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June 15, 2023

Via Electronic Submittal

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

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

Dear Ms. Dunston:

On behalf of Aqua North Carolina, Inc. ("Aqua"), I herewith provide for filing in the above referenced docket, Aqua Response to Motion of the Public Staff for Reconsideration and for Further Relief.

If you should have any questions concerning this filing, please let me know. Thank you and your staff for your assistance.

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

pbb

Enclosures

A Pennsylvania Limited Liability Partnership

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



Fox Rothschild LLP
ATTORNEYS AT LAW

Ms. A. Shonta Dunston

Page 2

June 15, 2023

Copy to: Parties and Counsel of Record
Elizabeth Culpepper, NC Public Staff
Heather Fennell, Commission - Legal
Jessica Heironimus, NC Public Staff
Lynn Jarvis, Commission - Legal
Megan Jost, NC Public Staff
Monica Webb-Shackleford, Commission – Legal

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29. That Aqua and the Public Staff shall jointly file with the Commission within seven business days of the issuance date of this Order the WSIP Rate Year 1 Schedules of Rates, labeled as Appendix A-1, that reflect the Commission's decisions herein, for approval by the Commission. In addition, Aqua and the Public Staff shall jointly file the Bulk Purchased Water System Usage Rates and Purchased Sewer Rates, labeled as Appendix A-2; the Schedule of Connection Fees, labeled as Appendix A-3, and the Water and Sewer System Improvement Charges (reset to zero), labeled as Appendix A-4, for approval by the Commission. Upon approval by further order of the Commission, the WSIP Rate Year 1 Schedules of Rates shall be effective for service rendered on and after is Order through December 31, 2023;

2. Fulfillment of those decretal paragraphs has been hampered because the parties have not reached agreement on how to allocate capital costs for PFOS/PFOA treatment projects. Paragraph 4 within the Public Staff Reconsideration Motion states their first issue is that they "cannot calculate revenue requirements for Rate Years 1 through 3 unless PFOS/PFOA capital costs awarded by the Commission are tied to specific projects in the Company's WSIP". Aqua disagrees that the revenue requirement for Rate Years 1 through 3 "cannot" be calculated without tying to specific WSIP projects.

3. The calculation of updated revenue requirements and corresponding schedules of rates by Aqua and the Public Staff, as presented in Ordering paragraphs 28 and 29, can be calculated, but requires the Commission-determined PFOS/PFOA capital balances allowed in rate base for rate Years 1 – 3 be distributed between the two affected rate divisions, Brookwood water and ANC water. This determination may easily be accomplished using an allocation methodology and does not require that those capital balances be tied to specific projects within the Company's WSIP, particularly since the project estimates

included in the grant application to the North Carolina Department of Environmental Quality (“DEQ”) use current updated (increased) treatment cost estimates that are different (higher) than the estimates included withing the WSIP filing.

4. Aqua’s Item 28 includes PFOS/PFOA project totals by year and rate division only. It does not specifically identify the 30 individual site-specific projects and related amounts as the prioritization and determination to install treatment at each specific locations was, and is, fluid based on the development of new factors that change the prioritization of treatment to be installed by site.

5. The DEQ application requesting funding support was filed using site specific amounts that were originally planned to be completed in 2023 and 2024 and updated estimated costs. While the Public Staff desires to have the DEQ application amounts applied to offset specific PFAS treatment costs on a project-by-project (i.e., site specific) basis, attempting to apply the DEQ potential funding against specific balances in the Item 28 is not feasible as they are not comparable on a one to one basis. By requesting an assignment of costs in a manner that is not possible, and that is different from the approach taken in the Final Order, the Public Staff’s position essentially serves as a second challenge to inclusion of PFOS/PFOA treatment costs in the WSIP, despite the fact that the Final Order in large part ruled in support of Aqua’s position requesting recovery of these project costs and against the Public Staff on that issue.

6. The Final Order establishes what the Commission determined to be a reasonable level of PFOS/PFOA project costs for each year of the WSIP term. It

is not necessary to identify separate costs by specific project and specific site, especially given the possibility for offsetting funds from grant applications that were estimated at higher amounts than was included in the WSIP capital plan, and given the need for ongoing testing to determine which PFOS/PFOA treatment projects will get spending priority.

7. To facilitate Ordering Paragraphs 28 and 29, Aqua personnel conferred with the Public Staff regularly throughout the week of June 5th. On June 7, 2023, Mr. Gearhart sent Mr. Junis a file that contained what Aqua believed to be an appropriate breakdown of the PFAS capital approved per the Final Order. Mr. Gearhart later sent the Public Staff an additional two alternative methods that could have effectively been used to allocate PFOS/PFOA treatment costs over the WSIP term between the ANC and Brookwood rate divisions – allocations that were sufficient to calculate the revenue requirements and applicable rate designs for each rate division as Ordered by the Commission.

