

NEW SECTION

WAC 480-04-005 Authority and purpose. The Public Records Act, chapter 42.56 RCW, requires state agencies to make available for inspection and copying nonexempt public records in accordance with published rules. The sections in this chapter establish the procedures the Washington utilities and transportation commission will follow to provide full access to public records.

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AMENDATORY SECTION (Amending WSR 03-24-028, filed 11/24/03, effective 1/1/04)

WAC 480-04-020 Definitions. (1) "Identifiable public record" is a public record that exists at the time the commission receives the request for public records and that commission staff can reasonably locate.

(2) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or

retained by the commission regardless of physical form or characteristics.

(3) "Public records officer" means the official responsible for the commission's compliance with the Public Records Act, chapter 42.56 RCW, and for the implementation of this chapter. The commission's secretary is designated as its public records officer. The secretary may designate one or more persons to assist in the implementation and application of this chapter, and "public records officer" as used in this chapter includes such persons.

(4) "Secretary," also referred to as "executive secretary," means the secretary of the commission appointed pursuant to RCW 80.01.030. Unless otherwise restricted, the term "secretary" also refers to the acting secretary and to the secretary's designee.

(5) "Washington utilities and transportation commission," also referred to in this chapter as "the commission," is the agency established in Titles 80 and 81 RCW to regulate the rates, services, facilities, and practices of persons engaging in this state in the business of supplying any utility service or commodity, or of the transportation of persons or property, to the public for compensation. Where appropriate, the term "commission" also refers to the staff and employees of the Washington utilities and transportation commission.

(6) "Writing" is any means of recording any form of communication or representation as provided in RCW 42.56.010(4).

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 03-24-028

(General Order R-510, Docket No. A-010648), § 480-04-020, filed

11/24/03, effective 1/1/04. Statutory Authority: RCW 80.01.040,

80.04.160 and 81.04.160. WSR 98-02-011 (Order R-446, Docket No. A-

970591), § 480-04-020, filed 12/29/97, effective 1/29/98. Statutory

Authority: RCW 80.01.040. WSR 92-07-006 (Order R-368, Docket No. A-

910530), § 480-04-020, filed 3/5/92, effective 4/5/92; Order R-43, §

480-04-020, filed 4/5/73.]

AMENDATORY SECTION (Amending WSR 03-24-028, filed 11/24/03, effective 1/1/04)

WAC 480-04-035 Contact information. Any person may obtain information about the commission or request access to its public records by contacting the commission using the contact information provided in WAC 480-07-125. That information is current at the time of rule adoption but may change. Current information and additional contact information are available on the commission's web site, in

person at the commission's offices, or by calling the commission's main public telephone number.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 03-24-028 (General Order R-510, Docket No. A-010648), § 480-04-035, filed 11/24/03, effective 1/1/04.]

AMENDATORY SECTION (Amending WSR 03-24-028, filed 11/24/03, effective 1/1/04)

WAC 480-04-050 Public information available without making a request for public records. Many of the commission's public records are publicly accessible on the commission's web site. Such documents include, but are not limited to, commission orders and notices, party filings in commission adjudications, regulated company filings, and documents containing general information about the commission, the industries and companies the commission regulates, and consumer assistance. Persons seeking commission documents should view the documents available on the commission's web site prior to submitting a public records request. Persons who need help finding such information may contact the commission's records center by calling the

commission's general telephone number or sending an email to records@utc.wa.gov.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 03-24-028 (General Order R-510, Docket No. A-010648), § 480-04-050, filed 11/24/03, effective 1/1/04. Statutory Authority: RCW 80.01.040, 80.04.160 and 81.04.160. WSR 98-02-011 (Order R-446, Docket No. A-970591), § 480-04-050, filed 12/29/97, effective 1/29/98. Statutory Authority: RCW 80.01.040. WSR 92-07-006 (Order R-368, Docket No. A-910530), § 480-04-050, filed 3/5/92, effective 4/5/92; Order R-43, § 480-04-050, filed 4/5/73.]

