

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

In the Matter of Amending and Adopting	)	
	)	DOCKET A-072162
	)	
WAC 480-07,	)	GENERAL ORDER R-550
	)	
Relating to the Commission's Procedural Rules	)	ORDER AMENDING AND ADOPTING RULES PERMANENTLY
.....	)	

1     **STATUTORY OR OTHER AUTHORITY:** The Washington Utilities and Transportation Commission (Commission) takes this action under Notice WSR # 08-12-086, filed with the Code Reviser on June 4, 2008. 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 (RCW 34.05), the State Register Act (RCW 34.08), the State Environmental Policy Act of 1971 (RCW 43.21C), and the Regulatory Fairness Act (RCW 19.85).

3     **DATE OF ADOPTION:** The Commission adopts these rules on the date 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 publish a concise explanatory statement about an adopted rule. The statement must identify the Commission's reasons for adopting the rule, describe the differences between the version of the proposed rules published in the register and the rules adopted (other than editing changes), summarize the comments received regarding the proposed rule changes, and state the Commission's responses to the comments reflecting the Commission's consideration of them.

<p><b>OFFICE OF THE CODE REVISER STATE OF WASHINGTON FILED</b></p> <p><b>DATE: August 22, 2008 TIME: 11:18 AM</b></p> <p><b>WSR 08-18-012</b></p>
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5 To avoid unnecessary duplication in the record of this docket, the Commission designates the discussion in this Order, including Appendix A, as its concise explanatory statement, supplemented where not inconsistent by the staff memoranda and summaries of comments preceding the filing of the CR-102 proposal and the adoption hearing. Together, these 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:

Amend	WAC 480-07-110	Exemptions from and modifications to commission rules; conflicts involving rules.
Amend	WAC 480-07-125	Physical address; telephone; fax; web portal; e-mail; internet.
Amend	WAC 480-07-140	Communicating with the commission.
Amend	WAC 480-07-145	Filing documents in adjudicative proceedings.
Amend	WAC 480-07-160	Confidential information.
Amend	WAC 480-07-180	Incorporated and referenced materials in commission rules and orders.
Amend	WAC 480-07-395	Pleadings, motions, and briefs — Format requirements; citation to record and authorities; verification; errors; construction; amendment.
Amend	WAC 480-07-510	General rate proceedings – Electric, natural gas, pipeline and telecommunications companies.
Amend	WAC 480-07-630	Telecommunications companies — Arbitration under the Telecommunications Act of 1996.
Amend	WAC 480-07-900	Open public meetings.
Amend	WAC 480-07-904	Delegation of authority to the executive secretary to decide certain matters.
Amend	WAC 480-07-905	Delegation of authority to executive secretary to enter <i>ex parte</i> orders.

7     **PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS**

**THEREUNDER:** The Commission filed Preproposal Statements of Inquiry (CR-101s) on December 5, 2007, at WSR # 07-24-081, and on March 19, 2008, at WSR # 08-07-083.

8     The statements advised interested persons that the Commission was considering initiating a rulemaking to revise and clarify procedural rules in WAC 480-07. The Commission also informed persons of this inquiry by providing notice of the subject and the CR-101s to everyone on the Commission's list of persons requesting such information pursuant to RCW 34.05.320(3) and by sending notices to the Commission's lists of regulatory attorneys. The Commission posted the relevant rulemaking information on its Internet web site at <http://www.utc.wa.gov>. Pursuant to the notice, the Commission received written comments.

9     **NOTICE OF PROPOSED RULEMAKING:** The Commission filed a notice of Proposed Rulemaking (CR-102) on June 4, 2008, at WSR # 08-12-086. The Commission scheduled this matter for oral comment and adoption under Notice WSR # 08-12-086 at 1:30 p.m., Thursday, August 14, 2008, in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington. The notice provided interested persons the opportunity to submit written comments to the Commission.

10    **WRITTEN COMMENTS:** The Commission received written comments from Verizon Northwest Inc. (Verizon) and the Public Counsel Section of the Washington State Attorney General's Office (Public Counsel) suggesting changes to one of the rules authorizing delegation of certain actions to the Secretary. The Commission finds these suggested changes appropriate and includes the changes in the rules contained in Appendix A, attached to, and made part of, this Order.

