

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-110 (~~(Exceptions)~~) Exemptions from and modifications to (~~(the rules in this chapter)~~) commission rules; (~~(special)~~) conflicts involving rules. (1) Exceptions and modifications. The commission may grant an exemption from or modify the application of (~~(these)~~) its rules in individual cases if consistent with the public interest, the purposes underlying regulation, and applicable statutes. The commission may modify the application of procedural rules in this chapter during a particular adjudication consistent with other adjudicative decisions, without following the process identified in subsection (2) of this section.

(2) Process.

(a) How to request an exemption to or modification of a rule. To request a rule exemption or modification, a person must file with the commission a written petition identifying the rule for which an exemption is sought, and provide a full explanation of the reason for requesting the exemption.

(b) Commission process. The commission will assign the petition a docket number, if it does not arise in an existing docket, and will schedule the petition for consideration at one of its regularly scheduled open meetings or, if appropriate under chapter 34.05 RCW, in an adjudication. The commission will notify the person requesting the exemption, and other interested persons, of the date of the open meeting or hearing when the commission will consider the petition.

(c) Standard for consideration. The commission may consider whether application of the rule would impose undue hardship on the requesting person, of a degree or a kind different from hardships imposed on other similarly situated persons, and whether the effect of applying the rule would be contrary to the underlying purposes of the rule.

(d) Disposition. The commission will enter an order granting or denying the petition, or setting it for hearing.

~~((+2) Special))~~ (3) Conflicts involving rules. (~~(When)~~) In the event of conflict between these rules and statutes, or rules in other chapters of Title 480 of the Washington Administrative Code, (~~(apply)~~) applicable to specific types of companies regulated by the commission or to others who may conduct business with the commission, or to particular proceedings, those statutes or special rules govern (~~(if they conflict with the rules in this chapter)~~).

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-125 Physical address; telephone; (~~facsimile~~); fax; web portal; e-mail; internet. The information included in this section is current at the time of rule adoption, but may change. Current information and additional contact information are available on the commission's internet site, in person at the commission offices, or by a telephone call to the commission's main public number.

((Physical address; address for U.S. mail or hand-delivery	Washington Utilities and Transportation Commission 1300 S. Evergreen Park Drive S.W. P.O. Box 47250 Olympia, WA 98504-7250
Telephone (general)	360-664-1160
Telephone (commission records center)	360-664-1234
Tele facsimile (commission records center)	360-586-1150
Electronic mail (commission records center)	records@wutc.wa.gov
Internet-	www.wutc.wa.gov))

<u>Location and mailing address:</u>	<u>Washington Utilities and Transportation Commission</u> <u>1300 S. Evergreen Park Drive S.W.</u> <u>P.O. Box 47250</u> <u>Olympia, WA 98504-7250</u>
<u>Telephone:</u>	
<u>Public number</u>	<u>360-664-1160</u>
<u>Records center number</u>	<u>360-586-1234</u>
<u>Consumer inquiries, comments and informal complaints</u>	<u>1-800-562-6150</u>
<u>Fax:</u>	
<u>Public and records center</u>	<u>360-586-1150</u>
<u>Web portal</u>	<u>www.wutc.wa.gov/e-filing</u>

<u>Records center e-mail</u>	<u>records@wutc.wa.gov</u>
<u>Internet web site</u>	<u>www.wutc.wa.gov</u>

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-140 Communicating with the commission. (1) **Scope of rule.** This rule includes general requirements for effective communication with the commission. ~~((Communications that concern rule making proceedings, adjudicative proceedings, or public records requests must also conform to specific requirements as follows:~~

~~(a) In rule making proceedings, WAC 480-07-143 and Part II of this chapter.~~

~~(b) In adjudicative proceedings, WAC 480-07-145 and Part III of this chapter.~~

~~(c) For public records requests, chapter 42.17 RCW and chapter 480-04 WAC.))~~

The commission encourages use of the commission's records center web portal for filing and submitting documents with the commission. Customers of regulated companies who have a complaint about their service provider are encouraged to contact the commission as described in WAC 480-07-910. Anyone wishing to comment on a matter before the commission may submit comments by telephone, letter, fax, e-mail or by using the comment form available on the commission's web site.

(a) **Electronic filing, limitations.** You may *file* documents electronically using the commission's records center web portal (see WAC 480-07-125) if you are submitting documents that are not part of an adjudicative proceeding. Examples include registration applications, tariffs, contracts, price lists, rule-making comments, and comments on open meeting items. Electronic filing means the commission accepts the electronic version of the document as the official filing and does not require a paper copy of the documents.

(b) **Electronic submission, adjudications.** You may *submit* documents electronically using the commission's records center web portal (see WAC 480-07-125) or e-mail if you are submitting documents in an adjudicative proceeding. Electronic submission means the commission allows submission of electronic versions of documents, but requires a paper copy of the document as the official filing.

(c) **Electronic filing of public records requests.** You may file requests for public records electronically using the commission's records center web portal (see WAC 480-07-125). You do not have to file a paper copy of the public records request if it is filed electronically.

(d) **Use of e-mail for electronic filing or submission.** The commission encourages you to use its records center web portal for filing or submitting electronic documents, because it is more reliable and secure than e-mail. If you are unable to use the records center web portal to file or submit documents, the commission will accept a filing or submission received via e-mail addressed to the records center.

(e) You must also comply with other requirements when submitting certain documents, as shown below.

<u>Submissions in these dockets or filings:</u>	<u>Must comply with these rules:</u>
<u>Rule-making dockets</u>	<u>This rule, WAC 480-07-143, and Part II of this chapter</u>
<u>Adjudicative dockets</u>	<u>This rule, WAC 480-07-145, and Part III of this chapter, <i>plus any requirements in the specific adjudication</i></u>
<u>Utility tariffs and telecommunications price lists and contracts</u>	<u>This rule, chapter 480-80 WAC, and WAC 480-07-14X</u>
<u>Transportation tariffs and time schedules</u>	<u>This rule, WAC 480-07-14X; and</u>
<u>(i) For auto transportation companies</u>	<u>Chapters 480-30 and 480-149 WAC;</u>
<u>(ii) For commercial ferry companies</u>	<u>Chapters 480-51 and 480-149 WAC;</u>
<u>(iii) For solid waste collection companies</u>	<u>Chapter 480-70 WAC</u>
<u>For public records requests</u>	<u>Chapter 42.17 RCW and chapter 480-04 WAC</u>

(2) **Content of letters and ((electronic mail)) e-mail messages to the commission.** Letters and ((electronic mail)) e-mail messages to the commission should include only one subject.

(3) **Where to send letters and ((electronic mail)) e-mail messages.** WAC 480-07-125 includes the commission's mailing address and other contact information current at the time of rule publication. Persons who communicate with the commission are encouraged to do so by ((electronic mail)) e-mail to the commission's records center. The commission's internet site includes current and additional contact information.

(4) **Cover letters.** Persons submitting or filing documents with the commission must include a cover letter with the filing, unless the letter or document is one page and includes the information identified in subsection (5) of this section.

(5) Identification of sender; identification of permit, license, or certificate; identification of proceeding. The following requirements will make sure your message to the commission is delivered promptly to the person or persons who need to receive it, and to allow a prompt response. If you do not include the necessary information, we may not be able to promptly handle your message or provide a prompt response.

(a) **Identification of sender.** All persons who communicate with the commission must provide their full name and are asked to provide a mailing address, ~~((and are asked to provide))~~ telephone, ~~((facsimile, and electronic mail))~~ fax, and e-mail 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 the communication is sent, in addition to the contact information described above.

(b) **Identification of permit, license, or certificate held by sender.** Any person or entity that holds 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, if known.

~~((+5))~~ (6) Electronic file format requirements. The commission requires electronic versions of all documents filed with the commission, including confidential versions of documents that include confidential information.

(a) **Acceptable media.** ~~((Electronic submissions may be provided by electronic mail(-))~~ You may submit documents electronically through the commission's records center web portal, by e-mail~~((+))~~ file attachment addressed to the commission's records center, or submitted to the records center on a 3 1/2 inch IBM formatted high-density disk or compact disc (CD)~~((.- The submission must be))~~ labeled with the docket number of the proceeding, if a number has been assigned, the name of the ((party)) entity and the name of the individual submitting the document, and a description of the contents (e.g., "direct evidence," "motion to dismiss," etc.) ~~((and the date filed))~~.

(b) **Acceptable format.** ~~((The commission prefers to receive))~~ Electronic versions of all documents ((in Word or WordPerfect file format supplemented by a copy in Adobe Acrobat (i.e., .pdf) file format created directly from the word processing software used for the original document)), including confidential versions of documents that include confidential

information, must be filed in .pdf (Adobe Acrobat) format, supplemented by a separate file in .doc (MS Word), .wpd (WordPerfect), .xls (Excel), or .ppt (Power Point) format, so that spreadsheets displaying results of calculations based on formulas include all formulas, and do not include locked, password protected or hidden cells.

(i) The following documents are exempt from the requirement in section 6 (b) for formatting other than .pdf (Adobe Acrobat):

(a) Documents not created by, for, or on behalf of a party to or a witness in the proceeding for which no version in the required formatting is available; and (b) Published, copyrighted material and voluminous material not originally prepared in the required format. Any person who requests a document to be provided in a format other than .pdf (Adobe Acrobat), whose request is denied, may request relief from the commission.

(ii) Redacted versions of electronic documents that mask confidential information should be filed exclusively in .pdf format. Parties (~~that~~) who cannot create Adobe Acrobat files directly (~~are requested to~~) must provide a copy of the document converted to Adobe Acrobat via scanning or other available technology.

**File
naming
conventions.**

Electronic files must be named in a way that describes the file contents. Parties should use the format identified in the following examples, identifying the docket number, the nature of the document, and the party submitting it: Testimony

(name of party) (date)

UT-020202 Jones rebuttal
attachment 1 (name of party) (date)

Motions

UG-030303 motion to dismiss

(name of party) (date)

UW-040404 answer to motion to
dismiss (name of party) (date)

Correspondence

TG-010203 (name of party) request
for continuance (date)

(d) **Acceptable organization.** Each party must submit all files to meet a single deadline at the same time and in the same message or diskette. When a party submits two or more files at the same time, the files must be organized into folders, and the party must provide a printed index. The index may be included in a cover letter or provided as an attachment to a cover letter. The index also must be provided in the form of an electronic file.

Example:

Folder and diskette name	I. U-020304 (name of party) direct evidence (date)
Subfolders	A. U-020304 (name of party) (name of witness) direct (date) B. U-020304 (name of party) (name of witness) direct (date)
Files	1. U-020304 (name of witness) direct (name of party) (date) 2. U-020304 (name of witness) direct att 1 (name of party) (date)

NEW SECTION

WAC 480-07-141 Receiving and filing a document is not acceptance. The commission assigns docket numbers to a filing or proceeding and receives documents under docket numbers for administrative purposes and not to denote legal acceptance. Receipt of a document for filing in a docket, or the assignment of a docket number to a document, does not mean that the commission has accepted the document, or waived any deficiencies that would allow the commission to reject the document. After a receiving a document, the commission may address any deficiencies in the document, may require the document to be resubmitted with deficiencies corrected, or may reject the document.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-143 Submitting documents in rule-making proceedings. (1) **Scope of rule.** This section governs communications to the commission in rule-making proceedings (~~((including letters, electronic mail messages, comments, and other documents))~~). These rules are in addition to the general rules for communicating with the commission in WAC 480-07-140.

(2) **Submitting comments.** All written comments submitted in a rule making must be addressed to the commission secretary.

(3) **Methods for delivering comments and other communications.** The commission encourages communication through the records center web portal rather than e-mail or fax.

(a) **Through the web portal.** A person may submit comments

in rule-making proceedings by sending them to the commission through the records center web portal, without providing a paper copy.

(i) How to use the web portal. Persons using the web portal to submit filings should first view the following web page: www.wutc.wa.gov/e-filing.

(ii) When deemed received. A document submitted through the web portal is deemed received only when the sender receives notification from the commission that the document has been received. Documents received electronically through the commission's records center web portal after 5:00 p.m. are not considered officially received or filed until the next business day.

~~((a))~~ (b) **By ~~((electronic mail)) e-mail message or ((telefacsimile)) fax.~~** A person may submit comments in rule-making proceedings by ~~((electronic mail message (-)))~~ e-mail ~~((+))~~, e-mail file attachment, or ~~((telefacsimile))~~ fax transmission without ~~((supplementation by))~~ providing a paper copy.

(i) Where to send electronic documents. All ~~((electronic mail))~~ e-mail and ~~((telefacsimile))~~ fax transmissions made under this rule should be directed to the commission's records center as noted in WAC 480-07-125. Courtesy or informational copies may be sent to other ~~((electronic mail))~~ e-mail addresses or ~~((telefacsimile))~~ fax numbers for individual commission staff members. When a person files a document by e-mail or ~~((telefacsimile))~~ fax, the document should not be sent more than once except to cure transmission or receiving errors.

(ii) When deemed received. A document submitted by ~~((electronic mail or telefacsimile))~~ e-mail or fax is deemed received only when the entire ~~((electronically mailed))~~ document sent via e-mail successfully reaches the commission's records center electronic mailbox or ~~((telefacsimile))~~ fax machine. Documents wholly or partly received ~~((electronically))~~ via fax or e-mail in the commission's records center after 5:00 p.m. are not considered officially received or filed until the next business day when they are stamped with the date and time.

