

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. W-354, SUB 414

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of)	
Don Calhoun, 393 Bayberry Creek Circle,)	
Mooreville, North Carolina 28117,)	
Complainant)	ORDER DISMISSING
)	COMPLAINT IN PART AND
v.)	DENYING COMPLAINT
)	
Carolina Water Service, Inc. of North Carolina,)	
Defendant)	

HEARD: Thursday, March 23, 2023, at 11:00 a.m., in the Iredell County Hall of Justice Annex, 203 Constitution Street, Courtroom C, Statesville, North Carolina

BEFORE: Commissioner Karen M. Kemerait, Presiding Commissioner, and Commissioners ToNola D. Brown-Bland and Daniel G. Clodfelter

APPEARANCES:

For Complainant Don Calhoun:

Don Calhoun, *Pro Se* (No Attorney of Record)

For Carolina Water Service, Inc. of North Carolina:

Jo Anne Sanford, Sanford Law Office, PLLC, Post Office Box 28085,
Raleigh, North Carolina 27611

BY THE COMMISSION: On November 7, 2022, Don Calhoun (Mr. Calhoun or Complainant), filed a formal complaint (Complaint) in the above-captioned docket against Carolina Water Service, Inc. of North Carolina (CWSNC or Company), challenging increased high monthly water usage readings and excessively high bills for the service periods from May 18, 2022 through August 16, 2022, and complaining of unsatisfactory customer service for water utility service he received at his property located at 393 Bayberry Creek Circle in Mooreville, North Carolina. Mr. Calhoun filed additional exhibits to his Complaint on November 16, 2022, and December 9 and 14, 2022. He filed an addendum to his Complaint on November 30, 2022.¹

¹ The Complaint, Addendum, and Exhibits filed by Mr. Calhoun from November 7, 2022, through December 14, 2022, will be referenced together as the Complaint.

Mr. Calhoun requests that his bills be revised to the historical average and requests that the Commission regulate CWSNC more stringently or, failing CWSNC's cooperation, replace CWSNC as the water provider for his area.

The Complaint was served on CWSNC by Commission order issued on November 8, 2022.

On November 15, 2022, CWSNC filed a request for an extension of time to file its answer to the Complaint until December 16, 2022, which was granted by the Commission on November 16, 2022.

On December 16, 2022, CWSNC filed an Answer and Motion to Dismiss Complaint (Answer and Motion to Dismiss), including the Affidavit and Exhibits of Donald H. Denton, III, President of CWSNC, asserting that Mr. Calhoun received and used the water that was delivered to his property and that no errors occurred with his meter readings or billing statements. In the Motion to Dismiss, CWSNC argues that Mr. Calhoun's Complaint should be dismissed because it fails to state a claim upon which relief can be granted and that no reasonable ground exists pursuant to N.C. Gen. Stat. § 62-73 for further investigation into the Complaint.

The Answer and Motion to Dismiss was served by Commission order issued on December 21, 2022.

On December 16 and 20, 2022, Mr. Calhoun filed responsive pleadings to CWSNC's Answer and Motion to Dismiss (Calhoun Response). On December 21, 2022, Mr. Calhoun filed a request for a public hearing.

On January 31, 2023, the Commission issued an Order Scheduling Hearing, setting this matter for hearing to begin on March 23, 2023.

On March 23, 2023, a hearing was held in this matter as scheduled. Mr. Calhoun represented himself *pro se* and provided direct and rebuttal testimony. Mr. Denton provided direct testimony for CWSNC. During the evidentiary hearing, the Commission requested that CWSNC file the following Late-Filed Exhibits:

- a. An exhibit which details the size of the water meter(s) serving Mr. Calhoun's property and the amount of water that can flow through the meter(s) per minute.
- b. An exhibit which describes (a) the Company's meter reading and billing procedures as they apply to each of the three water bills contested by Mr. Calhoun and specifically relate to flagging of high usage during the meter reading and billing processes as described by the Cavanaugh consulting group in Denton Affidavit Exhibit 1; (b) whether the Company's contacts with Mr. Calhoun related to the three water bills in question were a result of outreach by the Complainant or were based on internal meter reading and/or billing system triggers; and (c) how estimated bills are developed and processed by the Company.

- c. An exhibit summarizing the results of the investigation conducted by CWSNC to test Mr. Calhoun's irrigation system that was monitored and observed by Mr. Calhoun and his irrigation specialist.

On April 3, 2023, Mr. Calhoun filed a document (Leak Test Summary) informing the Commission that the requested irrigation testing had been completed.

On April 28, 2023, CWSNC filed the Post-Hearing Affidavits of Mr. Denton, addressing Late-Filed Exhibit B, and Gary M. Peacock, CWSNC's Director of State Operations, addressing Late-Filed Exhibits A and C.

Mr. Calhoun filed further responses in this docket on May 16 and 22, 2023.

On May 26, 2023, CWSNC filed its Verified Response to the Complainant's May 22, 2023, filing.

Based on the foregoing and the entire record herein, the Commission makes the following

FINDINGS OF FACT

1. CWSNC is a corporation duly organized under the laws of, and authorized to do business in, the State of North Carolina as a franchised public utility subject to the regulatory oversight of this Commission pursuant to the Public Utilities Act, Chapter 62 of the North Carolina General Statutes, providing water utility service to customers in The Farms neighborhood in Mooresville, Iredell County, North Carolina.² CWSNC is a wholly-owned subsidiary of Corix Regulated Utilities, Inc. (Corix)³

2. Mr. Calhoun has been a water customer of CWSNC for his residence located at 393 Bayberry Creek Circle, Mooresville, North Carolina in The Farms neighborhood, for approximately ten years. Three individuals live in the residence. According to Iredell County Tax Records, 393 Bayberry Creek Circle is a single-family residence of approximately 4,835 square feet with six bathrooms and an inground pool, which was constructed in 2021⁴. The property also has a programmable irrigation system.

3. During the time relevant to the Complaint and thereafter, Mr. Calhoun's property has been serviced by 5/8-inch meters which have a maximum delivery of 25 gallons per minute (gpm) or 1,500 gallons per hour.

² CWSNC also provides water utility service to The Point and The Harbour neighborhoods through an integrated water system that uses the same wells and infrastructure as the Farms.

³ Corix owns regulated utilities in 17 states, with primary service areas in Florida, North Carolina, South Carolina, Louisiana, and Nevada, which provide water and sewer utility service to approximately 190,000 customers.

⁴ Based on Mr. Calhoun's direct and cross-examination testimony during the evidentiary hearing, it is undisputed that Mr. Calhoun's pool is not causally related to the increased water usage and higher bill amounts alleged in this matter. Tr. vol. 1, 14-15, 27, and 29-30.

4. Mr. Calhoun received the following bills from CWSNC which are the primary subject of his Complaint:

- a. A July 2022 bill for the billing period from May 18, 2022, through June 17, 2022, showing usage of 63,750 gallons at a rate of \$11.71 per 1,000 gallons for a total of \$746.51 plus a base charge of \$24.53 for a total account balance due of \$771.04.
- b. An August 2022 bill for the billing period from June 17, 2022, through July 19, 2022, showing usage of 43,090 gallons at a rate of \$11.71 per 1,000 gallons for a total of \$504.58 plus a base charge of \$24.53 for a current charge of \$529.11. This bill also reflects a bill credit of \$650.00 from CWSNC leaving a prior balance of \$121.04 for a total account balance due of \$650.15.
- c. A September 2022 bill for the billing period from July 19, 2022, through August 16, 2022, showing usage of 35,008 gallons at a rate of \$11.71 per 1,000 gallons for a total of \$409.94 plus a base charge of \$24.53 for a current charge of \$434.47. This bill period included the replacement of water meters on three occasions.

5. On May 18, 2022, Mr. Calhoun discovered a water leak near his meter box and reported it to CWSNC. A field operator with CWSNC responded to Mr. Calhoun's report that same day, determined that the water leak was on CWSNC's side of the meter, noted that the meter box had been moved or settled causing a separation between the service line and the meter, and repaired the leak. Because of the possibility that the meter might have been the cause of the leak, the field operator replaced Mr. Calhoun's Badger analog meter (badge number 43582896) with a second Badger analog meter (badge number 220745442).

