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June 19, 2006

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**VIA ELECTRONIC AND U.S. MAIL**

Carole Washburn, Executive Secretary  
Washington Utilities & Transportation Commission  
1300 Evergreen Park Drive, SW  
Olympia, WA 98504

**Re: Docket No. A-050802  
Review of WUTC's Procedural Rules**

Dear Ms. Washburn:

Please accept this letter as further comments of Verizon Northwest Inc. ("Verizon") on the Commission's proposed supplemental revisions to its procedural rules. In these comments, Verizon addresses only the proposed supplemental revisions; Verizon adheres to its comments offered on May 2, 2006 regarding the Commission's initial proposals. For your convenience, a copy of those comments is attached.

Verizon supports the proposed revision to WAC 480-07-650(1). That amendment will close a potential loophole that could allow a party to serve notice of an enforcement petition and then avoid filing the petition for a substantial period of time. The proposed revision would prevent such actions by specifying that such notices are only valid for thirty days. The proposal is appropriate because enforcement petitions under that rule are conducted with accelerated timelines, and thus require a defending party to commit substantial resources relatively early in the process. Parties should not be permitted to impose those real costs associated with early case preparation on their potential opponents by serving a notice and then delaying the filing of an enforcement petition.

As to the proposed revisions to WAC 480-07-700, Verizon respectfully suggests that they not be adopted as drafted. Although the proposed revisions differ to some degree from those included in the petition filed last year by Public Counsel and other parties in Docket No. A-051427, they would lead to the same inappropriate result: disruption of the established practices that have been utilized successfully to date and resulted in resolution to a significant number of contested cases. As all parties appear to recognize, agreed resolution of disputes is the preferred manner of handling controversies brought before this Commission.



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Proposals addressing the process for negotiating settlements generated “a considerable variety of opinion”<sup>1</sup> even before the November 10, 2005 workshop in this docket. Much of the controversy stems from impediments to the settlement process that would result from a number of the proposals that have been offered to date. Verizon submits that proposed rule WAC 480-07-700(3) would undermine the settlement process in much the same manner as the other proposals.

Subsection (2) of the existing rule provides for three forms of alternative dispute resolution. First, “parties \* \* \* may agree to negotiate with any other parties at any time without commission oversight.” Second, the Commission may direct parties to meet or consult as set forth in subsection (3) of the existing rule. Third, the Commission may establish or approve a “collaborative process” under WAC 480-07-720. The existing subsection (3) of the ADR rule states that the Commission may “invite or direct” the parties to confer, and then simply states that settlement conferences must be informal and without prejudice and any resulting agreements must be submitted to the Commission for approval. In other words, the existing subsection (3) accommodates the first type of ADR (a free and voluntary process), as well as the second (a Commission directed process). The proposed extensive amendments to subsection (3) would, in contrast, essentially eliminate the first option and instead dictate a wholly rigid approach.

As the Commission knows from recent experience in major cases, Verizon favors an inclusive approach to settlement discussions.<sup>2</sup> The Commissioners, based on their statements at the May 11, 2006 Bench-Bar conference, appear to prefer all-party settlements as well. The mandatory process set forth in the proposed changes to WAC 480-07-700, however, would actually result in fewer settlements as the one-size-fits-all approach would provide significant disincentives for settlement in some cases, as set forth below.

Moreover, Commission rules already allow it to impose a settlement process in a given case. WAC 480-07-700(2), (3). Despite the long-time existence of that authority, Verizon is not familiar with any case in which the Commission followed the rule's approach of imposing a settlement process, instead allowing the parties to use their discretion in pursuing settlement. In Verizon's experience, the permissive approach to settlement discussions works well. Invariably the main parties to a proceeding invite all parties to participate in settlement talks at some point

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<sup>1</sup> See, e.g., Letter from Carole Washburn to Robert W. Cromwell, Jr., October 18, 2005, Docket No. A- 051427, denying petition to commence rulemaking.

<sup>2</sup> See, e.g., In the Matter of the Joint Petition of Verizon Communications, Inc. and MCI, Inc., Docket No. UT-050814 (multi-party settlement); WUTC v. Verizon Northwest Inc., Docket No. UT-040788 (multi-party settlement unopposed by any other party).



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in the process. They do so, either out of a preference for inclusive settlement, or recognition that a settlement by all parties would facilitate Commission review of the resulting settlement.<sup>3</sup> Settlements are reached: some unanimous; some not. In considering whether to approve a settlement, the Commission takes into account all the evidence bearing on the ultimate issue: whether the settlement is in the public interest. The considerations can include whether the settlement is unanimous, as well as any other criteria the Commission deems relevant.

