

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. W-1073, SUB 7
DOCKET NO. W-354, SUB 396

OFFICIAL COPY

Jan 23 2023

In the Matter of:)	
)	
Application by Carolina Water Service, Inc. of)	LAKE COMMUNITY
North Carolina and Water Resource)	PROPERTY OWNER'S
Management for Authority to Transfer the)	ASSOCIATION, INC.'S
Echota Water Utility System, the Seven Devils)	PROPOSED ORDER
Wastewater Utility System and Public Utility)	
Franchise in Watauga County, North Carolina,)	
and for Approval of Rates)	

HEARD ON: Tuesday, November 1, 2022, at 7:00 p.m., at Watauga County Courthouse, Boone, North Carolina

Thursday, December 8, 2022, at 10:00 a.m., in Commission Hearing room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina.

BEFORE: Hearing Examiner Dustin Rhodes, Presiding

APPEARANCES:

For Carolina Water Services of NC:

Jo Anne Sanford, Esq., Sanford Law Office, PLLC, 721 North Bloodworth Street, Raleigh, North Carolina 27604.

For Water Resource Management Inc.:

David T. Drooz, Esq., Fox Rothschild, LLP, 434 Fayetteville Street, Suite 2800, Raleigh, North Carolina 27601

For Lakes Community Property Owner's Association, Inc.:

Brady Allen, Esq. and Dwight Allen, Esq., Allen Law Offices, PLLC, 4030 Wake Forest Road, Suite 115, Raleigh, North Carolina 27609.

For Using and Consuming Public:

John D. Little, Esq., Public Staff, North Carolina Utilities Commission, 4326 Mail Service Center, Raleigh, North Carolina 27699.

BY THE COMMISSION: On April 22, 2022, Water Resource Management, Inc., (“WRM”) and Carolina Water Service, Inc., of North Carolina (“CWSNC”) (collectively, “Applicants”) filed a joint application for authority to transfer the assets and franchises for WRM’s Echota Water Utility System, the Seven Devils Wastewater Utility System and Public Franchise in Watauga County, North Carolina to CWSNC, and approval of rates (“Application”). The Echota Water Utility System provides service to 613 customers, and the Seven Devils Wastewater Utility System provides service to 149 customers. CWSNC’s proposed rates are uniform rates that were approved for CWSNC’s uniform water and sewer customers in Docket No. W-354, Sub 384.

On April 26, 2022, CWSNC filed a revision to Exhibit 4 of its Application. On May 9, 2022, after its review of the Application, the Public Staff filed a deficiency letter citing material deficiencies in the Application. On May 11, 2022, CWSNC filed its Second Revised Application including revised Exhibit 7 and revised Exhibit 8 to address deficiencies identified by the Public Staff.

On September 2, 2022, the Commission issued its Order Scheduling Hearings, Establishing Discovery Guidelines, and Requiring Customer Notice that scheduled a public hearing for 7 p.m. on Tuesday, November 1, 2022, at the Watauga County Courthouse in Boone, North Carolina, for the sole purpose of receiving testimony from WRM’s customers in the Echota and Seven Devils service area. The Order also scheduled an expert witness hearing for 10 a.m. on Thursday, December 8, 2022, in the Dobbs Building, 430

North Salisbury Street, Raleigh, North Carolina, for the sole purpose of receiving expert witness testimony from CWSNC, the Public Staff, and any interveners. The Order also required CWSNC to distribute customer notice to all affected customers.

On September 14, 2022, CWSNC submitted its certificate of service indicating that customer notice was mailed to all customers of the Echota and Seven Devils service areas on September 13, 2022, via United States mail, first class postage prepaid.

On October 10, 2022, CWSNC filed the direct testimony and exhibits of witness Donald H. Denton, III, Senior Vice President, East Operation for Corix Regulated Utilities and President of CWSNC.

On October 14 and 17, 2022, Edward B. Winn, Jr., and James D. Moore, III, filed petitions of intervention in this proceeding. On October 26, 2022, the Lakes Community Property Owner's Association ("Lakes Community POA") filed a petition to intervene in substitute of Mr. Winn and Mr. Moore. On October 26, 2022, the Commission issued an order granting the intervention of Lakes Community POA and allowing the withdrawal of the petitions to intervene filed by Mr. Winn and Mr. Moore.

