

WAC 480-07-650 Petitions for enforcement of telecommunications company interconnection agreements. The purpose of this rule is to provide a speedy and enforceable means to resolve disputes when one party to an interconnection agreement contends that the other party is violating the terms of the agreement.

(1) **Petitions for enforcement.** A telecommunications company that is a party to an interconnection agreement with another telecommunications company may petition under this rule for enforcement of the agreement.

(a) *What the petition must contain.* Each petition for enforcement must contain the following elements:

(i) A statement, including specific facts, demonstrating that the petitioner engaged in good faith negotiations to resolve the disagreement, and that despite those negotiations the parties failed to resolve the issue.

(ii) A copy of the provision of the interconnection agreement that the petitioner contends the other party is violating.

(iii) A description of facts demonstrating failure to comply with the agreement. One or more affidavits, declarations, or other sworn statements, made by persons having personal knowledge of the relevant facts must support the description.

(b) *How to serve the petition.* The petitioner must serve the petition for enforcement electronically on the responding party on the same day the petitioner files the petition with the commission. For purposes of this section, the petitioner must serve:

(i) The responding party's authorized representative, attorney of record, or designated agent for service of process;

(ii) The responding party's representatives with whom the petitioner conducted the negotiations addressed in (a)(i) of this subsection; and

(iii) All parties designated in the interconnection agreement to receive notices.

(c) *Prefiling notice of petition.* The petitioner must give at least ten days' written notice to the respondent that the petitioner intends to file a petition for enforcement. The notice must identify each specific provision of the agreement that the petitioner alleges the other party violated, and the exact behavior or failure to act that petitioner alleges violates the agreement. The petitioner must serve the written notice as provided in (b) of this subsection. The petitioner must include a copy of this notice with its petition for enforcement. The written notice shall be valid for thirty days from the date of service. If the petitioner wishes to file a petition for enforcement after the thirty-day period, the petitioner must serve another notice to the respondent at least ten days prior to filing the petition.

(2) **Responding to a petition.** The respondent may respond to the petition. The respondent waives the opportunity to present any matter that is not raised in the response except as provided under subsection (3) of this section.

(a) *Contents of the response.* The response to a petition for enforcement must respond to each allegation of failure to comply with the terms of the interconnection agreement, stating relevant facts. The respondent must support any facts on which it relies by affidavits, declarations, or other sworn statements by persons having personal knowledge of the facts.

(b) *Filing and service of the response.* The respondent must file the response with the commission and serve it electronically on the

petitioner within five business days after the petitioner serves the petition for enforcement.

(3) **Amendment of petition and response.** The presiding officer may permit the respondent to amend its response for good cause shown, and to avoid substantial prejudice to the respondent for which the respondent is not responsible. The presiding officer may permit either party to amend its petition or response to conform to the evidence presented during the proceeding. The presiding officer may refer to, but is not bound by, Washington superior court civil rule 15(b) when determining whether to permit amendment of the petition or answer to conform to the evidence.

(4) **Prehearing conference.** The commission will conduct a prehearing conference regarding a petition for enforcement of an interconnection agreement.

(a) *Schedule; mandatory attendance.* The presiding officer will issue a notice of a prehearing conference within five business days after the petitioner files the petition. Both the petitioner and the respondent must attend the prehearing conference. The prehearing conference may be conducted by telephone.

(b) *Procedural determination.* The presiding officer will determine at the prehearing conference whether the commission can resolve the disputed issues raised in the petition by relying only on the pleadings, filings, and any oral statements without further proceedings. When determining whether to schedule an oral enforcement hearing session, the presiding officer will consider the following: (i) The parties' preferences and the reasons they advance; (ii) the need to clarify statements by asking questions; (iii) whether the issues are largely factual, largely legal, or involve questions of fact and law; (iv) the apparent complexity of facts and issues; (v) the need for speedy resolution; and (vi) the completeness of information presented. The presiding officer may require the parties to file written briefs on the issues.

(c) *Means of obtaining additional information.* If the presiding officer determines that further proceedings are necessary, the presiding officer will establish a schedule for receiving additional facts or evidence and may schedule an enforcement hearing session to explore the facts and issues raised in the petition and the response. Either party may request that the commission make its discovery rules available, stating the matters into which the party seeks to inquire and their relationship to matters directly at issue. The presiding officer may allow limited discovery requiring only the disclosure of facts relating directly to matters at issue, and only if the requesting party shows that discovery is essential. The presiding officer will establish a shortened discovery schedule to comply with the timelines of this rule.

(5) **Powers of the presiding officer; conversion of proceeding; initial or final order.**

(a) *Conduct of proceeding.* The presiding officer has broad discretion to conduct the proceeding in a manner that best suits the nature of the petition including, but not limited to, converting the proceeding into a complaint proceeding under RCW 80.04.110. Matters may be appropriate for conversion when: (i) Their complexity requires that they cannot be completed on the schedule provided in this rule; (ii) the petitioner requires discovery beyond a disclosure of facts directly related to the matters at issue; (iii) extensive policy argument or legal briefing is required; or (iv) participation by parties other than the petitioner and the respondent is necessary. The presid-

ing officer may limit the record to written filings or may schedule an enforcement hearing. The presiding officer may limit the number of exhibits and witnesses and the time for their presentation.

(b) *Initial order.* The presiding officer, if other than the commissioners, will enter an initial order resolving the petition within seventy-five days of the date the petitioner submitted the petition, or twenty-one days after the last hearing session or filing, whichever is later. If the commissioners preside over the enforcement proceeding, they may enter a final order within the time requirements applicable to initial orders.

(c) *Commission review.* Any party may file a petition for administrative review of the initial order within seven days after the commission enters the order. The opposing party may file a response within five days after the petitioner files a petition for review.

(6) **Commission decision on petition for enforcement.** The commission will enter its final order on the petition for enforcement no later than ninety days after the date the petitioner filed the petition or thirty days after a party files a petition for review of an initial order, whichever is later. The commission may extend this time for good cause.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 18-18-041 (Docket A-130355, General Order R-592), § 480-07-650, filed 8/29/18, effective 9/29/18; WSR 06-16-053 (Docket A-050802, General Order R-536), § 480-07-650, filed 7/27/06, effective 8/27/06; WSR 03-24-028 (General Order R-510, Docket No. A-010648), § 480-07-650, filed 11/24/03, effective 1/1/04.]