

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION

Complainant,

v.

CASCADIA WATER, LLC

Respondent.

DOCKET UW-240151

ORDER 04

GRANTING MOTION TO  
COMPEL

**BACKGROUND**

- 1 On February 29, 2024, Cascadia Water, LLC (Cascadia Water or Company) filed with the Washington Utilities and Transportation Commission (Commission) tariff revisions that would generate approximately \$1,788,793 (75 percent) additional annual revenue.
- 2 On August 21, 2024, the Commission convened a virtual prehearing conference before Administrative Law Judge M. Hayley Callahan.
- 3 On September 11, 2024, the Commission entered Order 02, Prehearing Conference Order and Notice of Hybrid Evidentiary Hearing (Order 02), noticing an evidentiary hearing on February 4, 2025. Order 02 further granted Washington Consumer Advocates of Washington's (WCAW) petition to intervene, conditioned on WCAW not expanding the issues beyond those identified in the Company's initial filing dated April 19, 2024, and the complaint dated June 28, 2024, and made the Commission's discovery rules available to the parties, setting a discovery end-date of January 17, 2025.
- 4 On November 1, 2024, WCAW filed a Motion to Compel (Motion). WCAW did not include a certificate or other indication that it had attempted to meet and confer with the Company prior to filing its Motion.<sup>1</sup> In its Motion, WCAW argues that Cascadia Water

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<sup>1</sup> WAC 480-07-425(1). The Commission's requirement to meet and confer prior to filing a motion to compel is not a mere formality, as it provides an important opportunity for the responding party to conduct further investigation and discuss the scope and purpose of the request prior to invoking further formal process. In the future, the Commission expects that all parties, including intervening parties, will abide by this requirement. However, for the purpose of this

failed to properly respond to WCAW DR 69.<sup>2</sup> WCAW DR 69 and Cascadia's response dated September 25, 2024, state:

**Request No.:** UW-240151 WCAW DR 69

Public Counsel's prior PC IR 6 requests:

"For each of the Company's major water systems (Seaview/Lehman, Estates/Monterra, Pedersen, NWWS, 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. For example, during its 2021 GRC, the Company estimated approximately \$5 million would be necessary to bring its Estates system into 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. This does not account for water main line replacement (to combat water loss and conservation), nor does this include any projections for potential PFAS filtration or future changes to DOH/EPA maximum contaminate levels related to water quality".

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

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motion, the Commission determines that it is in the public interest to modify the application of its rule to resolve this dispute, as it is substantially likely to reoccur in the absence of Commission guidance. WAC 480-07-110.

<sup>2</sup> WCAW's Motion to Compel (Motion) at 1.

case.<sup>3</sup>

- 5 On November 11, 2024, Cascadia Water filed a response to the Motion (Response), arguing that WCAW’s Motion was inappropriate because it sought materials that were outside the scope of the current proceeding and maintaining its objection to WCAW DR 69 as overbroad, unduly burdensome, and irrelevant.<sup>4</sup>

### Discussion

- 6 Pursuant to WAC 480-07-400(3), “[d]iscovery must seek information that is relevant to the issues in the adjudicative proceeding or that may lead to the production of information that is relevant.” WAC 480-07-400(1)(c)(iii) further states “[a] party’s written request that calls for another party to produce data in connection with an adjudicative proceeding is a data request. Generally, data requests seek one or more of the following: Existing documents; an analysis, compilation, or summary of existing documents into a requested format; a narrative response describing a party’s policy, practice, or positions; or the admission of a fact asserted by the requesting party.”
- 7 It its Response, Cascadia Water argues that WCAW’s DR 69 is overbroad, unduly burdensome, and irrelevant to the issues in this proceeding because it seeks information related to future capital investments that are not included in the Company’s case.<sup>5</sup> However, review of Cascadia Water’s filed testimony suggests that the subject of WCAW’s DR 69, estimates of future capital compliance costs for the Company’s major water systems, is sufficiently relevant to matters raised in this proceeding to warrant further response.
- 8 In his testimony, Company witness Lehman describes the status of the water system master plans for seven communities of systems, Seaview/LEI, Estates/Monterra, Pedersen, NWWS, Aquarius, Discovery Bay, and Pelican Point.<sup>6</sup> According to witness Lehman, “[a] water system master plan is a planning document used to look at future capital expenditures based on priority of system upgrades and components.”<sup>7</sup>

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<sup>3</sup> Although WCAW did not attach a complete copy of its Data Request 69, the Commission notes that a copy was filed as an exhibit to WCAW Witness Gilles’ testimony as Gilles, Exh. BCG-07. The Commission takes official notice of this material pursuant to WAC 480-07-495(2).

