

September 25, 2024

Pat Sullivan, Director
Washington State Office of Financial Management
P.O. Box 43113
Olympia, WA 98504-3113

**RE: Governor Inslee's Proposed 2025-27 Transportation/Capital Budgets
Funding for Utility Relocations Required for State-County Fish Culvert Projects**

Dear Pat:

The Washington Public Utility District Association (WPUDA) is writing to request that Governor Inslee's proposed 2025-27 Transportation or Capital Budget include \$20 million for grants to public utilities for utility relocation costs created by State of Washington or County fish culvert projects. The State is responsible for complying with the *U.S. v. Washington* fish passage injunction, and the outcome – compliance with state obligations under federal Indian treaties and improved salmon populations – benefits all citizens, not just the customers of PUDs. PUDs have demonstrated their willingness to provide local utility funding for a portion of project costs, but will continue to need state grant funding assistance in future years. We have also been participating in the Public Works Board's (PWB) review of this issue, which will result in a final report providing additional information about the magnitude of this issue for PUDs and other utilities.

WPUDA has met with WSDOT staff, and our local PUDs have worked with regional WSDOT in hopes of improving this situation, and we understand the complexities and uncertainties associated with these projects. The injunction case area includes areas where PUDs provide energy, water, or telecommunications. Many of these areas are rural, with small PUDs serving low to moderate income households. The cost of a single PUD utility relocation project necessitated by a WSDOT fish culvert project can exceed the entire annual capital budget of a small PUD, which does not have a customer rate base capable of paying for the project. Some individual PUDs obtained grant funding assistance in the 2024 Supplemental Capital Budget, but an ongoing programmatic state effort is needed to meet this need.

In addition to the grant funding need, we are requesting OFM's and WSDOT's assistance to improve the communication with utilities on fish culvert project delivery. PUDs are frustrated with the ongoing difficulties in planning for utility relocation work, which has resulted in increased project costs, considerable wasted utility staff time, and the delay or cancellation of other PUD capital projects. We hope that the forthcoming PWB Report will identify process improvements that will reduce the time and cost impacts to utilities. In addition to utility relocations caused by WSDOT culvert projects from the *U.S. v. Washington* injunction, some utility relocations are being required by county road projects. Though not legally required by the injunction, these county culverts impose similar cost impacts on utilities.

WPUDA requests that state utility relocation grant funding assistance include the following considerations:

1. Grant Funding Assistance Could Be Provided Through Either the Transportation or Capital Budgets.

Utility relocation funding has been something of a ping pong ball between the Transportation and Capital Budgets. Utility relocations are driven by state and local transportation projects, but to date the utility relocation costs are not considered by WSDOT as part of the project cost despite the billions in funding to WSDOT for these projects. In part, this is due to the incorrect assertion that the Transportation Budget cannot fund the utility relocation element of a road projects because of 18th Amendment gas tax requirements. There are numerous sources of funding in the Transportation Budget that are not related to the state gas tax that could provide funding assistance for utility relocations. And most notably, the passage of the Move Ahead Washington package diverts \$57 million per year from the Public Works Assistance Account – funds attributable to utility ratepayers that could be available for utility relocation costs.

Utility relocation funding thus far has been through the Capital Budget, though Capital Budget leaders and stakeholders are understandably wary of becoming a funding source for WSDOT or County road projects. However, our experience to date is that the Department of Commerce and Public Works Board best understand utility issues, and have programs and staff in place that can work through the challenges faced by utilities. Overall, we believe that the Public Works Board is the most logical state entity to administer funds, regardless of the source of funding or specific budget.

2. All Utilities – Not Solely PUDs – Should Be Eligible for Grant Funding.

Because of the location of multiple PUDs in the U.S. v. Washington case area, many WSDOT fish culvert projects have required PUDs utility relocations. However, it is clear that other types of public utilities, namely sewer and water districts, will be facing increasing impacts from State or County projects. Thus, a grant funding program should be open to all public utilities.

3. Grant Funding Should Operate On a Reimbursement Basis.

A significant challenge for utilities is understanding from WSDOT when a specific culvert project will occur so that utility relocation design and construction can be completed when needed. In a number of instances, WSDOT schedule changes have resulted in wasted spending by PUDs on utility relocation design, engineering, or construction. While we recognize the complexity and uncertainty associated with these projects and some of the difficulties faced by WSDOT, process improvements are necessary. An important provision would be making clear that state grant funding operates on a reimbursement basis, so PUDs can complete these projects with WSDOT and then seek reimbursement after project completion.

4. Local Share from Utilities Should Be Included.

While PUDs do not have the capital funding capacity to fully utility relocations, PUDs have demonstrated their willingness to provide local utility funding for some of the project costs, even if this means rate increases to our customers or delays in other PUD capital projects. A local share requirement is reasonable, given the magnitude of the State’s fish barrier removal challenge and the interest of PUDs and our customers in being a partner to the State and Indian tribes.

5. The State of Washington, Through WSDOT, Should Seek Federal Funds to Assist Utilities.

PUDs are doing more than just asking for State grant funding, and we need WSDOT’s help to obtain available federal funding. The State has received significant federal funding for fish culvert projects, but no funding relating to the utility relocation component of the projects. WPUDA has been working with our federal Congressional delegation on this issue and they have encouraged us to ensure that WSDOT applies for utility relocation funding through the FY 23 Culvert Aquatic Organism Passage Grant Program (AOP Program). The U.S. Department of Transportation’s Federal Highway Administration (FHWA) announced the availability of at least \$196 million for FY 2023, with an application deadline of September 23, 2024. Utility relocation costs for PUDs are eligible for these federal funds – but WSDOT must be the applicant as utilities cannot apply directly for these funds. We appreciate that WSDOT has recently recognized this potential funding source and we will keep working with WSDOT to obtain federal funds wherever possible.

Thank you for your consideration of this funding request. We will provide additional information for state agencies and legislators after the completion of utility relocation report by the PWB. Please contact me if you have further questions.

Sincerely,



Liz Anderson, Executive Director
Washington Public Utility Districts Association

- cc: Sen. Marko Liias, Chair – Senate Transportation Committee
Sen. Curtis King, Ranking Member – Senate Transportation Committee
Rep. Jake Fey, Chair – House Transportation Committee
Rep. Andrew Barkis, Ranking Member – House Transportation Committee
Sen. Mark Mullet – Senate Capital Budget Lead
Sen. Mark Schoesler – Senate Capital Budget Ranking Member
Rep. Steve Tharinger, Chair – House Capital Budget
Rep. Peter Abbarno, Ranking Member – House Capital Budget
Kathryn Gardow, Chair – Public Works Board
Roger Millar, Secretary – Dept. of Transportation
Kim Rydholm, Fish Passage Delivery Director – Dept. of Transportation
Myra Baldini, OFM Capital Budget