On October 31, 2022, the Lakes Community POA filed joint testimony of Mr. Winn and Mr. Moore. Also, on October 31, 2022, the Public Staff filed the testimony and exhibit of Michael Franklin and the testimony of Lynn Feasel.

On November 1, 2022, a public witness hearing was held as scheduled at the Watauga County Court House in Boone, North Carolina, in which eight public witnesses testified. Approximately 60 customers filed written consumer statements of position.

On November 14, 2022, and November 18, 2022, WFM and CWSNC filed their reports on customer concerns that were made at the public witness hearing, respectively.

Also on November 14, 2022, CWSNC filed the rebuttal testimony of Donald H. Denton, III.

On December 5, 2022, the Public Staff filed its responses to WRM and CWSNC's reports on customer's concerns from the public witness hearing.

On December 8, 2022, an expert witness hearing was held as scheduled, in which witnesses Denton, Moore, Winn, Feasel and Franklin testified.

Based upon the Application, the testimony and exhibits received into evidence and the entire record of this proceeding the Commission makes the following:

FINDINGS OF FACT

1. CWSNC presently serves approximately 34,672 water customers and 21,530 sewer customers in North Carolina and operates approximately 93 water systems and 38 sewer systems in the state. CWSNC's record of service is satisfactory.

2. WRM holds a Certificate of Public Convenience and Necessity ("CPCN") pursuant to Commission Order to provide water and wastewater utility service in Watauga County, North Carolina. Currently, WRM currently services 613 monthly flat rate water utility customers and 149 monthly flat rate wastewater utility customers in its service areas in Watauga County. The WRM water service area includes Echota Subdivision, Echota on the Ridge Subdivisions, Echota East Ridge Subdivision and Phase 4 of Echota Subdivisions (collectively, "Echota"). The WRM wastewater service area includes the Top of the Seven Condominiums, the City Hall for Seven Devils, the Seven Devils Lake Resort Club, one

residential customer, the Lakes Community, Hawks Peak Condominiums, the Villas at Hawks Peak, and Hawks Peak South Condominiums (collectively, “Seven Devils”).

3. Although WRM owns the water and sewer systems, CWSNC was retained by WRM beginning on September 16, 2021, to serve as the contract operator of the water and sewer systems which the Company now seeks to purchase.

4. WRM and CWSNC entered into an Asset Purchase Agreement (“APA”) whereby CWSNC agreed to purchase WRM’s water and wastewater utility system assets for a purchase price of \$70,000. In addition to the purchase price of \$70,000, CWSNC agreed to make additional payments of \$706 per new customer connection up to 184 connections for future Echota phase IV lots. CWSNC is also incurring due diligence costs which are currently estimated to be \$45,000, which are attributed to the water system.

5. The present water utility rates charged by WRM were approved in Docket No. W-1073, Sub 4, on December 16, 2015, and Docket No. W-1073, Sub 6, on March 26, 2021. The present wastewater utility rates for the Seven Devils service area were approved in Docket Nos. W-1073, Sub 5, and M-100, Sub 138, and have been in effect since February 13, 2015.

6. CWSNC proposed initially to charge its uniform rates from Docket No. W-354, Sub 384, for flat rate residential service for both water and wastewater utility service, which have been in effect since April 8, 2022. On rebuttal, CWSNC proposed to phase-in to the Sub 384 uniform water and wastewater rates over three years. The present and proposed rates for Echota and Seven Devils are as follows:

<u>Monthly Flat Rate Service</u>	<u>Present</u>	<u>Proposed After 36 Months</u>
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Water (Echota)	\$20.00	\$68.71
Wastewater (Seven Devils)	\$28.20	\$85.12

7. On October 31, 2022, the Public Staff filed testimony with rate design calculations shown in Franklin Exhibit 1 that established the revenue requirement for the Echota water system and Seven Devils sewer system at \$247,709 and \$66,261, respectively. The Public Staff's recommended water and wastewater service rates are as follows:

	<u>Recommended</u>
Monthly Flat Rate Utility Service:	
Water	\$33.67
Wastewater	\$37.06
Monthly Metered Water Utility Service	
Base Charge, zero usage	\$13.50
Usage Charge, per 1,000 gallons	\$ 7.80
Reconnection Charges	
If water service cut off by utility for good cause	\$42.00
If water service is discontinued at customer's request	\$42.00
If sewer service cut off by utility for good cause	Actual Cost

8. The Public Staff recommends that CWSNC be required to post a \$50,000 bond for the Echota service area and the Seven Devils wastewater service area consistent with the considerations identified in N.C. Gen. Stat. § 62-110.3.

