

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Exemption from
Rules in WAC 480 and Suspension of
Certain Procedural Events Due to the
Shutdown of State Government

DOCKET A-170680

ORDER 01

ORDER EXEMPTING
COMPLIANCE WITH CERTAIN
RULES IN WAC 480; DELEGATING
AUTHORITY TO EXECUTIVE
DIRECTOR AND SECRETARY TO
SUSPEND FILINGS

BACKGROUND

- 1 The state Legislature has not yet passed a budget for the upcoming biennium, which begins July 1, 2017. If the Legislature fails to pass a budget, state government will shut down, and the Washington Utilities and Transportation Commission (Commission) will close, effective 12:01 a.m. on July 1, 2017, until the Legislature approves and the Governor signs a 2017-2019 biennial budget.
- 2 During a government shutdown, the Commission cannot, among other things, maintain normal business hours; timely review and analyze tariff, contract, or other filings; hold hearings; or enter orders. Similarly, some companies may not be able to comply with certain reporting deadlines.
- 3 Under WAC 480-07-380, the Commission may modify time limits set forth in Commission rules that do not mirror, or are not subject to, requirements in the Administrative Procedure Act, RCW 34.05. The Commission may modify such time limits, subject to other requirements of law, such as the Open Public Meetings Act, RCW 42.30 and the Public Records Act, RCW 42.56. The Commission may also exempt public service companies, the Commission, and other affected parties from compliance with Commission rules. WAC 480-07-110(4).
- 4 The Commission, by this Order, exempts public service companies, the Commission, and all other affected persons from compliance with certain rules in WAC 480 that establish time limits or other requirements the Commission and others may be unable to enforce or comply with during a government shutdown.

DISCUSSION

5 We find good cause to exempt public service companies, other affected persons, and the
Commission from complying with certain Commission rules while the Commission is
closed due to the Legislature's failure to approve a budget. By this Order, the
Commission exempts compliance with certain rules governing general administrative
matters, procedures for adjudications, open public meetings, delegated authority, utility
tariffs, and reports to the Commission required by rule or order. These rules are identified
in the appendix attached to this Order, and incorporated by reference as if set forth in full
in the body of this Order.

6 Pursuant to RCW 80.01.030 and Order 01 in Docket A-151775, the Commission
delegates to the Executive Director and Secretary the authority to enter orders suspending
filings received by the Commission after this Order is entered to ensure company filings
do not go into effect by operation of law during a government shutdown.

7 This Order is rescinded, and null and void, once the Legislature passes and the Governor
signs a 2017-2019 biennial budget. The Commission will post a notice on its website at
www.utc.wa.gov when the agency has resumed operations.

FINDINGS AND CONCLUSIONS

- 8 (1) The Commission is an agency of the state of Washington, vested by statute with
authority to regulate the rates, rules, regulations, practices, and accounts of public
service companies.
- 9 (2) Under WAC 480-07-380, the Commission may, on its own motion, modify time
limits set forth in Commission rules that are not prescribed by statute.
- 10 (3) The Commission may, for good cause shown, exempt public service companies,
the Commission, or other affected parties from compliance with Commission
rules. WAC 480-07-110(4).
- 11 (4) If the Legislature does not approve a biennial budget, the Commission will close
down, effective 12:01 a.m. on July 1, 2017. The Commission will not be able to
fulfill its full statutory obligations to the public, and public service companies
may be unable to timely comply with certain rules governing Commission actions
under WAC 480.

- 12 (5) The potential state government shutdown constitutes good cause to exempt public service companies, the Commission, and other affected persons from compliance with certain rules identified in the appendix to this Order.

