

WAC 480-07-460 Hearing—Exhibits, exhibit list, and cross-examination estimates. (1) **Filing exhibits in advance.** Parties must file and serve exhibits that they intend to submit or use in the evidentiary hearing, including proposed cross-examination exhibits, in advance of the hearing. The commission or the presiding officer will establish by notice or in a prehearing conference order the number of paper copies, if any, and deadlines for filing. In rate increase proceedings for electric, natural gas, pipeline, and telecommunications companies, the petitioner must prefile its proposed direct testimony and exhibits at the time it files its rate increase request, in accordance with commission rules.

(a) *Changes or corrections.*

(i) *Substantive changes.* Parties must seek leave from the presiding officer by written motion if they wish to file revised prefiled testimony or exhibits that include substantive changes. A party proposing such changes should submit the proposed revisions with its motion.

(ii) *Minor corrections.* A party may make minor revisions to prefiled testimony and exhibits to correct typographical errors, printing errors, and nonsubstantive changes (e.g., a change in a witness's address or employment) without leave from the presiding officer. Counsel should not ask a witness on the stand to make these corrections, but must submit an errata sheet as provided in subsection (6) of this section.

(iii) *Format requirements for revisions.* Parties that submit a revised version of any prefiled or previously admitted testimony or exhibits must prominently label the documents as "REVISED" and indicate the date of the revision. The document's exhibit number also must include a lower case "r" at the end of the number using the format described in subsection (2) of this section (e.g., Exh. JQW-5HCTR). The revised portions must be highlighted, in legislative style or other manner that clearly indicates the change from the original submission. The header or footer of each revised page in multiple page testimony or exhibit must be labeled "REVISED" and indicate the date of the revision. Parties may indicate changes to spreadsheets by providing a description of the change and how the change affects other related spreadsheets. For revisions to spreadsheets, counsel must identify partial revisions by page and date when an exhibit is presented or offered into evidence, as appropriate.

(b) *Timing.* A party must file with the commission and serve all other parties with a motion to make substantive changes to any prefiled exhibits as soon as practicable after discovering the need to make that change. A party must file revised exhibits or an errata sheet reflecting minor corrections no later than the deadline for filing errata sheets established in the prehearing conference order.

(c) *Distribution at hearing.* Upon a showing of good cause for not filing and serving new exhibits, revised exhibits, or errata sheets prior to the hearing, the presiding officer may allow a party to distribute such documents at the hearing. The party must provide sufficient copies of the documents for all parties and for the commission's distribution requirements and must file the document as required in WAC 480-07-145. The presiding officer may refuse to admit into evidence any new or revised exhibits if the failure to provide them prior to the hearing impairs the ability of other parties or the commission to review and examine those exhibits during the hearing.

(2) **Prefiled testimony and exhibits.**

(a) *Exhibit numbers.* Parties must mark all written testimony and exhibits in the upper right-hand corner of the first page prior to submission as follows:

(i) State "Exh." followed by the sponsoring witness's initials.

(ii) Place a hyphen after the witness's initials and insert a number, beginning with Arabic numeral 1 for the witness's first pre-filed testimony, and sequentially number each subsequent exhibit (including any additional written testimony) throughout the proceeding.

(iii) Place the capital letter "C" immediately after the number if the testimony or exhibit includes information asserted to be confidential under any protective order that has been entered in the proceeding (or "HC" if the document includes information asserted to be highly confidential under the protective order).

(iv) Place the capital letter "T" after the number and "C" or "HC," if applicable, if the exhibit is a witness's prefilled testimony.

For example, John Q. Witness's prefilled testimony and accompanying exhibits must be marked as follows:

Testimony or Exhibit	Marked
John Q. Witness's prefilled direct testimony	Exh. JQW-1T
First exhibit to John Q. Witness's prefilled direct testimony (nonconfidential)	Exh. JQW-2
Second exhibit to John Q. Witness's prefilled direct testimony (confidential)	Exh. JQW-3C
Third exhibit to John Q. Witness's prefilled direct testimony (nonconfidential)	Exh. JQW-4
John Q. Witness's prefilled rebuttal testimony (with portions marked highly confidential)	Exh. JQW-5HCT
First exhibit to John Q. Witness's prefilled rebuttal testimony (nonconfidential)	Exh. JQW-6

(b) *List of exhibits, table of contents, and summary of testimony.* The prefilled testimony of each witness must include a list of exhibits that accompany that testimony. Testimony that exceeds ten pages in length must include a table of contents and a short summary at the beginning of the testimony.

