

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. W-100, SUB 61

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Petition for Rulemaking to Implement N.C.)	ORDER ADOPTING
Gen. Stat. § 62-133.12A, North Carolina)	COMMISSION RULE R7-40 AND
Session Law 2019-88 (House Bill 529))	COMMISSION RULE R10-27

BY THE COMMISSION: On October 31, 2019, in the above-captioned proceeding, the Public Staff – North Carolina Utilities Commission (Public Staff) filed a petition requesting that the Commission establish a rulemaking proceeding to implement N.C. Gen. Stat. § 62-133.12A, North Carolina Session Law 2019-88 (House Bill 529). The Public Staff further requests that the Commission, after receiving comments from interested parties, adopt its proposed Commission Rule R7-40 for water and Rule R10-27 for sewer attached to its petition as Exhibit A and Exhibit B, respectively, with such modifications as may be appropriate. As is summarized in greater detail below, the Public Staff also included in its petition a summary of its proposed rules.

On November 4, 2019, Aqua North Carolina, Inc. (Aqua), and Carolina Water Service, Inc. of North Carolina (CWSNC) (together, the Companies) filed petitions to intervene in this docket.

On November 14, 2019, the Commission issued an Order establishing this proceeding as a rulemaking proceeding for the purpose of considering the adoption of the Commission Rules R7-40 for water and R10-27 for sewer to implement N.C.G.S. § 62-133.12A. In addition, that Order established a schedule for the filing of comments and reply comments and granted the petitions to intervene filed by the Companies.

On January 31, 2020, the Companies filed initial comments.

On February 28, 2020, the Public Staff filed reply comments.

No other person has sought to intervene in this proceeding and no utility customers have filed comments in this docket.

PARTIES' COMMENTS AND PROPOSED RULES

The Consumption Adjustment Mechanism Statute

As enacted by Session Law 2019-88, N.C.G.S. § 62-133.12A (CAM Statute) provides as follows:

In setting rates for a water and wastewater utility in a general rate proceeding under G.S. 62-133, the Commission may adopt, implement, modify, or eliminate a rate adjustment mechanism for one or more of the company's rate schedules to track and true-up variations in average per customer usage from levels approved in the general rate case proceeding. The Commission may adopt a rate adjustment mechanism only upon a finding by the Commission that the mechanism is appropriate to track and true-up variations in average per customer usage by rate schedule from levels adopted in the general rate case proceeding and the mechanism is in the public interest.

The Public Staff's Petition and Proposed Rules

In its petition the Public Staff requests that the Commission adopt its proposed Commission Rule R7-40 and Rule R10-27, in the form attached to its petition as Exhibits A and B, respectively. In support of its petition, the Public Staff states that the enactment of N.C.G.S. § 62-133.12A authorizes the Commission to adopt, implement, modify, or eliminate a rate adjustment mechanism for both water and wastewater utilities for tracking and true-up variations in customer usage from the levels approved in the general rate case proceeding. The Public Staff further states that prior to the enactment of N.C.G.S. § 62-133.12A, the Commission did not have the authority for this type of rate adjustment mechanism for water and wastewater utilities. In addition, the Public Staff notes that N.C.G.S. § 62-133.12A provides for Commission approval of a rate adjustment mechanism by customer classification and rate schedule for both water and wastewater utilities, upon a finding that the rate adjustment mechanism is in the public interest.

The Public Staff then provides a detailed summary of its proposed rules. In its summary, the Public Staff states that paragraph (a) of each rule provides the scope and purpose of the rule; paragraph (b) of each rule provides the rule definitions; paragraph (c) of each rule provides that pursuant to the requirement in N.C.G.S. § 62-133.12A, the procedure for water and sewer utilities to request Commission approval of the water usage adjustment (WUA) and sewer usage adjustment (SUA) mechanisms is in a general rate case. The Public Staff further summarizes that subparagraphs in paragraph (c) require a description of rate groups, a billing analysis, and evidence that the mechanism is in the public interest. Continuing its summary, the Public Staff next states that paragraph (d) provides that in the general rate case the customers will be notified of the applied-for WUA and SUA mechanisms; paragraph (e) provides for Commission review and hearing on the applied for WUA and SUA mechanisms; paragraph (f) provides that the utility shall petition to initiate the WUA and/or SUA after the 12-month period following

the effective date of rates approved by the Commission in conjunction with the approval of a WUA and/or SUA mechanism in a general rate case proceeding; paragraph (g) provides the calculation components for the charge or credit; paragraph (h) provides for the request for annual usage adjustments; paragraph (i) provides the calculation components for the experience modification factor; paragraph (j) provides for Public Staff audits, utility filed annual reconciliations, and customer refunds for overcollections, pursuant to N.C.G.S. § 62-130(e); paragraph (k) provides that each utility must file with the Commission within 15 days after each calendar month a monthly report in the format prescribed by the Commission; paragraph (l) provides that the Commission may eliminate or modify the WUA and/or SUA if found not to be in the public interest; and paragraph (m) provides that the utility has the burden of proof that the usage adjustment mechanism is in the public interest and the correctness and reasonableness of any WUA or SUA.

In conclusion, the Public Staff requests that the Commission adopt the proposed rules attached to its petition with such modifications as may be appropriate in light of comments presented in this proceeding, and provide for such other and further relief as the Commission may deem just and proper.

The Companies' Comments

In their initial comments, the Companies submit and advocate for certain changes to the Public Staff's proposed rules and attached to its comments revised rules reflecting these changes as Exhibits A and B. In addition, the Companies attached as Exhibit C a detailed sample calculation consistent with their proposed revisions. In support of their proposed revisions, the Companies state that N.C.G.S. § 62-133.12A contains language that tracks almost verbatim the language of a substantively identical rate adjustment mechanism for natural gas public utilities that was enacted at N.C.G.S. § 62-133.7. The Companies further state that the Commission has authorized the use of this rate adjustment mechanism for the two largest natural gas public utilities in North Carolina: a Margin Decoupling Tracker (MDT) for Piedmont Natural Gas Company, Inc. (Piedmont) and a Customer Usage Tracker (CUT) for Public Service Company of North Carolina, Inc. (PSNC). The Companies then state that the Commission did not adopt formal rules for the MDT and CUT; instead, the practices and procedures are adopted and approved by the Commission during a general rate case and are included in individual company tariffs. In addition, the Companies state that the MDT and CUT have been in effect for more than a decade and apparently work well. The Companies argue that the practices and procedures approved by the Commission which govern the CUT and MDT provide a template for successful implementation of the CAM Statute. Thus, the Companies propose that the rules adopted by the Commission in this docket mirror, as much as reasonably practicable, the longstanding practices and procedures used in implementing the MDT and CUT.

In response to the Public Staff's proposed rules, the Companies state that regulated water and sewer utilities in North Carolina remain fundamentally challenged by the inability of the current ratemaking process to adequately capture the fluctuations inherent in customer consumption levels over time. Further, the Companies state that

variability in consumption undermines the ability to set rates that assure fairness both to customers and utility providers. Thus, the Companies believe that N.C.G.S. § 62-133.12A was enacted with the goal of protecting both customers and the utility from unforeseeable, significant fluctuations in consumption.

