

**Docket A-050802**  
**Procedural Rules Comment Matrix**

<i>Rule section</i>	<i>Provision</i>	<i>Commenter</i>	<i>Comment</i>	<i>Response</i>
480-07-140(6)(b)	Requires electronic copies of documents. Sets standards for electronic document format	PSE; Qwest supports PSE; Avista	Oppose mandatory standards for electronic document format; prefers current rule stating only a preference. Cites difficulty in obtaining some documents in electronic format. Cites burden of seeking frequent waivers. Cites problems in providing original files when documents are mixed (as with insertion of an Excel file in a Word document)	<b>Accept in part.</b> Some documents should be exempted from the requirement. These include published, copyrighted material and voluminous material not produced by or for the company or a witness when the required copy is unobtainable. Few exceptions should be allowed for material created by or for a witness, a party, or an attorney. Lack of this material can be extremely burdensome on other parties and on the commission in reviewing and deciding issues. Mixed files need not be provided in separate original files, as long as the provided document contains the needed information. As PSE notes, waivers are available.
480-07-145(6)	Filing deadlines; requires paper copy of documents	Verizon	Asks authority for electronic filing. Opposes “arbitrary” early deadlines for electronic copies when filing date extended.	<b>Reject.</b> The commission is expanding its capability to deal with electronic documents, but to date does not have the infrastructure to manage rate case filings in electronic format. Early filing deadlines allow time for commission staff to print copies of the documents for staff who need them.
480-07-150	Requires a party to designate one person to receive service of representative’s and party’s documents	Verizon	Asks multiple recipients of service, to allow staff and others to receive copies of documents.	<b>Reject.</b> This provision relates only to <u>service</u> of documents, the legal requirement, to reduce confusion and cost. It does not relate to the exchange of documents – prehearing orders now collect information permitting easy exchange of electronic documents.
480-07-310	Defines and bars <i>ex parte</i> communication between deciders and	Public Counsel; WEBTeC	Proposes to define and restrict communications between commission staff	<b>Reject.</b> Such communications do not fall within the customary definition of

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	others	supports.	and other parties about settlement, outside the presence of all parties, as <i>ex parte</i> .	<i>ex parte</i> . The provisions are not shown to be necessary to support any barrier to settlement talks before a plenary discussion.
480-07-340(1)	Defines parties and other categories of persons that may receive notices or information about pending dockets	Verizon	Supports proposal as useful.	We appreciate Verizon's comments.
480-07-395	Requires tables of authorities and outline-style tables of contents in briefs	Verizon	Objects to requirements as unnecessary and burdensome in short documents; need to obtain waivers burdensome. Proposes limitation to briefs over 10 pages.	<b>Reject.</b> Tables of contents and authorities are very helpful in all but the smallest briefs, and number of pages does not necessarily define the number of citations or the complexity of the argument. Waiver is available.
480-07-400(3)	Deletes the requirement of certification of discovery requests by counsel for requesting party	Verizon	Objects to proposed deletion and substitution of language in later subsection. Existing language merely restates provisions of CR 26.	<b>Reject.</b> This change was made to facilitate electronic service of data requests and answers, which all appear to support. Signatures are not feasible yet for electronic documents.
480-07-510	GRC filing requirements	Public Counsel, WeBTEC	<p>Move requirement to serve Public Counsel to the rule's opening paragraph so parties know to serve the entire filing on Public Counsel.</p> <p>Move requirement of an electronic copy of the filing from subsection (1) to the opening general paragraph to clarify that the entire filing must be submitted electronically.</p> <p>Clearly identify items not included in the work papers because they are too large.</p> <p>Require the company to provide tariff sheets containing any definitions and any sheets referenced by filed tariffs.</p>	<p><b>Accept.</b> The rule should be modified to clarify that Public Counsel should receive a full packet at filing of a general rate case and that an electronic copy is required of all material at the time of a GRC filing.</p> <p><b>Accept.</b> The company should clearly identify excluded voluminous material and provide copies of related tariff sheets.</p>

