



434 Fayetteville Street
Suite 2800
Raleigh, NC 27601
☎ 919.755.8700 📠 919.755.8800
WWW.FOXROTHSCHILD.COM

ELIZABETH S. HEDRICK
Direct No: 919.755.8778
Email: EHedrick@Foxrothschild.com

November 20, 2023

VIA ELECTRONIC FILING

Ms. A. Shonta Dunston
Chief Clerk
North Carolina Utilities Commission
430 North Salisbury Street
Dobbs Building, Fifth Floor
Raleigh, NC 27603

**Re: In the Matter of Application of Old North State Water Company, Inc.
for Authority to Adjust and Increase Rates for Water Utility Service in
All Its Service Areas in NC
Docket No. W-1300 Sub 60
*Old North State Water Company, Inc.'s Proposed Order on
Legal Compliance, Recapitalization and Accounting Review (Public Version)***

Dear Ms. Dunston:

In accordance with the Commission's November 13, 2023, Order Granting Public Staff's Motion for Extension of Time, Old North State Water Company, Inc. (ONSWC), hereby provides its Proposed Order on Legal Compliance, Recapitalization and Accounting Review (public version).

This Proposed Order will also be provided in native format to Briefs@ncuc.net.

A Pennsylvania Limited Liability Partnership



Ms. A. Shonta Dunston, Chief Clerk
November 20, 2023
Page 2

Please do not hesitate to contact me with any questions or concerns regarding this filing.

Sincerely,

/s/ Elizabeth S. Hedrick

Elizabeth S. Hedrick

cc: Parties and Counsel of Record
Commission Staff – Legal
NC Public Staff

pbb

OFFICIAL COPY

Nov 20 2023

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. W-1300, SUB 60

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of:

Application by Old North State Water Company, Inc., 3212 6th Avenue South, Suite 200, Birmingham, Alabama 35222, for Authority to Adjust and Increase Rates for Water Utility Service in All Service Areas in North Carolina

**ONSWC PROPOSED ORDER
ON LEGAL COMPLIANCE,
RECAPITALIZATION AND
ACCOUNTING REVIEW**

HEARD: October 2, 3, and 9, 2021, beginning each day at 2:00 p.m.;
Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina

BEFORE: Commissioner ToNola D. Brown-Bland, Presiding; and
Commissioners Daniel G. Clodfelter, Kimberly W. Duffley, Jeffrey A. Hughes, and Floyd B. McKissick, Jr.

APPEARANCES:

For Old North State Water Company, LLC:

Elizabeth Sims Hedrick, Esq.
M. Gray Styers, Jr., Esq.
Fox Rothschild LLP
434 Fayetteville Street, Suite 2800
Raleigh, North Carolina 27601

For the Using and Consuming Public:

Reita D. Coxton, Esq.
Staff Attorney, Public Staff – North Carolina Utilities Commission, 4326
Mail Service Center,
Raleigh, North Carolina 27699-4300

BY THE COMMISSION:

Background

This docket commenced on June 29, 2021, with Old North State Water Company, LLC¹ (ONSWC or Company), filing an application for a general rate case. After numerous procedures and filings in the matter, the Public Staff and ONSWC filed a Joint Settlement Agreement and Stipulation on March 8, 2022, which settled all matters in dispute. The matter came on for evidentiary hearing on March 8, 2022, and the parties subsequently filed various late-filed exhibits. The North Carolina Utilities Commission (Commission) issued its Order Approving Settlement Agreement and Stipulation, Granting Partial Rate Increase, And Requiring Customer Notice on June 13, 2022 (Rate Case Order).

Ordering paragraph number 12 of the Rate Case Order stated:

12. That pursuant to N.C.G.S. § 62-34, the Public Staff shall thoroughly review the various sources of funding utilized by ONSWC for its capital and operational needs, the funds disbursed by ONSWC to Chatham North Holdings, Inc., and the relationships, operating agreements, and contracts between and among the Company, Integra, the Integra affiliates, and Chatham North Holdings, Inc.; including whether they are reasonable, appropriate, and in conformity with North Carolina law and Commission Rules, including but not limited to N.C.G.S. §§ 62-153, 62-160, and 62-167. Within six months of the date of this Order, the Public Staff shall make a report to this Commission regarding the Company's compliance with applicable North Carolina law. ONSWC shall have the opportunity to respond to the Public Staff's report within 30 days of the filing of such report. Additionally, the parties shall work together to create a plan to improve the capitalization of the Company, and the parties shall make a report to the Commission within six months of the date of this Order regarding the recapitalization plan.

¹ ONSWC subsequently converted from a limited liability company to a C corporation. The new name of the utility is Old North State Water Company, Inc.

Pursuant to this requirement, the Public Staff filed its Public Staff Report on ONSWC's Compliance with Laws and Recapitalization Plan (Public Staff Report) with the Commission on December 12, 2022.

With regard to the directive that the Public Staff "review the various sources of funding utilized by ONSWC for its capital and operational needs, the funds disbursed by ONSWC to Chatham North Holdings, Inc., and the relationships, operating agreements, and contracts between and among the Company, Integra, the Integra affiliates, and Chatham North Holdings, Inc.," the Public Staff Report expressed concerns about (a) the timing and accuracy of ONSWC financial statements, and (b) the lack of ONSWC filings to seek advance approval from the Commission for certain intercompany loans and obligations, as well as related party agreements.

For these concerns, the Public Staff recommended that:

- (1) the Commission schedule an evidentiary hearing;
- (2) the Commission consider declaring Mr. McDonald a de facto public utility;
- (3) the Commission order a management audit pursuant to N.C.G.S. § 62-37(b);
- (4) the Commission order a full forensic audit of ONSWC's books and records; and
- (5) the Commission order a full forensic audit of the financial statements of Integra Water, LLC (Integra), a company that shares a common owner with ONSWC, and Integra's subsidiaries.

With regard to the directive on capitalization of ONSWC, the Public Staff Report suggested the following options:

- (1) that Integra acquire ONSWC;

(2) that Integra and its subsidiaries (Integra Subsidiaries, which in other documents have been referred to as “Integra Affiliates”) that had made loans to ONSWC forgive a portion of ONSWC’s debt;

(3) that Mr. McDonald as the principal owner of Integra make an equity infusion in ONSWC; and

(4) that the Commission could declare Mr. McDonald a *de facto* public utility.

On January 11, 2023, ONSWC filed its Response to the Public Staff’s Report (ONSWC Response). The ONSWC Response stated that, due to unintentional oversight, the Company had not sought advance Commission approval for a loan it made to Chatham North Holdings (CNH) or various loans Integra and the Integra Subsidiaries made to ONSWC. ONSWC committed to compliance with N.C.G.S. §§ 62-160 and 62-161 on a going forward basis. ONSWC also stated it would acquire assets from the CNH subsidiary ONSWC-Chatham North, LLC, (ONSWC-Chatham North) in satisfaction of the loan made to CNH. Regarding the loans from Integra and the Integra Subsidiaries, ONSWC observed that those loans provide necessary financing for ONSWC and are beneficial to the company and its ratepayers as they enable ONSWC to cover operating losses when no other lender would be willing to do so. Further ONSWC noted that the owner of Integra had testified that Integra would continue to finance the capital needs of ONSWC—a commitment that contributed to the Public Staff’s decision to enter a global settlement of all issues in the rate case.

Regarding the recapitalization options proposed by the Public Staff, the ONSWC Response maintained that the capital structure ratio of debt to equity is an illusory concern because there is just one entity (and its subsidiaries) that provides all the financing for ONSWC, so relabeling the financing from debt to

equity would not have any meaningful effect on the availability or risk of that financing. ONSWC opposed the recapitalization options suggested by the Public Staff for reasons discussed in more detail below.

Finally, the ONSWC Response spoke to concerns the Public Staff raised about the accuracy and timing of ONSWC financial statements. ONSWC acknowledged that the financial statements provided in past months had inconsistencies and were often delayed. ONSWC stated that it was remedying the problem by hiring more accounting staff to handle the increased workload and that it was retaining an outside firm to conduct an accounting review.

The ONSWC Response asked the Commission to deny the recommendations in the Public Staff Report. ONSWC committed to providing updated financial statements and a reconciliation of the inconsistencies in past statements when it has the staff to do so (through accounting services provided by Integra).

On May 19, 2023, the Commission issued an Order Requiring Further Reporting and Directing Old North State Water Company, Inc., to Refrain from Certain Actions. This order required ONSWC to promptly notify the Commission of the hiring of additional accounting staff; to provide the Commission within 30 days a copy of the accounting review the Company had commissioned; to avoid issuing any securities or security interests without prior Commission approval; and to avoid taking any action on the CNH loan without prior Commission approval. It also required the Public Staff to notify the Commission of updates to the Public Staff's recommendations and set a hearing date. The topic of the hearing was to be "the

issues raised and the relief sought in the Public Staff Report, as well as in ONSWC's Response and all subsequent reports made in this docket"

On June 12, 2023, the Commission issued an Order Granting Motion of Old North State Water Company, Inc., for Extension of Time to File Report and Rescheduling Hearing. This order set an August 4, 2023, deadline for the accounting review; specified that the review should also address the Company's accounting needs and processes; extended the Public Staff's deadline for a response to September 5, 2023; and rescheduled the evidentiary hearing to start on October 2, 2023. This order further provided "the focus of the hearing shall be whether the management, operation, and financing of Old North State Water Services, Inc., is consistent with the public interest and the interests of customers."

