

July 17, 2015

VIA E-MAIL AND U.S. MAIL

Steven King
Executive Director and Secretary
Washington Utilities and Transportation Commission
PO Box 47250
1300 S. Evergreen Park Dr. SW
Olympia, WA 98504-7250

Re: Docket A-130355, Rulemaking to Consider Potential Corrections and Changes in Procedural Rules Part III, Adjudicative Proceedings

Dear Mr. King:

Thank you for the opportunity to respond to the latest installment of the procedural rule change proposals being presently considered by the Commission. In my view, the Part III, "Adjudicative Proceeding" changes are by and large quite technical, semantical and noncontroversial. With respect to the solid waste collection clients this office represents, I do though think it is important to note continuing anomalies in the current procedural rules that WAC 480-07-520 only partially mitigates. Basically, those are that until the Commission issues a suspension order on a rate filing and/or sends out a Notice of Adjudicative Proceeding, solid waste collection companies are engaged in informal discovery with the Commission staff during its audit/review of any general rate case filing. While the Staff currently appears to operate under the assumption that, i.e. WAC 480-07-405 for data requests, is fully applicable at this initial review stage, there is no affirmative suggestion by rule that the undersigned is aware of recognizing this. Thus, in light of recent legislative change bringing confidentiality provisions into play for the solid waste industry, additional clarification of when, for instance, questions about WAC 480-07-160 on confidentiality rules are applicable for solid waste general rate case filings and whether they must be strictly adhered to before suspension of a general rate case for a solid waste company are pertinent.

While I will rely on colleagues to more specifically cross-reference the issues involving discovery, confidentiality, protective orders and data request exchanges prior to general rate case suspension, one other provision that I wanted to specifically comment on and provide some supplemental language for is WAC 480-07-425, on discovery disputes.

Based on recent experience, it is my recommendation that WAC 480-07-425(1) on procedures for resolving discovery disputes be beefed up or otherwise strengthened to provide an affirmative requirement that parties/counsel in discovery dispute circumstances not only "meet and confer" but,

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prior to any Motion to Compel, are required to include a certification of a good faith effort or other affirmative showing, pursuant to analogous Civil Rule 37 and Civil Rule 26(i), proving that they have specifically consulted regarding the source of the dispute. And, to so signify by an affirmative certification in the Motion. Out of concern for "judicial economy" alone, this modification would seem beneficial and consistent with the public interest.

Therefore, I would recommend revising WAC 480-07-425(1), as follows:

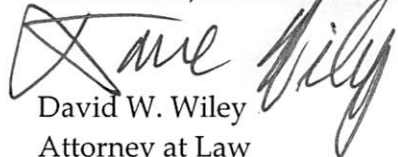
A party may file a written motion or move orally at a prehearing conference, to compel discovery if a dispute cannot be informally resolved if that party, directly or through counsel, certifies that it has either in person or by telephone met and conferred in attempt to resolve the discovery dispute prior to making the subject motion.

Again, the balance of the proposed rule changes which I have quickly reviewed in Part III "Adjudicative Proceedings" appear to be generally noncontroversial. Indeed, the vast majority of the proposed changes in the draft rules seem ministerial and directed to assist practitioners and the parties engaged in adjudicative proceedings.

We look forward to further commenting at any stakeholder session, and particularly, to addressing the additional general rate case procedural rule provisions and WAC 480-07-520 changes in the near future.

Yours truly,

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