

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. W-354, SUB 411
DOCKET NO. W-1148, SUB 22

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application by Carolina Water Service, Inc. of)	
North Carolina, 5821 Fairview Road, Suite 401,)	
Charlotte, North Carolina 28209 and Mountain)	
Air Utilities Corporation, Post Office Box 1090,)	ORDER SCHEDULING
Burnsville, North Carolina 28714, for Authority)	HEARINGS, ESTABLISHING
to Transfer the Mountain Air Water and)	DISCOVERY GUIDELINES,
Wastewater Utility Systems and Public Utility)	AND REQUIRING
Franchise in Yancey County, North Carolina,)	CUSTOMER NOTICE
and for Approval of Rates)	

BY THE COMMISSION: On September 26, 2022, Carolina Water Service, Inc. of North Carolina (CWSNC), and Mountain Air Utilities Corporation (Mountain Air), filed with the Commission an Application for Transfer of Public Utility Franchise and for Approval of Rates (Application) seeking authority to transfer the water and wastewater utility systems and public utility franchise serving the Mountain Air Development in Yancey County, North Carolina, from Mountain Air to CWSNC and approval of rates.

On May 4, 2021, in Docket No. W-1148, Sub 20, the Commission issued an Order Appointing Emergency Operator and Requiring Customer Notice (Emergency Order) appointing CWSNC as emergency operator of the Mountain Air water and wastewater utility systems effective May 10, 2021. CWSNC currently serves 483 monthly metered water utility customers, 438 monthly flat rate wastewater utility customers, and 21 monthly metered wastewater utility customers in the Mountain Air Development service area.

On July 12, 2022, Mountain Air and CWSNC entered into a utility asset purchase agreement whereby CWSNC agreed to purchase Mountain Air’s water utility system for \$646,093. Based on the purchase price amount, the approximate annual revenue requirement associated with the water utility system purchase price is \$79,803, or \$13.77 per customer per month for water system customers. In addition, CWSNC currently has made, or plans to make, water utility system capital improvements and replacements estimated at \$1,253,922. Based on CWSNC’s actual and estimated capital costs for these improvements and replacements, the approximate annual revenue requirement is \$154,880, or \$26.72 per customer per month for water customers. The combined annual revenue requirement encompassing the water system purchase price and capital improvements is \$234,683 or \$40.49 per customer per month for water system customers.

Furthermore, on July 12, 2022, Mountain Air and CWSNC entered into a utility asset purchase agreement whereby CWSNC agreed to purchase Mountain Air's wastewater utility system for \$303,907. Based on the purchase price amount, the approximate annual revenue requirement associated with the wastewater utility system purchase price is \$37,538, or \$6.82 per customer per month for wastewater system customers. In addition, CWSNC currently has made, or plans to make, wastewater utility system capital improvements and replacements estimated at \$935,641. Based on CWSNC's actual and estimated capital costs for these improvements and replacements, the approximate annual revenue requirement is \$115,567, or \$20.98 per customer per month for wastewater system customers. The combined annual revenue requirement encompassing the wastewater system purchase price and capital improvements is \$153,105, or \$27.80 per customer per month for wastewater system customers.

The utility asset purchase agreement acknowledges the likelihood of title objections relating to outstanding judgment liens encumbering certain parcels of real property where Mountain Air utility assets are located. Mountain Air intends to secure releases of the judgment liens as to those parcels at closing, and pay fees and closing costs, by use of the purchase price. In the event Mountain Air is unsuccessful in obtaining releases of the judgment liens at closing, neither Mountain Air nor CWSNC will be required to close on the sale and the utility asset purchase agreement will be considered terminated. Furthermore, as stated in the Emergency Order, Finding of Fact No. 9, not all the parcels where Mountain Air utility assets are located were conveyed to Mountain Air, thus the ownership of important water and wastewater utility system components remains with Mountain Air's parent or affiliated entities. As a result, and in order to allow an effective transfer, the utility asset purchase agreement requires the seller-affiliated entities to convey their respective interests in those parcels to CWSNC at closing, subject to release of the judgment liens encumbering those parcels.

