

**BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Amending and Adopting: ) DOCKET A-050802  
)  
) GENERAL ORDER R-536  
Chapter 480-07 WAC, )  
) ORDER AMENDING AND  
The Commission’s procedural rules. ) ADOPTING RULES  
) PERMANENTLY  
..... )

1 **STATUTORY OR OTHER AUTHORITY:** The Washington Utilities and Transportation Commission (Commission) takes this action under Notice WSR #06-08-058, filed with the Code Reviser on March 31, 2006. The Commission brings this proceeding pursuant to RCW 80.01.040 and RCW 80.04.160.

2 **STATEMENT OF COMPLIANCE:** This proceeding complies with the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

3 **DATE OF ADOPTION:** The Commission adopts this rule on the date that this Order is entered.

4 **CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE:** RCW 34.05.325(6) requires the Commission to prepare and provide to commenters a concise explanatory statement about an adopted rule. The statement must identify the Commission’s reasons for adopting the rule, a description of the differences between the version of the proposed rules published in the register and the rules adopted (other than editing changes), a summary of the comments received regarding the proposed rule changes, and the Commission’s responses to the comments reflecting the Commission’s consideration of them.

5 In this docket, to avoid unnecessary duplication, the Commission designates the discussion in this Order, including appendices, as its concise explanatory statement, supplemented where not inconsistent by the staff memoranda preceding the filing of

the CR-102 proposal and the adoption hearing. Together, the documents provide a complete but concise explanation of the agency actions and its reasons for taking those actions.

- 6 **REFERENCE TO AFFECTED RULES:** This Order amends the following sections of the Washington Administrative Code:

WAC 480-07-110, WAC 480-07-125, WAC 480-07-140, WAC 480-07-141, WAC 480-07-143, WAC 480-07-145, WAC 480-07-150, WAC 480-07-160, WAC 480-07-220, WAC 480-07-340, WAC 480-07-360, WAC 480-07-380, WAC 480-07-395, WAC 480-07-400, WAC 480-07-405, WAC 480-07-423, WAC 480-07-460, WAC 480-07-470, WAC 480-07-510, WAC 480-07-520, WAC 480-07-620, WAC 480-07-650, WAC 480-07-700, WAC 480-07-710, WAC 480-07-730, WAC 480-07-750, WAC 480-07-883, WAC 480-07-900, WAC 480-07-910, WAC 480-07-930.

- 7 **PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS**

**THEREUNDER:** The Commission repealed and replaced its former procedural rules, chapter 480-09, on January 1, 2004, and adopted new chapter 480-07—Procedural Rules to be effective on that same date. After the new rules became effective, Commission staff and persons who conduct business before the Commission periodically identified and suggested discrete changes to certain rules and the possible need for new rules that could ease compliance and promote efficiency in conducting business before the Commission. The Commission filed a Preproposal Statement of Inquiry (CR-101) on July 15, 2005, at WSR # 05-15-091.

- 8 The Commission's statement of inquiry advised that its review of chapter 480-07 WAC would examine the need to reorganize, revise, repeal, and/or adopt rules governing the conduct of business before the Commission, including rules governing formal proceedings. The Commission also informed persons of the inquiry into this matter by providing notice of the subject and the CR-101 to all persons on the Commission's list of persons requesting such information pursuant to RCW 34.05.320(3) and by providing notice to all regulated companies and the Commission's lists of regulatory attorneys. The Commission posted the relevant rulemaking information on its Internet web site at <http://www.wutc.wa.gov>.

9 The Commission provided to the regulated community formal and informal opportunities for written and oral comments over a period of approximately eight months. The Commission received written comments, held rulemaking workshops, and met informally with groups of counsel and other representatives who appear regularly before the Commission to discuss issues related to process and procedure. A diverse group of regulated companies and consumer advocacy organizations attended one or more of the workshops and informal meetings, and/or filed written comments.

10 **WRITTEN COMMENTS; MEETINGS OR WORKSHOPS; ORAL COMMENTS;:** The Commission received written comments during the inquiry phase, principally on August 26, 2005, from the Public Counsel Section of the Attorney General's Office (Public Counsel), Puget Sound Energy, Inc. (PSE), Industrial Customers of Northwest Utilities (ICNU), Qwest Corporation (Qwest), PacifiCorp, Northwest Industrial Gas Users (NWIGU), and Washington Electronic Business and Telecommunications Coalition (WeBTEC). Summaries of the written comments and Commission responses are contained in Appendix A, attached to, and made part of, this Order.

