

1 PLACE: Dobbs Building, Raleigh, North Carolina  
2 DATE: Monday, March 11, 2024  
3 TIME: 3:10 p.m. - 4:46 p.m.  
4 DOCKET: W-100, Sub 67  
5 BEFORE: Commissioner Karen M. Kemerait, Presiding  
6 Chair Charlotte A. Mitchell  
7 Commissioner Kimberly W. Duffley  
8 Commissioner Jeffrey A. Hughes  
9 Commissioner Floyd B. McKissick, Jr.  
10 Commissioner William M. Brawley  
11 Commissioner Tommy Tucker  
12  
13

14 IN THE MATTER OF:

15 Investigation Regarding Consolidation  
16 of Water and Wastewater Utilities and  
17 the Utilization of Uniform Rates.

18 VOLUME 2  
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NORTH CAROLINA UTILITIES COMMISSION

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Apr 02 2024

1 PRESENTERS:

2 FOR CAROLINA WATER SERVICE, INC. OF NORTH CAROLINA:

3 Matthew Schellinger, Regional Director of Financial  
4 Planning and Analysis

5  
6 FOR AQUA NORTH CAROLINA, INC:

7 Ruffin Poole, Director of Business Development

8 Kimberly Joyce, Vice President, Regulatory, Government  
9 and External Affairs

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11 FOR RED BIRD UTILITY OPERATING COMPANY, LLC:

12 Aaron Silas, Director, Regulatory Operations at Central  
13 States Water Resources, Inc.

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15 FOR THE USING AND CONSUMING PUBLIC:

16 Chuck Junis, Director, Public Staff - Water, Sewer, and  
17 Telephone

## P R O C E E D I N G S

MS. KEMERAIT: We're ready. So let's go back on the record. Thank you for the presentation. We're going to begin with questions from Chair Mitchell.

CHAIR MITCHELL: Good afternoon. I'm glad to see y'all here in the hearing room today. I've got a couple of questions for you. I'm going to be quick because I have to scoot in just a minute. But, sort of, just stepping back a little bit, we initiated this series of teleconferences to delve more deeply into some of the issues that are relevant right now in the State and that we foresee becoming even more so as we look down over the next 10 years and anticipate investments the Companies are going to have to make. And so, you know, we posed a series of questions in the first Order to kick things off and then there was a second Order in which we posed some additional questions, but my hope is that going forward you-all can engage in -- continue to engage in these discussions in a way that starts to get at some solutions here. I mean, I think at this point, you know, we as a body are aware of investment needs and challenges that y'all are going to have going forward,

1 both in terms of replacing aging infrastructure as  
2 well as dealing with emerging contaminants and  
3 secondary water quality concerns and other things that  
4 we know exist here and are going to exist here in the  
5 State. I hope that y'all leave here today and go away  
6 and engage in a way that starts, kind of, getting more  
7 down into the detail and coming back to us with some  
8 things that we can really think about. Your point  
9 about setting expectations for the companies is a  
10 really -- I hear that and I understand that, and I  
11 think that's where we want to go. So y'all got to  
12 give us something that we can react to. And I'm  
13 saying this to Ms. Joyce but I'm also saying that to  
14 everybody in this room. I have to leave before you  
15 get up on the stand otherwise I'd be saying it to you,  
16 Mr. Junis, too.

17           So I hope, you know -- and we don't lightly  
18 ask y'all to come together and spend your time on an  
19 exercise like this. It takes you away from other  
20 things. It costs money. It costs your ratepayers'  
21 money. So -- and it takes Mr. Junis and his folks off  
22 doing investigations into the companies y'all -- or  
23 the systems y'all want to acquire. So, please make  
24 the most of the time, start solving some problems, and

1 bring us some things that we can react to and build  
2 upon, because ultimately what we are trying to do here  
3 is set some policies, establish some policies, rethink  
4 some policies if necessary. So that's my two cents  
5 for the moment.

6 But just to sort of tease some things out of  
7 you, Ms. Joyce, while I've got you. The -- you're  
8 sort of -- you mentioned -- I mean, I hear in your  
9 comments to us this tension between - and sort of  
10 hearing from Mr. Schellinger, too - acquiring  
11 additional customers, and I understand the benefit of  
12 that additional head count for the customer base at  
13 large and then sort of rate base, wanting to  
14 understand, know and understand where this Commission  
15 now is going to fall on the rate base question. And  
16 you know, there is going to be some push back from the  
17 consumer advocate on the rate base issue because they  
18 are going to -- well, I'm not going to restate why  
19 they're going to push back, y'all know where they're  
20 going to push. So these are the kind of things.

21 Can you-all talk about that, sort of, rate  
22 base expectations plus the value of additional  
23 customers, and sort of try to get to a place that is  
24 workable for the company and workable for the Public

1 Staff? And the answer may be no.

2 I heard somebody say earlier today that  
3 there was no consensus. Well, I hope that y'all can  
4 do a little better and at least, sort of, tease out  
5 the issues for us so that we are not just thinking  
6 about things that are really high level, sort of,  
7 conceptual level but help us understand financial  
8 implications for the company and for the customers.

9 There has been comments today about the  
10 benefits to the acquiring customers. And I think I  
11 hear loudly from the Public Staff concern in cases  
12 that involve acquisitions of systems by utilities,  
13 concerns about the acquired customers and fairness to  
14 the acquired customers. I also heard from you-all  
15 today saying, yeah, but those acquired customers might  
16 not have been paying realistic rates for the past "X"  
17 number of years, and I get that. So how do we -- you  
18 know, help us find some ways, give us some tools to  
19 think about striking the appropriate balance. Y'all  
20 know the balance that we have to strike in these cases  
21 as they come before us.

22 Let's see, there is going to be a question  
23 in here I promise. I do -- I am interested in your  
24 thoughts quickly about the WSIP. I guess that's what



1 we're calling it. What's the complexity there about  
2 adding new systems? So systems acquired post WSIP?  
3 Why is that even an issue?

4 MS. JOYCE: It's a geat question. So I'm  
5 anticipating a tension with Public Staff, and Chuck  
6 can correct me, but I think it's to be determined, you  
7 know, in those multi-year rate plans we filed lists of  
8 projects and those lists of projects, you know, are  
9 for certain time periods. And so I think where -- the  
10 question is to be determined.

11 From the utility perspective, plans change.  
12 And I think everybody understands that. But what is  
13 that delta of change going to be from the original  
14 list of projects that we anticipated to what happens  
15 in two years, and what kind of standard and what are  
16 we going to be held to? Are we going to be held to a  
17 dollar amount per year in those plans or are we  
18 literally going to say, "you said you were going to do  
19 those hundred projects. You didn't do those hundred  
20 projects".

21 So I think to the extent that we're adding  
22 systems during the course of the multi-year rate plan,  
23 we can certainly do that as long as there is a  
24 recognition of flexibility within that multi-year rate

1 plan. So I think my comments are we're just  
2 anticipating, maybe it's a false assumption or  
3 anticipation, but there might be some tension about  
4 adding that to the capital plans.

5 CHAIR MITCHELL: Okay. So, and let me be  
6 sure I'm hearing -- I mean, there's a question there.  
7 How are we going to address the capital investment  
8 that's going to have to be made in an acquired system  
9 that wasn't explicitly spelled out or accounted for in  
10 the whatever year of the WSIP?

11 MS. JOYCE: Correct. I think the utilities  
12 can come up with a plan to handle that because there  
13 is going to be change and we can deal with that. I  
14 just -- there might be a tension there.

15 CHAIR MITCHELL: Okay. This concept of a  
16 distressed system, I think you even said it would be  
17 helpful to industry to have an understanding of what  
18 this Commission's view of what is a -- what a  
19 distressed system is.

20 In your experience in North Carolina, and I  
21 know you're not always down here and you might not be  
22 in the weeds, so Mr. Poole, this may be one where you  
23 can jump in here. Has there ever been a situation  
24 where there's been a truly, a distressed system where

1 there's -- well, let me say it this way. Has there  
2 ever been a situation that y'all are aware of where  
3 there's been a difference of perspective between the  
4 Public Staff and the Company about whether a system is  
5 distressed?

6 MR. POOLE: I would say with my experience,  
7 we try to come to the Public Staff, and of course,  
8 this is speaking previously, years ago, so there's  
9 been change. I want to be clear, there's been change  
10 in staff and change in the Commission. We try to come  
11 in and have dialogue that you mentioned earlier, and  
12 said, "hey, here's what we're looking at. Here's some  
13 of the challenges that we see, whether it be  
14 operational, recordkeeping; here's what conversations  
15 we've had and what the expectations are".

