

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,	DOCKET UW-240151
Complainant,	ORDER 08
v.	
CASCADIA WATER, LLC,	FINAL ORDER REJECTING TARIFF FILING; AUTHORIZING AND REQUIRING COMPLIANCE FILING
Respondent.	

SUMMARY

Synopsis: *The Washington Utilities and Transportation Commission (Commission) rejects the tariff sheets filed by Cascadia Water, LLC (Cascadia Water or Company) on February 29, 2024. The Commission has considered the full record, including six rounds of testimony, two evidentiary hearings spanning three days, hundreds of customer comments, and three rounds of briefing. Pursuant to the Washington Administrative Procedure Act, Commission statutes, and precedent, the Commission requires Cascadia Water to file tariff sheets that will result in an increase in revenue of approximately \$1.168 million or 49.1 percent in accordance with the decisions in this Order, summarized below. The Commission adjusts the Company's return on equity to 10.18 percent and the Company's cost of debt to 6.04 percent. The Commission further adopts the Company's proposal to use a hypothetical 50:50 debt-to-equity capital structure for the Company. This results in a rate of return of 8.11 percent. The Commission determines that the prudence of the Company's Projects 3, 7, 8, 12, and 13 were determined in Order 06 and that collateral estoppel precludes the relitigation of that issue. The Commission further finds that the Company's Projects 1, 2, 4, 5, 6, 9, 10, and 11, as well as its meter replacement project, were imprudent due to the Company's failure to maintain contemporaneous documentation of its decision-making and communication with its board of directors and corporate parent. For all imprudent projects, the Commission disallows the Company's return on equity but permits a return of investment and a return on the weighted cost of debt, or 3.02 percent. The Commission further determines that the record does not support consolidating the Island and Peninsula tariffs or the removal of the Aquarius surcharge and adopts several adjustments to various expenses proposed for inclusion in rates by the Company.*

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I. BACKGROUND

- 1 **PROCEDURAL HISTORY.** On February 29, 2024, Cascadia Water, LLC (Cascadia Water or Company) filed with the Washington Utilities and Transportation Commission (Commission) revisions to its Tariff WN U-2 to be cancelled and superseded by Tariff WN U-3 for water service in Washington. The Company serves approximately 4,000 customers and characterized this filing as a general rate case (GRC) that would generate approximately \$1,788,793 (75 percent) in additional revenue and would have taken effect June 1, 2024. Cascadia Water cited cost recovery for capital improvements with a reasonable return as a basis for its requested rate increase. Cascadia Water's last GRC became effective July 1, 2021, in Docket UW-200979 with phased-in rates.¹
- 2 Since its last GRC, Cascadia Water has reportedly purchased the assets of Discovery Bay Village Water Inc. (Discovery Bay) on the Olympic Peninsula, Pelican Point Water Company (Pelican Point) near Moses Lake in Grant County, Northwest Water Services, LLC (Northwest Water Services) in portions of Skagit, Snohomish, and Island Counties, Aquarius Utilities, LLC (Aquarius) in Clallam, Kitsap, and Mason Counties, and Pedersen Family, LLC (Pedersen) in Clallam County, more specifically, Sequim, Washington.² Initially, Cascadia Water requested a consolidation of Discovery Bay, Aquarius, and Pedersen into its Peninsula System rate structure and to consolidate Northwest Water into its Island/Mainland System rate structure, with a distinct rate for Pelican Point because it is geographically located in Eastern Washington.
- 3 On April 16, 2024, attorney Judith Endejan of Endejan Law, LLC appeared on behalf of Water Consumer Advocates of Olympic Peninsula (WCAOP). On April 19, 2024, WCAOP filed its Motion of Water Consumer Advocates of Olympic Peninsula to Suspend Tariff Effective Date and Continuance of Rate Case Filing Open Meeting, requesting that the Commission either continue the Open Meeting hearing 90 days or suspend the matter and set it for a hearing. WCAOP cited concerns, among other things, about rate shock for customers and a lack of documentation to justify the requested rate increase in the Peninsula System.
- 4 On May 13, 2024, Cascadia Water filed a Tariff Effective Date Extension Letter informing the Commission that the effective date of its proposed Tariff revision would be extended to July 1, 2024, to give Commission staff (Staff) sufficient time to review the filings and for Cascadia Water and Staff to schedule additional virtual customer outreach

¹ *WUTC v. Cascadia Water, LLC*, Docket UW-200979, Order 01 (June 28, 2021).

² Customer Notice (Feb. 29, 2024).

meetings. Cascadia Water and Staff agreed to a reduction in Cascadia Water's proposed revenue requirement to \$1,272,600, which would be divided between the Peninsula System and Island/Mainland System at \$1,062,372 (51 percent) and Pelican Point at \$222,579 (76 percent).³

- 5 On June 11, 2024, the Commission received a letter from State Senator Van De Wege and State Representatives Chapman and Tharinger, all of whom have constituents in Cascadia Water's service territory.⁴ The letter voices concerns, as raised by constituents, over the size of the rate increase and whether the Company has met its burden of proof.
- 6 On June 20, 2024, Goss Lakeridge Acres Association (GLAA) submitted comments asserting that Cascadia Water had not shown that the tariff revisions were just and reasonable, and that the requested return on equity (ROE) is unsupported. On the same day, the Commission received written comments from several other individual Cascadia Water customers and a petition protesting the tariff revisions from the Monterra community.
- 7 On June 21, 2024, the Commission received additional comments from WCAOP and other individual Cascadia Water customers requesting the Commission reject Cascadia Water's proposed tariff revisions. On the same day, the Commission also received comments from the Public Counsel Unit of the Washington Attorney General's Office (Public Counsel) asking the Commission to reject Cascadia Water's tariff revisions because the requested ROE lacked affirmative support. In total, the Commission received 260 customer comments, all opposed to the tariff revisions.
- 8 On June 24, 2024, Cascadia Water submitted written responses to comments submitted by GLAA and WCAOP. Cascadia Water's responses addressed, point by point, dozens of concerns raised by both entities and assert that Cascadia Water has met its burden, and that the requested rates are fair, just, and reasonable.
- 9 On June 26, 2024, Cascadia Water filed a revision to Tariff Sheet No. 24 to replace Tariff Sheet No. 24 that was filed February 29, 2024, to reflect the agreement between Staff and the Company for a reduction in recoverable expenses, a revised capital structure, and a revised cost of debt, with a phased-in rate schedule.

³ *WUTC v. Cascadia Water LLC*, Docket UW-240151, Order 01 at 1 ¶ 2 (June 28, 2024).

⁴ Senator Van De Wege has since resigned from the Senate and Representative Chapman has since been elected as Senator for the 24th Legislative District.

- 10 On June 27, 2024, this matter came before the Commission during its regularly scheduled Open Meeting docket where Staff recommended that the Commission take no action and allow the tariff pages with the rates filed by Cascadia Water to become effective by operation of law. After hearing from Staff, the Company, Public Counsel, WCAOP, and customers, the Commission determined it should suspend the Company's filing and set it for hearing.
- 11 On June 28, 2024, the Commission entered Order 01 Complaint and Order Suspending Tariff Revisions (Order 01) in this docket. In Order 01, the Commission found that the tariff should be suspended for adjudication based upon the concerns raised by Cascadia Water customers, WCAOP, and Public Counsel.⁵
- 12 On August 21, 2024, the Commission convened a virtual prehearing conference before Administrative Law Judge (ALJ) M. Hayley Callahan.⁶
- 13 On September 11, 2024, the Commission issued Order 02, memorializing the prehearing conference proceedings and granting intervention to the Water Consumer Advocates of Washington (WCAW).⁷ Staff and the Company both objected to the intervention of WCAW, but after hearing argument, the presiding ALJ granted WCAW's petition to intervene. The Company, Staff, and Public Counsel all participated in the prehearing conference and are statutory parties to this proceeding.⁸
- 14 Order 02 also set forth a procedural schedule for this proceeding and the presiding ALJ granted Staff's request for the assignment of a mediator.⁹
- 15 On October 8, 2024, the Commission issued a Notice of Appointment of Settlement Judge appointing ALJ Amy Bonfrisco to act as a mediator.
- 16 Pursuant to the procedural schedule, Cascadia Water filed its proposed rates with supporting testimony, exhibits, and schedules on September 26, 2024. That filing

⁵ *WUTC v. Cascadia Water, LLC*, Docket UW-240151, Order 01 (June 28, 2024).

⁶ On December 5, 2024, the Commission substituted ALJ Harry Fukano as the presiding officer in this proceeding. On February 3, 2025, the Commission assigned ALJ Jessica Kruszewski as co-presiding officer in this proceeding.

⁷ Water Consumer Advocates of Olympic Peninsula indicated at the August 21, 2024, Prehearing Conference that it had change its name to Water Consumer Advocates of Washington.

⁸ *WUTC v. Cascadia Water, LLC*, Docket UW-240151, Order 02 (Sept. 11, 2024).

⁹ *WUTC v. Cascadia Water, LLC*, Docket UW-240151, Order 02 at 4 ¶ 18 (Sept. 11, 2024).

incorporated many of the operating expense adjustments agreed to with Staff cited in paragraph nine above.

- 17 ALJ Bonfrisco set November 12, 2024, as the date for mediation, and the parties submitted mediation briefs prior to the mediation. Settlement was not reached, but the parties continued to exchange counter offers after the mediation.
- 18 Staff, Public Counsel, and WCAW filed response testimony on November 20, 2024.
- 19 On December 13, 2024, Staff informed ALJ Bonfrisco and Cascadia Water that the noncompany parties were rejecting Cascadia Water's then-outstanding counteroffer and requested that the Commissioners sit for the hearing that was scheduled for February 4, 2025. ALJ Connor Thompson notified the parties that a new hearing date would need to be set to accommodate Commissioner participation in the hearing and polled the parties about their availability on alternate dates. All parties responded that they were available for a hearing on February 11, 2025.
- 20 Staff and Cascadia Water (Settling Parties) ultimately reached a settlement in principle, and on December 20, 2024, counsel for Cascadia Water informed the presiding officer and all parties that the Settling Parties had reached a settlement in principle and proposed a procedural schedule to address the settlement. On January 7, 2025, the Commission suspended the procedural schedule pending its review of the Settlement Stipulation to be filed on January 10, 2025, and supporting testimony to be filed on January 13, 2025.¹⁰ The Commission preserved the January 13 and 14, 2025, public hearing dates and set a date for: (a) responsive testimony on the Settlement Stipulation of January 22, 2025; (b) rebuttal testimony of January 28, 2025; (c) a date for an evidentiary hearing of February 11, 2025; and (d) dates for post-hearing briefing of February 25, 2025, and March 11, 2025.¹¹
- 21 On February 11, 2025, the Commission held an evidentiary hearing in this matter before the Commissioners, with ALJs Harry Fukano and Jessica Kruszewski presiding.
- 22 The parties submitted post-hearing briefs on February 28, 2025, and reply briefs on March 11, 2025.
- 23 On March 19, 2025, WCAW filed a Motion for Official Notice requesting that the Commission take official notice of Cascadia Water's membership of the governing board

¹⁰ The Settling Parties subsequently filed a revised settlement agreement on January 22, 2025.

¹¹ The Commission subsequently modified the initial briefing deadline to February 28, 2025.

and the executive officers of Cascadia Water's corporate parents, NW Natural Holdings and NW Natural.¹² WCAW asked the Commission for official notice alleging that the Company's Reply Brief called into question the structure of Cascadia Water's governing board. In support of its request, WCAW relies on Washington Administrative Code (WAC) 480-07-495(2)(a)(iv).

- 24 On March 20, 2025, Cascadia Water filed Cascadia Water, LLC's Response to Motion for Official Notice asking the Commission to deny WCAW's Motion for Official Notice because the record was closed at the conclusion of the hearing and WCAW had not asked the Commission to re-open the record.
- 25 March 25, 2025, Staff filed its Response to WCAW's Motion for Official Notice asking the Commission to deny the Motion as the evidentiary hearing had been closed and WCAW did not identify a substantial basis for the record to be supplemented.
- 26 On April 22, 2025, the Commission issued Order 06 Final Order Rejecting Settlement Agreement (Order 06). As a preliminary matter, Order 06 denied WCAW's Motion for Official Notice finding that the information with which WCAW sought to supplement the record was not essential, WCAW did not sufficiently articulate why it was unable to provide the information while the record was still open, and WCAW did not provide the Commission with a compelling reason for the record to be re-opened.¹³
- 27 In Order 06, the Commission disposed of WCAW's argument that the Commission cannot approve a results-only settlement that does not include a specific rate of return. The Commission further determined that WCAW mischaracterized the authority on which it relied for its argument and found that the authority cited by WCAW demonstrated that the standard is consistent with the Commission having authority to review the entire record to determine whether a settlement is fair, just reasonable, and sufficient.¹⁴ The Commission found that WCAW's contention that the Commission cannot approve a settlement that does not include a specified rate of return to be incorrect and rejected WCAW's argument.¹⁵
- 28 The Commission provided a prudency analysis in Order 06 for the following five projects contested by Public Counsel and WCAW: 1) CAL Waterworks – Reservoir Replacement,

¹² *WUTC v. Cascadia Water, LLC*, Docket UW-240151, WCAW's Motion for Official Notice at 1 ¶ 1 (March 19, 2025).

¹³ *WUTC v. Cascadia Water, LLC*, Docket UW-240151, Order 06 at 9 ¶ 31 (April 22, 2025).

¹⁴ *WUTC v. Cascadia Water, LLC*, Docket UW-240151, Order 06 at 14 ¶ 43 (April 22, 2025).

¹⁵ *WUTC v. Cascadia Water, LLC*, Docket UW-240151, Order 06 at 14 ¶ 43 (April 22, 2025).

Pumphouse Replacement and Booster Pump Improvements; 2) Estates System – Reservoir Replacement, Booster Pump Replacement, and Treatment Filter; 3) W&B Waterworks – Reservoir, Pumphouse, Treatment System, and Watermain Replacement; 4) Standby Generators; and 5) Supervisory Control and Data Acquisition (SCADA) System.¹⁶ The Company argued that all five projects were necessary and that several were planned after Department of Health (DOH) surveys. Staff and Cascadia Water maintained that all five projects were prudent.¹⁷ Public Counsel argued that all 14 major capital projects were imprudent because Cascadia Water had not produced contemporaneous documentation for its decision-making process, among other reasons.¹⁸ WCAW also contested the prudence of Cascadia Water’s capital projects. The Commission found that “[d]ue to the lack of contemporaneous documentation, Cascadia Water [had] not demonstrated that the five capital projects included in the proposed settlement . . . [were] fully prudent.”¹⁹ For this reason, the Commission rejected the Settling Parties’ settlement agreement. Following the rejection of the proposed settlement agreement, Cascadia Water extended the effective date of its filed tariff by five months to allow the Commission sufficient time to resume the adjudication at the point the procedural schedule was suspended to consider the settlement, as required by WAC 480-07-750(2)(c).²⁰

29 On May 16, 2025, the Commission convened a second prehearing conference before ALJs Harry Fukano and Jessica Kruszewski.

30 On March 30, 2025, the Commission entered Order 07 Second Prehearing Conference Order and Notice of Hybrid Evidentiary Hearing that scheduled an evidentiary hearing for July 17-18, 2025.

31 On June 20, 2025, Staff and Public Counsel filed cross answering testimony and exhibits and Cascadia Water filed rebuttal testimony and exhibits. Staff’s testimony exhibits

¹⁶ *WUTC v. Cascadia Water, LLC*, Docket UW-240151, Order 06 at 14-15 ¶ 44 (April 22, 2025).

¹⁷ *WUTC v. Cascadia Water, LLC*, Docket UW-240151, Order 06 at 17 ¶ 50 (April 22, 2025).

¹⁸ *WUTC v. Cascadia Water, LLC*, Docket UW-240151, Order 06 at 19 ¶ 56 (April 22, 2025).

¹⁹ *WUTC v. Cascadia Water, LLC*, Docket UW-240151, Order 06 at 28 ¶ 82 (April 22, 2025).

²⁰ WAC 480-07-750(2)(c) (“If the commission rejects a settlement, the adjudication returns to its status at the time the commission suspended the procedural schedule to consider the settlement. The commission may conduct a prehearing conference to establish a procedural schedule for the remainder of the adjudication. Subject to compliance with any statutory deadline for commission action or an agreed extension of such a deadline, the commission may extend the time for completion of the proceedings by the elapsed time for commission consideration of the settlement.”).

included cross answering testimony from witnesses Rachel Stark and Scott Sevall. Public Counsel's testimony exhibits included cross answering testimony from witnesses Scott Duren and Stefan de Villiers.

- 32 On June 20, 2025, the Company filed rebuttal testimony and exhibits, including testimony from witnesses Thomas J. Puttman, Matthew J. Rowell, and joint testimony of witnesses Culley J. Lehman and Jeff M. Tasoff.
- 33 On July 17, 2025, and July 18, 2025, the Commission convened an evidentiary hearing before the Commissioners that was presided over by ALJs Harry Fukano and Jessica Kruszewski.
- 34 On August 21, 2025, the parties filed post-hearing briefs in this matter.
- 35 **PARTY REPRESENTATIVES.** Donna L. Barnett, Pamela J. Anderson, and Byron C. Starkey of Perkins Coie LLP represent the Company. Lisa W. Gafken, Assistant Attorney General, represents Staff.²¹ Tad Robinson O'Neill, Jessica Johanson-Kubin, Alexandra Kory, and Robert Sykes, Assistant Attorneys General, represent Public Counsel. Kent E. Hanson represents WCAW.²²

II. DISCUSSION AND DECISION

A. Standard of Review

- 36 The Legislature has entrusted the Commission with broad discretion to determine rates for regulated industries. Pursuant to Revised Code of Washington (RCW) 80.28.020, whenever the Commission finds, after a hearing, that the rates charged by a utility are:

unjust, unreasonable, unjustly discriminatory or unduly preferential, or in any wise in violation of the provisions of the law, or that such rates or charges are insufficient to yield a reasonable compensation for the service rendered, the commission shall determine the just, reasonable, or sufficient

²¹ In formal proceedings such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To ensure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners' policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. See RCW 34.05.455.

