

**ERRATA**

To: Shonta Dunston, Chief Clerk  
From: Kim Mitchell  
CC:  
Date: December 21, 2022  
Re: Carolina Water Service, Inc. of North Carolina  
Docket Number W-354, Sub 398, Volume 4

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On page 153, line 13 of Transcript Volume 4, Commissioner Hughes accepted Witness Hartman's rebuttal testimony into the record, but the testimony was inadvertently left out of the transcript. To ensure the record is complete, attached you will find an edited Transcript Volume 4 that includes Witness Hartman's testimony inserted behind the Certificate page.

PLACE: Dobbs Building, Raleigh, North Carolina

DATE: Friday, November 4, 2022

DOCKET NO.: W-354, Sub 398

TIME: 2:01 p.m. - 4:56 p.m.

BEFORE: Commissioner Jeffrey A. Hughes, Presiding

Chair Charlotte A. Mitchell

Commissioner ToNola D. Brown-Bland

Commissioner Daniel G. Clodfelter

Commissioner Kimberly W. Duffley

Commissioner Floyd B. McKissick, Jr.

Commissioner Karen M. Kemerait

IN THE MATTER OF:

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

Volume 4

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P R O C E E D I N G S

COMMISSIONER HUGHES: Okay. Let's go back on the record. Okay. I understand there's been a request on the part of one of the witnesses.

Do you want to explain the situation?

MR. DROOZ: Yes. The appraiser for Carolina Water, Mr. Hartman, would like to be excused so he can catch a flight. We understand that Public Staff has no questions for him. I don't think the County has any questions for him.

MR. GRANTMYRE: We have no objection.

MR. DROOZ: Okay. And so --

MR. GRANTMYRE: Let him go home.

MR. DROOZ: Thank you.

COMMISSIONER HUGHES: Let me just check our -- your opinion is worth a lot, but let me check in with the Commissioners.

No questions?

All right. He is free to be excused.

MR. DROOZ: Thank you very much.

COMMISSIONER HUGHES: Thank you for coming. He's already gone.

MR. DROOZ: We'd like to have it on the record, even though -- there's de facto and

1 de jure, right?

2 MR. GRANTMYRE: We might have some  
3 questions.

4 COMMISSIONER HUGHES: It's a Friday  
5 afternoon. We'll get through this, everybody.

6 MR. GRANTMYRE: I realize that.

7 COMMISSIONER HUGHES: All right. So  
8 we're back to -- we're back to -- is Mr. Junis  
9 here? There he is. He's right there.

10 MR. GRANTMYRE: And for the record, he  
11 did get a Snickers during lunch.

12 CHAIR MITCHELL: For the record, if I  
13 may, Presiding Commissioner Hughes?

14 COMMISSIONER HUGHES: Please.

15 CHAIR MITCHELL: I question the sanity  
16 of anybody who puts up a witness that's got two  
17 degrees from Duke, so.

18 COMMISSIONER HUGHES: Let the record  
19 show that --

20 CHAIR MITCHELL: Let the record reflect.

21 MS. SANFORD: Noted.

22 COMMISSIONER HUGHES: All right. So  
23 with that, we are gonna finish. So I have some  
24 questions for you. I think some have been asked



1 and answered, but let me just get through these.

2 Whereupon,

3 CHARLES JUNIS,

4 having previously been duly sworn, was examined

5 and testified as follows:

6 EXAMINATION BY COMMISSIONER HUGHES:

7 Q. So, Mr. Junis, in your testimony, you state  
8 that, on June 21, 2021, the Carteret County Board of  
9 Commissioners voted to increase their water rates by  
10 95 percent and reduce the water tax rate to zero. Then  
11 on September 20th, the Carteret County Board of  
12 Commissioners voted to decrease water rates by  
13 25 percent after receiving complaints from customers.  
14 In Table 2 of your testimony, you cite \$70.12 as the  
15 amount customers pay under the current rate structure  
16 for 4,000 gallons.

17 Did you calculate what a customer using  
18 4,000 gallons per month -- with the rates that were put  
19 in place prior to the reduction in June 21st? Did you  
20 calculate that?

21 A. So I did not specifically calculate that.  
22 However, that July 1, 2021, rate was a \$53.65 base  
23 charge, including the first 1,000 gallons, and then a  
24 \$13.45 per 1,000 gallons volumetric charge. So quick

1 math, that's about -- pushing \$80-some-odd. Check me  
2 on that, but --

3 Q. I would say pushing \$90-some-odd, but we  
4 understand where you got your degrees from, so.

5 A. You guys are putting the pressure here right  
6 after lunch, but you got the rates. We can all do the  
7 math.

8 Q. Okay. So we're talking about a difference of  
9 high 80s/low 90s versus \$70.12.

10 Just in your opinion, having looked at this  
11 utility quite a bit, it seems like -- do you believe  
12 the rates put into place and then changed, so the  
13 original \$90-per-household rate, or the \$70 rate, do  
14 you have an opinion about what rate would be closer to  
15 actually fully cover costs needed to make this system  
16 sustainable?

17 So, in other words, we have 70, we have 90;  
18 do you have an opinion about what it would take to  
19 actually have this -- we hear testimony it was losing  
20 at 70. Do you have an opinion about that?

21 A. So, correct. The 2023 budget that utilizes,  
22 essentially, the \$70 average bill, they are projecting  
23 a \$75,000, sort of, deficit that will be offset by the  
24 general fund -- or, I'm sorry, the capital reserve for

1 the water fund -- and that equates to -- I think I did  
2 the math -- like \$4 per customer on a monthly -- let me  
3 see here. Yeah. I think it was on a monthly basis.  
4 So it is also a projection of expenses that includes  
5 depreciation expense. I would say you are very close  
6 to sustainable rates at a \$70 bill.

7 Q. Okay. But you did just talk about, like,  
8 a -- just by your calculations, it would be \$4 more?

9 A. Right.

10 Q. So do I understand you to say it's closer to  
11 the 70, but it is higher than the 70?

12 A. Correct. Correct.

13 Q. Okay.

14 A. Now, that -- I will add, that budget assumed  
15 4.78 full-time employees dedicated to the water fund,  
16 and that is in that 2023 budget.

17 Q. Thank you for that. In your alternative  
18 recommendation to the Commission -- alternative refers  
19 to your first recommendation, being we deny -- but in  
20 your alternative recommendation to the Commission you  
21 propose a calculation to establish the rate base of  
22 Carteret County water system that is based on two  
23 approaches: the weighted average rate per customer of  
24 the five water rate divisions in Carolina Water and

1 Aqua approved by the Commission in the last rate cases,  
2 and then number two, the original cost less  
3 depreciation and amortization of the contributed  
4 capital based on Carteret County's unaudited financial  
5 records.

6 Please explain why you weight method one  
7 twice what you weight method two in the calculation for  
8 your ultimate recommendation of a fair value of 2.4 --  
9 \$2,444,347?

10 A. Yeah. So just a point of clarification, I  
11 weight the second method, which is essentially original  
12 cost less depreciation and amortization of CIAC, twice,  
13 and then the rebase per customer once, to get to the  
14 \$2.4 million. The \$2.3, which is the original cost  
15 less depreciation and amortization of CIAC, is specific  
16 to this system and the County's records. So that's why  
17 I weighted it more heavily. But I was trying to give  
18 some consideration to, sort of, a fair value and a  
19 premium being paid for the system with that rate base  
20 per customer.

21 Q. Okay. Thank you for that. And I understand  
22 your clarification.

23 So the way you just described doing it, how  
24 is this recommendation consistent with the

1 North Carolina General Statutes §62-133.1A(b)(d) [sic],  
2 which states that the, quote, original source of  
3 funding for all or any portions of the water and sewer  
4 assets being acquired is not relevant to an evaluation  
5 of fair value?

6 A. So, number one, I don't care who the source  
7 was. You know, it could be the state revolving fund,  
8 it could be a developer, but what matters is the  
9 ratemaking consideration of those funds. So those are  
10 contributions and aided construction. That is not  
11 investment by the County, and so that should offset  
12 that cost. It shouldn't be rolled into your books.

13 A regulated utility wouldn't say, oh, well,  
14 we were given this asset. They paid for phases of  
15 installation of the system with contributed funds. So  
16 number one, that addresses it, but also, part (e), I  
17 don't think it is held to that requirement. You know,  
18 the Commission's authority -- if the fair value is not  
19 reasonable, and they adjust the fair value as it deems  
20 appropriate and in the public interest.

21 Q. And I appreciate that. So let's separate out  
22 (d) and (e). So (e) I'm not asking you about, I think,  
23 but (d) -- so your position for the actual calculation  
24 of fair value is that, if it's provided by a developer

1 and contributed capital, it should be dealt with  
2 differently than if the County had done --

3 A. So I think what I'm trying to say is that the  
4 source of funds is not limiting -- not a limiting  
5 factor to the Commission's authority to establish a  
6 reasonable fair value that is appropriate and in the  
7 public interest.

8 Q. So you're pushing hard on (e)?

9 A. Yes.

10 Q. Okay.

11 A. Absolutely.

12 Q. Okay. That's what you're standing up for,  
13 okay.

14 A. Yes.

15 Q. So would you admit then, (d) is -- you're not  
16 on as strong a footing?

17 A. (Witness peruses document.)

18 It's (b)(1)(d), right?

19 Q. Yeah.

20 A. Yeah. That's the -- I'm just making sure our  
21 letters are straight and what subpart we're getting  
22 into. Yes.

23 Q. Okay.

24 A. That's a -- that's a restriction to,

1 essentially, the appraisal process.

2 Q. Right. Okay. I just -- so we -- I think  
3 we're on the same page.

4 Given that the fair value of the water and  
5 sewer system is almost always going to be higher than  
6 the depreciated book value, under what set of  
7 circumstances, in your view, would an acquisition of a  
8 county or municipal water system be in the public  
9 interest?

10 A. So, I mean, there are a number of ways that  
11 an acquisition of a government-owned utility could be  
12 in the public interest. It's what is that rate base  
13 set at that will significantly impact that. There are  
14 factors, including the condition of the plant, it's --  
15 ability of the government entity to have expertise to  
16 provide service, the quality of service being provided,  
17 the investment necessary in the near future. I mean,  
18 we, sort of, talked -- we talked about that in my  
19 testimony, that, you know, there is a number of  
20 criteria we believe would be relevant to that. I don't  
21 know if I answered your question. If you want to ask  
22 it again.

23 Q. The question might not have been clear. I  
24 think you partially did, but it's -- I think it's,

1 essentially -- we're, essentially, asking that, just  
2 from experience in mathematics, the fair value  
3 calculations, as laid out in statute, are very likely  
4 to almost always have a higher value. You focus so  
5 much on the actual depreciated book value in your  
6 testimony, and I think you cite the differences between  
7 the depreciated book value and the fair value as being  
8 one of the arguments against it being in the public  
9 interest. So I'm just asking, is it always gonna be  
10 against the public interest if we have a fair value  
11 that is higher than the depreciated book value?

12 A. No. And that speaks to -- there is a number  
13 of factors, customer benefits, and you're looking at  
14 the rate impact to both the acquired customers and the  
15 existing customers of the acquiring utility.

16 Q. Okay. Thanks for that.

17 Do you consider Carolina Water's existing  
18 customers to be adequately protected by the  
19 Commission's ability to create system-specific rates  
20 for Carteret County Water System? I'm not talking  
21 about the acquiring system's customers. I'm talking  
22 about the existing Carolina customers. So the  
23 statutes -- would you agree the statutes allow us to,  
24 as one protection mode, create a separate rate class?



1           A.       Yes. That is a protection. It's explicitly  
2 addressed. They are, sort of, emphasized again in this  
3 statute. I don't know what the Commission's appetite  
4 to do that is, and I think it is a challenging effort  
5 to decide which systems will be standalone and which  
6 will not. I think here, if they are the ones that are  
7 potentially benefitting from the purchase price -- you  
8 know, these are residents of Carteret County, so the  
9 net proceeds should, to some degree, benefit those  
10 folks -- then that would be at least one reason for  
11 standalone rates.

12           Q.       Okay. This is just a quick accounting  
13 clarification, which hopefully you can answer.

14                    In attachment 2B to Junis Exhibit 3, their  
15 systems 20-year unaudited profit/loss statement shows a  
16 \$372,670 transfer from the water taxing district, even  
17 though the tax had been set to zero as of June 21,  
18 2021.

19                    We just want to clarify, is this a timing  
20 issue or -- the tax rate had not been changed again?

21           A.       So this is -- I believe you're referring to  
22 Junis Exhibit 3 that then has an attachment; you said  
23 2B?

24           Q.       Yeah.

1           A.       Okay. I just want to make sure I'm there.  
2       The Chair is gonna get frustrated with me as I'm  
3       flipping pages here. So I think there is a timing  
4       issue they do show for 2021 or 2022. It's some tax  
5       district income, and I think it is just a matter of  
6       timing that that was gonna be a no-longer-go-forward  
7       interest rate. And again, that's, I think, an  
8       unaudited book amount.

9           Q.       Okay. Pursuant to North Carolina General  
10       Statute §62-133.A(e) [sic], if the Commission finds  
11       that the average of the appraisals will not result in a  
12       reasonable fair value, the Commission may adjust the  
13       fair value as it deems appropriate and in the public  
14       interest. I think we've heard that a number of times  
15       today.

16                   In this proceeding, if the Commission were to  
17       determine a fair value less than the \$9.5 million  
18       agreed-upon purchasing price, the Company would record  
19       an acquisition premium on its books for the difference  
20       between the purchase price and the fair value; that  
21       would be the default treatment, is that your  
22       understanding?

23           A.       So when you say an acquisition premium,  
24       essentially it would not go into rate base.

1 Q. Right. Right.

2 A. Yes.

3 Q. I think that's what you referred to it as,  
4 acquisition premium.

5 A. Yes.

6 Q. So that would be, sort of, the default  
7 expectation.

8 In your testimony, you actually provide a  
9 number of examples where that occurred under rules  
10 previous to -- before fair value, and I think you  
11 just -- you just cite a number of examples where an  
12 acquisition price was higher and there was this premium  
13 placed.

14 It's my understanding that, at least in one  
15 case in the past, the Commission set up an acquisition  
16 incentive account to allow the acquiring Company to,  
17 essentially, recover some of that premium that -- you  
18 know, that you're talking about --

19 A. Yes, sir.

20 Q. -- so that they could eat down that.

21 In this case, if the Commission accepted your  
22 alternative recommendation to set the rate base below  
23 the purchase price, would establishing some type of  
24 acquisition incentive account to allow the Company to

1 regain some of that rate base, would that be in the  
2 public interest, in your view?

3 A. Obviously, there is some complicating factors  
4 there. Is it the entirety of the magnitude of the  
5 acquisition premium that would, potentially, go into  
6 that AIA account, and then what are the criteria to,  
7 sort of, work down that acquisition incentive account?  
8 We have typically -- I think you are referring to the  
9 Aqua case, acquisition of Heater, and that has been,  
10 sort of, reserved for the acquisition of troubled  
11 systems that specifically need investment, and it's,  
12 sort of, a dollar-for-dollar matching of that  
13 investment up to a certain threshold on a case-by-case  
14 basis. Obviously, that would push the public interest,  
15 in terms of consolidation of some of these fragmented  
16 and troubled systems. Again, how big that AIA, I  
17 think, would be of at least some concern to the Public  
18 Staff.

19 Q. Okay. Thank you for that. So switch over to  
20 a new topic. Regarding the Draper Aden engineering  
21 assessment, on page 12, line 6 to 7 of your testimony,  
22 you state that it is unclear why Draper Aden provides  
23 an estimate of the present book value of the County's  
24 assets in the amount of \$10,241,142 with no original

1 cost, discount rate, or depreciation. You further  
2 state that this value Draper Aden provided was not  
3 explicitly required by the merger and regionalization  
4 feasibility grant.

5 So with that kind of testimony, does the  
6 Public Staff have concerns with the Draper Aden  
7 engineering assessment?

8 A. So that piece of the puzzle here -- I know  
9 there was some discussion with, I think it was witness  
10 Denton, about, have they met the requirement of having  
11 an engineering assessment of the condition of the  
12 system. I think you have that in form B1 and this  
13 report. That form was required to fill out a lot of  
14 information. Mr. Grantmyre and I had a significant  
15 input in that form as part of the rulemaking. So I  
16 think they have sufficed in that aspect, but in terms  
17 of this valuation done by Draper Aden, we absolutely  
18 have concerns, because it, sort of, fuelled a number of  
19 the appraisals and seems to have set, sort of, the  
20 ceiling here for what everyone was calling a fair  
21 value.

22 Because you can see, there's no accumulated  
23 depreciation on this present book value, and so it's a  
24 representation of what it currently is; but, I mean,

1 number one, most, if not all that pipe was contributed  
2 or paid for by low-cost debt, and it shows zero  
3 depreciation on those assets. And then, I mean, the  
4 land is relatively immaterial, but land is usually a  
5 pretty low value for utility ratemaking, because its  
6 best use is for providing utility service. And so it  
7 has almost no value to anyone else with those assets on  
8 it.

9 Q. Okay. Thank you for that. So from the  
10 engineering-assessment standpoint, you're okay with it;  
11 it's the concerns of the valuation?

12 A. Right. In terms of condition, we conducted a  
13 site visit, we went through the system, we saw all the  
14 elevated tanks, and we're, I think, in general  
15 agreement with the representation of the condition of  
16 the plant.

17 Q. Okay. The last question relates to some of  
18 the discussion we had earlier about the impact of this,  
19 whether it's a contractual or oral agreement to wait  
20 four years.

21 And then did you hear that earlier testimony  
22 where the County went on record that they did not  
23 intend to ask for any deferral treatment or any other  
24 dealing of that amount that would be depreciated

1 between now and when --

2 A. Yes. That's my understanding. Mr. Denton  
3 represented that they were not seeking a deferral.

4 Q. So. I know there was some concern about some  
5 of the specific numbers thrown out from your part, but  
6 just based on those -- based on knowing that there is  
7 gonna be this deal, and, you know, knowing that -- the  
8 rate-setting world that we live in, is it now, then,  
9 your understanding that, when this actually became rate  
10 based for rate-setting purposes in practical terms, it  
11 would be lower than the \$9.5 million?

12 A. Yes. Yes, I accept that there would be  
13 accumulated depreciation that would offset a portion of  
14 the 9.5.

15 Q. And to the extent -- how much, that one, you  
16 would want to have --

17 A. It absolutely depends on the depreciation  
18 rate. Obviously, there is discussion from the  
19 Company's side of a 2 percent. We utilized a 4 percent  
20 for the calculation of our numbers. That difference is  
21 50 years versus 25 years. You're talking about leaving  
22 these assets potentially in rates for 50 years. I do  
23 not think, with the exception of possibly pipe, that  
24 most of that -- those assets will still be in use 50

1 years from now.

2 Q. Understood. But you -- from a standpoint of  
3 that 9.5 being the number to just fixate on --

4 A. Right.

5 Q. -- it will either be lower through -- with a  
6 2 percent depreciation or 4 percent depreciation?

7 A. That's correct.

8 Q. And then you would also agree, not looking at  
9 how much money it would be, but that there would be  
10 foregone returns during that period?

11 A. It's hard to say what would be in rates.  
12 Obviously, they have priorities. Return on equity is  
13 usually the last thing that, sort of, comes out of  
14 income when we're calculating returns. So it really  
15 depends on how they control their costs when providing  
16 service and how well those current rates would cover  
17 their costs.

18 Q. Okay. I think I understand that. That's all  
19 the questions I have. Let me see if my colleagues  
20 have --

21 COMMISSIONER HUGHES: Any additional  
22 questions for Mr. Junis? Chair Mitchell?

23 EXAMINATION BY CHAIR MITCHELL:

24 Q. All right, Mr. Junis, I'll be quick, because



1 Commissioner Hughes covered some of the ground I wanted  
2 to cover. So a couple of things. Look at your  
3 testimony, page 14. The table that you provide there  
4 goes through the bids made during the upset bid  
5 process, and we've got Carolina Water making a bid on  
6 the 1st and the 23rd of March.

7 A. I also struggled with that, Chair Mitchell,  
8 and I did my best to review the record, in terms of the  
9 Board of Commissioner minutes and what was available to  
10 us. I am not 100 percent sure what happened there. I  
11 think it would be appropriate to ask Mr. Denton on his  
12 rebuttal.

13 Q. Okay. Will do. All right. The -- I did  
14 have a question for you about your concerns about  
15 Draper Aden and the accumulated depreciation. You've  
16 covered that with Commissioner Hughes, but just so I'm  
17 clear, did you-all ask any questions about that? Did  
18 you talk to the County about your concerns that -- for  
19 the -- about the fact that the depreciation wasn't  
20 shown or wasn't included?