11 The Commission held a rulemaking workshop on November 10, 2005. In addition, Staff met informally to discuss issues related to process and procedure before the Commission with groups of counsel and others who appear regularly before the Commission. Representatives of a diverse group of regulated companies and several consumer advocacy organizations attended one or more of the workshops and informal meetings.

12 **NOTICE OF PROPOSED RULEMAKING:** The Commission filed a notice of Proposed Rulemaking (CR-102) on March 31, 2006, at WSR #06-08-058. The Commission scheduled this matter for oral comment and adoption under Notice WSR #06-08-058 at 1:30 p.m., Thursday, May 18, 2006, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington. The Notice provided interested persons the opportunity to submit written comments to the Commission by May 4, 2006.

- 13 On May 11, 2006, the Commission filed a Supplemental CR-102 at WSR # 06-11-047 and gave notice of an opportunity to submit written comments on the supplemental proposal by June 19, 2006. The Commission also gave notice at WSR # 06-11-047 cancelling the previously noticed adoption hearing and setting a rescheduled adoption hearing for Wednesday, June 28, 2006, at 1:30 p.m., in the location previously indicated.
- 14 **COMMENTERS (WRITTEN COMMENTS):** The Commission received written comments on the proposed rules from Public Counsel, Avista Corporation d/b/a Avista Utilities (Avista), PSE, Qwest, ICNU, Northwest Energy Coalition (NVEC), PacifiCorp, NWIGU, WeBTEC, Citizens Utility Alliance of Washington (CUA), BNSF Railway, Union Pacific Railroad Company, Verizon Northwest, Inc. (Verizon), Washington Independent Telephone Association (WITA), XO Communications Services, Inc. (XO), Embarq, and The Energy Project. Summaries of the written comments and Commission responses are contained in Appendix A, attached to, and made part of, this Order.
- 15 **RULEMAKING HEARING:** The Commission considered the rule proposal for adoption, pursuant to the Notice, at a rulemaking hearing on June 28, 2006, before Chairman Mark Sidran and Commissioner Patrick J. Oshie. The Commission heard oral comments from: Simon ffitch for Public Counsel, Richard Finnigan on behalf of various unspecified clients, Lisa Anderl for Qwest, Tim O'Connell for Verizon, Kirsten Dodge for PSE, and Glenn Blackmon on behalf of the Commission's regulatory staff.
- 16 The Commission continued the rulemaking hearing until July 12, 2006, to provide an opportunity for additional comments. The Commission received written comments prior to July 12, 2006, from Public Counsel, WITA, Commission Staff, PacifiCorp, NVEC, Verizon, The Energy Project, and Qwest. The Commission heard oral comments from Simon ffitch for Public Counsel and Ronald Roseman for The Energy Project.

- 17 **SUGGESTIONS FOR CHANGE ACCEPTED OR REJECTED:** Filed comments and oral comments suggested changes to the proposed rules. Each of those suggested changes and the Commission's reason for rejecting or accepting the suggested changes are included in Appendix A.
- 18 **COMMISSION ACTION:** After considering all of the information regarding this proposal, the Commission finds and concludes that it should amend, repeal, and adopt the rules in the CR-102 Notice at WSR #06-08-058 and the supplemental CR-102 Notice at WSR # 06-11-047 with the changes described below.
- 19 **CHANGES FROM PROPOSAL:** After reviewing the entire record, the Commission adopts the CR-102 proposal with the following changes from the text noticed at WSR #06-08-058 and WSR # 06-11-047:

**WAC 480-07-125 Physical address; telephone; (~~faesimile;~~) fax; web portal; e-mail; internet.**

This section was changed by removing a reference to a rule that does not exist ,and to clarify the web site for the Commission's web portal, which provides an additional means by which the Commission can be contacted and documents can be submitted.

**WAC 480-07-140 Communicating with the commission.**

This section was changed by updating cross-references to another rule and by making minor editorial changes. In response to stakeholder comments the Commission further clarified the rule by adding subsection (6)(b)(i), which identifies certain types of documents to which the rule, as proposed, was not meant to apply. The amended language also makes clear that a party may ask the Commission for relief when the party cannot submit documents in a preferred electronic file format.

**WAC 480-07-160 Confidential information**

This section was modified by making minor editorial changes.

**WAC 480-07-405 Discovery—Data requests, record requisitions, and bench requests**

This section was modified by making minor editorial changes.

