

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. W-354, SUB 412

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of  
Application by Carolina Water Service, Inc. of )  
North Carolina, along with Corix Infrastructure ) ORDER APPROVING MERGER  
(US) Inc. and SW Merger Acquisition Corp., ) SUBJECT TO REGULATORY  
for Approval of a Business Combination ) CONDITIONS  
Transaction Under N.C. Gen. Stat. § 62-111 )

HEARD: Wednesday, August 2, 2023, at 10:00 a.m., in the Dobbs Building

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

APPEARANCES:

For Carolina Water Service, Inc. of North Carolina, and Corix Infrastructure (US) Inc.:

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Raleigh, North Carolina 27611-8085

For SW Merger Acquisition Corp.:

Mary Lynne Grigg, McGuireWoods LLP, 501 Fayetteville Street, Suite 500,  
Raleigh, North Carolina 27601

For the Using and Consuming Public:

Elizabeth D. Culpepper, James Bernier, Jr., Staff Attorneys, Public Staff –  
North Carolina Utilities Commission, 4326 Mail Service Center, Raleigh,  
North Carolina 27699-4300

BY THE COMMISSION: On November 23, 2022, pursuant to N.C. Gen. Stat. § 62-111, Carolina Water Service, Inc. of North Carolina (CWSNC), along with Corix Infrastructure (US) Inc. (Corix US) and SW Merger Acquisition Corp. (SWMAC) (collectively, Joint Applicants) filed an application (Application) for approval of a business combination transaction whereby Corix Infrastructure Inc.'s (CII) water, wastewater, and related businesses will be combined with the water and wastewater businesses owned by SWMAC. Corix US is a wholly owned subsidiary of CII. On August 26, 2022, CII and

Corix US (the Corix Parties) entered into a transaction agreement (Transaction Agreement) with IIF Subway Investment (IIF Subway), SouthWest Water Company (SouthWest), and SWMAC (the SouthWest Parties). The Transaction Agreement provides a framework for combining CII's water, wastewater, and related businesses with the water and wastewater business owned by SWMAC. When the transactions contemplated by the Transaction Agreement are completed, CII and an affiliate or affiliates of CII will own 50% of Corix US. SWMAC Holdco, an entity that will be formed by SWMAC's shareholders before closing, will own the other 50% of Corix US (the Proposed Transaction). Corix US, in turn, will indirectly own and control all the CII water, wastewater, and related businesses, as well as the SWMAC water and wastewater businesses.

The Application included a copy of the Transaction Agreement and a summary of the Proposed Transaction. In support of the Application, the Joint Applicants also filed the testimony of Donald H. Denton III, President of CWSNC; Ellen Lapson, CFA, founder and principal of Lapson Advisory; Dante M. DeStefano, Director of Regulatory Affairs for CII; and Brian D. Bahr, Director of Rates and Regulatory Affairs for SouthWest, a subsidiary of SWMAC.

On April 25, 2023, the Commission issued an Order Scheduling Hearings, Establishing Discovery Guidelines, and Requiring Customer Notice. On May 1, 2023, the Commission issued an Order Providing Corrected Notice to Customers. On May 17, 2023, the Joint Applicants filed a Certificate of Service of Customer Notice.

On June 30, 2023, the Public Staff filed the joint testimony of Lynn Feasel, Financial Manager, Accounting Division of the Public Staff; June Chiu, Public Utilities Regulatory Analyst, Accounting Division of the Public Staff; Lindsay Q. Darden, Public Utilities Engineer, Water, Sewer, and Telephone Division of the Public Staff; and John R. Hinton, Director of the Economic Research Division of the Public Staff.

On July 14, 2023, the Joint Applicants filed the joint rebuttal testimony of Dante M. DeStefano, Brian D. Bahr, and Donald H. Denton, III and the rebuttal testimony of Ellen Lapson.

A public witness hearing was held in this matter remotely via WebEx on July 20, 2023, at which three customers testified: Vincent P. Roy from Carolina Trace, Alex Yandukin from Huntington Cross, and Patrick Dougherty from Belvedere Plantation. The witnesses variously spoke favorably of CWSNC's service, expressed concern about rate increases and comparisons of rates to other providers, complained about certain communications issues, and described a problem with a switched meter-read.

On July 31, 2023, the Joint Applicants filed a Joint Settlement Agreement and Stipulation, reflecting the terms of the Stipulating Parties' joint settlement, including the agreed-upon Regulatory Conditions.

Also on July 31, 2023, the Joint Applicants filed the joint supplemental testimony of Brian D. Bahr, Dante M. DeStefano, and Donald D. Denton III, and the Public Staff filed

the joint settlement testimony of Lynn Feasel, Lindsay Q. Darden, and John R. Hinton, all in support of the Joint Settlement Agreement and Stipulation.

On August 1, 2023, the Joint Applicants filed the Joint Settlement Agreement and Stipulation, as amended (Settlement Agreement).

On August 1, 2023, the Joint Applicants filed a Joint Motion to Excuse Witness Ellen Lapson, which was granted by order of the Commission on the same day.

No other party intervened in the proceeding.

The matter came on for expert witness hearing on August 2, 2023, as scheduled. The prefiled testimony and exhibits of the Joint Applicants and the Public Staff were admitted into the record and received into evidence without objection. In addition, the Application and appendices thereto and the Settlement Agreement were entered into the record without objection.

On August 3, 2023, the Joint Applicants filed their Report in Response to Customer Comments raised at the July 20, 2023, public hearing. The Public Staff filed its Verified Response to Joint Applicants' Report on Customer Comments on August 15, 2023.

Based on the testimony and exhibits presented at the hearing of this matter, the Settlement Agreement, and the record as a whole, the Commission makes the following:

### **FINDINGS OF FACT**

#### **Jurisdiction and Procedure**

1. CWSNC is a public utility organized under the laws of North Carolina, operating in North Carolina, and engaged in the provision of water and wastewater utility service to the public for compensation. The Company's business address is 5821 Fairview Road, Suite 401, Charlotte, North Carolina 28209.

2. CWSNC is an investor-owned public utility pursuant to N.C.G.S. § 62-3, does business as a regulated water and wastewater utility in North Carolina, and is subject to the regulatory oversight of this Commission. CWSNC presently serves approximately 35,000 water customers and approximately 21,000 wastewater customers in North Carolina and operates approximately 93 water systems and 38 wastewater systems in the State. CWSNC's service territory spans 38 counties in North Carolina.

3. Corix US is a corporation incorporated under the laws of Delaware. Corix US is owned by CII. CII, through its operating subsidiaries, owns and operates approximately 385 water, 310 wastewater, two electricity distribution, one propane, three geothermal, one municipal, and three natural gas distribution systems in the United States and Canada. CII's water and wastewater utilities and related businesses serve over

800,000 people in 18 U.S. states and two Canadian provinces. Corix US indirectly owns 100% of CWSNC.

4. SWMAC is a Delaware corporation that owns 100% of SouthWest. Through its subsidiaries, SWMAC owns and operates 18 water and wastewater utility companies in the United States. SWMAC's water and wastewater utilities provide service to over 500,000 people in seven U.S. states. SWMAC is owned by IIF Subway and Bazos CIV, L.P. (Bazos).

5. As part of the business combination, Corix US will organize Intermediate Newco under the laws of Delaware (Intermediate Newco). Intermediate Newco will be a holding company that will acquire indirect control of CWSNC.

6. The Joint Applicants are lawfully and properly before this Commission pursuant to N.C.G.S. § 62-111(a) with respect to the relief sought in the Application.

7. The Application, testimony, exhibits, and public notices submitted by the Joint Applicants satisfy the procedural requirements of the North Carolina General Statutes and the Rules and Regulations of the Commission.

### **Settlement Agreement**

8. On August 1, 2023, the Joint Applicants and the Public Staff filed a Settlement Agreement, resolving all of the contested issues in this matter.

9. The Settlement Agreement is the product of give-and-take negotiations between the Joint Applicants and the Public Staff, is material evidence in this proceeding, and is entitled to be given appropriate weight in this case along with the other evidence of record, including that submitted by the Joint Applicants, the Public Staff, and the public witnesses who testified at the public witness hearing.

10. The provisions contained in the Settlement Agreement are just and reasonable to all parties to this proceeding, as well as to CWSNC's customers.

### **Nature of Proposed Transaction**

11. When the transactions contemplated by the Transaction Agreement are completed, CII and an affiliate or affiliates of CII will own 50% of Corix US. SWMAC Holdco will own the other 50% of Corix US.

12. Corix US, in turn, will indirectly own and control all the CII water, wastewater, and related businesses, and the SWMAC water and wastewater businesses.

13. The Proposed Transaction will take place well above the utility operating company level and will not involve the transfer of CWSNC's stock or its assets.

## **Post-Closing Operations and Commitments**

14. Following the closing, CWSNC will continue to provide safe and reliable water and wastewater service to its customers, will maintain employees, offices, and facilities consistent with its obligations to serve its customers, and intends to maintain a local presence. Moreover, CWSNC will continue to be a North Carolina public utility providing water and wastewater service to the public in compliance with and subject to all existing obligations of CWSNC under applicable statutes, rules and regulations, and prior Commission orders.

15. The Proposed Transaction will not diminish the Commission's jurisdiction over CWSNC, and the Commission will continue to exercise the oversight authority and all powers granted to it by Chapter 62 of the North Carolina General Statutes and the Commission's Rules and Regulations.

16. Following the closing, CWSNC will continue to provide water and wastewater utility service to the public under its approved rates, terms, and conditions of service. Any future proposed changes to the rates, terms, or conditions of service of CWSNC will be subject to Commission review and approval.

17. CWSNC will continue to operate under its existing name and brand in North Carolina. The Proposed Transaction will not diminish any existing obligation of CWSNC to its customers or to the Commission under existing regulations, rules, regulatory conditions, or previous Commission orders.

