



**NORTH CAROLINA  
PUBLIC STAFF  
UTILITIES COMMISSION**

March 5, 2024

Ms. A. Shonta Dunston, Chief Clerk  
North Carolina Utilities Commission  
4325 Mail Service Center  
Raleigh, North Carolina 27699-4300

Re: Docket No. W-100, Sub 67  
Investigation Regarding Consolidation of Water and Wastewater Utilities  
and the Utilization of Uniform Rates

Dear Ms. Dunston:

Pursuant to the Order Establishing Quarterly Technical Conferences and Scheduling First Quarterly Conference issued in the above referenced docket on December 21, 2023, please find enclosed the Public Staff's presentation materials for the technical conference set for Monday, March 11, 2024. Charles M. Junis, Director of the Public Staff's Water, Sewer, and Telephone Division will participate in the technical conference on behalf of the Public Staff.

By copy of this letter, I am serving all parties of record.

Sincerely,

Electronically submitted  
/s/ Megan Jost  
Staff Attorney  
megan.jost@psncuc.nc.gov

Executive Director  
(919) 733-2435

Communications  
(919) 733-5610

Economic Research  
(919) 733-2267

Legal  
(919) 733-6110

Transportation  
(919) 733-7766

Accounting  
(919) 733-4279

Consumer Services  
(919) 733-9277

Electric  
(919) 733-2267

Natural Gas  
(919) 733-4326

Water  
(919) 733-5610



**Docket No. W-100, Sub 67  
Uniform Rates**

**March 11, 2024**

**Charles M. Junis, PE  
Director, Water, Sewer, and Telephone  
Public Staff - NCUC**

---

# Commission Directive

---

## **1. Whether water and wastewater systems should be grouped based on similar costs of service or other similar characteristics to address the unique differences of each system without performing individual system cost of service studies when establishing rates?**

First, water and wastewater systems can feasibly be grouped based on similar costs of service or other similar characteristics to address the unique differences of each system without performing individual system cost of service studies when establishing rates.

The Commission and parties would need to consider the advantages and disadvantages of grouping systems in the absence of individual cost of service studies. Potential characteristics include regionality, treatment (PFAS, Fe/Mn), source (surface, well, purchased), type of acquisition (Fair Value, developer-contributed), purchase acquisition adjustment, system age, socioeconomic status. If deemed appropriate, rates could be established for the groups with surcharges/surcredits to account for the unique differences or by separating the costs of service.

## **Advantages of Grouping**

- Maintain a higher degree of revenue and cost matching
- Identify cost drivers
- Promote innovation and cost controls

## **Disadvantages of Grouping**

- Diminish benefits of uniform rates
- Accentuate winners and losers

# Commission Directive

---

## 2. Whether a transferred system can be incorporated into an existing WSIP multi-year rate plan to avoid increasing the number of standalone rate entities between WSIP periods?

No. Key considerations include, but are not limited to, the following:

- Size of the acquired system
- Rates (revenue requirements and rate design)
- Capital improvement plan (additional projects)
- Performance metrics (timing and benchmarks)
- Earnings test (timing)

Acquisition of a large system or multiple systems could have a material impact on cost of service and/or revenues between WSIP proceedings. The annual review functions as a look back, rather than a **recalculation** on a go-forward basis. There are also feasibility concerns with modifying projections to accommodate the addition of new systems.

# Commission Directive

---

## **3. How should the Commission address the affordability issue for low-income customers when migrating to uniform rates?**

The future of LIHWAP funding will impact this response. Affordability can be addressed with:

- Rate design with lower access fee;
- Inclusion of an essential or minimum amount of consumption;
- Increasing block rates;
- Utility funded or shared contribution assistance program; or
- Bill amount as percentage of household income.

## **What tools, if any, are available within the North Carolina General Statutes and Commission rules to address the affordability issue?**

North Carolina General Statute § 62-130-132 and 140 may hamper efforts to address affordability issues.

