

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

RULEMAKING TO CONSIDER
MODIFICATION OF EXISTING RULES
FOR ACCESS TO PUBLIC RECORDS

DOCKET NO. A-101474

**INITIAL COMMENTS OF PUBLIC COUNSEL
October 25, 2010**

- I.* Public Counsel submits these comments in response to the Commission's Notice of Opportunity to File Written Comments dated September 24, 2010. Washington law and policy strongly favors public access to government records as expressed in RCW 42.56.030, while recognizing that, in limited instances, records must be treated confidentially. Accordingly, Public Counsel supports any amendments to Commission's rules that serve to maximize access to Commission records.¹ Public Counsel also supports any amendments necessary to improve and clarify the Commission's internal processes for receiving and responding to requests.

¹ On November 13, 2009, the Public Records Exemptions Accountability Committee recommended that, among others, the exemptions found in RCW 42.56.330(1) and (2), and 80.04.095 be retained. RCW 42.56.330(1) and (2) were last amended by the Legislature in 2005. 2005 Wash. Sess. Laws Ch. 274. RCW 80.04.095 has not been amended in substance since its enactment in 1987.

2. Public Counsel looks forward to the opportunity to review and respond to the Commission's forthcoming draft rules. While drafting proposed amendments, Public Counsel requests that the Commission consider the following two points.

- (1) WAC 480-04-065 requires the Commission to produce annual indices of the principles that are applied in the text of published decisions, orders, and statements. Such an index, if kept current, would provide a very valuable research tool for all parties and potential parties to Commission proceedings. Moreover, it would help ensure that Commission principles are fully understood and applied uniformly where appropriate. Accordingly, the requirement that the Commission publish annual subject indices should be retained. To make indices readily accessible, WAC 480-04-065 should be amended to provide that annual indices will be made available on the Commission's website. The Commission should consider providing annual indices in hard copy to parties in current litigated matters or appropriate interested persons lists maintained by the Commission.
- (2) WAC 480-04-100 outlines the manner in which requested public records shall be provided to the requesting party. This rule should be amended to allow electronic provision at no cost if the requesting party elects. Allowing electronic provision would minimize the cost of records requests, thereby making records more accessible to members of the public. It would also eliminate the potentially unnecessary use of paper and other resources associated with copying and mailing.

3. Public Counsel thanks the Commission for the opportunity to participate in this rulemaking and looks forward to continued involvement as draft rules are considered.