

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. W-100, SUB 60A

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Establishment and Maintenance of List of)	ORDER ESTABLISHING
Utility Valuation Experts Pursuant to N.C.)	PROCEEDING TO ESTABLISH
Gen. Stat. § 62-133.1A(b)(1))	AND MAINTAIN LIST OF UTILITY
)	VALUATION EXPERTS

BY THE CHAIR: On December 30, 2020, the Commission issued an Order in Docket No. W-100, Sub 60, adopting Commission Rule R7-41 and Commission Rule R10-28, as required by N.C. Gen. Stat. § 62-133.1A(f). Those Rules implement the provisions of N.C.G.S. § 62-133.1A (Fair Value Statute), which establishes an alternative method of establishing rate base by using the “fair value” of the utility property instead of the original cost when a public utility acquires an existing water or wastewater system owned by a municipality or county or an authority or district established under Chapter 162A of the General Statutes. Pursuant to N.C.G.S. § 62-133.1A(b)(1), the Commission is directed to establish a list of accredited, impartial valuation experts who would be eligible to act as appraisers of the utility property proposed to be acquired by a public utility. The Commission adopted Commission Rule R7-41(c) (for water utilities) and Rule R10-28(c) (for wastewater utilities) to implement this requirement. These substantively identical rule provisions provide as follows:

The Commission shall establish a generic proceeding in Docket No. W-100, Sub 60A for the purpose of creating and maintaining a list of accredited, impartial Utility Valuation Experts as required pursuant to G.S. 62-133.1A(b). A person seeking to become a Utility Valuation Expert shall apply to the Commission by furnishing the following:

- (1) a demonstration of the person’s education and experience specific to providing valuations and appraisals of utility plant, as differentiated from other types of appraisals, such as for real estate;
- (2) a written attestation that a Utility Valuation Expert owes a fiduciary duty to provide a thorough, objective, and fair valuation;
- (3) a demonstration of financial and technical fitness, such as through production of professional licenses, technical certifications, and names of current or past clients with a description of dates and types of services provided;

(4) a demonstration of adequate utility valuation and appraisal experience to support the Commission's decision to consider these persons or entities as experts in this field;

(5) a statement that the Utility Valuation Expert will make use of the assessment of the tangible assets of the system to be acquired, which assessment shall be from a Professional Engineer jointly retained by the utility and the Local Government Utility and make use of the Water and Wastewater Fair Value Engineering Assessment Form included in the Appendix to this Chapter as a template for the engineer's assessment;

(6) a statement that the Utility Valuation Expert will comply with the requirements of G.S. 62-133.1A in conducting their appraisal, including that the Utility Valuation Expert shall appraise the subject property in compliance with the uniform standards of professional appraisal practice, employing cost, market, and income approaches to assessment of value; and

(7) any other information as required by the Commission.

Based upon the foregoing and the entire record herein, the Chair finds good cause to issue this Order establishing this proceeding for the purpose of establishing and maintaining a list of accredited, impartial Utility Valuation Experts as required pursuant to N.C.G.S. § 62-133.1A(b). The Chair further finds good cause to publish the guidance for persons seeking to be included in the Commission's list of accredited, impartial Utility Valuation Experts, attached hereto as an Appendix to this Order.

IT IS THEREFORE ORDERED as follows:

1. That any person seeking to be qualified as an accredited, impartial Utility Valuation Expert pursuant to N.C.G.S. § 62-133.1A(b) shall be, and is hereby, required to file in this docket a short, plain statement requesting to be added to the list of Utility Valuation Experts, along with the information required by Commission Rule R7-41(c) and Rule R10-28(c) and any supporting documentation or information as may be helpful to the Commission, or any other information that the Commission may require;

2. That upon the filing of the information required by Commission Rule R7-41(c) and Rule R10-28(c) the Commission will issue an order determining whether the information provided satisfies the requirements of Commission Rule R7-41(c) and Rule R10-28(c) and whether the person is qualified to be added to the Commission's list of Utility Valuation Experts;

3. That each person who is determined to be qualified to be added to the Commission's list of Utility Valuation Experts shall provide annually to the Commission a verified certification that their qualifications, as provided in the original request to be added to the list of Utility Valuation Experts, have or have not materially changed. This certification shall be filed in this docket on or before October 1 of each year;

