

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. W-218, SUB 526A

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application by Aqua North Carolina, Inc.,)
202 MacKenan Court, Cary, North Carolina)
27511, for Authority to Adjust and Increase)
Rates for Water and Sewer Utility Service)
in All Its Service Areas in North Carolina)

INITIAL COMMENTS
OF THE
PUBLIC STAFF

NOW COMES THE PUBLIC STAFF – North Carolina Utilities Commission (Public Staff), by and through its Executive Director, Christopher J. Ayers, and respectfully submits the following initial comments addressing the Ongoing Three-Year WSIC/SSIC Plan, filed on March 1, 2021, by Aqua North Carolina, Inc. (Aqua or the Company), for Commission consideration.

I. Background

1. On December 17, 2020, in Docket No. W-354, Sub 364A, the Commission issued its Order Approving Water and Sewer System Improvement Charges on a Provisional Basis and Requiring Customer Notice (CWSNC WSIC/SSIC Order).

2. The Discussion and Conclusions of the CWSNC WSIC/SSIC Order provide:

The Rulemaking Order further emphasized by referring to the Aqua Rate Order that the Commission considered the WSIC/SSIC mechanism to be a regulatory tool that would smooth the effect of rate increases stemming from needed infrastructure investments and could result in less frequent rate cases, which would have the effect of substantially reducing rate case expense. The Rulemaking Order also

directed that the Public Staff would review and scrutinize improvement expenditures proposed to be recovered through the WSIC/SSIC surcharge. The Commission was clear in its statement from the Aqua Rate Order referenced in the Rulemaking Order that the Public Staff was charged with reviewing projected WSIC/SSIC costs prior to the utilities spending funds and requesting recovery from ratepayers using the WSIC/SSIC mechanism. The Public Staff's review would begin with the utility's filing of a three-year plan of proposed eligible system improvements. The Commission stated its expectation that the Public Staff's scrutiny and review of the ongoing three-year plan and the discussion of the plan with the utility between general rate cases would "provide the Public Staff with detailed information concerning eligible system improvement projects . . . and should also keep the Public Staff more informed [than it otherwise would be] regarding matters concerning the quality of service provided by [the utility] to its customers."

. . .

Hence, the current WSIC/SSIC rules requiring the filing of a three-year plan provide the Public Staff with advance notice of the types of improvements, corresponding dollar amounts, and the timing of the improvements prior to the inclusion of such improvements in a WSIC/SSIC surcharge application.

. . .

For the semiannual surcharge application process to be a fluid process as intended by the WSIC/SSIC rules, there must be reasonable correlation between the improvements submitted by a utility in its application and the improvements included in its three-year plan. While the three-year plan is merely a planning tool and is subject to modifications by the utility for good cause, the Commission expects the utilities to apprise the Public Staff of any deviations between the eligible improvements included in its WSIC/SSIC application and the eligible improvements presented in its latest three-year plan on file with the Commission.

CWSNC WSIC/SSIC Order at 7-8.

3. On March 1, 2021, Aqua filed its Ongoing Three-Year WSIC/SSIC Plan (WSIC/SSIC Plan) in this docket.

II. Initial Comments

4. Consistent with the direction provided by the Commission in the CWSNC WSIC/SSIC Order regarding the Commission's expectations for the operation of the WSIC/SSIC procedure, including "the Public Staff's scrutiny and review of the ongoing three-year plan," the Public Staff has reviewed and scrutinized Aqua's ongoing three-year plan as directed by the Commission in the CWSNC WSIC/SSIC Order and has determined that the contents of the plan changed as compared to the plans previously filed by the Company. The Public Staff has further determined that the ongoing three-year plan lacks information that should be made publicly available to the Commission, the Public Staff, and Aqua's customers.

5. Commission Rule R7-39(m)¹ provides:

Ongoing Three-Year Plan.—Within 60 days following the end of each WSIC Period, the utility shall file an updated three-year plan containing the information prescribed in Section (c)(1) of this Rule and any other information required by the Commission.

Based on this Rule, Aqua is required to file its Ongoing Three-Year Plan on or about March 1 of every year. Given that the filing deadline is already two months into year one of the required three-year plan, the Public Staff reasonably expects the planned projects and associated estimated costs in year one to be assigned to specific systems and include detailed information. Planned projects and estimated costs for future years understandably would be less refined and contain fewer details, as conditions, priorities, and budgets can change with the passage of time.

¹ The corresponding rule for sewer utilities is Commission Rule R10-26(m).

However, if the three-year plan is overly vague or projects are not consistently advancing from future years (i.e., from year two or three of the previous year's plan, to the present year of the subsequent plan), then the Public Staff is not being provided with "advance notice of the types of improvements, corresponding dollar amounts, and the timing of the improvements" as the Commission noted is required by the current WSIC/SSIC rules. CWSNC WSIC/SSIC Order at 8.

