

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. W-354, SUB 399

In the Matter of	)	REBUTTAL TESTIMONY TO THE
Application by Carolina Water Service, Inc.	)	TESTIMONY OF CHARLES JUNIS ON
of North Carolina, 5821 Fairview Road,	)	BEHALF OF THE PUBLIC STAFF-
Suite 401, Charlotte, North Carolina 28209,	)	NORTH CAROLINA UTILITIES
for a Certificate of Public Convenience and	)	COMMISSION BY
Necessity to Provide Water Utility Service	)	TOMMY BURNS
to the Carteret County Water System, and	)	COUNTY MANAGER OF
for Approval of Rates	)	CARTERET COUNTY
	)	NORTH CAROLINA

Now comes Tommy Burns and in rebuttal of the Charles Junis testimony dated, March 10, 2023, testifies as follows:

1. On page 21, line 10-12, Mr. Junis testifies “The County Management is capable and has shown the ability to improve its Water Fund financial outlook while also managing a County-wide budget of over \$163M.” This is initially misleading. The County may have a General Fund amount close to this stated amount, but under Governmental Fund Accounting Standards, one fund has no bearing on the other; that is, an Enterprise fund of the County is required to be “siloeed” into its own fund. It is not and cannot be mixed into other funding sources. Simply stated, the General Fund has no bearing on the Water Fund. They are separately accounted for. The clear distinction here is that for bonding purposes, it is highly likely that the County could be bond rated on its General Fund at AA+ but its Water fund could be assessed junk status. The two funds are not interchangeable or interoperable. Transfers from one to the other are subject to audit findings and highly criticized by the Local Government Commission as discussed later in the rebuttal. In short, there is a lack of understanding of governmental accounting on the part of the Public Staff, in part, the County presumes because few if any cases of

this nature have appeared before the Utilities Commission. Summarily, the relevance of the County General Fund has no bearing or significance to the Water Fund and should be given no credence in the setting of rate base for the acquiring utility.

2. Page 29, line 3-17, Mr. Junis states “However, it remains to be determined whether the issuance of a CPCN, including approval of rates, and associated sale of the system are in the public interest. The County Water System is not troubled in the sense that the utility assets are beyond their useful life, there are serious or widespread environmental compliance issues, there is a lack of capital funding, or the County lacks technical, managerial, and/or financial expertise and capabilities.”

The County has lacked the technical and managerial expertise and capabilities due to staffing challenges for some time, especially in finding a certified operator for the system. This necessitated the need to find immediate help from CWSNC in providing technical and managerial expertise on the system. The sale of the distressed Water System will have a positive impact far beyond just the rate payers on the water system, but also upon the 71,000 Carteret County tax payers who have, unfairly, subsidized the water system of 1,200 customers throughout the years.

Additionally, there is a lack of capital funding available to the water system in that the County has not been able to include in user charges, sufficient revenues to support a Capital Fund. If accumulated depreciation had been fully funded by the County, along with full capital replacement costs, the rate payers would pay astronomical rates for County water service. Simply put, there are not enough rate payers to spread the user charges across to fully fund this aspect of the water system. It is hard for the County to justify keeping a fledgling system “at all costs”. The State of North Carolina has also

realized economies of scale in utility systems by encouraging merger, regionalization and acquisitions as noted in the funding priorities of the Viable Utility Fund. “Funding available in the Viable Utility Reserve...to evaluate merger, regionalization, and decentralization opportunities” (Designation of Distressed Utility Unit Letter to Chairman Wheatly, page 3). It is clear the Local Government Commission wants Utility systems to be viable and fully funded and if its not feasible to do so, then they support merger, regionalization and other means of transfer to utility providers who can provide an economy of scale to these distressed water systems.