**WAC 480-07-510 General rate proceedings--Electric, natural gas, pipeline, and telecommunications companies.**

The Commission made minor editorial changes and several clarifying changes, as follows:

- The rule makes clear that parties can request the Commission to change the number of copies they are required to file in a proceeding.
- The rule clarifies that all filed materials must be submitted in an electronic format consistent with WAC 480-07-140(6).
- The rule clarifies that those who may be intervenors in any proceeding as a matter of right (i.e., Staff and Public Counsel) will be treated identically insofar as submission and filing requirements are concerned.
- Extending to five days the time available for filing work papers when subsequent rounds of testimony are filed.
- Clarifying that voluminous documents referred to in a filing need not be included in the filing but must be clearly identified and must be provided if requested.

**WAC 480-07-620 Emergency adjudicative proceedings. (1) When permitted.**

This rule is modified to include the agency's Executive Director as a person to whom the Commission can delegate responsibility for authorizing complaints and by clarifying that the power to authorize complaints under specified circumstances is delegated to all administrative law judges.

**WAC 480-07-650 Petitions for enforcement of telecommunications company interconnection agreements.**

The Commission added a statutory reference to subsection (4)(d) to clarify the legal basis for considering a petition for enforcement as a formal complaint proceeding .

**WAC 480-07-700 Alternative dispute resolution.**

The first sentence of the proposal in WAC 480-07-700(3) is modified to define rather than describe a “settlement conference.” The second sentence of the proposal is modified to clarify that a settlement conference does not include parties inquiring whether another party is willing to negotiate resolution of disputed issue. The Commission also added the words “or communications” and replaced the word “define” with “identify” to make the sentence more clear.

The Commission removed language from subsection 700(3)(a) that provided that any party may participate in an initial settlement conference and that no party is required to attend. This language, modified to allow “any party and any person who has filed a petition to intervene” to participate in “any initial or early initial settlement conference” is included after the last sentence in 700(3). We also include a sentence providing that “[a]n intervenor’s participation in a settlement conference is limited to the interests supporting its intervention,” unless other parties agree. These changes are intended to provide guidance for participation in both initial and early initial settlement conferences, rather than just initial settlement conferences.

The Commission modified language in subsection 700(3)(b) to more clearly identify the requirements for an early initial settlement conference. The Commission modified this subsection to reflect that a party proposing an early initial settlement conference (*i.e.*, a settlement conference after the filing of the docket and before the prehearing conference) must meet certain requirements. The party proposing the conference must provide ten, not fourteen, days notice of the conference to the Commission, public counsel, any party, any person filing a

petition to intervene, or any person who was a party in the last, most recent, similar proceeding. If notice to customers is required, the party proposing settlement must also indicate in the notice than an early initial settlement conference may be scheduled. The changes more clearly state the requirements for an early initial settlement conference than the supplemental CR-102 proposal.

20 **STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE:** In reviewing the entire record, the Commission determines that WAC sections 480-07-110, 480-07-125, 480-07-140, 480-07-141, 480-07-143, 480-07-145, 480-07-150, 480-07-160, 480-07-220, 480-07-340, 480-07-360, 480-07-380, 480-07-395, 480-07-400, 480-07-405, 480-07-423, 480-07-460, 480-07-470, 480-07-510, 480-07-520, 480-07-620, 480-07-650, 480-07-700, 480-07-710, 480-07-730, 480-07-750, 480-07-883, 480-07-900, 480-07-910, and 480-07-930 should be amended to read as set forth in Appendix B, as rules of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the Code Reviser.

### ORDER

21 **THE COMMISSION ORDERS:** WAC 480-07-110, WAC 480-07-125, WAC 480-07-140, WAC 480-07-141, WAC 480-07-143, WAC 480-07-145, WAC 480-07-150, WAC 480-07-160, WAC 480-07-220, WAC 480-07-340, WAC 480-07-360, WAC 480-07-380, WAC 480-07-395, WAC 480-07-400, WAC 480-07-405, WAC 480-07-423, WAC 480-07-460, WAC 480-07-470, WAC 480-07-510, WAC 480-07-520, WAC 480-07-620, WAC 480-07-650, WAC 480-07-700, WAC 480-07-710, WAC 480-07-730, WAC 480-07-750, WAC 480-07-883, WAC 480-07-900, WAC 480-07-910, and WAC 480-07-930 are amended to read as set forth in Appendix B, as rules of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the Code Reviser.



22 This Order and the rules set out below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the Code Reviser for filing pursuant to chapters 80.01 and 34.05 RCW and chapter 1-21 WAC.

DATED and effective at Olympia, Washington on July 26, 2006.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner

*Note: The following is added at Code Reviser request for statistical purposes:*

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 30, repealed 0; Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

**APPENDIX A**  
**SUMMARY OF WRITTEN COMMENTS AND**  
**COMMISSION RESPONSES**

**APPENDIX B**  
**REVISED CHAPTER 48-07 WAC**