

**WAC 480-07-160 Confidential information.**<sup>1</sup> The commission will provide special handling and limited access to confidential information submitted in compliance with this rule. This rule applies to any information submitted under a claim of confidentiality. See, also, WAC 480-07-420 regarding protective orders in adjudicative proceedings.

**(1) Implementation.**

(a) Designated official. The commission’s secretary is the designated official responsible for the commission’s compliance with the public records act, chapter 42.17 RCW, and for the implementation of this rule. The secretary may designate one or more persons to serve as public records officer to assist in the implementation and application of this rule.

(b) Provider. Any person who submits information to the commission or commission staff under a claim of confidentiality pursuant to this rule is a “provider,” as that term is used in this rule.

(c) Requester. Any person who submits a request for public records under the public records act, chapter 42.17 RCW, or a data request in an adjudicative proceeding is a “requester,” as that term is used in this rule.

**(2) Confidential information defined.** Confidential information is information that meets any of the following criteria:

(a) Information protected from inspection or copying under an exemption from disclosure requirements under the public records act, chapter 42.17 RCW.

~~(b) Information protected under the terms of a protective order in an adjudicative proceeding.~~

(e) Valuable commercial information, including trade secrets or confidential marketing, cost, or financial information, or customer-specific usage and network configuration and design information, as provided in RCW 80.04.095.

**(3) How to designate and seek protection of confidential information under this section.** A provider may claim the protection of this rule only by strict compliance with the following requirements. Any failure to comply with these requirements may result in the submission not being accepted as one including confidential information and its return to the provider for correction and resubmission.

(a) Contents. The provider must submit the claim of confidentiality in writing, in the same form (i.e., paper or electronic) and at the same time the information claimed to be confidential is submitted. The provider must state the basis upon which the information is claimed to be confidential under this rule,

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<sup>1</sup> Source: WAC 480-09-015.

and must identify any person (other than the provider) that might be directly affected by disclosure of the confidential information.

(b) Marking.

(i) *Paper copies.* When the document is in paper format, the provider must clearly mark each copy with the designation “Confidential Per WAC 480-07-160.” The provider must place this mark on the first page of a multi-page document and each specific page where the provider claims there is confidential information.

(ii) *Electronic copies.* When the document is in electronic format, such as an electronic mail message, or a word processing or spreadsheet file, the “Confidential Per WAC 480-07-160” mark must be inserted on the first page in the file on each page that the provider claims contains confidential information.

(iii) *Protective order, if any, must be cited.* If the provider submits confidential information under the provisions of a protective order, the provider must cite the protective order in the document as to which confidentiality is claimed. The "confidential" mark on each page must indicate "Confidential per Protective Order in WUTC Docket No. [insert docket number]."

(c) Unredacted version under seal; redacted version. The provider must submit a version of the document as to which confidentiality is claimed as a complete document (“unredacted version”) and a version of the document with the information claimed to be confidential masked (“redacted version”). The unredacted version must be so labeled and submitted in a sealed envelope or similar wrapping. Each page of the unredacted version that includes information claimed to be confidential must be printed on colored paper (yellow or canary). The redacted version must be submitted in the same manner as a document as to which confidentiality is not claimed. The redacted version will be available for public disclosure if requested. The redacted and unredacted versions must have the same pagination and line numbering.

**(4) Challenges to claims of confidentiality.** The commission or a party to a proceeding in which a provider submits a document with a claim of confidentiality may challenge the claim. When a challenge is made, the commission will provide an opportunity to respond before ruling on the challenge. If a confidential designation is challenged, the provider of the confidential information bears the burden to show that part or all of a document should be protected from disclosure under chapter 42.17 RCW, or RCW 80.04.095, ~~or a protective order~~. The commission may express its ruling orally on the record in an adjudicative proceeding, or in a written order.