3. Page 38, Lines 17-25 and Page 39 Lines 1-3, Mr. Junis testifies that the Commission should deny the CPCN to provide water utility services for several reasons with which the County disagrees. 1) Contrary to Mr. Junis’s testimony, the acquisition will not have an adverse impact on rates. CWSNC has already agreed to a four-year rate freeze at the current established rate. The County itself, given the challenges associated with being a distressed system, cannot even guarantee the rates as they are presently. Additionally, the County is not governed by any rate change restrictions and could raise the raise each month if necessary. In fact, the customers are more protected from rate increases with a private utility company than they would be with a local government owned utility. The County is not governed by nor subject to any rate reviews or approvals by the NC Utilities Commission. If the County were to continue operating the system, a combination of substantial rates and tax increases would result, thereby impacting the customers on a much greater scale. The County was labeled by the Local Government Commission, a distressed system in 2022, due to criteria and evaluation using a set of parameters (Attached). In reviewing the parameters and assessment

criteria, the Local Government Commission, who the County answers to for all things financial and audit in nature, sets forth a number of benchmarks that the County could **never** (emphasis added) meet for this water system. For instance, the County can never meet the density per square mile requirement. Lack of development, environmental limitations and permitting regulations will prevent large parts of the water system area from being developed now or in the future. In Mr. Junis's testimony he would have you believe that the distressed system status is just an "administrative in nature" designation, and not a huge deal (Page 23, line 12). It is far more than that. There are punitive measures for units of government who continually remain in a distressed status (i.e. educational requirements for Boards and staff to attend regarding how to successfully manage utility systems). Mr. Junis references (page 23, line 11-16) in his testimony that the system is not troubled in the sense that the Public Staff uses that phrase. Again, this is not comparing "apples to apples" The distressed system status is a designation applied by the Local Government Commission, not the Utilities Commission or Public Staff and the different entities could very well have conflicting benchmarks or evaluations criteria. Other Local Government Commission benchmarks include the transfers in from other funds to subsidize this system. Historically, this system has always relied on Carteret County tax payers from across the County, who are not customers of this system, to subsidize the operation of the water system. Additionally, when a district water tax was implemented, the system was then subsidized by Carteret County tax payers who were/are not customers of this system. Additionally, while there may be access to grants and loans for capital improvement, there are no funds to subsidize the operation of the system, which is where this system

is failing. Monies are available to fund rate studies, merger/regionalization/acquisition studies and the like but none to financially subsidize the financial operation of this system. Due to the lack of development density in the area, the miles of line comprising this system, and the lack of current and future development, this system cannot be sustained by the County. By Public Staff's own assessment, the system assets (capital in nature) are "well-maintained". The capital assets of the system, based on evaluations by Public Staff, Draper Aden and the County, are not the problems with this system. In short, contrary to Public Staff's opinion, distressed system status is not a good thing for the local government. The distressed status is very serious and akin to an audit finding and "black eye" on the local government entity.

4. At page 40, lines 4-14, Mr. Junis suggest that the County hold the proceeds of the sale in trust for hardship or subsidy or credit CSWNC that amount to subsidize the rate base. This suggestion alone is an overreaching suggestion by the Public Staff and has no weight or validity. Governmental funds are public funds, and must be used for the public benefit. The sale of government owned assets would generate public funds that would be spent on public purposes. These funds shall be used for the benefit of the Carteret County tax payer, which includes both the customers of the system and the others across the water district and the County who have subsidized the system for years. The very essence of having an elected board, elected by the citizenry, to do the public good, is infringed upon by Public Staff's opinion that they may know better than the local elected official what the majority of the local citizenry needs and desires. Local Government has always been the branch of government that is closest to the

people---no entity knows the needs of the local citizens better than the duly elected Board of Commissioners.

Additionally, the Carteret County customers of the acquiring utility would still have the same access to hardship programs that assist with utility payments through the Carteret County Department of Social Services, and other groups that assist with hardships, as they do currently under the County's ownership.

Respectfully submitted, this the 27<sup>th</sup> day of March, 2023

Tommy Burns  
County Manager of Carteret County

VERIFICATION

Tommy Burns, being duly sworn, deposes and says: that he is the County Manager for Carteret County; that he is familiar with the facts set out in the attached Rebuttal testimony, filed in NCUC Docket No. W-354 Sub 399; that he has read the foregoing testimony and knows the contents thereof; and that the same is true of his knowledge except as to those matters stated therein on information and belief, and as to those he believes them to be true.

