

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

CASCADE NATURAL GAS COMPANY,

Respondent.

DOCKET UG-200568

INITIAL BRIEF ON BEHALF OF COMMISSION STAFF

March 22, 2021

ROBERT W. FERGUSON
Attorney General

NASH I. CALLAGHAN
Assistant Attorney General

Office of the Attorney General
Utilities & Transportation Division
P.O. Box 40128
Olympia, WA 98504-0128
(360) 644-1183

TABLE OF CONTENTS

- I. INTRODUCTION 1
- II. RESULTS AND REVENUE REQUIREMENT 2
- III. PRO FORMA PLANT ADDITIONS 3
 - A. Legal Standard.6
 - 1. The prudence standard. 7
 - 2. The known and measurable standard. 8
 - 3. Plant and expenses allowed into pro forma adjustments..... 10
 - 4. Commission policy has long held that burden of proof increases the later in the rate case evidence is presented on a proposed pro forma project. 10
 - B. Cascade’s Proposed Pro Forma Plant Additions Fail To Meet The Prudence Standard.12
 - 1. The proposed discrete projects fail to meet the prudence standard..... 12
 - 2. The proposed blanket growth expenses fail to meet the prudence standard. 13
 - C. Cascade’s Pro Forma Plant Adjustment Fails The Known And Measurable Standard Because It Does Not Account For Offsetting Factors.14
 - D. Cascade’s Proposed Blanket Growth Expenses Do Not Qualify For Inclusion In The Pro Forma Adjustment.15
 - E. Even If Cascade Had Met Its Bare Minimum Burden Of Proof, The Commission Should Reject These Pro Forma Plant Adjustments As A Matter Of Policy Because There Was No Meaningful Opportunity For Review.16
- IV. PRO FORMA WAGES 17
- V. COST OF CAPITAL 20
 - A. Legal Background.....21
 - B. Cascade’s Return On Equity Should Be Reduced To 9.25 Percent.22
 - C. Capital Structure Should Remain As Currently Set, The Enbridge Cost Recovery Does Not Affect Capital Structure.24

VI.	COST OF SERVICE, RATE SPREAD, AND RATE DESIGN	25
VII.	RATE MITIGATION PROPOSAL FROM CASCADE	26
VIII.	CONCLUSION	27

TABLE OF AUTHORITIES

Cases

<i>Bluefield Waterworks & Impr. Co. v. Pub. Serv. Comm’n of W. Va.</i> , 262 U.S. 679, 43 S. Ct. 675, 67 L. Ed. 1176 (1923)	21, 22
<i>Fed. Power Comm’n v. Hope Nat. Gas Co.</i> , 320 U.S. 591, 64 S. Ct. 281, 88 L. Ed. 333 (1944)	21, 22
<i>People’s Org. for Wash. Energy Res. v. Wash. Utils. & Transp. Comm’n</i> , 104 Wn.2d 798, 810, 711 P.2d 319 (1985)	7

Administrative Cases

<i>Commission Inquiry into the Valuation of Public Service Company Property that Becomes Used and Useful after Rate Effective Date</i> , Docket U-190531, Policy Statement on Property that Becomes Used and Useful after Rate Effective Date, 9, ¶ 25 (Jan. 31, 2020) (Policy Statement) ... <i>passim</i>	
<i>Petition for Proposed New Tariff Revisions, Schedule 590, Temporary Gas Cost Amortization</i> , Docket UG-190145 (March 28, 2019)	24, 25
<i>Wash. Utils. & Transp. Comm’n v. Avista Corp.</i> , Dockets UE-090134 & UG-090135, Order 10, 21 ¶ 47 (Dec. 22, 2009) (2009 Avista GRC Order) (emphasis added)	8, 9, 11
<i>Wash. Utils. & Transp. Comm’n v. Avista Corp.</i> , Dockets UE-160228 and UG-160229 Order 06 (Dec. 15, 2016) (Dismissing Avista’s 2016 general rate case)	3
<i>Wash. Utils. & Transp. Comm’n v. Avista Corp.</i> , Dockets UE-170485 and UG-170486, Order 07, 66, ¶ 196 (April 26, 2018) (2017 Avista GRC Order)	6, 22
<i>Wash. Utils. & Transp. Comm’n v. Avista Corp.</i> , Dockets UE-190334 & UG-190335, Order 09, 13, ¶ 34; 14, ¶ 38 (March 25, 2020) (2019 Avista GRC Order)	21
<i>Wash. Utils. & Transp. Comm’n v. Cascade</i> , Docket UG-190210, Order 05, 3, ¶ 10 (Feb. 3, 2020) (2019 Cascade GRC Order)	20
<i>Wash. Utils. & Transp. Comm’n v. Pac. Power & Light Co.</i> , Dockets UE-140762 & UE-140617 & UE-131384 & UE-140094, Order 08, 72-73, ¶ 171 (“there is no discussion in the record concerning possibly offsetting factors that may have occurred coincident with any of the plant going into service. In other words, neither the Company, nor any of the parties, appear to have taken into serious consideration the requirement to consider the matching principle for such capital additions.”) (March 25, 2015) (2014 PacifiCorp GRC Order)	9

<i>Wash. Utils. & Transp. Comm’n v. Pac. Power & Light Co.,</i> Docket UE-152253, Order 12, 33-34, ¶¶ 94-95 (Sept. 1, 2016) (2015 PacifiCorp GRC Order)	6
<i>Wash. Utils. & Transp. Comm’n v. PacifiCorp, dba Pacific Power & Light Co.,</i> Dockets UE-191024, et al., Order 09/07/12, 22, ¶ 56 (Dec. 14, 2020) (2019 PacifiCorp GRC Order).....	21
<i>Wash. Utils. & Transp. Comm’n v. Puget Sound Energy, Inc.,</i> Dockets UE-040640 & UG-040641, Order 06, 13, ¶ 27 (Feb. 18, 2005) (2004 PSE GRC Order).....	22
<i>Wash. Utils. & Transp. Comm’n v. Puget Sound Energy,</i> Dockets UE-090704 and UG-090705, Order 11, 12, 2, ¶ 28 (April 2, 2010) (2009 PSE GRC Order).....	8
<i>Wash. Utils. & Transp. Comm’n v. Puget Sound Energy,</i> Dockets UE-170033 and UG-170034 (<i>Consolidated</i>), Order 08, 32, ¶ 90 (Dec. 5, 2017) (2017 PSE GRC Order).....	22
<i>Wash. Utils. & Transp. Comm’n v. Puget Sound Energy,</i> Docket UE-190529, UG-190530, UE-190274, UG-190275, UE-171225, UG-171226, UE- 190991, & UG-190992, Order 08/Order 05/Order 03, 35, ¶ 105 (July 8, 2020).	24

Statutes and Rules

RCW 80.28.010(1);	3
RCW 80.28.020	3
WAC 480-07-510(3)(c)(ii)	8
WAC 480-90-223(4).....	24

I. INTRODUCTION

1 Cascade should not have filed this case. The Company received a rate increase in March 2020, just as the Covid-19 pandemic began to seriously impact the economy and Cascade's ratepayers. Despite Cascade agreeing to the March 2020 rate increase in September of 2019, well before the pandemic, the dramatic economic shift did not dissuade the Company from asking for yet another rate increase in June of 2020. At the evidentiary hearing, Cascade admitted that it did not provide evidence that it was underearning at the time it filed this case.¹ Instead, Cascade's case appears to rest not on the claim that it is underearning but, rather, on the claim that it will be underearning in the future and due largely to costs it had not yet incurred. Cascade based its request for a \$14.1 million dollar increase on three items.

