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June 25, 2024

Ms. Shonta Dunston, Chief Clerk
North Carolina Utilities Commission
Mail Service Center 4325
Raleigh NC 27699 -4300

RE: Docket No. W-1381¹⁸, Sub 1

Dear Ms. Dunston:

Please accept for filing the following document in the above captioned docket: Rebuttal Testimony of Peedin & Perry Consulting and Owen Schultz submitted on behalf of HH Water, LLC.

Thank you for your attention to this matter.

Sincerely,
Edward S. Finley, Jr.
Counsel for HH Water, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing Rebuttal Testimony on behalf of HH Water, LLC. in this docket was duly served upon parties of record either by depositing same in a depository of the United States Postal Service, first class postage prepaid, or by electronic delivery.

This the 25 day of June 2024

Edward S. Finley, Jr.,

/s/ Edward S. Finley, Jr.

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COUNSEL FOR APPLICANT

NORTH CAROLINA UTILITIES
COMMISSION RALEIGH
RALEIGH

DOCKET NO. W-1318, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

IN THE MATTER OF:
APPLICATION BY HH WATER, LLC
FOR AUTHORITY TO ADJUST AND INCREASE RATES
FOR PROVIDING WATER UTILITY SERVICE IN ITS SERVICE
AREAS IN NORTH CAROLINA

JOINT REBUTTAL TESTIMONY OF

PEEDIN & PERRY

CONSULTING LLC

AND

OWEN SCHULTZ

ON BEHALF OF

HH WATER, LLC

JUNE 25, 2024

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. Owen Schultz. My business address is 124 Hwy 107 South, PO Box 1890,
3 Cashiers, North Carolina 28717.

4 **Q. WITH WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

5 A. I am Vice President for High Hampton Investments, Inc., and Operations Manager
6 for HH Water LLC.

7 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

8 A. Darlene Peedin and Julie Perry, Principal Consultants with Peedin & Perry
9 Consulting, LLC. Our business address is 3440 Bizzell Grove Church Road,
10 Princeton, NC 27569.

11 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

12 A. The purpose of our rebuttal testimony is to support the request by HH Water, LLC
13 (HH Water or the Company) for an increase in rates. There are some adjustments
14 recommended in the testimony of the Public Staff that HH Water agrees with, and
15 other adjustments that HH Water accepts because for HH Water these
16 adjustments are not worth the time and expense to litigate. We are providing
17 rebuttal testimony on the following issues of concern to HH Water:

- 18 • Plant in service recommendation regarding transfer of asset ownership
19 recommendation before the close of the hearing.
- 20 • Plant in Service adjustments to remove the land surveys performed by HH
21 Water prior to filing the rate case in order that accurate service areas maps
22 and customers were provided to the Commission, since the prior owners of
23 the water system had never had this done;
- 24 • Plant in Service exclusion of the Preston-Haskill 6-inch water main and

1 hydrants replacement project in Preston-Haskell neighborhood that is
2 currently in service;

- 3 • Plant in Service-related adjustments to remove the SCADA capital
4 investment;
- 5 • The exclusion of on-going maintenance and repair charges performed by
6 the contract operator over and above the base contract operator duties that
7 occurred both during the test period, as well as on an on-going basis in 2023
8 and 2024;
- 9 • The adjustment to remove overhead and profit from a third party
10 Maintenance & Repair invoices while allowing the base invoice charges as
11 a reasonable expense;
- 12 • The adjustment to Professional Fees to remove all charges including the
13 annual report fee to the Secretary of State, and any other legal, engineering
14 or accounting charges that might relate to future bonding requirements,
15 customer complaints; or filings with this Commission;
- 16 • The level of Regulatory Expense reflected in the Public Staff's filing,
17 including the engineer's rate case expenses, the allocation of rate case
18 expenses from legal invoices between the water rate case and the sewer
19 Certificate Public Convenience and Necessity (CPCN) proceeding; rate
20 case expense cut-off period, the rate case amortization period, and the new
21 classification of rate case expense as a regulatory asset/liability, which
22 includes the refunding with interest language; and
- 23 • Meter Recommendation.

24
25 **Q. PLEASE EXPLAIN YOUR CONCERN WITH WITNESS BHATTA'S**
26 **RECOMMENDATION REGARDING THE TRANSFER OF OWNERSHIP OF**
27 **ASSETS AND EASMENTS TO THE UTILITY.**

28 **A.** The prior owners of HH Water's utility system had never surveyed any of the utility
29 service territory boundaries, although they had been operating the water utility for
30 years. The prior owners also had never surveyed the specific utility service
31 territory, boundaries and assets. Only a master survey of the entire development
32 had been undertaken previously.

1 In the current docket, prior to filing both the water rate case and the sewer CPCN
2 proceedings, the Company performed a full survey of the utility assets to
3 determine the service areas, the current customers served, and the future
4 customers the water utility plans to serve. During the discovery process, HH
5 Water produced a Bill of Sale (which acts similarly to an asset transfer
6 agreement), and an operating agreement between the parent company's related
7 entities. The Public Staff did not agree that the utility had ownership and control
8 of its assets and gave HH Water an internal deadline of June 27, 2024, to execute
9 and record a quitclaim deed and easements associated with the water and sewer
10 utility assets.

11 The Company has executed and recorded the quitclaim deeds effective June 21,
12 2024 and the easements associated with the water and sewer utility assets will
13 be filed before the Public Staff deadline.

14 **Q. PLEASE EXPLAIN YOUR CONCERN WITH WITNESS BHATTA'S**
15 **RECOMMENDATION TO REMOVE THE LAND SURVEYS FOR THE UTILITY.**

16 A. Public Staff witness Bhatta removed the land surveys that HH Water performed on
17 the advice of its engineer, Rob Burgin, prior to the filing of both the water rate case
18 and the sewer CPCN proceedings. The Company had a full survey made to
19 determine the service territory and service lines to create maps as required for the
20 water rate case filings and the Sewer CPCN filings at the request of Rob Burgin in
21 preparation for these filings with the NCUC.

1 Witness Bhatta removed \$51,773 related to these survey costs, stating that the
2 Company should have had this performed and should have completed the
3 recording of the easements and deeds as part of the Sub 0 transfer proceeding in
4 September 2017. As stated above, as part of that docket, HH Water had produced
5 a Bill of Sale (which acts similarly to an asset transfer agreement), and an
6 operating agreement between the parent company and all related entities,
7 including the water utility. This document stated that the utility assets would be
8 transferred at closing and that the utility had ownership and control of its assets.
9 The Company understood that when the closing occurred, the assets were
10 transferred. The Commission's Order never stated that surveys, deeds and
11 easements were a requirement of the transfer docket.