²² Stephen M. Todd also appeared in this proceeding for WCAW prior to and during the first evidentiary hearing.

rates, charges, regulations, practices or contracts to be thereafter observed and in force, and shall fix the same by order.²³

- 37 The Commission has previously interpreted the fair, just, reasonable, and sufficient standard to mean that “rates that are *fair* to customers and to the Company’s owners; *just* in the sense of being based solely on the record developed in a rate proceeding; *reasonable* in light of the range of possible outcomes supported by the evidence; and *sufficient* to meet the needs of the Company to cover its expenses and attract necessary capital on reasonable terms.”²⁴
- 38 As a general matter, the burden of proving that a proposed increase is just and reasonable is upon the public service company.²⁵ The burden of proving that the presently effective rates are unreasonable rests upon any party challenging those rates.²⁶

B. Capital Structure and Cost of Capital

- 39 Cascadia Water recommends that the Commission authorize a 10.18 percent return on equity (ROE), a hypothetical 50:50 debt-to-equity capital structure, and a 3.17 percent cost of debt.²⁷ The Company initially proposed an ROE range between 7.2 percent and 13.8 percent based on the Company’s Comparable Earnings (CE), Discounted Cash Flow (DCF), and Capital Asset Pricing Model (CAPM) modeling, with an average range between 10.14 percent and 10.83 percent.²⁸ The Company subsequently updated its modelling, resulting in an average ROE of 10.7 percent using the CE model, 10.32 percent using the DCF model, and 11.83 percent using the CAPM model, with an updated ROE range of 7.6 percent to 12.58 percent.²⁹ Although the Company argues that its modeling supports a higher ROE, it has agreed to adopt Staff’s proposed ROE of

²³ See also RCW 80.01.040(3) (providing that the Commission shall “[r]egulate in the public interest”); RCW 80.28.010(1) (“All charges made, demanded or received by any gas company, electrical company, wastewater company, or water company for gas, electricity or water, or for any service rendered or to be rendered in connection therewith, shall be just, fair, reasonable and sufficient.”).

²⁴ *WUTC v. Avista Corp.*, Dockets UE-160228 and UG-160229, Order 06 at 47 ¶ 79 (Dec. 15, 2016) (emphasis in original).

²⁵ RCW 80.04.130(1).

²⁶ *WUTC v. Pacific Power and Light Company*, Cause No. U-76-18 (Dec. 29, 1976) (internal citations omitted).

²⁷ Brief of Cascadia Water at 39 ¶ 65.

²⁸ Rowell, Exh. MJR-1T at 40:9.

²⁹ Rowell, Exh. MJR-11Tr at 3:1-23.

10.18 percent to reduce the number of disputed issues in this matter, as that figure is still within the Company's ROE range and is supported by the Company's analysis.³⁰

- 40 Staff recommends that the Commission adopt an ROE of 10.18 percent, a cost of debt of 3.17 percent, and a 53:47 debt-to-equity ratio for Cascadia Water. Staff performed a CAPM analysis that resulted in an ROE of 10.4 percent and a CE analysis that resulted in an ROE of 9.96 percent, which produce an average ROE of 10.18 percent.³¹ Staff calculated the Company's cost of debt by separating the Company's debt from the holding company's debt, creating a weighted cost of debt for both the Company and holding company debt, and applying the weighted cost of debt proportionally to the long-term debt shown on the Company's balance sheet.³²
- 41 Staff maintains that while Cascadia Water's proposed 50:50 hypothetical debt-to-equity ratio is a reasonable balance of safety and economy, the Commission should adopt a capital structure that better reflects the Company's actual capital structure as calculated by Staff.³³ Staff argues that its treatment of the Contributions in Aid of Construction (CIAC) related to the Aquarius surcharge does not result in double counting because it is reasonable to remove the CIAC from rate base but include the cost of the loan that necessitated the surcharge as a liability on the entire Company's books.³⁴ Staff contends that this approach does not result in double counting based on Staff's proposal to consolidate the Company's existing tariffs into a single tariff, other than Pelican Point, but states "[t]he same is not true if Cascadia's rates are collected through split tariffs[.]"³⁵
- 42 Public Counsel agrees that a 3.17 percent cost of debt and a hypothetical capital structure of 50 percent equity and debt is reasonable but recommends that the Commission adopt an ROE between 6.4 percent and 9.0 percent. Public Counsel notes that Cascadia's last general rate case did not contain a formal rate of return analysis, as it was filed under a Commission policy that contained default capital assumptions.³⁶ While Public Counsel

³⁰ Brief of Cascadia Water at 41 ¶ 69; Rowell, Exh. MJR-11Tr at 4:10-17.

³¹ Brief of Staff at 6 ¶ 16; Sevall, Exh. SS-1Tr at 11:16-19, Exh. SS-2.

³² Brief of Staff at 6-7 ¶ 18; Sevall, Exh. SS-1Tr at 12:19 – 13:5, Exh. SS-3.

³³ Brief of Staff at 4-5 ¶ 12; Sevall, Exh. SS-1Tr at 6:16-19 ("A capital structure that is roughly 50 percent debt and 50 percent equity is both safe and economical. The capital structure calculated using Cascadia's balance sheet is safe and economical, while allowing ratepayers to benefit from a lower cost of capital.").

³⁴ Brief of Staff at 5 ¶ 13; Sevall, TR. Vol. 6 at 404:15 – 406:6.

³⁵ Brief of Staff at 5 ¶¶ 13-14; Sevall SS-7T at 5:12 – 6:3.

³⁶ Brief of Public Counsel at 44-45 ¶ 81 (citing *WUTC v. Cascadia Water, LLC*, Docket UW-200979, Order 01 (June 28, 2021)). *See also*, Rowell, Exh. MJR-1T at 39:18-20 ("For many years

acknowledges that the Commission has traditionally applied a principle of gradualism in setting such returns, it suggests that the Commission review ROE “de novo” as part of this case, due to the Company’s access to capital through its parent company.³⁷ Public Counsel asserts that water utility investments have experienced a recent decline in risk relative to the average market risk and suggests that growth forecasts are overstated compared to actual growth.³⁸

43 Public Counsel’s range of ROE is based on four models for calculating an ROE, two forms of the DCF model and two forms of CAPM. Public Counsel calculates a DCF model ROE of 9.0 percent relying on short-term projections of earnings growth published by institutional research analysts for the growth factor.³⁹ Public Counsel also calculates a second DCF model ROE of 6.4 percent using a sustainable growth rate limited by the aggregate growth rate of the economy for the growth factor.⁴⁰ Turning to CAPM analysis, Public Counsel calculates an ROE of 8.6 percent but notes that figure is based on an assumption of the proxy group average debt ratio.⁴¹ However, Public Counsel also calculates a CAPM ROE of 7.9 percent using a Hamada model adjustment, which seeks to account for the lower amount of debt in Cascadia Water’s initial proposed capital structure relative to the proxy group.⁴²

44 Public Counsel contends that the Company’s DCF model is unreasonable because it relies on an analysis of historical growth rates and projected growth rates that exceed the general growth rate of the economy in general.⁴³ Regarding the CAPM modeling, Public Counsel argues that Staff and Cascadia Water’s equity risk premiums are too high because they each rely on the use of historical returns on equity that suffer from survivorship bias.⁴⁴ Public Counsel further maintains that the Commission should not rely on Staff and the Company’s CE models because the method involves review of

the WUTC approved ROEs of 12% for water utilities operating in the State of Washington. The WUTC’s historical use of a 12% ROE is a clear acknowledgement of the unique risks faced by small utilities.”).

³⁷ Brief of Public Counsel at 44-45 ¶ 81 (citing *WUTC v. PacifiCorp*, Docket UE-130043, Order 05 at 25 ¶ 63 (Dec. 4, 2013)).

³⁸ Brief of Public Counsel at 46-47 ¶¶ 85-86; Garrett, Exh. DJG-9 at 1; Rowell, Exh. MJR-17X.

³⁹ Garrett, Exh. DJG-1T at 20:22 – 21:2, 23:14-17.

⁴⁰ Garrett, Exh. DJG-1T at 21:3 – 23:17.

⁴¹ Garrett, Exh. DJG-1T at 34:4-8.

⁴² Garrett, Exh. DJT-1T at 49:16 – 51:4.

⁴³ Brief of Public Counsel at 47-48 ¶ 87; Garrett, Exh. DJG-1T at 24:1-18.

⁴⁴ Brief of Public Counsel at 48-49 ¶ 89; Garrett, Exh. DJG-1T at 29:11-12 (describing “survivorship bias” as “a tendency for failed companies to be excluded from historical indices.”).

historical data as opposed to prospective analysis of investor expectations.⁴⁵ Finally, Public Counsel recommends that the Commission decline to adopt a size premium because Cascadia Water, while relatively small, has additional access to capital through its parent company.⁴⁶

- 45 WCAW agrees with Staff's proposed 3.17 percent cost of debt, argues that a 50:50 debt-to-equity capital structure is a reasonable midpoint amongst the parties' proposed capital structures, and recommends that the Commission adopt an ROE within the 6.4 percent to 9.0 percent range identified by Public Counsel.⁴⁷ WCAW maintains that the Company overstated its cost of debt in its testimony, and that Staff's proposed 3.17 percent is a more reasonable calculation of cost of debt.⁴⁸ WCAW asserts that Cascadia's proposed 10.9 percent ROE is unreasonable because it is based on a comparison to other smaller water utilities that do not have the same access to capital as Cascadia Water due to its relationship to its parent company and ultimate holding company.⁴⁹
- 46 The Company recommends that the Commission reject Public Counsel and WCAW's cost of capital recommendations for three reasons. First, Cascadia Water argues that Public Counsel's ROE range is unreasonably low relative to the ROE approved by the Commission in other recent cases and a national survey of such returns and suggests that the parties misunderstood the Company's use of proxy groups.⁵⁰ Second, the Company asserts that the Commission should find its updated ROE analysis more persuasive because it is based on more recent data and should discount the analyses provided by Public Counsel and WCAW because their analysis relies on older data.⁵¹ Third, Cascadia Water maintains that the Commission should not find Public Counsel's arguments related to a potential Drinking Water State Revolving Fund (DWSRF) loan persuasive because those loans include additional obligations that can increase project costs, and the Company already has access to low-cost debt.⁵²
- 47 Cascadia Water contends that Staff's proposed 53:47 debt-to-equity capital structure ratio is flawed because Staff's approach double-counts CIAC. The Company states that CIAC

⁴⁵ Brief of Public Counsel at 50 ¶¶ 91; Garrett, Exh. 41:15 – 42:10.

⁴⁶ Brief of Public Counsel at 50-51 ¶¶ 92; Garrett, Exh. 38:3 – 41:10.

⁴⁷ Brief of WCAW at 23 ¶¶ 58-60.

⁴⁸ Brief of WCAW at 24-25 ¶¶ 62-66 (*citing* Rowell, Exh. MJR-1T at 16:5-15).

⁴⁹ Brief of WCAW at 25-26 ¶¶ 69-70.

⁵⁰ Brief of Cascadia Water at 42 ¶ 71; Rowell and Lehman, MJR-CJL-8JT at 9:1-15.

⁵¹ Brief of Cascadia Water at 42 ¶ 72; Rowell, Exh. MJR-11Tr at 4:4-6 (arguing that interests rates and utility dividends have generally increased since the filing of initial testimony).

⁵² Brief of Cascadia Water at 42-43 ¶ 73; Rowell, Exh. MJR-11Tr at 6:5.

can be addressed in one of two ways, either by subtracting it from the rate base or leaving it in the rate base and including it in the capital structure at zero cost, and that Staff's method improperly does both.⁵³ Cascadia Water argues that Staff's method improperly includes CIAC as a component of the Company's rate base based on Staff's proposal to remove the Aquarius surcharge, despite the fact that the surcharge only applies to one of the Company's water systems.⁵⁴

Commission Decision

- 48 In determining the cost of capital, the Commission is guided by the longstanding precedent of the *Hope* and *Bluefield* cases.⁵⁵ The Commission will analyze service on debt as well as the return to the equity owner, which should be commensurate with returns on investments in other enterprises having corresponding risks. That return should be sufficient to assure investor confidence in the financial integrity of the enterprise, to maintain its credit, and to attract capital.⁵⁶ Moreover, "what the company is entitled to ask is a fair return upon the value of that which it employs for the public convenience. There must be a fair return upon the reasonable value of the property at the time it is being used for the public."⁵⁷ Based on this guidance of the *Hope* and *Bluefield* cases, "a utility's cost of capital has three main components: capital structure, return on equity, and cost of debt. Taking all these factors into account, it is possible to describe the utility's overall rate of return (ROR), also known as the weighted average cost of capital (WACC)."⁵⁸
- 49 As an initial matter, the Commission rejects Cascadia Water's request that the Commission not consider parties' ROE analyses that do not incorporate updated inputs after testimony was originally filed. While updated data may be helpful, any disputes regarding the use of older data goes to the weight that the Commission will afford to particular analyses, not whether the Commission will consider them. Furthermore, applying the Company's approach in this case would draw Cascadia Water's adoption of

⁵³ Rowell, Exh. MJR-11Tr at 5:1-10.

⁵⁴ Brief of Cascadia Water at 44 ¶ 79.

⁵⁵ *Fed. Power Comm'n v. Hope Nat. Gas Co.*, 320 U.S. 591, 64 S. Ct. 281, 88 L. Ed. 333 (1944); *Bluefield Water Works & Improvement Co. v. Pub. Serv. Comm'n*, 262 U.S. 679, 43 S. Ct. 675, 67 L. Ed. 1176 (1923).

⁵⁶ *Federal Power Com. v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944).

⁵⁷ *Bluefield Water Works & Improvement Co. v. Pub. Serv. Comm'n*, 262 U.S. at 690.

⁵⁸ *WUTC v. PacifiCorp*, Dockets UE-230172 & UE-210852, Order 08 at 31 ¶ 112 (Mar. 19, 2024); *See also Bluefield*, 262 U.S. at 689-90.

Staff's proposed ROE into question, as Staff did not perform an updated ROE analysis following the submission of initial testimony.

- 50 The Commission declines to afford material weight to the CAPM analysis done by WCAW. In calculating his ROE, Gilles only relies on the beta for Northwest Natural, a natural gas company.⁵⁹ All of the other parties derive their proposed beta values for CAPM based on the use of a proxy group of companies.⁶⁰ Public Counsel persuasively testifies that there are several reasons to prefer the use of a proxy group to calculate a beta, including “more reliability and confidence in the overall results because there is a larger sample size.”⁶¹ As WCAW's ROE calculations involve a beta taken from only a single company, the Commission excludes those ROE results from its analysis for this case.
- 51 The Commission rejects Public Counsel's argument that the Commission should not consider the CE analyses performed by Cascadia Water and Staff. While the Commission has previously stated that it “generally do[es] not apply material weight to the CE method,” it has retained discretion to consider CE analysis.⁶² In this case, the Commission exercises its discretion to consider the CE analyses prepared by Staff and the Company as an additional source of data for the Commission's consideration. The Commission further declines to exclude the results of Cascadia Water and Staff's CAPM analyses due to survivorship bias, insofar as Public Counsel has not persuasively explained why the Commission should seek to incorporate ROE's from failed companies if the purpose of setting an ROE is to establish rates that are fair, just, reasonable, and sufficient.
- 52 However, the Commission does not believe it is reasonable to rely on Public Counsel's Hamada CAPM analysis. Garrett testified that he performed a Hamada CAPM analysis because the average debt ratio of his proxy group is 46 percent, which is higher than the 34 percent debt ratio proposed by the Company for its capital structure in its initial testimony.⁶³ However, the Company is currently proposing a hypothetical capital structure of 50:50 debt-to-equity ratio, which is supported by Public Counsel and much

⁵⁹ Gilles, Exh. BCG-1T at 18:7:20.

⁶⁰ Rowell, Exh. MJR-1T at 27:9 – 28:1, Garrett, Exh. DJG-3, Sevall, Exh. SS-1Tr at 9:13.

⁶¹ Garrett, Exh. DJG-1T at 9:4-13.

⁶² *WUTC v. Avista Corp.*, Dockets UE 170485, UG-170486, UE-171221, and UG-171222 (Consolidated), Order 7/2/2 at 27 ¶ 65 (April 26, 2018) (“Although we generally do not apply material weight to the CE method, having stronger reliance on the DCF, CAPM and RP methods, we are inclined to include the CE method here given the anomalous CAPM results.”).

⁶³ Garrett, Exh. DJG-1T at 3:11 – 4:6; Rowell, Exh. MJR-1T at 16:6-7.

closer to Garrett's proxy group debt ratio.⁶⁴ Therefore, the Commission declines to include Public Counsel's Hamada CAPM analysis as part of its consideration of ROE.

- 53 Similarly, the Commission finds that Public Counsel's sustainable growth DCF analysis should be excluded because it conflicts with the Commission's gradualist approach to determining a regulated utility's ROE. As mentioned above, Public Counsel's sustainable growth DCF analysis results in a 6.4 percent ROE, which is lower than all other analysts' ROE results based on proxy group betas, including Public Counsel's other methodologies, by more than a percent, and substantially lower than the Company's currently effective 12 percent ROE. Authorizing an ROE following Public Counsel's sustainable growth DCF analysis would result in a nearly 50 percent decrease to the Company's ROE in a single case. Aside from being an outlier in the analyses provided in this record, as acknowledged by Public Counsel, the Commission typically applies the principle of gradualism when setting a reasonable ROE:

When considering changes to a regulated utility's authorized ROE, we endeavor to avoid material adjustments, upward or downward, in authorized levels to provide stability and assurance to investors and others regarding the regulatory environment supporting the financial integrity of the utility. Based on the evidence produced by the various expert witnesses, we generally determine whether modest increases or decreases, if any, to currently authorized levels are appropriate given the evidence produced in the immediate proceeding.⁶⁵

- 54 While the Commission is currently moving away from its historical approach of default capital assumptions for water companies, the Commission is not persuaded that it is reasonable to abandon its gradualist approach to determining ROE, even in this case. Moreover, the Commission is presently reevaluating its cost of capital analysis for regulated water utilities in Docket UW-240733 and does not want to prejudge the outcome of that ongoing discussion in this proceeding. As such, the Commission rejects Public Counsel's proposed 6.4 percent ROE based on its sustainable growth DCF model as contrary to the well-established principle of gradualism in adjusting ROE.⁶⁶

⁶⁴ Brief of Public Counsel at 44 ¶ 79.

⁶⁵ *WUTC v. Avista Corp.*, Dockets UE 170485, UG-170486, UE-171221, and UG-171222 (*consolidated*), Order 7/2/2 at 28 ¶ 68 (April 26, 2018); Brief of Public Counsel at 44-45 ¶ 81.