ORDER

THE COMMISSION ORDERS:

- 13 (1) The Commission exempts public service companies, the Commission, and all other affected persons from compliance with certain rules in WAC 480, as set forth in the appendix attached to this Order and incorporated by reference as if set forth in full in the body of this Order.
- 14 (2) The Commission delegates authority to the Executive Director and Secretary to enter orders suspending filings received by the Commission after this Order is entered.
- 15 (3) This Order is effective until the state Legislature approves and the Governor signs a biennial budget allowing state agencies to resume operations.
- 16 (4) This Order is rescinded, and null and void, once the Legislature passes and the Governor signs a 2017-2019 biennial budget.
- 17 (5) The Commission retains jurisdiction to effectuate the terms of this Order.

Dated at Olympia, Washington, and effective June 15, 2017.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

ANN E. RENDAHL, Commissioner

JAY M. BALASBAS, Commissioner

NOTICE TO PARTIES: This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-07-870.

APPENDIX

RULES IN WAC 480 FOR WHICH THE COMMISSION EXEMPTS COMPLIANCE

- A. Rules governing general administrative matters:**
- Commission office hours (WAC 480-07-120);
 - When documents are deemed received (WAC 480-07-140(5)(a)(ii), (b)(ii), (c));
 - Requirement that parties verify confidential information after the close of a record (WAC 480-07-160(7)); and
 - Deadline to provide notice of request for confidential information: (WAC 480-07-160(6)(b)(i) and (iii)).¹
- B. Rules governing the hearing process:**
- Deadlines for the Commission to initiate adjudicative proceedings and for correcting errors in pleadings initiating proceedings (WAC 480-07-305(4), (5)), including matters filed prior to the shutdown;
 - Notice requirements for hearings or prehearing conferences (WAC 480-07-440(1)(a), except that the Commission must provide at least seven (7) days' notice under RCW 34.05.434 unless the Governor has prohibited compliance with the statute;
 - Deadline for written rebuttals to notice of *ex parte* communication (WAC 480-07-310(4)), including notices filed prior to the shutdown;
 - Deadline to file a written petition for leave to intervene and respond to petitions prior to the initial prehearing conference or hearing (WAC 480-07-355(1), (2));
 - Deadlines to respond to discovery requests (WAC 480-07-405(7)), or to provide notice of intent to use deposition transcripts in hearing or to file a motion to correct a deposition transcript (WAC 480-07-410(4)(b), (5)(a)); and
 - Notice and filing requirements of a brief adjudicative proceeding (WAC 480-07-610(5)(b)), except that the Commission must follow the

¹ If the provider of the information consents to disclosure, within **ten days** following notice, the Commission will consider the information public and release the information to the requester. However, if the provider of the information does not consent, the deadline to obtain an order from the superior court protecting the records within ten days may not be waived, unless the Governor enters an order prohibiting compliance with the statute (RCW 80.04.095).

statutory requirements for review of such proceedings under RCW 34.05.488 and RCW 34.05.491 unless the Governor has prohibited compliance with the statute.

- C. Rules governing alternate dispute resolution:**
 - Requests to initiate early settlement conferences (WAC 480-07-700(3)(b)); and
 - Minimum time for Commission consideration of settlements (WAC 480-07-740(1)(a), (1)(b)).

- D. Rules governing pleadings:**
 - Deadlines to answer formal complaints or petitions, and to file replies of right or requests to file replies, including application of the rule that requests are deemed denied within five business days (WAC 480-07-370(2)(b), (4)(b), (5)(b)); and
 - Deadlines to file motions directed to pleadings (WAC 480-07-380(1)(b)), answers to motions (WAC 480-07-375(4), WAC 480-07-380(1)(c)), motions for summary determination and answers (WAC 480-07-380(2)(b), (2)(c)); and motions for continuance (WAC 480-07-385(3)(a)).