~~((b))~~ (c) **By mail or hand delivery (e.g., courier delivery service).** A person may submit comments or otherwise communicate with the commission concerning rule-making proceedings by mail or by hand delivery (e.g., courier delivery service).

(i) When deemed received/ filed. A document submitted in a rule-making proceeding by mail or hand delivery is deemed received or filed when physically received by the commission records center and stamped with the date and time. 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 when they are stamped with the date and time.

(ii) Electronic file supplement. The commission encourages

parties who submit written comments in rule-making proceedings to supplement any paper filing delivered by mail or courier with an electronic version, as specified in WAC 480-07-140(5).

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-145 Filing documents in adjudicative proceedings. (1) **Scope of rule.** This section governs communications to the commission by parties in adjudicative proceedings (~~((including letters and electronic mail messages, pleadings, and other documents))~~). These rules are in addition to the general rules for communicating with the commission in WAC 480-07-140 and any requirements in a specific adjudication.

(2) **Mail or hand delivery service is required for all documents.** Parties to adjudicative proceedings before the commission must file original, signed documents and paper copies by mail or hand delivery (e.g., courier delivery service) as provided in this rule to satisfy official filing requirements and meet the commission's administrative needs. The commission may provide for the expedited exchange of documents among parties and the commission by (~~(electronic mail))~~ e-mail and (~~(telefacsimile))~~ fax transmission when necessary for process requirements in individual adjudicative proceedings.

(a) **When deemed received/filed.** A document submitted in an adjudicative proceeding is officially received for filing only when the original document, including the required certificate of service under subsection (6) of this section, and the required number of copies, are physically received at the commission's records center by mail or in-hand delivery and stamped with the date and time. The date-stamped time will determine whether a document meets any deadline that applies and will determine the timing of any later deadlines based on filing. Documents that are delivered to the commission's records center after 5:00 p.m. are not considered officially received or filed until the next business day when they are stamped with the date and time.

(b) **Exception for documents offered and received at hearing.** When authorized by the presiding officer in an adjudicative proceeding before the commission, a document may be officially received for purposes of the proceeding when the presiding officer receives the document for the record at hearing. The presiding officer may also require that a copy be filed in the commission records center.

(c) **Where to mail/deliver.** All written communications

mailed or hand-delivered to the commission must be addressed to the commission's secretary at the address specified in WAC 480-07-125.

(d) **Filings must be supplemented by an electronic version of the document.** Parties filing pleadings, motions, prefiled testimony and exhibits, and briefs must supplement their filing by submitting the document in electronic form, as specified in WAC 480-07-140(5), unless excused from the obligation by the presiding officer.

(3) **Number of copies; failure to file sufficient number of copies.**

(a) **Number of copies.** Unless the commission specifies a different number of copies, every pleading, motion, response, and brief submitted to the commission by mail or courier must be filed with twelve copies. A party for whom providing the required number of copies would be a hardship may describe the hardship and request permission to file fewer copies.

(b) **Failure to file sufficient number of copies.** If a person files fewer than the required number of copies of a document, the commission may reject the filing or the commission may make the additional copies for distribution and processing within the commission. If the commission makes copies to meet the total number required, the commission will bill the filing person at a rate of thirty cents per page, plus sales tax. This rate compensates for the loss of the worker's attention to assigned duties, the unscheduled use of equipment, and the cost of materials.

(4) **Filing and service are separate requirements.** Filing documents with the commission under this rule and service of the documents to parties under WAC 480-07-150 are both required in all adjudicative proceedings. Filing a document with the commission does not constitute service upon the assistant attorney general or any other party. Likewise, service upon the assistant attorney general does not constitute a filing with the commission.

(5) **Service and certificate of service are required.** Filing a pleading, motion, response, or brief with the commission in an adjudicative proceeding is not complete unless service has been made upon all parties to the proceeding pursuant to WAC 480-07-150. Service must be confirmed by submitting with the filing a valid certificate of service, or its equivalent, as provided in WAC 480-07-150(9).

(6) ~~((Electronic mail or telefacsimile))~~ **Web portal, e-mail or fax transmission may be used to expedite the filing process, when authorized.**

(a) **When permitted; paper copy ((supplementation is)) required.** The presiding officer may, ~~((when necessary because of the demands of schedule or other sufficient reason))~~ **at a prehearing conference or by notice or order,** provide a one-day

extension of the paper filing requirement by authorizing ~~((electronic mail))~~ submission through the web portal, e-mail or ~~((telefaesimile))~~ fax for delivery of documents on the date established for paper filing under the procedural schedule in an adjudicative proceeding, subject to the following conditions:

(i) *Timing.* Electronic submissions must be completed by 3:00 p.m. on the date established for filing. The commission encourages the use of the web portal rather than via e-mail or fax.

(ii) *Paper copy* ~~((supplementation is))~~ *required.* The commission must physically receive the original and required number of copies by 12:00 noon on the first business day following the filing deadline established under the procedural schedule.

~~((+iii))~~ (iii) *Exact copy is required.* The original and paper copies of the document delivered to the commission on the day following the filing deadline must conform exactly in form and content to the electronic version or the document will not be considered to have been timely filed and may be rejected on that basis.

~~((+iii))~~ (iv) *Authorization for electronic submission must be indicated.* ~~((All))~~ If you submit electronic documents ~~((submitted))~~ to the commission through the commission's records center web portal, by ~~((electronic mail))~~ e-mail message or ~~((faesimile))~~ by fax transmission on a filing deadline date without providing the original document by that date, you must ~~((be accompanied by))~~ include an electronic message or ~~((faesimile))~~ fax cover sheet that states the ~~((basis for))~~ authority to ~~((effect timely filing and service))~~ submit the document electronically through the web portal, by ~~((electronic mail))~~ e-mail, or ~~((telefaesimile))~~ fax transmission without simultaneously filing a paper copy.

~~((+iv))~~ (v) *Simultaneous delivery to all parties is required.* All electronic documents submitted to the commission through the web portal, by ~~((electronic mail))~~ e-mail message or ~~((faesimile))~~ fax transmission on a filing deadline date must be simultaneously delivered to all parties by ~~((electronic message))~~ e-mail or ~~((telefaesimile))~~ fax. At the discretion of the presiding officer, you may be required to provide courtesy copies via e-mail to the presiding officer, commission staff, or others. Service by other required means is not excused, subject to the requirements of WAC 480-07-150.

(b) **Where to send ~~((electronic mail))~~ web portal or e-mail message or ~~((telefaesimile))~~ fax transmission.** Persons using the commission's records center web portal to submit filings electronically should access the following web page: www.wutc.wa.gov/e-filing. All ~~((electronic mail))~~ e-mail and ~~((telefaesimile))~~ fax transmissions made under this rule should be directed to the commission's records center. Courtesy or

informational copies may be sent to other (~~electronic mail~~) e-mail addresses (~~or telefacsimile numbers~~) for the presiding officer or other individual commission (~~staff members~~) employees. When a person (~~files~~) submits a document through the web portal, by (~~telefacsimile or~~) e-mail or fax, the document should not be sent more than once except to cure transmission or receiving errors.

(c) **When deemed received.** A document submitted through the commission's records center web portal is deemed received only when the sender receives notification from the commission that the document has been received. A document submitted by (~~electronic mail or telefacsimile~~) e-mail or fax is deemed received when the entire document successfully reaches the commission's records center electronic mailbox or (~~telefacsimile~~) fax machine. Documents submitted electronically are not considered officially received or filed until the commission receives the original and paper copies the next business day, when they are stamped with the date and time received.

(7) **Additional rules regarding adjudicative proceedings.** Rules relating to general rate proceedings (subpart B of this chapter) and abbreviated adjudicative proceedings (subpart C of this chapter) govern filing requirements in those proceedings.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-150 Service of documents in adjudicative proceedings. (1) **Service defined.** Service means sending or delivering, in accordance with (~~pertinent law~~) RCW 34.05.010(19) and this rule, documents relating to commission adjudications, to parties and any other persons to whom service may be required by statute. Service includes the formal exchange of documents among parties to adjudicative proceedings.

(2) **Designation of person to receive service.**

(a) Each party in an adjudicative proceeding must designate one person to receive service of documents relating to the adjudication.

(b) When any party has appeared by an attorney or other authorized representative in a proceeding before the commission, the party must name the representative, or one of the representatives if there is more than one, to receive service of documents. Service on the representative is valid service upon the party, except as provided by law. When an individual party appears on his or her own behalf, she or he must be the person

to receive service.

(c) The commission may order different arrangements for service in individual proceedings.

(3) Person to receive service of orders.

~~((a))~~ The commission will serve orders in adjudicative proceedings upon the party's representative and also on the party. Therefore, all parties must provide ~~((their))~~ the name~~((s))~~ and mailing address~~((es))~~ of a person for purposes of direct service on the party.

~~((b) In addition, parties that are a partnership, corporation, association, governmental subdivision or other entity other than an individual person must designate one individual person within their business, government unit, or organization to receive service of commission orders.))~~

(4) Contact information. Each party must supply the following information about every individual that it names to receive service:

- (a) Name.
- (b) Mailing address.
- (c) Telephone number.
- (d) ~~((Facsimile))~~ Fax number, if any.
- (e) ~~((Electronic mail))~~ E-mail address, if any.
- (f) Relationship to party (e.g., executive director, etc.).

(5) Waiver of service by statutory means.

(a) A party may choose to waive service of process by means of personal delivery, United States mail or parcel delivery service, in whole or in part, and elect to receive service by electronic means.

(b) Waiver must be made in writing, filed with the commission, and must specify alternative methods of communication to effect service. Alternates may include ~~((telefacsimile or electronic mail))~~ fax or e-mail.

(c) Waiver excuses other parties and the commission from the obligation to use methods of service specified in rule or statute.

Neither the commission nor any party is foreclosed from making service by statutory means upon a party ~~((that))~~ who has waived such service, and timely service by a method specified in the statute will satisfy legal requirements for service when it is used.

(6) Service by parties. Parties must serve documents by delivering one copy to each other party by one of the following methods:

- (a) In person.
- (b) By mail, properly addressed with first class postage prepaid.
- (c) By delivering to a commercial parcel delivery company and making or arranging payment of the pertinent fee.
- (d) By ~~((telefacsimile))~~ fax transmission, if other forms

of service are waived.

(e) By ~~((electronic mail))~~ e-mail, if other forms of service are waived.

(7) **Service by commission.** All notices, complaints, petitions, findings of fact, opinions, and orders required to be served by the commission may be served by one of the following methods:

(a) In person.

(b) By mail, properly addressed with first class postage prepaid.

(c) By commercial parcel delivery company.

(d) By ~~((telefacsimile))~~ fax transmission, when a paper copy is simultaneously mailed or tendered to a commercial parcel delivery company.

(e) By ~~((electronic mail))~~ e-mail if originals are simultaneously mailed or sent by commercial parcel delivery company.

(8) **When service is deemed complete.** Unless otherwise ordered by the commission in a particular proceeding, service is complete as follows:

(a) Service by mail is complete when a copy of the document is properly addressed, stamped, and deposited in the United States mail.

(b) Service by commercial parcel delivery is complete when the parcel delivery company accepts a copy of the document for delivery.

(c) Service by ~~((telefacsimile))~~ fax transmission is complete when the party receiving service has filed a waiver of service by statutory methods and requested service by ~~((telefacsimile))~~ fax transmission, and the document being served has been entirely received in the recipient's ~~((telefacsimile))~~ fax machine.

(d) Service by ~~((electronic mail))~~ e-mail is complete when the party receiving service has filed a waiver of service by statutory methods and requested service by ~~((electronic mail))~~ e-mail, and the document being served has been entirely received at the recipient's designated ~~((electronic mail))~~ e-mail address.

(e) Proof of service by electronic means. Parties effecting service by electronic means are encouraged to secure electronic return receipts or otherwise confirm successful delivery.

(9) **Certificate of service.** Each person filing a pleading, motion, response, or brief with the commission must include with or on the original of the document either an acknowledgment of service or the following certificate:

"I hereby certify that I have this day served this document upon all parties of record in this proceeding, by (state the authorized method of service selected under WAC 480-07-

150)"
Dated at this day of

(signature of person who served the document)

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-160 Confidential information. The commission will provide special handling and limited access to confidential information submitted in compliance with this rule. This rule applies to any information submitted under a claim of confidentiality. See also, WAC 480-07-420 regarding protective orders in adjudicative proceedings.

(1) **Implementation.**

(a) **Designated official.** The commission's secretary is the designated official responsible for the commission's compliance with the Public Records Act, chapter 42.17 RCW, and for the implementation of this rule. The secretary may designate one or more persons to serve as public records officer to assist in the implementation and application of this rule.

(b) **Provider.** Any person who submits information to the commission or commission staff under a claim of confidentiality pursuant to this rule is a "provider," as that term is used in this rule.

(c) **Requester.** Any person who submits a request for public records under the Public Records Act, chapter 42.17 RCW, or a data request in an adjudicative proceeding is a "requester," as that term is used in this rule.

(2) **Confidential information defined.** Confidential information is information that meets any of the following criteria:

(a) Information protected from inspection or copying under an exemption from disclosure requirements under the Public Records Act, chapter 42.17 RCW.

(b) Information protected under the terms of a protective order in an adjudicative proceeding.

(c) Valuable commercial information, including trade secrets or confidential marketing, cost, or financial information, or customer-specific usage and network configuration and design information, as provided in RCW 80.04.095.

