

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. W-354, Sub 399

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application by Carolina Water Service, Inc. of North Carolina, 5821 Fairview Road, Suite 401, Charlotte, North Carolina 28209, for a Certificate of Convenience and Necessity to Provide Water Utility Service to the Carteret County Water System, and for Approval of Rates) CAROLINA WATER SERVICE, INC. OF NORTH CAROLINA'S PROPOSED ORDER GRANTING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE WATER UTILITY SERVICE TO THE CARTERET COUNTY WATER SYSTEM, AND FOR APPROVAL OF RATES

HEARD: Tuesday, October 18, 2022, at 7:00 p.m., Carteret County Courthouse, Beaufort, North Carolina (public hearing)

Tuesday, June 20, at 10:00 a.m., in the Commission Hearing Room, 2d floor of Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina (evidentiary hearing)

BEFORE: Commissioner Jeffrey A. Hughes, Presiding, Chair Charlotte A. Mitchell, and Commissioners ToNola D. Brown-Bland, Daniel G. Clodfelter, Kimberly W. Duffley, Floyd B. McKissick, Jr., and Karen M. Kemerait

APPEARANCES:

For Carolina Water Service, Inc. of North Carolina:

Jo Anne Sanford, Sanford Law Office, P.O. Box 28085, Raleigh, North Carolina 27611

For Carteret County:

Claud R. Wheatly, III, Wheatley Law Group, PA, 710 Cedar Street, Beaufort, North Carolina 28516

For the Using and Consuming Public:

William Grantmyre, William E. H. Creech, and James Bernier, Staff Attorneys, Public Staff – North Carolina Utilities Commission, 4326 Mail Service Center, Raleigh, North Carolina 27699-4300

BY THE COMMISSION: On August 2, 2022, Carolina Water Service, Inc. of North Carolina (“CWSNC” or “Company”) filed an Application for Certificate of Public Convenience and Necessity and for Determination of Rates, pursuant to N.C. Gen. Stat. § 62-110, with respect to its planned acquisition of the Carteret County Water System (“Carteret System”, also referred to as “North River/Merrimon”) in the above-referenced docket (“CPCN Application” or “Sub 399”).¹

Slightly over three weeks later, on August 25 2022, the Public Staff (“Staff”) notified CWSNC by letter filed with the North Carolina Utilities Commission (“Commission” or “NCUC”) of its decision that additional enumerated information was necessary to complete the CPCN Application.

One day later, on August 26, 2022, CWSNC filed a lengthy response to the Public Staff’s questions and statements, including a revised Application.

On September 2, 2022, CWSNC made a Supplemental filing, which had a confidential component.

¹ On July 26, 2022, in a related matter, CWSNC filed in Docket No. W-354, Sub 398, an Application for Determination of Fair Value (“Fair Value Application” or “Sub 398”), pursuant to G.S. Gen. Stat. 62-133.1A. These dockets are related and share the same parties as well as a common public hearing before the Commission. Commissioner Hughes announced during the instant hearing that the Commission would take judicial notice in this case of the entire record in Sub 398. *Tr. Vol. 2, p. 10*

On September 13, 2022, the Commission issued an Order Scheduling Hearings, Establishing Discovery Guidelines, and Requiring Customer Notice. This Order applied to both the Fair Value Application (Sub 398) and the related CPCN Application (Sub 399).

On October 18, 2022, at 7:00 p.m. in the Carteret County Courthouse, the Commission held a public witness proceeding to hear from customers both with respect to the Sub 398 Fair Value Application and the Sub 399 CPCN Application. Seven witnesses testified.

On November 21, 2022, the Commission issued its Order Extending Time for Filing Response to Customer Concerns, Allowing Public Staff Response, and Directing Both to be Filed in the Fair Value Docket (Sub 398) and the CPCN Docket (Sub 399).

On November 22, 2022, CWSNC filed in both dockets its Response to Customer Concerns from the October 18, 2022, Beaufort North Carolina Public Hearing.²

On December 16, 2022, the Public Staff requested an “Extension of Time, *Nunc Pro Tunc*” from the December 12, 2022 due date until December 19, 2022, in which to file its verified Response to CWSNC’s Response to Customer Concerns. On December 16, 2022, the Staff filed its Response.