16 You've heard other people say the dollar  
17 offer, right. So obviously we always start at what we  
18 believe is a reasonable offer or at least start at an  
19 offer that can start the conversation. And sometimes  
20 we get to a point where we know they are not willing  
21 to sell for what we believe is a rate-base price,  
22 based on the limited information that has been  
23 provided to us by that individual and by due diligence  
24 that we've conducted or been able to be provided by

1 the customer. So at that point then we come to the  
2 Public Staff and say, "hey, here's this customer.  
3 Here are the challenges that they're having". When I  
4 say customer I mean company. "Here's what they have  
5 explicitly told us or communicated to us that they are  
6 not willing to sell for". And so we think that they  
7 have challenge opportunities and they may not be  
8 distressed from their perspective. We may not think  
9 they're distressed but they have challenges, right,  
10 that we see that are not being addressed by the  
11 current operator. And they're willing or at least  
12 have an interest of getting out of the business. And  
13 so I think that having that dialogue and conversation  
14 of what classifies distressed is the first step. But  
15 if there are criteria that can be laid out, as were  
16 mentioned earlier, like maybe you have a list of 10.  
17 If you meet certain parts or look at it then maybe  
18 they get classified. But I think, as you mentioned,  
19 it's a give and take, right. We need to have those  
20 conversations but there's got to be some boundaries,  
21 too. Some definition so we know that there can be  
22 productive dialogue and opportunity to pursue an  
23 acquisition or not. I hope that answers your  
24 question.

1 CHAIR MITCHELL: It mostly does. I mean --  
2 and has there ever been a -- are you aware of an  
3 instance where the Company has brought an acquisition  
4 target to the Public Staff and the Public Staff says,  
5 get out of here. No way. We're not going to let you  
6 recover more than what this company -- you know, what  
7 this -- the "X" amount even though the company says  
8 they want "Y" amount.

9 MR. POOLE: I've had conversations with a  
10 former Public Staff member who basically told me,  
11 yeah, I wouldn't go down that path.

12 CHAIR MITCHELL: Okay. But so the Public  
13 Staff has provided that guidance at times. Okay.

14 Are you, Mr. Poole, remind me, are you  
15 active in any other jurisdictions that Aqua is in?

16 MR. POOLE: Not currently.

17 CHAIR MITCHELL: Just North -- and you've  
18 been in Virginia?

19 MR. POOLE: I have; that's correct.

20 CHAIR MITCHELL: I'm got going to ask you  
21 about Virginia. Let's see, in those instances where  
22 Aqua has been asked or been appointed -- let me say it  
23 this way.

24 In those instances where Aqua has been

1 appointed as emergency operator here in North  
2 Carolina, have you-all been able to work out the  
3 financial implications of your providing service with  
4 the Public Staff? I mean, has there ever been an  
5 instance where you've had to litigate an issue related  
6 to your service as an EO?

7 MR. POOLE: That probably would be a better  
8 answer from Mr. Becker. I can't accurately answer  
9 that question for you.

10 CHAIR MITCHELL: Okay. Thank you. That's  
11 all.

12 MS. KEMERAIT: So, following up on Chair  
13 Mitchell's questions, I think just to give the group a  
14 forecast of one of the things that we'll be interested  
15 in for the next technical conference is how to --  
16 about the WSIC and how newly acquired systems can be  
17 included or added into the WSIC. How we can overcome  
18 the challenges that you're talking about.

19 And then, I think this is also follow up for  
20 Chair Mitchell's questions I believe. I think it will  
21 be to you, Mr. Poole, dealing with some concern that  
22 we also heard from Red Bird about not having a  
23 definition of what a troubled or a distressed system  
24 is. We do have quite a bit of Commission Orders that

1 either approve an acquisition adjustment or deny an  
2 acquisition adjustment based upon whether a system is  
3 classified as troubled or distressed.

4 Can you talk about your opinion about is  
5 that not sufficient for the direction that the  
6 utilities need in this regard.

7 MR. POOLE: It certainly provides guidance  
8 but also in a lot of those Orders they're not  
9 precedential and it clearly states that in the Order.  
10 So the guidance is great but it's not a precedent,  
11 right. Each Commission is allowed to make the  
12 determination one by one.

13 COMMISSIONER KEMERAIT: And so then what  
14 specifically are you looking for? And maybe,  
15 Ms. Joyce, this would be a question for you about if  
16 you want a definition if it's not in a Commission, a  
17 Commission Order, what are you asking? What would be  
18 what you're looking for to provide that kind of  
19 specific direction for the companies?

20 MS. JOYCE: Yeah. I can think of some  
21 examples in other states where they -- you know,  
22 again, it's not a check-the-box kind of policy but it  
23 gives examples of what the Commission considers  
24 characteristics of a troubled system. For example,

1 high unaccounted-for water. There is no succession  
2 plan and that's sort of code for the owners are going  
3 to walk away in the next -- you know, in the near  
4 term. The system is financially insolvent, right.  
5 They have actually no net income coming in so they  
6 can't invest in the system. So there's specific lists  
7 of criteria that are examples of a troubled system.

8 I will note that even with a list of those  
9 that I think are very helpful for the utilities in  
10 terms of identifying troubled systems, we still argue  
11 about them with our consumer advocate. Right. Is it  
12 60 percent unaccounted-for water for a troubled system  
13 or is it 40 percent? So, it doesn't take away like  
14 all of the uncertainty of that whether a system is  
15 troubled or non-troubled in the eyes of the consumer  
16 advocate or the Commission but it certainly helps.  
17 And like Ruffin said, it puts guard rails. And I can  
18 provide that policy. And I think we have a number of  
19 them in our State and we can include those, too.

20 COMMISSIONER KEMERAIT: That would be  
21 helpful. And then moving on, some of the questions  
22 that I had was related to your Question 6 about -- and  
23 I think this may be from the presentation, part of the  
24 presentation you provided, Mr. Poole, about transfers



1 of the small or troubled wastewater systems. And on  
2 Question 6 you talk about one of the mechanisms that  
3 could encourage that would be a market-based rate  
4 base. And so with a market-based rate base, a couple  
5 of questions. I'll just go ahead and provide them all  
6 to you.

7           How would it work? And then, how could you  
8 ensure that customers would not be double paying for  
9 infrastructure that could have been funded by CIAC?  
10 And then just to go ahead and bring my last question  
11 in, it seems like a market-based approach would be  
12 somewhat similar to an acquisition adjustment, and so  
13 what's the difference? Why market-based as opposed to  
14 the process that we already have of acquisition  
15 adjustment?

16           MR. POOLE: I think you hit it on directly,  
17 right. It's just the terminology, right. I think  
18 that what we're referring to here is as market-based  
19 would be similar to an acquisition adjustment, right.  
20 This is theoretical. We haven't fleshed this out,  
21 right. All these stakeholder meetings and these  
22 discussions were to stimulate ideas and dialogue to  
23 think about things that may help streamline the  
24 process.

1           And so in theory, again, one of the things  
2 about market-based would be to look at hypothetically,  
3 if you have a rate base of let's just say \$2,000 per  
4 customer and you're looking at a system and you know  
5 they have a little, a small amount of rate base per  
6 customer. Let's just make up a number. \$100 rate  
7 base per customer. And the seller is wanting more and  
8 you can't come to an agreement and you know what the  
9 capital improvements are from your due diligence or at  
10 least based under your due diligence and your  
11 examination of that system. Then, you come to a  
12 determination that if you can keep it below your rate  
13 base per customer then maybe that's the market-based  
14 determination, right.

15           Again, those are going to be parameters and  
16 the discussions just out there to have with the Public  
17 Staff and with the Commission. It's just an idea to  
18 talk about. But yeah, it's very similar to an  
19 acquisition adjustment. It may be the same except  
20 just a different terminology.

21           COMMISSIONER KEMERAIT: So you're not  
22 proposing that we move away from the acquisition  
23 adjustment concept and use market-based approach?  
24 You're providing this as another potential mechanism

1 that you would propose?

2 MR. POOLE: That's correct.

3 COMMISSIONER KEMERAIT: And from Aqua's  
4 perspective, would market-based approach be preferable  
5 in any way than using the acquisition adjustment tool?

6 MR. POOLE: To be honest with you, we  
7 haven't really fleshed it out, right, or haven't  
8 thought about it or penciled it out. I think the  
9 acquisition adjustment is a tool that's been used in  
10 the past historically and can be used effectively, you  
11 know.

12 COMMISSIONER KEMERAIT: And then you also --  
13 I believe that Aqua is also suggesting that in a  
14 transfer proceeding that the cost of service or  
15 revenue requirement be eliminated. Did I read that  
16 correctly? Is that your position as well along -- I  
17 know Public Staff disagrees, but are you in agreement  
18 with the other utilities?

19 MR. POOLE: Yes, that's correct.

20 COMMISSIONER KEMERAIT: Okay. Can you just  
21 briefly describe from Aqua's perspective about why not  
22 having that requirement would facilitate acquisitions  
23 or transfers?

24 MR. POOLE: Yeah. I think it's some of the

1 things that you've already heard, right. It's the  
2 time, the effort, the bad records that are unavailable  
3 from acquisitions that you're -- or companies that  
4 you're trying to acquire and trying to put the time  
5 and effort to piecemeal to make a cost-of-service  
6 study. All right. It takes a lot of administrative  
7 effort and sometimes you don't have that information  
8 readily available.