⁶⁶ The Commission further observes that, in his settlement testimony, Garrett only incorporated the 8.6 percent ROE from his CAPM analysis and 9.0 ROE from his DCF analyst growth analysis into his recommendations for a weighted cost of capital calculation. *See*, Garrett, Exh. DJG-18T at 3:16 – 4:10 (“As discussed in my testimony, I proposed an authorized ROE for Cascadia of 8.6 percent[.]”). Similarly, de Villiers incorporates only the 8.6 percent ROE and 9.0 percent ROE into his revenue results calculations in his testimony. Exh. SDV-16T at 12:16 – 13:2 (“In his

55 As noted by Public Counsel, analysis of ROE involves some degree of subjectivity.⁶⁷ Although the Commission retains discretion to reject analyses that produce anomalous or outlier results, the Commission will generally consider the range of analyses offered by the parties to arrive at a reasonable range of ROE. As previously explained by the Commission:

The Commission benefits significantly from the different perspectives of the witnesses in making their recommendations. However, we must carefully balance their results to establish the end points of a zone of reasonable returns within which we can select a specific ROE point value, considering the modeling and other factors in evidence. The witnesses do not dispute that determining an appropriate ROE presents challenges. As discussed above, they rely on familiar analytic tools such as DCF, CAPM, RP, and CE methods. And, as is customary, they use a variety of data sources to populate their models to arrive at and support their respective ROE recommendations. Accordingly, as we have noted in previous proceedings, the results of the analytical models the expert witnesses use to estimate ROE can vary significantly due to subjective judgments they may when selecting approaches and data inputs.⁶⁸

As such, other than the ROE analyses excluded above, the Commission will consider the remaining ROE analyses in determining a reasonable range of returns.

56 The Commission has previously established a range of reasonable returns on equity by averaging the results of the various parties' analyses.⁶⁹ Averaging the DCF analyses results in an average ROE of 9.66 percent, averaging the CAPM analyses results in an average ROE of 10.27 percent, and averaging the CE analyses results in an average ROE of 10.33, resulting in a range of reasonable returns between 9.66 and 10.33 percent. Consequently, the Commission adopts Staff's proposed ROE of 10.18 percent, which is

initial testimony, Public Counsel Witness Garrett used Discounted Cash Flow (DCF) models and Capital Asset Pricing Models (CAPM) to calculate a cost of equity range for Cascadia of 6.4-9.0 percent. In his later testimony, Garrett offered the Commission two ROEs at the top end of this range – 8.6 percent and 9.0 percent – to form a range of high but reasonable ROE results. My revenue requirement calculations here are based on that range.”) (internal citations omitted). While not dispositive, the inclusion of only the 8.6 percent and 9.0 percent ROE tend to suggest that Public Counsel's witnesses viewed those ROEs as more reasonable relative to the lower ROEs.

⁶⁷ Brief of Public Counsel at 45-46 ¶ 83.

⁶⁸ *WUTC v. Avista Corp.*, Dockets UE 170485, UG-170486, UE-171221, and UG-171222 (Consolidated), Order 7/2/2 at 26 ¶ 60 (April 26, 2018).

⁶⁹ *WUTC v. Avista Corp.*, Dockets UE 170485, UG-170486, UE-171221, & UG-171222 (consolidated), Order 7/2/2 at 27-28 ¶ 66 (April 26, 2018).

the only proposed ROE that falls within the range of reasonable returns. A 10.18 percent ROE represents a gradual decrease from the Company's currently authorized ROE of 12 percent that still provides a degree of stability to the Company as the Commission transitions away from its default capital assumptions for regulated water utilities. While further adjustments may be warranted in a future rate case, the Commission determines that this reduction is in the public interest based on the record developed in this case and represents a reasonable first step towards a new paradigm for water company rate setting.

57 Regarding the cost of debt, all of the parties agree with Staff's proposed cost of debt of 3.17 percent, suggesting that no party fundamentally objects to the methodology used by Staff to calculate Cascadia Water's cost of debt. However, Staff's approach to calculating the cost of debt involves removing the Aquarius surcharge and incorporating the remaining liability of the Aquarius DWSRF loan into the Company's general liabilities.⁷⁰ As explained further in this Order, the Commission rejects Staff's proposal to remove the Aquarius surcharge. In response to a data request from WCAW, Staff explained that "the impact that Aquarius has on the cost of debt is significant. The cost of debt with Aquarius included is 3.17 [percent], but the cost of debt increases to 6.04 [percent] with Aquarius removed."⁷¹ Consequently, pursuant to Staff's methodology, the Commission determines that Cascadia Water's cost of debt should be set at 6.04 percent.

58 As to capital structure, the Commission agrees with the Company, Public Counsel, and WCAW that a 50:50 debt-to-equity ratio is reasonable based on the record developed in this proceeding. While Staff recommends that the Commission adopt a 53:47 debt-to-equity ratio, the Commission declines to adopt this recommendation for three reasons. First, Staff states in its testimony that a "capital structure of roughly 50 percent debt and 50 percent equity is both safe and economical," which tends to support the reasonableness of a hypothetical 50:50 debt-to-equity ratio.⁷² Second, Staff has indicated that its proposed 53:47 debt-to-equity ratio is tied to its tariff consolidation proposal, which the Commission rejects elsewhere in this order.⁷³ Finally, adopting a 50:50 debt-to-equity hypothetical capital structure helps ensure that the Company's capital structure is not unreasonably altered by its parent and holding company.⁷⁴ As such, the

⁷⁰ Gilles, Exh. BCG-25 at 125. *See also*, de Villiers, Exh. SDV-16T at 15:7-10 ("Then, in its initial testimony, Staff proposed incorporating the Aquarius DWSRF loan into Cascadia's total liability in this case (corresponding with its removal of the Aquarius surcharge) to adjust the Company's cost of debt down further to 3.17 percent.").

⁷¹ Gilles, Exh. BCG-25 at 125.

⁷² Sevall, Exh. SS-1Tr at 6:16-17.

⁷³ Brief of Staff at 5 ¶ 14.

⁷⁴ Gilles, Exh. BCG-1T at 20:17-21.

Commission authorizes a 50:50 debt-to-equity capital structure as proposed by the Company, Public Counsel, and WCAW.

- 59 Based on an ROE of 10.18 percent, a cost of debt of 6.04 percent, and a 50:50 debt-to-equity ratio, the Company's weighted average cost of capital, or rate of return, is 8.11%.

C. Prudence

- 60 As part of this rate case, Cascadia Water proposed 14 major plant additions and projects for inclusion in rates:

Project 1: Del Bay Watermain Replacement & Consolidation with W&B Waterworks #1

Project 2: CAL Waterworks – Distribution System Loop at Beachwood Drive

Project 3: CAL Waterworks – Reservoir Replacement & Booster Pump Improvements

Project 4: W&B Waterworks #1 – Watermain Replacement and PRV/Vault to Mutiny Lane

Project 5: W&B Waterworks #1 – PVR/Vault Replacement on Mutiny Bay Road

Project 6: Rolf Bruun – Disinfection Treatment

Project 7: Estates – Reservoir, Booster Pumps, and Treatment

Project 8: W&B Waterworks – Reservoir, Pumphouse, Treatment, and Watermain Replacement

Project 9: Sea View – Source Development

Project 10: Diamond Point – Chlorination System

Project 11: Agate West – Chlorination System

Project 12: Generators – Multiple Systems

Project 13: SCADA Remote Monitoring System – Multiple Systems

Project 14: Coordinated Water System Plan – Island County⁷⁵

- 61 Cascadia Water maintains that all 14 of its major capital projects are prudent and should be included in rates. As an initial matter, the Company disagrees with Public Counsel’s “prioritization” or “immediate need” approach to the Commission’s prudence standard, arguing that a project may be prudent even if a project is not immediately necessary.⁷⁶ The Company contends that prudence does not require a regulated utility to wait until part of a system breaks or fails in order to demonstrate that it was reasonable to improve a system and suggests that prudence is concerned with “whether it was reasonable to do something, not whether it could have been reasonable to do nothing.”⁷⁷
- 62 The Company maintains that Culley Lehman, as the General Manager of Cascadia Water, was the person responsible for approving capital projects and determining project priority, with input from Cascadia Water’s parent company, Northwest Natural Water (NWN Water).⁷⁸ Cascadia Water argues that it kept its parent company reasonably informed of its capital project plans through communications and exchange of budgetary plans, and that Cascadia Water was not required to communicate with NWN Water’s board of directors regarding capital investment decisions.⁷⁹ Cascadia Water further contends that it is generally not required to document “business-as-usual” decisions.⁸⁰
- 63 Cascadia Water asserts that it has provided sufficient contemporaneous documentation of its decision-making for all 14 of its major capital projects through sworn testimony and documentary support.⁸¹ In particular, the Company draws attention to the Island County Unified Water System Plan,⁸² third-party engineering reports, photographs, and DOH material related to various projects.⁸³ Cascadia Water further suggests that lack of contemporaneous documentation for certain projects reflects the Company’s

⁷⁵ Lehman, Exh. CJL-1T at 9:7 – 10:2. Project 14 is also referred to in some material as the “Island County Unified Water System Plan.” *See*, Lehman and Tasoff, Exh. CJL-JMT-1CJT at 70:10.

⁷⁶ Brief of Cascadia Water at 11-12 ¶¶ 22-23.

⁷⁷ Brief of Cascadia Water at 12-13 ¶ 24.

⁷⁸ Puttman, Exh. TJP-1T at 8:18-21.

⁷⁹ Brief of Cascadia Water at 15-16 ¶¶ 30-31 (citing Puttman, Exh. TPJ-8XC, Att. 1C and Att. 2C).

⁸⁰ Brief of Cascadia Water at 16-17 ¶ 32.

⁸¹ Brief of Cascadia Water at 17-24 ¶ 33.

⁸² Lehman, Exh. CJL-8.

⁸³ Brief of Cascadia Water at 24-27 ¶ 35.

understanding that the project was mandatory.⁸⁴ Regarding a potential disallowance, the Company requests that the Commission consider a phase in of rates, rather than a disallowance, although the Company is not affirmatively requesting a phase in as part of its case.⁸⁵

64 Staff states that it reviewed all 14 capital projects proposed by Cascadia Water for inclusion in rates and found them to be prudent. To evaluate prudence, Staff conducted a multiday site visit, reviewed information contained in the Company's filings, issued data requests, reviewed material provided by and to the DOH, and spoke with officials at the DOH.⁸⁶ Staff maintains that the Company has demonstrated a need for all of its proposed capital projects, and notes that Public Counsel witness Duren testified at hearing that Projects 1, 2, 4, 5, and 9 were generally reasonable but could have possibly been deferred by the Company to a later time.⁸⁷ Staff argues that Cascadia Water sufficiently considered alternatives to its proposed projects based on explanations provided to Staff in conversations with the Company, review of DOH materials, and prior Company communications.⁸⁸ Staff contends that Cascadia Water reasonably communicated with its board regarding its capital projects based on Puttman's testimony at hearing and capital planning documents provided by the Company.⁸⁹ While Staff acknowledges that the Company is taking steps to improve its documentation process, it asserts that there is sufficient documentation in the record from DOH which, combined with the Company's testimony regarding its decision-making, demonstrates sufficient documentation for prudence.⁹⁰ Staff claims that the Commission has previously considered other, non-documentary evidence to demonstrate what a utility knew or should have known at the time it made a decision.⁹¹

65 For the five projects the Commission found imprudent in Order 06, Staff suggests that the Commission impose an 8.1 percent disallowance of Projects 3, 7, 8, 12, and 13 based on

⁸⁴ Brief of Cascadia Water at 27 ¶ 36.

⁸⁵ Brief of Cascadia Water at 6-7 ¶¶ 12-13; Rowell, Exh. MJR-11Tr at 23:1-8.

⁸⁶ Stark, Exh. RS-1Tr at 14:1 – 15:11, Exh. RS-8, Exh. RS-9, Exh. RS-10C, Exh. RS-11C, Exh. RS-13; Stark, TR Vol. 4 at 428:11 – 429:11. *See also*, Lehman, Exh. CJL-6, Exh. CJL-7, Exh. CJL-8; Rowell & Lehman, Exh. MJR-CJL-9, Exh. MJR-CJL-10, Exh. MJR-CJL-12, Exh. MJR-CJL-14.

⁸⁷ Brief of Staff at 9-10 ¶ 24 (*citing* Duren, TR. Vol. 5 at 216:11 – 217:17).

⁸⁸ *See e.g.*, Stark, Exh. RS-26T at 9:11-10:5, 12:20-13:1, 20:17-20, 22:5-6, 26:10-12; Lehman, TR. Vol. 5 at 197:8 – 198:2.

⁸⁹ Puttman, Exh. TJP-8XC, Exh. TJP-9XC.

⁹⁰ Brief of Staff at 11-12 ¶¶ 27-28.

⁹¹ Brief of Staff at 11-12 ¶ 28 (*citing* *WUTC v. Puget Sound Power & Light Company*, Dockets UE-920433, UE-920499, & UE-921262, 20th Supp. Order, 15-17 (Dec. 16, 1994)).

the 8.1 percent cost difference between a 20 foot reservoir and a 15 foot reservoir with respect to Project 3.⁹² Staff further states that if the Commission reevaluates the prudence of Projects 3, 7, 8, 12, and 13, it should find the projects were prudent and allow their full cost into rates.⁹³ In particular, Staff contends that while it proposes an 8.1 percent disallowance for Project 13, the SCADA project, Staff maintains that Project 13 is prudent, as it is a reasonable system investment, provides benefits, and was purchased at a reasonable cost.⁹⁴ Regarding the remaining nine capital projects that Order 06 did not review, Staff recommends that the Commission determine that the nine projects are prudent and to allow full recovery in rates.⁹⁵

66 Public Counsel argues that Cascadia Water has not demonstrated that there was a need for ten of its capital projects, excluding Projects 6, 10, 11, and 14, because the Company has not provided a cost-benefit analysis of projects or otherwise demonstrated that their cost-effectiveness warrants ratepayers bearing the cost.⁹⁶ Given the scope of Cascadia Water's planned system improvements, Public Counsel contends that it was all the more important for the Company to demonstrate how it evaluated and prioritized certain projects and their relative costs and benefits to ratepayers.⁹⁷ Public Counsel also asserts that the Company failed to continuously evaluate the prudence of its projects over the life of the projects, particularly in circumstances where bids for projects indicated that costs would substantially exceed initial estimates.⁹⁸ Public Counsel further maintains that the Company has not demonstrated that the sizing of its reservoir projects was necessary.⁹⁹

67 Public Counsel also states that Cascadia Water has not demonstrated that it considered and documented alternatives as part of its capital planning process.¹⁰⁰ First, Public Counsel claims that the Company did not document its consideration of smaller reservoir sizes, despite acknowledging that it was more cost effective to provide a smaller reservoir

⁹² Stark, Exh. RS-26T at 6:17 – 8:5.

⁹³ Brief of Staff at 12-13 ¶ 31.

⁹⁴ Brief of Staff at 13-14 ¶¶ 32-34; Stark, Exh. RS-26T at 16:16 – 18:13, Exh. RS-12 at 20:12 – 21:11.

⁹⁵ Brief of Staff at 14-15 ¶¶ 35-36; Stark, Exh. RS26-T at 12:9 – 13:6, 18:18 – 23:11, 24:21 – 28:7.

⁹⁶ Brief of Public Counsel at 32-34 ¶¶ 60-61.

⁹⁷ Brief of Public Counsel at 34 ¶ 62; Puttman, TR. Vol. 5 at 55:11-18.

⁹⁸ Brief of Public Counsel at 35-36 ¶ 64. *See, e.g.*, Lehman & Tasoff, TR. Vol. 5 at 145:19 – 146:8, 151:18 – 153:4.

⁹⁹ Brief of Public Counsel at 36 ¶ 65.

¹⁰⁰ Brief of Public Counsel at 36-37 ¶ 66 (*citing* Lehman and Tasoff, TR. Vol. 5 at 211:20-22).

or a related cost effective analysis.¹⁰¹ Second, Public Counsel maintains that the Company did not provide an analysis of how it chose to delay certain projects, even though the Company stated that it chose to prioritize certain projects.¹⁰² Third, Public Counsel argues that Cascadia Water failed to consider whether it could have sought a DWSRF loan.¹⁰³

- 68 Regarding communication with Cascadia Water’s board of directors and senior management, Public Counsel contends that the Company has not provided any evidence of its communication with its board or senior management regarding capital planning.¹⁰⁴ Although Puttman testified at hearing that he was the final decision maker regarding whether Cascadia Water received capital funding, Public Counsel notes that Puttman also testified that he had no knowledge of the Company’s capital budgets from 2023 to 2025.¹⁰⁵ Public Counsel maintains that Puttman’s assumptions regarding the process and notes reflected in the Company’s capital planning documents are insufficient to establish that the Company’s board of directors or senior management were kept adequately informed of the Company’s capital planning and decision-making.¹⁰⁶
- 69 Public Counsel further argues that Cascadia Water has not produced sufficient contemporaneous documentation of its capital decision-making process. Public Counsel states that the Company’s testimony at hearing that it was not Company policy to document decision-making and alternatives analysis at the time the capital investments at issue in this case were made is dispositive of prudence:

Commissioner Rendahl: So the documents themselves are not the decision, but they inform your decision?

Lehman: Yes. I believe the documents that we’ve provided here would give the Commission the ability to look back at what we were looking at, and that’s why we went with that decision. The alternatives to decisions that we were making were in those meetings and those minutes and things were not reported.

Commissioner Rendahl: Okay. So at this point, the company is not documenting these decisions, the consideration of alternatives, the

¹⁰¹ Brief of Public Counsel at 37 ¶ 67 (*citing* Lehman and Tasoff, TR. Vol. 5 at 172:8-14).

¹⁰² Brief of Public Counsel at 37 ¶ 67 (*citing* Puttman, TR. Vol. 5 at 55:11-18).

¹⁰³ Brief of Public Counsel at 37-38 ¶ 68 (arguing that Cascadia Water bears the burden to show that it would not have been eligible for a DWSRF loan).

¹⁰⁴ Brief of Public Counsel at 38-39 ¶ 69.

¹⁰⁵ Brief of Public Counsel at 38-39 ¶ 69, Puttman, TR. Vol. 5 at 116:2-21.

¹⁰⁶ Brief of Public Counsel at 38-39 ¶ 69 (*citing* Puttman, TR. Vol. 5 at 126:16-24).

priorities, the costs, and the rate impact. It's all verbal or through Teams. It's not – there's no emails – I mean, otherwise we would have it in the record; correct?