6. CWSNC sent the Badger analog meter number 43582896 that had been used at Mr. Calhoun's premises for testing to determine whether it was operating accurately. In a report dated August 5, 2022, Mid-America Meter, Inc. (Mid-America), an outside, third-party testing company, provided its testing results that meter number 43582896 performed with 100.45% accuracy. The testing result for meter number 43582896 indicated that the meter complied with Commission Rule R7-29 which requires that meters must test within an accuracy range of 2% fast or slow. In addition, the meter also tested within the standards and tolerance levels of 98.5% to 101.5% established by the American Water Works Association (AWWA), an international, non-profit scientific and education society dedicated to ensuring the effective management of water.

7. Between May 19 and 24, 2022, Mr. Calhoun contacted CWSNC's customer service team several times to report that the water leak on CWSNC's side of the meter had not been resolved and was ongoing. On May 20, 2022, a vendor that delivers maintenance services on behalf of CWSNC responded and adjusted a connection between the line and the meter at Mr. Calhoun's property, which stopped the leak

temporarily. A permanent repair of the water leak required excavation of a portion of Mr. Calhoun's lawn.⁵

8. On June 9, 2022, Mr. Calhoun again contacted CWSNC's customer service to report the ongoing leak on CWSNC's side of the meter and also consented to excavation of a portion of his lawn for repair of the leak. On June 10, 2022, CWSNC's vendor excavated a portion of Mr. Calhoun's lawn and completed the repair by extending the service line to allow more room for ground movement.

9. Because the leak that occurred between May 18 and June 10, 2022, was on CWSNC's side of the meter, it did not register on Mr. Calhoun's account, and he was not billed for that water usage.

10. On July 19, 2022, a CWSNC field technician visited Mr. Calhoun's property to read his meter and check for leaks. Upon examination, the meter appeared to be working properly, and no leaks were observed.

11. On August 1, 2022, Mr. Calhoun contacted Corix, CWSNC's parent company, by phone and email to lodge a complaint about his high bills and water usage readings. Mr. Calhoun's email was forwarded to Mr. Denton, prompting a call and discussion between Mr. Denton and Mr. Calhoun about Mr. Calhoun's concerns.

12. In an August 2, 2022, email exchange, Mr. Calhoun disputed the amount of his bill dated July 21, 2022, for the billing period from May 18, 2022, through June 17, 2022, which showed 63,750 gallons of water used and a billing total of \$771.04. CWSNC reviewed Mr. Calhoun's usage and bill amount and determined that the usage and charges were accurate. However, as a courtesy to Mr. Calhoun, CWSNC reviewed his bills for the previous 12 months, compared that average billing amount over the past 12 months to the current bill, and provided Mr. Calhoun with a courtesy billing credit of \$650.00 to align his July 21, 2022, bill with his historic average usage.⁶

13. On August 2, 2022, a CWSNC field technician visited Mr. Calhoun's property to read the meter and check for leaks near the equipment. No leaks were apparent, and the meter appeared to be functioning properly. The meter reading indicated that approximately 25,000 gallons of water, an average of 1,800 gallons a day, had passed through Mr. Calhoun's meter during the prior 14 days since the last meter reading on July 19, 2022. The technician shared the high reading with Mr. Calhoun and discussed

⁵ CWSNC stated that Mr. Calhoun refused to allow excavation of his property at this time. Mr. Calhoun denies refusing the excavation of his lawn.

⁶ CWSNC reviewed the billing history for Mr. Calhoun's property which showed a pattern of higher water usage during the late-spring and summer months as compared to the other months of the year, with even greater increases in the months of May through August of 2022. During 2021, Mr. Calhoun used 14,500 gallons of water during the billing period from April 25, 2021, through May 26, 2021; 18,030 gallons of water during the period from May 26, 2021, through June 26, 2021; 22,090 gallons of water during the period from June 26, 2021, through July 21, 2021; 20,600 gallons of water during the period from July 21, 2021, through August 27, 2021; and 12,230 gallons of water during the period from August 27, 2021, through September 26, 2021. (Those five referenced water bills were collectively identified as Denton Affidavit Confidential Exhibit B and were filed confidentially by CWSNC to protect Mr. Calhoun's personal information.)

the potential for high water usage from sources such as Mr. Calhoun's irrigation system and pool, as well as possible leaks.

14. On August 5, 2022, CWSNC operations leader and area manager Kenny Knopf visited Mr. Calhoun's residence to read the Badger analog meter number (badge number 220745442) installed on May 18, 2022. Mr. Knopf removed the analog meter and replaced it with a new digital Neptune brand meter (badge number 11502145) designed to measure water usage every hour which would allow CWSNC to investigate when Mr. Calhoun was using water. The Neptune meter is an AMI technology meter designed to track water usage and automatically and securely transmit that data to CWSNC via a cellular network. The data collected by the AMI meter is more detailed than the data collected by a traditional analog meter.

15. CWSNC sent the analog meter number 220745442 that was removed from Mr. Calhoun's premises to Mid-America for testing to determine whether it was operating accurately. In a report dated August 10, 2022, Mid-America provided that meter number 220745442 performed with 100.04% accuracy, which is in compliance with Commission and AWWA standards.

16. On August 9, 2022, a CWSNC field technician visited Mr. Calhoun's property to read the newly installed Neptune brand AMI meter. The AMI meter was operating but not completing a secondary function of transmitting data back to CWSNC due to a poor cell signal in the area. When the meter was moved to a location with a better cell signal, it electronically transmitted Mr. Calhoun's meter data that it had stored to CWSNC as it was designed to do.

17. Also on August 9, 2022, Mr. Calhoun emailed CWSNC stating that his account still showed charges totaling \$650.00 and asked if that balance was supposed to have been adjusted. CWSNC confirmed that the \$650.00 credit had been made to his account.⁷ CWSNC also explained that the information reflected on his current bill dated August 3, 2022, was for service rendered between June 17, 2022, through July 19, 2022, and represented the new balance for his account based on his most recent usage. Mr. Calhoun replied that he was going to file a complaint with the Commission and contact CWSNC leadership again.

18. Additionally on August 9, 2022, Mr. Calhoun emailed the Public Staff – North Carolina Utilities Commission, disputing his water usage readings and billing amounts under ticket number 196302. The Public Staff notified CWSNC of Mr. Calhoun's informal complaint, and CWSNC provided its response that same day, August 9, 2022, which included a summary of the actions taken by CWSNC to address Mr. Calhoun's concerns; the report dated August 5, 2022, capturing meter test results; and Mr. Calhoun's billing history. Further on August 9, 2022, a Public Staff representative

⁷ Previously, on August 4, 2022, Mr. Calhoun emailed CWSNC and called Mr. Denton to inquire about the status of the \$650.00 credit to his account. Deb Clark, Communication and Community Engagement Manager, replied to Mr. Calhoun by email and shared a screenshot of CWSNC's billing system, showing that the amount of \$650.00 had been credited to Mr. Calhoun's account.

contacted Mr. Calhoun via email, sharing the meter test report and stating that the equipment functioned with 100.45% accuracy.⁸

19. On August 12, 2022, a CWSNC field technician visited Mr. Calhoun's property, read the meter, and checked for leaks in the vicinity of CWSNC's equipment. The technician noted high usage of 9,139 gallons over the prior seven days and shared the usage information with Mrs. Calhoun. He removed AMI meter number 11502145 and replaced it with a second Neptune AMI meter (badge number 11502157).

20. On August 13, 2022, Mr. Denton provided to Mr. Calhoun via email a comprehensive update on CWSNC's efforts to investigate his claims. In its Answer and Motion to Dismiss, CWSNC provided to the Commission a substantive excerpt from that email as follows:

... Based on the data, water is passing through the meter to your property at a rate higher than your historical average. Over the past couple of months, we have installed two new meters (one analog and one digital) and tested the meters that have been removed for accuracy. Both of those independent meter testing reports indicated the meters were operating properly and within tolerance.

A new mechanical meter was installed by our team on 5/18/22 and utilized until 8/5/22. During this period, 132,210 gallons of water passed through the meter - or an average of 1,673 gallons per day.

A new Mach 10 digital meter was installed on 8/5/22 and on 8/12/22 it had a reading of 9,139.2 gallons, or an average of 1,305.6 gallons per day.

I understand you have indicated that you do not have a leak, but water has flowed to your property at the rates indicated above. We would like to help by providing the hourly consumption data that the new digital meter is tracking so that you may be able to determine the source of the consumption. We will be able to start providing that data this week.

21. On August 16, 2022, Mr. Calhoun emailed the Public Staff to restate his claims of being overcharged for water. In addition, he added that "...[t]his isn't just the water rate increase, there is an issue either with their meters or how they are calculating usage. The company continues to bill and maintain the billing is fair...." Denton Affidavit Exhibit 2, 1.