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480-07-510(3)	Requires work papers to accompany tariff filing and later testimony and exhibits	Staff, PSE	<b>Staff</b> asks that work papers not be required at filing in later rounds, to allow concentration on filing, but that a grace period be allowed for electronic exchange of work papers. <b>PSE</b> supports a 5-day delay after original filing.	<b>Accept.</b> A 5-day delay for subsequent filings seems warranted.
480-07-620(2)	Allows one commissioner, the executive secretary or director or any ALJ to sign complaints for emergency adjudications	Verizon	Defer to delegation rulemaking.	<b>Reject.</b> The topic could be addressed exclusively in the delegation rulemaking; the topic is also appropriate in this rule.
480-07-650(4)(d)	Allows the commission to convert an enforcement petition to a complaint when the scope exceeds limits of petition process	Verizon	Suggests adding statutory citation for a complaint proceeding, for clarity.	<b>Accept.</b>
480-07-650(1)	Limits time span of notice of pet. for enforcement of ICA.	Verizon	Supports	We appreciate Verizon's comments.
480-07-700 (Supp CR-102 proposal)	Multiparty settlement	Verizon	Proposes language to require multiparty settlers to offer settlement to non-settling parties	Does not seem to be an issue. No cases apparent where settling parties excluded; non-settlers always may accept someone else's proposal.
480-07-700 (Supp CR-102 proposal)	Settlement rule	NWEC	Supports as a constructive step.	We appreciate NWEC's comments.
480-07-700 (Supp CR-102 proposal)		Public Counsel	Supports strongly. 1) Amend: identify rather than define whether a dispute exists. 2) Clarify "parties" for early initial conf. 3) Public Counsel, supported by NWEC and the Energy Project, requests the Commission revise WAC 480-07-700(3)(b) to require notice of early initial settlement conferences to	1) Amend "identify" rather than define whether dispute exists. 2) Refine language relating to party for purposes of notice (PC and WITA) 3) The language concerning notice of early initial settlement conferences is modified to address this concern.

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			<p>all parties to the last rate case , in addition to those who have filed a petition to intervene. Public Counsel states parties may only learn of a proceeding because of a notice of prehearing conference. Public Counsel asserts that potential parties with legitimate interests at stake may not otherwise become aware of the early initial settlement conference.</p> <p>(4) Mr. ffitch expressed at hearing his concern about the proposed language in WAC 480-07-700(3)(b) relating to providing notice of early initial settlement conferences. Mr. ffitch stated concerns that persons who may want to be involved in an early initial settlement conference may not have notice of a filing, may not have filed a petition to intervene, and may not file one until just prior to the prehearing conference. Mr. ffitch suggested modifying the proposed rule to require the party initiating an early initial settlement conference to also notify persons involved in the last rate case and require these persons to file a petition to intervene prior to the early initial settlement conference. Mr. ffitch stated that even if the prior case was dated, notice to those who participated would be better than no notice at all.</p>	<p>(4) The Commission agrees it is appropriate to modify the proposed rule to ensure notice to all possible interested persons by providing notice to persons who were parties in the most recent similar proceeding involving the same filing party.</p>

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480-07-700 (Supp CR-102 proposal)	Settlement rule	Qwest	Opposes changes proposed via supplemental CR-102, supports PSE comments in opposition  Supports version of rules circulated on July 5, 2006.	The changes proposed in the Supplemental CR-102 together with the changes we adopt in this order address valid concerns about notice of and participation in settlement conferences. The language we adopt in this order also addresses concerns Qwest has raised.
480-07-700 (Supp CR-102 proposal)	Settlement Rule  Settlement conference defined	PacifiCorp	Opposes changes proposed via supplemental CR-102  Too broadly defined. Goes beyond prior comments (aimed at staff).  Little practical effect except at early stages.	The changes proposed in the Supplemental CR-102 together with the changes we adopt in this order address valid concerns about notice of and participation in settlement conferences.
480-07-700 (Supp CR-102 proposal)		ICNU	1) Supports, with reservations.  2) Concerned about apparent gap between prehearing conference and initial settlement conference. Rule should clearly close the door.	1) We appreciate ICNU's comments.  2) There is no gap – at the prehearing conference, parties can set a settlement conference for any time they wish.
480-07-700 (Supp CR-102 proposal)		R. Finnigan	1) Fears settlement discussions re small co's will be harmed. No need to involve public counsel because PC does not participate in those cases.  2) Prior customer intervenors are a concern – should they be included?	1) Limit notice requirement for public counsel participation. PC merely needs to be invited, not required to participate, and can be excused from notice if they won't appear.  2) Prior intervenors should be included in notice, but should be required to seek intervention to participate.
480-07-700 (Supp CR-102 proposal)		PSE	1) Generally opposes settlement amendments as unneeded and unwise.	1) The changes proposed in the Supplemental CR-102 together with the changes we adopt in this order address valid concerns about notice of and participation in settlement conferences.