The Companies argue that the Public Staff's proposal fails to align with the letter and intent of the CAM Statute in certain key respects. In the first respect, the Companies argue that the Public Staff's focus on "variations in customer usage" differs from the statute's focus on "variations in average per customer usage." The Companies state that the difference may appear subtle, but it is an important distinction that highlights the focus and goal of the law is to reconcile volatility in per customer consumption due to the vagaries of projecting end-user usage patterns. Noting the arguments made in their recent respective general rate cases, the Companies also argue that the calculation of an adjustment mechanism should reflect a consumption adjustment mechanism that only seeks to correct a deficiency in the current ratemaking process.

To emphasize the importance of the difference, the Companies revisit the intent of the rate adjustment mechanism, referring to the ratemaking equation:

Rate = Revenue Requirement/Total Consumption, where

Total Consumption = # of Customers * Average Per Customer Usage.

The Companies further explain that the revenue requirement and customer count figures are fixed as of a point in time and are subject to examination by the Public Staff and Commission in normal course in a general rate case proceeding. Average per customer usage, the Companies continue, is "unknowable in principle in advance of actual customer activity occurring." The Companies observe that rates are currently set by using historical customer behavior as a proxy for future customer behavior, with the assumption that the authorized consumption level is a "normalized" level of usage in an average year. Thus, the Companies argue that the rate adjustment mechanism is intended to adjust rates to supplement the ratemaking process for average per customer usage, to provide the utility a reasonable opportunity to achieve its authorized return on equity.

The Companies further argue that the Public Staff's proposed rules ignore the CAM Statute's explicit language concerning average per customer usage and instead focuses on reconciling authorized revenue. The Companies then present an alternative ratemaking equation:

Authorized Revenue (or Revenue Requirement) = Rate * Total Consumption

Total Consumption = # of Customers * Average Per Customer Usage

With a focus on authorized revenue, the Companies argue that the Public Staff's proposed rules ignore that a portion of the revenue collected may be attributed to customers acquired after the rate case. The Companies further argue that this instills a

projective element into the ratemaking equation, without a similar true-up of the other elements of the rate setting equation. The result, the Companies conclude, would allow the utility to sell some of its systems and surrender those customers served, and then expect the remaining customers to make up the revenue shortfall, or to acquire a new system and yield no additional revenue. Further, the Public Staff's proposed rules take one of the fixed elements of the original rate design and makes it variable, in the Companies' view. Instead, the Companies suggest that if customer count is to be used as a projective element, so too should other components of the revenue requirement – both expenses and return on capital. The Companies explain that for utilities, revenue from new customers provides funding to offset ongoing increases in wages, benefits, and other operating costs beyond those recovered in base rates that were set at historically experienced levels. The Companies conclude that to freeze revenues would put the cost of all expense increases fully on the utility shareholders, further eroding return on equity, largely negating the purpose of the statute, and necessarily leading to more frequent rate cases.

The Companies next argue that the Public Staff's proposed rule diverges from the language of the statute in a second respect by adding new words to the description of the purpose of N.C.G.S. § 62-133.12A. The Companies state that the Public Staff's proposed rule states that the statute “provides for Commission approval of a rate adjustment mechanism by customer classification and rate schedule....” The Companies dispute this characterization based on the statute making no such provision regarding customer classification. The Companies observe that most customers pay the same volumetric rate regardless of customer classification and that revenue requirements are not established separately for various customer classifications. The Companies conclude that implementation of distinct rate adjustments mechanisms would seem inconsistent with the rate setting process. Additionally, after overserving that commercial accounts make up a small portion of the Companies' customer bases and that these accounts are more likely to experience significant variability, the Companies argue that the impact of a rate adjustment mechanism on a small subset of customers has the potential to be quite dramatic. Therefore, the Companies conclude that the Commission's authorization of true-up calculations for the WUA and SUA mechanisms must consider the customer composition of the utility's rate schedules in determining the applicable customer classes to be reconciled.

The Companies then raise objections to other aspects of the Public Staff's proposed rules. First, the Companies contest the Public Staff's proposal to use three-year billing data analysis and the “extremely granular constituent components.” Second, the Companies object to the Public Staff's proposed “excessive and unnecessary reporting requirements,” arguing that the level of reporting requested is not productive of more efficient regulatory oversight and that it imposes burden without resulting benefit. Third, the Companies address the Public Staff's proposal that the WUA and SUA become effective no less than 60 days after the utility's filing of the request, with no timing requirement for the Public Staff action other than its notification to the Commission prior to scheduling the matter for consideration. On this point, the Companies propose as an alternative allowing for quarterly reporting that can be audited and verified for accuracy

by the Public Staff over the course of the rate period, minimizing significant audit efforts at the end of the rate period. Fourth, the Companies question whether the Public Staff intended to apply the WUA and SUA charge or credit to the usage rate, as meaning that the charge would not appear as a separate line item on customer bills. The Companies believe that separate billing codes would provide better clarity for customers and avoid confusion over whether the Companies have changed rates without authorization. Fifth, the Companies address the Public Staff's proposal to prorate the rate adjustment charge or credit when the WUA or SUA rate period is "bifurcated" by a general rate case as creating the potential for disproportionately large deferral balances due to seasonality in consumption. The Companies argue that a monthly distribution of average per customer usage that drives the rate calculation should be the basis for each monthly true-up calculation and that under the Companies' proposal the rate mechanism would continue to reconcile authorized versus actual usage per customer independent of rate case timing. Thus, in the Companies' view, there would be no "rolling-in" of the charge to base rates nor would an Experience Modification Factor be required. Sixth, the Companies argue that the Public Staff's proposal would have the utility pay interest on overcollections and suggest that under-collections should similarly be credited at the same interest rate, if interest should be paid. The Companies recommend the use of the 1-year U.S. Treasury rate rather than the statutory rate provided in N.C.G.S. § 62-130(e). The Companies state that the Commission would be required to explicitly authorize such interest rate in the utility's general rate case proceeding through an order that authorizes the WUA and SUA mechanisms.

In conclusion, the Companies object to numerous provisions in the Public Staff's proposed rules and statements made in the Public Staff's petition and supporting comments. The Companies request that the Commission consider the comments that the Companies filed and adopt their alternative proposed rules attached to its comments as Exhibits A and B.

The Public Staff's Reply Comments

In its reply comments, the Public Staff states that while it strongly opposes the Companies' substantial changes to the Public Staff's proposed rules as reflected in the Companies' revised proposed rules, the Public Staff has made modifications to its proposed rules to accommodate a number of the Companies' concerns. The Public Staff then provides comments summarized below in support of its revised proposed rules and attached redline versions of its revised rules to its reply comments.

In response to the Companies' comments that the WUA and SUA should be implemented in a similar manner to the natural gas customer usage tracking mechanisms, the Public Staff states that the Companies conflate the natural gas and water/wastewater industries. The Public Staff further states that the natural gas mechanisms apply only to the margin, which excludes the commodity cost of gas and fixed gas costs, which includes pipeline capacity and storage. The margin, the Public Staff explains, is commonly referred to as the R Factor or R Value and is approximately half of the gas usage rates charged by natural gas companies. In addition, the Public Staff notes that natural gas companies

file reports within 45 days of the end of each calendar month detailing activities in the customer usage deferred accounts, including but not limited to rate case authorized and actual levels of usage and revenues, deferred account balances and adjustments, and accrued interest. Further, the Public Staff argues that the Companies' proposed quarterly reporting for the WUA and SUA is in contrast with the treatment of the usage trackers available to the natural gas industry that the Companies requests be mirrored in the WUA and SUA. The Public Staff then details its view stating that the Public Staff is not aware of any Commission-regulated water or wastewater utility that has monthly usage determinants specifically approved for ratemaking purposes. It is the Public Staff's experience that the total consumption and number of customers for the test year, subject to normalization and pro forma adjustments, are utilized to calculate present, proposed, recommended, and approved revenues and for rate design.