Lehman: Commissioner, thank you for that question. At the time this was all done, that was not our policy[.]¹⁰⁷

- 70 Public Counsel contends that Cascadia Water has provided sufficient contemporaneous documentation for Projects 6, 10, 11, and 14, but argues that the Commission should find remaining 10 capital projects all lack contemporaneous documentation and are therefore imprudent.¹⁰⁸
- 71 Public Counsel asserts that the Commission should completely disallow 10 of Cascadia Water's 14 capital projects from rates based on the Company's failure to maintain contemporaneous documentation, suggesting that the outcome of this rate case will not affect Cascadia Water's access to capital.¹⁰⁹ Public Counsel maintains that complete disallowance of the projects would not be an unreasonably harsh result because the Company is fully in control of its ability to record and maintain contemporaneous documentation.¹¹⁰ Alternatively, Public Counsel recommends that the Commission disallow the return on, but not the return of, the contested capital projects.¹¹¹ Public Counsel states that this type of disallowance would be appropriate because, while the projects are generally reasonable, the Company's lack of contemporaneous documentation prevents the Commission from making a more narrowly tailored disallowance for specific projects.¹¹² Furthermore, Public Counsel argues that the Commission should also require that Cascadia Water's rates be phased in over a period of two years and preclude the Company from recovering any deferred revenue not collected in the first part of the rate phase in.¹¹³
- 72 As an initial matter, WCAW states that issue preclusion, also referred to as collateral estoppel, should preclude any relitigation of the prudence of Projects 3, 7, 8, 12, and 13, as those issues were decided in Order 06 and the Commission's procedural rule providing for the resumption of litigation after rejection of a settlement does not render substantive

¹⁰⁷ Lehman and Tasoff, TR. Vol. 5 at 211:13 – 212:8.

¹⁰⁸ Brief of Public Counsel at 40 ¶ 71.

¹⁰⁹ Brief of Public Counsel at 41 ¶ 73. *See also*, Puttman, TR. Vol. 5 at 117:14 – 118:17.

¹¹⁰ Brief of Public Counsel at 41 ¶ 74.

¹¹¹ Brief of Public Counsel at 42 ¶ 75.

¹¹² Brief of Public Counsel at 42-43 ¶¶ 75-76.

¹¹³ Brief of Public Counsel at 43-44 ¶ 78; de Villiers, Exh. SDV-1T at 11:18 – 12:7.

determinations ineffective in the resumed proceeding.¹¹⁴ WCAW argues that Cascadia Water has not demonstrated that any of its 14 capital projects are prudent due to a lack of contemporaneous documentation regarding cost-benefit analyses or consideration of alternatives.¹¹⁵ WCAW maintains that, in the absence of contemporaneous documentation, the Commission is unable to evaluate the seriousness or urgency of the asserted need for a project, consider whether alternatives would have been more cost-effective, or otherwise evaluate the relative benefits of each project.¹¹⁶ WCAW contends that while the Company has provided engineering reports of various projects that were submitted to the DOH, those reports do not contain analyses of the various alternatives discussed by members of the Company.¹¹⁷

73 WCAW asserts that the Commission should afford little weight to Puttman's testimony because it was based on Puttman's assumptions about the Company's capital planning process for the projects involved in this proceeding.¹¹⁸ WCAW further notes that while Puttman testified to his opinion that the projects at issue in the present case did not warrant a formal cost-benefit analysis, he also stated that the Company should have provided contemporaneous documentation to support projects above \$150,000.¹¹⁹

74 WCAW maintains that the Company has not demonstrated that Projects 1, 3, 5, 8, and 12 were warranted due to the need for adequate fire protection because Cascadia's existing systems are exempt from DOH's fire flow requirements.¹²⁰ WCAW states that the Company has established a need for Projects 6, 10, and 11 based on treatment required by the DOH, but argues that the Company has not provided any analysis of possible alternatives for those projects or evidence of communication with the Company's board of directors or management.¹²¹ WCAW also challenges the prudence of the Company's decision to install new water meters in the absence of a cost benefit analysis related to the

¹¹⁴ Brief of WCAW at 6-9 ¶¶ 17-21.

¹¹⁵ Brief of WCAW at 11 ¶ 26; Lehman, TR. Vol. 4 at 212:18 – 213:4, 252:11 – 253:8, 261:11-17, 310:2-7. *See also*, Puttman, TR. Vol. 5. at 99:22 – 100:6 (Q: But what I asked is, did you conduct a formal cost analysis of any of these projects? A: We did not do the formal – this type, reading this paragraph, that level of detail.”).

¹¹⁶ Brief of WCAW at 11 ¶ 27.

¹¹⁷ Brief of WCAW at 11-12 ¶ 28 (*citing* Lehman and Tasoff, TR. Vol. 5 at 197:21 – 198:2).

¹¹⁸ Brief of WCAW at 12 ¶ 29-30 (*citing* Puttman, TR. Vol. 5 at 76:23 – 79:23, 91:3-9).

¹¹⁹ Brief of WCAW at 13 ¶ 31 (*citing* Puttman, TR. Vol. 5 at 86:4-20, 102:4 – 103:20).

¹²⁰ Brief of WCAW at 14 ¶ 32 (*citing* WAC 246-293-602).

¹²¹ Brief of WCAW at 14 ¶ 33.

meter's replacement and supporting contemporaneous documentation.¹²² WCAW does opine that Project 14 was prudent.¹²³

- 75 Regarding disallowance of imprudent projects, WCAW recommends that the Commission fully disallow capital projects from rates that the Commission finds imprudent. WCAW asserts that a least-cost solution disallowance is not possible based on the lack of contemporaneous documentation in the record, such that a partial disallowance for any particular project would be arbitrary.¹²⁴ WCAW further disagrees with Staff's proposed 8.1 percent disallowance for the five projects found to be imprudent in Order 06, maintaining that Staff has not provided sufficient reasoning to apply that level of disallowance to multiple projects.¹²⁵ WCAW argues that a full disallowance of imprudent projects is the only form of disallowance that would avoid reliance on hindsight, that full disallowance is essential to efficient regulation, would create an appropriate incentive for future utility behavior, and is not too harsh a result, in part because of the substantial resources of NW Natural Holdings.¹²⁶

Commission Decision

- 76 During general rate case proceedings, the Commission determines the prudence of utility actions by reviewing whether the utility made reasonable business decisions in light of the facts and circumstances known or that reasonably should have been known to the utility at the time decisions were made.¹²⁷ What is reasonable requires assessment of choices made, in light of circumstances and possible alternatives, based on industry norms and practices.¹²⁸ Prudence does not require a single, ideal decision, but requires the utility to make a reasonable decision among a number of alternatives that the Commission might find prudent.¹²⁹ The prudence review "requires evaluation of the Company's decisions not just from the perspective of management for the benefit of shareholders, but also for the benefit of customers."¹³⁰ The fundamental question for

¹²² Brief of WCAW at 14-15 ¶¶ 35-36; Lehman, TR. Vol. 4 at 307:18 – 310:13.

¹²³ Brief of WCAW at 14 ¶ 34.

¹²⁴ Brief of WCAW at 16 ¶ 39.

¹²⁵ Brief of WCAW at 17-19 ¶¶ 43-46.

¹²⁶ Brief of WCAW at 19-21 ¶¶ 47-55.

¹²⁷ *WUTC v. Puget Sound Energy, Inc.*, Docket UE-031725, Order 12 at ¶ 19 (Apr. 7, 2004).

¹²⁸ *See, id.*

¹²⁹ *WUTC v. Puget Sound Energy, Inc.*, Dockets UE-090704 & UG-090705 (*consolidated*), Order 11 at 119 ¶ 337 (Apr. 2, 2010).

¹³⁰ *WUTC v. Puget Sound Energy, Inc.*, Docket UE-031725, Order 14 at 34-35 ¶ 65 (May 13, 2004).

decision is whether management acted reasonably in the public interest, not merely in the interest of the company.¹³¹

- 77 The prudence standard applies to both the question of need and the appropriateness of the expenditure.¹³² The Commission considers three broad questions when evaluating prudence: (1) Was the initiation of the project prudent; (2) Was the continued implementation of the project prudent; and (3) Were the expenses prudently incurred?¹³³ The second and third factors are examined using the same prudence test as the first factor, but applied at a different point in time and necessarily premised on a reevaluation of the project.¹³⁴ Consequently, the Commission's prudency review is not limited to a single point in time and encompasses the implementation and construction phases of a project to ensure that a regulated utility continues to reasonably control and evaluate a project.
- 78 As noted above, when evaluating prudence, the Commission reviews utility decision-making at the time decisions were made. Stated differently, the Commission will not use the benefit of hindsight when evaluating prudence.¹³⁵ Consequently, regulated utilities are required to maintain contemporaneous records of their decision-making process and analysis to satisfy the Commission's prudency standard.¹³⁶ A utility's "robust discussions" about a project, with a "consensus" on decisions, is not sufficient to demonstrate prudence.¹³⁷ Rather, "the parties and Commission should be able to follow the company's decision-making process, knowing what elements the company used, and the manner in which the company valued those elements. Such a process should certainly be documented."¹³⁸ "Documentation and evidence of prudence decision making must be

¹³¹ *WUTC v. Puget Sound Energy, Inc.*, Docket UE-031725, Order 14 at 34-35 ¶ 65 (May 13, 2004) (quoting Goodman, *The Process of Ratemaking*, at 857).

¹³² *WUTC v. PacifiCorp*, Docket UE-152253, Order 12 at 33 ¶ 94 (Sept. 1, 2016).

¹³³ *WUTC v. PacifiCorp*, Docket UE-152253, Order 12 at 34 ¶ 95 (Sept. 1, 2016).

¹³⁴ *WUTC v. PacifiCorp*, Docket UE-152253, Order 12 at 34 ¶ 95 (Sept. 1, 2016).

¹³⁵ *WUTC v. PacifiCorp*, Docket UE-152253, Order 12 at 34 ¶ 94 (Sept. 1, 2016).

¹³⁶ *WUTC v. Puget Sound Power & Light Company*, Dockets UE-920433, UE-920499, & 921262, 19th Supp. Order, at 15-16 (Sept. 27, 1994) ("The company's lack of contemporaneous evaluation and documentation is, at best, poor management practice."); *WUTC v. PacifiCorp*, Docket UE-152253, Order 12 at 36 ¶ 102 (Sept. 1, 2016) ("However, this memo was prepared after the final decision to proceed was made, and therefore cannot be shown to have played a part in the Company's decision-making.").

¹³⁷ *WUTC v. Puget Sound Power & Light Company*, Dockets UE-920433, UE-920499, & 921262, 19th Supp. Order at 16 (Sept. 27, 1994).

¹³⁸ *WUTC v. Puget Sound Power & Light Company*, Dockets UE-920433, UE-920499, & 921262, 19th Supp. Order at 16 (Sept. 27, 1994).

kept contemporaneously with a company's decision making or the Commission's ability to evaluate prudence is thwarted."¹³⁹

79 The Commission has previously explained that its review of prudence typically focuses on four factors:

1) *The Need for the Resource*: The utility must first determine whether new resources are necessary. Once a need has been identified, the utility must determine how to fill that need in a cost-effective manner. When a utility is considering the purchase of a resource, it must evaluate that resource against the standards of what other purchases are available, and against the standard of what it would cost to build the resource itself.

2) *Evaluation of Alternatives*: The utility must analyze the resource alternatives using current information that adjusts for such factors as end effects, capital costs, dispatchability, transmission costs, and whatever other factors need specific analysis at the time of a purchase decision. The acquisition process should be appropriate.

3) *Communication With and Involvement of the Company's Board of Directors*: The utility should inform its board of directors about the purchase decision and its costs. The utility should also involve the board in the decision process.

4) *Adequate Documentation*: The utility must keep adequate contemporaneous records that will allow the Commission to evaluate the Company's decision-making process. The Commission should be able to follow the utility's decision process; understand the elements that the utility used; and determine the manner in which the utility valued these elements.¹⁴⁰

80 While the Commission agrees that "immediate need" and "prioritization" do not subsume the Commission's traditional prudency review, this is not to say that "need" has no role to play within the Commission's prudency analysis.¹⁴¹ As acknowledged by Cascadia Water, one of the Commission's prudency factors includes evaluating the "need" for an

¹³⁹ *In re Investigation Regarding Prudency of Outage and Replacement Power Costs*, Docket UE-190882, Order 5 at 12 ¶ 43 (Mar. 20, 2020).

¹⁴⁰ *WUTC v. Puget Sound Energy*, Dockets UE-111048 and UG-111049 (consolidated), Order 08 at 148 ¶ 409 (May 7, 2012) (citation omitted).

¹⁴¹ *WUTC v. Cascadia Water, LLC*, Docket UW-240151, Order 06 at 24-25 ¶¶ 66-67 (April 22, 2025).

expenditure.¹⁴² The Commission has entirely disallowed recovery of an investment when a utility failed to establish a need for a particular investment.¹⁴³ While Cascadia Water cites to a prior Commission decision for the premise that prioritization and prudence are distinct inquiries, this characterization misstates the Commission’s analysis in that matter.¹⁴⁴ In that case, the references to “prioritization” refer to the “priorities for investments using DWSRF loans,” which the Commission reasoned was properly determined by DOH and the Public Works Board.¹⁴⁵ The Commission disagrees that prudence is never concerned with “whether it could have been reasonable to do nothing,” as adopting this approach to prudence would afford ratepayers no meaningful protection against unnecessary utility investment or “gold plating.”¹⁴⁶

81 Cascadia Water suggests that the Commission may consider sworn testimony from decision makers as contemporaneous documentation, citing to Order 05 in Docket UE-130043.¹⁴⁷ The Commission rejects this assertion for several reasons. First, while Cascadia Water seeks to emphasize the order’s reference to “testimonies,” the more reasonable interpretation is that the witnesses testimonies helped explain and were supported by other “adequate contemporaneous records,” not that the testimonies were a substitute for such records.¹⁴⁸ Additionally, in that case, no party contested the prudence of the capital investments at issue, suggesting that all parties were satisfied that the utility

¹⁴² Brief of Cascadia Water at 11 ¶ 21 (citing *WUTC v. Puget Sound Power & Light Company*, Dockets UE-920433, UE-920499, & UE-921262, 19th Supp. Order at 16 (Sept. 27, 1994)).

¹⁴³ *WUTC v. Avista Corporation*, Dockets UE-200900, UG-200901, & UE-200894 (consolidated), Order 08/05 at 97-98 ¶¶ 273-274 (Sept. 27, 2021).

¹⁴⁴ Brief of Cascadia Water at 13-14 ¶ 25 (citing *In re Petition of Aquarius Utilities, LLC*, Docket UW-081416, Order 01 (Aug. 28, 2008)).

¹⁴⁵ *In re Petition of Aquarius Utilities, LLC*, Docket UW-081416, Order 01 at 4-5 ¶¶ 18, 25 (Aug. 28, 2008)(finding that “[t]he priorities for investment of DWSRF loan funds are determined by the Department of Health and the Public Works Board and are entitled to deference by the Commission.”).

¹⁴⁶ The Commission further notes that the Company’s argument appears to contradict the Company’s representations that it will include considerations of a “do nothing” baseline in future alternatives analysis. *See* Puttman, Exh. TJP-1T at 12:16-19 (“This new process will require the utility to evaluate and document alternatives for addressing particular infrastructure issues, including a ‘do nothing’ baseline, and to explain the rationale for selecting the recommended approach.”).

¹⁴⁷ Brief of Cascadia Water at 16 ¶ 32 (citing *WUTC v. PacifiCorp*, Docket UE-130043, Order 05 at 101 ¶ 261 (Dec. 4 2013)).

¹⁴⁸ *WUTC v. PacifiCorp*, Docket UE-130043, Order 05 at 101 ¶ 261 (Dec. 4 2013) (stating “Staff is satisfied that PacifiCorp provided through the testimonies of Mr. Tallman and Mr. McDougal adequate contemporaneous records of its decision-making process and supporting analyses . . . [.]”).

had provided sufficient contemporaneous documentation to demonstrate prudence.¹⁴⁹ Second, the Company has not adequately explained how reliance on sworn testimony constitutes “contemporaneous” memorialization, or how reliance on such testimony comports with the prudence standard’s refusal to rely on the benefit of hindsight.¹⁵⁰ Finally, the Commission has directly rejected prior assertions that prudence can be established by after-the-fact witness testimony in the absence of contemporaneous documentation:

The Companies argue that the Commission’s decision regarding the 2013 Chehalis outage establishes that a prudence review can be satisfied by relying on after-the-fact expert witness testimony without supporting contemporaneous documentation of decision making. **This is incorrect.**

...

Instead, we find that the lack of contemporary documentation prevents us from making a determination of prudence, and thus we cannot support asking ratepayers to pay the replacement power costs of the 2018 Colstrip outage. **The only way to determine the reasonableness of a regulated company’s actions at the time of a decision is through contemporary documentation.**¹⁵¹

- 82 To dispel any ambiguity, the Commission reaffirms that a regulated company, including Cascadia Water, must maintain contemporaneous documentation of its decision-making to satisfy the Commission’s prudence standard and that after-the-fact sworn testimony is no substitute for a lack of contemporaneous documentation. While the Company is correct that the prudence standard is not intended “to burden daily operations with a requirement to document the minutest of day-to-day decisions,” it is clear that none of the 14 projects presented in this case, described as “major plant additions and ongoing projects” by the Company, constitute “day-to-day decisions.”¹⁵²
- 83 Although Staff asserts that the Commission has previously relied on subsequent information to determine what a Company did know or should have known in the

¹⁴⁹ *WUTC v. PacifiCorp*, Docket UE-130043, Order 05 at 101 ¶ 262 (Dec. 4 2013).

¹⁵⁰ *WUTC v. PacifiCorp*, Docket UE-152253, Order 12 at 34 ¶ 94 (Sept. 1, 2016) (stating that the Commission “may not use the benefit of hindsight” in evaluating prudence). *See also*, *WUTC v. PacifiCorp*, Docket UE-152253, Order 12 at 36 ¶ 102 (Sept. 1, 2016) (“However, this memo was prepared after the final decision to proceed was made, and therefore cannot be shown to have played a part in the Company’s decision-making.”).

¹⁵¹ *In re Investigation Regarding Prudency of Outage and Replacement Power Costs*, Docket UE-190882, Order 5 at 18-19 ¶¶ 57, 59 (Mar. 20, 2020) (emphasis added).