18. The customer protection commitments (Customer Protection Commitments) made in the Application on pages 11 and 12 will ensure that CWSNC will be operated in a manner consistent with the public interest following closing of the Proposed Transaction.

19. The Regulatory Conditions attached to the Settlement Agreement were agreed to by Corix US, Intermediate Newco, CWSNC, and the Public Staff, and acknowledged and consented to by British Columbia Investment Management Corporation, CII, and any affiliate of CII that, collectively with CII, will own 50% of Corix US upon the closing of the Proposed Transaction, Bazos, IIF Subway, SWMAC Holdco, and any additional or successor entities with control over Corix US, Intermediate Newco or CWSNC. The Regulatory Conditions will ensure that CWSNC will continue to be operated in a manner consistent with the public interest following close of the Proposed Transaction.

## **Benefits**

20. The Proposed Transaction, Customer Protection Commitments, and the Regulatory Conditions collectively provide benefits to CWSNC customers.

21. The Regulatory Conditions and Customer Protection Commitments are intended to ensure that CWSNC's customers (a) are protected from any known adverse

effects from the Proposed Transaction, (b) are protected as much as possible from potential costs and risks resulting from the Proposed Transaction, and (c) receive sufficient known and expected benefits to offset any potential costs and risks resulting from the Proposed Transaction.

22. The Regulatory Conditions and Customer Protection Commitments recognize that the Proposed Transaction may lead to cost savings. CWSNC shall track, quantify, and report on costs to achieve savings and benefits, and CWSNC may seek to recover costs to achieve such savings and flow the savings to customers in future rate proceedings.

### **Financial Protections**

23. The Proposed Transaction, Customer Protection Commitments, and Regulatory Conditions collectively provide financial protections to CWSNC customers.

24. The Regulatory Conditions impose reasonable limits on dividends from CWSNC and require CWSNC to maintain a reasonable common equity capital level.

25. The Regulatory Conditions and Customer Protection Commitments provide reasonable protection against decreased creditworthiness.

26. The Regulatory Conditions require the reporting of certain investments by CWSNC and Intermediate Newco, events of a material default experienced by Corix US, Intermediate Newco, or an Affiliate of CWSNC, and bankruptcy filings that are material to Corix US, Intermediate Newco, or CWSNC.

27. The Customer Protection Commitments protect customers by restricting the purposes for which debt incurred by CWSNC will be utilized while likewise restricting the transfer of material assets by CWSNC.

### **Regulatory Oversight**

28. The Proposed Transaction and Regulatory Conditions collectively provide regulatory oversight following the close of the Proposed Transaction.

29. The Regulatory Conditions will effectively ensure that the Public Staff has access to financial information and ensure the Commission and Public Staff will continue to have access to the books and records of CWSNC in accordance with North Carolina law.

30. The Regulatory Conditions will facilitate meetings between CWSNC and Intermediate Newco personnel with the Public Staff.

31. The Regulatory Conditions require notifications to the Public Staff of certain structural and organizational changes to CWSNC.

32. The Regulatory Conditions ensure CWSNC will file an application for approval of certain future proposed transactions within a reasonable timeframe.

33. The Regulatory Conditions ensure that CWSNC will maintain a level of capital and operational support in North Carolina necessary to provide safe, efficient, and reliable service at reasonable rates.

34. The Regulatory Conditions ensure that CWSNC will continue to remain a public utility subject to the Commission's regulations and will comply with all regulatory reporting requirements.

### **Affiliate Issues**

35. The Proposed Transaction, Customer Protection Commitments, and Regulatory Conditions collectively provide protections to CWSNC customers regarding affiliate issues.

36. The Regulatory Conditions provide for effective regulatory oversight of CWSNC's financial obligations with respect to affiliates.

37. The Regulatory Conditions and Customer Protection Commitments ensure Commission oversight over CWSNC with respect to any affiliate interest agreement, shared services agreement, and/or cost allocation manual, and protect customers by ensuring regulation of certain affiliate transactions, transfers, and reporting thereon.

### **Local Operations**

38. The Proposed Transaction, Customer Protection Commitments, and Regulatory Conditions collectively provide protections to CWSNC customers as to local operations of CWSNC.

39. The Regulatory Conditions ensure CWSNC will use prudent business practices to maintain sufficient, adequately trained personnel to ensure that regulatory requirements are complied with in a timely and accurate manner.

40. The Regulatory Conditions and Customer Protection Commitments ensure CWSNC will continue its commitment to provide safe, reliable, and affordable utility service in North Carolina, including outreach to customers.

41. The Regulatory Conditions and Customer Protection Commitments ensure that CWSNC will maintain a strong local presence in North Carolina by temporarily restricting CWSNC from any involuntary reductions in force related to the Proposed Transaction, requiring notification of certain leadership changes, and addressing operator development and retention efforts.

42. The Regulatory Conditions ensure the Commission and Public Staff will receive service area reporting and geographic information system mapping information, as appropriate.

43. The Regulatory Conditions protect customers by ensuring CWSNC will continue to serve as emergency operator for certain systems.

44. The Regulatory Conditions require CWSNC to develop a low-income customer assistance program.

### **Public Convenience and Necessity**

45. The Proposed Transaction, as described and conditioned by the Application, the testimony of the witnesses, the Settlement Agreement, and the Regulatory Conditions, is justified by the public convenience and necessity, serves the public interest, and should be approved.

## **EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1-7**

### **Jurisdiction and Procedure**

The evidence supporting these findings of fact is set forth in the Application, the testimony of the Joint Applicants' witnesses, the Transaction Agreement, the testimony of the Public Staff's witnesses, the Settlement Agreement, and the Commission's records in this proceeding. These findings are essentially informational, procedural, and jurisdictional in nature and are not contested by any party.

According to the Application and the Settlement Agreement, the testimony of the Joint Applicants' witnesses Denton, DeStefano, and Bahr, and the Transaction Agreement, Corix US and SWMAC intend to engage in a transaction pursuant to which Corix US will become the owner of all the CII and the SWMAC water and wastewater businesses, including CWSNC, through a business combination.

There is no dispute that the Proposed Transaction requires the approval of this Commission under N.C.G.S. § 62-111(a), and the Application seeks such approval. Further, a review of the record in this proceeding indicates that the Joint Applicants have complied with all procedural and notice requirements established by the Commission in the Order Scheduling Hearings, Establishing Discovery Guidelines, and Requiring Customer Notice.

Based upon the foregoing, the Commission concludes that the Joint Applicants are properly before the Commission with respect to the relief sought in the Application and are in compliance with all filing and notice requirements.



## **EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 8-10**

### **Settlement Agreement and its Acceptance**

The evidence supporting these findings of fact is set forth in the Application, the Settlement Agreement, the supplemental testimony of the Joint Applicants' witnesses Denton, DeStefano, and Bahr, the joint settlement testimony of Public Staff witnesses Feasel, Darden, and Hinton, and testimony provided at the evidentiary hearing.

The evidence demonstrates that the Settlement Agreement was the result of substantial negotiation. Tr. vol. 2, 104. Following an extensive discovery process, the Public Staff filed its joint direct testimony, proposing 37 regulatory conditions. The Joint Applicants filed the joint rebuttal testimony of witnesses DeStefano, Bahr, and Denton, as well as the rebuttal testimony of witness Lapson, which responded to the regulatory conditions proposed by the Public Staff. Following the filing of rebuttal testimony, the Joint Applicants and the Public Staff turned to settlement negotiations, which involved substantial compromise by all parties on numerous issues. This process culminated in the Settlement Agreement and the Regulatory Conditions included therein. Tr. vol. 2, 170-71. The Public Staff characterized the Regulatory Conditions as "necessary to ensure that the Merger meets the Commission's three-part test for determining whether a proposed utility merger is justified by the public convenience and necessity and serves the public interest." Tr. vol. 2, 171.

The Regulatory Conditions, as set forth in the Settlement Agreement, are more specifically discussed throughout this Order. For the reasons discussed herein, the Commission concludes that the Settlement Agreement should be accorded full consideration and weighed by the Commission with all other evidence presented by the parties in the proceeding. For the reasons discussed in this order, the Commission concludes that the terms of the Settlement Agreement are just and reasonable and should be accepted by the Commission. The Commission is persuaded that the terms of the Settlement Agreement will result in a Proposed Transaction that (1) will not have an adverse impact on the rates and services provided by CWSNC; (2) will protect customers as much as possible from potential costs and risks of the Proposed Transaction; and (3) will result in sufficient benefits to offset potential costs and risks.

## **EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 11-13**

### **Nature of Proposed Transaction**

The uncontested evidence supporting these findings of fact is set forth in the Application, the testimony of the Joint Applicants' witnesses Denton, DeStefano, and Bahr, and the Transaction Agreement.

The Proposed Transaction is described in detail in the Application. Application at 6-8. Witness DeStefano testified that, to prepare for the Proposed Transaction, both the Corix Parties and the SouthWest Parties will undertake certain pre-closing restructuring

transactions. Tr. vol. 2, 66. Next, SWMAC Holdco will contribute 100% of the outstanding stock of SWMAC to Corix US in exchange for shares of stock issued by Corix US, with Corix US being the surviving entity of these steps of the transaction. Tr. vol. 2, 67. SWMAC Holdco will acquire 50% of Corix US's stock, Corix US will acquire the outstanding stock of SouthWest currently owned by SWMAC, and Corix US will continue to indirectly own CWSNC. Tr. vol. 2, 67. Corix US will then transfer all of the outstanding equity of SouthWest and certain Corix US subsidiaries to Intermediate Newco. Tr. vol. 2, 68. In exchange for this contribution of stock, Intermediate Newco will issue stock to Corix US and assume all of Corix US's third-party debt, with Intermediate Newco being a wholly owned subsidiary of Corix US. Tr. vol. 2, 68. Thus, upon consummation of the Proposed Transaction, as explained by witness DeStefano and Public Staff witness Darden: (1) CII and an affiliate or affiliates of CII will own 50% of Corix US's stock, and (2) SWMAC Holdco will own the remaining 50% of Corix US's stock. Corix US will own all of the stock of Intermediate Newco, and Intermediate Newco will indirectly own all of the utility operating subsidiaries comprising the CII water, wastewater, and related businesses, as well as the SWMAC water and wastewater businesses. Tr. vol. 2, 69, 150.