In contrast, the proposed new WAC 480-07-700(3) would create an overly-formulaic mandated structure that would not provide the flexibility necessary for successful settlement discussions. For example, requiring an "initial settlement conference" that "[n]o party is required to attend" (see proposed WAC 480-07-700(3)(a)) is impractical and may well be pointless. A common sense approach would be a simple inquiry at the pre-hearing conference as to whether the parties believe an initial settlement conference is appropriate. Verizon proposes language below to accomplish this result.

Proposed WAC 480-07-700(3)(b) would provide serious disincentives for settlement in a number of ways. Substantively, it appears to preclude even the most preliminary or exploratory settlement discussions without going through the elaborate procedures specified in that rule. As the Commission is undoubtedly well aware, in some cases settlement discussions are only worthwhile if particular participants are willing to entertain the possibility of settlement within certain parameters. Yet under this proposed rule, parties would appear to be precluded from conducting exploratory discussions on settlement possibilities without having first gone through detailed procedures. The imposition of such extensive procedures would create a substantial impediment to early settlement discussions.

Proposed WAC 480-07-700(3)(b) is also objectionable from a procedural perspective. A broad group of entities would have to be notified at least two weeks before any settlement discussion. The notice is even to include – in advance of actually discussing a potential settlement – a list of topics to be discussed at the meeting. That would be an unworkable requirement given that such a list of topics could not be developed absent a settlement discussion, which would be prohibited without prior notice under the proposed rules. Moreover, the rule appears to require providing such notice to an extraordinarily broad group. Subsection (v) would even mandate providing

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<sup>3</sup> Verizon is mindful of the comments of ALJ Wallis at the May 11 Bench-Bar conference. A settlement by all parties makes much easier the Commission's task to review any settlement to ensure it is in the public interest. Awareness of that fact provides every incentive to a party seeking to settle to attempt to obtain agreement by all parties in a particular case.



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notice to parties that have chosen to not be actively involved in the proceeding at all.<sup>4</sup> Such procedural impediments are disincentives to settlement. The Commission should not create procedures that incent the parties to contest matters rather than settle them.

Finally, proposed rule WAC 480-07-700 (3)(b) focuses only on “early initial settlement conferences,” remaining silent as to whether notice is required for subsequent settlement discussions.<sup>5</sup> Of course, it would be wholly appropriate for parties interested in settlement to be free to exclude from their discussions parties that are not making constructive contributions to the process.<sup>6</sup> But the proposed rule is unclear as to whether that is the case.

Verizon would not oppose minor refinements to the permissive settlement process set forth in the existing rules that has generally worked well. WAC 480-07-730, for example, could be clarified to state the Commission's preference for all-party settlements. Further, the existing rule regarding prehearing conferences, WAC 480-07-430, could more clearly address potential settlements, such as by stating that the ALJ will inquire with the parties about the prospects for – or interest in – settlement, as well as explain the various approaches available. It also could include an inquiry about whether one or more settlement conferences should be included in the formal schedule. Specifically, Verizon suggests that the following passage be appended to existing WAC 480-07-430(l)(k): “Specifically, the presiding officer will inquire whether the parties believe it would be helpful to schedule a settlement conference pursuant to WAC 480-07-700(3), or if other methods of dispute resolution should be evaluated.”

Verizon also would suggest amending WAC 480-07-730 (3), which applies to multiparty (i.e., non-unanimous) settlements, as follows:

(3) Multiparty settlement. An agreement of some, but not all, parties on one or more issues may be offered as their position in the proceeding along with the evidence that they believe supports it. Non-settling parties may offer evidence

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<sup>4</sup> The proposed WAC 480-07-700(3)(b)(v) specifically would require service on parties that have not sought to intervene in the docket because it focuses on entities that were involved in other similar proceedings (and since any party intervening in the relevant docket would already be covered by subsection (3)(b)(iv)).

<sup>5</sup> The same is true of proposed WAC 480-07-700 (3)(a).

<sup>6</sup> Among other things, the rights of such non-constructive parties are protected through the Commission's ultimate review of any resulting settlement agreement, as established by WAC 480-07-730, a review unaffected by this rule.



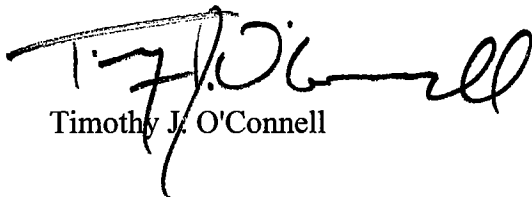
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and argument in opposition. After a multiparty settlement is finalized, but before it is offered to the commission, the settling parties shall offer to the non-settling parties that did not participate in the settlement negotiations (if any), the opportunity to meet and confer, either in person or by such other methods as may be appropriate in the circumstances, to review and comment on the proposed settlement. This obligation to meet and confer shall be waived when necessary for compliance with statutory deadlines.

