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Jo Anne Sanford, Attorney at Law

April 8, 2022

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

Via Electronic Filing

Re: Aqua North Carolina, Inc.
Docket No. W-218, Sub 526A
Conservation Pilot Program Annual Revenue Reconciliation Request
Filed Pursuant to Ordering Paragraph 15 of W-218, Sub 526 Rate
Case Order

Dear Ms. Dunston:

On February 14, 2022, Aqua North Carolina, Inc. (Aqua or Company) filed the Company's Conservation Pilot Program annual revenue reconciliation request, including supporting calculations and data. That filing, consisting of the Affidavit of Dean R. Gearhart, Aqua's Manager-Rates and Planning, was made pursuant to Ordering Paragraph 15 of the Commission's W-218, Sub 526 Rate Case Order, dated October 26, 2020.

On April 1, 2022, the Public Staff filed a Notice in this docket setting forth its recommendations and stating an intent to present this matter to the Commission at the Regular Staff Conference scheduled for April 18, 2022.

Attached for filing electronically please find Aqua's Response to the Notice filed by the Public Staff on April 1, 2022, consisting of a second Affidavit submitted by Mr. Gearhart. By this Response, Aqua requests that the Commission approve

the Company's Conservation Pilot Program Annual Revenue Reconciliation compliance filing as forth in and supported by the two Gearhart Affidavits.

Aqua hereby notifies the Commission and the Public Staff that, as the party with the burden of proof in this case, it reserves the right to file a timely response to the Public Staff's Agenda Item and Proposed Order should issues be raised which warrant a written response.

I hereby certify that a copy of Aqua's Response has been served upon the parties to Docket No. W-218, Sub 526A.

As always, thank you and your staff for your assistance and please contact me if there are questions.

Sincerely,

Electronically Submitted

/s/ Jo Anne Sanford
Sanford Law Office, PLLC
State Bar No. 6831

Attorney for Aqua North Carolina, Inc.

c: Parties of Record

OFFICIAL COPY

Apr 08 2022

**AFFIDAVIT OF DEAN R. GEARHART, MANAGER-RATES & PLANNING
AQUA NORTH CAROLINA, INC.**

On April 1, 2022, the Public Staff filed a Notice with the Commission stating that the Staff planned to present its comments and recommendations regarding Aqua NC's Annual Reconciliation Request at the Commission's April 18, 2022 Regular Staff Conference. As part of its Notice, the Public Staff raised two primary issues and made certain specific recommendations. This Affidavit constitutes

Aqua NC's Response to the issues raised by the Public Staff and the Staff's recommendations.

ISSUE: PROPER CALCULATION OF AQUA NC'S CONSERVATION PILOT PROGRAM ANNUAL REVENUE RECONCILIATION ADJUSTMENT REQUEST

The first issue addressed by the Public Staff relates to the proper calculation of the Company's annual revenue reconciliation adjustment request. Aqua NC asserts that the Public Staff's proposed calculation is inconsistent with the decision of the Commission in the Sub 526 Rate Case Order and, for that reason, is wrong and should be dismissed for the following reasons.

In the Sub 526 Rate Case Order, the Commission found, in pertinent part, that:

- (1) It is reasonable and appropriate for Aqua NC to implement a Conservation Pilot Program in a portion of its Aqua NC Water Rate Division...¹ (Footnote added)
- (2) It is reasonable and appropriate that a Conservation Pilot Program be designed to maintain revenue sufficiency and stability for Aqua NC. **A revenue reconciliation mechanism is appropriate to support the Company's reasonable opportunity to recover its full Commission-approved revenue requirements despite implementation of a Conservation Pilot Program.**² (Footnote and emphasis added)
- (3) For purposes of implementing the Conservation Pilot Program in a portion of the Aqua NC Water Rate Division, a revenue reconciliation process applicable only to the pilot group is in the public interest. **It is reasonable and appropriate that a revenue reconciliation process as set forth by the Company be integral to the pilot program.**³ (Footnote and emphasis added)

¹ Finding of Fact No. 36 – Sub 526 Rate Case Order at page 12.

² Finding of Fact No. 43 – Sub 526 Rate Case Order at page 13.

³ Finding of Fact No. 44 – Sub 526 Rate Case Order at page 13. The highlighted portion of this finding of fact was again emphasized by the Commission conclusions set forth on page 124 of the Sub 526 Rate Case Order

It is undeniable that the Commission found as a matter of both fact and conclusion in the Sub 526 Rate Case Order that the revenue reconciliation process “**as set forth by the Company**” is integral to the Conservation Pilot Program. The recommendations made by the Public Staff in its April 1, 2022 Notice are entirely inconsistent with the revenue reconciliation process “as set forth by the Company” in the testimony and exhibits offered by Company witness Ed Thill during the rate case hearing. Therefore, the recommendations made by the Public Staff on this issue are also clearly inconsistent with the determination made by the Commission. Aqua NC conducted and calculated its proposed Annual Revenue Reconciliation Request consistent with the testimony of Company witness Thill as he described how that process would work.