22. On August 16, 2022, the Public Staff responded to Mr. Calhoun's informal complaint number 196302 in pertinent part, as follows:

...Based on the information provided by the utility company, a meter test was performed on August 5, 2022, and the meter is registering at 100.45%,

⁸ The testing results provided in response to Mr. Calhoun's dispute were for meter number 43582896. The testing results for Mr. Calhoun's second meter (number 220745442) were not available until August 10, 2022.

which is within the guidelines of the North Carolina Utilities Commission. Upon the utility company receiving the work order to test your meter, the field operator noted that a swimming pool and irrigation system is at the home, which could possibly be a reason for the high usage. In reviewing your readings, they appear to be higher during the summer months of June, July, and August during 2018, 2019, and 2021. In addition, Carolina Water Service has provided a courtesy adjustment of \$650.00; and unfortunately, no additional adjustments will be warranted....

Id.

23. On August 27, 2022, Mr. Knopf, and a representative from Core & Main, a company that sells AMI and AMR meters, visited Mr. Calhoun's property to assess the equipment and ensure the equipment was set up correctly.

24. On September 1, 2022, the Better Business Bureau (BBB) notified CWSNC that Mr. Calhoun had filed a complaint against CWSNC (identified as case #17654339). The complaint stated, in pertinent part:

This water utility overbills and leaves no recourse for customers as they send all issues to a third party collection agency....

Denton Affidavit Exhibit 3, 1.

25. CWSNC replied to the BBB with information substantially similar to its response to Mr. Calhoun's first complaint to the Public Staff. On September 3, 2022, the BBB notified the Company that it had closed the Calhoun case, stating, in pertinent part:

We forwarded your response to Don Calhoun. Unfortunately, the consumer notified our office that they are not satisfied. The BBB has determined your company has addressed the issues within the complaint; therefore we have closed this case in our files....

Id. at 2.

26. On September 1, 2022, the Public Staff notified CWSNC that Mr. Calhoun had filed a second informal complaint under ticket 196594. CWSNC provided its written response via email on September 13, 2022, which included an updated summary of actions taken to address Mr. Calhoun's concerns, the most recent account information, and the test results for the second Badger analog meter number 220745442. On September 27, 2022, the Public Staff notified Mr. Calhoun that as explained in its August 16, 2022, response, he would not be getting any additional adjustments and that testing performed on his meter registered within NCUC guidelines. He was also advised of his option to file a formal complaint.

27. On September 7, 2022, Mr. Knopf installed a Mach 10® ultrasonic meter (badge number 13444812) at Mr. Calhoun's property. The Mach 10® meter utilizes AMR technology that, unlike AMI meters, does not rely on a cell signal to transmit data. Instead,

data is captured by the meter and collected electronically by a utility worker using a device near the equipment.

28. The Neptune AMI meters that were previously installed at Mr. Calhoun's property captured usage information hourly. During the September 7 visit, Mr. Knopf informed Mr. Calhoun that the data recorded by one of the AMI meters previously used at his home logged very high usage during the 1:00 a.m., 2:00 a.m., 6:00 a.m. and 7:00 a.m. hours on August 10 and August 12, 2022, which might indicate a malfunction in pool or irrigation equipment programmed to operate at certain times. Mr. Calhoun disagreed that the high usage was related to either the pool or the irrigation system. On October 19, 2022, Mr. Calhoun's Mach 10® AMR digital meter recorded an additional occurrence of very high usage during the 1:00 a.m., 2:00 a.m., 6:00 a.m. and 7:00 a.m. hours, identical to the time periods observed on August 10 and 12, 2022.⁹

29. On September 20, 2022, Mr. Calhoun again contacted the Public Staff via email under ticket 196871. The Public Staff treated Mr. Calhoun's email as a duplicate complaint. A notation was made in the Public Staff's tracking system that Mr. Calhoun's email was a "duplicate of case 196594; closing."

30. On October 3, 2022, Mr. Calhoun emailed Mr. Denton stating:

Our current meter is reading around 2,700 gallons for 3 weeks of usage. Our last usage states 105,000 gallons. Since it's obvious this is not an issue of our home - it's widespread - can we just get our historic average bills sent to us so we can end this? I really don't want to keep going back/forth and filing a formal complaint with the commission, etc.

31. On October 6, 2022, Mr. Denton replied via email as follows:

After investigating your account dating back to April usage and the May of 2022 billing period, I will attempt to explain our findings in hopes to bring some clarity and a better understanding of all the factual data present to date. It is important to note that there was a rate increase and adjustment to the volumetric component of the tariff granted by the North Carolina Utilities Commission during this time frame which played a key part in the increases in your bill. The new base rate is \$24.53 per month and the usage charge is \$11.71 per thousand gallons.

- In May you received a bill based on water usage of **8,940 gallons** of water used. Also, during the month of April/ May time frame CWSNC was granted a rate increase from the North Carolina Utilities Commission. The bill would have been prorated as follows.
2629 gallons of water at a rate of \$8.27 per thousand gallons + base rate \$8.51 + [\$.31] (water system improvement charge) – .09 (tax credit) = \$30.47 The bill was prorated from 3/29 through 4/7 due to the newly granted increase in rates.
6311 gallons of water at a rate of \$11.71 per thousand gallons + base

⁹ Denton Affidavit, Exhibit 8 provides the hourly usage readings by date and hour.

rate \$17.32 = \$91.22. The bill was prorated from 4/8 through 5/1 due to the newly granted increase in rates.

Total bill for the month of April = \$121.69

- In June you received a bill based on **4700 gallons** of water usage at the new usage rate.
4700 gallons at \$11.71 per thousand gallons = \$55.04 + prorated base rate of \$13.90 per month.
Total bill = \$ 68.94
- In July you received a bill based on **63,750 gallons** of water usage at the new usage and base rate.
63,750 gallons at \$11.71 per thousand gallons = \$746.51 + full approved base rate of \$24.53
Total bill = \$ 771.04
- In August you received a bill based on **43,090 gallons** of usage which would be billed at the new rate. 43,090 gallons at \$11.71 per thousand gallons = \$504.58 + base rate of \$ 24.53.
Total bill = \$529.11

In addition, CWSNC issued a one-time credit in the amount of \$650.00 based on the July bill which left a customer balance of \$121.04.

529.11 + 121.04 balance = \$ 650.15

- In September you received a bill based **35,008 gallons** of water usage which is billed at the new rate. 11.71
- 35,008 gallons at \$11.71 per thousand gallons = \$409.94 + base rate of \$ 24.53 = \$434.47
CWSNC received a customer payment in the amount of \$220.71 from the \$650.15 amount that was due in August = \$429.44 still outstanding + 434.47 September bill = \$ 863.91

In addition to the above, our CWSNC operations team has replaced the water meter at your residence several times to ensure the water meter at your residence is capturing the correct amount of flow. The old water meters that were replaced were sent off to be tested by an independent testing company and found to be within tolerance with NCUC rules and regulations. Based on the information we have, the consumption data appears accurate, and we still believe you have an intermittent leak. In that vein, we will offer an additional \$650 credit to your account.

32. Mr. Calhoun did not respond to CWSNC's offer of a second \$650.00 credit included in Mr. Denton's October 6, 2022, email.

33. During the month of August 2022, three separate water meters operated at Mr. Calhoun's property at separate times as part of CWSNC's inquiry into Mr. Calhoun's concerns. Mr. Calhoun filed two exhibits on November 16, 2022, which contain screenshots of queries of Mr. Calhoun's account obtained through the My Utility Connect

(MUC) website.¹⁰ One exhibit reflects a record high monthly usage amount of 105,024 gallons for the month of August 2022. This screenshot captured a query from the “usage” section of the tool with the choice for “All” meters selected. CWSNC reports that the website improperly multiplied Mr. Calhoun’s actual usage of 35,008 gallons for August by the three meters used during the month to arrive at the 105,024-gallon calculation, an amount exactly three times Mr. Calhoun’s August usage, and that such an error in calculation was an anomaly.

34. Mr. Calhoun, in his initial Complaint, and CWSNC, through Mr. Denton’s confidential exhibits, agree that the September 6, 2022, bill captured usage for August of 35,008 gallons and did not include charges for the 105,024-gallon usage reported on the MUC website.