21 A. No, we did not. We relied on the County's  
22 books. So we were happy with -- you know, they have  
23 detailed records that are representative of original  
24 costs, so we weren't overly concerned with trying to

1 vet out exactly what was going on with the Draper Aden  
2 numbers there.

3 Q. Okay. Even though you're concerned that this  
4 is setting what you referred to as the ceiling on this  
5 bidding process?

6 A. Yes. But, I mean, even if we vetted out and  
7 said, okay, instead of 12, Draper Aden's numbers should  
8 have been X, it wouldn't have changed what has already  
9 happened. It's too late in the process. Had we been  
10 aware of this document before this system -- before  
11 they negotiated, before it was put up to interest of  
12 Aqua and Carolina Water, then it would have potentially  
13 had a material impact, and it would have made sense to  
14 get involved in that.

15 Q. Okay. The -- you also covered this ground  
16 some with Commissioner Hughes, but just want to be  
17 clear, because earlier this afternoon I heard you  
18 testify that the Public Staff's view of the appropriate  
19 usage of this statutory mechanism isn't so limited as  
20 to only troubled systems.

21 Did I understand that correctly?

22 A. That's correct.

23 Q. The Public Staff can envision the statutes  
24 being utilized or systems that it would not define or

1 describe as troubled?

2 A. Right. I think it certainly is dependent on  
3 what is that difference between original cost and fair  
4 value, because if we're talking about, you know,  
5 percentage-wise -- I mean huge percentages, or tens or  
6 hundreds of millions of dollars, that does not make  
7 sense for the long-term viability of our regulated  
8 utilities. Affordability becomes a huge concern if  
9 this is a pattern of basically paying five times the  
10 book value.

11 Q. Well -- and I'm clear on the Public -- I'm  
12 clear on your testimony and the Public Staff's position  
13 on that issue, but need to understand better.

14 I think you described earlier, you called it  
15 a puke point. I'm using -- did I get that right? I'm  
16 using your words.

17 A. Sorry, yeah. And I apologize if it was  
18 crude.

19 Q. That's okay. I embrace that terminology and  
20 will now incorporate it into my everyday, as I am there  
21 often. So the question I have for you is this, in  
22 seriousness, so -- but you haven't -- in my mind, I'm  
23 still not clear where the Public Staff is on the  
24 utility of this statutory provision that we now have on

1 the books, this tool that we now have.

2           You said you can use it in instances that  
3 don't involve troubled systems, but you haven't gone  
4 much beyond that, other than what I heard right now,  
5 which is it just can't cost too much. There can't be  
6 too much of a rate impact on the acquired customers and  
7 the uniform -- or the utility's existing customers.  
8 But that -- that just doesn't provide me with enough  
9 guidance on, sort of, when the Public Staff would deem  
10 the usage of this tool as appropriate in the context of  
11 a non-troubled system, so help me.

12           I mean, what other criteria are you guys  
13 gonna consider? Are you only looking at rate?

14           A.     So, again, we're looking at quantification of  
15 benefits. You know, some of that is consolidation,  
16 economies of scale. The Company didn't quantify those.  
17 We asked twice. It's in the DR responses that are  
18 exhibits to our testimony.

19           Q.     I understand that. What benefits -- list out  
20 the benefits that you want them to quantify.

21           A.     So, I mean, cost savings. So, when you talk  
22 about consolidation, you would expect cost savings. So  
23 if it takes 4.78 employees for the County to operate  
24 this system, how many is it gonna take for Carolina

1 Water? That was not provided in response to two -- we  
2 sent one, and then a follow-up data request for them to  
3 quantify these savings, even an estimate, and they did  
4 not. Their opportunity for the burden of proof has  
5 passed, and that was the point I made earlier. Like,  
6 you were given, sort of, the asked and answered, right?  
7 And we asked it twice, and it was answered twice  
8 without responsive information.

9           You know, I think there is a factor of --  
10 when you're saying "not troubled," I think you're  
11 probably moving on a spectrum. If the system is not  
12 troubled, the fair value should probably be closer to  
13 its book value, because there is less benefit to be  
14 provided to those customers. And then you might move  
15 further away when there is more benefit to customers  
16 that, sort of, offsets the cost premium that we're  
17 talking about. I would love to give you some equation.  
18 Problem is, there are too many complicating factors for  
19 this not to be a case-by-case basis.

20           Q.     And I -- the only follow-up question I have  
21 for you, and I actually don't want you to answer it --  
22 I'm just gonna leave you with it to go away and think  
23 about it -- is, but the statute doesn't say book value;  
24 it says, you know, you've got to come up with an

1 appraisal using these other three methods. So that's  
2 what we have to work with.

3 All right, next question. You can respond to  
4 that if you want to. I'm being facetious, but, I mean,  
5 that's the reason for my question.

6 A. I do want to answer it. I understand the  
7 pickle we're in here, that this is -- the utility wants  
8 certainty. I think, you know, everyone involved wants  
9 some level of certainty. This is new. This is  
10 different. We're working out the kinks, right? We've  
11 seen it procedurally in this case. We've seen it in  
12 terms of what the expectations are, in terms of the  
13 information provided. But ultimately, I think  
14 subsection (e) gives the Commission the ability, when  
15 it feels that that fair value is not reasonable, that  
16 it can adjust it.

17 I also think we need to be a little bit  
18 skeptical of a process that, essentially, just pushes  
19 the price higher. We are -- cost of service going  
20 higher does not make sense. Acquisitions going higher  
21 does not make sense for the affordability of service.  
22 I think that there was a puke point in the reverse  
23 direction for the County of how low they were willing  
24 to go to transfer this system. And apparently, that

1 number was as low as, at the very least, just having  
2 their debt offset by Beaufort. That was the offer to  
3 Beaufort. I mean, if you're going off Draper Aden, who  
4 they paid to do the feasibility -- well, the State paid  
5 to do the feasibility study with a grant -- they were  
6 willing to go to negative \$2 million.

7 Q. I'm gonna stop you there. But the deal  
8 didn't go through. The deal didn't go through.

9 A. But --

10 Q. And so here we are.

11 A. Well --

12 Q. And I will -- so you can tell me what you  
13 know about why the deal didn't go through, if you know  
14 anything, but I'm also mindful of time, so I want to  
15 keep us going here.

16 A. Yes. I know we want to get done today, and,  
17 you know, some of those responses are in my exhibits.  
18 The County represented how that negotiation with the  
19 Town of Beaufort went. We have not heard from the Town  
20 of Beaufort. I didn't talk to Town of Beaufort. Maybe  
21 that's a road I should have went down, but at this  
22 point, we didn't want to look like we were meddling, in  
23 terms of the agreement that has already been made and  
24 is in place currently.

1           But I think our utilities -- you know,  
2           Mr. Denton talked about an eagerness to utilize the  
3           state revolving fund and to open up those funds. His  
4           company did not apply in the spring, where there was a  
5           record-setting award of over \$700 million; they did not  
6           apply in the fall. And so there were channels for,  
7           potentially, funds to help facilitate either a  
8           different transfer amongst different utilities -- was  
9           Craven County talked to? Was there a reverse situation  
10          where Carteret County went to Beaufort and/or Craven  
11          and said let's regionalize?

12          Q.       All right. I hear -- I understand your  
13          testimony, and I talked to Mr. Denton when he was on  
14          the stand about accessing the low/no-interest money  
15          that's available and -- but my question specifically  
16          was about the deal between -- or the -- what appears to  
17          have been a deal between the County and Beaufort, that  
18          what we know now didn't go through.

19          A.       So to your point, Chair Mitchell, that means  
20          that the low point is essentially \$2 million, right, to  
21          offset their debt at the time. And so now that number  
22          would essentially be 1.5-, \$1.6 million to offset their  
23          debt, and also opens up that -- that capital reserve  
24          fund that's north of \$5 million that the County also



1 has.

2           There was never an offer. There was never a  
3 potential sale at 1.6. They didn't even start there.  
4 Carolina Water started at \$4.9 million. Now, why? Why  
5 did we not start at the lowest point possible that the  
6 County was potentially willing to transfer the system,  
7 and then we skyrocketed to a point of \$9.5 million?

8           Q. All right. You're asking me the question,  
9 and you're supposed to be providing the answer.

10          A. I'm sorry. I should know better.

11          Q. I'm kidding. Let's move on. The -- all  
12 right. The -- you've talked some today, and you  
13 provided us some minutes from Carteret County  
14 Commissioners meetings, and now you tell me if I've  
15 heard you wrong, because I hear you insinuating that  
16 there was some reverse engineering going on here, and  
17 that the deal was struck only after rates were  
18 established that were satisfactory to Carolina Water.

19                   Is that the nature of your testimony, or is  
20 that what you're trying -- is that what you want me to  
21 hear?

22          A. I am laying out a progression of events that  
23 would suggest that that at least influenced, to some  
24 degree, the County raising its rates. I can -- that's

1 the only thing I can deduce from the set of information  
2 in those minutes and watching it and the process that  
3 played out, that they were not going to adhere to the  
4 rate hold, after already representing that they would,  
5 when they realized that a 24 -- the rate was -- it was  
6 27.50 for a base charge, and 690 per 1,000 gallons,  
7 which is pretty close to the ballpark of Carolina  
8 Water's current rates. Lower on the usage charge, but  
9 again, this is a process that just pushed the purchase  
10 price up.

11 Q. So are you saying -- I want to be clear --

12 A. Okay.

13 Q. -- on what -- to make sure I understand what  
14 you're saying.

15 Are you saying that the County raised the  
16 rates in order to get Carolina Water to agree to go  
17 through with the deal?

18 A. I can't read their minds. All I have is the  
19 information that was in the board minutes, having  
20 watched some of the meetings, of the progression of  
21 events. The \$9.5 million offer was in April. They  
22 started negotiate -- you know, they're starting to  
23 negotiate and work through this. The County should  
24 have raised rates, and I think there was discussion of

1 should we be building a reserve, what if this doesn't  
2 go through, but I think there was also an influencing  
3 factor of they weren't gonna do the rate hold, so what  
4 do we get the rates to that they would agree to the  
5 rate hold. And so you jumped them up 95 percent, and  
6 then you're like, ooh. Yeah, people didn't quite  
7 appreciate that. That might have been a little  
8 extreme. We might have been going on a little bit of a  
9 whim, and they dropped it down 25 percent. And then in  
10 September, the 95 is accepted, and then all of a sudden  
11 you have a contract in October. So things moved really  
12 quick once all that had happened.

13 Q. So you're just connecting dots; you don't  
14 have any information beyond those dots that you  
15 connecting that adds to your understanding of the  
16 events?

17 A. That is my understanding of the events,  
18 between the board minutes, the progression of  
19 negotiations, and the information we have.

20 Q. Okay. All right. The -- you have a -- you  
21 are more in the weeds on municipal finance than I am,  
22 so I want to make sure I understand this one point.

23 You said that the -- you referenced in your  
24 testimony today capital reserve fund, and you said

1 additional capital would become available to the  
2 County. What does that mean?

3 A. So they're required to have certain reserves,  
4 and if you look -- so from their 2023 budget, which is  
5 publicly available, for the projected fiscal year 2022,  
6 they showed, actually, a gain. Which, now, fiscal 2022  
7 included the high rates in July of '21 and then the  
8 decrease in September and then forward, those charges  
9 forward. So that -- the income ends up into this  
10 reserve fund, which is approximately \$5.8 million.  
11 There are certain restrictions of what they can do with  
12 those funds when they -- it's my understanding, once  
13 they sell -- if they were to sell the water utility,  
14 that then they can appropriate those funds. Now, I  
15 don't know exactly all the restrictions there. You  
16 know, I'm not a municipal employer or county employee,  
17 but that is my understanding.

18 Q. Okay. All right. Last thing. It's hard for  
19 me to reconcile your testimony with the appraisal  
20 report and recommendation that the Public Staff's  
21 appraiser has made and has provided to this Commission.  
22 You -- I don't even think you mentioned your  
23 appraiser's testimony, and I'm not sure Ms. Feasel does  
24 either.

1           So what are we to do with the fact that you  
2 have an appraiser that gives a, you know, much more  
3 robust valuation to the system than you recommend in  
4 your testimony?

5           A.     So, correct. But the discrepancy between  
6 myself and Mr. Lane is less than the discrepancy  
7 between Mr. Lane and Mr. Walker.

8           Q.     All right. But that doesn't answer the  
9 question. I mean, you're just pointing out something I  
10 can see.

11          A.     To Mr. Hartman's point, this is not a  
12 made-as-instructed. We didn't tell Mr. Lane you need  
13 to get to this number or we think this is what is a  
14 fair value. That is Mr. Lane's representation of what  
15 is a fair value. Did we give some input on what is  
16 reasonable? Did we have him run the alternative at  
17 Carolina Water's return on equity? Yes, we did, but we  
18 did not dictate his analysis. And, ultimately -- I  
19 mean, I do -- I reference the average of the three. Is  
20 it up to the Commission if it deems that the average of  
21 the three is not reasonable? Could they choose one  
22 appraisal number and say that's the magic number, we  
23 think that was the best appraisal? It's probably  
24 within -- yes, that is, I think, within the

1 Commission's authority. I think it's also within the  
2 Commission's authority to set the number at  
3 \$2.4 million, and I think that is the right answer  
4 here.

5 Q. Okay. Do you -- one last question, then I'll  
6 stop.

7 If the Commission were to accept your  
8 recommendation of 2.4, thereabout, that you recommend,  
9 do you think a deal will go through?

10 A. It's ultimately up to Carolina Water.  
11 Probably doubt that it will go through.

12 Q. Okay. I have nothing further. Thank you.

13 EXAMINATION BY COMMISSIONER CLODFELTER:

14 Q. Mr. Junis, there was one piece of your  
15 discussion with Presiding Chair Hughes that I'm not  
16 sure I followed, so I want to walk back through it  
17 again to make sure I got right what your position is.  
18 And so for purposes of the question I'm gonna ask you,  
19 I want you to completely forget subsection (e) of the  
20 fair value statute. Wipe it out of your mind, okay?  
21 Forget it.

22 The question I want to ask you relates to  
23 (b)(1)(d), and he asked you some questions about your  
24 position with respect to (b)(1)(d), which says the

1 original source of funding for all or any portions of  
2 the water and sewer system assets being acquired are  
3 not relevant to valuation of fair value.

4 I understood you to tell him that you thought  
5 that was a directive with respect to how the appraisals  
6 were to be performed; is that correct?

7 A. Yes, sir. So that --

8 Q. That is your position?

9 A. It is a subsection of (b)(1). It's  
10 (b)(1)(d), and I think it falls -- it is a restriction  
11 of the appraisal --

12 Q. On the appraisal.

13 A. -- not the Commission's authority any.

14 Q. All right. And that's what I want to be sure  
15 I understand.

16 Is it the Public Staff's position that, for  
17 purposes of the appraisals, that's an irrelevant  
18 factor, and we determine fair value based upon the  
19 appraisals, without consideration of that? Forget (e).  
20 We then take the fair value we determine into rate  
21 base, and in the next general rate case, we could apply  
22 traditional ratemaking principles and reduce the rate  
23 base we have taken in as fair value by the amount of  
24 CIAC. Is that the Public Staff's position?

1           A.     No.

2           Q.     All right.  Then tell me exactly what your  
3 position is.

4           A.     I'm sorry.

5           Q.     Without regard to (e).

6           A.     Correct.  So if, ultimately, that average of  
7 the appraisers -- of the appraisals was the lesser of  
8 the purchase price and the average, then the fair value  
9 would be utilized.  If the Commission accepts it as  
10 reasonable, then that would be rate base, and to your  
11 point, CIAC would not be a factor.

12          Q.     In the subsequent general rate case?

13          A.     Correct.  Under those very specific  
14 assumptions, that the fair value is the average of the  
15 three, which is less than the purchase price.  We don't  
16 have that in this situation.

17          Q.     Okay.  I think I'm following you now.  So let  
18 me ask you one final cleanup.

19                 So the way you get to 2.4 is you have to  
20 bring us back to (e), right?

21          A.     Yes.

22          Q.     Got it.  Thank you.  Wanted to make sure I  
23 followed it very clearly, how you were moving the  
24 pieces around the chessboard.



1           A.       Thank you for the clarification.

2                               COMMISSIONER HUGHES:   Commissioner  
3           Duffley?

4   EXAMINATION BY COMMISSIONER DUFFLEY:

5           Q.       Good afternoon.   So you had several exchanges  
6   with Mr. Wheatly, one of which was you were about to go  
7   into the five options the County could have employed to  
8   dispose of the property, and I feel like you were not  
9   able to fully answer that line of questioning.   So if  
10   you will, go through Article 12 and answer that  
11   question.

12          A.       Yes.   So there is typically five methods of  
13   sale.   They are private negotiation and sale;  
14   advertisement for sealed bids; negotiated offer,  
15   advertisement, and upset bid; public auction; or  
16   exchange.   It is my understanding that this transfer  
17   would exceed the threshold, so it eliminates the option  
18   of a price negotiation and sale.   That is option one.  
19   It is very unlikely that you would be able to utilize  
20   an exchange.   That is option five.   And so you would be  
21   limited to sealed bids; negotiated offer,  
22   advertisement, upset; and a public auction.

23          Q.       And do you know why the County used the third  
24   option, negotiated offer, advertisement, and upset bid,

1 versus advertisement for sealed bids?

2 A. I don't know. I do know that that was  
3 basically the only option discussed in that meeting  
4 when they decided to accept the initial offer and push  
5 it to upset bid. I do not recall any discussion of the  
6 other options during that Board of Commissioners  
7 meeting. Doesn't mean the County didn't talk about it  
8 before then, but that's the only thing discussed in  
9 that Board of Commissioners meeting.

10 Q. Okay. Thank you. And then I'm also gonna  
11 give you one more opportunity to respond to a question.  
12 Mr. Wheatly concluded his cross that the Public Staff's  
13 position in this case, if accepted by the Commission,  
14 means -- and I'm quoting Mr. Wheatly -- we can't get  
15 our money.

16 What's your takeaway from that statement?

17 A. You know, ultimately, it is up to Carolina  
18 Water, if the rate base was set at \$2.4 million, to  
19 still proceed. They still have an opportunity to  
20 transfer the system. They can reopen the process, they  
21 could decide to basically restart, they could try to  
22 seal bid process. You know, this can be negotiated  
23 down. They have options to go about this, if they  
24 really do want to sell the water system.

1 Q. Okay. Thank you. I don't have anything  
2 further.

3 COMMISSIONER HUGHES: Commissioner  
4 McKissick?

5 EXAMINATION BY COMMISSIONER MCKISSICK:

6 Q. I think Chair Mitchell covered, basically,  
7 many of the questions I had in the back of my mind, but  
8 can you, kind of, explain, kind of, a 30,000-foot  
9 level, the difference between a troubled system and a  
10 financially distressed one?

11 A. So it's discussed a little bit in my  
12 testimony, but troubled gets into -- it's not just the  
13 financial piece. Troubled gets into compliance,  
14 condition of plant, and basically an inability to get  
15 back to compliance or financial health on its own. We  
16 have seen these situations for different utilities. A  
17 lot of times these are examples where an emergency  
18 operator is necessary. So the distress is specific to  
19 the viable utility reserve that was statutorily set up  
20 to be managed by the water authority and the League of  
21 Municipalities. The Local Government Commission, I'm  
22 sorry.

23 Q. And that available utility reserve would be  
24 open to the County at this time, but I think you asked

1 earlier, how might they utilize and for what purpose.

2           Could you state a little bit more clearly  
3 what you think that could bring to them?

4           A.     Yes.  So, I mean, there are potential monies  
5 to facilitate the literal transfer, potentially  
6 purchased dollars that could go through the state  
7 funding programs.  DWI has really expanded its  
8 programs, especially specific to the utility reserve.  
9 They have a special fund only for the distressed  
10 systems, and then the distressed systems are also  
11 prioritized for funding.

12          Q.     And you would see this as a viable option for  
13 the County to pursue?

14          A.     This is assistance.  You could look at a  
15 regionalization study.  You could look at potentially a  
16 transfer.  If there were an unexpected capital need,  
17 they could be applying for those funds.  I don't know  
18 exactly what they applied for, but is it is my  
19 understanding that they did apply for funds in the fall  
20 application period.

21          Q.     Okay.  And in terms of troubled systems, when  
22 Chair Mitchell asked you about it, the way you see the  
23 statutory provision here, you reached a conclusion  
24 that, basically, you did not have to be a troubled

1 system to fall underneath this §61-133?

2 A. It does not have to be troubled. Troubled, I  
3 think, would be -- when we're looking at priorities and  
4 potential ideal cases and test cases, I think a  
5 troubled system would be towards the top of that list  
6 for sure.

7 Q. Do you think that's what the General Assembly  
8 had in mind when this was enacted, or do you have an  
9 opinion on that?

10 A. I mean, based on the documents available to  
11 us, including the position of the Companies and the  
12 legislative summary, it appears that the intention was,  
13 where there is a need for capital investment, where  
14 there is a need for expertise, where there is  
15 potentially a compliance issue that needs to be  
16 addressed, and we're just not seeing those needs with  
17 Carteret County.

