

**WAC 480-07-400 Discovery. (1) General.**

(a) *No limitation on commission authority to audit and inspect.* Nothing in this section imposes any limitation on the commission's ability to audit or obtain the books and records of public service companies, or public service companies' obligation to provide information to the commission, whether or not in the context of an adjudicative proceeding.

(b) *Informal discovery procedures.* Parties in an adjudicative proceeding may agree to informal discovery procedures in addition to, or in place of, the procedures contained in this section.

(c) *Definitions.* For purposes of WAC 480-07-400 through 480-07-425, the following terms have the following meanings:

(i) Party. Any party as defined by WAC 480-07-340.

(ii) Data. As used in this section, data is information of any type, in any form.

(iii) Data request. A party's written request that calls for another party to produce data in connection with an adjudicative proceeding is a data request. Generally, data requests seek one or more of the following: Existing documents; an analysis, compilation, or summary of existing documents into a requested format; a narrative response describing a party's policy, practice, or position; or the admission of a fact asserted by the requesting party. If a party relies on a cost study, model, or proprietary formula or methodology, the party must be willing, on request, to rerun or recalculate the study, model, formula, or methodology based on different inputs and assumptions, subject to the standards in subsection (3) of this section. The commission otherwise will not order a party to respond to a data request that would require creation of new data or documents unless there is a compelling need for such information.

(iv) Bench request. A request for data made by or on behalf of a presiding officer is a bench request.

**(2) When discovery available.**

(a) *Subpoenas always available.* Subpoenas are available as a means of discovery as provided in Title 80 or 81 RCW and chapter 34.05 RCW.

(b) *When other discovery methods available.* If the commission finds that an adjudicative proceeding meets one of the following criteria, the methods of discovery set forth in WAC 480-07-405 through 480-07-415 will be available to parties:

(i) Any proceeding involving a change in the rate levels of a public service company;

(ii) Any complaint proceeding involving claims of discriminatory or anticompetitive conduct, unjust or unreasonable rates, or violations of provisions in Title 80 or 81 RCW; or

(iii) Any proceeding in which the commission, in its discretion, determines that the needs of the case require the methods of discovery specified in this rule.

(3) **Scope of discovery.** Discovery must seek only information that is relevant to the issues in the adjudicative proceeding or that may lead to the production of information that is relevant. A party may not object to discovery on grounds that the information sought will be inadmissible at the hearing, if that information appears reasonably calculated to lead to discovery of admissible evidence. Parties must not seek discovery that is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive. A discovery request is inappropriate when the party seeking discovery has had ample opportunity to obtain

the information the party seeks or the discovery is unduly burdensome or expensive, taking into account the needs of the adjudicative proceeding, limitations on the parties' resources, scope of the responding party's interest in the proceeding, and the importance of the issues at stake in the adjudicative proceeding. Discovery through data requests or otherwise must not be used for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the costs of litigation. The commission may impose sanctions for abusive discovery practice.

(4) **Schedule.** The commission may establish and set forth in a prehearing order a schedule for discovery. Any such schedule will provide deadlines sufficient to allow a timely opportunity for responses and for disputes to be resolved. The presiding officer may impose or modify time limits to the extent necessary to conform to the commission's hearing schedule.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 17-06-051 (General Order R-588), § 480-07-400, filed 2/28/17, effective 3/31/17; WSR 06-16-053 (Docket A-050802, General Order R-536), § 480-07-400, filed 7/27/06, effective 8/27/06; WSR 03-24-028 (General Order R-510, Docket No. A-010648), § 480-07-400, filed 11/24/03, effective 1/1/04.]