The Public Staff next responds to the Companies objection to the Public Staff's proposal to include "customer classification and rate schedule" in its proposed adjustment mechanisms. The Public Staff states that this again deviates from practices in the natural gas industry's practices and procedures and that this is in conflict with the Companies' requests to implement pilot rate programs, tiered rates, and/or irrigation rates for specific customer classifications in their respective pending general rate cases. The Public Staff argues that profiles of different customer classifications and rate schedules (i.e., rate divisions) can vary significantly and especially in the proportion of mandatory and discretionary usage.

The Public Staff then argues that the Companies have misstated the ratemaking equation for purposes of Commission-regulated water and wastewater companies in that the Companies state that the total consumption is the product of the number of customers multiplied by the average per customer usage ($\text{Total Consumption} = \# \text{ of Customers} \times \text{Average Per Customer Usage}$). Consumption in a rate case is based on the sum total of the actual consumption by customers during the test period, the Public Staff explains. The Public Staff further explains that consumption is commonly normalized to account for end-of-period customers and their annualized usage averaged over multiple years of data to minimize outliers, and updated for customer growth, but the average per customer usage can only be calculated having already known the total consumption and the number of customers ($\text{Average Per Customer Usage} = \text{Total Consumption} / \# \text{ of Customers}$).

The Public Staff then addresses what it views as the Companies' description of hypothetical scenarios of a utility surrendering and acquiring customers, stating that newly acquired customers would be excluded from a WUA or SUA mechanism, similar to the WSIC and SSIC mechanisms, because those customers and their usage would not have been part of the determination of authorized consumption and revenue. The Public Staff further responds that the selling of a system and surrendering customers would impact average per customer usage level too, and that depending on the size and usage patterns of a system, its sale could result in the authorized average per customer usage level being

under- or over-stated. The Public Staff argues that its proposed rules address this issue not by making a fixed element variable but by silencing a variable and simplifying the analysis.

In response to the Companies' argument that they are unable to achieve the revenue requirement approved by the Commission in a general rate case, the Public Staff states that the Companies are seeking a nearly guaranteed rate of return as opposed to a reasonable opportunity to earn the Commission-authorized rate of return. The Public Staff further argues that the use of the average usage per customer shifts the intended outcome of the mechanisms from revenue stability to guaranteed rate of return. The Public Staff concludes that its proposal stabilizes usage revenues and that base facilities charges from new customers would still contribute to offsetting cost of service. In support of its conclusion on this issue, the Public Staff provides an excerpt of testimony from Public Staff Engineer Charles Junis on the importance and impact of utilizing total authorized consumption verses average per customer usage as the benchmark of the CAM:

Growth has been accounted for by focusing on the total usage of each rate classification. The present, Company proposed, Public Staff recommended, and Commission approved service commodity revenues and the newly authorized rates resulting from a general rate case are determined based on the pro forma test year usage. The Company's reliance on an average monthly usage per customer adds the additional and complicating variable of the number of customers in the denominator. The average mitigates the short-term revenue gains from customer growth that are known to exceed the associated expenses and inflates the calculated usage and revenue variance. For example, if average usage decreases but there is enough customer growth to offset the expected shortfall in total usage, then the Company would meet the authorized usage revenue level. Under this scenario, the WUA revenue variance would be zero and the Company's CAM revenue variance would be equal to the average usage decrease multiplied by the usage rate and the number of customers.

In response to the Companies' objection to the use of what the Companies describe as "three-year billing data analysis and extremely granular constituent components," the Public Staff states that this is a mischaracterization of the information that the Public Staff believes should be a part of a general rate case application in which a utility seeks approval of a WUA or SUA mechanism. The Public Staff states that its proposed rules would require in part: (1) a description of the customer classifications and rate schedules the proposed WUA mechanism would include and the criteria to group customers in a fair and reasonable manner, and (2) a three-year billing data analysis that includes a detailed breakdown of the monthly active customer counts and monthly usage data by blocks of 1,000 gallons for each year, customer classification, and rate schedule. The Public Staff argues that three years of billing data at the customer classification and

rate schedule level is necessary to evaluate usage trends, assess the completeness and accuracy of billing records, and determine an appropriate and reasonable level of total consumption.

In response to the Companies' argument that the monthly reports proposed by the Public Staff would provide "no added value" and "would be an unnecessary burden ... largely duplicative of WSIC/SSIC mechanism filing requirements," the Public Staff counters that this is not accurate. Instead, the Public Staff states that its proposed rule provides that the "Public Staff shall audit the utility's actual gallons billed, the actual services revenues, actual WUA Charge revenues, and EMF computation, and shall file a report on its audit no later than 45 days after the end of the WUA Period of the utility." Further, in response to the Companies' comparison to the semi-annual review of WSIC/SSIC construction activity to the WUA/SUA, the Public Staff states that the Companies have had "significant issues" providing consistently structured and easily verifiable billing data in their general rate cases. The Public Staff cites to the testimony of its witnesses provided in recent general rate cases in support of this view. The Public Staff concludes that the Companies' proposal that utilities file the request for initiation/update of the WUA/SUA charge or credit subject to 14 days' notice to the Commission and the Public Staff is unreasonably short, especially if these matters are to be presented at the Commission's Regular Staff Conference.

The Public Staff next comments that the natural gas rate adjustment mechanisms, the CUT and MDT, are directly applied to the usage rate as a tariff revision and that the Public Staff's proposal that the WUA/SUA Charge/Credit should be applied to the usage rate is consistent with that practice.

The Public Staff then addressed the provision in its proposed rules addressing the complication of a general rate case outcome during a WUA or SUA Period, which with respect to water utilities provides as follows:

If a WUA Period is bifurcated by a rate case order with a new annualized consumption and/or authorized usage rate, the Commission approved service revenue, calculated according to Section (a) above, shall be prorated for the months of service under the applicable Commission approved service revenue.

The Public Staff recognizes the Companies concern that the seasonal variability of water consumption would adversely affect a simple proration and potentially have a disproportional effect, but states that the Companies' proposed solution requires a new and unprecedented level of granularity in the billing analysis process to determine authorized consumption for each month. The Public Staff argues that its proposed rule, using a three-year average of consumption data smooths the variability in usage. The Companies' approach, the Public Staff argues, would create new problems, for example, if the test year includes a wet summer and usage lower than that of the past years, the Companies may seek to adjust those consumption levels despite the 12-month data being

relatively consistent. The Public Staff argues that its proposed rules seek to simplify the mechanism as opposed to creating new complications.

In response to the Companies' proposal to apply interest to under- and over-collections, with their preferred rate being the 1-year U.S. Treasury, the Public Staff states that for the CUT and MDT the utility's authorized overall rate of return is the interest rate applied to the CUT or MDT.

The Public Staff next addresses the dynamics of business risk for the Companies. The Public Staff states that the WUA or SUA mechanism benefits the utility by providing greater certainty as to the amount of service revenues collected from customers for their usage and as a result materially reduces the utility's business risk. The Public Staff argues that to balance this risk, the utility's authorized rate of return should be reduced to account for the transfer of risk from the Company to customers. Further, the Public Staff argues that the Companies' proposal reduces business risk more than the Public Staff's proposed rules, and that this should be a consideration in future general rate cases if the Commission authorizes a WUA or SUA. In addition, the Public Staff argues that implementation of a CAM would potentially disincentivize customers from actively conserving water by monitoring their usage, changing their usage habits, and replacing inefficient fixtures and/or appliances.

