



UW-240589

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September 23, 2024

SENT VIA WUTC WEB PORTAL

Jeff Killip
Executive Director and Secretary
Washington Utilities and Transportation Commission
621 Woodland Square Loop SE
Lacey, WA 98503

Re: ***In the Matter of Summit View Water Works Tariff Revision (General Rate Increase),
Docket UW-240589***

Dear Director Killip:

The Public Counsel Unit of the Washington State Attorney General's Office (Public Counsel) respectfully submits these comments in advance of the September 26, 2024, Open Meeting of the Washington Utilities and Transportation Commission (UTC or Commission). These comments address Summit View Water Works' (Summit View or Company) proposed general rate increase, effective October 1, 2024. Public Counsel participated in discussions with UTC Staff (Staff) and Summit View representatives regarding this case. We appreciated Summit View's responses to informal data requests and willingness to discuss the issues in the case.

In its initial filing, Summit View requested an overall increase in revenue of \$514 thousand, or 54 percent, split between its 630 domestic (\$139 thousand) and 680 irrigation (\$375 thousand) customers. Based on the most updated information Public Counsel has seen, Summit View has

Public Counsel's Recommendation

Public Counsel recommends that the Commission reject Summit View's tariff filing, given that it derives from a return on equity (ROE) for which the Company has not produced affirmative evidence. If the Commission does not reject Summit View's filing, it should suspend it for adjudication to investigate the Company's affiliated interest relationships, which have not previously been fully disclosed. The Commission should also disallow owner salary increases which are not supported and order Summit View to phase in its rate increase to minimize rate shock for customers. Finally, the Commission should re-evaluate the calculation of return on equity for water companies in a policy docket, stakeholder collaborative, or rulemaking.

revised its requested revenue increase to \$399 thousand, or 42 percent, split between domestic (\$108 thousand) and irrigation (\$291 thousand) customers.¹

Failure to Produce Necessary Affirmative Evidence

Summit View is a well-capitalized water utility operating in financial conditions far removed from the early 2000s. The Company has revised its initial filing to request a 12.0 percent return on equity (ROE).² Summit View's failure to make an affirmative showing justifying a 12.0 percent return on equity is fatal to its filing. The Commission should reject its proposed tariff amendments.

It is black-letter law that a utility bears the burden of proof in any proceeding to increase rates.³ This burden requires a utility to make an affirmative showing justifying a rate increase even in the absence of a challenge.⁴ For justifying a rate of return and a return on equity, this means producing analysis and evidence of current conditions. Where the Commission extended a return on equity with a record that, "lack[ed] the depth and breadth of data analysis...on which the Commission customarily relies" it was a legal error for the Commission to approve a return on equity.⁵ This is consistent with *Bluefield*, where the court noted "a rate of return may be reasonable at one time and become too high or too low by changes affecting opportunities for investment, the money market and business conditions generally."⁶

Here, the cost of equity proposed relies on a 22-year-old Commission precedent that the ROE for water companies is set at 12.0 percent.⁷ The Company has produced no affirmative evidence justifying this return on equity and the precedent in question does not account for current market conditions or the Company's financial stability.

The *Bluefield*⁸ and *Hope*⁹ standards require that a fair ROE should be (1) comparable to what investors expect on investments of similar risk in a competitive environment, (2) adequate to maintain financial integrity, and (3) sufficient to attract capital. With this in mind, it is critical that the authorized ROE for all regulated utilities, including water utilities, reflect current market conditions. Market risk and overall conditions have shifted since the Commission set the 12.0

¹ Attachment 1 (Revised Income Statement).

² Attachment 2, Informal Data Request No. 1-5 (Summit View Response to Staff's First Informal Data Requests, Part Two).

³ RCW 80.04.130(4).

⁴ *Wash. Util. & Transp. Comm'n v. Puget Sound Power and Light Co.*, Dockets UE-920499 & UE-921262, Eleventh Supplemental Order, ¶ 19 (Sept. 21, 1993) (generally describing burden of proof).

