

May 17, 2021

**COMMENTS OF WATER CONSUMER ADVOCATES-DUNGENESS
ESTATES IN OPPOSITION TO CASCADIA RATE INCREASE IN
DOCKET NO. UW 200979**

I. Introduction

Some combinations just do not work- like mixing Kool-Aid with prune juice. The resulting combination can cause real harm. That will happen if the Washington Utilities and Transportation Commission (“WUTC” or “Commission”) allows Cascadia Water, LLC (“Cascadia”) to consolidate its rates and tariffs for its twelve water systems on Whidbey Island and two water systems in Clallam County in this rate proceeding, including the Estates Water System.¹ The Estates Water System ratepayers will experience rate increases of between 58%² and 265% per cent, while Whidbey Island ratepayers will experience much lower rate increases.³ By any measure, the Estates Water System rate-payers will experience unacceptable “rate shock”.⁴ This case illustrates the unanticipated negative consequences of allowing a company to acquire water systems that are geographically diverse (Whidbey Island and Clallam County) with very different expense levels. The acquiring company, Cascadia, now unfairly seeks to consolidate so it can recover the greater expenses of the Whidbey Island systems from Clallam customers who did not cause those expenses and who will not benefit from them. This consolidation just does not work, as we explain here. Cascadia’s proposed rate increases for its Clallam customers cannot be allowed.

II. WHO WE ARE

The Water Consumer Advocates-Dungeness Estates (“Advocates”) is a group of homeowners who live in the Estates Community who currently receive water service from the Cascadia Estates Water System. The Advocates were formed in

¹ The two Clallam County water systems purchased recently by Cascadia include the Estates Water Systems and the Monterra Water Systems. Customers of the Monterra Water System do not receive metered service whereas the Estates Water System customers do. These comments are filed only on behalf of the Estates Water System customers.

² Those experiencing the lowest rate increase are part-time residents of the Estates Community with little water usage when they are not there.

³ Estate Water System customers’ rates increase 2.5 times in Tier Two and four times in Tier 3 than proposed increase for Whidbey Island customers. Estates’ rates are also increased due to Cascadia’s proposed decrease of the first usage block by 50 %, from 0-1,000 cu. Ft. to 0-500 cu. ft.

⁴ “Rate shock” in the usual connotation is a concern over sharply increasing bills. .” *WUTC v. Puget Sound Energy, Inc.*, 2007 Wash. UTC LEXIS 3 ft. 99.

early 2021 to oppose the consolidation and rate increase requests of Cascadia in Docket No. UW 200979.⁵ This system has 374 active metered residential connections, one commercial connection, 96 ready- to- serve connections with 480 approved connections overall. In addition to residential customers the system also serves the 5 Acre School and the Dungeness Recreation Area, which is managed jointly by the Clallam County Park system and the US Fish and Wildlife Service.

The residential customers living in the Estates community are primarily senior citizens, retired, living on a fixed income. According to *Data US* for Sequim 50.1% of the population is older than 55 with a median income of \$37,901. Exhibit 2 is information from the US Census that compares Sequim with Whidbey Island, which has a younger, richer demographic.

The economic real-life consequences of the proposed rate increases are severe for residents of the Estates Community. Several attachments prove this point. First, Exhibit 3 is a statement from a resident who may have to move from her beloved home in the Estates Community because her fixed income budget simply cannot absorb the proposed rate increase. She is a widow who has lived in the Estates Community for a long time with a current average annual water bill of \$366 that will skyrocket to \$899 if the Cascadia proposal is granted. Exhibit 4 graphically illustrates the rate shock that will occur under Cascadia's proposed rates. Exhibit 4's graphs (divided by bill size) contain actual data from 50 of the 374 residential customers comparing current rates with proposed rates. The lowest bill will jump from \$260 to \$409 in the final phase, and the highest bill will jump from \$1,057 to \$3,855. This information provides a compelling representative example of the harm that will befall these consumers under the Cascadia rate proposal.

III. WHAT WE REQUEST

- The Commission should deny Cascadia's requests to consolidate the rates for the Whidbey Island and Clallam water systems that it has purchased since 2018.
- The Commission should require Cascadia to develop separate rates for the Whidbey Island Systems' customers and the Clallam County customers, based upon the relative costs caused by each system.

