



September 23, 2013

Comments of Cascade Water Alliance

Re: Docket UW-131386, Rulemaking Inquiry to Consider the Need to Evaluate and Clarify Jurisdiction of Water Companies, WAC 480-110-255, Jurisdiction, and related rules Docket UW-131386.

Cascade Water Alliance (“Cascade”) respectfully submits this comment on the proposed rulemaking in the above-entitled proceeding. Cascade's mission is to provide water supply to meet current and future needs of our members in a cost-effective and environmentally responsible manner through partnerships, water efficiency programs, acquiring, constructing and managing water supply infrastructure and fostering regional water planning. Cascade is a municipal corporation comprised of seven municipalities (five cities and two water and sewer districts) in the Puget Sound region that joined together to provide safe, clean, reliable water supply to its 350,000 residences and more than 22,000 businesses. Cascade is interested in and potentially affected by the rulemaking and requests that the UTC add Cascade as an interested party to this proceeding.

Cascade wishes to bring a recently-enacted law to the Commission’s attention and to propose rule text to address it appropriately. The 2011 Washington Legislature enacted the Joint Municipal Utilities Service Act, Chapter 39.106 RCW (the “Act”). The Act establishes an improved interlocal mechanism for cooperation among local government utilities that provide water, wastewater, stormwater and/or flood control services. The Act authorizes cities, towns, counties, and special purpose districts voluntarily to form an intergovernmental municipal corporation (“Authorities”) that can provide services to those local utilities and their customers. In March 2012, Cascade amended its Interlocal Contract and took other steps to convert Cascade from its status as a non-profit formed under the Interlocal Cooperation Act to an Authority under the Act. The governing board of directors continues to be composed of elected officials representing each member.

An Authority created under the Act is a municipal corporation that the Commission should explicitly recognize in its regulations. Under the Act, only governmental entities are eligible to become members of an Authority:

"Member" means a city, town, county, water-sewer district, public utility district, other special purpose district, municipal corporation, or other unit of local government of this or another state that provides utility services, and any Indian tribe recognized as such by the United States government, that is a party to an agreement forming an authority.

RCW 36.106.020(4). In addition, the Legislature declared that an “authority is a municipal corporation.” RCW 36.106.030(2). The Commission should recognize in its rules, as the Legislature did in the Act, that

a group of entities can agree to provide water service as a joint and cooperative enterprise by forming an intergovernmental municipal corporation.

The proposed rulemaking seeks to clarify Commission jurisdiction over water companies, and the draft rule would amend the existing rule's application to municipal corporations. Cascade proposes that the draft rule expressly include authorities under the new legislation. Specifically, WAC 480-110-255(2) in the draft rule should be revised as follows, with new proposed text underlined:

(2) Providers of water service that are exempt from Commission regulation include:

- (i) Cities, towns, and counties.
- (ii) Public utility districts.
- (iii) Water districts.
- (iv) Local improvement districts.
- (v) Authority formed under Chapter 39.106 RCW.

Cascade appreciates the opportunity to offer this comment on the proposed rulemaking and the discussion draft rules (dated August 21, 2013).

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