Finally, the Public Staff argues that the Companies' revisions to the Public Staff's proposed rules tip the balance of ratemaking in the favor of the utility instead of striking an appropriate balance between the interest of the utility and customers. The Public Staff argues that its proposed rules better achieve this balance than the Companies' proposed rules; however, the Public Staff identified the following areas of improvement and modifications to its proposed rules: (1) monthly filings would be made within 30 days after the end of each calendar month; (2) certain filing requirements in the Public Staff's proposed rule would be waived if the utility has an approved WSIC or SSIC mechanism; (3) newly acquired systems would be excluded from the WUA or SUA mechanism until the utility's next general rate case; (4) the WUA or SUA credit or charge would be an increment/decrement in the form of a usage rate as a separate bill line item; and (5) the EMF would be eliminated as it is unnecessary with a continuous accounting of the deferral balance. In conclusion, the Public Staff requests that the Commission adopt its revised proposed rules as attached to its reply comments.

DISCUSSION AND CONCLUSIONS

The Commission has carefully considered the comments and proposed rules filed in this docket. For reasons discussed below, the Commission is not persuaded that either version of the rules proposed is an appropriate means for implementing the CAM Statute, although the Commission finds merit in adopting elements of both versions of the proposed rules. Therefore, the Commission will adopt Commission Rule R7-40 and Rule R10-27, attached hereto as Appendix A and Appendix B, respectively, reflecting substantial revisions to the rules proposed by the parties in this proceeding as discussed in detail below.

At the outset the Commission acknowledges that there are public interest benefits of a well-designed CAM, particularly in a period of changing and difficult-to-predict water usage patterns. From a financial perspective the Commission recognizes that reducing some revenue risk due to declines in average customer usage can have a positive impact on a utility's financial position and help increase access to capital at more favorable rates and terms. Equally in the public interest, the Commission recognizes that a CAM can allow customers to share the financial benefits that result in reducing general revenue risk or which result from revenue gains due to increased average customer usage. The Commission also sees the potential for a CAM to improve both the utility's and customers' incentives to reduce usage through conservation and increased efficiency, thereby lowering operating costs and reducing or delaying capital investments needed to meet increased customer demand. The public interest is also served through the efficient and prudent use of scarce water resources, a reality recognized in State law and by the Commission as particularly acute during times of severe drought. See, e.g. N.C.G.S. § 143-352, *et. seq.* (providing for the coordination of the State's water resource activities for a more beneficial use of the water resources of the State); see *also* Order Requiring Curtailment of Nonessential Water Usage, No. W-100, Sub 46 and WR-100, Sub 6 (N.C.U.C. 2007). Furthermore, a CAM can be combined with other rate design decisions to provide customers with more control over what they pay for their usage.

The Commission also acknowledges that the Companies are correct in their observation that the CAM Statute and N.C.G.S. § 62-133.7 (authorizing the CUT/MDT) use very similar language; however, the Commission does not agree that the two adjustment mechanisms must necessarily be implemented in the same manner. The Commission agrees with the Public Staff that the Companies have inappropriately conflated natural gas rate structures and the water/sewer usage rates. As the Public Staff observes, the CUT/MDT applies only to a portion of the usage rate (the margin), which is expressed as an "R Factor" or "R Value." This portion of the usage rate represents approximately half of the gas usage rates charged to customers. The Commission is not persuaded that the entire water utility's usage rate should be used to determine the adjustment to a water or sewer utility's revenues due to consumption variances from the level authorized in a general rate case proceeding. The Commission expects this issue to be addressed in greater detail in future rate case proceedings where a CAM structure is proposed and considered. The Commission also agrees with the Public Staff that certain aspects of the Companies' proposal for implementing the CAM Statute are difficult to reconcile with the procedures used in administering the CUT and MDT, despite the Companies having purportedly modeled their CAM rules on those same procedures. For these reasons, the Commission is not persuaded that the Companies' proposal is a reasonable or appropriate means of implementing the CAM Statute. Therefore, the Commission determines that the Companies' proposed rules should not be adopted.

With respect to the Public Staff's proposal, the Commission observes that the Public Staff's proposed rules largely reflect the structure of Commission Rule R7-39 and R10-26 implementing the WSIC and SSIC, respectively. This structure is helpful in some respects, but the Commission acknowledges a critical difference between the two rate adjustment mechanisms: the WSIC and SSIC adjust customer charges to allow the

recovery of certain system improvement costs incurred between general rate cases, while the CAM adjusts customer charges for changes in operating revenue due to variations in customer usage from levels approved in a general rate case that is tracked only after the mechanism is approved. While the Public Staff did not submit calculation examples demonstrating the customer impact of its proposal, the Commission's analysis of the rate impact under the Public Staff's proposal discloses a scenario where the utility would be required to make a credit to customers during periods of declining consumption and modest customer growth. This scenario, one of the several that the Commission analyzed, creates a disincentive for the utilities to actively promote conservation and efficiency, penalizes the utilities for organic growth on its systems, and incents the utilities to apply for general rate increases more frequently. The Commission concludes that this result is not consistent with the legislative intent supporting the enactment of the CAM Statute. In addition, as the Companies argue, the Public Staff's proposal focuses on authorized revenue and overall consumption, departing from the focus of the CAM Statute on "variations in average per customer usage." The Public Staff's reply comments do not address this departure in sufficient detail for the Commission to resolve the tension between the plain language of the CAM Statute and the Public Staff's proposed implementation. Therefore, the Commission also determines that the Public Staff's proposed rules should not be adopted.

The Commission next determines that neither the Public Staff nor the Companies sufficiently address the underlying challenge of designing and implementing a CAM for water and sewer utilities: decisions about rate design may impact the need for and the calculation of a CAM in ways that cannot be fully understood without considering other elements of rate design. The Commission's open proceeding to investigate rate design,¹ Aqua's pending general rate case,² and future rate cases that may involve the Companies or other water or sewer utilities each have the potential to alter the amount of fixed costs that are expected to be recovered through the usage rate for a given utility. Should the Commission reach a decision in one or more of those contexts that results in a higher or lower amount of fixed costs being recovered through the usage rate, then the calculation of the CAM would likely need to be revisited to ensure that the CAM remains appropriate and in the public interest.³ In short, the Commission concludes that the broad scope of inquiry encompassed in determining whether the CAM is appropriate and in the public interest is bound up in decisions about rate design — decisions that cannot be dissociated from the decision on whether a CAM is appropriate and in the public interest.

¹ See Investigation of Rate Design for Major Water Utilities, No. W-100, Sub 59.

² See Application by Aqua North Carolina, Inc., for Authority to Adjust and Increase Rates for Water and Sewer Utility Service in All Its Service Areas in North Carolina, No. W-218, Sub 526 (*filed* December 31, 2019).

³ By further example, in Aqua's pending rate case the utility requested approval of a CAM and a "conservation normalization factor." See *id.* at 4. Hypothetically, if Aqua had previously been authorized to implement a CAM and calculate charges under the type of formula included in the rules proposed in this proceeding, the task of determining the overall impact on customers and the utility is made exponentially more challenging by the proposal of a conservation normalization factor and other requested rate design changes. In contrast, the approach the Commission adopts here provides for resolution of each of these issues in a more wholistic manner within the general rate case.

