



State of Washington
PUBLIC DISCLOSURE COMMISSION

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Memo

To: Commissioners
From: Sean Flynn, General Counsel
Date: January 16, 2025
Re: APA Rulemaking Petition re In-State Inspection of Commercial Advertiser Records
(Edwards)

The petitioner, Conner Edwards, submitted a rulemaking petition on November 25, 2024. The petition proposes to require commercial advertisers located out-of-state to provide an in-state location for the inspection of their records.

Under the Administrative Procedure Act (APA), a person may petition an agency requesting the adoption, repeal, or amendment of a rule. Within 60 days of the submission of a petition, the agency must either deny the petition, or initiate the rulemaking process. If the Commission denies the petition, it must state its reasons for the denial, addressing the concerns raised and alternative means of addressing the concerns, where appropriate.

Commercial advertisers are required to make their records of political advertising sold (“books of account”) available for public inspection. RCW 42.17A.345. The Commission has adopted a rule recognizing several permissible methods of inspection, including in-person, digital transmission, or online publication. *See* WAC 390-18-050. The PDC Staff have applied the existing rules to assist dozens of commercial advertisers in complying with the inspection requirements.

The law does not require a commercial advertiser to maintain a physical presence in-state. The petition here attempts to equate the inspection requirements of a commercial advertiser with political committees, by pointing out that PACs are required to make their own accounting records available for in-state inspection within 10 days of an election. *See* WAC 390-16-043. That analogy, however, is incomplete as the inspection requirement does not apply to out-of-state PACs. *See* RCW 42.17A.250. Furthermore, commercial advertisers are not equivalent to political committees under the statutory scheme. Whereas PACs are created by statute and therefore subject to specific regulation, commercial advertisers are businesses operating in the open market, not otherwise regulated by campaign finance law.

For these reasons, the PDC Staff do not believe the petition presents viable or necessary grounds for the proposed rule and therefore recommend denying the petition.