(3) **How to designate and seek protection of confidential information under this section.** A provider may claim the protection of this rule only by strict compliance with the following requirements. Any failure to comply with these

requirements may result in the submission not being accepted as one including confidential information (~~and its return to the provider for correction and resubmission~~)).

(a) **Contents.** The provider must submit the claim of confidentiality in writing, in the same form (i.e., paper or electronic) and at the same time the information claimed to be confidential is submitted. The provider must state the basis upon which the information is claimed to be confidential under this rule, and must identify any person (other than the provider) that might be directly affected by disclosure of the confidential information.

(b) **Marking.**

(i) *Paper copies.* When the document is in paper format, and there is no protective order in place, the provider must clearly mark each copy with the designation "confidential per WAC 480-07-160." The provider must place this mark on the first page of a multipage document and each specific page where the provider claims there is confidential information.

(ii) *Electronic copies.* When the document is in electronic format, such as an (~~electronic mail~~) e-mail message, or a word processing or spreadsheet file, the "confidential per WAC 480-07-160" mark must be inserted in the e-mail message or on the disk or diskette, on the first page in the file and on each page that the provider claims contains confidential information. The provider must follow the requirements in (c) of this subsection and the format requirements in WAC 480-07-140(6) for submitting electronic documents.

(iii) *Protective order, if any, must be cited.* If the provider submits confidential information under the provisions of a protective order, the "confidential" (~~mark~~) identification on the disk, diskette, or e-mail, on the first page of the document and each page that includes confidential information must state: "Confidential per protective order in WUTC Docket [insert docket number]." When the provider submits confidential information in an electronic format, the provider must mark the document as with a paper copy and follow the format requirements in WAC 480-07-140(6) for submitting electronic documents.

(c) **Unredacted version under seal; redacted version.** The provider must submit a complete version of the document as to which confidentiality is claimed (~~as a complete document~~) (unredacted version) and a complete version of the document with the information claimed to be confidential masked (redacted version). If the provider submits a document under a claim that the entire document is confidential, the provider may submit only the first page of the redacted version if the page indicates that the entire document is claimed to contain confidential information.

(i) Sealing and labels. The redacted version must be so

labeled and submitted along with a set of any confidential documents. The confidential unredacted version must be so labeled and submitted in a sealed envelope or similar wrapping. (~~The unredacted version must be so labeled and submitted in a sealed envelope or similar wrapping.~~) A party submitting multiple confidential documents must collate the documents into sets and, to the extent feasible, must enclose each set of confidential documents in a separate envelope and each set of highly confidential documents for filing in a ~~((single))~~ separate envelope.

(ii) Marking. Each page of the unredacted version that includes information claimed to be confidential must be printed on yellow or canary paper with the confidential information ~~((marked by contrasting highlighter or, if))~~ clearly designated (e.g., by highlighting text with no more than twenty percent grey shading, outlining the confidential information in a box or border, or setting the text off with asterisks). Similarly, each page of the unredacted version that contains information designated highly confidential under a protective order, must be printed on light blue paper with the highly confidential information ~~((marked by contrasting highlighter. The redacted version must be submitted in the same manner as a document as to which confidentiality is not claimed))~~ clearly designated (e.g., by highlighting text with no more than twenty percent grey shading, outlining the highly confidential information in a box or border, or setting the text off with asterisks). The redacted version will be available for public disclosure if requested. The redacted and unredacted versions must have the same pagination and line numbering.

(iii) Number of copies. The provider must submit an original and **three** redacted copies of each confidential or highly confidential document and an original and **twelve** copies of the unredacted version of each confidential or highly confidential document, unless the commission has required a different number of copies to be filed. If a document includes both confidential and highly confidential information, the provider may submit unredacted copies including both the confidential and highly confidential information in the same document.

(4) **Challenges to claims of confidentiality.** The commission or a party to a proceeding in which a provider submits a document with a claim of confidentiality may challenge the claim. When a challenge is made, the commission will provide an opportunity to respond before ruling on the challenge. If a confidential designation is challenged, the provider of the confidential information bears the burden to show that part or all of a document should be protected from disclosure under chapter 42.17 RCW, RCW 80.04.095, or a protective order. The commission may express its ruling orally

on the record in an adjudicative proceeding, or in a written order.

(5) **Requests for "confidential" information.** Subject to subsections (6) and (7) of this section, the commission will release information designated confidential in response to a request properly filed under the following requirements:

(a) The requester must submit a written request to the commission's secretary on a form provided by the commission or in a letter containing equivalent supporting information, including the requester's name and address and the name and address of any organization on whose behalf or for whose benefit the request is being made. The requester must state whether the information sought is to be used for a commercial purpose.

(b) The request must be sufficiently specific to allow the secretary to readily identify the document or other material that contains the requested information. Following receipt of a request for confidential information, the secretary will notify the requester of any deficiency in the request. The requester is required to correct the request and resubmit it pursuant to this rule. The commission will take no action pending resubmission.

(c) If a requester wants copies of any documents identified in response to a request, the requester must make arrangements with the commission's secretary to pay the designated copying fees, if any.

(6) **Informal resolution.** When the secretary and the requester agree that the secretary can satisfy the requester's need for information (~~can be satisfied~~) without disclosing confidential information, the secretary will make the information available.

(7) **Notice of request for information designated confidential; release of information designated confidential.** The commission will provide written notice of any request for information designated confidential to the provider and any person identified by the provider as a person who might be directly affected by release of the information. This is to permit any person asserting confidentiality or who might be affected by the release of the information to invoke the statutory procedures for securing a court order to protect the records from disclosure or to take similar steps in compliance with a protective order in an adjudicative proceeding. The commission will issue such notice not more than two days after the requested materials are located and it determines that they contain information claimed to be confidential. The commission will send a copy of the notice to the requester at the same time it sends a copy to the provider.

If the provider consents in writing to the release of the information, or does not restrain disclosure by way of court order within ten days following notice, the commission will

consider the information public, remove the confidential designation from its files, and release the information to the requester.

(8) **Judicial intervention by the commission.** The commission need not assist any person in seeking or resisting judicial intervention, but may participate in any such proceeding.

(9) **Designation or redesignation of confidential information in adjudications.** At the conclusion of an adjudication in which confidentiality was asserted as to documents or portions of the record, the party originally asserting confidentiality must, no later than the time for filing briefs or, if no briefs are filed, within ten days after the close of the record, do the following:

(a) Verify the accuracy of all confidential designations in the record and in the exhibit list for the proceeding, and submit any proposed corrections or changes. Absent a statement of proposed corrections or changes, the designations in the record and in the exhibit list are final and will be changed only if the party asserting confidentiality voluntarily removes, or is required to remove, a confidential designation. If there is conflict between designations, the designation that is least restrictive to public access will be adopted.

(b) File a redacted and unredacted copy of any document as to which confidentiality was asserted during the proceeding but which is not reflected in the record or exhibit list as a document designated confidential.

(c) File an unredacted version of any document designated as confidential during the proceeding, but as to which the party claiming confidentiality wishes to remove the confidential designation, or as to which the confidential designation was terminated by order. In the case of briefs, testimony, and similar documents, the authoring party must file the unredacted version.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-220 Monitoring rule-making proceedings; lists of interested persons. (1) **Internet.** The commission's internet web site includes information about pending rule-making proceedings.

(2) **Mail or ((~~electronic mail~~)) e-mail.** The commission maintains lists of persons interested in potential rule-making proceedings that concern particular regulated industries and

other areas of potential interest. The commission sends notice of rule-making proceedings to persons on these lists. Any person may request in writing that the commission's records center include them on the relevant list or lists for the person's area(s) of interest. The commission may establish a fee for this service.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-340 Parties--General. (1) (~~Defined; appearance requirement.~~ A "party" is a person (meaning an individual, partnership, corporation, association, governmental subdivision or unit, or public or private organization or entity of any character) that has complied with all requirements for establishing and maintaining party status in any proceeding before the commission.)) Definitions.

(a) Person. As defined in RCW 34.05.010(14), a "person" is any individual, partnership, corporation, association, governmental subdivision or unit thereof, or public or private organization or entity of any character.

(b) Party. As defined in RCW 34.05.010(12), a "party" is a person to whom the agency action is specifically directed; or a person named as a party to the agency proceeding or allowed to intervene or participate as a party in the agency proceeding.

(c) Interested person. An "interested person" is a person who does not want to participate in a pending docket as a party or is not permitted to do so, but who wants to receive copies of all documents that the commission serves on parties, simultaneous with service, as well as documents served on the commission and other parties. The commission may charge for this service.

(d) Docket monitor. A "docket monitor" is a person who would like to receive orders entered by the commission in a docket.

(2) Appearance requirement. The commission will not grant party status to a person who fails to appear at the earliest prehearing conference, if one is held, or hearing session, if there is no prehearing conference, unless the party is excused from appearing by the presiding officer or shows good cause for failing to timely appear. The commission staff and the public counsel section of the attorney general's office become parties to an adjudicative proceeding for all purposes upon entering an appearance. When the commission's regulatory staff appears as a party it will be called "commission staff" or "staff." When the

public counsel section of the office of the Washington attorney general appears as a party, it will be called "public counsel."

~~((2))~~ (3) **Classification of parties.** Parties to proceedings before the commission will be called applicants, complainants, petitioners, respondents, intervenors, or protestants, according to the nature of the proceeding and the relationship of the parties, as follows:

(a) **Applicants.** Persons applying for any right or authority that the commission has jurisdiction to grant are "applicants."

(b) **Complainants.** Persons who file a formal complaint with the commission are "complainants." When the commission commences an adjudicative proceeding on its own complaint seeking to impose a penalty or other sanction based upon alleged acts or omissions of the respondent, the commission is the "complainant."

(c) **Petitioners.** Persons petitioning for relief other than by complaint are "petitioners."

(d) **Movants.** Persons filing a motion for relief are "movants" or "moving parties."

(e) **Respondents.** Persons against whom any formal complaint, petition, or motion is filed are "respondents." In general rate proceedings that are set for hearing on the commission's motion or complaint, the party seeking to increase rates is a "respondent," but bears the burden of proof in the proceeding pursuant to RCW 80.04.130 or 81.04.130.

(f) **Intervenors.** Persons, other than the original parties, that are permitted to appear and participate as parties are "intervenors."

(g) **Protestants.** Persons that file a protest to oppose an application are "protestants."

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-360 Parties--Master service list. The commission will maintain a master service list for each adjudicative proceeding(~~(, which)~~). It will be available upon request and ~~((which to the extent))~~ if feasible ~~((will be available))~~, on the commission's web site. The list will contain the name, mailing address, e-mail address, telephone number, and ~~((telefacsimile))~~ fax number of each party to the proceeding and of each party's representative. The commission will provide a courtesy copy to the parties of contact information provided by each party at the initial prehearing conference. ~~((Each party must also designate one person to receive service of all documents that are required to be served and may request that additional representatives receive courtesy service. Parties that are individuals will be individually served with all commission orders entered in the proceeding. Parties that are a partnership, corporation, association, governmental subdivision or unit, or public or private organization or entity of any character, must designate an individual within their organization for purposes of service of commission orders.))~~ Parties must designate persons to receive service in accordance with WAC 480-07-150.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-380 Motions that are dispositive--Motion to dismiss; motion for summary determination; motion to withdraw.

(1) Motion to dismiss.

(a) **General.** A party may move to dismiss another party's claim or case on the asserted basis that the opposing party's pleading fails to state a claim on which the commission may grant relief. The commission will consider the standards applicable to a motion made under CR 12 (b)(6) and 12(c) of the Washington superior court's civil rules in ruling on a motion made under this subsection. If a party presents an affidavit or other material in support of its motion to dismiss, and the material is not excluded by the commission, the commission will treat the motion as one for summary determination as provided in

subsections (2) and (3) of this section.

(b) **Time for filing motion to dismiss.** A party that opposes a pleading must file any motion directed to the pleading no later than the time the responsive pleading is due, or within twenty days after the pleading is served, whichever time is less, unless the party shows good cause for delay. Filing a motion to dismiss a pleading, or seeking a similar remedy, does not extend the time for answering the pleading.

(c) **Response.** A party who opposes a written motion to dismiss may file a response within ten days after service of the motion, or at such other time as may be set by the commission or the presiding officer. The commission may allow oral argument.

(2) **Motion for summary determination.**

(a) **General.** A party may move for summary determination of one or more issues if the pleadings filed in the proceeding, together with any properly admissible evidentiary support (e.g., affidavits, fact stipulations, matters of which official notice may be taken), show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. In considering a motion made under this subsection, the commission will consider the standards applicable to a motion made under CR 56 of the Washington superior court's civil rules.

(b) **Time for filing motion for summary determination.** A party must file any motion for summary determination at least thirty days before the next applicable hearing session, unless the commission establishes by order a different specific date for any such motion to be filed.

(c) **Response.** A party (~~that~~) who answers a motion for summary determination must file its answer and any cross-motion for summary determination within twenty days after the motion is served, unless the commission establishes (~~by order~~) a different specific date for a response to be filed.

(d) **Continuance not automatic.** Filing a motion for summary determination will not automatically stay any scheduled procedures. The commission may order a continuance of any procedure and may order that an oral or written response to a motion for summary determination be made at a time that is consistent with any established hearing schedule in the proceeding.

(3) **Motion to withdraw.** A party may withdraw from a proceeding only upon permission granted by the commission in response to a written motion if:

(a) In the case of a matter initiated by a tariff filing, the commission has entered a complaint and order suspending the filing; or

(b) In all other cases, the commission has issued a hearing notice or otherwise commenced an adjudicative proceeding pursuant to chapter 34.05 RCW.