The Application makes clear and Witness DeStefano testified that: (1) the Proposed Transaction will not change the corporate structure of CWSNC; (2) the Proposed Transaction will not involve the transfer of CWSNC's stock or its assets; and (3) CWSNC's stock or assets will not be pledged or encumbered as a result of the Proposed Transaction. Application at 8; tr. vol. 2, 76-77. No party disputes these assertions.

Accordingly, and based on the foregoing, the Commission concludes that when the Proposed Transaction is complete, CII and an affiliate or affiliates of CII will own 50% of Corix US; SWMAC Holdco will own the other 50% of Corix US; and Corix US, in turn, will indirectly own and control all the CII water, wastewater, and related businesses, including CWSNC, as well as the SWMAC water and wastewater businesses.

## **EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 14-19**

### **Post-Closing Operations and Commitments**

The uncontested evidence supporting these findings of fact is set forth in the Application, the testimony of the Joint Applicants' witnesses Denton, DeStefano, and Bahr, the testimony of the Public Staff's witnesses, and the Regulatory Conditions.

The Application and the testimony of the Joint Applicants' witness Denton assert that the management and operations of CWSNC will remain essentially the same after the Proposed Transaction and CWSNC will continue to be operated as a Commission-regulated North Carolina water and wastewater public utility. Application at 14; tr. vol. 2, 47-48. The Application also indicates that no changes to CWSNC's rates, terms, and conditions of service are proposed in conjunction with the Proposed Transaction and that any future proposed changes to the rates, terms, and conditions of service of CWSNC will be subject to Commission review and approval. Application at 17.

The Application and supporting testimony assert that after the closing of the Proposed Transaction, the Commission will retain oversight over CWSNC and that the Joint Applicants are committed to ensuring that CWSNC complies with all applicable rules and regulations, and all applicable orders of the Commission.

Evidence of record asserts that CWSNC will continue to operate under its existing name and brand in North Carolina and that the Proposed Transaction will not diminish any existing obligation of CWSNC to its customers or to the Commission under existing regulations, rules, regulatory conditions, or previous Commission orders. Application at 17; tr. vol. 2, 47, 95. In addition, the testimony of witness Bahr, the Director of Rates and Regulatory Affairs for SouthWest, affirms commitment to North Carolina customers. Tr. vol. 2, 96.

The Application sets forth certain commitments made by the Joint Applicants (the Customer Protection Commitments) generally intended to protect customers from any harm that might arise from the transaction, as well as ensure the level of service and local presence that customers have come to expect from CWSNC. Application at 11-12. As Joint Applicants' witness Denton testified in response to questions from Commissioners at the expert witness hearing:

We think consolidation is the right thing in North Carolina, which would actually mean that we would be adding staff in order to facilitate that growth . . . Retention of employees and development of employees is a big focus for us right now. It's hard to find qualified operators in the current market and we're doing everything we can to keep the good people we do have and find new ones.

Tr. vol. 2, 123.

In addition to the Customer Protection Commitments, CWSNC, Corix US, and Intermediate Newco have agreed to a number of Regulatory Conditions in the Settlement Agreement that also bear on customer protection. Among the commitments made is the commitment to consider the economic costs of obtaining and maintaining a public rating versus any market benefits of obtaining such rating or ratings. Tr. vol. 2, 34, 239, 227. As noted by the Public Staff, Regulatory Condition 7 requires Corix Regulated Utilities (US) Inc. (CRU US) or CWSNC to file an economic analysis of the expected benefits and costs of a competitive public debt offering within 36 months of the consummation of the Proposed Transaction and to avail itself of lower cost debt capital with State Revolving Funds administered through the North Carolina Department of Environmental Quality. The Public Staff testified as to concerns with CWSNC's cost of debt and to the fact that this commitment would help to address the Public Staff's concern regarding CWSNC's relatively high cost of debt. Tr. vol. 2, 153-54.

The Commission is persuaded that the Customer Protection Commitments and the Regulatory Conditions should be sufficient to ensure that customers are protected from any potential harm that might arise from the Proposed Transaction and that CWSNC will continue to be operated in a manner consistent with the public interest, following the close

of the Proposed Transaction. The Commission concludes the Proposed Transaction will have no impact on the Commission's continuing regulation of CWSNC as a regulated water and wastewater utility in North Carolina. CWSNC will remain a public utility subject to regulation by the Commission pursuant to the North Carolina Public Utilities Act and the Commission's regulations, and the Commission will continue to exercise the oversight authority and all powers granted to it by Chapter 62 of the North Carolina General Statutes and the Commission's Rules and Regulations. The Customer Protection Commitments and the Regulatory Conditions will benefit CWSNC's customers, as discussed below in more detail. The Commission determines that these commitments and conditions should be sufficient to ensure that CWSNC, following closing of the Proposed Transaction, will continue to be operated in a manner consistent with the public interest.

## **EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 20-22**

### **Benefits**

The evidence for these findings of fact is set forth in the Application, the Customer Protection Commitments, the Regulatory Conditions, the testimony of the Joint Applicants' witnesses Denton, DeStefano, Bahr, and Lapson, and the testimony of the Public Staff's witnesses and is uncontested.

The legal standard applicable to this proceeding, established by N.C.G.S. § 62-111(a), requires that before the Commission may approve the Proposed Transaction, the Commission must conclude that the Proposed Transaction is "justified by the public convenience and necessity." Upon such conclusion, the statute instructs that the approval of the Proposed Transaction shall be given. In prior merger proceedings, the Commission has established a three-part test for determining whether a proposed utility merger is justified by the public convenience and necessity. That three-part test is: (1) whether the merger would have an adverse impact on the rates and services provided by the merging utilities; (2) whether ratepayers would be protected as much as possible from potential costs and risks of the merger; and (3) whether the merger would result in sufficient benefits to offset potential costs and risks. See Order Approving Merger Subject to Regulatory Conditions and Code of Conduct, *Application of Duke Energy Corporation and Progress Energy, Inc. to Engage in a Business Transaction and to Address Regulatory Conditions and Code of Conduct*, Nos. E-2, Sub 998, E-7, Sub 986 (N.C.U.C. June 29, 2012), *reh'g denied*, (N.C.U.C. Dec. 10, 2012), *aff'd in part, appeal dismissed in part sub nom., In re Duke Energy Corp.*, 232 N.C. App. 573, 755 S.E.2d 382 (2014).

These three questions are related to one another and together establish a reasoned framework upon which utility mergers may be evaluated. In making these assessments, the Commission has also examined factors such as whether service quality will be maintained or improved, the extent to which costs may be lowered and rates can be maintained or reduced, and whether effective regulation of the jurisdictional utility or utilities will be maintained. See Order Approving Merger and Issuance of Securities, *Application of Duke Power Company for Authorization under G.S. 62-11 and 62-161 to*

*Engage in and to Issue Securities in Connection with a Business Combination Transaction with PanEnergy Corp.*, No. E-7, Sub 596 (N.C.U.C. Apr. 22, 1997).

Moreover, the Commission has determined that N.C.G.S. § 62-111 does not require that a proposed business combination transaction be based upon demonstrations of specific cost savings. Rather, the Commission has concluded that cost savings are merely one factor that may be considered in evaluating a request to engage in a business combination transaction. Other factors include, but are not limited to, such non-quantifiable benefits as: a larger, more viable, and more financially diverse company with a broader range of assets and increased ability to provide stable and reliable service; and a stronger and more diverse company that is able to compete regionally, while remaining committed to the maintenance of a strong corporate presence in North Carolina. See Order Approving Merger and Issuance of Securities, *Application of SCANA Corporation to Engage in and to Issue Securities in Connection with a Business Combination Transaction with Public Service Company of North Carolina, Inc.*, No. G-5, Sub 400 (N.C.U.C. Dec. 7, 1999).

In the present proceeding, the Application identifies both quantifiable and non-quantifiable benefits associated with the Proposed Transaction. Witness Denton elaborated on the operational benefits in his testimony. First, the combined company's financial resources, increased scale, and enhanced financial foundation will benefit customers in North Carolina by enabling significant, long-term investments needed to continue providing reliable, high-quality water and wastewater services. Tr. vol. 2, 59-60. In addition, these investments, together with the sharing of prudent practices and operating expertise of both companies, will benefit customers through the continued safe, reliable, and sustainable delivery of critical water and wastewater services and high-quality customer service. *Id.* at 50-51. Further, the combination will create a broader group of employees with more collective knowledge and expertise in providing quality water and wastewater services, which will be shared throughout the combined company, including the employees working for the benefit of customers in North Carolina. *Id.*

In addition, the combination is expected to produce financial benefits, such as reductions in costs associated with board governance and senior executives, which will benefit customers. Tr. vol. 2, 73. The combination also is expected to produce longer-term financial benefits as the integration of CII's and SWMAC's water and wastewater businesses occurs over time. Tr. vol. 2, 74.

The increased scale, expertise, and financial resources of the combined company will also position the Company for continued growth in North Carolina through acquisitions and emergency operations. Application at 17. Additionally, scale, expertise, and financial resources of the combined company will afford access to CWSNC to the same sources of debt capital as it does today but will also position CWSNC to receive additional attention and consideration from fixed income sources that have relationships with IIF, Subway and SWMAC. Tr. vol. 2, 26, 32. Potential benefits in the form of future cost savings for CWSNC due to the increased scale of the combined enterprise are also likely to result. Tr. vol. 2, 26. As testified to by the Public Staff, the commitment to compete for State

Revolving Funds and the commitment to evaluate the costs and benefits of a public rating have the potential to allow access to lower cost debt, which would benefit customers.