2 First, Cascade's proposed pro forma plant adjustment was based almost entirely on estimated costs for projects that were not complete and in-service. For this adjustment, Cascade's evidence was both insufficient and provided too late in the rate case for the non-company parties to be given any reasonable opportunity to respond and audit these projects once Cascade claimed that these projects were in-service. Second, on rebuttal Cascade requested its authorized return on equity be increased from 9.4 percent to 9.8 percent. Although Cascade's case overall is antithetical to the Commission's theme of shared sacrifice during the Covid-19 pandemic, the request to increase investor profits by 0 basis points is particularly unseemly. Third, Cascade's pro forma wage adjustment includes wage increases for 2021 that do not meet the commission's known and measurable standard and should be rejected entirely. The portions of the wage adjustment contested by Staff pertain

¹ Parvenin, TR. 183:15-20.

to wage increases that are above industry average, within the Company's ability to control, and imprudent given current economic conditions.

3 The Commission should reduce Cascade's rates. The weight of the evidence indicates that a reduction is necessary to reach fair, just, reasonable, and sufficient rates. However, even if the Commission disagrees with Staff's positions on certain topics, it is clear that Cascade at the very least has not met its threshold burden to demonstrate that current rates are unfair, unjust, unreasonable or insufficient. Therefore, if the Commission does not believe a reduction in rates is appropriate, the Commission should simply dismiss this case and maintain Cascade's current tariffs. The evidence Cascade has provided in this case is simply too weak to justify any increase in rates.

II. RESULTS AND REVENUE REQUIREMENT

4 The Commission should reduce Cascade's rates by approximately half a million dollars. Staff does not often recommend a reduction of rates in general rate cases, but that is what the revenue requirement model indicates in this case. Staff's recommendations on individual adjustments and revenue requirement inputs are quite reasonable. For example, Staff's cost of capital witness does not use his CAPM results to determine a range of reasonableness, as he finds the CAPM results too low. Mr. Parcell chose a range of reasonableness that reflected that decision.² Staff also accepted all the post-test year plant additions Cascade confirmed to be in service as of October 27, 2020 (approximately \$6.9 million),³ as well as most of Cascade's proposed 2020 union and non-union wage increases.⁴ Staff even chose to not contest the Company's proposed EOP rate base

² Parcell, Exh. DCP-1T at 4:8-11.

³ Panco, Exh. DJP-1T at 3:10-21.

⁴ See Panco, Exh. DJP-1T at 3:8-13; Huang, Exh. JH-1T at 3:14-20.

adjustment although Cascade had not presented evidence to support it.⁵ Yet even after Staff took these very reasonable, -sometimes generous- positions, the numbers simply do not show a revenue deficiency for Cascade. The Commission should reduce Cascade's rates because a rate reduction is what the record evidence indicates is fair, just, reasonable, and sufficient. But beyond that, the Commission should reduce the Company's rates to disincentivize utilities from the rote filing of annual rate cases. Although there are good grounds for a simple dismissal in this case, dismissing a general rate case when a rate reduction is in fact justified would signal to utilities that there is no downside risk in filing unwarranted rate cases.

5 Although Staff recommends a rate reduction, Staff recognizes that statute requires that the Commission first find current rates are insufficient, unjust, or unreasonable before it changes rates.⁶ Cascade's failure to produce evidence its rates were insufficient when it filed this case could lead the Commission to conclude it cannot find that Cascade's current rates are insufficient and that it therefore lacks the legal authority to change Cascade's rates at all in this proceeding. Through that lens the Commission would be justified in dismissing this case and maintaining Cascade's current rates.⁷

III. PRO FORMA PLANT ADDITIONS

6 Utilities earn the privilege of a pro forma adjustment by doing two things in a rate case: meeting their burden of proof, and providing a convincing policy basis for accepting the proposed additions. Utilities must prove that pro forma adjustments accurately capture changes to overall cost of providing service and include only costs that were prudently

⁵ McGuire, Exh. CRM-1T at 13:7-16:4.

⁶ See RCW 80.28.010(1); RCW 80.28.020.

⁷ See generally *Wash. Utils. & Transp. Comm'n v. Avista Corp* Dockets UE-160228 and UG-160229, Order 06 (Dec. 15, 2016) (Dismissing Avista's 2016 general rate case).

incurred. Providing sufficient evidence to meet this burden of proof is a prerequisite for accepting *any* pro forma adjustment for ratemaking purposes. The Commission can only reach the second, discretionary issue of whether the proposed pro forma adjustment is good policy if that prerequisite is satisfied. The discretionary policy question balances extent to which non-company parties had the opportunity for meaningful review, against the possibility that the utility is in fact experiencing unreasonable levels of regulatory lag. In this case, Cascade fails on both accounts.

7 First, Cascade does not meet its burden of proof because the Company did not provide sufficient evidence on prudence or offsetting factors. Cascade did not provide evidence on the prudence of its decision to continue, -rather than delay or cancel- certain projects. Late in this case, Cascade revealed it had delayed two projects the Company had included in its pro forma plant adjustment. This indicates that continuing with other projects (that Cascade still proposes to include in pro forma) may have been discretionary, not necessary. Despite delaying two projects, Cascade presented no evidence regarding the decision to continue with other projects included in the proposed pro forma adjustment. Under these circumstances, where a company has indicated both that it has discretion in the timing of projects, and that economic conditions caused it to delay specific projects, requiring the utility to produce contemporaneous evidence of its decision making process – including the decision-making process for the projects Cascade chose not to delay – is both reasonable and necessary.

8 The Company also did not properly consider offsetting factors, a crucial element to ensuring that the pro forma adjustment reflects known and measurable changes to the overall cost of service. The Company's failure to meet the burden of proof is fatal to Cascade's proposed pro forma adjustment, but the Company also fails to provide a convincing policy

argument for inclusion of its proposed pro forma plant additions into rates, since the information that it did provide to the record was provided too late in the case to allow for meaningful non-company party review.

