

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

**WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,**

Complainant,

v.

CASCADIA WATER, LLC,

Respondent.

Docket UW-240151

**COMMENTS OF
GOSS LAKERIDGE ACRES
ASSOCIATION IN OPPOSITION
TO RESPONDENT’S TARIFF
INCREASE**

TO: JEFF KILLIP, Executive Director and Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, Olympia, WA, 98504-7250; and

1. Goss Lakeridge Acres Association (“GLAA”) is a homeowners association on Whidbey Island that owns and operates a water system on behalf of its residents. The system, in operation since 1968, currently provides water to fifteen homes and has the capacity to serve a total of 22 homes. In 2012, GLAA constructed an intertie with a 2-inch meter connecting its system to CAL Waterworks, which is owned by Respondent Cascadia Water, LLC (“Cascadia”). Cascadia bills GLAA for water at rates applicable to 2-inch meters.

2. GLAA requests that the Commission deny Cascadia’s requested rate increase for the reasons discussed below.

I. Cascadia has not satisfied its burden of proving that its investment decisions were prudent or that the proposed rates are just and reasonable.

3. “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. *See also* RCW 80.28.020; WAC 480-80-105(3). “Prudent” means “[c]areful or wise in handling practical

matters; exercising good judgment or common sense.” *The American Heritage Dictionary of the English Language*, 5th Ed. A public utility’s duty to act prudently is not limited to its consideration of technical aspects of water system operations but includes accounting for the effects of its decisions on the public to ensure that rates are just and reasonable, recognizing that a utility’s has an “interest in expanding [its] equity ... and reaping the benefit of greater equity returns,” but “this interest is inconsistent with the ratepayer interest in a capital structure that reflects economy.” *Wash. Utils. & Transp. Comm’n v. PacifiCorp*, Docket UE 100749, Order 06 (Mar. 25, 2011), ¶ 40.

4. Cascadia seeks to more than double existing water rates for Whidbey Island customers but presents no evidence proving that its investment decisions have been prudent. Cascadia’s February 29, 2024, letter to the Commission describes some of its investments but offers only conclusory and vague statements that the investments will improve system resiliency or reliability. For example, Cascadia asserts that it installed “new submersible pumps, booster pumps, pressure tanks, and control boxes throughout several well sites, helping to ensure reliable water delivery to our customers.” Cascadia does not provide evidence about the extent to which the old equipment was unreliable or the size of the marginal increase in reliability provided by the new equipment. Similarly, Cascadia does not quantify the alleged benefits of replacing perfectly serviceable water meters. A large expense for a small increase in reliability will certainly increase the rate base (and Cascadia’s profits) but additional evidence is necessary to prove that Cascadia’s investments were necessary and will result in just and reasonable rate increases for consumers.

5. Cascadia provides similarly vague conclusory statements regarding other investments or no explanation whatsoever. For example, Cascadia purchased two new pickup trucks in the last

year, one of them apparently purchased on February 29, 2024, the day that Cascadia applied to the Commission for the proposed rate increase, suggesting that the timing of the purchase was driven by Cascadia's desire to file a tariff increase rather than the need for a new truck.

Everyone would like a new truck, especially if someone else was paying for it together with a requested 12% return on equity, but Cascadia does not explain the reason its purchases were prudent and reflect the ratepayers' interest in economy.

6. In addition, Cascadia does not even argue that the proposed rate increase is just and reasonable for its customers let alone submit any evidence to support such an argument. This suggests that Cascadia imprudently failed to consider the financial consequences of its decisions to its customers even though Cascadia proposes to more than double the rates for Whidbey Island customers just fifteen months after the current rates went into effect on December 1, 2022. The previous general rate case resulted in a rate increase of approximately 37%, which was phased in to reduce rate shock. Cascadia now proposes to increase rates for 5/8" meters by 107% and increase rates for 2" meters by 133%. Cascadia provides no evidence that the huge, proposed rate increase, following on the heels of a large rate increase, results in just and reasonable rates for its customers.

7. Cascadia refuses to provide to ratepayers documents and other information that it relies upon in this rate case, even after the ratepayers offered to sign confidentiality agreements. Fundamental principles of due process prohibit Cascadia from relying on undisclosed evidence to support its application for a rate increase.