**(5) Requests for "confidential" information.** Subject to subsections (6) and (7) of this section, the commission will release information designated confidential in response to a request properly filed under the following requirements:

(a) The requester must submit a written request to the commission's secretary on a form provided by the commission or in a letter containing equivalent supporting information, including the requester's name and address and the name and address of any organization on whose behalf or for whose benefit the request is being made. The requester must state whether the information sought is to be used for a commercial purpose.

(b) The request must be sufficiently specific to allow the secretary to readily identify the document or other material that contains the requested information. Following receipt of a request for confidential information, the secretary will notify the requester of any deficiency in the request. The requester is required to correct the request and resubmit it pursuant to this rule. The commission will take no action pending resubmission.

(c) If a requester wants copies of any documents identified in response to a request, the requester must make arrangements with the commission's secretary to pay the designated copying fees, if any.

**(6) Informal resolution.** When the secretary and the requester agree that the requester's need for information can be satisfied without disclosing confidential information, the secretary will make the information available.

**(7) Notice of request for information designated confidential; release of information designated confidential.** The commission will provide written notice of any request for information designated confidential to the provider and any person identified by the provider as a person who might be directly affected by release of the information. This is to permit any person asserting confidentiality or who might be affected by the release of the information to invoke the statutory procedures for securing a court order to protect the records from disclosure or to take similar steps in compliance with a protective order in an adjudicative proceeding. The commission will issue such notice not more than two days after the requested materials are located and it determines that they contain information claimed to be confidential. The commission will send a copy of the notice to the requester at the same time it sends a copy to the provider.

If the provider consents in writing to the release of the information, or does not restrain disclosure by way of court order within ten days following notice, the commission will consider the information public, remove the confidential designation from its files, and release the information to the requester.

**(8) Judicial intervention by the commission.** The commission need not assist any person in seeking or resisting judicial intervention, but may participate in any such proceeding.

**(9) Designation or Redesignation of confidential information in adjudications.** At the conclusion of an adjudication in which confidentiality was

asserted as to documents or portions of the record, a party asserting confidentiality must, no later than the time for filing briefs or, if no briefs are filed, within 10 days after the close of the record, do the following:

(a) Verify the accuracy of all confidential designations in the record and in the exhibit list for the proceeding, and submit any needed corrections or changes. Absent a statement of needed corrections or changes, the designations in the record and in the exhibit list are deemed conclusively accurate as to the party's designation. If there is conflict between designations, the designation that is least restrictive to public access will be adopted.

(b) File a redacted and unredacted copy of any document as to which confidentiality was asserted during the proceeding but which is not reflected in the record or exhibit list as a document designated confidential.

(c) File an unredacted version of any document designated as confidential during the proceeding, but as to which the party claiming confidentiality wishes to remove the confidential designation.

**WAC 480-07-355 Parties—Intervention.<sup>2</sup>**

**(1) Petition to intervene.**

(a) Who may petition; when petitions must be filed. Any person (other than the original parties to any proceeding before the commission, commission staff, and public counsel) who desires to appear and participate as a party should file a written petition for leave to intervene at least three business days before the initial hearing date or prehearing conference date, whichever occurs first. A person may petition orally for leave to intervene at the time of the initial hearing or prehearing conference, unless the commission requires written petitions to intervene in a notice prior to the first hearing or prehearing date. The commission may extend the period for filing timely petitions to intervene.

(b) Late-filed petition to intervene. Any petition to intervene made after the deadline for filing or presenting the petition is a "late-filed petition to intervene." The commission will grant a late-filed petition to intervene only on a showing of good cause, including a satisfactory explanation of why the person did not timely file a petition.

(c) Contents of petition. Any petition to intervene must disclose:

- (i) The petitioner's name and address.
- (ii) The petitioner's interest in the proceeding.
- (iii) The petitioner's position(s) with respect to the matters in controversy.
- (iv) Whether the petitioner proposes to broaden the issues in the proceeding and, if so, a statement of the proposed issues and an affidavit or

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<sup>2</sup> Source: WAC 480-09-430.

declaration that clearly and concisely sets forth the facts supporting the petitioner's interest in broadening the issues.