⁵ *In re Puget Sound Energy & NW Energy Coalition*, Dockets UE-121697 & UG-121705 (*consolidated*), Order 15, 8, ¶14 (acknowledging a superior court order directing remand).

⁶ *Bluefield Water Works and Improvement Co. v. Pub. Serv. Comm'n of W. Va.*, 262 U.S. 679, 692 (1923).

⁷ *Wash. Utils. & Transp. Comm'n v. Rainier View Water Co.*, Docket UW-010877, Sixth Supplemental Order, ¶ 105 (July 12, 2002).

⁸ *Bluefield Water Works and Improvement Co. v. Pub. Serv. Comm'n of W. Va.*, 262 U.S. 679 (1923).

⁹ *Fed. Power Comm'n v. Hope Nat. Gas Co.*, 320 U.S. 591 (1944).

percent ROE in Docket UW-010877 in 2002.¹⁰ Thus, applying the 12.0 percent ROE in this case without re-evaluation of market conditions is neither just nor reasonable.

Additionally, Summit View is a “growing and versatile water utility with an expanding customer base and increasingly complex operational and management oversight responsibilities.”¹¹ Summit View owners Kirk Rathbun and Geoff Clark purchased the water utility in 2004, when it served 12 customers.¹² Summit View now serves 630 domestic customers and 680 irrigation customers.

In this context, given Summit View’s demonstrated stability and changes in the Washington water industry since 2002, it is neither reasonable nor just for the Company to be allowed a 12.0 percent return on equity based on a 22-year-old precedent without its providing any affirmative evidence to justify such a return. Public Counsel does not propose a revised return on equity at this time; the burden is on Summit View to provide affirmative evidence to justify one. Accordingly, in the absence of such evidence, the Commission should reject Summit View’s filing.

Affiliated Interest Relationships

Public Counsel’s alternative recommendation is that the Commission suspend the case for adjudication in order to fully investigate Summit View’s affiliated interest relationships. As Summit View itself states, “it is not completely clear whether all of Summit View’s past affiliated interest relationships were disclosed to the UTC previously.”¹³

Public Counsel appreciates Summit View’s cooperation with informal discovery and Summit View’s concern with delay in addressing their requested rate increase for work already performed. In order to be as transparent as possible, Public Counsel will fully explain its concerns with the issue of affiliated interests. Public Counsel’s concerns are, at this point, in the form of questions and concerns rather than specific disallowances. Where there are such interrelationships, more investigation is necessary.

Between them, Mr. Rathbun and Mr. Clark own several companies in addition to Summit View, including real estate development companies, a vineyard, a farm, and another UTC-regulated water utility.¹⁴ These constitute Summit View’s known affiliated companies. Mr. Rathbun and Mr. Clark are also both elected board members for local irrigation districts, one of which Summit View occasionally sources water from.¹⁵

¹⁰ *Wash. Utils. & Transp. Comm’n v. Rainier View Water Co.*, Docket UW-010877, Sixth Supplemental Order, ¶ 105 (July 12, 2002).

¹¹ Direct Test. of Kirk Rathbun, Exh. KR-01T at 6.

¹² *Id.* at 2.

¹³ Direct Test. of Ann M. LaRue, Exh. AML-01T at 11.

¹⁴ Attachment 3, Informal Data Request No. 1-1 (Summit View Response to Public Counsel’s First Informal Data Requests).

¹⁵ *Id.*, Informal Data Request No. 1-7.

Public Counsel has several concerns about the transfer of assets, issuance of loans, subsidization of employees, and use of common office space between Summit View and its affiliated companies. Given these concerns, other potential areas of concern, and Summit View's admission that its complex affiliated interest relationships may not have been previously fully disclosed, the Commission should suspend this case for adjudication and further investigation if it does not reject Summit View's filing.