9 Second, once a utility has provided sufficient evidence to substantiate a pro forma addition, the Commission then weighs whether that addition is appropriate in light of competing policy objectives. One of the most important and longstanding policy objectives is balancing the desire to address regulatory lag with the need to ensure that non-company parties have time for meaningful inspection and review of the proposed additions. In this case, only one of the 15 discrete projects Cascade included in its pro forma plant adjustment was in service when the Company filed its case,⁸ and most (11 of 15) failed to materialize by the time Staff needed to complete its analysis and provide a recommendation to the Commission. By Cascade's own admission, most of the Company's pro forma plant additions (by dollar amount) were reported by the Company as going into service in December of 2020. With response testimony due on November 19th, this gave the non-company parties no meaningful opportunity to review and provide the Commission with a thorough assessment of these projects, including the prudence of final project costs and the decision to proceed with the projects. In contrast to the pro forma plant additions approved in the most recent PSE GRC, no element of these projects was in-service and used and useful prior to Staff filing responsive testimony in this case. Therefore, Commission should reject Cascade's pro forma plant additions, with the exception of the 6.9 million in pro forma plant additions that Staff accepted in response testimony.⁹

⁸ Panco, Exh. DJP-1T at 11:10-14; Darras, Exh. PCD-2.

⁹ Panco, Exh. DJP-1T at 3:8-13

A. Legal Standard.

10 The Commission recently discussed the standards for pro forma adjustments in the used and useful policy statement. In the policy statement, a clear distinction was drawn between traditional pro forma adjustments that occur before the rate effective date, and provisional pro forma adjustments, which are placed in-service after the rate effective date. In general, the policy reaffirms that the previous Commission standards regarding pro forma adjustments remain applicable; however, for provisional pro forma adjustments, these standards would be applied retroactively, and the amounts collected through rates would be subject to refund. Other than this change, the Commission's rules on pro forma adjustments, including the evidentiary standards, did not change. These standards hold that Commission may allow recovery of post-test-year investment in plant where: (1) the plant is used and useful, (2) the investment in plant involves known and measurable events and amounts, (3) the utility accounts for offsetting factors, (4) the costs were prudently incurred, and (5) the investment is major.¹⁰

11 The policy statement also makes clear that the Commission remained concerned about the ability of non-company parties to provide meaningful review and analysis of pro forma additions, and made clear that evidence provided later in a rate case must meet a higher burden: "The further a proposed adjustment considered in a GRC occurs from the end of the test year, the less time Staff and other parties have to review a company's supporting evidence. In light of these factors, the company's burden to demonstrate that it has met the requirements guiding adjustments to test-year data is greater."¹¹ The policy statement went

¹⁰ See *Wash. Utils. & Transp. Comm'n v. Avista Corp.*, Dockets UE-170485 and UG-170486, Order 07, 66, ¶ 196 (April 26, 2018) (2017 Avista GRC Order); *Wash. Utils. & Transp. Comm'n v. Pac. Power & Light Co.*, Docket UE-152253, Order 12, 33-34, ¶¶ 94-95 (Sept. 1, 2016) (2015 PacifiCorp GRC Order).

¹¹ In re Commission Inquiry into the Valuation of Public Service Company Property that Becomes Used and Useful after Rate Effective Date, Docket U-190531, Policy Statement on Property that Becomes Used and Useful after Rate Effective Date, 9, ¶ 25 (Jan. 31, 2020) (Policy Statement).

on to state that: “The Commission also will reject requests that either cannot be audited or are unreasonably burdensome to review.”¹² Below, we will review the prudence standard, the known and measurable standard, the types of investments that are appropriate to include in pro forma adjustments, and policy considerations outlined in the policy statement.

1. The prudence standard.

12 The Commission may deny the recovery of imprudent expenditures.¹³ Thus, a utility must act prudently, meaning reasonably,¹⁴ throughout the life of a project, from its inception when assessing the need for the project to its end when incurring the final construction expense.¹⁵ The utility bears the burden of proving that it acted prudently.¹⁶

13 In the 2015 PacifiCorp GRC, the Commission found that Pacific Power failed to meet its burden to prove that the decision *to continue* installing the SCR system was prudent.¹⁷ The order explains that the utility failed to meet its burden in that case because it did not present evidence that the decision to continue investing in the SCR system was prudent.¹⁸ A utility has the obligation to provide evidence that it continuously evaluated the prudence of investing in a project at least up until that project goes into service.¹⁹ The used and useful policy statement also indicates that prudence is “continuously evaluated over the life of an investment.”²⁰ Therefore, before an evaluation of prudence can be completed, the investment must be in-service with the costs known and measurable.

¹² *Id.* at 10, ¶ 29.

¹³ *People’s Org. for Wash. Energy Res. v. Wash. Utils. & Transp. Comm’n*, 104 Wn.2d 798, 810, 711 P.2d 319 (1985).

¹⁴ 2015 PacifiCorp GRC Order at 33, ¶¶ 94–95.

¹⁵ *Id.* at 34, ¶ 95.

¹⁶ *Id.* at 33, ¶ 94.

¹⁷ *Id.* at 40, ¶ 116.

¹⁸ *Id.* at 38 ¶ 108.

¹⁹ *Id.* at 40, ¶ 115 (“the Commission has disallowed return on an asset when the Company failed to comprehensively demonstrate that its investment decisions, including the execution of contracts and continuously evaluating potentially lower cost options, were prudent”).

²⁰ Policy Statement at 12, n.39 (“Prudence is always part of the investment threshold question and is continuously evaluated during the life of an investment.”).

2. *The known and measurable standard.*

14 Under WAC 480-07-510(3)(c)(ii), pro forma adjustments account for “all known and measurable changes that are not offset by other factors.” As Staff emphasized in response testimony, pro forma adjustments must account for changes in the utility’s overall cost of service, not merely the additional costs from new investments.²¹ The Commission must “assess the certainty with which costs **and offsetting factors** are known when it balances the competing pressure to change test year values to reflect newer information with the objective of preserving the integrity of test year relationships.”²² In the 2009 PSE GRC Order, which Cascade references in testimony,²³ the Commission describes two aspects of offsetting factors:

We emphasize that there are two aspects to the consideration of offsetting factors. First, there should be evidence showing consideration of whether a proposed increase in expense directly produces any offsetting benefits. For example, the Company may obtain a new computer program that automates aspects of the billing process, reducing the need for employees responsible for this process. Thus, the costs of the computer program may be partially or fully offset by the savings in wages and benefits. On the other hand, it may turn out that other demands on the Company require additional employees during the same period that exactly replace the costs of the savings in the billing function. This illustrates the other aspect of offsetting factors—contemporaneous changes in revenues or expenses that are not directly related to the proposed pro forma adjustment, but which offset its financial impacts²⁴

²¹ McGuire, Exh. CRM-1T at 25:20-26:3.

²² *Wash. Utils. & Transp. Comm’n v. Avista Corp.*, Dockets UE-090134 & UG-090135, Order 10, 21 ¶ 47 (Dec. 22, 2009) (2009 Avista GRC Order) (emphasis added).

²³ Parvinen, Exh. MPP-8X at exhibit page 14 “First, there should be evidence showing consideration of whether a proposed increase in expense directly produces any offsetting benefits.... the other aspect of offsetting factors—contemporaneous changes in revenues or expenses that are not directly related to the proposed pro forma adjustment, but which offset its financial impacts.

²⁴ *Wash. Utils. & Transp. Comm’n v. Puget Sound Energy*, Dockets UE-090704 and UG-090705, Order 11, 12, ¶ 28 (April 2, 2010) (2009 PSE GRC Order).

