

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

WASHINGTON WATER SUPPLY, INC.,

Respondent.

DOCKETS UW-240079 and
UW-230598 (*consolidated*)

COMMISSION STAFF’S PETITION
FOR ADMINISTRATIVE REVIEW

In the Matter of the Request of

WASHINGTON WATER SUPPLY, INC.,

to Approve Tariff Revisions Regarding
a Temporary Surcharge for Recovery of
Purchased Water Expenses

I. INTRODUCTION AND RELIEF REQUESTED

I On April 1, 2024, the Utilities and Transportation Commission entered Order 02/03 in these consolidated dockets denying Washington Water Supply, Inc.’s Motion to Sever and imposing penalties upon the company. Commission Staff petitions for administrative review of Order 02/03 pursuant to WAC 480-07-810. Staff asks the Commission to modify the provisions of Order 02/03 that imposes a \$1,000 penalty on the company pursuant to RCW 80.04.380, so that the Commission can follow the statutory complaint process.

II. STATEMENT OF FACTS

2 Order 02/03 denies Washington Water Supply’s motion to sever Dockets
UW-240079 and UW-230598.¹ Order 02/03 also finds that the company violated Order 01
of Docket UW-230598 for failing to file certain financial documents and failing to file a
general rate case.² The Order imposes a penalty of \$1,000 on the company for one violation
of Order 01 for failure to file a general rate case.³

III. STATEMENT OF ISSUES

3 Should the Commission grant review and modify its order to comply with the
statutory complaint process?

IV. ARGUMENT

4 RCW 80.04.380 allows the Commission to penalize public service companies up to
\$1,000 per violation of statute, rule, order, direction, demand, or requirement of the
Commission. Unlike penalties imposed under RCW 80.04.405, the penalties contemplated
under RCW 80.04.380 are not due and payable when the company receives a written notice
from the Commission imposing the penalty.⁴ Rather, penalties assessed under RCW
80.04.380 are subject to the complaint process set forth under RCW 80.04.110. The
Commission’s complaint process includes notice to the company in the form of a complaint
and a hearing on the merits of the complaint.⁵

¹ *Wash. Utils. & Transp. Comm’n v. Wash. Water Supply, Inc.*, Dockets UW-230598 and UW-240079 (consolidated), Order 02/03, Denying Motion to Sever; Imposing Penalty, ¶¶ 11, 22 (April 1, 2024).

² Order 02/03, ¶¶ 16-19, 23-25.

³ Order 02/03, ¶ 19, fn. 2.

⁴ RCW 80.04.405 allows the Commission to impose penalties up to \$100 per violation of statute, rule, regulation, or decision of the Commission. Those penalties are due and payable upon receipt, and companies may request mitigation and/or a hearing.

⁵ RCW 80.04.110(3).

5 Under RCW 80.04.110(2), all grievances must be “plainly set forth in the complaint.” The Commission must provide notice of the time and place where a hearing will be held on the complaint. In this case, Order 02/03 imposes a \$1,000 penalty on Washington Water Supply without following the statutory process for imposing the penalty. That process is intended to allow the named company to respond to the allegations within the complaint. Here, the company did not have notice that a penalty was being considered and did not have an opportunity to respond.

6 The Commission undoubtedly has authority to hold companies accountable for violating statute, rule, orders, direction, demand, or requirement. However, agencies are required to provide adequate process. The Commission should modify Order 02/03 and issue a complaint before penalizing Washington Water Supply under RCW 80.04.380.⁶

V. CONCLUSION

7 Commission Staff requests that the Commission grant review and modify Order 02/03 to comply with the statutory complaint process.

//

//

//

⁶ Indeed, the Commission previously instructed Staff to commence a complaint against Washington Water Supply. *In re Washington Water Supply, Inc.*, Docket UW-230598, Order 01 Allowing Rates to go into Effect, Subject to Conditions, Granting Exemption from Rule, ¶ 22 (Aug. 10, 2023). Staff is diligently working on that complaint and anticipates that it will be completed soon.

DATED this 10th day of April, 2024.

Respectfully submitted,

ROBERT W. FERGUSON
Attorney General

/s/ Lisa W. Gafken, WSBA No. 31549
Assistant Attorney General
(206) 714-3551
lisa.gafken@atg.wa.gov

/s/ Cassandra Jones, WSBA No. 42216
Assistant Attorney General
(360) 890-0480
cassandra.jones@atg.wa.gov

Office of the Attorney General
Utilities and Transportation Division
P.O. Box 40128
Olympia, WA 98504-0128

*Attorneys for Utilities and
Transportation Commission*