

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

WASHINGTON WATER SUPPLY, INC.,

Respondent.

DOCKET UW-230598

COMPLAINT

and

NOTICE OF PREHEARING  
CONFERENCE

**(Set for July 10, 2024, at 9:30 a.m.)**

1 The Washington Utilities and Transportation Commission (Commission), on its own  
motion, and through its regulatory staff (Staff), alleges as follows:

**I. PARTIES**

2 The Commission is an agency of the state of Washington authorized by statute to regulate  
the rates, services, facilities, and practices of public service companies, including water  
companies.

3 Washington Water Supply, Inc. (Washington Water or Company) is a “public service  
company” providing water service within the state of Washington subject to the  
regulatory authority of the Commission.

**II. BACKGROUND**

4 The Echo Glen Water System (Echo Glen) well supply has been gradually decreasing  
over the last few years and the well has been in need of repair or replacement.  
Washington Water has been aware of the decline. According to Echo Glen customers, a  
meeting was held in June 2022 with the Company where they agreed at that time on a  
new well and to interim rates to rehabilitate the existing well. The Company did not file  
these agreed rates with the Commission, so they never went into effect.

5 Customers say they have experienced water outages for several years now. There have  
been numerous complaints from various Company customers to the Department of  
Health (DOH) and the Commission. The complaints cover a range of different things  
including numerous outages without notice, the length of time an outage lasts, not getting  
the problem corrected sooner, lack of communication, accusations from the Company,

and what they see as poor management of the Company. The complaints cover a time frame of 2020 through 2023.

- 6 The Company claims that reduced well capacity in combination with higher summer water usage caused several water system outages lasting up to 10 hours.
- 7 The Company has meters installed on half of the 42 customers of the Echo Glen Water System but does not read or bill for water usage. The Company's current tariff presently has both a flat rate and a metered usage rate. The Company does not charge customers the usage rate, but instead universally uses the flat rate. In an answer to Staff's data request, the Company noted it would cost about \$700 per customer to install a meter connection and would take about 4 hours per installation.
- 8 The DOH provided Staff with a copy of a letter dated August 7, 2023, sent to the Company which states that Echo Glen is currently on a Boil Water Advisory and before lifting the advisory the Company must demonstrate that the water is safe to drink by receiving bacteriological sample results indicating no coliforms are present. According to a DOH Health Advisory Summary, the Boil Water Advisory went into effect on July 7, 2023.
- 9 On November 1, 2023, DOH emailed the Company to ask for an update on the Company's efforts to lift the Boil Water Advisory. On November 2, the Company emailed DOH and Staff and advised that the Boil Water Advisory was withdrawn in October 2023 after samples were tested and came back negative. DOH replied to the Company on November 3 and advised the Company that it needed to coordinate with DOH prior to lifting the Boil Water Advisory. Additionally, DOH requested copies of all water quality sample results and notifications to consumers regarding drinking water quality.
- 10 The Company replied to DOH and Staff on November 8 and provided a copy of an email it sent to one customer advising that customer of the water quality testing and the lifting of the Boil Water Advisory. The email further asked that the customer forward the message to water system users. This email was dated September 30.
- 11 In April 2023, Washington Water hired a well driller to rehabilitate the well. Due to an accident injuring a well driller employee, the well drilling company did not complete the work under the expected timeline.
- 12 In May 2023, the Company again had well capacity issues and started to purchase water which was trucked in and put into the water system. According to a statement from Water Buffalo Inc., the Company began purchasing water on June 2, 2023.
- 13 On July 12, 2023, the Company filed with the Commission a tariff revision to include a surcharge of \$60 per month for the recovery of purchased water expenses due to well

issues and high summer usage on the Echo Glenn Water System. The total customer count for Echo Glenn is 42 connections. The Company's current rates went into effect on January 1, 2001.

- 14 The tariff revision came before the Commission at its regularly scheduled open meeting on August 10, 2023.<sup>1</sup> The Commission received comments from DOH as well as several customers of the Company.<sup>2</sup> Both DOH and the customers described a pattern of mismanagement and failure to maintain the water system in a safe, sanitary, and sufficient manner as required of water companies in Washington.<sup>3</sup> The Company did not appear at the open meeting.<sup>4</sup>
- 15 At the open meeting, Derek Pell of the DOH Office of Drinking Water stated that he contacted a potential alternate well drilling company and learned that it would take a significant period of time before that company could be available to work on the Echo Glen well.<sup>5</sup> According to Pell, there are a limited number of drillers in the area and they appeared to be "booked up."<sup>6</sup>
- 16 Pell also stated that the Boil Water Advisory must remain in effect until the Company can demonstrate that it can maintain adequate water pressure for public health and demonstrate satisfactory water quality.<sup>7</sup>
- 17 The Commission was extremely concerned by the reports of Washington Water's failure to adequately manage Echo Glen.<sup>8</sup> The Commission directed Staff to initiate a complaint against Washington Water under Revised Code of Washington (RCW) 80.04.110 addressing both water quality and safety issues and to partner with DOH to pursue receivership or forced sale of the Company should management continue to refuse to provide the level of water service it is legally required to provide.<sup>9</sup>
- 18 The Commission concluded that due to the current unsafe water supply the Company

