

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTION COMMISSION

2 WASHINGTON UTILITIES AND
3 TRANSPORTION COMMISSION,

4 Complainant,

5 v.

6 CASCADIA WATER, LLC,

7 Respondent.

Docket No. UW-240151

**COMMENTS OF THE WATER
CONSUMER ADVOCATES OF
OLYMPIC PENINSULA IN
OPPOSITION TO RESPONDENT'S
TARIFF INCREASE**

8
9 TO: JEFF KILLIP, Executive Director and Secretary
10 Washington Utilities and Transportation Commission
11 PO Box 47250, Olympia, WA 98504

12 **I. INTRODUCTION**

13 1. Water service is a critical utility. The poet, W.H. Auden, succinctly noted
14 "Thousands have lived without love, not one without water." Forty-eight private water
15 companies (including Cascadia Water, LLC) that provide this necessity are regulated as
16 monopolies by this Commission, which is charged with ensuring that their rates are "just,
17 fair, reasonable and sufficient." RCW 80.28.020. The rates proposed by Cascadia Water, LLC
18 ("Cascadia") in this rate case are **not** just, fair or reasonable for the customers in Cascadia's
19 "Peninsula System". The Water Consumer Advocates of Olympic Peninsula ("Advocates")¹

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23 1. Their name has changed slightly since the Estates and Monterra customers provided comments
24 in the 2021 Cascadia rate case, Docket UW 200979, as Water Consumers Advocates-Dungeness
25 Estates. The Advocates now speak for the customers from the four water systems acquired by
26 Cascadia since 2021, as well as for customers in the Estates and Monterra systems. Exhibit 1 lists
27 the 250 customers have oppose this rate case through the Advocates' representation.
2. See letter from the Board of Clallam County Commissioners dated May 14, 2024, to the
Commission that explains that the median income for Clallam County residents is 30% less than
the state average. Exhibit 2.
3. See Exhibit 3, with figures from Cascadia's workbook that shows the costs for the Estates'
new reservoir. They total \$1,150,054. This shows that this plant is not in service as of June 19,
2024.

1 speaks for the customers of Cascadia’s water monopoly who face rate increases up to 102%,
2 primarily impacting senior citizens, living on a fixed income, and other low income residents of
3 Clallam County .²
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5 2. Cascadia’s attempts to obtain extraordinary rates in defiance of public utility
6 ratemaking principles are unfortunately not new. In 2021 the Advocates objected to Cascadia’s
7 proposed rate case in Docket UW 200979 because Cascadia’s proposed rates included
8 inappropriate cross subsidies for 12 Whidbey Island water systems in the rates for the Estates
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11 4. [See Cascadia’s Application for Transfer and Sale of Pedersen Water System, UW 220900, ¶¶
12 8-10, where it states, “Cascadia’s customers will benefit from the consolidated growth that it is
13 seeking to achieve through its *water utility acquisition strategy*.” (Emphasis supplied.)]

14 5. See footnote 4.

15 6. See Exhibit 5 which shows the Major Project Expenditure figures from Cascadia’s Workbook
16 total \$6,582,346.83.

17 7. See Exhibit 6, Letter from Lauralea Delucca, 12 June Place, Sequim, WA 98382, a customer
18 of the Estates water system.

19 8. See Exhibit 1 to Second Set of Comments of Water Consumer Advocates Dungeness Estates
20 in Opposition to Cascadia Rate Increase in Docket No. UW 200979, filed in Docket No. UW
21 200979.

22 9. 1 UTC Open Meeting June 27, 2021, at 00:32:48 [https://utc-
wa.granicus.com/player/clip/28?view_id=1&redirect=true](https://utc-wa.granicus.com/player/clip/28?view_id=1&redirect=true) (last visited June 12, 2024).

23 10. 1 UTC Open Meeting June 27, 2021, at 00:31:42 [https://utc-
wa.granicus.com/player/clip/28?view_id=1&redirect=true](https://utc-wa.granicus.com/player/clip/28?view_id=1&redirect=true) (last visited June 12, 2024) and

24 11. 1 UTC Open Meeting June 27, 2021, at 1:36:21 [https://utc-
wa.granicus.com/player/clip/28?view_id=1&redirect=true](https://utc-wa.granicus.com/player/clip/28?view_id=1&redirect=true) (last visited June 12, 2024).

25 12. See Cascadia Workbook, Estates Reservoir Project, Plant Spreadsheet lines 387,413-

26 15,433,436,445,450,454,465,467,470,473,474,475,478,1041,1071,1073.
27 13. See footnote 3.