The present water utility rates for the Mountain Air service area were approved in the Emergency Order on May 4, 2021. The present wastewater utility rates were approved in Docket No. W-1148, Sub 23, and have been in effect since December 20, 2022. Upon acquisition of the system, CWSNC proposes to charge the CWSNC Uniform Rates for metered and flat rate residential and nonresidential service for both water and wastewater utility service approved by the Commission in Docket No. W-354, Sub 400 on May 12, 2023. The present and proposed rates are as follows:

	<u>Present</u>	<u>Proposed</u>
<u>Monthly Metered Water Rates:</u>		
Base Charge	\$ 26.50 ¹	\$ 25.91 ²
Usage Charge, per 1,000 gallons	\$ 4.08 ³	\$ 12.28
 <u>Monthly Flat Rate for Residential Wastewater Service:</u>		
	\$ 73.86	\$ 87.27 ⁴

	<u>Present</u>	<u>Proposed</u>
<u>Monthly Metered Commercial</u>		
<u>Wastewater Rate:</u>		
Base Charge:	\$ 71.95 ¹	\$ NA ⁶
Usage Charge, per 1,000 gallons	\$ 4.76 ⁵	\$ NA ⁶
<u>Monthly Flat Rate for Commercial</u>		
<u>Wastewater Service:</u>	\$ NA	\$ 87.27 ⁴

Notes:

- ^{1/} Base charge includes first 2,000 gallons of usage.
- ^{2/} Base charge for meter size less than 1 inch and zero usage.
- ^{3/} Usage charge from 2,000 to 6,000 gallons. Increases to \$13.63 for usage above 6,000 gallons.
- ^{4/} Per single family equivalent (SFE) or residential equivalent unit (REU).
- ^{5/} Usage charge from 2,000 to 6,000 gallons. Increases to \$5.24 for usage above 6,000 gallons.
- ^{6/} CWSNC intends to bill all wastewater customers at a flat rate.

Assuming the size of each installed meter will be less than one inch and the average monthly usage is 2,520 gallons, the proposed monthly metered water bill will be \$56.86 including a base facility charge of \$25.91 and a usage charge of \$12.28 per 1,000 gallons of treated water. The proposed monthly flat rate wastewater bill will be \$87.27.

The Public Staff presented this matter at the Commission's Staff Conference on May 22, 2023. The Public Staff recommended that the matter be scheduled for a public witness hearing for the sole purpose of receiving testimony from customers; that the public witness hearing should be scheduled subject to cancellation if no significant protests are received from customers on or before July 7, 2023; that the matter should also be scheduled for an expert witness hearing for the sole purpose of receiving expert witness testimony from CWSNC, the Public Staff, and intervenors; and that CWSNC should be required to provide notice to all affected customers of the Application, including the applied for rates and the scheduled hearings.

Based upon the foregoing, and the recommendation of the Public Staff, the Commission hereby establishes the procedural schedule, including filing requirements of CWSNC, the Public Staff, and other parties, and requires that CWSNC provide public notice to all affected customers of the Application, including the applied for rates and the scheduled hearings.

The guidelines regarding discovery in this docket, subject to modification for good cause shown, are as follows:

1. Any deposition shall be taken before the deadline for the filing of the Public Staff and other intervenor testimony. A notice of deposition shall be served on all parties at least seven business days prior to the taking of the deposition.

2. Any motion for subpoena of a witness to appear at the expert witness hearing shall be filed with the Commission before the deadline for the filing of the Public Staff and other intervenor testimony, shall be served by hand delivery or facsimile to the person sought to be subpoenaed at or before the time of filing with the Commission, and shall make a reasonable showing that the evidence of such person will be material and relevant to an issue in the proceeding. N.C. Gen. Stat. § 62-62. Unless an objection is filed, the Chief Clerk shall issue the requested subpoena within one business day of the filing of such motion.

