

December 9, 2005

**NOTICE OF OPPORTUNITY TO SUBMIT COMMENTS
(By January 17, 2006)**

RE: Procedural Rules Rulemaking - Chapter 480-07 WAC
Docket No. A-050802

TO ALL INTERESTED PERSONS:

On November 10, 2005, the Washington Utilities and Transportation Commission held a workshop to discuss the procedural rules in chapter 480-07 WAC. The commission seeks written comments from stakeholders by **Tuesday, January 17, 2006**, about the procedural rules, including the following issues and questions raised in the workshop:

1. Please comment whether the commission should consider adopting the amendments to WAC 480-07-730 and WAC 480-07-740 proposed by Public Counsel and others. The rule proposals are posted to the commission's website: <http://www.wutc.wa.gov/050802>.
2. Please evaluate the settlement process followed in the Avista proceeding (Docket Nos. UT-050482 & UG-050483) and recent Verizon proceedings (Docket Nos. UT-050814 & UT-040788). If you believe flaws existed in the process in those dockets please a) specify what the flaws were and b) whether, why, and what rule amendments are needed to correct them.
3. Based on your actual experience, please compare and contrast Oregon's rules and practice governing voluntary settlements (OAR 860-014-0085) with the commission's rules and practice. Please identify by company, docket number, and date, any individual proceedings in Oregon in which you have been a participant in the settlement process during the past two or three years.
4. Please state whether the amendment to WAC 480-07-730 proposed by Public Counsel and others, if adopted, should apply only to commission staff or to all parties.
5. Please describe how the nature of the commission's proceedings differs materially from other civil litigation insofar as settlements and the settlement process is concerned, and how any differences should be reflected in the settlement rules or practice.

6. Would it be improper under the proposed amendment to WAC 480-07-730 for a settlement judge to caucus with one or more, but not all, parties to resolve issues between two or more parties? Should rules restrict parties' ability to caucus with one or more other parties, but not all, during a scheduled settlement conference?
7. Concerning the proposed amendments to WAC 480-07-740, do the requirements in RCW 34.05.461(3) meet the concerns of the proponents for an order addressing all material issues of fact or law? If not, please discuss why the statute does not address the concerns.
8. Is discovery under the proposed amendment to WAC 480-07-740 intended to be an absolute right? Would an absolute right allow abuse of the process and irrelevant discovery? Why should parties opposing a settlement have discovery rights greater than those afforded under the discovery rules during other stages of a proceeding (*i.e.*, why should the commission's discretion to control discovery, considering the needs of the case be constrained, when a settlement is filed)?
9. Should the commission change the description of the "highly confidential" designation in WAC 480-07-423(1)(b)? If so, please explain how and why.
10. Please identify circumstances that justify use restrictions for persons given access to documents designated confidential or highly confidential.
11. Please identify circumstances that justify employment restrictions for persons given access to documents designated confidential or highly confidential.
12. Please provide proposed language for WAC 480-07-160 and WAC 480-07-423 describing how confidential or highly confidential information should be marked or identified in a document.
13. Please provide proposed language for WAC 480-07-160 and WAC 480-07-423 describing how confidential or highly confidential documents should be filed with the commission.
14. Please comment on Public Counsel's August 26, 2005, proposal to amend WAC 480-07-310(b), concerning *ex parte* communication.
15. Please state your observations or concerns about any of the commission's procedural rules, and propose specific language changes to address your concerns.

WRITTEN COMMENTS

Written comments and suggestions for correcting, changing, and/or clarifying the commission's procedural rules must be filed with the commission no later than **Tuesday, January 17, 2006**. We request that comments be provided in electronic format to enhance public access, for ease of providing comments, to reduce the need for paper copies, and to facilitate quotations from the

comments. Comments may be submitted as electronic files in Word 97 or later or in Adobe Acrobat (.pdf) via the commission's Web Portal or by electronic mail to the commission's Records Center at <records@wutc.wa.gov>. Please include:

- The docket number of this proceeding (A-050802)
- The commenting party's name
- The title and date of the comment or comments

An alternative method for submitting comments may be by mailing/delivering an electronic copy on a 3 ½ inch, IBM-formatted, high-density disk, in Word 97 or later or in .pdf Adobe Acrobat . Include all of the information requested above. We will post on the commission's web site all comments that are provided in electronic format. The web site is located at <http://www.wutc.wa.gov/050802>.

If you are unable to file your comments electronically or to submit them on a disk, we will always accept a paper document.

If you have any questions regarding the rulemaking, please contact Dennis Moss at dmosse@wutc.wa.gov or by calling (360) 664-1164.

Sincerely,

CAROLE J. WASHBURN
Executive Secretary