

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Rulemaking to  
Consider Possible Corrections and  
Changes in Rules in WAC 480-07,  
Relating to Procedural Rules

DOCKET NO. A-130355

**Comments of the Energy Project**

May 17, 2013

The Energy Project appreciates the opportunity to file these comments in response to the Washington Utilities and Transportation Commission's March 22, 2013, *Notice of Opportunity to File Written Comments* regarding possible corrections and changes in in the Commission's procedural rules. This particular rulemaking notice identifies a broad range of topics for stakeholders to comment on. The Energy Project will be providing only limited comments at this time, but reserves the right to comment further or on matters not discussed below at the hearing on July 2, 2013. The Energy Project offers comments in three areas: filing of documents, settlement procedures, and the designation of confidential information.

## **I. Filing of Documents**

It has long been the standard for the various processes at the Commission to require filing substantial numbers of documents and often in multiple copies. Over the last decade or so, this has been gradually, but increasingly, accompanied by the distribution of electronic versions of the documents. More recently, the Commission has allowed participants to indicate that they prefer receiving electronic versions instead of paper. Being a small concern, the Energy Project commonly requests that we receive only electronic versions for the proceedings we are engaged in, while our attorney generally prefers paper copies. Yet, the Energy Project still receives copious amounts of duplicate materials that immediately get recycled. This is an unnecessary waste of paper and postage. The simplest way to fix it seems to us to simply reverse the priorities. The norm should be that any party to a case gets electronic copies of documents unless they have requested paper copies.

## **II. Settlement Procedures**

The Energy Project remains concerned about the manner in which settlements are conducted. Changes to 480-07-700 (3) that were instituted in 2006 provide much greater certainty that all parties will be given the opportunity to participate. The Commission regularly sets a date for an initial settlement discussion. Section (3)(b), however, allows parties to initiate an earlier discussion between the date of filing and the initial prehearing conference, so long as they notice other parties of the opportunity to participate. We assume this is to prevent a settlement being achieved before the parties who are not automatically involved in the case establish

intervener status and participate in discussions or negotiations that could have profound affect on them. We find the insertion of the phrase “if otherwise required” unclear and believe it introduces ambiguity as to whether noticing is required. Furthermore, it appears to us that such noticing is not necessarily required if the parties broaching settlement undertake negotiation after the prehearing conference but before the Commission established initial settlement conference. We believe the same noticing requirements and opportunity to participate should be required if a party wishes to initiate settlement discussions at any time before the Commission established initial settlement date.

We would also underscore the importance 4890-07-700 (4) (d) requiring participants to advise other non-participating parties regarding “substantial progress”. It is unclear how this applies to another settlement process that is not the Commission initiated settlement process. What establishes that a particular process is “commission-sanctioned”? We feel strongly that any settlement discussions the company is engaged in should have to meet such a requirement, beginning with notice that such a discussion is going on and identifying the participating parties.

### **III. Confidentiality**

The Energy Project recognizes the need for certain types of information to be designated as confidential and to be handled with due regard. We have signed agreements to respect both “confidential” and “highly confidential” materials in adjudicated proceedings. However, as other commenters (Sierra Club, James

Adcock) have already noted, the integrated resource planning (IRP) activities also require the consideration of options that the advisory committee participants or the general public cannot fairly evaluate without access to complete cost information. We believe IRPs are intended to be long term, least cost planning. In order for that to work, the total cost of the various options over a time period of suitable length must be considered. To go a step further, if a utility's issuance of RFPs, selection of contractors, or other ultimate cost allocations are later to be judged for prudence, it seems to us that the IRP process should be afforded some more formal status, including a means for parties other than the company to evaluate the options that the company would like to keep confidential.