

WAC 480-07-740 Settlement consideration procedure. The commission will review all settlement agreements to determine whether they comply with applicable legal requirements and whether approval of the agreements is consistent with the public interest.

(1) **General.** The timing and content of any settlement agreement submitted to the commission must afford the commission a reasonable opportunity to:

- (a) Review the terms of the settlement;
- (b) Consider evidence and argument from all parties on why the commission should or should not approve and adopt the settlement;
- (c) Consider any public comments the commission receives;
- (d) Enter an order prior to the recommended effective date of a settlement agreement and any statutory deadline by which the commission must take action in the proceeding; and
- (e) Review and approve any required compliance filing.

(2) **Specific timing requirements.**

(a) *Complex proceedings.* In general rate proceedings for electric, natural gas, and Class A telecommunications companies or matters of comparable complexity, parties must submit a settlement agreement and supporting documentation to the commission at least sixty days prior to any statutory deadline for commission action or requested effective date of any tariff changes or other terms and conditions of the settlement.

(b) *Less complex matters.* In matters that are less complex, parties must submit a settlement agreement and supporting documentation to the commission at least thirty days prior to any statutory deadline for commission action or requested effective date for any tariff changes or other terms and conditions of the settlement.

(c) *Notice to commission.* Parties should inform the presiding administrative law judge as soon as they reach a settlement in principle and request that the commission suspend the procedural schedule or make other arrangements for filing and review of the parties' settlement agreement after the parties have executed it. In the cover letter accompanying the filing of a settlement agreement with the commission, the parties should highlight any time-sensitive provisions in that agreement.

(d) *Statutory deadline.* Upon receiving a request to suspend the procedural schedule for commission consideration of a settlement agreement in general rate proceedings or other proceedings in which a statute requires final commission action within a specified time period, the commission may require the party that submitted the suspended tariff or other initial filing at issue to inform the commission whether the party would be willing to extend the statutory deadline, if necessary, to add the amount of time the commission requires to consider the settlement and take final action in the proceeding. The commission may decline to consider a settlement agreement if the commission determines that it cannot consider the settlement and take final action in the proceeding by the statutory deadline.

(e) *Hearing.* The commission will conduct a hearing if the commission believes that a hearing will assist the commission to decide whether to approve and adopt the settlement.

(f) *Requested effective date.* The commission will endeavor to render a decision on the settlement prior to the parties' requested effective date if the parties submit the settlement agreement in compliance with this section, but the commission cannot guarantee that it will be able to do so.

(3) **Settlement presentation.** When submitting a settlement agreement for commission approval, the settling parties must include supporting documentation sufficient to demonstrate that the settlement is consistent with the law and the public interest.

(a) *Supporting documentation.* The supporting documentation must describe the disputed issue(s) and proposed resolution and must include or reference sufficient evidence to support commission approval and adoption of the settlement agreement under applicable law consistent with the public interest. The documentation may be in the form of a brief, supporting prefiled testimony, or other form that serves the same functions. Documentation supporting a settlement agreement in a general rate proceeding or other complex proceeding must include prefiled testimony.

(b) *Testimony.* Each party to a settlement agreement must offer to present one or more witnesses to testify in support of the settlement agreement and to answer questions concerning the agreement's details, costs, and benefits. If the commission conducts a hearing on the settlement, counsel for each party must be prepared to make a brief presentation and address any legal matters associated with the settlement agreement. Each party's witness(es) must be available to respond to questions from the bench and cross-examination by counsel for any party that opposes the settlement.

(c) *Rights of parties opposed to a settlement.* Parties opposed to the commission's approval and adoption of a settlement retain the following rights:

(i) The right to cross-examine witnesses supporting the settlement;

(ii) The right to present evidence in support of their opposition to the settlement;

(iii) The right to present argument in opposition to the settlement; and

(iv) The right to present evidence, or in the commission's discretion an offer of proof, in support of their position on how the commission should resolve the disputed issues in the proceeding.

(d) *Discovery.* The presiding officer may allow discovery on the proposed settlement.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 18-18-041 (Docket A-130355, General Order R-592), § 480-07-740, filed 8/29/18, effective 9/29/18; WSR 03-24-028 (General Order R-510, Docket No. A-010648), § 480-07-740, filed 11/24/03, effective 1/1/04.]