18 Q. And I believe in your -- in your testimony  
19 you state that the condition of the system is good.  
20 You didn't identify any deficits or any problems with  
21 it; is that correct?

22 A. That's correct. The system is in good shape,  
23 the tanks are on a maintenance plan with Southern  
24 Corrosion, and that is corroborated with the Draper

1 Aden report, and it's corroborated by the Company's  
2 representation that they have no major improvements  
3 planned in the first 5 or 10 years of ownership of this  
4 system, potentially. But I think this, sort of, ties  
5 back to, sort of, a pragmatic Christmas gift. Is it a  
6 need or a want? And this acquisition looks like a want  
7 that is highly costly.

8 Q. And if the sale were to go through, the  
9 County would realize a substantial gain on this  
10 transaction; is that correct?

11 A. Yes.

12 Q. And I gather there were a substantial portion  
13 of the funds that went into the original construction  
14 of the system that were grant funds?

15 A. Yes, sir. So the best summary of that is  
16 Junis Exhibit 4, which breaks down the infrastructure  
17 by funding sources, and that was provided directly from  
18 the County.

19 Q. And how much of it was grants?

20 A. So when you're looking at grants, there is a  
21 total -- so the planned additions that are listed in  
22 this schedule total just south of \$12 million. We'll  
23 just round to 12. \$6.5 million was from grants, so  
24 over half.

1 Q. I don't know if you would know the answer to  
2 this question or not, but based upon the conditions  
3 that were attached to those grants, if there were a  
4 sale of the system within the time frame which has  
5 passed, would there be any kind of requirement to pay  
6 back any of those funds?

7 A. I don't know the answer to that question.  
8 Mr. Foxworth might know that on rebuttal.

9 Q. Okay. And I believe earlier in your  
10 testimony, your verbal testimony today, you expressed  
11 some concern about, if we were to approve this  
12 transaction, then it would -- it would not be, perhaps,  
13 as consistent with what this fair value provision  
14 anticipated.

15 A. When you talk about the premium that's being  
16 paid, I do not think that this was, sort of, the ideal  
17 test case for fair value. It clearly is devoid of the  
18 word "market" with the exception of the appraisal  
19 approaches, which there are three accepted, and one is  
20 the market approach. It does not say the fair market  
21 value statute.

22 To open this up to market acquisitions is,  
23 sort of, the opposite of these are regulated  
24 monopolies. So which is it? You can't have it both

1 ways. Because if you're setting market value for  
2 acquisitions, what's the next step? Why don't they get  
3 the statute for IOUs, purchasing IOUs? And we start  
4 just totally re-evaluating rate base. And to establish  
5 a new fair value, we're undepreciating assets,  
6 essentially, and what does that do? It only pressures  
7 rates up. It doesn't benefit the quality of service to  
8 customers, because you're not paying for improvements,  
9 you're paying for what you already have.

10 Q. Thank you. I don't have any further  
11 questions.

12 COMMISSIONER HUGHES: Commissioner  
13 Kemerait?

14 COMMISSIONER KEMERAIT: Yes.

15 EXAMINATION BY COMMISSIONER KEMERAIT:

16 Q. Mr. Junis, I'm gonna try to be quick. I  
17 think I've got three questions. The first one relates  
18 to questions that were asked by Chair Mitchell and  
19 Commissioner Clodfelter about subsection (e) of the  
20 statute, and it also is related to subsection  
21 (b)(1)(d).

22 And so, I just want to make sure I'm clear  
23 about your reconciliation of those two provisions,  
24 because you stated that, if the average of the three



1 appraisals, if the Public Staff or the Commission  
2 believes it to be too high, the Commission has the  
3 discretion or authority to determine a reasonable fair  
4 value. And you said that that could be done on a  
5 case-by-case basis, but we don't have an actual  
6 standard for determining that. And I think that the  
7 standard that you're proposing is the original cost, or  
8 at least in this matter, the original cost less  
9 depreciation and CIAC would be the standard that you're  
10 proposing.

11 A. So that is one approach, and that's the  
12 approach that I weighed, basically, 66 percent or two  
13 times, and then I did, sort of, a comps analysis of  
14 what do we already believe is reasonable in terms of  
15 costs of service, and that would be the weighted  
16 average of the rate base per customer of Aqua and  
17 Carolina Water, the two parties that participated in  
18 the bidding process here.

19 Q. Correct. But the majority of that -- the  
20 majority of that number comes from the original cost?

21 A. Yes, Commissioner Kemerait.

22 Q. And so what I want to understand is your  
23 position about the subsection (b)(1)(d), which is a  
24 very clear limitation on the valuation for the --

1 clearly, the appraisals and using that original cost.

2 And is it your position that that prohibition  
3 on considering original cost of the system is only for  
4 the appraiser's valuation, and -- but the Commission is  
5 in no way bound by that prohibition? Is that -- is  
6 that how you, kind of, reconcile these two provisions?

7 A. Correct.

8 Q. And think that we have the ability to  
9 consider original cost?

10 A. Yes. I think you had an original version of  
11 this bill that did not include this language in (e),  
12 and that is a significant safeguard. And if it is  
13 limited in that fashion, then I don't think it provides  
14 the protection that we were envisioning or anticipating  
15 when this was a bill sitting before the legislature.

16 Q. And do you think it's problematic that  
17 subsection (e) doesn't affirmatively state that --  
18 because it's a prohibition earlier in the statute, that  
19 it doesn't affirmatively state that the Commission can,  
20 in fact, consider that original cost in determining  
21 reasonable fair value?

22 A. I think it would be just the same as -- if  
23 there was intended to be these restrictions, why  
24 doesn't it say in consideration of parts (1)(b) -- you

1 know, (b)(1)(d) or those other limitations? I don't  
2 think that the Commission is held to that.

3 Q. Thank you for that. I've just got two more  
4 two more questions, I think. One deals with your  
5 testimony about potentially standalone rates for this  
6 Carteret County system.

7 Hypothetically, if the -- if there was a  
8 consideration of having standalone rates for those  
9 customers, would the Public Staff's position about its  
10 recommendation of denial of the system and also  
11 adjustment of the purchase price -- or, excuse me, the  
12 fair value to about \$2.4 million, would that change if  
13 we were talking about standalone rates?

14 A. The testimony states that we would  
15 recommend -- our first recommendation is denial.  
16 Because if you look at standalone rates, those are not  
17 just and fair rates, when you think about just the  
18 basis for the way those rates would be set. Those are  
19 not affordable, they are not reasonable, and what  
20 benefit did these 1,200 customers receive to now have  
21 their bill triple. Well, under the old rates. Now it  
22 would be less than doubled, but.

23 Q. So, in other words, your recommendation would  
24 remain the same?

1           A.       Yeah. Now, you do get into -- the outcome of  
2 this case impacts, then, the Sub 399 CPCN application.  
3 So the fair value could be set and then a CPCN  
4 application be denied.

5           Q.       Well, I think I won't go there at this point,  
6 but last question relates to the Draper Aden valuation  
7 of the assets, and I think your testimony was that you  
8 disagreed with the valuation, and that your -- one of  
9 your concerns about it is because three appraisers  
10 relied upon that valuation. But even Mr. Lane, the  
11 Public Staff witness, he didn't directly challenge that  
12 valuation in his report, did he?

13          A.       So he used the Draper Aden to allocate the --  
14 Carteret County's original cost less depreciation. He  
15 did not use the \$12 million as the basis for his income  
16 approach. So yes, we can accept the pools of assets,  
17 but we don't accept the valuation of those assets.

18                   And I think it's also important, Draper Aden  
19 didn't even consider the capacity issues here. You  
20 have potential for an excess capacity adjustment.  
21 There are three elevated storage tanks totalling  
22 600,000 gallons for 1,200 customers. This system  
23 currently provides fire protection. It's my  
24 understanding those ratings depend on the distance from

1 those sources. Is Carolina Water going to provide fire  
2 service, and at what cost premium, potentially? So  
3 there is still room for adjustments here on this  
4 system.

5           There was not growth. Who took on the risk  
6 of growth here? The County, utilizing a lot of state  
7 funds. And so if Carolina Water buys this system, they  
8 are also taking on some of that risk of having this  
9 large sprawling system, which has a considerable amount  
10 of non-revenue water. There's a cost to non-revenue  
11 water. I don't see any projections of what those costs  
12 are from an operating expense level. So there are  
13 additional complicating factors, even if you accept the  
14 fair value of 9.5, should there be an excess capacity  
15 adjustment.

16           Q. Yeah. I understand that. And last question,  
17 though, is, going under the assumption that you  
18 disagree with Draper Aden's valuation, did you provide  
19 anywhere in your testimony what the Public Staff's  
20 recommendation was about what we should do about it?  
21 If the underlying assumption valuation, you believe, is  
22 wrong, is there a recommendation that is provided?

23           A. So that gets into the different approaches in  
24 the appraisals, and then you are really getting into,

1 sort of, nickel-and-diming the appraisals. I'm not an  
2 appraiser. I shouldn't be trying to nickel-and-dime  
3 the appraisals that were done. We thought that that  
4 was basically a losing effort, in terms of trying to  
5 get to what is a reasonable fair value.

6 I pointed out a number of concerns I had with  
7 the approaches that were taken and the underlying  
8 assumptions. Clearly, there was not a lot of rebuttal  
9 testimony addressing those issues, but I think this  
10 Commission has asked a number of important questions  
11 regarding those appraisals.

12 Q. Okay. Thank you very much.

13 COMMISSIONER HUGHES: Okay. I think,  
14 Chair Mitchell, do you --

15 CHAIR MITCHELL: Okay. Maybe I'm gonna  
16 ask it.

17 EXAMINATION BY CHAIR MITCHELL:

18 Q. All right, Mr. Junis, I'm following up on the  
19 conversation about standalone rates, and you were  
20 emphatic that you didn't -- your position is standalone  
21 rates wouldn't be just and reasonable for those  
22 customers. Help me understand, though, how I -- how I  
23 reconcile the fact that these customers have paid rates  
24 for the years that this -- this system has been in

1 service, plus have benefitted from, you know, the  
2 system has been supported by revenues generated by  
3 funds other than those received from customers. The  
4 customers have benefitted from not paying the full cost  
5 of service for this system, and so when you say not  
6 just and reasonable, rates that actually cover the cost  
7 of service aren't just and reasonable? Help me get --  
8 help me make that leap.

9 A. So I get -- where you have the tax districts  
10 subsidizing, these customers also are paying that tax.  
11 Now, obviously, there's another pool of people that  
12 aren't customers. Now -- some of which can be  
13 customers and have chosen not to be.

14 Q. And North Carolinians, and maybe even federal  
15 taxpayers, have paid for this system too, right?

16 A. Correct.

17 Q. I mean, so, just, sort of, help me understand  
18 how we go -- how rates that approximate or cover the  
19 cost of service aren't just and reasonable. And, I  
20 mean, it's a decision that the County has made, right,  
21 to have their constituents pay rates that ultimately  
22 will cover the cost of service. How is that not just  
23 and reasonable?

24 A. So you're referring to, essentially, putting

1 the 9.5 and all the fees associated into rate base.  
2 That then pushes rates north of \$100, easily. My  
3 comment that I did not think that those were just and  
4 reasonable --

5 Q. Pushes -- so my comment -- my question  
6 specifically is, let's talk hypothetically about a  
7 standalone group of customers, because the statute  
8 gives us that right. And I understand that right as  
9 one way to mitigate impacts to the rest of Carolina  
10 Water customers, or perhaps just establish a just and  
11 reasonable rate class. But so what happened here is  
12 you'd have these customers who had been customers of  
13 counties become customers of the utilities, and they  
14 would be paying for the costs that the utility incurs  
15 to provide service on that system. How is that not  
16 just and reasonable?

17 A. If the Commission puts those costs in rate  
18 base, technically, those rates are just and reasonable.  
19 I'd have serious concerns about the fairness of those  
20 rates and how we got to that point, and I don't think  
21 we should get to that point.

22 Q. Why is that not -- why is that this  
23 Commission's concern and not the Carteret County  
24 Commission's concern?



1           A.       I mean, it should be. I mean, there are all  
2 these claims about they are the best to decide the  
3 public interest of their 1,200 customers, but they're  
4 trying to give away -- well, not really give away,  
5 sell, for an abundance of money, those 1,200 customers.  
6 So they want to get rid of them. So how do they have  
7 the best interest of the 1,200 people in mind when  
8 they're making this decision? Ultimately, they are  
9 looking out for the County, as a whole. But to suggest  
10 how did we get here, they actively chose to set rates  
11 too low to cover their cost of service. That's their  
12 fault. That's their responsibility. And they should  
13 not now be rewarded for doing so.

14           Q.       So when -- so you would have -- you or the  
15 Public Staff would have this Commission evaluate public  
16 interest from the standpoint of those -- if -- because  
17 we have the right under the statute to consider  
18 standalone class, then we've focused on the public  
19 interest of that -- of the Carteret -- the acquired  
20 Carteret customers.

21           A.       Yes. So, I mean, we evaluated both --

22           Q.       Do we have that authority -- recognize you're  
23 not a lawyer. Do we have that authority to think about  
24 those customers that aren't, at this moment,

1 jurisdictional?

2 A. Yes, I think you do have that authority of --  
3 we evaluated whether it's on a standalone or uniform  
4 basis, because ultimately, it is the Commission's  
5 discretion to decide one way or another. And that is  
6 the case in other transfers of an IOU to an IOU, or  
7 even a CPCN application, to decide whether those rates  
8 are standalone or uniform. But the analysis ties back  
9 to the acquisition adjustment of, is there harm to both  
10 the -- either, or, or both the acquired customers or  
11 the existing customers.

12 Q. Okay. All right. Thank you.

13 COMMISSIONER HUGHES: Did she answer  
14 your question?

15 COMMISSIONER CLODFELTER: No.

16 COMMISSIONER HUGHES: Okay.

17 Commissioner -- Commissioner Clodfelter.

18 EXAMINATION BY COMMISSIONER CLODFELTER:

19 Q. I'm gonna ask you a question, and you have  
20 permission not to answer it, and I will respect if you  
21 don't want to answer it, but it's been gnawing at me as  
22 I have been listening to you, and you finally touched  
23 on it. So since you opened it, I decided to ask the  
24 question.

1           So I listen to you, and it sounds to me -- or  
2 the feeling, I should say, I have about many of the  
3 positions that you articulated on behalf of Public  
4 Staff are that those are positions that go very  
5 strongly to the question of whether it is in the public  
6 convenience or necessity for this transaction to occur  
7 at any price.

8           Is it Public Staff's position that we -- this  
9 is a valuation proceeding. We will later have a  
10 decision about whether to approve this transaction at  
11 any value.

12           Is it the Public Staff's position that we can  
13 set a value here and then later deny the transaction in  
14 the public convenience or necessity, or must we  
15 consider those factors now under subsection (e) if  
16 we're gonna consider them at any time?

17           A.     I think you can -- this Commission can deny  
18 the CPCN application at whatever value. Now, we --

19           Q.     Even if we refuse to exercise our subsection  
20 (e) authority, and we've had the issue in play -- you  
21 put it in play before us. The parties have debated it  
22 in front of us about what we should do under subsection  
23 (e), and we say, all right, we're not gonna follow  
24 subsection (e), and we set a value, and we come then

1 later to the CPCN proceeding. We then, sort of, raise  
2 the public interest flag at that point and say sorry,  
3 no dice. Can we do that?

4 A. I believe so, because, otherwise, these two  
5 evidentiary hearings should have been joint, and I  
6 should have had testimony addressing both.

7 Q. Again, you don't have to answer that, and I  
8 respect that, but many of the considerations you  
9 articulate go very deeply to the question of whether  
10 it's in the public interest for this transaction to  
11 occur at all.

12 A. Right. I mean, subsection (e) is -- I  
13 recognize, it is a complicating factor here, but yeah,  
14 I believe that you have a CPCN proceeding that still  
15 has to happen with testimony specific to the CPCN.

16 Q. Public Staff would look at the other side of  
17 the room and say to them, regardless of what the  
18 Commission decides today, we're gonna be back in here  
19 arguing this issue next spring?

20 A. Not arguing what the dollar -- what the  
21 dollar number is.

22 Q. Arguing whether this transaction serves the  
23 public interest and convenience and necessity?

24 A. That is correct.

1 Q. Thank you. As I said, you didn't have to  
2 answer, but I appreciate your answer.

3 A. And we'll see if I get kicked for that  
4 answer, but that is my understanding.

5 COMMISSIONER HUGHES: Okay.

6 Commissioner McKissick?

7 EXAMINATION BY COMMISSIONER MCKISSICK:

8 Q. Yeah. This is just following up on your  
9 comments a little earlier about excess capacity,  
10 because you do have three elevated water storage tanks,  
11 each -- holding 200,000 gallons each.

12 How much capacity would you estimate or  
13 approximate would be needed for a system that's  
14 providing water service to roughly 1,200 homes today?

15 A. Um.

16 Q. You can take a minute.

17 A. So if I recall correctly, the max daily  
18 amount for 2021 was 351,000 gallons. So that is,  
19 essentially, two tanks worth. So that would  
20 potentially put into question a third tank. Now, you  
21 have quality-of-service considerations here, but  
22 ultimately, you have 600,000 gallons of elevated  
23 storage, plus you have contributing wells that would  
24 supply the system, and then have you emergency

1 interconnects. So, I mean, there is a great level of  
2 redundancy here.

3 In terms of the minimum requirement of  
4 elevated storage for a municipality, that's  
5 75,000 gallons when you get into the administrative  
6 code. So yes, there is real engineering implications  
7 of what do you need, but I think a contributing factor  
8 here to those elevated storage tanks was fire service.  
9 And is Carolina Water continuing to provide that, and  
10 at what cost is the system designed to provide fire  
11 service.

12 Q. And that's not been answered anywhere?

13 A. Not to my knowledge. And, I mean, again,  
14 this is an abbreviated process. We put as much time  
15 and effort as we could into this, and we tried to  
16 uncover as many stones as we could, but you had to pick  
17 your priorities of the arguments you were gonna make,  
18 and unfortunately, that was one that didn't get further  
19 developed.

20 Q. Thank you.

21 COMMISSIONER HUGHES: Commissioner  
22 Duffley?

23 EXAMINATION BY COMMISSIONER DUFFLEY:

24 Q. So I wanted to follow up on Commissioner

1 Clodfelter's question with respect to the CPCN process.  
2 And you don't -- again, don't feel the necessity to  
3 answer. Say "I can't answer" based on my question.  
4 But -- so let's take a hypothetical that we went with  
5 the fair value of the average of the three appraisals.

6 In the CPCN case, could we -- is it your  
7 understanding that it could be denied based upon that  
8 amount and comparing it, doing, kind of, a cost-benefit  
9 public interest analysis?

10 A. Yeah. I mean, I do not see any prohibition  
11 in 62-133.1A that addresses 62-110, that that all of a  
12 sudden becomes null and void, in terms of those  
13 considerations. Those are separate sections of the  
14 statutes.

15 Q. And then my second follow-up is with regard  
16 to the excess capacity.

17 When is -- I mean, should that have been  
18 brought up in this proceeding, with respect to the  
19 valuation, versus moving -- so the question is, again,  
20 hypothetically, you have fair value, we set it at 9.5,  
21 but then, in the next rate case, there could be excess  
22 capacity adjustment?

23 A. The timing is certainly complicated. I don't  
24 see anywhere where that wouldn't be allowed. I get

1 that that would be troubling for the utility, to now  
2 have a new argument tossed at them, but this is the  
3 regulatory construct that exists. I'm raising that  
4 concern right now, and they have made no effort to  
5 justify the design of that existing system. In terms  
6 of burden of proof, yeah, it's there, it's providing a  
7 service, but is that a level of service that goes  
8 beyond the requirement and is contributing to the cost  
9 of premium potentially being paid here.

10 Q. Okay. Thank you for that answer.

11 COMMISSIONER HUGHES: Okay. Let me make  
12 another call. Okay. Going once, going twice.

13 (No response.)

14 COMMISSIONER HUGHES: Okay. Let's move  
15 to questions on Commission questions. We're gonna  
16 start with the Company and then go to the County  
17 and then Public Staff.

18 EXAMINATION BY MR. DROOZ:

19 Q. Okay. I think I'll pick up with where we  
20 just left off, the overbuilt plant possible adjustment  
21 down the road in another rate case.

22 You know, a lot of this is a legal argument  
23 and may be best addressed in proposed orders, but if  
24 you know, Mr. Junis, is the legal basis for an excess



1 plant adjustment under the theory that it's not used  
2 and useful under 62-133?

