



**NORTH CAROLINA
PUBLIC STAFF
UTILITIES COMMISSION**

January 25, 2023

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

Re: Docket No. W-354, Sub 398 – Application by Carolina Water Service, Inc. of North Carolina, 5821 Fairview Road, Suite 401, Charlotte, North Carolina 28209, for Determination of Fair Value of Utility Assets Pursuant to N.C. Gen. Stat. § 62-133.1A and Establishing Rate Base for Acquisition of the Carteret County Water System

Dear Ms. Dunston:

The Public Staff submits this letter relating to CWSNC's post-hearing submission and the Public Staff's review of additional CWSNC costs and fees in the above-referenced proceeding and as contemplated in CWSNC's Proposed Order filed December 22, 2022.

Succinctly, the Public Staff does not challenge that CWSNC has incurred the costs it indicates it has incurred and for which invoices have been provided to the Public Staff. The Public Staff has various concerns, however, about the reasonableness of such costs, some of which (given where we are in this Carteret County proceeding) may need to be reserved to explore by the Public Staff in any future Fair Value applications and proceedings. Additionally, the Public Staff believes that it is premature to review costs clearly associated with the Company's Sub 399 application for a certificate of public convenience and necessity (CPCN) proceeding. In furtherance of these points, the Public Staff submits herein its position in greater detail.

The Public Staff understands that, under NCGS 62-133.1A (b)(3), reasonable valuation expert fees, transaction and closing costs, if approved by the

Executive Director
(919) 733-2435

Accounting
(919) 733-4279

Consumer Services
(919) 733-9277

Economic Research
(919) 733-2267

Energy
(919) 733-2267

Legal
(919) 733-6110

Transportation
(919) 733-7766

Water/Telephone
(919) 733-5610

Commission, may be included in the rate base value of the acquired system. CWSNC's costs and fees, however, have continued to grow, which is perhaps not unexpected, except that the utility's estimates have been below amounts subsequently indicated in each instance. In the utility's application and the Public Staff's testimony, fees and costs of \$174,439.74 were estimated, with Hartman and NewGen fees "TBD." In the utility's October 27, 2022 response to Public Staff Data Request 10 (introduced as Public Staff Denton Cross-Exhibit 3), the utility provided an updated estimate of fees and costs of \$210,818.30, with Hartman fees of \$47,500.00¹ and NewGen fees TBD that have now been finalized at \$42,498.23, thereby pushing the contemplated total amount of fees to \$300,816.53.² In its Proposed Order filed December 22, 2022, the Company indicated that it had incurred costs of \$308,726, though indicated it would file support for its updated reasonable fees, transaction costs, and closing costs on "December ____, 2022." Correspondence received from Company representatives earlier this week indicated that the figure is now around \$319,201.70 (at the time inclusive of Sub 399 CPCN legal fees). The Public Staff has verified that \$305,528.53 of these costs have been incurred by the utility, and the Public Staff has been informed by CWSNC of an estimated \$6,510.50 in additional fees.

Upon closer review of the Company's specific fees and costs estimated and/or documented to date, the Public Staff questions whether the statutorily allowed "transaction costs" incurred by CWSNC should include legal fees associated with preparation and litigation of the fair value application based upon the plain language of the statute. Due to the timing and procedural posture of the current case, this is a matter that the Public Staff intends to explore in future proceedings, and we reserve the right to challenge such costs in future matters.

Nonetheless, at this stage of the proceeding, and while the Public Staff would prefer that the application be denied such that none of the fees and costs are reasonable and would prefer to address the reasonableness of these items in the Sub 399 docket such that this issue is rendered moot, the Public Staff understands that if the Commission approves a fair value application, the Commission's Order must provide for the rate base value of the acquired property for ratemaking purposes (that would include reasonable fees and costs).

Further, while conceding that any CPCN costs the Commission ultimately finds reasonable would presumably be included in a future rate case if the proposed acquisition occurs, the Public Staff believes that any CPCN costs would ideally be handled as part of the CPCN case. For example, utility invoices indicate legal fees that relate to the preparation of the CPCN application and the CPCN proceeding, for which it is premature to decide possible inclusion in this instance.

As a result, the Public Staff recommends, at least for purposes of the Commission's Fair Value Order, to defer decision-making on the reasonableness

¹ \$41,400.00 + 6,100.00 estimated additional as of 10/26/2022 as provided in the utility's October 27, 2022 response to Public Staff Data Request 10 (introduced as Public Staff Denton Cross-Exhibit 3).

² \$174,439.74 + \$47,500.00 + \$42,498.23.

of the approximately \$8,507.92 in legal fees for consideration in the Sub 399 CPCN proceeding. This results in consideration of fees in this Sub 398 Fair Value proceeding of \$312,039.03.

Finally, the Public Staff understands that none of the fees and costs will be allowed if the transaction does not go forward for whatever reason, in that the statute contemplates an “acquired system.” The Public Staff will oppose cost recovery of any costs and fees in the event the utility seeks to recover costs if the acquisition does not occur.

For reference, based on the Company’s submission of additional fees and costs and Commission Staff’s request for the Excel spreadsheets used to generate Tables 2 and 4 from the testimony of Public Staff witness Charles and the one table in the affidavit of Lynn Feasel relating to the impact of the transaction on customer rates, the Public Staff provides Supplemental Tables 2 and 4 in the enclosed Attachment A.

The Public Staff has discussed and shared these views and recommendations with representatives of CWSNC as part of preparing this letter filing.

We are forwarding a copy of this letter to all parties of record by electronic delivery.

Sincerely,

Electronically submitted.

/s/ Gina C. Holt

Manager, Legal Division, Water, Sewer,
Telephone, & Transportation Sections

gina.holt@psncuc.nc.gov

/s/ William E. H. Creech

Staff Attorney

zeke.creech@psncuc.nc.gov

Attachment

Based on the Company's recent anticipated updated submission of fees and costs in the amount of \$319,201.70, the Public Staff has calculated an annual revenue requirement of \$1,199,497 for the \$9.5 million purchase price and the fees and costs when treated as rate base.

Supplemental Table 2

| County Present Rates | CWSNC System Specific |
|----------------------|-----------------------|
| \$70.55 | \$114.86 |

$\$40.25 + (\$10.10 \times 3 \text{ kgal}) = \mathbf{\$70.55}$ [also shown in Public Staff – Junis Exhibit 7]

$\$1,199,497 \text{ annual revenue requirement} / 1,277 \text{ customers} / 12 \text{ months} = \78.28

$\$439 \text{ annual O\&M expense per customer} / 12 \text{ months} = \36.58

$\$78.28 + \$36.58 = \mathbf{\$114.86}$

Supplemental Table 4

| Sub 384 – Uniform Water | Consolidated |
|-------------------------|--------------|
| \$71.37 | \$74.59 |

$\$24.53 + (\$11.71 \times 4 \text{ kgal}) = \mathbf{\$71.37}$ [also shown in Public Staff – Junis Exhibit 7]

$\$1,199,497 / (29,317 + 1,277 \text{ customers}) / 12 \text{ months} = \3.27

$\$71.37 + \$3.27 = \mathbf{\$74.64}$