On August 4, 2023, ONSWC filed its confidential outside accounting review (Accounting Review) along with related information.

On September 5, 2023, the Public Staff filed its Letter Regarding Outside Accounting Review (Accounting Review Response). The Public Staff's recommendations from its Public Staff Report remain unchanged. The Public Staff took the position that "[t]he outside accounting review completed by Haynes Downward LLP does not provide a full and complete assessment of ONSWC's accounting needs and processes and its financial statements." They also reiterated their concern that ONSWC was highly leveraged, with too much debt relative to equity in the capital structure.

On September 25, 2023, ONSWC filed in the present docket a motion for approval of transfer from ONSWC-Chatham North to ONSWC of the wastewater

force main and related property that is used to serve customers in the SD East and SD West areas of Briar Chapel (the Force Main Transfer Motion). The Force Main Transfer Motion indicated the transfer would be in satisfaction of the loan from ONSWC to CNH, with a likely write-off of any remaining loan debt amount not covered by the value of the force main and related property.²

The matters identified in ordering paragraph 12 of the Rate Case Order, as amended by the May 19 and June 12, 2023, orders, were heard on October 2, 3, and 9, 2023. At the close of hearing, the Commission instructed the parties to answer four specific questions (T Vol 5, pp 63-64).

The Public Staff and ONSWC filed their late-filed exhibits as reflected on the Commission's online list of filed documents in this docket, and then on November 20, 2023 they filed their respective proposed orders and briefs on the Commission's four questions pursuant to an extension of time granted by the Commission.

Based upon the foregoing, including the Public Staff Report, the ONSWC Response, the Accounting Review and related documents filed by ONSWC on August 4, 2023, the Public Staff's Accounting Review Response, the testimony and exhibits of the expert witnesses received into evidence, the late-filed exhibits, and the entire record herein, the Commission now makes the following

² This motion was refiled on November 9, 2023, in new Docket Nos. W-1300, Sub 94, and W-1320 Sub 4.

FINDINGS OF FACT

Public Interest Question

1. The highest priority for the Commission is to assess the larger question of the public interest, as indicated in the June 12, 2023, order stating that “the focus of the hearing shall be whether the management, operation, and financing of Old North State Water Services, Inc., is consistent with the public interest and the interests of customers.” ONSWC has provided substantial and compelling evidence to answer this question in the affirmative.

2. In particular, ONSWC has shown much improvement in its accounting capabilities, has greatly reduced its Notices of Violations and customer complaints, has taken greater responsibility for operational staff, and has made substantial ongoing investment of new capital in support of its North Carolina water and sewer service. The record shows that wastewater Notices of Violation have decreased significantly—from 32 in 2020 to 5 in 2022 and just four in 2023 to date. (T Vol 3, pp 158-59; ONSWC McDonald Mitchell Joint Direct Exhibit 3). The Company has invested more than [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] in capital projects for its North Carolina systems since October of 2020. (T Vol 3, pp 153-56; ONSWC McDonald Mitchell Joint Direct Exhibit 1 and ONSWC McDonald Mitchell Confidential Joint Direct Exhibit 1.a). The Company has hired a new accounting team, expanding the number of personnel on that team to five, and has implemented several accounting process and software improvements, with more to come. (T Vol 3, pp 159-62; Supplemental Memo for

the Accounting Review, filed by ONSWC on August 4, 2023). These investments, staffing additions, and process improvements demonstrate that the current management, operation, and financing of ONSWC is consistent with the public interest and the interests of customers.

Legal Compliance

CNH Promissory Note

3. ONSWC loaned \$5 million to CNH, as set forth in a promissory note dated December 4, 2020 (CNH Promissory Note). The CNH Promissory Note is guaranteed by ONSWC-Chatham North in a Guaranty Agreement also dated December 4, 2020. Neither the CNH Promissory Note nor the ONSWC-Chatham North Guaranty Agreement were submitted by ONSWC for advance approval from the Commission under N.C.G.S. § 62-161 (a).

4. The CNH Promissory Note did not result in diversion of any operating revenues of ONSWC because Integra had loaned \$5 million to ONSWC in a promissory note on the same date of December 4, 2020. In effect, Integra funded CNH capital needs by passing the funds through ONSWC.

5. The CNH Promissory Note created a risk for ONSWC of nonpayment by CNH. It also provided essential funding for a force main and related facilities owned by a CNH subsidiary ONSWC-Chatham North that were and continue to be used by ONSWC to provide sewer service to its customers.

6. The CNH Promissory Note has not harmed ONSWC customers or created undue financial risk. A significant part of the ONSWC-Chatham North assets funded by the CNH Promissory Note are used for the benefit of ONSWC

and its customers, and ONSWC has the ability to make a claim against the force main and related assets of ONSWC-Chatham North in the event that CNH were to default on repayment of the loan from ONSWC.

7. ONSWC filed a motion for approval of the transfer of the force main and related assets in this docket on September 25, 2023. As noted in the hearing on October 9, 2023, the Public Staff recommended and ONSWC agreed to refile the transfer motion separate dockets. On November 9, 2023, ONSWC filed that motion in Docket Nos. W-1300, Sub 94, and W-1320, Sub 4. While the Commission will review the merits of the motion in the newer dockets, it takes notice in the present docket that ONSWC is seeking to remedy the lack of prior approval of the CNH Promissory Note through action that, if approved by the Commission, will result in the reduction and potentially the cancelation of that Note.

8. In the dockets relating to the motion to transfer the force main and related assets, the Commission will enter further orders, as appropriate and necessary, regarding CNH Promissory Note.

Integra Notes

9. ONSWC has executed secured promissory notes (the Integra Notes) and received loans from Integra and the Integra Subsidiaries that were not submitted for advance approval from the Commission, as provided in N.C.G.S. § 62-161(a).

10. The Integra Notes have been beneficial to ONSWC and its customers. They have provided essential financing for ONSWC capital projects and operations at a time when commercial loans were not available. Other than

the lack of a written agreement to waive interest, there is no evidence of irregularities in the financial records for the Integra Notes. (T Vol 4, pp 74-77).

11. To simplify the intercompany relationships, Mr. McDonald offered to consolidate the Integra Notes into one obligation payable to Integra. (T Vol. 5, pp 21-2). The Commission encourages a consolidation of the Integra Notes, subject to review of a petition to take such action.

12. It is reasonable, appropriate, and necessary for ONSWC to obtain advance approval from the Commission for any future secured loans, and to file its existing loans for approval even though that will not be advance approval. This must be done before ONSWC files its next rate case, but in no event later than 30 days after entry of this order.

Intercompany Cash Transfers

13. ONSWC has received intercompany cash transfers from Integra and the Integra Subsidiaries, and ONSWC is owed repayment of funding it provided to ONSWC-Chatham North and CNH. ONSWC did not notify the Commission in advance of these various funds transfers.

14. It is reasonable, appropriate, and necessary for ONSWC to document in its financial statements all financial obligations to and from related entities, and to obtain advance approval from the Commission where required by statute. All existing financial obligations of ONSWC that have not been reduced to writing must be stated in written agreements, and those agreements must be submitted to the Commission for approval even though that will not be advance

approval. This must be done before ONSWC files its next rate case, but in no event later than 30 days after entry of this order.

Support Services Agreement

15. ONSWC has unwritten agreements for services from Integra. Regardless of whether Integra is designated as an “affiliate,” it is reasonable, appropriate, and necessary for ONSWC to record all services agreements in written agreements and file copies of those agreements to the Commission for approval. On November 17, 2023, ONSWC filed a proposed support services agreement for Commission approval in Docket No. W-1300, Sub 95. Although the propriety of that agreement will be addressed in that docket, the Commission notes that ONSWC has taken appropriate steps to address this concern for purposes of this docket.

Recapitalization

16. In the Rate Case Order, ordering paragraph 12 directed that “the parties shall work together to create a plan to improve the capitalization of the Company, and the parties shall make a report to the Commission within six months of the date of this Order regarding the recapitalization plan.” There are two aspects to capitalization: (a) achieving an appropriate balance of debt to equity, and (b) having sufficient access to capital so the utility can finance its capital projects and operational needs.

Debt-to-Equity Ratio

17. The ONSWC debt-to-equity ratio is acceptable at the present time for three reasons. First, all ONSWC financing is obtained from Integra, which is owned by John McDonald, and Mr. McDonald has committed in sworn testimony

in the rate case to have Integra continue to fund the capital needs of ONSWC. Consequently, the high debt percentage does not increase equity investor risk or otherwise impair access to capital. Second, Mr. McDonald has offered—and it is reasonable for the Commission to require—the conversion of an amount of ONSWC debt to equity, sufficient to achieve a 45% equity ratio, in December of 2024 when the promissory notes become due. (T Vol 3, p 151). This is a reasonable recapitalization plan. Third, the capital structure of ONSWC was deemed adequate for purposes of approving new water rates, as indicated in part by the conclusion at page 14 of the Rate Case Order that “the Settlement Agreement strikes a fair balance between the interests of ONSWC to *maintain its financial strength at a level that enables it to attract sufficient capital on reasonable terms*” These three facts satisfactorily address the issue of debt-to-equity ratio in the capital structure.

18. [BEGIN CONFIDENTIAL] [REDACTED]

[REDACTED] [END CONFIDENTIAL] It is advantageous to the utility to maintain the current debt-to-equity ratio at this time.