14. See Exhibit 3.

15. See footnote 8.

16. ¹n its acquisition petition in for the Pedersen water system (Docket No. UW (UW 220900)
Cascadia said that NW Holdings, the ultimate parent of Cascadia Water, is a publicly owned
company with a market cap of approximately \$1.7 billion.

1 and Monterra water systems in Clallam County. In Docket UW 200979, the Commission
2 recognized Cascadia’s attempt at cross-subsidy as inappropriate and ordered Cascadia to
3 separate tariffs for the Estates and Monterra systems (now included in what Cascadia calls the”
4 Peninsula System”).The Commission did allow Cascadia a 53.5% rate increase for the Estates
5 and Monterra customers, which was implemented in four phases.
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7 3. Less than three years after the conclusion of Docket UW 200979, Cascadia now
8 seeks further increases of 24% to 102% for Peninsula System customers. Moreover, it is
9 unclear whether further massive increases in price are on the horizon as the Advocates have been
10 denied important information from Commission Staff and Cascadia that support the current rate
11 proposal, as well as Cascadia’s future capital planning.
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13 4. Cascadia enjoys the privilege of offering water service as a regulated monopoly. As
14 such, Cascadia owes its customers, who must pay for its infrastructure, and the Commission,
15 clear explanations of its capital plan process and how these plans serve to benefit its users. In
16 this case Cascadia has declared vital information about its capital plans, and other documents to
17 support its proposed rates, to be confidential to keep it from its customers. This claim is
18 ludicrous and unsupportable because, by definition, *as a monopoly* Cascadia faces no
19 competition. This claim also undermines Cascadia’s function as a utility whose responsibility is
20 to offer beneficial services at minimum cost. More troubling, Cascadia may not even have a
21 clear capital maintenance and improvement plan for the Peninsula Systems at all. The
22 Advocates have learned that the Water Service Plan (“WSP”) for the Estates and Monterra that
23 was supposed to be submitted by Cascadia to the Washington Department of Health (“DOH”) in
24 the years since the 2021 rate case has never been completed or submitted to DOH.
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1 5. Rather than working cooperatively with its customers to explain its capital expansion
2 and improvement plans, Cascadia provided no opportunity for customer input on the multi-
3 million dollar expenses it has included in this filing. Additionally, Cascadia has done no
4 customer impact analysis, despite the information provided by the Advocates in Docket UW
5 200979 about the customers who are served by the Estates and Monterra: primarily senior
6 citizens living on fixed incomes and other low-income Clallam County residents, who have
7 median earnings that are 30% less than the state average.

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10 This case and the rate increases contained therein, present the Commission with three central
11 issues:

- 12 • **The prudence of Cascadia’s investments must be assessed.** Sound ratemaking
13 principles require that the Commission consider whether expansion of the regulated
14 firm’s capital is used and useful and, thus, prudent. To understand whether long-lasting
15 capital investments meet this criterion, the Commission and its customers must be able to
16 see individual investments in the framework of a long term capital plan. In this regard,
17 Cascadia has provided no evidence to the Commission about such a plan. If one exists it
18 has not been communicated to its rate-paying customers. Moreover, the information
19 made available to the Advocates indicates that much of the capital expansion for which
20 these rate increases are sought has not even been deployed. For instance, the costs for the
21 new of the above ground reservoir in the Estates system are included in this rate case,
22 filed on February 29, 2024, when this new plant was not in service.³ This Commission
23 should not allow undeployed capital to be included in the rate base or Cascadia would
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1 be incented to procure assets well in advance of their deployment to earn a return on
2 them. This forces ratepayers to pay for capital assets that are not used or useful.

3 • **Customer input and impact are part of the prudence analysis.** Operating a utility is a
4 public trust. The regulated utility is provided with a monopoly and a guaranteed rate of
5 return on its reasonable investments that benefit its ratepayers. As such, the utility also
6 has a responsibility to communicate effectively with its customers, take their economic
7 circumstances into consideration, and work cooperatively with them to improve service
8 in a manner that is prudent for the specific circumstances in the locale where the utility is
9 situated. Here, the Company has simply not made its case that the investments at issue
10 were necessary, prudent and part of a cohesive plan, nor has it effectively communicated
11 any such plan to its customers.

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14 • **There is no reason to allow Cascadia a 12 % rate of return.** Sound ratemaking
15 principles require that the Commission specifically determine the allowed rate of return
16 for a specific utility based on that utility's risk profile, capital market conditions and other
17 factors. Presumably, one reason this Commission has allowed the acquisition of smaller
18 water utilities by larger entities like Cascadia is because they can take advantage of
19 lower costs of capital. Yet, Cascadia has provided no evidence that its economic cost of
20 capital is 12%, the same rate of return afforded smaller utilities with significantly higher
21 costs of capital. The distortionary effects of allowing an excessive rate of return (known
22 as the Averch-Johnson Effect) are clearly laid out in the economic literature around sound
23 ratemaking principles and should be addressed in this case and avoided.