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<sup>1</sup> *In re Request of Washington Water Supply, Inc.*, Docket UW-230598, Order 01, 1 ¶9.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> Open Meeting at 46:35, *In the Matter of the Request of Washington Water Supply, Inc.* (2023) (UW-230598), <https://wutc.app.box.com/v/OpenMeetings/file/1288044702722> (hereinafter Open Meeting).

<sup>6</sup> Open Meeting at 47:05.

<sup>7</sup> Open Meeting at 49:10.

<sup>8</sup> *In re Request of Washington Water Supply, Inc.*, Docket UW-230598, Order 01, 3 ¶10.

<sup>9</sup> *Id.* at 1 ¶10.

must continue to purchase and transport water at additional cost until the well can be repaired.<sup>10</sup>

- 19 The Commission found that the tariff revisions filed by Washington Water on July 12, 2023, and revised on August 7, 2023, should be allowed to become effective on August 15, 2023, and expire on November 15, 2023, subject to the conditions detailed in paragraph seven of the order.<sup>11</sup>
- 20 The conditions listed in paragraph seven of the order include the following: (1) the surcharge will expire on November 15, 2023, (2) the Company [must] file a general rate case with an effective date no later than February 15, 2024, and (3) per Washington Administrative Code (WAC) 480-110- 455(4), the Company [must] report to the Commission within 60 days of the end of each calendar quarter that the surcharge is in effect specified information concerning quarterly balance information, amounts received and spent, and reconciliation of the bank balance to the general ledger.<sup>12</sup>
- 21 Washington Water has not filed a general rate case, although it is currently required to file a rate case in Dockets UW-230598 and UW-240079 by June 27, 2024. The Company has not reported to the Commission the required information concerning quarterly balance information, amounts received and spent, and reconciliation of the bank balance to the general ledger as required by the Commission in Order 01.

### III. JURISDICTION

- 22 The Commission has jurisdiction over the subject matter of this complaint under chapter 34.05 RCW, RCW 80.01.040, RCW 80.01.060, RCW 80.04.110, RCW 80.04.380, RCW 80.28.010, RCW 80.28.020, RCW 80.28.030, RCW 80.28.040, RCW 80.28.060, RCW 80.28.130, and chapter 480-110 of the Washington Administrative Code (WAC).

### IV. APPLICABLE LAW

- 23 The Commission regulates public service companies pursuant to a delegation of authority from the legislature. *See* RCW 80.01.040(2); RCW 81.01.010.
- 24 The Commission may file a complaint upon its own motion setting forth any act or omission by any public service company that violates any law or any order or rule of the Commission. RCW 80.04.110.

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<sup>10</sup> *Id.* at 3 ¶11.

<sup>11</sup> *Id.* at 4 ¶18.

<sup>12</sup> *Id.* at 2 ¶7.

- 25 Every public service company, and all officers, agents and employees of any public service company, shall obey, observe and comply with every order, rule, direction or requirement made by the Commission under RCW Title 80. Any public service company which shall violate or fail to comply with any provision of this title, or which fails, omits or neglects to obey, observe or comply with any order, rule, or any direction, demand or requirement of the Commission, shall be subject to a penalty of not to exceed the sum of one thousand dollars for each and every offense. Every violation of any such order, direction or requirement of this title shall be a separate and distinct offense, and in case of a continuing violation every day's continuance thereof shall be and be deemed to be a separate and distinct offense. RCW 80.04.380.
- 26 Every gas company, electrical company, wastewater company, and water company shall furnish and supply such service, instrumentalities and facilities as shall be safe, adequate and efficient, and in all respects just and reasonable. RCW 80.28.010(2).
- 27 Every gas company, electrical company, wastewater company, and water company shall construct and maintain such facilities in connection with the manufacture and distribution of its product, or provision of its services, as will be efficient and safe to its employees and the public. RCW 80.28.010(11).
- 28 Whenever the commission finds, after such hearing, that the illuminating or heating power, purity or pressure of gas, the efficiency of electric lamp supply, the voltage of the current supplied for light, heat or power, the quality of wastewater company services, or the purity, quality, volume, and pressure of water, supplied by any gas company, electrical company, wastewater company, or water company, as the case may be, is insufficient, impure, inadequate or inefficient, it shall order such improvement in the manufacture, distribution or supply of gas, in the manufacture, transmission or supply of electricity, in the operation of the services and facilities of wastewater companies, or in the storage, distribution or supply of water, or in the methods employed by such gas company, electrical company, wastewater company, or water company, as will in its judgment be efficient, adequate, just and reasonable. RCW 80.28.030(1).
- 29 Whenever the Commission finds, after hearing had upon its own motion or upon complaint, that repairs or improvements, to, or changes in, any gas plant, electrical plant, system of sewerage, or water system ought to be made, or that any additions or extensions should reasonably be made thereto, in order to promote the security or convenience of the public or employees, or in order to secure adequate service or facilities for manufacturing, distributing or supplying gas, electricity, wastewater company services, or water, the Commission may enter an order directing that such reasonable repairs, improvements, changes, additions or extensions of such gas plant, electrical plant, system of sewerage, or water system be made. RCW 80.28.130.