Sufficiency of Financing and Access to Capital

19. Apart from the debt-to-equity ratio, the Public Staff has raised a question of whether ONSWC will be able to access sufficient financing in the future to fund its capital improvements and operations. This question is pertinent because ONSWC has been operating at a loss, at least in part, because there has not been

a rate increase to cover cost increases for sewer operations. In addition, there is concern that the source of funding for ONSWC is private, rather than capital markets where a track record of stock and debt issuances might indicate funding capability. These concerns are addressed below.

20. The Company has stated that it needs a sewer rate case to provide additional revenues, and it plans to file a rate increase application for its sewer systems in the near future. The fact that the ONSWC sewer systems have never had a general rate case has contributed to the Company's operating losses, which in turn has required capital infusions from Integra. A rate case for ONSWC sewer utility operations, if supported by evidence, will improve the capitalization of ONSWC by generating additional revenues that will end or greatly reduce operating losses and provide a fair return on investment. (See T Vol 3, p 151). An increase in sewer revenues will reduce the need for external capital financing to cover losses. The stated plan of ONSWC to file a sewer rate case in the near future adequately addresses this part of the concerns about the Company's capital funding situation.

21. The remaining concern about the Company's capital funding situation is whether it will be able to continue to access sufficient funds from Integra, particularly before revenues may increase from a sewer rate case. In the water rate case, capitalization was initially identified by the Public Staff as a concern about the debt-to-equity ratio in the capital structure. However, after ONSWC provided additional information to the Public Staff and negotiated a settlement on cost of capital, the Public Staff's finance witness testified to having his earlier concerns allayed as noted at page 19 of the Rate Case Order:

In settlement testimony, Public Staff witness Hinton revised his concerns about the high debt ratio and financial viability of ONSWC articulated in his direct testimony. He stated that further discussions with the Company during settlement talks and his review of the consolidated financial statements of Integra led him to withdraw his prior recommendations that the Company change its actual capital structure and be required to submit audited financial statements. *An essential part of the changes to Public Staff witness Hinton's position is the settlement commitment of ONSWC witness McDonald, as the authorized representative of Integra, for Integra to continue to finance the capital needs of ONSWC at sufficient levels to permit ONSWC to fund its capital needs and operational expenses such that ONSWC can provide good quality, reliable water service to its customers consistent with environmental and regulatory requirements.*

(Emphasis added.) The settlement of the capital financing issues in the rate case was based on this finance witness's testimony. Subsequently, in the October 2023 hearing, the Public Staff stated its concerns from an "accounting perspective" regarding whether the sole shareholder will continue to provide funds to operate the Company, and that the Public Staff did not have information stating that the sole shareholder had the ability to continue funding ONSWC. (T Vol 3, p 55). They also were concerned because of potential liability from ongoing litigation. (T Vol 3, p 57).

22. [BEGIN CONFIDENTIAL] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [END CONFIDENTIAL]

23. The Public Staff suggested four different ways for ONSWC to demonstrate sufficient access to capital:

- (1) that Integra acquire ONSWC;
- (2) that Integra and the Integra Subsidiaries forgive the loans they made to ONSWC;
- (3) that Mr. McDonald personally make an equity infusion in ONSWC; or
- (4) that the Commission declare Mr. McDonald a *de facto* public utility.

The Commission finds that none of these recommendations are appropriate in the present case for reasons discussed below.

Acquisition by Integra

24. Assuming without deciding that the Commission has authority to order Integra to acquire ONSWC, such an acquisition would not meaningfully

change the utility's situation. If Integra were ordered to acquire ONSWC, access to financial statements of Integra would not change, as Integra's financial statements have already been provided in the present docket and subsequent versions can be obtained by the Public Staff and Commission in the future. ONSWC's ability to obtain capital from Integra would not change, as the availability of funds to Integra has nothing to do with whether it owns ONSWC. Mr. McDonald's sworn commitment to have Integra provide all the financing that ONSWC needs would not change. The acquisition of ONSWC by Integra is opposed by ONSWC, it would have a cost to Integra, and it would not have a meaningful effect on the ability of ONSWC to access capital funding. The Commission finds this recommendation is not necessary or appropriate.

Loan Forgiveness

25. The recommendation that the Commission order Integra and the Integra Subsidiaries to forgive the loans they made to ONSWC could violate the legal rights of those entities. This recommendation would both violate N.C. Gen. Stat. § 62-170(a) and create an unconstitutional taking issue under the due process clause of the Fourteenth Amendment. Loan forgiveness would force a financial loss on the non-utility lenders against their will. It would not provide access to future financing, but rather would most likely deter debt financing in the future. Moreover, debt forgiveness could create a significant taxable event for ONSWC. (T Vol 3, p 150). For both legal reasons and policy reasons, the Commission finds this recommendation is not appropriate.

Equity Infusion by Mr. McDonald

26. The recommendation that the Commission order Mr. McDonald to make an involuntary infusion of equity would unduly (if not improperly) interfere with the rights of an individual investor to decide when and how he wants to make investments. It is especially unwarranted because there is no showing that Mr. McDonald, through his other company Integra, has fallen short of supporting the capital financing needs of ONSWC. Mr. McDonald has committed, through his control of Integra, to have Integra finance ONSWC as needed. That is quite different from requiring Mr. McDonald to infuse his personal equity into ONSWC against his will, particularly as Integra is profitable and expects to be able to provide any needed support to ONSWC. Additionally, Mr. McDonald testified that ONSWC and Integra were willing to provide financial projections demonstrating that Integra will have a cash reserve that could be called upon by ONSWC, if necessary. Nor is an equity infusion to change the capital structure ratios needed, since the debt-to-equity ratio is reasonable at this time for the reasons discussed in earlier findings. The Commission finds this recommendation for an involuntary equity infusion by Mr. McDonald is not appropriate. The Commission does, however, find it appropriate for ONSWC and Integra to file Integra financial projections showing that Integra expects to have a cash reserve that could be called upon by ONSWC as needed.

Declaring Mr. McDonald a De Facto Utility

27. The recommendation that the Commission declare Mr. McDonald a *de facto* public utility would ignore the corporate entity that is the public utility.

ONSWC is the legal owner of the utility assets and the legally-designated franchise holder for the utility systems it operates pursuant to the Commission's Certificate of Public Convenience and Necessity (CPCN) orders. Mr. McDonald is not the owner of the utility assets or a franchise owner. There is no allegation that he has committed fraud or of any subterfuge or impropriety. Further, the record evidence shows that all corporate formalities have been observed. (T Vol 4 pp 30-31). Under the facts of this case, it would not be proper to declare Mr. McDonald a *de facto* public utility.

Other Considerations

28. ONSWC plans to file for approval of a line of credit from Integra that will allow ongoing capital infusions to ONSWC as needed. This line of credit should provide a documented assurance of capital infusions to ONSWC, in addition to the verbal commitment made by Mr. McDonald in the rate case hearing.

29. The Commission has in recent months undertaken to increase the bond amounts required of water and sewer utilities. As applied to new CPCNs and contiguous extensions for ONSWC systems, this is another approach for assuring that ONSWC customers will be protected in the unlikely event of utility financial difficulty.

30. It is not necessary or appropriate to require Mr. McDonald to provide evidence of his personal finances. The Commission does not generally require individual shareholders of utilities (or their upstream parent companies) to divulge their personal financial status, and there is no evidence in the record justifying a different approach in this docket. In fact, requiring personal financial information

from utility (or utility parent) shareholders could very well discourage needed investment in our state’s utilities and thus be counter-productive to our policy objectives. While Mr. McDonald is the owner of Integra, and Integra is the financing source for ONSWC, a review of his personal finances would be invasive of his privacy, would be akin to declaring him a *de facto* utility, and would not in any way increase ONSWC’s access to capital because the personal resources of Mr. McDonald would not be changed by reviewing them. Moreover, there is no evidence that ONSWC has difficulty accessing capital, as revealed by the recent history of funding of ONSWC. In that regard, the evidence shows [BEGIN CONFIDENTIAL]:

[REDACTED]

[REDACTED]

[REDACTED]

(d) [REDACTED]
[END CONFIDENTIAL]

The only material ongoing basis of the alleged concern about financing for ONSWC is its operating losses. Those losses have been covered by Integra funding to date, and in the future can be addressed through a rate increase to assure the recovery of the cost of service and a reasonable return. In these circumstances, and with Mr. McDonald’s offer to provide additional information on

the financial projections for Integra, there is no justification for an invasive review of Mr. McDonald's personal finances.³

Accounting Review

31. In addition to the issues identified in ordering paragraph 12 of the Rate Case Order, the Public Staff Report added "Other Issues" that raised concerns about financial statements from ONSWC being delayed and containing inconsistent information. In response to these concerns, the Public Staff recommended that:

- (i) the Commission order a management audit pursuant to N.C.G.S. § 62-37(b);
- (ii) the Commission order a full forensic audit of ONSWC's books and records; and
- (iii) the Commission order a full forensic audit of Integra and the Integra Subsidiaries' financial statements.

³ The Commission also takes notice of the prefiled Public Staff testimony in Docket Nos. W-1328, Sub 0, and W-933, Sub 12, where witness Hinton agreed that Red Bird's parent company had sufficient ability to raise necessary capital *despite* acquiring systems in poor condition and with operating losses:

[T]he Public Staff has some concerns regarding the ongoing viability of CSWR, LLC, because it continues to report significant losses on its consolidated income statements. As such, the Company's financial viability largely depends on external infusions of common equity that are supplied by private equity Public Staff engineers who have been involved with other transfer applications with Red Bird are unaware of any plant and operational problems that stem from a lack of investment capital In view of the Company's business plan and record of acquiring non-viable systems, raising additional equity capital, and making necessary capital investments, I believe CSWR has sufficient capital resources to be considered financially viable.

