

BEFORE THE WASHINGTON STATE UTILITIES
AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

MURREY'S DISPOSAL COMPANY, INC.
d/b/a OLYMPIC DISPOSAL,

Respondent.

Docket No. TG-230778

RESPONDENT'S OPPOSITION TO
STAFF'S MOTION FOR LEAVE TO FILE
REVISED TESTIMONY

I. INTRODUCTION

1 Murrey's Disposal Company dba Olympic Disposal ("Olympic") strongly opposes Staff's Motion which arrived at the end of calendar day six of its present 31-day rebuttal interval as set by the Pre-Hearing Conference Order in this matter. The proposed revision is in no way "technical," as described in the Declaration of Joe Wonderlick attached to this Response and incorporated herein. It is a major, substantive addition, recommending yet another \$100,000 reduction in the overall revenue requirement proposed to be allowed which is more than six percent of that overall request. That is hardly a de minimis or modest change.

II. ARGUMENT IN OPPOSITION FOR LEAVE TO FILE REVISED TESTIMONY

2 May 29 marked approximately 70 days or almost ten weeks since the Company had filed its opening testimony on March 19. Staff's two and a half-page abbreviated motion offers absolutely no excuse or elaboration of why its additional reduction in recommended revenue requirement was not included in its original filing days before. That is likely because there is no excuse. Staff, instead, offers minimization of why the timing of this request is not concerning and projects only minor impacts on scheduling the case, presuming a lack of prejudice for the

other parties to “evaluate the relatively short additions to its testimony that Staff requests to submit.” Motion ¶2.¹

3 But it is not the relative brevity of time to review Staff’s testimony that is the issue here, nor even the absence of any excuses for the revised filing, but instead, the scope of Staff’s presumption that an almost six-figure change in the proposed revenue requirement would have on the additional potential witness selection, topics and additional preparatory work and expense necessary to address the late-filed move to revamp the results of operation that the Staff now proposes. Indeed, in addition to having the original case filing in its possession since September 15 and having already propounded numerous informal and formal data requests (32 of the latter to date), Staff has never formally challenged the legal fees it now identifies for reduction nor exchanged any workpapers that alluded to contest of these expenses. Instead, it filed its response testimony on Wednesday afternoon, May 29 and then late Tuesday afternoon the following week performed an about-face, attempting to move the goal posts in a fluid additional evaluation of Olympic’s case which it has had in original form for more than nine months.

4 In apparent support of this Motion, Staff cites to Order 04, *In re WUTC v. Cascade Natural Gas Corp. UG-210755* (Dec. 2021). That citation, to an administration law judge order, does not in any way support the Staff’s motion to change testimonial evidence here. In *Cascade*, the utility sought to make a statistical correction to its testimony on director and officer expenses which had flow-through impacts and which directly affected the revenue requirement and proposed rates. Additionally and significantly, **no party opposed those revisions**. That self-acknowledged minor calculation error is certainly not the current Motion’s circumstance. Here,

¹ Motion for Leave to File Revised Testimony of Benjamin Sharbono, ¶ 2.

the party without the burden of proof now seeks to “burden” the company’s proposed revenue requirement and the overall proceeding calendar with a \$100,000 takeback and is not claiming any calculation error or mistake in seeking to do so.²

5 Staff attempts to bolster its narrative lacking any good cause articulation by recasting WAC 480-07-460’s applicability as simply an assessment of time pressures. The Motion and testimonial revision contravene that premise. They prejudice Olympic by masking the moving target created by a wholesale change in an advocated revenue requirement’s new line of item of expense while facilely suggesting that an almost 20% reduction in the rebuttal interval to respond to a wholly new adjustment topic is tantamount to a slight “temporal adjustment.”³

III. CONCLUSION

6 Staff’s belated rethinking of its Response case is not a basis for allowing it to reconstruct its position here. The change it seeks to authorize in its advocacy position is material and symbolic

² While Staff unapologetically posits the central procedural question here as solely a matter of time accommodation, in offering no other rationale for granting its Motion, it fails to note any case law endorsing that narrow position. Arguing in effect that the Company has more than enough time to respond obfuscates the real issue here: should Staff be allowed to recalibrate its entire case untethered to any mathematical error assertion or other inadvertent mistake and unilaterally pare close to 7% off of the overall requested revenue requirement six days into the Rebuttal interval? Finally, in broadly asserting in closing that the “new Testimony on major disallowances” it intends to present benefits the public interest by not “requir[ing the ratepayers] to pay additional rates for expenses which should not be attributable to them...” *Motion* at 2, begs the entire issue here. Apart from the jarring reference to new “major disallowances” plural, Staff justifies its actions here on an *ipse dixit* premise. Under its logic, whenever Staff identifies a new item of disallowance it must be allowed to inject its revised position into the case up until the moment even it decides *laches* might just attach. This hardly promotes a policy of fairness, consistency or accepted process in general rate case proceedings and granting Staff’s Motion here would seem to initiate a slippery slope, destabilizing regulated ratemaking.

³ Notably as well, the threshold in solid waste collection general rate case rules, WAC 480-07-505 (1) (a), requires a solid waste collection company to file a complete general rate case if a proposed tariff change would alter gross annual revenues by three percent or more. Here, the staff’s proposed “alteration” of the revenue requirement is \$99,973 with an actual revenue impact of \$109,567 off the current overall increase sought in the Company’s Testimony of \$1,646,135, more than double the rule’s 3% ceiling. If a tariff revision of more than 3% requires a general rate filing, then an approximate 6.7% reduction should similarly be viewed as a material change in position from staff’s previously filed response case requiring extraordinary justification by Staff, not a simplistic “proximity in time” rationale.

of the unilateral and often unprecedented adjustment positions it seeks to defend in this case. Simply piling on new such cumulative adjustments and excusing them by their alleged timeliness is not a recognizable criterion for granting this misguided Motion and the Company urges that Staff's Motion for Leave to File Revised Testimony therefore be summarily denied by the Commission.

RESPECTFULLY SUBMITTED, this 11th day of June, 2024.

s/David W. Wiley

s/Christopher Luhrs

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