

WAC 468-100-305 Discretionary utility relocation payments. (1)

Whenever a program or project undertaken by a displacing agency causes the relocation of a utility facility (WAC 468-100-002(31)) and the relocation of the facility creates extraordinary expenses for its owner, the displacing agency may, at its option, make a relocation payment to the owner for all or part of such expenses, if the following criteria are met:

(a) The utility facility legally occupies state or local government property, or property over which the state or local government has an easement or right of way;

(b) The utility facility's right of occupancy thereon is pursuant to state law or local ordinance specifically authorizing such use, or where such use and occupancy has been granted through a franchise, use and occupancy permit, or other similar agreement;

(c) Relocation of the utility facility is required by and is incidental to the primary purpose of the project or program undertaken by the displacing agency;

(d) There is no federal law, other than the Uniform Act, which clearly establishes a policy for the payment of utility moving costs that is applicable to the displacing agency's program or project; and

(e) State or local government reimbursement for utility moving costs or payment of such costs by the displacing agency is in accordance with state law.

(2) For the purposes of this section, the term extraordinary expenses means those expenses which, in the opinion of the displacing agency, are not routine or predictable expenses relating to the utility's occupancy of rights of way, and are not ordinarily budgeted as operating expenses, unless the owner of the utility facility has explicitly and knowingly agreed to bear such expenses as a condition for use of the property, or has voluntarily agreed to be responsible for such expenses.

(3) A relocation payment to a utility facility owner for moving costs under this section may not exceed the cost to functionally restore the service disrupted by the federally assisted program or project, less any increase in value of the new facility and salvage value of the old facility. The displacing agency and the utility facility owner shall reach prior agreement on the nature of the utility relocation work to be accomplished, the eligibility of the work for reimbursement, the responsibilities for financing and accomplishing the work, and the method of accumulating costs and making payment.

[Statutory Authority: Chapter 8.26 RCW. WSR 06-02-068, § 468-100-305, filed 1/3/06, effective 2/3/06; WSR 89-17-048 (Order 121), § 468-100-305, filed 8/14/89, effective 9/14/89.]