owner that created the safety violation that necessitated the modification. Such costs include, but are not necessarily limited to, the costs incurred by the owner or other occupants to modify the facility or conforming attachments. An occupant or owner with an existing conforming attachment to a facility shall not be required to bear any of the costs to rearrange or replace the occupant's or owner's attachment if such rearrangement or replacement is necessitated solely to accommodate modifications to the facility to bring another occupant's or owner's attachment into conformance with applicable safety requirements to remedy a safety violation caused by another occupant or owner. The owner and each occupant shall bear their own costs to modify their existing attachments if required to comply with applicable safety requirements if an owner or occupant did not create a safety violation that necessitated the modification.

(3) An owner shall provide an occupant with written notice prior to removal of, termination of service to, or modification of (other than routine maintenance or modification in response to emergencies) any facilities on or in which the occupant has attachments affected by such action. The owner must provide such notice as soon as practicable but no less than sixty days prior to taking the action described in the notice; provided that the owner may provide notice less than sixty days in advance if a governmental entity or landowner other than the owner requires the action described in the notice and did not notify the owner of that requirement more than sixty days in advance.

(4) A utility or licensee may file with the commission and serve on the owner a "petition for temporary stay" of utility action contained in a notice received pursuant to subsection (3) of this section within twenty days of receipt of such notice. The petition must be supported by declarations or affidavits and legal argument sufficient to demonstrate that the petitioner or its customers will suffer irreparable harm in the absence of the relief requested that outweighs any harm to the owner and its customers and that the petitioner will likely be successful on the merits of its dispute. The owner may file and serve an answer to the petition within seven days after the petition is filed unless the commission establishes a different deadline for an answer.

(5) An owner may file with the commission and serve on the occupant a petition for authority to remove the occupant's abandoned attachments. The petition must identify the attachments and provide sufficient evidence to demonstrate that the occupant has abandoned those

attachments. The occupant must file an answer to the petition within twenty days after the petition is filed unless the commission establishes a different deadline for an answer. If the occupant does not file an answer or otherwise respond to the petition, the commission may authorize the owner to remove the attachments without further proceedings.

[Statutory Authority: RCW 80.01.040, 80.04.160, 80.54.020, and 80.54.060. WSR 15-21-090 (Docket U-140621, General Order R-582), § 480-54-050, filed 10/21/15, effective 1/1/16.]