AMENDATORY SECTION (Amending WSR 03-24-028, filed 11/24/03, effective 1/1/04)

WAC 480-04-060 Public records available; hours for inspection

and copying. (1) All of the commission's public records are available for inspection and copying unless the public record is exempt from disclosure under chapter 42.56 RCW (the Public Records Act) or protected from disclosure under RCW 80.04.095 or 81.77.210 (records that contain valuable commercial information), WAC 480-07-160 (Confidential information), a protective order the commission enters

pursuant to WAC 480-07-420 (Discovery-Protective orders), or other provision of law. Except as provided in RCW 42.56.070(8), the commission will not give, sell, or provide access to lists of individuals if the information is requested for commercial purposes.

(2) The commission will promptly respond to requests for inspection and copying of public records as provided in this chapter.

(3) Public records are available for inspection and copying during the commission's customary office hours specified in WAC 480-07-120.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 03-24-028 (General Order R-510, Docket No. A-010648), § 480-04-060, filed 11/24/03, effective 1/1/04. Statutory Authority: RCW 80.01.040, 80.04.160 and 81.04.160. WSR 98-02-011 (Order R-446, Docket No. A-970591), § 480-04-060, filed 12/29/97, effective 1/29/98. Statutory Authority: RCW 80.01.040. WSR 92-07-006 (Order R-368, Docket No. A-910530), § 480-04-060, filed 3/5/92, effective 4/5/92. Order R-43, § 480-04-060, filed 4/5/73.]

AMENDATORY SECTION (Amending WSR 03-24-028, filed 11/24/03, effective 1/1/04)

WAC 480-04-065 Index of significant decisions. (1) Content. The

commission will maintain and make available to the public an index of the following:

(a) Final orders the commission has entered after June 30, 1990, in adjudicative proceedings that contain an analysis or decision of substantial importance to the agency in carrying out its duties;

(b) Declaratory orders the commission has entered after June 30, 1990, that contain an analysis or decision of substantial importance to the agency in carrying out its duties; and

(c) Interpretive and policy statements the commission has issued since June 30, 1990.

(2) **Availability.** The commission will publish the index by the means it deems best suited to achieve broad availability, consistent with staff resources and technology. The documents contained in the index will also be included in the searchable document library on the commission's public web site.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 03-24-028

(General Order R-510, Docket No. A-010648), § 480-04-065, filed

11/24/03, effective 1/1/04. Statutory Authority: RCW 80.01.040,

80.04.160 and 81.04.160. WSR 98-02-011 (Order R-446, Docket No. A-

970591), § 480-04-065, filed 12/29/97, effective 1/29/98. Statutory

Authority: RCW 80.01.040. WSR 92-07-006 (Order R-368, Docket No. A-910530), § 480-04-065, filed 3/5/92 effective 4/5/92.]

AMENDATORY SECTION (Amending WSR 03-24-028, filed 11/24/03, effective 1/1/04)

WAC 480-04-090 Requests for public records. (1) Definition.

Except for requests for assistance to review or obtain documents on the commission's web site, any request for identifiable public records is a request for public records to which the commission must respond in compliance with the Public Records Act. Requests for public records do not include:

(a) Requests for general information about a subject or company that the commission regulates;

(b) Standing or ongoing requests for records that do not exist at the time the commission receives the request;

(c) Requests that the commission create a new document that compiles, organizes, collates, analyzes, summarizes, or is otherwise derived from existing commission records; or

(d) Requests for all or substantially all records prepared, owned, used, or retained by the commission.

(2) **Form of request.**

(a) *Public records request form.* Any person making a request for public records should complete the commission's Online Records Request Form. Persons can access this form on the commission's web site and may contact the records center for assistance.

(b) *Other writing.* A person who is unable or elects not to use the commission's Online Records Request Form may submit a letter or email to the records center. Such a request should contain the information listed in subsection (3) of this section.

(c) *Telephone or in-person requests.* The commission will honor requests for public records made in person or by telephone to the public records officer during the commission's customary business hours. Any such request should include the information listed in subsection (3) of this section. The public records officer will subsequently confirm receipt of this information and the substance of the request in a written communication to the requester.