Assets and Loans

Summit View's affiliated companies built all but 12 of the water service connections that Summit View serves today.¹⁶ Generally, this work is led by Candy Mountain LLC (Candy Mountain), a development company which Mr. Rathbun and Mr. Clark own and manage.¹⁷ As Candy Mountain develops land, it also installs the infrastructure necessary for Summit View's water service connections. Summit View then acquires that infrastructure and takes out a loan from Candy Mountain to cover the associated capital expenses. An example of this process can be seen in the invoices from Candy Mountain to Summit View for the latter's expansion phases 12, 13, and 14 (Phases 12–14).¹⁸

Public Counsel has concerns about the timing of these transactions. As an example, Phases 12–14 added 112 irrigation customers to Summit View's system.¹⁹ The Company's data suggests that these customers joined the system in December 2019.²⁰ However, the promissory note issued by Candy Mountain to Summit View to cover Phases 12–14 is dated March 15, 2023.²¹ Additionally, the irrigation assets related to Phases 12–14 are listed in Summit View's Regulatory Depreciation Schedule with an in-service date of March 20, 2023.²²

A similar example can be seen in Summit View's expansion phases 8 through 11 (Phases 8–11). In Summit View's last general rate case (Docket UW-180801) and its withdrawn 2023 general rate case (Docket UW-230555), assets related to Phases 8–11 have in-service dates in 2011, 2015, and 2016.²³ In this case, however, assets related to Phases 8–11 are listed with an in-service date of January 1, 2019.²⁴

¹⁶ *Id.*, Informal Data Request No. 1-15.

¹⁷ *Id.*, Informal Data Request No. 1-1.

¹⁸ Attachment 4 (Promissory Note for Phases 12–14 Irrigation Assets).

¹⁹ *See*, Danny P. Kermode, Exh. DPK-04 ((S5.3) where 112 lots are labeled "Phase 12/14," "Phase 13," or "Phase 12.").

²⁰ Attachment 5 (Summit View Customer Counts).

²¹ Attachment 4 (Promissory Note for Phases 12–14 Irrigation Assets).

²² Attachment 6 (Revised Regulatory Depreciation Schedule) (Sch 1.0).

²³ Summit View Water, General Rate Case Workbook – Domestic, *Wash. Utils. & Transp. Comm'n. v. Summit View Water Works*, Docket UW-230555 (filed on Jun. 30, 2023) (Inputs) and Summit View Water, GRC Workbook Domestic, *Wash. Utils. & Transp. Comm'n. v. Summit View Water Works*, Docket UW-180801 (filed on Sept. 17, 2018) (Inputs).

²⁴ Attachment 6 (Revised Regulatory Depreciation Schedule) (Sch 1.0).

There are several potential concerns related to these timing discrepancies. First, if assets are listed with in-service dates later than they are actually placed into service, those assets will remain on the Company's books and be paid for by ratepayers longer than they otherwise should be. In Summit View's filings in its last general rate case and its withdrawn 2023 filing, assets related to Phases 8–11 are listed with service lives ending in 2041, 2045, and 2046.²⁵ In this case, they are listed with a "Year Fully Depreciated" of 2049.²⁶

Second, the end-of-period (EOP) investment value of those assets may exceed their value had they been properly depreciated beginning when they were actually placed into service. In Summit View's withdrawn 2023 filing, domestic assets related to Phases 8–11 have EOP investment values that sum to \$235 thousand.²⁷ In this case, despite having the same original cost, those assets are listed with an EOP investment value of \$265 thousand.²⁸ The same is true for irrigation assets related to Phases 8–11 and all assets related to Phases 12–14.²⁹

Third, the loans covering those assets may have been issued with higher interest rates than if they were issued when the assets were actually placed into service. In the case of assets related to Phases 12–14, associated loans from Candy Mountain to Summit View issued in 2023 have an interest rate of 9.75 percent.³⁰ As stated above, the assets for Phases 12–14 appear to have actually been placed into service in 2019. Loans from Candy Mountain to Summit View issued in 2019 have interest rates of only 7.00 percent, 275 basis points below the issued loan rate for Phases 12–14.³¹

In responding to some of these points, Summit View states that its practice "was to wait until approximately 30 percent of lots within each phase were generating revenue before signing the corresponding loan agreement."³² Summit View also argues that it "had attempted to build its last rate case (UW-230555) from its 2018 rate case (UW-180801) without the benefit of a full

²⁵ Summit View Water, General Rate Case Workbook – Domestic, *Wash. Utils. & Transp. Comm'n. v. Summit View Water Works*, Docket UW-230555 (filed on Jun. 30, 2023) (Inputs) and Summit View Water, GRC Workbook Domestic, *Wash. Utils. & Transp. Comm'n. v. Summit View Water Works*, Docket UW-180801 (filed on Sept. 17, 2018) (Inputs).

