

Attachment A

STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH

DOCKET NO. W-1259, SUB 4  
DOCKET NO. M-100, SUB 138

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. W-1259, SUB 4

In the Matter of  
Application by Meadowlands Development,  
LLC, Post Office Box 10, Bethania, North  
Carolina 27010, for Authority to Amend Its Tariff  
to Increase Rates for Providing Sewer Utility  
Service in Meadowlands Subdivision in  
Davidson County, North Carolina

ORDER APPROVING  
TARIFF REVISION AND  
REQUIRING REFUND

DOCKET NO. M-100, SUB 138

In the Matter of  
Implementation of House Bill 998 – An Act to  
Simplify the North Carolina Tax Structure and  
to Reduce Individual and Business Tax Rates

BY THE COMMISSION: On January 30, 2015, Meadowlands Development, LLC, (Meadowlands or Applicant), filed a letter with the Commission seeking authority to amend its tariff for the purpose of passing along to its customers in Meadowlands Subdivision in Davidson County, North Carolina, the increased cost of purchasing sewer from the City of Winston-Salem (City). The City's new rates went into effect October 1, 2014. The Applicant serves approximately 365 residential customers.

In its comments and the affidavit of Public Staff Accountant Katherine A. Fernald filed on June 12, 2014, in Docket No. M-100, Sub 138 (the Tax Docket), regarding the impact of House Bill 998 on certain water and sewer companies, the Public Staff recommended that the Applicant's rates be reduced by 6% for sewer operations to reflect the repeal of gross receipts tax, which was effective July 1, 2014. On June 30, 2014, the Commission issued an order in the Tax Docket requiring that the incremental revenue impact associated with the repeal of gross receipts tax included in rates be deemed to be collected on a provisional basis beginning July 1, 2014, pending final resolution of the matter by the Commission, and requesting that each affected water and/or sewer utility file comments on the Public Staff's proposals to adjust its rates on or before July 18, 2014. In its pass through request filed on January 30, 2015, the Applicant requested that the rate decrease under the Tax Docket and the rate

increase for the pass through be coordinated so that the revised rates incorporate the impact of both adjustments.

At the Commission's March 30, 2015 Staff Conference, the Public Staff recommended that the Applicant's rates be adjusted for both the pass through of the increased cost of purchasing sewer treatment and the decrease to reflect the tax changes, as follows:

	Current	Rates After Tax Changes	Rates After Tax Changes & Pass Through
<u>Sewer Operations</u>	<u>Rates</u>	<u>Changes</u>	<u>Through</u>
Flat Residential Service Rate	\$42.00	\$39.48	\$45.31
Reconnection Charges	\$15.00	\$14.10	\$14.10
Returned Check Charge	\$25.00	\$23.50	\$23.50

Under the new rates, a residential customer's monthly sewer bill will increase from \$42.00 to \$45.31, an increase of \$3.31. The Applicant has agreed to the Public Staff's recommended rate.

The Public Staff also recommended that the incremental revenue impact made provisional by the Commission in the Tax Docket be refunded to customers through a bill credit. The Public Staff recommended that the bill credits be calculated by multiplying any revenues billed at the old rates on or after July 1, 2014, by 6%.

Based upon the foregoing, the Commission is of the opinion that the rates recommended by the Public Staff, which reflect both the increase in rates for the pass through and the decrease in rates for the tax changes, should be approved. The Commission further concludes that the incremental revenue impact associated with the repeal of the gross receipts tax made provisional by the Commission in the Tax Docket should be refunded to customers through a bill credit, calculated by multiplying any revenues billed at the old rates on or after July 1, 2014, by 6%.

IT IS, THEREFORE, ORDERED as follows:

1. That the Schedule of Rates, attached hereto as Appendix A, is approved and deemed to be filed with the Commission pursuant to G.S. 62-138. That the Schedule of Rates shall become effective for bills rendered to customers on and after the date of this Order.

2. That the Applicant shall issue a bill credit to its customers equal to any revenues billed at the old rates on or after July 1, 2014, times 6%.

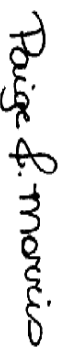
3. That a copy of this Order, including Appendix A, be mailed with sufficient postage or hand delivered by the Applicant to all of its customers contemporaneously with the next billing of customers.