(3) **Needed information.** Any request for public records should include the following information that the commission needs to respond to the request:

(a) The requester's name, physical address, email address, and telephone number;

(b) The date on which the requester submits the request;

(c) The identity of any individual, business, or other organization for whom the requester is making the request, if not only for the requester personally;

(d) A clear statement that the requester is requesting public records;

(e) An election of whether the requester wants to inspect the public records, obtain copies, or both;

(f) A clear description of the identifiable public records the requester is requesting; and

(g) A statement of whether the requester is requesting a list of individuals to be used for any commercial purposes.

(4) **Requester's failure or refusal to provide information.** The public records officer will identify any information the commission needs that a requester has not included in a request for public records and will work with the requester to provide that information. If a requester refuses to provide his or her identity or sufficient other information, the commission will respond to the request to the extent feasible and consistent with applicable law.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 03-24-028

(General Order R-510, Docket No. A-010648), § 480-04-090, filed

11/24/03, effective 1/1/04. Statutory Authority: RCW 80.01.040, 80.04.160 and 81.04.160. WSR 98-02-011 (Order R-446, Docket No. A-970591), § 480-04-090, filed 12/29/97, effective 1/29/98. Statutory Authority: RCW 80.01.040. WSR 92-07-006 (Order R-368, Docket No. A-910530), § 480-04-090, filed 3/5/92, effective 4/5/92; Order R-43, § 480-04-090, filed 4/5/73.]

AMENDATORY SECTION (Amending WSR 03-24-028, filed 11/24/03, effective 1/1/04)

WAC 480-04-095 Responding to requests for public records. The commission will provide the fullest assistance to requesters and the most timely possible action in response to requests for public records consistent with the intent of the Public Records Act to provide full public access to public records, to protect public records from damage or disorganization, and to prevent excessive interference with other essential commission functions.

(1) **Tracking.** Upon receiving a request for public records, the public records officer will assign it a tracking number and log it into the commission's public records request tracking system.

(2) **Task assignment.** Unless the request clearly seeks only documents that are contained in the commission's records center, the public records officer will assign the request as a task to commission management personnel:

(a) To assess whether the request is sufficiently clear in identifying the records the requester seeks;

(b) To determine whether the commission has or may have documents that are responsive to the request;

(c) To develop a reasonable estimate of the time required to search for any responsive documents; and

(d) To provide any responsive documents to the public records officer for processing.

(3) **Initial response.** Within five business days of receiving a request for public records, the public records officer will take one or more of the following actions:

(a) Inform the requester that the commission has no public records that are responsive to the request;

(b) Make the requested records available to the requester for inspection and copying, either via a link to the document(s) on the commission's web site, or by providing a paper or electronic copy of the document(s);

(c) Acknowledge receipt of the request and provide the requester with a reasonable estimate of the date by which the commission will make the records, or an installment of the records, available for inspection and copying;

(d) Acknowledge receipt of the request, ask the requester to clarify any portion of the request that is unclear, and to the extent possible, provide a reasonable estimate of when the commission will make the requested records, or an installment of the records, available for inspection and copying if the request is not clarified; or

(e) Deny the request. If the public records officer denies the public records request in whole or in part, the public records officer will provide the requester with a written explanation of the basis for the denial. The requester may contest the denial by requesting commission review as provided in WAC 480-04-120.

(4) **Additional time to respond.** The commission may extend an estimated date by which it will make the requested records, or an installment of the records, available for inspection and copying based on the need to clarify the request, to locate and assemble the records requested, to notify third persons or agencies affected by the request, or to determine whether any of the records are exempt or

otherwise protected from public disclosure, or for other good cause. The public records officer will promptly notify the requester in writing of any revised estimate and will explain the reason for the revised estimate.

(5) **Exempt or protected information.** The public records officer will review the requested records to determine whether any record, in whole or in part, includes information that is exempt from disclosure under the Public Records Act, chapter 42.56 RCW, or protected from disclosure under RCW 80.04.095 or 81.77.210 (records that contain valuable commercial information), WAC 480-07-160 (Confidential and other restricted information), a protective order the commission enters pursuant to WAC 480-07-420 (Discovery-Protective orders), or another provision of law.

