

DOCKET TG-140560
ORDER 10

PAGE 6

- 14 **Decision.** The Commission’s rules allow for the exclusion of evidence, including testimony, which is “irrelevant, repetitive, or inadmissible.”³⁶ Parties objecting to the inclusion of evidence must state the grounds for the objection at the time the evidence is offered.³⁷ Failure to object constitutes a waiver of the right to object.³⁸ Staff’s overarching objection to the Company’s filing of testimony, that it is inappropriate at this phase of the proceeding, is puzzling.³⁹ As is evident from the email exchange between counsels for both parties, the filing of testimony by WCI should not have come as a surprise to Staff. It was agreed to, even if conditionally.
- 15 *Mr. Willis’ Testimony.* Mr. Willis does, as Staff alleges, reference a 2009 rate case filing in his supplemental testimony. This is not a new reference and is easily found in both his and Ms. Davis’ testimony from Docket TG-131794, filed on February 18, 2014. Staff specifically requested the inclusion of all testimony, exhibits, and orders arising from Docket TG-131794 within the record of the instant matter. The time to contest the inclusion of such information has passed. Staff is correct, however, that it has not had an opportunity to contest WCI’s arguments involving the 2009 rate case. This inequity, however, can easily be remedied by allowing Staff the opportunity to file limited testimony in opposition to Mr. Willis’ arguments and allowing all parties the opportunity to cross-examine the proffered witnesses.
- 16 Staff also takes issue with WCI’s mention of information it obtained through informal discussions it had with Staff⁴⁰ and the involvement of a former Director of Regulatory Services in the 2009 rate case, arguing that both have been offered without any support in the record. Still, Staff has not asserted that they are irrelevant. Ultimately, if WCI’s arguments are without support, the Commission will consider that in weighing the entire record before us.

³⁶ WAC 480-07-495(1).

³⁷ *Id.*

³⁸ WAC 480-07-490(7).

³⁹ It is fair to say we were underwhelmed by Staff’s Motion. In a mere two paragraphs, Staff made sweeping statements that lacked any supporting citation to the testimony at issue. Staff, in an attempt to cure these deficiencies, provided more detail and some citations to the testimony in its Reply. This is not the typical role of the reply, and we will not look favorably on a motion with such scant detail in the future.

⁴⁰ In its Motion, Staff originally characterized these discussions as “confidential settlement discussions.” In its discussion of Mr. Willis’ supplemental testimony, Staff’s Reply noted the discussions were “informal” without any reference to them taking place in a settlement context.