⁵ Of the 374 current residential customers in the Estates community 271 support the Advocates' opposition efforts. These are listed in Exhibit 1.

- Any rate increase for Clallam County Cascadia customers should be limited to the same level as the rate increase authorized for the former owner of the Estates System in 2018.
- Any rate increases should be spread over three years.
- The Commission should require Cascadia to justify its proposed expenditures of \$1.7 million for alleged improvements to the Estates' Water System to the Commission and the Estates Water System customers as necessary, *before this money is spent*. This level of expense is not necessary and would likely cause further rate increases that make the ones at issue in this docket pale in comparison.

IV. BACKGROUND

Eric and Kim Thomas owned and operated the Estates Water System for approximately 20 years before selling it to Cascadia in 2019. The Thomas' owned and operated the system competently as a private system, serving the needs of the residential development in which the Thomas' lived. They ran the Estates Water System with only one contract employee, providing routine maintenance that produced a water system that performed well for their community, in good condition. The Thomas' only requested one rate increase for their water system from the Commission, in 2018 for increased expenses. They originally asked for an increase of \$55,000 but this was reduced by Commission staff to \$26,000 that was recovered by doubling the ready- to- serve rate from \$60 to \$120⁶ and increasing the residential usage rate by 27% or \$3.49 per user per month.

Everything changed in 2019 when Eric Thomas decided to retire. As a result of this decision, the Thomas' sold the Estates Water System to Cascadia Water, LLC, which is a wholly-owned subsidiary of NW Natural Water of Washington, LLC, which is a wholly-owned subsidiary of NW Natural Water Company, LLC, which is a wholly-owned subsidiary of the ultimate parent, Northwest Natural Holding Company. According to its most recent consolidated financials available through the NW Holdings website (nwnaturalholdings.com) this publicly-traded parent corporation has \$3.7 billion in assets with available cash of \$17.9 million.

⁶ The ready-to-serve rate is paid to reserve water service for lots that have not yet been developed because the Estates Water System is a "closed" system with a maximum of allotted connections. The ready-to serve rate was doubled in the 2018 rate cause and Cascadia proposes to double it again in this case.

In its *Application for the Sale and Transfer of Assets from Estates Water System* filed in Docket No. 190117 in 2019 Cascadia represented to the Commission that “Estates customers will not be harmed by, and in fact will benefit from, new ownership.” (¶¶ 4, 13) Cascadia said that the acquisition was part of the “growth strategy” of the parent corporation, which “will be able to provide ... investment over time, therefore benefitting Estates’ customers.” (¶ 15) Cascadia promised that the “estates acquisition will not in any way affect the financial, technical or managerial abilities of Cascadia to continue to provide high-quality, reliable services to its water customers.” (¶ 11) Nothing in this application foreshadowed that Cascadia intended for Estate customers to pay for the investment Cascadia would make in the Whidbey Island water system. The Commission approved the sale of the Estates System in April of 2019, incorporating the current Estate rates in the Cascadia tariffs. 2019 Wash. UTC LEXIS 89 (2019). The Commission found that the sale would do “no harm” to Estates, customers because Cascadia “will be able to bring economies of scale to the Company.” *Id.* at *1. **Unfortunately, that has not proven to be true.**

The acquisition of the Estates Water System followed Cascadia’s acquisitions of twelve water systems on Whidbey Island in 2018 from the Lehman family. In the Lehman acquisition proceedings before the Commission, Cascadia made the same representations as with the Estates’ acquisition-- that it had the financial resources to provide funds for repair and upgrades, assuring the Commission that parent funds could be used for these purposes.