(v) The name and address of petitioner's attorney or other representative, if any. Attorneys and other party representative must separately file their notice of appearance as required by WAC 480-07-345(2).

**(2) Response.** Parties may respond to any petition to intervene. Responses may be written, or may be heard orally at a prehearing conference or at hearing. A party who opposes the petition to intervene shall file any written response within five days after the petition is served.

**(3) Disposition of petitions to intervene.** The commission may consider petitions to intervene at hearings or prehearing conferences, or, if persons have responded to a petition, before or after a hearing or prehearing conference. If the petition discloses a substantial interest in the subject matter of the hearing or if the petitioner's participation is in the public interest, the presiding officer may orally grant the petition at a hearing or prehearing conference, or in writing at any time. The presiding officer may impose limits on an intervenor's participation in accordance with RCW 34.05.443(2). If the commission grants intervention, the petitioner becomes a party to the proceeding as an "intervenor."

**(4) Dismissal of intervenor.** The commission may dismiss an intervenor from a proceeding after notice and a reasonable opportunity to be heard if the commission determines at any time that the intervenor has no substantial interest in the proceeding, or that the public interest will not be served by the intervenor's continued participation.

**(5) Interlocutory review by commission.** The commission may review a decision regarding a petition to intervene or dismissal of an intervenor pursuant to WAC 480-07-810.

**WAC 480-07-380 Motions that are dispositive—Motion to dismiss; motion for summary determination; motion to withdraw.<sup>3</sup>**

**(1) Motion to dismiss.**

(a) General. A party may move to dismiss another party's claim or case on the asserted basis that the opposing party's pleading fails to state a claim on which the commission may grant relief. The commission will consider the standards applicable to a motion made under CR 12 (b)(6) and 12(c) of the Washington superior court's civil rules in ruling on a motion made under this subsection.<sup>4</sup> If a party presents matters outside the pleading subject to the motion to dismiss by affidavit or otherwise, and these matters are not excluded

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<sup>3</sup> Source: WAC 480-09-426.

<sup>4</sup> Source: WAC 480-09-426(1).

by the commission, the commission will treat the motion as one for summary determination as provided in subsections (2) and (3) of this section.<sup>5</sup>

(b) Time for filing motion to dismiss.<sup>6</sup> A party that opposes a pleading must file any motion directed to the pleading no later than the time the responsive pleading is due, or within twenty days after the pleading is served, whichever time is less, unless the party shows good cause for delay. Filing a motion to dismiss a pleading, or seeking a similar remedy, does not extend the time for answering the pleading.

(c) Response. A party who opposes a written motion to dismiss may file a response within ten days after service of the motion, or at such other time as may be set by the commission or the presiding officer. The commission may allow oral argument.

**(2) Motion for summary determination.**<sup>7</sup>

(a) General. A party may move for summary determination of one or more issues if the pleadings filed in the proceeding, together with any properly admissible evidentiary support (e.g., affidavits, fact stipulations, matters of which official notice may be taken), show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. In considering a motion made under this subsection, the commission will consider the standards applicable to a motion made under CR 56 of the Washington superior court's civil rules.

(b) Time for filing motion for summary determination.<sup>8</sup> A party must file any motion for summary determination at least ~~thirty~~ten business days before the next applicable hearing session, unless the commission or presiding officer establishes by order a different specific date for any such motion to be filed.

(c) Response. A party that answers a motion for summary determination must file its answer and any cross-motion for summary determination within twenty days after the motion is served, unless the commission establishes by order a different specific date for any such response to be filed.

(d) Continuance not automatic. Filing a motion for summary determination will not automatically stay any scheduled procedures. The commission may order a continuance of any procedure and may order oral or written response to a motion for summary determination on a schedule consistent with any established hearing schedule in the proceeding.