8. In the absence of evidence proving that its decisions were prudent and that the proposed rates are fair and just, Cascadia has failed to meet its burden of proof. As a result, the record does not contain substantial evidence on which the Commission must base a decision to allow a

rate increase. RCW 34.05.570(3)(e), & (i). Cascadia's request for a rate increase must be denied.

II. Cascadia's proposed rates for 2-inch meters are neither just nor reasonable.

9. Even if Cascadia had presented sufficient evidence to support its proposed rate increase, Cascadia does not provide any justification for the difference in the rates proposed for two classes of service: 5/8" meters and 2" meters.

10. The principle of cost causation is fundamentally important when attributing costs to different customer classes. The cost allocation process is normally conducted by way of a detailed analysis that assigns costs to each customer class based on class attributes. However, Cascadia creates classes based solely on meter size without explaining the reason for billing each class differently.

11. Under Cascadia's proposal, GLAA homeowners would pay more for water purchased on their behalf by GLAA than if each homeowner purchased water directly from Cascadia even though GLAA relieves Cascadia of many of the costs of delivering water to individual homes. GLAA is a wholesale customer of Cascadia. Cascadia bills GLAA based on the quantity of water that passes through a 2" meter and GLAA passes the cost of water on to its homeowners at the same price charged by Cascadia. However, GLAA, *not* Cascadia:

- Installed, maintains, and repairs the intertie between the two systems, GLAA water distribution mains, and booster pumps;

- Pays for water loss due to system leaks;

- Contracts with a satellite management agency to provide services of a certified operator as required by the Washington Department of Health;

- Conducts water quality sampling and other activities to comply with Department of Health regulations and reporting requirements;

- Bills individual homeowners and collects accounts receivable; and

Provides customer support.

12. Fifteen homes are currently connected to GLAA's water system. The amount of water used by GLAA homeowners each month varies. The following table reflects the total monthly cost of water (less base rate charges) for fifteen homes under the two rate classes proposed by Cascadia, assuming that 15,000 cubic feet is purchased from Cascadia.

Meter Size	1 st Block Cost	2 nd Block Cost	3 rd Block Cost	Total charge	Charge per residence for 15 meters
5/8" x 15 meters	\$414 for 7500 cu.ft.	\$654 for 7,500 cu.ft.	0	\$1,068.00	\$71.20
2" x 1 meter	\$220.80 for 4,000 cu.ft.	\$348.80 for 4,000 cu.ft	\$772.80 for 7,000 cu.ft.	\$1,342.40	\$89.49

13. As shown in the table, Cascadia's proposal would cost each GLAA homeowner 26% more than other residential users who receive water directly from Cascadia. The proposal is neither just nor reasonable because the cost to Cascadia of delivering water to GLAA homeowners is less, not more, than for other Cascadia customers. Moreover, GLAA homeowners already pay the system operation and maintenance costs that are borne by GLAA rather than by Cascadia. Although the proposed base rate for a 2" meter is less than that for fifteen 5/8" meters, Cascadia's proposal offers no reduction in ready-to-serve charges for lots in GLAA. Overall, the proposed rates that would be charged to GLAA would result in unreasonable and unjust rates.

14. Disproportionately charging GLAA for water used while more than doubling rates would detrimentally and unfairly affect GLAA homeowners. Eleven of the fifteen homes connected to the system are owned by retirees on fixed incomes. Two homeowners work part time. Homeowners, due to serious illness or job loss, periodically experience difficulty paying their

bills and, until the difficulty passes, their neighbors shoulder the cost of providing water. The proposed rate increases will make life more difficult for those already experiencing financial hardship and will reduce the ability of their neighbors to come to their aid.

15. The proposed rate structure would also facilitate Cascadia's ability to acquire small water systems at distressed prices. GLAA homeowners cannot both pay Cascadia's proposed rates and the costs of operating their own water system. In 2012, GLAA constructed the intertie and the pump house needed to connect to Cascadia's system. Work was financed with a loan from Washington's Drinking Water State Revolving Fund ("DWSRF"). The cost of that work and other improvements has totaled more than \$260,000 over the past 12 years. The improvements include some 5,000 feet of pipe that has a useful life of 50 years. The net value of the GLAA system after depreciation is nearly \$200,000. The current balance of the GLAA loan from the DWSRF is \$53,000. The interest rate is 1.0%.

