

Discussion Draft Pilotage Rules
Revisions to WAC 480-07 proposed in
CR 102 Procedural Rules in Docket A-130355

WAC 480-07

WAC 480-07-140 General requirements for submitting documents to the commission.

(1) General.

- (a) *Informal submissions.* Informal submissions are oral or written comments or communications directed to the commission that do not seek, or respond to, formal commission action, are not required by statute or commission rule, and generally are not filed in a docket. Informal submissions include, but are not limited to, consumer complaints other than complaints requesting commencement of an adjudicative proceeding, and public comments made on matters the commission considers at an open public meeting or in an adjudication when submitted by persons who are not, and do not seek to be, parties to that adjudication. A person may make informal submissions by using the comment form available on the commission's web site or by contacting the commission records center or consumer protection section by telephone, letter, or email at the contact information listed in WAC [480-07-125](#).
 - (b) *Formal filings.* Formal filings are written submissions that seek or respond to formal commission action or are required by statute or commission rule and that the commission may file in a docket. Unless otherwise provided in this chapter, all documents submitted to the commission for formal filing, including documents that contain confidential information, must be submitted electronically to the commission records center in conformance with this rule. The commission will not accept a document for formal filing unless the commission receives that document in electronic form.
- (2) **Where to send written communications.** Persons should send written communications to the commission using the contact information contained in WAC [480-07-125](#) or on the commission's web site. Correspondence directed to the commission should be addressed to the commission secretary.
- (3) **Cover letters.** Persons submitting documents to the commission for formal filing must include a cover letter with the submission unless the sole document submitted is a letter or the document is one page in length and includes the information identified in subsection (4) of this section.
- (4) **Requirements.** The following requirements enable the commission to identify submissions and to facilitate prompt delivery of communications to commission personnel.
- (a) *Identification of sender.* All persons who communicate with the commission should provide their full name, mailing address, telephone number, and email address to assist the commission in responding. Persons who communicate with the commission on behalf of a business, organization, or other entity must state their name and title or position, and the name of the entity on whose behalf they are sending the communication. All submissions on behalf of a company the commission regulates must identify the company using the exact name of the company in the commission's records. The commission's web site includes a list of all such companies by the names in the commission's records. The commission may reject or require resubmission of any submission that does not comply with this requirement.

- (b) *Identification of permit, license, or certificate.* Any person or entity holding a commission issued permit, license, or certificate must identify the permit, license, or certificate number (if any), including the exact name under which the authority is held, when communicating with the commission concerning the permit, license, or certificate.
 - (c) *Identification of proceeding.* Persons who communicate with the commission concerning a formal commission proceeding (e.g., rule-making or adjudication) must identify the proceeding to the best of their ability, including the docket number and name of the proceeding.
 - (d) *Identification of documents.* All documents submitted to the commission must be named in conformance with subsection (6)(b) of this section.
- (5) **Electronic submission of documents.** The commission accepts only electronic versions of documents for formal filing. Unless required in a specific rule or order, the commission does not require a paper copy of the document.
- (a) *Electronic submission via web portal.* Documents submitted electronically must be submitted using the commission's records center web portal except as provided in this rule.
 - (i) How to use the web portal. To use the web portal to submit documents for filing, persons should navigate to, and follow the instructions on, the web portal at the address specified in WAC [480-07-125](#).
 - (ii) Official commission receipt. The commission officially receives a document submitted through the web portal on the date and at the time registered by the portal; provided that documents the commission receives after 5:00 p.m. are not considered officially received or filed until the next business day. The web portal will send an automated notification to the person submitting the document when the commission has received the document.
 - (iii) Insufficient capacity. If a submission exceeds the size limitations of the commission's web portal for a single submission, the person may submit the documents in multiple web portal submissions, via one or more emails as provided in subsection (6)(c) of this section, or on a disc or other commonly used electronic storage medium delivered by mail or hand delivery. The commission includes on its web site the current size limitation of submissions on the web portal and instructions for making multiple web portal submissions.
 - (b) *Electronic submission via email.* If a person is unable to use the web portal to submit documents for filing, the commission will accept a submission via email. The commission may also accept correspondence or comments directed to the commission in the form of an email. An email transmitting documents must explain the reason the documents are not being submitted via the web portal and must comply with the following requirements:
 - (i) Where to send electronic documents. Emails and emailed submissions for filing must be directed to the commission's records center at the email address specified in WAC [480-07-125](#). Courtesy or informational copies may be sent to other email addresses for individual commission personnel. The commission will receive for filing only email submissions sent to the records center.
 - (ii) When deemed received. An email and any transmitted documents are deemed received only when the email and the entire document or set of documents successfully reach the commission's records center electronic mailbox. Emails or documents wholly or partly received by email in the commission's records center

