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October 26, 2022

Ms. A. Shonta Dunston  
Chief Clerk  
North Carolina Utilities Commission  
430 N. Salisbury Street, Room 5063  
Raleigh, NC 27603

Via Electronic Submittal

**Re: In the Matter of**  
**Application by Aqua North Carolina, Inc. for Authority to Adjust and**  
**Increase Rates for Water and Sewer Utility Service in All Service Areas in**  
**North Carolina**  
**Docket No. W-218, Sub 573**  
***Response to Amended Motion of the Public Staff Regarding Aqua Updates***

Dear Ms. Dunston:

On behalf of Aqua North Carolina, Inc. ("Aqua"), I herewith provide for filing in the above referenced docket, Aqua's Response to Amended Motion of Public Staff Regarding Aqua Updates.

If you should have any questions concerning this filing, please let me know.

Thank you and your staff for your assistance.

Sincerely,  
*/s/ David T. Drooz*  
David T. Drooz  
Attorney for  
Aqua North Carolina, Inc.

pbb

Enclosures

A Pennsylvania Limited Liability Partnership

California Colorado Delaware District of Columbia Florida Georgia Illinois Minnesota Nevada  
New Jersey New York North Carolina Pennsylvania South Carolina Texas Virginia Washington

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cc: Parties and Counsel of Record

NC Public Staff

Monica Webb-Shackleford – Commission Legal

Lynn Jarvis – Commission Legal

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**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. W-218, SUB 573

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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

NOW COMES Aqua North Carolina, Inc. ("Aqua" or "Company"), by and through its undersigned counsel, and responds to the Amended Motion of the Public Staff Regarding Aqua Updates filed on October 24, 2022, and amending its original Motion filed October 19, 2022 (collectively, the "Motion"). In response, Aqua respectfully shows the Commission the following:

1. Aqua initiated this rate case by filing its application with the Commission on June 30, 2022.
2. Since that time, the Company has been diligently engaged in responding to the data requests of the Public Staff and in attempting to comply with the scheduling order issued by the Commission.
3. Over the course of this case, Aqua has responded to 75 sets of data requests consisting of a total of 1,090 questions. An additional nine sets of data requests are due to the Public Staff within the next ten days.

4. The Company has worked diligently to timely and appropriately respond to all data requests. As part of these efforts, the Company has held weekly scheduled calls with the Public Staff to check in, answer questions relating to the discovery information, and address any issues with providing the data as requested.

5. As recently as October 18, 2022 - the day before the original Motion was filed by the Public Staff - the Company met with the Public Staff who gave no indication there were any data requests regarding which the information was not complete.

6. In its initial Motion, the Public Staff identified eleven requests for which it contended that Aqua had failed to provide supplemental responses.

7. However, in a phone call between the Company and the Public Staff, the morning of October 20<sup>th</sup>, the Company informed the Public Staff that it believed the majority of the 11 data requests listed in the initial Motion had been completed with the applicable August data and previously provided to the Public Staff - the Company agreed to provide the Public Staff with a list. During the call the Public Staff informed the Company that it had the requested information for two sets of data requests (Set 5 and Set 15) and would be withdrawing that part of its request.

8. On the afternoon of October 20, 2022, the Company provided the information (via email) that five of the remaining nine data requests referenced in the initial Motion had been previously completed, updated, and delivered to the Public Staff. Of the remaining four sets of data requests, two sets were updated and provided to Public Staff on Monday, October 24<sup>th</sup> and the remaining two sets

will be provided to Public Staff on Wednesday, October 26<sup>th</sup>. Understandably, given the voluminous nature of the data produced in this case, the Public Staff had not realized it had been provided the data until Aqua directed them to it.

9. The Public Staff's Amended Motion of October 24, 2022, deletes reference to the data responses that their October 19, 2022, motion had stated were missing, and which had been used as part of the basis for relief sought by the Public Staff. However, the October 24, 2022, Amended Motion does not acknowledge that Aqua had previously provided much of the information the Public Staff initially thought had not been provided.

10. Although the Scheduling Order directed that Aqua file updates to its actual revenues, expenses, rate base, and cost of capital for the period ending August 31, 2022, by September 21, 2022, it also stated the deadline did not apply where issues outside of the Company's control precluded timely filing. In discussions with the Public Staff from the outset of this case, Aqua made it clear that it would be impossible to provide an update by the 21<sup>st</sup> of the following month for certain data and that it would make every effort to provide those updates as soon as feasible. Furthermore, as provided by N.C. Gen. Stat. § 62-133(c), the Scheduling Order was clear that the update deadline does not prevent the Company from providing evidence showing changes in costs, including plant in service additions.