Finally, as discussed in more detail below, the Customer Protection Commitments and the Regulatory Conditions protect CWSNC's customers from certain risks and potential harms associated with the Proposed Transaction.

The Commission concludes that the evidence related to quantifiable and non-quantifiable benefits associated with the Proposed Transaction is credible, uncontested, and should be afforded weight.

## **EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 23-27**

### **Financial Protections**

The evidence supporting these findings of fact is contained in the Application, the Customer Protection Commitments, the Regulatory Conditions, the testimony of witnesses for the Joint Applicants and the Public Staff, and the Commission's supervisory authority under Chapter 62 of the North Carolina General Statutes over the rates, terms, and conditions of service provided to the public by CWSNC.

Regulatory Condition 6, which will remain in effect for at least five years, limits dividends from CWSNC to no more than 100 percent of net income. This Regulatory Condition also recognizes that the Commission retains the right to impose future limitations on distributions of CWSNC if the public interest requires, consistent with applicable law and prior Commission orders.

Regulatory Condition 7 requires that Intermediate Newco shall be established with a target investment grade capital structure profile and operated in a way that is consistent with maintaining an investment grade profile. Among other things, this Regulatory Condition also requires Intermediate Newco to obtain third-party assessments of its compliance with this Condition for a period of time, to meet with the Public Staff to discuss Intermediate Newco's financing approach, and to cause Corix US to evaluate the costs and benefits of accessing debt capital through publicly traded debt instruments instead of private placements. In addition, this Regulatory Condition requires CWSNC to continue to identify and evaluate opportunities to apply for State Revolving Funds when possible and where feasible.

Regulatory Conditions 8, 9, and 10 require certain reporting regarding entities controlled by Corix US; notices regarding Intermediate Newco's proposed acquisitions of controlling interests in other utilities; and notices of certain defaults or bankruptcies that are material to Corix US, Intermediate Newco, or CWSNC.

Regulatory Condition 11 provides that, until the final order is issued in CWSNC's next general rate case, CWSNC will maintain common equity capital at levels equal to or greater than 45% of total adjusted capital (including common equity, long-term debt,

long-term capital leases, and current maturities of long-term debt). Further, no equity distributions, whether by dividend or other form, will be allowed that would result in equity capital falling below this minimum level during the specified period, without prior approval of the Commission.

In addition, the Customer Protection Commitments offered by the Joint Applicants state that all debt incurred by CWSNC will be used only for purposes specific to the CWSNC system or operations.

The Commission has reviewed and considered the financial protections included in the Customer Protection Commitments and Regulatory Conditions. This evidence is uncontested, and the Regulatory Conditions are the result of the agreements of the Public Staff and the Joint Applicants. The Commission is persuaded that the Customer Protection Commitments made by the Joint Applicants and the Regulatory Conditions, which have been agreed upon by the Public Staff, will result in sufficient financial protections for CWSNC's customers.

## **EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 28-34**

### **Regulatory Oversight**

The uncontested evidence supporting these findings of fact is set forth in the Application, the Regulatory Conditions, and the testimony of the Joint Applicants' and the Public Staff's witnesses.

Regulatory Conditions 12 through 18, and 20 through 21, include several provisions that will facilitate regulatory oversight by the Commission and the Public Staff. Regulatory Condition 12 requires CWSNC to provide certain pre- and post-closing financial information to the Public Staff. Regulatory Condition 13 requires annual meetings between the Public Staff and CWSNC and Intermediate Newco's key leadership to discuss CWSNC's financial condition and results, service quality initiatives and results, customer service changes, and potential new tariffs. Regulatory Condition 14 requires that the Commission and the Public Staff shall continue to have access to the books and records of CWSNC and its Affiliates,<sup>1</sup> consistent with North Carolina law. For a period of at least five years after the Proposed Transaction closes, Regulatory Condition 15 requires CWSNC to notify the Commission within 10 days of any changes to the membership of the Board of Directors of Corix US, Intermediate Newco, or CWSNC. Regulatory Condition 16 requires CWSNC to provide notice to the Public Staff of certain corporate structure changes. With respect to mergers and acquisitions, Regulatory Condition 17 requires CWSNC to file an application for approval pursuant to N.C.G.S. § 62-111(a) at least 180 days before the proposed closing date of any transaction subject to N.C.G.S. § 62-111(a), except for good cause shown. Regulatory

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<sup>1</sup> The Regulatory Conditions define "Affiliate" to mean Corix US and any business entity of which ten percent (10%) or more of the voting securities or interests are owned, directly or indirectly, by Corix US, including but not limited to CWSNC and Intermediate Newco.

Condition 18 requires CWSNC to provide the Public Staff with confidential copies of audited financial statements of Corix US and Intermediate Newco, if these companies have audited financial statements, for a period of at least five years after the Proposed Transaction closes. Regulatory Condition 20 requires that, for a period of at least five years after the Proposed Transaction closes, CWSNC annually provide to the Public Staff, on a confidential basis and for informational purposes, its Board-approved capital budget for new, expanded, or upgraded water and sewer facilities in North Carolina. Regulatory Condition 21 provides that CWSNC will remain a public utility subject to regulation by the Commission pursuant to the North Carolina Public Utilities Act and the Commission's regulations, and that CWSNC shall comply with all regulatory reporting requirements.

The Commission will retain jurisdiction over CWSNC post closure of the Proposed Transaction, including all supervisory authority vested in the Commission pursuant to Chapter 62 of the North Carolina General Statutes. Additionally, through the Regulatory Conditions, the Commission and the Public Staff will be afforded timely insight into important structural and organizational changes of CWSNC, as well as potential future proposed transactions. Thus, the Commission concludes that the Proposed Transaction will not jeopardize or otherwise diminish the Commission's continued regulatory oversight of CWSNC.

## **EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 35-37**

### **Affiliate Issues**

The evidence for these findings of fact is set forth in the Application, the Customer Protection Commitments, the Regulatory Conditions, and the testimony of the Joint Applicants' witness DeStefano, as well as witnesses for the Public Staff, and is uncontested.

Regulatory Conditions 25 through 30 include several provisions that will protect customers and facilitate regulatory oversight with respect to affiliate transactions, pricing of such transactions, and allocations of shared services costs. Regulatory Conditions 25 and 26 set out requirements and procedures with respect to cost allocation bases, changes, and updates. Regulatory Condition 27 sets out asymmetrical transfer pricing provisions for untariffed goods and services between CWSNC and its non-utility Affiliates, to the benefit of customers. Regulatory Condition 27 also addresses transfer pricing for services between CWSNC and utility Affiliates. Services provided by CWSNC to utility Affiliates or by utility Affiliates to CWSNC will be transferred at the supplier's cost, unless otherwise directed by the Commission. Services or functions provided by a service company to CWSNC will be provided at cost, except that CWSNC shall not pay (whether directly or through allocation) any amount for a service or function that exceeds the fair market value of that service or function. Regulatory Condition 28 requires that CWSNC provide advance notice of the transfer of any services, functions, departments, or assets from CWSNC to a service company or another Affiliate, or any subsequent transfer of any services, functions, departments, or assets from CWSNC to a service company or



another Affiliate that would have a material effect on CWSNC's customers. Regulatory Condition 29 confirms that CWSNC must file with the Commission, pursuant to N.C.G.S. § 62-153, agreements for the provision and receipt of goods or services between and among CWSNC and its Affiliates, and that all such agreements (as well as substantive changes to existing agreements) that involve payment of fees or other compensation by CWSNC will require acceptance and authorization by the Commission. Regulatory Condition 30 requires CWSNC to file with the Commission an annual report of Affiliate transactions.

The Commission concludes that the Regulatory Conditions ensure the Commission's continued oversight of CWSNC's transactions with its Affiliates. In addition, the Customer Protection Commitments and Regulatory Conditions prescribe utility conduct with respect to Affiliate transactions, which will ensure that rates charged to customers for utility services are just and reasonable. Finally, the Regulatory Conditions will provide insight and transparency around such Affiliate transactions. For these reasons, as to Affiliate transactions, the Commission concludes that the Regulatory Conditions will serve the public interest.

## **EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 38-44**

### **Local Operations**

The evidence supporting these findings of fact is contained in the Application, the Customer Protection Commitments, the Regulatory Conditions, the testimony of the Joint Applicants' witness Denton and witnesses for the Public Staff, and the Commission's supervisory authority under Chapter 62 of the North Carolina General Statutes over the service quality provided by utilities in North Carolina.

The Customer Protection Commitments and Regulatory Conditions 31 through 36 include several provisions that will protect customers and facilitate regulatory oversight with respect to CWSNC's local operations and quality of service. Regulatory Condition 31 requires annual reporting by CWSNC regarding its service area, specifically, certificates of public convenience and necessity and contiguous extensions. Regulatory Condition 32 requires CWSNC to confidentially share GIS mapping information with the Commission and the Public Staff upon request. Regulatory Condition 33 requires CWSNC to continue to serve as emergency operator of certain systems, for the lesser of three years after the consummation of the Proposed Transaction or until CWSNC is relieved of its requirement by future Commission order. Regulatory Condition 34 commits CWSNC to work with the Public Staff and develop, at its cost, a low-income customer assistance program. Regulatory Condition 35 provides that, for a period of at least five years, CWSNC must provide notice (in advance if possible) of changes in officers at CWSNC, Intermediate Newco, or Corix US. Additionally, for a period of at least five years after the Proposed Transaction closes, Regulatory Condition 36 requires CWSNC to annually report on efforts to develop and retain qualified operators.