- E. Rules governing procedures for issuing orders:**
 - Deadlines to petition for review of an interlocutory order and to file answers (WAC 480-07-810(3));
 - Deadline to enter initial orders (60 days), except that the Commission must follow the statutory requirements for entering initial and final orders within 90 days of conclusion of the hearing or submission of briefs under RCW 34.05.461(8)(a) unless the parties waive this provision, the Commission extends for good cause, or the Governor has prohibited compliance with the statute;
 - Deadlines to file petitions for administrative review of initial orders, answers to petitions, and replies (WAC 480-07-825(2), (4)(b), (5)(c));
 - Deadline to file motions for clarification of a final order (WAC 480-07-835(1)); and
 - Deadline to file answers to petitions for declaratory orders (WAC 480-07-930(3)).²

² Unless the Governor enters an order prohibiting compliance with requirements in RCW 34.05.240, the Commission must follow the deadlines for providing notice of a petition for

- F. Rules governing Open Public Meetings:**
- Requirements for scheduling, filing deadlines, and providing notice of the meeting time, date, location and agenda (WAC 480-07-900).³
- G. Rules governing delegation of authority to Executive Secretary:**
- Requirement to post delegated decisions on the Internet for 14 days, and deadline for seeking review of delegated decisions (WAC 480-07-904(2), (3)(a)).
- H. Rules governing tariffs for utility companies:**
- Office hours for accepting tariff filings (WAC 480-80-031(1));
 - Deadlines for tariff changes: Unless the Governor enters an order prohibiting compliance with the statutory notice periods for tariff changes, public service companies must file tariff changes with the Commission and provide notice to customers no less than 30 days in advance of the requested effective date (WAC 480-80-121(1)(a), WAC 480-90-194, WAC 480-100-194, WAC 480-110-425(3), and WAC-480-120-194). By this Order, the Commission exempts telecommunications companies from the requirement to file tariffs for changes that reduce rates not less than 10 days prior to the requested effective date (WAC 480-80-121(1)(b));
 - Requirements for filing tariff changes with less than statutory notice (WAC 480-80-122(1)(a) through (f));
 - Filing tariff changes that do not require statutory notice (WAC 480-80-123(1)) such that the Commission may prohibit utilities from modifying tariffs under this rule for the duration of the shutdown;
 - Effective date of telecommunications company promotional offerings (WAC 480-80-126(1));
 - Effective date of special contracts (WAC 480-80-142(7)(c), 143(4));
 - Deadlines for filing tariff revisions or adoptions when water companies acquire new service areas (WAC 480-110-433).
- I. Rules governing Gas, Electric, Water & Telephone Company**

declaratory ruling and to act within 30 days of receiving the petition by entering an order on the petition or establishing a schedule for determining the petition.

³ RCW 42.30.070 relieves agencies from complying with certain notice requirements for open meetings in the event of an emergency.

Operations:

- Deadline for filing water company service extension contracts (WAC 480-110-435(2)(a));
- Deadline for reporting water company funding mechanisms (WAC 480-110-455(4)(c));
- Deadlines for filing purchased gas adjustments and monthly reports (WAC 480-90-233(3));
- Reporting requirements for transactions with affiliates (WAC 480-90-244, WAC 480-90-264(1), WAC 480-100-244, WAC 48-100-264(1) and WAC 110-535); and
- Deadlines for filing the following reports:
 - FERC Form 2 (WAC 480-90-252(1) and WAC 480-100-252(1));
 - Accounting and reporting requirements (WAC 480-110-505(3), (4));
 - Commission basis reports (WAC 480-90-257(1) and WAC 480-100-257(1));
 - Securities transaction reports (WAC 480-90-262, WAC 480-100-262, and WAC 110-565);
 - Essential utilities services contracts reports (WAC 480-90-268(2) and WAC 480-100-268(2)); and
 - Actual results for Washington operations report (WAC 480-90-275, WAC 480-100-275).

J. Rules governing Telephone Companies:

- Deadlines and effective dates for competitive classification petitions (WAC 480-121-061(1) and (6));⁴
- Deadline for providing customer notice of competitive classification of service (WAC 480-121-065(1));
- Deadline for requesting annual certification of eligible telecommunications carriers (WAC 480-123-060(1), WAC 480-123-070, WAC 480-123-080);⁵ and

⁴ Unless the Governor enters an order prohibiting compliance with requirements in RCW 80.36.310(2), the Commission must follow the deadlines for suspending and entering a final order on a suspended petition.