On December 22, 2022, the Commission issued an Order Granting Public Staff’s Motion For Extension Of Time And Directing Further Utility Reporting, and on January 17, 2023, CWSNC filed a Supplemental Response to Customer Concerns.

² This was the same response that had been filed in Docket No. W-354 Sub 398 on November 7; the subsequent filing conformed the record to the Commission’s requirement that the public hearings were to address both Subs 398 and 399.

The Public Staff testimony of Lynn Feasel and Charles Junis was filed on March 10, 2023, and on March 27, Carteret County (“County”) filed a Motion to Intervene, along with the testimony of Carteret County witnesses Dee Meshaw and Tommy Burns.

Also on March 27, 2023, CWSNC filed a Motion for a Two-Day Extension of Time to file Rebuttal, and on March 29, 2023 the Company filed rebuttal testimony of Donald H. Denton III and Matthew P. Schellinger II.

The County’s Motion to Intervene was granted on April 4, 2023, along with an Order Denying Motion to Extend Hearing. On April 6, 2023, Counsel for CWSNC filed the witness list, specifying the order of witnesses and estimated cross examination time. On April 10, 2023 the Commission issued an Order Postponing the Hearing, and on May 1, 2023, it issued an Order Rescheduling Hearing until June 20, 2023.

CWSNC filed revised exhibits on May 9, 2023, which updated information about the rates that had been ordered by the Commission in Docket No. W-354, Sub 400, the Company’s recent Multi-Year Rate Plan case. In response, the Public Staff updated its testimony on June 13, 2023.

On June 20, 2023, the evidentiary hearing took place in the Commission Hearing Room, 2d floor of the Dobbs Building, at 430 North Salisbury Street, Raleigh, NC 27603.

Based on the CPCN Application and the entire record in both referenced dockets (Subs 398 and 399) and related proceedings, the Commission makes the following:

FINDINGS OF FACT

1. CWSNC is a corporation duly organized under the laws of, and is authorized to do business in, the State of North Carolina. It is a franchised public utility providing water and sewer utility service to customers in North Carolina, pursuant to North Carolina

General Statutes, Chapter 62. CWSNC is a wholly owned subsidiary of Corix Regulated Utilities, Inc.

2. CWSNC has contracted with Carteret County to purchase the County's water system. In the related "Fair Value" docket, CWSNC petitioned for and received the Commission's approval of a determination of the Fair Value of this water system, by Order issued by the NCUC on February 10, 2023 in Docket No. W-354, Sub 398.

3. CWSNC is properly before the Commission for approval of its request for a CPCN under N.C.G.S. § 62-110, which provides, in pertinent part, that:

...no public utility shall hereafter begin the construction or operation of any public utility plant or system or acquire ownership or control thereof, either directly or indirectly, without first obtaining from the Commission a certificate that public convenience and necessity requires, or will require, such construction, acquisition, or operation..

4. The Carteret County System ("System"), owned by Carteret County, a county established under Chapter 162A of the General Statutes, is a "Local Government Utility" as defined by Commission Rule R7-41(b)(1).

5. The System consists of the two water systems, North River/Mill Creek and Merrimon, and serves approximately 1,250 water utility customers.

6. The System currently is well maintained and provides safe, reliable, and compliant service to customers.

7. CWSNC and the County entered into an operation and maintenance oversight agreement dated January 24, 2022. Under the agreement, CWSNC provides an Operator in Responsible Charge ("ORC") and consultation services to the County staff.

8. The purpose of the Sub 399 filing is to comply with the statutory and rule-based requirements for transfer of a water system and of the right to serve its territory from one provider to another. In this case, the transfer is from a governmental system, owned and operated by Carteret County, to CWSNC, a provider of water service to the public that is regulated by the North Carolina Utilities Commission under Chapter 62 of the North Carolina General Statutes.

9. CWSNC's Application for a Certificate of Public Convenience and Necessity, as filed, supplemented, and updated in this record, is complete and compliant with the Commission's requirements for applications for CPCNs.