¹⁵² Brief of Cascadia Water at 16-17 ¶ 32 (citing *In re Investigation Regarding Prudency of Outage and Replacement Power Costs*, Docket UE-190882, Order 5 at 17-19 ¶ 55, 58 (March 20, 2020)).

absence of contemporaneous documentation, the case it cites does not establish that subsequent information is a substitute for contemporaneous documentation for purpose of prudence.¹⁵³ In that case, the Commission determined that “[b]ecause Puget did not perform adequate studies, the Commission relied on the study performed by Dr. Blackmon in this proceeding. The 1993 BPA study was selected as the best proxy offered for the kind of study Puget should have performed at that time.”¹⁵⁴ In an earlier order from that same case, the Commission further explained:

A prudence review in this context is inherently a very blunt instrument. It is particularly so in this case, where the Company’s failure to properly evaluate and document its power purchases requires the use of proxies and estimates to measure disallowance. We must protect monopoly ratepayers from paying rates that are too high because of the company’s imprudent action.¹⁵⁵

84 In briefing, Cascadia Water suggests that the Commission did not previously determine the prudence of Projects 3, 7, 8, 12, and 13, because the case was reset following the Commission’s rejection of the settlement, Order 06 found that these projects were not “fully prudent,” and the record has been further developed.¹⁵⁶ The Commission rejects the Company’s argument that the Commission has not fully adjudicated the prudence of those projects as part of Order 06. While the Company is correct that WAC 480-07-750(2)(c) states that an adjudication returns to its status at the time that the Commission suspended the procedural schedule to consider the settlement, this rule refers to the procedural posture of the case. The rule does not imply that the Commission’s substantive determinations made while reviewing a rejected settlement are rendered void or meaningless. Adopting Cascadia’s interpretation of the rule would also be contrary to the equitable doctrine of collateral estoppel by incentivizing relitigation of issues in both a settlement and subsequent full adjudication.¹⁵⁷ Cascadia Water’s argument that the record has been further developed similarly conflicts with the doctrine of collateral

¹⁵³ See, Brief of Staff at 11-12 ¶ 28 (citing *WUTC v. Puget Sound Power & Light Company*, Dockets UE-920433, UE-920499, & UE-921262, 20th Supp. Order, 15-17 (Dec. 16, 1994)).

¹⁵⁴ *WUTC v. Puget Sound Power & Light Company*, Dockets UE-920433, UE-920499, & UE-921262, 20th Supp. Order, 15-17 (Dec. 16, 1994).

¹⁵⁵ *WUTC v. Puget Sound Power & Light Company*, Dockets UE-920433, UE-920499, & UE-921262, 19th Supp. Order at 33 (Sept. 27, 1994).

¹⁵⁶ Brief of Cascadia Water at 37-38 ¶¶ 60-62 (citing *WUTC v. Cascadia Water, LLC*, Docket UW-240151, Order 06 at 22-23 ¶ 63 (April 22, 2025)).

¹⁵⁷ *LeMond v. Dep’t of Licensing*, 143 Wn. App. 797, 804 (2008) (“The purpose of the doctrine of collateral estoppel is to promote judicial economy by avoiding relitigation of the same issue, to afford the parties assurance of finality of judicial determinations, and to prevent harassment of and inconvenience to litigants.”).

estoppel because it undermines the finality of earlier decision-making on the merits.¹⁵⁸ To the extent that the Company takes issue with the “fully prudent” terminology used in Order 06, the Commission clarifies that an investment found to not be “fully prudent” is an imprudent investment.¹⁵⁹

85 WCAW argues that further litigation of the prudence of Projects 3, 7, 8, 12, and 13 should be precluded under the doctrine of issue preclusion.¹⁶⁰ Collateral estoppel, or issue preclusion, “bars relitigation of an issue in a later proceeding involving the same parties.”¹⁶¹ For collateral estoppel to apply, the party asserting collateral estoppel must show:

(1) the issue in the earlier proceeding is identical to the issue in the later proceeding, (2) the earlier proceeding ended with a final judgment on the merits, (3) the party against whom collateral estoppel is asserted was a party, or in privity with a party, to the earlier proceeding, and (4) applying collateral estoppel would not be an injustice.¹⁶²

86 The Commission finds that each of the four collateral estoppel factors are met in this case. The issue of whether Projects 3, 7, 8, 12, and 13 were prudent was previously considered in the settlement adjudication, and the settlement adjudication ended with a determination on the merits that Projects 3, 7, 8, 12, and 13 were imprudent due to a lack of contemporaneous documentation.¹⁶³ Cascadia Water was a party to the earlier settlement adjudication. Finally, application of collateral estoppel would not work an injustice against Cascadia Water, as the Company had ample motivation to fully and vigorously litigate the issue of the prudence of Projects 3, 7, 8, 12, and 13 in the settlement adjudication, as the Company certainly knew that Public Counsel and WCAW

¹⁵⁸ *Schibel v. Eymann*, 189 Wn.2d 93, 99 (2017) (“Importantly, collateral estoppel provides finality in adjudications, shielding parties and courts from expending resources in repetitive litigation.”).

¹⁵⁹ *See also, WUTC v. Cascadia Water, LLC*, Docket UW-240151, Order 06 at 25 ¶ 68 (April 22, 2025) (“While the Commission would, in a fully litigated case, proceed to consider what level of disallowance adjustment is appropriate in light of the Company’s **imprudent action**, . . . [.]”)(emphasis added); *WUTC v. Cascadia Water, LLC*, Docket UW-240151, Order 06 at 29 ¶ 84 (April 22, 2025) (“In light of the Commission’s **determination of imprudence** . . . [.]”)(emphasis added).

¹⁶⁰ Brief of WCAW at 7-9 ¶ 20.

¹⁶¹ *Schibel v. Eymann*, 189 Wn.2d 93, 99 (2017).

¹⁶² *Schibel v. Eymann*, 189 Wn.2d 93, 99 (2017).

¹⁶³ *WUTC v. Cascadia Water, LLC*, Docket UW-240151, Order 06 at 25, 28-29 ¶¶ 68, 81-84 (April 22, 2025).

actively contested the prudence of those projects.¹⁶⁴ Consequently, the Commission determines that collateral estoppel precludes relitigation of Order 06's determination that Projects 3, 7, 8, 12, and 13 were imprudent.

- 87 After reviewing the extensive record developed in this proceeding, the Commission determines that, in addition to Projects 3, 7, 8, 12 and 13 found to be imprudent in Order 06, Cascadia Water has not established that Projects 1, 2, 4, 5, 6, 9, 10, and 11 were prudent due to lack of contemporaneous documentation and evidence of communication with management. The Commission further finds that the Company has not demonstrated that its meter replacement project was prudent due to a lack of contemporaneous documentation. As explained earlier, sworn testimony and after the fact explanation is no substitute for the obligation to maintain contemporaneous documentation, and the Commission has previously stated that its ability to review prudence is thwarted without contemporaneous documentation.¹⁶⁵ Although some documents do give insight into individual inputs to the Company's decision-making, such as information related to bids for specific projects, the Commission cannot evaluate whether the selection of the bids was reasonable in the absence of additional contemporaneous information about the alternatives to and cost-effectiveness of the projects.
- 88 To the extent that the Company relies on Puttman's testimony to establish the prudence of its capital investments, the Commission does not find Puttman's testimony persuasive. Puttman testified that he joined NWN Water, Cascadia Water's parent company, in September 2024, was not involved in the capital planning for the investments at issue in this case, and could only speak to his assumptions about how the Company reviewed capital investment decisions.¹⁶⁶ The Commission is also concerned about the timing of the Company's disclosure of capital planning documents, which was done after the Company declined to identify or produce documents in response to discovery requesting

¹⁶⁴ *Weaver v. City of Everett*, 194 Wn.2d 464, 474 (2019) ("To determine whether collateral estoppel will work an injustice, we ask whether the party against whom the doctrine is asserted had sufficient motivation for a full and vigorous litigation of the issue in a prior proceeding.") (internal quotation and citation omitted).

¹⁶⁵ *In re Investigation Regarding Prudency of Outage and Replacement Power Costs*, Docket UE-190882, Order 5 at 12 ¶ 43 (Mar. 20, 2020).

¹⁶⁶ Puttman, TR. Vol. 5 at 53:4-6, 72:23 – 73:2, 77:19-25, 79:18-23 ("I don't know about the emails. They could have, you know, talked via Teams. We do a lot of work via Teams. Someone could have just brought this up on screen. They can kind of edit on screen. So likely that might have been a way that – I'm not sure how documents were shared."), 126:21-24 ("My assumption is, this is the result of those – that interaction. She was taking notes as the owner. Cascadia is the owner of that budget. Taking the notes, getting the input from those staff members.").

all capital improvement plans and spending projections, including supporting budgets.¹⁶⁷ A party's discovery obligations do not turn on whether the party believes the information would be "helpful" at a particular point in a proceeding.¹⁶⁸ Consequently, the Commission affords little weight to these capital planning documents.¹⁶⁹

89 While the Company has identified several documents that were provided to the DOH that contain substantial amounts of detail, Lehman and Tasoff testified at hearing that the project reports submitted to DOH represent final decisions of the Company regarding projects.¹⁷⁰ Lehman also confirmed that the project reports submitted to DOH do not contain an analysis of various alternatives.¹⁷¹ Tasoff similarly testified that neither the water system plan nor the project design reports contain analysis of alternatives.¹⁷² Although the Company testified that there were discussions about possible alternatives for projects, those discussions were not documented.¹⁷³ Additionally, the Commission has previously noted that DOH and the Commission have different regulatory authority and responsibilities, such that DOH does not review projects for financial prudence, and DOH documents do not contain evidence of contemporaneous decision-making, cost-benefit analyses, or consideration of alternatives from a financial perspective.¹⁷⁴

¹⁶⁷ Puttman, Exh. TJP-8XC, Exh. TPJ-9XC; Lehman, Exh. CLJ-13X at 84-89; Puttman, TR. Vol. 5 at 85:13-16 (agreeing with Public Counsel's characterization of Puttman, Exh. TJP-9XC Attachment 1 as a "capital improvement plan").

¹⁶⁸ Puttman, TR. Vol. 5 at 122:5-13.

¹⁶⁹ Notwithstanding the Commission's concerns about the discovery related to these plans, the Commission would still afford these documents little weight, as witness Puttman could only testify to his general assumptions about the Company's process in preparing these documents, no other Company witness discussed them, and the documents contain no detail regarding how the Company arrived at the budgeting decisions reflected. *See, e.g.*, Puttman, TR. Vol. 5 at 126:21-24.

¹⁷⁰ Lehman and Tasoff, TR. Vol. 5 at 140:8-9 ("Once that project is approved for installation, then we'll do a full project report."), 197:15-18 ("I believe that in my testimony from September and the ones that followed, demonstrate that. The project reports are in there as a final decision and outcome of that process."), 211:9-12 ("It is my testimony that we came to this conclusion of these documents, of these projects through the collaborative process with myself and Mr. Tasoff and Mr. Smith and moving up.").

¹⁷¹ Lehman and Tasoff, TR. Vol. 5 at 197:19 – 198:2; 211:4 – 212:24.

¹⁷² Lehman and Tasoff, TR. Vol. 5 at 141:8-15.

¹⁷³ Lehman and Tasoff, TR. Vol. 5 at 198:1-2 ("We did not keep any minutes of phone calls or Teams meetings or virtual."). *See also*, Lehman and Tasoff, TR. Vol. 5 at 212:23-24 ("As far as written formal documentation, no, we do not have any of that.").

¹⁷⁴ *WUTC v. Cascadia Water, LLC*, Docket UW-240151, Order 06 at 23-24 ¶ 65 (April 22, 2025); Lehman, TR. Vol. 4 at 249:5-7 ("I believe the Department – I don't want to speak for Department

- 90 While the Commission acknowledges that some of the Company's projects were undertaken in response to DOH's requirement that the Company take corrective action, the corrective action notices issued by DOH require the Company to develop treatment plans, rather than directing the Company to take specific action.¹⁷⁵ Although DOH retains authority to approve the plan proposed by the Company in response to a corrective action notice, the Company still retains discretion in the development of the plan. Even though DOH corrective notices are a strong indication of the need for a particular project, the fact that some action is required does not relieve the Company of its obligation to consider whether various alternatives may be more cost-effective, or to continue evaluating the reasonableness of a project during its development and implementation. The Commission has previously disallowed capital investments installed to comply with regulatory requirements where the utility failed to maintain contemporaneous documentation of its evaluation of alternatives during the implementation of the capital investment.¹⁷⁶
- 91 The Commission agrees with WCAW that the Company has not demonstrated the prudence of its meter replacement project. At hearing, Lehman stated that the Company was replacing existing water meters, and further testified that the existing meters were still functioning and did not present a health concerns.¹⁷⁷ Although Lehman explained that the existing water meters have a "life expectancy," and that the new meters were more cost-effective and had additional functions relative to the existing meters, the Company did not provide any contemporaneous documentation regarding whether meters were in fact approaching the end of their useful life or the cost effectiveness of the new meters.¹⁷⁸ Rather, Lehman testified that the Company never calculated the relative cost effectiveness of the new meters compared to the old meters.¹⁷⁹ Consequently, the Commission finds that Cascadia Water has not demonstrated the prudence of its meter installations in the absence of contemporaneous documentation memorializing its reasoning for replacing existing meters.

of Health, but I believe that their prudence factors on water quality and not financial."); Stark, Exh. RS-12T at 17:8-9.

¹⁷⁵ Lehman and Tasoff, Exh. CJL-JMT-11, Exh. CJL-JMT-18, Exh. CJL-JMT-20.

¹⁷⁶ *WUTC v. PacifiCorp*, Docket UE-152253, Order 12 at 34, 39-40 ¶¶ 96, 114 (Sept. 1, 2016) (disallowing a return on but not a return of investment where the utility failed to maintain contemporaneous documentation of its decision to not pursue alternative compliance measures for regulatory compliance).

¹⁷⁷ Lehman, TR. Vol. 4 at 307:18 – 308:4.

¹⁷⁸ Lehman, TR. Vol. 4 at 308:8 – 309:4.

¹⁷⁹ Lehman, TR. Vol. 4 at 310:2-7.

- 92 No party contests the prudence of Project 14, related to the preparation of the Company’s Unified Water System Plan, which is required by DOH regulation. Based on the record developed in this proceeding, the Commission determines that there was no reasonable alternative that the Company could have considered with respect to this obligation. Consequently, the Commission determines that this project was prudent.
- 93 For the reasons stated above, the Commission determines that, similar to the projects analyzed in Order 06, Cascadia Water has not maintained adequate contemporaneous documentation related to its decision-making for the majority of its major capital projects and its meter replacement project. In *WUTC v. Puget Sound Power and Light Company*, the Commission explained:

A company’s “robust discussions” about various resources with “a consensus” on the decisions, are not sufficient to demonstrate prudence. The Commission Staff has challenged Puget’s process as not documented and susceptible of replication. Puget sets up the word “replicate” as a straw man – saying that it means that Puget must reproduce in minute detail each decision making process – then knocks the straw man down. Commission Staff made it clear that this is not what it meant by “replicate.” These contracts will bind the company and its ratepayers to pay \$6.5 billion over the next 23 years. The parties and the Commission **therefore should be able to follow the company’s decision-making process, knowing what elements the company used, and the manner in which the company valued those elements. Such a process should certainly be documented.**¹⁸⁰

- 94 The lack of contemporaneous documentation in this case prevents the Commission from being able to meaningfully evaluate the Company’s decision-making regarding its significant capital investments. For example, the Commission cannot evaluate whether the Company’s decision to continue with its W&B project after estimated costs rose from \$650,000 to \$1.6 million was reasonable because the Company did not maintain records of its decision-making or evaluation of the project’s relative cost-effectiveness.¹⁸¹ While this is not to suggest that the Company is required to maintain documentation “in minute detail” for each and every project that it chooses to pursue, the records must be sufficiently detailed for the Commission to understand the inputs, outcomes, and alternatives that the Company was considering when it chose to pursue or reevaluate a

¹⁸⁰ Dockets UE-920433, UE-920499, & 921262, 19th Supp. Order at 16 (Sept. 27, 1994) (emphasis added).

¹⁸¹ Lehman and Tasoff, TR. Vol. 5 at 147:8-23. *See also* Lehman and Tasoff, TR. Vol. 5 at 180:6-20 (stating in part that the company did not perform any formal rate analysis for the projects included in this case and did not calculate the impact to customers).

capital investment. As project costs and overall capital spending increases, the Commission expects that regulated utilities will maintain increasingly more detailed contemporaneous documentation, considering the proportionally greater impact that an investment will have on a utility's customers.

- 95 In addition to the lack of contemporaneous documentation, the Commission also finds that the same projects are imprudent due to the lack of documentation regarding the Company's communication with its board of directors and management of its parent company and ultimate holding company. According to the Company, the budgets prepared by Lehman for Cascadia Water are subject to approval from the Company's regional manager and the Company's parent company, NWN Water.¹⁸² Lehman also testified that the Company's corporate office retains ultimate authority to approve budget items related to Cascadia Water's capital investments.¹⁸³ However, despite the control that Cascadia Water's regional manager and NWN Water apparently have over such decisions, there is no documentation in the record of how either reviewed Cascadia Water's budget requests or otherwise evaluated whether to include specific capital investments in an approved budget.¹⁸⁴
- 96 The Company suggests that it would be unreasonable to require documentation of communication with the board of directors for its parent company, stating that such a requirement would require the board of directors to be involved in day-to-day management decisions that are inconsistent with the role of a board.¹⁸⁵ This argument is unavailing for two reasons. First, the Commission has previously acknowledged that regulated utilities can delegate approval to responsible individuals consistent with a

¹⁸² Lehman and Tasoff, TR. Vol. 5 at 158:9 – 159:9. *See also*, Puttman, Exh. TJP-1T at 7:14 – 8:8.

¹⁸³ Lehman and Tasoff, TR. Vol. 5 at 210:2-7; Lehman, Transcript Vol. 4 at 322:18-23 (“I have to justify every dollar going in. There is a lot of capital plans that we do that we submit into the corporate office for the finance department. And there is pushback. We need to justify that to our internal Company why we need that level of capital and that project is necessary.”); 325:23-24 (“Yeah. So every project I have in the budget does not get approved.”).

¹⁸⁴ *WUTC v. PacifiCorp*, Docket UE-152253, Order 12 at 36-37 ¶ 103 (Sept. 1, 2016) (“The Company however, does not present any documentation from that time to support how it weighed the information from the October 2013 mine plan to reach such a conclusion or even that it made such a determination. **There is no documentation that Pacific Power's board of directors or senior Company management were adequately informed or on what basis they concluded** that the change in coal operations would result in relative minor change in costs for those mine-mouth coal generation units at Bridger.”) (emphasis added).

