

HARKERS ISLAND SEWER COMPANY  
PO Box 370  
Harkers Island, NC 28531

October 3<sup>rd</sup>, 2017

McGuire Woods, LLP  
300 N. Third Street  
Suite 320  
Wilmington, NC 28401

Dear Mr. McGuire:

I am in receipt of your inquiry regarding the status of public sewer service for the James Creek Subdivision on Harkers Island, NC.

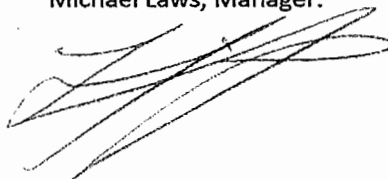
The following facts should bring some clarity to the outdated information used in your initial assessment.

During the foreclosure process conducted by Bank of NC, (BNC) of James Creek Subdivision, (JC) the Utility Co. and Developer appealed in writing to the BNC official and BNC's legal counsel to allow for the ownership of the land designated within the James Creek Subdivision for the proposed waste water treatment facility to serve (JC) to remain in the control of Harkers Island Sewer Company, (HISCO). The appeal never warranted a reply from either representative, thus HISCO had no choice but to notify the NC regulatory bodies of the cancellation of permits and the reduction in capacity in which HISCO controlled. The notification process of capacity reduction was conducted and acknowledged by North Carolina Division of Natural resources officials, as well as North Carolina Utility Commission, (NCUC) officials were notified. This obviously resulted in (JC) loss of public sewer service rights as far as HISCO was concerned and again both agency was notified of that fact with permit cancellation and explanation of land loss explained as reasons for the cancellation.

To date HISCO has no capacity to serve (JC). However, it is normal protocol for the subdivision requiring the sewer service to pay all cost associated with the specific sewer service. HISCO does own the land needed for public sewer service to serve (JC) within the main treatment facility it operates on Island Road a short distance away and would be glad to offer public sewer for JC.

The Utility's Engineer would establish the estimated cost for the needed capacity. The cost established by the Engineer would then be submitted to the NCUC for verification of fairness as to being industry standards in pricing. See attached R-10-12(3)(c) for regulations regarding subdivision service. Also, regarding the subdivision's development; Carteret County Subdivision regulations require public utilities to be utilized when available and the normal procedure explained above does constitute availability. I trust this helps with your assessment and stand ready to help with public sewer service for (JC).

Sincerely,  
Michael Laws, Manager.



**Rule R10-12. EXTENSION OF MAINS.**

(a) General Provisions.

- (1) A bona fide customer as referred to in subsections (b) and (c) hereinafter shall be a customer of permanent and established character, exclusive of the real estate developer or builder, who receives sewer service at a premises improved with structures of a permanent nature.
- (2) Any facilities installed hereunder shall be the sole property of the utility.
- (3) The size, type, quality of materials, and their location will be specified by the utility, and the actual construction will be done by the utility or by a constructing agency acceptable to it.
- (4) Adjustment of any difference between the estimated cost and the reasonable actual cost of any collection system extension made hereunder will be made within 60 days after the actual cost of the installation has been ascertained by the utility.
- (5) In case of disagreement or dispute regarding the application of any provision of this rule, or in circumstances where the application of this rule appears impracticable or unjust to either party, the utility, application or applicants may refer the matter to the Utilities Commission for settlement.
- (6) Extensions for temporary service will not be made under this rule.

(b) Extensions to Service Individuals.

- (1) The utility will extend its sewer collection system to serve new bona fide customers at its own expense, other than to serve subdivisions, tracts, housing projects, industrial or residential developments, or organized service districts, when the required total length of the sewer collection system extension from the nearest existing sewer collection system is not in excess of 100 feet per service connection. If the total length of the sewer collection system extension is in excess of 100 feet per service connection applied for, the applicant or applicants for such service shall be required to advance to the utility before construction is commenced that portion of the reasonable estimated cost of such extension over and above the estimated reasonable cost of 100 feet of the sewer collection system extension per service connection, exclusive of the cost of service connections and exclusive of any costs of increasing the size or capacity of the utility's existing facilities used or necessary for supplying the proposed extension. The money so advanced will be refunded by the utility without interest in payments equal to the reasonable actual cost of 100 feet of the sewer collection system extension, for which advance was made for each additional service connection, exclusive of that of any customer formerly served at the same location. Refunds will be made within 180 days after the date of first service to a bona fide customer. No refunds will be made after a period of 5 years from the date of completion of the sewer collection system extension, and the total refund shall not exceed the amount advanced.
- (2) Where a group of five or more individual applicants request service from the same extension, or in unusual cases after obtaining Commission approval, the utility at its option may require that the individual or

individuals advance the entire cost for the sewer collection system extension as herein provided and the utility will refund this advance as provided in subsection (c)(2) of this rule.

- (3) In addition to refunds made on the basis of service connections attached directly to the extension for which the cost was advanced as provided in subdivision (1) of this subsection, refunds also will be made to the party or parties making the advances in those cases where additional bona fide customers are serviced by a subsequent sewer collection system extension, supplied from the original extension upon which an advance is still refundable, whenever the length of such further extension is less than 100 feet per service connection. Such additional refunds will equal the difference between the 100-foot allowance per service connection and the length of each required subsequent extension multiplied by the average cost per foot of the extension used as the basis for determining the amount advanced. In those cases where subsequent customers are served through a series of such sewer collection system extensions, refunds will be made to the party or parties making the advances in chronological order beginning with the first of the extensions in the series from the original point of supply, until the amount advanced by any parties fully repaid within the period of 5 years as specified above. In those cases where two or more customers have made a joint advance on the same extension, refunds will be made in the same proportion that each advance bears to the total of said joint advance. Where the utility installs a sewer collection system larger than that for which the cost was advanced to serve an individual or individuals, and a subsequent extension is supplied from such sewer collections systems, the original individual or individuals will not be entitled to refunds which might otherwise accrue from subsequent extensions.

(c) Extensions to Serve Subdivisions, Tracts, Housing Projects, Industrial or Residential Developments or Organized Service Districts.

- (1) An applicant for a sewer collection system extension to serve a new subdivision, tract, housing project, industrial, or residential development, or organized service district shall be required to advance to the utility before construction is commenced the estimated reasonable cost of installation of such facilities, including the estimated reasonable cost associated with the installation of any reasonable and prudent amount of excess capacity, if any, upon approval by the Commission. If additional facilities are required specifically to provide service exclusively for the service requested, the cost of such facilities may be included in the advance upon approval by the Commission.
- (2) The funds so advanced will be subject to refund by the utility without interest to the party or parties entitled thereto. The total amount so refunded shall not exceed the amount advanced. Refunds will be made under the following method:

Proportionate Cost Method:

For each service connection directly connected to the extension, exclusive of that of any customer formerly served at the same location, the utility will refund within 180 days after the date of first service to a bona fide customer that portion of the total amount of the advance which is determined from the ratio of the allocated capacity of the sewer facilities acquired to the total allocated capacity of the sewer facilities for which the cost was advanced. No refunds will be made after a period of 5 years from the date of completion of the main extension.

(NCUC Docket No. S-100, Sub 1, 8/23/67; NCUC Docket No. W-100, Sub 6, 4/18/88.)