(a) *Exempt information.* The commission will redact from the public records it makes available for inspection and copying any information that is exempt from disclosure under the Public Records Act or any other applicable law. The public records officer will provide the requester with a withholding log that identifies the specific exemption applicable to each redaction and briefly explains how the exemption applies. Except as otherwise provided in this section, the public records officer will make available for inspection

and copying all records and portions of records that are not exempt from public disclosure.

(b) *Information designated as confidential.* The following process will apply if the requester requests a public record that contains information that has been designated as confidential under RCW 80.04.095, 81.77.210, or WAC 480-07-160.

(i) The public records officer will inform the requester that information in one or more public records that are responsive to the request has been designated as confidential, will offer to provide a version of the document from which that information has been redacted, and will ask if the requester wants the confidential information.

(ii) If the requester informs the public records officer that the request necessarily includes information designated as confidential, the commission will follow the procedure in RCW 80.04.095 or 81.77.210, whichever is applicable, as set forth below.

(A) The public records officer will send a written notice of the request to the provider of the confidential information, as well as to any other person who has been identified as being directly affected by any public disclosure of the information, and will send a copy of the notice to the requester. The commission will send the notice electronically and, to the extent practicable, will confirm that the

provider received that notice. The notice will state that the commission will disclose the requested confidential information to the requester unless within ten days after the date of the notice, the provider obtains a court order prohibiting that disclosure. The commission will issue that notice not more than two business days after receiving confirmation that the requester wants the confidential information.

(B) If the provider of the confidential information has not obtained a court order prohibiting its disclosure within ten days from the date of the commission's notice or the commission has not received notification from the requester withdrawing the request or stating that the commission can satisfy the request without disclosing confidential information, the public records officer will make the entirety of the public records that are responsive to the request available for inspection and copying, including all information that had been designated as confidential, as provided in subsection (6) of this section. The public records officer will also remove the confidential designations from the records, and the commission will maintain those records as publicly available in their entirety.

(c) *Information subject to protective order.* The following process will apply if a requester requests a public record that

contains information that is protected from public disclosure pursuant to a protective order the commission enters.

(i) The public records officer will inform the requester that information in one or more public records that are responsive to the request is protected from disclosure pursuant to a protective order and will ask whether the requester wants the protected information. If the requester agrees that the commission can satisfy the request without disclosing that information, the public records officer will provide or make available for inspection the public records that are responsive to the request and from which the information protected by the protective order has been redacted.

(ii) If the requester informs the public records officer that the request necessarily includes information that is protected by a protective order, the commission will follow one of the following processes:

(A) If the adjudication in which the commission entered the protective order has concluded, the procedure in (b) (ii) of this subsection will apply.

(B) If the adjudication has not concluded, the public records officer will notify the presiding officer in the adjudication of the request. The presiding officer will establish by notice or order the

process the commission will use to receive written or oral comments or argument on the request from the requester and the parties and will enter an order determining whether the commission will make any information subject to the protective order available for inspection and copying.

(d) *Information affecting rights of others.* If the requested records contain information that may affect rights of others and may be exempt from disclosure, the public records officer may notify those persons of the request prior to making the records available for inspection and copying. If the public records officer elects to provide such notice, the process in (b)(ii) of this subsection shall apply.

(6) **Providing responsive records.**

(a) *Inspection.* Consistent with other demands on the agency's resources, the commission will promptly provide space for requesters to inspect the public records they have requested.

(b) *Copies.* Upon request, the commission will provide copies of responsive documents to the requester, subject to the requester paying any copying charges the commission assesses as provided in WAC 480-04-100. The commission will provide copies of documents in the same form in which the agency retains the record (i.e., the commission will

provide paper copies of paper records and electronic copies of electronic records in the same format or program). The public records officer may, but is not required to, provide copies of records in a different form or format (e.g., making .pdf electronic copies of paper records) if such copying is technically feasible using existing commission resources and does not result in the creation of a new public record.

(7) **Time to inspect or claim records.** The public records officer will notify the requester in writing when the requested public records are available for inspection and copying and that the requester should make arrangements to inspect or claim any requested copies of those records. The requester must inspect the records or claim any copies within thirty days of the commission's notice. If the requester does not do so or does not make other arrangements within that thirty days, the commission may close the request.