<sup>4</sup> Cascadia Water’s Response to Motion to Compel (Response) at 1-2.

<sup>5</sup> Response at 4.

<sup>6</sup> Lehman, Exh. CJL-1T at 32:2-9.

<sup>7</sup> Lehman, Exh. CJL-1T at 32:2-9.

- 9 The seven major water systems described in witness Lehman’s testimony appear to track the same water systems that are included in WCAW DR 69. Furthermore, to the extent that a water system master plan in part concerns “future capital expenditures based on priority of system upgrades and components,” it follows that such plans are at a minimum related to the amount of “outstanding investment required to bring each system into compliance and full working order” that is the subject of WCAW DR 69. Given that Cascadia Water has offered affirmative testimony regarding these water system master plans, the Commission is not persuaded that WCAW DR 69 is irrelevant to the issues raised in this proceeding. Furthermore, WCAW DR 69 appears relevant to WCAW’s broader argument regarding Cascadia Water’s spending generally.<sup>8</sup>
- 10 For similar reasons, the Commission does not find that WCAW DR 69 is overbroad. As stated above, WCAW DR 69 concerns the same seven major water systems or communities that are discussed in the Company’s testimony regarding its water system master plans. Although the Company argues that WCAW DR 69 is overbroad because it goes beyond the fourteen capital projects discussed by witness Lehman, the same witness also refers to the ongoing status of planning for seven major water systems that are the subject of WCAW DR 69.<sup>9</sup> The Commission also notes that the Company filed its testimony after providing its response to WCAW DR 69, so it is unclear how WCAW could have specifically inquired about the Company’s testimony through that data request. Therefore, WCAW DR 69 is not overbroad relative to the subjects raised in the Company’s testimony.
- 11 Finally, the Commission does not agree that WCAW DR 69 is unduly burdensome. Although the Company states in its Response that WCAW DR 69 is unduly burdensome because “it is akin to asking a utility to provide a capital expenditure projection for its next rate case before it is has even filed that case,” this argument appears more related to the Company’s argument regarding relevancy rather than overall burden. As mentioned above, a data request generally requests “existing” data or an analysis summarizing existing data. Insofar as Cascadia Water has reviewed its water system master plans as part of its testimony, and such plans are “used to look at future capital expenditures,” it is not clear from the Company’s Response how deriving an estimate of the cost of future water system investment for compliance purposes is unduly burdensome.

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<sup>8</sup> See, e.g., Gilles, Exh. BCG-1T at 8:14 – 11:8.

<sup>9</sup> Response at 4.

12 Finally, the Commission notes that the Company's response to PC IR 6, which is functionally identical to WCAW DR 69, did not contain any of the objections that the Company is presently asserting. In response to Public Counsel, Cascadia Water was able to provide a general, collective estimate of the costs associated with outstanding investment required to bring its systems into compliance as a whole. Although the Company states in its Response that its data request response to Public Counsel was provided to settle the case before a Complaint was filed, this does not explain why the Company did not object to Public Counsel's request but raised numerous objections to essentially the same request from WCAW.<sup>10</sup> The Company's prior response and lack of objection to a nearly identical request suggests that the Company's present objections are somewhat overstated. Consequently, Cascadia Water's objections to WCAW DR 69 are overruled.

13 In doing so, the Commission wishes to emphasize three additional points. First, despite WCAW's urgings, the Commission will not make any prudence determination in the context of a discovery dispute. This issue is properly reserved for after a full evidentiary hearing on the merits and additional argument in subsequent briefing, should a party elect to do so. Nothing in this ruling should be interpreted as any form of a prudence determination regarding Cascadia Water's present or future filings. Second, all parties will have an opportunity to object to the introduction of evidence both before and during the evidentiary hearing. Third, the Commission respectfully requests that all parties work cooperatively to resolve discovery disputes before bringing them before the Commission for resolution, as required by WAC 480-07-425(1). In the event that additional Commission review is required, the Commission further requests that the party seeking review include each data request that is the subject of the motion as an exhibit to the motion and specifically identify the basis for relief with respect to each individual request.

### ORDER

THE COMMISSION ORDERS THAT:

14 (1) WCAW's Motion to Compel is granted and Cascadia Water shall respond to WCAW DR 69 within 10 days of this order.

DATED at Lacey, Washington, and effective January 6, 2025.

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<sup>10</sup> Response at 4-5.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Harry Fukano  
HARRY FUKANO  
Administrative Law Judge