**(3) Motion to withdraw.** A party may withdraw from a proceeding only upon permission granted by the commission in response to a written motion if:

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<sup>5</sup> New language (based on CR 12(b) and 12(c)).

<sup>6</sup> Source: WAC 480-09-425(2).

<sup>7</sup> Source: WAC 480-09-426.

<sup>8</sup> Source: WAC 480-09-426.

(a) In the case of a matter initiated by a tariff filing, the commission has entered a complaint and order suspending the filing; or

(b) In all other cases, the commission has issued a hearing notice or otherwise commenced an adjudicative proceeding pursuant to chapter 34.05 RCW.

The commission will grant a party's motion to withdraw from a proceeding when to do so is in the public interest.

## **WAC 480-07-400 Discovery.**

### **(1) General.**

(a) No limitation on commission authority to audit and inspect.<sup>9</sup> Nothing in this section imposes any limitation on the commission's ability to audit or obtain the books and records of public service companies, or the public service companies' obligation to provide information to the commission, whether or not in the context of an adjudicative proceeding.

(b) Informal discovery procedures.<sup>10</sup> Parties in an adjudicative proceeding may agree to informal discovery procedures in addition to, or in place of, the procedures contained in this section.

(c) Definitions.<sup>11 12</sup> For purposes of WAC 480-07-400 through 480-07-425, the following terms have the following meanings.

(i) *Party.* Any party as defined by WAC 480-07-340.

(ii) *Data.* As used in this section, "data" means information of any type, in any form.

(iii) *Data request.* A party's written request that calls for another party to produce data in connection with an adjudicative proceeding is a "data request." Generally, data requests seek documents, an analysis, compilation or summary of documents into a requested format, a narrative response explaining a policy, position, or a document, or the admission of a fact asserted by the requesting party. If a party relies on a cost study, it is expected that the party will, on request, rerun the study based on different assumptions, subject to the standards in subsection (5) of this section. The commission will not order a party to respond to a data request that seeks production of a new cost study unless there is a compelling need for such production.

(iv) *Record requisition.* A request for data made on the record during a conference or hearing session or during a deposition is a "record requisition." A party to whom a record requisition is addressed may object to the request at the

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<sup>9</sup> Source: WAC 480-09-480(1).

<sup>10</sup> Source: WAC 480-09-480(1).

<sup>11</sup> Source: WAC 480-09-480(3)(a)-(f).

<sup>12</sup> Source: WAC 480-09-480(6).

time it is made or, if it later discovers a reason for objection not reasonably known at the time of the record requisition, within five days thereafter. Unless another time is designated, the response to the record requisition will be due to the requesting party and all other parties who requested a copy within ten days after the close of the hearing phase in which the request was made.

(v) *Bench request.* A request for data made by or on behalf of the presiding officer is a “bench request.”

(vi) *Depositions.* Depositions are described in WAC 480-07-410.

**(2) When discovery available.**

(a) Subpoenas always available. The only discovery procedure available in all adjudicative proceedings before the commission is the subpoena, including a subpoena duces tecum.<sup>13</sup> A commissioner, an administrative law judge, or the attorney of any party to the proceeding may issue a subpoena. Witnesses are required to comply with subpoenas in the manner prescribed in Title 80 or 81 RCW and chapter 34.05 RCW. Witnesses will be paid as provided in RCW 34.05.446(7). Each subpoena must bear the name of the party requesting or issuing the subpoena and the party responsible for paying witness fees.<sup>14</sup>

(b) When other discovery methods available.<sup>15</sup> If the commission finds that an adjudicative proceeding meets one of the following criteria, the methods of discovery described in subsections (1)(c)(iii-vi) of this section and in WAC 480-07-410 and 480-07-415 will be available to parties:

(i) Any proceeding involving a change in the rate levels of an electric company, natural gas company, pipeline company, telecommunications company, water company, solid waste company, low-level radioactive waste disposal site, or a segment of the transportation industry;

(ii) Any proceeding that the commission declares to be of a potentially precedential nature;

(iii) Any complaint proceeding involving claims of discriminatory and/or anticompetitive conduct;

(iv) Any complaint proceeding regarding allegations of unjust or unreasonable rates or other illegal practices, including any alleged violation of RCW 80.28;

(v) Any proceeding in which the commission, in its discretion, determines that the needs of the case require the methods of discovery specified in this rule.