9 COMMISSIONER KEMERAIT: And then, remind me  
10 again, what is Aqua's position about determination of  
11 rate base. Are you -- propose that rate base should  
12 be determined at the time of transfer; is that right?

13 MR. POOLE: That's correct.

14 COMMISSIONER KEMERAIT: And you haven't had  
15 difficulties in doing that in your transfer  
16 proceedings?

17 MR. POOLE: I think we want to have it there  
18 so we know what we're getting ourselves into.

19 COMMISSIONER KEMERAIT: Okay. Thank you.  
20 So I'll -- Ms. Joyce, did you want to --

21 MS. JOYCE: No. I mean, I was just going  
22 to -- I was just going to add that, you know, based on  
23 experience in encouraging acquisitions and then  
24 providing safe and reliable service hand in hand,

1 determining rate base in the transfer proceeding is  
2 really helpful. Not just in terms of getting the  
3 acquisition approved, but when you -- I'm not even  
4 thinking about the multi-year rate plan. But what  
5 typically happens, right, when Ruffin and his team are  
6 doing these deals is not understanding what the asset  
7 is that you're buying and going to own and operate  
8 until what could be four years down the road. It's  
9 very, very difficult. And so I just want to put that  
10 in some context. I mean, that's what we've done in  
11 the past. And many of our jurisdictions is  
12 establishing ratemaking rate base in the transfer  
13 process and it's -- you know, if we're going to have a  
14 disagreement or argument about it, why not have it in  
15 the transfer proceeding would be our position.

16 COMMISSIONER KEMERAIT: Thank you. So I'll  
17 check with my fellow Commissioners to see if they have  
18 any questions. Commissioner Hughes?

19 COMMISSIONER HUGHES: So I think -- you  
20 know, we all think this often boils down to a rate  
21 base concern when we're looking at acquisitions of  
22 distressed systems we have in North Carolina, and I  
23 think it was a result of a stipulation. We at least  
24 had an effort to try to create an incentive in your

1 acquisition incentive account.

2 MR. POOLE: Yes.

3 COMMISSIONER HUGHES: And I realize this is  
4 a stipulation and it's unique to a particular  
5 situation, but it has been on the books and it does  
6 seem to be innovative and creative. And I just would  
7 love to have your comments on how that has proceeded.  
8 And again, without going into any confidential detail.  
9 But it doesn't seem like it's flown off-the-shelves as  
10 far as it's use, but I think the mistaken 'better on  
11 paper' looked like it. Maybe it's a better incentive  
12 than it turned out to be.

13 MR. POOLE: Yes. So you're referring to the  
14 AIA, acquisition incentive adjustment.

15 COMMISSIONER HUGHES: If I got something  
16 wrong with it, it's old. I had to dig deep and --

17 MR. POOLE: That's okay. We file a report  
18 on that on an annual basis. So, while I don't have  
19 the numbers off the top of my head, you can look at  
20 that and see all the previous acquisitions that Aqua  
21 has utilized that tool for and the amount of money  
22 that has been given to credit, sort of our goodwill in  
23 the acquisition.

24 When Aqua purchased Heater, there was

1 goodwill established. So the AIA was part of the  
2 settlement tool that incentivized Aqua at that point  
3 in time to acquire small and troubled systems to draw  
4 down that goodwill utilizing an AIA, and the AIA,  
5 again, was a negotiated tool. We did know some  
6 parameters. And I know historically there were  
7 discussions and often times the Public Staff and the  
8 company -- and this was prior to my time so I'm kind  
9 of speaking a little bit of being around some of what  
10 I call the old timers and some discussion I've had --  
11 we would disagree on the amount of money that we would  
12 look for in the AIA and ultimately the Commission  
13 would make the determination on that amount of money.  
14 There was a cap, right, that we were allowed to credit  
15 down based on each of those systems but it was a good  
16 tool. And I think that's a great example that  
17 something, a tool, that the Commission could adopt to  
18 encourage companies to acquire troubled systems,  
19 right, outside of the benefit that Heater or Aqua  
20 received from the Heater acquisition.

21 COMMISSIONER HUGHES: Well, I thank you for  
22 that. Do you know what the balance is on that?

23 MR. POOLE: I don't off the top of my head.

24 COMMISSIONER HUGHES: Well, I may ask

1 questions of someone else that's coming up. So, thank  
2 you for that.

3 COMMISSIONER KEMERAIT: Commissioner  
4 McKissick?

5 COMMISSIONER McKISSICK: This is just a  
6 follow up on what's already been said to some extent.  
7 I know I've asked that question of Red Bird as to what  
8 constitutes a distressed system? What do the -- and  
9 they went through this explanation about what's done  
10 in other states about the various parameters.

11 Do you think it's likely that you-all could  
12 come to some type of consensus or try to identify what  
13 the best practices might be for making that kind of  
14 assessment?

15 It sounds like you feel as if there is some  
16 information out there that you could bring back to the  
17 next meeting. But could you elaborate that -- on that  
18 a little bit further because I think that would be  
19 helpful if there's an opportunity to review those  
20 parameters, you know, and for us as the Commission to  
21 begin to consider them. And if that can be done in  
22 consultation with Public Staff, that would be  
23 excellent.

24 MR. POOLE: Yes, Commissioner McKissick, I



1 think that obviously going forward we know there are  
2 going to be more technical conferences. We're going  
3 to have to have stakeholder engagement with the Public  
4 Staff and I think that's a perfect topic to tee up at  
5 our next stakeholder meeting, right, for us to have  
6 that discussion. There are criteria that are out  
7 there and obviously it's just trying to determine how  
8 to frame that criteria, what fits into the criteria to  
9 make it work, so I think that's a great suggestion for  
10 us to take forward and for the companies to work with  
11 the Public Staff to talk about those items and say,  
12 "hey, here's some parameters that may make sense".

13 COMMISSIONER McKISSICK: And it would be  
14 very helpful to us as the Commission. And you  
15 shouldn't have to rely upon precedent that may or may  
16 not be true precedent based upon the change of  
17 Commissioners or change of Public Staff employees.  
18 So, I think we can really, I will use the word  
19 "codify" but maybe there's a better term of art to use  
20 when referring to get there and arrive at what those  
21 parameters might be. It would be excellent. Thank  
22 you.

23 COMMISSIONER KEMERAIT: Commissioner  
24 Brawley?

1 COMMISSIONER BRAWLEY: Thank you,  
2 Commissioner.

3 Ms. Joyce, there's been a lot of discussion  
4 about affordability, particularly for lower income  
5 folks, but Aqua is the only one that's actually  
6 suggested subsidized rates and so we would have  
7 ratepayers actually paying down the rates of others.  
8 Some might even see that as another form of the  
9 income-based rates that California is proposing. And  
10 I was wondering where is the authority for this  
11 Commission to order differential rates of that type?

12 MS. JOYCE: Yeah, it's a very good question.  
13 And I'm not an expert in the particulars of the law  
14 here but I would say from my experience most states  
15 have general statutory law that says you cannot set  
16 discriminatory ratemaking, right. And I think when  
17 you have -- when Commissioners, or Public Staff, or  
18 the utilities have concerns about these types of  
19 programs, they refer to those like universal  
20 ratemaking principles that have been for a long time.

21 I would just say that I personally believe  
22 that when you read those statutes there is room to  
23 interpret the statutes that there is an ability to  
24 have some level of subsidy. And the policy reason

1 behind that subsidy is, you know, setting a safety net  
2 for our low-income customers can actually be a cost  
3 saving that helps our paying customers because you're  
4 helping with bad debt expense. You're not sending a  
5 crew out to terminate a household, right. If there's  
6 a small portion of the revenue requirement -- and that  
7 could be set with input by the Public Staff, with  
8 input by the Commission to help a small subset,  
9 hopefully, right, within our customer base, but that  
10 actually could be a cost savings in the big picture.  
11 But the direct answer, it's a hard one. And you're  
12 not -- you know, many, many commissions and state  
13 policies do not agree and they will say you cannot do  
14 this through the ratemaking process. I just  
15 personally believe that if you can read that statute  
16 to allow that doing so is in the public interest.

17 MR. DROOZ: And I can add a little to that  
18 if you wish.

19 COMMISSIONER KEMERAIT: Please briefly  
20 proceed, Mr. Drooz.

21 MR. DROOZ: So the Commission is charged in  
22 the statutes with setting just and reasonable rates.  
23 62-140 is a statute that says there shall not be  
24 unreasonable preferences or advantages or

1 disadvantages. So the statute actually gives the  
2 Commission the authority to set rates that are  
3 different among different customers as long as it's  
4 not unreasonable. It's been done in DSM/EE for a good  
5 time. And so if you have a legitimate policy reason  
6 for making that distinction, I believe that it would  
7 legally be considered a reasonable difference in  
8 rates, not discrimination that it's unlawful under our  
9 statutes.

