

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

Complainant,

v.

CASCADIA WATER, LLC

Respondent.

DOCKET UW-240151

ORDER 05

DENYING OBJECTION;
GRANTING MOTIONS TO FILE
REVISED TESTIMONY

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, which established a procedural schedule in Appendix B.
- 4 On December 20, 2024, counsel for Cascadia Water contacted the presiding officer to inform the Commission that the Company and Commission Staff (Settling Parties) had reached a settlement in principle and intended to file a settlement agreement and testimony in support of the settlement agreement by January 10, 2025.
- 5 On January 7, 2025, the Commission issued a Notice Suspending and Revising Procedural Schedule, establishing a revised procedural schedule. The revised procedural schedule set a January 10, 2025, filing deadline for the settlement agreement and testimony and exhibits in support of the settlement.
- 6 On January 9, 2025, Counsel for Commission Staff (Staff) contacted the presiding officer in this matter, requesting an extension of the January 10, 2025 testimony and exhibit

filing deadline. After hearing from all parties, the presiding officer extended the deadline to January 13, 2025.¹

7 On January 13, 2025, the Settling Parties filed testimony and exhibits in support of the proposed settlement.

8 On January 15, 2025, Intervenor, Water Consumer Advocates of Washington (WCAW), filed an Objection to the Joint Testimony of Matthew J. Rowell and Cully J. Lehman (Objection). The Objection states that the joint testimony filed by the Company does not identify which witness is testifying to each statement in the testimony and it is unlikely that both witnesses had sufficient foundation necessary to testify to each statement.² The Objection requests that the Commission require the Company to refile each witness's testimony, separately.³

9 On January 22, 2025, Staff filed a Motion to Revise Testimony and Exhibits and Notice of Amended Settlement Stipulation (Motion). The Motion explains that Staff discovered a calculation error in its previously filed exhibits that affected the overall revenue requirement contained in Staff's initial testimony and that the Settling Parties had agreed to a revised settlement revenue requirement, reducing the settlement agreement revenue requirement from \$1.67 million to \$1.51 million.⁴ Staff requests leave to file revised testimony and exhibits to reflect correction of the previous revenue requirement calculation error and updated settlement revenue requirement.⁵

10 Additionally, on January 22, 2025, Cascadia Water filed a response to WCAW's Objection (Response). The Company argues that the Commission should reject the Objection because Cascadia Water intends to present both Matthew Rowell and Cully Lehman as a panel at the hybrid evidentiary hearing, that it filed joint testimony in the interest of efficiency, and that there is precedent for filing joint testimony containing testimony from several different witnesses.⁶ The Company further contends that WCAW will not be prejudiced by the joint testimony as WCAW will be able to question both

¹ The deadline to file the settlement agreement itself was not modified, and the Settling Parties timely filed the settlement agreement on January 10, 2025.

² WCAW's Objection to Joint Testimony (Objection) at 1 ¶¶ 1-2.

³ Objection at 1 ¶¶ 1-2.

⁴ Staff's Motion for Leave to File Revised Testimony and Exhibits; Notice of Amended Settlement Stipulation (Motion) at 1 ¶¶ 1-2.

⁵ Motion at 2 ¶ 3.

⁶ Cascadia Water's Response to Objection (Response) at 1-3 ¶¶ 2-3.

witnesses at hearing and discovery is still available to WCAW with respect to subjects discussed in the joint testimony.⁷

- 11 Also on January 22, 2025, Public Counsel filed testimony and exhibits responding to the Settling Parties' January 13, 2025 filing and, in response to Staff's filing of revised testimony and exhibits, stated that it intended to file revisions to its own testimony to incorporate Staff's revision. On January 24, 2025, Public Counsel filed revised testimony and exhibits for one of its witnesses, which incorporated the revised settlement agreement revenue requirement.⁸

Discussion

- 12 Pursuant to WAC 480-07-395(4) "[t]he commission will liberally construe pleadings and motions with a view to effect justice among the parties. The commission will consider pleadings and motions based primarily on the relief they request and will not rely solely on the name of the document. The commission, at every stage of any proceeding, will disregard errors or defects in pleadings, motions, or other documents that do not affect the substantial rights of the parties."
- 13 WAC 480-07-460(1)(a)(i) further states "[p]arties must seek leave from the presiding officer by written motion if they wish to file revised prefiled testimony or exhibits that include substantive changes. A party proposing such changes should submit the proposed revisions with its motion."
- 14 The Commission denies WCAW's Objection regarding the testimony filed by Cascadia Water.
- 15 WCAW's Objection does not identify any standard or other authority as the basis for its motion. Nonetheless, the Commission construes the Objection as an evidentiary motion under WAC 480-07-375(1)(d). WCAW's Objection does not identify any specific sections of Cascadia Water's joint testimony that cannot be supported by both Witness Lehman and Witness Rowell and fails to identify any prejudice to WCAW as a result of the joint testimony. As noted by the Company, both witnesses will be presented jointly at the evidentiary hearing and WCAW was given the opportunity to issue discovery regarding the joint testimony.⁹ Furthermore, there is recent precedent for allowing joint

⁷ Response at 2-3 ¶ 3.

⁸ De Villiers, Exh. SDV-11Tr, De Villiers, Exh. SDV-12r, De Villiers, Exh. SDV-13r.

⁹ Response at 2-3 ¶ 3.

testimony even outside the context of settlement testimony.¹⁰ Consequently, the Commission denies WCAW's objection.¹¹

- 16 The Commission grants Staff's Motion. Staff's basis for filing revised testimony, correction of a recently discovered error, is reasonable and no party objects to Staff's Motion.
- 17 The Commission construes Public Counsel's communication regarding and filing of revised testimony as a motion to file revised testimony under WAC 480-07-460 and grants the motion. As with Staff's Motion, Public Counsel has a reasonable basis to submit revised testimony based on the need to respond to Staff's correction and no party objects to Public Counsel's revision.
- 18 **THE COMMISSION ORDERS that WCAW's Objection is DENIED, Staff's Motion is GRANTED, and Public Counsel's motion to filed revised testimony is GRANTED.**

DATED at Lacey, Washington, and effective February 5, 2025.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Harry Fukano
HARRY FUKANO
Administrative Law Judge

¹⁰ See *WUTC v. Puget Sound Energy*, Dockets UE-240004 & UG240005 (consolidated), Testimony of Thuraisingham and Thompson, Exh. MT-CT-1T (filed August 7, 2024).

¹¹ Although the Commission denies WCAW's Objection, the Commission clarifies that it prefers to have witnesses file individual testimony in the interest of clarity and brevity. In the future, if a party does file joint testimony, it should clearly identify what portions of testimony each individual witness is testifying to.

**NOTICE TO PARTIES: This is an Interlocutory Order of the Commission.
Administrative review may be available through a petition for review, filed within
10 days of the service of this Order pursuant to *WAC 480-07-810*.**