⁵ The October 1 deadline for receipt of federal high-cost funds certification is established in 47 CFR §54.307, *et. seq.* The Commission has no jurisdiction to modify the federal deadlines but may waive the Commission's rule if it has sufficient time to review applications submitted after the July 31 deadline and prepare certifications for the FCC to meet the federal deadline. Unless

- Deadlines for filing the following reports:
 - Annual report for competitively classified companies (WAC 480-120-382(1));
 - Annual reports and regulatory fees for companies not classified as competitive (WAC 480-120-385(1)(a), WAC 480-120-385(4)(d));
 - Service quality performance reports (WAC 480-120-439).

- K. Rules governing low-level radioactive waste companies:**
 - Deadline for annual reports (WAC 480-92-050(2));
 - Deadline for affiliated interest transactions reports (WAC 480-92-055);
 - Annual rate adjustment effective January 1 (WAC 480-92-070(1));⁶ and
 - Effective date of contracts (WAC 480-92-080(3)(b)).⁷

- L. Rules governing gas companies:**
 - Deadline for filing construction plans (WAC 480-93-017(2));
 - Deadline for filing written plans prior to up-rating maximum allowable operating pressure (WAC 480-93-155); and
 - Deadline for filing proposed construction reports prior to replacing certain segments of pipe (WAC 480-93-160).

- M. Rules hazardous liquid pipeline companies:**
 - Deadlines for scheduling right-of-way inspections (WAC 480-75-530);
 - Deadline for reporting requirements for proposed construction (WAC 480-75-610(1));
 - Deadline for pressure testing reporting requirements (WAC 480-75-620);
 - Deadlines for reporting incidents (WAC 48-075-630(1)); and
 - Deadlines for filing annual reports (WAC 480-75-650(1)).

the FCC waives or extends the October 1 deadline, the Commission must meet the federal deadline.

⁶ Unless the Governor enters an order prohibiting compliance with requirements in RCW 80.108.050(3), the Commission must adjust rates “in January of each year,” unless the Commission has suspended the company’s rate adjustment filing.

⁷ Unless the Governor enters an order prohibiting compliance with requirements in RCW 80.108.060(2), contracts must be filed with the Commission at least 30 days prior to the stated effective date, and the Commission may either approve it prior to the effective date or suspended the contract.

- N. Rules governing company budgets:**
 - Deadlines for filing company budgets (WAC 480-140-030).

- O. Rules governing transfers of property:**
 - To the extent not required by statute (RCW 80.12, RCW 81.12), all rules in WAC 480-143).

- P. Rules governing auto transportation companies:**
 - To the extent not required by statute (RCW 80.68), all rules governing deadlines and requirements for temporary applications in WAC 480-30.⁸

- Q. Rules governing commercial ferry companies:**
 - To the extent not required by statute (RCW 80.84), all rules governing deadlines and requirements for temporary applications in WAC 480-51.⁹

- R. Rules governing solid waste collection companies:**
 - To the extent not required by statute (RCW 80.77), all rules governing deadlines and requirements for temporary applications in WAC 480-70.¹⁰

⁸ Unless the Governor enters an order prohibiting compliance with RCW 80.68.046, which limits granting temporary authority in territory already served by a carrier, or for which an application its pending, and limiting the length of the authority to 180 days, these restrictions will continue to apply.

⁹ Unless the Governor enters an order prohibiting compliance with RCW 80.84.070, which limits granting temporary authority in territory already served by a carrier, or for which an application its pending, and limiting the length of the authority to 180 days, these restrictions will continue to apply.

¹⁰ Unless the Governor enters an order prohibiting compliance with RCW 80.77.040, restrictions on granting authority in areas where carriers already provide service will continue to apply.