12 Since the prior owners of HH Water's utility system had never surveyed any of the
13 utility service territory boundaries, although they had been operating the water
14 utility for years, the Company performed this work prior to filing for the water rate
15 case. The Public Staff has not provided any relevant Commission Orders or
16 precedent to support its adjustment to remove surveys and survey work, but the
17 Public Staff has excluded these costs because the survey work was not
18 undertaken as part of a transfer order. This work was undertaken to determine the
19 service territory and service lines to create maps as required for the water rate
20 case filing at the request of Rob Burgin in preparation with submissions to the
21 NCUC. To exclude recovery of these costs is unreasonable. These costs were
22 incurred for the benefit of the utility and is beneficial and necessary for the
23 determinations that will be made by the Commission.

1 **Q. PLEASE DISCUSS MS. BHATTA'S EXCLUSION OF THE PRESTON-HASKELL**
2 **NEIGHBORHOOD WATER MAIN REPLACEMENT PROJECT.**

3
4 A. The Preston-Haskill neighborhood 6-inch water main and hydrants replacement
5 project in the Preston-Haskill neighborhood is currently in service and serving
6 customers. HH Water has provided invoices to the Public Staff totaling
7 \$365,817.92, which the Company requests should be reflected in the Company's
8 rate base because it is used and useful for providing service. The Company
9 understands that the Public Staff excluded this project from plant in service
10 because it was not yet in service as of May 31, 2024, the date of the Company
11 discovery response. Upon further discussions with the contract operator, the
12 majority of the project is in service and have been in service as of May 22, 2024.
13 The Company now concludes that its response to the Public Staff data request
14 was incorrect. When the Company reached out to the contractor who was installing
15 the water mains, the contractor stated that the project would be completed within
16 two weeks of the Company's responses. In reality, most of the project was already
17 in service, but the contractor was referring to the final section of the project that
18 contained a looping that did not impact the in-service portion of the project and will
19 be completed and placed into service this week by June 27, 2024. The Company
20 has not reflected any of these looping expenditures in the \$365,817.92 support
21 provided to the Public Staff. The Company requests that the Public Staff agree to
22 include the Preston-Haskill neighborhood 6-inch water main and hydrants

1 replacement project costs of \$365,817.92 in plant in service because it is currently
2 used and useful for providing service.

3
4 **Q. PLEASE DISCUSS MS. BHATTA'S EXCLUSION SCADA CAPITAL ADDITIONS.**

5 **A.** The Public Staff removed a majority of the SCADA investment, stating it was due
6 to the three new wells that were not in services and the wastewater treatment plant,
7 which only left approximately 26.20% of the total capital investment. The Company
8 is still unsure why the existing water system would only be allowed recovery of
9 26% of the SCADA system.

10
11 **MAINTENANCE AND REPAIR EXPENSE**

12
13 **Q. PLEASE EXPLAIN YOUR CONCERN WITH WITNESS BHATTA'S LEVEL OF**
14 **MAINTENANCE AND REPAIR EXPENSE.**

15 **A.** Witness Bhatta's level of on-going maintenance and repair charges does not
16 include an on-going level of maintenance expenses that is reflected on both the
17 previous contract operator's invoices during the test period, as well as the current
18 contract operator's invoices over and above the base contract operator's monthly
19 base pay and duties. The Company maintains there may have been a
20 misunderstanding in regard to the data request responses provided to the Public
21 Staff. Witness Bhatta included maintenance and repair charges from third party
22 contractors and suppliers for which the Company provided invoices during the test
23 period; however, the Company did not provide the contractor operator invoices as

1 part of those data request responses specifically for the maintenance and repair
2 question. Because the Company had provided these invoices as part of the
3 contract operator data request responses, yet the expenses are clearly
4 maintenance -related expenses that are over and above the base contract operator
5 monthly charges, the Company assumed it was clear that these maintenance and
6 repair charges were supported. The Company has paid much more in additional
7 maintenance and repair expenses that were incurred during 2023 because the
8 current contract operator was hired as a consultant as Envirolink's contract was
9 being terminated on November 1, 2023. The current Sure Water Services contract
10 is written similarly to the Envirolink contract in that any additional repairs and
11 maintenance expenses above the base monthly contract amount are billed as
12 maintenance and repair. This is evident on both the 2023 and 2024 Sure Water
13 Services invoices as well as the general ledgers. The Company maintains that the
14 Public Staff should agree to allow the on-going level of maintenance and repair
15 expenses reflected on the contract operators invoices for the test year and the
16 general ledger that were over the base contract operator monthly payment.

17 **Q. PLEASE EXPLAIN YOUR CONCERN WITH WITNESS BHATTA'S REMOVAL**
18 **OF OVERHEAD AND PROFIT FROM A THIRD PARTY INVOICE THAT WAS**
19 **PART OF AN INVOICE THAT WAS INCLUDED IN THE MAINTENANCE AND**
20 **REPAIR EXPENSE.**

21 Public Staff Witness Bhatta removed 17% overhead totaling \$3,268, and an
22 additional 10% profit totaling \$1,922 from a maintenance and repair invoice,
23 specifically a Waterlogic invoice – Invoice No. 45-106. The Company's

1 adjustment to remove these charges is due to the Company's thirdparty engineer,
2 Rob Burgin that is related to the contractor that owns Waterlogic, that was hired
3 to make a portion of the water system repairs and capital additions when no other
4 contractor was available in the Cashiers, NC area primarily due to COVID 19 and
5 the remote location of the water utility. The Public Staff maintains that because
6 Landon Burgin, is the son of the engineer, Robert Burgin, there was no
7 competitive bid process, and the markup is not reasonable. Waterlogic, Inc. has
8 performed work for other utilities in North Carolina without a bid process, and its
9 payments were allowed by the NCUC, similarly, in this case, and the Waterlogic
10 total invoices for capital investment have been allowed by the Public Staff.

11 The Company strongly disagrees with Witness Bhatta's adjustment. The Public
12 Staff gave no Commission precedent for the removal of the overhead and profit
13 from a non-affiliated third party contractor invoice, yet the Public Staff allowed the
14 base charges reflected on the invoice as a reasonable maintenance and repair
15 expense to be recovered from customers.