See *also* the similar prefiled testimony of Mr. Hinton in Docket Nos. W-1328, Sub 10, and W-1146, Sub 13. There is nothing in the Public Staff testimony, nor in the settlement filed in Docket Nos. W-1328, Sub 10, and W-1146, Sub 13, that indicates any interest or need to investigate the source of private equity financing for assurance that such financing could continue into the future. Integra (and therefore ONSWC) is funded by private equity, there is no evidence of any plant and operational problems that stem from a lack of investment capital for Integra or ONSWC, and ONSWC has a positive history of obtaining additional capital (albeit debt instead of equity) as it acquires new systems and makes necessary capital improvements. It is unclear why the Public Staff's position is so different for ONSWC compared to Red Bird.

The ONSWC Response of January 11, 2023, acknowledged that there had been delays and inconsistencies in past financial statements, but opposed the Public Staff recommendations and proposed an alternative:

As part of improving the accounting capabilities at Integra, and therefore the accounting service provided to ONSWC, Mr. McDonald plans to hire an outside firm in the spring of 2023 to thoroughly review the accounting needs and processes and to perform an accounting review of ONSWC and its financial statements. This is intended as a cost-efficient way, without the expense, diversion of resources, and disruption of a full-scale audit, to identify where improvements are needed.

(Emphasis added). The Commission's May 19 and June 12 orders set for hearing "the issues raised and the relief sought in the Public Staff Report," so the "accounting review" became an issue properly before the Commission. Although the Public Staff had requested management and forensic audits, the Commission did not grant that request, but instead ordered an accounting review. The June 12 order specified that "the scope of the outside accounting review should include a review of the Company's accounting needs and processes, including an examination of the transactions between Old North State Water Company, Inc. and any of the following: Integra Water, LLC, Integra Water Madison County, LLC, Integra Water Creola, LLC, Integra Water Vinemont, LLC, John McDonald, Chatham North Holdings, Inc., and ONSWC-Chatham North, LLC (ONSWC-CN)."

32. On August 4, 2023, ONSWC filed an accounting review performed by the outside CPA firm of Haynes Downard, LLP. The ONSWC filing also included a letter from Haynes Downard stating:

We performed a review of the financial statements which means we primarily applied analytical procedures to financial data and made inquiries of Company management. As such, I have not evaluated

the improvements to the accounting processes or any other internal controls or processes of the Company and would suggest that any discussion of accounting processes be addressed by Mr. Mitchell.

The Haynes Downard's Independent Accountants' Review Report explained its scope as a review of

the accompanying financial statements of Old North State Water Company, Inc. which comprise the balance sheet as of December 31, 2022, and the related statements of operations, cash flows and changes in shareholder's equity for the year then ended, and the related notes to the financial statements. A review includes primarily applying analytical procedures to management's financial data and making inquiries of company management.

This document explained that an accounting review is narrower in scope than an audit. Along with the Haynes Downard report, ONSWC filed a supplemental memorandum from its Chief Financial Officer describing actions taken to address accounting needs and processes.

33. The Public Staff filed the Accounting Review Response on September 5, 2023, in which the Public Staff repeated its audit recommendations after stating: "The Public Staff continues to have concerns about ONSWC's accounting function and is conducting discovery in an attempt to better understand the basis for the information shown in the financial statements included in the August 4th filing."

In its May and June 2023 orders, the Commission did not grant the Public Staff's requests for management and forensic audits, and it sees no reason to place such a burden on ONSWC now. The Public Staff has not offered any evidence of potential fraud or otherwise justified the extraordinary remedy of a

management audit pursuant to N.C.G.S. § 62-37(b) or a forensic audit. The Public Staff has had more than a year to conduct discovery on accounting-related issues since the Commission's Rate Case Order, and indeed the record shows the Public Staff sent multiple data requests, with multiple questions and sub-parts to questions, to ONSWC. Moreover, the Public Staff has the statutory authority to visit any utility's offices and inspect its books and records. N.C.G.S. § 62-51.

Starting an audit at this late date would considerably delay a sewer rate case, which is important to future financial stability for ONSWC. Therefore, the audit recommendations would run counter to the larger goal of financial stability and accordingly is not in the public interest. Moreover, an audit could cost five to seven times as much as the accounting review, which has already been completed. (T Vol 4, pp 107-09). While the Commission fully agrees with the Public Staff regarding the importance of accurate financial information, the costs that are imposed on a utility—both in terms of financial expense and administrative burden—must be in proportion to the expected benefit. Finally, to the extent any material accounting deficiencies exist, the Public Staff will have additional opportunity to investigate and address them during the upcoming sewer rate case. There is not an adequate basis for ordering either a management audit or forensic audits at this time.

34. The review by Haynes Downard and the identification of inconsistencies between the reviewed financial statement and ONSWC's last Annual Report did result in the correction of those inconsistencies and the filing of an amended Annual Report. In late-filed exhibits that ONSWC filed on November

8, 2023, the Company amended its 2022 annual report and provided both a reconciliation of the inconsistencies and an explanation of how those inconsistencies arose. (ONSWC Late-Filed Exhibits 1 and 2). The Commission finds the Haynes Downard review, along with this Amended Annual Report, reconciliation, and explanation to be appropriate and sufficient to address the Public Staff's concerns at this time in this docket. However, the Commission also finds that continuing efforts to achieve accuracy of financial reporting are necessary and should be pursued diligently by ONSWC. Failure of ONSWC to do so in the future could result in a show cause proceeding or other Commission action. The Commission also notes that the burden of proof in any rate case is on the applicant, and meeting that burden requires accurate financial information on which the Commission can rely in making its decision. Without providing a basis in accurate financial information on which the Commission can determine the actual cost of service, an Applicant cannot meet its burden and will not be allowed to recover costs that it cannot justify.⁴

35. The Public Staff's accounting concerns about financial statements not being timely have been addressed by ONSWC, primarily through the testimony of Mr. Mitchell, the CFO, and the reconciliation in ONSWC Late-filed Exhibit No. 1. Regarding timeliness, the Company filed on September 9, 2023, an update of its financial statements through the end of the second quarter (June 30, 2023).

⁴ The Commission notes that in the rate case in this docket, Docket No. W-1300, Sub 60, the Public Staff did enter a settlement based on its understanding of the Company's accounts. This is an indication that there was accounting information from ONSWC that was adequate for ratemaking and reflects the considerable discovery work the Public Staff conducted to get to that point. The Commission is confident that the Public Staff will similarly engage in diligent discovery in any future rate case and make its recommendation in that rate case based upon accounting information that it deems necessary and adequate for ratemaking.

ONSWC also provided the Public Staff on September 29, 2023, with updated financials for Integra in response to Data Request No. 78. The memorandum from Mr. Mitchell indicated one of his needs/processes improvements was that ONSWC had “[f]ormalized a hard month-end close cycle with established deadlines.” The Public Staff agreed that this change was “definitely a plus, and would lead to more accurate financials going forward.” (T Vol 3, p 82). In addition to the hard close, Mr. Mitchell committed to producing financial statements within 45 days of the end of each quarter. (T Vol 3, p 161). The cumulative evidence shows that ONSWC is diligently working to address the timeliness problem that occurred during its last rate case. This is no guarantee that future financial statements will always be available for review on a timely basis, but it does show the timeliness concern raised by the Public Staff in its December 2022 report has been sufficiently addressed at this time.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1-2

The evidence supporting this Finding of Fact is found in the prehearing filings of the parties, the testimony and exhibits of Public Staff witnesses Michelle Boswell and Charles Junis, and in the testimony and exhibits of ONSWC witnesses John McDonald and Joseph Mitchell.

The public interest question was framed in ordering paragraph 5 of the Commission’s June 12, 2023, order in this matter: “That the focus of the hearing shall be whether the management, operation, and financing of Old North State Water Services, Inc., is consistent with the public interest and the interests of customers.”

At no point has the Public Staff argued or presented evidence that it would be contrary to the public interest for ONSWC to continue to hold CPCNs for its utility systems. Instead, the Public Staff Report filed on December 12, 2022, in response to ordering paragraph 12 in the Commission's Rate Case Order, recommended audits to conduct further investigation and recommended four different approaches to capitalization. Even after the Commission issued its June 12, 2023, order, the Public Staff did not assert that ownership and operation of the utility systems by ONSWC was not in the public interest. The Public Staff's September 5, 2023 Accounting Review Response did not raise any issue of the "public interest" in response to ONSWC's August 4, 2023 Accounting Review. At hearing, witness Boswell reiterated the recommendations made in the Public Staff Report on December 12, 2023, and listed concerns over discrepancies between the ONSWC Annual Report for 2022 and its financial statements, verbal agreements between related companies, whether the shareholder of ONSWC would be able to continue to fund the operations, and other matters. (T Vol 3, pp 21-38). The tenor of the Public Staff testimony was that past accounting practices had resulted in inaccurate information, that future access to capital funding was unclear, and that the Public Staff had no solid basis to determine that ONSWC would be financially viable.