As discussed above, witness Denton testified that CWSNC's commitment to the retention and development of local employees will remain following the Proposed Transaction. Tr. vol. 2, 123. In addition, in response to questions from Commissioners, witness Denton testified that he does not anticipate any change in CWSNC's view of itself as an important partner in the provision of water and sewer service in North Carolina and that the transaction will not adversely impact CWSNC's desire to grow in North Carolina. Tr. vol. 2, 127. Joint Applicants' witness Bahr confirmed that the Proposed Transaction will not adversely impact CWSNC's willingness to serve as an emergency operator in North Carolina. Tr. vol. 2, 131.

Based on the evidence in the record, including the specific Customer Protection Commitments and Regulatory Conditions discussed above and the testimony of the Joint Applicants' witnesses, the Commission concludes that the Proposed Transaction will not adversely impact CWSNC's local operations and, likely, will benefit them and that the Proposed Transaction is not a threat to CWSNC's commitment to maintaining a local presence in North Carolina and serving as an emergency operator when called upon to do so. Additionally, the Commission accepts the Joint Applicants' commitment to retaining local leadership and bases its conclusion, in part, on this commitment. Application at 11-12; tr. vol. 2, 47.

## **EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 45**

### **Public Convenience and Necessity**

The evidence supporting this finding of fact is contained in the Application, the Customer Protection Commitments, the Regulatory Conditions, and the testimony of witnesses for the Joint Applicants and the Public Staff.

Regarding the first part of the three-part test — whether the transaction would have an adverse impact on the rates and services provided by the jurisdictional utility — the Commission concludes, for the reasons explained below, that the Proposed Transaction will not have an adverse impact on the rates and services provided by CWSNC.

At the outset, the Commission notes that, as stated in the Application, the combination will have no immediate impact on CWSNC's rates. Application at 17. The Application states that, as financial benefits from the combination are achieved over time, the Joint Applicants believe that the combination may lead to lower costs and thereby help CWSNC keep its water and wastewater utility rates lower than they otherwise would have been without the combination. In addition, as testified by Joint Applicants' witness DeStefano, "while the Proposed Transaction is not driven by synergies, [the Joint Applicants] do anticipate that the business combination will improve efficiency and the

integration of administrative and general functions should eventually result in cost savings.” Tr. vol. 2, 74. Further, as testified by Joint Applicants’ witness Lapson:

after the consummation of the Proposed Transaction, there are potential benefits in the form of future cost savings for CWSNC due to the increased scale of the combined enterprise. Even though the transaction is not driven by net financial synergies, management expects scale and integration to yield financial benefits over time, which is likely to produce future benefits for CWSNC and its customers.

Tr. vol. 2, 26.

The Application represents that customers will realize the benefits of the Proposed Transaction over time when the combined company’s cost structure is reflected in CWSNC’s revenue requirement. Application at 17. Customer Protection Commitments (a) through (d) and Regulatory Conditions 1 through 5, 22, and 24, which are specifically aimed at ensuring that the Proposed Transaction will have no adverse impact on CWSNC’s rates and services, reflect this representation and provide assurance of customer protection in this regard. Notably, these Customer Protection Commitments and Regulatory Conditions provide, among other things, that CWSNC customers will not be charged for merger-related expenses and capital costs. Further, Regulatory Condition 2 requires CWSNC to periodically report on both actual costs to achieve merger savings and merger benefits. In addition, Regulatory Condition 4 provides that, in future rate cases, CWSNC may request recovery of costs to achieve merger savings, but only to the extent of merger-related savings.

Both the Joint Applicants’ and the Public Staff’s testimony in support of the Settlement Agreement describe, in some detail, the provisions of the agreed-upon Regulatory Conditions that are designed to prevent adverse consequences to customers, and the Public Staff’s testimony ultimately recommends approval of the Proposed Transaction, subject to the Regulatory Conditions.

Significantly, the evidence on these matters presented by the Joint Applicants and the Public Staff and set forth in the various documents and testimony discussed above, is uncontested. No other party submitted evidence suggesting that the Proposed Transaction will result in adverse consequences to the rates and services of CWSNC.

Further, following the Proposed Transaction, CWSNC will remain subject to regulation by the Commission. It is agreed by the Stipulating Parties that the Proposed Transaction will in no way diminish the authority of the Commission to regulate service quality and rates for CWSNC and, therefore, effective state regulatory oversight of CWSNC will continue. The Regulatory Conditions also contain provisions designed to ensure transparency and oversight, and to ensure that the Commission’s regulatory jurisdiction over CWSNC is not diminished as a result of the Proposed Transaction.

In this regard, the Commission notes that the provisions of Chapter 62 of the North Carolina General Statutes provide the Commission with broad supervisory authority over CWSNC, including the authority to establish (and modify if necessary) the utility's rates, terms, and conditions of service. As such and given the absence of any proposal in this docket to change CWSNC's rates or services, the Commission finds no evidence that the Proposed Transaction will increase rates or diminish services, or that the Commission's jurisdiction over CWSNC as a regulated public utility will be adversely impacted. Additionally, any currently unknown risks to customers arising out of the Proposed Transaction are sufficiently mitigated through the protections contained in the Regulatory Conditions and the Commission's continuing regulatory jurisdiction over CWSNC.

Based on the foregoing, the Commission concludes that the Proposed Transaction will pose little risk of any real or potential adverse impact on the rates and services provided by CWSNC to its customers.

Regarding the second part of the three-part test — whether customers would be protected from potential costs and risks of the Proposed Transaction — the Commission concludes, for the reasons explained below, that the customers of CWSNC will be adequately protected from potential costs and risks of the Proposed Transaction.

Under N.C.G.S. § 62-30, the Commission has general power and authority to supervise and control the public utilities of North Carolina as may be necessary to carry out the laws providing for their regulation. N.C.G.S. § 62-32 grants the Commission supervisory power over public utility rates and service, including the power to compel reasonable service and set reasonable rates. As noted above, paragraph 25(f) of the Application provides that:

The combination will have no impact on the Commission's continuing regulation of CWSNC as regulated water and wastewater utilities in North Carolina. CWSNC will remain a public utility subject to regulation by the Commission pursuant to the North Carolina Public Utilities Act and the Commission's regulations.

Application at 17. This continuing and undiminished regulatory oversight will serve to protect customers from any adverse consequences of the Proposed Transaction.

Separate and apart from the Commission's inherent and continuing supervisory function, there is substantial evidence in this proceeding that customers are, and will be, protected as much as possible from potential costs and risks of the Proposed Transaction. First, the Regulatory Conditions commit the Regulatory Condition Parties<sup>2</sup> not to seek recovery of several categories of merger-related expenses and capital costs. Specifically, Regulatory Condition 1 commits the Regulatory Condition Parties to not seek recovery through CWSNC's rates of: the costs of securing formal written evaluations of the

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<sup>2</sup> The Regulatory Conditions set forth commitments made by Corix US, Intermediate Newco and CWSNC, which are identified collectively as the "Regulatory Condition Parties."

transaction; the costs of structuring the transaction and obtaining tax advice on the structure of the transaction; the costs of negotiating, preparing, and reviewing the Transaction Agreement; the costs of retained consultants and advisors to evaluate the transaction and perform due diligence; legal and other fees of completing pre-closing restructuring; legal and other fees to close the Proposed Transaction; financial advisor fees; the costs of securing regulatory approvals; change-in-control payments made to terminated executives, merger-related bonuses, incentive payments, retention payments, and severance payments; and regulatory process costs. Moreover, in Regulatory Condition 1, the Regulatory Condition Parties have agreed that any premium paid related to the Proposed Transaction will not be “pushed down” to CWSNC and will not be recovered from CWSNC’s customers. These commitments are significant and serve to insulate customers from the major costs of the Proposed Transaction itself.

Second, the Regulatory Conditions also safeguard customers from potential adverse impacts on rates and services as a result of the Proposed Transaction. For example, Regulatory Condition 3 prohibits CWSNC from reflecting in rates the cost (or the receipt) of any termination payment or monetary damages, and states that CWSNC’s customers shall not otherwise bear any direct expenses or costs associated with a failed Proposed Transaction. Regulatory Condition 4 provides that, in future rate cases, CWSNC may request recovery of costs to achieve merger savings to the extent of merger-related savings or cost savings resulting from the Proposed Transaction. Regulatory Condition 5 recognizes that matters not currently foreseeable could possibly have the potential to negatively impact CWSNC’s customers in the future. However, Regulatory Condition 5 obligates the Regulatory Condition Parties to effectuate the Proposed Transaction in a manner designed to prevent harm to CWSNC’s customers, and to take commercially reasonable actions to hold CWSNC’s customers harmless from the effects of the Proposed Transaction.

The Commission notes that several provisions of the North Carolina General Statutes also serve to protect customers from potential negative consequences of the proposed Merger. These include: (1) N.C.G.S. § 62-130 — Commission supervision over rates; (2) N.C.G.S. § 62-138 — requirement to obtain Commission approval over service contracts; (3) N.C.G.S. § 62-139 — prohibition of service at other than Commission approved rates; (4) N.C.G.S. § 62-140 — prohibition of discrimination; and (5) N.C.G.S. § 62-153 — requirement to file affiliated contracts and to obtain approval for affiliated service contracts and payments to affiliates. Each of these statutory provisions either prohibits or mandates utility conduct for the purpose of assuring that rates charged to customers for utility services are just and reasonable.

The Joint Applicants’ and the Public Staff’s testimony in support of the Settlement Agreement discuss the numerous customer protections contained in the Regulatory Conditions designed to shield customers from potentially adverse rate impacts, including merger-related expenses and capital costs. The Public Staff’s testimony concludes that the Proposed Transaction is consistent with the public interest and should be approved, subject to the protections afforded customers provided by the Regulatory Conditions.