35. While CWSNC was addressing Mr. Calhoun’s concerns, Mr. Calhoun continued to use water at his property but elected to pay only a portion of his July, August, and September bills which reflect usage encompassing the billing period from May 18, 2022, through August 16, 2022. As of the date of the expert witness hearing, Mr. Calhoun was \$713.91 in arrears on his water bills. CWSNC sent Mr. Calhoun letters on October 3, 2022, and October 31, 2022, informing him of his delinquent billing status, detailing payment options, and indicating that disconnection was possible.

36. On November 3, 2022, Mr. Calhoun notified the Public Staff that he was not happy with the outcome of his informal complaints filed against CSWNC, and that he wished to file a formal complaint with the Commission. Mr. Calhoun subsequently filed his Complaint with the Commission on November 7, 2022.

37. On November 18, 2022, Mr. Calhoun emailed CWSNC stating that he had received a notice that his water service would be disconnected. In response, CWSNC assured him that his service would not be disconnected for nonpayment of the disputed billing amount while the issue is being litigated before the Commission.

38. On December 11, 2022, Mr. Calhoun emailed a CWSNC representative stating that: “We just received another notice that the water will be shut off. As a reminder, a formal complaint is in process with the commission.” CWSNC advised Mr. Calhoun via email on December 12, 2022, that the automated disconnection notice had been erroneously sent, and action had again been taken to ensure that disconnection would not occur during the pendency of Mr. Calhoun’s complaint case. CWSNC apologized to Mr. Calhoun for this confusion.

39. During the expert witness hearing, the parties agreed that CWSNC would conduct a test of Mr. Calhoun’s irrigation system to determine whether there are any leaks, and Mr. Calhoun would have his irrigation company on site during the testing.

¹⁰ My Utility Connect is a third-party vendor operated tool that allows customers to view their account information.

40. Mr. Peacock was designated by CWSNC to conduct the test of Mr. Calhoun's irrigation system.¹¹ Mr. Calhoun hired Irrigation Specialists of Lake Norman (Irrigation Specialists), a Mooresville-based, North Carolina licensed company specializing in irrigation maintenance and repair to oversee the irrigation system testing.

41. On April 3, 2023, when Mr. Peacock arrived at Mr. Calhoun's property, technician Dave Dockery and his assistant Brian Dockery (Irrigation Specialists), employees of Irrigation Specialists selected by Mr. Calhoun to participate in the inspection of the irrigation system infrastructure on his behalf, who had arrived a few minutes earlier, had begun their assessment of the irrigation system infrastructure. Irrigation Specialists took the lead in the initial portion of the inspection while Mr. Peacock observed. Their activities included checking the flow and operation of each zone of the system, which they reported to be normal. They also tested water pressure in the system at the reduced pressure zone (RPZ) valve or backflow preventer. They determined that pressure measured 85 PSI, within normal limits, and they found no leaks in the piping or sprinkler heads.

42. Mr. Peacock concurred in the above-summarized conclusions regarding the normal operation of the irrigation system during the inspection, including normal pressure and identification of no leaks.

43. Irrigation Specialists and Mr. Peacock also inspected the irrigation system controller, a programmable device that operates the system at predetermined days and times. The inspection revealed three active programs in the irrigation system controller. There was no program set to operate on Tuesday and Friday. Two of the programs were scheduled to water the lawn four times a week.

44. Program A had a start time of 5:00 a.m. on Mondays, Wednesdays, and Fridays. It was set to run between four and 20 minutes in each of the ten zones, completing the program after two hours, 49 minutes.

45. Program B was set to begin watering the lawn at 12:15 a.m. on Mondays, Tuesdays, Wednesdays, and Thursdays. It was set to run between 14 and 16 minutes in each of the ten zones, shutting off entirely after two hours, 25 minutes.¹²

46. Program C was set to begin operation at 4:45 a.m. on Mondays, Tuesdays, Thursdays, and Saturdays. It was set to run between zero and 15 minutes in each of the ten zones, shutting off after 58 minutes.

¹¹ The Commission ordered that Mr. Calhoun not be charged for the water used during the irrigation system test. Based on meter data from Mr. Calhoun's property on the morning of April 3, 2023, the Company estimates that approximately 150 gallons of water were used during the time when the inspection and testing was being conducted. The Company agreed to apply a credit in the amount of \$18.51 to Mr. Calhoun's account.

¹² During the evidentiary hearing, the Commission asked Mr. Calhoun whether he had ever set his irrigation system to run between the hours of midnight and 2:00 a.m. Mr. Calhoun responded "no" to the question. In a follow-up response to a second question, Mr. Calhoun said that was not a setting he used to program his system. Tr. vol. 1, 64. These responses seem inconsistent with Program B as described in this finding of fact.

47. Following the inspection, Irrigation Specialists and Mr. Peacock met with Mr. Calhoun to discuss their findings related to the irrigation system controller. Mr. Calhoun indicated that he only used the system when needed and that he would switch it from off to auto on those occasions. Irrigation Specialists and Mr. Peacock explained that if the controller was left on the auto setting, all the active programs would operate, potentially leading to very high usage if the system was not promptly turned off after a program completed its cycle.

48. In Mr. Calhoun's April 3, 2023 Leak Test Summary, Mr. Calhoun provided no report or statement from Irrigation Specialists but states that he has "had the irrigation set to the same days/times for 10 years." He also states: "Once we received the large bill, I went to check the control panel and the programs to see if there were any issues. I went through all the programs and tested them to ensure there wasn't anything out of the ordinary then I shut off the system until this morning." He further states that we "have only had 1 program running with watering 3 days/week in the summer months." Calhoun Leak Test Summary at 2.

49. Based on his professional experience and the size of Mr. Calhoun's water meter, Mr. Peacock, in his Post-Hearing Affidavit, estimated that this irrigation system could use up to 10 gallons of water per minute. Mr. Peacock further opined that, in the most extreme scenario, if all three active programs in the controller operated as designed, there would be up to eleven watering cycles in a six-day period, totaling an estimated 13,270 gallons of water use a week. If that happened for four weeks, irrigation usage alone would be very high, at approximately 53,000 gallons in approximately a month. Mr. Peacock submitted the following chart in support of his calculations:

Irrigation program	Estimated water usage per day	Total estimated water usage per weekly cycle
Program A	1,690 gallons a day for three days	5,070 gallons per week
Program B	1,450 gallons a day for four days	5,800 gallons per week
Program C	600 gallons per day for four days	2,400 gallons per week
Total		13,270 gallons per week

50. In addition, the timing of certain irrigation programs could result in usage that is not obvious. Program B, for example, irrigates the lawn for almost two and a half hours beginning shortly after midnight and could easily escape notice. Similarly, Program C is set to operate for just under an hour beginning at 4:45 a.m., which could cause unintended irrigation to escape detection.

51. Based on visual inspection, the controller appeared to be in good working order, and Mr. Calhoun expressed no concerns about its operation. Both Dave Dockery and Mr. Peacock suggested that Mr. Calhoun remove the extra active programs from the controller. He agreed and allowed his irrigation specialist to delete Programs B and C from the system.

52. After the inspection, Mr. Peacock compared the irrigation system programs which were observed at Mr. Calhoun's home with the high usage anomalies that the

Company identified through hourly tracking beginning in August 2022, and found alignment. As noted in Mr. Denton's December 16, 2022 Affidavit and Denton Affidavit Exhibit 8, two separate digital meters logged very high usage in six blocks of time generally in the 1:00 a.m. and 2:00 a.m. hours and again during the 6:00 a.m. and 7:00 a.m. hours on August 10 and August 12, 2022, and again on October 19, 2022.¹³ Mr. Peacock stated that he was not aware of anything on Mr. Calhoun's property that would use that amount of water except the irrigation system.

53. Analysis of Mr. Calhoun's recorded data indicates that the high hourly usage was likely tied to some type of programmable equipment because each high hourly usage happened during the same overnight hours when there was virtually no other household use, and each followed a consistent pattern regarding time of day and duration.

54. Mr. Peacock compared the six high usage anomalies during the overnight and early morning hours during August and October 2022 with the active programs in Mr. Calhoun's controller and assumed approximate water usage of up to ten gallons per minute. As illustrated in Peacock Post-Hearing Affidavit Exhibit 1, Mr. Peacock's assessment determined that the days, times, and usage amounts of all six anomalies closely aligned with the settings for Programs A and B which were observed during the inspection. This data supports the conclusion that operation of the irrigation system, and its multiple active programs, led to very high water consumption in the summer of 2022.