11    **RULEMAKING HEARING:** The Commission considered the proposed rules for adoption at a rulemaking hearing on Thursday, August 14, 2008, before Chairman Mark H. Sidran, Commissioner Patrick J. Oshie, and Commissioner Philip B. Jones. No other interested person made oral comments.

- 12 **SUGGESTIONS FOR CHANGE THAT ARE ACCEPTED:** Verizon and Public Counsel submitted written comments suggesting changes to the proposed rules. Verizon and Public Counsel both raised concerns with the language in one of the proposed delegation rules addressing delegation of decisions concerning transfers and disposal of telecommunications company property. The suggested changes and the Commission’s reasons for accepting the suggested changes are described below.
- 13 **COMMISSION ACTION:** After considering all of the information regarding this proposal, the Commission finds and concludes that it should amend and adopt the rules as proposed in the CR-102, with changes from the text noticed at WSR # 08-12-086, as described below in this Order.
- 14 **CHANGES FROM PROPOSAL:** The Commission adopts the proposal with the following changes from the text noticed at WSR # 08-12-086.
- 15 To address comments submitted by Verizon and Public Counsel, the language as proposed for WAC 480-07-904(1)(1) is modified to read as follows, with added or deleted language in bold:

(1) The commission delegates the following matters to the executive secretary for decision. ...

(1) Requests **by telecommunications companies** for authorization of transfers of property ~~by telecommunications companies~~ under WAC 480-~~120-379~~143-120 (Transfers of property) or **determination under WAC 480-143-180 (Disposal and determination of necessary and useful property) that property is not necessary or useful to perform public duties and may be disposed**, limited to ~~applications for the disposal of~~ property that has a market value that ~~exceeds~~ **does not exceed** either one percent of the company's rate base, last established by commission order, or two hundred thousand dollars, whichever is greater.

- 16 Both Verizon and Public Counsel commented that the proposed language – “property that has a market value that exceeds” – appears to inadvertently limit delegation of such transfers of property to transactions with significant customer impact, rather than *de minimis* items, as Public Counsel had suggested in comments on draft rules circulated during the CR-101 phase of the rulemaking.

17 In addition, Verizon objected to the omission of language in the proposed rule that would allow the delegation of determinations under WAC 480-143-180 that property intended for disposal is not necessary or useful to a company's regulated business.

18 The suggested changes to the proposed rule will address both Verizon's and Public Counsel's comments by allowing delegation of decisions to approve *de minimis* transfers of property and of determinations that property below a certain market value is not necessary and useful and may be disposed.

19 In addition, the reference to the Commission's website in WAC 480-07-145(6)(b) is corrected to read [www.utc.wa.gov/e-filing](http://www.utc.wa.gov/e-filing), rather than [www.wutc.wa.gov/e-filing](http://www.wutc.wa.gov/e-filing).

20 **STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE:** After reviewing the entire record, the Commission determines that WAC 480-07-110, WAC 480-07-125, WAC 480-07-140, WAC 480-07-145, WAC 480-07-160, WAC 480-07-180, WAC 480-07-395, WAC 480-07-510, WAC 480-07-630, WAC 480-07-900, WAC 480-07-904, and WAC 480-07-905 should be amended to read as set forth in Appendix A, 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

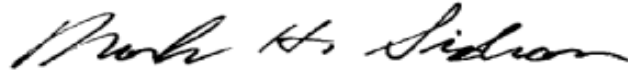
### 21 THE COMMISSION ORDERS:

22 The Commission amends and adopts WAC 480-07-110, WAC 480-07-125, WAC 480-07-140, WAC 480-07-145, WAC 480-07-160, WAC 480-07-180, WAC 480-07-395, WAC 480-07-510, WAC 480-07-630, WAC 480-07-900, WAC 480-07-904, and WAC 480-07-905 to read as set forth in Appendix A, 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 the date of filing with the Code Reviser.

23 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 RCW 80.01, RCW 34.05 and WAC 1-21.

DATED at Olympia, Washington, August 21, 2008.

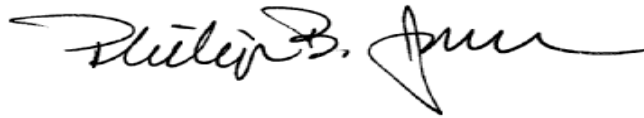
WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION



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 12, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, 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.