10. CWSNC is a competent, highly qualified water and wastewater service provider, recognized repeatedly in NCUC dockets as providing statutorily required levels of service, and requested repeatedly to serve as a Public Staff-recommended, Commission-appointed Emergency Operator. The Company's responses to the Public Hearings demonstrated a responsible attention to the concerns of the customers and operational expertise regarding the system, which CWSNC has been operating. A number of customers testified in opposition to the sale, expressing a preference for the County to retain ownership. *See Tr. Vol 1.*

11. Carteret County:

- a) by its own declaration, is not equipped to be a qualified provider of water service to the customers of the Carteret County Water System;
- b) asserts on the record that it cannot responsibly manage the obligations of hiring and managing the staff necessary to run the system;

- c) has been declared the owner of a “distressed system” by the Local Government Commission;
- d) is authorized to sell the system and has fully complied with the requirements of the open and upset bid process, set forth in G.S. Gen. Stat. 160A, Article 12 and 153A-176.
- e) has previously raised rates by 95% in one action (subsequently modified) and estimates that it will raise rates again by 40% if CWSNC does not acquire the system;
- f) is not required to follow rules of proof, process, and examination---as such exist under Chapter 62 of the North Carolina General Statutes---for utilities regulated by the NCUC, prior to raising rates and fees for service;
- g) is governed by a Board of County Commissioners, which is authorized by G.S. Gen. Stat. § 153A-12 to exercise each power, right, duty, function, privilege, and immunity of the corporation³;
- h) has determined by vote of its governing body---the Board of County Commissioners---that it is going to sell this water system. More specifically, it has entered a contract to sell the system to CWSNC; and
- i) speaks as the relevant authority with respect to whether it is in the best interests of the County and its residents for the County to own and operate a utility system, whether it should sell this system, and the purchase price that is acceptable to the County.

³ The “corporation” is the County.

12. The System was not financially self-sufficient on customer rates alone. The System's operations were supported at times with monies from the County's General Fund and, additionally, were regularly supported with taxes collected from property owners within the boundary of a special water taxing district (the "Water District"). The System customers represent less than half of the parcels within the Water District, and they are only a small fraction of the County population. The decision by the Carteret County Board of Commissioners regarding the public interest of the County in a sale is authorized by the General Statutes and addresses the issue of benefit to the System customers and the County.

13. Credible testimony in the record establishes that it is in the public interest for a competent provider to assume responsibility for the Carteret County water system, considering the County's decision to sell it. The acquisition by CWSNC, utilizing the Fair Value statute and including a four-year rate freeze, is in the interest of the Carteret County customers and of Carteret County, based on evidence in the record.

14. The water rates reflected in CWSNC's Revised Form Application Exhibit 12, in the Sub 398 docket, are the existing Carteret County rates. CWSNC has agreed with Carteret County that the customers of the System will remain at Carteret County's current water rates for the next four years. The agreed-upon, extensive rate freeze is appropriate and beneficial to the System customers.

15. Given the commitment to this extensive four-year rate freeze, and the Commission's broad and flexible authority to set rates in the future in a fashion that is fair to both the existing body of CWSNC ratepayers and the Carteret County customers, it is reasonable to expect that uniform ratepayers of CWSNC stand also to benefit from

spreading costs over a larger customer base and from the longer-term benefits of adding a system that is not expected to need significant investment in the foreseeable future.

16. There is no persuasive rationale on record for establishment, by the utility or by the County, of a hardship fund at this time or for these customers. Though customer assistance funds or programs have been approved by agreement of the utilities, the practice of Commission approval has largely been predicated on utility agreement and used for programs that impact customers on a company-wide basis.

17. The Public Staff's objections to CWSNC's receipt of a CPCN are not consistent with the General Statutes; neither are they consistent with Commission practice for issuance of CPCNs.

18. The "Fair Value" of the Carteret Water System assets, for purposes of determining rate base in the acquisition sought by CWSNC, has been adjusted and determined by this Commission in Docket No. W-354, Sub 398, pursuant to the statute and during a lengthy, contested hearing process. That decision has been deemed by the Commission to be in the public interest; the decision has not been appealed.