after 5:00 p.m. are not considered officially received or filed until the next business day.

(iii) Insufficient capacity. If a submission exceeds the size limitations of the commission's email system for a single message, the person may submit the documents in multiple messages as provided in subsection (6)(c) of this section or on a disc or other commonly used electronic storage medium delivered via mail or hand delivery. The commission includes on its web site the current size limitation of a single email.

(c) *Electronic submission by mail or hand delivery.* A person may submit for filing electronic copies of documents on a disc or other commonly used electronic storage medium by mail or hand delivery (e.g., courier delivery service) to the commission's business address. The commission deems it has received an electronic document submitted by mail or hand delivery when the commission's records center physically receives it. Documents delivered to the commission's records center after 5:00 p.m. are not considered officially received or filed until the next business day.

(d) *Additional requirements.* The following additional requirements apply when submitting documents in the circumstances identified below.

Submissions in these dockets or types of documents:	Must comply with these rules and:
Rule-making dockets	Part II of this chapter
Adjudicative dockets	Part III of this chapter, plus any requirements in the specific adjudication
Utility tariffs and contracts	Chapter 480-80 WAC and WAC 480-07-141
Transportation tariffs and time schedules (a) For auto transportation companies (b) For commercial ferry companies (c) For solid waste collection companies (d) <i>For marine pilotage services</i>	WAC 480-07-141 ; and (a) Chapter 480-30 WAC; (b) Chapters 480-51 and 480-149 WAC; (c) Chapter 480-70 WAC (d) <i>Chapter 480-160 WAC</i>
For public records requests	Chapters 42.56 RCW and 480-04 WAC

(6) **Electronic file format requirements.** Electronic versions of all documents filed with the commission must conform to the following file format requirements.

(a) *Acceptable format.*

(i) All documents other than spreadsheets as described in (a)(ii) of this subsection and email correspondence or comments must be filed in searchable .pdf (adobe acrobat or comparable software) format and to the extent feasible should be saved or otherwise converted directly from the native format in which the document was