This proposal would advance the apparent goal of ensuring consultation with non-settling parties, without overly impeding the settlement negotiation process. Verizon anticipates that this consultation process could facilitate education of non-settling/non-participating parties of proposed settlement specifics, and could resolve misunderstandings without the need for formal proceedings before the Commission. Moreover, such a process may encourage settling parties to make certain concessions to gain the support or neutrality of the non-settling/nonparticipating parties. The process Verizon proposes would encourage the policy that all parties support – resolving matters by agreement, when possible—while managing the docket in an efficient manner.

Verizon appreciates the Commission's continued attention and efforts to streamline its procedural rules. Thank you for your consideration.

Sincerely,



Timothy J. O'Connell

# ***ATTACHMENT***



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May 2, 2006

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**VIA ELECTRONIC AND U.S. MAIL**

Carole Washburn, Executive Secretary  
Washington Utilities & Transportation Commission  
1300 Evergreen Park Drive, SW  
Olympia, WA 98504

**Re: *Docket No. A-050802***  
***Review of WUTC's Procedural Rules***

Dear Ms. Washburn:

Please accept this letter as the comments of Verizon Northwest Inc. ("Verizon") on the Commission's proposed revisions to its procedural rules.

Preliminarily, Verizon supports the rejection of the proposal by Public Counsel and other parties that would have disrupted the established procedures followed by this Commission regarding settlement. Resolution of disputes through negotiation is the preferred manner of handling controversies brought before this Commission. The Commission's rejection of the proposals of Public Counsel and other parties<sup>1</sup> best serves to preserve parties' ability to reach and address settlement with workable and flexible procedures.

Before commenting on specific proposed rules included with the Notice of April 4, 2006, Verizon notes the apparent omission of at least two sections intended to be included in these proposed rules. First, WAC 480-07-025 is referred to several times in the proposed WAC 480-07-125 and proposed WAC 480-07-140. However, the text of the proposed rules does not contain a proposed WAC 480-07-025. Second, included with the Notice of April 4, 2006, was a document entitled "Discussion of Comments Concerning Procedural Rules Governing Settlement, Procedural Rules Tune-Up—Docket A-050802," dated March 2, 2006. That document, at pages 17-18, suggested that in response to the concerns raised by Public Counsel and other parties in Docket A-051427, the Commission would propose slight changes to WAC 480-070-700(3). Verizon would support the proposed changes to WAC 480-07-700(3) set forth

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<sup>1</sup> It is Verizon's understanding that Docket No. A-051427, the Docket under which the proposals were under consideration, is now closed.



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in that document, but that section is not included in the text of proposed rule changes that accompanied the April 4, 2006 Notice.

The remainder of Verizon's comments will follow the order of the proposed rules:

**WAC 480-07-145(6).** The Commission should permit filing of documents electronically in adjudicative proceedings, just as the proposed rules permit under WAC 480-07-143(3) for rulemakings. So long as the web portal has the capacity to notify the filing party of receipt of a filing, concerns over the failure of an electronic filing are minimal. Indeed, the general reliability of electronic filing, and the ease and efficiency of that mechanism, has led to some courts requiring its use. See General Order on Electronic Case Filing, United States District Court for the Western District of Washington, April 1, 2004 ("ECF Order")(attached).

Further, the deadline for filing the document electronically should not be set at some arbitrary time early in the day. In many cases, parties work on electronically filed documents to the last possible moment, and courts recognize this practice by accepting filings as late as midnight of the due date. See, ECF Order, § I(B) ("If time of day is of the essence, the assigned judge will order the document filed by a time certain. Otherwise, filing deadlines shall be 11:59 p.m. Pacific Time on the day the pleadings are required to be filed.") Finally, if the requirement for filing confirming paper copies is to be maintained, the deadline for receipt of such paper copies in WAC 480-07-145(6)(a)(ii) should be the close of business on the following business day, not noon. Different overnight delivery services may have different delivery times, and parties may be several time zones removed from Olympia. Moreover, parties may use courier services to hand-deliver paper copies to the Commission, but doing so by noon can be logistically difficult.

**WAC 480-07-150.** The Commission should allow a party to have multiple persons receive service of documents in particular instances. In the modern practice of complex proceedings pending before this Commission, it is not unusual for a party to have multiple personnel handling various aspects of the proceeding, all of whom need to be served with relevant documents. Verizon is sensitive to the potential burden imposed by having multiple persons designated for receipt of service of documents—but in an era of electronic communications, such burden is light. Verizon would therefore respectfully suggest that WAC 480-07-150 draw a distinction between the "formal exchange of documents on parties to adjudicated proceedings," for which a single designated representative is appropriate, and a more broad distribution list upon whom service should be effected.





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**WAC 480-07-340(1).** Verizon supports the designation of “Interested Person” and “Docket Monitor.” Those are useful distinctions.