²⁶ Attachment 6 (Revised Regulatory Depreciation Schedule) (Sch 1.0).

²⁷ See, Summit View Water, General Rate Case Workbook – Domestic, *Wash. Utils. & Transp. Comm'n. v. Summit View Water Works*, Docket UW-230555 (filed on Jun. 30, 2023) (Inputs) (where cells AD58:AD60 sum to \$235,000).

²⁸ Attachment 6 (Revised Regulatory Depreciation Schedule) (Sch 1.0).

²⁹ Summit View Water, General Rate Case Workbook – Domestic, *Wash. Utils. & Transp. Comm'n. v. Summit View Water Works*, Docket UW-230555 (filed on Jun. 30, 2023) (Inputs); Attachment 6 (Revised Regulatory Depreciation Schedule) (Sch 1.0).

³⁰ Attachment 4 (Promissory Note for Phases 12–14 Irrigation Assets).

³¹ Kermode, Exh. DPK-03 (4.2 Cost Debt).

³² Attachment 3, Informal Data Request No. 1-18 (Summit View Response to Public Counsel's First Informal Data Requests).

understanding of regulatory accounting and the Uniform System of Accounts and how its assets, CIAC, and notes payables should be recorded and presented for ratemaking purposes.”³³

Summit View states that its current regulatory depreciation schedule is accurate because it was created from the Company’s tax depreciation schedule and is “further supported by the voluminous amount of invoices that have been provided throughout the discovery process.”³⁴ Public Counsel clarifies that Summit View has not been able to produce invoices for projects including Phases 8–11, and has only stated that such invoices were previously provided in Docket UW-180801.³⁵ If anything, this suggests that the Company’s treatment of Phases 8–11 in Docket UW-180801 should be regarded as the most reliable version of accounts.

At another point, the Company claims that there were no loans for Phases 8–11 until 2019,³⁶ despite the Company’s filing in Docket UW-180801 including three loans labeled “SV Ph 8”, “SV Ph 9 & 10”, and “SV Ph 11”, and issued in 2011, 2016, and 2016, respectively.³⁷ Summit View claims it was “merely following previous [C]ommission [S]taff guidance” in that case.³⁸

Public Counsel does not find Summit View’s explanations persuasive. They mainly serve to discredit the Company’s withdrawn filing in Docket UW-230555. At the very least, they do not resolve discrepancies between in-service dates in this case and the Company’s filing in Docket UW-180801, which was prepared with technical assistance from Commission Staff.³⁹ Given these unresolved concerns, the Commission should conduct a full investigation into Summit View’s treatment of assets transferred and loans issued between affiliated companies.

Employees

Many of Summit View’s employees also work or have worked for its affiliated companies. In email correspondence with Public Counsel, Ann LaRue stated that “all of Mr. Rathbun and Mr. Clark’s employees worked for [Candy Mountain Farms] at some point in time,” referring to the farm which Mr. Rathbun owns and manages.⁴⁰

Summit View’s affiliated companies continue to benefit from the labor of Summit View’s employees. As Ms. LaRue confirms, one of Summit View’s employees also works as the Vineyard Manager for Eagle Butte Vineyards (EBV), which Mr. Rathbun and Mr. Clark own

³³ Attachment 7, Informal Data Request No. 2-22 (Summit View Response to Public Counsel’s Second Informal Data Requests).

³⁴ *Id.*

³⁵ *Id.*, Informal Data Request No. 2-21.