15 Thus, proper consideration of offsetting factors for each project requires considering both the direct impacts of the investment, and contemporaneous changes that are not directly related to the adjustment.

16 The Commission also described offsetting factors in the used and useful policy statement: “Offsetting factors include, but are not limited to, removing rate-year retirements, dispositions, and non-depreciating plant, including revenue growth, and operations and maintenance (O&M) expense offsets. Without incorporating these offsetting factors, a proposal will not be considered to be in the public interest because resulting rates would not be fair, just, reasonable, and sufficient, as required by RCW 80.28.010(1).”²⁵

17 Insufficient evidence that the utility properly considered offsetting factors is grounds for rejection of a proposed pro forma adjustment. The Commission rejected pro forma plant in the 2009 Avista GRC partially due to inadequate presentation of offsetting factors evidence:

As articulated below, in this case, for a number of proposed pro forma adjustments, Avista fell short of meeting its obligations under the relevant Commission rules. **Rather than present evidence of costs for new capital additions or for new expenses, Avista provided estimates. Also, rather than carefully analyzing savings or other offsetting factors that should be included in any pro forma analysis, the Company sometimes ignored such factors or addressed them in a minimal fashion.** Accordingly, as detailed below, we did not accept a number of the Company’s proposed pro forma adjustments.”²⁶

18 The Commission also found that the utility presented insufficient evidence of offsetting factors in the 2014 PacifiCorp GRC, and those proposed additions were also rejected. Providing sufficient evidence of offsetting factors and consideration of offsetting factors is critical to the pro forma analysis.

²⁵ Policy Statement at 7, n.25.

²⁶ 2009 Avista GRC Order at 23, ¶ 51 (emphasis added).

3. *Plant and expenses allowed into pro forma adjustments.*

19 Not every type of investment or expense is eligible for pro forma treatment. The used and useful policy statement outlines the types of investments or expenses that are appropriate to include in provisional pro forma adjustments. It lists three broad types of investments: specific, and programmatic, and projected. In a footnote, the used and useful policy statement describes programmatic investments:

Programmatic investments are, by their very nature, investments made according to a schedule, plan, or method such as the replacement of power poles or other small distribution system investments necessary to provide safe and reliable service to Washington ratepayers.²⁷

20 The description given by the Commission makes clear that unplanned investments are not programmatic, and therefore not appropriate to include in a pro forma adjustment. Bear in mind that rejection from the pro forma adjustment is not a disallowance, these costs can still be recovered in subsequent rate cases. The policy statement also makes clear that programmatic investments need to be necessary to provide safe and reliable service to ratepayers. Like all other types of investments, programmatic investments must meet the standards listed above in this section. There is no indication in the policy statement that different standards of prudence, the known and measurable standard, or materiality threshold exists for programmatic investments.

4. *Commission policy has long held that burden of proof increases the later in the rate case evidence is presented on a proposed pro forma project.*

21 The burden of proof for pro forma plant adjustments is not static, the Commission has made clear that, as a matter of policy, a utility's burden increases the later in the rate case crucial information is presented. For traditional pro forma adjustments, the Commission

²⁷ *Id.* at 5, n.19.

has held that “The farther a proposed adjustment is removed in time from the test year, and the less time that supporting evidence is available for examination, discovery, and testing by our staff and other parties, the greater is the Company’s burden to demonstrate that the requirements guiding adjustment to test year data have been met.”²⁸ In the 2009 Avista GRC, the Commission explained that “[t]he less certainty with which actual utility costs and offsetting factors are known and measurable, the greater is the risk that an adjustment would disturb test year relationships and the less appropriate is the pro forma adjustment. The Commission must assess the certainty with which costs and offsetting factors are known when it balances the competing pressure to change test year values to reflect newer information with the objective of preserving the integrity of test year relationships.”²⁹ This was reaffirmed in the used and useful policy statement:

The further a proposed adjustment considered in a GRC occurs from the end of the test year, the less time Staff and other parties have to review a company’s supporting evidence. In light of these factors, the company’s burden to demonstrate that it has met the requirements guiding adjustments to test-year data is greater.³⁰

22 The clear implication of this policy is that evidence that would be sufficient if presented at the beginning of a rate case could be insufficient if presented late in the same proceedings. This makes sense from a policy perspective. A plant addition introduced late in the proceeding is causing less regulatory lag, the project was placed in-service later. It also makes sense that, in order for a utility to get approval for a late-arriving addition, it would need to meet a higher evidentiary standard to compensate for the fact that non-company parties and the Commission have less time to review. One interpretation of this policy is that it essentially requires the utility to provide evidence sufficient to convince the Commission

²⁸ 2009 Avista GRC Order at 21, n.45.

²⁹ *Id.* at 21, ¶ 47.

³⁰ Policy Statement at 9, ¶ 25.

that any additional scrutiny of the proposed pro forma addition would not meaningfully change the outcome.

B. Cascade’s Proposed Pro Forma Plant Additions Fail To Meet The Prudence Standard.

1. The proposed discrete projects fail to meet the prudence standard.

23 In Mr. Parvinen’s rebuttal testimony Cascade states that “[f]rom a substantive perspective, Staff possessed all of the information necessary to evaluate the prudence of the Company’s projects when Staff filed Reply Testimony.”³¹ He also goes on to state that “all materials necessary to review prudence of the Company’s projects have been provided through Cascade’s Initial Filing and through data requests. As explained further below, the only pieces of information missing at the time of the parties’ responsive testimony were actual in-service dates for discrete projects and final cost figures.”³²

24 However, as noted in the legal standard section above, the prudence standard considers the utility’s actions across the life of the project. A prudence examination is not simply an evaluation of the decision to initiate an investment; rather, the examination also pertains to the company’s decisions to proceed with the investment in light of changing conditions and actions impacting the total cost of the project. During cross examination, Cascade did not appear to appreciate that demonstrating the prudence of its investment decisions was an ongoing requirement.³³

25 Although Cascade asserted on cross examination that nothing would have changed from the information provided in the direct testimony,³⁴ in his rebuttal testimony Mr. Darras states that Cascade delayed the two projects quote “to reduce its capital budget in light of the

³¹ Parvinen, Exh. MPP-2T at 17:14-15

³² *Id.* at 15:1-5.

³³ Parvinen, TR. 196:13- 201:12.

³⁴ Parvinen TR. 201:7-12.

ongoing COVID-19 pandemic.”³⁵ In the initial filing, Cascade rejected delaying these projects as an alternative because it stated that both these projects were necessary to address growth, and therefore they could not be postponed.³⁶ Yet these projects were delayed on rebuttal, which begs the question of how Cascade made this decision and whether it would have been prudent to delay other projects that Cascade continues to request on rebuttal. It also raises doubts about the similar claims in Cascade’s initial testimony that the other discrete projects could not be delayed.³⁷ Unfortunately, Cascade provided no contemporaneous evidence of this decision-making process.³⁸

2. The proposed blanket growth expenses fail to meet the prudence standard.

26 Suffice it to say that all the prudence issues mentioned above with respect to the discrete projects apply equally, if not more so, to the blanket growth expenses that Cascade proposes to include in the pro forma adjustment. Namely, Cascade presented no evidence regarding the decision to delay or continue these projects, despite Cascade’s own admission that the pandemic caused it to reevaluate its capital budget. Cascade’s testimony provides less support for the prudence of these investments than the discrete projects, often simply asserting that they are necessary and unavoidable.³⁹ In the initial filing, about one page is devoted to describing generally what blanket growth projects are as a general matter, but does not provide any specific narrative to demonstrate the prudence of these projects.⁴⁰ While slightly more detail on these projects is provided on rebuttal, prudence is still not

³⁵ Darras, Exh. PCD-2T at 5:1-2.