16. Starting in 2023, GLAA and Cascadia have been engaged in negotiations for Cascadia's acquisition of the GLAA system. Cascadia proposes that it pay nothing to take title to the GLAA system and water rights. Cascadia ascribes no value to the GLAA system and declines to assume or otherwise pay off the balance of GLAA's DWSRF loan after acquisition, arguing that the WUTC would not approve including any amount paid by Cascadia in the rate base for Cascadia's water system on Whidbey Island. Cascadia's argument is incorrect, but it still offers to pay nothing for GLAA's water system and water rights.

17. The practical effect of Cascadia's actions is clear. Cascadia drives up its rates dramatically by gold plating its investments. The new rates make it even more difficult for

GLAA to continue to run its own system, forcing GLAA to convey its system to Cascadia.¹ This result alone renders the proposed rate increase unreasonable and unjust. If the Commission does grant a rate increase to Cascadia, it should be on the condition that Cascadia acquire the GLAA system and pay the balance of the DWSRF loan. Washington Department of Health reports that all other DWSRF loans have been repaid by the new owner of transferred water systems. In addition, Cascadia's assumption of the GLAA loan would be consistent with the terms of its acquisition of other water systems. See NW Natural's 10-K for 2023 (pdf pages 231-234).

III. Cascadia has not satisfied its burden of proving that a 12% rate of return meets the standards established

18. The new rates requested by Cascadia would, if approved by the Commission, increase Cascadia's return on equity to 12.0%. However, Cascadia has provided no evidence that a 12.0% return on equity satisfies the requirements established by the United States and Washington supreme courts.

19. A utility is entitled to rates that will permit it to earn a return on its investment in property it uses to serve the public. *People's Org. for Wash. Energy Resources v. Wash. Utils. & Transp. Comm'n*, 104 Wash.2d 798, 813, 711 P.2d 319 (1985) (*POWER*) (citing *Bluefield Water Works & Imp. Co. v. Public Serv. Comm'n*, 262 U.S. 679, 692 (1923)).

20. In setting rates, the Commission is required to apply fundamental ratemaking standards established by the Supreme Court in *Bluefield* and *FPC v. Hope Nat. Gas Co.*, 320 U.S. 591 (1944). See *POWER*, 104 Wash.2d at 811. Those standards require the Commission to balance

¹ This extortionate effect was compounded when Cascadia's sister corporation, NW Natural Water Services DBA King Water Company, recently announced that will increase the base fee for serving as the certified operator for GLAA and similar water systems. The fee will increase from \$250/month to \$1,100/month. The work performed for that fee is the monthly collection of a water sample which is sent to a laboratory for analysis. Other work is billed at hourly rates. GLAA is required by law to contract with a certified operator. WAC 246-292. NW Natural has a virtual monopoly over such services on Whidbey Island.

the interests of consumers with those of the industry. *Hope*, 320 U.S. at 610. The Commission is charged with preventing exploitation of consumers, while ensuring that utilities can earn a return that is: (1) “commensurate with returns on investments in other enterprises having corresponding risks;” and (2) “sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital.” *Id.* at 603; *POWER*, 104 Wash.2d at 811. The utility has the burden of proving that it has met the standards for increasing its rates. *Attorney Gen. Office v. Wash. Utils. & Transp. Comm’n*, 4 Wash.App.2d 657, 682, 423 P.3d 861, 682 (2018); *PacifiCorp v. Washington Utilities and Transp. Comm’n*, 194 Wash.App. 571, 587, 376 P.3d 389, 386 (2016).

21. Cascadia fails to submit substantial evidence establishing that its proposed 12% rate of return is commensurate with that of other enterprises having corresponding risks. Even a cursory look at returns on equity suggests that 12% is not necessary to attract capital. The median return on equity for electric, gas and sanitary services for the past several years has ranged from 7.5% to 8.6%. <https://www.readyratios.com/sec/industry/49/>? Cascadia’s parent corporation, NW Natural Holdings, experienced a return on equity of 6.64% in 2023.

<https://finance.yahoo.com/quote/NWN/financials> NW Natural’s revenue is subject to much more risk than that of Cascadia, and NW Natural appears to have no trouble attracting capital.

Cascadia provides no explanation of why the Commission should approve a return on equity nearly twice that of NW Natural’s. Furthermore, a Callam County water company chose not to seek an increase in its 10.09% return on equity in the most recent rate case decided by the Commission.