³⁶ *Id.*, Informal Data Request No. 2-23.

³⁷ Summit View Water, GRC Workbook Domestic, *Wash. Utils. & Transp. Comm’n. v. Summit View Water Works*, Docket UW-180801 (filed on Sept. 17, 2018) (Inputs).

³⁸ Attachment 7, Informal Data Request No. 2-23 (Summit View Response to Public Counsel’s Second Informal Data Requests).

³⁹ *Id.*, Informal Data Request No. 2-22.

⁴⁰ Attachment 8 (Email Correspondence between Summit View and Public Counsel); Attachment 3, Informal Data Request No. 1-1 (Summit View Response to Public Counsel’s First Informal Data Requests).

and manage.⁴¹ This employee is uncompensated by EBV for this work, and is instead paid only by Summit View and Mr. Rathbun's other UTC-regulated water utility.⁴² Mr. LaRue also denies that this employee works for Candy Mountain, although the employee's online LinkedIn profile suggests otherwise.⁴³

Ms. LaRue also confirms that another Summit View employee was previously employed by EBV and Candy Mountain Farms, and completed limited work for EBV as recently as 2024.⁴⁴ Public Counsel does not at this time contest that the employee was properly compensated for such work, but highlights that these relationships undermine Summit View's earlier claim that "EBV has its own separate labor force for management and work performed in the vineyard."⁴⁵

Given the extent to which Summit View shares employees with affiliated companies, and the concern that at least one of those employees is subsidized by Summit View for work for an affiliated company, the Commission should conduct a full investigation into Summit View's sharing of employees.

Other Factors

Summit View shares office space with at least some of its affiliated companies. The Company's lease includes both Summit View and EBV as tenants, although the full cost of the lease is included on Summit View's income statement as a rent expense.⁴⁶ Summit View provided the same address as a mailing address for EBV.⁴⁷ The Company notes that "EBV does not pay for the de minimis use of the physical address of 101904 Wiser Parkway #103."⁴⁸ The same address, without suites specified, is listed online as the address for Candy Mountain,⁴⁹ as well as Crimson Power, an electrical services company owned by a Cameron Rathbun.⁵⁰

Summit View also splits irrigation water with EBV, with the latter compensating the water utility based on a percentage of use calculation determined using the companies' respective acreages. Since all of Summit View's irrigation customers are residential customers,⁵¹ Public Counsel has some concern that EBV's agricultural irrigation water use may exceed Summit View's

⁴¹ Attachment 3, Informal Data Request No. 1-1 (Summit View Response to Public Counsel's First Informal Data Requests).

⁴² Attachment 8 (Email Correspondence between Summit View and Public Counsel); Attachment 3, Informal Data Request No. 1-1 (Summit View Response to Public Counsel's First Informal Data Requests).

⁴³ Attachment 9 (LinkedIn Profile of AS004).

⁴⁴ Attachment 8 (Email Correspondence between Summit View and Public Counsel).

⁴⁵ Attachment 10 (Summit View Relationship with Eagle Butte Vineyards).

⁴⁶ Attachment 11 (Summit View Lease)

⁴⁷ Attachment 12, Informal Data Request No. 5-10 (Summit View Response to Staff's Fifth Informal Data Requests).

⁴⁸ Attachment 7, Informal Data Request No. 2-27 (Summit View Response to Public Counsel's Second Informal Data Requests).

⁴⁹ Candy Mountain, LLC About Us, <https://candymountainllc.com/>.

⁵⁰ Crimson Power, About Us, <https://www.crimsonpowerllc.com/about/>.