16 PROFESSIONAL FEES

17
18 **Q. PLEASE DISCUSS YOUR DISAGREEMENT WITH WITNESS COEFIELD'S**
19 **AND WITNESS BOSWELL'S ADJUSTMENT TO PROFESSIONAL FEES.**

20 **A.** The Company strongly disagrees with the witnesses' adjustment to Professional
21 fees. The Public Staff removed the Annual Report fees that the Company must
22 pay to the Secretary of State, as well as an on-going level of expenses in
23 professional fees. The Company agreed with the Public Staff that one invoice

1 shown in professional fees during the test period related to the rate case, but the
2 Company also requests that the Commission allow a reasonable level of
3 professional fees on an on-going basis. Basically, there are no ongoing levels of
4 professional expense for customer complaints, engineering consultation, bond
5 filings, any other professional fees associated with compliance with any
6 Commission mandate, or fees for any questions for regulatory professionals that
7 may come up. While removing all of these fees, the Public Staff has stripped the
8 Company of its opportunity to defend itself against any customer complaint or
9 issues that may arise outside of the Company's control or just need clarification or
10 guidance on regulatory issues, and this is completely unfair.

11 12 RATE CASE EXPENSE

13
14 **Q. PLEASE ADDRESS THE COMPANY'S REQUEST FOR RECOVERY OF**
15 **RATE EXPENSE.**

16 **A.** HH Water seeks to recover its reasonable and prudent rate case expenses
17 incurred to prepare and file its rate case, respond to the comprehensive Public
18 Staff discovery, prepare for and appear at public hearings, prepare and sponsor
19 rebuttal testimony, conduct cross examination of Public Staff witnesses and
20 prepare and submit its post hearing filings. HH Water requests the Commission to
21 authorize recovery over a 3-year period or one-third of the rate case expense as
22 an operating revenue deduction as has been the customary Commission practice
23 in contested cases for small water and sewer utilities.

1 **Q. WHAT IS YOUR POSITION ON THE LEVEL OF RATE CASE EXPENES IN**
2 **THIS PROCEEDING?**

3 **A.** The Public Staff seeks to prevent the Company from recovering any rate case
4 expense incurred beyond the expert witness hearing. The Public Staff did not
5 include actual rate case expenses for invoices that had been provided to the Public
6 Staff through discovery. The Public Staff did not include the engineer's rate case
7 expenses. And, its allocation of rate case expenses from legal invoices between
8 the water rate case and the sewer certificate of public convenience and necessity
9 (CPCN) proceeding is inappropriate for the invoices after February 1, 2024. In
10 addition, the Public Staff requests that one-fifth of the rate case expense be
11 recovered as an operating revenue deduction but that the expense be tracked so
12 that subsequent rates may be adjusted to refund with interest what the Public Staff
13 classifies as "over-collections." The Public Staff also recommends that the
14 Commission establish a regulatory liability account to address "over recovery" of
15 rate case expense if the Company does not seek rate relief at the conclusion of
16 the five years. In order for this to be done, rate case expense must be tracked. In
17 that respect, during the up to five-year period over which the Public Staff
18 recommends rate case expense be recovered as an operating revenue deduction,
19 this expense is being treated differently from other operating revenue deductions.

20 **Q. WHAT IS THE COMPANY'S RESPONSE TO THE PUBLIC STAFF'S**
21 **ADJUTMENT TO DISALLOWREQUESTED RATE CASE COSTS?**

22 **A.** HH Water strongly resists the Public Staff recommendations. To HH Water's
23 knowledge the Commission has not allowed rate case expense to be treated

1 differently from other expenses, and in fact has continually recognized in its Orders
2 that rate case expenses should be amortized but should not be considered a
3 regulatory asset, and therefore should not be allowed rate base treatment. Under
4 traditional and approved ratemaking principles, every other operating revenue
5 deduction is assumed to be recovered from the revenues approved by the
6 Commission. If cost of service is over-recovered the Company earns greater than
7 its authorized rate of return; however, the remedy is for the Public Staff to request
8 a rate case to reduce rates prospectively. To the extent revenues fail to recover the
9 cost of service including the operating revenue deductions, the burden then falls
10 on the Company to come before the Commission and seek to increase its rates.
11 However, when rates are adjusted in a subsequent case, the doctrine of retroactive
12 ratemaking prevents a refund of over-collected costs such as normalized rate case
13 expense or the recovery of uncollected rate case costs, unless the expense has
14 been approved by this Commission as a regulatory asset for deferral and tracking
15 purposes.

16 In its prefiled testimony that was filed on June 7, 2024, the Public Staff did not
17 include actual rate case expenses for invoices that had been and are bring
18 provided to the Public Staff. The Public Staff is incorrectly utilizing a 5-year
19 amortization period for rate case expense based on its analysis of historic rate
20 case filings. In addition, the Public Staff is incorrectly limiting the recovery of rate
21 case expense incurred through the close of the evidentiary hearing, as well as
22 incorrectly characterizing rate case expense as a regulatory asset/liability.

1 HH Water disagrees with the Public Staff recommended adjustments limiting rate
2 case expense to the amount incurred through the close of the evidentiary hearing.
3 Post-hearing rate case expenses incurred by HH Water are just as necessary as
4 legal, consultant, mailing, and filing expenses incurred prior to the close of
5 hearing. Utilities must engage in rate cases if they are to have enough revenue
6 to provide reliable utility service to customers. Therefore, the costs of conducting
7 rate cases are a reasonable and necessary expense, subject to Public Staff
8 review for any invoices that reflect costs not reasonably related to the rate case
9 or costs exceeding a reasonable price.

10 **Q. WHAT RATE CASE EXPENSES HAS THE COMPANY REQUESTED THAT**
11 **THE PUBLIC STAFF HAS NOT ACCEPTED?**

12 **A.** The Company provided actual invoices to the Public Staff for legal, accounting
13 and engineering services related to this rate case. Only a portion of these invoices
14 was reflected in the Public Staff filing, and no invoices for engineering services
15 that have been provided. The Company has have provided all legal and actual
16 accounting invoices to the Public Staff as well as the breakdown of engineering
17 charges and the invoices that should be included to date. The Company
18 maintains that that the level of rate case expenses must be updated through the
19 filing of the proposed orders in this proceeding.

20
21 Lastly, HH Water was asked about the allocation between the water rate case and
22 the sewer CPCN during discovery, and the Company responded that the invoices
23 up to the filing of the water rate case and the sewer CPCN should be split 50-50

1 between water and sewer. Since the filing of the water rate case, it appears the
2 invoices were still being split 50-50 when the water rate case began providing
3 discovery responses well before the CPCN application was deemed complete.
4 Therefore, all legal costs should be directly assigned moving forward.

5
6 **Q. HOW HAS THE COMMISSION ADDRESSED THIS IN OTHER CASES?**

7 **A.** We have reviewed several other rate cases to evaluate how rate case expense
8 is typically decided by the Commission. While other types of costs are often
9 subject to a Commission-ordered update deadline before Public Staff testimony
10 is due, this is not how rate case expense is handled. The Commission has
11 recognized the appropriateness of allowing rate recovery for post-hearing rate
12 case expense. Recovery of rate case expense incurred through the filing of
13 proposed orders and the customer notice is normal and routine for this
14 Commission.