³⁶ Darras, Exh. PCD-1T at 38:12 (Aberdeen); *Id.* at 43:16 (Richland Keene).

³⁷ See, e.g. *Id.* at 34:8-14 (Arguing the Arlington gate project could not be postponed); *Id.* at 29:22-30:3 (Arguing Walla Walla Gate Project could not be postponed)..

³⁸ Parvinen, TR. 201:7-12; Darras, TR. 150:17-151:3.

³⁹ See Darras, Exh. PCD-3T at 19:8-10 (“These projects are completed in response to customer growth, which is driven by our customers—not by Cascade. Therefore, we do not control the size, cost, or timing of any individual project.”)

⁴⁰ Darras, Exh. PCD-1T at 68:19- 69:

addressed.⁴¹ Cascade’s description of these projects is contradicted in other areas of their direct case.⁴² Cascade may object that these projects are too small to provide individual assessments, but the Company cannot have it both ways. If these blanket growth projects are significant enough to merit inclusion in the pro forma adjustment, then the Company must meet the same evidentiary standards as any other pro forma plant addition, and that includes prudence.

C. Cascade’s Pro Forma Plant Adjustment Fails The Known And Measurable Standard Because It Does Not Account For Offsetting Factors.

27 In Cascade’s direct testimony, it acknowledges that “The Commission’s long-standing policy requires that proposed pro forma plant additions must adhere to the matching principle by identifying and reflecting **any** offsetting factors.”⁴³ In the initial filing, Cascade included as offsetting factors only projected revenues associated with new customers, apparently in an attempt to justify including in its’ pro forma plant adjustment what Cascade calls “blanket growth work orders.”⁴⁴ Cascade accounted for no other offsetting factors in its revenue requirement calculation in its direct case, although it acknowledged that other offsetting factors exist.

28 In direct testimony, Mr. Parvinen stated that “for a number of projects included in Mr. Darras’s testimony” the offsetting savings from these projects would occur during a peak weather event, but there was no peak weather event during the test year.”⁴⁵ In rebuttal testimony Cascade also “expanded the scope of offsetting factors to include the depreciation impact **on the replaced and retired plant associated with the pro forma capital**

⁴¹ See Darras, Exh. PCD-3T at 16:9-18:20.

⁴² See Darras, Exh. PCD-5X at 6, n. 27 (initially filed as Peters, Exh. MCP-6).

⁴³ Parvinen, Exh. MPP-1T at 7:6-8 (emphasis added).

⁴⁴ See Parvinen, Exh. MPP-1T at 8:1-4 (“all new revenues associated with the proposed pro forma capital additions. Specifically, Cascade is proposing that the annual revenue associated with all new customers added in 2020 be included as an offsetting factor to the plant additions occurring in 2020”).

⁴⁵ Parvinen, Exh. MPP-1T at 8-9-18.

additions adjustment.”⁴⁶ These two offsetting factors and the very brief testimony that Cascade considered, but did not include, the reduced O&M expense as a possible offsetting factor, is the totality of the evidence Cascade presents on offsetting factors.⁴⁷ This is insufficient, since the depreciation impact only considers the impact of the retirement of plant directly related to the proposed pro forma plant addition, while Commission precedent requires both the direct impacts of the pro forma plant and the contemporaneous changes not directly related to the plant addition..

D. Cascade’s Proposed Blanket Growth Expenses Do Not Qualify For Inclusion In The Pro Forma Adjustment.

29 Cascade’s proposed blanket growth expenses do not qualify for inclusion in the pro forma adjustment for two reasons: first, they do not fall under one of the investment categories outlined in the used and useful policy statements, and second, growth plant is typically offset by growth in revenue, negating the need address regulatory lag through a pro forma adjustment

30 First, Cascade argues that these blanket growth expenses are allowed in the pro forma adjustment because they fall under the category of a programmatic investment.⁴⁸ On page 5, footnote 19 of the used and useful policy statement, it describes programmatic investments this way: “Programmatic investments are, by their very nature, investments made according to a schedule, plan, or method...”⁴⁹ In contrast, in rebuttal testimony Cascade described its blanket funding projects this way:

“These blanket funding projects encompass costs that are generally **unplanned and outside the Company’s control**. While we know that we will incur these costs over the course of the year, we do not know exactly

⁴⁶ Parvinen, Exh. MPP-2T at 24:5-8 (emphasis added).

⁴⁷ Parvinen, TR. 210:18-211:20. While Mr. Parvinen states that testimony regarding offsetting factors may be in the testimonies of Mr. Darras, Mr. Darras’ testimony does not discuss offsetting factors.

⁴⁸ See Parvinen, Exh. MPP-2T at 13:10-13.

⁴⁹ Policy Statement at 5, n.19.

where or when. For this reason, the Company cannot budget individually for the specific projects that fall within these blanket funding projects.”⁵⁰

31 Clearly, the description the Commission gives of programmatic investments is at odds with what Cascade is trying to add to the pro forma adjustment in this case.

32 Mr. Darras’ testimony describes all three types of these blanket expenses as related to customer growth.⁵¹ the testimony goes on to say that “[t]hese projects are completed in response to customer growth, which is driven by our customers—not by Cascade. Therefore, we do not control the size, cost, or timing of any individual project.”⁵² However, other parts of the initial filing appear to contradict this claim.⁵³

33 Second, in Mr. Parvinen’s direct testimony, he stated that Cascade included growth related investments and offsetting revenues because “new revenues associated with growth related projects, the additional revenues are not sufficient to provide an adequate return in the early years[,]” referring to the blanket growth projects in Cascade’s proposed pro forma adjustment.⁵⁴ This is a bald assertion , Cascade does not explain how the Company reached this conclusion. Cascade has not claimed that these assets are short lived, and if these expenses are truly related to customer growth outside the Company’s ability to control, it has not provided an adequate record to determine that the corresponding increase in revenue is insufficient.

E. Even If Cascade Had Met Its Bare Minimum Burden Of Proof, The Commission Should Reject These Pro Forma Plant Adjustments As A Matter Of Policy Because There Was No Meaningful Opportunity For Review.

34 As demonstrated above, Cascade failed to meet its bare minimum burden of proof for its proposed pro forma plant additions. Therefore, these proposals must be rejected,

⁵⁰ Darras, Exh. PCD-3T at 16:15-19 (emphasis added).

