

June 30, 2016

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Mr. Steven King
Executive Director and Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
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RE: Docket A-130355, Rulemaking to Consider Possible Corrections and Changes in WAC 480-07, Relating to Procedural Rules, Docket A-130355

Dear Mr. King,

Puget Sound Energy (“PSE”) appreciates the opportunity to submit comments on Parts I and III of the rulemaking in the above-referenced docket pursuant to the Commission's draft rules and Notice of Opportunity to File Written Comments dated June 1, 2016. PSE filed comments previously in this proceeding on May 17, 2013, December 20, 2013, October 21, 2014, and July 17, 2015. Please note that in making the comments below, PSE does not waive any objections or concerns stated in its prior comments.

WAC 480-07-010 through 180 (Part I)

WAC 480-07-120 Office hours. PSE recommends deleting “or when closed due to inclement weather, emergencies, or other similar circumstances.” Unplanned closures for circumstances such as inclement weather or emergencies should be distinguished from closures outside regular business hours and holiday closures. Including such closures in this provision is unnecessary because such closures are currently addressed on a case by case basis through a commission order or other notice. Further, including such temporary and unplanned outages in WAC 480-07-120 may lead to confusion with regard to filing or submission dates. For example, if the commission is closed due to a localized, temporary interruption, and an unaffected party submits a document via the electronic web portal, a rule declaring the commission closed may unnecessarily affect such submission and may make calculation of business days pursuant to WAC 480-07-130(b) confusing.

WAC 480-07-140

- WAC 480-07-140(1)(a) and (b) and WAC 480-07-140(5). PSE recommends deleting the terms “informal” and “formal” with regard to submissions or filings. The commission rules general refer only to either submissions or filings, and reference to such actions as “informal” or “formal” adds unnecessary confusion.

- WAC 480-07-140(6)(a)(ii). PSE recommends deleting “Excel” and “(.xls, .xlsx, .xlsm)” to allow for alternative spreadsheet software applications, either currently existing or yet to be developed.
- WAC 480-07-140(1)(c). PSE recommends rejecting the proposed deletion of the section entitled “Electronic filing of public records requests.” It is unclear why this section is proposed for deletion, but PSE finds it helpful to affirmatively provide instruction regarding use of the web portal for public records requests.

WAC 480-07-141(1) or (2). PSE recommends adding language to indicate when a submission has been accepted. PSE suggests, “Once the commission has assigned a docket number to a document, such submission is deemed accepted by the commission.”

WAC 480-07-160

- WAC 480-07-160(2)(a). As discussed in PSE’s October 21, 2014 comments, PSE opposes the deletion of section WAC 480-07-160(2)(a), “Information protected from inspection or copying under an exemption from disclosure requirements under the Public Records Act, chapter 42.56 RCW.” Such information includes personal information pursuant to RCW 42.56.230 such as personal credit and debit card numbers, social security numbers, ages, and residential addresses. Such information may not meet the definition of commercial information in the proposed rule but should nonetheless be protected from inspection or distribution.
- WAC 480-07-160(2)(c). PSE recommends deleting the last sentence of WAC 480-07-160(2)(c), “Accordingly, the commission will rarely, if ever, accept the designation of an entire document as confidential.” Such amendment is unnecessary given the proposed preceding sentence. If an entire document meets the definition of confidential information, then designating and submitting it as such is appropriate. A provision inferring that appropriately-designated documents may be rejected by the commission creates uncertainty and potentially conflicts with the rule itself. Similarly, PSE recommends deleting the last sentence of WAC 480-07-160(4) as redundant.
- WAC 480-07-160(4)(d)(i). PSE recommends deleting the words, “Shaded information” from the confidential designation language (e.g., “Shaded information is confidential per WAC 480-07-160”). The addition of the words, “Shaded information” is unnecessary because there is little, if any, confusion regarding which information on a page is intended to be protected as confidential or highly confidential. Further, it can already be

difficult to insert “Confidential per Protective Order in Docket [XX-XXXX]” on a page without covering up material; adding additional language to the designation labels will make it increasingly difficult to apply them in a manner to allow review of the substantive material. Additionally, in some cases it is not possible to shade confidential material. In such cases, PSE has identified confidential material by other means. Requiring a designation that refers to shading in such instances would be inappropriate and confusing.

- WAC 480-07-160(4)(d)(ii) and (iii). PSE recommends rejecting the proposed amendment to sections (ii) and (iii) with regard to shading. The current rule states that confidential information must be clearly designated (e.g. by highlighting text with no more than twenty percent grey shading, outlining the confidential information in a box or border, or setting the text off with asterisks) but the proposed amendment requires grey shading. PSE believes the current language is superior to the proposed amendment because certain information such as photographs cannot be shaded at all or cannot be shaded without changing the substance of the material. In these cases, PSE and other parties have designated confidential information using other means, and PSE is unaware of any confusion regarding any such designations. PSE believes the proposed amendments to WAC 480-07-160(4)(d)(ii) and (iii) are unnecessary. Further, with regard to WAC 480-07-160(4)(d)(iv) and its requirement that the provider ensure that highly confidential information is clearly distinguished from confidential information, compliance with such requirement would be difficult if both the confidential and highly confidential information must be designated by grey shading.
- WAC 480-07-160. PSE supports the recommendation made by PacifiCorp in this proceeding on October 23, 2014 to affirmatively exclude workpapers from the requirements for marking confidential documents. PSE agrees with PacifiCorp that it is administratively burdensome to mark each individual page of a workpaper, particularly when it is an electronic model. PSE believes that a workpaper’s file name is sufficient to designate whether or not it contains confidential or highly confidential information.
- WAC 480-07-160(4). Challenges to designations of confidentiality. This section appears to be numbered incorrectly, and it should be 480-07-160(5) (accordingly, subsequent sections appear to mis-numbered, as well). Regarding the first sentence of WAC 480-07-160(4), “confidentiality” should be “confidential”. Regarding the last sentence of WAC 480-07-160(4), PSE recommends deleting the sentence, “Unless the commission is served with a court order within that ten day period directing the commission not to disclose the challenged information, the commission will remove the confidential or

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highly confidential designation of the information from the commission's files and will make the information publicly available." Addition of this sentence limits flexibility of the parties to reach an independent resolution regarding a challenge to confidentiality. For example, it is not uncommon for PSE and a party challenging a designation of confidentiality to reach a resolution whereby information is provided to the challenging party in a manner that satisfies the requestor without necessitating disclosure of confidential information. In such cases, disclosure of the confidential information based solely on the expiration of ten days would be inappropriate and unnecessary. PSE believes the current language should remain unchanged.

WAC 480-07-300 through 498 (Part III A)

WAC 480-07-360(5). PSE requests that the master service list also include whether each designated representative has filed a protective order allowing for the receipt of confidential or highly confidential information.

WAC 480-07-400(c)(iii). This proposed rule appears to broaden the scope of discovery with regard to rerunning or recalculating models. PSE requests that the proposed rule include language limiting the time period in which a company is obligated to rerun or recalculate a model. Such models may become obsolete or no longer available to PSE prior to receiving a discovery request to rerun them. Therefore, it may be impossible or impracticable to respond to the discovery request.

PSE supports the Commission's efforts to clarify and update the procedural rules. Thank you for the opportunity to file comments. If we can be of any further assistance, please contact Donna L. Barnett at 425-635-1400.

Sincerely,

Perkins Coie LLP



Donna L. Barnett
Attorneys for Puget Sound Energy