4. That the Applicant submit to the Commission the attached Verification, properly signed and notarized, no later than 30 days after the date of this Order.

ISSUED BY ORDER OF THE COMMISSION.

This the 2<sup>nd</sup> day of April, 2015.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in cursive script that reads "Paige J. Morris".

Paige J. Morris, Deputy Clerk

Chairman Edward S. Finley, Jr., and Commissioners Tonola D. Brown-Bland and Don M. Bailey did not participate in this decision.

Commissioners Bryan E. Beatty and Susan W. Rabon concurring in the result.

SCHEDULE OF RATES

for

MEADOWLANDS DEVELOPMENT, LLC

for providing sewer utility service in

MEADOWLANDS SUBDIVISION

Davidson County, North Carolina

Sewer Utility Service:

Flat monthly residential rate: \$45.31

Reconnection Charge:

If sewer service cut off by utility for good cause: \$14.10

If sewer service cut off by utility at customer's request: \$14.10

Returned Check Charge: \$23.50

Bills Due: On billing date

Bills Past Due: 15 days after billing date

Billing Frequency: Shall be monthly for service in arrears

Finance Charges for Late Payment: 1% per month will be applied to the unpaid balance of all bills still past due 25 days after the billing date

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Issued in Accordance with Authority Granted by the North Carolina Utilities Commission in Docket No. W-1259, Sub 4, on this the 2<sup>nd</sup> day of April, 2015.

VERIFICATION

I, \_\_\_\_\_, state and attest that

Meadowlands Development, LLC, has:

- (1) Adjusted its rates as ordered in Docket No. W-1259, Sub 4,
- (2) Issued a bill credit to each of its customers equal to any revenues billed at the old rates on or after July 1, 2014 times 6% for sewer operations, and
- (3) Mailed with sufficient postage or hand delivered to all affected customers the Order issued by the North Carolina Utilities Commission in Docket No. W-1259, Sub 4, by the date specified in the Order.

This the \_\_\_\_ day of \_\_\_\_\_, 2015.

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Name of Utility Company

Sworn to and subscribed before me

This the \_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Printed Name

My Commission Expires: \_\_\_\_\_

**DOCKET NO. W-1259, SUB 4**  
**DOCKET NO. M-100, SUB 138**

**COMMISSIONERS BRYAN E. BEATTY AND SUSAN W. RABON CONCURRING:** For the reasons articulated in our October 9, 2014 Dissent, we have determined that rate adjustments accounting for the tax changes effectuated by HB 998 should include the State corporate income tax changes. Furthermore, in HB 998, the General Assembly did not mandate that water and sewer rates be adjusted, thus, in order for the Commission to require an adjustment via a rulemaking there is no dispute that it must be done pursuant to State ex rel. Utils. Comm'n v. Nantahala Power & Light Co., 326 N.C. 190, 388 S.E.2d 118, (1990) (Nantahala). The Majority, in its October 9, 2014 Order Affirming Dominion North Carolina Power's and Public Service Company of North Carolina, Inc.'s Exceptions (October 9, 2014 Order), disregarded language in Nantahala applying the uniformity criterion to "similarly situated" utilities, and, instead, required absolute uniformity when it determined that the Commission lacked the authority to adjust for HB 998 in its totality. The Majority determined that the HB 998 changes failed the uniformity criterion, stating that "[n]o question exists that the HB 998 tax changes affect utilities non-uniformly ... For water and sewer utilities the gross receipts tax changes require different rates than for other utilities." The gross receipts tax was 4% for water utilities, 6% for sewer utilities, and 3.22% for electric utilities. Under the Majority's interpretation of the Nantahala uniformity criterion, regardless of the magnitude of the change, the existence of different rates should have precluded the Commission from requiring that water and sewer utilities adjust rates via a rulemaking to reflect the repeal of the gross receipts tax, as is the case in the matter at hand. While we continue to adamantly disagree with this interpretation of Nantahala, we also recognize that the Commission cannot simply choose to apply one standard when it suits it and then ignore its own determination when it does not. Therefore, with regard to the portion of this Order accounting for the HB 998 changes, we concur only in that it follows the Majority's determination in its October 9, 2014 Order.

\s\ Bryan E. Beatty  
Commissioner Bryan E. Beatty

\s\ Susan W. Rabon  
Commissioner Susan W. Rabon