There is no question that ONSWC has neglected to file for approvals of intercompany loans and has operated with verbal agreements that should be reduced to writing. ONSWC has admitted that in the past it had inaccuracies and delays in its financial statements. (See, e.g., T Vol 4, pp 11-12). However, "whether

the management, operation, and financing of Old North State Water Services, Inc., is consistent with the public interest and the interests of customers” depends heavily on whether the Company is improving on past performance lapses.

In that regard, ONSWC has shown significant improvements in its management, operation, and financing. John McDonald terminated the business relationship with the contract operator who had been responsible for North Carolina operations for many years and who, according to Mr. McDonald, had not satisfactorily fulfilled those responsibilities. (*E.g.*, T Vol 3 pp 153-55). Following that termination, ONSWC hired operational staff as direct employees and obtained new contractors. (ONSWC McDonald Mitchell Joint Direct Ex. 2). The result has been a marked improvement in operations, as evidenced by the decrease in customer complaints, a large decline in wastewater NOVs, and a long list of infrastructure improvements. (ONSWC McDonald Mitchell Joint Direct Exs. 1, 3).

In addition, Integra, which is the company that provides accounting services for ONSWC, has hired a well-qualified Chief Financial Officer and added several new accounting positions. (T Vol 3 p 159; ONSWC McDonald Mitchell Joint Direct Ex. 2;). Witness Mitchell, who is the CFO, plans to shore up the regulatory accounting expertise for ONSWC by sending staff to utility accounting training opportunities, and by hiring experienced regulatory accounting consultants (NewGen Strategies and Solutions; Peedin and Perry Consulting) to assist with ONSWC utility cases. (T Vol 3 p 162; T Vol 4 p 47). In the Supplemental Memo for the Accounting Review, filed by ONSWC on August 4, 2023, Mr. Mitchell lists substantial improvements to the accounting processes and needs of ONSWC.

(ONSWC Campbell Confidential Direct Ex 3). In response to the accounting discrepancies noted by the Public Staff, ONSWC has filed an amended 2022 Annual Report in Docket M-2, Sub 2023W, on November 8, 2023, and an explanation and reconciliation of the prior inaccurate version of the 2022 Annual Report to the ONSWC financial statements. (ONSWC Late-Filed Exs. 1-2).

The matter of financial viability is addressed in more detail below in the capitalization discussion. The record evidence as a whole does not support a finding that ONSWC's current financial viability is contrary to the public interest or customers' interests. ONSWC McDonald Mitchell Joint Direct Exhibit 1 and ONSWC McDonald Mitchell Confidential Joint Direct Exhibit 1.a. show [BEGIN CONFIDENTIAL] [REDACTED]

[REDACTED] [END CONFIDENTIAL] (T Vol 4 p 161, T Vol 5 pp 35-36; ONSWC Campbell Confidential Direct Exhibit 3, Note 5). ONSWC has had operational losses, and they have been covered by financial support from Integra, just as Mr. McDonald promised at the water rate case hearing. (See e.g., T Vol 4 pp 58-59, 63-64, 88-90). Because of the ongoing financial support from Integra, there is no evidence that under-earnings by ONSWC have impaired utility service or otherwise been harmful to the public interest. The Commission concludes that ONSWC's plan to file a sewer rate case is the best path to financial independence for ONSWC. (See, e.g., T Vol 3, p 151). The significant capital funding of ONSWC by Integra, and the promise that such funding will continue as needed, is

assurance that the public interest is being served with respect to financing. In these circumstances, there is no justification to require Mr. McDonald to make a personal guarantee, and doing so would be legally problematic.

The Commission concludes that the public interest is being served by the management, operations, and financing of ONSWC, provided that ONSWC (a) makes the appropriate filings for Commission approval of its intercompany agreements, including loans, advances, and support services agreements; (b) files for Commission approval of all assumptions of liabilities and obligations falling under N.C.G.S. § 62-161; (c) continues to improve its regulatory accounting performance; and (d) promptly notifies the Commission if Integra is no longer meeting the capital funding needs of ONSWC or if ONSWC finds itself without access to capital financing that is needed to fund capital projects or operations.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 3 – 8

The evidence supporting these Findings of Fact is found in the prehearing filings of the parties, the testimony of Public Staff witnesses Michelle Boswell and Charles Junis, the testimony of ONSWC witnesses John McDonald, Joseph Mitchell, and Joseph Max Campbell, and the exhibits of both parties.

Ordering paragraph 12 of the Rate Case Order directed the Public Staff to review, among other things, “the relationships, operating agreements, and contracts between and among the Company, Integra, the Integra Subsidiaries, and Chatham North Holdings, Inc.; including whether they are reasonable, appropriate, and in conformity with North Carolina law and Commission Rules, including but not limited to N.C.G.S. §§ 62-153, 62-160, and 62-167”. Pursuant to that instruction,

the Public Staff Report contains a section entitled "Legal Compliance." In that section, the Public Staff determined that ONSWC had not complied with the requirement of obtaining prior Commission approval under N.C.G.S. § 62-161(a) for (i) the December 2020 loan of \$5 million from ONSWC to CNH, and (ii) approximately [BEGIN CONFIDENTIAL] [REDACTED]

[REDACTED] [END CONFIDENTIAL].

The Public Staff did not recommend any specific remedy or regulatory action for this non-compliance, other than its general recommendation for management and forensic audits of ONSWC.

In the January 11, 2023, ONSWC Response to the Public Staff Report, ONSWC acknowledged that it had failed to obtain prior Commission approval for the loan it made to CNH and for the debt it incurred with Integra and the Integra Subsidiaries. The Company stated that this non-compliance was an unintentional oversight. ONSWC committed that in the future it would seek approval for new securities, obligations, or liabilities as required by N.C.G.S. § 62-161 and other sections of Chapter 62. It observed that the CNH promissory note and related guarantee from ONSWC-Chatham North had been on file with the Commission since March of 2022. The Company also stated that it planned to take ownership of certain assets of ONSWC-Chatham North in exchange for reduction of the promissory note from CNH. ONSWC has now filed for approval of transfer of the ONSWC-Chatham North force main and related facilities to ONSWC in Docket Nos. W-1300, Sub 94, and W-1320, Sub 4. ONSWC has indicated it will likely write

off any remaining amount of the debt owed by CNH that exceeds the value of the force main and related facilities.

Witness McDonald was questioned about the extra step taken when Integra loaned \$5 million to ONSWC and then ONSWC loaned \$5 million to CNH, as opposed to Integra directly loaning the \$5 million to CNH. He explained that the original plan was for ONSWC to transfer its Briar Chapel system to CNH and the loans were set up to follow the assets. (T Vol 4, pp 36-37). The Commission notes that a loan from Integra directly to CNH would not have required approval under N.C.G.S. § 62-161 because neither of those entities are regulated by the Commission. However, once ONSWC became an intermediary for the loan to CNH, the statute became applicable.

The Commission concludes that non-compliance with requirements for advance Commission approval under N.C.G.S. § 62-161 is a serious matter, not a mere formality. ONSWC must not neglect that requirement in the future. However, an order for audits would be purely punitive and unrelated to this statutory violation and therefore would serve no relevant purpose.

The use of ONSWC as an intermediary to funnel \$5 million from Integra to CNH could, in theory, have an adverse impact on ratepayers because the risk of default by CNH falls on ONSWC instead of Integra. In practice, the commitment by Integra to continue to fund the capital needs of ONSWC ameliorates this risk. (See, e.g., T Vol 4 p 160). In addition, the ultimate use of the funds from the loan to CNH was to pay for the construction of the force main owned by CNH's subsidiary, ONSWC-Chatham North, and that force main is used and useful to

serve ONSWC customers in Briar Chapel. (*E.g.*, T Vol pp 145-46). As ONSWC acknowledges, the depreciated book value of the cost constructing the force main, and not the value of the note receivable represented by the loan, would be the appropriate valuation of the asset in rate base, if the force main is transferred to ONSWC. (See Motion for Approval of Asset Transfer, Docket Nos. W-1300, Sub 94 and W-1320, Sub 4, paragraph 17, filed on November 9, 2023). For these reasons, the loan from ONSWC to CNH ultimately benefited rather than harmed the customers of ONSWC. This in no way excuses the failure of ONSWC to file for advance Commission approval of the loan, but it does influence how the Commission responds to that non-compliance and determines what, if any, remedies after-the-fact are appropriate and in the public interest.

The Commission will decide after weighing the evidence in Docket Nos. W-1300, Sub 94, and W-1320, Sub 4, whether the transfer of the force main and related facilities, in exchange for reduction of the CNH Promissory Note, is in the public interest. In those dockets, the Commission may enter such further orders as it deems appropriate, regarding the CNH Promissory Note, depending on the resolution of that motion and whether or how ONSWC writes off the remaining balance of the CNH Promissory Note. Such actions may include requiring ONSWC at that time to seek approval of the CNH Promissory Note or any remaining balance thereof, if necessary. Regardless, the Commission will hold ONSWC responsible, with potential sanctions, for any future non-compliance with N.C.G.S. § 62-161.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 9 – 15

The evidence supporting these Findings of Fact is found in the prehearing filings of the parties, the testimony of Public Staff witnesses Michelle Boswell and Charles Junis, and in the testimony of ONSWC witnesses John McDonald, Joseph Mitchell, and Joseph Max Campbell, and the exhibits of both parties.