⁵¹ Darras, Exh. PCD-3T at 17:2-18:2.

⁵² *Id.* at 19:8-10.

⁵³ See Darras, Exh. PCD-5X at 6, n. 27 (initially filed as Peters, Exh. MCP-6).

⁵⁴ Parvinen, Exh. MPP-1T at 6:20-7:3.

regardless of any concerns over regulatory lag. Yet even if the Commission could reach the discretionary policy question of whether these additions should be considered for inclusion into rates, the answer would be no.

35 Cascade provided contradictory evidence to the parties late in the proceeding, giving no meaningful opportunity to audit or review the claims that these projects were in-service and the costs were known and measurable. Cascade admitted both during cross examination, and in rebuttal testimony, that accurate information regarding actual in-service dates and costs arrived very late in the rate case and errors were made in the discovery provided to the noncompany parties.⁵⁵ This raises doubts over when projects were actually placed in-service, whether the final costs reported by Cascade are accurate, and whether or not the account of offsetting factors presented by the Company is truly complete. On balance, this uncertainty favors rejecting these proposed adjustments, especially given that Cascade will most likely file a rate case shortly after this one and include these projects as test year costs.⁵⁶ Staff does not expect perfection. But the uncertainty surrounding pro forma plant additions created by the record of this case should be given serious consideration before ratepayers are asked to endure another increase.

IV. PRO FORMA WAGES

36 In the initial filing, Cascade requested to include wage increases for 2020 and 2021 in the pro forma adjustment. This included 2020 wage increases of 3 percent for union employees and 4 percent for non-union employees.⁵⁷ It also included 2021 wage increases of 3 percent for union employees and 4 percent for non-union employees.⁵⁸ On rebuttal,

⁵⁵ See e.g. Darras, TR. 145:20-149:9.

⁵⁶ Parvinen, Exh. MPP-1T, 9:14-17 (Cascade states it will “file an additional rate case shortly after the 8 conclusion of this rate case”).

⁵⁷ Peters, Exh. MCP-1T at 6-7.

⁵⁸ *Id.*

Cascade reduced its request by eliminating its 2021 union wage increase and by lowering its requested 2021 and 2020 non-union wage increases. Cascade reduced its requested 2020 wage increases from 4.0 percent to 3.55 percent and reduced its requested 2021 non-union wage increase from its 3.5 percent budgeted amount to 3 percent.⁵⁹ Pro forma wage adjustments must meet the same standards as pro forma plant additions described above.

37 Staff recommends that the Commission include in its revenue requirement calculation a 3 percent wage increase in 2020 for both union and non-union employees.⁶⁰ Staff recommends the Commission reject the additional wage increases for union and non-union employees that Cascade proposes for 2021.⁶¹ Staff's position on pro forma wage increases has not changed since response testimony was filed. The difference between Staff and Cascade's positions is therefore: a) the .55 percent difference between Staff's position and Cascade's position on the 2020 non-union increases, and b) the 2021 non-union wage increase.

38 First, the 2020 non-union wage increase should only be approved for 3 percent increase. At the hearing, Staff Witness Huang was questioned about her characterization of Cascade's wage increases as "aggressive."⁶² Her responses indicated that Cascade's requests were aggressive compared with recent rate cases of other utilities in which she had evaluated wage increases,⁶³ and that Cascade's requests were aggressive in light of the Covid-19 pandemic.⁶⁴ Wage increases should reflect the difficult economic circumstances and balance

⁵⁹ Kaiser, Exh. JEK-1CT at 2:17-3:3.

⁶⁰ Huang, Exh. JH-1T at 3:14-20.

⁶¹ *Id.*

⁶² Huang, TR. 274:1-10.

⁶³ *Id.* at 279:13-24.

⁶⁴ *Id.*

the need to attract and retain qualified employees with the additional burdens placed on ratepayers. Cascade's proposal does not do enough to mitigate the burden on ratepayers.

39 As Staff Witness Huang noted in her response testimony, the 2020 non-union increases above 3 percent were discretionary, and "Cascade acknowledged that the four percent increase comes from the Company's budget."⁶⁵ Although the Company mitigated its request for 2020 non-union wages from 4 percent to 3.55 percent on rebuttal, the costs above 3 percent were still within the Company's ability to control, which it should have done considering the economic circumstances many of Cascade's customers face due to the COVID-19 pandemic. Although Cascade on rebuttal argued that a 2018 study supports the need to maintain the same annual increases as in year's past,⁶⁶ this is not sufficient evidence to demonstrate the prudence of continuing discretionary wage increases. Cascade did not present any evidence that the discretionary .55 percent was necessary to maintain and attract qualified staff during 2020, it is therefore inappropriate to include these amounts in a pro forma adjustment. It is important to bear in mind, as stated previously, that rejection from inclusion in a pro forma adjustment is not a disallowance, these costs may be recovered later if sufficient evidence is presented in a subsequent case.

40 Second, non-union 2021 wages should be rejected in their entirety because they are not known and measurable at this time. Pro forma wage increases are merely another type of pro forma adjustment, the same standards that applied to the pro forma plant request analyzed in Section III.A. of this brief also applies to pro forma wage proposals. The 2021 non-union wage increase is not known and measurable, since inclusion in the budget does not guarantee that those expenditures will occur. While Cascade alleges that the non-union

⁶⁵ Huang, Exh. JH-1T at 7:7-13.

⁶⁶ Kaiser, Exh. JEK-1CT at 15:5-6.

2021 wages have been “finalized,”⁶⁷ the Company did not present evidence that those increases have been approved by Cascade’s board of directors.

41 During cross examination, Staff Witness Huang was asked about previous cases in which pro forma wages occurring after test period were approved, such as the 2017 Avista GRC.⁶⁸ However, in the Avista case, the future wage increases had were approved by the board of directors, resulting in Staff not contesting those increases. In this case, Cascade has not demonstrated that these “finalized” non-union wage increases have been approved by the board of directors. Further, as Staff Witness Huang stated on redirect, the number provided by Cascade is not firm,⁶⁹ and therefore the 2021 nonunion wage increases are not known and measurable.⁷⁰

V. COST OF CAPITAL

42 Cascade’s proposed cost of capital is out of step with Commission precedent and current economic conditions. Cascade’s currently approved cost of capital includes an ROE of 9.4 percent, a capital structure with 49.1 percent equity, and an overall ROR of 7.24 percent.⁷¹ In the initial filing, Cascade requested an increase in ROE to 10.3 percent,⁷² a proposed capital structure comprised of 50.4 percent common equity and 49.6 percent debt,⁷³ and an overall ROR of 7.54 percent.

43 On rebuttal, Cascade modified its request to 9.8 percent ROE, with the same proposed capital structure of 50.4 percent equity and 49.6 percent debt.⁷⁴ Cascade also

⁶⁷ *Id.*

⁶⁸ Huang, TR. 274:17- 278:2.

⁶⁹ Kaiser, Exh. JEK-1CT at 15:5-8.

⁷⁰ Huang, TR. 282:13-17 (Noting that while the request is for 3 percent, the budgeted increase is 3.5 percent with 0.5 percent held back for mid year increases).