8. For example, Aqua provided the following allocation methodology using the original project estimates by rate division and year:

<u>Item 28</u>	<u>Total</u>	<u>ANC</u>	<u>Brookwood</u>
2022 (Rate Yr 1)	460,000	110,000	350,000
2023 (Rate Yr 1)	2,150,000	900,000	1,250,000
2024 (Rate Yr 2)	2,900,000	1,400,000	1,500,000
2025 (Rate Yr 3)	2,300,000	800,000	1,500,000
WSIP Total	7,810,000	3,210,000	4,600,000

Per Item 28, retirements assumed at 10% with depreciation rate of 3.86%

Rate Entity Pct	41.1%	58.9%
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The Company proposes these rate entity percentages be applied to the amounts for rate years 1 through 3.

9. Aqua believes the percentages determined using this allocation method may be easily applied to the Rate Year capital balances approved by the Commission, and would facilitate a reasonable allocation of PFOS/PFOA project costs consistent with the Commission's Final Order.

10. The Public Staff's bent for specific project certainty, in an ever changing and dynamic operating environment, is not realistic. Nor is it necessary in calculating a revenue requirement when a reasonable allocation method is available to determine how much of the costs should go to which rate division.

11. The Public Staff also states a concern with future reporting on the Performance Based Metrics (PBMs) established for Timely Completion of CIP Projects and Completion of CIP Projects on Budget as a basis for their reasoning that specific project costs by site must be identified in calculating the revenue requirement. However, regardless of the distribution of the final Commission approved PFAS project capital, the application of the potential DEQ awarded funds has no bearing on the final costs and timeliness of completion for capital projects included in the Performance Based Metrics.

12. The Public Staff's Reconsideration Motion essentially repeats the argument it previously made in rate case prefiled testimony. For example, the Public Staff WSIP panel recommended denial of the WSIP in part because of "a failure to provide supporting documentation for many of the proposed projects in the spreadsheet." That panel further submitted in prefiled testimony that "The Company's projection of costs . . . without project detail or justification underscores the disconnect between an actual investment plan intended to benefit the system

versus an aggregate spending target.” Aqua’s WSIP rebuttal panel submitted prefiled testimony to the effect that the level of detail and certainty that the Public Staff sought for specific project costs was unrealistic:

One area of frustration for the Public Staff appears to be the lack of bids, studies of specific scope with detailed material, labor, overhead and cost rates for allocation of projects in Year 2 and 3, or specific knowledge of unplanned or unexpected asset failure by system. Aqua does not have that information and cannot reasonably be expected to have this level of supporting detail for capital projections.

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In addition to bids, the Public Staff appears to want alternative analysis support for future projects. It is the Company’s understanding that the Public Staff expected that the Company would have a start date for each future project, how Aqua calculated the length of each future project, and when the Company would put the future project in service.

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The Public Staff’s expectation is unreasonable, unnecessary and unduly burdensome.

From Aqua’s perspective, the Reconsideration Motion appears to be an effort to litigate all over again an issue already decided by the Commission. The Commission decided Aqua’s recommended PFAS treatment costs were in large part reasonable for recovery, and also prescribed an amount for recovery in each Rate Year without accepting the Public Staff’s position that the recovery of PFAS treatment costs had to be identified down to the level of specific projects at specific sites.

13. The Final Order also provides in Decretal Paragraph 51:

That Aqua shall file a refund plan for the excess partial, temporary rates and charges collected from the customers, if any, in the Aqua NC Water, Aqua NC Sewer, and

Brookwood Water Rate Divisions within 30 days of the date of this Order and the Public Staff shall file a response to said refund plan no later than 60 days from the date of this Order.

Because of the delay in determining a revenue requirement and rate schedules, Aqua requests that the Commission's deadlines in Decretal Paragraphs 28, 29, 30, and 51 be extended to allow a reasonable time for compliance. Aqua suggests that the parties have until June 21, 2023, to reach agreement and file a revenue requirement with the Commission, and then another week to June 28, 2023, to file the various rate schedules, fees, and charges required in Decretal Paragraph 29, a corresponding extension for submitting customer notices per Decretal Paragraph 30, and that the Decretal Paragraph 51 refund plan, if any, be filed within 30 days of Commission order approving the customer notices, with the Public Staff's response to the refund plan being due 60 days after the refund plan is filed.

WHEREFORE, Aqua requests that the Commission (1) deny the Public Staff's Reconsideration Motion; (2) order the Public Staff to accept the PFOS/PFOA treatment cost allocations between ANC and Brookwood, as set forth in paragraph 8 above, and proceed to expeditiously develop the revenue requirements for each rate division and rate schedules in conjunction with Aqua; and (3) grant the extensions of time in paragraph 13 above.

Respectfully submitted, this the 15th day of June 2023.

Electronically Submitted

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

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing AQUA RESPONSE TO MOTION OF THE PUBLIC STAFF FOR RECONSIDERATION AND FOR FURTHER RELIEF , filed by Aqua North Carolina, Inc. in Docket No. W-218, Sub 573, has been served on each of the parties to this proceeding.

This the 15th day of June, 2023.

Electronically Submitted

/s/ David Drooz

North Carolina State Bar No. 10310

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