⁵¹ Attachment 3, Informal Data Request No. 1-15 (Summit View Response to Public Counsel's First Informal Data Requests).

residential irrigation use on a per-acre basis. However, Public Counsel has not reviewed any information to confirm this fact and defers at this time to Summit View's explanation that "basing its allocation of shared expenses on acreage provides an acceptable indicator for estimating shared costs."⁵²

Customer Concerns

Summit View customers have raised the same concerns about the water utility's affiliated interests. In comments submitted to the Commission, one Summit View customer states that Mr. Rathbun "is a board member for several other irrigation companies as well as land development companies" and he has "repeatedly targeted our neighborhood and continues to try and strong-arm homeowners into paying for business ventures that should be absorbed by the company, not the users."⁵³ The same customer states that "there is ZERO transparency with this company."⁵⁴ Another customer states that "the entanglement of SVWW ownership with Tri City Development Corporation and Eagle Butte Vineyards has me questioning if there is more to this than simply 'experiencing increases in operating expenses.'"⁵⁵ Another customer claims that "SVWW is a mismanaged company at best and more likely criminal upon investigation. SVWW is run by developers that personally profited from land development in this community and are now trying to forward the cost of their development to homeowners that are now held hostage to their poor planning."⁵⁶ A full Commission investigation of Summit View's affiliated relationships would develop a record that could address customer concerns.

Numerous concerns about Summit View's affiliated interests, from potentially mistreated assets and loans to a common labor force and office space, should be fully investigated by the Commission before it approves any rate increase for the water utility. The Commission should be convinced that ratepayers are not subsidizing affiliate operations before it allows those ratepayers to be charged more. Given the number of concerns that Public Counsel has detailed, such assurance is not yet possible. Thus, if the Commission does not reject Summit View's filing, it should suspend the case in order to fully investigate these affiliated interest concerns.

Manager Salary Increase Disallowance

If the Commission does not reject or suspend Summit View's filing, it should at least disallow the Company's proposed manager salary increases. These increases are unsupported given Summit View's disclosures about the percent of work time their managers spend on the business.

Summit View is requesting a salary increase of \$38 thousand per year for both Mr. Rathbun and Mr. Clark due to their "increasingly complex operational and management oversight responsibilities."⁵⁷ Currently, both managers are being paid for 8 hours of work per week. Under

⁵² *Id.*, Informal Data Request No. 1-10.

⁵³ Attachment 13, Comments of Sarah McCalmant (Public Comment Matrix).

⁵⁴ *Id.* (emphasis original).

⁵⁵ Attachment 14 (Comments of Jeff Banning).

⁵⁶ Attachment 13, Comments of Jessica Quigley (Public Comment Matrix).

⁵⁷ Rathbun, Exh. KR-01T at 6.

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a memorandum of understanding issued by Summit View on July 1, 2024, their positions will now require 20 hours of work per week, accounting for the salary increase.⁵⁸

Public Counsel believes that Mr. Rathbun and Mr. Clark did not previously meet the 8 hours of work per week for which they were compensated. In Summit View's most recently-filed IRS Form 1125-E, Mr. Rathbun and Mr. Clark are listed as devoting 10 percent and 5 percent of their work time to the business, respectively.⁵⁹ For this to be true and both to have worked 8 hours per week for Summit View, Mr. Rathbun would've needed to work an 80-hour work week and Mr. Clark a 160-hour work week. Summit View has not provided additional detail on Mr. Rathbun and Mr. Clark's worktime split between Summit View and its affiliated companies.⁶⁰

Summit View's managers likely did not complete the 8 hours of work per week for which they were previously compensated by Summit View, and Public Counsel recommends that any additional compensation be disallowed.

Phased Rate Approach

If the Commission does not reject or suspend Summit View's filing and decides to approve it, it should do so with modifications that mitigate rate shock for customers. Under Summit View's most updated revenue requirement proposal that Public Counsel has seen, the Company is requesting a revenue requirement increase of 42 percent, or 22 percent for domestic customers and 62 percent for irrigation customers.⁶¹ In considering rate shock, the Commission should be aware that all of Summit View's customers, including all of its irrigation customers, are residential customers.⁶²

Summit View's initial filing proposed that thirty-five percent of the increase in revenue from domestic customers, or approximately \$50 thousand, be deferred in the first year of its new rates.⁶³ Summit View did not propose to later recover that deferred revenue. The Company has since abandoned this phased rate approach, arguing that adjustments during the audit process reduced its requested revenue requirement increase by more than \$50 thousand, eliminating the need for phased rates.⁶⁴ Public Counsel notes that the adjustments referenced affect irrigation customers more than domestic customers, and under Summit View's most updated revenue requirement, the requested increase for domestic customers has only been reduced by \$31 thousand.⁶⁵

⁵⁸ Attachment 15 (Management Memorandum of Understanding)

⁵⁹ Attachment 16 (Summit View IRS Form 1125-E).