**(3) Signature on discovery requests.**<sup>16</sup> A party, or the party’s attorney or other representative, must sign each discovery request or group of requests issued. The signature constitutes a certification that the request complies with

<sup>13</sup> Source: WAC 480-09-480(2).

<sup>14</sup> Source: WAC 480-09-475.

<sup>15</sup> Source: WAC 480-09-(2), (4).

<sup>16</sup> Source: WAC 480-09-480(6)(a)(ii).



the standards of civil rule 26(g) of the rules for superior court and that no request made substantially duplicates a request previously made by the requesting party to the same party in the same proceeding, unless the duplication is reasonably necessary and the reason for duplication is clearly stated.

**(4) Frequency, extent, and scope of discovery.**<sup>17</sup> Data requests must seek only information that is relevant to the issues in the adjudicative proceeding or that may lead to the production of information that is relevant. A party may not object to a data request on grounds that the information sought will be inadmissible at the hearing, if the information sought appears reasonably calculated to lead to discovery of admissible evidence. Parties must not seek discovery that is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive. A discovery request is inappropriate when the party seeking discovery has had ample opportunity to obtain the information sought or the discovery is unduly burdensome or expensive, taking into account the needs of the adjudicative proceeding, limitations on the parties' resources, scope of the responding party's interest in the proceeding, and the importance of the issues at stake in the adjudicative proceeding.

**(5) Schedule.**<sup>18</sup> The commission may establish and set forth in a prehearing order a schedule for discovery. Any such schedule will provide deadlines sufficient to allow a timely opportunity for responses and for disputes to be resolved. The presiding officer may impose or modify time limits to the extent necessary to conform to the commission's hearing schedule. .

**WAC 480-07-405 Discovery—Data requests, record requisitions, and bench requests.**

**(1) Grouping and numbering.**

(a) Grouping.<sup>19</sup> Parties must group their data requests by subject or witness and present data requests in an electronic format agreed by the parties whenever possible, unless the parties agree to a different procedure or the presiding officer orders a different procedure. Requests not presented in electronic format must include no more than one request per page. Parties with similar interests are encouraged, and may be required, to coordinate their issuance of data requests to avoid duplication.

(b) Numbering.<sup>20</sup> Each party must number sequentially its data requests, as submitted. The presiding officer will ensure that record requisitions and

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<sup>17</sup> Source: WAC 480-09-480(6)(a)(vi).

<sup>18</sup> Source: WAC 480-09-480(5).

<sup>19</sup> Source: WAC 480-09-480(6)(a)(i), (ii).

<sup>20</sup> Source: WAC 480-09-480(6)(a)(iv).

bench requests are adequately described on the record and consecutively numbered.

**(2) Service of data requests, records requisitions, and responses to parties.**<sup>21</sup> Written data requests must be sent to the party to whom the request is made, with copies to all other parties. The commission staff copy must be sent to the assistant attorney general who represents the commission staff. The commission encourages parties to agree to exchange data in electronic format by e-mail, on diskette, or by other mutually acceptable electronic means.

**(3) Motion to compel; filing data requests, objections, and responses.** Parties must not file data requests and responses to data requests with the commission or provide them to any presiding officer, except when a party files a motion to compel. A party's motion to compel must include the relevant data request, any objection, and any response.

**(4) Limitation on numbers of data requests.**<sup>22</sup> The presiding officer may limit the number of data requests that a party may submit without a certification that the submitting party has coordinated with other parties of similar interest and that no substantial duplication exists with other parties' submissions.