3. Formal discovery requests related to the Application and CWSNC's prefiled direct and supplemental testimony shall be served on CWSNC by hand delivery, facsimile, or electronic delivery with CWSNC's agreement, no later than 15 calendar days prior to the filing of the Public Staff and other intervenor testimony. CWSNC shall have up to ten calendar days to file with the Commission objections to discovery requests on an item-by-item basis, but in no event shall objections be filed later than ten calendar days prior to the deadline for the filing of Public Staff and other intervenor testimony.

4. Formal discovery requests of the Public Staff or other intervenors shall be served by hand delivery, facsimile, or electronic delivery (with the agreement of the receiving party), no later than five business days after the filing of that party's testimony. The party served shall have up to three business days to file with the Commission objections to the discovery requests on an item-by-item basis, but in no event shall objections be filed later than nine calendar days after the filing of that party's testimony.

5. Formal discovery requests related to prefiled rebuttal testimony shall be served by hand delivery, facsimile, or electronic delivery, with CWSNC's agreement, no later than two calendar days after the filing of such testimony. The party served shall have up to three calendar days to file with the Commission objections to the discovery requests on an item-by-item basis, but in no event shall objections be filed later than three business days after the filing of such rebuttal testimony. Discovery related to rebuttal testimony shall be limited to new material introduced in such rebuttal testimony and will be carefully scrutinized upon objection that such discovery should have been sought during the initial period of discovery.

6. Discovery requests need not be filed with the Commission when served; however, objections shall be filed with the Commission, and the objecting party shall attach a copy of the relevant discovery request to the objections. Each discovery request, or part thereof, to which no objection is filed, shall be answered by the time objections are due, subject to other agreement of the affected parties or other order of the Commission. Upon the filing of objections, the party seeking discovery shall have two business days to file with the Commission a motion to compel, and the party objecting to discovery shall have one business day thereafter to file a response. All objections, motions to compel, and responses shall be served on the other affected party by hand delivery, facsimile, or electronic delivery, with the agreement of the receiving party, at or before the time of filing with the Commission.

7. A party shall not be granted an extension of time to pursue discovery due to that party's late intervention or other delay in initiating discovery.

8. Further, the Commission finds good cause to require the Company and all other parties who file exhibits and workpapers that include tables of numbers and calculations to provide an electronic version of all such exhibits and workpapers, with formulas intact, to the Commission Staff, the Public Staff, and any other party upon request from such party.

The Commission urges all parties to work in a cooperative manner and to try to accommodate discovery within the time available. The Commission recognizes that in the past most discovery has been conducted in an informal manner without the need for Commission involvement or enforcement, and that such process has been generally successful. The above guidelines are without prejudice to the parties conducting informal discovery or exchanging information by agreement at any time with the understanding that such will not be enforceable by the Commission if outside these guidelines.

IT IS, THEREFORE, ORDERED as follows:

1. That the Application is scheduled for a public witness hearing beginning at 7:00 p.m., on Monday, July 17, 2023, in the Yancey County Courthouse, 110 Town Square, 2nd Floor, Burnsville, North Carolina 28714;

2. That the public witness hearing will be conducted solely for the purpose of receiving the testimony of customers in accordance with Commission Rule R1-21(g). The Commission reserves the right to limit testimony at the public witness hearing pursuant to Commission Rule R1-21(g)(5);

3. That Mountain Air and CWSNC are required to file separate, verified reports addressing all customer service and service quality complaints expressed during the public witness hearing held on Monday, July 17, 2023, within 15 days of the conclusion of the public witness hearing, and that the Public Staff shall file, and other intervenors may file, a verified response and any comments to Mountain Air's and CWSNC's reports within 10 days of the filing of reports by Mountain Air and CWSNC;

4. That the public witness hearing is subject to cancellation if no significant protests are received from customers on or before July 7, 2023;