The commission will grant a party's motion to withdraw from a proceeding when the party's withdrawal is in the public interest.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-395 Pleadings, motions, and briefs--Format requirements; citation to record and authorities; verification; errors; construction; amendment. (1) **Format.** All pleadings, motions, and briefs must meet the following format requirements:

(a) **Paper size; legibility; margins.** All pleadings, motions, and briefs must be:

Submitted on three-hole punched (oversize holes are preferred) 8 1/2 x 11 inch paper.

Presented in double-spaced, 12-point (~~(type)~~), palatino, times new Roman, or an equally legible serif font, with footnotes in the same font and of at least 10-point type.

Presented with paragraphs numbered.

Printed with margins at least one inch from each edge of the page.

Documents that are electronically filed must meet these requirements when printed.

(b) **Length.** Pleadings, motions, and briefs must not exceed sixty pages (exclusive of exhibits, appended authorities, supporting affidavits and other documents). The presiding officer may alter the page limit, either shortening or lengthening the number of pages allowed, considering the number and complexity of the issues.

(c) **Organization.** Every pleading, motion, and brief must be organized as follows:

(i) **Caption.** At the top of the first page must appear the phrase, "before the Washington utilities and transportation commission." On the left side of the page, the caption of the proceeding must be set out or, if no caption exists, the following: "In the matter of the (complaint, petition, motion, etc.) of (name of the pleading party) for (identify relief sought)." On the right side of the page, opposite the caption, the pleading party must include the docket number if one has been assigned, identify the name of the document (e.g., petition, motion, answer, reply, etc., of (role of party: E.g., petitioner, respondent, protestant, etc., and name of the party if more than one party has the same role in the proceeding)). The caption also must briefly state the relief sought (e.g., "petition for an accounting order"; "motion for continuance").

(ii) *Body of pleading.* The body of the pleading must be set out in numbered paragraphs. The first paragraph must state the pleading party's name and address and if it is the party's initial pleading, the name and address of its representative, if any. The second paragraph must state all rules or statutes that the pleading puts in issue. Succeeding paragraphs must set out the statement of facts relied upon in a form similar to complaints in civil actions before the superior courts of this state. The concluding paragraphs must state the relief the pleading party requests.

(iii) *Body of motion.* A motion must include the following information:

(A) *Relief requested.* A statement of the specific relief the commission is requested to grant or deny.

(B) *Statement of facts.* A succinct statement of the facts that the moving party contends are material to the requested remedy.

(C) *Statement of issues.* A concise statement of the legal issue or issues upon which the commission is requested to rule.

(D) *Evidence relied upon.* Any evidence on which the motion or opposition is based must be specified. Any affidavits, depositions or portions of affidavits or depositions relied upon must be specified. If a party relies on affidavits, deposition transcripts, or documentary evidence, the party must quote the cited material verbatim or attach a photocopy of relevant pages to an affidavit that identifies and verifies the documents. Parties should highlight or otherwise clearly identify the portions of the cited evidence upon which they place substantial reliance.

(iv) *Body of brief.* ~~((The commission may require))~~ Unless excused by the presiding officer, the parties must include in their briefs a table of contents in outline format. The commission may require parties to organize their briefs according to a common outline. The presiding officer, in consultation with the parties, will establish the elements of ~~((the))~~ any common outline taking into account the issues in the proceeding, the parties' preferences, and the commission's needs.

(v) *Citation to record.* Portions of the record relied on or quoted in the body of a brief must be cited using footnotes.

(A) *Transcript.* Transcript references should be as follows: [witness's surname], TR. [page]: [line(s)]~~(([witness's surname]))~~. If the transcript reference spans multiple pages, the reference should be as follows: [witness's surname], TR. [page]: [line] - [page]: [line] ~~(([witness's surname]))~~. Examples: Smith, TR. 21:5-14; Jones, TR. 356:4 - 357:21.

(B) *Exhibits.* Exhibit references should be as follows: Exh. No. [insert number assigned at hearing]. In the case of

prefiled testimony offered or received as an exhibit, page number(s), line number(s), and the witness's surname should be added following the style specified in this section for transcript references. In other exhibits, references to page(s), line(s) for text, row(s) and column(s) for tables, or other specific references may be added to clarify the information cited.

(vi) *Citation to authority.* Parties must use the citation formats specified in the current edition of the style sheet of the Washington supreme court reporter of decisions. The presiding officer may require parties to file copies of (~~non-Washington~~) the text of authorities that are cited in parties' briefs and upon which parties place substantial reliance. Unless excused by the presiding officer, parties must include a table of cited authorities, with the full citation of each reference and its location in the brief.

(2) **Verification.** All pleadings and motions, except complaints brought by the commission or matters raised by the commission on its own motion must be dated and signed by at least one attorney or representative of record in his or her individual name, stating his or her address, or by the party, if the party is not represented. Parties who are not represented by an attorney must include a statement in any pleading that the facts asserted in the pleading are true and correct to the best of the signer's belief. Parties who bring certain complaints under RCW 80.04.110 or 81.04.110 that challenge the reasonableness of the rates or charges of jurisdictional utilities must provide additional verification as specified in those statutes.

(3) **Errors in pleadings or motions.** The commission may return a pleading or motion to a party for correction when the commission finds the pleading or motion to be defective or insufficient. The commission may disregard or correct obvious typographical errors, errors in captions, or errors in spelling of names of parties.

(4) **Liberal construction of pleadings and motions.** The commission will liberally construe pleadings and motions with a view to effect justice among the parties. The commission, at every stage of any proceeding, will disregard errors or defects in pleadings, motions, or other documents that do not affect the substantial rights of the parties.

(5) **Amendments.** The commission may allow amendments to pleadings, motions, or other documents on such terms as promote fair and just results.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-400 Discovery. (1) General.

(a) **No limitation on commission authority to audit and inspect.** Nothing in this section imposes any limitation on the commission's ability to audit or obtain the books and records of public service companies, or the public service companies' obligation to provide information to the commission, whether or not in the context of an adjudicative proceeding.

(b) **Informal discovery procedures.** Parties in an adjudicative proceeding may agree to informal discovery procedures in addition to, or in place of, the procedures contained in this section.

(c) **Definitions.** For purposes of WAC 480-07-400 through 480-07-425, the following terms have the following meanings:

(i) *Party.* Any party as defined by WAC 480-07-340.

(ii) *Data.* As used in this section, "data" means information of any type, in any form.

(iii) *Data request.* A party's written request that calls for another party to produce data in connection with an adjudicative proceeding is a "data request." Generally, data requests seek documents, an analysis, compilation or summary of documents into a requested format, a narrative response explaining a policy, position, or a document, or the admission of a fact asserted by the requesting party. If a party relies on a cost study, it is expected that the party will, on request, rerun the study based on different assumptions, subject to the standards in subsection (5) of this section. The commission will not order a party to respond to a data request that seeks production of a new cost study unless there is a compelling need for such production.

(iv) *Record requisition.* A request for data made on the record during a conference or hearing session or during a deposition is a "record requisition."

(v) *Bench request.* A request for data made by or on behalf of the presiding officer is a "bench request."

(vi) *Depositions.* Depositions are described in WAC 480-07-410.

(2) When discovery available.

(a) **Subpoenas always available.** (~~The only discovery procedure available in all adjudicative proceedings before the commission is the subpoena, including a subpoena duces tecum. A commissioner, an administrative law judge, or the attorney of~~

~~any party to the proceeding may issue a subpoena. Witnesses are required to comply with subpoenas in the manner prescribed in Title 80 or 81 RCW and chapter 34.05 RCW. Witnesses will be paid as provided in RCW 34.05.446(7). Each subpoena must bear the name of the party requesting or issuing the subpoena and the party responsible for paying witness fees.))~~ Subpoenas are available as a means of discovery as provided in Title 80 or 81 RCW and chapter 34.05 RCW.

(b) **When other discovery methods available.** If the commission finds that an adjudicative proceeding meets one of the following criteria, the methods of discovery described in subsections (1)(c)(iii) through (vi) of this section and in WAC 480-07-410 and 480-07-415 will be available to parties:

(i) Any proceeding involving a change in the rate levels of an electric company, natural gas company, pipeline company, telecommunications company, water company, solid waste company, low-level radioactive waste disposal site, or a segment of the transportation industry;

(ii) Any proceeding that the commission declares to be of a potentially precedential nature;

(iii) Any complaint proceeding involving claims of discriminatory or anticompetitive conduct, unjust or unreasonable rates, violations of provisions in Titles 80 and 81 RCW; or

(iv) Any proceeding in which the commission, in its discretion, determines that the needs of the case require the methods of discovery specified in this rule.

(3) (~~**Signature on discovery requests.** A party, or the party's attorney or other representative, must sign each discovery request or group of requests issued. The signature constitutes a certification that the request complies with the standards of CR 26(g) of the Washington superior court civil rules and that no request made substantially duplicates a request previously made by the requesting party to the same party in the same proceeding, unless the duplication is reasonably necessary and the reason for duplication is clearly stated.~~

(4)) **Frequency, extent, and scope of discovery.** Data requests must seek only information that is relevant to the issues in the adjudicative proceeding or that may lead to the production of information that is relevant. A party may not object to a data request on grounds that the information sought will be inadmissible at the hearing, if the information sought appears reasonably calculated to lead to discovery of admissible evidence. Parties must not seek discovery that is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive. A discovery request is inappropriate when the party seeking discovery has had ample opportunity to obtain the

information sought or the discovery is unduly burdensome or expensive, taking into account the needs of the adjudicative proceeding, limitations on the parties' resources, scope of the responding party's interest in the proceeding, and the importance of the issues at stake in the adjudicative proceeding. Discovery through data requests or otherwise must not be used for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the costs of litigation. The commission may impose sanctions for abusive discovery practice.

~~((5))~~ (4) **Schedule.** The commission may establish and set forth in a prehearing order a schedule for discovery. Any such schedule will provide deadlines sufficient to allow a timely opportunity for responses and for disputes to be resolved. The presiding officer may impose or modify time limits to the extent necessary to conform to the commission's hearing schedule.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-405 Discovery--Data requests, record requisitions, and bench requests. (1) Grouping and numbering.

(a) **Grouping.** Parties must group their data requests by subject or witness and present data requests in an electronic format agreed upon by the parties whenever possible, unless the parties agree to a different procedure or the presiding officer orders a different procedure. Requests not presented in electronic format must include no more than one request per page. Parties with similar interests are encouraged, and may be required, to coordinate their issuance of data requests to avoid duplication.

(b) **Numbering.** Each party must number sequentially its data requests, as submitted. The presiding officer will ensure that record requisitions and bench requests are adequately described on the record and consecutively numbered.

(2) Service of data requests, records requisitions, and responses to parties.

(a) Written data requests must be sent to the party to whom the request is made, with copies to all other parties. The commission staff copy must be sent to the assistant attorney general who represents the commission staff. The commission encourages parties to agree to exchange data in electronic format by e-mail, on diskette, or by other mutually acceptable electronic means.

(b) If parties agree to the service of data requests and

responses to requests by e-mail, the party serving the data requests or responses must serve copies electronically on all parties, including the assistant attorney general who represents the commission staff.

(c) Except when appropriate for other purposes, parties must not file data requests or responses to data requests with the commission, or provide them to any person who is presiding or advising the presiding officer. Responses that are later offered in evidence must be distributed as required for other proposed exhibits.

~~(3) **Motion to compel**(, **filing data requests, objections, and responses.** Parties must not file data requests and responses to data requests with the commission or provide them to any presiding officer, except when a party files a motion to ~~compel~~)). A party's motion to compel must include the relevant data request, any objection, and any response.~~

(4) **Limitation on numbers of data requests.** The presiding officer may limit the number of data requests that a party may submit and may require parties to certify that they have coordinated discovery with other parties of similar interest and that no substantial duplication exists with other parties' submissions.

(5) **Responding party to seek clarification.** If a party to whom a data request is submitted finds the meaning or scope of a request (~~to be~~) unclear, the responding party must immediately (~~initiate a clarification call to~~) contact the requesting party for clarification. Lack of clarity is not a basis for objection to a data request unless the responding party has made a good faith effort to obtain clarification.

(6) **Objections; consequence of failure to object.**

(a) **Data request.** A party (~~that~~) who wishes to object to a data request must present the objection to the requesting party in writing by the time the response is due, or at such other time as may be ordered. A party objecting to a data request must state the objection and explain the basis for the objection. A party **who** fails to interpose a timely objection to providing a full response to a data request waives any right to object for purposes of discovery and must provide a full response. A party (~~that~~) who fails to make an objection when responding to data requests does not lose the opportunity to raise an objection at hearing if another party seeks to introduce as evidence all or part of the party's response to a data request.

(b) **Records requisition.** A party to whom a record requisition is addressed may object to the request at the time it is made or, if it later discovers a reason for objection not reasonably known at the time of the record requisition, within five days (~~thereafter~~) after discovering the reason. A party may object to the admission of its response to a records

requisition at the time the response is offered into evidence.

(c) **Bench request.** Any party may object to the issuance of, or response to, a bench request. A party may object at the time the bench request is made, or if made in writing or the party later discovers a reason for an objection not reasonably known at the time the bench request was made in hearing, within five days after discovery. A party may raise an objection based on the content of a bench request response within five days after distribution of the response. Responses to bench requests will be received in evidence unless a party objects to the bench request or response, or the commission rejects the response.

(7) Responses.