15 The Public Staff's recommendation in the present case would eliminate recovery
16 of actual rate case expense incurred by HH Water after the evidentiary hearing.
17 That would be a departure from past practice and would be unfair to HH Water.

18
19 **Q. PLEASE ADDRESS YOUR UNDERSTANDING OF THE PREMISE THE**
20 **COMMISSION RELIES UPON IN DETERMINING THE LEVEL OF RECOVERY**
21 **OF RATE CASE EXPENSES FOR A SMALL WATER UTILITY LIKE HH**
22 **WATER.**

1 **A.** The premise behind utility ratemaking in North Carolina is that utilities may
2 recover their reasonable costs. This Commission has repeatedly recognized that
3 rate case expense is appropriate for recovery in rates. The position that a utility
4 may only recover part of its reasonably incurred rate case expense is contrary to
5 the ratemaking premise that all reasonable costs may be recovered.

6
7 **Q. WHAT TREATMENT HAS THE COMMISSION APPROVED FOR RATE CASE
8 EXPENSE FOR SMALL WATER UTILITIES IN CONTESTED CASES?**

9 **A.** HH Water has reviewed other rate cases to evaluate how rate case expense is
10 typically decided by the Commission. While other types of costs are often subject
11 to a Commission-ordered update deadline before Public Staff testimony is due,
12 this is not how rate case expense is handled. The Commission has recognized
13 the appropriateness of allowing rate recovery for post-hearing rate case expense.
14 Recovery of rate case expense incurred through the filing of proposed orders and
15 the customer notice is normal. The Public Staff's recommendation in the present
16 case would eliminate recovery of actual rate case expense incurred by HH Water
17 after the evidentiary hearing. That would be a departure from past practice and
18 would be unfair to HH Water.

19 **Q. PLEASE ADDRESS THE MECHANISM THAT THE PUBLIC STAFF
20 RECOMMENDS TO SUPPORT THE DISALLOWANCE FOR RATE CASE
21 EXPENSE IN THIS DOCKET.**

22 **A.** In their direct testimony Public Staff witnesses Boswell and Cofield stated:

1 “We adjusted regulatory expenses related to this proceeding to reflect the actual
2 rate case expenses, including legal fees and accounting and engineering
3 consulting fees received and reviewed through June 4, 2024, and the estimated
4 costs for notices, envelopes, and postage to be incurred after the evidentiary
5 hearing. We recommend normalizing the total rate case expense and recommend
6 amortizing the total rate case expense over a period of five years, based on an
7 average of the number of years between the Company’s rate case filings.
8 Additionally, we recommend that if the Company’s next rate case filing exceeds
9 the five year amortization period, starting with the date on which rates become
10 effective in the present case, the Company shall record any over collection of rate
11 case expense, beginning the first month after the five year amortization period
12 ends, in a regulatory liability account on a monthly basis to be refunded to
13 ratepayers with interest based on the weighted average cost of capital, in a manner
14 determined in the Company’s next rate case. Should the Company file for a rate
15 case before the expiration of the amortization., any unrecovered rate case expense
16 balance will be added to the new rate case expense and amortized over the
17 number of years approved by the Commission in that rate case.”

18 However labeled, the Public Staff recommendation is contrary to precedent and is
19 unlawful. Rate case expense is customarily normalized in that it is amortized as an
20 operating revenue deduction over three years. The mechanism proposed by the
21 Public Staff is the creation of deferral accounting with the establishment of a
22 regulatory liability account beginning only at the time the amortization period runs
23 out. The Public Staff recommends the segregation, deferral, and tracking of rate

1 case expense. By recommending that the funding of the regulatory liability account
2 be postponed until after five years, the Public Staff is asking the Commission to
3 regulate the deferred rate case costs through a mechanism that cannot be
4 characterized as normalization and is a major departure from precedent. The
5 Public Staff's recommendation is, in essence, a request for deferral accounting,
6 which it has not justified.

7 **Q. HOW HAS THE COMMISSION TREATED REQUESTS THAT DEFERRAL**
8 **ACCOUNTING BE APPROVED?**

9 **A.** Historically, the Commission has treated deferral accounting as a tool to be used
10 only as an exception to the general rule, and its use has been allowed sparingly.
11 Under deferral accounting, the Commission has established a two-prong test to
12 consider whether a deferral is justified. The two-prong test is applied to costs that
13 consists of: 1) whether the costs are extraordinary, or unusual in nature and, 2)
14 whether, absent deferral, the costs would have a material impact on the utility's
15 financial condition or earnings. With the exception of post-in-service costs of
16 depreciation and the cost of capital for a major capital investment, some of the
17 types of costs that typically fall under deferral accounting would be major storms,
18 or other unexpected expenses or losses that are relatively or obviously unusual in
19 nature and large enough in magnitude that it is not reasonable to presume that the
20 expenses or losses are being recovered in then-current rates. Rate case expense
21 is not extraordinary or unusual and, therefore, does not meet the two-prong test.
22 In fact, every Company that files a rate increase application with the Commission
23 incurs some level of rate case expense.

1 **Q. IS THE PUBLIC STAFF RECOMMENDATION CONSISTENT WITH THE**
2 **COMMISSION'S REQUIREMENT FOR DEFERRAL ACCOUNTING AND THE**
3 **ESTABLISHMENT OF A REGULATORY LIABILITY/ ASSET?**

4 **A.** No. Under the Public Staff's recommendation should the Company file its next rate
5 case so that present rates end at the conclusion of five years, the rate case
6 expense, though tracked, would not have been booked in a regulatory asset
7 account and would have earned no return. In this respect, the mechanism the
8 Public Staff recommends is overly punitive. Under this mechanism the Public Staff
9 assumes that the Company recovers its rate case expense, one-fifth each year,
10 while the rates are in effect, but even if the Company fails to earn its approved rate
11 of return, the Public Staff's methodology assumes that the rate case expense, a
12 segregated revenue deduction, is fully recovered, but every other operating
13 revenue deduction is not if the Company fails to earn its authorized return.

14 HH Water maintains that the Commission cannot accept the Public Staff
15 recommendations simply because the Public Staff makes them without providing
16 any justification whatsoever. In addition, the Commission cannot accept the Public
17 Staff's "deferral accounting" mechanism. It is simply not correct to handle rate
18 case expense as a regulatory asset or liability. Doing so would contradict every
19 Commission Order this Commission has issued in regard to rate case expense for
20 all electric, gas and water general rate cases before this Commission.