9. The Public Staff also contends that the incentive payment is for future

connections and should not be included in the rate base until the connections to Echota Phase IV are implemented.

10. CWSNC has the technical, managerial, and financial capacity to own and operate the Echota water system and the Seven Devils wastewater system and subject to the limitations and rate approvals outlined herein, transfer of the systems to CWSNC is in the public interest.

11. The rates recommended by the Public Staff are just and reasonable and should be adopted, that CWSNC is required to post a \$50,000 bond for the Echota service area and the Seven Devils service area, and that the incentive payments should not be included in the rate base until connections to Echota Phase IV are implemented.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT 1 – 5

The evidence for these findings of fact is contained in the Application, the Commission's records, and the testimony of CWSNC witness Denton and Public Staff witness Franklin. This information provides an overview of the acquisition, the operation of CWSNC and WRM, and is uncontroverted.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT 6 – 9

The evidence for these findings of fact is contained in the Application, the testimony of CWSNC witness Denton and Public Staff witnesses Franklin and Feasel. This information provides an overview of the proposals and recommendations set forth by CWSNC and the Public Staff, and is uncontroverted

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT 10

The evidence for this finding of fact is contained in Application, the testimony of CWSNC witness Denton, Public Staff witness Franklin, the testimony of Lakes Community POA witnesses Moore and Winn.

CWSNC witness Denton testified that the Company presently serves approximately 34,672 water customers and 21,530 sewer customers in North Carolina and operates approximately 93 water systems and 38 sewer systems in the State. The Company's service territory spans 38 counties in North Carolina. Tr. Vol. 2, 25. N.C. Gen. Stat. § 62-131(b) requires that every public utility in North Carolina shall provide service to its customers which is adequate, efficient, and reasonable. In CWSNC's most recently decided rate case in Docket No. W-354, Sub 384, the Commission, consistent with N.C. Gen. Stat. § 62-131(b) described the overall quality of service provided by the Company as adequate, reliable and economical. *Id.* Witness Denton testified that the adequacy of the quality of water and sewer service provided by CWSNC was further indicated by the fact that, upon recommendation of the Public Staff, the Company has been appointed to serve on multiple occasions as the emergency operator of water and sewer systems. *Id.* at 26.

CWSNC witness Denton testified that the public interest and public convenience and necessity will be served by approval of the transfer because the water and sewer systems currently owned by WRM are in operational and financial difficulties. WRM has indicated to CWSNC a need to sell this system. *Id.* at 31. Additionally, witness Denton testified that CWSNC has been serving at the contract operator of the water and sewer systems since September 16, 2021. Denton states the customers served by WRM have already benefitted from CWSNC service based on the Company's current operational

oversight and expertise. *Id.* at 32. Additionally, witness Denton states both sets of customers, including WRM's current customer and CWSNC's uniform rate customers, will experience the advantages of operating within a uniform group of ratepayers which includes smoother rate adjustments, regulatory and operational cost efficiencies, and shared access to support vital capital needs. *Id.* at 35.

Public Staff witness Franklin testified that based on review of NOV's and penalties issued by NCDEQ and the lack of significant customer complaints on water quality and customer service issues that WRM is providing safe and reliable service to its customers in the Echota water system and Seven Devils wastewater system. *Id.* at 159. On behalf of the Public Staff, witness Franklin recommended the Commission approve the transfer of WRM's public utility franchise to CWSNC, subject to the rates recommended by the Public Staff. *Id.* at 167.

