

WAC 480-07-405 Discovery—Data requests and bench requests. (1)
Grouping and numbering.

(a) *Grouping.* Parties must group their data requests by subject or witness.

(b) *Numbering.* Each party must number sequentially its data requests to each other party. Numbering of subsequent data requests to the same party must begin with the number next in sequence following the number of the last previously propounded data request (e.g., if the last data request in an initial set of requests is number 10, the first data request in the next set of requests must be number 11). The presiding officer will ensure that bench requests are adequately described on the record and consecutively numbered.

(2) **Service of data requests.** A party must serve data requests electronically in native format on the party to whom the requesting party makes the requests, with copies to all other parties. When propounding data requests to other parties, a party must not file those data requests with the commission or copy any person who is presiding or advising the presiding officer.

(3) **Motion to compel.** A party's motion to compel responses to data requests must include the relevant data request, any objection to the request, and any response to the objection.

(4) **Limitation on numbers of data requests.** The presiding officer may limit the total number of data requests that a party may propound to another party. Each party must make reasonable efforts to ensure that its data requests do not duplicate other parties' requests. The presiding officer may require parties to coordinate discovery with other parties of similar interest.

(5) **Responding party to seek clarification.** If a party to whom a data request is propounded finds the meaning or scope of a request unclear, the responding party must immediately contact the requesting party for clarification. Lack of clarity is not a basis for objection to a data request unless the responding party has made a good faith effort to obtain clarification.

(6) **Objections; consequence of failure to object.**

(a) *Data requests.* A party must present any objections to a data request to the requesting party in writing by the time the response is due, or at such other time as the presiding officer orders. A party objecting to a data request must state the objection and explain the basis for the objection. A party that fails to interpose a timely objection to providing a full response to a data request waives any right to object for purposes of discovery and must provide a full response. A party that fails to make an objection when responding to data requests does not lose the opportunity to raise an objection at hearing if another party seeks to introduce as evidence all or part of the party's response to a data request.

(b) *Bench requests.* Any party may object to a bench request made orally during a hearing at the time the presiding officer makes the request. A party may subsequently object in writing to such a bench request within five days after the presiding officer makes the request if the objection is based on facts or law the party did not reasonably know at the time the presiding officer made the request. A party may object to a written bench request within five days after the commission serves the request.

(7) **Responses.**

(a) *Data requests.*

(i) Service. Parties must serve responses to data requests electronically on the requesting party and on any other party that requests a copy, consistent with the terms of any protective order entered in the proceeding. Except when designated as exhibits to be offered into the evidentiary record, parties must not file responses to data requests with the commission or copy any person who is presiding or advising the presiding officer when serving those responses. The commission will not receive into evidence responses to data requests unless a party offers the responses into evidence. A party may object to the admission of a response to a data request at the time the response is offered into evidence whether or not the party timely objected to providing the response.

(ii) Timing. A party to whom a data request is directed must provide a full response within ten business days after the request is served. If the responding party cannot provide a full response within ten business days, the responding party must give written notice to the requesting party no later than two business days before the response is due. The notice must state why the responding party cannot comply with the ten-day deadline. The responding party must also provide a schedule by which it will produce the requested data and must explain why the party cannot provide any portion of the data. The presiding officer may modify these time limits.

(iii) Identification of respondent and witness. Each response to a data request must state the date the response is produced, the name of the person who prepared the response, and the name of any witness testifying on behalf of the responding party who is knowledgeable about, and can respond to, questions concerning the response.

(b) *Bench requests*. Parties must file responses to bench requests with the commission and serve all parties within ten business days after the commission makes the request, unless the presiding officer specifies another deadline. A party may object to a bench request response within five days after filing and service of the response. The commission will receive responses to bench requests in evidence without further process unless a party objects to the response or the commission rejects the response.

(8) **Supplementation**. Parties must immediately supplement any response to a data request or bench request upon learning that the prior response was incorrect or incomplete when made or upon learning that a response that was correct and complete when made, is no longer correct or complete.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 17-06-051 (General Order R-588), § 480-07-405, filed 2/28/17, effective 3/31/17; WSR 06-16-053 (Docket A-050802, General Order R-536), § 480-07-405, filed 7/27/06, effective 8/27/06; WSR 03-24-028 (General Order R-510, Docket No. A-010648), § 480-07-405, filed 11/24/03, effective 1/1/04.]