The Whidbey Island systems are very different than the Estates system in scope, size, operation, and conditions and much more expensive to operate. According to the Washington Department of Health (“DOH”) the Whidbey Island system has 27 wells, compared to 5 in the Clallam County systems. Clearly, it costs more to maintain and operate 27 wells than 5 wells making the Whidbey systems more costly than the Estates system, with modest expense, as demonstrated by the fact that the prior owner *made one very small request* for a rate increase over a 20 year period. Severe pollution and water quality issues plague the Whidbey Island systems, according to DOH, making⁷ them much more costly to operate. In addition to added expense, according to Exhibit 5 Cascadia has made much more

⁷ Documents from the Washington Department of Health and the federal Environmental Agency show that portions of Whidby Island near Lehman wells were declared a Superfund clean-up site in 1997; that some Lehman wells contained excessive arsenic levels and at least one Lehman system needed a new well due to nitrate contamination. Exhibit 6 contains more information obtained by the Advocates about the water quality issues facing the Whidbey Island systems.

investment in the Whidbey Island systems. Now, by filing this rate case Cascadia wants to recover these costs and this investment by spreading them over all the customers in the relatively new Cascadia “system,” under the theory that a “single tariff” works best. It does not, and the Commission should not support it when it produces an extreme level of rate shock.

V. THE SINGLE TARRIFF RATE POLICY DOES NOT WORK IN THIS CASE.

A. Cascadia’s proposed increases cause major rate shock.

Contrary to Cascadia’s claim, and even the Commission staff, uniform systemwide rates requested in a rate case are not always in the public interest when they produce significant rate shock as they would for Estates’ customers. Exhibit 4 palpably shows rate shock, with rate increases from 58 % (low) to 265 % (high). These increases all exceed the level of rates rejected by the Commission in other cases because of rate shock concerns. *See WUTC v. Puget Sound Pilots*, 2020 Wash. UTC LEXIS *160 (rejection of Staff’s proposal that would have impacted smaller vessels with an increase as high as 243%); *WUTC v. Pedersen Family, LLC*, 2021 Wash. UTC LEXIS 67 *2 (rejection of one-time requested increase of 97.9%); *WUTC v. Summit View Water Works*, 2018 UTC LEXIS 236 *4 (rejection of one-time increase of 34.4 % due to rate shock concerns.)

This Commission has recognized that special circumstances exist when a larger water company acquires a smaller water company with customers with lower rates. When that happens, the acquiring company should continue to charge the lower rates of the predecessor company and they need not be made uniform company wide. In *WUTC v. American Water Resources, Inc.*, 1999 Wash. UTC LEXIS 63 at **52,53, a 50% proposed increase was deemed “significant” triggering the need for further Commission inquiry to avoid rate shock. The Commission said, “The policy simply affords the Commission an opportunity to quickly consider appropriate rates for the *acquired customers* while guarding against *rate shock* and considering *consumer needs* generally.” (emphasis supplied) The Commission wanted to protect “[t] public interest by creating a necessary safeguard to protect consumers from rate shock that otherwise sometimes occurs under our longstanding practice that favors systemwide rates.” *WUTC v. American Water Resources, Inc.*, 1999 Wash. UTC LEXIS 63 at **52,53 .

In this case, Estates' customers have just assimilated the 2018 increase. They should not have to absorb HUGE increases less than three years later, when the only thing that has changed is ownership of the Estates Water System. This would produce RATE SHOCK. The Cascadia Rate proposal shows no additional expenses attributable to the Estates Water System. What makes Cascadia's request even more egregious is that fact the Estates Water System customers have received NO BENEFIT and suffered significant CONSUMER HARM from the approved Cascadia acquisition, contrary to the representations made by Cascadia just two short years ago in the acquisition proceeding.

B. The Estates' customers should not have to pay for Whidbey Island costs.

Representatives from the Estates have requested repeatedly from the Company and Staff a break-down of the costs/expenses differentiated between the Estates System and the Whidbey Island systems. These breakdowns have never been provided. According to the inputs provided by Cascadia to the Staff model, Cascadia recorded consolidated expenses of \$776,830 for 2020. Cascadia filed this rate case to recover \$418,000 but Commission staff reduced this amount to \$325,530⁸.

Exhibit 5 is an analysis done by the Advocates in an attempt to differentiate Estates' expenses from the Whidbey expenses. It shows salary and wages of \$249,217 but no staff person is assigned to the Estates and no Cascadia representative is physically located on the Peninsula so the Estates share of salary and wages should be minimal. The best approximation of the expense differences between the two systems comes from the Cascadia inputs to the Staff model listing assets and describing net depreciation/amortization. Exhibit 5 shows that 96 % of the assets listed for depreciation are on Whidbey.