Lakes Community POA witnesses Moore and Winn did not specifically object to the transfer of the sewer system to CWSNC. However, they expressed concerns on the magnitude of the rate increase proposed by CWSNC upon the transfer. *Id.* Upon cross-examination, Lake Community POA witness Moore testified the Lakes Community POA did not care who ends up owning the sewer system, so long as it is run properly, and the rates are cost-effective. *Id.* at 118. Witness Moore also agreed that having the system in the hands of CWSNC or a similar organization is a superior solution than having it in the hands of a developer, who by definition, is not a professional wastewater operator. *Id.* at 121.

On rebuttal, CWSNC witness Denton reiterated that the water and sewer system are in operational difficulty and will benefit from the significant financial and local operational resources and expertise which CWSNC will provide, as a well-run and well capitalized public utility able to provide consistently safe, reliable and compliant service. *Id.* at 209.

The Commission concludes CWSNC has the technical, managerial and financial capacity to own and operate the Echota water system and the Seven Devils wastewater system. The Commission recognizes no party in this proceeding disputes CWSNC's ability to operate WRM's systems and acknowledges that CWSNC has been the contract operator for the systems since September 16, 2021. Subject to the limitations outlined herein, including the rates approved herein, the Commission concludes that the transfer of the systems to CWSNC is in the public interest.

EVIDENCE AND CONCLUSION FOR FINDING OF FACT 11

The evidence for this finding of fact is contained in the Application, the testimony of CWSNC witness Denton, Lakes Community POA witnesses Moore and Winn, and Public Staff witnesses Franklin and Feasel.

Bond Amount

Public Staff witness Franklin recommended a bond of \$50,000 for the Echota service area and the Seven Devils wastewater service area consistent with the considerations identified in N.C. Gen. Stat § 62-110.3. *Id.* at 166. These considerations include the number of water and wastewater franchises CWSNC holds in North Carolina, CWSNC's record of operation, the number of customers CWSNC serves in North Carolina and the condition of the Echota water utility and Seven Devils wastewater utility systems.

Currently, CWSNC has \$190,000 in unassigned bond coverage filed with the Commission. *Id.* at 166-167. In response to a question from the Hearing Examiner, CWSNC witness Denton stated CWSNC had no issue with that bond amount. *Id.* at 232. The Commission concludes based on the testimony of witness Franklin, the considerations required by N.C. Gen. Stat. § 62-110.3, and the agreement of the Company that a bond of \$50,000 for the Echota service area and the Seven Devils wastewater service area is reasonable, appropriate, and should be approved.

Incentive Payments

CWSNC witness Denton testified CWSNC agreed to make additional payments of \$706 per new customer connection to WRM for up to 184 connections as an “incentive payment” for future Echota phase IV lots. CWSNC requests rate base treatment for these incentive payments as those payments are made and new customers are added to the water system. *Id.* at 28. Public Staff witness Franklin explained the incentive payment allows the developer to recoup some costs associated with installing infrastructure for new customers while providing CWSNC the opportunity for additional customers. The additional customers provide a benefit to existing customers by spreading expense and water utility costs among more customers. *Id.* at 164. The Public Staff generally agrees with CWSNC’s position. However, since the incentive payment is for future connections, the Public Staff recommends that it should not be included in the rate base until the connections to Echota Phase IV are implemented. *Id.* at 165. On rebuttal, witness Denton stated there is no difference of opinion for the ratemaking treatment of the incentive costs between the Public Staff and the CWSNC. *Id.* at 203. The Commission concludes that it is appropriate to

include the incentive payment in rate base as a cost of service once the connections are implemented and new customers are added to the water system, as recommended by the Public Staff. .

Approval of Rates

CWSNC and WRM's application seeks Commission authority to transfer the water and wastewater utility systems and public utility franchise serving all of WRM service area in Watauga County, North Carolina from WRM to CWSNC and for approval of rates. The application proposed to increase the monthly flat rate service from \$20.00 to \$68.71 for the Echota water system customers and proposed to increase the monthly flat rate service from \$28.20 to \$85.12 for the Seven Devils sewer system customers. As described in witness Denton's direct testimony, CWSNC proposes to charge the Company's Sub 384 Commission approved Uniform Rates for flat rate residential service for both water and wastewater utility service that were approved by the Commission on April 8, 2022. *Id.* at 30.