(a) **Data requests and record((s)) requisitions.** Parties must ~~((send))~~ serve responses to data requests and record requisitions ~~((to))~~ on the requesting party and ~~((to))~~ on any other party who requests a copy, consistent with the terms of any protective order entered in the proceeding. Parties must send the commission staff copy to the assistant attorney general who represents the commission staff unless the attorney requests an alternative method. Parties may agree to serve responses to data requests and record requisitions through e-mail.

(b) **Timing.** A party to whom a data request is directed must provide a full response to the data request within ten business days after the request is received. If the data cannot be supplied within ten business days, the responding party must give written notice to the requesting party no later than two business days before the response is due. The notice must state why the ten-day limit cannot be met. The responding party must also provide a schedule by which it will produce the requested data and must explain why any portion of the data cannot be supplied. The presiding officer may modify these time limits.

(c) **Identification of respondent and witness.** Each data response must state the date the response is produced, the name of the person who prepared the response, and the name of any witness who is knowledgeable about and can respond to questions concerning the response.

(d) **Bench requests.** Parties must file responses to bench requests with the commission and serve all parties within ten business days after the request is made, unless the presiding officer specifies another schedule.

(8) **Supplementation.** Parties must immediately supplement any response to a data request, record requisition, or bench request upon learning that the prior response was incorrect or incomplete when made or upon learning that a response, correct and complete when made, is no longer correct or complete.

(9) **Use of responses to data requests, record requisitions or bench requests.** The commission will not consider or treat as evidence any response to a data request, record requisition, or bench request unless and until it is entered into the record.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-423 Discovery--Protective orders--Submission requirements for documents. (1) General. Protective orders entered in individual proceedings may allow for parties to designate portions of documents exchanged during discovery or submitted during a proceeding (e.g., by filing, or by offering as an exhibit) as "confidential" or "highly confidential." ~~((In general,))~~ Parties must strictly limit the amount of information they designate as confidential or highly confidential. ~~((Designation of documents as highly confidential is not permitted under the commission's standard form of protective order, and may only occur if the commission so orders.~~

~~(1))~~ (2) Standard for highly confidential designation. A party who wishes to designate information as highly confidential may file the documents designated as highly confidential, but must also file a motion for an amendment to the standard protective order, supported by a sworn statement that sets forth the specific factual and/or legal basis for the requested level of protection and an explanation of why the standard protective order is inadequate. The motion and sworn statement must identify specific parties, persons, or categories of persons, if any, to whom a party wishes to restrict access, and state the reasons for such proposed restrictions.

(3) Designations.

(a) The "confidential" designation is intended to protect information that might compromise a company's ability to compete fairly or that otherwise might impose a business risk if disseminated without the protections provided in the commission's protective order.

(b) The "highly confidential" designation is reserved for information the dissemination of which, for example, imposes a highly significant risk of competitive harm to the disclosing party without enhanced protections provided in the commission's protective order. ~~((A party that wishes to designate information as highly confidential must first file a motion for an amendment to the standard protective order, supported by a sworn statement that sets forth the specific factual and/or legal basis for the requested level of protection and an explanation of why the standard protective order is inadequate. The motion and sworn statement must identify specific parties, persons, or categories of persons, if any, to whom a party wishes to restrict access, and state the reasons for such~~

~~proposed restrictions.~~

~~(2)) (4) **Submission.** Parties must follow the instructions in WAC 480-07-160(3) for properly marking and submitting documents with the commission as confidential or highly confidential in a proceeding governed by a protective order.~~

~~((a) **Confidential information.** The first page and individual pages of a document determined in good faith to include confidential information must have the legend that reads: "Confidential per protective order in WUTC Docket No. [insert]." Placing a confidential legend on the first page of an exhibit indicates only that one or more pages contain confidential information and will not serve to protect the entire contents of the multipage document. Each page that contains confidential information must be marked separately to indicate where confidential information is redacted. Confidential information must be submitted on yellow or canary paper with contrasting highlighter (e.g., gray or blue) used to mark the confidential portions.~~

~~(b) **Highly confidential information.** The first page and individual pages of a document determined in good faith to include highly confidential information must be marked by a stamp that reads: "Highly confidential per protective order in WUTC Docket No. [insert]." A "highly confidential" stamp on the first page of a document indicates only that one or more pages contain highly confidential information and will not serve to protect the entire contents of a multipage document. Each page that contains highly confidential information must be highlighted to indicate where highly confidential information is redacted. The unredacted versions of each page containing highly confidential information, and provided under seal, also must be marked with the "highly confidential . . ." stamp and must be submitted on light blue paper with contrasting highlighter (e.g., gray or yellow) used to mark the highly confidential portions.~~

~~(c) **Redacted version.** A separate version of each document that is designated as confidential or highly confidential must be provided on white paper with all of the confidential or highly confidential information redacted either by blacking out the information or replacing it with brackets and blank space. The first page must be marked as required in subsections (a) and (b) of this section, and additionally must be marked "redacted.")~~

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-460 Hearing--Predistribution of exhibits and prefiled testimony. (1) **Predistribution of evidence.** The commission may require parties to distribute their proposed evidence to other parties before the start of the evidentiary hearing. In general rate proceedings for electric, natural gas, pipeline, and telecommunications companies, the petitioner must prefile its proposed direct testimony and exhibits at the time it files its rate increase request, in accordance with WAC 480-07-510. The commission may convene a prehearing conference shortly before a scheduled hearing and require all parties to predistribute their proposed cross-examination exhibits.

(a) **Number of copies to be filed or submitted; service.** When predistribution of evidence other than proposed exhibits for use in cross-examination is required, each party must file the original plus twelve copies of its evidence with the commission unless the commission specifies a different number. When the commission requires parties to predistribute their proposed exhibits for use in cross-examination, each party must submit six copies to the bench if the commissioners are sitting as presiding officers and three copies if the commissioners are not sitting. The presiding officer may change the number of copies required. All proposed evidence must be served on all other parties to a proceeding whenever predistribution of evidence is required.

(b) **Changes or corrections.**

(i) **Substantive corrections.** Prefiled testimony may be revised to correct mistakes of fact asserted by a witness. Such mistakes may arise from a variety of causes such as scrivener's error, error in calculation, or error of misreported fact. Each party must advise all other parties of substantive corrections to any prefiled evidence as soon as the need for correction is discovered.

(ii) **Substantive changes.** Parties must seek leave from the presiding officer by written motion if they wish to submit testimony that includes substantive changes other than to simply correct errors of fact asserted by a witness. A party proposing such changes may submit the proposed revisions with its motion.

(iii) **Minor corrections.** Minor revisions to prefiled testimony and exhibits may be made to correct typographical errors, printing errors, and nonsubstantive changes (e.g., a change in a witness's address or employment). Counsel should

not ask a witness on the stand to correct obvious typographical errors in the prefiled testimony or to make more than three minor substantive corrections. If more than three minor revisions are required, parties must prepare an errata sheet or a revised exhibit for submission at least one business day prior to the hearing to show such corrections to the prefiled evidence. (~~Parties that submit revisions to predistributed or previously admitted testimony or exhibits must prominently label them "REVISED" and indicate the date of the revision. The revised portions must be highlighted, in legislative style or other manner that clearly indicates the change from the original submission. This practice must be followed even with minor changes that involve only one page of an exhibit. Counsel must identify partial revisions by page and date when an exhibit is presented for identification, sponsored, or offered into evidence, as appropriate.~~)

(iv) *Format requirements for revisions.* Parties who submit revisions to predistributed or previously admitted testimony or exhibits must prominently label them "REVISED" and indicate the date of the revision. The revised portions must be highlighted, in legislative style or other manner that clearly indicates the change from the original submission. This practice must be followed even with minor changes that involve only one page of an exhibit. If one or more pages of multiple page testimony or exhibits are revised, the header or footer of the affected pages must be labeled "REVISED" and indicate the date of the revision. Parties may indicate changes to spreadsheets by providing a description of the change and how the change affects other related spreadsheets. For revisions to spreadsheets, counsel must identify partial revisions by page and date when an exhibit is presented for identification, sponsored, or offered into evidence, as appropriate.

(c) ***Distribution at hearing.*** When a party offers new exhibits, revised exhibits, or errata sheets at a hearing, the party must provide sufficient copies for all parties and for the commission's distribution requirements. When the commission requires parties to predistribute their exhibits, a party may be required to establish good cause for any failure to predistribute a proposed exhibit, other than an exhibit offered solely for impeachment of the witness's testimony on the stand, or the exhibit may be excluded.

(2) ***Prefiled testimony.***

(a) ***Exhibit numbers--Official record.*** The presiding officer will assign exhibit numbers to all prefiled testimony and exhibits at the final prehearing conference prior to hearing, or at hearing. These assigned numbers will be the exhibit numbers for purposes of the official record in the proceeding.

(b) ***Parties are required to mark prefiled testimony and***

exhibits for identification. Parties must mark all written testimony and exhibits for identification in the upper right-hand corner of the first page prior to submission as follows:

(i) State "Exhibit No.," followed by a blank underline. Then, on the same line, identify the sponsoring witness by including the witness's initials.

(ii) Place a hyphen after the witness's initials and insert a number, beginning with Arabic numeral 1, and sequentially number each subsequent exhibit (including any subsequent written testimony) throughout the proceeding.

(iii) Place the capital letter "C" after the number if the testimony or exhibit includes information asserted to be confidential under any protective order that has been entered in the proceeding.

(iv) Place the capital letter "T" after the number if the exhibit is a witness's prefiled testimony.

For example, John Q. Witness's prefiled testimony and accompanying exhibits must be marked as follows:

Testimony or Exhibit	Marked for Identification
John Q. Witness's prefiled direct testimony	Exhibit No. ____ (JQW-1T)
First exhibit to John Q. Witness's prefiled direct testimony (nonconfidential)	Exhibit No. ____ (JQW-2)
Second exhibit to John Q. Witness's prefiled direct testimony (confidential)	Exhibit No. ____ (JQW-3C)
Third exhibit to John Q. Witness's prefiled direct testimony (nonconfidential)	Exhibit No. ____ (JQW-4)
John Q. Witness's prefiled rebuttal testimony (with portions marked confidential)	Exhibit No. ____ (JQW-5CT)
First exhibit to John Q. Witness's prefiled rebuttal testimony (nonconfidential)	Exhibit No. ____ (JQW-6)

Counsel and other party representatives who are unfamiliar with this method of identification may ask the presiding officer for further guidance.

(c) **Summary of testimony.** Each witness must present a short summary of his or her prefiled testimony on the opening page or two of the testimony. Counsel or other party representative will be expected to ask as a foundation question when the witness takes the stand the subjects that will be covered by the witness. This foundation question should request, and the witness's response should include, only a statement of the subject(s) to be covered by the witness (e.g., rate of return on equity, cost of debt, prudence) and not a summary of the witness's positions on the subject(s) identified.

(d) **Form of testimony and exhibits.** All prefiled testimony and exhibits must be paginated. In addition, line numbers must be set out on all prefiled testimony to facilitate transcript or exhibit references. All copies of prefiled testimony and exhibits must be provided on 8 1/2 x 11 inch, three-hole punched paper (oversize holes are preferred), double-spaced, 12-point type, using palatino, times new Roman, or an equally legible serif font, with footnotes in the same font and of at least 10-point type, with margins of at least one inch on all sides. Preprinted documents and spreadsheets need not conform to these typeface and type size requirements, but must be legible. Oversized documents may be used at the hearing for illustrative purposes but must be provided on 8 1/2 x 11 inch paper if offered into evidence and reduction to that format is feasible.

(e) **Submission requirements.** All prefiled exhibits, both direct examination and cross-examination exhibits, must be individually separated by blank sheets with tabs.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-470 Hearing guidelines. These guidelines are of a general nature and are provided to assist the presiding officer in regulating the course of the proceeding. The presiding officer may suspend or modify the guidelines or use measures not specified in this rule.

(1) **Starting times.** Starting times will be strictly observed. The proceeding may go forward in the absence of counsel, parties, or witnesses who are late. Counsel may advise the bench by message to the records center when an emergency prevents timely arrival.

(2) **Appearances.** All persons who will be representing a party in a formal proceeding must give their names and addresses in writing to the court reporter immediately before the first hearing session in which they appear. The presiding officer conducting the hearing or prehearing conference will require appearances to be stated orally at the initial prehearing or hearing session, and may also ask for oral appearances at subsequent sessions in the same proceeding, so that all persons attending the hearing will know the identity and interest of all parties present. Oral appearance at hearing does not substitute for the requirement for written notice of appearance in WAC 480-07-345(2).

(3) **Matters to be handled at beginning of session.** Parties must notify the presiding officer no later than the start of the

hearing session of any motion that a party anticipates may be presented during the hearing, such as one that may require foundation regarding the admissibility of evidence. The presiding officer will give the parties an appropriate opportunity to state and argue any motions related to evidence or to the procedural course of the hearing.

(4) **Summary by public counsel.** At the beginning of a hearing session during which the commission will hear testimony from members of the public, the commission may provide public counsel an opportunity to inform the public of the major contested issues and to state public counsel's positions on those issues. The commission will give other parties an opportunity to respond.

(5) **Evidence; exhibits; stipulations of fact.** The presiding officer may receive evidence as provided by RCW 34.05.452.

(6) **Order of presentation.** Evidence will ordinarily be received in the following order:

(a) Party having the burden of proof;

(b) Parties supporting the party having the burden of proof;

(c) Parties opposing the party having the burden of proof;

(d) Rebuttal by the party having the burden of proof;

The presiding officer may direct a modified order of presentation considering the needs of the parties, the commission, and the proceeding, and the parties' preferences.