Estates' customers derive no benefits from the Whidbey Island assets and expenditures. Nor have they experienced any "economies of scale" savings from joining the Cascadia system, as Cascadia promised when buying the Estates' system. On the contrary, the Estates' customers now face exorbitant rate increases!

Out of fundamental fairness, the Whidbey Island costs should be recovered from Whidbey Island customers because they have received the benefit of the Cascadia's expenditures. In past cases, the Commission has not required utility

⁸ Estates also asked Staff for records or information to explain the difference, as calculated by Staff, but has been denied this information.

customers *who do not benefit* from upgrades to a system to pay for them. In *Iliad Water Treatment Company*, 2019 Wash. UTC LEXIS 98, the Commission approved a “service improvement charge” to pay for a new Parkwood water treatment plant to be paid by users of the Parkwood water system. In *Thunder Ridge Water Co.* 2020 Wash. UTC LEXIS 383, the Commission required the 147 customers to pay a cost recovery surcharge to recover \$214,800 for a propane-powered generator and emergency pump equipment. Such special surcharges are allowed by WAC 480-110-455, to allow recovery of funds spent by a company for needed upgrades or equipment when the Company has insufficient capital or access to financing—which clearly is not the case with Cascadia, as represented through its acquisition proceedings of the last three years. Yet, Cascadia removed a possible surcharge assessment from its new tariffs on file for this case even though it existed in its prior tariffs. It has provided no explanation for why a surcharge could not be used to recover Whidbey Island costs. Cascadia clearly has not considered bearing these costs as part of its “growth acquisition” strategy or charging only the cost causers (Whidbey customers) in rates or surcharges because Cascadia thinks this Commission will approve its requests based on past “single tariff” policies.

In meetings between the Company, Commission Staff and Public Counsel, Cascadia tried to justify its disparate treatment, claiming that while Whidbey Island had benefitted in this case from improvements Estates would benefit next time from \$1.7 million in planned Cascadia improvements for the Estates to be covered by consolidated rates.⁹ This argument fails. It does not address the issues of rate shock and fairness raised by the Estates. Indeed, this proposed expenditure has seriously alarmed Estates’ ratepayers because the inevitable implication is yet another future rate case with even higher rates to recover this amount, as discussed in Section V.D.

C. Having different tariffs and accounting for the Estates and Whidbey systems is not difficult and is warranted here.

Cascadia’s touts the benefits of a “single tariff” for administrative ease. However, no Commission rule requires such a tariff. Commission Staff member John Cupp told the Advocates’ Vicki Colburn that “Single tariff pricing is not a requirement, but it is the UTCs typical approach from a rate setting policy perspective.”

⁹ Representatives from Estates met with the Company, Commission Staff and Public Counsel telephonically on April 13, 23 and 27, 2021 to discuss the rate case.

This case should not follow the “typical approach” because the harm to ratepayers will be too great, and an alternate solution must be found to fix the problem that was really created when Cascadia was allowed to acquire the Estates Water System in 2019. The Commission seems open to alternative thinking and solutions. In its 2021-2023 Report, it said “As technology changes the way consumers interact with regulated companies, it’s important that the Commission adapts rules for efficiency, security and to reduce the regulatory burden, *all while ensuring consumer protection remains in place.*”

Thus, the Commission need not be wedded to traditional policies, like the “single-tariff” rule when its application would counteract consumer protection in this case.

At the current time, the Estates Customers tariffed rates are different than those of Whidbey Island customers. These differences can and should be maintained. It is not that hard to separate rates and costs between these two extremely different sets of systems. Indeed, during the April 27, 2021 call between the Company, Commission Staff and Public Counsel the Staff provided a breakdown of revenues between the Whidbey and Callam systems. See Exhibit 7. That breakdown, more than anything, shows *no economies of scale* to benefit the Estates’ customers, because they would be expected to contribute \$7.09 more in revenue if the systems were consolidated.

In addition, for reasons of fairness, transparency, and accountability the expenses between the geographically distinct systems should be recorded separately. The Estates Customers of *one* system should not be expected to bear the expense burden of twelve systems until such time as they derive a *clear benefit* from being consolidated with Cascadia.