In my prior Affidavit filed in this docket on February 14, 2022, I described with specificity how the Company’s proposed revenue reconciliation adjustment was calculated and I hereby incorporate that information by reference herein. Aqua NC has proposed a refund amount for customers served by the Company at the following systems: Arbor Run, Merion, Pebble Bay, and the Bayleaf Master System. The proposed refund was calculated based solely on the *per-bill usage/block* revenue for those customers during 2021.

Aqua NC’s proposal is based on and is entirely consistent with the following testimony offered by Company witness Thill which described to the Commission, for illustration purposes, how the Company proposed to make revenue reconciliation calculations:

Dividing the volumetric revenue requirement by the number of bills used in determining rates provides Aqua NC with the Revenue per Bill - as Authorized. Aqua NC would perform a similar calculation using actual data in the 12 full months following implementation of rates to determine the Revenue per Bill - Actual. The difference between those actual and authorized averages would define the Company's Average per Customer Usage Excess or Deficit. Dividing that Excess or Deficit by the Revenue per Bill as Authorized provides Aqua NC Excess or Deficit Rate. The Rate is then multiplied by the originally authorized volumetric revenue to determine the value of the excess or deficit. (Sub 526 Rate Case Order at page 105)

The Commission also noted at pages 107-108 of the Sub 526 Rate Case Order that Company witness Thill testified that:

...the Company's revenue reconciliation, as proposed for the pilot program, does not include an adjustment for customer growth; instead, it measures on the **average per-customer use**, which he [witness Thill] believed to be consistent with the Commission's recent ruling in the CAM [Consumption Adjustment Mechanism] rulemaking. Tr. Vol. 4, 83-85 (Emphasis added by Aqua NC)

The Company's revenue reconciliation process is centered on calculations based on average per-customer use. To compute the reconciliation adjustment at a gross level of revenue, rather than at a per customer average level, would ignore that a portion of future revenue may be attributed to customers added after the test year and would therefore incorporate a projective component to the ratemaking equation. Aqua NC has been consistent throughout this proceeding in stating that its computation of the revenue reconciliation adjustment would be based on average per customer use and the Commission did not dispute or disapprove that aspect of the Company's Conservation Pilot Program. To the contrary, the Commission specifically found and concluded that the revenue reconciliation

process “as set forth by the Company” is integral to the pilot program.⁴ The Public Staff’s position disregards and ignores the “average per customer use” standard openly advocated for and used by the Company as a lynchpin of the revenue reconciliation process; the process which has been endorsed by the Commission. Thus, the refund calculations proposed by the Public Staff should be rejected.

The Company’s proposed refund is also supported by Thill Revised Exhibit 4, Scenario 2, which encapsulates the reconciliation process.

The Commission’s Sub 526 Rate Case Order, at page 120, also recites that:

Commissioner Brown-Bland asked witness Thill if the Commission capped the pilot program to the revenue requirement, would the Company be agreeable to that? Witness Thill responded in detail to the question and concluded by stating that the “...short answer is that I don’t think the Company would agree to that...” (See Tr. Vol. 7, 61.

The relevance of this testimony as set forth by the Commission in its Sub 526 Rate Case Order is that the Public Staff’s proposed revenue reconciliation adjustment is based on the imposition of a cap based upon the revenue requirement set by the Commission in the Sub 526 rate case. The Commission did not impose a revenue cap of the nature proposed by the Public Staff in its Order as a condition to approving the Company’s Conservation Pilot Program. The Public Staff’s advocacy for such a cap at this time should be denied, particularly in

⁴ See Finding of Fact No. 44 of the Sub 526 Rate Case Order and the conclusions set forth on pages 123-124 of the Order.

view of the testimony on this point offered by Company witness Thill offered in direct response to a question from the Commission.

Aqua NC's specific revenue reconciliation computations are demonstrated as follows:

The 2021 actual usage revenues for these customers are \$3,961,620 produced by 83,550 bills for an average usage/block revenue per bill of \$47.42.

The rate design for these systems in Aqua NC's Sub 526 Rate Case Order includes usage revenue of \$3,786,155 produced by 81,972 bills for an average usage/block revenue per bill of \$46.19.

The difference between the two per bill amounts is calculated as follows:
 $\$47.42 - \$46.19 = \$1.23$ per bill, which represents a 2.7% overage, to be refunded to the pilot customers.