CWSNC witness Denton testified that the water and sewer rates currently being charged by WRM to its customers are exceptionally low and do not generate sufficient revenue to ensure adequate and timely capital investments in the systems or to support essential operational and maintenance activities. *Id.* at 34. The Application shows that for calendar year 2021 WRM's water system operations incurred a loss of approximately \$450,000 and its sewer system operations showed a profit of approximately \$9,500. Based on annual reports filed with the Commission, Witness Denton stated WRM's combined

water and sewer operations resulted in a loss of \$264,997 in 2020 and a loss of \$81,569 in 2019. *Id.*

Witness Denton testified that although the water and sewer customers currently being served by WRM will incur significant rate increases under CWSNC's currently-approved rates, it is fair and imperative to consider the fact that the existing rates being charged by WRM have historically been and continue to be very low, and that the resulting low utility revenues are logically to be considered as reasons for the declining operation structure, the financial instability that has beset this company, and the impact on and the need for the incumbent owner to exit the business. *Id.* at 35. Additionally witness Denton states if rates are properly set and rate base is correctly determined for the Echota and Seven Devil systems, then CWSNC's existing customer base will also benefit from the Company's customer growth because of this proposed acquisition and the resulting economies of scale. *Id.* at 36.

Describing the operational difficulties of the water and sewer system, witness Denton testified that in early 2021, the Echota water system was under duress and was unable to keep up with customer demand. WRM discovered a significant leak in one of its major supply lines that had apparently been leaking for years. The utility had to truck in water to meet demand at a cost of approximately \$230,000. This situation also caused the wells in the system to over-pump and draw air. *Id.* at 32. As for the Seven Devils sewer system, witness Denton testified that after CWSNC became a contract operator a sewer manhole was discovered to be overflowing. *Id.* at 32-33. To the best of CWSNC's knowledge, there have been no major operational issues affecting the Echota Water system

or the Seven Devils sewer system since the Company assumed operational responsibility in September 2021. *Id.* at 33. Witness Denton testified that having one sewer manhole overflow is not by itself an indication that a system is in need of an emergency operator. *Id.* at 55.

Witness Denton stated the benefit of Seven Devils wastewater system customers going to the uniform rate is that those customers are part of that collective uniform rate. At some point, the Seven Devils sewer system is going to have a major capital infusion required at some unknown point in the future. When that time occurs, witness Denton states Seven Devil customers will have the benefit of being part of that collective and will not bear the burden of that capital infusion by themselves. *Id.* at 58. However, in response to a question from counsel for the Lakes Community POA, witness Denton acknowledged that he did not disagree that if CWSNC triples the rates of the residents of the Lakes Community, in excess of their unique cost of service, they would be subsidizing CWSNC's uniform sewer customers. *Id.* at 59.

Lakes Community POA witnesses Moore and Winn opposed the rate increase proposed by CWSNC, stating the effect is to implement a more than threefold increase in current rates from \$28.20 a month to \$85.12. They stated this increase will be implemented without the benefit of their cost of service being included in any general proceeding of CWSNC, providing an immediate increase in revenue based on one input without a corresponding analysis of other aspects of the Company's cost of service. *Id.* at 93. Witness Moore and Winn testified that their analysis reveals that the rates proposed by CWSNC were higher in comparison to other providers and noted that CWSNC has some

rates that do not conform to the uniform rate. Witness Moore and Winn testified that magnitude of the increase justifies an exception for the uniform rate because to do otherwise would provide a windfall to CWSNC. *Id.* at 93-94.

Witnesses Moore and Winn testified that in its application CWSNC did not forecast any major improvements, additions, or replacements during the first five years. They stated it is not reasonable to punish customers for a decision by WRM to maintain lower rates. *Id.* at 95. With regard to the benefits of economies of scale that may be provided upon the transfer, witnesses Moore and Winn testified that they see no service or economic benefits inuring to the benefit of Lakes Community. Witnesses Moore and Winn note that CWSNC appears to have some of the highest sewer rates in the state, which can negate any economies of scale argument that CWSNC makes. *Id.* Upon cross-examination from counsel for CWSNC, witness Winn stated that the Application shows operating expenses increasing from \$40,000 per year up to \$67,000 per year. Therefore, it appears that instead of demonstrating any economies of scale, the Application shows an increase in operating costs. *Id.* at 116. Witness Winn also testified that the Application indicated the existing sewer system may have a useful life for 40 additional years, which if that is the case, a portion of the customer class may never realize those economies of scale. *Id.* at 129.