21

1 **Q. PLEASE ADDRESS IN GREATER DETAIL THE COMPANY'S JUSTIFICATION**
2 **FOR RECOVERY OF THE NORMALIZED RATE CASE EXPENSES OVER A**
3 **THREE- YEAR PERIOD.**

4 A. The Public Staff maintains that it "amortized the total regulatory expense over five
5 years to recognize the frequency of the Company's historic rate case filings." This
6 is unreasonable because the amortization period should be based on a normal
7 interval between rate cases. Five years will not be normal for HH Water's filing for
8 rate relief.

9 While not representative of good ratemaking practice, long intervals between rate
10 cases can occur because the effort and up-front expense of conducting a rate case
11 is often overwhelming for small utilities. Companies like HH Water do not have the
12 level of regulatory expertise that exists with Duke Energy, Aqua North Carolina, or
13 Carolina Water Service. Management may be overseeing other businesses at the
14 same time as running the utility, so management's time is unavailable to devote to
15 the many hours needed to prepare for a rate case, undergo discovery, and
16 participate in hearings. These are certainly concerns for HH Water.

17 The result is that such utilities may operate for years at a loss. Where this occurs
18 a review of past rate case frequency is inappropriate and provides a false
19 prediction for the future. To some extent the losses may be subsidized by the owner
20 or other businesses of the owner as has been the case for HH Water. However,
21 any time a utility operates at a loss, there is the risk that the investment may not
22 keep pace with needs, and the utility could fall into disrepair or into a condition that
23 poses reliability concerns. HH Water has not fallen into poor condition, but it has
24 sustained losses due to insufficient rates. For HH Water and all utilities there is a

1 public policy interest in having rate cases frequently enough to fund adequate
2 quality of utility service from utility revenues. A shorter, more normal amortization
3 period is supportive of that public policy interest.

4 HH Water requests a three-year amortization and maintains this period is most
5 reasonable. HH Water plans to seek rate increases more frequently to mitigate
6 the one-time impact on customers' rates and to keep up with rising costs;
7 therefore, a shorter amortization period is appropriate.

8 The Company has have reviewed amortization periods for other North Carolina
9 utilities, and three years is the common rate case amortization period for small
10 water and sewer utilities. A three-year amortization recommendation is aligned
11 with what the Commission has normally approved for other small water and sewer
12 utilities. It is fair and reasonable for HH Water. During the time that rates
13 established in this docket will be in effect, without customer growth and with
14 substantial inflation, as currently exists, existing rates likely will fail to allow the
15 Company to earn its authorized return.

16 In its direct testimony the Public Staff has provided no persuasive support for
17 amortization over a five-year period. This failure of the Public Staff to support its
18 recommendation on the period of amortization should result in its rejection.
19 Reference to the history of HH Water's efforts to seek rate relief in the past without
20 to placing into context the timing of those requests is not appropriate.

21 The fact that the Company was out five years as opposed to three years or as
22 opposed to some shorter period is explained by the difficulties it encountered. HH
23 Water did not file a water rate case sooner than January 2024 due to the fact that

1 it was waiting to file the rate case application concurrent with the sewer CPCN
2 application for ease of discovery requests for both the Public Staff and the
3 Company. The wastewater treatment plant was a huge capital investment and
4 undertaking by the Company, and the plant was not operational until December
5 31, 2023. Therefore, HH Water should not be penalized for waiting to file the water
6 rate case.

7 Past history beyond these most recent efforts is not representative and is not
8 useful in seeking cost recovery in this case. To avoid substantial increases in any
9 particular case the better procedure is to schedule and space out rate cases on a
10 more regular basis.

11 **Q. PLEASE ADDRESS THE ISSUE OF THE CALCULATION OF RATE CASE**
12 **COSTS DURING THE ENTIRE PERIOD INCURRED.**

13 **A.** The Public Staff has not justified its adjustments on the basis of any evidence.
14 Most of the contested adjustments are simply recommendations. Public Staff
15 unsupported "recommendations" should be rejected. The Company will incur
16 substantial costs in reviewing the transcript and submitting post-hearing
17 documentation. In contested cases where there is no settlement or stipulation on
18 the issues, it has been the long-standing Commission practice to allow the
19 Company to submit post hearing evidence of rate cased expenses to be incurred
20 and recovered in the final order approving adjusted rates. Where the Public Staff
21 makes many unsupported recommended adjustments while at the same time
22 seeking to limit the utility from recovering the expense incurred to challenge these
23 adjustments, this practice places the utility in the position of acceding to the Public

1 Staff recommendations and forcing the public utility to settle with the Public Staff
2 on unfavorable terms.

3 Any Public Staff arguments that legitimate and necessary costs would be
4 inappropriate because costs to be recovered in a general rate case should be
5 determined by a particular date prior to hearing because otherwise other costs
6 incurred beyond the determination date would need to be audited and updated by
7 the Public Staff should be rejected. Nothing prevents the Public Staff from auditing
8 the costs, and this is customarily the practice. Rate case expenses fall into a
9 different category from other test year expenses as far as incurrence beyond the
10 end of the test year. The Public Staff cites no authority for the proposition that,
11 where contested, the Commission has prevented the Company from recovering its
12 post hearing rate case expenses. Furthermore, recovery of such costs is expressly
13 authorized under G.S. 62-133(c).

14
15 The test period shall consist of 12 months historical operating experience prior to
16 the date rates are proposed to become effective, but the Commission shall
17 consider such relevant, material and competent evidence as may be offered by the
18 party to the proceeding tending to show actual changes in costs, revenues of the
19 cost of the public utility's property used and useful, or to be used and useful within
20 the reasonable time after the test period in providing service rendered to the public
21 within this state....

22
23 **Q. PLEASE ADDRESS THE PUBLIC STAFF RECOMMENDATION FOR THE**
24 **CREATION OF A REGULATORY LIABILITY.**

25 **A.** With respect to rate case expenses the Public Staff is asking for the creation of a
26 regulatory liability for rate case expenses to be set aside in a special regulatory
27 account to be addressed outside of the recovery of the other cost of service

1 components. The Public Staff also recommends that those costs be refunded to
2 ratepayers in future rate cases, which is outside of normal rate case expense
3 treatment.

4 The Public Staff is recommending deferral accounting for rate case expense.
5 However, the Public Staff has cited no other contested case where the
6 Commission has had to address the issue of approving recovery of rate case
7 expenses for a small water or sewer company through establishment of a
8 regulatory asset/liability to be amortized but to be refunded to ratepayers if over
9 collected in the future with no earnings on the unamortized balance. The
10 recommendation is in conflict with Commission precedent.