4. That, notwithstanding and in addition to the required annual certification, any Utility Valuation Expert who has been determined to be qualified to be added to the Commission's list of Utility Valuation Experts shall immediately notify the Commission if the person is charged with a criminal act involving dishonesty, fraud, or deceit, or experiences the loss of any professional licenses or technical certifications that were included in support of the person's original request to be added to the list of Utility Valuation Experts. The Utility Valuation Expert may include a concise explanation of the circumstances that resulted in the criminal charges or loss of license or certification;

5. That the Commission may upon motion or on its own initiative issue an Order suspending a person's inclusion in the list of Utility Valuation Experts, and having provided notice and opportunity to be heard, the Commission may issue an Order removing a person's name from the list of Utility Valuation Experts at any time that the person is charged with a criminal act involving dishonesty, fraud, or deceit; experiences the loss of any professional licenses or technical certifications that were included in the person's original request to be added to the list of Utility Valuation Experts; or for other good cause as determined by the Commission; and

6. That the Commission may establish such further procedures and requirements for this proceeding as the Commission deems appropriate and in furtherance of the public interest.

ISSUED BY ORDER OF THE COMMISSION.

This the 26th day of January, 2021.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in black ink that reads "Kimberley A. Campbell". The signature is written in a cursive, flowing style.

Kimberley A. Campbell, Chief Clerk

**FILING GUIDANCE FOR PERSONS SEEKING TO BE INCLUDED IN THE
COMMISSION'S LIST OF ACCREDITED, IMPARTIAL UTILITY VALUATION
EXPERTS ESTABLISHED AND MAINTAINED PURSUANT TO
N.C. GEN. STAT. § 62-133.1A(b)(1)**

DISCLAIMER: The submission of the information detailed in this guidance document does not guarantee acceptance by the Commission, nor does it preclude the Commission from requiring additional information or holding a hearing to further investigate the information submitted by a person seeking to be included in the Commission's list of accredited, impartial utility valuation experts. The Commission intends to determine whether a person is qualified to be included in this list on a case-by-case basis; therefore, the inclusion of one person in the list of utility valuation experts does not necessarily require or guarantee that the Commission will allow the inclusion of another person with the same or similar background. This guidance document does not constitute a binding decision of the Commission nor should it be treated as or substituted for legal advice on a specific situation or case.

FORM OF SUBMISSION.

A person seeking to be included in the Commission's list of impartial, accredited Utility Valuation Experts shall submit the information required by Commission Rule R7-41 and Rule R10-28 in the order and as numbered as listed therein. Such person may submit any additional information as an attachment to the submittal of the required information and may designate portions of the submittal as confidential information pursuant to an exception to the Public Records Act. The submission shall be filed in Docket No. W-100, Sub 60A, and must be verified by the person requesting to be added to the list of Utility Valuation Experts.

GUIDANCE ON REQUIRED INFORMATION.

In accordance with Commission Rule R7-41 and Rule R10-28, a person seeking to added to the list of Utility Valuation Expert shall apply to the Commission by furnishing the following information in the order listed below:

(1) a demonstration of the person's education and experience specific to providing valuations and appraisals of utility plant, as differentiated from other types of appraisals, such as for real estate;

GUIDANCE: This information should identify the educational institution where degrees were obtained and the date of issuance thereof and should detail the person's experience in valuing utility plant. This information may be in a list or narrative format.

(2) a written attestation that a Utility Valuation Expert owes a fiduciary duty to provide a thorough, objective, and fair valuation;

GUIDANCE: This attestation should acknowledge that the Commission, the Public Staff, the utility, and the Local Government Utility are anticipated to rely upon the valuation analysis conducted by the Utility Valuation Expert and that this analysis will be thorough, objective, and fair. The Commission will look to the law of this state, including the North Carolina Appraisers Act (N.C.G.S. Ch. 93E) and the Uniform Standards of Professional Appraisal Practice and relevant judicial decisions for more detailed guidance on these issues. An exemplary form for the attestation is included in this guidance document.

(3) a demonstration of financial and technical fitness, such as through production of professional licenses, technical certifications, and names of current or past clients with a description of dates and types of services provided;

GUIDANCE: This information should identify the licenses held, the agency that issued the license and the date of issuance thereof and should detail the person's experience in valuing utility plant including the names of current or past clients and a description of the dates and types of services provided. This information should also address the financial fitness of the person seeking to be included in the Commission's list of Utility Valuation Experts by detailing any personal or business financial commitments that might call into question the person's ability to provide a thorough, objective and fair valuation, including any contingent fee arrangements or fee that is based upon a percentage of total valuation. In furnishing this information, the person seeking to be included in the Commission's list of Utility Valuation Experts may also demonstrate past adherence with the Uniform Standards of Professional Appraisal Practice and provide a commitment to continue adherence to these Standards in the future as related to the valuation of utility plant. This information may be in a list or narrative format.