- created. Parties that cannot create .pdf files directly from the document in its native format must provide a copy of the document converted to .pdf via scanning or other available technology. Scanned documents must be searchable unless readily available software does not support searchable scanned documents.
- (ii) Any document in the form of a spreadsheet that displays results of calculations based on formulas must be filed in its native Excel format (~~.xls~~, .xlsx, ~~.xlsm~~) or the updated version of, or successor to, that software program. The commission will accept spreadsheets created using a different software program only if the commission has a license to use that program and personnel who know how to use it. Spreadsheets must include all formulas and may not include locked, password protected, or hidden cells or tabs, or any other restrictions that impair or hamper the commission's ability to review or modify the data in those cells.
 - (iii) Correspondence or comments in the form of an email must conform to generally accepted conventions for email communications.
- (b) *File naming conventions.* Documents must be named in a way that describes the contents. Each document a person submits must be labeled with the docket number of the proceeding (except in the case of original submissions), any confidentiality designation, the name of the document, the name of the person or party on whose behalf the document is submitted, the last name of any witness sponsoring the document, and the date the document is submitted. The prefix to the docket number (e.g., UE-, TG-, etc.) may be omitted, and words may be abbreviated as necessary in the file name of an electronic document if the full name is too long. The cover letter accompanying the submission must list all of the documents included in the submission using the same identifying information. The commission maintains a sample list of acceptable file names and abbreviations on its web site.
- (c) *Acceptable organization.* Except as provided in WAC [480-07-160](#) ~~(4)(d)(vii)~~ when submitting documents that include information designated as confidential, **highly confidential, or exempt**, all files required to meet a single deadline must be submitted at the same time and in the same message, if possible, or on the same disc or commonly used electronic storage medium. A person may submit files in more than one submission or message when submitting those files via the commission's web portal or via email as authorized in subsection (5)(a)(iii) and (b)(iii) of this section if the total size of the submission exceeds the size constraints of the commission's web portal or email system for a single submission. If the documents are submitted in multiple email messages, each email message must prominently identify which one it is in the sequence of messages and, to the extent possible, the total number of messages used (e.g., "Message 2 of 4"). The first and final messages in the sequence must be identified as such. The first message also must explain the reason for the multiple messages and must include the cover letter and any required certificate of service. All such messages must be submitted as close to simultaneously as practicable.

[Statutory Authority: RCW [80.01.040](#) and [80.04.160](#). WSR 17-06-051 (General Order R-588), § 480-07140, filed 2/28/17, effective 3/31/17; WSR 08-18-012 (Docket A-072162, General Order R-550), § 480-07-140, filed 8/22/08, effective 9/22/08; WSR 06-16-053 (Docket A-050802, General Order R-536), § 480-07-140, filed 7/27/06, effective 8/27/06; WSR 03-24-028 (General Order R-510, Docket No. A-010648), § 480-07-140, filed 11/24/03, effective 1/1/04.]

WAC 480-07-500 **General rate proceedings – Statement of policy.**

- (1) **Scope of this subpart.** This subpart explains the special requirements for certain filings to change rates charged by electric, natural gas, pipeline, telecommunications, and water companies, low-level radioactive waste sites, solid waste collection companies, ~~and~~ commercial ferries, and marine pilotage services.
- (2) **Inconsistencies with subpart A requirements.** If there is any inconsistency between the requirements in subpart B of these rules and those in subpart A, the requirements in subpart B control.
- (3) **Purpose of special rules.** The special requirements in subpart B are designed to standardize presentations, clarify issues, and speed and simplify processing of general rate proceedings.
- (4) **Failure to comply.** The commission, pursuant to WAC 480-07-141, may reject, or require the company to revise, any filing to initiate a general rate proceeding that does not conform to the requirements of subpart B of these rules. The commission will provide a written statement of its reasons if it rejects a filing. The company may revise or refile a filing that remedies the noncompliance the commission has identified and otherwise fully complies with the rules consistent with the requirements in WAC 480-07-141(2), which governs the date on which the commission considers a filing to have been made.
- (5) **Less than statutory notice.** The commission may grant requests to alter tariffs on less than statutory notice for good cause shown, in accordance with RCW 80.28.060 or 81.28.050. A company or pilotage service district provider that seeks to implement general rate proceeding tariff changes on less than statutory notice must include with its filing a complete explanation of the reasons that support such treatment.

[Statutory Authority: RCW 80.01.040 and 80.04.160. 03-24-028 (General Order R-510, Docket No. A-010648), § 480-07-500, filed 11/24/03, effective 1/1/04.]

WAC 480-07-505 General rate proceedings – Definition; tariff suspension.