5. That the Application is scheduled for an expert witness hearing beginning at 10:00 a.m., on Tuesday, August 15, 2023, and continuing as necessary until its conclusion, in Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina 27603;

6. That the parties shall comply with the discovery guidelines established herein and shall work in a cooperative manner as to discovery;

7. That CWSNC is required to prefile all testimony on which it will rely at the expert witness hearing on or before Friday, June 16, 2023, which is 60 days prior to the expert witness hearing;

8. That the Public Staff and intervenors, if any, shall file their testimony on or before Thursday July 6, 2023, which is 40 days prior to the expert witness hearing;

9. That CWSNC shall file its rebuttal testimony, if any, on or before Wednesday, July 26, 2023, which is 20 days prior to the expert witness hearing;

10. That on or before Thursday, July 6, 2023, any persons having an interest in this matter may file petitions to intervene to this proceeding pursuant to Commission Rules R1-5 and R1-19;

11. That CWSNC shall consult with all other parties and file, no later than Tuesday, August 8, 2023, a list of witnesses to be called at the expert witness hearing, the order of witnesses, and each party's estimated time for cross-examination. If the parties cannot agree, the remaining parties shall, no later than Thursday, August 10, 2023, make a filing indicating their points of disagreement with CWSNC's filing;

12. That an officer or representative of CWSNC shall appear before the Commission at the time and place of the expert witness hearing to testify concerning any of the information contained in the Application;

13. That all parties filing supporting exhibits in Excel format shall provide the Commission Staff electronic versions of the exhibits filed in native Excel format, including all of the supporting tabs and formulas, within three days of the filing of such exhibits; and that CWSNC and all other parties filing exhibits and workpapers that include tables of numbers and calculations shall provide the Public Staff and any other party upon request an electronic version of all such exhibits and workpapers, with formulas intact;

14. That all parties filing supporting exhibits in PDF format shall provide to the Commission Staff electronic versions of the exhibits filed in native Excel format via email at NCUCexhibits@ncuc.net, where applicable, including all of the supporting tabs and formulas, within three days of the filing of such exhibits; and that CWSNC and all other parties filing exhibits and workpapers that include tables of numbers and calculations shall provide the Public Staff and any other party upon request an electronic version of all such exhibits and workpapers, with formulas intact; and

15. That the Notice to Customers, attached hereto as Appendix A, shall be mailed with sufficient postage or hand delivered by CWSNC to all affected customers no later than ten days after the date of this Order and that CWSNC shall submit to the

Commission the attached Certificate of Service, properly signed and notarized, not later than 20 days after the date of this Order.

ISSUED BY ORDER OF THE COMMISSION.

This the 5th day of June, 2023.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in cursive script that reads "Tamika D. Conyers". The signature is written in black ink and is positioned above the printed name.

Tamika D. Conyers, Deputy Clerk

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

NOTICE TO CUSTOMERS

DOCKET NO. W-354, SUB 411
DOCKET NO. W-1148, SUB 22

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

Notice is hereby given that Carolina Water Service, Inc. of North Carolina (CWSNC), 4944 Parkway Plaza Boulevard, Suite 375, Charlotte, North Carolina 28217, and Mountain Air Utilities Corporation (Mountain Air), Post Office Box 1090, Burnsville, North Carolina 28714, filed an Application with the North Carolina Utilities Commission (Commission) for Transfer of Public Utility Franchise and for Approval of Rates (Application) seeking authority to transfer the Mountain Air Development Water and Wastewater Utility Systems and corresponding Public Utility Franchise in Yancey County, North Carolina, from Mountain Air to CWSNC and for approval of rates.