# Commission Directive

---

**What tools, if any, are available within the North Carolina General Statutes and Commission rules to address the affordability issue?**

North Carolina General Statutes that may hamper efforts to address affordability issues include:

- § 62-130 – requires the Commission to establish just and reasonable rates for utilities subject to its jurisdiction
- § 62-131 – requires rates be just and reasonable
- § 62-132 – requires utilities to charge rates approved by the Commission which are deemed just and reasonable
- § 62-140 – prohibits discriminatory or preferential rates

# Commission Directive

---

**4. Whether acquired systems that have a cost of service less than the utility's uniform rate cost of service should be included in uniform rates at the time of transfer.**

No. Including customers of a transferred system with a lower cost of service into uniform rates is functionally overcharging. The Public Staff does not recommend overcharging customers so the Public Staff would recommend that these systems receive standalone rates.

**In what circumstances, if any, would the Public Staff recommend that these systems not be charged the uniform rates at the time of transfer and receive standalone rates?**

An exception from that general premise might be warranted if there are planned improvements in the very short term that would increase the cost of service to result in calculated rates equal to or greater than the uniform rate. Examples of this concept, but not the exact circumstances, provided in the first technical conference are Docket No. W-218, Subs 408 and 420.



# Commission Directive

---

**5. Should the Commission consider it appropriate ongoing policy that the determination of whether uniform rates are appropriate at the time of transfer will be made on a case-by-case basis regardless of whether the cost of service for the standalone system supports such approval?**

Yes. Concerns regarding implementation of uniform rates for an acquired system during the duration of a WSIP are addressed in response to Commission Directives 2. and 4.

# Commission Directive

---

## **6. What mechanisms would facilitate efficient transfer of small water and wastewater systems to the larger utilities?**

The Companies want streamlined procedures. The Public Staff has concerns about formulating definitions (i.e., small and larger utilities) and criteria (i.e., troubled, disadvantaged) to shape the applicability of streamlined procedures, evaluating consequences, and maintaining protections during these technical conferences. The existing forms, policies, and procedures exist for a reason. Open to common sense reform that retains customer protection.

**For example, for administrative efficiency, should an acquiring utility be permitted to combine several acquisitions into a single consolidated application for Commission approval?**

The Commission and Public Staff have limited resources to facilitate stacked filings, including investigation, site visit, testimony, and hearing. In some ways, consolidation would exacerbate those issues. There are also regulatory deadlines limiting the time for those activities.

# Commission Directive

---

**7. Should the rate base of the acquired systems be established in the transfer proceeding, rather than having the rate base determination deferred to a future general rate case proceeding?**

Yes. Establishing rate base of the acquired systems is necessary to determine whether transfer is in the public interest.

**If so, are there any exceptions in which the rate base determination should be deferred to a future rate case proceeding?**

One exception might be accounting treatment of a deficit incurred as an emergency operator.



# QUESTIONS

---

## Referenced General Statutes

### **§ 62-130. Commission to make rates for public utilities.**

(a) The Commission shall make, fix, establish or allow just and reasonable rates for all public utilities subject to its jurisdiction. A rate is made, fixed, established or allowed when it becomes effective pursuant to the provisions of this Chapter.

(b) Repealed by Session Laws 1985, c. 676, s. 15.

(c) Repealed by Session Laws 2021-23, s. 14, effective May 17, 2021.

(d) The Commission shall from time to time as often as circumstances may require, change and revise or cause to be changed or revised any rates fixed by the Commission, or allowed to be charged by any public utility.

(e) In all cases where the Commission requires or orders a public utility to refund moneys to its customers which were advanced by or overcollected from its customers, the Commission shall require or order the utility to add to said refund an amount of interest at such rate as the Commission may determine to be just and reasonable; provided, however, that such rate of interest applicable to said refund shall not exceed ten percent (10%) per annum. (1899, c. 164, ss. 2, 7, 14; 1903, c. 683; Rev., ss. 1096, 1099, 1106; 1907, c. 469, s. 4; Ex. Sess. 1908, c. 144, s. 1; 1913, c. 127, s. 2; 1917, c. 194; C.S., ss. 1066, 1071, 3489; Ex. Sess. 1920, c. 51, s. 1; 1925, c. 37; 1929, cc. 82, 91; 1933, c. 134, s. 8; 1941, c. 97; 1953, c. 170; 1963, c. 1165, s. 1; 1981, c. 461, s. 1; 1985, c. 676, s. 15(1); 2021-23, s. 14.)

**§ 62-131. Rates must be just and reasonable; service efficient.**

- (a) Every rate made, demanded or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable.
- (b) Every public utility shall furnish adequate, efficient and reasonable service. (1933, c. 307, ss. 2, 3; 1963, c. 1165, s. 1.)