- (1) **Filings that initiate general rate proceedings.** Except as otherwise provided in this rule or RCW 80.04.130(2)(a) (governing rate decreases for telecommunications companies), the commission will initiate a general rate proceeding in response to a filing by any public service company identified in WAC 480-07-500 requesting to change its rates if that filing meets any of the following criteria:
 - (a) The rates a company requests would alter its gross annual revenue from activities the commission regulates by three percent or more.
 - (b) The company requests a change in its authorized rate of return or a change in its capital structure.
 - (c) The company is a solid waste collection company regulated under chapter 81.77 RCW.
 - (d) Any petition to change the rates, charges, or rules of the ~~commission-published~~ marine pilotage services tariff.
- (2) **Filings under Title 80 RCW that will not initiate general rate proceedings.** The commission generally will not initiate general rate proceedings in response to the following filings, even though

the revenue the company requests may vary by three percent or more from the company's current gross annual revenue from Washington regulated operations:

- (a) Periodic rate adjustments the commission has generally authorized for electric and natural gas companies (e.g., power cost adjustments, purchased gas cost adjustments, or decoupling adjustments);
- (b) Emergency or other rate increases a company requests on short notice as a result of disasters, adverse weather, or other causes beyond the company's control that unexpectedly and substantially increase a public service company's expenses; or
- (c) Rate changes designed to recover only the costs a company incurs to comply with government actions that directly impact the company's costs to provide regulated service (e.g., changes to tax laws or local fees) or to comply with federal or state rules concerning the level of rates for telecommunications companies.

(3) Filings under chapter 81.77 RCW that will not initiate general rate proceedings. The commission generally will not initiate general rate proceedings in response to the following filings by solid waste collection companies regulated under chapter 81.77 RCW even though the request may meet one or more criteria identifying general rate proceedings:

- (a) Filings by the following companies:
 - (i) Companies that provide specialized hauling services restricted to certain specific waste products that are limited to specific customers; or
 - (ii) Companies that provide only on-call or nonscheduled service (i.e., Class C companies, as defined in WAC 480-70-041);
- (b) Filings seeking only to pass through a change in fees unilaterally established and imposed by governmental or unaffiliated private entities, including disposal, recycling, yard waste, or processing fees, or to pass through changes to such fees charged by affiliated entities if the public service company demonstrates that the total cost of transfer, transport, and fees at the affiliate's facilities is equal to or lower than other reasonable and currently available alternatives;
- (c) Filings for rate changes designed to recover only the costs a company incurs to comply with government actions that directly impact the company's costs to provide regulated service (e.g., changes to state or local fees, charges, or taxes directly related to the collection or disposal of solid waste);
- (d) Filings implementing new solid waste collection programs; or
- (e) Filings for periodic rate adjustments through a cost adjustment mechanism the commission has generally authorized for solid waste collection companies (e.g., fuel or recycling commodity adjustments).

(4) Filings under chapter 81.116 RCW that will not initiate general rate proceedings. The following filings are not considered general rate proceedings for pilotage services regulated under chapter 81.116 RCW:

- (a) Filings by a countywide port district located in part or in whole within the Grays Harbor pilotage district, as defined by RCW 88.16.050 that meets the filing requirements in RCW 53.08.390;
- (b) Filings to fund the stipend the board of pilotage commissioners is authorized to pay to pilot trainees and to use in its pilot training program under RCW 88.16.035;
- (c) Filings to reflect any automatic periodic or annual adjustment to pilotage rates previously established and approved by the commission in a general rate proceeding;

- (d) Any filing to collect by the a countywide port district the cost of the commission for setting tariff rates; and
- (e) Any filing to collect tariff surcharges authorized by the legislature or to recover changes in state, local or federal taxes or fees applicable to pilotage services.

(5) Commission discretion. The commission retains discretion to determine whether to initiate a general rate proceeding in response to any filing described in this section or to convert any rate proceeding to a general rate proceeding, following notice and an opportunity to comment, if the commission finds that such action is consistent with the public interest. The commission may require that any filing or proposal by a public service company or pilotage service district provider to change rates for any customer class, or to restructure rates, be subject to the procedures and protections in subpart B of these rules.