3 A. So it's my understanding, yes.

4 Q. And that's not the same as 62-133.1A, is it?

5 A. That is correct.

6 Q. There is no used and useful standard in the  
7 fair value rate base statute, is there?

8 A. So I would say that there have been excess  
9 capacity adjustments that are made in rate cases after  
10 rate base has been established, either as part of a  
11 CPCN or a preceding rate case, is my understanding.

12 Q. All right. I was gonna leave this, but I've  
13 got to ask, if rate base was established initially, and  
14 then in a later rate case an excess plan adjustment was  
15 made to that same plant, I'm lost as to how that  
16 happened. Maybe you can help clarify.

17 A. So, I mean, I'm working off recollection  
18 here, and we've gone astray to what I was anticipating  
19 this afternoon, but I can think of -- I think it was  
20 past Aqua rate cases where an excess capacity  
21 adjustment was made and is adjusted and updated after a  
22 preceding rate case where there wasn't an excess  
23 capacity adjustment.

24 Q. Okay. I'm not gonna test you on the case law

1 on that. I do have a couple of questions which,  
2 frankly, are just for clarification. I wish I knew the  
3 answer.

4 One, I thought I heard you respond to two  
5 commissioners that the Draper Aden valuation of roughly  
6 \$12.3 million, their original cost as they did it, did  
7 not deduct accumulated depreciation.

8 A. A portion of it did not.

9 Q. Okay.

10 A. Because there is two different tables.  
11 There's one table that does and there is one table that  
12 does not that represents that it's a present value --  
13 present book value, I believe.

14 Q. Well, one of those tables includes real  
15 estate, doesn't it?

16 A. But it's not just real estate, it includes  
17 pipe and other infrastructure.

18 Q. Right. So you wouldn't have depreciation on  
19 pure real estate, would you?

20 A. Correct. So land is not --

21 Q. So I'm looking at Draper Aden's report here.  
22 I've got MGL-2, page 67, and I can provide you with a  
23 copy if you don't have that number, and it's section  
24 3.0 of the --

1 A. Yeah. I mean, I have that. You're referring  
2 to the original feasibility study?

3 Q. Yeah. There was an update, but this is  
4 section 3.0 in that.

5 A. Yup. All right.

6 Q. All right. And again, it has this 3.1 theory  
7 of asset valuation up there in the heading under  
8 estimated value. Are we in the same place?

9 A. Yes, sir.

10 Q. Okay. And they say down there, present book  
11 value of asset equals historical costs minus  
12 accumulated depreciation, right?

13 A. Right. And that's nowhere shown, in terms  
14 of -- it's just a number that shows up in the table,  
15 and then with the update, the valuation goes up. So  
16 clearly, that is not original cost less depreciation.  
17 Somehow the cost is now going up.

18 Q. That could have been updated for increased  
19 added assets?

20 A. So -- but was the increase for added assets?  
21 Because I don't think it was.

22 Q. Okay. Well, I just -- when I looked at the  
23 Draper Aden report, and really I'm asking, it indicates  
24 right here their method for hitting the present book

1 value of the assets is to subtract accumulated  
2 depreciation, and you're telling me they did not  
3 subtract accumulated depreciation. I'm trying to  
4 reconcile this.

5 A. I think that was shown in Table 7, but they  
6 do not do that with Table 8. So I see no  
7 representation of accumulated depreciation.

8 Q. So Table 7 did include some deductions for  
9 depreciation?

10 A. Right. And I don't -- I didn't say I  
11 disagreed with Table 7. I explicitly said the  
12 \$10 million that shows up in Table 8. I think I  
13 referenced the \$10 million when I answered.

14 Q. Right. And do those numbers there in Table  
15 8 -- are you understanding that present book value cost  
16 of the asset in that far right column, was that the  
17 original cost without depreciation subtracted?

18 A. So that would -- this valuation done by  
19 Draper Aden seems to match the system costs that shows  
20 up in my other exhibits, such as Exhibit 3, but not  
21 less depreciation.

22 Q. Are you sure of that?

23 A. Am I sure that --

24 Q. I mean you said "it seems" and, so I just

1 wanted to explore that further.

2 A. Oh, okay. So, like, Exhibit 4, for example,  
3 you know, shows an investment of \$12 million. This  
4 includes the major three phases of the system that were  
5 all installed, basically 2000 forward, and that total  
6 cost is essentially \$12 million. Now, when you apply  
7 accumulated depreciation, like the County has in its  
8 records, it's over half depreciated, and so that's how  
9 you get down to the 5-, \$6 million range. So that's  
10 where I absolutely disagree with the Draper Aden  
11 valuation. Why not just use the per book when you have  
12 accurate per books and a plant that is relatively  
13 recently installed?

14 Q. Could it have been because the engineering  
15 cost valuation is a different methodology from the  
16 financial books methodology?

17 A. And again, this was not a requirement of the  
18 feasibility study, and so what was the purpose of this  
19 valuation done by Draper Aden?

20 Q. Okay. Well, I'll -- you're answering a  
21 question with a question.

22 A. I'm sorry. I mean, I have concerns about --

23 Q. I understand.

24 A. -- why this analysis was done and then the

1 impacts it has had throughout the process.

2 Q. So moving along, the -- you noted in response  
3 to Commissioners a couple of times -- you had asked for  
4 an answer twice for quantification of savings from the  
5 Company, and they said it was not quantified; is that  
6 right?

7 A. Right. That -- they gave a qualitative  
8 response, and that is Exhibits, I believe, 1 and 2 of  
9 my testimony.

10 Q. Right. And yet, I do want to ask, as  
11 follow-up on that, if you know, has the Company  
12 provided cost estimates, including salaries, in its  
13 Sub 399 filing?

14 A. Your -- oh, boy. I don't have that with me.  
15 Typically, a CPCN application has a representation of  
16 cost of service, but sometimes it depends on are  
17 they --

18 Q. If you're not sure, we can leave it at that?

19 A. Yeah. Because sometimes it shows, basically,  
20 the seller's costs that are not representative going  
21 forward, depending on how the application was --

22 Q. The record in that docket will reveal what --

23 A. Right.

24 Q. Okay. You recall, I hope -- and if not, I

1 can point you to the page -- the appraiser chosen by  
2 the Public Staff stated that his goal in issuing an  
3 opinion on fair value was to get fair market value. Do  
4 you recall that, or will you agree with that?

5 A. I will agree subject to check. We don't need  
6 to run there.

7 Q. Okay. There's an amount for the book value  
8 on the County's financial books for the original cost  
9 of these assets.

10 Do you understand that that is calculated  
11 differently from the original-cost-less-depreciation  
12 method used by appraisers?

13 A. (No response.)

14 Q. Original cost less depreciation for  
15 bookkeeping by the County is different from original  
16 cost less depreciation used in appraisal analysis.

17 A. So I believe you had asked this in cross, and  
18 I think I answered that I'm not -- I'm not representing  
19 that I'm an appraiser, nor do I have to adhere to their  
20 standards. And so I'm not gonna speculate. I don't  
21 know the answer to that.

22 Q. Well, let me guide you towards an answer.

23 The original cost less depreciation amounts  
24 put into evidence in this case by the appraisers is

1 different from and higher than the County's book amount  
2 for that, isn't it?

3 A. So I am familiar with some of the appraisals,  
4 like Mr. Hartman's. His number ends up very close to  
5 that valuation done by the engineer, and does not --  
6 while Mr. Lane does seem to rely on that original cost  
7 less depreciation. So I think there is a difference of  
8 opinion in terms of how that process works.

9 Q. When you say "difference of opinion how the  
10 process works," I didn't follow that.

11 A. So I think in terms of what assumptions and  
12 what values are used by the appraisers, clearly you had  
13 a range of outcomes, so there is a clear difference of  
14 opinions there in terms of what those assumptions and  
15 inputs were.

16 Q. But my question is not the difference between  
17 the appraisers but difference between appraiser  
18 methodology and that used by the County for its  
19 bookkeeping.

20 A. Correct. And I think I was pointing to that  
21 the appraisers took different approaches, and one did  
22 utilize, to some degree, the County's bookkeeping.

23 Q. Which one was it?

24 A. I mean, Mr. Lane's schedule where he uses the



1 \$5.9 million.

2 Q. I believe that shows he -- yeah. He used it  
3 from the County audit based on the allocations from  
4 Draper Aden Associates, right?

5 A. Right. But the original cost -- he doesn't  
6 use dollar numbers from Draper Aden, he uses an  
7 allocation of the assets in depreciation, because he's  
8 doing a forward analysis of the assets.

9 Q. Thank you. That's all my questions.

10 COMMISSIONER HUGHES: Mr. Wheatly?

11 MR. WHEATLY: No questions.

12 EXAMINATION BY MR. CREECH:

13 Q. Mr. Junis, I have one question. Let's say a  
14 reader is skeptical of your reading of source of  
15 funds -- and this is the only question -- irrespective  
16 of source of funds, you stated a moment ago that you  
17 have -- irrespective of race-to-the-top bidding, how  
18 everything has played out, you have issues that the  
19 initial, kind of, put-forward fair value here is  
20 reasonable and appropriate because of the design of the  
21 system, you talk about in response to your question,  
22 and the future cost of funds to ratepayers; isn't that  
23 the case?

24 A. Yes, that's correct. So, you know, the

1 starting valuation is what sets, sort of, an  
2 expectation for potential buyers, and then going  
3 forward, the cost of capital in terms of this purchase  
4 has a material impact on customers, of what they're  
5 gonna pay for here.

6 MR. CREECH: That's all.

7 COMMISSIONER HUGHES: Okay. I think  
8 that brings us to the end of Mr. Junis. Do the  
9 parties have any motions at this time?

10 MR. CREECH: Yes, please. We'd like to  
11 ask that -- we'd like to move Mr. Junis' testimony,  
12 as well as his exhibits into the record. That's 37  
13 pages and Appendix A and seven exhibits marked  
14 Public Staff Junis Exhibits 1 to 7.

15 COMMISSIONER HUGHES: So moved.

16 (Public Staff Junis Exhibits 1 thorough  
17 7 were admitted into evidence.)

18 MR. CREECH: And we'd also -- I think I  
19 neglected to enter, if I may, yesterday, it was the  
20 redirect exhibit for witness Lane. It was marked  
21 as Public Staff Lane Redirect Exhibit Number 1.  
22 I'd like to move that into evidence as well,  
23 please.

24 COMMISSIONER HUGHES: Okay. So moved.

1 (Public Staff Lane Redirect Exhibit  
2 Number 1 was admitted into evidence.)

3 MR. CREECH: Public Staff has -- that  
4 concludes our testimony.

5 COMMISSIONER HUGHES: You may be  
6 released. Thank you, Mr. Junis.

7 THE WITNESS: Thank you.

8 COMMISSIONER HUGHES: Okay. I think we  
9 have -- we are now gonna move to rebuttal --  
10 rebuttal phase.

11 MR. WHEATLY: Yes, sir. And I realize  
12 the lateness of the hour. I understand there is  
13 gonna be some other witnesses. I have  
14 Gene Foxworth with me, and also Dee Meshaw. There  
15 were certain questions that have been -- risen over  
16 several things. One, the ability to give grants,  
17 how did the water rate get raised, and these sort  
18 of issues that, if we wanted to go directly into  
19 them, tender them and let the staff start asking  
20 questions to get clarification, I certainly have no  
21 problem in trying to get out of here today. I will  
22 do whatever you-all say. He's here ready to  
23 testify.

24 COMMISSIONER HUGHES: Well, we expected

1 to hear from Mr. Foxworth. I mean, that was -- so  
2 if you're saying that, for sure, we are happy to  
3 entertain.

4 MR. WHEATLY: Well, sir, if that's case,  
5 I call Mr. Gene Foxworth to the stand.

6 Whereupon,

7 EUGENE FOXWORTH,  
8 having first been duly sworn, was examined  
9 and testified as follows:

10 MR. WHEATLY: May I proceed, sir?

11 COMMISSIONER HUGHES: Yes. Please  
12 introduce your witness.

13 DIRECT EXAMINATION BY MR. WHEATLY:

14 Q. State your name, please.

15 A. Gene Foxworth.

16 Q. And what's your address?

17 A. 210 Turner Street, Beaufort, North Carolina.

18 Q. What's your occupation?

19 A. I'm the assistant -- an assistant county  
20 manager for Carteret County.

21 Q. And in that capacity, have any dealings with  
22 the water system that exists in Carteret County?

23 A. Yes, sir.

24 Q. And what is that?

1           A.     I have oversight of the water system under  
2 the operations division for the County.

3           Q.     Have you made a summary of your testimony?

4           A.     Yes, sir, I have.

5           Q.     Do you have it in front of you?

6           A.     Yes, sir, I do.  If you will give me a second  
7 to find it.

8                               (Pause.)

9           Q.     Mr. Foxworth, in front of you, do you now  
10 have a copy of the summary of your testimony?

11          A.     Yes, sir, I do.

12          Q.     And did you prepare this testimony?

13          A.     Yes, sir, I did.

14          Q.     If you would, please read the summary into  
15 the record.

16                       COMMISSIONER HUGHES:  At this late game,  
17 we can enter the summary into the record without it  
18 being read.

19                       MR. WHEATLY:  Thank you, sir.

20                       COMMISSIONER HUGHES:  So it will be  
21 recorded as evidence.

22                       MR. WHEATLY:  Thank you.

23                       COMMISSIONER HUGHES:  You can go ahead  
24 and make a motion to --

1 MR. WHEATLY: I move that the summary be  
2 admitted into evidence, if I may, sir.

3 COMMISSIONER HUGHES: It will be  
4 admitted, and the prefiled -- have you made the  
5 motion yet for the --

6 MR. WHEATLY: Yes, sir.

7 COMMISSIONER HUGHES: So the motion to  
8 admit the prefiled rebuttal testimony of Eugene  
9 Foxworth on behalf of Carteret County, consisting  
10 of four pages, into the record as if orally given  
11 from the stand is granted. In addition, the motion  
12 to move the testimony into the record is granted.

13 MR. WHEATLY: Thank you, sir.

14 COMMISSIONER HUGHES: Excuse me, the  
15 testimony summary.

16 (No summary provided.)

17 (Whereupon, the prefiled rebuttal  
18 testimony of Eugene Foxworth was copied  
19 into the record as if given orally from  
20 the stand.)

21  
22  
23  
24

STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH

DOCKET NO. W-354, SUB 398 AND 399

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of  
 Application by Carolina Water Service, )  
 Inc. of North Carolina For Election to )  
 Establish Rate Base for Carteret County )  
 Water System Under Fair Value )  
 Methodology Authorized by N.C.G.S. § ) REBUTTAL TESTIMONY OF  
 62-133.1A, and ) EUGENE FOXWORTH ON  
 ) BEHALF OF CARTERET  
 ) COUNTY  
 Application of Carolina Water Service, )  
 Inc. of North Carolina, 5821 Fairview )  
 Road, Suite 401, Charlotte, North )  
 Carolina 28209, for a Certificate of )  
 Public Convenience and Necessity to )  
 Provide Water Utility Service to the )  
 Carteret County Water System, and for )  
 Approval of Rates )

October 24, 2022

1 Q. **PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is Eugene Foxworth, and my business address is 210 Turner St,  
3 Beaufort, NC 28516.

4 Q. **BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

5 A. I am an Assistant County Manager with Carteret County. I oversee the  
6 Planning and Inspections Department for the County as well as Public  
7 Utilities, Public Works, Public Buildings, Parks and Recreation, and Public  
8 Transportation Departments for the County, and I discharge other duties  
9 as assigned.

10 Q. **PLEASE DESCRIBE YOUR EDUCATIONAL AND PROFESSIONAL**  
11 **BACKGROUND.**

12 A. I hold a Bachelor of Science Degree from East Carolina University. I have  
13 worked in North Carolina for a Council of Government as well as for  
14 Municipal and County Governments since 2001.

15 Q. **WHAT ARE YOUR DUTIES AS ASSISTANT COUNTY MANAGER WITH**  
16 **CARTERET COUNTY?**

17 A. I am responsible for the management of the departments listed above.

18 Q. **WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS**  
19 **PROCEEDING?**

20 A. My testimony explains the process and timeline of the County in the sale of  
21 the Water System as well as why this transaction serves the public interest.



Docket No. 354, Sub 398 and 399

1 Q. PLEASE DESCRIBE THE HISTORY AND PROCESS THE COUNTY  
2 USED TO REACH THE ASSET PURCHASE AGREEMENT WITH  
3 CAROLINA WATER.

4 A. The process began in in 2019 when the County received a NCDEQ Water  
5 Infrastructure Grant to study the merger of the County water system with  
6 the Town of Beaufort Water System. This initiative, by the State, is to  
7 “encourage water and wastewater utilities to become viable and more  
8 proactive in the management and financing of their systems”. At the  
9 conclusion of the study in March of 2020 and after both representatives of  
10 Draper Ayden and the County Manager and I had discussed results of the  
11 study with the Town of Beaufort, the Beaufort Town Manager informed us  
12 that the Town was not interested in pursuing merging the systems. In the  
13 meantime, Aqua NC contacted the County about potentially acquiring the  
14 water system. After consulting the County Commissioners and County  
15 Attorney we advised Aqua NC that our only viable and transparent means  
16 of selling the System was under NCGS 160A-269, the upset bid process.  
17 In June of 2020 Carolina Water Service contacted the County after learning  
18 of the Merger Study and inquired about purchasing the system. Both of  
19 these companies learned of the potential disposition of the system through  
20 articles in the local newspaper. In February 2021 Aqua NC offered a bid of  
21 \$7 million dollars for the system. That bid was upset, and advertised in the

Docket No. 354, Sub 398 and 399

1 paper five times, until Carolina Water Service ultimately bid \$9.5 million  
2 dollars in May of 2021. The County Commissioners approved the Asset  
3 Purchase Agreement with Carolina Water Service at their October 18, 2021  
4 Meeting.

5 **Q. HOW IS THE PUBLIC INTEREST SERVED BY THE SALE OF THIS**  
6 **SYSTEM?**

7 **A.** No one knows better what serves the public interest in their community than  
8 the local elected officials, as these officials, elected by the people, live and  
9 work in the communities they serve. Currently the system serves 1254  
10 households in a Water District that includes 3,875 parcels. Starting in 2011  
11 and until two years ago the owners of property in this district were paying  
12 5.5 cent per hundred dollars of valuation on both real and personal property,  
13 whether they were users of the system or not. They represented a very  
14 small percentage of our total population. This taxing district was needed to  
15 support the system because of the limited density in district, namely 1254  
16 customers on 54 miles of water line. Additionally, contributions from the  
17 General Fund were needed over the years to subsidize the system; those  
18 contributions were paid for by the approximately seventy thousand citizens  
19 of the county. If the system were sold at the Fair Value represented in the  
20 Asset Purchase Agreement, the debt on the system would be retired from  
21 the proceeds and the citizens of the County would receive approximately  
22 \$8 million dollars to help with other public necessities.

1 **Q. WHY IS THE UPSET BID PROCESS THE MOST FAIR AND EQUITABLE**  
2 **WAY TO DISPOSE OF PUBLIC PROPERTY AND DID THE PUBLIC**  
3 **PARTICIPATE IN THIS PROCESS?**

4 Under NCGS 160A-269 local governments in North Carolina may dispose  
5 of property by upset bid. This is a very commonly used process that has  
6 been used broadly and frequently by NC Local Governments. What is  
7 especially transparent about this process is that every upset bid must be  
8 advertised so that not only the bidders are aware but that the public is aware  
9 as well. In this particular instance these bids were advertised 5 times. The  
10 local newspaper covered the sale of the water system several times, which  
11 the County appreciated. A small group of citizens spoke at several  
12 meetings, most of which were represented at the October 18, 2022 NC  
13 Utilities Commission Hearing held in Beaufort. This purchase under  
14 N.C.G.S. § 62-133.1A is specific in how fair value is determined. I  
15 understand that this may be the first sale of its kind, but the plain language  
16 of NCGS 62-133-1A (b) c. states that for ratemaking purposes the "fair  
17 value" shall be the average of the three appraisals. All three appraisals  
18 were completed by NCUC approved appraisers and comply with the statute.

19 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

20 **A. Yes.**

1 MR. WHEATLY: May I proceed in asking  
2 him other questions not contained in the summary?

3 MR. GRANTMYRE: We would object to that.

4 COMMISSIONER HUGHES: Hold on just a  
5 second. I'm gonna --

6 (Pause.)

7 COMMISSIONER HUGHES: Before you repeat  
8 your request, you realize that there will be cross,  
9 there will be Commissioner questions, and then you  
10 do have the ability to do redirect and also address  
11 the Commissioners -- we don't typically have an  
12 extended question period at this point, but I just  
13 want to make sure that you know that there will be  
14 some opportunities, but I'll --

15 MR. WHEATLY: Well, that's no problem.  
16 I will be glad to do that and see, but as long as I  
17 could preserve, because Mr. Junis has said certain  
18 things with regard to County activities that --  
19 those issues need to be addressed. If the  
20 attorneys don't address them or y'all don't address  
21 them, I reserve the right to talk to him about it.  
22 Thank you, sir.