(8) **Providing records in installments.** If a requester requests a large number of records, the public records officer may provide access to responsive records in installments. The public records officer will notify the requester in writing when each installment of the requested records is available for inspection and copying and that the requester should make arrangements to inspect or claim any requested copies of

those records. The requester must inspect the records or claim any copies in each installment within thirty days of the commission's notice. If the requester does not do so or does not make other arrangements within that thirty days, the commission may stop searching for the remaining records and close the request.

(9) **Closing request.** The public records officer will close the request and notify the requester in writing of that closure under any one of the following circumstances:

(a) The commission has completed a reasonable search for the requested public records, and either:

(i) The commission has located no responsive documents; or

(ii) The commission has located responsive documents, the requester has inspected those records, and the commission has provided any requested copies of the records;

(b) The requester withdraws the request;

(c) The requester does not clarify an entirely unclear request within thirty days from the date of the public records officer's written request for clarification;

(d) The requester does not timely inspect or make arrangements to inspect or request copies of responsive records as provided in this section; or

(e) The requester does not timely submit any deposit, pay fees for an installment, or make a final payment the commission has assessed for requested copies of public records as required under WAC 480-04-100.

(10) **Subsequently discovered records.** The public records officer will promptly inform the requester if, after the commission has notified the requester that the commission has provided all available records, the commission becomes aware of additional responsive documents that existed at the time the requester made the request. The commission will make the additional documents available for inspection and copying on an expedited basis.

(11) **Log of requests.** The commission will maintain a log of the public records requests it receives, which will include:

- (a) The identity of the requester if provided by the requester;
- (b) The date the commission received the request;
- (c) The text of the original request;
- (d) A description of the responsive records that were redacted or withheld and the reasons therefor; and
- (e) the date of the final disposition of the request.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 03-24-028

(General Order R-510, Docket No. A-010648), § 480-04-095, filed

11/24/03, effective 1/1/04. Statutory Authority: RCW 80.01.040, 80.04.160 and 81.04.160. WSR 98-02-011 (Order R-446, Docket No. A-970591), § 480-04-095, filed 12/29/97, effective 1/29/98. Statutory Authority: RCW 80.01.040. WSR 92-07-006 (Order R-368, Docket No. A-910530), § 480-04-095, filed 3/5/92, effective 4/5/92.]

AMENDATORY SECTION (Amending WSR 06-17-087, filed 8/14/06, effective 9/14/06)

WAC 480-04-100 Copying charges. The commission will charge to provide copies of public records as provided in this section.

(1) **Adoption of statutory copying charges.** The commission has not calculated the actual costs for copying its records because to do so would be unduly burdensome for the following reasons:

(a) The commission has insufficient resources to conduct a comprehensive study to determine the actual costs of copying its records;

(b) To conduct a study of the commission's actual copying costs would interfere with other essential agency functions; and

(c) The legislature has established reasonable fees and costs in RCW 42.56.120 after the public and requesters have commented on, and been informed of, such fees and costs.

To timely implement a fee schedule consistent with the Public Records Act, it is more cost efficient and expeditious and in the public interest for the commission to adopt the legislature's approved fees and costs for most of the commission's records, as authorized in RCW 42.56.120 and as published in the commission's fee schedule.

(2) **Fee schedule.** The commission publishes its schedule of copying charges in Administrative Policy 5.1c, which is available on the commission's web site or by contacting the commission's records center. The commission does not charge sales tax on copies it makes at its own facilities.

(3) **Cost estimates.** Upon request, the commission will provide a requester with a summary of the applicable charges before the commission makes copies of the requested records. The requester may revise the request to reduce the requested number of copies and correspondingly reduce the copying charges.

(4) **Deposits and prepayment.** Before beginning to make copies, the public records officer may require a requester to pay a deposit of up to ten percent of the estimated costs of copying all the requested

records. The public records officer may also require the requester to pay the remainder of the copying costs before providing all the records, or to pay the costs of copying an installment before providing that installment.