Therefore, the Commission concludes that it is not appropriate to establish a formula for calculating the CAM charge or credit that is unable to address future decisions concerning rate design. Instead, and as is discussed in greater detail below, the Commission concludes that the utility should propose a CAM structure and a proposed method for calculating the charge or credit resulting from the CAM in its application for a general rate increase. Under the rules that the Commission adopts in this Order, the structure of the CAM, the method for calculating the charge or credit, and the determination of whether the CAM is appropriate and in the public interest will be considered in the general rate case proceeding, and the charge or credit resulting from the CAM structure will subsequently be established in a separate proceeding. The Commission concludes that a general rate case proceeding provides the precision and wholistic scope to appropriately strike the balance between the interests of the utility and the utility's customers considering decisions about the utility's rate design.

The Commission next addresses the parties' remaining arguments and proposed rule provisions in the context of the rule sections that the Commission will adopt in this Order. The Commission determines that the parties' proposed rule section (a), providing a scope and purpose of the rule, is generally appropriate. Therefore, the Commission will adopt this section with refinements and clarification as appropriate, including the provision excluding from the CAM those customers that are served by systems that the utility acquired after the date on which the utility filed its application and were not included in its most recent general rate case proceeding. Excluding these newly acquired systems from the application of the CAM will allow sufficient time to gather consumption data and afford these customers an opportunity to be heard on this issue in the utility's next rate case where a CAM could be proposed to be applied to these customers.

The Commission next determines that it is not necessary to provide a definition section in the rules implementing the CAM Statute. In particular, the Commission will not create new defined terms for implementation of the CAM Statute such as "WUA," but will use the term "consumption adjustment mechanism" or "CAM," delineating the CAM for water utilities as "CAM-W" and that for sewer utilities as "CAM-S." Furthermore, the Commission recognizes that some aspects and elements of the CAM are better defined during a general rate case. The Commission will adopt conforming revisions related to this change. In addition, the Commission concludes that "CAM" is sufficiently defined in section (a) of the rules, that the "CAM Period" will be established in the general rate proceeding where a CAM is approved, and that "CAM Charge or Credit" is generally understood to be the charge or credit resulting from the CAM-W or the CAM-S. Therefore, the Commission will not adopt a rule provision for defining these terms as the parties proposed.

The Commission will adopt in section (b) filing requirements reflecting the decision to resolve issues related to the CAM structure and the method for calculating the charge or credit resulting from the CAM in a general rate case proceeding. Of note, the rules that the Commission will adopt will require the utility to include in its application for a general rate increase, among other things, the following:

A proposed structure of the CAM-W [or CAM-S] and a proposed method for calculating the charge or credit resulting from the CAM-W [or CAM-S] that are in sufficient detail to facilitate the Commission's review and determination whether the rate adjustment mechanism is appropriate to track and true-up variations in average per customer usage and whether the rate adjustment mechanism is in the public interest.

This provision incorporates the standard of review expressly provided in the CAM Statute. While the parties propose including rule provisions requiring the utility to demonstrate that the CAM is in the public interest, the parties' proposed rules omit a second, independent finding that the Commission is required to make in adopting a rate adjustment mechanism: "that the rate adjustment mechanism is appropriate to track and true-up variations in average per customer usage by rate schedule from levels adopted in the general rate case proceeding." N.C.G.S. § 62-133.12A. The Commission, therefore, will include this second required finding as a part of the rules adopted in this proceeding at subsection (b)(1), excerpted above, and at section (d). Incorporation of these rule provisions ensures that the Commission can faithfully implement the legislative intent of the CAM Statute by undertaking a broad inquiry into the appropriateness of the CAM and whether the CAM is in the public interest. Again, this inquiry will be conducted in the context of a general rate case where detailed testimony, exhibits, and calculations bring the relevant issues into sharper focus.

In subsection (b)(3) of the rules adopted in this Order, the Commission will incorporate the Public Staff's proposal for the utility to provide three years of consumption data when requesting approval of a CAM in its application for a general rate increase. The Commission concludes that the provision of three years of consumption data by the utility is important to identify trends and abnormal variations in average per customer usage during shorter periods of time and to make any necessary adjustments. The Commission expects the utility and the Public Staff to consider, as appropriate, three years of data in understanding the need and potential impact of the charge or credit resulting from the CAM. As referenced below in discussing section (d) of the rules adopted in this Order, the Commission will utilize relevant historical consumption data, subject to pro forma adjustment and normalization, to establish a baseline consumption measure. The Commission will also remain open to the possibility that more than one baseline consumption measure may be appropriate. In adopting this structure, section (b) provides the required information to support the utility's application, analogous to the utility's burden of production, and section (d) provides the required demonstration for approval, analogous to the utility's burden of persuasion.

The Commission agrees with the parties that the utility should be required to provide notice to its customers of the pending request for approval of the CAM in the same notice to customers of the pending application for a rate increase. Therefore, the Commission will adopt section (c) as proposed by the parties.

Consistent with the Commission's conclusion that the standard of review provided in the CAM Statute should be incorporated in the rules implementing the CAM Statute,

the Commission will adopt section (d) reflecting this conclusion. As noted above, the Commission will also adopt an additional sentence providing that, in conjunction with approving the proposed structure of the CAM, the Commission will establish in the rate case proceeding an average per customer consumption level taking into account the relevant historical consumption data, subject to reasonable pro forma adjustment and normalization, which will serve to create one or more baseline consumption measures against which future variations will be measured. In recognition that the baseline consumption measure(s) will be determined by the Commission in the general rate case proceeding, the request for the establishment of the charge or credit to the utility's customers resulting from the CAM will be made by separate proceeding, at least 12 months after the final order is issued in the general rate case. The consumption data during this 12-month time period will be used to measure variations against the baseline consumption measure(s).

With respect to the procedure for establishment of the initial charge or credit resulting from the CAM, and the date for adjustment in the charge or credit, the Commission generally agrees with the Public Staff's proposed approach as outlined in its initial comments. Under the procedure that the Commission adopts, if the Commission approves the CAM structure and proposed method for calculating the CAM in a general rate case proceeding, the Commission will establish a date for the filing of a proposed charge or credit resulting from the CAM. Again, this date will be no less than 12 months after the issuance of the final order in the rate case proceeding to allow time to gather consumption data demonstrating variations in average per customer consumption as compared to the baseline consumption measure(s) established in the general rate case. As proposed by the Public Staff, the Commission will undertake to establish the charge or credit resulting from the CAM at a regularly scheduled staff conference with appropriate notice requirements and filing deadlines. The Commission concludes that more time for the Public Staff to review and reconcile the data supporting the establishment or modification of the CAM charge or credit is appropriate and that more advance notice to the Commission is helpful to the administration of the CAM as compared to the shorter timelines the Companies propose. The Commission also determines that, where practical, the adjustment of the charge or credit resulting from the CAM should take place on or about the same date each year. Therefore, the Commission will adopt section (e) reflecting these conclusions.

The Commission also agrees with the Public Staff's general approach for procedures to make annual adjustments in the charge or credit resulting from the CAM after it is initially established. First, the Commission notes that under the rules adopted in this Order, annual adjustments will be mandatory. Second, the Commission adopts similar filing deadlines and notice requirements for use in the annual adjustment as apply for the initial establishment of the charge or credit resulting from the CAM. Annual adjustments will similarly be considered at a regularly scheduled staff conference. The Commission adopts section (f) reflecting these conclusions.