**WAC 480-07-395(1).** The requirements in subpart (c)(iv) for a table of contents in all briefs, and in subpart (c)(vi) for a table of authorities in all briefs, should not be enacted as proposed. As drafted, this rule would require leave from the assigned presiding officer any time a party sought to forego the inclusion of a table of contents and/or table of authorities. Such a requirement would prove burdensome because tables of contents and authorities are not useful in all cases. In short briefs, addressed to discrete topics, tables of contents and authorities will needlessly lengthen the filings. Therefore, Verizon recommends that the proposed language in subpart (c)(iv) be modified such that it would require parties to “include in any brief of more than ten (10) pages a table of contents....” Similarly, subpart (c)(vi) should require parties to “include in any brief of more than ten (10) pages a table of cited authorities....” If the Commission believes that a threshold other than ten (10) pages should be used to determine what constitutes a short brief for which such tables are unnecessary, it should identify the appropriate length; but requiring those documents in every brief filed with the Commission—or having parties continually approach the assigned ALJ—is unnecessary and unduly burdensome.

**WAC 480-07-400(3).** This proposed revision would inappropriately eliminate the current rule that a party’s (or representative’s) signature on data requests constitutes a certification that the requests comply with the standards of Civil Rule 26(g), and that the request does not substantially duplicate an earlier request. These are salutary certifications. Their deletion is not justified by the additional language proposed for the conclusion of the following subsection (previously WAC 480-07-400(4)). Under the proposed rule, it would inexplicably shift the burden to the responding party to demonstrate that data requests are being used for an improper purpose. Verizon is unaware of any reason that the responding party should be put to this burden. Moreover, the revised language would delete the express guidance of the existing rule that duplicative data requests are unacceptable, guidance that is crucial to limiting the burden on a responding party to answer requests only a single time.

**WAC 480-07-620(2).** In light of the Commission’s detailed examination of the new delegation statute, this subject should be deferred to Docket No. UT-06-0357.

**WAC 480-07-650(4)(d).** Verizon understands this subparagraph to be intended to draw distinction between a petition pursuant to this section (with its attendant accelerated timeframes) and a formal complaint proceeding, which permits the parties to examine the issues in a more orderly fashion. Therefore, Verizon recommends that solely for the purposes of clarity, the



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proposed language should be modified to indicate that the “Commission may convert the proceeding to a complaint proceeding under RCW 80.04.110 to allow adequate time and process....”

**WAC 480-07-883.** Verizon is concerned about the additional language proposed for the initial section of WAC 480-07-883. If the Commission has accepted a compliance filing, the filing party should not face any potential sanction that might arise from the passage of time when the Commission later acts to reject the filing. See Judd v. AT&T, et al., 116 Wn. App. 761, 774 (2003), aff'd 152 Wn.2d 195 (2004) (telephone companies’ good faith reliance on regulatory actions is likely a defense to claims for damages in subsequent proceedings). Thus, if the rule is to provide for the Commission to reject filings it has already accepted, it should – at a minimum – apply prospectively only and provide a safe harbor for the period of time during which the compliance filing had been accepted.

Verizon appreciates the Commission’s continued attention and efforts to streamline its procedural rules. Thank you for your consideration.

Sincerely,



Timothy J. O'Connell

**U.S. DISTRICT COURT, WESTERN DISTRICT OF WASHINGTON**  
**ELECTRONIC FILING PROCEDURES FOR CIVIL AND CRIMINAL CASES**  
**AMENDED 4/1/04**

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**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON**

**ELECTRONIC FILING PROCEDURES  
FOR CIVIL AND CRIMINAL CASES  
April, 2004**

**I. THE ELECTRONIC RECORD**

**A. Introduction**

The official record of the court shall be the electronic file maintained on the court's servers. This includes information transmitted to the court in electronic format, as well as in paper form.

- The Clerk's Office shall not maintain a paper court file in any case begun on or after June 23, 2003, except as otherwise provided in these procedures.
- Registration in the CM/ECF system for the purpose of electronic service of pleadings and other papers shall be mandatory as of May 1, 2004.
- Electronic filing through CM/ECF shall be mandatory for all counsel as of June 1, 2004.
  - It is the responsibility of the filing party to maintain an electronic mailbox sufficient to receive the orders and other papers transmitted electronically to counsel.
  - If an attorney is not able to file electronically after June 1, 2004, counsel must show good cause in each case to file and serve pleadings in a traditional manner. Counsel who succeed in showing cause will be required to include with paper filings a disk or CD-ROM containing a portable document format (.pdf) of all papers filed with the court.
  - Attorneys filing pro hac vice shall have ten days after their Notice of Appearance in which to register for electronic filing.
- Prior to June 1, 2004, and for pro se filers who do not file

electronically, if pleadings are filed in paper form, the court will convert the documents to an electronic format, destroy the paper version, and maintain the electronic version as the court's official record.

