

A-130355 Procedural Rules Rulemaking

Summary of 7-11-18 Comments on Proposed Revisions to WAC 480-07-160 and -420

July 31, 2018

480-07	Avista	PPL	PSE/CL	Public Counsel	Staff Response
160(2)	Revise definition of “confidential information” to track the statute		Reject proposed changes to distinguish exempt from confidential designations as imposing an administrative burden without sufficient corresponding benefit, particularly in large spreadsheets with linked cells		Avista: Staff agrees and has made that change. PSE/CL: Staff disagrees but has added language to provide some flexibility in marking spreadsheets. Staff otherwise adheres to its position that separately identifying the different types of protected information substantially benefits providers, the Commission, and the public.
160(3)			Strict compliance with the marking requirements in the rule is impractical and should not be the basis for waiving protection; the rule should provide some recourse if a provider who is not the owner of protected information fails to comply with the rule	Revise waiver provision to exclude exempt information, which persons cannot waive through failure to comply with the rule	PSE/CL: Staff disagrees on the first issue in light of the language added to address spreadsheets; as for the second, Staff has added language to provide a recourse for protected information owners when someone else provides that information without complying with the rule. Public Counsel: Staff agrees and has revised the draft language accordingly.
160(4)(c)(vi)	Revise separate filing requirement for protected and redacted versions to reflect web portal submission requirements				Staff agrees and has revised the draft language accordingly.

**A-130355 Procedural Rules
Summary of 7-11-18 Comments
July 31, 2018**

480-07	Avista	PPL	PSE/CL	Public Counsel	Staff Response
160(4)-(6)		Allow flexibility in marking to accommodate designation of protected information in spreadsheets and other complex documents; Revisit Staff comments on the balance of the PRA weighing in favor of disclosure			Staff has added some language to provide flexibility in marking spreadsheets. While Staff is unaware of judicial decisions specifically interpreting RCW 80.04.095, Washington courts repeatedly construe the PRA narrowly to resolve disputes over public records in favor of disclosure.
160(6)			Allow a company to reference highly confidential information in an initial filing without including it until the Commission enters a protective order without adversely affecting the procedural schedule or statutory deadline		Staff appreciates this potential difficulty but is also concerned that initial filings – particularly energy rate cases – include sufficient information to determine whether filing requirements are satisfied. Staff has included language in the draft to this effect.
420			Require only that the information is protected under a protective order, not also WAC 480-070-160		Staff agrees and has revised the proposed draft accordingly. The Commission will ensure that the standard protective order includes a requirement to comply with WAC 480-07-160, as well as any other requirements in the order.
Commenter Acronyms	Avista – Avista Corporation d/b/a Avista Utilities	PPL – Pacific Power & Light Company	PSE – Puget Sound Energy CL -- CenturyLink		