To date, Estates Water System customers have received *no benefit* from Cascadia’s acquisition---only harm from poor customer service and a proposed gigantic rate increase!

Cascadia makes feeble “benefit” claims like increased staffing levels, but no Cascadia staff member is assigned to the Estates and Estates customers have never seen a Cascadia representative. Everything is done “remotely” from Freeland on Whidbey Island, including the new billing system which does not “benefit” Estates’ customers—it is a normal cost of doing business. The new automatic bill feature, in fact, costs customers because a \$3.00 fee is imposed for every payment made via a credit card transaction. Cascadia purchased a “new truck”, but it never goes to the Estates Community and

has never been seen there. Every purported expense really benefits Whidbey Island customers.

Cascadia's haphazard approach to customer service is illustrated by its handling of a recent April 2021 water leak. A customer called the Freeland office to report a leak, which was not addressed for several days. Cascadia dispatched no one from Freeland but hired the same contractor who had provided service under the Thomas' ownership to fix the problem. In doing so, a major water break occurred on Buckhorn Road in the Dungeness Estates. This caused a major water service cutoff for which Cascadia provided insufficient notice to impacted customers. Nothing on its website addressed the water problems at the Estates Community. More important, an Estates Community member called DOH which then contacted Cascadia about the water break. Cascadia was to have reported the break *immediately* to DOH because a water shut-down sometimes, as in this case, requires a "boil water" order from DOH. Between six to seven hours elapsed before the "boil water" order was issued, and Estates' residents' health was put in jeopardy by Cascadia's failure to act. .

D. Cascadia's plans for the Estates Community require Commission and Community oversight.

While trying to understand Cascadia's rate request, the Advocates asked for a copy of the Cascadia Water System Plan ("WSP") that is required to be filed with DOH by each water company every six years. The Advocates originally requested this from the Commission and were told the Commission did not have it (even though the Commission did have it). The Advocate obtained it from DOH, which had rejected it as incomplete and returned it to Cascadia for clarifications, additions, and corrections. The 1000+ page Cascadia WSP *had no plans for the Estates Water System* although Cascadia officials now claim that improvements to the Estates Water System will be an "addendum" to the WSP when it is resubmitted to DOH for approval.

During this proceeding, as shown on Exhibit 7, the Advocates learned that Cascadia "plans" \$1.7 million in improvements *only* for the Estates Water System. According to DOH these improvements are neither necessary nor warranted. On its face, this huge amount seems unreasonable and irrational for the *five* wells in the Clallam systems, when these same systems operated

just fine with minimal expense and rate increases in the decades before Cascadia acquired them. If made, these improvements inevitably pose the threat of a future rate case and more exorbitant rates for Estates' customers than those in this case. Perhaps the parent corporation will absorb them? Doubtful.

Therefore, the Advocates ask this Commission to conduct a prudence review of Cascadia's proposed expenditure *before they are made* and to require Cascadia to consult with the Estates' ratepayers. "Regulated utilities bear the burden of proving that their decisions are prudent, just as they must demonstrate in rate cases that their proposed rates are just and reasonable." *In the Matter of the Investigation of Avista Corporation et. al*, 2020 Wash. UTC LEXIS *12. Consumers will be better protected if the utility has not already incurred expenses than putting them in a position to have to bring challenges in a rate proceeding. In this unique case Commission oversight is warranted.

V I. CONCLUSION

"Clean drinking water and sanitation are essential to the realization of all human rights." (United Nations Resolution 64/292). The customers of the Estates Water System have no option for obtaining water but from Cascadia. They are captive. In just two years these customers have gone from a locally owned and operated provider who provided water efficiently at fair prices to a corporate owner, driven by profit maximation achieved through acquisition ("growth") and consolidation, with poor customer service. The rates Cascadia requests completely fail the statutory standard in RCW 80.28.020 of "just, reasonable and compensatory rates" for the Estates customers, given their background and needs. Only this Commission can protect these consumers by recognizing the unique circumstances of the Estates Water System and the incredible real-life harm that will happen to these customers if the Cascadia rate proposal is approved. The Commission should act accordingly and grant the requests of the Estates' customers.

Respectfully submitted this 17th day of May 2021.

Water Consumer Advocates-Dungeness Estates' Steering Committee

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