11 In addition, much of the rate case expense incurred in this case is from responding
12 to Public Staff data requests, and where the Company and Public Staff are not in
13 agreement, the parties must prepare for and participate in hearings and submit
14 post hearing documents for the Commission's consideration. The longer it takes to
15 recover those costs, the longer the period the investor goes without its investment,
16 unless the Commission allows a return on the unamortized portion. This
17 Commission does not allow the unamortized rate case expense balances in rate
18 base because rate case expenses have never been approved as a regulatory
19 asset; therefore, the rate case recovery period should not be extended to an
20 unreasonable amount of time.

21 **Q. WHAT PRECEDENT DOES THE PUBLIC STAFF CITE IN SUPPORT OF ITS**
22 **RECOMMENDATION?**

1 A. The Public Staff cited no precedent to cases where the Commission has approved
2 in a contested case the treatment that Public Staff was requesting in this case. The
3 Company asked the Public Staff in a data request to “please provide all NCUC
4 cases and the docket number whereby the Commission has approved the refund
5 of the regulatory expenses and the setting up of a regulatory liability with interest.
6 The Company gave the Public Staff an opportunity to cite some authority, and the
7 Public Staff basically said, “you can go find that yourself.”

8 The Public Staff did reference Docket Nos. E-2, Sub 1300 and E-7, Sub 1276
9 where the Public Staff indicated that both these cases contained over collections
10 amortizations of rate case expense from previous general rate cases which were
11 returned.

12 First, it should be noted that these are two mostly settled general rate cases for
13 the State’s largest electric utilities. While rate case expense for these cases is
14 substantial, as a percentage of the total cost of service, rate case expenses are a
15 much smaller percentage than the rate case expense for a small water utility like
16 HH Water. The Commission addressed the issue of over-amortization of rate case
17 expenses among other items of over-amortizations. e.g., Docket No. E-2, Sub
18 1300, Order Accepting Stipulations, Granting Partial Rate Increase and Requiring
19 Public Notice, August 18, 2023. pp. 205-210. A careful review of the Orders,
20 however, indicates that the issue between the parties was not whether to credit
21 over-amortization to customers but how and where to accomplish the credit. “The
22 over-amortization of rate case expense from Docket No. E-2, Sub 2023 of
23 \$1,112,000 should be applied to the balance of rate case expense in the

1 Commission's Order in the 2017 Rate Case \$530,000, which will eliminate that
2 balance. The remaining \$582,000 of over-amortization should be applied against
3 rate case costs being requested in this proceeding." Id, p. 210. Consequently, the
4 issue was far from a contested one. Just to note, no regulatory liability was set up
5 to refund and no carrying costs (interest) was recommended or approved for these
6 rate case over-amortizations from prior rate cases.

7 Moreover the Commission in its order stated:

8 "The Commission determines that, in the ordinary course of ratemaking, the rate
9 case expense amount to be recovered from customers should be established in
10 the current rate case proceeding and not reevaluated in a future rate case for
11 recovery from customers. Generally, it has been past practice for the Public Staff
12 and the utility to work together to estimate an appropriate amount of rate case
13 expense for approval by the Commission to reflect the activities occurring after
14 they agreed upon update cutoff date to the conclusion of the hearing through the
15 preparation of proposed orders." Docket No. E-2, Sub 1300, p. 205.

16 The Commission approved recovery of rate case expense over a three-year
17 period. The Commission denied requests by DEP to include the unamortized rate
18 case expense in rate base. The Commission made it clear that rate case expense
19 is a cost not to be limited by Commission determinations that other costs should
20 be cut off for recovery at a certain date. These cases contain more determinations
21 weighing against the Public Staff position than in support of them.

22

1 The Public Staff bears the burden of presenting affirmative appliance to justify its
2 recommended disallowance of the rate case costs in this docket. The fact that a
3 public utility incurs costs is prima facia evidence that the cost is reasonable and
4 prudent and should be recovered. Only to the extent that an intervening party such
5 as the Public Staff provides affirmative evidence appropriately contesting of cost
6 incurred by the public utility, does the burden shift to the public utility to further
7 justify the reasonableness and prudence of the cost. *State ex rel. Utilities*
8 *Commission v. Intervenor Residents*, 305 N.C. 62, 286 S.E.2d 770 (1982)

9 It is the Public Staff that has the burden of proof on this adjustment that it
10 recommended without any support that it is fair or appropriate or justified by
11 precedent or prior authorities.

12
13 **Q. WHAT IS THE TEST THE COMMISSION REQUIRES FOR THE**
14 **ESTABLISHMENT OF A REGULATORY LIABILITY?**

15 A. The Commission only establishes a regulatory liability when appropriate criteria
16 have been met. The Commission approves the creation of a regulatory
17 asset/liability account through an Order issued in advance of the incurrence of the
18 cost and by an Order based on sufficient findings and conclusions. In creating a
19 regulatory asset/liability, the Commission segregates costs set forth in the
20 regulatory asset/liability account from traditional costs of service recovered
21 through the test year mechanism.

22 In the 2018 Duke Energy Carolinas (“DEC”) and Duke Energy Progress (“DEP”)
23 general rate cases the Commission established a regulatory asset in order to defer

1 into the future recovery of coal ash remediation costs. The Commission addressed
2 the important distinction between cost recovered in the traditional manner (what
3 the Public Staff labels as “normalization” here) and those recovered as a regulatory
4 asset/liability.

5
6
7 The Commission agrees with DEC's recommended approach, not only for CCR
8 costs, but also for all costs for all accounts. A deferred cost is not the same as the
9 other cost of service expenses recovered in the Company's non-fuel-based rates.
10 A deferred cost is an exception to the general principle that the company's current
11 cost of service expenses should be recovered as part of the company's current
12 revenues. When the Commission approves a typical cost of service, such as
13 salaries and depreciation expense, there is a reasonable expectation that the
14 expense will continue at essentially the same level until the company's next
15 general rate case, at which time it will be reset. On the other hand, when the
16 Commission approves a deferred cost the Commission identifies the specific
17 amount that has already been incurred by the company, or, in the case of CCR
18 costs, **is estimated to be incurred by the company**. In addition, the Commission
19 sets the recovery of the amount over a specific period of time. Further, the
20 company is directed to record the recovery of the specific amount in a regulatory
21 asset account, rather than a general revenue account. If the company continues
22 to recover that deferred cost for a longer period of time than the amortization period
23 approved by the Commission that does not mean that DEC is then entitled to
24 convert those deferred costs into general revenue and record them in their general
25 revenue accounts. Rather the company should continue to record all amounts
26 recovered as deferred costs in the specific regulatory asset account established
27 for those deferred costs until the company's next general rate case.