- If pleadings are filed in paper form, it is the responsibility of the filer to ensure that the paper document can be scanned with a legible image. The court encourages such documents to be black print on white paper, for maximum contrast. The court may return filings that are not legible.
- A party filing in paper form who wishes to have an original pleading returned after scanning and uploading to ECF may, at the time of submitting the document to the court, make arrangements with the Clerk's Office for the return of the original pleading.

If an original pleading has some intrinsic value, the filing party is encouraged to retain the original and submit a copy to the Clerk's Office for scanning and uploading.

A judge of this court may deviate from these procedures in specific cases, without prior notice, if deemed appropriate for the just, speedy, and inexpensive determination of matters pending before the court.

- The court may also amend these procedures at any time without prior notice.

## **B. Definitions and Standards**

~~“CM/ECF” refers to Case Management/Electronic Case Files, which is the docketing and filing system used by the Western District of Washington.~~

**“Electronic document”** is an electronic version of information otherwise filed in paper form.

- An electronic document has the same legal effect as a paper document.
- An electronic document is deemed filed when it is received by the court's CM/ECF system. If time of day is of the essence, the assigned judge will order the document filed by a time certain. Otherwise, filing deadlines shall be 11:59 PM Pacific Time on the day the pleadings are required to be filed.

- A document filed with the court in paper form is deemed filed when it is date-stamped by the Clerk's Office.

**“Electronic filing”** is the electronic transmission of a .pdf document to the court for case processing by uploading the document directly from the user's computer, using the court's CM/ECF system, to file that document in the case file. It includes the transmission of .pdf documents and scanned images.

- **.pdf:** A document created with almost any word processing program can be converted to .pdf. The .pdf conversion program, in effect, takes a picture of the original document so the converted document can be opened across a broad range of hardware and software, with layout, format, links, and images intact.
- **Scanning:** When scanning documents to be subsequently filed electronically, filing parties are encouraged to configure their scanners for black and white at 200 dpi, rather than color scanning, unless color is an important aspect of the document. The filing party is responsible for the legibility of the scanned image.

**“Electronic signature”** refers to the fact that an electronic document is deemed signed when filed by an attorney, pro se litigant, judicial officer, or deputy clerk using a valid Western District of Washington login and password.

**“Notice of Electronic Filing”** is an e-mail verification of the court's receipt of the electronic pleading, as well as official notice of the filing to all other parties. The Notice includes the text of the docket entry, as well as a link to the filed document(s).

## II. ENROLLING IN THE CM/ECF SYSTEM

### A. Registration

Each person participating in the electronic filing system must first complete and sign a Registration Form. A copy is attached to this write-up, and the form is also available on the court's web site at [www.wawd.uscourts.gov](http://www.wawd.uscourts.gov). The court will issue logins and passwords to attorneys in good standing or pro se litigants with cases pending before the court. Attorneys admitted pro hac vice may also register with this program.

Registration constitutes consent to electronic service of documents, as provided in Section III(D) of these procedures.

All signed, original Registration Forms shall be mailed or delivered to the Clerk's Office, William K. Nakamura U.S. Courthouse, 1010 Fifth Avenue, Room 215, Seattle, WA 98104.

**B. Logins and Passwords**

Each person registered to file electronically will be given one ECF login and password from the court. The login and password permit the person to participate in the electronic filing and retrieval of pleadings and other papers.

Each registered user is responsible for all documents filed with this login and password. No one shall knowingly permit, or cause to permit, a login and password to be used by unauthorized persons. Conversely, no one shall use the login and password of another without explicit authorization.

**C. Changes**

A participant whose e-mail address, mailing address, or telephone number has changed from that on the original Registration Form shall timely file a notice of change of address (or number) with the court and serve a copy of the notice on all other parties.

Participants may change their passwords as they deem appropriate.

If a participant believes that the security of an existing login and password has been compromised and that a threat to ECF exists, he or she shall immediately notify the Clerk's Office by telephone. Court computer staff will assess the threat and advise appropriately.

**III. FILING DOCUMENTS ELECTRONICALLY**

**A. General Provisions**

Effective immediately, parties are strongly encouraged to file all documents electronically through ECF. Effective June 1, 2004, counsel will be required to file all documents electronically through ECF. The limited number of exceptions, or those which require special handling, are described below.

**B. Civil Complaints**

Civil complaints and cover sheets may not be filed by attorneys using ECF. Civil complaints and cover sheets may, however, be sent by e-mail, by U.S. mail, or delivered on paper or disk to the Clerk's Office for processing and

posting by Clerk's Office staff to CM/ECF.

**If using the U.S. mail or if personally delivered**, the Clerk's Office will scan the civil complaint and cover sheet, upload them to ECF, then discard the paper documents. The filing fee must accompany the complaint.