<https://apiproxy.utc.wa.gov/cases/GetDocument?docID=4&year=2024&docketNumber=240290>

22. In addition, Cascadia does not even attempt to balance its interests in maximizing its return on equity against the interest of its customers. Cascadia's customers are much more exposed to the risks of the economy and vagaries of life than Cascadia, and do not have the financial resources to subsidize a return for Cascadia that is several times the annual increase in Social Security payments. The customers' interests lie in minimizing their monthly bills for water rather than needlessly subsidizing Cascadia's return on equity.

IV. Any significant rate increase should be phased in.

23. The principle of gradualism requires that utilities implement new rates over time so that consumers can adapt to the changing prices. The purpose of the principle is to avoid rate shock to customers. The principle is one means of implementing the statutory requirement that rate increases be fair, just, and reasonable. *Wash. Utils. & Transp. Comm'n v. Summit View Water Works*, Docket UW-180801, Order 01: Allowing Revised Rates to Become Effective Subject to Conditions, ¶ 9 (Oct. 22, 2018).

24. In *Summit View*, the Commission held: "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." *Id.*, ¶ 11. Accordingly, the Commission ordered that the 34.5% increase be phased in over the course of three years. *Id.*, ¶ 12.

25. The Commission reached a similar result in Cascadia's previous rate case, ordering that a 37% increase in rates be phased in over three years. *Wash. Util. & Trans. Comm'n v. Cascadia Water, LLC*, Docket UW-200979, Order 01, (June 28, 2021).

26. A proportionate amount of time to phase in the 133% increase proposed in this case would be some twelve years. Such a large increase would be unreasonable and unjust for the

reasons discussed above. But any rate increase should be phased in over a period that is similar to the ratio between the size of the rate increases and the length of the phase-in periods in Docket UW-180801 and Docket UW-200979 (i.e., roughly 12% increase per year).

V. Public policy considerations weigh against a large rate increase.

27. Serious public policy issues are raised when a utility, in quick succession, sweeps up many small community water systems, immediately obtains a 37% rate increase, and shortly thereafter seeks a greater than 100% rate increase. The need for future rate increases over a period of a few years would have been known to any prudent utility that performed its due diligence review before deciding to acquire the water systems. But that information is not disclosed to the public or to the Commission at the time that the Commission is asked to determine whether the acquisition is in the public interest. If that information had been disclosed, the customers served by Cascadia or by the water system being acquired might have objected and insisted that certain requirements be imposed as a condition of the Commission's approval.

28. Moreover, Cascadia prepared draft water system plans as early as 2020, but that information was not disclosed in Cascadia's previous rate case. Nor has Cascadia submitted in this case the final water system plan that was completed in 2022. Such plans are required to cover a twenty-year planning period. WAC 246-290-100.

29. The failure to disclose information relevant to the public interest and to future rate increases means that only the public is surprised when a large increase is requested shortly after acquisition of a system. The acquiring utility has time to plan, while the public must react on short notice with insufficient information to determine whether the requested rate increase is fair, just, reasonable, and sufficient.

30. The imbalance in information is aggravated because the purchase and sale documents and other documents relevant to this rate case are withheld from the public. Those documents include information that is relevant to whether an acquisition is in the public interest and whether a rate increase should be granted. But the utility files only “redacted” copies of such documents, redacting not only sensitive information but every word in those documents. The utility absurdly claims that every word is protected confidential business information. Individual consumers do not have the financial resources or, given the speed of WUTC proceedings, the time to litigate against the utility to obtain relevant documents. The Commission should limit the ability of Cascadia to claim confidentiality without first producing a privilege log and making a showing that the information meets the criteria for confidentiality. Absent such a showing, the Commission should require Cascadia to disclose documents and other information regarding each water system that is the subject of this rate case. If such information is not disclosed, the Commission should deny the requested rate increase.

VI. Conclusion and Request for Relief

31. For the foregoing reasons, GLAA requests that the Commission deny the requested rate increase until such time as Cascadia presents evidence sufficient to satisfy its burden of proving that its investment decisions were prudent and that the requested rates are fair, just and reasonable for each class of customer. If any rate increase is granted, GLAA requests that it be phased in over a period of time sufficient to eliminate rate shock to customers. Also, any rate increase should be subject to the condition that Cascadia acquire the GLAA system and pay the balance of the DWSRF loan.

DATED June 14, 2024

Respectfully submitted,

A handwritten signature in blue ink that reads "Kent E. Hanson". The signature is fluid and cursive, with a long horizontal line extending to the right.

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