28 Docket No, E-7, Sub 1146. Order dated June 22, 2018. Evidence and Conclusions
29 for Findings of Fact No. 79, pages 326-327. (emphasis added)

30
31 ***
32

33 That DEC shall recover the actual coal ash basin closure costs DEC has incurred
34 during the period from January 1, 2015, through December 31, 2017, in the amount
35 of \$545.7 million to be adjusted based on the allocation factors to be provided by
36 DEC and the Public Staff pursuant to ordering paragraph #3, and DEC is
37 authorized to establish a regulatory asset as requested by the Company's petition
38 in Docket No., E-7, Sub 1110. These costs shall be amortized over a five-year

1 period **with a return on the unamortized balance** and then reducing the resulting
2 annual revenue requirement by \$14 million for each of the five years.

3 Decretal paragraph 41, p. 332. (emphasis added)
4

5 In its orders in those cases the Commission allowed a full return on the
6 unamortized balance.

7 The Commission's two-prong test for establishing a regulatory asset/liability
8 treatment is that that 1) the cost be **extraordinary, unusual, unexpected** and
9 consisting of features that set it apart from the recovery through rates in the
10 traditional manner; and 2) the other test is whether the need to create the
11 regulatory asset/liability will have a **material effect on earnings**.

12 The Commission will establish a regulatory asset for a cost incurred outside of the
13 test year of a general rate case in order to bring it into the next rate case, for
14 example, when the Company makes a major investment for which it receives no
15 return in the meantime. The Commission, in that case applies the two-prong test.

16 The Commission may take a particular cost or expense that is incurred in the
17 context of the general rate case test year or the period up until the time that the
18 hearing closes and create a regulatory asset/liability for extraordinary treatment
19 recovery into the future.

20 The Commission may establish a regulatory asset/ liability in anticipation of major,
21 extraordinary costs anticipated to occur in the future which should be set aside for
22 deferral.

23 **Q. HAS THE PUBLIC STAFF SOUGHT TO JUSTIFY ITS RECOMMENDED**
24 **DEFERRAL AND CREATION OF A REGULATORY LIABILITY ACCOUNT FOR**

1 **RATE CASE EXPENSES IN ACCORDANCE WITH THE TEST SET FORTH BY**
2 **THE COMMISSION?**

3 A. No. The Public Staff has made no effort to demonstrate that HH Water's rate case
4 expenses meet the test established by the Commission for approving a regulatory
5 liability account. Nor could it. The incurrence of rate case expenses is expected
6 and necessary for every rate case. It is especially expected when the Public Staff
7 undertakes a comprehensive audit with numerous data requests consisting of
8 scores of sometimes repeated subparts. Rather than conducting an audit
9 examining a representative sample of expenses in various accounts, presently it
10 is the Public Staff practice is to require the companies to submit every invoice for
11 every account irrespective of the magnitude of the cost. Also, the Public Staff
12 makes major recommended adjustments without support.

13 **Q. WHAT IS THE PURPOSE OF THE ESTABLISHMENT OF A REGULATORY**
14 **ASSET/ LIBAILITY?**

15 A. One reason to create a regulatory asset/liability is to prevent the equity investor
16 from losing money. For example when a major plant is added in between general
17 rate cases, unless a regulatory asset is created the utility will not recover its
18 depreciation expense and will fail for a time to recover the return on its investment.
19 Of late, the Commission has required compliance with the two-prong test for
20 creating a regulatory asset/liability that is used to defer cost into the future even
21 where the request for establishing the regulatory asset/liability rises with respect
22 to test year costs.

1 In its Orders in Docket No. E-7, Sub 1241 and Docket No. E-2, Sub 1258 the
2 Commission determined that the two-prong test was applicable for establishing a
3 regulatory asset/liability for COVID costs that otherwise would be recovered in
4 traditional manner in the general rate case. "In this case, however, the
5 Commission agrees with the AGO that the fact that the deferral request was filed
6 during the pendency of the rate cases does not moot the relevance of the second
7 prong of the test, especially as the costs sought to be deferred are ongoing and
8 their totals unknown, and they were not included in the consideration of rates in
9 those cases." December 29, 2021, Order Approving Deferral Request, p. 9. The
10 rate case expenses at issue in this case cannot be justified through reliance upon
11 the two-prong test.

12 The Public Staff mechanism requires Commission approval with respect to this
13 topic, deferrals and the creation of a regulatory asset/liability, Commission
14 precedent is well established, and citation to the Uniform System of Accounts even
15 if inconsistent or contradictory with Commission precedent, is not controlling.

16 **Q. CAN THE PUBLIC STAFF RECOMMENDATION BE ACCURATELY**
17 **CLASSIFIED AS NORMALIZATION?**

18 **A.** No. The Public Staff recommendation is not normalization. Normalization would
19 occur where the Commission determines a level of rate case expense, and it
20 approves recovery of a pro rata portion as a traditional expense item to be
21 recovered each year while rates approved are in effect. The level of rate case
22 expense is not tracked in a regulatory liability account or otherwise, and to the
23 extent that the Company files for a subsequent rate case earlier than or later than

1 the end of the rate case expense amortization period, there is no true up. Rate
2 case expenses are viewed in that instance just like salaries or maintenance repair
3 costs, and it would constitute retroactive ratemaking to make the utility refund
4 those costs after the fact.

5
6 **Q. IS THE PUBLIC STAFF RECOMMENDATION CONSISTENT WITH**
7 **CUSTOMARY NORMALIZATION OR DEFERRED ACCOUNTING?**

8 A. No. In some respects, the Public Staff recommendation is sui generis. The
9 recommendation has features that are unusual and unprecedented. The
10 recommendation is not one that has been authorized by the Commission in a
11 contested case where its features have been thoroughly analyzed and assessed.
12 Rather than recommending the creation of the regulatory asset/liability account to
13 become operable when rates approved in this docket are established, for five years
14 the reduced rate case expenses are treated like other operating regulatory
15 deductions and assumed to be recovered, 20% each year, irrespective of whether
16 the Company earns its authorized return. During the five years, the reduced rate
17 case expenses, though funded by the investor, are not treated as an asset and
18 receive no return on the unamortized balance.

19 Under the Public Staff's recommendation, it is only after the Company applies for
20 a subsequent rate case beyond the end of five years, if the company delays
21 seeking a subsequent rate case, that the establishment or funding of the regulated
22 liability account takes place. In this regard, the unique recommendation is overly
23 punitive. There is no guarantee of recovery during the first five years. There is no

1 return on the unamortized balance during the first five years. In the next rate case,
2 there is a return as a credit of what the Public Staff classifies as “over recovery”
3 after five years, with a full return to customers, of the amount credited to the
4 customers.