1 8. Since Docket UW 200979, Cascadia has acquired three other water systems that it
2 has included in the “Peninsula System” in this case: Pedersen (UW 220900); Aquarius Utilities
3 (UW 220469); Discovery Bay Village. It also acquired the Pelican Point Water Company in
4 eastern Washington (UW 210564). The Estates and Monterra systems are included in the
5 Peninsula System. In all the acquisition approval dockets, Cascadia’s boilerplate applications
6 represented that its parent company had sufficient funds to make improvements to the needy
7 acquired company “over time,” suggesting that its parent would make capital investments that
8 would accrue to the benefit of, and at the expense of, shareholders—not at the expense of
9 ratepayers. These acquisitions were all approved under WAC ch. 480-143 on the consent docket,
10 with little, if any, regulatory scrutiny, under the applicable “no harm” and “public interest”
11 standards. The Cascadia acquisition boilerplate applications did not discuss the likely
12 consequences of the consolidation of its planned systems. Yet these acquisitions have led to
13 Cascadia’s immediate rate requests here that will cause significant harm to ratepayers through the
14 exorbitant rate increases sought, which cause rate shock. The customer “benefit” promised by
15 Cascadia of its “acquisition strategy” simply has not occurred.⁵

16 9. Ratepayers face an endless cycle of rate cases if Cascadia files one every two to
17 three years—like this one—to propose additional rate increases to recover the investments made
18 as part of Cascadia’s “water acquisition” strategy, because that company promises to acquire more
19 water systems in Washington in the future. In gas and electric regulatory proceedings, under RCW
20 80.28.430, consumers may have a means to be funded for participation in rate cases, but that statute
21 does not apply to water cases. Groups like the Advocates simply do not have the means to pay
22 for full participation in water rate cases involving well-funded corporations with full-time legal
23 and regulatory staff like those of Cascadia.

24 **B. The Cascadia Capital Investments Made To The Estates And Monterra Systems**
25 **Were Not Prudent.**

26 *a. Ratepayers should not pay for imprudent investments.*

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1 10. The general ratemaking principle is that ratepayers should not bear any costs for
2 which the company has failed to demonstrate prudence, up to and including the full costs of the
3 investment. In cases of imprudence or failure to meet the prudence burden, the Commission
4 typically disallows the difference between the cost of the chosen project... and the expense of the
5 least cost option. *WUTC v. Pacific Power & Light Company*, DOCKET UE-152253, Order 12,
6 2016 Wash. UTC LEXIS 343 at *85 (September 1, 2016). In that case, the Commission explained
7 the legal standard for determining prudence:

8 (7) Regulated public service companies bear the burden of proof that their
9 investment decisions are prudent. The Commission’s legal standard for assessing
10 the prudence of such decisions is “what would a reasonable board of directors and
11 company management have decided given what they knew or reasonably should
12 have known to be true at the time they made a decision.”....

13 (8) We examine three factors in evaluating whether the investment was prudent: (a)
14 Was the initiation of the project prudent? (b) Was the continued construction of the
15 project prudent? and (c) Were the construction expenses prudently incurred? The
16 second and third factors are examined using the same prudence test as the first
17 factor but applied at a different point in time and necessarily premised on a
18 reevaluation of the project.

19 *Id.* at **73-78.

20 11. In *Pacific Power & Light*, the Commission disallowed the costs of a SCR
21 immersion control system chosen by the company to meet government regulations out of three
22 options available at the time. The Commission noted that this choice may have been prudent at
23 the time it was made, but over the next two years it proved to be more costly and Pacific Power
24 failed to do a reasonable economic analysis of changing factors that showed that the SCR system
25 was not the least cost alternative, and ratepayers should not bear the consequences. The
26 Commission reasoned:

27 Simply because a decision to begin a project is initially prudent does not, *ipso facto*,
make the continuation or actual completion of the project prudent. We have
required that companies “continually evaluate a project as it progresses to
determine if the project continues to be prudent from both the need for the project
and its impact on the company’s ratepayers.

Id. (emphasis supplied).