19. Use of the Fair Value process does not require that the acquired system be troubled, based on a plain reading of the statute.

20. The Commission has the authority and the tools necessary to set just and reasonable rates, when---after a four-year rate freeze---the opportunity presents itself. This authority includes dealing with issues such as excess capacity, should such an issue ever be alleged, as well as considering the applicability of uniform rates.

21. Credible evidence in the record shows that approval of the CPCN requested herein will not have an adverse impact on the rates of the System customers---certainly

not for four years. Valid rate comparisons should be measured against the stated intentions of imminent, future rate increases from the County.

System customers, as are all CWSNC ratepayers, will be protected from unwarranted potential costs and risks of the acquisition, because their provider is under the jurisdiction of the Commission, which has expertise and a myriad of regulatory tools to use for oversight.

The acquisition will demonstrably provide clear benefits to offset potential costs and risks to System customers, as outlined in Findings of Fact Nos. 10, 12, 13, 14, and 15.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1 - 8

The evidence supporting these findings of fact is found in the verified Application and the accompanying exhibits from Docket Nos. W-354, Sub 398 and Sub 399, the testimony and exhibits of the witnesses, the Commission record, the General Statutes and Commission Rules, the Commission's Order in the Sub 398 proceeding, and the entire record in this proceeding. These findings are informational, procedural, and jurisdictional in nature and are not contested by any party.

It is undisputed that CWSNC is a utility company that provides water and sewer service for compensation to the public in North Carolina, under the jurisdiction of Chapter 62 of the General Statutes, and that it is regulated by the Commission. CWSNC and the County have executed a contract for the sale of the Carteret System to CWSNC, and CWSNC has applied for a CPCN in this docket, to provide service to the customers on the Carteret System.

In conjunction with the proposed sale of the Carteret System to CWSNC, the Company filed a Fair Value Application in Docket No. W-354, Sub 398. In the Fair Value Application, CWSNC has elected, as allowed under N.C.G.S. § 62-133.1A and Rule R7--41, to establish rate base for the Carteret System by using the fair value of the property instead of its net original cost.⁴ The Commission exercised its authority to adjust the fair value in the Sub 398 docket; that fair value plus the allowable reasonable fees produced the allowable rate base for the Carteret Water System, assuming the acquisition takes place.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 9 – 10

CWSNC Competence and Propriety of Application

The evidence for these findings is in the Commission's records, the original CPCN Application and the updates thereto, the Fair Value docket, NCUC orders appointing CWSNC as emergency operator, NCUC decisions in rate cases, and the testimony of CWSNC and Public Staff witnesses in this case.

The Company's Application, filed on August 2, 2022, was ultimately met by a Public Staff letter of August 25, 2022, alleging deficiencies. The Company updated its Application by a revision on August 26, 2022 and by another update on September 2, 2022. After the Public Staff letter of August 25, 2022, there have been no other

⁴ G.S. 62-133.1A specifically authorizes an election by the utility between original cost and fair value, in determining rate base in instances such as this, as follows: "Election. - A water or wastewater public utility, as defined by G.S. 62-3(23)a.2., **may elect to establish rate base by using the fair value of the utility property instead of original cost** when acquiring an existing water or wastewater system owned by a municipality or county or an authority or district established under Chapter 162A of the General Statutes." **Emphasis added.**

allegations of insufficiency in the Application, and the Commission concludes that the Application is complete and compliant with Commission rules and practice.

CWSNC's competence to provide statutorily compliant service as a professional water and wastewater company has been recognized in sequential rate cases⁵ and in its appointment as Emergency Operator in the Riverbend, Cross State, Harrco, Kinnakeet, and Mountain Air cases, in which it has stepped forward in response to the Public Staff's and the Commission's needs to find help in the management of troubled systems.⁶ Some of these systems posed "real" emergencies (*see Public Staff description of Mountain Air in the April 29, 2022 Emergency Operator Petition, Docket No. W-1148 Sub 20, Paragraph 11, page 20*) and CWSNC's management of them is reported on to the Commission and the public in filed Quarterly Reports. Additionally, CWSNC has stepped in to assist Carteret County, and is functioning as the operator in responsible charge of the Carteret System, in light of requests from the County. There is no challenge to the representation that the Company is competent and qualified to own and operate this System.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 11 – 12.

