

**BEFORE THE**  
**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,**

**Complainant,**

**v.**

**CASCADIA WATER, LLC,**

**Respondent.**

**DOCKET UW-240151**

**WATER CONSUMER ADVOCATES OF  
WASHINGTON’S REPLY IN SUPPORT  
OF PETITION TO INTERVENE**

1. The Administrative Procedure Act (APA) states that a presiding officer may grant a petition to intervene in an adjudication “upon determining that the petitioner qualifies as an intervenor under any provision of law and that the intervention sought is in the interests of justice and will not impair the orderly and prompt conduct of the proceedings.”<sup>1</sup> Commission rules provide the presiding officer with discretion to grant intervention “[i]f the petition discloses a substantial interest in the subject matter of the hearing or if the petitioner’s participation is in the public interest.”<sup>2</sup> To determine whether a petitioner has a substantial interest in the proceeding, the Commission applies a “zone of interest test” that requires the petitioner to demonstrate that there is a nexus between the stated purpose of its intervention and an interest protected by a Washington statute within the Commission’s jurisdiction.<sup>3</sup>

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<sup>1</sup> RCW 34.05.443(1).

<sup>2</sup> WAC 480-07-355(3).

<sup>3</sup> In Re Joint Application of Verizon Communications, Inc. and Frontier Communications Corporation for an Order Declining to Assert Jurisdiction Over, or, in the Alternative, Approving

2. Advocates promptly filed their Petition to Intervene on July 9, 2024. In an attempt to advance the litigative process expeditiously, Advocates inquired several times whether any party planned to object to the petition. Each time, Cascadia evaded the question, instead waiting until the last minute to file its objection. Despite its own delaying tactics, Cascadia now alleges repeatedly that Advocates' participation in this case "could impair the orderly and prompt conduct of the proceeding."<sup>4</sup> However, Cascadia offers not a single example or even hypothetical scenario to substantiate its allegations.

3. Advocates' two representatives, who collectively have more than 85 years of litigation experience, will ensure that Advocates' participation does not impair the orderly conduct of the proceeding. If Cascadia believes that the proceeding is being impaired, it can easily seek an order imposing a remedy appropriate to the circumstances. There are no grounds for the extreme precaution of denying intervention to guard against an imaginary future impairment.

4. Cascadia suggests that Advocates' organizational structure presents an impediment to intervention but cites no legal authority to support its argument, because there is none. A party is "a person . . . allowed to intervene or participate as a party in the agency proceeding."<sup>5</sup> "[A] person is any individual, partnership, corporation, association, governmental subdivision or unit thereof, or public or private *organization or entity of any character*."<sup>6</sup> Advocates is an organization of individuals who have agreed to take collective action to oppose unreasonable and unjust water rates that Cascadia seeks to collect from them.

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the Indirect Transfer of Control of Verizon Northwest, Inc., Docket UT-090842, Order 05, ¶ 14 (Sep. 10, 2009).

<sup>4</sup> Cascadia Response at ¶¶ 1, 8, 9, 16.

<sup>5</sup> WAC 480-07-340(1)(b).

<sup>6</sup> WAC 480-07-340(1)(a) (emphasis added).

5. Advocates' interest in reasonable and just water rates is a substantial interest. Advocates' members are among the people most directly and immediately affected by a decision by the Commission. Advocates' interests are reflected in the issues that are inherent in any rate case. "Regulated utilities bear the burden of proving that their decisions are prudent, just as they must demonstrate in rate cases that their proposed rates are just and reasonable."<sup>7</sup> Here, those issues include:

- Are the rates proposed by Cascadia fair, just and reasonable?
- Were Cascadia's capital expenditures prudent?
- What is a fair, just, reasonable and sufficient rate of return on the rate base?
- Does the application of single tariff pricing to systems owned by Cascadia comply with cost causation principles and applicable law?

All other issues address subjects that are subsidiary to the main issues.<sup>8</sup> None of those issues improperly broaden the scope of this general rate case.

6. Advocates' concrete and substantial interest as reflected in the issues it has articulated distinguishes this case from the decision relied on by Cascadia.<sup>9</sup> In *Avista*, the party seeking to intervene, NWCP, said "that its interest in the proceeding was not limited to a specific issue or set of issues, but would focus on the broader public interest."<sup>10</sup> Because Public Counsel represented that same public interest, the Commission held that NWCP's participation "would be unnecessarily duplicative" and denied the petition to intervene.<sup>11</sup>

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<sup>7</sup> *In the Matter of the Investigation of Avista Corporation et. al*, 2020 Wash. UTC LEXIS \*12. See also RCW 80.28.020; WAC 480-80-105(3).

<sup>8</sup> See Advocates' Positions Regarding Prehearing Conference Topics at 1-2.

<sup>9</sup> Cascadia Response at ¶ 15, citing *WUTC v. Avista Corporation*, Docket UE-190334 (consolidated), Order 04 at ¶ 15 (June 28, 2019).

<sup>10</sup> *Avista*, Order 03 at ¶ 14 (May 30, 2019).

<sup>11</sup> *Avista*, Order 04 at ¶ 13. The Commission allowed two other public interest organizations and a trade organization to intervene.

7. Advocates' participation in this case will not be duplicative of Public Counsel's role for two reasons. First, Advocates has expert witnesses that Public Counsel does not have. Those witnesses will bring a heightened level of expertise on relevant issues. The witnesses include a Ph.D. economist who has worked in utilities regulation for both a regulatory agency and several regulated entities. The economist will provide expert analysis of the reasonableness of water rates and the economic impact of rates on Cascadia's customers. Another expert witness has years of experience evaluating water system infrastructure and determining what capital investments are prudent. Advocates will coordinate with Public Counsel to ensure that the testimony of its experts is not needlessly duplicative.

8. Second, some of Advocates' interests differ from—and are potentially at odds with—the interests represented by Public Counsel. Advocates represents the interests of a group of Cascadia customers while Public Counsel has the duty “to represent and appear for the people of the state of Washington.”<sup>12</sup> The initial impression of Public Counsel is that its view of the interest of the people of the state of Washington on single tariff pricing conflicts with the interests of Advocates' members on that issue. When such a conflict arises, Public Counsel is prohibited from representing both parties.<sup>13</sup>

9. Advocates has neither the desire nor the resources to needlessly complicate this case. For that reason, Advocates will agree to litigate this case as efficiently as possible, including coordinating with Public Counsel on discovery, presentation of direct testimony, cross examination of witnesses, and briefing legal issues, to the extent that there is no conflict of interest.

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<sup>12</sup> RCW 80.01.100; RCW 80.04.510.

<sup>13</sup> Washington Rules of Professional Conduct, Rule 1.7.

10. For the foregoing reasons, Advocates requests that the Court grant its Petition to Intervene.

WATER CONSUMER ADVOCATES  
OF WASHINGTON

A handwritten signature in black ink, appearing to read "Stephen M. Todd".

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