The Company calculates the total refund amount to be \$102,766.50 (\$3,786,155 block revenue from the rate design times 2.7%).

The methodology the Company used to calculate its proposed refund of \$102,766.50 in this case follows and is entirely consistent with the methodology reflected in Thill Revised Direct Exhibit 4, Scenario 2. Witness Thill testified that if actual consumption was more than modeled in the original ratemaking (i.e., customers under-conserved), the Company proposed to refund the excess as equal credits (surcredits) to the base facility charge ("BFC") of all customers over a similar 12-month period.⁵

⁵ See page 105 of the Sub 526 Rate Case Order.

During a February 3, 2022 conference call to discuss the refund calculation and filing, the Public Staff suggested making the refund a one-time payment to the customers in place as of the end of 2021. Aqua was amenable to that suggestion and incorporated it into its February 14, 2022 filing. Consistent with its agreement with the Public Staff, the Company again proposes to make the refund as a one-time bill credit to all affected pilot customers.

ISSUE: ADDITIONAL REASONS WHY THE PUBLIC STAFF'S PROPOSED CUSTOMER REFUND METHODOLOGY IS DEFICIENT AND INCONSISTENT WITH THE COMMISSION'S SUB 526 RATE CASE ORDER

As is clear, the Public Staff's proposed customer refund proposal ignores the per-bill usage revenue concept which is the lynchpin of Aqua NC's revenue reconciliation adjustment process. In its Notice, the Public Staff cites the following language from Finding of Fact No. 33 of the Sub 526 Rate Case Order in support of its position:

33. For the pilot program, Aqua NC proposed four usage tiers with inclining block rates and separate irrigation rates to be charged to residential water customers in the Arbor Run, Merion, Pebble Bay, and Bayleaf Master System service areas (a portion of the Aqua NC Water Rate Division) and The Cape service area (Fairways Water Rate Division). The Company stated that its pilot program proposal is contingent upon Commission approval of its proposed revenue reconciliation process specific to the pilot areas. *According to Aqua NC, the purpose of the proposed revenue reconciliation process is to assure that the Company will receive its full authorized revenue requirement, no more and no less.* (Emphasis added by the Public Staff in its April 1, 2022 Notice)

Solely on the basis of the emphasized language in Finding of Fact No. 33, the Public Staff takes the position that **usage revenue in the amount of \$175,465 plus \$32,665 of base facility revenue totaling \$208,130** received by the

Company during calendar year 2021 should be refunded to pilot customers. In arriving at the refund amount from usage revenue, the Public Staff ignored per customer usage and simply proposes to confiscate all usage revenue collected by the Company from pilot customers during calendar year 2021 (\$3,961,620) in excess of the Sub 526 Rate Case authorized revenue of \$3,786,155; i.e., \$175,465.⁶ In addition, the Public Staff proposes to confiscate BFC revenues in the amount of \$32,665 collected by the Company from pilot customers during calendar year 2021.⁷ Thus, the Staff proposes a total refund amount to pilot customers of \$208,130.⁸ This amount more than doubles the refund amount proposed by the Company of \$102,766.50.

The revenue growth of \$208,130 comprising the refund amount proposed by the Public Staff resulted from a combination of increased per customer usage and additional customer growth during 2021. The Company's refund proposal is consistent with the procedures described by Aqua NC witness Thill in his testimony and the finding and conclusions drawn by the Commission in support of the Company's revenue reconciliation process based upon average per customer usage. The Public Staff's position is not only at odds with that process, but completely ignores it and simply focuses on revenue growth. The Company's

⁶ \$3,961,620 - \$3,786,155 = \$175,465.

⁷ \$1,729,485 - \$1,696,820 = \$32,665.

⁸ The Public Staff's recommended refund actually includes **all** of the revenue collected from the additional 1,578 customer bills that were not included in the Sub 526 rate design bill count of 81,972.

methodology will fully refund to customers all excess usage revenues that they are rightfully owed based on an appropriate average per customer usage analysis.

As previously recited, during the Sub 526 rate case evidentiary hearing, the Public Staff advocated for a rate case revenue requirement cap. Witness Thill was specifically asked by Commissioner Brown-Bland if the Company would be agreeable to such a cap and Thill's response was negative. The Commission, in its Sub 526 Rate Case Order, did not impose such a cap. Thus, the Public Staff has no demonstrable or legitimate basis to now advocate in support of its proposed customer refund amount based upon a rate case revenue requirement cap. In the view of Aqua NC, the Public Staff's position is not only contrary to the integrity of the Company's revenue reconciliation process, but also contrary to the Sub 526 Rate Case Order.