23 COMMISSIONER HUGHES: Okay. We'll  
24 proceed that way. Witness is open for cross.

1 Public Staff?

2 MR. CREECH: We -- is the Company not  
3 gonna -- are you gonna cross first? Do y'all have  
4 any cross?

5 MR. DROOZ: I do not.

6 MR. CREECH: You do not. Okay.

7 COMMISSIONER HUGHES: Yeah. I'm sorry.  
8 I understood they did not.

9 MR. CREECH: I'll try to make this  
10 quick. We have two Public Staff Foxworth rebuttal  
11 cross exhibits. One is a map, and then the other  
12 is a response to the Public Staff Data Request  
13 Number 11, and those are being handed out right  
14 now, effectively in a packet. So hopefully  
15 somewhat efficient. And then let's get a copy --  
16 we'll get a copy to you as well, Mr. Foxworth.

17 CROSS EXAMINATION BY MR. CREECH:

18 Q. Now, Mr. Foxworth, just so we could go ahead  
19 and get these marked -- oh, sorry.

20 So we could go ahead and get these marked,  
21 are you familiar with the map here that shows phases?

22 A. I am.

23 Q. Okay. And that's a map that you provided to  
24 the Public Staff, I think, in response to questions

1 about the phasing of the system, itself?

2 A. I did.

3 Q. Let me take one -- let me take one step back  
4 and say that, as an introductory matter, whatever  
5 Mr. Grantmyre said effusively for Mr. Denton, we share  
6 that as well. Working with you and your office has  
7 been exceptional, in terms of your demeanor and the  
8 whole scenario, so really appreciate that.

9 A. Thank you. And vice versa.

10 MR. CREECH: I would like to mark this  
11 map as Public Staff Foxworth Rebuttal Cross  
12 Examination Exhibit Number 1 if I can, please.

13 COMMISSIONER HUGHES: Let it be marked.  
14 (Public Staff Foxworth Rebuttal Cross  
15 Examination Exhibit Number 1 was marked  
16 for identification.)

17 Q. And, Mr. Foxworth, if you will, just for a  
18 moment, say what these phases represent and when the  
19 phases were built?

20 A. I will tell you to the best of my knowledge.  
21 Of course, I was not -- I wasn't working for the County  
22 when they were built, so I only know what I read. So  
23 these represent the different phases of the Carteret  
24 County water system. I think it's phase 1, 2, and 3.

1 They are labeled here on the map.

2 Q. All right. And do you know when the  
3 system -- when the system was -- when various phases  
4 were built, or how old they are?

5 A. Phases on the east side of the map are  
6 labeled -- I believe it looks like phase 3 -- or phase  
7 2, and then phase 3 were some of the first -- or phase  
8 2 was the first part. That was the small part of the  
9 system. And I think it was built maybe in the late  
10 '80s. The others were built in the early 2000s.

11 Q. Very good. And then let's move on to the  
12 second exhibit here. That is Public Staff Foxworth  
13 Rebuttal Cross Examination Exhibit Number 2. And it  
14 says it's Public Staff Data Request Number 11, and I'll  
15 ask you a couple of questions here as we get started  
16 here in advance of this.

17 First of all, there have been no -- there are  
18 no environmental issues or other violations with the  
19 system that you're aware of, are there?

20 A. No, sir.

21 Q. And, of course, the County has the right to  
22 enter into the contract that has Carolina Water. If it  
23 wants to sell, it can sell, and if it wants to contract  
24 it can contract; that's correct?

1 A. Yes, sir.

2 Q. And the reason why I have this data request  
3 in front of you is because we know that, in your  
4 testimony, you say that -- and folks might agree --  
5 that the local county government is keeping in mind the  
6 public interest of the local folks there; isn't that  
7 correct?

8 A. Yes.

9 Q. But you would concede that there has been  
10 some opposition to the transfer that's reflected in a  
11 4/3 vote, and regardless of level of opposition, there  
12 has been some opposition down there, has there not?

13 A. Yes, sir.

14 Q. Okay. So the reason why I attached this,  
15 y'all provided, and -- we asked for, and y'all provided  
16 a copy of any petitions that you received. And so  
17 you'll see here -- and the reason why this is an  
18 interesting data response here is because we sent the  
19 data response and the -- Carolina Water answered part  
20 of it, and then the County answered part of it. And so  
21 you see that on the first page here, page 1 of 3, below  
22 the top rebuttal continues, it says CWSNC responses are  
23 incorporated below. Response from the County will be  
24 provided by the County. So the first three pages are



1 responses from the Company. And then go to the next  
2 page, which says page 1 of 2, and that's where it says  
3 the topic is rebuttal continued, and these were the  
4 County's responses 1 of 2 and 2 of 2, and then we get  
5 to the petition.

6 And so you recognize that petition,  
7 Mr. Foxworth?

8 A. Yes, sir.

9 Q. All right. And this is a petition of --  
10 presumably based upon sending it to folks in opposition  
11 to the transfer, is it not?

12 A. I don't know whether they were in opposition  
13 of the transfer. I understand this position -- this  
14 petition was passed out several locations. It simply  
15 says "save our water." It could be ocean water, could  
16 be the sound water, could be the Carteret County water  
17 system. I'm not sure.

18 Q. That's fine. That's fine. On one of the  
19 pages it does say, and I think it's one, two, three,  
20 four, five -- I guess it says "don't sell our water"  
21 petition. It's a "don't sell our water" petition.  
22 Maybe the sixth page there. I don't know if that means  
23 water system or --

24 A. I see it. I see it. I see it. Yes, sir.

1 Q. Well, just for the -- so folks put in their  
2 name, and they sign -- they put in their address, they  
3 put in their email address, they put in their phone  
4 number, didn't they, here?

5 A. It does appear so; yes, sir.

6 Q. They even went about signing, right?

7 A. Yes, sir.

8 Q. Okay. Very good. All right. Let's move on  
9 here if we can.

10 There were -- you know, one of the clarifying  
11 questions, I think, that have come up -- and you talk  
12 about the bid process here and the funds not being  
13 received from the County. What about -- what about --  
14 and you talk about how you -- Draper Aden came into  
15 discussions.

16 How -- in the Draper Aden report, that we've  
17 got about three different copies of -- there is  
18 reference to the water fund and \$5.8 million on that.

19 Can you -- can you -- what is that -- what is  
20 that water -- what is that water fund?

21 A. Ms. Meshaw is here, our financial director --

22 Q. Okay.

23 A. -- and other assistant county manager. She  
24 would be more appropriate to answer any of these

1 questions about finance on this.

2 Q. All right. All right. Can you take a --  
3 well, understood. Just one clarifying question.

4 If -- do you -- do you have any expectation  
5 that any of those funds, if they're not paid back to  
6 government sources and et cetera, could be available to  
7 the County after the closing? Do you know that?

8 A. Don't know.

9 Q. Okay. Very good. All right. So I'd like to  
10 set up for you just quickly, if I can -- obviously, you  
11 said the County has the right to contract in here.  
12 Y'all think you're working in the public interest. And  
13 that sales, kind of, pre- -- I'd say -- former  
14 transactional lawyer -- that's a preclosing kind of  
15 scenario, and then you get to closing, and you get your  
16 money, okay? And this is not exactly how this works,  
17 but we're here talking about really the post-closing  
18 treatment of these funds, right? So you understand  
19 that the County's working in the best interest of  
20 its -- of its taxpayers, so ratepayers there. It's  
21 contracting getting that \$9-and-a-half million; isn't  
22 that right?

23 A. Yes, sir.

24 Q. And then -- but the post-closing treatment --

1 and that's your purview, but the post-closing treatment  
2 with that, at least in theory, is with this Commission,  
3 and that is really what a lot of this is about,  
4 determining the fair value, aside from the purchase  
5 price, the fair value and how it impacts rates; do you  
6 understand that?

7 A. (No verbal response.)

8 Q. Okay. And, you know, we -- you were at the  
9 public hearing there, and you heard feedback from  
10 folks, and talked a little bit about the opposition,  
11 and you reference it in your testimony. You know, that  
12 one of the things that came up was -- that one of the  
13 questions that came up, well, what are you gonna do  
14 with the -- do with the money post-closing? And do you  
15 think that, really, what the County does post-closing,  
16 whether it's airport, general services, even a jail, is  
17 that really -- that's internal County business, right?  
18 That really should not impact the process here; is that  
19 right?

20 A. I don't think so.

21 Q. Okay. And so the County, understandably,  
22 doesn't want anybody telling them what they can do with  
23 the funds post-closing, et cetera, right? I mean,  
24 not --

1           A.       That would be the decision of the  
2 Commissioners, as far along with public purpose.

3           Q.       Yes, sir. And one of the things --

4                    COMMISSIONER CLODFELTER: Mr. Foxworthy  
5 [sic], you may need to pull the microphone just a  
6 little bit closer to you. I hear you, but you're  
7 faint.

8                    THE WITNESS: Thank you, sir.

9           Q.       Now, in terms of -- one question I have, and  
10 I wasn't exactly sure where to put it, and we talked  
11 about the contract here, and what's in the contract and  
12 what's not.

13                   In terms of the post-closing rate base, how  
14 the rate base is gonna be treated, how the North  
15 Carolina Utilities Commission deals with this, is  
16 that -- I don't -- I see a section in the contract that  
17 goes to, you know, I think, regulatory, kind of,  
18 participation, that kind of thing, but is there any  
19 condition in y'all's contract with Carolina Water that  
20 explicitly says if this -- if this proceeding right  
21 here doesn't go the way that the folks want it to go,  
22 that the deal is off?

23           A.       No, sir. Not that I'm aware of.

24           Q.       Okay. Now, let's see here. All right. So

1 you understand that Carolina Water has -- or at least  
2 have learned -- relearned that Carolina Water, and I  
3 think, if you'll accept this subject to check -- has  
4 about 34,000 water customers and about 21,000  
5 wastewater customers -- sewer customers across the  
6 state. Would you accept that, subject to check?

7 A. Certainly.

8 Q. And I think that's about 93 water systems and  
9 38 wastewater systems. Accept that subject to check?

10 A. Yeah.

11 Q. And I think it's in 38 counties from Corolla  
12 in Currituck County to Bear Paw in Cherokee County. So  
13 it seems like the reason why we're here today is not  
14 because the County doesn't have the authority to sell  
15 at whatever price it wants to sell. You know, even if  
16 it's got some local opposition, that's for the County  
17 to decide. They can make that call. But one of the  
18 key premises here, and see if you understand, is, you  
19 know, the way that these funds are treated post-closing  
20 and whether the premium -- and one of the speakers at  
21 the public hearing talked about it. They said that it  
22 was whether the premium, whatever it is, \$8 million  
23 above what is owed on the system and whatever goes to  
24 shareholders, whether that should be paid solely by

1     them or whether it would be -- and y'all take the money  
2     and do whatever you want to do with it -- or if that's  
3     gonna be spread out among customers all across the  
4     state; do you understand that?

5             A.     Yup.

6             Q.     Okay.  So one of the main, kind of, brass  
7     tacks questions here is why should customers,  
8     taxpayers, and other county commissioners'  
9     jurisdictions all across the state, why should their  
10    customers, taxpayers, in 37, 38 other counties --  
11    Currituck, Cherokee, anywhere else in between --  
12    effectively have to pay for, you know, upgrades in what  
13    is a wonderful county, Carteret County?

14            A.     Isn't it the purview of this Commission to  
15    set those rates and decide that?

16            Q.     It is.  It is.  It is.

17            A.     All right.  Just making sure.

18            Q.     It is.  All right.  Those are my questions.

19                    COMMISSIONER HUGHES:  Okay.  So  
20    redirect?

21    REDIRECT EXAMINATION BY MR. WHEATLY:

22            Q.     Mr. Foxworth, were you present during the  
23    negotiations concerning the sale of the water company  
24    to the town of Beaufort?

1           A.     Yes, sir.

2           Q.     Would you describe to the Commission and the  
3 Public Staff what occurred in that situation?

4           A.     Mr. Burns and I went and met with the town  
5 manager, presented the study to him. He had already  
6 talked with Draper Aden and had a copy of the study.

7           Q.     Who did the study?

8           A.     Draper Aden Associates.

9           Q.     Why did they do the study?

10          A.     The State funded the merger study -- a merger  
11 study for the -- for Carteret County to look at the  
12 feasibility of merging our system with the Town of  
13 Beaufort.

14          Q.     Did any of these propositions with regard to  
15 merging with Town of Beaufort ever come before our  
16 county commissioners?

17          A.     No, sir.

18          Q.     And, basically, you and Mr. Burns went to the  
19 Town to see if they were interested pursuant to the  
20 study?

21          A.     Yes, sir.

22          Q.     You had no authority to enter into any kind  
23 of agreement?

24          A.     No, sir.



1 Q. And the Town of Beaufort did what?

2 A. Emailed us. The town manager emailed  
3 Mr. Burns and I to let us know that they were not  
4 interested in pursuing that.

5 Q. And that's as far as it went?

6 A. Yes, sir.

7 Q. Now, with regard to the rate changes that had  
8 been testified by Mr. Junis with regard to the change  
9 that occurred after the meeting, according to the  
10 minutes that he looked at, what occurred while the  
11 commissioners raised those rates 95 percent?

12 MR. CREECH: I'd like to just  
13 momentarily object. Only, this is beyond the scope  
14 of the cross. Having said that, the Commission may  
15 want to hear this at some point in time, and that  
16 will be entirely in the Commission's discretion.

17 COMMISSIONER HUGHES: Yeah, as I said, I  
18 will give you some slack, but just try to reference  
19 it as much as you can. Tighten it up.

20 MR. WHEATLY: I'm trying to do it as  
21 quick as I can, sir, but also, Mr. Junis raised  
22 these issues on his direct, and it would be proper  
23 for rebuttal. So at least that's my opinion. If  
24 it differs with yours, I'm sorry, sir.

1 MR. GRANTMYRE: Of course, the Company  
2 should have -- or County had the option to file  
3 rebuttal, in which we could have had discovery, but  
4 they never did on that subject. And now, all of a  
5 sudden, at the last minute, they're bringing it up  
6 at the hearing.

7 MR. WHEATLY: May I proceed, sir?

8 COMMISSIONER HUGHES: We're gonna take a  
9 quick break. It's been about two hours, and it  
10 looks like this is gonna go on longer than 10  
11 minutes. So I want to give a quick break for the  
12 court reporter, and we will be back here -- we will  
13 be back here in 10 minutes, say at 4:05, and then  
14 I'll make a decision.

15 (At this time, a recess was taken from  
16 3:56 p.m. to 4:05 p.m.)

17 COMMISSIONER HUGHES: We're gonna go  
18 back on the record. A few things. First off, I  
19 think there was a request that I didn't really  
20 address about possibly having some people in the  
21 room that can answer some of these finance  
22 questions a little more appropriately. And just to  
23 expedite things, get things through -- we're gonna  
24 leave here today. If there is someone you want to

1 join the panel that you feel like, that's here,  
2 that can answer some of the finance questions -- I  
3 see someone smiling there -- feel free, and I'll  
4 swear them in and we'll get started. As far as you  
5 continuing with your questions, keep going. Try to  
6 do it in 10 minutes. Please try to get done in  
7 10 minutes.

8 MR. WHEATLY: Five minutes.

9 COMMISSIONER HUGHES: Five minutes,  
10 okay. And just so you know, we do have some  
11 questions. What we want to know is some things  
12 related to the upset bid process, related -- we  
13 want to know a little more about the history of the  
14 rates increases. So if you want to ask those  
15 now -- otherwise, rest assured, we're gonna ask  
16 those. So if you would, you can call the  
17 additional.

18 MR. WHEATLY: Mr. Foxworth --

19 MR. DROOZ: Excuse me, one question on  
20 procedure. Would it be appropriate for that  
21 finance person to sit as a panel with Mr. Foxworth  
22 so she could come up now and be sworn in?

23 COMMISSIONER HUGHES: Yes. That's what  
24 I was saying. I was not clear.

1                   Mr. Wheatly, you could introduce her,  
2                   and we'll get her sworn in.

3                   DIRECT EXAMINATION BY MR. WHEATLY:

4                   Q.       State your name, please.

5                   A.       Dee Meshaw.

6                   Q.       And what is your address?

7                   A.       302 Courthouse Square, Beaufort,  
8                   North Carolina 28516 is my work address.

9                   Q.       And what is your occupation?

10                  A.       Assistant county manager, the finance  
11                  director for Carteret County. I'm also a certified  
12                  public accountant.

13                  Q.       How long have you been finance director for  
14                  Carteret County?

15                  A.       A little over 24 years.

16                  Q.       And were you there at the time the  
17                  construction began with the water system?

18                  A.       Yes, sir.

19                                COMMISSIONER HUGHES: Before you go -- I  
20                                trust she was honest about her name. Before we go  
21                                through some of the other --

22                                MR. WHEATLY: Old age blocking.

23                                COMMISSIONER HUGHES: No, no.

24                   Whereupon,

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DEE MESHAW,

having first been duly sworn, was examined  
and testified as follows:

COMMISSIONER HUGHES: Okay. You can  
continue.

MR. WHEATLY: Mr. Chairman, I'll  
continue with Mr. Foxworth right now, unless you  
want to start asking questions about all this, and  
it may be quicker to do it that way.

COMMISSIONER HUGHES: No. Just -- you  
go ahead. I just want to get everything done. Go  
ahead with your -- and I heard you promise five  
minutes, so go ahead with your five minutes.

MR. WHEATLY: That was Mr. Foxworth.

COMMISSIONER HUGHES: Okay.

Q. Mr. Foxworth, in June of 2021, were you aware  
of the time when the tax rate for the water district  
was eliminated and the water rates were increased?

A. (Eugene Foxworth) I was.

Q. Explain to the Commission what happened.

A. As part of the budget process, the  
Commissioners eliminated the tax rate in the tax  
district and asked us to -- asked staff to put together  
a rate that would make the system whole, to make the

1 system solvent. That was done. That rate was held  
2 during the month of July and August, and in September,  
3 because of the public outcry, the Commissioners reduced  
4 the rate, I believe approximately 25 percent.

5 Q. Now, was there any collusion or involvement  
6 with Carolina Water during that period?

7 A. Absolutely not.

8 Q. Now, have you dealt with Ms. Meshaw in trying  
9 to come up with a current sustainable rate of what it  
10 would take to create water rates that would pay for  
11 itself, make the system pay for itself?

12 A. I have.

13 Q. And what is the result of those calculations?

14 A. (Witness peruses document.)

15 That would be \$98.77 for 4,000 gallons.

16 Q. And going to Ms. Meshaw, does that also  
17 include depreciation?

18 A. (Dee Meshaw) Yes, sir. It includes setting  
19 aside capital for future needs.

20 MR. WHEATLY: That's all I have, sir.

21 Any questions for the panel, or anybody else, I  
22 guess?

23 COMMISSIONER HUGHES: Okay. We will  
24 move to the Commissioner questions.

1 Commissioner Clodfelter?

2 EXAMINATION BY COMMISSIONER CLODFELTER:

3 Q. My question is for whichever one of you can  
4 answer. So whoever can answer, jump in.

5 Have either one of you looked at Mr. Junis'  
6 prefiled testimony, his written testimony?

7 A. (Eugene Foxworth) Yes, sir. It's been some  
8 time back.

9 Q. There was a table, and he was asked about --  
10 there was a table in the testimony in which he tried to  
11 set out the sequence of the bidding process. Do you  
12 recall looking at that? Maybe your counsel can get a  
13 copy of that in front of you so that -- okay.

14 Mr. Junis is gonna bring you a copy.

15 It's Table 3 on page 14 of the testimony  
16 Mr. Junis filed before the hearing.

17 A. Very good. Yes, sir, we have it in front of  
18 us.

19 Q. You do?

20 A. Yes, sir.

21 Q. Well, I guess I ought to ask you first, is  
22 that an accurate sequence of what went -- how the  
23 bidding went?

24 A. I think -- let me look at my records right

1 here. I think there may be a bid missing.

2 (Witness peruses document.)

3 Q. If it helps you --

4 A. Sir, there was a bid. We just found it.

5 There was a 7.875 bid.

6 Q. \$7.875 million bid?

7 A. Yes, sir, between --

8 Q. Who placed that bid?

9 A. Looks like Aqua.

10 Q. Was it Aqua?

11 A. Yes, sir.

12 Q. And when did -- when was that bid placed?

13 A. (Witness peruses document.)

14 Q. Was it between March 1st and March 23, 2021?

15 A. 21st of March. 21st of March.

16 Q. 21st of March?

17 A. Yes, sir.

18 Q. Okay. With that added into the chart, is  
19 that chart -- that Table 3, is it correct otherwise?

20 A. To the best of my knowledge; yes, sir.

21 Q. Thank you, sir. Can either one of you  
22 discuss with us why the County decided to use the  
23 negotiated bid followed by advertisement and upset bid  
24 process, rather than to call for sealed bids for the



1 sale?