**If using e-mail**, the filing party must submit the civil complaint and cover sheet in .pdf format. Upon receipt of the e-mail, the Clerk's Office will contact the filing party to make arrangements for payment of the filing fee. New cases will not be filed until the filing fee has been paid.

- The e-mail addresses for submitting civil complaints by e-mail are:  
newcases.seattle@wawd.uscourts.gov and  
newcases.tacoma@wawd.uscourts.gov
- Only new civil complaints, cover sheets, and summons forms may be sent to the e-mail addresses listed above. If other pleadings are sent to these e-mail addresses, the Clerk's Office will call the filing party and explain that the pleading must be electronically filed in ECF.

New civil cases are deemed filed the day the Clerk's Office receives the complaint and any required filing fee.

A party may not electronically serve a civil complaint, but instead must effect service according to Rule 4 of the Federal Rules of Civil Procedure.

### C. **Issuance of Summons**

Summons to be issued may be presented to the court by e-mail, by U.S. mail, or delivered in person to the Clerk's Office. The party requesting the issuance of summons must complete the top portion of the summons form.

- **If sending the summons by e-mail**, send them to the "newcases" e-mail addresses listed in the previous section.
- **If sending the summons by U.S. mail**, also submit a stamped, self-addressed return envelope.

Once the summons has been issued, the Clerk's Office will return the summons to the filing party.

A party may not electronically serve a summons, but instead must perfect



service according to Rule 4 of the Federal Rules of Civil Procedure.

Affidavits of service, which may include executed summons, may be filed electronically through ECF.

**D. Service**

A certificate of service on all parties entitled to service or notice is still required when a party files a document electronically. The certificate may be filed electronically, and must state the manner in which service was accomplished on each party. Sample language for a certificate of service is attached to these procedures.

The three-day rule of Federal Rule of Civil Procedure 6(e) for service by mail shall also apply to service by electronic means.

**Whenever a pleading or other paper is filed electronically** in accordance with these procedures, ECF will generate an e-mail “Notice of Electronic Filing” to the filing party and to any other party who is a registered user.

- If the recipient is a registered participant in ECF, receipt of the Notice of Electronic Filing shall constitute service pursuant to the Federal Rules..
- If the recipient is not a registered participant in ECF, service of the Notice of Electronic Filing, as well as of the underlying document, must be made by the filer in paper form according to the Federal Rules.

**Whenever a pleading or other paper is filed in paper form** for the Clerk’s Office to scan and upload to CM/ECF, the filer must serve conventional copies on all parties to the case.

**If the filer doesn’t know whether another party is a registered ECF user:**

- Select ECF’s “Utilities” category.
- Select “Mailings.”
- Select “Mailing Information for a Case.”
- Enter the case number and the information will appear.

**E. Motions and Related Paperwork**

**Captions on documents:**

- Documents being submitted in response to, in support of, or in opposition to other documents shall be clearly labeled with the reference to the motion or response included in the caption.

**Hyperlinks:**

- In order to preserve the integrity of the court record, attorneys wishing to insert hyperlinks in court filings shall continue to use the traditional citation method for the cited authority, in addition to the hyperlink. The judiciary's policy on hyperlinks is that a hyperlink contained in a filing is no more than a convenient mechanism for accessing material cited in the document. A hyperlink reference is extraneous to any filed document and is not part of the court's record.

**F. Voluminous Documents**

**When filed electronically:**

- When documents that exceed 100 pages in length are filed electronically: A paper copy of the document shall be delivered to the Clerk's Office for chambers. The copy for chambers shall be clearly marked with the words "Courtesy Copy of Electronic Filing for Chambers."

*A "document" in the context of this section refers to the aggregate submittal to the court, not to each individual paper within it. For example, if a motion is filed with related paperwork, declarations, etc., then if all of these papers counted together total more than 100 pages, the filing should be considered a "voluminous document."*

**When filed in paper:**

- When documents that exceed 100 pages in length are filed in paper form (i.e., prior to June 1, 2004, when electronic filing is mandatory and paper filings are no longer allowed): Counsel shall provide an electronic .pdf version of the document on a disk at the time of filing. If the .pdf file is more than two megabytes in size, it must be separated

into two-megabyte segments. Each .pdf file shall be clearly labeled to identify the sequence of documents to be filed. No additional courtesy copy for chambers is required. The original paper filing will be routed to chambers as its courtesy copy.

**Pagination:**

- Voluminous documents, including exhibits, shall be sequentially paginated in their entirety, with the page numbers appearing in the lower left margin of the document.

**G. Administrative Records**

Administrative records may not be filed electronically, although the other documents and pleadings filed in cases with administrative records may be filed electronically.

- The administrative record must be filed conventionally and will not be scanned by the Clerk's Office.
- The party filing an administrative record shall also file a Notice of Filing Paper Materials with the Clerk. The Notice shall be in the form provided by the court, a copy of which is attached to these materials and is also available on the court's web site.
- Pursuant to Civil Local Rule 79, the administrative record will be returned to counsel upon the conclusion of the case.

