



STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

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February 16, 2023

Conner Edwards
cg.edwards53@gmail.com

RE: Petition for Rulemaking for C-4 Report Filing Enforcement

Dear Mr. Edwards,

On December 24, 2022, you sent a petition for rulemaking by email to the individual Commissioners accompanied by written commentary. The Commission has reviewed the draft amended rule, and considered any information contributed by the public, yourself, and PDC Staff. At its January 26, 2023, regular meeting the Commission publicly discussed the petition, reviewed the arguments and information provided, and voted on the request. Granting a petition for rulemaking is at the agency's discretion and this letter is our written response to the petition per [RCW 34.05.330\(1\)\(a\)](#).

The petition seeks to amend the executive director's authority at [WAC 390-05-120](#) to require implementation of a detailed regulatory scheme for enforcement of campaign summary C-4 filing deadlines. C-4 reports include the summary totals of campaign contributions and expenditure activity through certain periods before and after an election, when applicable. The Commission's existing rules, policies, and procedures related to these summary reports are within the Legislature's intent and already fully comply with the Fair Campaign Practices Act. The proposed rule amendments reflect only a requested policy change that is at the discretion of the agency.

The Commission determines that rulemaking on this topic is unnecessary and inappropriate at this time and that the Commission's existing policies and procedures for enforcement of C-4 reporting are effective. The commission chooses not to alter its policy initiatives to encourage timely filing by making its interactions with filers, in the words of the petition: "sufficiently scary enough to intimidate filers into complying with the law." (Pet. Written Comments, Pg. 2, Part 2).

The method proposed by the petition requires issuing automatic penalty warnings for late filed C-4 reports before initiating a case. This is so even when a campaign did not have to file a report due to having no reportable activity. The proposal also limits the PDC's discretion to review and handle violations as allowed by Chapter [390-37 WAC](#) and requires penalties to come before the full Commission rather than be handled less formally and more efficiently through other proceedings. The petition requests the PDC be "actually fining" campaigns

rather than using other less time-consuming methods to encourage compliance. (Pet. Written Comments, Pg. 2, Part 2).

The appropriate place to discuss policy and enforcement matters, the tradeoffs between alternative approaches, as well as the use of the agency's limited resources, is within the agency's strategic planning process. Substitution of rigid procedures for staff's professional judgment does not result in better enforcement or fairer outcomes. As the petition suggests, decisions on how to enforce the many filing requirements the PDC regulates can often be "hampered" by its lack of resources. (Pet. Written Comments, Pg. 3, Part 2). For example, use of scarce information technology time and resources to reprogram state systems to automatically send a series of filing reminders, non-filing notices, and warning notices would negatively impact ongoing technology improvements. Since not all campaigns need to file these reports, it will be a difficult task to program state systems to automatically distinguish campaigns that are not in violation from those that are. Inaccurate automatic notices could also result in increased questions and confusion on the part of filers and potentially strain our current filer assistance staffing levels. Regular inaccurate notices also increase the public's perception that PDC warnings and guidance are unreliable.

The Commission also does not choose to expand the use of group enforcement to manage these matters. Group enforcement is currently used for late filings of campaign registrations (C-1 reports) and personal financial affairs statements (F-1 reports). All hearings follow detailed administrative procedures and due process and adding C-4 hearings will hamper the PDC's flexibility and timeliness when addressing alleged violations. The PDC's decision to review and enforce C-4 reporting through other enforcement options allowed by law is currently the best approach.

As an alternative to rulemaking, the Commission will continue to evaluate the desirability of expanding group enforcement as allowed by its limited resources and strategic priorities. Other changes to how C-4 reporting is enforced will be accomplished through policy initiatives that allow for flexibility rather than by unnecessarily locking those decisions into rule. The Commission will also encourage compliance through additional information and training to filers. Another option we will consider is creating an internal flag for these accounts that, rather than generating an automatic warning to the filer, will allow staff to make an individualized review of whether that filer needs to be contacted.

While we appreciate the sharing of your concerns, the Commission's current policies and procedures effectively enforce its rules and we decline to take the overly rigid and mechanistic approach proposed by the petition. This is not the first time the Commission has discussed these issues and we continue to support the current process. The petition for rulemaking is denied and rulemaking on this topic will not be pursued at this time.

Sincerely,



Fred Jarrett, Chair
Washington State Public Disclosure Commission