

February 13, 2018

Mr. Steve King  
Executive Director and Secretary  
Washington Utilities and Transportation Commission  
P.O. Box 47250  
Olympia, Washington 98504-7250

Re: Docket A-130355, Procedural Rulemaking to Consider Possible Changes in WAC 480-07 III C through IV

Dear Mr. King:

Williams Kastner & Gibbs PLLC submits these comments in Docket A-130355 on behalf of clients regulated by the Washington Utilities and Transportation Commission. These comments respond to the Commission's Notice of Opportunity to Submit Written Comments dated December 11, 2017 regarding WAC 480-07 Parts III C through IV.

### **WAC 480-07-610 Brief Adjudicative Proceedings**

We suggest revisions to the proposed Subsection (3)(b) and the following insertion of a new Subjection (3)(c) of WAC 480-07-610 as follows:

(b) Any ~~person party~~, other than a ~~person party~~ seeking commission review of orders or letters suspending or canceling a permit for failure to maintain evidence of required insurance coverage or other specified circumstances, may ~~file a petition~~ requesting that the commission consider a petition, application, or complaint be resolved by ~~commence~~ a brief adjudicative proceeding. The ~~petition request~~ must describe the issues the ~~petitioner party~~ seeks to have the commission resolve, the ~~petitioner's party's~~ position on those issues, and the reasons why a brief adjudication would be appropriate to resolve those issues. The ~~petitioner party seeking a brief adjudication~~ must serve the ~~petition request~~ on all other identified or necessary parties and must file a certificate of service with the ~~petition request~~.

(c) Any party opposing a request for brief adjudicative proceeding may file a response to the request for brief adjudication within 10 days of

its filing, stating the reasons why a brief adjudication would be inappropriate to resolve the issues raised in the request.

These revisions will avoid the apparent limitation that only a petitioner be permitted to request a brief adjudicative proceeding. There are circumstances in which a respondent, intervenor, or objecting incumbent in an overlapping application case may find a brief adjudication to be preferable. The Commission should therefore consider requests for a brief adjudicative proceeding from any party. By permitting the parties opposing a brief adjudicative proceeding an opportunity to respond, the Commission will thus permit an opportunity for the interests of all parties to be heard before resolving a proceeding by brief adjudication.

To further the due process considerations of all parties when hearing a matter by brief adjudication, we also suggest the following revision to WAC 480-07-610(5)(b):

(b) Notice and nature of proceeding. The commission will serve upon the parties a notice of its determination on the request for brief adjudication within 30 days of the request, and, if granted, will serve notice of the time and place for the brief adjudication proceeding at least seven days before the proceeding.

**WAC 480-07-825 Initial orders – Finality; Petitions for administrative review; motions for clarification.**

The proposed revision to WAC 480-07-825(1)(c) contains a statement which may cause some confusion regarding the finality for judicial review of an initial order for which no administrative review has been requested. Thus, we recommend the following deletion which makes Subsection (1)(c) more consistent with Subsections (1)(a) and (7):

(c) An initial order that becomes final by operation of law ~~is not a final order~~ does not reflect a decision by the commissioners, and has no precedential value. Such orders, if cited, must be identified as initial orders.

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**WAC 480-07-740 Settlement consideration procedure**

Although we do not suggest a specific revision, the proposed change to WAC 48-07-740(2)(a) changing the time to submit a settlement agreement before the effective date of any tariff change appears unnecessary for Title 81 companies. Thus, we suggest that either the time period remain at 30 days, or that the timing of submission of settlement agreements be distinguished between Title 80 and 81 companies, leaving the deadline unchanged for Title 81 companies.

We appreciate the opportunity to comment on the proposed procedural rule changes.

Very truly yours,

*/s/ Blair I. Fassburg*

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