Based on the foregoing, the Commission concludes that potential risks to customers from the Proposed Transaction have been effectively mitigated by the Customer Protection Commitments in the Application and the Regulatory Conditions. Further, the Commission retains full power and authority to address, if necessary, in a future proceeding, any potential impact from the Proposed Transaction on CWSNC's customers and to enforce the Regulatory Conditions.

Regarding the third part of the three-part test— whether the Proposed Transaction would result in sufficient benefits to offset potential costs and risks — the Commission concludes that the Proposed Transaction will result in sufficient benefits to offset potential costs and risks resulting from the merger. The evidence explaining these benefits is found in the Application, the testimony of the Joint Applicants' witnesses Denton, DeStefano, Bahr, and Lapson, the testimony of witnesses for the Public Staff, and the Regulatory Conditions, and is discussed in the evidence and conclusions above regarding Findings of Fact Nos. 21-23.

The Commission has carefully reviewed and considered all of the evidence in this docket describing the known and potential benefits of the Proposed Transaction and finds it to be credible and undisputed. CWSNC will have continued access to capital at the same or at a lower cost of capital than otherwise would be available without the Proposed Transaction to support needed investments and growth. CWSNC will benefit from the sharing of prudent practices and mutual assistance available as part of a larger holding company. CWSNC will benefit from certain synergies as the companies become fully integrated. The Commission also concludes that the Regulatory Conditions provide several benefits and safeguards to CWSNC's customers. These benefits and safeguards include, but are not limited to: (1) reporting requirements to ensure appropriate accounting and allocation of costs, as well as information sharing and transparency; (2) assurances of continuing levels of service quality; (3) a requirement that merger-related expenses and capital costs be excluded from recovery through CWSNC customer rates; (4) a provision that CWSNC may seek to recover costs to achieve merger savings, but only to the extent there are merger savings or cost savings resulting from the Proposed Transaction; and (5) a commitment to develop a low-income customer assistance program.

These benefits more than offset any potential risks or costs attendant to the Proposed Transaction, which are mitigated in any event by the commitments concerning merger-related expenses and capital costs, by the restrictions imposed on the Regulatory Conditions Parties' conduct by the Regulatory Conditions, and by the Commission's continuing jurisdiction and authority over CWSNC's rates and terms and conditions of service. In addition, the Commission also concludes that CWSNC's service quality will be maintained, that CWSNC's rates will not change because of the consummation of the Proposed Transaction, and that effective regulation will be maintained for CWSNC.

The evidence has established that there are a significant number of actual and potential benefits that will accrue to the State of North Carolina, to CWSNC, and most importantly, to CWSNC's customers as a result of the Proposed Transaction. Based upon

this evidence, and the lack of any countervailing evidence, the Commission concludes that the third and final prong in the Commission's merger approval analysis has been satisfied and that benefits from the Proposed Transaction outweigh the potential costs and risks of the transaction.

Accordingly, the Commission concludes that: (1) the Proposed Transaction will have no adverse impact on CWSNC's rates and service; (2) CWSNC's customers are protected as much as reasonably possible from potential costs and risks that could result from the Proposed Transaction; and (3) the known and potential benefits from the Proposed Transaction are sufficient to offset the potential costs and risks.

Therefore, based on all of the evidence presented in this proceeding, the Commission finds that approval of the Proposed Transaction is justified by the public convenience and necessity and should be granted, subject to all of the terms, conditions, and provisions of this Order, including specifically, the Customer Protection Commitments and the Regulatory Conditions.

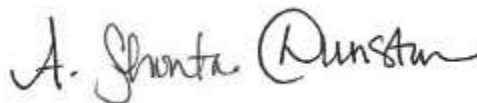
IT IS, THEREFORE, ORDERED as follows:

1. That the Application of Corix US, SWMAC, and CWSNC pursuant to N.C.G.S. § 62- 111(a) to engage in a business combination transaction shall be, and is hereby, approved, subject to compliance with the provisions of this Order, the Customer Protection Commitments contained in the Application and attached hereto as Appendix A, and the Regulatory Conditions attached hereto as Appendix B, both of which Appendices are incorporated herein;
2. That the Joint Applicants are authorized to take such other and further actions as are reasonable and necessary to consummate the Proposed Transaction;
3. That the Joint Applicants shall file a written notice in this docket within 10 business days after the consummation of the Proposed Transaction; and
4. That this docket shall remain open pending the filing of such notice, and such other actions by the Commission that may be required.

ISSUED BY ORDER OF THE COMMISSION.

This the 13th day of November, 2023.

NORTH CAROLINA UTILITIES COMMISSION



A. Shonta Dunston, Chief Clerk

**Customer Protection Commitments**

- a) CWSNC will continue to provide high-quality water and wastewater utility services to CWSNC's customers.
- b) CWSNC will continue to maintain a strong local presence in North Carolina in terms of employees, facilities and offices, and community support.
- c) The Joint Applicants have incurred and will incur transaction costs. The Joint Applicants will not seek to recover transaction costs from customers.
- d) While the Proposed Transaction is not driven by net financial synergies, the Joint Applicants anticipate that the business combination will improve efficiency and the integration of administrative and general functions should result in cost savings. The integration of CII's water, wastewater, and related businesses with SWMAC's water and wastewater business will be a significant, prolonged undertaking. The Joint Applicants acknowledge that costs and benefits associated with integration will be addressed in future ratemaking proceedings.
- e) Without the Commission's prior approval, CWSNC will not guarantee any debt or credit instrument of Intermediate Newco or any affiliate of CWSNC unless such debt is incurred for the specific purpose of the CWSNC system or operations.
- f) The proceeds of any debt incurred by CWSNC will only be used for purposes specific to the CWSNC system or operations.
- g) Unless it first obtains the Commission's approval, CWSNC will not transfer any material asset to Intermediate Newco or an affiliate except in an arm's length transaction and in compliance with the laws of the State of North Carolina.
- h) The combined business will be established with a target investment grade capital structure profile and operated in a way that is consistent with maintaining an investment grade profile.
- i) The combined company will refrain from any involuntary reductions in force related to the combination for the first 12 months after the Proposed Transaction closes.
- j) CWSNC will present any new affiliated interest and/or shared services agreements for Commission approval pursuant to the NCUC's rules and to N.C.G.S. § 62-153.



**Docket No. W-354, Sub 412**  
**Regulatory Conditions**

These Regulatory Conditions set forth commitments made by Corix Infrastructure (US) Inc. (“Corix US”), Intermediate Newco,<sup>3</sup> and Carolina Water Service, Inc. of North Carolina (“CWSNC” and, together with Corix US and Intermediate Newco, the “Regulatory Condition Parties”), as a precondition of approval of the application by CWSNC, Corix US, and SW Merger Acquisition Corp. pursuant to N.C. Gen. Stat. § 62-111(a) for authority to engage in their proposed business combination transaction (“Proposed Transaction” or “Merger”). These Regulatory Conditions, which become effective only upon the closing of the Proposed Transaction, shall be interpreted in a manner that ensures CWSNC’s customers (a) are protected from any known adverse effects from the Proposed Transaction, (b) are protected as much as possible from potential costs and risks resulting from the Proposed Transaction, and (c) receive sufficient known and expected benefits to offset any potential costs and risks resulting from the Proposed Transaction.

British Columbia Investment Management Corporation (“BCI”), Corix Infrastructure Inc. (“CII”) and any affiliate of CII that, collectively with CII, owns 50% of Corix US upon the closing of the Proposed Transaction, Bazos CIV, L.P. (“Bazos”), IIF Subway Investment LP (“IIF Subway”), and SWMAC Holdco,<sup>4</sup> as well as any additional or successor entities with control over Corix US, Intermediate Newco or CWSNC (collectively, the “Parent Entities”) hereby acknowledge and consent to these Regulatory Conditions agreed and entered into by the Regulatory Condition Parties. The Parent Entities further commit not to cause the Regulatory Conditions Parties to violate such Regulatory Conditions and not to prevent the Regulatory Condition Parties from taking commercially reasonable actions to comply with the Regulatory Conditions, for so long as such Regulatory Conditions remain in effect and applicable to the Regulatory Condition Parties. This consent and acknowledgement of the Parent Entities does not constitute a general consent to an expansion of, and shall not be interpreted to expand, the North Carolina Utilities Commission’s jurisdiction over the Parent Entities beyond that, if any, established by Chapter 62 of the North Carolina General Statutes for purposes of these Regulatory Conditions, the North Carolina Utilities Commission is referred to as “the Commission,” and the Public Staff – North Carolina Utilities Commission is referred to as “the Public Staff.” “Affiliate” shall mean Corix US and any business entity of which ten percent (10%) or more of the voting securities or

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<sup>3</sup> Intermediate Newco is an entity that has not yet been formed but will be formed prior to the closing of the Proposed Transaction. As the Commission’s approval of the Proposed Transaction will be conditioned on the Regulatory Conditions, the Regulatory Conditions will apply to Intermediate Newco only upon the closing of the Proposed Transaction.

<sup>4</sup> SWMAC Holdco is an entity that has not been formed but will be formed prior to the closing of the Proposed Transaction. The provisions of the Regulatory Conditions that apply to the Parent Entities shall apply to SWMAC Holdco upon closing the Proposed Transaction.

interests are owned, directly or indirectly, by Corix US, including but not limited to CWSNC and Intermediate Newco.

The “Transaction Agreement” means the Transaction Agreement dated as of August 26, 2022, among Corix Infrastructure Inc., Corix Infrastructure (US) Inc., IIF Subway Investment LP, SW Merger Acquisition Corp. and SouthWest Water Company.