55. In the fall of 2022, in response to the concerns expressed by Mr. Calhoun, and in order to ensure that the issues raised in his Complaint were not global in nature, CWSNC commissioned a professional, third-party audit by Cavanaugh & Associates, P.A., of the Company's billing and meter reading practices which confirmed that CWSNC's practices are consistent with routine operations and billing standards of other utilities nationwide.

56. Based on this latest investigation and the information gathered by CWSNC in its comprehensive assessment over several months, as more specifically detailed in CWSNC President Denton's December 16, 2022 Affidavit and various exhibits, CWSNC reasonably asserts that Mr. Calhoun in fact used the water that was delivered to his property during the three billing periods in question. CWSNC also reasonably asserts that human error related to the programmable irrigation controller and/or system operation likely led to numerous irrigation cycles resulting in high water usage at Mr. Calhoun's premises. This conclusion is supported by the close correlation between high usage anomalies CWSNC noted through hourly meter reading technology and the irrigation day/time programs found to be active on Mr. Calhoun's system at the time of the recent inspection.

57. Based on the pleadings, testimony, and exhibits, presented in this proceeding, and pursuant to N.C.G.S. § 84-4 and Commission Rule R1-22(a), Mr. Calhoun does not have standing to raise the allegations contained in his Complaint and

¹³ On October 19, 2022, more than 2,339 gallons of water passed through the meter during the overnight and early morning anomalies. The first anomaly occurred during meter hours ending at 1:35 a.m., 2:35 a.m., and 3:35 a.m. The second anomaly occurred during meter hours ending at 6:35 a.m. and 7:35 a.m.

amendments thereto regarding his neighbors' water usage or bill amounts, or the water usage or bill amounts for residents of The Farms, The Harbour, and The Point neighborhoods, except for those related to his own CWSNC water usage and account. Accordingly, Mr. Calhoun's allegations purportedly made on behalf of others are not properly before the Commission for consideration and his claims within the Complaint related thereto are dismissed with prejudice pursuant to Rule 12(b)(1) of the North Carolina Rules of Civil Procedure.

58. Pursuant to N.C.G.S. § 62-75. Mr. Calhoun bears the burden of proof in this Complaint proceeding to show that the actions of CWSNC with regard to its rates, services, classification, rules, regulations, or practice are unjust or unreasonable.

59. In order for Mr. Calhoun to be granted relief from his abnormally high bills, he must demonstrate that the bills are abnormally high as a result of some act, omission, or fault attributable to CWSNC. Mr. Calhoun has failed to meet his burden of proof that CWSNC was unjust or unreasonable with regard to its rates, services, classification, rules, regulations, or practice. Therefore, all claims within the Complaint regarding Mr. Calhoun's high water usage and high bill amounts are denied.

60. Mr. Calhoun's Complaint covers allegations occurring during the time period from May 18, 2022, through November 7, 2022, the filing date of the Complaint. The record was held open to allow an investigation of Mr. Calhoun's irrigation system which occurred on April 3, 2022, and the late filing of specific exhibits by CWSNC requested by the Commission, which were filed on April 28, 2023. Any allegations or issues raised regarding events occurring after the April 3, 2023, irrigation inspection are not the subject of this proceeding.

SUMMARY OF THE PLEADINGS AND EVIDENCE¹⁴

Initial Complaint, Amendments, and Exhibits

In his initial Complaint, dated October 3, 2022, and docketed with the Commission on November 7, 2022, Mr. Calhoun states that his "complaint concerns Carolina Water Service of North Carolina and their water usage and billing information." Complaint at 1. He provides that he has lived in his residence for ten years and that his water usage readings and bills increased substantially for the months of July through September of 2022, above usage and bill totals for the months of July 2020, July 2021, and June 2022. Mr. Calhoun also alleges: "[Our] current usage per [MUC] shows an absurd amount of 105,000 gallons used which will put our bill well over \$1200. This is more water in one month that we've used in a year over the 10 years at this address." *Id.* at 2. Mr. Calhoun states that a plumber and irrigation specialist have verified that he has no leaks at his home.

Mr. Calhoun requests that CWSNC revise all bills to the historical average and be regulated more stringently "as they have not stopped over-billing based on the absurd

¹⁴ Specific allegations, detailed responses, and chronological occurrences that are stated in full in the Findings of Fact will not be repeated in the summary of the pleadings and evidence in the interest of judicial economy.

usage amounts.” *Id.* He further requests that CWSNC be “replaced as the water provider for our area if they will not cooperate and stop abusing customers that have little to no recourse.” *Id.*

On November 16, 2022, Mr. Calhoun filed exhibits containing two screenshots of queries from MUC of his account: (1) a billing query showing the bill date and bill amount for his account from October 7, 2021, through November 6, 2021 (Billing Query);¹⁵ and (2) a usage query based on a selection for “ALL” meters, showing usage from December 31, 2021, through October 26, 2022 (Usage Query). This Usage Query contains a statement of the billing period average of 24,345.10 gallons and a highest month this year of 105,024.00 gallons as well as a bar graph indicating monthly usage by month and units consumed which indicates a marked increase in gallons used for June, July, and August 2022, with the highest units consumed attributed to August 2022.

On November 30, 2022, Mr. Calhoun filed an Addendum to the Complaint, which contains eight numbered questions for CWSNC.

On December 9, 2022, Mr. Calhoun filed as an exhibit another copy of the Usage Query with handwritten notes indicating that new meters were installed during the June through August 2022 time period, and writing above the bar for August 2022 “105K”, “current digital & wifi meter” with a line over the bars for September 2022 through November 2022, and “3500 gallons” with an arrow pointing to the November 2022 date, usage bar or both (Hand Marked Usage Graph).

On December 14, 2022, Mr. Calhoun filed as an exhibit a collection letter from CWSNC, dated December 4, 2022, that notified him of an outstanding balance of \$713.91 on his water account (Notice). The letter also informed him that if CWSNC did not “hear from [him] within 10 days of the date of this letter, your service may be severed without additional notification.”

Answer to Complaint and Motion to Dismiss

Answer to Complaint

On December 16, 2022, CWSNC filed its Answer and Motion to Dismiss. As its Answer, CWSNC filed the Affidavit of Mr. Denton. CWSNC states that it has conducted a diligent investigation of the matters raised by Mr. Calhoun of which the primary complaint concerns three bills for water utility service for the service period extending from May 18, 2022, through August 16, 2022. CWSNC asserts that Mr. Calhoun was properly billed for the water utility service which he received.

CWSNC states that this conclusion is supported by: (1) the data received from four meters installed at Mr. Calhoun’s home using three different technologies, including analog, AMI, and AMR technology to ensure accurate tracking of water usage; (2) independent meter testing that returned results indicating that the meters were functioning properly and within the range required by the Commission and the AWWA;

¹⁵ The view bill column shows .pdf icons to view bills, but these links are not active and do not allow access to view the individual bills.

(3) a third-party audit of CWSNC's billing and meter reading practices which confirmed that CWSNC's practices are consistent with routine operations and billing standards of other utilities; (4) multiple field visits by CWSNC staff to Mr. Calhoun's property to observe meter operations, search for possible leaks near the meter, and offers to work with Mr. Calhoun to explore potential leaks on the property; and (5) CWSNC responses to two Public Staff informal complaints and one Better Business Bureau complaint filed by Mr. Calhoun, which were all closed with no adverse action having been taken against CWSNC.

CWSNC also asserts that Mr. Calhoun has a higher historic summer water usage pattern that contributed to the higher water usage and higher water bills during the period in question. Additionally, CWSNC points to possible leaks or malfunctioning equipment on Mr. Calhoun's property, such as the programs for the irrigation system, as the possible source of increased water usage. CWSNC also notes that rate increases and changes to the volumetric component of rates charged by CWSNC were recently approved by the Commission and implemented in the April/May 2022 timeframe. Finally, CWSNC points to installation of a new inground pool on Mr. Calhoun's property which was completed in the fall of 2021 as a possible contributor to the higher rates during the summer months at issue.

CWSNC states that it has been more than fair to Mr. Calhoun by giving him a significant good faith and complimentary bill credit of \$650.00 in August of 2022, despite CWSNC's firmly-held position that Mr. Calhoun's high water usage and related charges for the three billing months in question are accurate.

CWSNC states that it has demonstrated that the water usage registered on Mr. Calhoun's three bills for utility service received during the period from May 18, 2022, through August 16, 2022, is correct. CWSNC maintains that no further billing adjustment is warranted or required in this case. Moreover, CWSNC asserts that the unpaid balance on Mr. Calhoun's account of \$713.91 is currently due and owing.