(6) Suspension of tariffs. The commission may take action at a regularly scheduled open public meeting to suspend the tariff sheets included in any filing that seeks to change rates. A company may waive its right to commission consideration of the filing at an open meeting and request immediate suspension of the tariffs, either in the cover letter accompanying the filing or in a subsequent document. If commission staff confirms that the filing is complete and complies with the applicable rules in subpart B of these rules, the commission may enter a complaint and order suspending the tariffs without further process. The company, pilotage service district provider, and statutory parties may engage in discovery pursuant to WAC 480-07-400 through 415 after the commission issues a notice of prehearing conference prior to the commission entering a prehearing conference order.

[Statutory Authority: RCW 80.01.040 and 80.04.160. 03-24-028 (General Order R-510, Docket No. A010648), § 480-07-505, filed 11/24/03, effective 1/1/04.]

NEW SECTION

WAC 480-07-525 General rate proceedings – Marine pilotage services in Puget Sound.

General rate proceeding filings for marine pilotage services must include the information described in this section. The commission may reject a filing that fails to meet these minimum requirements, without prejudice to a petitioner’s right to refile its request in conformance with this section.

- (1) Testimony and exhibits. When the filing is suspended and a hearing held the petitioner must file with the commission one paper copy and one an electronic copy of for all testimony and exhibits that the petitioner intends to present as its direct case if the filing is suspended and a hearing held. The electronic copy of all filed material must be in the format identified in WAC 480-07-140(6). The commission may require the petitioner to file additional paper copies if the commission suspends and conducts a hearing on the filing.
- (2) Proposed tariff. The Proposed tariff sheets must be filed in electronic form supplemented by one paper copy. The proposed tariff sheets should be in legislative format (i.e., with strike-through to indicate the material to be deleted or replaced and underlining to indicate the material to be inserted) consistent with the requirements in WAC 480-160-066 through WAC 480-160-081, as well as copies of any tariff sheets that are referenced in the new or amended tariff sheets. The electronic copy must be submitted in the format identified in WAC 480-07-140(6).
- (3) Transmittal letter. A transmittal letter prepared in compliance with the provisions of WAC 480-160-191.

- (4) Work papers. One paper and one electronic copy of all supporting work papers for the test period, which is the most recent twelve-month period for which financial data are available, not to exceed nine months prior to the filing date. The electronic copy must be submitted in the format identified in WAC 480-07-140(6). Work papers reflecting the test year must include:
- (a) Schedule of fixed or long-term assets (rate base).
 - (b) Computation of revenue requirement for the rate effective year.
 - (c) An accrual basis income statement and balance sheet audited by a certified public accountant with a year ended date not to exceed nine months prior to the date of filing.
 - (d) An income statement with restating actual and pro forma adjustments, including all supporting calculations and documentation for all adjustments. The filing must identify dollar values and underlying reasons for each restating actual and pro forma adjustment.
 - (e) A calculation of the revenue impact of the proposed tariff revisions.
 - (f) An income statement listing all revenue and expense accounts by month.
 - (g) If non-regulated revenue represents more than ten percent of total test period revenue, a detailed separation of all revenue and expenses between regulated and non-regulated operations.
 - (h) A detailed list of all non-regulated operations, including the rates charged for the services rendered. Copies of all contracts must be provided on request.
 - (i) Schedule reconciling, within five percent, rates and charges:
 - (i) earned during the test year to actual reported revenues, and
 - (ii) expected to be earned during the rate year to computed revenue requirement.
 - (j) At the time the petitioner makes its general rate case filing, the petitioner must provide to Commission staff one paper and one electronic copy of all supporting work papers of each witness in a format as described in this subsection. If the testimony, exhibits, or work papers refer to a document, including, but not limited to, a report, study, analysis, survey, article or decision, that document must be included as a work paper unless it is a reported court or agency decision, in which case the reporter citation must be provided in the testimony. If a referenced document is voluminous, it need not be provided, but the petitioner must identify clearly the materials that are omitted and their content. Omitted materials must be provided or made available if requested by the commission.
 - (k) Organization. Work papers must be plainly identified and well organized, and must include an index and tabs. All work papers must be cross referenced and include a description of the cross referencing methodology.
 - (l) Electronic documents. Parties must provide all electronic files supporting their witnesses' work papers. The electronic files must be fully functional and include all formulas and linked spreadsheet files. Electronic files that support the exhibits and work papers must be provided using logical file paths, as necessary, by witness, and using identifying file names.
 - (m) Projected changes in vessel traffic assignments and a detailed portrayal of vessel traffic assignments for the previous twelve months along with the associated tariff and fees charged to vessel operators for pilotage services as required in WAC 480-160.
 - (n) A detailed portrayal of the number of pilots necessary to be licensed in the pilotage district of the state, to optimize the operation of a safe, fully regulated, efficient, and competent pilotage service. At a minimum, work papers must provide the board of pilotage commissioners' process and factors to make such a determination pursuant to WAC 363-116-065(2). In the event the petitioner deviates from the determination of the board of