In their testimony, witnesses Moore and Winn noted in the “Statement of Cash Flows – Sewer Operations” on the Addendum to the Application a purchase price of \$69,720 for the system with no assumption of debt, and the Application states no capital expenditures are forecasted by CWSNC in years 0-5 for major improvements/additions or replacements. Based on CWSNC’s proposed rates, witnesses Moore and Winn stated the

cash flows show that CWSNC will realize a 1-year payback of their investment, which in their opinion is clearly excessive because few business cases contemplate a complete recovery of an investment within one year. *Id.* at 102-103.

Witness Moore and Winn testified that if the rates proposed by CWSNC in the upcoming 3-year rate case under Docket No. W-354, Sub 400 are approved and the incremental increases are applied to the Seven Devils Wastewater system, the Seven Devils monthly wastewater bill will exceed \$110 in three years. This nearly four-fold increase from the current rate would occur even though CWSNC, according to its Application, does not plan to invest in any capital improvements in the Seven Devils system for the next 5 years. *Id.* at 103.

Public Staff witness Michael Franklin stated that the existing Echota water system serves approximately 613 customers, and the Seven Devils wastewater system serves approximately 149 customers. *Id.* at 153. Witness Franklin made a site visit to both properties and did not find the systems to be under any operational stress. *Id.* at 169. He said that the Consumer Services Division of the Public Staff did not receive any customer complaints from July 1, 2019 until August 31, 2022, for either system. *Id.* at 158.

Witness Franklin provided a schedule of rates for each system, which reflected both present and proposed monthly rates for Echota and Seven Devils, which are as follows:

<u>Monthly Flat Rate Service</u>	<u>Present</u>	<u>Proposed</u>
Water	\$20.00	\$68.71 ¹

¹ Mr. Franklin also discussed plans to convert the Echota water service to measured rates. Because the Lake Community POA is not served by the Echota water system, the issue of metered rates is not addressed in this Proposed Order.

Wastewater	\$28.20	\$85.12
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Id. at 159-160. Witness Franklin adopted the revenue requirement developed by Public Staff witness Lynn Feasel for the Echota water system of \$247,709 and \$66,261 for the Seven Devils wastewater system. *Id.* at 161. Based on the revenue requirements developed by Ms. Feasel, Mr. Franklin recommended that the uniform rates for CWSNC should not be used in this proceeding but that the following standalone monthly rates should be approved:

<u>Monthly Flat Rate Service</u>	<u>Water</u>	<u>Wastewater</u>
	\$33.67	\$37.06

Id. at 163

According to witness Franklin, the purchase price for both systems was \$70,000, subject to certain prorations and adjustments set forth in the Asset Purchase Agreement (“APA”). In response to a data request from the Public Staff, CWSNC stated that the purchase price consisted of \$57,599 for the Echota water system and \$12,401 for the Seven Devils wastewater system. Witness Franklin compared the purchase prices to the original cost net investment of each system and concluded that the amount to be included in rate base is \$67,200. *Id.* at 163-164.

In its initial application, witness Franklin stated that the only capital improvement identified by CWSNC was \$300,000 for Advanced Metering Infrastructure (“AMI”) for the Echota water service area. No capital improvements were identified for the Seven Devils wastewater system. Subsequent to the filing of the application and approximately one year after assuming operational obligations for the systems and six months after this

transfer application, CWSNC increased its estimates for AMI meter conversion and identified approximately \$175,000 in needed capital investments for the Seven Devils wastewater system. *Id.* at 165-166. On cross-examination, witness Franklin acknowledged that a significant portion of the proposed capital investments for the wastewater system were made for cosmetic or internal safety reasons and not to improve operational efficiencies for customers. *Id.* at 171-173.

In concluding his testimony, witness Franklin recommended that the transfer of the system be approved at the rates recommended by the Public Staff and that AMI meters be installed within one year of CWSNC taking ownership of the Echota water system. *Id.* at 167.