County Imperative to Sell

The evidence for these Findings is found in the testimony and exhibits of County witnesses Meshaw and Burns, in the General Statutes, in the contract between the County and CWSNC, and in the records of Subs 398 and 399.

⁵ W-354 Subs 360, 364 and 400, for example.

⁶ Cross-State (W-408, Sub 9); HARRCO (W-796, Sub 12); Riverbend (W- 390, Sub 13); Mountain Air (W-1148, Sub 20); and Kinnakeet (W-1125, Subs 9 & 10)

County witnesses Burns and Meshaw---respectively the County Manager and the Chief Financial Officer---testified with authority about the County’s financial and technical impediments to owning and operating the System, including its lack of technical and managerial ability. *See Burns pre-filed testimony, Tr. Vol 3.* These factors included an inability to retain and manage the necessary staff, the extent to which subsidies to the System were required from all County taxpayers, and the fact that System customers had experienced---and face again in the absence of a sale of the System---sharp rate increases. The County witnesses also testified that the System had been declared a “distressed system” by the Local Government Commission—a designation that has negative impacts on the County.

The Commission’s Order of February 10, 2023 in the Sub 398 docket, at Finding of Fact No. 7, said the following:

The System was not financially self-sufficient on customer rates alone. The System’s operations were supported at times with monies from the County’s General Fund and, additionally, were regularly supported with taxes collected from property owners within the boundary of a special water taxing district (the Water District). The System customers represent less than half of the parcels within the Water District, and they are only a small fraction of the County population.

County Authority to Make Decisions About Sale of System, Customer Benefits, and Public Interest

The County’s authority to sell the system, using the North Carolina statutory procedure of the upset bid process, was the subject of testimony and is contained in the North Carolina General Statutes at N.C. Gen. Stat. 160A and 153A. Testimony of the County’s compliance with the upset bid process was provided by County Manager Burns and was not challenged by any party.

Evidence of the authority of the Board of County Commissioners to exercise each power, right, duty, function, privilege, and immunity of the corporation is found in N.C. Gen. Stat. §153A.12. The record in both dockets (Subs 398 and 399), including the Commission's Order in the Sub 398 docket shows that the Board of County Commissioners voted to sell this water system and that it authorized entering a contract with CWSNC to do so. There is no suggestion that this decision is not within the statutory authority of the County Commissioners, and no evidence that they have exercised it in any manner not consistent with statutory authority.

The Board of County Commissioners is the proper authority with respect to whether it is in the best interest of the County and its residents for the County to own and operate this utility system, or whether it should sell this system. It is also the Board's responsibility to follow the statutes which deal with sale of County property, and to determine---within the bounds of applicable law---how the proceeds will be allocated. The evidence shows that the County has made its decision regarding the best interests of Carteret County and its citizens with respect to provision of water service to the System customers.

EVIDENCE AND CONCLUSIONS OF LAW FOR FINDINGS OF FACT NOS 13 - 15

Specific Customer Benefits

Evidence in the record dealing with oversight by NCUC and N.C. General Statutes Chapter 62 support the proposition that these customers benefit from being served by a professional water provider that is regulated by the NCUC. See *Testimony of Denton, Junis, and Burns*.

Testimony by County witness Meshaw concerning the County's prior sharp rate increase and its plans to initiate a 40% increase, should this acquisition not take place, supports the view that System customers benefit from the rate stability that is a function of oversight by the NCUC, and from avoidance of erratic and sharp rate increases.

Testimony to the effect that CWSNC is a competent provider is provided by witnesses Denton, Junis, and Burns, and found in the Commission's CWSNC rate case and Emergency Operator dockets. That evidence supports the conclusion that CWSNC is better able to manage this System than is Carteret County (by the County's own admission). The testimony by witness Burns is particularly compelling, given his 20 years of experience dealing with water companies, including as County Manager in Harnett County, which had a 50,000-customer water system during his tenure. The advantages that CWSNC brings in terms of ownership, regulatory oversight, and professional and compliant operations, are distinct benefits to the System customers.