Next, the Commission agrees with the Public Staff that profiles of different customer classifications, rate schedules, and rate divisions can vary significantly and in

the proportion of mandatory and discretionary usage.⁴ Therefore, the rules that the Commission adopts allow, but do not require, the development of a charge or credit resulting from the CAM that takes into account these variations by imposing different charges on customer classes, rate schedules, or rate divisions, including those implemented as a pilot. The Commission disagrees with the Companies' arguments that reference to customer classifications would never be essential for the CAM structure, is inconsistent with the rate setting process, and is not authorized by the CAM Statute. While the Companies are correct that the CAM Statute does not use the words "customer classification," the Commission concludes that absence of these words in the CAM Statute evidences that this issue operates at a level of detail that the General Assembly decided to leave to the Commission's discretion in implementing the CAM Statute. If the utility can demonstrate in a general rate case proceeding, as the Companies have argued here, that implementation of distinct rate adjustment mechanisms is inconsistent with the rate setting process or that the profiles of different customer classifications and rate schedules do not vary significantly, then the utility would likely have carried its burden sufficient to demonstrate that establishing different charges or credits by customer classification, rate schedule, or rate division is not appropriate. The Commission concludes that these issues should be preserved for consideration in a general rate case proceeding and not resolved by the adoption of rules implementing the CAM Statute.

In the final area in dispute between the parties, the frequency and detail of required reports to the Commission, the Commission concludes that the Public Staff's proposed reporting requirements are generally appropriate. In approaching these issues the Commission finds highly persuasive the Public Staff's comments recounting the difficulties that the Public Staff has experienced in obtaining consistently structured and easily verifiable data from the Companies in recent general rate cases. The Commission shares this concern and determines that more frequent and detailed reporting has the potential to reduce these difficulties and to allow for resolution of discrepancies prior to these matters coming before the Commission for decision. Furthermore, the Commission anticipates that the Companies' significant past investments in advanced metering technology and customer enterprise software should facilitate the Companies' improved customer usage information collection and compilation. The Commission also agrees with the concession agreed to by the Public Staff that tends to mitigate the Companies' concerns regarding duplicative and burdensome reporting requirements.

Accordingly, the rules that the Commission adopts will require the utility to report monthly and annually certain consumption data and financial information that is relevant to calculation of the charge or credit resulting from the CAM and that provides a view into the utility's financial position. The monthly report will be required to be filed within 30 days of the end of each calendar month after the Commission approves the CAM structure in

⁴ The parties' comments tend to obscure the definitions of these terms. In this Order, the Commission relies on and uses these terms as traditionally used in utility regulation: "customer classifications" means the designation of like groups of customers based on their usage profile such as "residential service," "commercial service," and "industrial service," see Commission Rule R7-26; "rate schedules" means the Commission-approved schedules of rates reflecting customer charges for a given service area; and "rate division" means a grouping of customers that are served under the same rates and charges.

a general rate case proceeding. A utility authorized to apply a WSIC or SSIC adjustment is permitted to utilize the quarterly filings to fulfill certain of the monthly reporting requirements for the CAM pursuant to the provisions adopted in subdivision (g)(1)(f). The Commission will also require an annual report in conjunction with the establishment of the charge or credit resulting from the CAM and with the required annual adjustment filing. This annual report is expected to contain actual consumption and financial data for the 12 months preceding its filing. Following the 12th month after the Commission approves the CAM structure, the utility's monthly report, annual report, and request to establish the charge or credit resulting from the CAM will essentially be one filing. Similarly, at the time the annual adjustment is required to be filed, the monthly report, annual report, and the requested adjustment will essentially be one filing. The Commission emphasizes that the 12-month period and these reporting requirements run from actions or decisions by the Commission as set out in the rules adopted in this Order or a final order in a rate case proceeding and not on a calendar basis. The intent in adopting these reporting requirements is two-fold: first, as noted above, to support the goal for the utility to file consistently structured, accurate, and complete data and to facilitate the resolution of discrepancies between the utility and the Public Staff prior to Commission-decision, and second, to provide the Commission with a consolidated collection of relevant data needed to calculate the charge or credit resulting from the CAM without the need to reference filings in other dockets. Therefore, the Commission will adopt section (g) to implement the monthly and annual reporting requirements and requirements for the Public Staff to audit these reports and provide the Commission with the results of the audit.

The Commission notes that there is no dispute between the parties as to the proposed rule provisions addressing the potential elimination or modification of the CAM and the burden of proof for approval of the CAM. The Commission agrees that these rule provisions are appropriate. Therefore, the Commission will adopt sections (h) and (i) consistent with the parties' proposed rules.

Finally, a few issues addressed by the parties will not be incorporated in the rules adopted in this Order such as the consideration of a "CAM Period" being bifurcated by a general rate case, whether an experience modification factor is required in conjunction with the use of a CAM, and whether continuous accounting utilizing a deferral account is the preferred approach to implement and monitor the CAM. Flowing from the Commission's decision to resolve issues about the structure of the CAM and the method for calculating the charge or credit resulting from the CAM in a general rate case, these issues do not need to be addressed in the rules adopted in this Order.

Based upon the foregoing and the entire record herein, the Commission determines that the rules attached hereto as Appendix A and Appendix B are a reasonable and appropriate means of implementing the provisions of N.C.G.S. § 62-133.12A. Therefore, the Commission will adopt these rules to be effective on the date of this Order and applicable to any request to authorize a consumption adjustment mechanism now pending before the Commission or filed with the Commission after the date of this Order. The Commission notes that Aqua has requested that the Commission authorize its use of consumption adjustment mechanisms in its most recently filed

application for a general rate increase.⁵ In recognition that Aqua expressly reserved the right to withdraw or modify those requests and that this pending request may need updating to conform to the rules adopted in this Order, the Commission will allow Aqua 30 days from the date of this Order in which to amend its application with respect to the CAM.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 12th day of May, 2020.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in dark ink, appearing to read "Joann R. Snyder". The signature is fluid and cursive, with the first name "Joann" being more prominent than the last name "Snyder".

Joann R. Snyder, Deputy Clerk

⁵ See Application of Aqua North Carolina, Inc. for Adjustment of Rates and Charges, Approval of a Conservation Pilot Program, Deferral Accounting, and Modifications to Certain Terms and Conditions for the Provision of Water and Sewer Utility Service, p. 18, No. W-218, Sub 526 (*filed* Dec. 31, 2019).

R7-40 CONSUMPTION ADJUSTMENT MECHANISM FOR WATER UTILITIES

(a) **Scope of Rule.**—This Rule provides the procedure for the approval and administration of a rate adjustment mechanism pursuant to G.S. 62-133.12A, known as a Consumption Adjustment Mechanism for Water Utilities (CAM-W). This mechanism, if authorized by the Commission in a general rate case proceeding, allows a water utility to track and true-up variations in average per customer water usage from baseline consumption levels established by the Commission in the utility's most recent general rate case proceeding and to subsequently apply to the Commission for authority to establish and adjust charges or credits to recover from or refund to customers the revenue associated with these variations. The rate adjustment mechanism allowed pursuant to this Rule is not applicable to a water utility's customers that are charged based upon a flat rate or purchased bulk water rate or to customers that are served by systems that the utility acquired after the date on which the utility filed its application and were not included in its most recent general rate case proceeding.