⁷¹ *Wash. Utils. & Transp. Comm’n v. Cascade*, Docket UG-190210, Order 05, 3, ¶ 10 (Feb. 3, 2020) (2019 Cascade GRC Order).

⁷² Bulkley, Exh. AEB-1T at 8:5-9.

⁷³ Nygard, Exh. TJN-1T at 3:10-11.

⁷⁴ Bulkley, Exh. AEB-4T at 8:16-9:9.

updated the company's cost of debt to 4.589 percent.⁷⁵ Cascade's overall ROR on rebuttal was 7.22 percent.⁷⁶ As Cascade acknowledges,⁷⁷ this request is slightly higher than the RORs approved in the last rate cases for Avista (7.21 percent ROR)⁷⁸ and PacifiCorp (7.17 percent ROR).⁷⁹ On rebuttal, Cascade requests an increase from currently authorized cost of capital of 40 basis points in ROE and 130 basis points in the equity proportion of capital structure. Familiarity with the Commission's policy of gradualism is sufficient to reject Cascade's cost of capital proposal out of hand.

44 Staff recommends a capital structure of 48.5 percent equity and 51.5 percent long term debt.⁸⁰ Staff's expert witness, Mr. Parcell, determined a range of reasonableness between 9.0 percent and 9.5 percent, with a final ROE recommendation of 9.25 percent.⁸¹ Mr. Parcell's overall ROR recommendation is 6.93 percent, after accounting for the reduced cost of debt. Staff's recommended cost of capital is a reasonable middle ground consistent with the Commission's policy of gradualism.

A. Legal Background.

45 A utility's cost of capital is the level of return it requires to service its debt and compensate its equity investors. The Commission calculates a utility's cost of capital, or rate of return, in keeping with the principles established in the *Hope*⁸² and *Bluefield*⁸³ line of cases. To calculate a utility's cost of capital, the Commission must determine the cost of

⁷⁵ Nygard, Exh. TJN-4T at 2:19.

⁷⁶ *Id.* at 2:17.

⁷⁷ *Id.* at 3:11-14.

⁷⁸ *Wash. Utils. & Transp. Comm'n v. Avista Corp.*, Dockets UE-190334 & UG-190335, Order 09, 13, ¶ 34; 14, ¶ 38 (March 25, 2020) (2019 Avista GRC Order).

⁷⁹ *Wash. Utils. & Transp. Comm'n v. PacifiCorp, dba Pacific Power & Light Co.*, Dockets UE-191024, et al., Order 09/07/12, 22, ¶ 56 (Dec. 14, 2020) (2019 PacifiCorp GRC Order).

⁸⁰ Parcell, Exh. DCP-1T at 2:14.

⁸¹ *Id.*

⁸² *Fed. Power Comm'n v. Hope Nat. Gas Co.*, 320 U.S. 591, 64 S. Ct. 281, 88 L. Ed. 333 (1944).

⁸³ *Bluefield Waterworks & Impr. Co. v. Pub. Serv. Comm'n of W. Va.*, 262 U.S. 679, 43 S. Ct. 675, 67 L. Ed. 1176 (1923).

debt, the cost of equity, and the utility's capital structure. A utility's rate of return (also known as the weighted cost of capital) is the sum of its cost of debt and its cost of equity, weighted according to the respective shares of debt and equity in the utility's capital structure.

46 The cost of debt is typically computed based on the actual debt and cost rates of debt the utility has issued. In contrast, the cost of equity is an estimate of the likely return an investor would require to invest in an enterprise with comparable risks.⁸⁴ To determine the return on equity, the Commission first identifies the range of possible returns reported by expert witnesses, and narrows that to a range of reasonable returns.⁸⁵ The Commission selects a specific ROE by weighing the results falling within that range and considering any other relevant evidence.⁸⁶

47 The capital structure used to calculate the rate of return may be a company's actual capital structure, a pro forma capital structure, or a hypothetical capital structure.⁸⁷ The important principal is that the capital structure that the Commission uses for setting rates must balance the "economy" of lower cost debt with the "safety" of higher cost common equity.⁸⁸

B. Cascade's Return On Equity Should Be Reduced To 9.25 Percent.

48 The Commission should accept Commission Staff's ROE recommendation. Mr. Parcell's ROE recommendation already accounts for the Commission's principle of gradualism. Mr. Parcell's ROE range of 9.0 percent to 9.5 percent was determined "based

⁸⁴ See *Hope*, 320 U.S. at 602; *Bluefield*, 262 U.S. at 692.

⁸⁵ *Wash. Utils. & Transp. Comm'n v. Puget Sound Energy*, Dockets UE-170033 and UG-170034 (*Consolidated*), Order 08, 32, ¶ 90 (Dec. 5, 2017) (2017 PSE GRC Order).

⁸⁶ *Id.*

⁸⁷ 2017 Avista GRC Order at 39, ¶ 109; see also *Wash. Utils. & Transp. Comm'n v. Puget Sound Energy, Inc.*, Dockets UE-040640 & UG-040641, Order 06, 13, ¶ 27 (Feb. 18, 2005) (2004 PSE GRC Order).

⁸⁸ 2004 PSE GRC Order at 13, ¶ 27.

upon the mid-point of the range of the results for the DCF, CE and RP models. I specifically recommend a 9.25 percent ROE for Cascade. As I indicate in a later section, my ROE recommendation does not directly incorporate the CAPM results, which I believe to be somewhat low at this time, relative to the DCF, CE and RP results.”⁸⁹ Mr. Parcell’s ROE range recommendation is consistent with recent Commission decisions, as well as the last authorized ROE for Cascade.

49 At the hearing, Cascade asked Mr. Parcell about the rising treasury yields and the results of his methodologies in previous cases.⁹⁰ In each instance, Mr. Parcell had logical and detailed responses that put the concerns raised to rest.⁹¹ For example, the rise in treasury yields over the last three months represents a small portion of the overall ROE analysis and would not significantly impact the results of the analysis.

50 Mr. Parcell was also questioned regarding the historical range of his Comparable Earnings methodology in this case versus the CE results in the 2018 Cascade GRC.⁹² However, the difference was explained by the addition of another company.⁹³ Mr. Parcell was also questioned about the inclusion of Spire in his proxy group, yet Cascade’s ROE expert witness also includes Spire within their proxy group.⁹⁴ The inclusion of Spire did not meaningfully impact the results of Mr. Parcell’s recommendation.⁹⁵

51 Overall, Commission Staff’s position on ROE represents a reasonable middle ground between the extreme positions taken by Cascade and Public Counsel, neither of which are

⁸⁹ Parcell, Exh. DCP-1T at 4:6-11.

⁹⁰ Parcell, TR. 71:10- 87:12.

⁹¹ See *Id.* at 71:5-80:21.

⁹² *Id.* at 75:1-78:3.

⁹³ *Id.* at 77:18-21.

⁹⁴ *Id.* at 78:10-11.