It is a benefit to the County, including to these customers, to eliminate the Local Government Commission designation as a "distressed system. *See Burns and Meshaw Testimony.*

It is a benefit to the County, including these customers, to cease the tax-based subsidy provided by County taxpayers to the support of this System. The testimony of witness Meshaw explained the operation of the tax system and the support required for this System from both system customers and other taxpayers. Ms. Meshaw refuted the Public Staff's testimony regarding the sufficiency of rates to support the costs of the system.

System customers benefit from an extraordinary four-year freeze on the rates of the Carteret County customers, in that the customers receive the benefits of CWSNC service without any specter of a rate increase. This is not an assurance any other group of ratepayers receive, even under a multi-year rate plan. *See witness Denton testimony.*

Other customers benefit from an increase in the number of customers over which to spread costs, and from the fact that inclusion of a system which is in relatively good condition offers future benefits, when this system can help mitigate uniform rates rather than drive them up via costly repairs or reconstruction.⁷ *See witness Schellinger testimony.*

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 16

Hardship Fund

The evidence addressing the creation of a hardship fund is found in the testimony of witnesses Junis, Denton, and Burns, in questions asked by Commissioners, in a reference in the Commission Order of February 10, 2023 in the Sub 398 docket, and in Chapter 62 of the General Statutes. First, there is no evidence in the record of a rationale for establishment of a hardship fund at this time, or for these customers. There is speculation about a future need, which cannot be known at this time for many reasons, including uncertainty about what the ratemaking decisions will be three to four years into the future. Even if the Commission had authority to compel the County to establish a low-income fund for system customers, or if it entertained a suggestion to condition approval of the CPCN on such a condition, it would still lack rationale and a reasonable certainty

⁷ As the Commission noted in its Order of February 10, 2023 in the Sub 398 docket, “it is difficult to predict the impact of granting the Application on future rates.” Finding of Fact 21, p. 8. This is always the case.

about the existence of a need—especially four years from now. No other of CWSNC’s customers have the opportunity to receive CWSNC’s service and a rate freeze of that duration, much less a hardship fund created in anticipation of a need that cannot be anticipated---much less substantiated---at this point. County witness Burns testified that the County had other projects for which these proceeds were needed. The Commission is concerned that the Public Staff’s recommendation would have the Commission assert a questionable suggestion of authority or influence over a County prerogative, and for the singular benefit of one subset of customers, who may not be differentiated from other groups of customers with respect to financial need in four years. Finally, though perhaps not precisely on point, depending on how a proposal is structured, the anti-discrimination provisions of N.C. Gen. Stat. § 62-140 are informative.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 17 - 20

Compliance with Statutes and Commission Practice

The Public Staff’s objections to CWSNC’s receipt of a CPCN go beyond Commission ordinary practice for issuance of CPCNs. The evidence concerning this issue is found in the testimony of Public Staff witnesses Junis and Feasel, as well as in the testimony of CWSNC witnesses Denton and Schellinger, in the record of the Sub 398 Fair Value case, in prior Commission dockets dealing with CPCNs, and in N.C. Gen. Stat. § 62-133.1A.

First, to base approval of this request on compliance with the historical criteria for determining rate base, to which the Fair Value statute provided an explicit alternative, is to undermine the plain language and intent of N.C. Gen. Stat. 62-133.1A. The Public Staff’s policy concerns are noted and understood. However, once the Commission

has found the adjusted Fair Value in the public interest and translated that Fair Value determination into a rate base value, to *then* to deny approval of a CPCN because the rate base is “high” is illogical. To compound the deficiencies in this logic, for the Commission to do so is to concede that it cannot fairly make these decisions about rates in a proper hearing, with evidence based on then-current facts, at least three to four years in the future.

