

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. W-218, SUB 573

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application by Aqua North Carolina, Inc.,)
202 MacKenan Court, Cary, North Carolina)
27511, for Authority to Adjust and Increase)
Rates for Water and Sewer Utility Service in All)
Its Service Areas in North Carolina and for)
Approval of a Water and Sewer Investment Plan)
	MOTION OF THE
	PUBLIC STAFF
	REGARDING
	AQUA UPDATES

NOW COMES the Public Staff, by and through its Executive Director, Christopher J. Ayers, and moves the Commission for relief due to the failure of Aqua North Carolina, Inc. (Aqua or the Company) to comply with Ordering Paragraph 7 of the Commission's Order Scheduling Hearings, Establishing Discovery Guidelines, and Requiring Customer Notice (Scheduling Order) issued in this proceeding on September 8, 2022. In support of this motion, the Public Staff respectfully shows the Commission:

1. On June 30, 2022, Aqua filed an application with the Commission seeking authority to adjust and increase its rates for providing water and sewer utility service in all its service areas in North Carolina and for approval to establish and implement a Water and Sewer Investment Plan (WSIP) pursuant to N.C. Gen. Stat. § 62-133.1B and Commission Rule R1-17A.

2. On July 26, 2022, the Commission issued its Order Establishing General Rate Case and Suspending Rates.

3. On August 16, 2022, the Public Staff and Aqua made filings recommending deadlines for certain procedural milestones in the rate case. Attachment B to the Company's filing, which is attached to this motion as Attachment A, lists the procedural milestones for the Company's rate case and the Company's and the Public Staff's proposed deadlines for those milestones. As shown on Attachment A, the Public Staff's proposed deadline for the Company's updates to its actual revenues, expenses, rate base, and cost of capital (Updates) was "9/21/22 (for period thru Aug 31 – month less than in Sub 526)." The Company's proposed deadline, as shown on Attachment A, was "9/21/22 with the understanding that Aqua will file a later update if the Public Staff opposes the multiyear rate plan."

4. On September 8, 2022, the Commission issued its Scheduling Order. Ordering Paragraph 7 of the Scheduling Order states:

Aqua's updates to its actual revenues, expenses, rate base, and cost of capital for the period ending August 31, 2022, shall be filed on or before Wednesday, September 21, 2022. This requirement shall not apply to events that are neither foreseeable nor within the Company's control. This requirement shall not prevent the Company from providing evidence showing changes in costs, including plant in service additions, pursuant to N.C.G.S. § 62-133(c)[.]

5. On September 21, 2022, Aqua filed its Updates. The cover letter filed with the Updates states:

Pursuant to Ordering Paragraph 7 at page 6 of the *Order Scheduling Hearing, Establishing Intervention and Testimony Due Dates and Discovery Guidelines, and Requiring Notice* . . . [Aqua] hereby provides to the Public Staff and files with the Commission updated information with supporting data, along

with updated schedules, through July 31, 2022 Please note that Aqua will file the relevant information and supporting data for August, 2022, as soon as it is available.

The Company did not provide any reasons for its failure to comply with the Scheduling Order by filing its Updates for the month of August 2022 by September 21, 2022, nor did it request an extension or any other relief from the requirement that it do so.

6. Twenty-seven days have elapsed since September 21, 2022, the date the Commission ordered Aqua to file its Updates through August 31, 2022. As of the filing of this motion, the Company has yet to file its Updates for the month of August 2022.

7. The Company's failure to file its Updates for the month of August 2022 not only violates the Commission's Scheduling Order, but also impairs the Public Staff's ability to investigate the Company's Updates for that period and to address the Updates in its testimony. In addition to the Updates themselves, the Public Staff will have to review supplemental responses to numerous previously served data requests that the Public Staff asked the Company to update as new information becomes available, as well as possibly serve follow-up discovery.

8. The Company's Updates through August 2022 are particularly important to the Public Staff's investigation in this proceeding because the Company has requested approval to establish a WSIP, which would allow the Company to recover anticipated capital investments and expense levels from 2023 through 2025. The Company's Updates for the month of August 2022 will provide

valuable actual capital investment and expense information that will help the Public Staff determine whether Aqua's capital investments included in the WSIP are reasonably known and measurable and whether its anticipated expenses are reasonable and prudent.

9. Due to the considerable delay in the Company's filing of its August 2022 Updates and its impeding of the Public Staff's investigation, it is appropriate that the Public Staff be granted additional time to conduct discovery and file its direct testimony and exhibits in this proceeding.

10. The Company did not object to filing its Updates through August 2022 on or before September 21, 2022, in its August 16, 2022 filing and has given no explanation for its failure to comply with the deadline set by the Commission. For these reasons, the Company should not be granted commensurate extensions of its remaining deadlines.

