

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. W-218, SUB 573

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of  
Application by Aqua North Carolina, Inc., 202 )  
MacKenan Court, Cary, North Carolina 27511, for ) MOTION OF THE PUBLIC  
Authority to Adjust and Increase Rates for Water ) STAFF FOR  
and Sewer Utility Service in All Its Service Areas ) RECONSIDERATION AND FOR  
in North Carolina and for Approval of a Water and ) FURTHER RELIEF  
Sewer Investment Plan )

NOW COMES the Public Staff, by and through its Executive Director, Christopher J. Ayers, and respectfully moves the North Carolina Utilities Commission (Commission) to reconsider its Order Approving Partial Settlement Agreement and Stipulation, Deciding Contested Issues, Approving Water and Sewer Investment Plan, Granting Partial Rate Increases, and Requiring Customer Notice issued on June 5, 2023, in Docket No. W-218, Sub 573 (Sub 573 Order) as it relates to the allocation of PFOS/PFOA project costs by rate year and rate division. In support of this motion, the Public Staff respectfully shows the Commission:

1. Finding of Fact 77 from the Commission's Sub 573 Order states:

Based on Aqua's modification of the capital projects for the bridge period of September through December of 2022 and parts of Rate Year 1 (2023) proposed in its Form W-1, Item 28 of the WSIP, the updated amounts for PFOS and PFOA projects included in the WSIP totaled \$7,703,928, and consist of \$353,928 in 2022, \$2,150,000 in 2023, \$2,900,000 in 2024, and \$2,300,000 in 2025. (Sub 573 Order, 22)

Finding of Fact 84 states:

For purposes of establishing rates in the WSIP period, it is reasonable and appropriate to include in rate base the PFOS/PFOA project costs of \$353,928 incurred by Aqua in the last quarter of 2022 and a portion of the

total costs projected by Aqua, which is \$3,974,325 for Rate Years 1-3 as part of the WSIP capital projects. These project costs totaling \$4,328,253 should be included for purposes of calculating revenue requirements in the following Rate Years: Rate Year 1: \$1,328,253; Rate Year 2: \$1,500,000; and Rate Year 3: \$1,500,000. (*Id.* at 23)

Finding of Fact 87 states:

It is reasonable and appropriate for Aqua to establish a regulatory liability on its books for review in Aqua's next general rate case to accumulate the customer benefits related to the actual receipt of state and federal funding related to PFOS/PFOA capital projects in excess of \$3,375,675 for which Aqua applied to NCDEQ by the May 1, 2023 application due date as well as any other state and federal funding received for capital projects included in the WSIP. Aqua should also establish a regulatory liability account to accumulate any settlement funds received from its current litigation with the manufacturers of PFAS for review in Aqua's next general rate case proceeding. (*Id.*)

In the Discussion and Conclusions for Findings of Fact 73 through 89 regarding PFOS/PFOA projects, the Commission states:

In its [First Aqua Report filed on May 10, 2023, in Docket No. M-100, Sub 164], Aqua stated that Aqua has filed two applications requesting project funding (via grant and/or loans) for \$3,375,675 from NCDEQ Division of Water Infrastructure by the May 1, 2023 application due date. Aqua further stated that one application requested \$2,343,800 for the installation of treatment systems for PFOS/PFOA at four wells of concern located in its Brookwood service area and the second application requested \$1,031,875 for the mitigation of PFOS/PFOA at two wells in Aqua[s] Wyntree and Willow Hill service areas. Aqua commented that Wyntree will be provided with treatment for both PFOS/PFOA and iron and manganese, and Willow Hill will be interconnected to an adjacent water system. (*Id.* at 90-91)

2. In Ordering Paragraphs 28 through 33, the Commission directs Aqua and the Public Staff to work together to file with the Commission within seven business days the revenue requirements for the Base Case and Rate Years 1 through 3 of the Company's Water and Sewer Investment Plan (WSIP), Schedules of Rates for Rate Years

1 through 3 for Aqua's five rate divisions, Notices to Customers, and other related information.