12. Applying Commission prudency standards, most of Cascadia’s improvements were
not prudent—certainly not Cascadia’s decision to install a new above-ground Estates water

1 reservoir, which is a good example that calls into question all improvements that Cascadia has
2 made to the water systems in this case. From the 2021 rate case, Cascadia management certainly
3 gained knowledge about the demographics of its Peninsula customers, most of whom are senior
4 citizens living on fixed incomes, or other economically challenged citizens. Cascadia management
5 knew, or should have known, that these customers have limited funds for water services and that
6 rate increases of up to 102% after a rate increase of 53.5% three years earlier would cause a major
7 harmful customer impact. Informed by this knowledge, Cascadia management should have
8 determined those necessary investments that had to be made, and when they needed to be made,
9 to minimize costs that customers would have to pay in rates. Water systems' true needs, rather
10 than an investment strategy, should have driven Cascadia management capital investment
11 decisions, but they did not. Prudent Cascadia management should have considered—but did not—
12 the least cost alternatives required to meet customer needs and DOH standards, such as repairs to
13 preserve the useful life of the underground tanks. Yet, Cascadia management did not do so.

14 13. No reasonable board of directors or company management would have decided to
15 make a million dollar plus investment to the Estates' water system without a thorough investigation
16 of the condition of the plant to determine if replacement was necessary rather than discretionary,
17 or if replacement was required by DOH, with the goal of minimizing customer impact. Yet
18 Cascadia made that decision shortly after the last rate case was finished with no such investigation
19 and no DOH requirement.

20 14. Capital improvement decisions should have been made based upon WSPs that laid
21 out orderly plans to be carried out *over time*, after receiving customer input and with customer
22 knowledge. Such WSPs would have provided customers with some idea of Cascadia's capital
23 plans and some opportunity to provide input. Yet Cascadia has no WSP for the Estates and
24 Monterra systems that showed that Cascadia planned to install the above-ground tank *immediately*
25 after the 2021 rate case was finished. DOH did not require immediate replacement of the Estates'
26 water tanks at that time or even after Cascadia told DOH that it was going to do so prior to DOH's
27 Sanitary Survey Report, dated January 11, 2022 (Exhibit 4). The Cascadia management's decision

1 during 2021 to replace the Estates’ underground tanks at cost of over a million dollars was simply
2 part of its overall “water acquisition” investment strategy to over-invest in newly acquired systems,
3 gold-plating them in a way that exceeded customers’ needs but provided Cascadia with a 12% rate
4 of return on this investment. Cascadia embarked on a spending spree after the last rate case,
5 making \$6.5 million in overall capital improvements⁶ for its newly acquired and existing
6 Washington systems that it now wants returned through the excessive rates here. Nothing in this
7 case supports the prudence of Cascadia’s decisions.

8 15. Cascadia made the decisions at the heart of this case because Cascadia thought them
9 to be in Cascadia’s best financial interest—without consideration of customer impact. Cascadia—
10 not ratepayers—should pay the consequence for its decisions, which were not prudent at the time
11 they were made and over time became even less prudent.

12 ***b. The Reservoir serving the Estates did not need replacement.***

13 16. Estates customers were completely surprised by Cascadia’s decision to replace the
14 existing two underground water tanks with an above-ground reservoir, when the existing system
15 was just fine and fully operational. A DOH report filed by Cascadia, Exhibit 6, shows that the
16 smaller tank had a remaining life of 4 years and the larger tank of 8.5 to 9.5 years and that DOH
17 gave them a condition rating of “5” out of “10, which means “moderate deterioration.”

18 17. Cascadia installed a new above ground reservoir in 2023, when it did not have to
19 do so, in a way that caused maximum disruption and inconvenience to the residents who had to
20 deal with this installation.⁷ DOH never required this installation and never made an *underground*
21 *inspection* of the existing reservoirs to determine if they needed *immediate replacement*. Without
22 any investigation of the actual tank condition and with no customer input, Cascadia made the
23 decision to install the aboveground reservoir *before* DOH made its January 12, 2022, DOH
24 Sanitary Survey Report as the result of a December 8, 2021, inspection of the above-ground

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1 facilities. Exhibit 4. The Sanitary Survey Report identified only one significant deficiency that
2 was immediately fixed. The Report revealed that:

- 3 • Cascadia told DOH prior to its December 8, 2021, inspection date that it planned to
4 replace both buried reservoirs with an above-ground storage tank, something it never
5 told the Commission about during the June 27, 2021, Open Meeting, when Culley
6 Lehman vaguely alluded to “future plans” which would be done over time, possibly
7 years, that *could* include a new reservoir. Cascadia also never told its Estates customers
8 about *its 2021 decision* to actually replace the underground tanks. (PP.1, 5.)
- 9 • DOH did not require the installation of a new reservoir in this Report, noting that this
10 was entirely a decision left to Cascadia. The Report (p. 5) said, “***If*** a new tank is not
11 proposed, hire a qualified structural inspector to evaluate the reservoir.” The Report
12 did not request a corrective action plan for the existing tanks—but only for the proposed
13 tank—based on Cascadia’s representations that it planned to replace the existing tanks
14 with an above-ground tank.
- 15 • The DOH inspection did not determine the actual condition of the existing underground
16 tanks, or it would not have been required Cascadia to hire “a qualified structural
17 inspector to evaluate the reservoir.” DOH only did an aboveground inspection. DOH
18 never had the underground tank inspected, as DOH usually did before approving the
19 Corrective Action Plan submitted by Cascadia for the new above-ground tank.
- 20 • There was no imminent water leakage from the existing tanks. DOH noted that
21 Cascadia had repaired the leakage so that “the 2021 leakage should decrease. The 3-
22 year annual average is less than 10 percent, which meets the state standard.” (P. 4.)
- 23 • The Report noted no problems with tree roots in the existing tanks.
- 24 • The Report noted no cracks in the reservoir.
- 25 • The Estates underground tanks had useful lives of 60 years as of 2022, with four years
26 remaining for Tank 1 and 8.5 years remaining for Tank 2 and a condition rating of 5.

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1 18. Cascadia hired DCG, an engineering firm, to review the DOH Sanitary Survey
2 Report. On February 1, 2022, DCG wrote Cascadia “We agree that underground
3 reservoirs are a *potential* problem due to the fact that surface or ground water *could* leak
4 into the reservoir as opposed to an above ground reservoir where water inside of the
5 reservoir would leak out. *Although there is no indication that leakage is a current*
6 *concern* based upon routine coliform monitoring, the company plan on installing a new
7 above ground reservoir and discontinuing use of the existing below ground reservoir.”
8 (Exhibit 7)(Emphasis supplied) DCG did not recommend against installing the new
9 above ground reservoir because DCG was hired to submit its plans for construction of the
10 new reservoir!
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12 19. After receiving the DOH Report and the DCG letter Culley Lehman met with
13 several customers, currently part of the Advocates, on February 9, 2022. A transcript of
14 this meeting (Exhibit 8) from the Cascadia website shows that these customers were very
15 concerned about a new above ground reservoir, questioning the need for it because of the
16 adequacy of the existing below ground tanks. Even though Cascadia had made the capital
17 decision to replace them *before* the DOH inspection Mr. Lehman assured the customers
18 that Cascadia was still doing its diligence and did not know its course of action yet. He
19 said that a diver would go into the tank to determine its true physical condition. The
20 customers asked for updates. None of this happened because Cascadia had already made
21 up its mind to spend over \$1 million to install the new reservoir prior to this meeting---it
22 just never told Estates customers about it before starting the project.
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26 20. Cascadia has tried to justify its decision to install the new reservoir—made before
27 the DOH site survey—after the fact, claiming that DOH had identified serious deficiencies in its

1 Sanitary Site Survey Report, requiring the underground tanks to be replaced. The Report did no
2 such thing. DOH did approve the corrective action plan for the new reservoir but never conducted
3 the required underground tank examination, which involves physically going into the underground
4 tank for inspection, so DOH did not know whether irreparable cracks existed. Cascadia did not do
5 a physical inspection of the tanks with a diver, either. There is no evidence that the condition of
6 those tanks required immediate replacement rather than repairs.

7 21. In sum, there is no evidence that installing the above-ground reservoir was
8 immediately necessary. Clearly, this million-dollar plus capital improvement was a discretionary
9 choice by Cascadia and part of its ongoing “water acquisition” strategy—made with no
10 consideration whatsoever of the impact of that choice on its Estates customers.

11 *c. Cascadia never did a Water Service Plan for the Estates and Monterra systems.*

12 22. The starting point for any prudency analysis of a water utility’s capital investment
13 is the Water Service Plan (“WSP”) that the water utility is required to submit to DOH under WAC
14 246-290-100(1)(B). The WSP must show how the water system operator “will address present
15 and future needs in a manner consistent with other relevant plans.” WAC 246-290-100(1)(b).
16 WSPs are important documents because they list the company’s assets and describe its plans to
17 repair, maintain, or replace components. The WSP identifies those capital improvements that are
18 *required* by DOH to stay in compliance with Washington law and those that are *discretionary* for
19 the water company. The WSP and the projects contained therein must be reviewed and approved
20 by DOH. Before it can obtain approval from DOH for its WSP, the water system owner must hold
21 “an informational meeting with the water system consumers and notify consumers in a way that is
22 appropriate to the size of the water system.” WAC 246-290-100(8)(a). WSPs tell the customers
23 and regulators about anticipated costs and are useful to determine if there are any benefits of cost-
24 sharing across consolidated companies. Cascadia had a WSP for the Whidbey Island systems. In
25 Docket 200979, this WSP was useful to show that the anticipated costs for the Whidbey systems

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1 would never be less than or equal to anticipated costs for the Estates and Monterra system so that
2 use of single-tariffed rates for the consolidated systems was not justified.