WHEREFORE, the Public Staff moves:

1. That the Commission extend the deadline for the Public Staff to serve formal discovery requests related to the general rate case application and the Company's prefiled direct and supplemental testimony to Monday, November 21, 2022, and for an additional day thereafter for each day after Friday, October 21, 2022, that the Company fails to file its August 2022 Updates and to provide the Public Staff with an updated W-1, Item 10 for revenue, expense, and post-test year plant additions items, and supplemental responses to Public Staff Data Requests 2, 5, 9, 10, 11, 13, 15, 31, 44, 47, and 52;

2. That the Commission extend the deadline for the Public Staff to file all of its direct testimony and exhibits except testimony addressing complaints raised in the public witness hearings to Monday, December 5, 2022, and for an additional day thereafter for each day after Friday, October 21, 2022, that the Company fails to file its August 2022 Updates and provide to the Public Staff with an updated W-1, Item 10 for revenue, expense, and post-test year plant additions items, and supplemental responses to Public Staff Data Requests 2, 5, 9, 10, 11, 13, 15, 31, 44, 47, and 52;

3. That the Commission not grant commensurate extensions to the Company's deadlines, including the Company's deadline to file its rebuttal testimony and exhibits; and

4. For such other and further relief as the Commission may deem just and proper.

This the 19th day of October 2022.

PUBLIC STAFF
Christopher J. Ayers
Executive Director

Lucy E. Edmondson
Chief Counsel

Megan Jost
Staff Attorney

Electronically submitted
/s/ Megan Jost
Staff Attorney

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CERTIFICATE OF SERVICE

I certify that I have served a copy of the foregoing Motion on all parties of record in accordance with Commission Rule R1-39, by United States mail, postage prepaid, first class; by hand delivery; or by means of facsimile or electronic delivery upon agreement of the receiving party.

This the 19th day of October 2022.

Electronically submitted
/s/ Megan Jost

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PUBLIC STAFF
ATTACHMENT A

ATTACHMENT B TO MOTION ON HEARING
NCUC DOCKET W-218 SUB 573

EVENT	Sub 526 days from filing of application on Dec 31, 2019	Sub 526 days from prior event	Public Staff proposal Sub 573 based on last emails	Aqua proposal Sub 573
Application filed			Application filed 6/30/22	Application filed 6/30/22
Public hearings	104 days – 120 days			NCUC will provide.
Aqua report on public hearings		15 - 20	20 days after each hearing	20 days after each hearing (Aqua accepted P.S. position)
Aqua updates	112		9/21/22 (for period thru Aug 31 – month less than in Sub 526)	9/21/22 with understanding that Aqua will file a later update if the Public Staff opposes the multiyear rate plan
Discovery on application		14 days prior to date that Public Staff testimony is due	11/21/22 (same 14 day interval)	11/8/22 (same 14 day interval)
Deadline to object to discovery on application		10 days from discovery with conditions		Same as Sub 526
Public Staff & intervenor testimony	140		12/5/22	11/22/22 – an extra 5 days compared to Sub 526 and it avoids the P.S. working on testimony over the holiday

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Discovery on Public Staff testimony			12/7/22	11/29/22 = 7 days after PS files testimony, which is 2 more than last case but includes Thanksgiving
Public Staff deadline to object to discovery			12/12/22	5 days after discovery is served
Public Staff response to Aqua report on public hearings		12 – 23 (prior event being the Aqua reports)	15 days after last Aqua report, assuming 10 day discovery response	15 days after each Aqua report
Aqua rebuttal testimony	157	17 days after Public Staff testimony	12/19/22 (14 days after P.S. testimony if filed 12/5)	12/14/22 - this would be 22 days after Public Staff testimony if P.S. is due on 11/22/22, or 5 more days than in last case
Discovery on rebuttal			12/21/22	12/16/22 = same 2 day interval after rebuttal that P.S. proposed on its schedule
Aqua deadline to object to discovery			12/29/22	12/22/22
Witness list and cross times	168	11 days after Aqua rebuttal	1/3/23	1/3/23
alternatives to Aqua witness list	171	3 days after Aqua witness list	1/5/23	1/5/23
Evidentiary hearing	175			1/9/23 per NCUC

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Blocked days on NCUC calendar: Labor Day on 9/5; NARUC meeting 11/14 – 11/ 16 plus travel time afterward; Thanksgiving 11/2 – 11/25; Christmas 12/23 – 12/27; New Years 1/2/23; MLK 1/16/23; NARUC 2/13/23 – 2/15/23