(b) **Request for Approval of CAM-W.**—A utility seeking approval of a CAM-W shall include in its application for a general rate increase pursuant to G.S. 62-133 and Commission Rule R1-17 the following:

(1) A proposed structure of the CAM-W and a proposed method for calculating the charge or credit resulting from the CAM-W that are in sufficient detail to facilitate the Commission's review and determination whether the rate adjustment mechanism is appropriate to track and true-up variations in average per customer usage and whether the rate adjustment mechanism is in the public interest;

(2) A description of the customer classifications used within the current and any proposed rate schedules that the proposed CAM-W would apply to and the criteria used to group customers in a fair and reasonable manner;

(3) A three-year billing data analysis that includes a detailed breakdown of the monthly active customer counts and monthly usage data by blocks of 1,000 gallons for each year, customer classification, and rate schedule;

(4) Testimony, affidavits, exhibits, sample calculations, or other evidence demonstrating that the CAM-W is appropriate to track and true-up variations in average per customer usage and that the CAM-W is in the public interest; and

(5) Any other information that the Commission may require by order or otherwise in the general rate case proceeding.

(c) **Customer Notice.**—The notice to customers of the utility's general rate case application shall include notice of the request for approval of the proposed CAM-W.

(d) **General Rate Case Review.**—Following notice and hearing, in the general rate case proceeding the Commission will review the utility's proposed use of a CAM-W and determine whether the CAM-W is appropriate to track and true-up variations in average per customer usage by rate schedule from levels adopted in the general rate case proceeding and whether the CAM-W is in the public interest. In conjunction with the Commission's determination that the CAM-W is appropriate and in the public interest, the Commission will establish an average per customer consumption level on an annual basis and/or on a monthly basis for the applicable 12-month period based on the relevant historical consumption data, subject to reasonable pro forma adjustment and normalization, which shall be used to establish a baseline consumption measure or measures.

(e) **Procedure for Establishment of Charge or Credit Resulting from CAM-W; Setting of Adjustment Date.**— On or before the date established by Commission order, but in no event less than 12 months after the Commission issues an order in a general rate case proceeding approving the use of the CAM-W, the utility shall file a request for authority to establish the charge or credit resulting from the CAM-W. The utility's request shall comply with the following:

- (1) The proposed effective date for the charge or credit resulting from the CAM-W shall be no sooner than 60 days after the filing of the request;
- (2) The request shall include a proposed calculation of the charge or credit resulting from the CAM-W specific to each customer classification and rate schedule;
- (3) The proposed calculation shall be consistent with the approved CAM-W structure and make use of the Commission-approved baseline consumption measure or measures; and
- (4) The utility shall provide a copy of the request to the Public Staff.

Prior to the proposed effective date, the Public Staff shall schedule the request for Commission consideration at a regularly scheduled staff conference and recommend that the Commission issue an order approving, modifying and approving, or rejecting the proposed charge or credit resulting from the CAM-W. The Public Staff shall notify the Commission by an appropriate filing in the relevant docket at least 15 days in advance of the date that the request is scheduled for Commission consideration at the regularly scheduled staff conference. In its order approving the charge or credit resulting from the CAM-W, the Commission shall establish the effective date for the establishment of the charge or credit resulting from the CAM-W and the effective date for the utility's subsequent annual adjustments to the credit or charge previously established. Where practical, the Commission will set the effective date for subsequent annual adjustments to the charge or credit resulting from the CAM-W on the same date of each year coinciding

with the effective date of the charge or credit resulting from the CAM-W as initially established.

(f) Annual Adjustments.—A utility authorized to establish a charge or credit resulting from the CAM-W shall annually file a request for an adjustment in the charge or credit resulting from the CAM-W. The request and the supporting calculation and data for an annual adjustment shall be filed with the Commission at least 45 days prior to the annual adjustment date established pursuant to section (e) of this Rule. The utility shall also provide a copy of the request to the Public Staff. Prior to the annual adjustment date, the Public Staff shall schedule the request for Commission consideration at a regularly scheduled staff conference and recommend that the Commission issue an order approving, modifying and approving, or rejecting the proposed adjustment to the charge or credit resulting from the CAM-W. In reviewing the proposed adjustment, the Commission will also consider whether it is appropriate and in the public interest to establish an updated baseline consumption measure or measures from the measure or measures adopted in the rate case proceeding. The Public Staff shall notify the Commission by an appropriate filing in the relevant docket at least 15 days in advance of the date that the requested adjustment is scheduled for Commission consideration at the regularly scheduled staff conference.

(g) Reporting and Auditing.—A utility authorized to establish a charge or credit resulting from the CAM-W shall report to the Commission and the Public Staff shall audit these reports, as provided in this section.

(1) Monthly Filings with the Commission.—Within 30 days of the end of each calendar month, the utility shall file the following reports:

(i) A balance sheet and income statement for the calendar month and calendar year to date,

(ii) A statement of per books net operating income for the calendar month and calendar year to date for each rate division of the utility based on North Carolina ratemaking,

(iii) The actual number of customers and gallons sold for each month for each rate division, customer classification, and rate schedule;

(iv) Total actual monthly service revenues for each rate division, customer classification, and rate schedule, excluding revenues from customers to which this Rule does not apply; and

(v) Any other information that the Commission may require by order or otherwise;

(vi) Provided that, if the Commission has authorized the utility to implement a WSIC mechanism and the utility is appropriately submitting the required quarterly filings pursuant to Commission Rule R7-39, the utility may fulfill the reporting requirements of subdivisions a. and b. of this subsection by reference to its quarterly filings required pursuant to Rule R7-39.

(2) Annual Report.—In conjunction with its request to establish the charge or credit resulting from the CAM-W or for an annual adjustment in the charge or credit resulting from the CAM-W, the utility shall annually file a report in a format prescribed by the Commission detailing its actual gallons billed, service revenues, and revenues from the charge or credit resulting from the CAM-W for each rate division, customer classification and rate schedule for the applicable 12-month period. The annual report shall also include the calculation of the actual average per customer usage for each rate division, customer classification, and rate schedule for the applicable 12-month period, an update to the three years of consumption data that was provided in the general rate case proceeding along with its request to approve the CAM-W or in the utility's last annual report, and an updated average per customer usage baseline measure or measures utilizing the updated consumption data.

(3) Audit and Reconciliation.—The Public Staff shall audit the utility's monthly and annual reports and file the results of the audit to the Commission. The Public Staff's audit of the annual report and the final monthly report in a given 12-month period shall be filed with the Commission as a part of the Public Staff's staff conference agenda item for the consideration of the annual adjustment in the charge or credit resulting from the CAM-W.

(h) Burden of Proof.—The burden of proof as to whether the CAM-W is appropriate to track and true-up variations in average per customer usage by rate schedule from levels adopted in the general rate case proceeding, whether the CAM-W is in the public interest, and the correctness and reasonableness of the charge or credit resulting from the CAM-W shall be on the utility.

(i) Elimination or Modification of CAM-W.—After notice to the utility and opportunity to be heard, the Commission may eliminate or modify any previously authorized CAM-W upon a finding that the CAM-W is no longer appropriate to track and true-up variations in average per customer usage or is no longer in the public interest.

R10-27 CONSUMPTION ADJUSTMENT MECHANISM FOR SEWER UTILITIES

(a) **Scope of Rule.**—This Rule provides the procedure for the approval and administration of a rate adjustment mechanism pursuant to G.S. 62-133.12A, known as a Consumption Adjustment Mechanism for Sewer Utilities (CAM-S). This mechanism, if authorized by the Commission in a general rate case proceeding, allows a sewer utility to track and true-up variations in average per customer sewer usage from baseline consumption levels established by the Commission in the utility's most recent general rate case proceeding and to subsequently apply to the Commission for authority to establish and adjust charges or credits to recover from or refund to customers the revenue associated with these variations. The rate adjustment mechanism allowed pursuant to this Rule is not applicable to a sewer utility's customers that are charged based upon a flat rate or purchased bulk sewer rate or to customers that are served by systems that the utility acquired after the date on which the utility filed its application and were not included in its most recent general rate case proceeding.