**H. Exhibits**

Special provisions for exhibits:

- Filing parties shall submit only those excerpts of the referenced exhibits that are directly germane to the matter under consideration. Excerpted material must be clearly and prominently identified as such. Parties who file excerpts do so without prejudice to their right to timely file additional excerpts of the exhibit. Responding parties may also timely file additional excerpts of the exhibit that they believe are directly germane.
- If possible, filing parties should scan paper exhibits that are less than two megabytes and submit the exhibit as a .pdf file. Parties may submit

scanned .pdf files of more than two megabytes if they are filed in two-megabyte segments.

- If possible, filing parties should scan documents in black and white, rather than in color, unless the color is an important feature of the information.
- The filing party is required to verify the readability of scanned exhibits before filing them electronically with the court.
- Non-paper and/or oversized exhibits shall be submitted conventionally and shall be returned at the conclusion of the case. Copies of such conventionally-filed exhibits shall be served on other parties as if not subject to electronic filing procedures.

The party filing non-paper and/or oversized exhibits shall also file a Notice of Filing Paper Materials with the Clerk. The Notice shall be in the form provided by the court, a copy of which is attached to these materials and is also available on the court's web site.

**I. Transcripts**

Transcripts, prepared by court reporters (either court staff or contract reporters) shall be filed electronically.

**J. Signatures**

**Attorney signatures:** An electronically filed pleading or other document which requires an attorney's signature may be signed with a digitized signature or signed in the following manner:

s/ John Attorney  
State Bar Number 12345  
ABC Law Firm  
123 South Fifth Street  
Seattle, WA 98104  
Telephone: (206) 123-4567  
Fax: (206) 123-4567  
E-mail: John\_Attorney@lawfirm.com

Any party challenging the authenticity of an electronically filed document or

the attorney's signature on that document must file an objection to the document within ten days of receiving the Notice of Electronic Filing.

**Non-attorney signatures:** If the original document requires the signature of a non-attorney, the filing party may scan the entire document, including the signature page, or attach the scanned signature page to an electronic version of the filing.

- Any party challenging the authenticity of an electronically filed document with a non-attorney signature may file an objection to the document.
- The filing party is responsible for maintaining the paper document with original signatures for the duration of the case, including any period of appeal.

**Multiple signatures:** The following procedure applies when a stipulation or other document requires two or more signatures:

- The filing party shall initially confirm that the content of the document is acceptable to all persons required to sign the document, and shall obtain either physical signatures or authorization for the electronic signatures of all parties on the document. Physical, facsimile, or electronic signatures, consistent with the formats for attorney signatures, are permitted.
- The filing party may then file the document electronically, indicating the signatories as "s/ Jane Doe," "s/ John Smith," etc. The correct format for a signature is the same as that previously described for attorneys' signatures.
- Any party challenging the authenticity of an electronically filed document containing multiple signatures, or the authenticity of the signatures themselves, must file an objection to the document within ten days of receiving the Notice of Electronic Filing.
- If any of the signatures are of non-attorneys, then the provisions described in the previous section for the filing party retaining the paper copy also applies.

## **K. Orders and Proposed Orders**

### **Orders of the court:**

- The assigned judge or the Clerk's Office shall electronically file all signed orders. An order signed electronically (by either a digital signature or by using the "s/ Judge's Name" convention) has the same force and effect as if the judge had affixed a signature to a paper copy of the order.
- The assigned judge or the Clerk's staff, if appropriate, may grant routine orders by a text-only entry upon the docket. In such cases, no .pdf document will issue, and the text-only entry shall constitute the court's only order on the matter. ECF will generate a "Notice of Electronic Filing" as described previously in these procedures.
- When mailing paper copies of an electronically filed order to a party who is not a registered ECF participant, the Clerk's Office will include the Notice of Electronic Filing to provide the non-participant with proof of the filing.

### **Proposed orders shall be submitted as outlined below:**

- Electronically-submitted proposed orders shall be filed with the motion as an attachment. This will provide service of the proposed order to all registered parties.
- All proposed orders must be conspicuously labeled "Proposed." If the judge decides to use the proposed order, s/he will remove the "Proposed" language.
- A proposed order shall also be attached as a Word or WordPerfect-compatible file to an internet e-mail sent to the e-mail address of the assigned judge. The subject line of the e-mail shall include the case number and title of the order. The judges' e-mail addresses **for proposed orders only** are as follows:

CoughenourOrders@wawd.uscourts.gov  
RothsteinOrders@wawd.uscourts.gov  
ZillyOrders@wawd.uscourts.gov  
BurgessOrders@wawd.uscourts.gov  
LasnikOrders@wawd.uscourts.gov