⁹⁵ *Id.* at 79:1-80:21.

appropriate given the Commission’s recent emphasis on the importance of gradualism in ROE decisions.⁹⁶

C. Capital Structure Should Remain As Currently Set, The Enbridge Cost Recovery Does Not Affect Capital Structure.

52 The Enbridge incident costs are being recovered on a separate schedule and should not be used to distort Cascade’s capital structure. Ms. Nygard states that Cascade had a \$17.5 million “unanticipated...short-term debt increase from higher gas costs in November and December” of 2018.⁹⁷ Cascade has been authorized to recover the Enbridge incident gas costs over a three-year period through rate schedule 590.⁹⁸ Through this schedule, the Company is collecting interest at the FERC interest rate.⁹⁹ Accordingly, there is no need to make this “adjustment” in the Company’s capital structure ratios due to the gas costs related to the Enbridge incident. Staff’s recommendation “contains more equity than the Company’s actual 2019 capital structure and is similar to recent actual ratios of Cascade. Further, it is consistent with the capital structure approved by the commission for other Washington utilities.”¹⁰⁰

53 In response testimony, Mr. Parcell said this regarding capital structure:

[T]he Company has attempted to justify its proposed capital structure by using an average and targeted capital structures over the past two years, instead of using the actual test period or a hypothetical capital structure. Cascade has failed to demonstrate that its proposed capital structure will be substantially different during the rate year than it was at the end of 2019, and has also failed to provide any documentation of a commitment of specific capital injections that will be made by investors (i.e., MDU Resources and/or other investors) during the rate year. Having a “targeted”¹⁰¹ capital structure

⁹⁶ *Wash. Utils. & Transp. Comm’n v. Puget Sound Energy*, Docket UE-190529, UG-190530, UE-190274, UG-190275, UE-171225, UG-171226, UE-190991, & UG-190992, Order 08/Order 05/Order 03, 35, ¶ 105 (July 8, 2020).

⁹⁷ Nygard, Exh. TJN-1T at 4:4-8.

⁹⁸ *In re Petition for Proposed New Tariff Revisions, Schedule 590, Temporary Gas Cost Amortization*, Docket UG-190145, Order 01, 2-4 (March 28, 2019).

⁹⁹ WAC 480-90-223(4).

¹⁰⁰ Parcell, Exh. DCP-1T at 26:16-20.

¹⁰¹ *Citing* Nygard, Exh. TJN-1T at 4:1-5.

of 50 percent equity and 50 percent debt does not sufficiently ensure what financial strategies will take place during the rate year. Therefore, I believe the Company's attempt to use a capital structure with more equity than it has recently maintained, which is essentially a hypothetical methodology, is unsupported and unjustified in this instance¹⁰²

54 As Mr. Parcell notes, the capital structure authorized in the 2019 Cascade GRC occurred after the recovery of the Enbridge incident gas costs were authorized under Schedule 590.¹⁰³ These costs are therefore not a justification for an increase in the proportion of equity in the capital structure above what is currently authorized. Staff's proposed capital structure is in line with its actual capital structure and with the Commission policy of balancing safety with economy.

VI. COST OF SERVICE, RATE SPREAD, AND RATE DESIGN

55 Staff recommends accepting the Company's proposed rate spread and rate design, which remains mostly unchanged from the approved methodologies in the Company's 2019 GRC.¹⁰⁴ Staff recommends spread rates using 2019 EOP customer counts and class term usage, as opposed to using the projected 2020 EOP customer count and class term usage as proposed by Cascade. This was the methodology used in Cascade's 2019 GRC.¹⁰⁵ Staff agrees with continuing to uphold previous settlements of spreading rates on equal percent of margin until the Company performs a load study. In response testimony, Staff recommended that the Commission reject any future request from Cascade for an exemption from Commission rules requiring a load study for cost of service.¹⁰⁶ Cascade's answers to questions that Commissioners raised at the hearing made clear that Cascade does not have a unified plan for implementing the load study.

¹⁰² Parcell, Exh. DCP-1T at 25:11-22.

¹⁰³ *In re Petition for Proposed New Tariff Revisions, Schedule 590, Temporary Gas Cost Amortization*, Docket UG-190145, Order 01, 2-4 (March 28, 2019).

¹⁰⁴ Higby, Exh. ANH-1T at 3.

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

VII. RATE MITIGATION PROPOSAL FROM CASCADE

56 First, it is important to recognize that the Commission's decision to approve or reject Cascade's rate mitigation proposals has *absolutely no bearing* on the primary question of the whether underlying or "real" rates being set in this case are fair, just, reasonable or sufficient. Whether the Commission should grant a rate increase or decrease must be kept separate and analytically distinct from the decision on these rate mitigation proposals. The availability of funds to mitigate rate impact does not lower Cascade's burden of proof in the other portions of this case, nor should it impact decision-making on the important policy questions presented in this case. An underlying rate increase that would otherwise be rejected does not become appropriate simply because money is available to fund a "compromise" decision.

57 Cascade's proposal regarding unprotected EDIT amortization is a perfect illustration. As the Commission is well aware, these funds are already owed to ratepayers. Cascade's proposal merely gives this money back to ratepayers faster than the currently approved amortization schedule. In principle, Staff is not opposed to shortening the amortization schedule for Unprotected EDIT if the Commission finds that this would assist ratepayers through current economic conditions. But this proposal involves no real sacrifice on Cascade's part, it is merely a policy call of whether it would be best for ratepayers to have their money returned to them faster than currently scheduled.

58 However, Staff does oppose extending the Deferred Gas Cost Amortization associated with the Enbridge incident. This proposal does not help ratepayers, it simply requires them to pay for any rate increase later, and with interest. Because Staff's recommendation is a rate decrease, Staff does not believe this revenue offset is necessary.

VIII. CONCLUSION

59

The Commission should either reduce Cascade's rates, or in the alternative, dismiss this case. Cascade has not demonstrated that current rates are unfair, unjust, unreasonable, or insufficient. In fact, the weight of all the evidence suggests that a reduction is in order. During this turbulent economic period, Cascade continued to reflexively file a rate case that included increases for Cascade's investors and employees that are out of step with economic reality. It continued with projects that should have been delayed and provided insufficient evidence of the prudence of continuing those projects during the pandemic. Although it pulled back on some of the Company's more extreme requests on rebuttal, the reality remains that these "concessions" are not nearly enough to reflect economic reality. This case should never have been filed. Cascade was not ready to provide the Commission and non-company parties with sufficient evidence to support its pro forma plant adjustments. No matter how concerned the Commission may be about regulatory lag, insufficient evidence simply cannot be the basis upon which ratepayers are asked to shoulder additional costs. The burden of proof was on Cascade, and it did not meet that burden. These costs may be included for recovery in a future rate case, but the record in this case supports a rate decrease.

Respectfully submitted,

ROBERT W. FERGUSON

Attorney General

/s/ Nash Callaghan, WSBA No. 49682

Assistant Attorney General

Office of the Attorney General

Utilities and Transportation Division

P.O. Box 40128

Olympia, WA 98504-0128

(360) 664-1187

nash.callaghan@utc.wa.gov