2 A. We commonly use the upset bid process on most  
3 of our -- most of our processes. Whenever we dispose  
4 of public property, we use upset bid. And in talking  
5 with our County Commissioners, we felt like that was  
6 the best way to move forward with it.

7 Q. Did you discuss using a sealed bid with them?

8 A. No, sir, we didn't discuss using a sealed  
9 bid.

10 Q. It just wasn't an option discussed?

11 A. No, sir, it was not.

12 Q. And have you ever used a sealed bid process  
13 for anything?

14 A. We may have, but not to my recollection. It  
15 hasn't been recently. Hasn't been during my tenure.

16 Q. It's not something you're regularly familiar  
17 with?

18 A. Yes, sir. Well, I'm familiar with the  
19 process, but it's not something we regularly use.

20 Q. Thank you for that correction.

21 A. Yes, sir.

22 Q. Now, let me make sure -- I want to do this as  
23 quick as we can. So in connection with Mr. Junis'  
24 testimony, there was some minutes from the County

1 Commissioner meetings that was Public Staff Junis  
2 Redirect Exhibit Number 3, and I don't know if that's  
3 there in front of you, but I hope it is.

4 A. I have some of Mr. Junis' testimony in front  
5 of me.

6 Q. Okay. These look to be the minutes of the  
7 meeting on February 15th. Well, I don't know if it's  
8 February 15th, because the pages are not in sequence.  
9 Darn it, the pages are not in sequence.

10 MR. CREECH: That was the problem in  
11 handing it up.

12 Q. Mr. Foxworth, there is a page in that exhibit  
13 that's got number 149 up at the top right-hand corner  
14 of the page, and that's the one I want to look at. I  
15 wish I could do better to help you find it, but  
16 that's --

17 A. I see it.

18 Q. Okay. Now, at the bottom of that page there  
19 is Roman numeral 8, it says discussion regarding the  
20 County-owned water system, and just read to yourself  
21 that paragraph there silently. I don't need you to  
22 read it out loud, but read it to yourself, and then  
23 I'll ask you the question. When you're done, let me  
24 know.

1           A.       (Witness peruses document.)

2                    Yes, sir.

3           Q.       Did the fact that y'all -- the County was  
4 trying to get Carolina Water Service to commit to hold  
5 the rates, did that have anything to do with the  
6 Commissioners' decision to increase the rates in the  
7 2022 budget by 95 percent?

8           A.       No, sir, I don't believe it did.

9           Q.       Didn't have any connection?

10          A.       No, sir, I don't believe it did.

11          Q.       Okay. Do you have any different  
12 recollection?

13          A.       (Dee Meshaw) I agree with Mr. Foxworth.

14          Q.       Okay. That's all I have. Thank you.

15                    COMMISSIONER HUGHES: Commissioner  
16 McKissick?

17                    EXAMINATION BY COMMISSIONER MCKISSICK:

18          Q.       Just a couple quick questions. You mentioned  
19 this \$98.77 per 4,000 gallons.

20                    Now, I take it that's the rate that would be  
21 paid by, basically, the 1,254 customers that are  
22 current on the system?

23          A.       (Dee Meshaw) Yes, sir. That's based of the  
24 3-quarter-inch meters. I mean -- yeah, 3-quarter-inch

1 meter; yes, sir.

2 Q. And that would provide sufficient revenue to  
3 make the system self-supporting and also provide a  
4 capital reserve fund?

5 A. Yes, sir.

6 Q. All right. Now, I take it that the -- I  
7 guess the revenue that might be generated from the  
8 water service district, those people, I guess, getting  
9 fire suppressing service, they wouldn't be paying  
10 anything in? Or would that continue to exist, or what  
11 would happen with it?

12 A. If the County Board of Commissioners  
13 increased this recommended rate, if we maintain the  
14 system, there would be no need to levy the special  
15 district tax. So they would not continue to pay that  
16 five and a half cents.

17 Q. Even though they're receiving fire  
18 suppression service?

19 A. I don't think our system was really designed  
20 for fire suppression service, but I'm not an expert  
21 with that.

22 A. (Eugene Foxworth) It is not. We don't  
23 provide -- the system doesn't provide fire flows in  
24 most areas.

1 Q. So there are fire hydrants there, but I guess  
2 the fire hydrants run throughout the community and  
3 provide service other than to, I guess, the 1,254  
4 customers? Are you saying the fire hydrants are  
5 present but not utilized?

6 A. To flush the lines; yes, sir.

7 Q. Just to flush the lines?

8 A. To flush the lines; yes, sir. They also --  
9 some of the departments use them to fill tankers and  
10 things like that, but as far as flows, the system -- in  
11 most areas --

12 Q. So it's really just for maintenance purposes?

13 A. Yes, sir.

14 Q. As opposed to fire suppression purposes?

15 A. Yes, sir.

16 A. (Dee Meshaw) Yes, sir.

17 Q. Got it. I was left with a different  
18 impression earlier. Let me ask you this. I've heard  
19 some discussion about some -- I think it was 237 people  
20 that have paid in funds.

21 Can you explain to me what type of program  
22 that is and how long a period of time it's existed and  
23 why these people, perhaps, are not connected to the  
24 system?

1           A.     I can't tell you why they chose not to  
2 connect onto the system. I cannot give you the  
3 specific dates, but it -- with -- there were two  
4 programs, phase one and phase two. So it would have  
5 been in the early 2000s. Maybe even up to 2005 and  
6 '06. And it was an incentive to try to encourage  
7 potential water customers to connect to our system.  
8 And so they -- their contract would be that they would  
9 pay a certain flat amount for so many months. And then  
10 they had fulfilled their contract. The meter, it was  
11 put in the ground, and everything is done on the County  
12 side of owning the lines. And then at which time --  
13 when the customer decided to connect, they would not  
14 have to pay any connection or tap fees or anything like  
15 that. The homeowner would just incur the expense from  
16 their house to the meter box. We had a lot that  
17 connected and have connected over the years. We have  
18 maintained a list and flagged those people so that, at  
19 whatever time, if they choose to connect to our system,  
20 we have -- we know they have fulfilled their  
21 contractual obligation, and there are 237 of those.

22           Q.     Two hundred thirty-seven?

23           A.     Yes, sir.

24           Q.     And why do you believe -- I mean, obviously,

1 when this system was built, designed, constructed, it  
2 was anticipated that it would have, I guess, far  
3 greater number of users than it has. I mean, it looks  
4 like there are 3,875 parcels you cover and some 2,167  
5 structures.

6 To what would you attribute the lack of  
7 participation by people actually connecting onto the  
8 system?

9 A. I just do not know. With the county -- due  
10 to the size of the project, we contracted with an  
11 engineering firm that managed the design and everything  
12 with that project. He was the project -- that firm was  
13 the project lead all the way through. He had stated to  
14 the Board many times at board meetings, like, he would  
15 anticipate a certain percentage to connect, and that  
16 percentage just didn't come to fruition. It was a  
17 significant disappointment to all.

18 Q. And I take it that the people that have not  
19 connected have wells that they are utilizing?

20 A. Yes, sir, they do.

21 Q. Are any of those community wells?

22 A. No, sir. I don't -- well, I do not think any  
23 of them are. I think most of them are to their  
24 homeowner -- residential specific.

1 Q. Thank you. I don't have any further  
2 questions.

3 COMMISSIONER HUGHES: Commissioner  
4 Duffley?

5 EXAMINATION BY COMMISSIONER DUFFLEY:

6 Q. Good afternoon. So my first question is a  
7 follow-up to Commissioner Clodfelter's questions to  
8 Mr. Foxworth.

9 So I just want to confirm that the sealed bid  
10 process is a viable option that's available to the  
11 County?

12 A. (Eugene Foxworth) It is.

13 Q. And they just chose not to use it --

14 A. Yes, ma'am.

15 Q. -- correct? Okay.

16 And then I thought I heard Mr. Denton testify  
17 that, if this Commission determines the fair value at a  
18 level, let's say, that the Public Staff advocates, that  
19 his company can walk away from the APA, and I thought I  
20 heard you testify to something to the opposite. And so  
21 I just -- are you disagreeing with  
22 Mr. Denton's testimony?

23 A. No, ma'am. I think what I meant was I was  
24 not aware of any language in there. Either they could



1 or they could not; I was not aware of any language.

2 Q. But -- so I'm asking your understanding of  
3 the agreement, if the fair value -- let's say we set it  
4 at \$2 million. Do you believe that CWS can walk away  
5 from the deal?

6 A. Yes, ma'am, I think they can.

7 Q. Okay. Thank you. And then I'd like to  
8 present a hypothetical that -- let's assume that we set  
9 the fair value with Public Staff and the deal does not  
10 close. I heard Mr. Junis testify that the County, if  
11 they really wanted to sell it, they could go back to  
12 the drawing board, and I kind of wanted to hear your  
13 views on that.

14 What would the County do if this deal did not  
15 go through?

16 A. I think we would have to go back to the  
17 drawing board. I think we would have to go back to our  
18 elected officials and look to see how we would proceed  
19 with it. I'm not certain how we would.

20 Q. Okay. Thank you. And as an operator, I know  
21 that Carolina Water is the operator currently. I think  
22 they said July of 2021, since July of 2021; is that  
23 accurate?

24 A. No, ma'am. February. February of this past

1 year; yes, ma'am.

2 Q. February of 2022?

3 A. Yes, ma'am.

4 Q. Okay. And prior to that, was it the  
5 County --

6 A. Yes, ma'am, it was. It was.

7 Q. -- as the operator?

8 A. Yes, ma'am.

9 Q. And then, at the public witness hearing,  
10 there was some discussion about this \$8 million and  
11 what the County might do with that.

12 Has there been any discussion amongst the  
13 Commissioners about providing some of this back to the  
14 water customers?

15 A. No, ma'am. That hasn't been part of the  
16 discussion. Not that I've heard; no, ma'am.

17 Q. Okay. That has not been a part, okay. And  
18 then I just want to make sure of your understanding.  
19 Let's say that the Commission approved the application,  
20 the fair value application, and ruled the \$9.5 million,  
21 and then the Commission hypothetically decided to do  
22 standalone rates.

23 Do you understand who would pay that, those  
24 rates? Who do you think would pay those rates?

1           A.       I'm not certain.  Would it be the customers  
2 in the district?

3           Q.       So the 1,234?  Is that your understanding,  
4 that it would be the 1,200 -- I probably don't have  
5 that exact -- 54 customers?

6           A.       It would -- just from what I learned here in  
7 the last two days; yes, ma'am.

8           Q.       So when you were making your decisions, you  
9 didn't realize that's a possibility?

10          A.       No, ma'am.  But I understand that y'all have  
11 the ability to set the rates where you see fit.

12          Q.       Okay.  Thank you.  Nothing further.

13                    COMMISSIONER McKISSICK:  Just one quick  
14 thing.

15                    COMMISSIONER HUGHES:  Sure.  Please,  
16 Commissioner.

17 EXAMINATION BY COMMISSIONER McKISSICK:

18          Q.       And I believe I heard your explanation  
19 earlier, but if the County were to sell the system and  
20 net this \$8 million, do they have to repay any of the  
21 loans or grants they received -- excuse me, grants they  
22 received?  I guess it was about \$6 million in grants  
23 that got received when it was constructed.

24          A.       (Dee Meshaw)  Commissioner, we would, you

1 know, certainly have to pay off our loans that -- the  
2 USDA and the Umstead revolving loan. We are in the  
3 process of reviewing the grants and contacting grantor  
4 agencies, such as USDA, and getting clarification on  
5 the language. So we're uncertain at this time if any  
6 of the grants would have to be paid back as well, but  
7 if we do, we will fulfill our obligations.

8 Q. Thank you.

9 COMMISSIONER HUGHES: Chair Mitchell,  
10 please?

11 EXAMINATION BY CHAIR MITCHELL:

12 Q. Just a few quick ones. Will you-all confirm  
13 for me that, were the County to sell these systems, the  
14 County would not own any additional water facilities?

15 A. (Eugene Foxworth) Yes, ma'am, you're  
16 correct.

17 Q. Okay. I read that somewhere. I think I read  
18 that somewhere in the evidence, I just couldn't  
19 remember, so that's why I needed your confirmation.

20 Why -- just provide a little context. Why  
21 did the County build this facility? I recognize that  
22 might have been before y'all's time, but just help me  
23 understand what you-all know.

24 A. (Dee Meshaw) This is -- my recollection is

1 that -- and there was some of the areas that we have  
2 customers now, and I don't know the section, but I  
3 remember people coming in environmental health, talking  
4 to the County, that there were some customers having  
5 trouble with wells, and their wells, you know, needing  
6 replacement going back. And then -- I wasn't involved  
7 with general services work, and then the County started  
8 looking at options, and it grew from there, and ended  
9 up getting almost \$3 million North Carolina DEQ grant  
10 to build a plant and start doing some lines. And then,  
11 after that, we got subsequent grants to build  
12 additional infrastructure. That's the best I can  
13 answer for the County's philosophy on it.

14 Q. Okay. But there wasn't any precipitating  
15 event?

16 A. No, ma'am.

17 Q. I mean, you mentioned public health --

18 A. No, ma'am.

19 Q. -- and discussion of wells that might have  
20 been -- reached their end of life or otherwise had  
21 water quality issues or something to that effect?

22 A. There may have been a few wells, but gosh, it  
23 was so long ago. It wasn't -- it wasn't a great  
24 number, but I do remember discussion of a few.

1 Q. Okay. And then, again, to the extent that  
2 you-all know, why does the County want to get out of  
3 the business of providing water service?

4 A. (Eugene Foxworth) With it being a rural  
5 district as it is, and the fact that it takes us as  
6 much staff as it does to run it, we just think it may  
7 be better run in the private sector.

8 Q. Okay. And why did -- why, again, to the  
9 extent that you know, why did Beaufort not want to take  
10 the system?

11 A. They never gave us an explanation for that.

12 Q. Just said no?

13 A. Yes, ma'am.

14 Q. Do they have their own water system for their  
15 jurisdictional load?

16 A. Yes, ma'am.

17 Q. Okay. And do you know about how many  
18 customers the Town of Beaufort serves?

19 A. No, ma'am, I don't.

20 Q. Water customers?

21 A. No, ma'am, I don't.

22 Q. Okay. The -- what can you-all tell us about  
23 the specifics of this system? I think 3,000-plus  
24 parcels are served or have access to the system, and

1 about half of those or less than half have actually  
2 taken service?

3 A. That's right.

4 Q. Are those parcels that have not yet taken  
5 service, are they -- I recognize some of them may be  
6 serviced by wells, but are the rest of them vacant,  
7 unoccupied? What can you tell me?

8 A. Right. So there -- so 1,254 households,  
9 there is 3,875 parcels in the district. Of those -- I  
10 was looking for my exact numbers -- just over, I think  
11 it's 2,100. Here it is. So 2,167 show some structure  
12 value on them. It's just -- it's an area that's not  
13 one of the -- it is a growing area, but not a very  
14 quickly growing area in the county, so we're not seeing  
15 that escalation, as far as growth.

16 Q. Okay. So assuming from -- I'm assuming  
17 you're looking at the tax rolls to find the -- to  
18 identify those 2,100 properties?

19 A. Yes, ma'am. That was some GIS analysis we  
20 did on them.

21 Q. So 2,100 customers could be connected,  
22 presumably, just if you accept that there is something  
23 on the -- there is a parcel --

24 A. There is some structure.

1 Q. Yeah. There is structure on the property  
2 that needs to be served?

3 A. Yes, ma'am.

4 Q. Okay. Okay. In establishing the tax  
5 district, does the district encompass only the area  
6 that's served by the system, or does it encompass area  
7 outside of parcels that could be served by the system?

8 A. To the best of my knowledge, it can all be  
9 served by the system.

10 Q. Okay. So any parcel inside the tax district  
11 that was paying the tax could be served by the system?

12 A. Yes, ma'am.

13 Q. Okay. That makes sense. I just wanted to  
14 confirm.

15 A. Now, how close it is -- I mean, you know, it  
16 may be greater for some and less than others, but I  
17 believe they can all be served.

18 Q. Okay. All right. That's all I have. Thank  
19 you.

20 COMMISSIONER HUGHES: Okay. One  
21 question. Hopefully it's a quick one or two.

22 EXAMINATION BY COMMISSIONER HUGHES:

23 Q. We've heard a little bit about the --  
24 sorry -- the fund balance. There was some reference --



1 I don't know if you were listening earlier. It was an  
2 over \$5 million number -- \$5 million number, if I'm not  
3 mistaken. That just surprised me for a system with a  
4 revenue --

5 Is that accurate, that you have -- and is  
6 that a County fund balance amount or is that an  
7 enterprise fund balance?

8 A. (Dee Meshaw) Commissioner Hughes, I don't  
9 want to sound too much like a geeking accounting nerd,  
10 but the \$5.8 million is the net position, which is  
11 equity in the enterprise fund. So that's the -- which  
12 is not the same thing as everyone thinks of fund  
13 balance, for your governmental funds and your amount of  
14 spendable money.

15 Q. Yeah. No. That's what I, sort of, assumed.

16 So what is your fund balance, in terms of  
17 cash or how the LGC would see it for the water  
18 enterprise? Do you have a separate fund balance just  
19 for the water enterprise?

20 A. We don't calculate it that way. We probably  
21 have 1.9 of spendable cash that's not restricted, so.

22 Q. That's just for -- that you could use for the  
23 water system or that's County, in general?

24 A. Yes, sir. No, that you could use for the

1 water system that's in the water fund. And the water  
2 fund is the only place that has the cash for that fund.

3 Q. Okay. So that higher number wasn't -- you  
4 are not gonna be able to use that money to buy  
5 schools -- to build schools?

6 A. No, sir. No, sir.

7 Q. Okay. I think there was also mention that  
8 you may have applied for some state funds in the fall  
9 for this round four-year system; is that -- to your  
10 knowledge, is that correct?

11 A. Neither one of us are aware of that.

12 Q. Okay. I don't have any further questions.

13 COMMISSIONER HUGHES: Any questions?

14 (No response.)

15 COMMISSIONER HUGHES: Okay. We'll take  
16 questions on Commission questions.

17 MR. CREECH: Thank you.

18 EXAMINATION BY MR. CREECH:

19 Q. Quickly, if I can, the source -- Mr. Wheatly  
20 asked y'all about a sustainable rate.

21 Is that the -- what was -- how did you go  
22 about calculating that, and can we -- is that the type  
23 of thing that we can get a copy of and ask you some  
24 questions of if we need to, even after this hearing?

1 A. (Dee Meshaw) Yes, sir.

2 Q. All right. And the Merriment add-on; what do  
3 you know about the Merriment add-on, how that occurred?  
4 This is a question about how all this occurred.

5 A. The Merriment -- the Merriment system  
6 predates me. That was in the '80s. That was funded --  
7 I'm fairly certain that was community development block  
8 grant money.

9 Q. Okay. And what was the reason for that?

10 A. I have no idea.

11 A. (Eugene Foxworth) No idea.

12 Q. No idea, okay. And question -- you were  
13 asking about where things -- the source of the money.

14 Would the County have built this system, or  
15 maybe done the add-on for Merriment, without grants or  
16 low-interest loans?

17 A. (Dee Meshaw) No, sir.

18 Q. If the County has to pay back certain of  
19 these grants, would that deter the County from selling?

20 A. (Eugene Foxworth) I don't think it would.

21 A. (Dee Meshaw) I don't think so.

22 A. (Eugene Foxworth) I don't think it would.

23 Q. And then real quick, we were talking about  
24 fire districts before, and I hope this comes off the

1 right way.

2 If Department of Insurance records indicated  
3 that Mill Creek is rated a Class 4 fire district, would  
4 you agree with that?

5 A. Yes, sir. There are some areas that have  
6 fire, but it's just not -- fire flows, but it's just  
7 not on watch.

8 Q. Is most of the County water system ready for  
9 Class 4?

10 A. I don't think so. I have to verify.

11 Q. Class 9, I apologize.

12 A. I'd have to verify.

13 Q. So you don't know?

14 A. That's right.

15 Q. All right. And then finally, economies of  
16 scale, that's been one of the key things. Y'all  
17 have -- you know, you're home to the state ports,  
18 you've got historic Beaufort, you've got an airport,  
19 your budget is about \$160 million north of that a year,  
20 and you've got HR, right, you've got finance, I don't  
21 know if you have motor fleet. There are economies of  
22 scale within the County, itself, as part of its  
23 apparatus, aren't there?