⁶⁰ Attachment 17 (Summit View Response to Staff's First Informal Data Requests).

⁶¹ Attachment 1 (Revised Income Statement).

⁶² Attachment 3, Informal Data Request No. 1-15 (Summit View Response to Public Counsel's First Informal Data Requests).

⁶³ Kermode, Exh. DPK-01T at 12-13.

⁶⁴ Attachment 3, Informal Data Request No. 1-16 (Summit View Response to Public Counsel's First Informal Data Requests).

⁶⁵ Attachment 1 (Revised Income Statement).

In Summit View's last successful general rate case, the Commission approved a phased rate approach for the Company's domestic customers, who would have seen a 34.4 percent rate increase otherwise. In the Commission's Order in that case, it stated:

The request for increased rates presented in this docket presents us with a difficult dilemma. The Company has demonstrated that it has experienced increased costs and made necessary investments that justify an increase in rates, rates that would be just and sufficient for the Company. However, as the Company has not requested an increase in rates in the 12 years since it came under Commission regulation, the resulting increase in rates is significant and could result in rate shock for customers. Under our guiding statutes, we must establish rates that are fair, just, reasonable and sufficient for both the Company and its customers.⁶⁶

The Commission also expressed that it was "keenly aware of the impact the proposed 34.4 percent increase would have on domestic water customers." The Commission identified rate shock as a primary concern when considering requested rate increases. To address potential rate shock, the Commission implements rate changes gradually to avoid rate shock.⁶⁷ The Commission stated: "Concern about rate shock to the domestic water customers of Summit View is warranted in this case. An immediate 34.4 percent increase to the rates of these ratepayers is inconsistent with the Commission's long-standing consideration of gradualism in rates."⁶⁸ The Commission should apply the same consideration of gradualism in the current Summit View case. It should also address rate shock for both domestic and irrigation customers.

While the Commission did not address irrigation customers in Summit View's last general rate case, irrigation customers are most dramatically affected by the current rate increase proposed. For the average customer with 0.86 acres, a 62 percent increase in the irrigation revenue requirement would increase rates from about \$692 to about \$1,122 per year.⁶⁹ Public Counsel notes that for a customer with similar acreage receiving irrigation service from Badger Mountain Irrigation District, where Mr. Clark is an elected board member and from which Summit View sources some of its water,⁷⁰ annual irrigation rates are only \$487.⁷¹

Summit View's irrigation customers are billed in two installments, in March and June. Thus, the average irrigation customer facing the rate increase described above would see a \$215 increase

⁶⁶ *Wash. Utils. & Transp. Comm'n v. Summit View Water Works*, Docket UW-180801, Order 01, ¶ 9 (Oct. 22, 2018).

⁶⁷ *Id.* ¶ 10.

⁶⁸ *Id.* ¶ 11.

⁶⁹ *See*, Kermod, Exh. DPK-04 (S5.3). (Where the average of Column I is 0.85556 acres. In S5.0 in the same exhibit, current base rates are listed as \$343.00 and rates per acre are \$408.24. $343 + (408.24 * 0.85556) = 692.27$. $692.27 * 1.6213 = 1122.38$).

⁷⁰ Attachment 3, Informal Data Request Nos. 1-1 and 1-7 (Summit View Response to Public Counsel's First Informal Data Requests).

