

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, 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) **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 (3) 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.

(3) **Settlement conference.** ~~((The commission may invite or direct the parties to confer among themselves, or with a designated person. Settlement conferences must be informal and without prejudice to the rights of the parties. Any resulting settlement or stipulation must be submitted to the commission in writing and is subject to commission approval.))~~ Settlement conferences include 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 or discussions do not include requests for information or

clarification, to describe 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 or person who has filed a petition to intervene may participate in any 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. Any party may attend and participate in the initial settlement conference. No party is required to attend. 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 may do so if the company has ~~must have~~ included in its notice to customers a statement indicating that an early settlement conference might be scheduled and must provide ten days prior notice of any such conference to the commission, public counsel and any entity that has filed a petition to intervene. The notice will be posted on the commission's web site. ~~to all other parties. The notice must specify the time and place of the early initial settlement conference and the topics to be discussed. The notice must be filed with the commission in the proceeding docket and served on other parties at least fourteen days before the date set for the conference. An early initial settlement conference must be open to all parties. For purposes of (b) of this subsection only, a party includes:~~

(i) The entity filing the matter leading to an expected adjudication and the respondent, if any;

(ii) The commission staff;

(iii) Public counsel;

(iv) An entity that has filed a petition to intervene in the docket, as shown on the commission's web site at the time of service of the notice; and

(v) An entity that was party to the most recent

proceeding of the same type, involving the same filing entity and respondent, if any.

(4) **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.