10 COMMISSIONER BRAWLEY: May I ask a follow  
11 up?

12 Isn't that reasonableness that you're  
13 referring to what allows utilities to charge lower  
14 rates for customers with a much lower cost of service,  
15 like a large industrial facility? And I think there  
16 are economic justifications for doing that that would  
17 support the reasonableness test. I think on the  
18 other, this is a more subjective point of view about  
19 what's the purpose of ratemaking or I think it's an  
20 issue that hasn't been addressed in the statutes  
21 before.

22 Now, I'm not an attorney but I did practice  
23 law without a license for eight years on the floor of  
24 the North Carolina House and sometimes I think like a

1 legislator. They fuss at me and they're trying to get  
2 me out of it. I'm concerned that people are seeing  
3 something in the General Statutes that is not there.

4 Thank you, Chair.

5 COMMISSIONER KEMERAIT: With that, I want to  
6 thank both of you for your presentations and coming in  
7 today, and we will move on to the Public Staff's  
8 presentation.

9 MR. JUNIS: I will try to be timely with  
10 this. I recognize we've gone a good chunk of time. I  
11 think it's a valuable conversation. I want to  
12 recognize Chair Mitchell's point of jumping into that  
13 next step, right, sorting out details, bringing you  
14 something to really chew on and potentially put into  
15 action.

16 I think it's already been announced, I'm  
17 Chuck Junis with the Public Staff - Water, Sewer, and  
18 Telephone Division. I've worked here now, it will be  
19 11 years in April. That has been a joy and a curse at  
20 times it feels like. I've worked on a range of cases  
21 including coal ash with both Duke's and Dominion, and  
22 then I've really honed in on water and sewer issues in  
23 my time here.

24 I've learned from a lot of institutional

1 knowledge. I mean, I think there is an insinuation of  
2 the legend of Bill Grantmyre, and Windley Henry on the  
3 accounting side, so just really trying to absorb  
4 knowledge and put it into action, learning from the  
5 past but also recognizing sometimes change is  
6 necessary to make sure we're doing a good job for  
7 customers while balancing the needs of the companies.

8 So, just hitting very quickly the seven  
9 prompts but then I want to just address some of the  
10 questions to the other parties and some of the  
11 previews of questions that are going to be coming  
12 towards me. I'll try to make this as efficient as  
13 possible.

14 So should they be grouped? I think it's  
15 really a question of can they be grouped and then it  
16 is a question of should they be grouped. This  
17 concept, when you get into grouping, so we can either  
18 have system specific or even just groups of rates as  
19 currently exist. Carolina Water has four rate  
20 divisions. Aqua has five rate divisions. So you  
21 already have a semblance of grouping but that is based  
22 on cost of service, right. So those are specific  
23 revenue requirements where costs from those specific  
24 systems are quantified.

1           If you move to say a one water/one sewer  
2 revenue requirement, now you are lumping even more  
3 systems into one revenue requirement. And I've heard  
4 the parties talk about well then you can use rate  
5 design. Well, when you try to do that you're then --  
6 for example, the tiers that Red Bird talked about,  
7 you're then sort of doing cost of service but without  
8 the cost of service. You're trying to associate cost  
9 differences but you're sort of approximating so should  
10 Tier 1 be 20 percent higher than Tier 2 or vice versa.  
11 Well, why not just keep the costs separate and do a  
12 cost of service and have the rate -- have a matching  
13 principle, cost with rates and revenues.

14           So I think we've got to be careful with  
15 balancing that. You want to throw all the costs  
16 together. And I don't know if any of you are bakers  
17 or just people that eat food, right. Like, you're  
18 combining the ingredients, you're mixing them  
19 intentionally, and you're coming out with a product,  
20 and sometimes it turns out really great and sometimes  
21 it turns out really bad. It only takes a slight  
22 difference in the quantity or how you mix those things  
23 of how that result is going to come out. Well, you  
24 want to then take that result and try to pick it apart

1 and pull out the ingredients. That's almost  
2 impossible to do. So I question that approach. I'm  
3 not saying it can't be done but we've got to really  
4 think through the implications and what is the  
5 intention. What is the policy and goals of this  
6 Commission which will be influenced hopefully by the  
7 parties to protect customers.

8           So, just -- we've got to be thinking about  
9 this stuff when we're making these decisions. I think  
10 broad generalizations can be dangerous. You've got to  
11 look for some of those potholes or pitfalls. And so  
12 that's what I'm warning against.

13           Item 2: I think there is a difference of  
14 opinions in terms of incorporation into an existing  
15 multiyear. We're only right now dealing with the  
16 first annual review stemming from the WSIP. It's not  
17 easy even though we tried to think through this as  
18 much as possible. You know, getting these reporting  
19 requirements right. Understanding some of the real  
20 implications and feasibilities. Timing, you know,  
21 when are costs coming in and being final so then you  
22 can determine whether a metric is met or not. There  
23 are real challenges to that. And I've heard comments  
24 about efficiencies and administrative burdens. When



1 you talk about modifying a process that we're barely  
2 doing for the first time, I think there are  
3 inefficiencies to that. I think there are challenges  
4 to that.

5 If we think about this next multi-year, then  
6 maybe I think it's viable, but to say, oh, let's start  
7 incorporating newly acquired systems and put them into  
8 this multi-year process that we worked really hard on.  
9 The parties discussed these things, ultimately came to  
10 partial settlements to determine what are these  
11 reasonable projects, looking at and scrutinizing the  
12 type of projects, the plan, the cost of service  
13 associated with all the systems that were part of that  
14 WSIP, and now you want to throw in new variables.  
15 Those new variables present new challenges. I also  
16 question what's the benefit of rolling them in. I  
17 think it is tangible to take acquired systems, track  
18 them. And then is it a question of should they be  
19 incorporated into uniform at the time of the next  
20 general rate case. That way, not only do you hear  
21 from the acquired customers about that integration,  
22 you hear from the existing customers. I think that  
23 voice is left out in a transfer proceeding if you're  
24 determining whether they should join uniform. And I

1 know, currently, most acquisitions are relatively  
2 small in comparison to the existing. That could  
3 change. We've gone through our first fair value  
4 acquisition. I don't know if there is another one on  
5 the horizon but there are municipal and  
6 government-owned utilities that can far -- are far  
7 larger than some of our private utilities, and so that  
8 could be a complete game changer when you talk about  
9 impact to uniform rates.

10 So I don't want to formulate this is the  
11 default and not think about well, hey, there could be  
12 a 900-pound gorilla out there that totally wreaks  
13 havoc. So just, again, trying to think through some  
14 of these details. What are the implications.

15 I think it is a fair point. I think  
16 everybody recognizes affordability but I think there  
17 is an issue of where are we going. What can tangibly  
18 be done within the current statutory framework.  
19 Mr. Drooz mentioned G.S. 62-140. We put that at the  
20 tail-end of our presentation. There is room for  
21 interpretation there.

22 It's my understanding -- I'm pretty sure  
23 there's like a bill credit system that Duke has for  
24 customer assistance. So that's one mechanism that's

1 been put out there. I think there's tangible ways to  
2 do rate design that isn't explicitly in an  
3 affordability or customer assistance program but could  
4 contribute to affordability. I think that's lower  
5 base charges and access fees. I also think that  
6 conservation rates is an option as long as is it  
7 thoughtful because if you start raising rates in those  
8 tiers too soon, it could be a disadvantage to like  
9 lower income older communities where they may have  
10 less efficient appliances. They may have leaks on the  
11 customer meter side that are harder to account for and  
12 fix and, thereby, would be a penalty if a conservation  
13 rate isn't designed properly or have some of the  
14 customer forgiveness when there is a leak.

15 I'm going to keep going here. Acquired  
16 systems: The systems with a lower cost of service,  
17 and I think Kim Joyce acknowledged this, if you charge  
18 them the uniform when you know they have a lower cost  
19 of service, you are essentially overcharging them,  
20 especially if you are not passing the benefits to the  
21 existing customers. So if that makes sense, if their  
22 cost of service is lower but you're charging them  
23 more, well that means they would be compensating for a  
24 greater portion of the revenue requirement so,

1 thereby, there should be a savings. It might be  
2 relatively small if it's a large customer base on the  
3 existing side. I think Matthew talked about that in  
4 terms of effectuating that cost savings. Well, that  
5 gets effectuated in a rate case, otherwise, you don't  
6 see that impact.

7           So we would be very much opposed to putting  
8 a uniform rate on a customer base that has a lower  
9 cost of service in a transfer. You can consider  
10 whether they be incorporated into uniform in the next  
11 general rate case. But set those aside. Like he  
12 says, operate them. Learn what the plant improvements  
13 are. Incorporate potentially those plant improvements  
14 into the WSIP but in a general rate case where all  
15 customers can be heard.

16           I mean, we're definitely case-by-case basis.  
17 There are extenuating circumstances in many cases and  
18 we think that the cost of service is important. So  
19 talking on Question 5.

20           Question 6: To that point on efficient  
21 transfer, administrative efficiencies. Efficiency --  
22 how do I want to put this -- I'll come back to that  
23 one actually because I have some notes separately.