⁷¹ *See*, Badger Mountain Irrigation, *Irrigation Rates*, <https://badgermountainirrigation.com/irrigation/irrigation-rates/#> (Where base rates are \$290 per connection and rates per acre are \$230. $290 + 230 * 0.85556 = 487$).

per bill in the coming year.⁷² An increase of this magnitude should be ameliorated by phased rates. Domestic customers, who all also receive irrigation service,⁷³ should similarly be spared the rate shock resulting from a 22 percent domestic revenue requirement increase.

Public Counsel recommends that the Commission use the methodology that Summit View originally proposed in this case, applied to both customer classes. Thirty-five percent of Summit View's total requested revenue increase should not be collected in the first year of new tariffs. The full revenue requirement increase approved by the Commission should take effect in the second year of Summit View's new tariffs.

Public Counsel reiterates its recommendation that the Commission reject Summit View's filing, or alternatively set it for adjudication. Given the number of unresolved issues in this case, Public Counsel does not believe the record is sufficiently developed to begin discussing issues of rate design. However, if the Commission rules otherwise, the phased rate approach described above should be implemented to mitigate the worst effects of Summit View's proposed rates on its customers.

Return on Equity Policy Docket

Public Counsel notes that the Commission has previously expressed interest in opening a policy docket to revisit the UTC's formula approach to water rate cases. Public Counsel has brought attention to, with acknowledgment from the Commission, the precedent that the return on equity for water companies was set at 12.0 percent in a rate case 20 years ago. This case presents yet another example for why the UTC should take concurrent market conditions specific to each water company into account in calculating fair, just, reasonable, and sufficient rates.

Public Counsel made similar comments in the LakeLand Village Water Company rate case (Docket UW-210744),⁷⁴ Washington Water Service Company rate cases (Dockets UW-210560⁷⁵ and UW-230236⁷⁶), Suncadia Water Company rate case (Docket UW-220052),⁷⁷ Gold Beach

⁷² $(1122 - 692) \div 2 = 215$.

⁷³ Attachment 3, Informal Data Request No. 1-15 (Summit View Response to Public Counsel's First Informal Data Requests).

⁷⁴ Comments of Public Counsel Unit, at 3-4, *LakeLand Village Water Co. General Rate Case*, Docket UW-210744, (filed Dec. 20, 2021).

⁷⁵ Comments of Public Counsel Unit, at 2-3, *Washington Water Service Co. General Rate Case*, Docket UW-210560 (filed Feb. 7, 2022).

⁷⁶ Comments of Public Counsel Unit, at 2-3, *Washington Water Service Co. General Rate Case*, Docket UW-230236 (filed Jul. 24, 2023).

⁷⁷ Comments of Public Counsel Unit, at 2-3, *Suncadia Water Co. General Rate Case*, Docket UW-220052 (filed April 22, 2022).

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Water Company, Inc. rate case (Docket UW-220206),⁷⁸ Olympic Water and Sewer, Inc. rate case (Docket UW-230132),⁷⁹ and Cascadia Water rate case (Docket UW-240151).⁸⁰

It is critical that the Commission examine evidence of market conditions to develop a fair, just, and reasonable ROE for all water utilities serving Washington customers. Public Counsel does not recommend a specific methodology at this time, but requests that the Commission open a policy docket, interested party collaborative, or rulemaking to evaluate current policy and develop means to set ROEs that actually reflect evidence and market conditions while acknowledging the dynamics of large and small water companies.

Public Counsel appreciates the opportunity to submit these comments. If you have any questions about this filing, please contact Tad Robinson O'Neill via email at Tad.ONeill@ATG.WA.GOV or Stefan de Villiers via email at Stefan.deVilliers@ATG.WA.GOV.

Sincerely,



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⁷⁸ Comments of Public Counsel Unit, at 3, *Gold Beach Co. General Rate Case*, Docket UW-220206 (filed Jun. 24, 2022).

⁷⁹ Comments of Public Counsel Unit, at 4–6, *Olympic Water and Sewer Inc. General Rate Case*, Docket UW-230132 (filed Dec. 1, 2023).

⁸⁰ Comments of Public Counsel Unit, at 7–8, *Cascadia Water LLC General Rate Case*, Docket UW-240151 (filed Jun. 21, 2024).