11. Aqua did file an update on September 21, 2022, which was based on the information that was available to date and included capital information through July 31, 2022. The September 21, 2022, update data included capital



updates and certain expenses. Aqua provided this information with the intention of ensuring the Public Staff and Aqua had enough information to continue their work and was consistent with what Aqua understood the parties' understanding to be.

12. Aqua always intended to file an update with the August capital data as soon as it was available, as indicated in its filing.

13. Despite the delay in providing the August 2022 capital update data beyond the September 21, 2022, date, the Company has been diligently providing pieces of the capital information that was included in the recent August 2022 update, to the Public Staff through supplemental discovery responses, as detailed above. In the weekly status calls with Aqua, the Company never understood or was given the impression that the delay in the August capital update was limiting the Public Staff's ability to prepare its testimony in this case, as it is now claiming, 44 days between the filing of this motion and the scheduled filing of their direct testimony.

14. In addition, the information to support Aqua's update through August 31 had already been provided to Public Staff in updated responses to Data Request Set 5, which were sent to Public Staff on October 14, 2022. While Aqua's update filing to show changes in capital costs through August 31 was delayed until October 21, 2022, the Public Staff had the necessary data to investigate that update a week before the filing of that update.

15. Aqua filed its August update on October 21, 2022, prior to the Public Staff's Amended Motion.

16. Aqua objects strenuously to the schedule change proposed by the Public Staff in its Amended Motion for several reasons.

17. First, the Public Staff has had much of the capital cost data it claims it needed prior to filing their motion. There were no further known expense updates planned to be filed beyond September 21, 2022.

18. With regard to this first point of objection, Aqua would be willing to use a capital update period of July 31, 2022, instead of the August 31, 2022, date, in conjunction with a multi-year rate plan. Post-July 2022 changes in capital costs would be addressed in the quarterly reports and annual review prescribed by Commission Rule R1-17A, so the Company believes the difference between a July and August update would be immaterial.

19. However, if the multi-year rate plan were to be denied, Aqua would seek to have the traditional rate case decision include a post-August 2022 update of Aqua costs in accord with N.C.G.S. § 62-133(c). As noted in ordering paragraph seven of the Commission's September 8, 2022, scheduling order in this proceeding, that statute allows Aqua to introduce evidence showing changes in costs, including plant in service additions.

20. Second, the delay in the August 2022 capital update is not a material interference to the Public Staff's review of the WSIP that necessitates a revamping of the procedural schedule. The proposed WSIP years 1-3 are for estimated future costs. The Public Staff had all updates through July 2022 by September 21, 2022. Knowing one additional month of actual capital changes should not be considered a material impact to the Public Staff's review of the estimated costs for future years.

21. Third, the extended deadlines requested by the Public Staff would allow it to serve discovery requests the week of Thanksgiving. Given the short turnaround time on such requests and the holidays, the extension would significantly impair the Company's ability to prepare adequate and timely responses.

22. Fourth, the Public Staff requests that Aqua not be given a commensurate extension of its deadlines. In the event the Commission allows an extension, Aqua respectfully requests that its own deadlines be extended accordingly because (a) the delay was not material for the reasons discussed herein, and (b) shortening Aqua's response time will unfairly impair its ability to prepare adequate rebuttal testimony in what is already a compressed timeline.

WHEREFORE, for the foregoing reasons, Aqua respectfully requests that the Commission deny the Motion or grant appropriate and commensurate extensions to both parties.

Respectfully submitted, this the 26th day of October 2022.

**Electronically Submitted**

**/s/Jo Anne Sanford**  
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**/s/Elizabeth Sims Hedrick**

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**/s/David T. Drooz**

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**ATTORNEYS FOR AQUA NORTH CAROLINA, INC.**

### CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing RESPONSE TO AMENDED MOTION OF THE PUBLIC STAFF REGARDING AQUA UPDATES has been served on all parties or their counsel of record in this docket by either depositing same in a depository of the United States Postal Service, first-class postage prepaid and mailed by the means specified below, or by electronic delivery.

This the 26<sup>th</sup> day of October, 2022.

/s/ David T. Drooz

*Attorney for Aqua North Carolina, Inc.*