¹⁸⁵ Brief of Cascadia Water at 15-16 ¶ 30.

utility policy.¹⁸⁶ Second, to the extent that the board of directors retains final authority to approve Cascadia Water's capital planning budget, it effectively controls what capital projects the Company ultimately pursues. The Commission must be able to review the contemporaneous reasoning of the ultimate decision maker in order to meaningfully evaluate prudence. Again, such documentation need not necessarily be exhaustive. It must give the Commission the ability to evaluate how a decision was ultimately made, considering, at a minimum, the known inputs, possible alternatives, and expected outcomes for both the utility and ratepayers, with a level of detail that is commensurate with the scale of the project relative to the utility's operations.

- 97 When the Commission finds that an investment was imprudent, the Commission generally disallows the difference between the cost of the chosen project and the expense of the least costly option.¹⁸⁷ However, in the absence of contemporaneous documentation and analysis of possible alternatives in the record, the Commission is unable to make a more precise disallowance and instead must rely on more blunt mechanisms to effect a disallowance.
- 98 The Commission reject's Staff's proposed 8.1 percent disallowance for projects based on the calculation of the size difference for the reservoir associated with Project 3 related to CAL Waterworks, as that project involved more than just the reservoir and the record does not support applying the same proportional disallowance to any of the other capital projects. The Commission also declines Public Counsel's suggestion to impute a DWSRF loan to the Company as a form of a disallowance. Although the Commission agrees that Cascadia Water should have considered and documented alternatives related to a possible DWSRF loan, the record lacks sufficient detail to calculate the overall impact of such a loan on the Company's operations and involves some degree of speculation regarding how other agencies would have prioritized investments associated with the loan.¹⁸⁸ The Commission also declines to require a phase-in of rates with a disallowance of carrying costs, as this case has been before the Commission since February 2024, for a period of over 19-months, and a disallowance of all carrying costs would be arbitrary with respect to those aspects of the case that the Commission has allowed into rates. Additionally, given the lack of contemporaneous documentation in the record, the Commission does

¹⁸⁶ *WUTC v. PacifiCorp*, Docket UE-130043, Order 05 at 101 ¶ 261 (Dec. 4, 2013) ("Although the Board of Directors was not the final decision maker in any of these matters, the decisions were appropriately made by a senior executive, consistent with Company policy.").

¹⁸⁷ *WUTC v. PacifiCorp*, Docket UE-152253, Order 12 at 39-40 ¶ 110 (Sept. 1, 2016).

¹⁸⁸ *In re Petition of Aquarius Utilities, LLC*, Docket UW-081416, Order 01 at 4-5 ¶¶ 18, 25 (Aug. 28, 2008) (finding that "[t]he priorities for investment of DWSRF loan funds are determined by the Department of Health and the Public Works Board and are entitled to deference by the Commission.").

not have a sufficient factual basis to determine the extent to which certain assets were disproportionately sized, and consequently, what proportion of carrying costs should be disallowed. Furthermore, the case relied on by Public Counsel is distinguishable, as in that case the utility agreed to the phase-in.¹⁸⁹

99 The Commission also disagrees with WCAW that the only disallowance that is available is entirely disallowing the imprudent investment in the absence of contemporaneous documentation to avoid relying on hindsight.¹⁹⁰ Other tools, such as disallowing the return of, but not the return on, an investment are available in the absence of contemporaneous documentation.¹⁹¹ The Commission also rejects WCAW's assertion that a partial disallowance fails to create an incentive for regulated utilities to maintain contemporaneous documentation or that a utility "risks nothing" by failing to maintain contemporaneous documentation, as they clearly risk the opportunity to earn a reasonable return on their investments. Moreover, should a utility persist in failing to provide contemporaneous documentation about its decision-making, the Commission can impose a more severe disallowance in a subsequent proceeding. WCAW fails to establish that the Commission lacks discretion in fashioning an appropriate disallowance based on the facts of a particular proceeding.

100 The Commission further disagrees that a full disallowance is warranted in this case. The Commission notes that some of the projects that were found imprudent were treatment projects undertaken in response to DOH corrective action notices or replacements to decaying infrastructure.¹⁹² Additionally, as noted by Public Counsel, many of the Company's projects appear reasonable in some respects, notwithstanding the lack of contemporaneous documentation.¹⁹³ None of the parties contend that the capital

¹⁸⁹ Brief of Public Counsel at 43-44 ¶ 78 (citing *WUTC v. Summit View Water Works, LLC*, Docket UW-180801 at 3 ¶ 13 (Octo. 22, 2018)). *See also*, *WUTC v. Summit View Water Works, LLC*, Docket UW-180801 at 3 ¶ 14 (Octo. 22, 2018).

¹⁹⁰ Brief of WCAW at 19-21 ¶¶ 47-52.

¹⁹¹ *See, e.g., WUTC v. PacifiCorp*, Docket UE-152253, Order 12 at 34, 39-40 ¶¶ 96, 114 (Sept. 1, 2016) (disallowing a return on but not a return of investment where the utility failed to maintain contemporaneous documentation of its decision to not pursue alternative compliance measures for regulatory compliance).

¹⁹² *See, e.g., Lehman and Tasoff*, Exh. CJL-JMT-11, Exh. CJL-JMT-18, Exh. CJL-JMT-20; *Lehman*, Exh. CJL-3.

¹⁹³ Duren, TR. Vol. 5 at 215:22 – 217:17 (stating in part "[b]ut the projects themselves seemed reasonable. They were typical work that I would expect to see for a water system, you know, if it had a deficiency."), 220:14-16 ("I would say that SCADA in itself is a reasonable project . . . [.]"); TR. Vol. 4 at 359:8-10 ("I think what we were – what we were really referring to in a lot of these projects is, there is a need that I think was identified."), 366:20 – 367:10; Duren, Exh. SD-

investments, which we deem imprudent for failing to meet our four part test, do not provide any benefit to the Company's customers whatsoever. The Commission is required to balance the interests of both the utility and its customers when setting rates and finds that total disallowance would be unfair to the Company, insofar as its ratepayers would reap the benefits of the capital investments while bearing none of the associated costs.¹⁹⁴

101 Considering the record developed in the proceeding, the Commission determines that for each capital investment found imprudent, the Company should be allowed to recover only a return of the investment and a return on the investment at its weighted cost of debt, but disallows the Company's return on equity.¹⁹⁵ As such, the Company will be allowed to recover a 3.02 percent return on imprudent projects, based on the authorized 6.04 percent cost of debt and 50:50 debt-to-equity capital structure. The Commission has discretion to impose a disallowance that is reasonable in light of all the facts and circumstances of a particular case.¹⁹⁶ This discretion is consistent with the Commission's broad discretion to regulate in the public interest and determine fair, just, reasonable, and sufficient rates for regulated utilities.¹⁹⁷ In setting rates, the Commission "must in each rate case endeavor to not only assure fair prices and service to customers, but also to assure that regulated utilities earn enough to remain in business – each of which functions is as important in the eyes of the law as the other."¹⁹⁸ In consideration of this balance, the Commission finds it appropriate to allow a return at its authorized weighted cost of debt for these projects, recognizing that the Company must maintain sufficient cashflow to service its debt obligations.

102 As discussed in Order 06, the Commission takes notice of the ongoing changes in the regulated water industry in the state, with smaller water companies being acquired by larger, well capitalized owners that seek to make improvements on aging infrastructure.¹⁹⁹ In recognition of this transition, the Commission has begun taking steps to reconsider long-standing assumptions about water company regulation, but endeavors

1CT at 11:18-22 (stating that standby generators at sources of supply has become an industry standard in the Pacific Northwest).

¹⁹⁴ *U.S. W. Communs. Inc. v. Utils. & Transp. Comm'n*, 134 Wn.2d 74, 121 (1997).

¹⁹⁵ To clarify, the weighted cost of debt may be updated in subsequent proceedings.

¹⁹⁶ *WUTC v. Puget Sound Energy*, Docket UE-031725, Order 15 at 15 ¶ 30 (June 7, 2004) ("This disallowance was within our discretion, and within a range of possible disallowance amounts.").

¹⁹⁷ RCW 80.01.040, RCW 80.28.020.

¹⁹⁸ *People's Org. for Wash. Energy Res. v. Utils. & Transp. Comm'n*, 104 Wn.2d 798, 808 (1985).

¹⁹⁹ *WUTC v. Cascadia Water, LLC*, Docket UW-240151, Order 06 at 26 ¶ 70 (April 22, 2025).

to do so in a gradual, informed manner, considering impacts to both companies and customers.²⁰⁰ As such, while a greater disallowance may be supportable, the Commission finds that disallowing the Company's return on equity for imprudent investments strikes a reasonable balance between incentivizing Cascadia Water to adopt better practices going forward, protecting ratepayers from imprudent investment, and avoid barriers to acquisition of water companies in need of capital improvement.²⁰¹ Should the Company fail to remedy its contemporaneous documentation in future proceedings, or provide documentation that contains insufficient detail for the Commission to meaningfully review the Company's decision-making, the Commission may be required to impose more severe disallowances.

D. Rate Design and Aquarius Surcharge

103 The Company maintains three separate tariffs for the Island, Peninsula and Pelican Point water systems but is not opposed to Staff's recommendation to consolidate the Island and Peninsula systems and eliminate the Aquarius surcharge claiming that Staff's position is "legally defensible."²⁰² In response to WCAW's assertion that consolidating rates would be "treating dissimilarly situated people similarly[]" leading to discrimination among customers, the Company argues that although "Washington law prohibits water companies from charging [different] rates for like and contemporaneous services rendered under the same or substantially similar conditions[.]" the law does not preclude a water company from charging the same rate for different classes of customers.²⁰³ Further, the Company argues that because the Peninsula and Island systems are similarly situated, have similar usage patterns, and share a common administrative overhead, consolidation is not discriminatory. At hearing the Company proposed that the

²⁰⁰ For example, the Commission has initiated a policy docket in UW-240733 to reevaluate the Commission's approach to regulated water companies' cost of capital.

²⁰¹ *WUTC v. Puget Sound Power & Light Company*, Dockets UE-920433, UE-920499, & UE-921262, 19th Supp. Order at 33 (Sept. 27, 1994) ("While we conclude that a larger disallowance would be defensible, we must also look ahead. . . . We are mindful that the electric power industry is currently undergoing a major 'paradigm shift' and market structure transformation. The region's regulators and policy makers are all struggling to harmonize the continuing relevant goals of PURPA, the Northwest Power Planning and Conservation Act and the new market forces unleashed by the Energy Policy Act of 1992. We have, therefore, chosen the 'damages' or disallowance option with the least impact on Puget's bottom line.").

²⁰² Brief of Cascadia Water at 52 ¶ 98.

²⁰³ Brief of Cascadia Water at 52 ¶ 98.

Commission implement separate tariffs but utilize a single cost of capital, contrasting Staff's recommendation of single tariff, single cost of capital.²⁰⁴

- 104 Although the Company previously proposed a two-year phase in for its rates, the Company is no longer requesting a rate phase-in because the proceeding over the last 19 months has essentially acted as a rate phase-in, with no rate increase over that span of time. However, the Company has requested that if the Commission intends to order a phase-in, as an alternative to any prudence disallowances on its proposed capital projects, that the Company proposes the rate phase-in mechanism described by Company witness Rowell, with 70 percent of the increase becoming effective immediately and 100 percent after one year.²⁰⁵
- 105 Staff has argued that the Western systems, comprised of the Peninsula and Island systems, should be consolidated into a single-tariff pricing system, with the Pelican Point water system remaining on a separate tariff. Staff explains that different water systems have different capitalization and analogizes consolidating pricing across water systems as similar to distributing risk through an insurance pool. Although Staff notes that some customers have objected to single-tariff pricing because customers are not treated equally in all circumstances, Staff also argues that customers are net beneficiaries over time.²⁰⁶ Staff asserts that because the Island and Peninsula systems have common operators and characteristics, it is reasonable to consolidate rates for those two systems while keeping Pelican Point on a separate tariff because it is geographically and operationally separate from the Island and Peninsula systems. Staff disagrees with WCAW's contention that single tariff pricing could lead to discrimination because the Commission is mandated to treat customers equally and the service provided is the delivery of safe, potable water.²⁰⁷
- 106 Next, Staff proposes a phased-in rate increase structure to mitigate rate shock to customers. Specifically, Staff has proposed that the Commission defer thirty-three percent of the rate increase for the first year and that in the second year, the full revenue requirement plus the deferred amount from the first year and any carrying costs would be collected. In the third year, rates would be adjusted "downward to remove the deferred revenue and associated carrying costs, leaving only the ordered revenue requirement

²⁰⁴ Rowell, TR. Vol. 5 at 283:19-23.

²⁰⁵ Brief of Cascadia Water at 6 ¶ 12; Rowell, Exh. MJR-11 Tr at 23:3-8.

²⁰⁶ Brief of Staff at 17-18 ¶ 43.

²⁰⁷ Sevall, Exh. SS-7T at 16:11-13.

going forward.”²⁰⁸ Further, Staff has recommended that the Commission use the Federal Energy Regulatory Commission (FERC) rate to calculate carrying costs.

- 107 With respect to the Aquarius surcharge, Staff has argued that with consolidation of the Island and Peninsula systems, the surcharge should be removed to prevent the inequity of Aquarius customers paying for capital improvements on other water systems and not receiving the benefit of shared costs on the Aquarius water system. Staff further raises concern that Aquarius should either be held out completely or added completely and that when utilizing Staff’s cost of debt analysis, “the cost of debt with Aquarius included (with the surcharge eliminated) is 3.17 percent, while the cost of debt without Aquarius (with the surcharge maintained) would increase to 6.04 percent.”²⁰⁹
- 108 Public Counsel has not taken a position with respect to the arguments between Staff and WCAW about rate design, the Aquarius surcharge, and rate discrimination but has noted that it is undisputed that consolidation of the Island and Peninsula systems would result in “differential rate impacts with a 136 percent rate increase for Peninsula customers against a 57 percent increase for Island County’s systems.”²¹⁰ Further, Public Counsel argues that the majority of the capital projects benefit Island system customers and involve “significant cross-subsidization between water systems and intra-class discrimination[,]” but that risk of discrimination may be reduced by Cascadia Water’s planned projects through 2028 for the Peninsula systems.²¹¹
- 109 However, Public Counsel has stated that the record is not developed enough on the issue of subsidization among Cascadia Water’s water systems for it to make a recommendation and suggests that a cost-of-service study may have been necessary to demonstrate whether “discrimination would fade over time.”²¹² Further, Public Counsel disagrees with Staff that the Pelican Point water system is distinguishable from the Island and Peninsula systems and does not agree that a different operator is a “different circumstance” when the cost-of-service differences are not considered.²¹³ Arguing that the record does not contain evidence about what will happen across Cascadia Water’s water systems over time, and that Cascadia Water bears the burden of proof, Public Counsel provides a “soft

²⁰⁸ Brief of Staff at 21 ¶ 54; Sevall, Exh. SS-7T at 17:7-12.

²⁰⁹ Brief of Staff at 23 ¶ 59; Gilles, Exh. BCG-25 at 125 (Staff Response to WCAW Data Request No. 122).

²¹⁰ Brief of Public Counsel at 51 ¶ 94; Sevall, Exh. SS-7T at Table 6.

²¹¹ Brief of Public Counsel at 51 ¶ 94.

²¹² Brief of Public Counsel at 52 ¶ 96.

²¹³ Brief of Public Counsel at 52 ¶ 96.

recommendation [] to maintain the status quo with direction to Cascadia to provide [] cost-of-service studies across its current systems and for any future acquisition so that rate discrimination concerns can be better examined.”²¹⁴

- 110 In discussing Cascadia Water’s proposed rate increase, Public Counsel argues that even with Staff’s proposed phase-in of rates, Peninsula customers would still pay 104 percent more at the effective date, 164 percent at the one-year mark, and 136 percent at the two-year mark.²¹⁵ As a remedy, Public Counsel proposes that the Commission impose a phased-in rate with no recovery of deferred amounts. As justification for its recommendation, Public Counsel reasons that allowing “Cascadia to recover costs of its project but disallowing both its return on those capital investments and its right [to] recover costs deferred as part of phase in is an elegant solution acknowledging both the benefits these projects provide customers and Cascadia’s failure to maintain contemporaneous documentation.”²¹⁶
- 111 WCAW argues that the Company has not provided enough evidence to establish that identical rates for all of its systems or two different rates for Island and Peninsula systems would be fair, just, reasonable and non-discriminatory and that the Commission should not order the consolidated rate design proposed by Staff. In particular, WCAW argues that when a water company owns several separate water systems, “the cost of service for each system is a key ‘circumstance or condition’ that must be evaluated when determining whether single tariff pricing would be discriminatory[,]” and that uniform rates should only be charged to “similarly situated customers.”²¹⁷ Although WCAW clarifies that the Commission has not articulated the criteria for similarly situated customers and water systems, WCAW raises concerns that the Commission may be at a disadvantage when rate designs are discussed without a cost of service study. At hearing WCAW alleged that Staff has relied on a theory of non-discrimination based on the fact that Cascadia Water’s customers have water service and that this theory is an insufficient analysis of single tariff pricing.²¹⁸
- 112 Further, WCAW argues that Staff was incorrect in stating that a cost of service analysis was not necessary because all of the water systems are owned by the same company, and that Staff reduces “circumstances or conditions” to the factor of ownership and does not

²¹⁴ Brief of Public Counsel at 52 ¶ 96.

²¹⁵ Brief of Public Counsel at 3 ¶ 5.

²¹⁶ Brief of Public Counsel at 42 ¶ 75.

²¹⁷ Brief of WCAW at 28 ¶ 77.

