Service Date: January 26, 2023

BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION Regulatory Fee Increases for Regulated Companies Pursuant to RCW 80.24.010.	DOCKET U-220963 ORDER 01 INCREASING ELECTRIC, NATURAL GAS, AND WATER UTILITY REGULATORY FEES

BACKGROUND

1 During the 2022 session, the legislature passed Senate Bill 5634, which amended Revised Code of Washington (RCW) 80.24.010 to update the level at which the Washington Utilities and Transportation Commission (Commission) assesses regulatory fees for utility companies. Specifically, the state increased annual regulatory fees to 0.1 percent of the first $50,000 of gross operating revenue plus 0.4 percent of any gross operating revenue in excess of $50,000. On October 28, 2022, the Commission amended its procedural rules in Docket U-220271 to reflect this statutory change.

2 Regulatory fees paid by electric, natural gas, and water companies are passed through to customers using a gross-up factor in the rates charged by the companies and authorized by the Commission through general rate proceedings. Regulatory accounting principles do not allow for a single factor within the rate determination to be changed, in this case the Commission's regulatory fee, without considering other offsetting factors, such as power cost changes, depreciation, payroll expenses, etc. This is more commonly referred to as single-issue ratemaking and is not permitted. If a regulated company experiences costs not included in current rates, it may petition the Commission to approve deferred accounting treatment for those costs under WAC 480-07-370(3). Those costs are then held in a regulatory account until the company's next general rate proceeding for consideration to include those prior period costs in future utility rates.

3 The Commission does not economically regulate landline telecommunication companies (*i.e.*, the Commission does not authorize the rates charged for service). Rather, the Commission regulates this industry for registration, consumer protection, and safety and operating standards generally.[1] Regulatory fees paid by these companies are embedded

[1] *See* WAC 480-120.

within the rates charged to customers, but a general rate proceeding is not required to adjust those rates.

4 Community solar companies regulated by the Commission are similarly situated to telecommunication companies. The Commission's regulatory authority is limited to registration and consumer protection.[2]

5 Based on Commission staff's (Staff) consideration of the Commission's financial state, principles of cost causation, and setting rates at the approximate cost of regulating Class 1 industries, Staff recommends the Commission increase the electric, natural gas, and water utility regulatory fees for gross intrastate revenues in excess of $50,000 from 0.2 of a percent to 0.4 of a percent, effective March 1, 2023, with no change to regulated telecommunication companies or community solar companies fees at this time. Staff estimates the impact to an average electric customer will be $0.17 per month, and an average natural gas customer will be $0.11 per month. Staff estimates the impact of increasing the water company regulatory fee for an average Class A customer will be $0.18 per month, for a Class B customer it will be $0.11 per month, and for a Class C customer it will be $0.04 per month.

6 Additionally, to ensure equitable access to deferred accounting, Staff recommends the Commission, on its own motion and as permitted under WAC 480-07-370(3)(a), authorize water companies to establish deferral accounts to track the difference between regulatory fees currently recovered in rates and any approved increased fee amounts for a period of up to three years for those companies that do not file an individual petition prior to January 31, 2023. On December 27, 2022, the Commission issued a Notice of Item to be Heard and Notice of Opportunity to File Alternative Accounting Petition to all regulated water companies in the docket as authorized under WAC 480-07-370(3)(a).

DISCUSSION

7 With limited exceptions, regulatory fees have not been changed in decades. The majority of fees have experienced no change since at least 1955 prior to the 2022 session. Meanwhile, the Commission's fund balance has been declining at an accelerated rate over the past decade for numerous reasons, including: collective bargaining agreement (CBA) general wage increases; a one-time cost associated with the Commission's new headquarters, which brought the Commission into compliance with Executive Order 16-07

[2] *See* WAC 480-103. Currently, there are only four active community solar companies regulated by the Commission.

for a modern workplace and reduced footprint; legislative and other mandates such as the Clean Energy Transformation Act (CETA), One Washington (OneWA), and broadband; additional funding for the Public Counsel Unit of the Attorney General Office; increasing costs associated with central service fees; and other inflationary factors. Current projections anticipate a negative fund balance during the current fiscal year and for the ensuing biennium.

8 Additionally, workload continues to increase both in volume and complexity each time legislation passes that impacts the Commission. While the legislature provides expenditure authority to the Commission through the enacted budget, it generally does not provide additional revenue. In other terms, the expenditure authority granted merely provides the Commission with the authority to spend the revenues already collected (fund balance), not to access/collect additional fees to complete the work outlined in the fiscal note and required by the legislation.

9 The regulatory concept of cost causation generally provides that those that the cause of a cost should, to some degree, bear the burden of paying that cost. We also recognize that the Commission's statutory requirement is to ensure fees are set at the approximate cost of regulation by class, not necessarily by individual industry.