Motion to Dismiss

In its Motion to Dismiss, CWSNC states that N.C.G.S. § 62-73 provides, in pertinent part, that:

Complaints may be made by...any person having an interest, either direct or as a representative of any persons having a direct interest in the subject matter of such complaint by petition or complaint in writing **setting forth any act or thing done or omitted to be done by any public utility, including any rule, regulation or rate heretofore established or fixed by or for any public utility in violation of any provision of law or of any order or rule of the Commission, or that any rate, service, classification, rule, regulation or practice is unjust and unreasonable....**

CWSNC asserts that Mr. Calhoun has not demonstrated that it has violated any of the statutory language in N.C.G.S. § 62-73 highlighted above and, therefore, the Commission lacks reasonable grounds for further investigation of the Complaint at issue

in this docket. CWSNC argues that Mr. Denton's affidavit is dispositive on the issues raised in the Complaint and supports CWSNC's position that it bears no responsibility for the "over-billing" and "absurd usage amounts" alleged and complained of by Mr. Calhoun. CWSNC has conducted multiple investigations beginning in May 2022 and continuing until the inspection on April 3, 2023, has determined there is no validity to the claims made by Mr. Calhoun, has communicated these findings to Mr. Calhoun, and has informed him that the high bills and high usage about which he has complained resulted from actual usage and potential leaks or possible equipment malfunctions on his property.

CWSNC notes that Mr. Calhoun bears the burden of proof in this proceeding and asserts that no compelling reason exists to require further adjustment of the water charges billed to Mr. Calhoun for services received during 2022, nor is there any basis to replace CWSNC as the water provider for Mr. Calhoun's community.

CWSNC asserts that no reasonable ground exists pursuant to N.C.G.S. § 62-73 for the Commission to further investigate Mr. Calhoun's Complaint, that his Complaint should be dismissed with prejudice because it fails to state a claim upon which relief can be granted, and that this docket should be closed.

Calhoun Response

December 16, 2022 Response

Mr. Calhoun provided a two-part response to CWSNC's Answer and Motion to Dismiss on December 16 and 20, 2022. In part one of his response, Mr. Calhoun states that CWSNC's answer is "more blame the customer and try to blame their usage on leaks." He states that if CWSNC accepts "responsibility for the overbilling at [his] residence then that opens them up to 3 large neighborhoods filing formal complaints and costing them 10's of thousands in revenue."¹⁶

Mr. Calhoun states that CWSNC has continued to point out that he has irrigation and a pool but that he has no leaks and his "pool does not have anything to do with these bills as you can see from the last three months of usage at 7,000 gallons and below."

Mr. Calhoun states that CWSNC uses a third-party collection agency as their customer service line and "they continue to blame the customer when it's obvious to everyone in this area that we have a real problem with our water provider." He further states that this "is not a problem about his residence, this is a problem with the entire service area." Mr. Calhoun states that he does not expect anything to be done from CWSNC's side because "they have shown time and time again they don't care about customers and will never accept responsibility even when there is a clear problem."

¹⁶ Mr. Calhoun's allegations regarding his neighbors and interconnected neighborhoods are not properly before the Commission as previously noted.

December 20, 2022 Response Part Two¹⁷

In his December 20, 2022 Response Part Two, Mr. Calhoun states that his usage was six times the normal amount and that CWSNC claims that his irrigation usage, which was shut off in June 2022, and his pool, which does not use water from the CWSNC line, are the suspected cause of his high usage. He states that CWSNC shows that 600 gallons of water passed through his line from 1:00 a.m. to 3:00 a.m. However, Mr. Calhoun expresses doubt about the accuracy of this reading because the usage occurred at night while everyone in his home was asleep.

Mr. Calhoun disputes CWSNC's assertion that he declined to allow workers to excavate his yard to make a repair to the line and meter. He states that he called CWSNC twice to fix the leak.

He provides that three people live in the home and disputes CWSNC's assertions that he is using more water because he has a large home with a lot of bathrooms, a pool, and irrigation "with zero facts to back up the assertion." He states that his pool was installed the prior year and that CWSNC is "trying to blame that or 'extensive irrigation' which is normal irrigation to everyone else in the world."

Mr. Calhoun states that as a customer: "I don't care what your tests show, what % accuracy your labs show, etc. We've done nothing different regarding water usage for 10 years, yet our bill is 7-10 fold our normal bill."

Testimony of the Parties at the Hearing

Direct and Rebuttal Testimony of Mr. Calhoun

In his direct and rebuttal testimony, Mr. Calhoun offered testimony and exhibits in support of his Complaint and responded to cross-examination by CWSNC's attorney. He also responded to questions posed by members of the Commission. Mr. Calhoun's testimony and all his proffered exhibits are fully reflected in the record of this proceeding.

Direct Testimony of CWSNC Witness Denton

In his direct testimony, CWSNC witness Denton offered testimony and exhibits in support of the Company's position in opposition to Mr. Calhoun's Complaint and responded to cross-examination by Mr. Calhoun. He also responded to questions posed by members of the Commission. Witness Denton's testimony and all exhibits proffered by the Company are fully reflected in the record of this proceeding.

¹⁷ Mr. Calhoun's additional allegations regarding his neighborhood, The Farms, as well as The Point and The Harbor are not properly before the Commission as previously noted.

Post-Hearing Testing and Late-Filed Exhibits

Calhoun Leak Test Summary

On April 3, 2023, Mr. Calhoun filed a Leak Test Summary notifying the Commission that the irrigation system test took place earlier that day. With regard to the irrigation system test, Mr. Calhoun disputes the findings of his irrigation company and those of Mr. Peacock, who participated in the test on behalf of CWSNC, that multiple programs were set to run on his controller. He reiterates that the irrigation system has been shut off since “sometime in late June/early July.” He also reiterates that he has had the irrigation system programmed for the same days and times for ten years. Mr. Calhoun states that once he “received the large bill, [he] went to check the control panel and *the programs* to see if there were any issues. I went through *all the programs and tested them* to ensure there wasn’t anything out of the ordinary then I shut off the system until this morning”. (Emphasis Added.) Leak Test Summary at 1. He further states that he has run the same program with watering three days per week in summer months and has never received a bill of \$775.00 or larger. He also notes that Irrigation Specialists said if he ran all of the programs identified by the testing in one day it would amount to 160,000 gallons per day and states “so that obviously was not the case.” *Id.* Mr. Calhoun restates that he has received high bills after the system was turned off.

Late-Filed Exhibits

On April 28, 2023, CWSNC filed three Late-Filed Exhibits as requested by the Commission in the form of Post-Hearing Affidavits of Mr. Denton and Mr. Peacock. Mr. Peacock provided Late-Filed Exhibits A and C and Mr. Denton provided Late-Filed Exhibit B.¹⁸

Late-Filed Exhibit A

Mr. Peacock’s Post-Hearing Affidavit and Late-Filed Exhibit A provides that Mr. Calhoun’s meters had a maximum delivery of 25 gpm or 1,500 gallons per hour.

Late-Filed Exhibit B

Mr. Denton’s Post-Hearing Affidavit and Late-Filed Exhibit B provides in summary that CWSNC has multiple ways to identify unusual customer usage, including through third-party meter reading procedures and triggers in its billing system. The Company then creates a plan for appropriate follow-up. Additionally, in the fall of 2022, CWSNC commissioned a professional, third-party audit of CWSNC’s current billing processes as well as a review of a sample of customer meter records for The Harbour, The Point, and the Farms potable water systems. The audit did not identify significant or negligent issues in CWSNC’s billing processes for the neighborhoods under review. The audit also describes CWSNC’s meter reading and billing procedures and notes that CWSNC’s high usage procedures related to meter reading and billing provides CWSNC and its

¹⁸ The Commission’s specific requests for Late-Filed Exhibits are fully described in the procedural history on pages 2-3 of this Order.

customers with insight regarding unusual water consumption and prompts action by both CWSNC and the customer to identify a possible cause.