- pilotage commissioners under WAC 363-116-065(2) then it is incumbent upon the petitioner to provide work papers with the necessary calculations, factors, and rationale for an alternative minimum number of pilots and maximum safe assignment level for the district.
- (o) The projected known increases or decreases in state fees and/or taxes.
 - (p) The Normalized annual costs of any major capital investment or other extraordinary recurring expenses.
 - (q) Revenues generated by tariff and fees for the previous year, the current year's budget and future budget projections, based on projected vessel traffic assignments, vessel type, vessel tonnage, routes and, number of pilots or other tariff-based billing determinates.
 - (r) Necessary tariff surcharge to fund the stipend the board of pilotage commissioners is authorized to pay to pilot trainees and to use in its pilot training program under RCW 88.16.035.
 - (s) Change in methodologies for adjustments. If a party proposes to calculate an adjustment in a manner different from the method that the commission most recently accepted or authorized for the petitioner, it must also present a work paper demonstrating how the adjustment would be calculated under the methodology previously accepted by the commission, and a brief narrative describing the change. Commission approval of a settlement does not constitute commission acceptance of any underlying methodology unless so specified in the order approving the settlement.

WAC 480-07-540 General rate proceedings – Burden of proof.

Public service companies and the petitioner for seeking to establish or modify tariff rates for marine pilotage services bear the burden of proof in the general rate proceedings described in RCW 80.04.130 or 81.04.130. The burden of proof includes the burden of going forward with evidence and the burden of persuasion. The commission will consider the company's or petitioner's initial filing and any supplemental filings the commission authorized to be the company's or petitioner's full direct case in support of its rate change request for purposes of deciding any prehearing motion to dismiss under WAC 480-07-380.

[Statutory Authority: RCW 80.01.040 and 80.04.160. 03-24-028 (General Order R-510, Docket No. A010648), § 480-07-540, filed 11/24/03, effective 1/1/04.]

WAC 480-07-700 Alternative dispute resolution.

The commission supports parties' informal efforts to resolve disputes without the need for contested hearings when doing so is lawful and consistent with the public interest, and subject to approval by commission order. Alternative dispute resolution (ADR) includes any mechanism to resolve disagreements, in whole or in part, without contested hearings.

(1) No delegation of commission authority. The commission cannot delegate to parties the power to make final decisions in any adjudicative proceeding. The commission retains and will exercise its authority in every adjudicative proceeding to consider any proposed settlement or agreement for approval.