As noted in the Rate Case Order, in March 2022 ONSWC provided in its water rate case certain late-filed exhibits that included confidential documentation related to (i) the Intercompany Promissory Note from Chatham North Holdings, Inc. to ONSWC, dated December 4, 2020; (ii) the Intercompany Promissory Note from ONSWC to Integra dated January 1, 2019; (iii) Intercompany Promissory Note from ONSWC to Integra dated December 4, 2020; (iv) the Intercompany Promissory Note from ONSWC to Integra Water Creola, LLC, dated January 1, 2019; (v) the Intercompany Promissory Note from ONSWC to Integra Water Madison County, LLC, dated January 1, 2019; (vi) the Intercompany Promissory Note from ONSWC to Integra Water Vinemont, LLC, dated January 1, 2019); and (vii) the Intercompany Promissory Note from ONSWC to Integra Madison County, LLC, dated January 1, 2019. In addition, ONSWC has received additional funding support from Integra and the Integra Subsidiaries in the amount of [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] (T Vol 4, p 105; Accounting Review Report). This additional intercompany funding support is not documented in written loan agreements. The Integra agreement to waive interest payments is only verbal. (See T Vol 4, pp 48-50, 84-85, 91, 99-100). A written support services agreement that sets forth what services Integra is providing to ONSWC and the

basis for any compensation ONSWC would owe to Integra for those services had not been filed as of the date of the hearing.. (T Vol 4, p 106; T Vol 5, p 42).

As discussed in connection with the ONSWC loan to CNH, promissory notes must be approved in advance by the Commission pursuant to N.C.G.S. § 62-161. That statute applies to “securities,” and long-term secured promissory notes are a form of security. N.C.G.S. § 62-3(26). This case has raised broader questions of accountability, however, than just pre-approval of securities. The cash advances by Integra to ONSWC that are not the subject of promissory notes or written agreements, the verbal waiver of interest payments, and the provision of support services from Integra to ONSWC without a written agreement all impede regulatory review of regulated utility activity. This is a concern without regard to whether Integra and the Integra Subsidiaries are “affiliates” within the meaning of N.C.G.S. §§ 62-153 and 62-160.

At hearing, Mr. McDonald did offer to consolidate the promissory notes into one note between Integra and ONSWC, thereby eliminating obligations to the Integra Subsidiaries and simplifying Commission review. (Tr Vol 5, pp 21-22). The Commission supports this consolidation and concludes that any consolidation of promissory notes should be submitted to the Commission for advance approval.

As Mr. McDonald promised during the hearing, Commission also notes that on November 17, 2023, ONSWC filed a written support services agreement and requested acceptance of that agreement and authorization to receive services thereunder in Docket No. W-1300, Sub 95. The Commission concludes that the filing of this agreement provides greater transparency and precision in articulating

what services Integra is providing to ONSWC and what compensation ONSWC will owe to Integra for those services. As such, it reduces these unknowns and addresses that particular concern.

Similarly, the Commission further concludes that the best way to address the concern about undocumented and unapproved financial support from related companies to ONSWC is to require, under the Commission's general supervisory authority in N.C.G.S. § 62-30, that ONSWC reduce to writing all agreements it has with Integra and the Integra Subsidiaries. Within 30 days after the issuance of this order, ONSWC should file all such written documents with the Commission in a new and separate docket. The written agreements should cover (i) all cash advances that have been made to ONSWC in addition to the promissory notes already filed with the Commission; (ii) any future cash advances that may be made to ONSWC; and (iii) any other terms, conditions, or consideration between ONSWC and Mr. McDonald or any companies owned by Mr. McDonald. These actions will facilitate an appropriate and necessary level of regulatory review, which in turn will better inform the Commission about the financial condition of ONSWC. The Commission may take such further action on all such documents filed as it deems appropriate in its discretion.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 16 – 18

The evidence supporting these Findings of Fact is found in the prehearing filings of the parties, the testimony of Public Staff witnesses Michelle Boswell and Charles Junis, and in the testimony of ONSWC witnesses John McDonald and Joseph Mitchell, and the exhibits of both parties.

In prefiled testimony in the water rate case that was the original subject of this docket, the Public Staff stated its concern about the high percentage of long-term debt in the capital structure of ONSWC. In settlement, this concern was resolved by the parties. ONSWC witness McDonald stated in filed settlement testimony that:

I have the authority to commit Integra to continuing to finance the capital needs of ONSWC, and I do make that commitment. As a practical matter, ONSWC is on sound footing for its financial needs. In conjunction with that financing commitment, the Public Staff has agreed to withdraw its recommendation for an infusion of equity to create an actual capital structure of 50% debt and 50% equity, and has agreed to withdraw its recommendation of audited financial statements.

Public Staff witness Hinton stated in prefiled settlement testimony that:

Q. DO YOU STILL HAVE CONCERNS ABOUT THE COMPANY'S APPLICATION THAT PROPOSED A CAPITAL STRUCTURE CONTAINING 83% LONG-TERM DEBT AND 17% COMMON EQUITY?

A. No, following settlement discussions, the Company provided consolidated financial statements of Integra Water, LLC (Integra). Those statements indicate a reasonable level of long-term debt and common equity for Integra. Furthermore, my discovery that Integra Water, LLC does not technically own ONSWC has not changed my recommendation on the cost of capital. I understand that John McDonald is the Member, Organizer, and Manager of ONSWC and Michael Myers is a Member and Organizer of ONSWC. Therefore, John McDonald is a co-owner of ONSWC while being the sole member of Integra Water, LLC (Integra). However, Mr. McDonald's role as the Manager of ONSWC, Integra's financial vitality, and his commitment that Integra will finance ONSWC's future capital requirements and fund ONSWC's ongoing, day-to-day capital and operational needs supports my recommendation that ONSWC use a 7.00% overall cost of capital, with a hypothetical capital structure composed of 50% long term debt and 50% equity. John McDonald's authority to provide ONSWC with Integra's capital resources further supports this assurance. This

commitment is memorialized on page 8 of the Joint Settlement Agreement and Stipulation filed in this docket on March 8, 2022, and is the basis for my revised recommendation that it is not necessary for the Company to bring its actual capital structure to 50% common equity, maintain a 45% equity ratio, or file audited financial statements with its Annual Report to the Commission for the next three years as means of showing its compliance with the recommended capital ratios.

At the water rate case hearing in this docket, witness Hinton repeatedly testified that ONSWC was financially viable, despite its high debt ratio, because it had the backing of Integra. He based this opinion on his examination of the confidential financial statements of Integra and its subsidiaries to determine it had the resources to fulfill its commitment to fund ONSWC. (See *water rate case T Vol 2*, pp 318-19)

Thus, the Public Staff withdrew its recommendations in the water rate case for changes in the capitalization of ONSWC. The Settlement Agreement signed by the Public Staff includes the provision that “[t]he Stipulating Parties will act in good faith to support the reasonableness of this Stipulation in any hearing before the Commission and any proposed order or brief in this docket.”

Notwithstanding their settlement position, the Public Staff Report filed on December 12, 2022, recommended several options for recapitalization. The Public Staff’s September 5, 2023 Accounting Review Response states in part: “the Public Staff continues to have concerns about ONSWC’s capital structure because ONSWC is highly leveraged.” The Commission’s Rate Case Order did instruct the parties “to work together to create a plan to improve the capitalization of the Company”; however, it is not apparent what basis the Public Staff has for its particular recommendations.

The ONSWC Response of January 11, 2023, to the Public Staff Report explains why recapitalization is not necessary with respect to the debt-to-equity ratio:

Since the source of ONSWC financing is entirely Integra, the distinction between debt and equity is irrelevant. It is an illusory concern. Normally a high level of debt in the capital structure increases risk for equity holders (and thus increases the investor-required return) because debt creditors have a higher priority for payment, and if the company is in poor financial condition the equity holders are more likely than debt holders to receive lower returns or even lose some or all of their investment. Thus a balance between debt and equity is normally important. That is not the case with ONSWC because with just one entity (and its subsidiaries) providing all the financing, the risk of nonpayment by ONSWC is the same regardless of whether the financing is labeled debt or equity. If half or all the loan dollars from Integra and the Integra Affiliates were converted to equity, there would be no decrease in risk to the equity holder. In the case of ONSWC, recapitalization would not improve financial viability and would not serve any useful regulatory purpose.

The Commission agrees with this reasoning. The water rate case approved a hypothetical capital structure (as has been done in numerous rate cases) for ratemaking purposes, so the actual debt-to-equity ratio had no effect on rates. Similarly, altering the actual capital structure's debt-to-equity ratio will not increase the amount of total capital available to ONSWC. It would serve no useful regulatory purpose. The Public Staff in settlement abandoned its recommendation for a change in the actual capital structure. [BEGIN CONFIDENTIAL] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

██████ [END CONFIDENTIAL] The Commission concludes that a change in the actual capital structure of ONSWC should not be required in this proceeding.⁵

Notwithstanding this conclusion, Mr. McDonald has offered to convert the Integra Notes (or any consolidated note that may subsequently be approved) into equity, to the extent needed to achieve a 45% equity ratio in the ONSWC capital structure, when the notes become due in December of 2024. The Commission concludes that although not required, this would be an acceptable recapitalization, subject to advance approval under N.C.G.S. § 62-161.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 19 – 30

The evidence supporting these Findings of Fact is found in the prehearing filings of the parties, the testimony of Public Staff witnesses Michelle Boswell and Charles Junis, and in the testimony of ONSWC witnesses John McDonald and Joseph Mitchell, and the exhibits of both parties.