Mr. Denton's Late-Filed Exhibit B further provides that a review of Mr. Calhoun's account for the billing periods in question demonstrates that, when combined, the meter reading and billing procedures effectively identified high customer usage and alerted the Company to take action to communicate with the customer and investigate the situation. Mr. Denton explains that the Company's work with Mr. Calhoun stretched over several months and went far beyond CWSNC's standard procedures, requiring highly-customized actions to seek out the cause of Mr. Calhoun's high water usage. Mr. Denton's affidavit provides a detailed, chronological account of the actions taken by CWSNC to investigate Mr. Calhoun's concerns as previously discussed in this Order. Mr. Denton describes these actions as more extensive and robust tracking and troubleshooting than are normally followed under the standard procedures for CWSNC customers thereby removing the need for traditional meter reading, billing team referrals, and field technician assignments.

Mr. Denton also explains that estimated bills are used when an accurate read cannot be obtained within the meter's read window and are generated based on the customer's previous consumption history. Further, if a reading can be obtained during the next read period, the reading is compared to the most recent actual reading, and the bill is adjusted to account for the estimated consumption. The billing software generates an exception report and billing technicians review the customer's previous consumption history to either clear the exception or generate a work order for a field visit to the meter location for investigation. Mr. Denton states that all bills are reviewed prior to release.

Late-Filed Exhibit C

Mr. Peacock's Post-Hearing Affidavit and Late-Filed Exhibit C describes the irrigation inspection conducted on April 3, 2022, by Irrigation Specialists and him which resulted in a determination that the system was operating properly with no apparent leaks. However, multiple programs were identified in the system controller which were set to run on multiple days and at multiple times. Additionally, the programs entered into the controller corresponded to the anomalies of high usage that occurred generally in the 1:00 a.m. and 2:00 a.m. hours and again during the 6:00 a.m. and 7:00 a.m. hours on August 10 and August 12, 2022, and again on October 19, 2022. Mr. Peacock notes that the programs scheduled for operation in the controller did not match the Tuesday and Friday irrigation schedule Mr. Calhoun provided during his testimony.

Calhoun's April 28, 2023 Response to Late-Filed Exhibits

In his April 28, 2023 Response to CWSNC's Late-Filed Exhibits, Mr. Calhoun asserts that his irrigation company, Irrigation Specialists, and Mr. Peacock were not aware that his previous irrigation company had already gone through the control panel to check for leaks, which included looking at multiple programs to ensure there were no issues. He states that the results of Mr. Peacock's data analysis of his water usage when compared with the irrigation system programs are neither accurate nor possible because the system was turned off.

Calhoun's May 16, 2023 Final Summary

On May 16, 2023, Mr. Calhoun filed another summary document reiterating his position.

DISCUSSION AND CONCLUSIONS

Pursuant to N.C.G.S. § 62-75, the burden of proof in complaint proceedings is upon the complainant to show that the action of the utility complained of with regard to its rates, services, classification, rules, regulations, or practice is unjust or unreasonable. The complainant may meet this burden of proof with the submission of evidence, including testimony and exhibits that would be admissible in a court of law, in support of the complaint at an evidentiary hearing.

Mr. Calhoun cannot satisfy this burden by merely showing that the bills he received were abnormally high as compared to his historic usage. There are many reasons why a bill may be abnormally high and exceed a customer's historic usage. Many of these reasons are beyond the control of the utility. Thus, in order for Mr. Calhoun to be granted relief from the abnormally high bills, he must demonstrate that the bills are abnormally high as a result of some act, omission, or fault attributable to CWSNC.

The Commission has carefully reviewed the testimony and exhibits submitted in this record and finds and concludes that Mr. Calhoun has failed to meet his burden of proof that CWSNC was unjust or unreasonable with regard to its rates, services, classification, rules, regulations, or practice. Despite Mr. Calhoun's assertions, the Commission is not persuaded that CWSNC charged him for water he did not receive at his property at 393 Bayberry Creek Circle, Mooresville, North Carolina or that CWSNC failed to provide adequate or reasonable customer service. Therefore, all claims within the Complaint regarding Mr. Calhoun's high water usage and high bill amounts are denied.

Additionally, Mr. Calhoun lacks standing to raise claims about water usage and bill amounts on behalf of other CWSNC customers.

Consideration of Neighborhood Usage and Billing

As a threshold matter, in order for Mr. Calhoun to state a claim upon which relief can be granted about his neighbors' water usage and billing amounts and the usage of CWSNC customers from surrounding neighborhoods, Mr. Calhoun must have standing. The Commission notes that no CWSNC customer other than Mr. Calhoun appeared at the hearing to testify on his or her own behalf about water usage or billing amounts and determines that Mr. Calhoun does not have a direct interest in other CWSNC customers' water usage and billing amounts. The Commission therefore determines that Mr. Calhoun does not have standing to raise claims about other customers' water usage and billing amounts and that such claims are not properly before the Commission in this proceeding. N.C.G.S. § 62-73 makes it clear that:

Complaints may be made by...any person having an interest, either direct or as a representative of any persons having a direct interest in the subject

matter of such complaint by petition or complaint in writing setting forth any act or thing done or omitted to be done by any public utility, including any rule, regulation or rate heretofore established or fixed by or for any public utility in violation of any provision of law or of any order or rule of the Commission, or that any rate, service, classification, rule, regulation or practice is unjust and unreasonable....

Mr. Calhoun acknowledges that he is not a licensed attorney. Tr. vol. 1, 130. Since Mr. Calhoun is not an attorney, he is not permitted under Commission rules to represent anyone other than himself. However, during the evidentiary hearing, Mr. Calhoun mistakenly believed that he was able to act in this proceeding “as the representative for our neighborhood and the other neighborhoods.” Tr. vol. 1, 18. During the hearing, the Commission explained to Mr. Calhoun that “this is a complaint about your particular account and home.” *Id.* at 19.

N.C.G.S. § 84-4 provides, in pertinent part, that:

Except as otherwise permitted by law, it shall be unlawful for any person or association of persons, except active members of the Bar of the State of North Carolina admitted and licensed to practice as attorneys-at-law, to appear as attorney or counselor at law in any action or proceeding before any judicial body, including the North Carolina Industrial Commission, or the Utilities Commission; to maintain, conduct, or defend the same, except in his own behalf as a party thereto;...or to prepare legal documents, or as being engaged in advising or counseling in law or acting as attorney or counselor-at-law, or in furnishing the services of a lawyer or lawyers; and it shall be unlawful for any person or association of persons except active members of the Bar, for or without a fee or consideration, to give legal advice or counsel, perform for or furnish to another legal services,...or to organize corporations or prepare for another person, firm or corporation, any other legal document....

Additionally, Commission Rule R1-22(a) requires that:

In all proceedings wherein pleadings are filed and a formal hearing is held involving the taking of testimony and the formulation of a record subject to review by the courts, no person may appear in a representative capacity other than an attorney at law, duly qualified and entitled to practice before the Supreme Court of the State of North Carolina.

Even though Mr. Calhoun is not permitted to represent other customers in his Complaint proceeding, the Commission allowed him to provide testimony and submit exhibits purportedly relating to a wide-spread pattern of inaccurate high water usage and high bill amounts from his neighbors; residents of his neighborhood, The Farms; and two interconnected neighborhoods, The Point and The Harbour, at the evidentiary hearing. The Commission considered the record in this matter and the testimony and exhibits provided by Mr. Calhoun and CWSNC regarding seasonal high water usage in these neighborhoods. As Mr. Calhoun’s own case shows, there may be highly individualized reasons for higher water usage and higher bill amounts for individual residents of these

neighborhoods. Additionally, no customer other than Mr. Calhoun appeared at the hearing to testify or present evidence regarding his or her individual high water usage or to explain the reasons therefor. Further, there is insufficient evidence to show a widespread, continuing pattern of inaccurate high water usage that affects this interconnected water system. Lastly, in the fall of 2022, in response to the concerns expressed by Mr. Calhoun, and in order to ensure that the issues raised in his Complaint were not global in nature, CWSNC commissioned a professional, third-party audit by Cavanaugh & Associates, P.A., of the Company's billing and meter reading practices which confirmed that CWSNC's practices are consistent with routine operations and billing standards of other utilities nationwide. Accordingly, the Commission concludes that there is a lack of sufficient evidence for the Commission to draw any conclusions about an alleged widespread pattern of high water usage and high bill amounts for Mr. Calhoun's neighbors or other CWSNC customers in the area. .