(4) a demonstration of adequate utility valuation and appraisal experience to support the Commission's decision to consider these persons or entities as experts in this field;

GUIDANCE: Similar, but different from the information required in (3), above, this information should provide a more global description of the person's experience in the field of utility plant valuation sufficient to demonstrate expertise. This information may be in a list or narrative format.

(5) a statement that the Utility Valuation Expert will make use of the assessment of the tangible assets of the system to be acquired, which assessment shall be from a Professional Engineer jointly retained by the utility and the Local Government Utility and make use of the Water and Wastewater Fair Value Engineering Assessment Form included in the Appendix to this Chapter as a template for the engineer's assessment;

GUIDANCE: This requirement can be fulfilled by including in the filing the following statement, or a substantively similar statement:

I _____ (typed name) will make use of the assessment of the tangible assets of the system to be acquired, which assessment shall be from a Professional Engineer jointly retained by the utility and the Local Government Utility and make use of the Water and Wastewater Fair Value Engineering Assessment Form included in the Appendix to Chapter 7 and Chapter 10 of the Commission's Rules and Regulations.

(6) a statement that the Utility Valuation Expert will comply with the requirements of G.S. 62-133.1A in conducting their appraisal, including that the Utility Valuation Expert shall appraise the subject property in compliance with the Uniform Standards of Professional Appraisal Practice, employing cost, market, and income approaches to assessment of value;

GUIDANCE: This requirement can be fulfilled by including in the filing the following statement, or a substantively similar statement:

I _____ (printed name) will comply with the requirements of G.S. 62-133.1A in conducting appraisals as a Utility Valuation Expert, including that the Utility Valuation Expert shall appraise the subject property in compliance with the Uniform Standards of Professional Appraisal Practice, employing cost, market, and income approaches to assessment of value.

(7) any other information as required by the Commission.

GUIDANCE: As noted in the disclaimer to this guidance document, the Commission reserves the right to require other information in determining whether a person should be included in the Commission's list of Utility Valuation Experts. This other information may include more details about the information provided or may include additional and different information that is relevant to the Commission's evaluation of whether a person should be included in the Commission's list of Utility Valuation Experts.

SAMPLE VERIFICATION FORM

STATE OF _____ COUNTY OF _____

_____, personally appeared before me this day and, being first duly sworn, says that the facts stated in the foregoing filing and any exhibits, documents, and statements thereto attached are true as he or she believes.

WITNESS my hand and notarial seal, this _____ day of _____, 20____.

My Commission Expires: _____

Signature of Notary Public

Name of Notary Public – Typed or Printed

The name of the person who completes and signs this verification must be typed or printed by the notary in the space provided in the verification. The notary's name must be typed or printed below the notary's seal. This original verification must be affixed to the original filing that is submitted to the Commission.

SAMPLE ANNUAL CERTIFICATION

I, _____ (Name of Utility Valuation Expert) certify that the information that I provided to the Commission as a part of my initial request, including any amendments thereto, to be added to the list of Utility Valuation Experts maintained by the Commission, other than changes in my background and experience that occurred in the regular course of business since I filed my initial request, continues to be materially accurate.

Signature of Utility Valuation Expert

I, _____ (Name of Utility Valuation Expert) certify that the information that I provided to the Commission as a part of my initial request, including any amendments thereto, to be added to the list of Utility Valuation Experts maintained by the Commission, has changed as follows:

(Explanation and details should be provided here, specifically identifying the information provided in the initial request, including any amendments thereto, to be added to the list of Utility Valuation Experts).

NOTE: This form must be submitted along with a verification that the statements herein are true. A sample verification is provided in the following page.

SAMPLE VERIFICATION OF ANNUAL CERTIFICATION FORM

STATE OF _____ COUNTY OF _____

_____, personally appeared before me this day and, being first duly sworn, says that the facts stated in the foregoing filing and any exhibits, documents, and statements thereto attached are true as he or she believes.

WITNESS my hand and notarial seal, this _____ day of _____, 20____.

My Commission Expires: _____

Signature of Notary Public

Name of Notary Public – Typed or Printed

The name of the person who completes and signs this verification must be typed or printed by the notary in the space provided in the verification. The notary's name must be typed or printed below the notary's seal. This original verification must be affixed to the original filing that is submitted to the Commission.