1. **Merger-related Expenses and Capital Costs.** Any expenses or capital costs associated with the Merger will be excluded from the revenue requirement of CWSNC for Commission financial reporting and ratemaking purposes. Merger expenses and capital costs include, but are not limited to, the costs of securing formal written evaluations of the transaction; the costs of structuring the transaction and obtaining tax advice on the structure of the transaction; the costs of negotiating, preparing, and reviewing the Transaction Agreement; the costs of retained consultants and advisors to evaluate the transaction and perform due diligence; legal and other fees of completing pre-closing restructuring; legal and other fees to close the Proposed Transaction; financial advisor fees; the costs of securing regulatory approvals; change-in-control payments made to terminated executives, merger-related bonuses, incentive payments, retention payments, and severance payments; and regulatory process costs. Any premium paid related to the Merger will not be “pushed down” to CWSNC and will not be recovered from CWSNC’s ratepayers. The Merger should not result in any writeups, write-offs, or restatements of financial results on CWSNC’s books and records. However, if any such writeups, write-offs, or restatements of financial results do occur, and are required to be recorded on CWSNC’s books and records pursuant to GAAP, then any such writeups, write-offs, or restatements on CWSNC’s books and records will be excluded for ratemaking purposes. CWSNC will file a summary report of its final accounting for Merger-related expenses and capital costs within 150 days after the close of the Merger, and supplemental reports within 90 days after each quarter until such expenses and capital costs cease to be incurred.
2. **Costs to Achieve Merger Savings.** Beginning with the first quarter after the closing of the Proposed Transaction, CWSNC shall track, quantify, and report on a quarterly basis in conjunction with its Quarterly Earnings Reports,<sup>5</sup> beginning with the first quarter after the closing of the proposed transaction, the North Carolina portion of actual costs to achieve Merger savings and Merger benefits (both quantitative and qualitative). Additionally, CWSNC will include the information in any future base rate case in which such tracked benefits accrue in the test/rate years applicable to the particular rate filing(s).

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<sup>5</sup> Quarterly Earnings reports are filed with the Commission in accordance with Commission Rules R1-17A(j)(1), R7-39, and R10-26.

3. **Non-Consummation of Merger.** If the Proposed Transaction is not consummated, neither the cost, nor the receipt, of any termination payment or monetary damages shall be allocated to CWSNC or included in regulated expenses of CWSNC for Commission financial reporting and ratemaking purposes. CWSNC's customers shall not otherwise bear any direct expenses or costs associated with a failed Proposed Transaction.
4. **Inclusion of Cost Savings in Future Rate Proceedings.** Notwithstanding the provisions of Regulatory Condition 1, for purposes of future general rate case proceedings of CWSNC, CWSNC may seek to recover costs to achieve Merger savings to the extent there are Merger savings or cost savings resulting from the Merger. CWSNC and the Public Staff shall not be limited to or constrained by the provisions of these Regulatory Conditions in asserting or sustaining arguments regarding the proper treatment of costs incurred to achieve those savings in setting just and reasonable rates for CWSNC.
5. **Hold Harmless Commitment.** The Proposed Transaction shall be effectuated in a manner designed to prevent harm to CWSNC's ratepayers, although it is recognized that matters not currently foreseeable could possibly have the potential to negatively impact CWSNC ratepayers in the future. Notwithstanding this, the Regulatory Condition Parties (as well as any successor entities exercising control over CWSNC) shall take commercially reasonable actions to hold CWSNC's customers harmless from the effects of the Proposed Transaction.<sup>6</sup>
6. **Distributions.** Absent Commission approval, dividends from CWSNC will be no more than 100 percent of net income. This Regulatory Condition shall continue for the period beginning upon the closing of the Proposed Transaction through the filing of the next general rate case or Water and Sewer Investment Plan ("WSIP") that occurs at least five years after the closing of the Proposed Transaction. The Commission retains the right to impose future limitations on distributions of CWSNC if the public interest requires, as provided pursuant to applicable law and prior Commission orders.

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<sup>6</sup> CWSNC, Intermediate Newco and Corix US reserve the right to dispute future assertions by the Public Staff that any particular future action or event may cause or represent harm to CWSNC's customers was attributed to the Proposed Transaction for which relief could be granted under this Condition.

7. **Protection Against Decreased Creditworthiness.**

- A. Intermediate Newco shall be established with a target investment grade capital structure profile and operated in a way that is consistent with maintaining an investment grade profile. Within 18 months after the Proposed Transaction closes, Intermediate Newco shall, on an annual basis, retain a third-party consultant to prepare a report assessing whether Intermediate Newco has maintained an investment grade profile and shall provide the confidential report to the Public Staff within 30 days after the report is completed. For the period beginning upon the closing of the Proposed Transaction through the filing of the next general rate case or WSIP that occurs at least five years after the closing of the Proposed Transaction, Intermediate Newco shall, on an annual basis, retain a third-party consultant to update such report and provide the confidential updated report to the Public Staff within 30 days after the report is completed. In assessing whether it has maintained an investment grade profile, consideration shall be given, in part, to the financial benchmarks published in S&P Global Rating Criteria,<sup>7</sup> and the financial ratios noted in the testimony of witness Lapson.<sup>8</sup> If Intermediate Newco obtains a credit rating from a nationally recognized credit rating agency, this condition shall terminate.
- B. Within 6 months after the Proposed Transaction closes, representatives of Intermediate Newco, including Intermediate Newco's CFO, shall meet with the Public Staff to discuss Intermediate Newco's approach to financing utility operations.
- C. Within 18 months after the Proposed Transaction closes, Intermediate Newco shall cause Corix Regulated (US) Inc. ("CRU US") to retain a third-party consultant to prepare a report assessing whether CRU US's capital structure is consistent with an investment grade profile and shall provide the confidential report to the Public Staff within 30 days after the report is completed. For the period beginning upon the closing of the Proposed Transaction through the filing of the next general rate case or WSIP that occurs at least five years after the closing of the Proposed Transaction, Intermediate Newco shall, on an annual basis, retain a third-party consultant to update such report and provide the confidential updated report to the Public Staff within 30 days after the report is completed. In assessing whether it has maintained an investment grade profile, consideration shall be given, in part, to the financial benchmarks

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<sup>7</sup> S&P Global Ratings, "Criteria | Corporates | General: Corporate Methodology", Nov 19, 2013, republished on December 15, 2021, as amended or republished.

<sup>8</sup> Testimony of Ms. Ellen Lapson, Docket No. W-354, Sub 412, dated November 23, 2022, page 11.

- D. published in S&P Global Rating Criteria,<sup>9</sup> and the financial ratios noted in the testimony of witness Lapson.<sup>10</sup> If CRU US obtains a credit rating from a nationally recognized credit rating agency, this condition shall terminate.
  - E. Within 36 months after the Proposed Transaction closes, Intermediate Newco shall cause CRU US to evaluate the costs and benefits of accessing debt capital through publicly traded debt instruments instead of private placements.
  - F. CWSNC will continue to identify and evaluate opportunities to apply for SRF funds when possible and where feasible.
  - G. Notwithstanding any time limitation or anything that may appear to the contrary, nothing herein shall be deemed to remove or impair the Public Staff's ability to argue in any subsequent matters that the Merger negatively and inappropriately impacted CWSNC's cost rate of debt or limit the Public Staff's ability to seek to adjust the cost rate of debt.
8. **Notice of Certain Investments.** For the period beginning upon the closing of the Proposed Transaction through the filing of the next general rate case or WSIP that occurs at least five years after the closing of the Proposed Transaction, Corix US and Intermediate Newco shall cause CWSNC to file annually by April 30 with the Commission and serve upon the Public Staff a list of all legal entities directly or indirectly controlled by Corix US; such list shall identify any entity or asset acquisitions representing ten percent (10%) or more of Intermediate Newco's book capitalization.
9. **Notice of Certain Intermediate Newco Investments.** For the period beginning upon the closing of the Proposed Transaction through the filing of the next general rate case or WSIP that occurs at least five years after the closing of the Proposed Transaction, Intermediate Newco shall cause CWSNC to file a notice with the Commission within ten (10) business days after Intermediate Newco makes any application to any state utility regulatory commission to acquire a controlling interest in a public utility.

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<sup>9</sup> S&P Global Ratings, "Criteria | Corporates | General: Corporate Methodology", Nov 19, 2013, republished on December 15, 2021, as amended or republished.

<sup>10</sup> Testimony of Ms. Ellen Lapson, Docket No. W-354, Sub 412, dated November 23, 2022, page 11.

10. **Notice by CWSNC of Default or Bankruptcy of an Affiliate.** If Corix US, Intermediate Newco or an Affiliate of CWSNC experiences a default on an obligation that is material to Corix US or Intermediate Newco or files for bankruptcy, and such bankruptcy is material to Corix US, Intermediate Newco or CWSNC, CWSNC shall notify the Commission of the event as soon as possible but not later than ten days after such event.
11. **Common Equity Capital.** Until the final order is issued in CWSNC's next general rate case, CWSNC will maintain common equity capital at levels equal to or greater than 45% of total adjusted capital (including common equity, long-term debt, long-term capital leases, and current maturities of long-term debt). No equity distributions, whether by dividend or other form, will be allowed that would result in equity capital falling below this minimum level during the specified period, without prior approval of the Commission. Notwithstanding the foregoing, CWSNC shall maintain the right to petition the Commission for an exception to this Regulatory Condition.
12. **Post-Closing Financial Information.** CWSNC will provide to Public Staff a confidential copy of pre- and post-Proposed Transaction preliminary unaudited closing balance sheets and the proposed closing journal entries, including relevant descriptions and disclosures for the transactions recorded, for Intermediate Newco, Corix Regulated Utilities (US) Inc., SouthWest Water Company, and itself, by the end of the second full quarter following the close of the Merger, and final, audited closing balance sheets and closing journal entries, including relevant descriptions and disclosures for the transactions recorded for Intermediate Newco, Corix Regulated Utilities (US) Inc., SouthWest Water Company, and itself as soon as practicable but not later than 30 days after the completion of the first year's audit after the closing of the Proposed Transaction, if such companies have audited financial statements.
13. **Meetings with Public Staff.** CWSNC and key leadership from Intermediate Newco shall meet annually with the Public Staff to discuss CWSNC's financial condition and results, service quality initiatives and results, customer service changes, and potential new tariffs.
14. **Access to Books and Records.** In accordance with and to the extent provided by North Carolina law, the Commission and the Public Staff shall continue to have access to the books and records of CWSNC and its Affiliates.
15. **Changes to Boards of Directors.** For the period beginning upon the closing of the Proposed Transaction through the filing of the next general rate case or WSIP that occurs at least five years after the closing of the Proposed Transaction,

CWSNC shall notify the Commission within ten days of any changes to the membership of the Board of Directors of Corix US, Intermediate Newco, or CWSNC.