**(5) Responding party to seek clarification.**<sup>23</sup> If a party to whom a data request is submitted finds the meaning or scope of a request to be unclear the responding party must immediately initiate a clarification call to the requesting party. Lack of clarity is not a basis for objection to a data request unless the responding party has made a good faith effort to obtain clarification.

**(6) Objections; consequence of failure to object.**

A party that wishes to object to a data request [in lieu of providing a full response](#) must present the objection to the requesting party in writing [by the time, and separate from any partial response, no later than five days before](#) the response is due, or at such other time as may be ordered. A party that fails to interpose a timely objection to providing a full response to a data request waives any right to object for purposes of discovery and must provide a full response. A party that fails to make an objection when responding to data requests does not lose the opportunity to raise an objection at hearing if another party seeks to introduce as evidence all or part of the party's response to a data request.

**(7) Responses.**<sup>24</sup>

(a) Data requests and records requisitions. Parties must send responses to data requests and record requisitions to the requesting party and to any other party who requests a copy, consistent with the terms of any protective order entered in the proceeding. Parties must send the commission staff copy to the

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<sup>21</sup> Source: WAC 480-09-480(6)(a)(iii).

<sup>22</sup> Source: WAC 480-09-480(6)(a)(ii).

<sup>23</sup> Source: WAC 480-09-480(6)(a)(i).

<sup>24</sup> Source: WAC 480-09-480(6)(a)(v).

assistant attorney general who represents the commission staff unless the attorney requests an alternative method.

(b) Timing. A party to whom a data request is directed must provide a full response to the data request within ten business days after the request is received. If the data cannot be supplied within ten business days, the responding party must give written notice to the requesting party no later than five days before the response is due. The notice must state why the ten-day limit cannot be met. The responding party must also provide a schedule by which it will produce the requested data and must explain why any portion of the data cannot be supplied. The presiding officer may modify these time limits.

(c) Identification of respondent and witness. Each data response must state the date the response is produced, the name of the person who prepared the response, and the name of any witness who is knowledgeable about and can respond to questions concerning the response.

(c) Bench requests. Parties must file responses to bench requests with the commission and serve all parties within ten days after the request is made, unless the presiding officer specifies another schedule.

**(8) Supplementation**. Parties must immediately supplement any response to a data request, record requisition, or bench request upon learning that the prior response was incorrect or incomplete when made or upon learning that a response, correct and complete when made, is no longer correct or complete.

**(9) Use of responses to data requests, record requisitions or bench requests.**<sup>25</sup> The commission will not consider or treat as evidence any response to a data request, record requisition, or bench request unless and until it is entered into the record.

**WAC 480-07-505 General rate proceedings—Definition.**<sup>26</sup>

**(1) Rate filings that are considered general rate proceedings.** A general rate proceeding filing is a filing by any regulated company specified in WAC 480-07-500 for an increase in rates that meets any of the following criteria:

(a) The amount requested would increase gross annual revenue of the company from activities regulated by the commission by three percent or more.

(b) Tariffs would be restructured such that the gross revenue provided by any customer class would increase by three percent or more.

(c) The company requests a change in its authorized rate of return on common equity or a change in its capital structure.

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<sup>25</sup> Source: WAC 480-09-480(6)(a)(v).

<sup>26</sup> Source: WAC 480-09-310.

(d) The company is a solid waste company regulated under chapter 81.77 RCW, except for filings specified under subsection (3)(a) of this section.

**(2) Rate filings under Title 80 RCW that are not considered general rate proceedings.** The following proceedings are not considered general rate increases even though the revenue requested may exceed three percent of the company's gross annual revenue from Washington regulated operations:

(a) Periodic rate adjustments for electric and natural gas companies that may be authorized by the commission (e.g., power cost adjustments and purchased gas cost adjustments).

(b) Emergency or other short-notice increases caused by disaster or weather-related conditions unexpectedly and substantially increasing a public service company's expense.