30 Regulated water utilities are required to install meters that are in working order and accurately measure the flow of water. WAC 480-110-415.

**V. FIRST CAUSE OF ACTION (RCW 80.28.010(2))**

31 The Commission re-alleges paragraphs 2 through 30, above.

32 Washington Water violated RCW 80.28.010(2) by failing to furnish and supply such service, instrumentalities and facilities as shall be safe, adequate and efficient, and in all respects just and reasonable during the period that Echo Glen was subject to a Boil Water Advisory. These violations began on August 7, 2023 and continued until the Boil Water Advisory was lifted.

**VI. SECOND CAUSE OF ACTION (RCW 80.28.010(11))**

33 The Commission re-alleges paragraphs 2 through 30, above.

34 Washington Water violated RCW 80.28.010(11) by failing to construct and maintain such facilities in connection with the manufacture and distribution of its product, or provision of its services, as will be efficient and safe to its employees and the public by failing to timely repair the Echo Glen well. The Commission alleges a continuing violation beginning June 2, 2023, and continuing until the well was repaired.

**VII. THIRD CAUSE OF ACTION (WAC 480-110-415(1))**

35 The Commission re-alleges paragraphs 2 through 30, above.

36 Washington Water violated WAC 480-110-415(1) by failing to install meters to measure the volume of water delivered to 21 direct service connections for a total of 21 violations.

**VIII. FOURTH CAUSE OF ACTION (VIOLATION OF ORDER 01)**

37 The Commission re-alleges paragraphs 2 through 30, above.

38 Washington Water violated Order 01 by failing to file a general rate case with an effective date no later than February 15, 2024. The Commission alleges violations beginning January 15, 2024.

**IX. FIFTH CAUSE OF ACTION (VIOLATION OF ORDER 01)**

39 The Commission re-alleges paragraphs 2 through 30, above.

40 Washington Water violated Order 01 by failing to report to the Commission within 60 days of each calendar quarter that the surcharge was in effect: quarter beginning balance, amounts received, detailed by source, amounts spent, detailed by project or type of

expense, quarter ending balance, and reconcile the bank balance to the general ledger. The Commission alleges two continuing violations, with one violation beginning on November 30, 2023, and continuing through present and one violation beginning on March 2, 2023, and continuing through present. Each violation will continue until the Company files the appropriate reports.

#### **X. REQUEST FOR RELIEF**

- 41 Staff requests up to \$1000 for each violation of RCW 80.28.010(2) for failure to furnish and supply such service, instrumentalities and facilities as shall be safe, adequate and efficient, and in all respects just and reasonable while the Boil Water Advisory was in effect.
- 42 Staff requests up to \$1000 for each of the violation of RCW 80.28.010(11) for failure to construct and maintain such facilities in connection with the manufacture and distribution of its product, or provision of its services, as will be efficient and safe to its employees and the public for failure to timely repair the well.
- 43 Staff requests up to \$1000 for each violation of WAC 480-110-415(1) for failure install appropriate meters.
- 44 Staff requests up to \$1000 for violations of Order 01 for failure to file a general rate case with an effective date no later than February 15, 2024.
- 45 Staff requests up to \$1000 for each violation of Order 01 for failure to report to the Commission within 60 days of each calendar quarter that the surcharge was in effect: quarter beginning balance, amounts received, detailed by source, amounts spent, detailed by project or type of expense, quarter ending balance, and reconcile the bank balance to the general ledger.
- 46 Staff requests that the Commission, pursuant to its authority under RCW 80.28.130, find that repairs or improvements to, or changes in, the Echo Glen Water System ought to be made, or that any additions or extensions should reasonably be made thereto, in order to promote the security or convenience of the public or employees, or in order to secure adequate service or facilities for manufacturing, distributing, or supplying water. Staff further requests that the Commission order Washington Water to make such reasonable repairs, improvements, changes, additions or extensions of the Echo Glen Water System, including, but not limited to, installation of water meters on all direct service connections, examination of existing mains for leaks or other problems, and replacement of any faulty infrastructure.
- 47 Staff further requests that the Commission order such other or further relief as is appropriate under the circumstances.