(5) **Waiver or other fee arrangements.** The commission may waive copying charges as provided in Administrative Policy 5.1c. The commission also may enter into a contract, memorandum of understanding, or other agreement with a requester that provides an alternative fee arrangement to the charges or in response to voluminous or frequently occurring requests.

(6) **Mailing and delivery costs.** The commission may charge the actual costs it incurs to mail or use a commercial carrier to deliver copies of the requested public records, including the cost of any digital storage medium or device on which the commission copies the records (such as a disc or flash drive), the shipping container or envelope, and the postage or delivery charge.

[Statutory Authority: RCW 80.01.040, 80.04.160, 81.04.160, and 34.05.353. WSR 06-17-087 (Docket A-060475, General Order No. R-537), § 480-04-100, filed 8/14/06, effective 9/14/06. Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 03-24-028 (General Order R-510, Docket No. A-010648), § 480-04-100, filed 11/24/03, effective 1/1/04.

Statutory Authority: RCW 80.01.040, 80.04.160 and 81.04.160. WSR 98-02-011 (Order R-446, Docket No. A-970591), § 480-04-100, filed 12/29/97, effective 1/29/98. Statutory Authority: RCW 80.01.040. WSR 91-07-025 (Order R-340, Docket No. A-900424), § 480-04-100, filed 3/14/91, effective 4/14/91. Statutory Authority: RCW 80.01.040 (1) and (4). WSR 81-06-061 (Order R-157, Cause No. TV-1429), § 480-04-100, filed 3/4/81. Statutory Authority: RCW 42.17.300. WSR 78-02-020 (Order R-112), § 480-04-100, filed 1/11/78; Order R-43, § 480-04-100, filed 4/5/73.]

AMENDATORY SECTION (Amending WSR 03-24-028, filed 11/24/03, effective 1/1/04)

WAC 480-04-120 Review of denials of public records requests.

(1) If the commission denies a request for a public record and the requester disagrees with the denial, the requester may ask the public records officer, in writing, for a review of the denial. The written request for review must describe or enclose the public records officer's written statement that explains the reasons for the denial.

(2) The requester may hand deliver, or have a courier deliver, the written request for review in person at the commission's administrative office or the requester may send it by mail or email.

(3) The commission will promptly consider the written request for review. The public records officer's denial becomes final unless the commission modifies the decision within two business days after the commission receives the request for review unless the requester and the commission agree to a longer commission review period. The commission, however, may modify a denial decision at a later time. Once the public records officer's initial denial decision becomes final, the requester may seek judicial review under RCW 42.56.550, or the requester may request that the Washington attorney general review any claims of exemptions pursuant to RCW 42.56.530.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 03-24-028

(General Order R-510, Docket No. A-010648), § 480-04-120, filed

11/24/03, effective 1/1/04. Statutory Authority: RCW 80.01.040,

80.04.160 and 81.04.160. WSR 98-02-011 (Order R-446, Docket No. A-

970591), § 480-04-120, filed 12/29/97, effective 1/29/98. Statutory

Authority: RCW 80.01.040. WSR 92-07-006 (Order R-368, Docket No. A-

910530), § 480-04-120, filed 3/5/92, effective 4/5/92; Order R-43, §

480-04-120, filed 4/5/73.]

AMENDATORY SECTION (Amending WSR 03-24-028, filed 11/24/03, effective 1/1/04)

WAC 480-04-130 Protection of public records. (1) Only commission staff may copy public documents unless the public records officer decides that copying by others will not disrupt commission business operations or pose any risk to the integrity and safety of the documents.

(2) No person may take any public record from the area the public records officer designates for public inspection of public records unless expressly authorized to do so by the public records officer. No person may disassemble or alter any document the commission allows that person to inspect.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 03-24-028

(General Order R-510, Docket No. A-010648), § 480-04-130, filed

11/24/03, effective 1/1/04. Statutory Authority: RCW 80.01.040,

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910530), § 480-04-130, filed 3/5/92, effective 4/5/92; Order R-43, §

480-04-130, filed 4/5/73.]

REPEALER

The following section of the Washington Administrative Code is
repealed:

WAC 480-04-030

Organization of the Washington utilities and transportation
commission.