- (2) **Pilot training program stipend.** Any proposed settlement or agreement for pilotage rates must include the necessary tariff surcharge to fund the stipend the board of pilotage commissioners is authorized to pay to pilot trainees and to use in its pilot training program under RCW 88.16.035.
- (3) **Commission fee to set pilotage service rates.** The parties to any proposed settlement or agreement must allow for the commission to apply its reasonable fee for setting rates for marine pilotage services.
- (4) **Forms of ADR.** Parties to a dispute that is within the commission's jurisdiction may agree to negotiate with any other parties at any time without commission oversight. The commission may direct parties to meet or consult as provided in subsection (35) of this section, or may establish or approve a collaborative process as provided in WAC 480-07-720. The commission may assign commission staff trained in ADR principles and techniques to serve as neutral third parties (e.g., mediator or facilitator) to assist the parties. The commission may assign a settlement judge to assist the parties in appropriate circumstances. The commission may provide an arbitrator whose decision is subject to commission review in matters for which arbitration is authorized.
- (5) **Settlement conference.** A settlement conference means any discussion or other communication, in person or otherwise, intended to resolve one or more disputed issues (whether actual or anticipated) between two or more parties in an adjudicative proceeding. Settlement conferences do not include requests for information or clarification, or communications to identify whether a dispute exists or whether another party is willing to negotiate resolution of a disputed issue, or in aid of discovery. Settlement conferences must be informal and without prejudice to the rights of the parties. The procedural requirements of this section relating to settlement conferences may be waived if all parties and the commission agree. Any party and any person who has filed a petition to intervene may participate in an initial or early initial settlement conference. An intervenor's participation in a settlement conference is limited to the interests supporting its intervention, except by agreement of other participants in the conference. No party is required to attend.
- (a) **Initial settlement conference.** The commission will set in the procedural schedule for each adjudicative proceeding the date for an initial settlement conference. Parties wishing to reschedule the initial settlement conference must seek modification of the schedule by the presiding officer upon notice to all other parties.
- (b) **Early initial settlement conference.** Any party that wishes to initiate a settlement conference with any other party between the filing of the docket and the initial prehearing conference must have included in its notice to customers, if otherwise required, a statement indicating that an early initial settlement conference might be scheduled. In addition, the party proposing an early initial settlement conference must provide ten days prior notice of any such conference to the commission, public counsel, any party, any person that has filed a petition to intervene and any person that was a party in the most recent proceeding of the same type, involving the same filing party and respondent, if any. Such persons may participate in an early initial settlement conference in the docket if they file a petition to intervene prior to the early initial settlement conference.
- (6) **ADR guidelines.** In any negotiation, the following apply unless all participants agree otherwise:
- (a) The parties, as their first joint act, will consider the commission's guidelines for negotiations, set out in a policy statement adopted pursuant to RCW 34.05.230, and determine the ground rules governing the negotiation;

- (b) No statement, admission, or offer of settlement made during negotiations is admissible in evidence in any formal hearing before the commission without the consent of the participants or unless necessary to address the process of the negotiations;
- (c) Parties may agree that information exchanged exclusively within the context of settlement negotiations will be treated as confidential, subject to the requirements of RCW [5.60.070](#); and
- (d) Participants in a commission-sanctioned ADR process must periodically advise any nonparticipating parties and the commission of any substantial progress made toward settlement. Participants must immediately advise the commission if a commission sanctioned ADR process is without substantial prospects of resolving the issue or issues under discussion (i.e., if the participants agree that an impasse has been reached or an impasse is declared by any neutral third party who is assisting the participants in the ADR process).
- (e) Any mediator, facilitator, or settlement judge who assists the participants in an ADR process will not participate in any adjudication, arbitration, or approval process for the same proceeding, unless all parties consent in writing.

[Statutory Authority: RCW [80.01.040](#) and [80.04.160](#). WSR 06-16-053 (Docket A-050802, General Order R-536), § 480-07-700, filed 7/27/06, effective 8/27/06; WSR 03-24-028 (General Order R-510, Docket No. A-010648), § 480-07-700, filed 11/24/03, effective 1/1/04.]