On July 12, 2022, Mountain Air and CWSNC entered into a utility asset purchase agreement whereby CWSNC agreed to purchase Mountain Air's water utility system for \$646,093. Based on the purchase price amount, the approximate annual revenue requirement associated with water utility system purchase price is \$79,803, or \$13.77 per customer per month for water system customers. In addition, CWSNC currently has made or plans to make water utility system capital improvements and replacements estimated at \$1,253,922. Based on CWSNC's actual and estimated capital costs for these improvements and replacements the approximate annual revenue requirement is \$154,880, or \$26.72 per customer per month for water customers. The combined annual revenue requirement encompassing the water system purchase price and capital improvements is \$234,683 or \$40.49 per customer per month for water system customers.

Furthermore, on July 12, 2022, Mountain Air and CWSNC entered into a utility asset purchase agreement whereby CWSNC agreed to purchase Mountain Air's wastewater utility system for \$303,907. Based on the purchase price amount, the approximate annual revenue requirement associated with wastewater utility system purchase price is \$37,538, or \$6.82 per customer per month for wastewater system customers. In addition, CWSNC currently has made or plans to make wastewater utility system capital improvements and replacements estimated at \$935,641. Based on CWSNC's actual and estimated capital costs for these improvements and replacements the approximate annual revenue requirement is \$115,567, or \$20.98 per customer per month for wastewater system customers. The combined annual revenue requirement encompassing the wastewater system purchase price and capital improvements is \$153,105 or \$27.80 per customer per month for wastewater system customers.

The utility asset purchase agreement acknowledges the likelihood of title objections including certain judgment liens on the property. Mountain Air intends to secure release of the judgment liens at closing in exchange for the payment of the purchase price. In the event Mountain Air is unsuccessful in obtaining releases of the judgment liens at closing, neither Mountain Air nor CWSNC will be required to close on the sale and the utility asset purchase agreement will be considered terminated. Furthermore, as stated in the Emergency Order, Findings of Fact No. 9, not all the utility system real property was conveyed to Mountain Air, and ownership of important water and wastewater utility system real property components remains with Mountain Air's parent or affiliated entities. As a result, the utility asset purchase agreement requires the seller affiliates to convey their respective interests in the real property portion of the purchased assets, subject to release of certain judgments.

EFFECT OF RATES:

The present water utility rates for the Mountain Air service area were approved in the Emergency Order on May 4, 2021. The present wastewater utility rates were approved in Docket No. W-1148, Sub 23, and have been in effect since December 20, 2022. Upon acquisition of the system, CWSNC proposes to charge the CWSNC Uniform Rates for metered and flat rate residential service and for nonresidential service for both water and wastewater utility service approved by the Commission in Docket No. W-354, Sub 400 on May 12, 2023. The present and proposed rates are as follows:

	<u>Present</u>	<u>Proposed</u>
<u>Monthly Metered Water Rates:</u>		
Base Charge	\$ 26.50 ¹	\$ 25.91 ²
Usage Charge, per 1,000 gallons	\$ 4.08 ³	\$ 12.28
<u>Monthly Flat Rate for Residential Wastewater Service:</u>		
	\$ 73.86	\$ 87.27 ⁴
<u>Monthly Metered Commercial Wastewater Rate:</u>		
Base Charge:	\$ 71.95 ¹	\$ NA ⁶
Usage Charge, per 1,000 gallons	\$ 4.76 ⁵	\$ NA ⁶
<u>Monthly Flat Rate for Commercial Wastewater Service:</u>		
	\$ NA	\$ 87.27 ⁴

Notes:

- ^{1/} Base charge includes first 2,000 gallons of usage.
- ^{2/} Base charge for meter size less than 1 inch and zero usage.
- ^{3/} Usage charge from 2,000 to 6,000 gallons. Increases to \$13.63 for usage above 6,000 gallons.
- ^{4/} Per single family equivalent (SFE) or residential equivalent unit (REU).
- ^{5/} Usage charge from 2,000 to 6,000 gallons. Increases to \$5.24 for usage above 6,000 gallons.
- ^{6/} CWSNC intends to bill all wastewater customers at a flat rate.