24           Rate base acquired systems establish -- I

1 think most of the group agrees establishment of rate  
2 base at the time of transfer -- this is prompt Number  
3 7 -- is important. That is some of the certainty that  
4 the utilities are seeking because if you don't have  
5 that certainty who's carrying the risk.

6 Now, I know the argument was that the  
7 company carries all the risks because they paid the  
8 purchase price. If they defer to the decision, I  
9 would humbly disagree because I think there is some  
10 deference to costs incurred being sort of presumed to  
11 be recoverable. And so then is it a matter of is it  
12 reasonable or prudent; is there a purchase acquisition  
13 adjustment; do we have to fight about whether it is  
14 operationally or financially troubled. The discovery  
15 of additional documentation after the fact.

16 The seller should be most motivated to  
17 provide documentation during a pending transfer.  
18 That's how you justify your purchase price, right.  
19 The lesser of net book value or the purchase price is  
20 the bar. Initially, you can try to seek a purchase  
21 acquisition adjustment but that is a different set of  
22 criteria. So, the seller should be motivated.

23 I think there also needs to be proper  
24 downward pressure on purchase prices. Some of

1 those -- that dialogue that Ruffin is talking about, I  
2 would speculate that he carries that back to a  
3 potential seller and says we're going to have a hard  
4 time getting this approved at that purchase price. We  
5 need to renegotiate or talk at a lower purchase price  
6 if you really want to be out of the business. I think  
7 some of those iterations are missing on some of the  
8 purchase prices we've seen in cases of recent memory.  
9 So, that hits those points.

10 I just want to make some overarching  
11 suggestions in terms of guiding principles when  
12 dealing with this uniform issue and some of the  
13 concepts that the Commission has addressed.

14 Case-by-case analysis in consideration is  
15 reasonable and necessary in most cases. Rate  
16 consolidation should be accompanied by, I would say,  
17 guard rails or protections for customers. We need to  
18 maintain or even strengthen the prudence and  
19 reasonableness standard.

20 When you start throwing -- it's sort of the  
21 concept of dilution. If I throw a drop of dye into a  
22 bucket, you're going to see that relatively clearly.  
23 If I throw a drop of dye into an Olympic-sized  
24 swimming pool, it's probably not going to be hardly

1 noticeable. That's sort of what is happening. And  
2 to, I think it was Carolina Water's point about easier  
3 to justify capital investment in smaller systems,  
4 there's a greater level of scrutiny if you're talking  
5 about a million-dollar investment that directly  
6 impacts a hundred customers versus a million-dollar  
7 investment that impacts 50,000 customers. There is  
8 just a different sensitivity to that investment. A  
9 different pressure to seek out lower cost alternatives  
10 or at least consider alternatives. I think in some  
11 cases we're not even seeing that. This is our  
12 preferred way to fix this problem and that's what  
13 we're going to do and it becomes -- the reasonable  
14 prudence standard is very hard to prove. So when we  
15 recommend disallowance, that's challenging. So  
16 there's some level of enforcement here that needs to  
17 happen when you move more and more towards uniform.

18 Affordability tools has already been hit on  
19 to some degree. Protection or assistance for  
20 financially vulnerable customers, rate design, are  
21 some strategies that I think could be implemented;  
22 right now, low access or base charges, strategic  
23 conservation rates, smart growth and consolidation.  
24 And I use the term "smart" because, you know, we talk

1 about smart goals for accountability for our  
2 employees. I think smart growth and consolidation  
3 involves physical connection of systems to actualize  
4 economies of scale. Because yes, you can have some  
5 economies by, you know, decision making but real  
6 economies of scale come from connected systems  
7 including: I think this needs to be addressed in  
8 purchases; I think it needs to be addressed in sales,  
9 and regionalization. There needs to be some  
10 acknowledgment that the closest utility makes --  
11 should be the first choice when establishing new  
12 systems or even for transfers.

13           So when you start talking about market, I  
14 think one of the alternatives offered by Aqua was sort  
15 of this market value option. I think that turns into  
16 a bit of a bidding war. And so then where does the  
17 priority of who can provide the least cost service?  
18 Who has operations nearby? Who would who be an option  
19 potentially for physical connection if things go  
20 south? You know, we've seen systems run out of water.  
21 Our State has been pretty resistant to drought to this  
22 point but there are areas of the State that are facing  
23 real issues with water capacity. And I think that  
24 could be an issue that we'll face in the future,



1 either by capacity or by quality issues, and the cost  
2 of treatment making it near impossible.

3 I think there's also -- it needs to be  
4 acknowledged, there's a natural incentive for the  
5 private utilities to acquire systems that need  
6 investment. How do they make money? It's the return  
7 on their investment. So if it's a low-cost system or  
8 a low purchase price system, they can still make money  
9 off of it by investing into that utility. So there's  
10 already sort of -- I'd compare it to parenting. The  
11 concept of natural consequences like, all right, if  
12 you want to skate without knee pads and then you fall  
13 and you scrape up your knee, that was a natural  
14 consequence. You could have worn that knee pad and  
15 protected your knee. There are also natural  
16 incentives here for the financial aspect for the  
17 utilities -- for the companies.

18 Single revenue requirement: One for water,  
19 one for sewer. You really -- I think there's a  
20 disincentive to cost control because of that lack of  
21 sensitivity. It's sort of dilution of transparency is  
22 not the solution. Like I said, throwing that drop in  
23 the bucket versus the drop in the pool.

24 I'm going to zoom ahead for the purposes of

1 time. Where are we going? And I'm glad Chair  
2 Mitchell commented on this because it was helpful. I  
3 was asking myself this question of: What do we do  
4 next? You know, we've had these more general  
5 conversations. I think there is a need to get kind of  
6 into the details; get our hands dirty.

7 So what do we do? I think data from the  
8 companies is important. We've not seen no analysis.  
9 Even -- for example, let's look at rate year three.  
10 What are your current rate division's uniform rates,  
11 we'll call them, and where would a one water/one sewer  
12 rate really land? How much of an increase would it be  
13 for Fairways Water to be part of a one Aqua water rate  
14 division? What would be the impact for their uniform  
15 water? What would be the impact for Brookwood? Let's  
16 really start to see some numbers of where does this  
17 go. What are the implications for customers?

18 I think we also need to start seeing service  
19 area boundary data. That feeds into regionalization.  
20 It feeds into new CPCNs to be considered. Who's  
21 closest? Who can provide efficient service? It also  
22 goes to income data. Where are Carolina Water's  
23 customers? Where are Aqua's customers? Where are Red  
24 Bird's customers? And can we match that with census

1 data and really assess what is their income level and  
2 what can they afford for rates because that feeds into  
3 these mechanisms, the customer assistance programs.

4 I think there was just a couple of more  
5 items from what was discussed today. Funding for the  
6 environmental regulators. I think Mr. Silas hit on  
7 this. We see that. DEQ is stretched pretty thin. We  
8 try to collaborate with them. It's important for  
9 accountability for these small water and sewer  
10 utilities to try to identify who is noncompliant, who  
11 needs help. And they are vastly understaffed. Like,  
12 we've worked closely with the Washington regional  
13 office. We've had success with them. Outer  
14 Banks/Kinnakeet, appointed an emergency operator. The  
15 moratorium is now lifted, but they are operating at  
16 less than 50 percent of staff. So they face  
17 challenges. So what can we do to supplement that to  
18 do our jobs with our private utilities.

19 The Commission has available G.S. § 62-42  
20 where they can order, actually, deficiencies be  
21 addressed and improvements to be made by the regulated  
22 utilities. I think we're going to have to start  
23 coming to you and having you flex that authority to,  
24 sort of, take action. So it's not just identifying

1 who needs to be bought but who can actually make  
2 improvements and just isn't being held accountable for  
3 the quality of service that they are providing.

4 Commissioner Kemeraut, you hit on tiering,  
5 essentially stand-alone rates. That was my comment  
6 earlier about you have cost-of-service studies to  
7 design stand-alone system rates and then you have  
8 tiering which is on the opposite side of you've  
9 grouped all of these costs and now you're trying to  
10 separate them out. So I do tend to agree, there are  
11 similar concepts but I don't think you can do it as  
12 accurately when you've already grouped up the costs.  
13 We've seen that in challenges of removing retired  
14 systems or sold systems out of the cost of service and  
15 trying to quantify, well, what are the expenses and  
16 what is the rate base associated with that system.  
17 Once you've thrown it all in the same bucket it's  
18 harder to get out. They can do it, but they will say  
19 it's administratively difficult or it's inefficient to  
20 do so. So I just want to keep that in your guys'  
21 minds, and I agree with your comment there.