24 A. Yes.

1 A. (Dee Meshaw) Yes.

2 Q. All right. Very good. Thank you.

3 COMMISSIONER HUGHES: Okay. Company?  
4 County? Questions on questions?

5 MR. WHEATLY: No, sir.

6 COMMISSIONER HUGHES: Okay. Parties  
7 have any motions at this time?

8 MR. WHEATLY: I would move that their  
9 testimony be a part of the record if it's not  
10 already.

11 COMMISSIONER HUGHES: I think it is, but  
12 out of abundance of caution, it's so moved.

13 MR. CREECH: Chair Hughes, I would like  
14 to enter into evidence if we can, Public Staff  
15 Foxworth Rebuttal Cross Exhibits 1 and 2.

16 COMMISSIONER HUGHES: They have not been  
17 entered in, so they will be entered in.

18 MR. CREECH: Thank you.

19 (Public Staff Foxworth Rebuttal Cross  
20 Examination Exhibits 1 and 2 were  
21 admitted into evidence.)

22 MR. CREECH: And then, additionally,  
23 just as a housekeeping matter, would also like to  
24 enter in Junis Redirect Exhibits 1, 2, and 3.

1 COMMISSIONER HUGHES: So marked. So  
2 moved.

3 MR. CREECH: Thank you. Thank you.  
4 (Junis Redirect Exhibits 1 through 3  
5 were admitted into evidence.)

6 COMMISSIONER HUGHES: Okay. I think the  
7 two of you may be released, and thank you very much  
8 for --

9 MR. WHEATLY: The County has no further  
10 witnesses.

11 COMMISSIONER HUGHES: I think we are --  
12 Ms. Sanford, I think we are ready for rebuttal  
13 testimony.

14 MS. SANFORD: Yes, sir. Thank you.  
15 Calling Don Denton for rebuttal.

16 COMMISSIONER HUGHES: I hope you're  
17 gonna sit on that box and not read from it.

18 THE WITNESS: Trying to get as many  
19 documents as I could this time.

20 MR. CREECH: Chair Hughes, if I may, in  
21 conferring with counsel for Carolina Water,  
22 we'll --

23 MS. SANFORD: We have confirmed that  
24 several times, and I've got it, so.

1 MR. CREECH: Perfect, yeah. Thank you.

2 MS. SANFORD: Give me just a second  
3 here, and off we'll go. With the Commission's  
4 permission, let me go ahead and start talking while  
5 they're passing out, if that's okay.

6 There are two items that I need to bring  
7 up with the Commission, and I'm gonna go as fast as  
8 you'll let me go, so stop me if it's too fast.

9 First of all, we owed this docket and  
10 this Commission a report on the customer hearing  
11 from October 18th. It was due on Tuesday and we  
12 failed to file it. Partly, we failed to file it  
13 because counsel forgot the date, but partly we  
14 are -- and I apologize for that, and I'm gonna file  
15 a motion at the end of this conversation.

16 Also, we are continuing to do the  
17 investigation of the three, I think perhaps four,  
18 witnesses who spoke of three service quality  
19 problems: pressure, yellow water, and one person  
20 talked about chalky, foggy, that hard water kind of  
21 phenomenon. The Company has been investigating  
22 that. Mr. Denton is here to talk about it.  
23 Mr. Zeke would like him to talk about it on the  
24 record here. We're glad to do that. But we are

1 continuing the process of the investigation,  
2 because we haven't been able to substantiate either  
3 the problems or a cause for them, because we  
4 couldn't find the problem. So motion coming your  
5 way.

6 Mr. Creech has asked that Mr. Denton  
7 address these issues on the record in the hearing  
8 this afternoon. We are agreeable. There will be  
9 little to say, because we haven't found out the  
10 answers yet. That is thing one, coming with my  
11 apology and a motion to come.

12 The second thing is that I think  
13 Chair Mitchell had a question about revised  
14 Exhibit 12. Does that look familiar? And if you  
15 didn't, I'll drop this.

16 MR. DROOZ: We're going off my notes  
17 here, and she asked --

18 MS. SANFORD: That's the tariff.

19 MR. DROOZ: -- for confirmation of the  
20 County's rates.

21 MS. SANFORD: Yeah. And so Mr. Denton  
22 is here with Revised Exhibit 12, which has been  
23 filed in the docket. Right, 12? And so he's ready  
24 to speak to that.



1           So with your permission -- and I guess  
2           he's still under oath, we would offer him for the  
3           questions that Mr. Creech and you might have about  
4           the service quality first.

5           MR. CREECH: And just for a point of  
6           clarification, we were attempting -- when we  
7           learned yesterday, day before, that the Company  
8           wasn't gonna be able to file the report and that we  
9           hadn't received it, that -- we had asked if the  
10          Company could address it at the beginning of the  
11          proceeding. We didn't -- you know, this is an  
12          interesting first scenario, so we didn't get to it.  
13          And so the Company, in our discussions, this made  
14          the most sense. We're not -- doesn't have to be  
15          under oath or anything like that, but we're just  
16          looking for an update from the Company for the  
17          report that was to be provided before our  
18          testimony.

19          COMMISSIONER HUGHES: So was that update  
20          sufficient or do you need to hear more from --

21          MR. CREECH: I would like to hear it  
22          from the Company, from Mr. Denton, if at all  
23          possible.

24          COMMISSIONER HUGHES: That's fine. So

1 this isn't a substitute for the report or the  
2 filing that you're gonna explain when you're  
3 gonna --

4 MS. SANFORD: Absolutely. Motion for  
5 extension of time if I can get out -- well, you  
6 might not get it today. But asking until Tuesday,  
7 we want to reconfirm the investigation that's been  
8 done. So the motion is on the way to you, and then  
9 a report will come to you, with your permission --

10 COMMISSIONER HUGHES: As long as this is  
11 not --

12 MS. SANFORD: This is not --

13 COMMISSIONER HUGHES: -- fulfilling that  
14 responsibility.

15 MS. SANFORD: This is simply the Public  
16 Staff is busy and we're trying to accommodate.

17 Whereupon,

18 DONALD DENTON,  
19 having previously been duly sworn, was examined  
20 and testified as follows:

21 COMMISSIONER HUGHES: Okay. So if you  
22 want to say a few words, I heard the word brief or  
23 quick.

24 STATEMENT OF DONALD DENTON:

1 THE WITNESS: I'll be brief. As  
2 Ms. Sanford indicated, there were three issues, one  
3 was the yellowness in the water, the other was  
4 pressure, and indicated normally pressure late at  
5 night or early in the morning, and -- the pressure  
6 issues, and then hardness issue by one customer.

7 What we have done is we've tried to go  
8 out and meet with each of these customers, our  
9 operations team. They've also checked at the  
10 locations where they claimed yellow water or  
11 color -- discolored water. Took water out of the  
12 tap, out of the spigots at the homes, and looked at  
13 it. We didn't find any water that was discolored  
14 at the time. We also checked pressure at the  
15 homes, but we didn't do it late night or early in  
16 the morning. It was during the day.

17 So one of the things we are doing on the  
18 pressure is we've ordered a pressure recorder that  
19 we will locate at one of these homes, with the  
20 customers' permission, to record pressure over a  
21 period of time to see if there is any indication of  
22 low pressure late at night or early in the morning.  
23 The other thing we did do was we looked at the  
24 SCADA data for the tanks, which would be an

1 indicator. As the tank level goes down, normally  
2 pressure in the system will drop. We didn't see  
3 any anomalies in the SCADA data associated with the  
4 level in the tanks. So we went ahead and moved  
5 ahead with trying to get this pressure recorder  
6 that we would locate at one of the homes just to be  
7 absolutely sure.

8 And then, finally, the hardness issue.  
9 This system does have softeners on it, and the  
10 operators did check the softeners. They are  
11 operating within tolerance. Is it possible at one  
12 point that they may have got out of tolerance?  
13 It's possible. We don't have a record of that, but  
14 they have checked it, and right now it is within  
15 tolerance, so.

16 MR. GRANTMYRE: Just, I have a quick  
17 follow-up question, or one or two.

18 EXAMINATION BY MR. GRANTMYRE:

19 Q. Now, several witnesses that testified talked  
20 about low pressure, and they said it starts about 8:00  
21 or 9:00 every night and it continues through the night.  
22 And all of them testified that the low pressure and the  
23 yellow water, those that testified to that, said it  
24 started this spring. And how many men -- or how many

1 operators have you had out there working on this system  
2 since you took over the operations?

3 A. I'd have to confirm that, Mr. Grantmyre.

4 Q. Thank you. Can you put that in your report?

5 A. Sure.

6 MS. SANFORD: We will.

7 COMMISSIONER HUGHES: Okay. Let's move  
8 on to prefiled rebuttal.

9 MS. SANFORD: Okay. We will move to --  
10 I'm sorry, Revised Exhibit 12, in response to the  
11 Chair's question, if that's okay.

12 THE WITNESS: I think the Chair had --  
13 was asking me whether or not Revised Exhibit 12 has  
14 the rates that are currently established within  
15 Carteret. Was that -- do I have that correct?

16 CHAIR MITCHELL: I wanted you to confirm  
17 that what was filed with your application,  
18 Exhibit 12, reflected the rates that were -- the  
19 rates presently charged under Carteret County's  
20 current rate design.

21 THE WITNESS: There are two variances in  
22 the revised version of it. One was the meter  
23 testing fee. Currently, Carteret doesn't have a  
24 meter testing fee. The other was the finance

1 charge for late payment. They currently charge  
2 10 percent. What we filed -- what we have in there  
3 says 1 percent.

4 CHAIR MITCHELL: Okay. And when you say  
5 revised, you mean filed subsequent to the filing of  
6 the Application?

7 THE WITNESS: Yes. It was a revised  
8 exhibit that came in as part of the deficiency.

9 MS. SANFORD: Filed on August 11th.

10 THE WITNESS: Right.

11 CHAIR MITCHELL: Okay. Okay.

12 THE WITNESS: The original -- the  
13 original file had both Carteret rates and our rate,  
14 and it was a little confusing, and -- or proposed  
15 rates. So we took out the Carteret component of  
16 it.

17 CHAIR MITCHELL: Okay. I'm just looking  
18 for compliance with 133.1A(c)(8). I think -- but I  
19 think what I'm hearing is the revised exhibit gets  
20 us there. So just -- thank you.

21 MS. SANFORD: Shall I proceed with the  
22 rebuttal?

23 COMMISSIONER HUGHES: Proceed.

24 DIRECT EXAMINATION BY MS. SANFORD:

1 Q. Mr. Denton, did you cause to be filed in this  
2 docket on October the 24th rebuttal consisting of  
3 11 pages?

4 A. Yes.

5 Q. Do you have any changes to make to that  
6 rebuttal?

7 A. I do not.

8 Q. If you were to present that orally today from  
9 the stand, would it be just as you have presented it in  
10 prefiled?

11 A. Yes.

12 MS. SANFORD: I request that his  
13 testimony be read into the record as if given  
14 orally from the stand. There are no exhibits, so  
15 with that, he is available for questioning.

16 COMMISSIONER HUGHES: Did you want his  
17 summary?

18 MS. SANFORD: I did want his summary  
19 read, and I thank you for that.

20 MR. GRANTMYRE: Public Staff would agree  
21 that that could be entered into the record as  
22 evidence without having him read it.

23 COMMISSIONER HUGHES: That's fine.

24 MS. SANFORD: Certainly fine with us.

1 So we will request -- well, I'm gonna go through my  
2 list of things to be admitted, but that will be on  
3 it. So, with that, he is available for the  
4 Commissioners.

5 COMMISSIONER HUGHES: So let me just --  
6 the motion to admit the prefiled rebuttal testimony  
7 consisting of 11 pages into the record as if orally  
8 given from the stand is granted. And then did you  
9 want to make a motion to enter in the summary now  
10 too?

11 MS. SANFORD: Yes, I will. Thank you.

12 COMMISSIONER HUGHES: And that's granted  
13 as well.

14 MS. SANFORD: Thank you.

15 (No summary provided.)

16 (Whereupon, the prefiled rebuttal  
17 testimony of Donald Denton was copied  
18 into the record as if given orally from  
19 the stand.)

20  
21  
22  
23  
24



**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

**DOCKET NO. W-354, SUB 398**

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of

Application by Carolina Water Service,	)	REBUTTAL TESTIMONY OF
Inc. of North Carolina For Election to	)	DONALD H. DENTON III ON
Establish Rate Base for Carteret County	)	BEHALF OF CAROLINA WATER
Water System Under Fair Value	)	SERVICE, INC. OF NORTH
Methodology Authorized by N.C.G.S. §	)	CAROLINA
62-133.1A	)	)

October 24, 2022

1 **INTRODUCTION**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is Donald H. Denton III and my business address is 4944 Parkway  
4 Plaza Boulevard, Suite 375, Charlotte, North Carolina 28217.

5 **Q. HAVE YOU PREVIOUSLY TESTIFIED IN THIS MATTER?**

6 A. Yes. I prefiled direct testimony as part of the "Fair Value"<sup>1</sup> application of  
7 Carolina Water Service, Inc. of North Carolina ("CWSNC" or "Company") in  
8 Docket No. W-354, Sub 398, on July 26, 2022.

9 **Q. PLEASE STATE THE PURPOSE OF YOUR REBUTTAL TESTIMONY.**

10 A. My rebuttal testimony responds to the Public Staff's testimonies and  
11 affidavit, filed on October 14, 2022. The Public Staff recommends that the  
12 North Carolina Utilities Commission ("NCUC" or "Commission") either deny  
13 the CWSNC Fair Value application or, in the alternative, adjust the fair value  
14 downward from \$10,935,667 to \$2,444,347. This downward adjustment of  
15 \$8,491,320 produces a fair value figure that is significantly lower than: the  
16 average of the three fair value appraisals; the purchase price that was derived  
17 from an open bid process; and the fair value appraisal submitted by the Public  
18 Staff's own chosen valuation expert. I believe the Public Staff recommendation

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<sup>1</sup> References herein to "fair value" are to the valuation provisions contained in N. C. Gen. Statute § 62-133.1A, captioned "Fair value determination of government-owned water and wastewater systems".

1 is both unreasonable and inconsistent with what CWSNC understands to be  
2 the purpose of the Fair Value statute, N.C. Gen. Stat. § 62-133.1A.

3 **Q. WHY DO YOU ASSERT THAT THE PUBLIC STAFF**  
4 **RECOMMENDATION IS UNREASONABLE AND INCONSISTENT WITH**  
5 **THE STATUTE?**

6 A. CWSNC has engaged in an open bid process, authorized by statute<sup>2</sup> and  
7 duly conducted by Carteret County, to purchase the County's water system.  
8 CWSNC, in a transparent, "upset bid" process and against a competing  
9 bidder, made the "winning bid" of \$9.5 million. Consistent with G.S. § 62-  
10 133.1A, CWSNC now requests the Commission to apply the plain language  
11 of that statute to establish the rate base value for CWSNC upon acquisition  
12 of the assets and CPCN for the Carteret County water system. CWSNC  
13 requests recognition of a rate base value that is the lower of the average of  
14 the three appraisals and the purchase price<sup>3</sup>, as the statute allows. That  
15 number is the purchase price of \$9.5 million, which is \$1,435,667 lower than  
16 the average of the three appraisals.

17 The course of conduct in this business transaction has been based  
18 on an expectation that G.S. § 62-133.1A would be applied as written --  
19 devoid of adjustments based on alternative policy views. The Company's  
20 reliance is upon the legislatively created opportunity to value Carteret

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<sup>2</sup> N.C. G.S. §160A-269

<sup>3</sup> Plus certain fees and costs, as allowed by G.S. 62-133.1A(1)(b)(3) and (4)

1 County's system --- for purposes of determining rate base --- on a market-  
2 based formula and a process that included:

- 3 • an open/transparent upset bid process by the County<sup>4</sup>;
- 4 • retention of an engineer to perform a study;
- 5 • retention of three valuation experts certified by the Commission;
- 6 • a filed application, meticulously reviewed by the Public Staff for  
7 completion;
- 8 • a mathematically correct calculation of the "fair value" (which is the  
9 sum of the three appraisals divided by three); and
- 10 • a request that the contract price - which is the result of the  
11 competitive bid process - be accepted as the rate base value by  
12 virtue of being lower than the average of the three valuations.

13 To deny the Fair Value application, or to adjust the fair value to  
14 \$2,444,347 in an impermissible effort to superimpose the regulatory

---

<sup>4</sup> See Article 12 of Chapter 160A in the N.C. General Statutes. In particular:  
**G.S. 160A-269. Negotiated offer, advertisement, and upset bids.**

A city may receive, solicit, or negotiate an offer to purchase property and advertise it for upset bids. When an offer is made and the council proposes to accept it, the council shall require the offeror to deposit five percent (5%) of his bid with the city clerk and shall publish a notice of the offer. The notice shall contain a general description of the property, the amount and terms of the offer, and a notice that within 10 days any person may raise the bid by not less than ten percent (10%) of the first one thousand dollars (\$1,000) and five percent (5%) of the remainder. When a bid is raised, the bidder shall deposit with the city clerk five percent (5%) of the increased bid, and the clerk shall readvertise the offer at the increased bid. This procedure shall be repeated until no further qualifying upset bids are received, at which time the council may accept the offer and sell the property to the highest bidder. The council may at any time reject any and all offers.

Docket No. W-354, Sub 398

1 ratemaking accounting procedures to which G S. §62-133.1A provides an  
2 alternative, would have the following unreasonable consequences.

3 First, the Public Staff position would presumably result in a negative  
4 “acquisition adjustment” of approximately \$7 million for CWSNC if the sale  
5 proceeds. That position risks undermining the ability of this transaction to  
6 proceed, and is unfair to CWSNC and Carteret County, who have followed  
7 and relied upon G.S § 62-133.1A. It would obviously tend to deter privately-  
8 owned utilities from utilizing this statute to attempt to purchase North  
9 Carolina municipal systems in the future.

10 Secondly, the Public Staff position would have an unreasonable  
11 adverse impact on the public interest of Carteret County, as that interest  
12 has been determined by Carteret County elected officials, whose charge is  
13 to make decisions that are in the best interest of their constituents.

14 Third, the Public Staff’s recommendation ignores the public interest  
15 inherent in consolidations, which is well-recognized by the Company, the  
16 Commission, and, in the past, by the Public Staff. The economies of scale  
17 and ability to share resources and expertise across a network of systems  
18 are obvious benefits that flow from acquisitions of certain systems by well-  
19 managed and capable operators like CWSNC. They are benefits both to  
20 existing and acquired customers. *(See also the discussion of public interest*  
21 *in my Direct Testimony, at pp. 3-6)*

1 Further, even though this system has been declared to be  
2 “distressed” by the Local Government Commission, there is no requirement  
3 in G.S. §62-133.1A that an acquired system be deemed “troubled.”

4 Fourth, Carteret County followed a competitive bid process. An open,  
5 competitive, “upset bid” process with more than one bidder inherently tends  
6 to produce a fair market value outcome. As stated in the appraisal submitted  
7 by NewGen Strategies and Solutions LLC (“NewGen”) on behalf of the  
8 Public Staff, fair value is:

9 **“The price at which property would change hands between a**  
10 **willing buyer and a willing seller, neither being under any**  
11 **compulsion to buy or to sell and both having reasonable**  
12 **knowledge of relevant facts.”<sup>5</sup> (emphasis added) See Section 1,**  
13 *page 5 of Form Application Exhibit 1B.*

14 Professional appraisals are *estimates* of fair value based on various  
15 methodologies. As with the present case, they tend to display a range of  
16 results. However, the result of an actual competitive bid process is arguably  
17 the best evidence of fair value because it results in the actual price agreed  
18 upon by a willing buyer and willing seller. The Public Staff testimony  
19 essentially ignores this fact.

---

<sup>5</sup> Referenced to “Fair Value as Defined in Treasury Regulation §1.170A-1(c)(2)”

1           Finally, the valuation in the Public Staff testimony is far below the fair  
 2 value appraisal of NewGen, which is the Public Staff's choice of appraiser.  
 3 Witness Junis recommends \$2,444,347 and NewGen estimates a fair value  
 4 of \$7,332,000 - the Public Staff appears to be at odds with its own appraiser.

5 **Q. WHY DO YOU STATE THE PUBLIC STAFF POSITION IS**  
 6 **INCONSISTENT WITH WHAT CWSNC UNDERSTANDS TO BE THE**  
 7 **PURPOSE OF THE FAIR VALUE STATUTE?**

8 A. The "Fair Value" statute (N.C.G.S. § 62-133.1A) provides in relevant part  
 9 that:

10           The fair value of a system to be acquired shall be based on  
 11 three separate appraisals conducted by accredited, impartial  
 12 valuation experts chosen from a list to be established by the  
 13 Commission.

14 . . . .

15  
 16           If the Commission finds that the average of the appraisals will  
 17 not result in a reasonable fair value, the Commission may  
 18 adjust the fair value as it deems appropriate and in the public  
 19 interest.

20           My reading of this statute is that the default calculation of fair value  
 21 is simply the average of the three appraisals. The Commission's authority  
 22 to adjust that calculation for the public interest remains bounded by the  
 23 definition of "reasonable fair value." The valuation in the Public Staff  
 24 testimony departs from the market-based meaning of "fair value."