(c) *Form of testimony and exhibits.* All prefilled testimony and exhibits must be paginated, and the lines on each page must be numbered to facilitate transcript or exhibit references. All prefilled testimony and exhibits must be double-spaced and use 12-point type in palatino, times new Roman, or an equally legible serif font, with footnotes in the same font and of at least 10-point type, with margins of at least one inch on all sides. Documents the party did not create need not conform to these typeface and type size requirements but must be legible. All paper copies of prefilled testimony and exhibits, if required, must be provided on 8 1/2 x 11 inch, three-hole punched paper (oversize holes are preferred). Oversized documents may be used at the hearing for illustrative purposes but paper copies, if required,

must be provided on 8 1/2 x 11 inch paper if offered into evidence and reduction to that format is feasible.

(3) **Cross-examination exhibits.** Each party must file with the commission and serve on the other parties all exhibits the party proposes to use in its cross-examination of witnesses. The presiding officer will establish in a prehearing conference order or notice the number of paper copies, if any, and deadlines for filing.

(a) *Exhibit numbers.* Parties must mark all cross-examination exhibits in the upper right hand corner of the first page prior to submission as follows:

(i) State "Exh." followed by the initials of the witness the party intends to use the exhibit to cross-examine.

(ii) Place a hyphen after the witness's initials and insert the next number in sequence after the number of the last exhibit sponsored by, or associated with, that witness. If more than two parties are actively participating in a docket, each party should insert an underscored blank space after the initials of a witness who is likely to be cross-examined by more than one party to avoid overlapping numbers with other parties' cross-examination exhibits. The presiding officer will subsequently assign numbers to all cross-examination exhibits for that witness when compiling the exhibit list.

(iii) Place the capital letter "C" immediately after the number (or underscored blank space) if the exhibit includes information asserted to be confidential under any protective order that has been entered in the proceeding (or "HC" if the document includes information asserted to be highly confidential under the protective order).

(iv) Place the capital letter "X" after the number (or underscored blank space), "C," or "HC" whichever is last. For example, if the last exhibit attached to a witness's prefilled testimony is Exh. JQW-7, the first cross-examination exhibit for that witness should be marked "Exh. JQW-8X" (or "Exh. JQW-8CX" if the exhibit includes information designated as confidential).

(b) *Format.* All cross-examination exhibits must be filed and served electronically in .pdf (adobe acrobat or comparable software) format. The commission may also require the parties to file and serve paper copies of the exhibits.

(c) *Organization.* Cross-examination exhibits must be segregated, labeled, and grouped according to the witness the party intends to cross-examine with the exhibits. Any paper copies of the exhibits must be organized into sets that are tabbed, labeled, and grouped by witness.

(4) **Exhibit lists.** Each party must file with the commission and serve on all parties a list of all exhibits the party intends to introduce into the evidentiary record, including all prefilled testimony and exhibits of that party's witnesses and cross-examination exhibits that party has designated for other witnesses. The presiding officer will establish in a prehearing conference order or notice the deadline for this filing.

(5) **Cross-examination time estimates.** Each party must provide a list of witnesses the party intends to cross-examine at the evidentiary hearing and an estimate of the time that party anticipates the cross-examination of that witness will take. Parties should not file these witness lists or cross-examination time estimates but must provide them in electronic format directly to the presiding administrative law judge and the other parties by the deadline established in a prehearing conference order or notice.

(6) **Errata.** Each party must file with the commission and serve on all parties a list of any corrections or revisions to its witnesses' prefiled testimony and exhibits. Each correction or revision must be identified separately by exhibit number, page, and line (or row, column, cell, etc., as applicable) and must specify the text to be revised, added, or deleted. The presiding officer will establish in a prehearing conference order or notice the deadlines for this filing.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 17-06-051 (General Order R-588), § 480-07-460, filed 2/28/17, effective 3/31/17; WSR 06-16-053 (Docket A-050802, General Order R-536), § 480-07-460, filed 7/27/06, effective 8/27/06; WSR 03-24-028 (General Order R-510, Docket No. A-010648), § 480-07-460, filed 11/24/03, effective 1/1/04.]