**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

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| In the Matter of the Rule-Making to Consider Possible Corrections and Changes in Rules In Chapter 480-07 WAC, Relating to Procedural Rules. (CR-102) | DOCKET NO. A-050802 |

**Supplemental CR 102**

**COMMENTS OF THE ENERGY PROJECT ON PROPOSED SUPPLEMENTAL RULES REGARDING SETTLEMENT PROCEDURES**

**Submitted by: Charles Eberdt, Director**
**The Energy Project**

## I. INTRODUCTION

These comments are in response to the July 5th e-mail from Administrative Law Judge Ann Rendahl. We were unable to attend the June 28 hearing concerning these rules, and it is unlikely we will be able to attend the July 12 hearing. Despite our inability to participate in person at this time the settlement rules are very important to us so we are submitting these comments, albeit somewhat late.

## II. ADDITIONAL COMMENTS REGARDING PROPOSED WAC 480-07-700(3)

While we appreciate the effort the Commission has put into this discussion for the last year and a half, we feel that the current edited version of this rule misses the point. We became involved in this discussion because it became apparent that the imbalance of access and weight of influence enjoyed by the Commission staff in rate case negotiations functioned to preclude The Energy Project from participating in negotiations with utilities in a meaningful way.

We strongly believe the language added to the draft of WAC 480-07-700 to allow "early initial settlement conferences" essentially functions to perpetuate this exact problem. It effectively reestablishes the conditions that applied when this whole discussion began, with a minor and unsatisfactory modification requiring minimal notice. Rate cases are not the sole concern of The Energy Projects activities. We do not have the resources or staff to immediately begin analyzing a utility's proposal as soon as they file a rate case. We have to consult several different agencies that we represent in these cases. They operate on different timelines and reach decisions differently. Typically, we have not determined whether to be involved in a rate case until immediately prior to the prehearing conference at which intervener status is established.

As we read the current draft, we would not be notified or invited to attend any "early initial settlement conference." Our realm of interest and expertise in these matters is fairly limited. For the most part, our interests are not at the high end of the Commission staff's priority list. They are very much in the public interest, however, and should not be fenced out of the discussion in this way. We believe the best resolution is to establish the initial settlement conference at the prehearing conference when interveners and the procedural schedule are determined. If an "early initial settlement conference" is truly needed, however, we believe notice should be provided to any entity that has been a party in the last two rate cases and/or other dockets concerning the utility. This will still exclude individuals or organizations that have not been engaged previously, but it is at least more inclusive than the current draft language.

**III. CONCLUSION**

In our experience, settlement discussions that include all interested parties are much more likely to resolve differences and achieve at least some of the efficiencies alternate dispute resolution processes offer. This Commission has overseen a number of these. That guiding hand is greatly appreciated. It is essential, however, that such guidance be institutionalized in rule so that future proceedings do not revert to past practices. For this reason we commend the

Commission's efforts on WAC 480-07-700. Nevertheless, it is essential that the final rule be modified to be more inclusive of interested, or potentially interested, parties.