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			<p>2) Limit intervenor participation to issues involving the interests that supported their intervention.</p> <p>3) Exclude discussions between staff auditors and company staff because many small issues get resolved then.</p>	<p>2) <b>Accepted</b> as a reasonable limitation.</p> <p>3) <b>Rejected</b> as impractical to enforce.</p>
480-07-700 (Supp CR-102 proposal)		Commission Regulatory Staff	<p>1) Expresses support for the July 5 suggested change to include the words “initial or early initial” in 700(3).</p> <p>2) Staff also suggests language to clarify the time period within which the provisions of 700(3)(b) apply. While adjudication may not begin until the Commission suspends a matter at an open meeting or issues a notice of hearing, we provide for early initial settlement conferences to address concerns raised by stakeholders in this proceeding.</p> <p>3) Staff also suggests we eliminate the customer notice provision, asserting this will have little practical effect. Similar to Staff’s clarifications to 700(3), we include the provision to address stakeholder concerns.</p>	<p>1) We appreciate Staff’s comments.</p> <p>2) <b>Reject.</b> Staff’s proposed language as it would eliminate the need to address early initial settlement conferences. The language we adopt in this order to allow early initial settlement conferences addresses valid concerns about notice and participation in settlement conferences.</p> <p>3) <b>Reject.</b> The customer notice provision will have some effect in smaller cases where customers have actually participated.</p>
480-07-700(3) (Supp CR-102 proposal)	Early initial conference	Qwest	Pre-conference barrier would allow one party to hold others hostage.	There is no barrier. A party wanting to start negotiations with another need merely

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				provides the notice.
480-07-700(3) (Supp CR-102 proposal)	Early initial conference	PacifiCorp	<p>1) Settlement discussions this early are so seldom that there is little use.</p> <p>2) “Discussions” not defined – is it not a conference?</p> <p>3) 14 days' notice is burdensome and would exclude some participants</p> <p>4)PacifiCorp proposes minor edits, including deleting the word “discussions” in the second sentence of 700(3), and replacing the word “entity” with “party or person” in 700(3)(b) to be consistent with the language in 700(3).</p>	<p>1) The language we adopt in this order addresses valid concerns about notice of and participation in settlement conferences.</p> <p>2) <b>Accept.</b> We will amend to use the term “conference.”</p> <p>3) <b>Accept.</b> We will revise the language to allow ten days' notice.</p> <p>4) These suggested edits are appropriate and are adopted.</p>
480-07-700(3) (Supp CR-102 proposal)	Settlement conference defined: “communications intended to resolve disputes”	WITA	Settlement conference is too broadly defined. Bars finding out whether a subject is negotiable.	The proposed topic seems proper – it is not a communication that is intended to resolve a dispute, but only to determine whether the subject should be addressed. Clarifications appropriate.
480-07-700(3) (Supp CR-102 proposal)	Requires notice of initial settlement agreement	Verizon NW	Opposes. (3) as overly formulaic and would prevent inquiries	<b>Reject in part.</b> The language should not prevent inquiries. Clarification appropriate.
480-07-700(3)(b) (Supp CR-102 proposal)	Early initial settlement conference	Verizon NW	<p>Opposes. Requires too many participants, too much notice, too much precision</p> <p>In addition to editorial proposals, WITA recommends the rule provide that an early initial settlement conference may be rescheduled on less than</p>	<p><b>Reject, in part.</b> Only notice is required. Clarified to make clear that participation is voluntary.</p> <p>The additional language is not necessary. The process for an early initial settlement conference applies only to the first such conference.</p>

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			ten days' notice.	
480-07-700(3)(b) (Supp CR-102 proposal)	Early initial settlement conference	The Energy Project	Mr. Roseman raised similar concerns to those raised by Mr. ffitch. Mr. Roseman asserted that large national organizations such as the consumer groups he represents rarely make a decision to intervene in a pending case until just prior to the prehearing conference. Mr. Roseman expressed concern that an early initial settlement conference might preclude full participation at the earliest possible time when all issues could be addressed. Mr. Roseman asserted that without effective notice of an early initial settlement conference his clients would be denied an opportunity to participate.	<b>Accept.</b> The Commission agrees it is appropriate to modify the proposed rule to ensure notice to all possible interested persons by providing notice to persons who were parties in the most recent similar proceeding involving the same filing party.
480-07-883	Provides that acceptance of a noncompliant compliance filing does not validate the noncompliant provisions.	Verizon	Suggests that later rejection should be prospective only. 116 Wn.App. 761, 774; 152 Wn.2d 195.	<b>Reject.</b> Treat on a case-by-case basis. The cases say what they say, and will guide commission actions.