16. **Notice to Public Staff Regarding Proposed Structural and Organizational Changes.** CWSNC shall promptly inform the Public Staff of any change in CWSNC's corporate structure or the corporate structure of any of its Affiliates. Upon request, the Regulatory Conditions Parties shall meet and consult with, and provide requested relevant data to, the Public Staff (a) regarding plans for material changes in CWSNC's or any of its Affiliates' corporate structure, (b) the expected or potential impact of such changes on CWSNC's rates, operations and service, and (c) plans to mitigate the adverse impacts, if any, such changes might have on CWSNC's customers.
17. **Mergers and Acquisitions.** CWSNC shall file an application for approval pursuant to N.C.G.S. § 62-111(a) at least 180 days before the proposed closing date for such merger or other business combination, except for good cause shown.
18. **Financial Statements.** For the period beginning upon the closing of the Proposed Transaction through the filing of the next general rate case or WSIP that occurs at least five years after the closing of the Proposed Transaction, CWSNC will provide to Public Staff, within 30 days of their completion, a confidential copy of audited financial statements of Corix Regulated Utilities (US) Inc. and Intermediate Newco, if such companies have audited financial statements.
19. **Obligations with Affiliates.** CWSNC will not make a loan to any Affiliate, issue a guarantee for an obligation of any Affiliate, or otherwise assume any obligation of any Affiliate without prior Commission approval.
20. **Capital Budgets.** CWSNC shall maintain a level of capital and operational support in North Carolina necessary to provide safe, efficient, and reliable service at reasonable rates For the period beginning upon the closing of the Proposed Transaction through the filing of the next general rate case or WSIP that occurs at least five years after the closing of the Proposed Transaction, CWSNC shall provide to the Public Staff, on a confidential basis and for informational purposes, its Board-approved capital budget for new, expanded, or upgraded water and sewer facilities in North Carolina by April 30 of every year.
21. **Regulatory Reporting Requirements.** CWSNC will remain a public utility subject to regulation by the Commission pursuant to the North Carolina Public Utilities Act and the Commission's regulations. CWSNC shall comply with all regulatory reporting requirements.

22. **Regulatory and Operational Staffing.** CWSNC will use prudent business practices to maintain sufficient, adequately trained personnel to ensure that regulatory requirements are complied with in a timely and accurate manner. For the period beginning upon the closing of the Proposed Transaction through the filing of the next general rate case or WSIP that occurs at least five years after the closing of the Proposed Transaction, CWSNC shall notify the Public Staff when there is any change to the Director of Operations or Director of Regulatory Affairs or equivalent roles. Each year by April 30, for the period beginning upon the closing of the Proposed Transaction through the filing of the next general rate case or WSIP that occurs at least five years after the closing of the Proposed Transaction, CWSNC shall provide the Public Staff with an updated directory of personnel, including titles, phone numbers, and e-mail addresses.
23. **Customer Surveys.** CWSNC shall informally survey its customers regarding their satisfaction with CWSNC's public utility service. CWSNC will use prudent business practices to incorporate this information, if necessary, into its processes, programs, and services.
24. **Overall Service Quality.** CWSNC shall continue its commitment to provide safe, reliable, and affordable water and sewer service and effective customer service support.
25. **Cost Allocation Manual.** CWSNC shall keep on file with the Commission a cost allocation manual ("CAM") with respect to goods or services provided between and among CWSNC and its Affiliates. Any change to the CAM's cost allocation methodology or introduction of a new cost allocation methodology shall not become effective until 10 days after CWSNC has filed such changes with the Commission. The CAM shall be updated annually, and the revised CAM shall be filed with the Commission no later than April 30 of the year that the CAM is to be in effect. The CAM shall also be updated, if necessary, whenever the structure of Intermediate Newco or companies below Intermediate Newco changes. Should the CAM be updated more frequently than annually, CWSNC will file the revised version with the Commission within 30 days. The CAM shall include a list of all goods and services that CWSNC provides to an Affiliate or is provided by an Affiliate to CWSNC on a frequent or continuing basis.
26. **Charges for and Allocations of the Costs of Affiliate Transactions.** Affiliate transactions will be directly charged where practicable. The CAM shall encompass transactions, allocations, and the bases for the allocations occurring (a) at the Corix US level and below and (b) with any Affiliate with which CWSNC has a frequent or continuing cost allocation or transaction relationship, either directly or indirectly, including any and all service companies.



27. **Transfer Pricing Between Affiliates.**
- A. For untariffed goods and services provided by CWSNC to a non-utility Affiliate, the transfer price paid to CWSNC shall be set at the higher of market value or CWSNC's cost.
  - B. For untariffed goods and services provided to CWSNC by a non-utility Affiliate, the transfer price charged by a non-utility Affiliate to CWSNC shall be set at the lower of market value or the non-utility Affiliate's cost.
  - C. Services provided by CWSNC to utility Affiliates or by utility Affiliates to CWSNC shall be transferred at the supplier's cost, unless otherwise directed by order of the Commission.
  - D. Services or functions provided by a service company to CWSNC shall be provided at cost, except that CWSNC shall not pay (whether directly or through allocation) any amount for a service or function that exceeds the fair market value of that service or function.
28. **Transfer of Services, Functions, Departments, or Assets.** CWSNC shall file notice with the Commission at least 30 days prior to the transfer of any services, functions, departments, or assets from CWSNC to a service company or another Affiliate, or any subsequent transfer of any services, functions, departments, or assets from CWSNC to a service company or another Affiliate that would have a material effect on CWSNC's customers.
29. **Affiliate Agreements.** CWSNC shall file pursuant to N.C.G.S. § 62-153 agreements for the provision and receipt of goods or services between and among CWSNC and its Affiliates. All such agreements that involve payment of fees or other compensation by CWSNC shall require acceptance and authorization by the Commission and shall be subject to any other Commission action required or authorized by North Carolina law and the Rules and orders of the Commission. Prior to making any non-substantive changes to existing agreements, CWSNC shall file such changes with the Commission.
30. **Affiliate Transaction Report.** CWSNC shall file an annual report of affiliated transactions with the Commission in a format prescribed by the Commission. The first such report on affiliated transactions shall be filed on April 30, 2025, for activity through December 31, 2024, and annually thereafter on April 30 for the activity from January 1 through December 31 of the preceding year.
31. **Service Area Reporting.** CWSNC shall file an annual report on April 30 of each year detailing the Company's North Carolina service areas with the associated Commission docket numbers for which a certificate of public convenience and necessity area was granted, or a contiguous extension was recognized.

32. **Geographic Information Systems (GIS) Mapping.** Upon request, CWSNC shall provide the Public Staff and the Commission a confidential downloaded version of CWSNC's GIS map of specifically requested North Carolina service areas. CWSNC will provide Public Staff a direct staff contact as a resource for service area related inquiries and mapping functions. CWSNC will collaborate with the Public Staff to develop a process of sharing GIS data.
33. **Emergency Operator System.** CWSNC shall continue to serve as emergency operator of the following systems: Harrco Utility Corporation (Docket No. W-796, Sub 12); Cross-State Development Company (Docket No. W-408, Sub 9); Outer Banks/Kinnakeet Associates, LLC (Docket Nos. W-1125, Subs 9 and 10); and Mountain Air Utilities Corporation (Docket No. W-1148, Sub 20). This Regulatory Condition shall remain in effect for the lesser of three years after the consummation of the Proposed Transaction or until CWSNC is relieved of its requirement by future Commission order. This condition is not intended to, and does not, modify any of the provisions in the respective Emergency Operator orders issued by the Commission, specifically including the Company's right to petition the Commission at any time to be discharged as the emergency operator, and the Commission's obligation to approve same.
34. **Customer Assistance Program (CAP).** CWSNC, at its own cost, shall develop a low-income customer assistance program ("CAP") and file it in a separate docket within one year of consummation of the Proposed Transaction. CWSNC shall work with the Public Staff to develop a CAP proposal filing that shall include, but not be limited to, the following information: (1) customer eligibility criteria; (2) number of customers in need; (3) number of customers the program can assist based on funding; (4) summary of similar programs used by CWSNC and its regulated affiliate(s); and (5) description of how the program will be administered. The costs associated with the development and funding of the CAP shall not be included for recovery by CWSNC in any future general rate case or rider proceeding. Additionally, if the CAP is approved by the Commission, determination of the appropriateness of cost recovery for ongoing costs associated with the CAP shall be determined by the Commission in a CWSNC general rate case, and nothing in this condition shall hinder either CWSNC or the Public Staff from making any arguments regarding the appropriateness of inclusion or disallowance of the costs for recovery.
35. **Leadership Retention.** For the period beginning upon the closing of the Proposed Transaction through the filing of the next general rate case or WSIP that occurs at least five years after the closing of the Proposed Transaction, CWSNC, acting in good faith, shall, when possible, notify the Commission before, and in no event more than 10 days after, a change to any officer of CWSNC, Intermediate Newco, or Corix US occurs.

36. **Operator Development and Retention.** CWSNC shall report annually on April 30, for the period beginning upon the closing of the Proposed Transaction through the filing of the next general rate case or WSIP that occurs at least five years after the closing of the Proposed Transaction, on efforts to develop and retain qualified operators.