25 **Q. PLEASE EXPLAIN HOW THE PUBLIC STAFF TESTIMONY DEPARTS**  
 26 **FROM THE DEFINITION OF "FAIR VALUE."**

1 A. Public Staff witness Junis recommends a rate base valuation of \$2,444,347  
2 as his alternative to denying any fair value determination. He arrives at that  
3 figure from the averaging of original cost rate base less depreciation and  
4 contributions in aid of construction ("CIAC") as he determines it, weighted  
5 twice, and his calculation of system value based on the average rate base  
6 per customer of the five CWSNC and Aqua North Carolina water rate  
7 divisions. Witness Junis' version of original cost appears to attempt to  
8 conform to the rate base methodology used by the Commission in non-Fair  
9 Value cases, which is not a market-based value. In fact, it appears to be an  
10 effort to superimpose a form of the historical rate base methodology used  
11 by the Commission - a methodology to which G.S. § 62-133.1A provides a  
12 clear alternative. (As a side note, that version of original cost is not the  
13 same as the original cost valuation methodology considered by the  
14 appraisers in this proceeding.) To be clear, the Fair Value statute is an  
15 alternative to the traditional original cost rate base methodology used in  
16 North Carolina - that is the point of it. By resting his recommendation on  
17 traditional rate base methodology, witness Junis in effect seeks to negate  
18 the provisions of the Fair Value statute.

19 The same flaw applies with respect to witness Junis' use of the  
20 average rate base per customer in other water rate divisions. Those rate  
21 base per customer amounts are calculated from the traditional original cost



1 rate base methodology. However, the legislature has provided an  
2 alternative to that original cost methodology, in the form of the market value  
3 approach of the Fair Value statute.

4 The value of rate base per customer for other systems or rate  
5 divisions has nothing to do with what a willing buyer and willing seller would  
6 pay for a different system. This is especially true where the system under  
7 consideration is being valued under the Fair Value statute, where  
8 expectation of some certainty in a logically derived market-related rate base  
9 may incentivize buyers to make bids that offer opportunities to complete  
10 these types of transactions.

11 In summary, my opinion is that the recommendation of the Public  
12 Staff is unreasonable because it thwarts the legislative purpose - as  
13 evidenced by the plain language of the statute - to create a valuation  
14 process based on a balance between professional appraisals and the price  
15 a willing seller and willing buyer would agree to, and instead relies on  
16 unauthorized and roughly calibrated proxies to traditional original cost rate  
17 base. If the North Carolina General Assembly intended the Public Staff  
18 approach, there would seem to have been no reason to enact the Fair Value  
19 statute.

1 **Q. THE PUBLIC STAFF TESTIMONY DISCUSSES THE PUBLIC INTEREST**  
2 **AND CITES TO RULE R7-41(h). WHAT IS YOUR VIEW OF THE PUBLIC**  
3 **INTEREST COMPONENT OF THIS PROCEEDING?**

4 **A.** I have discussed the public interest both in my Direct and previously in this  
5 Rebuttal; both are responsive to this question.

6 Further, it is useful to note that multiple views and applications of the  
7 public interest are raised in these two dockets, W-354 Subs 398 and 399.  
8 Witness Junis at page 6, footnote 1, refers to Rule R7-41(h) of the  
9 Commission's Fair Value rule which speaks to the demonstration that the  
10 acquisition of the local government utility "...is in the public interest."

11 The County has clearly made the demonstration that the sale is in  
12 the public interest, from the County's perspective and on behalf of its  
13 constituents. Mr. Wheatly's presentation at the public hearing in Beaufort is  
14 the latest of such demonstrations and Mr. Foxworth's Rebuttal reinforces  
15 that position. This determination is the County's to make as defined in  
16 NCGS 153A-176. Based on the information I have reviewed, the County  
17 has a distressed water system, it has lost money for many years, it required  
18 subsidies from taxpayers not served by the water system, and it currently  
19 requires CWSNC's operating expertise to support its day-to-day operations.

20 More narrowly, for the present docket, Sub 398, I believe the public  
21 interest determination should be limited to the description in the statute: "the

1 Commission may adjust the fair value as it deems appropriate and in the  
2 public interest.” That is, “public interest” does not mean discretion to reject  
3 the appraisal average because it may cause rate base per customer to  
4 increase compared to proxies, or because original cost rate base as used  
5 in traditional ratemaking may be lower. That type of “public interest”  
6 consideration would make the statute meaningless by reverting to a  
7 variation on the original cost rate base valuation used in ratemaking, in lieu  
8 of a market value.

9 Rather, public interest regarding the Fair Value statute is best  
10 understood to be a review of whether there is evidence that the average of  
11 the appraisals is an unreasonable deviation from the price to which a willing  
12 seller and a willing buyer would agree. No such evidence has been  
13 presented by the Public Staff. In fact, clear evidence as to the price upon  
14 which a willing buyer and a willing seller would transact, in an open and  
15 entirely transparent bid process with competing bidders, is the transaction  
16 price agreed upon by the County and CWSNC in this docket. In accordance  
17 with the statute, that price should translate into the rate base value (modified  
18 by certain transaction costs and fees).

19 **Q. DO YOU HAVE ANY OTHER COMMENTS ON PUBLIC INTEREST?**

20 **A.** Yes. First, the \$9.5 million purchase price for the Carteret County system is  
21 below the \$10.9 million average of the three appraisals. That in itself is an

1 indication of fairness to customers, given that rate base will be the lower of  
2 the purchase price or the appraisal average.

3 Second, CWSNC is proposing to hold the rates for this water system  
4 constant at the level approved in the most recent County Fee Schedule for  
5 a number of years. Carteret County makes no such promise. The public  
6 interest is served by locking in rates rather than risking a series of potential  
7 rate increases under County ownership.

8 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

9 **A.** Yes.

1 CROSS EXAMINATION BY MR. GRANTMYRE:

2 Q. Mr. Denton, do you realize you and I are the  
3 only ones holding up everyone from going home?

4 A. I do.

5 Q. Can I suggest that the best way to get  
6 everyone out of here quickly is for you to agree with  
7 all my questions?

8 A. Well, I'm eager to hear what you've got to  
9 ask me.

10 Q. Okay. Now, on page 4, lines 10 to 13 of your  
11 rebuttal testimony, you discuss the vote by the  
12 Carteret County Commissioners to sell the system to  
13 Carolina Water for \$9.5 million; do you recognize that?

14 A. Are you referring to the paragraph on line 10  
15 that starts with --

16 Q. Yes, starts on 10.

17 A. -- secondly? "Secondly, the Public Staff's  
18 position." Yes.

19 Q. Now, do you agree that the Carteret County  
20 Commissioner vote was a four to three vote in favor of  
21 the sale? Do you agree with that?

22 A. That's my understanding.

23 Q. Now, do you agree that a switch of one vote  
24 would have defeated the sale?

1           A.       That's my understanding.

2           Q.       This is gonna be quick, so don't worry about  
3 it.

4           A.       Okay.

5           Q.       Do you consider a one-vote margin an  
6 overwhelming display of Carteret County -- or County  
7 Commissioner approval of the sale?

8           A.       I consider it approval.

9           Q.       Okay. Now, I had questions about the service  
10 concern, but we'll skip that, and we are getting near  
11 the end. I did say earlier yesterday that I thought  
12 you were doing a terrific job, and I still want to  
13 reiterate that, but that does not apply to the fair  
14 market value proceeding we are involved in, just to  
15 clarify.

16                   Now, on your rebuttal pages -- page 10, lines  
17 11 and 12, you basically say fair value is the price to  
18 which a willing buyer and a willing seller would agree.  
19 Actually, it's a willing seller and willing buyer would  
20 agree.

21                   Do you agree with that still?

22           A.       I do.

23           Q.       Now, do you agree that Carteret County is a  
24 willing seller?

1           A.     I do.

2           Q.     Now, this is gonna be a long question, but I  
3 will get to a question. How is Carolina Water a  
4 willing buyer when Carolina Water is not paying the  
5 acquisition price? Instead, the customers are paying  
6 the entire rate base through return on rate base and  
7 depreciation. So, therefore, Carolina Water  
8 shareholders are not paying anything; isn't that true?

9           A.     No, it's not.

10          Q.     Well, you're gonna recover it all from the  
11 customers?

12          A.     No. No, we're not. As exhibited in -- I  
13 believe it was yesterday, at least part of the  
14 depreciation, the shareholders will pay for.

15          Q.     Okay. But other than that, the customers are  
16 paying for the system; is that correct?

17          A.     Over time.

18          Q.     Now, you were bidding on this with Aqua  
19 North Carolina; is that correct?

20          A.     That is correct.

21          Q.     And there has been some discussion that you  
22 and Aqua North Carolina were together in putting forth  
23 this statute to the legislature?

24          A.     That's my understanding. I was not part of

1 the company at the time.

2 Q. Okay. Now, just like Carolina Water, Aqua  
3 North Carolina is an investor-owned company regulated  
4 by this Commission, so they would earn a return on rate  
5 base if they were the -- got a rate base here and get  
6 depreciation, just like you?

7 A. That's my understanding.

8 Q. So, therefore, if you were gonna be treated  
9 that the customers pay everything except for those  
10 couple of years' depreciation, that would -- same thing  
11 would apply to them if they required it?

12 A. It's my understanding.

13 Q. Okay. Again, I think you're doing a great  
14 job, but I'm done, and it is eight minutes of 5:00.

15 COMMISSIONER HUGHES: All right. Well  
16 let me see if my colleagues have any questions.  
17 I'm sorry, redirect. Redirect, sorry.

18 MR. WHEATLY: No questions, sir.

19 REDIRECT EXAMINATION BY MS. SANFORD:

20 Q. Mr. Grantmyre asked you whether the  
21 ratepayers -- and if I'm wrong, you can correct my  
22 phrasing of this -- but if the ratepayers, customers,  
23 bear the cost of these acquisitions under this fair  
24 value statute.



1           Isn't it true that they bear the cost in the  
2 same way if you were using original cost minus  
3 depreciation methodology?

4           A.       Yes.

5                   MS. SANFORD: I have no more questions.

6                   COMMISSIONER HUGHES: Now we'll go to  
7 Commissioner questions, ones I have been asked, so.

8                   (No response.)

9                   COMMISSIONER HUGHES: All right. Well,  
10 I think, then, my notes say that we're done. So  
11 are there any motions that you would like to make?

12                  MS. SANFORD: I would like, if this is  
13 the proper time, to do my clean-up of moving things  
14 into the record if I might.

15                  COMMISSIONER HUGHES: Please.

16                  MS. SANFORD: I think I do better if I  
17 do them all at one time, so I'll try to zip through  
18 them. I want to introduce into evidence -- and  
19 it's a series of things that are displayed in the  
20 docket, so I think I'll tell enough for you to  
21 identify what they are. The application filed  
22 July 26th, the cover letter and the narrative  
23 pleading which had some attachments; Exhibit 1A,  
24 which -- 1A, 1B, and 1C, which were the three

1 appraisals, Gannett, Nugent, and Hartman; the  
2 direct testimony of Don Denton consisting of nine  
3 page and his summary, also filed in the  
4 26th of July; that same day, the Application,  
5 including the form Application Exhibits 2, 6A, and  
6 8; on August 11th, the revised exhibits consisting  
7 of a cover letter and Exhibit 12, 5D, 7A, 7B, 7C  
8 and 7D; the rebuttal testimony of Don -- well,  
9 you've already moved that in, thank you,  
10 Mr. Denton's rebuttal; the rebuttal testimony of  
11 Jerry Hartman consisting of five pages. I think  
12 that that is it for me.

13 COMMISSIONER HUGHES: So granted.

14 MS. SANFORD: Thank you.

15 MR. CREECH: Chair Hughes, I don't know  
16 if it's -- I would like, in abundance of caution,  
17 to request that the Commission take judicial notice  
18 of N.C.G.S. §62-133.1A, the Commission's order in  
19 Docket Number W-100, Sub 30 issued  
20 December 30, 2021, and the rules adopted thereby in  
21 R-741 and R-1028 related to acquisition of  
22 government water and wastewater systems of fair  
23 value.

24 COMMISSIONER HUGHES: So moved.

1 (The Application was previously  
2 admitted.)  
3 (CWSNC Cover Letter and Narrative  
4 Pleading and CWSNC Form Application  
5 Exhibits 1A, 1B, 1C, 2-5A, Revised 5d,  
6 6A, 6B, Revised 7a, 7b, 7c, 7d, Revised  
7 8, 10, 11, and Revised 12 were admitted  
8 into evidence.)

9 COMMISSIONER HUGHES: Okay. I want to  
10 thank everybody. One detail, please.

11 COMMISSIONER CLODFELTER: Presiding  
12 Commissioner Hughes, just a reminder, Ms. Sanford,  
13 the outstanding request for a late-filed exhibit,  
14 and just want to be sure that it didn't get lost.

15 MS. SANFORD: Yes. Thank you. It is on  
16 its way to Columbia, South Carolina, as Mr.  
17 Schellinger has left. But we discussed it today,  
18 so we will --

19 COMMISSIONER CLODFELTER: Just wanted to  
20 make sure it didn't get lost.

21 MS. SANFORD: Thank you. Thanks for the  
22 reminder. Always appreciated.

23 COMMISSIONER HUGHES: Okay. Well, the  
24 parties shall file any briefs and proposed orders

1           within 30 days of the filing of the last transcript  
2           in this matter.

3                       Okay. Again, thanks everyone for this  
4           first impression, and you may be released. And  
5           everyone have a good weekend. Thank you.

6                       MR. GRANTMYRE: We would ask that the  
7           Public Staff be allowed to file comments on the  
8           service report, since we haven't seen it yet.

9                       MS. SANFORD: Yes. Yes.

10                      COMMISSIONER HUGHES: Yeah. That's  
11           gonna be allowed. I don't need to.

12                      (Hearing concluded at 4:56 p.m. on  
13           November 4, 2022.)

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CERTIFICATE OF REPORTER

STATE OF NORTH CAROLINA )  
COUNTY OF WAKE )

I, Joann Bunze, RPR, the officer before whom the foregoing hearing was conducted, do hereby certify that any witnesses whose testimony may appear in the foregoing hearing were duly sworn; that the foregoing proceedings were taken by me to the best of my ability and thereafter reduced to typewritten format under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

This the 18th day of November, 2022.

*Joann Bunze*



JOANN BUNZE, RPR

Notary Public #200707300112

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(Per page 153, line 13, the prefiled  
rebuttal testimony of Gerald C. Hartman  
is copied into the record as if given  
orally from the stand.)

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

**DOCKET NO. W-354, SUB 398**

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of

Application by Carolina Water Service,	)	REBUTTAL TESTIMONY OF
Inc. of North Carolina For Election to	)	GERALD C. HARTMAN ON
Establish Rate Base for Carteret County	)	BEHALF OF CAROLINA WATER
Water System Under Fair Value	)	SERVICE, INC. OF NORTH
Methodology Authorized by N.C.G.S. §	)	CAROLINA
62-133.1A	)	)

October 24, 2022

Rebuttal Testimony of Gerald C. Hartman

1 **INTRODUCTION**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 **A.** My name is Gerald C. Hartman, and my business address is 637 North Park  
4 Avenue, Winter Park, FL 32789.

5 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

6  
7 **A.** I am an Accredited Senior Appraiser for Hartman Consultants, LLC,  
8 regarding public utilities with the machinery and technical specialties  
9 designated and a specialty in water and wastewater.

10 **Q. BRIEFLY STATE YOUR QUALIFICATIONS AND PROFESSIONAL**  
11 **BACKGROUND.**

12 **A.** In 1975, I received a bachelor's degree in civil engineering from Duke  
13 University in North Carolina. In 1976, I also received a master's degree in  
14 engineering (specialty water and wastewater/civil) from Duke University. I  
15 earned the designation of Accredited Senior Appraiser from the American  
16 Society of Appraisers. Accredited Senior Appraisers are required to pass  
17 appraisal education classes, to have a minimum of five years full time  
18 experience appraising and valuing utility property, and to pass eleven  
19 exams, as well as an eight-hour, comprehensive public utility appraisal  
20 exam administered by the American Society of Appraisers. Accredited  
21 Senior Appraisers are also required to successfully participate in the  
22 American Society of Appraiser's reaccreditation program, which involves



1 complying with its continuing education requirements for which I am current  
2 through August 15, 2026. I have participated in hundreds of capital charge,  
3 impact fee, and installation charge studies involving water, wastewater,  
4 stormwater, solid waste, gas, and electric service for various entities and at  
5 nine rate regulatory commissions. Similarly, I have been involved in  
6 hundreds of utility acquisition/utility appraisals for acquisition and over 600  
7 utility negotiations, appraisals, fairness opinions, and review appraisals. I  
8 am a qualified expert witness regarding utility rates and charges, utility  
9 negotiation, arbitration, and condemnation cases. I have been accepted by  
10 order of the North Carolina Utilities Commission as a Utility Valuation Expert  
11 in Docket No. W-100, Sub 60A. My resume is in my report previously  
12 submitted.

13 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

14 **A.** My rebuttal testimony compares the validity of my appraisal methodology to  
15 the recommended valuation in the testimony of Public Staff witness Junis,  
16 filed on October 14, 2022. In brief, the Public Staff recommends that the  
17 Commission either deny the CWSNC fair value application or, in the  
18 alternative, adjust the fair value to \$2,444,347. I do not believe the adjusted  
19 number of the Public Staff reflects fair value. In contrast, the appraisal  
20 performed by Hartman Consultants, LLC, of the Carteret County Water

1 System and filed with the application of CWSNC is based on professional  
2 appraisal methods and represents, in my opinion, fair value.

3 **Q. CAN YOU PROVIDE A SUMMARY OF HARTMAN CONSULTANT'S**  
4 **APPRAISAL?**

5 **A.** Yes. Hartman Consultants reviewed all three approaches to value: cost  
6 approach, income approach, and market approach. We relied upon the cost  
7 approach and market approach to valuation as of February 14, 2022. The  
8 cost approach was based on a "present book value of assessment" analysis  
9 performed by Draper Aden Associates that valued the Carteret County  
10 Water System at \$12,300,000. The market approach compared water utility  
11 transactions or pending transactions where a willing and knowledgeable  
12 seller and a willing and knowledgeable buyer agree to a transaction, without  
13 compulsion. The market approach valued the Carteret County Water  
14 System at \$8,750,000. Based upon the work performed by Draper Aden  
15 Associates and my experience and training, I weighted the cost approach  
16 at approximately one and one-half times the market approach. The result  
17 is a \$10,900,000 fair value opinion of value for the Carteret County Water  
18 System as of February 14, 2022.

19 **Q. PLEASE EXPLAIN YOUR COST APPROACH.**

20 **A.** Hartman Consultants relied on the Draper Aden present book value  
21 analysis of utility assets, made appropriate adjustments, and arrived at a

1 valuation for the original cost new less depreciation (OCNLD) since the  
2 county was the only known owner. The concept is that a willing buyer and  
3 willing seller could agree on a purchase price for the water system that  
4 reflects the current value of the assets.

5 **Q. REGARDING THE MARKET APPROACH, ON WHAT DID YOU BASE**  
6 **YOUR VALUATION?**

7 The market approach compares other water utility transactions or pending  
8 transactions where a willing and knowledgeable seller and a willing and  
9 knowledgeable buyer, both without compulsion, agree to a transaction. We  
10 compiled information on other water systems that are roughly comparable  
11 to the Carteret County system and calculated the sales price per  
12 connection. Given the relatively good condition of the Carteret County  
13 system, the extensive system, the location, the lack of future CIP costs,  
14 immediate compliance costs, and the growth opportunities for the area, I  
15 used the top-half average of those sales prices per connection, which  
16 equaled \$6,598, and rounded up to \$7,000 per connection. That value,  
17 multiplied by 1,246 connections, results in a market value of \$8,750,000.  
18 The concept with this approach is that actual market data on other  
19 transactions are indicative of the purchase price that a willing buyer and  
20 willing seller could agree on for the Carteret County water system due to its  
21 characteristics.

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**Q. CAN YOU BRIEFLY DISTINGUISH THE HARTMAN CONSULTANT'S APPRAISAL METHODS FROM THE RECOMMENDATION IN THE PUBLIC STAFF'S TESTIMONY?**

**A.** Yes. My approaches are estimates of the fair value that a willing buyer and willing seller may negotiate. The Public Staff approach appears to be tied to original cost rate base, net of depreciation and net of contributions in aid of construction without other typical positive value adjustments. That approach is used in traditional ratemaking cases, but it does not reflect market value. As an example, the land value is what it was worth when put into public service in 1988 (\$98,126), not the value as of February 14, 2022, as found by Chris Mashburn of the Mashburn Appraisal Group for the fair value of the land holdings (\$425,250).

**Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

**A.** Yes.