Public Staff witness Lynn Feasel presented the methodology used and the results of her revenue requirements determination for both the Echota water system and the Seven Devil wastewater system. In developing the revenue requirements, Witness Feasel used the rate of return approved by the Commission in CWSNC’s most recent general rate increase (Docket No. W-354, Sub 384). Based on her analysis, including adjustments, Witness Feasel found the original cost net investment of the two systems to be as follows:

<u>Echota Water</u>	<u>Seven Devils Wastewater</u>
\$53,651	\$13,549

Id. at 134-136. Witness Feasel also considered the due diligence costs identified by CWSNC and the depreciation rates found determined by rate base for each system to be as follows:

<u>Echota Water</u>	<u>Seven Devils Wastewater</u>
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\$61,656

\$13,549²

Id. at 135-137.

In response to cross-examination from the parties and questions from the Hearing Examiner, witness Feasel testified that she did not favor the phased in approach of rates proposed by the CWSNC because the rate proposals are arbitrary and not based on the determination of the Company's revenue requirement. She stated that an accurate revenue requirement could not be determined without further analysis of additional information and a determination of the reasonableness of the Company's costs. *Id.* at 146. Witness Feasel recommends the adoption of the standalone rates for this proceeding because the uniform rates would produce a return to CWSNC, which is much higher than that justified by the revenue requirement. *Id.* at 148.

After careful consideration of the rate proposals offered by the Public Staff and CWSNC and the responses to questions posed by the parties and the hearing examiner at the December 8, 2022 evidentiary hearing and the testimony from the public witness hearing on November 1, 2022, the Commission finds and concludes that the rates recommended by the Public Staff are just and reasonable and should be adopted.

In making its decision, the Commission observes that the inputs that led to the uniform rates in Docket No. W-354, Sub 384 did not include any cost of service components of the Seven Devils wastewater system or the Echota Water system. The Commission agrees with Lakes Community POA witnesses Moore and Winn that

² CWSNC did not identify any due diligence costs for the Seven Devils wastewater system.

providing an immediate increase in revenue based on one input without a corresponding analysis of other aspects of the Company's cost of service is inappropriate.

The Commission understands that the benefit of being part of a uniform rate is that customers of an individual system do bear the total burden of capital costs needed to repair and eventually replace a system. However, this must be balanced with the economic burden to be placed on consumers and to avoid the inevitable result of rate shock. The Commission notes that in the Application CWSNC only capital improvement identified by CWSNC was \$300,000 for Advanced Metering Infrastructure ("AMI") for the Echota water service area and no capital improvements were identified for the Seven Devils wastewater system. On direct, CWSNC increased its estimates for AMI meter conversion and separately identified approximately \$175,000 in needed capital investments for the Seven Devils wastewater system. However, the Commission agrees with the Public Staff that a significant portion of the proposed capital investments for the wastewater system are not being made to improve operational efficiencies for customers. Furthermore, the Application suggests, as pointed to by Lakes Community POA witness Winn, that the remaining life of the plant is anticipated for an additional 40 years. Therefore, the need to immediately install CWSNC uniform rates upon the approval of this transfer has not been shown and to the extent such need may arise the issue can be decided in a future general rate case.

In considering a transfer application, the Commission does not view the disparity of the rates between the two utilities as a justification for a rate increase. All utilities, big and small, have a right to seek rate increases. The fact that WRM chose not to pursue rate increases does not justify doubling or tripling rates upon the transfer of its systems to a

third party. The evidence provided by CWSNC appears to show that the Echota water system incurred losses in recent years. However, based on the Application, the Seven Devils sewer system appears to have been profitable as recently as 2021, which is six years after its rates were decreased in Docket Number W-1073, Sub 5 on February 13, 2015. This further demonstrates that a threefold rate increase is unnecessary at this time. Although CWSNC apparently wishes to review these systems on a combined basis, the Commission concludes that a reasonable business practice requires that the financial performance of the two systems must be viewed as separate units. To do otherwise would prevent the Company from determining systems that are underperforming and result in unnecessary cross-subsidies between customer classes and even types of services. In the final analysis, once the transaction is closed, CWSNC can file a standalone rate case for the two systems if it concludes it is necessary to recover its costs and earn an appropriate return. While that may require more initiative on the part of CWSNC, the Company is familiar with the process and that is a superior remedy to requiring the customers of the Echota water system and Seven Devils sewer system to pay rates significantly in excess of the underlying cost to provide service. This is particularly true because the costs of the two systems have not been subject to the scrutiny of a general rate case review as North Carolina law requires.