PechmanOrders@wawd.uscourts.gov  
LeightonOrders@wawd.uscourts.gov  
McGovernOrders@wawd.uscourts.gov  
TannerOrders@wawd.uscourts.gov  
DimmickOrders@wawd.uscourts.gov  
BryanOrders@wawd.uscourts.gov  
ArnoldOrders@wawd.uscourts.gov  
MartinezOrders@wawd.uscourts.gov  
BentonOrders@wawd.uscourts.gov  
StrombomOrders@wawd.uscourts.gov  
TheilerOrders@wawd.uscourts.gov

- Proposed orders on motions for default made pursuant to Civil Local Rule 55 should be prepared in a format compatible with Word or WordPerfect (as described previously) and then attached to an internet e-mail sent to the Clerk's Office at the following e-mail address:

WAWDClerk@wawd.uscourts.gov

No other documents or pleadings may be sent to the Clerk's Office at this e-mail address.

**L. Docket Entries**

The party electronically filing a pleading or other document is responsible for designating a docket entry title for the document by using one of the event categories prescribed by the court. (See "CM/ECF Civil Menu for Attorneys" or "CM/ECF Criminal Menu for Attorneys" on the court's web site).

Once a document is submitted and becomes part of the electronic case file, corrections to the docket can only be made by the Clerk's Office. ECF will not permit the filing party to make changes once the transaction has been accepted.

- As soon as possible after an error is discovered, the filing party should contact the Clerk's Office with the case number and document number for which the correction is being requested.
- If appropriate, the Clerk's Office will make an entry indicating that the document was filed in error.
- The filing party will be advised if the document needs to be re-filed.

**M. Fees Payable to the Clerk**

Any fee required for filing a pleading or paper in district court is payable to the Clerk of the Court by credit card, check, money order, or cash.

- The Clerk's Office will document the receipt of fees on the docket with a text-only entry.
- The court will not maintain billing or debit accounts for lawyers or law firms.

**N. Emergency Filings**

The court encourages the electronic filing of emergency pleadings. The filer shall call the Clerk's Office at 206-553-5598 (Seattle) or 253-593-6313 (Tacoma) to advise the court of the emergency nature of the filing.

**IV. PRIVACY AND CONFIDENTIALITY**

**A. Sealed Documents and Cases**

Sealed documents and cases will be maintained in electronic format, with access restricted to authorized filers and court staff.

**B. Privacy Concerns**

To address privacy concerns created by internet access to court documents, filers should redact certain personal information appearing in pleadings and other papers, as follows:

- Minors' names: Use only the minors' initials.
- Financial account numbers: Identify the name or type of account and the financial institution where maintained, but use only the last four digits of the account number.
- Social Security numbers: Use only the last four digits.
- Dates of birth: Use only the year.
- Other sensitive data: Follow the court's instructions.



For further information, see the General Order In Re: Public Access to Electronic Case Files on the court's web site.

**V. TECHNICAL FAILURES**

**A. On the Part of the Court**

A party whose filing is untimely as the result of a technical failure of the court's CM/ECF site may seek appropriate relief from the court.

The court shall consider its CM/ECF site to be subject to a technical failure if the site is unable to accept filings, either continuously or intermittently, for more than one hour after 10:00 a.m. on any given day. Known systems outages will be posted on the court's web site.

**B. On the Part of the Filer**

Problems on the filer's end (such as phone line problems, problems with the filer's Internet Service Provider, or hardware or software problems) will not constitute a technical failure under these procedures, nor excuse an untimely filing.

A filer who cannot file a document electronically because of a problem on the filer's end must file the document conventionally.

**VI. PUBLIC ACCESS TO DOCKET INFORMATION**

**A. At the Court**

Electronic access to the civil and criminal electronic dockets and documents filed in ECF are available for viewing at no charge at the Clerk's Office during regular business hours. A copy fee for an electronic or paper copy is required in accordance with 28 USC § 1930.

**B. Through the Internet**

Remote electronic access to civil and criminal dockets and to civil documents in ECF is provided through the Public Access to Court Electronic Records (PACER) system

Registration for PACER can be done through its web site:

<http://pacer.psc.uscourts.gov>

The U.S. Judicial Conference has ruled that PACER user fees will be charged for remotely accessing documents and docket sheets. Non-judiciary CM/ECF users are charged a per-page fee access electronic data through the PACER system, with a maximum fee of 30 pages per document.

The standard PACER access fee does not apply to official recipients of electronic documents; i.e., parties legally required to receive service or to whom service is directed.

- Official recipients will receive the initial electronic copy of a document free to download as they see fit.
- If official recipients remotely access the document again, they will be charged a fee pursuant to 28 USC § 1930.

**C. Conventional and Certified Copies**

Both conventional and certified copies of electronically filed documents may be purchased at the Clerk's Office. The fee for copying and certifying will be in accordance with 28 USC § 1914.