10 The ongoing transformation shift in energy regulation is a significant driving factor in the Commission's need for additional resources. The complexity of the transition to clean energy, coupled with environmental justice and the statutory requirements associated with performance-based regulation implementation, have exceeded current Staff bandwidth and the original estimates during legislative implementation. This is due, in part, to the complexity of layering the multiple mandates, the necessity to closely coordinate with other state agencies, and the increased number and diverse public interest groups that are taking part in agency proceedings. Additionally, while the Commission has expressed a desire for multi-year rate plans, other mitigating factors have prevented the ability to achieve plans longer than two years in most instances, thereby not significantly reducing the number of general rate proceedings coupled with new filings required by CETA. If regulatory fees are not set at the new statutory maximum for both electric and natural gas companies, the Commission will not be able to increase staffing levels to compensate for the increased workload. Staff are experiencing burnout and, with turnover, are lacking sufficient time to train new staff effectively or efficiently.

11 Regulatory fees collected from regulated water companies are currently, and historically have been, insufficient to cover the costs required to regulate the industry. While the industry is not required to be fully self-sustaining, the industry is requiring additional staff

hours to support an increased number of filings associated with general rate proceedings, increased number of contract reviews, line extension requests, and technical assistance. Additionally, the water industry bears some burden related to the costs associated with inflationary costs (*e.g.*, general wage increase, central service costs, etc.).

12 Over the past years, the work completed by Telecommunication staff in Regulatory Services has been shifting while the industry continues to undergo technological changes and traditional landline service continues to decline in volume. Increasing workload for Staff is currently driven by the Commission's supporting role in broadband, digital equity, 911 outage investigations, and the administration of the Universal Service Fund. This workload is partially funded from alternate sources; however, we find it is inappropriate to require the traditionally regulated telecommunication companies to pay these partially unfunded mandate costs based on the cost causation principle and it is therefore unnecessary to collect additional revenues from this industry at this time.

13 Currently, there are only four regulated community solar companies regulated by the Commission. The workload associated with this industry to date has been minimal and current fees are sufficient to support the Commission's costs at this time.

14 The industries impacted by this fee increase are those economically regulated by the Commission and required to implement a change in fees through general rate proceedings, which include electric, natural gas, and water companies. While electric and natural gas companies are familiar with Commission rules that permit deferred accounting, we are concerned water companies may not be as versed in these principles, particularly small to medium-sized water utilities.

15 Thus, the Commission, on its own motion, finds it appropriate to authorize water companies to establish deferral accounts to track the difference between regulatory fees currently recovered in rates and any approved increased fee amounts for a period of up to three years, which will allow the companies to seek recovery of the fee difference in a future general rate case within the order. This ensures that companies with less expertise or knowledge of deferred accounting are provided with the same opportunity as the larger and more sophisticated companies.

FINDINGS AND CONCLUSIONS

16 (1) The Commission is an agency of the State of Washington vested by statute with the authority to regulate the rates of public service companies, including electric, gas, and water companies.

17 (2) RCW 80.24.010 allows the Commission to charge a regulatory fee equal to 0.1 of the first $50,000 of gross operating revenue, plus 0.4 of one percent of any gross operating revenue in excess of $50,000.

18 (3) RCW 80.24.020 requires fees be set at approximately the same reasonable cost of supervising and regulating the classes of utility companies regulated by the Commission.

19 (4) RCW 80.24.010 permits the Commission to decrease the regulatory fee rate below the statutory level, by general order, by March 1 each year.

20 (5) The current regulatory fees paid by public utilities are insufficient to support Commission operations and do not reflect the cost of supervising and regulating electric, natural gas, and water companies.

21 (6) This matter came before the Commission at its regularly scheduled meeting on January 26, 2022.

22 (7) After giving due consideration to all relevant matters and for good cause shown, the Commission finds that it should increase its regulatory fees for electric, natural gas, and water companies to the maximum allowed by RCW 80.24.01, effective March 1, 2023, and authorize water companies to establish deferral accounts to track the difference between regulatory fees currently recovered in rates and increased fee amounts for a period of up to three years.

ORDER

THE COMMISSION ORDERS THAT:

23 (1) The Commission's regulatory fees are increased to the statutory maximum of 0.1 of the first $50,000 of gross operating revenue, plus 0.4 of one percent of any gross operating revenue in excess of $50,000 for electric, natural gas, and water companies, effective March 1, 2023.

24 (2) Water Companies are authorized to establish deferral accounts to track the difference between regulatory fees currently recovered in rates and the increased fee amounts.

25 (3) The Commission retains jurisdiction over the subject matter to effectuate the provisions of this Order.

DATED at Lacey, Washington, and effective January 26, 2023.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chair

ANN E. RENDAHL, Commissioner

MILTON H. DOUMIT, Commissioner