## XI. PROBABLE CAUSE

48 Based on a review of all supporting documents, and consistent with RCW 80.01.060 and  
WAC 480-07-307, the Commission finds probable cause exists to issue this complaint.

## XII. NOTICE OF PREHEARING CONFERENCE

49 The Commission will hear this matter under the Administrative Procedure Act (APA),  
particularly Part IV of RCW 34.05 relating to adjudications. The provisions of the APA  
that relate to this proceeding include, but are not limited to RCW 34.05.413, RCW  
34.05.422, RCW 34.05.431, RCW 34.05.440, RCW 34.05.449, and RCW 34.05.452. The  
Commission will also follow its procedural rules in WAC 480-07 in this proceeding.

50 **That it will hold a virtual prehearing conference in this matter at 9:30 a.m. on July  
10, 2024. To attend by phone, dial (253) 215-8782 and enter the Meeting ID: 850  
3357 8129# and the Passcode: 448070#. To attend via Zoom, please [click here to join  
meeting](#).**

51 The purpose of the prehearing conference is to consider requests for intervention, resolve  
scheduling matters including establishing dates for distributing evidence, identify the  
issues in the proceeding, and determine other matters to assist the Commission in  
resolving the matter as listed in WAC 480-07-430.

52 **INTERVENTION:** Persons who wish to intervene should file a petition to intervene in  
writing at least three business days before the date of the prehearing conference. *See*  
WAC 480-07-355(a). The Commission will consider oral petitions to intervene during the  
conference, but strongly prefers written petitions to intervene. Party representatives must  
file a notice of appearance with the Commission no later than the business day before the  
conference. *See* WAC 480-07-345(2). Parties with more than one representative must  
identify one individual as the “lead” for purposes of official service. Any party or witness  
in need of an interpreter or other assistance should fill out the form attached to this notice  
and return it to the Commission. The Commission will set the time and place for any  
evidentiary hearings at the prehearing conference, on the record of a later conference or  
hearing session, or by later written notice.

53 **THE COMMISSION GIVES NOTICE** that any party who fails to attend or participate  
in the prehearing conference set by this Notice, or any other stage of this proceeding, may  
be held in default under RCW 34.05.440 and WAC 480-07-450.

54 The names and mailing addresses of all known parties and their known representatives  
are as follows:



Respondent: Washington Water Supply, Inc.  
P.O. Box 2985  
Silverdale, WA 98383

Representative: Kenneth W. Bagwell  
9057 Washington Avenue N.W.  
Silverdale, WA 98383  
(360) 516-6799  
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Alysa M. Grimes  
9057 Washington Avenue N.W.  
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Complainant: Washington Utilities and Transportation Commission  
P.O. Box 47250  
Olympia, WA 98504-7250  
(360) 664-1160

Representative: Lisa W. Gafken  
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P.O. Box 40128  
Olympia, WA 98504-7250  
(206) 714-3551  
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Cassandra Jones  
Office of the Attorney General  
P.O. Box 40128  
Olympia, WA 98504-7250  
(360) 890-0480  
cassandra.jones@atg.wa.gov

55 Administrative Law Judge Connor Thompson from the Commission's Administrative Law Division, will preside during this proceeding.<sup>13</sup>

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<sup>13</sup> Judge Thompson can be reached at 360-664-1346 or connor.thompson@utc.wa.gov.

56 The Commission will give parties notice of any other procedural phase of the proceeding in writing or on the record as appropriate during this proceeding.

DATED at Lacey, Washington, and effective May 30, 2024.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

*/s/ Michael Howard*  
MICHAEL HOWARD  
Director, Administrative Law Division

Inquiries may be addressed to:

Jeff Killip  
Executive Director and Secretary  
621 Woodland Square Loop S.E.  
P.O. Box 47250  
Olympia, WA 98504-7250  
(360) 664-1160

**NOTICE**

Hearing facilities are accessible to persons with disabilities. Smoking is prohibited. If limited English-speaking, hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

If you need an interpreter, or have other special needs, please fill out and return this form to:

Washington Utilities and Transportation Commission  
Attention: Jeff Killip  
P.O. Box 47250  
Olympia, WA 98504-7250

(PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket: \_\_\_\_\_

Case Name: \_\_\_\_\_

Hearing Date: \_\_\_\_\_ Hearing Location: \_\_\_\_\_

Primary Language: \_\_\_\_\_

Hearing Impaired: (Yes) \_\_\_\_\_ (No) \_\_\_\_\_

Do you need a certified sign language interpreter:

Visual \_\_\_\_\_ Tactile \_\_\_\_\_

Other type of assistance needed: \_\_\_\_\_

English-speaking person who can be contacted if there are questions:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone (\_\_\_\_\_) \_\_\_\_\_