Tommy Burns  
Tommy Burns

Sworn to and subscribed before me this  
the 27 day of March, 2023

Lori R. Turner  
Notary Public

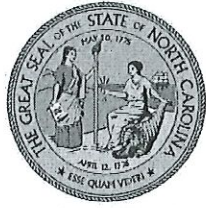
LORI R TURNER  
NOTARY PUBLIC  
Carteret County  
North Carolina  
My Commission Expires May 18, 2026

My Commission Expires: 5/18/2026

ROY COOPER  
Governor

ELIZABETH S. BISER  
Secretary

SHADIESKAF  
Director



NORTH CAROLINA  
Environmental Quality

August 8, 2022

Chairman Ed Wheatly  
Carteret County  
302 Courthouse Square  
Beaufort, NC 28516

Manager Tommy Burns  
Carteret County  
302 Courthouse Square  
Beaufort, NC 28516

RE: Designation of Distressed Unit in the Viable Utility Program for the Water/Wastewater Utility

Dear Chairman Wheatly and Manager Burns:

This notice is to follow up on the letter you received in April 2021 regarding Carteret County's potential designation as a distressed unit. Last spring, Carteret County met or exceeded the threshold for potential designation as a distressed unit under the Viable Utility Program in the recent assessment of public water and wastewater utility providers across the state as directed by North Carolina General Statute (NCGS) 159G-45. At the time, Carteret County was put on hold pending further assessment. Information on the state-wide assessments is provided below.

In the most recent assessment, Carteret County has a score of 9, which again meets or exceeds the threshold of eight points for a single system (water or wastewater) or nine points for a combined water/wastewater system. The attached scorecard shows the points assigned and data used for each of the assessment criteria. An information sheet describing each of the criteria is also attached.

**As Carteret County has now exceeded the designation threshold for two assessments, Carteret County has been designated as a distressed unit under the Viable Utility Program by the State Water Infrastructure Authority (Authority) and the Local Government Commission (Commission) under Identification Criterion 3.**

Units designated as distressed must complete a number of actions as required by statute as outlined below, and are eligible for grant funding under the Viable Utility Reserve.



North Carolina Department of Environmental Quality | Division of Water Infrastructure  
512 N. Salisbury Street | 1633 Mail Service Center | Raleigh, North Carolina 27699-1633  
919.707.9160



### **Viable Utility Program Background**

Session Law 2020-79 (SL 2020-79) was enacted July 1, 2020 to foster the viability of public water and wastewater operations across the state by identifying distressed local government units (LGUs) and providing a process for developing viable water/wastewater utilities.

*Assessment Criteria:* Several critical areas for determining when a water/wastewater utility is considered a distressed unit were outlined in SL 2020-79. Using those provisions, the Commission and the Authority worked together to adopt assessment criteria comprising financial, organizational and infrastructure components. Details on the assessment criteria and their use in scoring LGUs are provided in the attached information sheet.

*Identification Criteria:* The Commission and Authority have designed a process to identify distressed units and then work with these units to determine each unit's current conditions, consider viable options that may be available, and work with the unit on the implementation of long-term solutions. The Commission and the Authority use the following Identification Criteria for identifying distressed units:

1. A unit whose fiscal affairs are under the control of the Commission pursuant to its authority granted by NCGS 159-181 ("under Commission fiscal control"), or
2. A unit that has not submitted its annual audits to the Commission for the last two (2) fiscal years as required by NCGS 159-34, or
3. A unit with a total assessment criteria score that:
  - a. Equals or exceeds 9 for units providing both drinking water and wastewater services, or
  - b. Equals or exceeds 8 for units providing only one service, either drinking water or wastewater, or
4. A unit for which other information is available to or known by the Commission or the Authority that reflects and is consistent with, but does not expressly appear in, the assessment criteria to account for situations in which the assessment criteria score does not wholly or accurately reflect a system's level of risk due to the limitations of available data.