(d) Rate increases designed to recover government-imposed increases in costs of doing business such as changes in tax laws or ordinances.

(e) Other increases designed to recover increased expenses arising on short notice and beyond a public service company's control.

**(3) Rate filings under chapter 81.77 RCW that are not considered general rate proceedings.** The following filings are not considered general rate proceedings for solid waste companies regulated under chapter 81.77 RCW even though the request may meet one or more criteria identifying general rate proceedings:

(a) Filings by companies that provide neither traditional residential or commercial solid waste operations. This category includes specialized carriers generally hauling specific waste products for specific customers and carriers providing only on-call or nonscheduled service (i.e., "class C" companies, as defined in WAC 480-70-041).

(b) Disposal fee pass-through charges for drop-box service, provided there are no affiliated interest relationships.

(c) Filings for collection of per-customer pass-through surcharges and taxes imposed by the jurisdictional local government based on the current year customer count either as a specified dollar amount or percentage fee amount.

(d) Filings by existing solid waste companies for the implementation of new solid waste collection programs.

**(4) Other filings.** The Commission may require that any filing by a regulated company for an increase in rates be subject to the procedures and protections of a general rate case.

**WAC 480-07-875 Amendment, rescission, or correction of order.<sup>27</sup>**

**(1) Amendment or rescission.** The commission, may alter, amend, or rescind any order that it has entered, after notice to [Public Counsel, all intervenors in the underlying proceeding, and](#) the public service company or companies affected, and after allowing an opportunity for hearing as in the case of complaints. Any order altering, amending, or rescinding a prior order will have the same effect as any other final order when served upon the public service company or companies affected.

**(2) Correction.** The commission may act on its own initiative or on the motion of any party to correct obvious or ministerial errors in orders. The commission may enter a corrected order or effect any corrections by notice or letter. The commission may direct the secretary to effect any corrections by notice or letter. The time for any available post-hearing review begins with the service of the correction, as to the matter corrected.

**WAC 480-04-095 Disclosure procedure.**

(1) The public records officer will promptly notify you if your request is found to be incomplete, and will tell you what the problem is. The public records officer will assist you to complete or correct your request. Notifying you of a deficiency is not a denial of your request. The public records officer may act on a deficient request to the extent that doing so is reasonable.

(2) Upon receiving a complete request, the public records officer will review the requested record to determine whether the record or a portion of it is exempt from disclosure under the public records act, chapter 42.17 RCW, protected from disclosure under RCW 80.04.095 (records that contain valuable commercial information), WAC 480-07-160 (confidential information), ~~WAC 480-07-420 (discovery—protective orders)~~, or under another provision of law.

(3) The commission will delete identifying details from a public record to protect the personal privacy interests as provided by law when it makes the record available or publishes it. The commission will explain the reasons for any such deletion.

(4) Only the public records officer is authorized to deny requests for public records. Any action other than granting access to public records, when taken by a person other than the public records officer, is a deferral of action and not a denial of a request. Any commission staff member who does not grant access to a public record when a complete written request is made must immediately take or send the requested document, together with the written

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<sup>27</sup> Source: WAC 480-09-815.

request, to the public records officer for a prompt decision granting or denying the request.

(5) If the public records officer does not grant access to all or part of a requested public record, the public records officer will give you a written statement identifying the exemption authorizing the action and how it applies to the requested record. Any portion of the record that is not subject to exemption shall be promptly disclosed.

(6) If you request a public record that contains information that has been designated confidential under RCW 80.04.095, WAC 480-07-160, or a protective order, and you have not specifically asked to be provided with confidential information, the public records officer will tell you that material has been designated confidential, and ask whether you want the confidential information, before processing your request. The commission will process any request for a record designated as confidential under RCW 80.04.095 or WAC 480-07-160 in accordance with those provisions of law.

(7) If the public records officer denies your public records request in whole or in part, the public records officer will provide you a written explanation of the basis for the denial. If you want to contest the denial, you may request a review under WAC 480-04-120.