6. Aqua's WSIC/SSIC Plan states that the Company expects to invest an estimated \$50.3 million in WSIC/SSIC eligible infrastructure during the 2021-2023 period, which it claims is less than the statutory 5% revenue cap. This level of planned investment is approximately double each of Aqua's previous three-year plans since the inception of WSIC/SSIC. For example, the Ongoing Three-Year WSIC/SSIC Plan filed on March 2, 2020, estimated \$26.197 million of investment in WSIC/SSIC eligible infrastructure during the period from 2020-2022. Furthermore, the Public Staff calculates that the revenue requirement for a planned investment of \$50.3 million would be approximately \$5.917 million, which exceeds the 5% cap of \$3.236 million, cumulative of Aqua's five rate divisions.

7. In a departure from all of its previous three-year plans, Aqua included numerous line items for budget markers in its most recently filed WSIC/SSIC Plan.² These budget markers are generic dollar amounts that lack detailed information concerning eligible system improvement projects. The budget markers are a significant factor contributing to the increased overall amount of planned

² Previously, budget markers were used on a limited basis for higher frequency, lower individual cost project types such as SSIC eligible replacements of pumps, motors, and blowers in future years.

investment, including, in 2021, \$1.75 million for primary treatment projects, \$0.275 million for mains, valves, services, meters, and hydrants replacements, and \$0.2 million for pumps, motors, blowers, and other mechanical equipment. During the 2021-2023 period, budget markers total \$9.149 million, or over 18% of Aqua's WSIC/SSIC Plan. It is the Public Staff's opinion that budget marker line items should be removed or, in the alternative, that their use should be limited to future years. As stated in the CWSNC WSIC/SSIC Order, "a three-year plan [shall] provide the Public Staff with advance notice of the types of improvements, corresponding dollar amounts, and the timing of the improvements prior to the inclusion of such improvements in a WSIC/SSIC surcharge application" and "the Commission expects the utilities to apprise the Public Staff of any deviations between the eligible improvements included in its WSIC/SSIC application and the eligible improvements presented in its latest three-year plan on file with the Commission." *Id.* In either scenario, due to the lack of detail regarding these budget markers, when specific eligible projects occur and are included in a WSIC/SSIC application, the utilities should apprise the Public Staff of this deviation, or development.

8. In its WSIC/SSIC Plan, Aqua added a line item for WSIC Meter Exchange Project in the ANC Water rate division for amounts of \$4,157,400 in 2021, \$1,425,400 in 2022, and \$1,169,300 in 2023, respectively. No additional information was provided, and this line item was not included in Aqua's prior WSIC/SSIC Plan filed on March 2, 2020. Neither this investment, nor the magnitude of its cost, was forecasted by Aqua in its previous three-year plans or

during its most recent general rate case. Additionally, Aqua has not filed the Strategic Plan for Meter Data Management and Advanced Analytics required by the Commission.³ The Public Staff continues to have concerns about the cost-benefit analysis used to justify costly investment in metering technology where the benefits to customers have not been developed and implemented. The Public Staff is of the opinion that, at a minimum, Aqua should provide the number of meters expected to be replaced by year, the names of the affected systems, and a description of the metering technology the Company intends to install. In addition, the Public Staff recommends that the Commission require Aqua to file a report presenting the available tracked information pursuant to Ordering Paragraph No. 24 of the Rate Case Order and an update on the status of the Strategic Plan for Meter Data Management and Advanced Analytics.

9. Aqua added line items in the ANC WW rate division for CW Grinder Pumps Central for amounts of \$193,920 in 2021, \$199,737 in 2022, and \$205,780

³ The Commission's Order Approving Partial Settlement Agreement and Stipulation, Deciding Contested Issues, granting Partial Rate Increase, and Requiring Customer Notice issued on October 26, 2020, in Docket No. W-218, Sub 526 (Rate Case Order), provides:

Regarding the provision of AMR meter data to customers, the Commission notes that its determination in the Sub 497 Order that it was appropriate to include Aqua NC's investment in AMR technology in rates was premised in part on the Commission's finding that the functionalities of AMR technology were being utilized to the benefit of ratepayers and benefits would incrementally increase to ratepayers as Aqua NC fully deployed the technology. As such, the Commission concludes that the Company shall, upon the filing of this Order, share the 40-day meter read history collected by its AMR technology with its AMR-metered customers upon request. Furthermore, in its effort to stay apprised of the development of customers' access to AMR data, the Commission concludes that the Company shall file its Strategic Plan for Meter Data Management and Advanced Analytics referred to in the Company's filings in accordance with Ordering Paragraph 27 in Docket No. W-218, Sub 497A.