The Commission recognizes and appreciates CWSNC's willingness to phase-in the uniform rates over a 36-month period to address customer concerns of rate shock. However, the Commission rejects CWSNC's assertion that tripling rates over a three-year period, instead of immediately, adequately addresses customer concerns of rate shock. The

Commission agrees with Public Staff witness Feasel that such an approach results in rates being set arbitrarily and not based on the determination of the Company's revenue requirement.

The Commission is persuaded that the Public Staff's methodology for determining stand alone rates for the Echota water system and the Seven Devils sewer system is most appropriate because the revenue requirement is calculated by the actual incurred expenses and capital cost by the Company. The systems subject to this transfer have never been included in a general rate case of CWSNC and thus, never subjected to the scrutiny inherent in a general rate case review. In developing the revenue requirements, witness Feasel used the rate of return approved by the Commission in CWSNC's most recent general rate increase (Docket No. W-354, Sub 384). Based on her analysis, including adjustments, witness Feasel found the original cost net investment of the two systems to be as follows:

<u>Echota Water</u>	<u>Seven Devils Wastewater</u>
\$53,651	\$13,549

Witness Feasel also considered the due diligence costs identified by CWSNC and the depreciation rates found determined by rate base for each system to be as follows:

<u>Echota Water</u>	<u>Seven Devils Wastewater</u>
\$61,656	\$13,549 ³

The Commission concludes the adoption of the standalone rates is appropriate for this proceeding because the uniform rates would produce a return to CWSNC, which is much higher than that justified by the revenue requirement of the systems being transferred.

³ CWSNC did not identify any due diligence costs for the Seven Devils wastewater system.

When a uniform rate is determined the Commission, the revenue requirement for that uniform rate includes all the systems under that uniform rate. The uniform sewer and water rate established in Docket No. W-354, Sub 384 did not include the revenue requirements of the Echota water system and Sewer water system. In other words, the combination of the expenses for the systems under uniform rates should reflect the actual expenses. Imputing the CWSNC's uniform water and sewer rate to WRM's customer does not reflect actual expenses of the Echota water system and Seven Devils sewer system.

IT IS, THEREFORE, ORDERED as follows:

1. That WRM is authorized to transfer its Echota Water Utility System, the Seven Devils Wastewater Utility System and Public Utility Franchise to CWSNC.

2. That CWSNC is granted a Certificate of Public Convenience and Necessity to provide water service to service areas including Echota Subdivision, Echota on the Ridge Subdivisions, Echota East Ridge Subdivision and Phase 4 of Echota Subdivisions and sewer service to service areas including the Top of the Seven Condominiums, the City Hall for Seven Devils, the Seven Devils Lake Resort Club, one residential customer, the Lakes Community, Hawks Peak Condominiums, the Villas at Hawks Peak, and Hawks Peak South Condominiums upon the closing of the transfer.

3. That CWSNC shall post a \$50,000 bond, in a form acceptable to and approved by the Commission, prior to closing.

4. That WRM's surety bond held by the Commission shall be released to WRM upon receipt of written notification to the Commission that closing of the transfer of the assets has been completed.

5. That the schedule of rates, consistent with this Order, will be is authorized to become effective for service rendered on and after the date of the closing of the transfer of the assets.

6. That CWSNC shall provide written notice of the change in ownership to all customers within 10 days of the transfer of the assets and closing.

7. That the Certificate of Public Convenience and Necessity granted to WRM is cancelled effective on the date CWSNC files with the Commission written notification that closing of the transfer of the assets has been completed.

ISSUED BY ORDER OF THE COMMISSION.

This the 23rd day of January, 2023.

NORTH CAROLINA UTILITIES COMMISSION

Erica N. Green, Deputy Clerk

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the Petition to Intervene of the Lake Community Property Owner's Association, Inc. has been served by electronic mail (e-mail), hand delivery, or by depositing a copy in the United States Mail, first class postage prepaid, properly addressed to parties of record.

This, the 23rd day of January, 2023



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