3 23. The 2021 rate case included historical cost information for the water systems which
4 Cascadia consolidated for the 2021 rate case (12 on Whidbey Island and 2 on the Olympic
5 Peninsula). Cascadia did not break down the costs between the Whidbey and Estates/Monterra
6 systems. The Advocates were able to determine, with much difficulty, that the vast majority of
7 costs were for the Whidbey systems. Little was spent on the Peninsula systems. The Advocates
8 determined that the Peninsula systems customers would never benefit from consolidation in the
9 future even if Cascadia made capital improvements that would replace the *entire* existing Estates
10 and Monterra systems. Using an asset inventory provided by DOH, the Advocates determined that
11 the total cost for such improvements would be \$1.4 million.⁸

12 24. The 2021 rate case showed the injustice of cross-subsidization for disparate water systems
13 at the expense of ratepayers who will never receive any benefit. That issue is present in this rate
14 case as well because water systems, and their economic needs vary such so much, based upon the
15 plant in each system, remaining life of that plant, size of the system, geography etc. Water systems
16 are not contiguous, and it is practically questionable as whether any economy of scale exists, one
17 of the theoretical underpinnings for consolidated tariffs. Even if systems are grouped allegedly by
18 geography, as in this case, that does not change the fact that the systems within the group may
19 have such varying needs that cross subsidization across all systems within that group is not
20 justified.

21 25. At the June 27, 2021, Open Meeting in Docket 200979, the Commissioners
22 questioned Cascadia General Manager Culley Lehman about the lack of information about future
23 capital improvement plans for the Estates and Monterra systems, because none was in the record.
24 Mr. Lehman said that Cascadia was working with DOH to “finalize” a WSP that would include
25 the Estates and Montera systems.⁹ Culley spoke in vague terms of future projects that would be

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1 prioritized by need and done over time, after receiving customer input. He said that Cascadia is
2 “aware of customer impact” and tries “to listen to our customers as much as possible” and that the
3 Estates and Monterra WSP would go out to customers for feedback.¹⁰ In the past three years, this
4 has never happened.

5 26. Because of the great cost disparity between the Whidbey and Peninsula systems in
6 Docket UW 200979, the Commission ordered Cascadia to develop separate tariffs for the two
7 systems, reflecting these cost differences. Commissioner Rendahl directed Cascadia to separate
8 the costs and expenses for the two systems during the June 27, 2021, Open Meeting in Docket UW
9 200979¹¹.

10 27. Despite its representations to the Commission at the June 27, 2021, Open Meeting,
11 three years later Cascadia still has not produced a WSP for the Estates and Monterra systems. Yet
12 it included \$169,092.06 in costs¹² in this rate case for work on a WSP that has never been
13 “finalized.” *Immediately* after the last rate case, Cascadia decided in late 2021 to make major
14 capital improvements to the Estates system by installing an entirely new above-ground reservoir,
15 pump house, and supporting equipment at a cost of \$1,150, 057,¹³ which it has included in this rate
16 case even though the new reservoir was not in-service as of the date it filed this rate case. Cascadia
17 did so without advising Estates customers, obtaining any customer input, or submitting a WSP.

18 *d. The Advocates have been denied sufficient information to understand this rate*
19 *case.*

20 28. The Advocates represent water consumers who are being asked to pay for costs that
21 they were never told about before they were incurred and never had a chance to question. This is
22 like forcing a consumer with no competitive choice in cars to pay for a Mercedes Benz when a
23 KIA would provide necessary transportation services, assuming the consumer even has an
24 immediate need for a car in the first place. At the very least, that consumer should be entitled to
25 see all information that supports the price tag he must pay. So, too, in this rate case the Advocates

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1 should be entitled to information to understand the rates Cascadia expects them to pay, but they
2 have been denied access to this necessary, helpful information from Cascadia, Commission Staff,
3 and even Public Counsel. A member of the Advocates has sent emails to Culley Lehman with
4 questions about the new and old water reservoirs in the Estates system, which have never been
5 answered. Commission Staff have been unwilling to answer questions from representatives of the
6 Advocates, telling them that they should let Staff do its analysis and that they can ask for
7 information through Public Records Act requests once this rate case is closed. While Staff held
8 three informal consumer meetings, they did not answer many of the questions asked. Unlike in
9 the prior rate case, the Advocates' experience in this case with Staff has been dismissive,
10 disappointing and non-helpful.

