

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. W-1297, SUB 14

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		)	
MRT-1, LLC,		)	
	Complainant	)	ORDER SCHEDULING HEARING,
		)	ESTABLISHING PROCEDURAL
	v.	)	SCHEDULE, AND ADOPTING
		)	DISCOVERY GUIDELINES
Harkers Island Sewer Company,		)	
	Respondent	)	

BY THE CHAIR: This proceeding was instituted by the filing of a complaint with the Commission on May 2, 2019, by Pinnacle Bank, as successor by merger with Bank of North Carolina, against Harkers Island Sewer Company (Respondent). Pursuant to the Commission's Order of October 22, 2020, MRT-1, LLC (Complainant), was substituted as the party-complainant.

On May 10, 2019, the Commission issued an Order serving the complaint on Respondent and directing Respondent to satisfy the demands set out in the complaint or to file an answer with the Commission. On June 14, 2019, as corrected and revised by a subsequent filing on June 17, 2019, Respondent filed its answers and responses.

On June 18, 2019, the Commission issued an Order serving Respondent's answers and responses on Complainant and allowing Complainant until July 1, 2019, to either reply to Respondent or request a hearing. On July 1, 2019, Complainant filed the first of four requests for an extension of time to reply or request a hearing, each of which the Commission subsequently granted by orders issued in this docket.

On October 21, 2019, Complainant timely filed its response indicating that Respondent's answers and responses were not satisfactory and requesting that the Commission keep this docket open for at least six months so that the matters complained of could be monitored further.

On April 9, 2020, Complainant filed a supplemental reply again requesting that the Commission keep this docket open for six months so that the matters complained of could be monitored by Complainant and the Commission.

On November 3, 2020, Complainant filed a second supplemental reply stating that Respondent's answer is not satisfactory and requesting that the Commission schedule a hearing where Complainant will present evidence in support of the complaint.

Based upon the foregoing and the entire record herein, the Chair finds good cause to issue this Order scheduling this matter for hearing, establishing a procedural schedule including requiring the parties to file testimony in advance of the hearing, and adopting discovery guidelines. The guidelines regarding discovery in this docket, subject to modification for good cause shown, are as follows:

- (1) Discovery shall begin on January 4, 2021. No new discovery requests shall be propounded after February 19, 2021. Parties may obtain discovery by any method permitted under the North Carolina Rules of Civil Procedure, Ch. 1A of the North Carolina General Statutes.
- (2) Any deposition which a party desires to take shall be taken before the close of the discovery period. Notice of deposition shall be served on all parties at least seven days prior to the taking of the deposition.
- (3) Any motion for subpoena of a witness to appear at the expert witness hearing shall be filed with the Commission within 10 calendars days after the close of the discovery period, shall be served on the person sought to be subpoenaed at or before the time of filing with the Commission, and shall make a reasonable showing that the evidence of such person will be material and relevant to an issue in the proceeding. N.C.G.S. § 62-62. Unless an objection is filed, the Chief Clerk shall issue the requested subpoena 24 hours after such motion is filed.
- (4) Parties shall have up to seven calendar days to file with the Commission objections to discovery requests on an item-by-item basis. The parties shall meet and confer (via conference call), if necessary, within six calendar days of receiving discovery requests to minimize the number of objections filed with the Commission. Parties shall serve answers to requests to which they have not objected on the party seeking the discovery within 10 calendar days of the service of such requests.
- (5) If the party seeking discovery intends to pursue requests which are the subject of objection, it must file a motion to compel responding to the objections on an item-by-item basis within three days of the filing of the objections. The Commission will resolve the objections raised by the parties based on the arguments presented in the objections and responses, or such further documents or arguments as the Commission may request. If the Commission orders a party to answer discovery requests to which it has objected, the party shall have 10 calendar days from the date of such order to serve answers to such discovery requests.
- (6) Notice of deposition and all other discovery notices, requests, objections, and motions shall be served on the appropriate parties by electronic mail contemporaneously with its filing with the Commission.
- (7) A party shall not be granted an extension of time to pursue discovery because of that party's late intervention or other delay in initiating discovery

The Chair recognizes that in the past most discovery has been conducted in an informal manner without the need for Commission involvement or enforcement, and that such has been generally successful. The discovery guidelines established in this Order are without prejudice to the parties conducting informal discovery or exchanging information by agreement at any time with the understanding that such will not be enforceable by the Commission if outside the guidelines.

IT IS, THEREFORE, ORDERED as follows:

1. That a hearing shall be held on Tuesday, April 27, 2021, at 9:30 a.m., for the purpose of receiving evidence from the parties regarding the complaint filed in this proceeding;

2. That any person having an interest in this proceeding may file a petition to intervene stating such interest on or before Monday, February 15, 2021;

3. That the parties shall be, and are hereby, required to file the testimony and exhibits of their witnesses in advance of the hearing according to the following schedule:

(1) The direct testimony and exhibits of Complainant and other intervenors shall be filed on or before Monday, March 1, 2021;

(2) The direct testimony and exhibits of Respondent shall be filed on or before Monday, March 29, 2021; and

(3) The rebuttal testimony and exhibits of Complainant shall be filed on or before Monday, April 12, 2021;

4. That the parties shall comply with the discovery guidelines established herein;

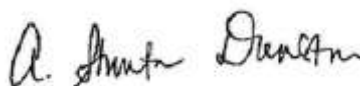
5. That this Order shall be served on both parties by e-mail, delivery confirmation requested; and

6. That the Commission will issue a subsequent order addressing whether the hearing will be held in-person or remotely via Webex.

ISSUED BY ORDER OF THE COMMISSION.

This the 18th day of December, 2020.

NORTH CAROLINA UTILITIES COMMISSION



A. Shonta Dunston, Deputy Clerk