(7) **Testimony under oath.** The presiding officer will administer an oath or affirmation to each witness before the witness testifies in an adjudicative proceeding. When members of the public testify, they will be sworn in the same fashion as other witnesses.

(8) **Addressing the presiding officer or witnesses.** All counsel and other party representatives must address all comments, objections, and statements to the presiding officer and not to other counsel. Questions that concern testimony or exhibits sponsored by a witness must be addressed to the witness and not to counsel or other party representatives.

(9) **Resolving matters off the record.** Counsel or other party representatives who request off-the-record discussions must ask leave to go off the record and state the purpose for the request. Extended colloquies regarding procedural issues may be conducted off the record, but will be summarized for the record by the presiding officer subject to comments from party representatives.

(10) **Witness panels.** The commission may direct or allow two or more witnesses to take the stand simultaneously when doing so allows a benefit such as the integrated response to a line of questions, minimizing referral of questions from one witness to another, or comparing witnesses' positions. The

presiding officer will also allow cross-examination of each witness upon matters within the witness's direct evidence.

(11) **Cross-examination.** Counsel and other party representatives should be prepared to provide time estimates for cross-examination of witnesses. The presiding officer will limit cross-examination to one round unless good cause exists for allowing additional questions. Witnesses must not be asked to perform detailed calculations or extract detailed data while on the stand. Any such questions must be provided to the witness at least two business days prior to the date the witness is expected to testify, must ask the witness to provide the answer for the record later in the hearing session, or must provide an answer and ask the witness to accept it "subject to check." Witnesses must not be asked to accept information "subject to check" if the information is included in a prefiled exhibit or testimony, or is already in evidence. When a witness accepts information "subject to check," the witness must perform the "check" as soon as possible. A response given "subject to check" will be considered accurate unless the witness disputes it on the witness stand or by filing an affidavit, stating reasons, within five business days following the ((witness's testimony)) date of receipt of the hearing transcript.

(12) **Redirect examination.** A party whose witness has been cross-examined may conduct redirect examination of the witness on ((those)) issues raised during cross-examination.

(13) **Post-hearing planning.** The presiding officer will confer with the parties concerning post-hearing process. The presiding officer will determine whether oral argument, briefs, or both will be required, taking into consideration the needs of the commission and the parties' preferences. The presiding officer may determine a common format or outline to be used by all parties if briefs are required. Briefs must comply with the requirements of WAC 480-07-395.

(14) **Transcript.** Each party will bear its own costs for transcripts or tape recordings, including charges for expedited service when a party requests it.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-510 General rate proceedings--Electric, natural gas, pipeline, and telecommunications companies. General rate proceeding filings for electric, natural gas, pipeline, and telecommunications companies must include the information described in this section. The commission may reject a filing that fails to meet these minimum requirements, without prejudice to the company's right to refile its request in conformance with this section. The company must provide:

(1) **Testimony and exhibits.** (~~Twelve~~) Nineteen paper copies of all testimony and exhibits that the company intends to present as its direct case if the filing is suspended and a hearing held, **unless the commission preapproves the filing of fewer copies.** In addition, the company must provide one electronic copy of **all filed material** in ((a)) the format (~~or formats authorized in these rules or by the commission secretary~~) identified in WAC 480-07-140(6). Material that the company has not (~~been~~) produced under (~~the company's~~) its direction and control and that is not reasonably available to it in electronic format, such as generally available copyrighted published material, need not be provided in electronic format. **The company must serve a copy of the materials** filed under this section on public counsel at the time of filing with the commission **in any proceeding in which public counsel will appear.** The utility must provide an exhibit that includes a results-of-operations statement showing test year actual results and the restating and pro forma adjustments in columnar format supporting its general rate request. The utility must also show each restating and pro forma adjustment and its effect on the results of operations. The testimony must include a written description of each proposed restating and pro forma adjustment describing the reason, theory, and calculation of the adjustment.

(2) **Tariff sheets.** (~~Three copies~~) A copy of the proposed new or revised tariff sheets in legislative format, with strike-through to indicate any material to be deleted or replaced and underlining to indicate any material to be inserted, in paper and electronic format, unless already provided as an exhibit under subsection (1) of this section. The company must also provide copies of any tariff sheets that are referenced by new or amended tariff sheets.

(3) **Work papers and accounting adjustments.** Three copies

of all supporting work papers of each witness in a format as described in (b) of this subsection must be filed with the utility's general rate request. Parties must file work papers within five days after the filing of each subsequent round of testimony filed (e.g., response, rebuttal). 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 provided 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 with the filing, **but the company must identify clearly the materials that are omitted and their content. Omitted materials must be made available if requested.** ~~The following information ((must be included in the company's work papers, if it is not included in the testimony or exhibits))~~ is required for work papers that accompany the company's filing and all parties' testimony and exhibits:

(a) A detailed portrayal of the development of ((the company's requested)) any capital structure and rate of return proposal and all supporting work papers in the format described in (b) of this subsection.

(b) Parties must file work papers that contain a detailed portrayal of restating actual and pro forma adjustments that the company uses to support ((the)) its filing or that another party uses to support its litigation position, specifying all relevant assumptions, and including specific references to charts of accounts, financial reports, studies, and all similar records relied on by the company in preparing its filing, ((supporting)) and by all parties in preparing their testimony((τ)) and exhibits. All work papers must include support for, and calculations showing, the derivation of each input number used in the detailed portrayal and for each subsequent level of detail. The derivation of all interstate and multiservice allocation factors must be provided in the work papers. 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. Parties must file 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 submitted using logical file paths, as necessary, by witness, and using identifying file names. If ((the company)) a party proposes to calculate an adjustment in a manner different from the method that the commission most recently accepted or authorized for the company, 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.

(i) "Restating actual adjustments" adjust the booked operating results for any defects or infirmities in actual recorded results that can distort test period earnings. Restating actual adjustments are also used to adjust from an as-recorded basis to a basis that is acceptable for rate making. Examples of restating actual adjustments are adjustments to remove prior period amounts, to eliminate below-the-line items that were recorded as operating expenses in error, to adjust from book estimates to actual amounts, and to eliminate or to normalize extraordinary items recorded during the test period.

(ii) "Pro forma adjustments" give effect for the test period to all known and measurable changes that are not offset by other factors. The filing must identify dollar values and underlying reasons for each proposed pro forma adjustment.

(c) A detailed portrayal of revenue sources during the test year and a parallel portrayal, by source, of changes in revenue produced by the filing, including an explanation of how the changes were derived.

(d) If the public service company has not achieved its authorized rate of return, an explanation of why it has not and what the company is doing to improve its earnings in addition to its request for increased rates.

(e) A representation of the actual rate base and results of operation of the company during the test period, calculated in the manner used by the commission to calculate the company's revenue requirement in the commission's most recent order granting the company a general rate increase.

(f) Supplementation of the annual affiliate and subsidiary transaction reports as provided in rules governing reporting requirements for each industry, as necessary, to include all transactions during the test period. The company is required to identify all transactions that materially affect the proposed rates.

(4) **Summary document.** A summary document that briefly states the following information on an annualized basis, if applicable. In presenting the following information, the company must itemize revenues from any temporary, interim, periodic, or other noncontinuing tariffs. The company must include in its rate change percentage and revenue change calculations any revenues from proposed general rate change tariffs that would supersede revenue from noncontinuing tariffs.

(a) The date and amount of the latest prior general rate increase authorized by the commission, and the revenue realized from that authorized increase in the test period, based on the company's test period units of revenue.

- (b) Total revenues at present rates and at requested rates.
 - (c) Requested revenue change in percentage, in total, and by major customer class.
 - (d) Requested revenue change in dollars, in total, and by major customer class.
 - (e) Requested rate change in dollars, per average customer, by customer class, or other representation, if necessary to depict representative effect of the request. Filings must also state the effect of the proposed rate increase in dollars per month on typical residential customers by usage categories.
 - (f) Most current customer count, by major customer class.
 - (g) Current authorized overall rate of return and authorized rate of return on common equity.
 - (h) Requested overall rate of return and requested rate of return on common equity, and the method or methods used to calculate rate of return on common equity.
 - (i) Requested capital structure.
 - (j) Requested net operating income.
 - (k) Requested rate base and method of calculation, or equivalent.
 - (l) Requested revenue effect of attrition allowance, if any is requested.
- (5) Required service of summary document. The company must mail the summary document required in subsection (4) of this section to the persons designated below on the same date it files the summary document with the commission:
- (a) Public counsel;
 - (b) All intervenors on the commission's master service list for the company's most recent general rate proceeding;
 - (c) All intervenors on the master service list for any other rate proceeding involving the company during the five years prior to the filing, if the rates established or considered in that proceeding may be affected in the company's proposed general rate filing;
 - (d) All persons who have informed the company in writing that they wish to be provided with the summary document required under this section. The company must enclose a cover letter stating that the prefiled testimony and exhibits and the accompanying work papers, diskettes, and publications specified in this rule are available from the company on request or stating that they have been provided. This provision does not create a right to notice in persons named to receive the summary.
- (6) **Cost studies.** The company must include any cost studies it performed or relied on to prepare its filing, identify all cost studies conducted in the last five years for any of the company's services, and describe the methodology used in such studies.
- (7) **Other.** The company must include its most recent annual

report to shareholders, if any, and any subsequent quarterly reports to shareholders; the most recent FERC Form 1 and FERC Form 2, if applicable; and the company's Form 10K's, Form 10Q's, any prospectuses for any issuances of securities, and quarterly reports to stockholders, if any, for the most recent two years prior to the filing date.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-520 General rate proceedings--Solid waste collection companies. General rate increase filings by class A and B haulers as defined in WAC 480-70-041 must include the information described in this rule. The commission may reject a filing that fails to meet these minimum requirements, without prejudice to the company's right to refile its request in conformance with this section.

(1) **Proposed tariff.** (~~Two copies of the~~) The proposed tariff sheets may be filed in electronic form supplemented by one paper copy. The proposed tariff(~~(7)~~) sheets should be in legislative format, with strike-through to indicate any material to be deleted or replaced and underlining to indicate any material to be inserted. The electronic copy must be submitted in the format identified in WAC 480-07-140(6).

(2) **Local government ordinances and notices.** A copy of every local government ordinance related to the request in compliance with WAC 480-70-326, and a copy of the customer notices issued in compliance with the provisions of WAC (~~480-149-120~~) 480-70-271.

(3) **Transmittal letter.** A transmittal letter prepared in compliance with the provisions of WAC (~~480-149-120 and~~) 480-70-326.

(4) **Work papers.** One paper and one electronic copy of all supporting work papers for the test period, which is the most recent or most appropriate consecutive twelve-month period for which financial data are available. The electronic copy must be submitted in the format identified in WAC 480-07-140(6). Work papers must include:

(a) A detailed pro forma income statement separated among solid waste, single family residential recycling, multifamily recycling, and yard waste, with restating actual and pro forma adjustments, including all supporting calculations and documentation for all adjustments.

(i) "Restating actual adjustments" adjust the booked operating results for any defects or infirmities in actual

recorded results that can distort test period earnings. Restating actual adjustments are also used to adjust from an as-recorded basis to a basis that is acceptable for rate making. Examples of restating actual adjustments are adjustments to remove prior period amounts, to eliminate below-the-line items that were recorded as operating expenses in error, to adjust from book estimates to actual amounts, and to eliminate or to normalize extraordinary items recorded during the test period.

(ii) "Pro forma adjustments" give effect for the test period to all known and measurable changes that are not offset by other factors. The filing must identify dollar values and underlying reasons for each proposed pro forma adjustment.

(b) A calculation of the revenue impact of proposed tariff revisions.

(c) An income statement listing all revenue and expense accounts by month.

(d) If nonregulated revenue represents more than ten percent of total company test period revenue, a detailed separation of all revenue and expenses between regulated and nonregulated operations.

(e) A detailed list of all nonregulated operations, including the rates charged for the services rendered. Copies of all contracts must be provided on request.

(f) Detailed price-out information that reconciles within five percent, without adjustment, to the test period booked revenue, including the test period customer count by tariff item.

(g) A consolidated balance sheet, including the percentage of equity and the percentage of debt, and the cost of that debt by component.

(h) A detailed depreciation schedule listing all used and useful assets held by the company during the test period, including the date of purchase, the cost at purchase, the depreciable life, the salvage value, depreciation expense, and accumulated depreciation expense at the end of the test period.

(i) Computed average investment. Average investment is the net book value of allowable assets at the beginning of the test period plus the net book value of allowable assets at the end of the test period, divided by two. Investor supplied working capital may be included, provided a work sheet is submitted detailing the calculations.

(j) Information about every transaction with an affiliated interest or subsidiary that directly or indirectly affects the proposed rates. This must include: A full description of the relationship, terms and amount of the transaction, the length of time the relationship has been ongoing, and an income statement and balance sheet for every affiliated entity.

(5) **Annual report.** The most recent consolidated annual report to shareholders, if any.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-620 Emergency adjudicative proceedings. (1)
When permitted. The commission may conduct an emergency adjudicative proceeding pursuant to RCW 34.05.479 to suspend or cancel authority, to require that a dangerous condition be terminated or corrected, or to require immediate action in any situation involving an immediate danger to the public health, safety, or welfare requiring immediate action by the commission. Such situations include, but are not limited to:

(a) Inadequate service by a public service company when the inadequacy involves an immediate danger to the public health, safety, or welfare; and

(b) Violations of law, rule, or order related to public safety, when the violation involves an immediate danger to the public health, safety, or welfare.