A concern with capitalization is whether Integra has the resources to meet its commitment to provide additional capital funding to ONSWC as needed. While the settlement testimony of the Public Staff in this docket indicated no such concern, the Public Staff Report implies it is a concern because of the nature of their proposed recapitalization methods: “Recapitalization options include (1) Integra acquiring ONSWC; (2) Integra and the Integra Subsidiaries forgiving a portion of ONSWC’s outstanding debt; or (3) an equity infusion from Mr. McDonald.”

⁵ Of course, this conclusion here does not serve as any binding precedent as to how the Commission may rule in any future rate case, include a sewer utility rate case to be filed by ONSWC.

The Public Staff Report does not provide reasons why it chose these recommendations. At hearing, the Public Staff sought to explain why it was making recapitalization recommendations that are inconsistent with its rate case settlement testimony. (T Vol 3 pp 41-44, 52-54). In the rate case, Public Staff witness Hinton accepted that the Integra commitment to fund ONSWC capital needs was sufficient evidence of ONSWC financial viability. (March 8, 2022, Settlement Testimony of John R. Hinton, pp 4-5). He withdrew his earlier recommendation for a change to the actual capitalization of ONSWC. He presented this as the Public Staff's position. (March 8, 2022 Settlement Testimony of John R. Hinton, p 4). In the October hearing, Public Staff witnesses Boswell testified that "Integra is currently the one funding operations for Old North State." (T Vol 3, p 36). She also stated in contrast to the finance perspective of Mr. Hinton that:

From an accounting perspective, we have concerns regarding whether or not, their statement within their financials, that their sole shareholder will continue to provide all the funds needed to continue to operate the Company, because we don't have the information to state that they even have the ability to do that.

(T Vol 3, p 55; *see also* p 50). Mr. Junis testified that Mr. Hinton's testimony "does have some age to it" (T Vol 3, p 43), and more specifically that since the rate case ONSWC has the new financial risks of (i) ongoing litigation with Envirolink and its owner (T Vol 3, p 61); (ii) payment of approximately [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] settlement (T Vol 3, p 61); and (iii) new costs associated with the sale of the Majestic Oaks system (T Vol 3, p 63).

Although the Commission directed the parties to present a recapitalization plan, it does not agree that the risks cited by the Public Staff warrant the recommendations of the Public Staff. For instance, the fact that Integra is funding the operating losses of ONSWC has been known since the rate case; it is not a new development. The [BEGIN CONFIDENTIAL] [REDACTED] [REDACTED] [END CONFIDENTIAL] has already been funded by Integra. There is no evidence that the final terms of the Majestic Oaks transfer (Docket No. W-1300, Sub 69) have increased risk. As indicated in the March 17, 2021, Motion to Allow Bulk Wastewater Treatment Service by Pluris Hampstead, LLC, ONSWC was paying all its sewer revenues to Pluris while still having responsibility for operating the collection system. The confidential Asset Purchase Agreement in that docket shows that ONSWC would receive a purchase price for the transfer. (See August 11, 2022, filing in that docket.) Moreover, the May 19, 2023, Order Approving Transfer, Granting Franchises, Approving Rates, and Requiring Customer Notice shows that the transfer saved ONSWC from incurring a major capital cost:

There would be significant issues if the transfer did not occur and ONSWC had to construct a new wastewater treatment facility in the Majestic Oaks subdivision: the wastewater treatment facility would continue to be located in close proximity to homes in the Majestic Oaks subdivision, and the substantial cost of the new wastewater treatment facility, estimated to be an amount in excess of \$2.2 million

This information from the Majestic Oaks transfer docket shows that ONSWC has reduced, not increased, financial risks by completing the transfer of the Majestic Oaks sewer systems to Pluris.

The litigation between ONSWC and Envirolink is a new financial risk since the Rate Case Order. [BEGIN CONFIDENTIAL] [REDACTED] [REDACTED] [REDACTED] [END CONFIDENTIAL] (T Vol 4, pp 63-64). There is no evidence to the contrary. Integra's financial strength has been demonstrated in the examination conducted by Public Staff witness Hinton as set forth in his rate case testimony in this docket, and in the considerable capital expenditures [BEGIN CONFIDENTIAL] [REDACTED] [REDACTED] [END CONFIDENTIAL] that ONSWC has been able to make since 2020, along with Integra's payment of the [BEGIN CONFIDENTIAL] [REDACTED] [REDACTED] [END CONFIDENTIAL], the proformas financial projections of Integra filed in this docket at Commission request as a late-filed exhibit, and Integra's coverage of ONSWC's operating losses.⁶ In short, new information on financial risk to ONSWC, based on the record as a whole, does not support the recapitalization recommendations of the Public Staff.

Even if there were compelling evidence that ONSWC could not obtain sufficient capital funding—and the Commission does not find support for that position—the Public Staff recommendations would not appropriately address the risk. The Public Staff's first option—for Integra to acquire ONSWC—would not provide any greater assurance that Integra had sufficient resources than the status quo, so it does not address the stated concern.

⁶ This rationale and basis for this conclusion are also consistent with the position and testimony of the Public Staff in the Red Bird dockets, Docket Nos. W-1328, Sub 0, and W-933, Sub 12 and Docket Nos. W-1328, Sub 10, and W-1146, Sub 13. See footnote 3 *supra*.

Likewise, the Public Staff's options 2 and 3 would not provide any such assurance of Integra resources either. Those options imply that ONSWC has inadequate capital and that third parties should involuntarily boost the capital position of ONSWC by forgiving debt owed by ONSWC or by adding equity to ONSWC. These proposals are not legally sound: they exceed the Commission's statutory authority and would create an issue of unconstitutional taking under the Fourteenth Amendment. Nor are they sound regulatory policy. They would be one-time adjustments to capitalization, not tied to ongoing capital needs and funding of ONSWC. Nor do they fit the longstanding statutory framework for addressing operating losses—appropriate ratemaking is the starting point for recovery from operating losses. An important step for ONSWC to stem its operating losses is to apply for a sewer rate case. (See, e.g., T Vol 3, p 151).

Mr. McDonald's proposal to convert a portion of the promissory notes to equity—sufficient to achieve a 45% equity ratio for ONSWC, upon the December 2024 maturity of those notes—would not only rebalance the capital structure, it would also relieve ONSWC of a significant amount of repayment obligations. While this proposal must be formally submitted for Commission approval before implementation, the proposal itself is a satisfactory recapitalization plan. It would the ONSWC debt-to-equity ratio more effectively than the Public Staff recommendations.

A persistent question in this proceeding has been whether Integra has the resources to continue with its funding support of ONSWC. As noted above, Integra has demonstrated with millions of dollars of cash infusions to ONSWC since 2020,

in addition to the loans it has made, that it has substantial resources to support ONSWC. The rate case settlement testimony concluded that Integra's resources were sufficient. (March 8, 2022 Settlement Testimony of John R. Hinton, pp 4-5). More recently, the current financial statements of Integra have been voluntarily filed confidentially in this docket and demonstrate Integra's financial ability to continue funding ONSWC until the likely conclusion of the sewer rate case. Additionally, Mr. McDonald has volunteered to file proforma financial projections for Integra to show this trend is expected to continue. The Commission is satisfied with this level of transparency and candor and concludes that ONSWC's funding is not in jeopardy at this time.

There have been statements that Integra should provide some more definitive "guarantee" or "assurance" of its resources beyond the testimony of Mr. McDonald that Integra would continue to fund ONSWC (and the demonstrated track record of that funding). However, this desire must be weighed against the legal limits of the Commission's authority and the practical impact it would have on Mr. McDonald and other individuals willing to invest in utility operations and infrastructure. The call for further assurance of Integra resources is really a call for Mr. McDonald, as the owner of Integra, to reveal his personal finances. Such an action would also be a major departure from Commission practice, virtually unprecedented, and legally problematic. The Commission does not generally require individual shareholders of utilities (or their upstream parent companies) to divulge their personal financial status. The Commission finds no evidence in the record justifying a different approach in this docket. Moreover, it would have the

unintended consequence of discouraging utility ownership and equity investment. Additionally, although Integra is one step away from ONSWC, forcing Mr. McDonald to reveal his personal finances, as a way of showing that Integra (and therefore ONSWC) has sufficient capital, would be tantamount to declaring Mr. McDonald a *de facto* utility. As discussed above, that is not appropriate on the facts of this proceeding.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 31– 35

The evidence supporting these Findings of Fact is found in the prehearing filings of the parties, the testimony of Public Staff witnesses Michelle Boswell and Charles Junis, and in the testimony of ONSWC witnesses John McDonald, Joseph Mitchell, and Joseph Max Campbell, and the exhibits of both parties.

At hearing, the Public Staff's witnesses again expressed their opinion that an accounting review, like the one conducted by Haynes Downard and filed on August 4, 2023, was inadequate. (See, e.g., T Vol 3 p 23) This testimony repeated the position expressed in the Public Staff's Report filed on December 12, 2022, requesting not a review, but audits of both ONSWC's books and records and the financial statements of Integra and its subsidiaries. The Commission, in its May 19, 2023, Order, however, decided instead to require an accounting review, which is what was undertaken Hayes Downard, an independent certified public accounting firm that had no prior relationship with Integra or Mr. McDonald. (T Vol 4 pp 68-69, 83) At the hearing, Witness Boswell listed numerous accounting and documentation deficiencies at ONSWC (see T Vol 3, pp 24-34; Confidential Public Staff Redirect Exhibit No. 1), but also admitted that the Public Staff had not spoken

about these concerns with the Company CFO or the outside accounting firm that conducted the accounting review. (T Vol 3, pp 45-47) The Public Staff has consistently maintained its recommendation that these concerns be addressed by a management audit and forensic audit (at ONSWC expense).

