



**State of Washington  
PUBLIC DISCLOSURE COMMISSION**

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## **Memo**

To: PDC Commissioners  
From: Sean Flynn, General Counsel  
Date: December 5, 2024  
Re: Staff Presentation of Petition for Declaratory Order (Edwards)

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This memo presents the petition for declaratory order submitted on November 12, 2024, by Conner Edwards. The Petitioner requests the Commission to review its order in PDC Case 146593 and make the legal conclusion that an undeposited check should be classified as a debt for purposes of reporting campaign activity under RCW 42.17A.240.

### ***Background***

The Commission recently entered an order in the case, *In re Washington State Republican Party (WSRP)*, Case no. 146593, involving several violations by the WSRP under Chapter 42.17A RCW. In part, the Commission found that the WSRP failed to timely report an expenditure for certain text messages. The Commission concluded, “WSRP did not timely disclose its expenditures on its Summary Full Campaign Contribution and Expenditure report (C-4 reports).” *See* PDC Order, Case no. 146593 at 5. The WSRP has filed for reconsideration of the Commission’s Order in that matter, which is currently pending before the Commission.

### ***Elements of a Petition for Declaratory Order***

Any person may petition an agency for a declaratory order regarding “the applicability to specified circumstances of a rule, order, or statute enforceable by the agency.” The petition must show there is uncertainty in the law and that an actual controversy exists arising from that uncertainty so that the order “will not be merely an advisory opinion.” Furthermore, the uncertainty must have an adverse effect on the Petitioner, which must be weighed against the likely adverse effect an order on the requested petition may have towards others. RCW 34.05.240(1).

The Commission may enter an order declaring the applicability of the law, or decline to enter a declaratory order, stating the reasons for its action. RCW 34.05.240(5)(d). *See also* WAC 390-12-250(5). Under PDC rules, “[t]he declaratory order cannot be a substitute for a compliance action and is intended to be prospective in effect;” and “[t]he commission will decline to

consider a petition for a declaratory order or to issue an order when (a) the petition requests advice regarding a factual situation which has actually taken place, or (b) when a pending investigation or compliance action involves a similar factual situation.” WAC 390-12-240.

### ***Analysis of the Petition***

The petition here directly challenges the Commission’s Order in the WSRP Case by asserting that the Order conflicts with the provisions of RCW 42.17A.240. *See* Petition at 3. Regardless of the merits of such a claim, the relief sought here is not available under the declaratory order process. PDC rules provide that a declaratory order cannot be substituted for a compliance action. Such relief is not warranted as it would require the Commission to consider the challenge to a pending matter.

The petition fails to address these clear limitations or offer any other justification for how a declaratory order could issue in this matter. Indeed, the petition simply seeks a vehicle to collaterally attack the Commission’s Order in a compliance action. But, the petitioner is not a party to that case, and the declaratory order process is not intended to provide the mechanism to allow such consideration.

Beyond the procedural deficiencies, the merits of the petition are not compelling. The premise of the petition boils down to the petitioner’s own bald conclusion that an undeposited check is a debt, and therefore need only be reported as a debt, subject to the threshold limitations under RCW 42.17A.240(9). The petition offers no support or legal authority for such characterizations, much less the implications for allowing campaigns to report such expenditure activity as debt. Furthermore, the petition does not point to any evidence to show there is actual confusion for candidates, committees, or treasurers in how payments by check are reported.

### **Recommendations**

For the foregoing reasons, the petition should be denied.