22 The -- one more, I promise. Well, maybe  
23 two.

24 Ms. Joyce commented on iron and manganese

1 and secondary water quality. I do agree that was a  
2 huge issue. We worked together. Those costs were  
3 mitigated because of uniform rates to some degree but  
4 where did the scrutiny come from? The Public Staff  
5 met with and this Commission pushed for action on  
6 secondary water quality. We were going through  
7 executive summaries. We were meeting with the company  
8 regularly. There was scrutiny about what those  
9 projects looked like; whether a filter was needed on a  
10 system; or could another well be utilized more  
11 effectively; was there a lower cost approach. So  
12 there has to be a matching scrutiny. And so when you  
13 move again, more and more towards uniform, we're  
14 diluting the details on the costs and making it more  
15 harder and harder to provide that adequate level of  
16 downward pressure on costs.

17 And the other thing Ms. Joyce hit on, the  
18 anticipated tension. I think everybody has lifted  
19 weights or exercised. You know, what is the  
20 resistance to that tension. Is this a high  
21 resistance? Low resistance? Is this a heavy lift or  
22 a low lift? I think right now we view it as a pretty  
23 heavy lift to incorporate newly acquired systems into  
24 the WSIP and question that the benefits offset those

1 challenges.

2           She mentioned the list of projects. I think  
3 that gets into just the sort of theoretical  
4 differences between the Public Staff and the utility  
5 on this was a set group of projects, a list of  
6 projects that we expected to be implemented and  
7 customers expected. There are customers that looked  
8 and said, "hey, that's my system. I'm seeing an  
9 impact." That's justifying that rate increase. But  
10 if the utility has the flexibility of, yeah, that  
11 list, we're hitting a dollar amount. Those are no  
12 longer priorities. Well, the customers were sold a  
13 bill of goods and it impacts their benefits that now  
14 aren't being delivered. I don't think that's right  
15 and I don't think that's what the Public Staff  
16 envisioned when supporting the WSIP and the  
17 implementation of projects and the recovery of those  
18 costs prospectively.

19           I'll stop there for questions. I think I  
20 hit some preemptively but fire away.

21           COMMISSIONER KEMERAIT: So, Mr. Junis,  
22 you've provided a lot of information there so I'm  
23 going to start. I've got some questions. It's going  
24 to be a little bit disorganized because a lot was said

1 here. I'm going to start kind of toward the end of  
2 your presentation.

3           You talked about it's important that we --  
4 that the Commission become aware of these and identify  
5 these troubled systems earlier rather than later and  
6 that's something that we do want to see. We want to  
7 have Public Staff and parties identifying the systems  
8 before they become emergencies when -- before they're  
9 in the news, before emergency operators have to be  
10 appointed. So that's something we're actively trying  
11 to solve that problem and we need the help from Public  
12 Staff as you're doing and the parties.

13           You mentioned toward the end as well about  
14 data that you're looking for, concrete things that  
15 Public Staff would like would be service area boundary  
16 data. Don't you already have that? Isn't that  
17 already included in CPCN applications or contiguous  
18 extension requests?

19           MR. JUNIS: So similar to the industry it is  
20 fragmented. We have maybe physical maps. Not all of  
21 the maps were scanned into the Commission's docket  
22 system so we're somewhat reliant on our paper files.  
23 And again, it is service area by service area, and we  
24 really don't have that overarching sort of database

1 of, okay, why can't I search an address and be able to  
2 answer a customer question or a realtor of who has the  
3 CPCN for my home. And so we really don't have those  
4 boundaries in a compiled fashion. We are working and  
5 need to continue to develop that relationship.

6 Carolina Water agreed to meet and discuss  
7 their GIS data and we need to take advantage of that.  
8 Conflicting priorities have not -- we haven't  
9 developed that, but I think it's across the board. We  
10 need to be addressing this with all of the utilities  
11 to know exactly where they are and evaluate transfers.  
12 Who's closest? Who are the options that should have  
13 been involved here? And again, that downward  
14 pressure.

15 COMMISSIONER KEMERAIT: Well, I do agree. I  
16 mean, I know that not having the data and the maps for  
17 service territories has long since been a problem for  
18 a number of years and I think that's something that we  
19 all need to be trying to solve. But for the newer  
20 systems that are being acquired, please tell me that  
21 that is not an issue; that you are receiving accurate  
22 maps and information of service territories.

23 MR. JUNIS: We are pushing for accurate  
24 maps. Again, electronically available and, sort of,



1 that, compiling that company-wide coverage area is  
2 important. Because again, we're referencing back to  
3 essentially paper documents or a pdf of a service area  
4 specific to a hundred homes or 50 homes, and that is  
5 not functional data, right. I think there's a  
6 difference of -- I think I have it over there. W-100,  
7 Sub 13 where the Commission was talking about uniform  
8 rates and the viability of that, and then the data  
9 associated with cost of service. That's real nice and  
10 all to have that paper printed but it's not very  
11 functional to pull out - what were quotes, searching  
12 terms - to really utilize that information. So I  
13 think we've got to get to that point. We have to  
14 modernize.

15 COMMISSIONER KEMERAIT: And Chair Mitchell  
16 talked about how we're going to be having additional  
17 technical conferences, and so we are going to be  
18 coming forward with an Order that's going to be  
19 providing specific direction about what we're looking  
20 for and specific information about how to solve these  
21 problems going forward so that we can do something to  
22 act upon these different issues for the benefit of the  
23 customers and the utilities.

24 So one of the things that I'm confident that

1 will be in our Order is that the Public Staff will  
2 have a different opinion from the utilities is the  
3 pros and cons about including newly acquired systems  
4 in the WSIP. And if it's to be done, what are the  
5 best practices for doing so to provide benefits to  
6 customers and the utilities as well. I know that the  
7 Public Staff disagrees with the utilities' position  
8 about that. We also are going to want to hear more  
9 specificity about grouping for uniform rates. And I  
10 notice, Mr. Junis, that you have a lot of different  
11 options for potential grouping of regional,  
12 regionality, treatment source, type of acquisition,  
13 purchase acquisition adjustment, system age and  
14 socioeconomic status. So we're going to be looking  
15 for more specificity about how can that type of  
16 grouping be done in a way that makes sense.

17 Another thing that we're going to be asking  
18 about that we haven't heard your -- the Public Staff's  
19 that's perspective about is we have heard from the  
20 utilities that they want more direction about what is  
21 the definition or what is the criteria for a troubled  
22 or a distressed system. And as I mentioned, I believe  
23 in some previous questions we do have Commission  
24 Orders that provide some direction, but the utilities

1 say that that's not enough direction.

2 What is the Public Staff's position about  
3 whether there is enough current direction to the  
4 utilities to know what a distressed or a troubled  
5 system is and whether we need additional criteria and  
6 definition?

7 MR. JUNIS: So I think there is substantial  
8 Commission Orders speaking to this. There are a  
9 number of inputs that impact whether a system is  
10 operationally troubled or financially troubled or  
11 both, but I think there is pretty substantial guidance  
12 there. Now, to Ruffin's point, is -- do you have  
13 discretion to buck from that trend or have discretion  
14 to give your own interpretation? That's a legal  
15 question that while -- I'm not going to dive into. I  
16 think it's a great prompt for us to address it in  
17 future technical conferences. But I think there is  
18 information there.

19 I think then the other question that pairs  
20 with that is what is the implication if it is  
21 financially or operationally troubled? You still have  
22 to meet that requirement that customers either  
23 acquired or the existing customers be no worse off,  
24 right. And so where is the quantification of benefits

1 that offset the cost of that purchase acquisition  
2 adjustment? I think that's what the companies are  
3 struggling with but they're not doing it. We're not  
4 seeing a quantification of the benefits that would  
5 offset that cost. Also, it takes, pardon the pun, but  
6 two to tango. Right. We need information. We need  
7 it to be complete. We need it to be accurate. If you  
8 don't meet your burden of proof then you're not going  
9 to get the intended -- your requested outcome.

10 COMMISSIONER KEMERAIT: So Mr. Junis, I hear  
11 what you're saying. I think those are two separate  
12 legal issues that the Commission has to address about  
13 whether the system is troubled and then also  
14 considering benefits to the customers. But I think  
15 for the Order that we'll be issuing, we will be  
16 looking to determine whether additional direction is  
17 appropriate and, if so, what that direction will be.  
18 Just to give all the parties notice about one of the  
19 issues that we think is important.

20 And then about uniform rates, again, can you  
21 respond to -- I think all three of the utilities have  
22 talked about that they are in favor of more uniform  
23 rates unless there is an exceptional circumstance that  
24 would justify deviating from uniform rates. And I

1 think Carolina Water and Red Bird specifically said  
2 that over the long-term there wouldn't be  
3 subsidization of systems because all systems are going  
4 to need investment regardless at some point. And so  
5 that helps to keep investments appropriate or able to  
6 be done for perhaps the smaller systems.

7 Can you respond to that? Because I think  
8 that that's a good point, that all systems are going  
9 to be needing some type of investment.

10 MR. JUNIS: So I'm going to apologize for  
11 disagreeing with you, but I think that's one of those  
12 generalizations that it can be dangerous, that not  
13 every system needs the same level of investment.  
14 There are low-cost systems, say, a water system that  
15 is a couple of wells that has minimal chemical  
16 treatment, no physical filtration or costly treatment  
17 and, you know, that is going to be a lower cost of  
18 service system no matter if you have to replace that  
19 infrastructure. In comparison to a system that has  
20 maybe a PFAS filter or is in a location where you have  
21 more main breaks, perhaps a mountainous area, and then  
22 the same thing on the wastewater side.