ONSWC did not dispute that it has had accounting deficiencies. In its January 11, 2023, ONSWC Response, the Company conceded that in the past it had “been slow to provide financial statements requested by the Public Staff, and that there are inconsistencies in the financial statements.” At the hearing, ONSWC introduced evidence of corrective actions that it has already taken and actions it plans to take to address this issue:

- ONSWC hired Joseph Mitchell as its Chief Financial Officer in January of 2023. Mr. Mitchell has excellent qualifications. He heads a new team of five accounting professionals. (T Vol 3, p 159)
- ONSWC hired an independent outside CPA firm to conduct an “accounting review” of its financial statements. (See ONSWC Campbell Confidential Direct Ex. 3).
- Mr. Mitchell’s Supplemental Memo for Accounting Review, filed August 4, 2023, lists numerous processes and needs improvements to raise the level of accounting performance:
 - Converted to a new billing system in Q1 2023 for more timely customer invoicing, accurate payment applications and enhanced AR reporting.
 - Upgraded finance personnel by hiring an Assistant Controller dedicated to ONSWC business unit accounting and reporting.
 - Hired senior accountant and accounting specialist to augment accounting operations.
 - Assigned an AP specialist dedicated to ONSWC payables to ensure timely and accurate expense capture.
 - Streamlined the accounting process by eliminating location level cash, AP and AR accounts and maintaining cash, payables, and receivables at the parent level.
 - Minimized the number of intercompany transfers with affiliates.
 - Formalized a hard month-end close cycle with established deadlines.
 - Formalized monthly financial review with senior management.
 - Continuous improvement initiatives

- Upgraded the accounting software for improved speed and reporting enhancements.
- Developed subject matter expert for fixed asset accounting.
- Pursued professional development training in utility accounting and rate school.
- Incorporated stat data for financial analysis and operational performance metrics.

(Supplemental Memo for Accounting Review, filed August 4, 2023).

- ONSWC has also retained regulatory accounting consultants (NewGen and Peedin and Perry), streamlined accounting operations, instituted a hard close that provides financial statements within 45 days of the end of each quarter, is implementing new accounting software, and plans to have regulatory accounting training for staff. (T Vol 3, pp 160-64; T Vol 4, pp 7-19)

In hearing testimony, witness Mitchell explained how the material discrepancies between the ONSWC annual report and the financial statements cited by the Public Staff had occurred and the steps being taken to correct them. (T Vol 4, pp 21-24) The Commission requested that ONSWC provide a late-filed exhibit that identified corrections to the annual report, and that explained each of the adjustments. (T Vol 4, pp 24-25) ONSWC filed the amended 2022 Annual Report and the reconciliation for the corrections on November 17, 2023, as Late-Filed Exhibit 2.

The Accounting Review conducted by Haynes Downard, and the Supplemental Memorandum on Accounting Review prepared by Mr. Mitchell (both filed on August 4, 2023), are sufficient responses to the Commission's requirements in its May 19 and June 12 orders. An "accounting review" is a term of art; it is what ONSWC proposed and the Commission ordered. It is different from a management audit and a forensic audit. (T Vol 3 p 23) The Commission sees no reason to now turn-back-the-clock and order time-consuming and expensive audits at this late date in the proceeding, when the evidence shows

that the accounting processes have improved since the date of the Commission's previous order and are continuing to improve. The Public Staff was initially tasked with conducting the investigation of ONSWC in ordering paragraph 12 of the Rate Case Order, they have had over a year to do so, and ordering audits now would essentially start the process all over again.

The parties have presented the Commission with two different approaches to this issue. The Public Staff recommends that the Commission order an outside management audit of ONSWC and outside forensic audits of ONSWC, Integra, and the Integra Subsidiaries. ONSWC has in effect recommended that the Commission rely on the evidence of improvements made in the Company's accounting staff and functions as a sufficient remedy for past problems. The Commission has carefully considered the recommendation of the Public Staff and has weighed the costs of such requirements against the potential benefits. In this regard, the Commission notes the Public Staff's answer to its question at the hearing:

Q: (Commissioner Duffley) "And I'm just trying to get a handle. What is the current injury or current loss that the Public Staff is trying to remedy? Or is there one?"

A: (Michelle Boswell) "I'm not sure there is a current injury or loss. It's just a matter of – as far as what we've recommended, a matter of trying to get our hands wrapped around what all is going on and why."

(T. Vol. 3, p. 110) Moreover, although there was questioning and testimony as to whether an allegation or suspicion of (much less than evidence of) fraudulent activity was necessary to justify a need for a forensic audit, there is absolutely no allegation, suspicion, or evidence of any fraud by ONSWC or its current management. (T. Vol 3, pp, 85-86) Based upon this testimony and evidence (or

lack thereof), the Commission concludes that requiring a management or forensic audit would be unduly burdensome and costly, could unnecessarily delay the filing of a sewer utility rate case, and would be disproportionate to the concerns raised, absent any “current injury or loss.” The Public Staff has the tools and statutory authority under N.C.G.S. § 62-51 to investigate and confirm for itself ONSWC’s financial status and to also do so in the context of ONSWC’s future rate case.

Furthermore, an order for audits of past financial data, as recommended by the Public Staff, would not ensure future sound practices and accuracy, which is the Commission’s primary concern. The Public Staff will certainly have more opportunity for investigation when ONSWC files its sewer rate case. Rate cases are an optimal time for investigation because those are the proceedings that affect customer rates and that present opportunities for disallowances if justified. Additionally, Mr. Campbell testified that there are less expensive options that could address the concerns raised by the Public Staff, such as an agreed-upon procedures or attestation engagement where an outside certified public accountant engages in a more discrete and focused review and report on specific criteria. (T Vol 4 p 119) Such an agreed-upon procedures engagement, however, should not be so broad and extensive so as to constitute a *de facto* audit, with its incumbent expense and administrative burden. Any such engagement should be narrowly tailored to evaluate specific issues or areas of concern and proportionate to that concern.

Although denying the recommendation for audits at this time, the Commission is not willing to rely solely on the Company's testimony and exhibits showing major improvements in its accounting functions. The Public Staff has expressed valid and substantial concerns about past accounting deficiencies, and ONSWC must correct those deficiencies and not repeat them. Accurate and timely financial statements, compliance with the Uniform System of Accounts for utilities, and appropriate regulatory accounting practices by the utility are essential for the Public Staff and Commission to perform their duties. The Commission puts ONSWC on notice that it must provide better information in the future, and the Company will be subject to potential disallowances and sanctions if it neglects to do so. Toward this end, the Commission will require ONSWC to file quarterly reports, until terminated by future order of the Commission, regarding its progress to implement improved accounting processes and practices to ensure accurate and timely financial records and reporting. Because the primary concerns raised relate to the accuracy and proper accounting of the transactions between ONSWC and Integra, the Commission will also direct ONSWC to engage an outside certified public accounting firm such as Haynes Downard to apply the following agreed-upon procedures in accordance with attestation standards established by the American Institute of Certified Public Accountants:

- (1) Verify, trace, and document all cash flows between Integra Water, LLC, and Old North State Water Company, Inc., for the period beginning January 1, 2020, through December 31, 2023; and
- (2) Document all paid in capital transactions for Integra Water, LLC, and Old North State Water Company, Inc., for the

period beginning January 1, 2020, through December 31, 2023.

This scope of such an engagement is sufficient and proportionate to address the Commission's questions on these issues and provides assurance of the accuracy of these accounts in advance of the pending wastewater utility rate case.

IT IS, THEREFORE, ORDERED as follows:

1. That within 30 days after the issuance of this docket, ONSWC shall file with the Commission in a new and separate docket written documentation memorializing (i) all cash advances that have been made to ONSWC; (ii) any future cash advances that may be made to ONSWC; and (iii) any other terms, conditions, or consideration between ONSWC and Mr. McDonald or any companies owned by Mr. McDonald;
2. That ONSWC shall promptly notify the Commission if Integra is no longer providing capital funding to meet the needs of ONSWC or if ONSWC finds itself without access to capital financing that is needed to fund capital projects or operations.
3. That ONSWC shall file quarterly reports, until terminated by future order of the Commission, regarding its progress to implement accounting processes and practices to ensure accurate and timely financial records and reporting.
4. That ONSWC shall engage an outside certified public accounting firm such as Haynes Downard to conduct an attestation review using agreed-upon procedures that will be conducted in accordance with attestation standards

established by the American Institute of Certified Public Accountants. The agreed-upon procedures to be performed are as follows:

- a. Verify, trace, and document all cash flows between Integra Water, LLC, and Old North State Water Company, Inc., for the period beginning January 1, 2020, through December 31, 2023; and
- b. Document all paid in capital transactions for Integra Water, LLC, and Old North State Water Company, Inc., for the period beginning January 1, 2020, through December 31, 2023.

ISSUED BY ORDER OF THE COMMISSION.

This the _____ day of December, 2023.

NORTH CAROLINA UTILITIES COMMISSION

Tamika D. Conyers, Deputy Clerk

Chair Charlotte A. Mitchell and Commissioner Kemerait did not participate in this decision.