²¹⁸ Hanson, TR. Vol. 5 at 46:17-20.

consider cost of service.²¹⁹ WCAW notes that Staff recommended that the Pelican Point water system be on a separate tariff than the Island and Peninsula systems because it is operated by a contract operator rather than Cascadia Water employees, it is on the east side of the Cascade mountains, and it has different usage patterns. However, WCAW asserts that Staff did not provide an analysis as to whether these factors are relevant or meaningful and are not enough to determine whether Staff's proposed tariff structure may be discriminatory. In its analysis of whether Staff's rate design proposal is fair, just, and reasonable, WCAW argues that charging different rates based on different costs of delivery is not discriminatory and that charging the same rates to customers of systems with different costs to serve is inherently discriminatory.²²⁰ Considering the information in the record, WCAW argues that for the Commission to adopt single tariff pricing, would be "arbitrary and capricious."²²¹

- 113 In its discussion about the Aquarius surcharge, WCAW analogizes Staff's request for the surcharge to be removed as unfair, similar to the use of single tariff pricing when "low-cost systems subsidize high-cost systems for an indeterminate period of time."²²²

Commission Decision

- 114 The Commission must set rates for a water company in a manner that is not unjust, unreasonable, unjustly discriminatory, or unduly deferential, and that are not "insufficient to yield a reasonable compensation for the service rendered[.]"²²³
- 115 In Washington, rate discrimination is prohibited as follows:

No . . . water company . . . may, directly or indirectly, or by any special rate, rebate, drawback or other device or method, charge, demand, collect or receive from any person or corporation a greater or less compensation for . . . water . . . or for any service rendered or to be rendered, or in connection therewith, except as authorized in this chapter, than it charges, demands, collects or receives from any other person or corporation for doing a like or contemporaneous service with respect thereto under the **same or substantially similar circumstances or conditions.**²²⁴

²¹⁹ Brief of WCAW at 31-32 ¶ 83.

²²⁰ Brief of WCAW at 32-33 ¶ 85.

²²¹ Hanson, TR. Vol. 5 at 47:5-7.

²²² Brief of WCAW at 33 ¶ 86.

²²³ RCW 80.28.020.

²²⁴ RCW 80.28.100 (emphasis added).

- 116 The Supreme Court has found that “[m]ere rate difference does not constitute unlawful discrimination.”²²⁵ The Commission has determined that in setting rates that are just and reasonable and do not cause undue discrimination, “revenue responsibility for any class should be informed by the cost to serve the class.”²²⁶
- 117 *Tariff Consolidation.* The Commission recognizes the benefits of single tariff pricing especially from the standpoint of efficiency and risk sharing and has approved proposals for single tariff pricing for water systems previously.²²⁷ However, the record in this case is insufficient to determine that discrimination among Island system customers and Peninsula system customers would not occur. Further, we are not persuaded that receiving the service of safe, potable water is sufficient to mitigate any possible discrimination among customers. Thus, we find that Staff’s recommendation to consolidate the Island and Peninsula water systems into a single tariff would not be fair, just, and reasonable and decline to order a consolidation of the water systems into a single tariff.
- 118 We agree with Public Counsel and WCAW that without a cost-of-service analysis, we cannot conclusively determine that discrimination will not occur with a single tariff structure for the Island and Peninsula Systems. We also cannot conclusively determine that Staff’s proposal for phased-in rates would mitigate the impacts of possible discrimination. While we are not persuaded by the record in this proceeding that consolidation of the Island and Peninsula systems would result in fair, just, reasonable and nondiscriminatory rate, we find merit in Public Counsel’s argument that the improvement projects planned by Cascadia Water for the Peninsula system through 2028 may demonstrate a basis for consolidation in a future rate proceeding. In a future rate case seeking consolidation, we require that Cascade prepare and submit a cost-of-service study and cost benefit analysis so that the record can clearly demonstrate whether a single tariff rate design would comply with statute and Commission rule.
- 119 *Phased-in Rates.* We decline to require the phasing in of rates in this proceeding. The Company made its initial filing in this matter on February 29, 2024, requesting an initial effective date of June 1, 2024. Given the length of the proceeding, we are persuaded by

²²⁵ *State ex rel. Puget Sound Power & Light Co. v. Department of Public Works*, 181 Wash. 105, 105 (1935); *Johnson v. Pacific Power & Light Co.*, 90 Wash. 492, 492 (1916); *State ex rel. Model Water & Light Co. v. Department of Public Service*, 199 Wash. 24, 25 (1939).

²²⁶ *WUTC v. Puget Sound Energy*, Dockets UE-111048 & UG-111049 (*consolidated*), Order 08 at 125 ¶ 351 (May 7, 2012).

²²⁷ See *WUTC v. Wash. Water Service Co.*, Docket UW-090733, Order 02 at 2 ¶¶ 7-8 (July 30, 2009).

the Company's argument that rates have essentially been phased-in since there has been no increase in rates for the last 19 months. While phasing in rates can serve to mitigate rate shock, it may also result in higher effective rates to customers after the phase-in is complete due both to deferred costs, as well as carrying costs. In order to keep rates as low as reasonable for Cascadia Water customers, a phased-in rate structure would not be appropriate here. We also note that water conservation can serve to mitigate rate impacts to customers. Based on the average customer bill analysis provided by Public Counsel we observe that customers on systems facing the largest percentage increase to their bills also use the most water.²²⁸ While curtailment of water usage may not always be possible, it provides customers with a way to mitigate their bill impacts. Additionally, the Company represents that it is currently operating at loss on the Island, Peninsula, and Pelican Point systems.²²⁹ Furthermore, the Company has limited its requested recovery of certain capital project costs, electing to forego recovery of a portion of the costs it actually incurred, which further works as a mechanism to mitigate the impact of rate shock on customers.²³⁰

120 *Aquarius Surcharge.* Staff's argument to remove the Aquarius surcharge is in part predicated on the request to consolidate the tariffs for the Island and Peninsula water systems, as well as the associated cost of debt savings that occurs through recognition of the surcharge's associated DWSRF loan on the Company's balance sheet. The record is not clear as to whether the effect of removing the surcharge will result in non-discriminatory rates. At the time that the Aquarius surcharge was put into place, it was not contemplated that the surcharge would be shared among other water systems. Aquarius customers are the only customers receiving the benefit of the capital improvements to the Aquarius system for which the Aquarius surcharge seeks to recover. Additionally, the Commission observes that Aquarius customers will be the least impacted by the rate increase in this proceeding relative to other Peninsula system customers, and removal of the surcharge may result in a rate decrease for Aquarius customers while further increasing rates for other Peninsula system customers.²³¹ Without a cost of service study or cost benefit analysis, we cannot determine that

²²⁸ De Villiers, Exh. SDV-21. We observe based on the per-system usage data provided in the "Usage" worksheet that legacy Peninsula customers, which face the largest percentage bill increase among other Peninsula systems, use 828 cu. ft. per month on average, while customers on other Peninsula systems use 548 cu. ft. per month on average.

²²⁹ Rowell, Exh. MJR-1T at 10:14.

²³⁰ See Lehman and Tasoff, Exh. CJL-JMT-1CJTr at 56:12-14; 58:15-18; 61:5-8 (discussing reducing the Company's requested cost recovery from actual investment in the Seaview Water System source development, Diamond Point System disinfection system, and Agate West System chlorination system).

²³¹ De Villiers, Exh. SDV-16T at 31:17 – 32:1; Exh. SDV-21.

removing the Aquarius surcharge from the Aquarius water system and having customers of the Peninsula water system share the remaining cost associated with the Aquarius surcharge will result in a non-discriminatory allocation of costs. For this reason, we decline Staff's request to remove the Aquarius surcharge at this time but may consider removal of the surcharge in a future rate case.

E. Rate Case Expenses

- 121 The Company has requested recovery of \$175,000 in rate case expenses.²³² Although Cascadia Water has stated that its legal rate case expenses exceed \$175,000, the Company argues that recovery of the requested amount is “appropriate and reasonable.”²³³ The Company argues that the Commission generally authorizes recovery of rate case expenses and “seeks to identify a normalized level of recurring costs.”²³⁴ Although Cascadia Water has not provided documentation of its legal expenses, Company witness Rowell provided testimony that “\$175,000 in rate case expense was justified due to the need for external legal counsel.”²³⁵
- 122 WCAW has argued that the Company has not presented the “evidence reasonably required of a utility subject to rate-of return regulation” and has wasted time and resources in this matter.²³⁶ Further, WCAW argues that the Company has offered “no evidence that it sought to defer capital expenditures, minimize capital expenditures or take other actions to mitigate the impacts of its activities on ratepayers.”²³⁷ In its brief, WCAW also argues that the Company did not comply with discovery and presented argument from a newly hired NW Natural president who provided speculative information, which further increased expenses. In its argument against the award of rate case costs to the Company, WCAW further argues that Cascadia Water caused “large unnecessary expenditures of time and money . . .” and referring to the issue as an award of litigation costs rather than rate case expenses, argues that if the Commission awards litigation costs to the Company, the Commission would be rewarding the Company and would incentivize other utilities to litigate “weak claims for rate increases.”²³⁸

²³² Rowell, Exh. MJR-11Tr at 12:18-20; Brief of Cascadia Water at 46 ¶ 83.

²³³ Brief of Cascadia Water at 46 ¶ 83.

²³⁴ Brief of Cascadia Water at 45 ¶ 82.

²³⁵ Rowell, Exh. MJR-11Tr at 12:16-17.

²³⁶ Brief of WCAW at 40 ¶ 104.

²³⁷ Brief of WCAW at 40 ¶ 105.

²³⁸ Brief of WCAW at 41 ¶¶ 107-108.

- 123 Another concern raised by WCAW in its briefing is that the Company has not provided documentation demonstrating its legal fees. More specifically, WCAW argues that the Company did not provide documentation of its fees when asked in a data request claiming attorney-client privilege and has not provided support for its requested costs of \$175,000.

Commission Decision

- 124 In regulatory ratemaking, the Commission is tasked with establishing rates that are representative of costs likely to recur in the rate year, referred to as normalization of costs. As it applies to a regulated company's rate case expenses, these costs are not considered attorney's fees or litigation expenses as those terms are used in civil litigation, but the company's costs of representation in a rate case, often normalized over a period of years. The Commission has previously declined to disallow a portion of rate case legal expenses "absent a showing that unreasonable or excessive expenses were incurred."²³⁹
- 125 In its argument that the Company created unnecessary fees for all parties involved in this litigation, WCAW cites to the 4th Supplemental Order in Docket TG-900657/ 5th Supplemental Order in Docket TG-900658 (Consolidated), arguing that the Commission "'will do whatever is necessary to discourage 'gold-plating' of rate case expenses' and will 'closely scrutinize any attempts to pass these expenses on to ratepayers directly or indirectly.'"²⁴⁰ However, in the case WCAW cites, the Commission found that the costs spent on attorney's fees and expert witnesses in that matter were exorbitant and imprudent and that the Commission did not see any benefit to rate payers in that particular docket. The Commission then determined that it would closely scrutinize "any attempts to pass these expenses on to ratepayers directly or indirectly in any later proceeding."²⁴¹ We do not find that the facts and circumstances discussed by the Commission in Consolidated Dockets TG-900657 and TG-900658 are analogous to the facts in this proceeding. Further, we do not find that the Commission intended to set a standard similar to an award of litigation costs or attorney's fees with the language in 4th Supplemental Order in Docket TG-900657/ 5th Supplemental Order in Docket TG-900658 (Consolidated).
- 126 We also decline to find that the Company engaged in unnecessary or time-wasting litigation. Prior to the open meeting in this matter, the Company worked with Staff to

²³⁹ *WUTC v. Puget Sound Pilots*, Docket TP-190976, Order 09 at 83 ¶ 285 (November 25, 2020).

²⁴⁰ Brief of WCAW at 41 ¶ 106; *WUTC v. Sno-King Garbage Co.*, Dockets TG-900657 & TG-900658 (*consolidated*) 4th Supp. Order/5th Supp. Order at 19 (Dec. 10, 1991).

²⁴¹ *WUTC v. Sno-King Garbage Co.*, Dockets TG-900657 & TG-900658 (*consolidated*) 4th Supp. Order/5th Supp. Order at 19 (Dec. 10, 1991).

adjust its proposed rate increase and voluntarily extended the tariff effective date to give Staff sufficient time to review documents related to the Company's requested rate increase. The Company and Staff entered into a settlement agreement that was rejected by the Commission in Order 06.

- 127 While we prefer to have documentation of a company's rate case costs, we do not find the Company's requests in this case excessive. In this docket, the parties have engaged in several rounds of discovery in which the Company received several hundred data requests, six rounds of testimony, three rounds of briefing and three days of evidentiary hearings, in addition to several motions and two pre-hearing conferences. Although the Company has not provided invoices or billing statements demonstrating its litigation costs in this matter, we do not find the Company's request for recovery of \$175,000 in rate case expenses to be excessive or unreasonable.

F. Operating Expenses

- 128 Several parties contest various operating expenses for which the Company seeks recovery in rates. The Commission's consideration of these objections follows.

- 129 *Incentive Compensation.* Staff recommends the following adjustments to the Company's salary and wages:

- a. Removal of \$13,351 in bonuses related to all shared Island and Peninsula systems for retention and job duty performance.
- b. Removal of \$3,550 in bonuses related to the Aquarius water system.
- c. Removal of \$18,996 in bonuses related to retention and job duty performance.
- d. Removal of \$2,627 in bonuses related to the Pelican Point water system.²⁴²

- 130 Staff witness Stark testified that the Company's documentation does not demonstrate that these programs enhanced service or customer experience.²⁴³ Further, Stark testified that Staff had concerns about bonuses being adjustable based upon the discretion of management.²⁴⁴

²⁴² Stark, Exh. RS-1Tr at 8:13-20.

²⁴³ Stark, Exh. RS-1Tr at 9:1-5.

²⁴⁴ Stark, Exh. RS-1Tr at 9:6-11.

- 131 The Company has agreed to Staff’s proposed adjustment of \$3,550 in bonuses associated with the Aquarius water system, noting that these costs represent retention bonuses that may not recur.²⁴⁵ However, Cascadia Water disagrees with Staff’s remaining proposals. The Company argues that \$18,996 of Staff’s adjustment reflects base pay salaries and wages for employees which Staff misclassified as incentive compensation.²⁴⁶ The Company argues that the Commission has recognized that incentive pay is not a bonus, but is motivation for employees to strive toward achieving individual or group goals and that the Company’s incentive compensation when combined with base salary does not exceed the market average.²⁴⁷ The Company further argues that incentive compensation is used as a means to “‘attract, retain, and motivate the personnel that serve [their] customers.’”²⁴⁸
- 132 *Commission Decision:* The Commission has developed a “‘standard for evaluating the reasonableness of employee compensation pay plans’ based on an inquiry as to ‘whether the compensation exceeds the market average, is unreasonable, and offers benefits to ratepayers.’”²⁴⁹
- 133 At issue here is whether the Company’s incentive compensation programs are reasonable and benefit rate payers.²⁵⁰ In this matter, the Company has not provided information on its compensation programs other than Company witness Rowell’s statements and a data request response from the Company that provides limited detail on the Company’s incentive compensation program. In particular, we have concerns that the record does not sufficiently demonstrate how incentive payments are awarded, the criteria for such award, and in what amounts or ranges of amounts.
- 134 Because the Company has not provided sufficient information for the Commission to determine whether the Company’s incentive compensation program is reasonable and has not provided any information showing that the programs benefit rate payers, we disallow the proposed incentive compensation. We concur with Staff and disallow the incentive

²⁴⁵ Rowell, Exh. MJR-11Tr at 14: 1-5.

²⁴⁶ Rowell, Exh. MJR-11Tr at 14: 5-7.

²⁴⁷ Brief Cascadia Water at 47-48 ¶ 87.

²⁴⁸ Brief Cascadia Water at 48 ¶ 88; Rowell, Exh. MJR-11Tr at 14:16-18.

²⁴⁹ *WUTC v. Puget Sound Energy*, Dockets UE-190529, UG-190530 (*consolidated*), Dockets UE-190274 & UG-190275 (*consolidated*), Dockets UE-171225 & UG-171226 (*consolidated*), and Dockets UE-190991 & UG-190992 (*consolidated*), Order 08/05/03/03 at 93-94 ¶¶ 313-314 (July 8, 2020).

²⁵⁰ *WUTC v. Murrey’s Disposal Company d/b/a Olympic Disposal*, Docket TG-230778, Order 08 at 21 ¶ 61 (Nov. 1, 2024).

compensation recommended by Staff in paragraph 129 above.²⁵¹ Similarly, while the Company asserts that Staff's proposed removal of \$18,996 was made in error, and that these costs actually reflect base wages, the Company does not provide sufficient evidentiary support for the Commission to evaluate this claim. Thus, we accept Staff's incentive compensation adjustment in full, in the amount of \$38,524.

- 135 *Accident Costs.* Staff requests a disallowance of \$50.94 from the Company's employee and pensions and benefits account.²⁵² Staff argues that this amount is for an accident from September 2023 that was not covered by accident insurance and is a one-time expense.²⁵³ Public Counsel supports Staff's recommended adjustment.²⁵⁴
- 136 The Company argues that Staff and Public Counsel misunderstood the expense and clarified that the expense was the first installment of the Company's ongoing insurance policy, that the expense is a recurring cost, and should be recovered in rates.²⁵⁵
- 137 Staff acknowledges that insurance premiums are recoverable in rates and cites to Goodman's treatise on ratemaking to support this contention.²⁵⁶ Staff did not adopt any changes to its proposed adjustment in response to Bench Request No. 5
- 138 *Commission Decision:* We find the Company's response to Staff's proposed adjustment credible and the expense to be reasonable. The Company has explained that the payment of \$50.94 is a reoccurring insurance premium payment and not a one-time uninsured accident expense. Because such an expense is reasonable, we agree with the Company that this amount should be recovered in rates.
- 139 *Travel-Related Meals Expenses.* Staff and Public Counsel have proposed to remove \$4,587 for employee meals during travel, training, and company meetings as imprudent. Witness Stark argues that the Company has asked for meals to be included in rates in situations where employees would ordinarily have been expected to provide their own meals. Staff further argues that the Company has not provided evidence of how the meal

²⁵¹ These include the incentive compensation payments of \$13,351 attributable to the Island and Peninsula systems and the \$2,627 attributable to the Pelican Point system.

²⁵² Stark Exh. RS-1Tr at 9:20-21, 10:1-2.

²⁵³ Stark Exh. RS-1Tr at 9:20-21, 10:1-2.

²⁵⁴ De Villiers, Exh. SDV-11Tr at 6:8-11.

²⁵⁵ Rowell, Exh. MJR-11Tr at 15:5-8.