3. After the Commission issued the Sub 573 Order, the Public Staff and Aqua met and exchanged information needed to calculate revenue requirements pursuant to Ordering Paragraph 28. In the course of calculating the revenue requirements, the Public Staff identified two issues regarding allocation of PFOS/PFOA project costs by rate year and rate division.

4. The first issue is that the amounts allocated to each Rate Year of the WSIP do not correspond to specific capital projects from the Item 28 that Aqua filed with its WSIP application, which lists all the capital projects included in the Company's WSIP. For example, the Commission determined that \$1,328,253 should be included for the purpose of calculating the WSIP revenue requirement for Rate Year 1, but Aqua's WSIP includes just \$353,928 in PFOS/PFOA projects in Rate Year 1 for which the Company did not apply for funding from NCDEQ.<sup>1</sup>

The Public Staff 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. Further, the current allocation of PFOS/PFOA project costs by Rate Year will result in customers paying for \$974,325 in capital spending in Rate

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<sup>1</sup> Aqua included in its WSIP for Rate Year 1 \$1,250,000 for the installation of treatment systems for PFOS/PFOA at four wells in its Brookwood service area and \$900,000 for the mitigation of PFOS/PFOA at two wells in Aqua's Wyntree and Willow Hill service areas. As noted in the Commission's Discussion and Conclusions for Findings of Fact 73 through 89 regarding PFOS/PFOA projects, Aqua applied to NCDEQ for \$2,343,800 in funding for the Brookwood service area project and \$1,031,875 in funding for the Wyntree and Willow Hill projects.

Year 1 for which there is no corresponding project in Aqua's WSIP. The current allocation is contrary to Commission Rule R1-17A(d), which provides:

Establishment of Annual Revenue Requirement. – The Commission shall establish the annual revenue requirement for each Rate Year of a Water and Sewer Investment Plan. The annual revenue requirement for each Rate Year may include *reasonably known and measurable capital investments* and anticipated reasonable and prudent expenses, provided the Commission finds the Plan results in rates that are just and reasonable and are in the public interest, and meets the other criteria of G.S. 62-133.1B. (Emphasis added)

5. The second issue identified by the Public Staff is that the Sub 573 Order does not specify how the \$4,328,253 in PFOS/PFOA project costs to be included for purposes of calculating revenue requirements should be allocated among Aqua's ANC Water and Brookwood rate divisions where the projects included in Aqua's WSIP are located. The Public Staff cannot calculate the revenue requirements and design Schedules of Rates for Aqua's various rate divisions without this information.

6. The Public Staff further notes that, if the amounts allowed in rates are not directly tied to specific WSIP projects listed in Aqua's Item 28, including estimated cost, in service date, and rate division, there will likely be complications in implementing the Timely Completion of CIP Projects and Completion of CIP Projects on Budget metrics established by the Commission in the Sub 573 Order, and in performing the earnings test required as part of the WSIP Annual Review.

WHEREFORE, the Public Staff moves:

1. That the Commission reconcile the costs for PFOS/PFOA projects the Commission (1) directed be included for the purposes of calculating revenue requirements and (2) accounted for by the applications for funding from NCDEQ with

specific projects listed in the Company's WSIP, thereby allocating the costs by Rate Year and rate division;

2. That the Commission establish a new deadline for filing revenue requirements, and a new deadline, seven business days after the new deadline for filing revenue requirements, for filing Schedules of Rates, Notices to Customers, and the other information required to be filed by Ordering Paragraphs 28 through 33 of the Sub 573 Order; and

3. For such other and further relief as the Commission may deem just and proper.

This the 13th day of June, 2023.

PUBLIC STAFF  
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Electronically submitted  
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CERTIFICATE OF SERVICE

I certify that I have served a copy of the foregoing Motion on all parties of record in accordance with Commission Rule R1-39, by United States mail, postage prepaid, first class; by hand delivery; or by means of facsimile or electronic delivery upon agreement of the receiving party.

This the 13th day of June, 2023.

Electronically submitted  
/s/ Megan Jost