Rate Case Order at 168-69.

in 2023, and for CN Grinder Pumps Central for amounts of \$193,920 in 2021, \$199,737 in 2022, and \$205,780 in 2023. The CWSNC WSIC/SSIC Order provides:

Certain improvements that benefit only a single customer may provide no benefit the system. To the extent an improvement benefits a sole customer or relatively few customers, it is not an eligible improvement unless the utility can demonstrate that the improvement provides some benefit to the system. Thus, not all spending, even on improvements that might be enumerated in N.C.G.S. § 62-133.12(c) and (d), necessarily meets the stated criteria.

CWSNC WSIC/SSIC Order at 10.

On January 4, 2021, in Docket No. W-218, Sub 526A, the Commission issued its Order Approving Water and Sewer System Improvement Charges on a Provisional Basis and Requiring Customer Notice (Aqua WSIC/SSIC Order).

Finding of Fact No. 10 of the Aqua WSIC/SSIC Order provides:

(3) Adjustment to remove grinder pumps – Aqua included \$153,268 of grinder pump replacements in plant in service used to calculate the SSIC revenue requirement for Uniform Sewer operations. The grinder pump projects included 44 individual grinder pump replacements. Based on Aqua's response to Public Staff data request, the Public Staff has determined that these grinder pump replacements did not benefit the entire system in which they were replaced but benefited individual customers in each subdivision. Additionally, the average cost of the grinder pump projects was approximately \$3,460, making them a low cost plant addition that will erode the 5% revenue requirement allowed in between general rate cases. Finally, the grinder pumps were not included in Aqua's most recent Ongoing Three-Year WSIC/SSIC Plan filed with the Commission on March 2, 2020 and have not been evaluated by the Public Staff prior to inclusion of the grinder pumps in the SSIC surcharge application. Therefore, the grinder pumps should not be allowed for SSIC recovery.

Aqua WSIC/SSIC Order at 4.

Finding of Fact No. 12 of the Aqua WSIC/SSIC Order provides:

On December 29, 2020, Aqua filed a letter in this docket in which Aqua indicated:

“Aqua appreciates the Public Staff’s review and agrees with its recommendations, except for paragraph number 3 (at pages 5 – 6), which makes an adjustment of \$153,268 for removal of grinder pumps. Though not in agreement about the fundamental eligibility of grinder pumps for recovery under G.S. 62-133.12, in light of the Commission’s useful guidance in the recent CWSNC Order and in the interest of efficiency, Aqua withdraws from consideration in this case the grinder pumps, respectfully reserving the right to present them for consideration in a future SSIC surcharge case, with additional support and under a procedure that is more consistent with that prescribed by the Commission in the CWSNC Sub 364A case.”

Id. at 5.

Aqua has not further addressed SSIC eligibility of grinder pumps in any communications with the Public Staff, or in any filings with the Commission. Given the nature and magnitude of the grinder pump costs, which are as-needed replacements of individual household grinder pumps and are not the type of project that would be accelerated by the system improvement charge (SIC) incentive,⁴ the Public Staff is of the opinion that the grinder pumps are not SIC eligible. Aqua should remove them from its WSIC/SSIC Plan and not be allowed to include such costs in future WSIC/SSIC rate adjustments.

⁴ “The Commission believes that the primary purpose of N.C.G.S. § 62-133.12 was to encourage and accelerate investment in needed water and sewer infrastructure. . .” Order Adopting Rules to Implement N.C.G.S. § 62-133.12, Docket No. W-100, Sub 54, dated June 6, 2014, at 2.

10. Lastly, Aqua included line items for North Carolina Department of Transportation (NCDOT) water and sewer main relocations for \$4.431 million in 2021, \$1.2 million in 2022, and \$0 in 2023. In addition, three specific projects are listed as line items without an amount of planned investment. In the report narrative regarding NCDOT water main relocation projects, Aqua lists nine additional pending projects that the Company has been notified of by NCDOT but for which the Company has not included estimated completion dates or amounts. Water and sewer main relocation projects are main replacements that are not accelerated by the utility or for the purpose of improving quality of service or reducing operation and maintenance expenses, but instead are initiated to facilitate highway projects. As Aqua has not provided all of “the types of improvements, corresponding dollar amounts, and the timing of the improvements” for these main relocations, the Public Staff is of the opinion that Aqua should be required to “apprise the Public Staff of any deviations between the eligible improvements included in its WSIC/SSIC application and the eligible improvements presented in its latest three-year plan on file with the Commission.” CWSNC WSIC/SSIC Order at 8.

WHEREFORE, the Public Staff respectfully requests that the Commission consider these initial comments in making its determinations in this docket and require Aqua to file a revised Ongoing Three-Year WSIC/SSIC Plan addressing the deficiencies identified above.

This the 19th day of April, 2021.

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CERTIFICATE OF SERVICE

I certify that a copy of these Initial Comments have been served on all parties of record or their attorneys, or both, by United States mail, first class or better; by hand delivery; or by means of facsimile or electronic delivery upon agreement of the receiving party.

This the 19th day of April, 2021.

Electronically submitted
/s/ Megan Jost