²⁵⁶ Stark, Exh. RS-1Tr at 8:6-9 (*citing* Leonard Saul Goodman, *The Process of Ratemaking* 331 (1998)).

expenses benefit customers, although meals may be recoverable in rates for employees during overnight travel or on trips qualifying for per diem.²⁵⁷

- 140 On rebuttal, Company witness Rowell testified that the Company would agree to an adjustment of \$397 for travel-related meals for the Aquarius office closure because they are not ongoing costs.²⁵⁸ Further, the Company provided evidence that clearly demonstrated which expenses were related to overnight travel and which expenses were related to the Aquarius office closure.²⁵⁹ The Company argues that all but \$72 of the expenses were associated with overnight travel of employees. Further, the Company asserts that expenses of this scope are management decisions and that the Commission does not typically get involved in differentiating meal expenses.²⁶⁰ Staff did not modify its position on this adjustment in response to Bench Request No. 5.
- 141 *Commission Decision:* We find that the Company has sufficiently rebutted through evidence Staff's recommended adjustment and accept the Company's proposal to remove \$397 in expenses related to the Aquarius office closure. However, as there remain questions about the basis for \$72 of the remaining \$4,587 in expenses, we remove that amount from the amount recoverable in rates. Thus, we find that a disallowance of the amount of \$72 for lack of specificity and disallowance of meal expenses in relation to the Aquarius office closure in the amount of \$397 is reasonable in this matter.
- 142 *Office Expenses.* Staff and Public Counsel have requested that the Commission remove \$4,268 in office expenses for the Aquarius office and printer. The Company agreed to accept the adjustment of \$2,065 and has since removed this amount from the revenue requirement. However, the Company maintains that the remaining \$2,203 is associated with the Company's ongoing lease of a printer that has been relocated to Cascadia Water's Freeland office, and still in use.²⁶¹
- 143 *Commission Decision:* We agree with the Company that the expenses related to the printer in question are recoverable in rates and the amount requested by the Company is reasonable. The printer is necessary for the Company to run their office efficiently and conduct business, which benefits customers. For these reasons, the remaining \$2,203 incurred by the Company for the printer should be recovered in rates.

²⁵⁷ Stark, Exh. RS-1Tr at 11:18-22, 12:1-3; de Villiers, Exh. SDV-11Tr at 6:8-11.

²⁵⁸ Rowell, Exh. MJR-11Tr at 16:12-15.

²⁵⁹ Rowell, Exh. MJR-16 at 2.

²⁶⁰ Brief Cascadia Water at 49 ¶ 91.

²⁶¹ Rowell, Exh. MJR-11Tr at 17:2-4.

144 *Membership Fees.* Staff and Public Counsel have proposed that the Commission remove \$1,100 in membership fees, for the following associations:

- \$400 for American Water Works Association (AWWA)
- \$700 for annual dues for Evergreen Rural Water of Washington (ERWoW).²⁶²

Staff argues that the expenses are not required and benefit the Company, rather than customers, asserting the membership fees should not be included in customer rates.

145 The Company argues that Staff's request for the membership fees to be disallowed is inconsistent with Commission precedent. The Company asserts that these memberships benefit customers because among other things, the organizations provide training and opportunities for the Company to collaborate with smaller, rural water companies.²⁶³

146 *Commission Decision:* The Commission has previously held that:

[M]embership fees paid to technical and professional organizations . . . to trade associations . . . and to utility oriented organizations . . . are not subject to the same objections as dues for social and fraternal groups. [Organizations that] are directly concerned with the business activities of the company, and the benefits it receives in them accrue to rate payers also.²⁶⁴

The Commission has clearly differentiated between memberships in professional organizations and social clubs, and that professional organizations provide benefits to customers, with the former recoverable in rates. The Company has requested to recover its memberships in AWWA and ERWoW that the Company argues are professional organizations that further the Company's ability to serve customers. We find that there is merit in the Company's argument that the memberships and participation in the organizations for which fees are in dispute provide a benefit to customers. Because the fees that the Company has requested to recover for its memberships in AWWA and ERWoW are for professional organizations that provide benefit to customers, we agree with the Company that its requested membership fees are recoverable in rates.

147 *Capitalization of Labor.* Witness Stark contests the Company's request that capital labor in the amount of \$7,862 be moved from salary to capital depreciation for the Island and

²⁶² Brief Cascadia Water at 50 ¶ 94.

²⁶³ Brief Cascadia Water at 51 ¶ 96.

²⁶⁴ *WUTC v. Cascade Natural Gas Corporation*, Docket U-78-79, Second Supp. Order at 19 (June 20, 1979).

Peninsula systems.²⁶⁵ Staff argues that labor for the Company is already included in salaries for job duties, which are already included in rates.²⁶⁶ Staff notes that it inadvertently left the labor expense adjustment out of its calculations.²⁶⁷ Public Counsel did not oppose Staff's proposal but raised concern that "moving capitalized labor from Cascadia Water's rate base to its salary expenses would likely increase the Company's revenue requirement slightly in this case (while precluding the Company from earning a return on that capitalized labor in the future)."²⁶⁸ Although Public Counsel excluded the adjustment from its calculations, it welcomed further explanation from Staff about their proposed adjustment.²⁶⁹ The Company did not provide a response to Staff's request to move capitalized labor to its salary expenses.

148 *Commission Decision:* We reject Staff's adjustment. As Public Counsel notes, the effect of moving capitalized labor expenses from the depreciation schedule to operating expenses causes an upward adjustment to the revenue requirement, as costs that would have been recovered over the life of the associated asset are instead expensed in a single year. Because Staff's adjustment was inadvertently left out of its workpapers, it is not clear to the Commission which specific capital asset entry (or entries) is being disputed.²⁷⁰ The record is also not clear on whether there is a duplication of costs between the salaries and wages account and the capitalized labor at issue, however Staff's brief seems to indicate that this was not the case.²⁷¹ For these reasons, we decline to adopt Staff's proposal.

149 *Uncontested Operating Expense Adjustments.* Staff proposes removal of \$281 from the Company's "Regulatory Commission Expenses – Fee" account to remove a late fee and penalty assessment for failure to file its Commission annual report on time.²⁷² Staff also proposes to remove \$675 from the "Other Licenses (DOH, DOE, County, or City)" account associated with excise tax penalties issued by the Department of Revenue

²⁶⁵ Stark, Exh. RS-1Tr at 15:15-19.

²⁶⁶ Stark, Exh. RS-1Tr at 15:15-19.

²⁶⁷ Brief of Staff at 16 ¶ 39.

²⁶⁸ De Villiers, Exh. SDV-16T at 7:4-7.

²⁶⁹ De Villiers, Exh. SDV-16T at 7:10-14.

²⁷⁰ Brief of Staff at 16 ¶ 39.

²⁷¹ Brief of Staff at 16 ¶ 39. Staff states that a labor expense adjustment was intended, which we interpret as an indication that Staff believes these costs were not already contained in the salaries and wages account. "Removing the costs from depreciation and including the costs as an ordinary salary expense is more appropriate because these expenses relate to Cascadia's employees. Staff inadvertently left the labor expense out of its calculations..."

²⁷² Stark, Exh. RS-1Tr at 10:14-21 and Exh. RS-4.

(DOR).²⁷³ The Company accepts Staff's annual report late filing adjustment,²⁷⁴ but does not address Staff's excise tax penalty adjustment on rebuttal or in its brief.²⁷⁵

150 *Commission Decision:* We accept both adjustments proposed by Staff. These costs reflect penalties and fees incurred due to late filings made by the Company which should be borne solely by the Company, not ratepayers.

G. Settlement Conditions

151 At hearing, Cascadia Water indicated that it would accept the imposition of two conditions contained in the settlement agreement that the Commission rejected in Order 06 related to capital planning and prioritization.²⁷⁶ The Commission agrees that these conditions are in the public interest and incorporates them into this Order as provided below. Because some of the language in the original conditions was contingent on other provisions of the rejected settlement agreement, we have modified the conditions to remove contingent language. By doing so, the Commission does not alter the original intent of these two commitments and conditions the findings in this Order on the following:

Capital Planning and Customer Engagement: Cascadia Water will publish a capital plan identifying its projected major capital improvements (projects with total costs estimated to be \$150,000 or more) that are reasonably expected to be in-service by the next Company rate case effective date, and will hold a virtual customer meeting (one for the two Western water systems and another one for the Pelican Point water system) on or about the first anniversary of the effective date in this proceeding. This meeting is to allow customers to provide feedback to the Company. The capital plan does not create any presumptions regarding the prudence of capital expenditures.

Prioritization: Cascadia Water will review known future major projects (projects with total costs estimated to be \$150,000 or more) and assign a priority level based on necessity, Department of Health requirements, and engineer review. This provision may be met by Cascadia Water filing its Unified Plans along with a summary of the projects that are anticipated four years from the effective date in this proceeding. The summary should indicate what the project is, what the priority level is, a definition of the

²⁷³ Stark, Exh. RS-1Tr at 13:4-8 and Exh. RS-4.

²⁷⁴ Rowell, Exh. MJR-11Tr at 15:9-12.

²⁷⁵ See Rowell, Exh. MJR-11Tr and Cascadia Water's Post-Hearing Brief at ¶ 84-96. We note that the Company does not include this adjustment among the Staff adjustments that it disputes.

²⁷⁶ Puttman, TR. Vol. 5 at 50:5 – 51:6.

priority level, and why the project has been assigned the priority level it is assigned. Cascadia Water will file its Unified Plans once they have been approved by the Department of Health and summary within 15 business days of approval by the Department of Health. If the Unified Plans have not been approved by the Department of Health within 90 days of the Commission's order in this docket, Cascadia Water will file an update regarding the status of the Unified Plans. The Unified Plans do not create any presumptions regarding the prudence of capital expenditures.

III. FINDINGS AND CONCLUSIONS

- 152 (1) The Commission is an agency of the state of Washington vested by statute with the authority to regulate rates, regulations, practices, accounts, securities, transfers of property and affiliated interests of public service companies, including water companies.
- 153 (2) Cascadia Water is a water company and public service company subject to the Commission's jurisdiction.
- 154 (3) Cascadia Water filed tariff revisions on February 29, 2024, that would generate approximately \$1.7 million in additional revenue.
- 155 (4) Public Counsel's proposed return on equity of 6.0 based on sustainable growth DCF modeling is unreasonably low and not supported by persuasive cost of capital modeling.
- 156 (5) Public Counsel's proposed return on equity of 7.9 based on CAPM Hamada Modeling is not supported by persuasive cost of capital modeling because the adoption of a 50:50 debt-to-equity capital structure removes the need to adjust the proxy group average debt level.
- 157 (6) The Commission finds that WCAW's CAPM return on equity modeling is not sufficiently reliable relative to the other parties' CAPM modelling based on WCAW's use of a single company to calculate the beta for its analysis.
- 158 (7) The evidence supports a reasonable range of return on equity between 9.66 and 10.33 percent.
- 159 (8) The evidence supports Staff's proposed return on equity of 10.18 percent as reasonable and resulting in fair, just, reasonable, and sufficient rates.
- 160 (9) The evidence supports a cost of debt of 6.04 percent as reasonable and resulting in fair, just, reasonable, and sufficient rates.

- 161 (10) The evidence supports the use of a hypothetical 50:50 debt-to-equity capital structure as reasonable and resulting in fair, just, reasonable, and sufficient rates.
- 162 (11) The evidence supports a weighted cost of capital of 8.11 percent.
- 163 (12) The Commission should authorize a capital structure of 50:50 debt-to-equity ratio, a cost of debt of 6.04 percent, and a return on equity of 10.18 percent, resulting in a weighted cost of capital of 8.11 percent.
- 164 (13) The Commission previously determined in Order 06 that Cascadia Water's Projects 3, 7, 8, 12 and 13 were imprudent due to a lack of contemporaneous documentation regarding Cascadia Water's decision to implement those projects.
- 165 (14) The Commission finds that the issue of prudence with respect to Projects 3, 7, 8, 12, and 13 is identical to the prudence issue in Order 06 regarding those projects, Order 06 ended with a determination on the merits on prudence, Cascadia Water was a party to that proceeding, and application of collateral estoppel would not work an injustice on Cascadia Water, as it had every motivation to fully litigate that issue in the prior proceeding.
- 166 (15) Cascadia Water has not shown that Projects 1, 2, 4, 5, 6, 9, 10, and 11, or its meter replacement project, were prudent due to the absence of contemporaneous documentation and communication with Cascadia Water's board of directors and corporate parent, NWN Water.
- 167 (16) Disallowance of the return on equity for all projects found imprudent is a reasonable disallowance that balances protecting ratepayers from imprudent actions and allowing Cascadia Water to recover some costs associated with projects that provide a benefit to ratepayers.
- 168 (17) The Commission should determine that collateral estoppel precludes the relitigation of the imprudence of Projects 3, 7, 8, 12, and 13.
- 169 (18) The Commission should determine that Cascadia Water's Projects 1, 2, 4, 5, 6, 9, 10, and 11, and its meter replacement project, were imprudent due to a lack of contemporaneous documentation and lack of communication with Cascadia Water's board of directors and corporate parent, NWN Water.
- 170 (19) The Commission should disallow the return on equity from all projects determined to be imprudent, such that Cascadia Water may only recover the return of and weighted cost of debt on imprudent projects. The weighted cost of debt may be updated in a future proceeding.

- 171 (20) The Commission should require Cascadia Water to identify the meters installed as part of its meter replacement project since its last rate case that are included for recovery in this proceeding as a condition of compliance and demonstrate that the prudence disallowance described in paragraph 170 has been properly implemented. The compliance filing should contain sufficient detail for all the parties to verify that the adjustment has been properly implemented.
- 172 (21) Cascadia Water has requested \$175,000 in litigation fees for this matter as testified to by Witness Rowell. The parties in this matter engaged in six rounds of testimony, three rounds of briefing, two pre-hearing conferences, three days of evidentiary hearings, voluminous data request, and several motions.
- 173 (22) The Commission finds that Cascadia Water's litigation in this matter did not cause unnecessary expenditures. Considering the extent of the proceedings in this docket, not all of which were due to Cascadia Water's actions, Cascadia Water's request for \$175,000 in legal fees is reasonable.
- 174 (23) The record is insufficient for the Commission to find that consolidating the Island water system and the Peninsula water system would not result in discrimination. The Commission will consider evidence in a future case justifying consolidation of the two systems.
- 175 (24) The Commission finds that the period of time between February 29, 2024, and the present has acted as a phase-in to rates with no recovery in rates for the Company and the Company has already foregone recovery of a portion of the costs it actually incurred. Because of the duration of litigation, the phase-in proposals of Staff and Public Counsel are not reasonable. Further, the phase-in costs proposed by Staff would ultimately cause higher rates than immediately implemented rates because of deferment costs.
- 176 (25) For the same reasons that the Commission rejects the Island and Peninsula consolidation proposal, the Commission finds that Staff's argument to remove the Aquarius surcharge is not supported by the record and should be denied. The Commission further finds that Aquarius customers are the least impacted by this rate increase, and that removal of the Aquarius surcharge may result in rate decreases for Aquarius customers while increasing rates for all other Peninsula customers.
- 177 (26) The Commission finds that the Company has provided insufficient information in the record for the Commission to approve its request for recovery of certain employee compensation, as the Company has not sufficiently rebutted Staff's contention that some of employee pay is for incentive compensation rather than

base pay salaries and wages for employees. The \$38,524 amount identified by Staff should be disallowed.

- 178 (27) The Commission finds that the Company has sufficiently demonstrated that its request for \$50.94 in insurance premium costs is reasonable as a reoccurring cost, not a one-time uninsured expense and should be recoverable in rates.
- 179 (28) The Commission finds that the evidentiary record supports the Company's assertion that out of the \$4,587 that Staff has proposed for disallowance for employee travel-related meal expenses, only \$72 was for non-overnight travel and \$397 was related to the Aquarius Office closure. The record supports the Commission disallowing \$469 related to travel and meal-related expenses, such that the Commission should disallow \$72 for unspecified travel-related meal expenses and \$397 for meal costs associated with the closure of the Aquarius Office.
- 180 (29) The Commission finds the Company's request to recover \$2,202.98 in office expenses in relation to office printer that has been moved from the Aquarius office to the Freeland office and is still providing benefit to the Company reasonable and supported by the record developed in this proceeding.
- 181 (30) The Commission finds that the Company should recover its AWWA and ERWoW membership fees in rates because the fees are for professional organizations that provide a benefit to customers.
- 182 (31) The Commission finds that Staff's request for a disallowance of \$7,862 from the Island and Peninsula systems for capitalization of labor is not supported by the record and is unreasonable, as capitalization of labor reduces the impact to customers and matches recovery over the life of the capital asset.
- 183 (32) It is in the public interest to require Cascadia Water to comply with the Capital Planning and Customer Engagement condition and the Prioritization condition from the previously rejected settlement.
- 184 (33) The Commission should order Cascadia Water to comply with the Capital Planning and Customer Engagement condition and Prioritization condition from the previously rejected settlement, as set forth in paragraph 151.
- 185 (34) The Commission should authorize and require Cascadia Water to make a compliance filing in this docket to recover in rates an additional annual revenue requirement of \$1.168 million, as provided in Appendix A, subject to the additional disallowance associated with the meter replacement project.

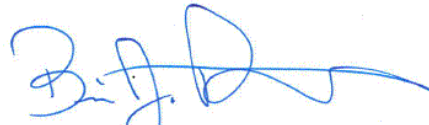
IV. ORDER

THE COMMISSION ORDERS:

- 186 (1) Having considered the full record, including six rounds of testimony, two
evidentiary hearings spanning three days, hundreds of customer comments, and
three rounds of briefing and pursuant to the Washington Administrative Procedure
Act, Commission statutes, and precedent, the proposed tariff revisions filed by
Cascadia Water, LLC in this docket on February 29, 2024, and suspended by prior
Commission order are rejected.
- 187 (2) Cascadia Water is authorized and required to make compliance filings in this
docket including all tariff sheets that are necessary and sufficient to effectuate the
terms of this Order.
- 188 (3) The Commission Secretary is authorized to accept by letter, with copies to all
Parties to this proceeding, filings that comply with the requirements of this Order.
- 189 (4) The Commission retains jurisdiction to effectuate the terms of this Order.

DATED at Lacey, Washington, and effective September 30, 2025.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

A blue ink signature of Brian J. Rybarik, written in a cursive style.

BRIAN J. RYBARIK, Chair

A blue ink signature of Ann E. Rendahl, written in a cursive style.

ANN E. RENDAHL, Commissioner

A blue ink signature of Milton H. Doumit, written in a cursive style.

MILTON H. DOUMIT, Commissioner

NOTICE TO PARTIES: This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-07-870.

APPENDIX A

Commission Determination - Revenue Requirement
Calculations

APPENDIX B

Projects Deemed Imprudent - Rate Base Calculations

APPENDIX C
Operating Expense Adjustments - Commission
Determination

APPENDIX D

Island/Mainland Systems - Results of Operations

APPENDIX E
Peninsula Systems - Results of Operations

APPENDIX F
Pelican Point - Results of Operations