The Commission notes the requirements, approaching those of a major merger docket, that the Public Staff would impose on this particular CPCN case, and observes that it is a very strict standard of review for a CPCN. It is particularly notable in that the Purchaser is a regulated utility that has been consistently recognized by regulators for its quality of service, and relied upon to assume responsibility for complex, troubled systems. Care must be taken that this proceeding is not the avenue for a collateral attack on the decision in Sub 398, or on the operation of the Fair Value statute itself. (N.C. Gen Stat. § 62-133.1A)

The “Fair Value” of the Carteret Water System assets, for purposes of determining rate base in the acquisition sought by CWSNC, has been adjusted and determined by this Commission in Docket No. W-354, Sub 398, pursuant to the statute and during a lengthy, contested hearing process. That decision has been deemed by the Commission to be in the public interest.

The Commission unquestionably has the authority and the tools necessary to set just and reasonable rates, when---after a four-year rate freeze---the opportunity presents itself. This authority includes dealing with issues such as excess capacity, should such

an issue ever be alleged, as well as with the applicability of uniform rates.⁸ It is premature to speculate on which issues will be presented to the Commission at that time, what costs and revenues will be, or on how the Commission will decide, and such speculation does not provide a proper basis for decision in this CPCN docket.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 19 – 21

Compliance With the Most Stringent Standards for Granting CPCN

Approval of the requested CPCN and rates herein is consistent even with the heightened standards for approval cited by the Public Staff. The evidence in support of these Findings is in the testimony of CWSNC witnesses Denton and Schellinger, in the testimony of Public Staff witness Junis, and in Commission dockets dealing with mergers. The approval will not have an adverse impact on the rates of the System customers--- certainly not for *four* years. Even after that, the rates these customers pay should be measured against the announced risks of (and history of) sharp rate increases from the County, as well as the extent to which the customers would be subject to rate decisions that are not as scrutinized as are those made by the NCUC.

The Commission concludes that it is unreasonable to ignore the obvious benefit of the lengthy rate freeze and then project an unsubstantiated assumption of “harm” out to a point that is years in the future, and thus to recommend disapproval of the transaction.

⁸ The Public Staff presented testimony and a Late Filed Exhibit dealing with projections of costs and revenues and the impact of uniform rates, out into the future for five years. The Commission agrees with CWSNC’s observation on the record that the testimony is neither relevant, reliable nor necessary at this time. *Tr. Vol 2, pages 105—110.*

Secondly, ratepayers will be adequately protected from any unwarranted or unnecessary potential costs and risks of the acquisition, because their provider is under the jurisdiction of the North Carolina Utilities Commission, which has expertise and a myriad of regulatory tools to use for oversight. Finally, the acquisition will demonstrably provide clear benefits to offset potential costs and risks to System customers, as outlined in these Findings of Fact. Though the specific quantification of benefits to uniform customers is always difficult to determine in advance, as the Commission noted in its Order in the Sub 398 docket, there is clear advantage in pursuit of the Commission's and the Public Staff's policy of encouraging consolidation of systems. The Carteret System is also a good fit for CWSNC in terms of deployment of personnel (*see Schellinger rebuttal testimony*) and the fact that it is anticipated to need a lot of early capital investment makes it a good fit in the portfolio of systems. Further, the Commission specifically found in the Sub 398 docket that acquisition will spread certain costs over a larger customer base (acknowledging limitations of the ability to quantify the extent to which this will benefit existing customers or impact future rates).

IT IS, THEREFORE, ORDERED as follows:

1. That CWSNC's request for a Certificate of Public Convenience and Necessity and for Approval of Rates, as submitted in its Application and its supporting evidence, is approved.
2. That the following recommendations made by CWSNC witness Schellinger in his pre-filed Rebuttal Testimony (*at Tr. Vol. 3, pp. 120 - 121*) are approved:

- the going forward depreciation rates shall be equal to that of the CWSNC Uniform Water rate division as a more reasonable approximation of the remaining service lives of the utility assets of Carteret County;
- amortization of the due diligence and transaction costs is set at 2.5% and they are placed into the Organization plant account, similar to that of the Public Staff’s recommendations for the Riverbend and Silverton acquisitions, and consistent with the Uniform Water rate division’s rate; and
- the Purchase Acquisition Adjustment amortization rate is set consistent with the expected remaining useful lives of the acquired assets.

ISSUED BY ORDER OF THE COMMISSION.

This the ___ day of _____, 2023.

NORTH CAROLINA UTILITIES COMMISSION

Clerk