

**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 MOTION TO
COMPEL CASCADIA ANSWERS TO
DISCOVERY**

Cascadia estimates it will be investing \$3-\$4 million each year for the next five years, but refuses to explain how it arrived at such numbers, or what, when and where such capital improvements will be made. Cascadia cannot prove investment decisions were prudent or reasonable without being able to demonstrate the context in which they were made, which requires long-range planning. Here, Cascadia refuses to divulge whatever planning went into its \$3-4 million number. Either Cascadia should be ordered to respond to discovery or the Commission should be advised to take judicial notice that Cascadia cannot prove that it has required capital improvement plans and therefore cannot prove that it acted prudently in spending over \$6 million in the last three years.

In its first wave of discovery Public Counsel requested:

"For each of the Company's major water systems (Seaview/Lehman, Estates/Monterra, Pedersen, NWWWS, Aquarius, Discovery Bay, Pelican Point), please provide an estimate of the dollar value of the outstanding investment required to bring the system into compliance and full working order...

Cascadia's Response states:

"We are unable to provide a system-by-system estimation in the format being requested. Instead, we have projected spending \$3-\$4 million each year for the next five years to focus solely on bringing source/storage components into compliance across all of the existing systems."

See PC IR 6 and response. Advocates then asked:

For each of the aforementioned systems "please provide an estimate of the dollar value of the outstanding investment required to bring each system into compliance and full working order" in whatever "format" you can.

Response:

Cascadia Water LLC objects to this request as overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Cascadia Water LLC further objects to this request to the extent it seeks information that is beyond the scope of this proceeding to the extent it requests projections that are not at issue in this case.

See WCAC DR 69 and response.

The purpose of Water System Plans, in part, is to require regulated utilities to plan ahead. Plans must “[d]emonstrate how the system will address present and future needs in a manner consistent with other relevant plans and local, state, and federal laws, including applicable land use plans.” WAC 246-290-100(1)(b). A mandatory element of a plan is an “Improvement program, including a capital improvement schedule that identifies all capital improvements scheduled within the plan approval period and any major projects or other capital improvements planned within at least a 20-year planning period.” WAC 246-290-100(4)(i). A plan must also contain an “evaluation of the affordability of water rates.” WAC 246-290-100(j)(iv)(A).

The standard of prudence requires that a regulated utility can demonstrate “what they knew or reasonably should have known”:

Regulated public service companies bear the burden of proof that their investment decisions are prudent. The Commission’s legal standard for assessing the prudence of such decisions is “what would a reasonable board of directors and company management have decided given what they knew or reasonably should have known to be true at the time they made a decision.

WUTC v. Pacific Power & Light Company, DOCKET UE-152253, Order 12, 2016 Wash. UTC LEXIS 343 at *85 (September 1, 2016).

In his testimony herein Mathew Rowell, of Cascadia’s parent company NW Natural, recognizes that a prudent business must plan ahead:

Ordinarily, businesses are not allowed to deduct the full costs of capital expenditures in the year the expenses are incurred. Therefore, the substantial outlays of capital required for such purchases **must be carefully planned out, usually years in advance**. That way, companies can avoid overextending themselves financially and creating cash flow problems. For capital-intensive companies, proper management of capital expenditures is crucial for survival and growth. Effective management requires striking the right

balance between the need for resources in the future and the ability to generate profits in the present.”

See Exh. MJR 1T, pp. 19-20. (emphasis added) (quoting from Maveric, J.B., “Which Types of Industries Have the Largest Capital Expenditures?”, Investopedia, June 22, 2020).

To comply with law and prudent practice, a regulated utility will prepare a capital improvement plan. Advocates requested that Cascadia produce all its capital improvement plans. Cascadia responded that the Island Uniform Water System Plan and a “draft” Peninsula WSP constitute Cascadia’s capital improvement plans. Cascadia does not identify or provide any other documents it contends constitute capital improvement plans. See, WCAC DR 70. (It has been three years since Cascadia represented to the Commission that it was in the process of developing the Peninsula WSP and yet it has not been produced or approved).

WAC 246-290-100 requires purveyors such as Cascadia to prepare and obtain DOH approval of Water System Plans for each of its systems. Cascadia has ignored this requirement. Cascadia has generated only one approved Water System Plan since its creation in 2018, which covers the eleven original Cascadia systems on Whidbey Island. None of Cascadia’s other 19 systems have a Water System Plan, or any type of capital improvement plan. See, WCAC DR 70-72.

Further, Cascadia’s Uniform Water System Plan acknowledges that improvements will be paid for by customer rate increases, another factor that must be balanced to ensure prudent investments. The Uniform Water System Plan includes a 10-year budget forecast which prioritizes improvements. For 2022, 2023 and 2024 the UWSP called for capital expenditures, in toto, of less than \$1 million. See Exh. CJL-8, pp. 929-930. Yet Cascadia spent over \$4 million on improvements for just the UWSP systems in that time frame. Thus, Cascadia has ignored its only approved WSP.

The law requires that Cascadia prove its capital investments were reasonable, necessary and prudent. DOH, applicable WACs, and Mr. Rowell all acknowledge that prudence requires long range capital improvement plans. A prudent company would avoid “overextending themselves financially and creating cash flow problems,” particularly when, as a regulated monopoly, it has to recognize it will not be allowed to inflict “rate shock” on its customer base.

Cascadia’s lack of Water System plans and capital improvement plans, and its refusal to explain how it plans to spend \$3-\$4 million a year for the next five years, demonstrates that Cascadia has not been spending prudently. Cascadia’s behavior demonstrates that its goal is simply to recoup a better-than-market return on its investments.

This court should order that Cascadia answer Public Counsel and Advocates’ discovery and explain its planned future improvements. Alternatively’ the Commission should be advised to take judicial notice that Cascadia cannot prove that its spending decisions were prudent.

Respectfully submitted,

WATER CONSUMER ADVOCATES
OF WASHINGTON

A handwritten signature in black ink, appearing to read 'S. M. Todd', with a large, sweeping flourish above the letters.

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