23 Like Mr. Silas was describing with the  
24 lagoon systems versus the mechanical treatment, you

1 could have, say, a very modern technology but poor  
2 economies of scale system. The need to replace it  
3 over and over again, that will always be a higher cost  
4 of service than a lagoon system with good economies of  
5 scale, even if you need to replace the collection  
6 system.

7           So yes, there is a cyclical piece and  
8 there's -- but you're also deferring -- you are  
9 deflecting from or diverging from the matching  
10 principle of costs and, in some aspect, the  
11 generational costs.

12           So, I pay for insurance on -- let's say my  
13 system's new and it was contributed. So I should have  
14 a really low cost of service, right, and I should pay  
15 lower cost rates to account for that. But if I pay  
16 uniform and that's higher than my cost of service, I'm  
17 paying the insurance for potentially a future  
18 customer. Because, let's say, that distribution  
19 system needs replaced in 50 years, well I might not be  
20 a customer anymore but I paid the insurance so then  
21 they can get lower cost of service. So we've got to  
22 deal with that a little bit.

23           Ultimately, it is the Commission's policy or  
24 goal for uniform rates, then we will work around that

1 but there still needs to be some of those guiding  
2 principles about scrutiny of cost affordability. So I  
3 just want to caution that. There are implications and  
4 not every statement can be applied so uniformly. It's  
5 not a one-size-fits-all or one-shoe-fits-all.

6 COMMISSIONER KEMERAIT: So I'm going to wrap  
7 it up with two more questions and then turn it over to  
8 the Commissioners.

9 So, two more questions. We've heard from  
10 the utilities that they think that having to determine  
11 cost of service at the time of transfer has been  
12 burdensome or administratively difficult. Can you  
13 respond about whether you think it is too burdensome  
14 on the utilities to provide that information and have  
15 that be established?

16 MR. JUNIS: Okay. I think it depends on the  
17 circumstances. So, if transfer is at existing rates,  
18 typically the cost of service is not highly  
19 scrutinized because that is an approved rate. What is  
20 scrutinized in those situations is rate base to  
21 support the purchase price. Ultimately, we think that  
22 is very important because if it's supported rate base,  
23 those are costs that customers should pay for. If it  
24 necessitates a purchase acquisition adjustment, well,

1 then there should be the information to meet that  
2 criteria to receive that purchase acquisition  
3 adjustment. So it really dictates what direction  
4 you're going to go, but it is all intended to be a  
5 protection for customer rates.

6 Why should you pay, like you said -- I think  
7 you referenced it earlier -- pay twice for  
8 infrastructure. That is not effective cost making or  
9 cost ratemaking. And you also get into pancaking. So  
10 I really struggle with that.

11 Again, the seller should be motivated to  
12 provide that documentation. That should also be  
13 downward pressure on the purchase price. I understand  
14 the concept of, well, this is the 'get me out of the  
15 business price', but are you willing to accept a  
16 little bit less or this is what you're giving us  
17 documentation for? So do you need to have an  
18 eye-opening experience on how this process works? I  
19 think that's also something that we're hopeful company  
20 education stemming from the Small Water and Sewer Task  
21 Force can help address, sort of, resetting  
22 expectations of our utilities of how rates are set and  
23 also how a purchase price is supported by a net book  
24 value.



1                   COMMISSIONER KEMERAIT: Thank you,  
2 Mr. Junis. Commissioner Duffley?

3                   COMMISSIONER DUFFLEY: Good afternoon.  
4 Thank you for your thoughts today.

5                   MR. JUNIS: Good afternoon.

6                   COMMISSIONER DUFFLEY: So, the first thing I  
7 wanted to talk to you about is regionalization and  
8 obtaining more cost data regarding the service areas.  
9 How -- are all of the companies supportive of this  
10 project?

11                  MR. JUNIS: We've met some resistance on  
12 the, sort of, mapping concepts. There is concern  
13 about security which I would argue system boundaries  
14 shouldn't be a security issue. If we were trying to  
15 pinpoint infrastructure, then I could understand that  
16 to some degree, but where your service areas are, I  
17 don't believe should be a security issue and should be  
18 publicly available information. I think home  
19 buyers -- I think consumers should know who are their  
20 utility providers. And a mapping mechanism would be  
21 very helpful.

22                  COMMISSIONER DUFFLEY: So if you did obtain  
23 this map, I mean, how would the -- I heard you talk  
24 about least cost. But how would you envision the

1 Public Staff using this type of mapping?

2 MR. JUNIS: So, for example, if there was a  
3 new CPCN -- and I think I described an example last  
4 time of if there is an adjacent utility that is likely  
5 going to be the most cost-effective provider. And so,  
6 if a new utility comes to the Commission seeking a  
7 Certificate of Public Convenience and Necessity for  
8 that, well is that truly in the public need? So that  
9 scrutiny can't be done without that sort of mechanism.  
10 We've seen applications where people completely  
11 misrepresent who the closest utility is and we only  
12 know it from experience. But there's only so many  
13 eyes that have that level of familiarity with some of  
14 these systems. So that's one aspect.

15 Transfer is the same. You know, why isn't  
16 another utility involved here and starting to really  
17 question what is in the public interest. Just because  
18 you were the first to find it or if the word of mouth  
19 got out there that you're a partner or somebody that's  
20 looking to buy, well that doesn't mean necessarily  
21 that you're the least cost provider.

22 COMMISSIONER DUFFLEY: Thank you. And then  
23 going to your number, I guess it's on page 9, number  
24 6, you were going to circle back to this, but I had a

1 question about the concern. So it states the Public  
2 Staff has concerns about formulating definitions. And  
3 we heard some speakers today talk about it's not just  
4 like checking the box and you're in, it's more of  
5 putting guard rails around the issue. Can you respond  
6 to that, please?

7 MR. JUNIS: Yes. So --

8 COMMISSIONER DUFFLEY: And when you're  
9 responding, what are your specific concerns because  
10 this seems more general than maybe it could be.

11 MR. JUNIS: Okay. In terms of the  
12 efficiencies of a single consolidated application?

13 COMMISSIONER DUFFLEY: No. I'm just talking  
14 about -- yeah. So talking about definitions of a  
15 troubled system.

16 MR. JUNIS: Yeah, okay. It seemed like  
17 there was an appetite to sort of create a new  
18 definition or new category that would be eligible for  
19 some streamlined process or even a new incentive.  
20 And, you know, I'm pretty cautious about incentives  
21 because ultimately that's just a higher cost for  
22 customers so you need those matching benefits. So  
23 that's my concern of how are we going to get us to  
24 agree on definitions and parameters in this process.

1           It's essentially 3V1 on some of these issues  
2   that we don't agree on so that can be a challenging  
3   dynamic to try to get consensus on what does this look  
4   like. I did press the utilities in the stakeholder  
5   meeting. Well, what are the criteria? What are you  
6   thinking? Like, what does this look like? They  
7   turned the question back on me, but I said I'm not the  
8   one as motivated here. If you have the concern then  
9   you need to come with the potential options and then  
10   we get to scrutinize it. I don't have to  
11   solve-every-problem-for-you type of approach.

12           COMMISSIONER DUFFLEY: Okay. But getting  
13   back to the second part of the question about what's  
14   your response to, you know, it's not a checking all  
15   the boxes with the troubled systems, it's kind of  
16   getting guard rails? And tell me if I'm wrong.  
17   Public Staff has a problem with that and wants to use  
18   the existing kind of Commission Orders for that --

19           MR. JUNIS: Yeah --

20           COMMISSIONER DUFFLEY: -- just what is  
21   the -- I'm just pressing you on what --

22           MR. JUNIS: Yeah --

23           COMMISSIONER DUFFLEY: -- what's the problem  
24   with setting some guard rails?

1 MR. JUNIS: I think there's some concerns  
2 about how those will be utilized and are we, sort of,  
3 pigeon holing ourselves into a situation without  
4 considering, sort of, the unexpected consequences of  
5 that, or the bigger acquisitions. How are we defining  
6 these terms of smaller/larger? Are we -- or are we  
7 just saying troubled and what falls into some of these  
8 categories? It's hard to really get into the details  
9 without being pressed with a detailed option, if that  
10 makes sense.

11 COMMISSIONER DUFFLEY: It does. Thank you.

12 COMMISSIONER KEMERAIT: Commissioner Hughes?

13 COMMISSIONER HUGHES: It seems like we're  
14 going to keep going with this exercise and there's  
15 even plenty of opportunity for more details. So I was  
16 about to ask for late-filed exhibits and things like  
17 that. I'm not going to do that. I was just going to  
18 place, you know, a bookmark on something and then  
19 hopefully we'll hear more about it.