**§ 62-132. Rates established under this Chapter deemed just and reasonable; remedy for collection of unjust or unreasonable rates.**

The rates established under this Chapter by the Commission shall be deemed just and reasonable, and any rate charged by any public utility different from those so established shall be deemed unjust and unreasonable. Provided, however, that upon petition filed by any interested person, and a hearing thereon, if the Commission shall find the rates or charges collected to be other than the rates established by the Commission, and to be unjust, unreasonable, discriminatory or preferential, the Commission may enter an order awarding such petitioner and all other persons in the same class a sum equal to the difference between such unjust, unreasonable, discriminatory or preferential rates or charges and the rates or charges found by the Commission to be just and reasonable, nondiscriminatory and nonpreferential, to the extent that such rates or charges were collected within two years prior to the filing of such petition. (1913, c. 127, s. 3; C.S., s. 1067; 1929, cc. 241, 342; 1933, c. 134, s. 8; 1941, c. 97; 1963, c. 1165, s. 1.)

**§ 62-140. Discrimination prohibited.**

(a) No public utility shall, as to rates or services, make or grant any unreasonable preference or advantage to any person or subject any person to any unreasonable prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates or services either as between localities or as between classes of service. The Commission may determine any questions of fact arising under this section; provided that it shall not be an unreasonable preference or advantage or constitute discrimination against any person, firm or corporation or general rate payer for telephone utilities to contract with motels, hotels and hospitals to pay reasonable commissions in connection with the handling of intrastate toll calls charged to a guest or patient and collected by the motel, hotel or hospital; provided further, that payment of such commissions shall be in accordance with uniform tariffs which shall be subject to the approval of the Commission. Provided further, that it shall not be considered an unreasonable preference or advantage for the Commission to order, if it finds the public interest so requires, a reduction in local telephone rates for low-income residential consumers meeting a means test established by the Commission in order to match any reduction in the interstate subscriber line charge authorized by the Federal Communications Commission. If the State repeals any State funding mechanism for a reduction in the local telephone rates for low-income residential consumers, the Commission shall take appropriate action to eliminate any requirement for the reduced rate funded by the repealed State funding mechanism. For the purposes of this section, a State funding mechanism for a reduction in the local telephone rates includes a tax credit allowed for the public utility to recover the reduction in rates.

**§ 62-140. Discrimination prohibited. (continued)**

Nothing in this section prohibits the Commission from establishing different rates for natural gas service to counties that are substantially unserved, to the extent that those rates reflect the cost of providing service to the unserved counties and upon a finding by the Commission that natural gas service would not otherwise become available to the counties.

(b) The Commission shall make reasonable and just rules and regulations:

(1) To prevent discrimination in the rates or services of public utilities.

(2) To prevent the giving, paying or receiving of any rebate or bonus, directly or indirectly, or misleading or deceiving the public in any manner as to rates charged for the services of public utilities.

(c) No public utility shall offer or pay any compensation or consideration or furnish any equipment to secure the installation or adoption of the use of such utility service except upon filing of a schedule of such compensation or consideration or equipment to be furnished and approved thereof by the Commission, and offering such compensation, consideration or equipment to all persons within the same classification using or applying for such public utility service; provided, in considering the reasonableness of any such schedule filed by a public utility the Commission shall consider, among other things, evidence of consideration or compensation paid by any competitor, regulated or nonregulated, of the public utility to secure the installation or adoption of the use of such competitor's service. For the purpose of this subsection, "public utility" shall include any electric membership corporation operating within this State, and the terms "utility service" and "public utility service" shall include the service rendered by any such electric membership corporation. (1899, c. 164, s. 2, subsecs. 3, 5; Rev., s. 1095; 1913, c. 127, s. 6; C.S., s. 1054; 1933, c. 134, s. 8; c. 307, s. 6; 1941, c. 97; 1963, c. 1165, s. 1; 1965, c. 287, s. 8; 1977, 2nd Sess., c. 1146; 1985, c. 694, s. 1; 1997-426, s. 1; 2013-363, s. 11.1; 2021-23, s. 18.)



## CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been served on all parties of record or their attorneys, or both, in accordance with Commission Rule R1-39, 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 5th day of March, 2024.

Electronically submitted  
/s/ Megan Jost  
Staff Attorney