11 29. The Advocates sent informal data requests to Cascadia on May 28, 2024, and the
12 responses have been non-informative, referring to the workbooks filed with the rate case
13 application or directing the Advocates to file a Public Records Act request for *Cascadia documents*
14 with the DOH.

15 30. Unlike the 2021 rate case, Cascadia in this case submitted a letter on April 12, 2024,
16 claiming confidentiality for certain information filed in this rate case to prevent public disclosure:

17 The specific confidential information that Cascadia Water is disclosing is: (1) the
18 confidential organization chart of NW Natural Holding Company; (2) the
19 confidential (unredacted) version of Cascadia Water's general ledger; and (3)
20 additional confidential information that may be requested in this docket. Confidential information is sensitive information due to the competitive market for water utility acquisitions and the identification of employee names and compensation data and, as such, comprises valuable commercial information.

21 The Advocates dispute this overbroad claim of confidentiality, which Cascadia did not make in
22 the 2021 rate case, or that there is a "competitive market for water utility acquisitions." Cascadia
23 provides no support for this claim but has used it to designate a lot of information filed in this case
24 as "confidential" and in its data requests responses. Cascadia has hindered access to this
25 information, conditioned upon the execution of a confidentiality agreement. Cascadia provided
26 such an agreement to representatives of the Advocates saying that it would provide access to its
27 "confidential information" if they signed it. Because the Advocates protest Cascadia's misuse of

1 the confidentiality process and designation, and because of their mistrust of Cascadia, the
2 representatives of the Advocates have refused to sign this agreement. So, their access to Cascadia
3 information has been restricted to what is in Cascadia’s workbook, which does not provide answers
4 to questions such as:

- 5 • WSP. Cascadia’s workbook records \$169,092.06 for WSPs, as noted above, but it has
6 not provided one for Estates and Monterra systems three years after it said it would—
7 not even a draft. Why not?
- 8 • Metering costs. In the 2021 rate case, Cascadia said that it included \$150,000 in costs
9 for the meters it had installed in the Monterra system (June 27, 2021 Open Meeting).
10 Yet, few actual meters were installed at that time. If costs for installation were included
11 in the 2021 rate case, why does Cascadia have an entry for \$224,438.69 in costs¹⁴ for
12 those meters in this rate case? See Exhibit 9.
- 13 • Duplication. Have other costs allegedly covered by the 2021 rate case been duplicated
14 in this case?
- 15 • Cost allocations. Have costs for capital improvements been properly allocated to the
16 systems where they were incurred? Have the capital costs been allocated properly, or
17 have operating costs been included?
- 18 • Cost of capital. How did Cascadia determine its total cost of capital?
- 19 • Value of the new reservoir. What underlies the costs for the Estates’ new above-ground
20 water system? The Advocates learned that Cascadia gave Clallam County an estimated
21 value of \$225,000 for the new Estates Reservoir when it applied for a building permit,
22 that it now claims is valued at \$1,150,057 in the rate case workbook. See Exhibit 3.
- 23 • Affiliate interest. The Advocates cannot get information as to specific vendors and
24 service providers used for the expensed improvements to determine any connections
25 between Cascadia and the many other companies under the NW Holding umbrella.

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- 1 • If DOH’s asset inventory showed that the total cost for replacing everything in the
2 Estates and Monterra systems would be \$1.4 million, how can an expenditure of
3 \$1,150, 057 for a new Reservoir be justified? ¹⁵

4 31. While understanding and appreciating the roles that Commission Staff and Public
5 Counsel play in rate cases, the Advocates also have a role. Their members are the actual consumers
6 who will have to pay the rates Cascadia charges, and they have every right to be heard and to
7 represent their viewpoint on what is happening to them. Their ability to fully understand and
8 question the proposed rates has been seriously hampered by their inability to get sufficient
9 information from Cascadia, Commission Staff and Public Counsel.

10 e. *Cascadia never considered least cost alternatives or other means to cover*
11 *necessary capital expenditures.*

12 32. As explained in Section II.B b., full replacement of serviceable underground water
13 reservoirs was not required by DOH and not necessary. Even if they had leakage or tree root
14 problems, there is no evidence that Cascadia could not have found a less expensive alternative to
15 full replacement. The DOH Sanitary Survey Report (Exhibit 4, p. 4) noted that Cascadia had made
16 some repairs to address leakage problems. This shows that repairs were possible. There is no
17 evidence that Cascadia explored less expensive options to full replacement—a key factor in the
18 Commission’s disallowance in *WUTC v. Pacific Power & Light Company*, DOCKET UE-152253,
19 Order 12, 2016 Wash. UTC LEXIS 343 at *85 (September 1, 2016).