20 I asked about the acquisition incentive  
21 account. I kind of looked it up. I believe there  
22 are -- is literally millions of dollars of that  
23 incentive that one of our predecessor commissions  
24 created thinking that it was a functioning, useful

1 incentive. And maybe it has been functioning and  
2 useful depending on your definition but to me, when I  
3 read the terms of it, and for my new colleagues I can  
4 explain how it works later, but it's a very juicy  
5 incentive for rate base. You can -- "juicy". You  
6 can --

7 MR. JUNIS: That's a term of art I think.

8 COMMISSIONER HUGHES: Yeah. No, I think  
9 that's an official economist term for a good economic  
10 incentive. But I would like in the future to  
11 understand better both from your side and from Aqua's  
12 side why hasn't that been used more. I mean, I think  
13 that we know that what we're trying to do as far as  
14 these smaller systems is really difficult. It seems  
15 like we're going to need incentives. Carrot or stick?  
16 And you've talked about, you know, more focus on the  
17 stick. There's some general things about the  
18 incentive but I would be really curious to hear next  
19 time around some more specifics.

20 COMMISSIONER KEMERAIT: And Mr. Junis, we're  
21 not going to put you on the spot to have you answer  
22 this now. That can be something that we can consider  
23 for the next technical conference when all the parties  
24 can look into it.

1 MR. JUNIS: With one minute I can give the  
2 quick summary of how that mechanism works and then  
3 where it's at.

4 COMMISSIONER KEMERAIT: Okay. One minute,  
5 please.

6 MR. JUNIS: Ready, set, go. So the way that  
7 mechanism works is the investment that Aqua makes into  
8 one of these troubled or distressed systems that we  
9 deem as eligible for this mechanism. They get rate  
10 base treatment. Essentially \$2.00 for every dollar of  
11 improvement, which is sort of pulling down this  
12 purchase price premium. So, you get the dollar for  
13 the investment that you made recovery but then you're  
14 pulling down essentially a purchase premium that was  
15 paid, so that's sort of the acquisition adjustment  
16 that is kicking in later. That's the fast overview.  
17 And I got done in less than a minute.

18 COMMISSIONER KEMERAIT: Commissioner Tucker?

19 COMMISSIONER TUCKER: I'll do mine in less  
20 than a minute. Let me ask you something. Why do you  
21 have a problem with the transfer price and someone  
22 paying a lower cost of service and they are being  
23 charged a uniform rate?

24 Before you were born I was paying a kW rate

1 at Duke for them to improve the system so when you  
2 came along you could have power at your house at a kW  
3 price of eleven cents versus the six or seven cents I  
4 was paying. I had no choice in that matter. What's  
5 your heartburn over that in one minute or less.

6 MR. JUNIS: So, my heartburn is the matching  
7 principle of cost should then translate into rates.  
8 And so for these systems, in between rate cases, if  
9 you've been acquired and your cost of service is  
10 lower, why shouldn't you pay a lower rate until this  
11 Commission determines that it is appropriate to  
12 consolidate you into a uniform rate. At which point,  
13 again, the benefits of you paying more is shared with  
14 the other customers. That's the -- the effectuation  
15 is the key.

16 COMMISSIONER TUCKER: But back to my Duke  
17 scenario, it's the same scenario in my mind. The  
18 other thing, do you think independent testing would  
19 help determine troubled systems before it even gets to  
20 us or to you or to an acquisition point?

21 MR. JUNIS: So there are situations where  
22 independent testing is probably appropriate. I  
23 think -- you know, DEQ is trying its best. DEQ does  
24 have the ability to take special samples to confirm



1 sampling so -- if they have suspicion that this  
2 doesn't seem right. How could you have compliant  
3 water quality if none of your equipment works? That's  
4 not how treatment is supposed to function.

5 COMMISSIONER TUCKER: Okay.

6 MR. JUNIS: So when there's a scrutiny they  
7 do try but, again, with the lack of funding and --

8 COMMISSIONER TUCKER: I didn't turn it on.

9 (Referring to the microphone)

10 Would it be a quarterly or a biannual basis  
11 would be helpful or not?

12 MR. JUNIS: I think it depends.

13 COMMISSIONER TUCKER: Okay.

14 MR. JUNIS: That's a really difficult  
15 question to answer because some testing is much more  
16 frequent than others and it depends on if we're  
17 talking water or sewer. But yeah, there's a little  
18 more nuance than that.

19 COMMISSIONER TUCKER: One last question,  
20 Madam Chair.

21 Bill mentioned earlier that he was in the  
22 Legislature and I was, too, and we had to write bills,  
23 and lots of times those bills may have had some  
24 unintended consequences or something left out. But

1 why is there a concern or fear of writing out the  
2 criteria of the definition of a troubled system by  
3 Public Staff?

4 Now, you said earlier that you're not going  
5 to develop the criteria for the utilities but the  
6 utilities have to come to you and see what you think  
7 is a criteria so it's a moving target. And we talked  
8 about business certainty. Why can't you write the  
9 definition for a troubled system in this process that  
10 Madam -- that Chair Mitchell talked about getting to a  
11 consensus on between the two of you?

12 MR. JUNIS: So I could probably write them.  
13 They are probably not going to like them. So trying  
14 to build consensus, I think they are much better off  
15 coming up with the proposal and then we scrutinize it  
16 instead of the vice versa.

17 I also think -- you know, my concern is you  
18 are trying to create something and cater it to a  
19 specific set of request circumstances and you do need  
20 to try to contemplate what would be an outlier that  
21 could make this -- could be misused. Because, if  
22 you're talking about an associated incentive, how  
23 could that potentially harm customers? So, I'm just  
24 trying to do my job to protect customers.

1 COMMISSIONER TUCKER: I understand, and you  
2 do it well.

3 MR. JUNIS: Thank you.

4 COMMISSIONER TUCKER: And I appreciate that.  
5 But that's also a legislative bill that you write when  
6 you don't know what the circumstances are nor all the  
7 answers nor all the criteria and you have to put it  
8 out there and then you have to back up on it later on.  
9 So, I mean, I hope you can, in these meetings you guys  
10 can get together on what your criteria is that they  
11 wouldn't like and what their criteria is you wouldn't  
12 like and come to some sort of consensus.

13 Thank you, Madam Chair.

14 COMMISSIONER KEMERAIT: So I think we're  
15 almost very, very close to the end of the questions.  
16 We have one quick question from Commissioner  
17 McKissick.

18 COMMISSIONER McKISSICK: It's really more of  
19 a comment.

20 First, Chuck, I want to thank you for your  
21 passionate principle advocacy on behalf of the Public  
22 Staff and the Using and Consuming Public. I think  
23 you've always done an excellent job with your  
24 analysis.

1 MR. JUNIS: Thank you, sir.

2 COMMISSIONER McKISSICK: And the thing I  
3 would say, you know, obviously there may not be a  
4 meeting of the minds on some of these more contentious  
5 issues that have come up today, but to the extent to  
6 which there can be some consensus reached or at least  
7 the areas of distinction can be minimized, that would  
8 be outstanding, but I understand the whole concept of  
9 the outliers. They might be out there like the fair  
10 value proceeding. So, I mean -- you know, I get it.  
11 But thank you.

12 MR. JUNIS: And I'll just answer, you know,  
13 comment on that, that we will make a good faith  
14 effort.

15 COMMISSIONER McKISSICK: I know.

16 MR. JUNIS: These conversations are not just  
17 myself. I really do -- I mean, y'all have seen we  
18 have compromised. There are settlements even in some  
19 of the toughest cases. And the Public Staff is  
20 certainly a driver in that to hopefully reach  
21 resolutions that both protect customers and adequately  
22 balance the needs of the companies.

23 I know I'm passionate and it may seem like  
24 I'm adversarial in some aspects. There is also a

1 level of negotiation here and so I'm not going to  
2 over-give on behalf of the Using and Consuming Public  
3 when it's not necessary. I'm trying to get the best  
4 outcome for them.

5 COMMISSIONER McKISSICK: Very well stated.

6 MR. JUNIS: Thank you.

7 COMMISSIONER KEMERAIT: So I want to thank  
8 all the parties for, first of all, doing the three  
9 stakeholder meetings and coming in good faith with a  
10 lot of information to try to help us resolve these  
11 issues that are not easy to find solutions for.

12 Before we go off the record, we will be  
13 issuing an Order in the very near future because we're  
14 going to have another technical conference and, as you  
15 heard, we're going to be looking for additional  
16 information but really I think more specific action  
17 items that the Commission can then attempt to act upon  
18 to try to address some of these issues and problems.

19 So, thank you again, and we will conclude  
20 the hearing and go off the record.

21 (The proceedings were adjourned)  
22  
23  
24

## C E R T I F I C A T E

I, KIM T. MITCHELL, do hereby certify that the Proceedings in the above-captioned matter were taken before me, that I did report in stenographic shorthand the Proceedings set forth herein, and the foregoing pages are a true and correct transcription to the best of my ability.

Kim T. Mitchell  
Kim T. Mitchell