5 In the Public Staff’s recommendation, if approved, rate case expense is deemed
6 to be recoverable over five years or with 20% of the approved costs recovered
7 each year. In order for the Commission to determine the under or over recovery,
8 and credit customers with over recovery with interest, where the Company waits
9 until after the five years to file its subsequent case, the only way that can happen
10 is through tracking, setting the rate case expense aside in a regulatory liability
11 account or segregating the expenses in some fashion and treating it quite
12 differently from customary cost of service items. This is deferral. It is not
13 normalization.

14 The Public Staff recommendation must be rejected. It is apparent that the Public
15 Staff is recommending more than normalization of rate case expenses, is
16 requesting the creation of a regulatory liability account and is asking that rate case
17 expenses be tracked for possible refund of a portion of those costs with interest to
18 ratepayers in the future. It is also apparent that there is an amortization of rate
19 case expenses as they are recovered in part over future periods while the rates
20 approved in this docket are in effect. Where a regulatory asset/liability is
21 established, the unamortized portion is recognized in rate base. Where there is
22 simply an amortization of an expense, no rate base treatment takes place. In this
23 case although the Public Staff requests the creation of a regulatory liability, not

1 only a normalization, inconsistently it does not recommend adding the unamortized
2 portion of the rate case expense in rate base upon which a return is allowed.
3 Therefore, based on Commission's long-standing precedent, Commission
4 approval in advance is necessary, and the Commission established tests for
5 establishing a regulatory liability account where costs are tracked for ultimate
6 distribution in the future must be met. The Public Staff has not attempted to justify
7 the creation of the deferral and the regulatory asset/liability account under the tests
8 established by the Commission, and the Commission should deny the Public
9 Staff's request.

10 **Q. DOES APPROVAL OF THE PUBLIC STAFF RECOMMENDATION RAISE**
11 **INTERGENERATIONAL EQUITY CONCERNS?**

12 A. Yes. The Company maintains that aside from the infirmities and illegalities
13 addressed above, there are practical reasons for disapproving the Public Staff
14 request. Under the Public Staff recommendation, the Company is not going to
15 recover those costs until the end of five years.

16 If after five years the Company does not come in for a rate case, a credit on behalf
17 of ratepayers will build up in what is in effect a deferral account. So, if no rate case
18 under the Public Staff recommendation, after 2029 a credit will begin to build up in
19 the account on behalf of customers.

20 If the Company does not come back for a rate case until 2034, for example, at that
21 time the credit begins to be returned to the customers over perhaps five years or
22 until 2039. In the meantime, it has accrued what the Public Staff calls interest but
23 what in effect is a full return. So, under that scenario customers 15 years from now

1 the ratepayers will be getting credit for rate case expense the Company incurred
2 in 2024, plus the return. The Public Staff recommended mechanism is inequitable
3 and unfairly benefits a future generation of ratepayers for alleged savings that
4 should have been given to existing customers. This creates an inappropriate
5 intergenerational equity issue. The Company has to keep track of that deferral
6 account in the meantime.

7 Under the Public Staff recommendation if the Company comes in for a rate
8 adjustment in less than five years, the mechanism takes the unamortized rate case
9 expense from the last (this) case and adds it to the rate case expense for the next
10 case and the combined rate case cost from the two cases is to be amortized over
11 a period that the mechanism does not define but leaves to the discretion of the
12 Commission. This mechanism is inequitable.

13 The Public Staff should be precluded from using this mechanism as leverage to
14 force small water utilities to settle on unfavorable terms. It appears the Public Staff
15 has been working to include this language in recent settled cases by holding the
16 utilities hostage and not allowing a settlement in a rate case unless the companies
17 agree to this unprecedented rate case expense language. Small water and sewer
18 utilities cannot afford to litigate just because of this language, and if they did, their
19 rate case expense would increase significantly and so would the customers' rates.
20 An even larger concern is the fact that the Public Staff is, in essence,
21 recommending that rate case expense be tracked and basically be considered a
22 "quasi" regulatory asset with even more restrictions than regulatory assets
23 currently approved before this Commission. Based on extensive review of other

1 cases to evaluate deferral of regulatory asset/liabilities, any party, including the
2 Public Staff, must file a petition for an accounting order to defer certain expenses
3 with the Commission, requesting authority to set up a regulatory asset. The
4 Commission's Order¹ in Docket No. E-7, Sub 1181, set forth that the Commission's
5 two-prong test in considering a deferral request. The two-prong test that the
6 Commission has often utilized to determine whether cost deferral is justified is: (1)
7 whether the costs in question are unusual or extraordinary in nature and (2)
8 financial condition.

9 **A. DOES THE NARUC SYSTEM OF ACCOUNTS GIVE THE COMPANY OR**
10 **PUBLIC STAFF AUTOMATIC APPROVAL TO SET UP A REGULATORY**
11 **ASSET AND/OR LIABILITY?**

12 **Q.** No. When HH Water asked the Public Staff about NARUC Uniform System of
13 Accounts (USOA) and accounting pronouncements supporting their regulatory
14 liability position, the Public Staff basically stated that The NARUC USOA and its
15 reporting is publicly available to the Company, therefore no response. When HH
16 Water asked the Public Staff to differentiate the USOA Chart of Accounts issued
17 by NARUC, they stated that regulatory liabilities are listed under the category of
18 deferred credits.

19 The Company requests the Commission to take notice of the USOA and the fact
20 that deferred debits and credits are normal balance sheet accounts, which any
21 utility company can set up for various types of expenses and liabilities. The USOA

¹ Docket No. E-7, Sub 1181 Commission Order Allowing Deferral Accounting, Denying Public Staff's Motion for Reconsideration, Granting Transfer of CPCN's and Qualifying the Transferred Facilities as New Renewable Energy Facilities, dated June 5, 2019.

1 also shows that a deferred debit and credit can be classified as regulatory liabilities
2 and assets if appropriate, which the company can also record on its financial
3 books and records. The most important point is that in order for the Company to
4 be allowed “ratemaking treatment” on deferred debits and credits, also referred to
5 as regulatory assets and liabilities, and as stated previously, this Commission must
6 approve the request for the regulatory asset and liability treatment. In other words,
7 the deferred debits and deferred credits for rate case expense are just that –
8 deferred debts and credits until this Commission approves the classification as a
9 regulatory asset or regulatory liability.

10

11 **Q. DOES HH WATER ACCEPT WITNESS BHATTA’S METER REPLACEMENT**
12 **RECOMMENDATION?**

13 A. Yes. The Company is already in the process of installing meters on new houses
14 as are built.

15

16 **Q. DOES THIS CONCLUDE YOUR PREFILED REBUTTAL**
17 **TESTIMONY?**

18 A. Yes

