

Agenda Date: August 13, 2003
Item Number: C1

Docket: **A-010648**

RE: Rulemaking: Chapter 480-04 WAC—Public Access to Information and Documents, and Chapter 480-09 WAC - Procedure

Staff: Dennis J. Moss, Review Judge (Lead; Administrative Law Division)
Glenn Blackmon, Assistant Director Telecommunications
Karen Caillé, Administrative Law Judge
Paul Curl, Deputy Director -Regulatory Services Division
Vicki Elliot, Assistant Director Consumer Affairs
Graciela Etchart, Utility Rate Research Specialist
Nicolas Garcia, Policy Specialist
Kathy Hunter, Records Center Manager
Jeffrey Showman, Knowledge Manager
Tim Sweeney, Public Outreach Coordinator
Mary Tennyson, Senior Assistant Attorney General

Recommendation:

Direct the Secretary to file a Notice of Proposed Rulemaking (CR-102) with the Office of the Code Reviser in Docket No. A-010648 proposing revisions to Chapter 480-04 WAC, the Commission's rules governing public access to information and records, and repeal and replacement of the Commission's procedural rules (Chapter 480-09 WAC) with new Chapter 480-07 WAC.

Discussion:

On June 1, 2001, the Washington Utilities and Transportation Commission (Commission) filed with the Code Reviser a Preproposal Statement of Inquiry (CR-101) to initiate a rulemaking to examine the need to reorganize, revise, repeal, and adopt rules governing the conduct of business before the Commission, including rules governing formal proceedings.

Commission Staff began a comprehensive review of the Commission's rules governing public access to information and documents, and the agency's procedural rules (i.e., Chapters 480-04 and 480-07 WAC), focusing on three areas:

- Rules Organization (logical grouping/order; use of subheadings)
- Clear language (consistent style and grammar)
- Substantive changes (new rules, substantive changes to existing rules)

Staff for this project includes representatives from the Administrative Law Division, Policy Research Office, Regulatory Services Division, Public Affairs Division, Records Center, Consumer Affairs Division, and Office of the Attorney General. This structure ensures that a variety of perspectives from within the Commission are represented in the rulemaking process.

Staff from throughout the Commission continue to be regularly consulted as the rulemaking process moves forward.

During the CR-101 phase, the Commission has received several rounds of written comments from persons who regularly conduct business with the Commission. In addition, the Commission has held three public workshops to discuss various draft revisions to the existing rules. Both written and oral comments received have been extremely useful to Staff in revising Chapter 480-04 WAC and in drafting a new Chapter 480-07 WAC to replace existing Chapter 480-09 WAC.

In general, the public participants in the CR-101 process have expressed support for the revisions embodied in the draft rules, which are attached as Appendices A and B to this memorandum. Staff has tried to address all concerns expressed by various participants, but in some instances competing concerns cannot be fully reconciled. Staff has exercised its judgment to formulate rules that attempt to balance interests in an appropriate way considering all comments received and internal discussions focused on the needs expressed by the participants and the Commission's needs. Staff has not accepted all recommendations offered by the various participants during the CR-101 phase, as reflected in the most recent comments/response grid, which is attached as Appendix C to this memorandum. The subjects reflected in the comments/response grid may continue to be topics for discussion today, and during the CR-102 phase, if the Commission accepts Staff's recommendation to proceed with this rulemaking.

Staff intends that the rulemaking process and its outcome will be consistent with the requirements and standards established by Executive Order No. 97-02 regarding regulatory improvement. Staff will continue to consider the Executive Order's criteria of need, effectiveness and efficiency, clarity, intent and statutory authority, coordination, cost, and fairness, if the Commission elects to proceed to the CR-102 phase.

Conclusion:

Staff recommends that the Commission direct the Secretary to file a Notice of Proposed Rulemaking (CR-102) with the office of the Code Reviser in Docket No. A-010648 proposing revisions to Chapter 480-04 WAC, the Commission's rules governing public access to information and records, and repeal and replace the Commission's procedural rules (Chapter 480-09 WAC) with new Chapter 480-07 WAC.

Attachments: Appendices A, B, C

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APPENDIX A
REVISED CHAPTER 48-04 WAC

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APPENDIX B
PROPOSED CHAPTER 480-07 WAC

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APPENDIX C
COMMENT/RESPONSE GRID
(Comments received on July 11, 2003)