(b) **Request for Approval of CAM-S.**—A utility seeking approval of a CAM-S shall include in its application for a general rate increase pursuant to G.S. 62-133 and Commission Rule R1-17 the following:

(1) A proposed structure of the CAM-S and a proposed method for calculating the charge or credit resulting from the CAM-S that are in sufficient detail to facilitate the Commission's review and determination whether the rate adjustment mechanism is appropriate to track and true-up variations in average per customer usage and whether the rate adjustment mechanism is in the public interest;

(2) A description of the customer classifications used within the current and any proposed rate schedules that the proposed CAM-S would apply to and the criteria used to group customers in a fair and reasonable manner;

(3) A three-year billing data analysis that includes a detailed breakdown of the monthly active customer counts and monthly usage data by blocks of 1,000 gallons for each year, customer classification, and rate schedule;

(4) Testimony, affidavits, exhibits, sample calculations, or other evidence demonstrating that the CAM-S is appropriate to track and true-up variations in average per customer usage and that the CAM-S is in the public interest; and

(5) Any other information that the Commission may require by order or otherwise in the general rate case proceeding.

(c) **Customer Notice.**—The notice to customers of the utility's general rate case application shall include notice of the request for approval of the proposed CAM-S.

(d) **General Rate Case Review.**—Following notice and hearing, in the general rate case proceeding the Commission will review the utility's proposed use of a CAM-S and determine whether the CAM-S is appropriate to track and true-up variations in average per customer usage by rate schedule from levels adopted in the general rate case proceeding and whether the CAM-S is in the public interest. In conjunction with the Commission's determination that the CAM-S is appropriate and in the public interest, the Commission will establish an average per customer consumption level on an annual basis and/or on a monthly basis for the applicable 12-month period based on the relevant historical consumption data, subject to reasonable pro forma adjustment and normalization, which shall be used to establish a baseline consumption measure or measures.

(e) **Procedure for Establishment of Charge or Credit Resulting from CAM-S; Setting of Adjustment Date.**— On or before the date established by Commission order, but in no event less than 12 months after the Commission issues an order in a general rate case proceeding approving the use of the CAM-S, the utility shall file a request for authority to establish the charge or credit resulting from the CAM-S. The utility's request shall comply with the following:

(1) The proposed effective date for the charge or credit resulting from the CAM-S shall be no sooner than 60 days after the filing of the request;

(2) The request shall include a proposed calculation of the charge or credit resulting from the CAM-S specific to each customer classification and rate schedule;

(3) The proposed calculation shall be consistent with the approved CAM-S structure and make use of the Commission-approved baseline consumption measure or measures; and

(4) The utility shall provide a copy of the request to the Public Staff.

Prior to the proposed effective date, the Public Staff shall schedule the request for Commission consideration at a regularly scheduled staff conference and recommend that the Commission issue an order approving, modifying and approving, or rejecting the proposed charge or credit resulting from the CAM-S. The Public Staff shall notify the Commission by an appropriate filing in the relevant docket at least 15 days in advance of the date that the request is scheduled for Commission consideration at the regularly scheduled staff conference. In its order approving the charge or credit resulting from the CAM-S, the Commission shall establish the effective date for the establishment of the charge or credit resulting from the CAM-S and the effective date for the utility's subsequent annual adjustments to the credit or charge previously established. Where practical, the Commission will set the effective date for subsequent annual adjustments to the charge or credit resulting from the CAM-S on the same date of each year coinciding

with the effective date of the charge or credit resulting from the CAM-S as initially established.

(f) Annual Adjustments.—A utility authorized to establish a charge or credit resulting from the CAM-S shall annually file a request for an adjustment in the charge or credit resulting from the CAM-S. The request and the supporting calculation and data for an annual adjustment shall be filed with the Commission at least 45 days prior to the annual adjustment date established pursuant to section (e) of this Rule. The utility shall also provide a copy of the request to the Public Staff. Prior to the annual adjustment date, the Public Staff shall schedule the request for Commission consideration at a regularly scheduled staff conference and recommend that the Commission issue an order approving, modifying and approving, or rejecting the proposed adjustment to the charge or credit resulting from the CAM-S. In reviewing the proposed adjustment, the Commission will also consider whether it is appropriate and in the public interest to modify the baseline consumption measure or measures adopted in the rate case proceeding. The Public Staff shall notify the Commission by an appropriate filing in the relevant docket at least 15 days in advance of the date that the requested adjustment is scheduled for Commission consideration at the regularly scheduled staff conference.

(g) Reporting and Auditing.—A utility authorized to establish a charge or credit resulting from the CAM-S shall report to the Commission and the Public Staff shall audit these reports, as provided in this section.

(1) Monthly Filings with the Commission.—Within 30 days of the end of each calendar month, the utility shall file the following reports:

(i) A balance sheet and income statement for the calendar month and calendar year to date;

(ii) A statement of per books net operating income for the calendar month and calendar year to date for each rate division of the utility based on North Carolina ratemaking;

(iii) The actual number of customers and gallons sold for each month for each rate division, customer classification, and rate schedule;

(iv) Total actual monthly service revenues for each rate division, customer classification, and rate schedule, excluding revenues from customers to which this Rule does not apply; and

(v) Any other information that the Commission may require by order or otherwise;

(vi) Provided that, if the Commission has authorized the utility to implement a SSIC mechanism and the utility is appropriately submitting the

required quarterly filings pursuant to Commission Rule R10-26, the utility may fulfill the reporting requirements subdivisions a. and b. of this subsection by reference to its quarterly filings required pursuant to Rule R10-26.

(2) **Annual Report.**—In conjunction with its request to establish the charge or credit resulting from the CAM-S or for an annual adjustment in the charge or credit resulting from the CAM-S, the utility shall annually file a report in a format prescribed by the Commission detailing its actual gallons billed, service revenues, and revenues from the charge or credit resulting from the CAM-S for each rate division, customer classification, and rate schedule for the applicable 12-month period. The annual report shall also include the calculation of the actual average per customer usage for each rate division, customer classification, and rate schedule for the applicable 12-month period, an update to the three years of consumption data that was provided in the general rate case proceeding with its request to approve the CAM-S or in the utility's last annual report, and an updated average per customer usage baseline consumption measure or measures utilizing the updated consumption data.

(3) **Audit and Reconciliation.**—The Public Staff shall audit the utility's monthly and annual reports and file the results of the audit to the Commission. The Public Staff's audit of the annual report and the final monthly report in a given 12-month period shall be filed with the Commission as a part of the Public Staff's staff conference agenda item for the consideration of the annual adjustment in the charge or credit resulting from the CAM-S.

(h) **Burden of Proof.**—The burden of proof as to whether the CAM-S is appropriate to track and true-up variations in average per customer usage by rate schedule from levels adopted in the general rate case proceeding, whether the CAM-S is in the public interest, and the correctness and reasonableness of the charge or credit resulting from the CAM-S shall be on the utility.

(i) **Elimination or Modification of CAM-S.**—After notice to the utility and opportunity to be heard, the Commission may eliminate or modify any previously authorized CAM-S upon a finding that the CAM-S is no longer appropriate to track and true-up variations in average per customer usage or is no longer in the public interest.