Accordingly, all claims in the Complaint regarding inaccurate water usage and billing amounts for Mr. Calhoun's neighbors, residents of The Farm, or residents/CWSNC customers of the surrounding neighborhoods are hereby dismissed with prejudice pursuant to Rule 12(b) of the North Carolina Rules of Civil Procedure.¹⁹

High Water Usage and Excessive Bill Amounts

Based on the thorough pre- and post-hearing investigations and site visits and the information gathered by the Company in its comprehensive assessment over many months, as specifically detailed in Mr. Denton's initial Affidavit and the Post-Hearing Affidavits and Late-Filed Exhibits filed by Denton and Peacock (as well as the Company's Answer and Motion to Dismiss), the Commission concludes that Mr. Calhoun in fact received and used (even if unknowingly) the water that was delivered to his property during the three billing periods in question.

In his April 3, 2023 Leak Test Summary, Mr. Calhoun writes: "I went to check the control panel and the programs to see if there were any issues. I went through all the programs and tested them to ensure there wasn't anything out of the ordinary..." indicating that more than one program was programmed for his irrigation system. In addition, during the March 23, 2023, evidentiary hearing, in response to questions from the Commission, Mr. Calhoun said he watered just two days a week, typically on Tuesday and Friday from 6:00 a.m. to 8:00 a.m., and that he would add an additional irrigation day during dry periods. Tr. vol. 1, 54. However, of the three active programs identified during the irrigation system testing, there was no program set to operate on Tuesday or Friday as represented by Mr. Calhoun. Two of the programs were scheduled to water the lawn four times a week, more days than Mr. Calhoun acknowledged in previous statements. Peacock Affidavit at 7-8. Further, Mr. Calhoun indicates that he "only used the system when needed and that he would switch it from off to auto on those occasions." *Id.* at 5. Both the irrigation company specialist Dave Dockery and Mr. Peacock expressed concern to Mr. Calhoun that maintaining multiple active programs could lead to operator error and very high water usage. *Id.* at 6. Despite Mr. Calhoun's assertion that his irrigation system was turned off in late June or early July, the specific programs set in Mr. Calhoun's

¹⁹ The dismissal of Mr. Calhoun's claims about the alleged complaints of other customers would not prevent other customers from filing their own complaints with the Commission.

controller had start and end times that corresponded with the high usage data tracked hourly on August 10, and 12, 2022 and again on October 19, 2022. *Id.* at 8.

The Commission finds credible CWSNC's assertion that human error related to the programmable irrigation controller or system operation, equipment malfunction, or both, likely led to numerous irrigation cycles resulting in high water usage at Mr. Calhoun's premises. This conclusion is supported by the close correlation between high usage anomalies the Company noted through hourly meter reading technology and the irrigation day/time programs found to be active on Mr. Calhoun's system at the time of the recent inspection. This conclusion is also supported by each of the meter accuracy test reports submitted in evidence by CWSNC which provide a further indication that the water which passed through those meters was accurately measured.

The meter test results were received into evidence without objection, are relevant to this proceeding, and were not rebutted or challenged by any credible evidence. Additionally, following the April 3, 2023, leak test, the parties agree that no leaks were discovered at Mr. Calhoun's premises. Therefore, the Commission concludes that the meter serving Complainant's residence accurately registered the water used during the May 18, 2022, through August 16, 2022, billing period.

The burden of proof in this case is on Mr. Calhoun, not CWSNC, and it is not CWSNC's burden to prove why Mr. Calhoun's water usage increased. However, in light of the data analysis, lack of leaks, or other readily apparent basis for the water usage, CWSNC's thorough and timely investigation into Mr. Calhoun's issues does provide possibilities for the increased usage. Mr. Calhoun's denials alone, in the absence of any corroborative, credible evidence, are insufficient to meet his burden of proof in this complaint proceeding. Mr. Calhoun has failed to offer sufficient and credible evidence by way of testimony and/or exhibits to convince the Commission to rule in his favor. Unsubstantiated allegations and denials, in the absence of substantive evidence, are insufficient in this case to support a ruling in Mr. Calhoun's favor.

CWSNC has provided credible evidence which demonstrates (a) the reasonableness of its legal position and its multiple actions, taken in good faith, to reasonably, timely, and fairly investigate Mr. Calhoun's allegations and the Complaint; (b) the reasonable actions taken by CWSNC to attempt to reach a fair resolution of this matter with the Complainant;²⁰ and (c) Mr. Calhoun's failure to carry the evidentiary burden of proof in support of his position. Accordingly, the Commission concludes that Mr. Calhoun's allegations regarding CWSNC's meter readings of high usage and subsequent bills based on that usage are not proven or established by evidence. Therefore, claims within the Complaint related thereto are hereby denied.

²⁰ The Commission rejects Mr. Calhoun's claim during the evidentiary hearing that the Company's was, in effect, trying to "buy him off" by its recent renewal of an additional billing credit in the amount of \$650.00 so that he would not testify. The Commission views the Company's renewed settlement offer as entirely reasonable and believes it was made in good faith.

Customer Service

The Commission finds that, based on a thorough review of this docket, beginning with Mr. Calhoun's May 18, 2022, report of a leak at his meter and following throughout this proceeding, CWSNC has been entirely reasonable and responsive in its interactions with Mr. Calhoun. In response to his initial leak complaint, a Company representative visited Mr. Calhoun's property to investigate his report of a leak the same day it was reported. Denton Affidavit at 4. CWSNC continued to monitor and provide additional repairs to Mr. Calhoun's meter in May and June 2022, when the meter replacement and repair was completed. *Id.* at 4-6. When Mr. Calhoun lodged his initial billing complaint on August 1, 2022, Mr. Denton, the President of the Company, responded with a phone call to Mr. Calhoun the same day, and a CWSNC field technician visited to his property the following day. *Id.* at 6-7. Mr. Denton's affidavit indicates that CWSNC had near-weekly contact with Mr. Calhoun during the time CWSNC was investigating his complaints and that CWSNC responded to Mr. Calhoun's requests, emails, and complaints promptly, courteously, and professionally. CWSNC continued to act in good faith in all subsequent interactions with Mr. Calhoun and has thoroughly investigated and responded to all allegations set forth by Mr. Calhoun in this complaint proceeding. The Commission views the evidence offered by CWSNC in this case as entirely credible, including Company witness Denton's testimony at the evidentiary hearing and the supporting exhibits and three Affidavits filed in support of the Company's position.

Further, CWSNC made a fair and significant \$650.00 billing adjustment in Mr. Calhoun's favor in August 2022. CWSNC made that good faith billing adjustment to the benefit of Mr. Calhoun notwithstanding that (a) multiple investigations by CWSNC personnel showed no leaks related to CWSNC's water meters serving Mr. Calhoun; (b) meter testing showed no irregularities with any of the meters serving Mr. Calhoun's premises which would account for inaccurate or faulty, high-meter reads; and (c) there is no indication of any inaccurate billing by CWSNC related to Mr. Calhoun's account.

The Commission has fully considered the testimony and exhibits in the record in this matter and finds that Mr. Calhoun has failed to meet his burden of proof regarding his allegations that CWSNC is uncooperative, that it abuses its customers, and that its customers have little to no recourse. These allegations are without merit and there is no basis for CWSNC to be replaced as the water provider for his service area. Accordingly, these claims within the Complaint are hereby denied.

IT IS, THEREFORE, ORDERED as follows:

1. That the claims contained in the Complaint and amendments thereto regarding Mr. Calhoun's neighbors' water usage or bill amounts and the water usage or bill amounts for residents of The Farms, The Harbour, and The Point neighborhoods, except for those related to Mr. Calhoun's own CWSNC account and water usage, and the claims within the Complaint related thereto, are dismissed with prejudice;

2. That the Complaint filed in this docket by Don Calhoun on November 7, 2022, be, and the same is hereby, denied;

3. That the outstanding balance for water utility service on Mr. Calhoun's account in the amount of \$713.91 was correct as of the date of the hearing and, if not already paid, is due and owing and should be paid;

4. That no further billing adjustment is warranted or required in this case;

5. That the Denton and Peacock Post-Hearing Affidavits and Late-Filed Exhibits (including Peacock Affidavit Exhibit 1) filed in this docket by CWSNC on April 28, 2023, be, and the same are hereby, admitted in evidence; and

6. That the corrections to the December 16, 2022 Denton Affidavit filed in this docket by CWSNC on April 28, 2023, as part of the Denton Post-hearing Affidavit (at page 10), be, and the same are hereby, accepted and approved.

ISSUED BY ORDER OF THE COMMISSION.

This the 6th day of July, 2023.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in dark ink, reading "A. Shonta Dunston". The signature is fluid and cursive, with the first name "A." and last name "Dunston" clearly legible.

A. Shonta Dunston, Chief Clerk