Assuming the size of each installed meter will be less than one inch and the average monthly usage is 2,520 gallons, the proposed monthly metered water bill will be \$56.86, including a base facility charge of \$25.91 and a usage charge of \$12.28 per 1,000 gallons of treated water. The proposed monthly flat rate wastewater bill will be \$87.27.

PROCEDURE FOR PUBLIC HEARING:

The Commission has scheduled the following hearings on the Application.

A public witness hearing is scheduled at 7:00 p.m., on Monday, July 17, 2023, to be held in the Yancey County Courthouse, 110 Town Square, 2nd Floor, Burnsville, North Carolina 28714. *This hearing may be canceled if no significant protests are received on or before Friday, July 7, 2023.* The hearing scheduled for Monday, July 17, 2023, shall be conducted solely for the purpose of receiving the testimony of customers in accordance with Commission Rule R1-21(g). The Commission reserves the right to limit testimony at the public witness hearing.

An expert witness hearing is scheduled beginning at 10:00 a.m. on Tuesday, August 15, 2023, and continuing as necessary until its conclusion, to be held in Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina 27603. The hearing scheduled for Tuesday, August 15, 2023, shall be conducted solely for the purpose of receiving the expert witness testimony of CWSNC, the Public Staff, and any other parties of record.

Consumer statements may be submitted to the Commission via the online form at <https://www.ncuc.gov/contactus.html>. Consumer statements are not evidence unless those persons appear at a public witness hearing and testify concerning the information contained in their consumer statements.

The Public Staff – North Carolina Utilities Commission (Public Staff) is authorized by statute to represent consumers in proceedings before the Commission. Consumer statements to the Public Staff should include the customer's name, contact information, and any information that the writer wishes to be considered by the Public Staff in its investigation of the matter, and such statements should be addressed to Mr. Christopher J. Ayers, Executive Director, Public Staff, 4326 Mail Service Center, Raleigh, North Carolina 27699-4326. Consumer statements may also be faxed to (919) 715-6704.

The Attorney General is also authorized by statute to represent the consumers in proceedings before the Commission. Statements to the Attorney General should be addressed to The Honorable Josh Stein, Attorney General, c/o Utilities Section, 9001 Mail Service Center, Raleigh, North Carolina 27699-9001. Written statements may also be emailed to utilityAGO@ncdoj.gov.

Persons desiring to intervene in this matter as formal parties of record should file a petition pursuant to North Carolina Utilities Commission Rules R1-5 and R1-19, *on or before* Thursday, July 6, 2023. Any such petition should be filed with the North Carolina Utilities Commission, 4325 Mail Service Center, Raleigh, North Carolina 27699-4300.

Commission hearings are subject to change. Any changes to scheduled hearings will be posted on the NCUC website at www.ncuc.gov.

Information regarding this proceeding can also be accessed from the Commission's website at www.ncuc.gov under Docket Number "W-354 Sub 411."

This the 5th day of June, 2023.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in black ink that reads "Tamika D. Conyers". The signature is written in a cursive style with a large initial 'T' and 'C'.

Tamika D. Conyers, Deputy Clerk

CERTIFICATE OF SERVICE

I, _____, mailed with sufficient postage or hand delivered to all affected customers copies of the attached Notice to Customers issued by the North Carolina Utilities Commission in Docket Nos. W-1148, Sub 22, and W-354, Sub 411, and the Notice was mailed or hand delivered by the date specified in the Order.

This the ____ day of _____ 2023.

By: _____
Signature

Carolina Water Service, Inc. of North Carolina

The above named Applicant, _____, personally appeared before me this day and, being first duly sworn, says that the required Notice to Customers was mailed or hand delivered to all affected customers, as required by the Commission Order dated _____ in Docket Nos. W-354, Sub 411 and W-1148, Sub 22.

Witness my hand and notarial seal, this the ____ day of _____ 2023.

Notary Public

Address

(SEAL) My Commission Expires: _____
Date