

October 23, 2014

VIA EMAIL ONLY

Mr. Steven V. King
Executive Director and Secretary
Washington Utilities and Transportation Commission
Attention: Records Center
PO Box 47250
1300 W. Evergreen Park Dr. SW
Olympia, WA 98504-7250

Re: Latest Staff Proposed Revisions to Procedural Rules WAC 480-07 through WAC 480-07-180,
Docket A-130355, of September 22, 2014

Dear Mr. King:

This letter briefly follows upon earlier comments made by the undersigned on May 17, 2013, November, 2013 and December 20, 2013, the bulk of the comments from which still pertain.

1. Communication with the Commission/Deadline and Acceptance of Documents for Filing/Number of Copies, WAC 480-07-140; WAC 480-07-145 et seq.

In addition, I would now merely echo some of my colleagues' comments particularly with respect to number of copy requirements at WAC 480-07-145, and Staff-proposed filing deadlines which apparently continue to preserve a 5 p.m. deadline for official receipt of documents. The latter is not the modern trend, with federal courts taking the lead in these days of electronic service, allowing filings up to 11:59 p.m. of the deadline date. Although requiring a mindset change for all concerned, we urge you to consider adopting the electronic standard filing successfully implemented under Federal Rules of Civil Procedure 6(a)(4)(A). In addition, we are again advocating for a need to reduce the number of paper copies which have been expressed both at stakeholder sessions and in writing, to the minimum number possible required in this electronic age. Six paper copies such as referenced, for instance, at draft rule WAC 480-07-160 on confidential document filings seems quite high.

2. Acceptable Format of Filed Documents, WAC 480-07-140(6).

Our major focus in comments at this juncture is to continue to press evolving concerns raised by the Staff's proposed preservation of language in WAC 480-07-140(6), which has recently been the source of considerable dispute in a solid waste general rate case. While that rule subsection purports to prescribe formatting requirements pursuant to the sub-paragraph "acceptable format" of the existing rule WAC 480-07-140(6)(b), its "strict constructionist" interpretation has been used to suggest that source documents, i.e. general ledgers and other "amalgamated" work product entries between various sides to a general rate case, for instance, is tantamount to providing locked or "hidden cells." Affected

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companies previously have reasonably and in good faith complied with this rule, and until recently, this was not problematic. In other words, the formatting rule application “was not broken.” Now, however, a more unilateral, consistent staff policy interpretation of this rule in our view overbroadly interprets its intent and hampers the exchange of iterative spreadsheets and other supporting data between and among parties during the course of a general rate case. No one disputes that spreadsheets should display results of calculations and that their formulas not include “locked, password-protected or hidden cells.” The problem in the application of this rule comes where data is extracted from other independent source documents and transferred or inserted for use in various general rate case workpapers’ review. While this may not have been a problem in other regulated industries audits, it has been in the solid waste context, and we strongly believe, as anticipated in spring 2013, this rule merits and requires far greater consensus on the technical side of formatting of electronic documents so as not to protract audits and increase costs and delays for all parties. A unilateral, overly-technical interpretation of the rule in our view simply impedes current ratemaking audits which is an adverse, unintended consequence of what initially appeared to be a reasonable rule format requirement.

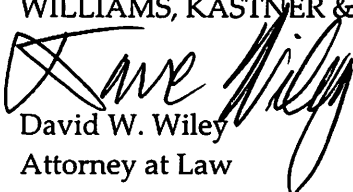
3. Production of Records for Inspection, WAC 480-07-175 and 480-07-175(2).

Finally, Staff’s proposed rule revisions, at WAC 480-07-175(2) and 480-07-175(2)(b), need further clarification. Producing all documents pursuant to a demand under this provision should encompass or envision some representative sampling or other reference to “parts of the whole” which could well satisfy an omnibus document production requirement. Clearly, every public service company understands its statutory obligation to make all documents available for Commission inspection. The concern here is the lack of any governor on production of conceivably any document under the sun when a representative sample or a reasonable compromise identifying which portions of a document are sought might well satisfy the Staff inspection request. Again, we believe that a good faith effort to frame the parameters of the production requirement just as in the acceptable format mandate in current WAC 480-07-140(6), should strike a reasonable balance of satisfying the need for information against burdensome and voluminous production demands in terms of time and expense for rule compliance.

We continue to appreciate the Commission’s interest and effort at recalibrating the current procedural rules in this proceeding and look forward to further participation and exchange of views in that regard.

Yours truly,

WILLIAMS, KASTNER & GIBBS PLLC


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