(2) **Complaint.** If time permits, the commission or a complainant must prepare a complaint and serve it on the respondent using a method that best provides actual notice of the adjudication. If a majority of the commissioners are not available to authorize a complaint, one commissioner or, if no commissioner is available, the secretary or executive director of the commission or an administrative law judge may authorize a complaint.

(3) **Who presides.** The commissioners will sit as presiding officers, hear the matter, and enter an order, if a majority of the commissioners are available. Any available commissioner will sit as presiding officer, hear the matter, and enter an order, if a majority of the commissioners is not available. The supervisor of the commission's administrative law judge function will assign an administrative law judge to sit as presiding officer, hear the matter, and enter an order, if no commissioner is available.

~~((3))~~ (4) **Record and decision.** The official record will include any written submissions of the parties; oral comments by the parties, if the presiding officer has allowed oral comments; and any documents regarding the matter that were considered or prepared by the commission. The agency's record need not constitute the exclusive basis for action, unless otherwise required by law.

~~((4))~~ (5) **Emergency order.** The presiding officer will enter an emergency order as soon as practicable under the circumstances. The order will include a brief statement of

findings of fact, conclusions of law, and justification for the determination of an immediate danger to the public health, safety, or welfare. The order is effective when entered. The commission will serve the order pursuant to WAC 480-07-150 (3) and (7).

~~((5))~~ (6) **Post-order process.** After entering an emergency order under this section, the commission will proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger to the public health, safety, or welfare, and will enter a final order.

~~((6))~~ (7) **Review or reconsideration of emergency order.** Any party to an emergency adjudicative proceeding may seek immediate review by the full commission in the case of any order entered by a single commissioner or by an administrative law judge. In the case of any order entered by a majority of the commissioners, any party may seek immediate reconsideration. If either review or reconsideration is requested, the commission will establish appropriate process to complete its review or reconsideration within ten days of the date of any petition for review or reconsideration. A party seeking immediate review or reconsideration is not automatically entitled to a stay of the emergency order.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-650 Petitions for enforcement of telecommunications company interconnection agreements. The purpose of this rule is to provide a speedy and enforceable means to resolve disputes when one party to an interconnection agreement contends that the other party is violating the terms of the agreement.

(1) **Petitions for enforcement.** A telecommunications company that is party to an interconnection agreement with another telecommunications company may petition under this rule for enforcement of the agreement.

(a) **What the petition must contain.** Each petition for enforcement must contain the following elements:

(i) A statement, including specific facts, demonstrating that the petitioner engaged in good faith negotiations to resolve the disagreement, and that despite those negotiations the parties failed to resolve the issue.

(ii) A copy of the provision of the interconnection agreement that the petitioner contends is not being complied

with.

(iii) A description of facts demonstrating failure to comply with the agreement. One or more affidavits, declarations, or other sworn statements, made by persons having personal knowledge of the relevant facts must support the description.

(b) **How to serve the petition.** The petitioner must serve the petition for enforcement on the responding party on the same day the petition is filed with the commission. If the petitioner chooses to serve the respondent by mail or parcel delivery service, it must deliver a copy of the petition and all supporting documents by hand delivery, (~~telefacsimile~~) fax, or (~~electronic mail~~) e-mail (to the e-mail address specified by the recipient for the purpose of receiving a copy of the petition) on the same day as filed with the commission. For purposes of this section, service must be effected on:

(i) The responding party's authorized representative, attorney of record, or designated agent for service of process;

(ii) The responding party's representatives with whom the petitioner conducted the negotiations addressed in (a)(i) of this subsection; and

(iii) All parties designated in the interconnection agreement to receive notices.

(c) **Prefiling notice of petition.** The petitioner must give at least ten days' written notice to the respondent that the petitioner intends to file a petition for enforcement. The notice must identify (~~the contract~~) each specific provision of the agreement that the petitioner alleges was violated, and the exact behavior or failure to act that petitioner alleges violates the agreement. The written notice must be served as provided in (b) of this subsection. The petitioner must include a copy of this notice with its petition for enforcement. The written notice shall be valid for thirty days from the date of service. If the petitioner wishes to file a petition for enforcement after the thirty-day period, the petitioner must serve another notice to the respondent at least ten days prior to filing the petition.

(2) **Answering a petition.** The respondent may answer the petition. The respondent waives the opportunity to present any matter that is not raised in the answer, except that the answer may be amended under subsection (3) of this section.

(a) **Contents of the answer.** The answer to a petition for enforcement must respond to each allegation of failure to comply with the terms of the interconnection agreement, stating relevant facts. Any facts relied upon must be supported by affidavits, declarations, or other sworn statements by persons having personal knowledge of the facts.

(b) **Filing and service of the answer.** The respondent must file the answer with the commission and serve it on the

petitioner within five business days after service of the petition for enforcement. Service must be accomplished so that a copy of the response to the petition for enforcement and all supporting documents reach the petitioner's attorney, or the person who signed the petition if petitioner has no attorney, on the same day the answer is filed with the commission. If the respondent chooses to serve the petitioner by mail, a copy of the petition for enforcement and all supporting documents must be delivered to the person identified above on the same day as filed with the commission.

(3) **Amendment of petition and answer.** The presiding officer may permit the responding party to amend its answer for good cause shown, and to avoid substantial prejudice to the responding party that is not caused by the fault of the responding party. The presiding officer may permit either party to amend its petition or answer to conform to the evidence presented during the proceeding. The presiding officer may refer to, but is not bound by, CR 15(b) of the Washington superior court civil rules, when determining whether to permit amendment of the petition or answer to conform to the evidence.

(4) **Prehearing conference.** The commission will conduct a prehearing conference regarding each petition for enforcement of an interconnection agreement.

(a) **Schedule; mandatory attendance.** The presiding officer will issue notice of a prehearing conference within five business days after the petition is filed. Both the petitioner and the respondent must attend the prehearing conference. The prehearing conference may be conducted by telephone.

(b) **Procedural determination.** The presiding officer will determine at the prehearing conference whether the issues raised in the petition can be determined on the pleadings, submissions, and any oral statements without further proceedings. When determining whether to schedule an oral enforcement hearing session, the presiding officer will consider the parties' preferences and the reasons they advance, the need to clarify statements by asking questions, whether the issues are largely factual, largely legal, or involve questions of fact and law, the apparent complexity of facts and issues, the need for speedy resolution, and the completeness of information presented. The presiding officer may require the parties to submit written briefs on the issues.

(c) **Means of obtaining additional information.** If the presiding officer determines that further proceedings are necessary, the presiding officer will establish a schedule for receiving additional facts or evidence and may schedule an enforcement hearing session to explore the facts and issues raised in the petition and the answer. The party filing the ((~~complaint~~)) petition or answer may file with the ((~~complaint~~)) petition or answer a request for discovery, stating the matters

to be inquired into and their relationship to matters directly at issue. The presiding officer may allow limited discovery requiring only the disclosure of facts relating directly to matters at issue, and only if discovery is shown to be essential to the requesting party. The presiding officer will establish a shortened discovery schedule to comply with the timelines of this rule.

(d) **Consideration as a complaint.** If the matter at issue involves policy, technical or accounting issues that require extensive analysis or discovery, the commission may convert the proceeding to a complaint proceeding to allow adequate time and process for the demands of the proceeding under RCW 80.04.110 to allow adequate time and process for the demands of the proceeding.

(5) **Powers of the presiding officer; conversion of proceeding; recommended or final decision.**

(a) **Conduct of proceeding.** The presiding officer has broad discretion to conduct the proceeding in a manner that best suits the nature of the petition, including, but not limited to, converting the proceeding into a complaint proceeding under RCW 80.04.110. Matters may be appropriate for conversion when their complexity requires that they cannot be completed on the schedule provided in this rule; when the petitioner requires discovery beyond a disclosure of facts directly related to the matters at issue; when extensive policy argument or legal briefing is required; or when participation by parties other than the petitioner and the respondent is necessary. The presiding officer may limit the record to written submissions or may schedule an enforcement hearing session. The presiding officer may limit the number of exhibits and witnesses and the time for their presentation.

(b) **Recommended decision.** The presiding officer, if other than the commissioners, will serve a recommended decision on the parties within seventy-five days of the date the petition for enforcement was filed, or twenty-one days after the last hearing session or submission, whichever is later. The recommended decision is subject to approval by the commission. If the commissioners preside over the enforcement proceeding, they may enter a final decision within the time requirements applicable to recommended decisions.

(c) **Review of the recommended decision.** Any party may file a petition for administrative review of a recommended decision within seven days after the order is entered. A party opposing review may file an answer within five days after a petition for review is filed. The commission may hear the parties' arguments (~~(or comments)~~) regarding any recommended decision on the written pleadings or during ((a hearing)) oral argument, which may, in the commission's discretion, be scheduled coincident with a regular or special open public meeting. (~~The parties~~

~~may file written comments prior to the meeting on a schedule established in the recommended decision.))~~ The commission may request commission staff to make a presentation at the ~~((meeting))~~ argument. The commission will conduct this session within ten days after the date of the recommended decision, or as soon thereafter as the commissioners' schedules permit. If no party files a petition for administrative review, the commission may adopt the recommended decision without material change. If the commission considers making a material change in a recommended order to which no petition for review has been filed, the commission must first seek the views of the parties on the issue.

(6) **Commission decision on petition for enforcement.**

(a) **Extent of commission discretion.** The commission will serve a final decision on the parties in the form of a commission order resolving the issues. The commission may adopt, modify, or reject all or part of any recommended decision.

(b) **Time of service.** The commission will enter its order on the petition for enforcement no later than ninety days after the date the petition is filed or fifteen days after the meeting at which it reviews the recommended decision, whichever is later. The commission may extend this time for lack of resources or for other good cause.

(c) **Petition for reconsideration.** The parties may petition for reconsideration within ten days after the commission serves its order on the petition for enforcement. If a party petitions for reconsideration, the commission may request that an answer be filed. The commission may request additional comments, briefing, evidence, or argument from the parties. Filing a petition for reconsideration of the order does not stay the effect of the order. A petition for reconsideration is deemed denied unless the commission grants or denies it by written order within ten days after the date on which petition for reconsideration is filed or the date established for filing an answer or additional comments, briefing, evidence, or argument, whichever is later. The commission may alter the time for entering its order on a petition for reconsideration by notice or letter.

(d) **Failure to comply with the order.** Any party who fails to comply with the terms of the commission's final order on a petition for enforcement is subject to penalties under RCW 80.04.380 and any other penalties or sanctions as provided by law. A company against whom a penalty is assessed may challenge the penalty or the facts on which it is based, or seek mitigation of the penalty, pursuant to pertinent law and commission rules.

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. 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.

(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 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.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-710 Mediation. (1) **Scope.** This rule applies generally to settlement negotiations in which the commission agrees to assign a qualified mediator to assist the parties. This rule applies specifically to implement the mediation provisions of sections 251 and 252 of the Telecommunications Act of 1996, 47 U.S.C. §§ 251 and 252.

(2) **Commission participation.** The parties to a negotiation, including a negotiation under 47 U.S.C. §§ 251 and 252, may ask the commission to mediate any differences that arise during the negotiation. A request for mediation must include a brief statement of the nature of the dispute and the names, postal and ((~~electronic-mail~~)) e-mail addresses, telephone and fax numbers of the parties and their representatives. Copies of the request must be served on all parties to the negotiation. All parties are required to participate in good faith if the commission agrees to mediate.

(3) **Mediators.** The commission may assign one or more qualified employees to serve as mediator(s). The commission may require the parties to retain the services of a professional mediator acceptable to all parties.

(4) **Process.** Mediators have discretion to regulate the course of the mediation, including scheduling mediation sessions, in consultation with the parties. The following

general procedures apply:

(a) The mediator may not impose a settlement but may offer proposals for settlement;

(b) The mediator may meet individually with the parties or attorneys during mediation;

(c) Only the parties to the negotiation and the mediator may attend the mediation session(s), unless all parties and the mediator consent to the presence of others;

(d) Parties must provide the mediator with a brief statement of position and relevant background information prior to the first mediation session;

(e) The mediator may ask for supplemental information;

(f) The mediator (~~should~~) may not provide legal advice to the parties, nor are any mediator's (~~statements~~) stated opinions as to law or policy binding on the commission, unless later adopted by the commission;

(g) The mediation process is confidential to the extent permitted by law, subject to the requirement for a written agreement or other record indicating an expectation that mediation communications will be privileged against disclosure as required under RCW ((~~5.60.70~~ [~~5.60.070~~]))7.07.020; and

(h) No stenographic or electronic record will be kept.

(5) **Fees and costs.** Each party must bear its own fees and costs. Each party must pay any fees imposed by commission rule or statute.

(6) **Notice to commission.** Parties must advise the commission if they reach a full, partial, or multiparty settlement and may suggest preferred procedural alternatives for review of the settlement, subject to the requirements of WAC 480-07-640 (commission approval of interconnection agreements) or WAC 480-07-740, as appropriate. The commission will determine the appropriate procedure in each proceeding consistent with the requirements of WAC 480-07-640 or 480-07-740.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-730 Settlement. A settlement is an agreement among two or more parties to a proceeding (~~that is~~), filed with the commission as a proposed resolution of one or more issues. Parties must (~~supplement the filing of a written~~) submit an electronic copy of the settlement agreement ((by submitting the document in electronic form as specified)) in the format identified in WAC 480-07-140((~~5~~)) (6).