The Company asserts that, consistent with Finding of Fact No. 33 of the Sub 526 Rate Case Order, its revenue reconciliation process ensures, contrary to the position now being taken by the Public Staff, that Aqua NC will "...receive its full authorized revenue requirement, no more and no less." The Company's rate refund calculations fully refund all excess usage revenues based upon average per customer usage during calendar year 2021, including increased usage which resulted from customer growth. Some degree of customer growth is inevitable each year under normal utility operations after a rate case. When the Commission sets new base rates for a utility such as Aqua NC in a general rate case, it is implicitly assumed that new customers will subsequently be added and that the

applicable BFC and usage charges will likely cover the cost of serving those new customers.

Thus, the Public Staff has no basis to claim, for instance, that BFC revenues (and usage revenues above what the Company proposes to refund based on average per customer usage) should be refunded. Revenues collected by Aqua NC as a result of customer growth subsequent to the Sub 526 Rate Case Order are necessary for the Company to cover its legitimate, ongoing cost of serving those customers and need only be refunded if required by the Company's average per customer usage analysis. The Company has completed that analysis and has proposed the appropriate refund amount based upon average per customer usage as applied to 2021 customer growth. Thus, Aqua NC will, under its proposal, "receive its full authorized revenue requirement, no more and no less." Under the Public Staff proposal, the opposite will be true.

SUMMARY OF OPPOSING REFUND AMOUNTS:

<u>Block Revenue Refund</u>		
Public Staff Recommended	\$175,465.00	Entire difference, actual vs. rate design
Company Recommended	<u>\$102,766.50</u>	Per-bill revenue diff., applied to ALL bills
Difference	<u>\$72,698.50</u>	All remaining usage revenue from additional bills/new customers
<u>BFC Revenue Refund</u>		
Public Staff Recommended	\$32,665.00	All BFC revenue for additional bills
Company Recommended	<u>0.00</u>	Should NOT be part of reconciliation
Difference	<u>\$32,665.00</u>	
<u>TOTAL Refund</u>		
Public Staff Recommended	\$208,130.00	
Company Recommended	<u>\$102,766.50</u>	
Difference	<u>\$105,363.50</u>	

**ISSUE: WHETHER INTEREST SHOULD BE ACCRUED AND PAID ON
CUSTOMER REFUNDS**

In its February 14, 2022 filing, Aqua NC did not propose to include carrying costs as part of the Company's proposed annual revenue reconciliation. The Company cited the fact that, at page 124 of its Sub 526 Rate Case Order, the Commission stated, in pertinent part, as follows:

...In regard to whether a carrying cost should be applied to the annual surcharge or sur-credit to customers, that matter will be determined by further order of the Commission in conjunction with the parties filing of the first proposed annual revenue reconciliation adjustment....

In its April 1, 2022 Notice, the Public Staff recommended that an interest rate of 10 percent per annum be applied to the customer refunds at issue.

As previously stated, during a February 3, 2022 conference call to discuss the Company's refund calculation and filing, the Public Staff suggested that Aqua NC make the refund in the form of a one-time bill credit to the pilot program customers in place as of the end of 2021. Aqua was amenable to that suggestion and incorporated that proposal into its February 14, 2022 filing. Consistent with its agreement with the Public Staff, the Company again proposes to make the refund as a one-time bill credit to all affected pilot customers.

In view of Aqua NC's willingness to make these refunds as one-time bill credits, rather than making them over a period of nine to twelve months as originally envisioned, the Company asserts that this concession mitigates and offsets any need for the Commission to require the accrual of interest. However, in the alternative, if the Commission deems that an imposition of interest charge is

appropriate, the Company requests use of a rate 6.81%, which is Aqua NC's current overall rate of return authorized by the Commission in the Sub 526 Rate Case Order. In addition, if the Commission deems it necessary to require an interest charge in this case, the Company requests that the Commission also rule that interest at the same percentage amount will be required in the future with respect to any customer surcharges resulting from revenue under-recoveries.

The Company is prepared to expeditiously implement the revenue reconciliation credit once determined and ordered by the Commission.

FURTHER AFFIANT SAYETH NOT.

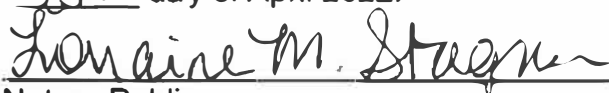
Respectfully submitted this the 8th day of April 2022.



Dean R. Gearhart, Manager-Rates and Planning

NOTARY SEAL

Sworn and subscribed before me this
8th day of April 2022.



Notary Public

My Commission Expires:

12/06/2023