20 33. Cascadia also had other options, other than excessive increased rates, to pay for
21 needed capital improvements to water systems. RCW 80.28.022 provides:

22 In determining the rates to be charged by each water company subject to its
23 jurisdiction, the commission may provide for the funding of a reserve account
24 exclusively for the purpose of making capital improvements approved by the
25 department of health as a part of a long-range plan, or required by the department
26 to assure compliance with federal or state drinking water regulations, or to perform
27 construction or maintenance required by the department of ecology to secure safety
 to life and property under RCW 43.21A.064(2). Expenditures from the fund shall
 be subject to prior approval by the commission and shall be treated for rate-making
 purposes as customer contributions.

1 This statute provides Commission oversight *before* the capital improvement is made and provides
2 a needed control to insure the prudence of such improvement.

3 34. Cascadia could have imposed a capital improvement surcharge on Estates and
4 Monterra customers through a separate tariff, like previous owner, Eric Thomas. Exhibit 10.
5 Cascadia removed this surcharge in tariffs filed in the last rate case, so clearly it knew of this
6 option, but chose to ignore it.

7 35. Cascadia could have proposed that its new rates be phased in over several years, as
8 was ordered in the last rate case. This principle of gradualism helps mitigate rate shock, which the
9 Commission has approved in other water cases. *Wash. Util. & Transp. Comm'n v. Summit View*
10 *Water Works*, Docket UW-180801, Order 01 (Oct. 22, 2018).

11 36. Clearly, Cascadia did not consider other ways to pay for capital improvements
12 except through increased rates, as part of its “water acquisition” strategy. What makes Cascadia’s
13 actions most troubling here are its deliberate actions to ignore customer impact or customer input,
14 despite its representations to the Commission at the June 27, 2021, Open Meeting that Cascadia is
15 “aware of customer impact” and tries “to listen to our customers as much as possible.” Cascadia
16 should not be rewarded for this disingenuousness through increased rates to cover business
17 decisions that harm ratepayers. Customer impact is an important part of the prudence analysis,
18 and companies like Cascadia should be sanctioned for not considering in any way the impact of
19 their investment decisions on customers.

20 *f. The Commission should not allow an automatic 12% ROR for Water Companies.*

21 37. This Commission has allowed water companies to recover a 12% rate of return for
22 the past twenty years, since *Wash. Utilities & Transp, Comm's v. Rainer View Water Co.*, Docket
23 UW 010877, Sixth Supplemental Order (July 12, 2002). Public Counsel has asked this
24 Commission to reconsider this determination in many dockets: UW 210744; UW 210560; UW
25 220052; UW 220206; UW 220206; UW 220218. The Advocates join in that request because there
26 is no current justification for such a high rate, particularly in this rate case. Cascadia filed no
27 evidence to support its requested 12% rate of return. Other utilities—even water utilities—do not

1 get such a high rate of return. On June 13, 2024, the Commission allowed a modest rate increase
2 of 14.5% for Sequim water company, Solmar Water System, (Docket UW-240290) which
3 submitted a cost of capital of 10.09%. Electric, gas and sanitary services recently have experienced
4 median returns on equity from 7.5% to 8.6% (<https://www.readyratios.com/sec/industry/49/>),
5 while Cascadia’s parent corporation, NW Natural Holdings, had a return on equity of 6.64% in
6 2023 (<https://finance.yahoo.com/quote/NWN/financials>).¹⁶

7 38. If Cascadia’s true economic cost of capital is less than 12% it is incentivized to expand its
8 capital regardless of whether that investment is necessary. While this may have the beneficial
9 impact of increasing the pace of capital improvement, its downside can be that capital may be
10 replaced before it is economically necessary, or capital investments may be made that a
11 competitive firm would not undertake if not justified on the grounds of modernization, labor
12 cost reduction, etc. As the Commission is not able to police every action of the regulated utility,
13 sound rate-making principles focus on analyzing the Company’s true economic cost of capital
14 and setting its allowed rate of return accordingly.
15

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17 39 The rate of return is supposed to allow the company to recover its economic cost of
18 capital—which can also be understood as the risk-adjusted return the Company would earn on its
19 best alternative for its investment funds. Small firms in risky endeavors need to pay a higher
20 interest rate than large low-risk firms (such as NW Holdings, the parent of Cascadia) that are
21 guaranteed a return on their reasonable investments. Choice of a rate of return is a critical
22 component of the regulatory process. If the Commission sets a rate that exceeds the company’s
23 true economic cost of capital, the company is incentivized to over invest, which is precisely the
24 result in this rate case due to Cascadia’s “water acquisition” strategy. This leads to “gold plating”
25 where plant and equipment exceed consumers’ needs.
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