(1) **Full settlement.** An agreement of all parties that would resolve all issues in a proceeding may be presented as a full settlement for commission review. Parties (~~that~~) who file a full settlement should file supporting evidence at the same time as the settlement agreement, or within a reasonable time following filing of the settlement agreement.

(2) **Partial settlement.** An agreement of all parties on some issues may be presented as a partial settlement for commission review, and remaining matters may be litigated. Parties (~~that~~) who file a partial settlement should file supporting evidence at the same time as the settlement agreement, or within a reasonable time following filing of the settlement agreement.

(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. Nonsettling parties may offer evidence and argument in opposition.

(4) **Notice to commission.** Parties must advise the commission if they reach a full, partial, or multiparty settlement and may suggest preferred procedural alternatives for review of the settlement, subject to the requirements of WAC 480-07-740. The commission will determine the appropriate procedure in each proceeding consistent with the requirements of WAC 480-07-740.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-750 Commission discretion to accept settlement, impose conditions, or reject a proposed settlement. (1) The commission may decide whether or not to consider a proposed settlement. The commission will approve settlements when doing so is lawful, when the settlement terms are supported by an appropriate record, and when the result is consistent with the public interest in light of all the information available to the commission.

(2) If the commission considers a proposed settlement, it may accept the proposed settlement, with or without conditions, or may reject it.

(a) If the commission rejects a proposed settlement, the litigation returns to its status at the time the settlement was offered and the time for completion of the hearing will be extended by the elapsed time for consideration of the settlement and may take into account the need to address other pending

business before the commission.

(b) If the commission accepts a proposed settlement upon conditions not proposed in the settlement, the parties may seek reconsideration of the decision and the settling parties must within the time for reconsideration state their rejection of the conditions. If a party rejects a proposed condition, the settlement is deemed rejected and (a) of this subsection applies.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-883 Compliance filing--Filing requirements; timing; commission action. A party must strictly limit the scope of its compliance filing to the requirements of the final order to which it relates. If the commission finds that a compliance filing varies from the requirements or conditions of the order authorizing or requiring it, either by falling short of or by exceeding the authorization, conditions, or requirements of the order, the commission may reject the filing unless it has preapproved the variance. If the commission accepts in error a compliance filing that does not comply with the order authorizing the filing, the commission's acceptance does not validate the noncompliant elements of the filing.

(1) Filing requirements.

(a) A party who files a compliance filing must make its filing consistent with the filing requirements of the docket authorizing the filing, i.e., file the required number of copies, and serve the filing on all other parties in the docket.

(b) A compliance filing must include the following:

~~((a))~~ (i) A cover letter that identifies the order to which the filing relates;

~~((b))~~ (ii) All required tariff sheets; and

~~((c))~~ (iii) Work papers that clearly demonstrate the derivation of the proposed tariffs.

(2) Service requirement. A party who makes a compliance filing must serve it on each party to the proceeding in which the compliance filing is authorized or required. Service must be initiated on the same day as the filing.

(3) Timing; effective date.

(a) The commission will state in its final order authorizing or requiring a compliance filing the date by which the compliance filing must be made and the effective date that should appear on any tariff sheets that are required as part of a compliance filing. The commission may state the amount of

time it will require to examine any proposed compliance tariff sheets between their filing and their proposed effective date.

(b) A compliance filing does not become effective automatically on its stated effective date. Commission action is required before any compliance filing can be effective. The commission may enter an order approving a compliance filing or taking other appropriate action. The commission may delegate to the secretary, by written authorization in individual proceedings, the authority to approve or take other appropriate action with respect to a compliance filing.

(4) **Commission action on compliance filing.**

(a) The commission may enter an order in any proceeding in which a compliance filing is authorized or required that:

(i) Approves the compliance filing; or

(ii) Rejects a compliance filing or any portion of the filing that apparently fails to comply.

(b) If the commission rejects all or part of a compliance filing, the party may refile. The commission may impose conditions on refileing.

(c) If the commission approves a compliance filing, but later discovers that it failed to recognize that the compliance filing was, in fact, incomplete or did not fully comply with the order authorizing or requiring the filing, the commission may take any necessary and lawful steps to secure full compliance.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-900 Open public meetings. (1) **Regular meetings.** The commission will hold regular meetings to conduct business under chapter 42.30 RCW, the Open Public Meetings Act. The commission generally schedules two business meetings ((will begin at 9:30 a.m., on the second, fourth, and fifth Wednesday of each month)) per month, usually on Wednesday at 9:30 a.m. in the commission's office in Olympia, Washington. ((If the regular meeting day is a legal holiday, the regular meeting will be held on the next business day or on an alternate schedule published in the Washington State Register.

~~(2) **Changes to regular meetings.** Regular meetings may be canceled. The commission may change the time and place of regular meetings from the information set out in this section. The current times and places are published, as required, in the Washington State Register, on the commission's internet web site, and are available through telephone inquiry.~~

~~(3)) The specific time and place of each business meeting~~

are published, as required, in the Washington State Register and on the commission's internet web site. The commission may cancel a meeting or change the time or place of a meeting and will publish a notice of these changes on its web site.

(2) **Special meetings.** The commission may convene special meetings under RCW 42.30.080.

(3) **Recessed meetings.** The commission may recess a regular or special meeting and reconvene it at a different time or location.

(4) **Agenda.** The commission (~~(secretary)~~) will distribute an agenda for each (~~(open public)~~) regular business meeting. The commission will make its best effort to compile and publish a complete agenda (~~(, but)~~). It may amend its agenda after it is published (~~(,)~~) and may take up matters that do not appear on its published agenda. The agenda (~~(is)~~) and any addendum are posted to the commission's internet site (~~(at www.wute.wa.gov. Persons without internet access capability may request the commission records center to)~~). The commission will provide a copy of the agenda via U.S. mail on request.

(a) **"Discussion" agenda.** (~~(In general, the agenda will identify each item scheduled for discussion and action, as relating to utility regulation under Title 80 RCW; as relating to transportation regulation under Title 81 RCW; or "other." The secretary will group similarly identified items together on the agenda.)~~) The discussion agenda includes items that are scheduled for discussion and action by the commissioners. This part of the agenda is further divided into "utilities" and "transportation" sections.

(b) **"No action" agenda.** (~~(Any request, proposal, or other filing that can take effect without commission action may be placed on a "no action required" portion of the agenda.)~~) The no-action agenda includes items that appear to be noncontroversial and, by law, may take effect without action by the commission. Any item on (~~(this portion of the agenda)~~) the no-action agenda will be (~~(discussed)~~) moved to the discussion agenda at the request of any commissioner (~~(,s request, and)~~). The commission may take such action on the item as it deems appropriate.

(c) **"Consent" agenda.** The (~~(secretary may place any item that the secretary believes to be noncontroversial on a "consent agenda" portion of the open meeting agenda. The commission will ask at the meeting if any person wants to address any)~~) consent agenda includes items that appear to be noncontroversial and, by law, require action by the commission to take effect. Any item on the consent agenda (~~(item, and an item)~~) will be (~~(removed from the consent agenda for individual discussion and action)~~) moved to the discussion agenda at the request of any commissioner. (~~(Items on the consent agenda may be collectively moved for approval)~~) The commission will act on the items on the

consent agenda by a single motion and ((may be collectively approved by)) a single vote of the commission.

(5) **Deadlines and schedules.**

(a) The commission generally schedules items for consideration at the last regular business meeting before the item would take effect by law. The commission generally schedules items without a stated effective date, such as petitions, for consideration thirty days after filing.

(b) If a company makes a filing and requests action by the commission before the statutory or required notice period is complete, the commission will schedule consideration of the request at its next regular business meeting, if the request is filed and complete at least five business days before the meeting. Items filed less than five business days before a meeting will generally be scheduled for the second business meeting after the filing.

(c) The commission will publish the agenda for each regular business meeting two business days before the meeting.

(d) The commission may publish an addendum to the agenda prior to the beginning of the meeting.

(6) **Staff contact.** ((A commission)) For each item on the discussion agenda, the commission designates a staff member who is ((ordinarily)) assigned to analyze and((, if appropriate,)) present ((each open meeting item)) a recommendation to the commission at the open meeting. The staff person and a contact number are identified in the ((draft)) agenda. Persons interested in open meeting agenda items may discuss them with staff, subject to time availability. ((Any person interested in an item on the open meeting agenda may address the item during the meeting.

((6)) (7) **Public comment.** The commission will provide an opportunity at the beginning of each business meeting for members of the public to request that items on the consent or no-action sections of the agenda be moved to the discussion section. The commission will provide an opportunity for public comment on each discussion agenda item before taking action on that item.

(8) **Orders.** The commission may direct the secretary to enter any order or sign any document necessary to implement an open meeting decision by the commissioners.

((7)) (9) **Modifications.** The commission may exercise its discretion to modify the procedures in this section when appropriate to the conduct of its business.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-910 Informal complaints. (1) **How to make an informal complaint.** Any person may make an informal complaint to the commission about any business that the commission regulates. A person may make an informal complaint by telephone, correspondence, ~~((facsimile))~~ fax transmission, ((~~or~~ electronic mail)) e-mail, or by using the complaint form available on the commission's web site.

(2) **Contents.** An informal complaint must identify the business or person to whom the complaint pertains. An informal complaint should:

(a) Present all facts that are needed for the commission to understand the nature of, and reason(s) for, the complaint;

(b) Describe the acts or omissions that led to the complaint, with all relevant dates;

(c) Cite all relevant statutes or rules, if the person who files the complaint knows them.

(3) **Commission response; result.** Commission employees assigned to assist consumers may discuss an informal complaint with the affected persons, by correspondence or otherwise. ~~((The commission will try to assist the parties to resolve the informal complaint by agreement without the need for a formal complaint, hearing, and order.))~~ The commission will investigate to determine if there are violations of any applicable rule or law and if so, will work with the parties to ensure compliance. The commission encourages the informal resolution of disputes whenever possible. An informal complaint will not result in a hearing or in an order that compels a person to do something or forbids a person from doing something.

(4) ~~((Conversion of))~~ **Uniform Mediation Act not applicable.** The Uniform Mediation Act (chapter 172, Laws of 2005, codified as chapter 7.07 RCW) does not apply to the commission's informal complaint resolution process.

(5) **Filing of formal complaint regarding subject of informal complaint ((to formal complaint)).** Making an informal complaint does not prevent any party from filing a formal complaint ~~((, which may constitute an application for an adjudicative proceeding))~~. The commission may initiate a formal complaint proceeding on its own initiative. The commission will stop processing an informal complaint when a person filing an informal complaint files a formal complaint.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-930 Declaratory orders under RCW 34.05.240.

(1) **Petition.** Any interested person may petition the commission for a declaratory order with respect to the applicability to specified circumstances of a rule, order, or statute enforceable by the commission, as provided by RCW 34.05.240.

(a) **Format.** Petitions for declaratory orders under RCW 34.05.240 must conform in style and substance to the requirements for other forms of adjudicative pleading as specified in Part III, subpart A of this chapter.

(b) **Relationship with adjudications.** The commission will dismiss a petition for declaratory order when issues in the petition are at issue in a pending adjudication. The commission will reject a single pleading that seeks a declaratory order or, in the alternative, an adjudicative order. The filing party must choose which process it deems appropriate.

(2) **Notice.** The commission will give notice of any petition for declaratory order within fifteen days after the commission receives the petition. The notice will be served on all persons who are required by law to be given notice and on any other person to whom the commission deems notice to be desirable.

(3) **Response.** Any person may respond to a petition for declaratory order by filing an answer within twenty days after the petition is filed or at such other time as the commission may establish by notice. The commission will not enter a declaratory order under RCW 34.05.240 if any person asserts in response to a petition for declaratory order filed pursuant to RCW 34.05.240 that their rights might be substantially prejudiced by entry of a declaratory order, supports such assertion by sworn affidavit demonstrating the potential for substantial prejudice, and does not consent in writing to the determination of the matter by a declaratory order proceeding under RCW 34.05.240.

(4) **Conversion of proceeding.** The commission may convert the form of a declaratory order proceeding as provided under RCW 34.05.070 and conduct the matter as an adjudicative proceeding under Part III, subpart A of this chapter.

(5) **Commission action on petition.** Within thirty days after it receives a petition for declaratory order, the commission will:

(a) Enter a declaratory order;

(b) Notify the petitioner that the commission will not enter a declaratory order under RCW 34.05.240, and state reasons for its action;

(c) Set a specified time, no later than ninety days after the day the petition was filed, by which the commission will enter a declaratory order; or

(d) Set a reasonable time and place for a hearing. If a hearing is held on a petition for declaratory order under RCW 34.05.240, it must be held no more than ninety days after receipt of the petition. If a hearing is held, the commission will give at least seven days' notice to the petitioner, to all persons to whom notice is required by law, and to any other person it deems desirable. The notice will include the time, place, and a statement of the issues involved.

(6) **Extension of time.** The commission may for good cause extend the times specified in subsection (5)(c) and (d) of this section.

(7) **Commission action after hearing.** If a hearing is held as provided in subsection (5)(d) of this section, the commission will within a reasonable time:

(a) Enter a declaratory order; or

(b) Notify the petitioner that the commission will not enter a declaratory order and state the reasons for its action.

(8) **Service.** The commission will serve its order or notice upon all persons who are required to receive notice under subsection (2) of this section.