Units designated as distressed must complete a number of actions as required by statute. The statutory requirements of distressed units are defined in NCGS 159G-45(b) and provided below:

1. Conduct an asset assessment and rate study, as directed and approved by the Authority and the Commission.
2. Participate in a training and educational program approved by the Authority and the Commission for that distressed unit. Attendance is mandatory for any governing board members and staff whose participation is required by the Authority and the Commission.



3. Develop an action plan, taking into consideration all of the following:
  - a. A short-term and a long-term plan for infrastructure repair, maintenance, and management.
  - b. Continuing education of the governing board and system operating staff.
  - c. Long-term financial management to ensure the public water system or wastewater system will generate sufficient revenue to adequately fund management and operations, personnel, appropriate levels of maintenance, and
  - d. Any other matters identified by the Authority or the Commission.

While there are statutory requirements for distressed units, there also are opportunities for continuing to move forward on long-term solutions. Grant funding provided in the Viable Utility Reserve established in NCGS 159G-22 may be available to help conduct an asset assessment and/or a rate study if needed to meet the requirements, as well as to evaluate merger, regionalization, and decentralization opportunities in the development of an action plan to ensure a long-term, viable water utility for your community. Funding for construction projects is also available. Applications for the Fall funding round are due September 30, 2022. Application training will be available this summer. Dates and registration information are available on the Division website: <https://deq.nc.gov/about/divisions/water-infrastructure/i-need-funding>

Additional information about the Viable Utility Program is available on the Division's website at <https://deq.nc.gov/about/divisions/water-infrastructure/viable-utilities>.

Should you have any questions about this notice, please contact Susan Kubacki, with the Division of Water Infrastructure at 919-707-9181 or [susan.kubacki@ncdenr.gov](mailto:susan.kubacki@ncdenr.gov).



Shadi Eskaf  
Chair, State Water Infrastructure Authority  
Director, Division of Water Infrastructure  
Department of Environmental Quality



Sharon Edmundson  
Secretary, Local Government Commission  
Deputy Treasurer  
Department of State Treasurer



## Unit Assessment Criteria Scorecard – 2022 Scores

**Unit Name: Carteret County**

**Total Score: 9**

**Type of System (Water/Sewer): DW**

As required by Session Law 2020-79 (SL 2020-79). The Local Government Commission (LGC) and State Water Infrastructure Authority (Authority) have developed criteria to identify local governments that may be struggling to provide water and/or sewer services. Assessment criteria include parameters required by the statute, infrastructure and organizational issues, and indicators of financial strain. This score card shows the points your unit scored and the data values used to determine those points. The attached Unit Scorecard Explanation provides additional information about each of the parameters that contribute to the score. Units providing both water and sewer service and scoring 9 or more points, or units providing only a single service and scoring 8 or more points are considered at risk of being designated distressed under the new law.

Statutory Points				
Criteria	Service Population	Debt Service Coverage Ratio	Transfers Out	Transfers In
Points Scored	1	1		1
Value Used	2930	0.25	0	5

Infrastructure/Organizational Points									
Criteria	Afford-ability	UAL Control	DW Compliance	WW / CS Compliance	Flow Moratorium	DW Pop / Mile	Sewer Pop / Mile	Rate (2022 inside) \$/5000 gal	Revenue Outlook
Points Scored						1		1	
Value Used	2			WW: CS:		51	DW Only	DW: \$107.45 WW: \$0 Combined: \$0	Population Change: 1% (also considers rates)

Financial Points						
Criteria	Surplus (deficit) w/ Debt	No Debt DSCR Test	% Depreciated	Operating Margin	Quick Ratio	Receivables Ratio
Points Scored	2		1	1		
Value Used	Surplus w/Debt: \$(178,896) W/\$1Million Test if No Debt:		54%	(0.41)	2.5	Ratio: 1.3 Trend: 0.0

## Assessment Criteria Summary 2022 Assessment

Parameter	Total Possible Points	Description	Other Notes	Data Source
Service Population	1	Identifies smaller systems. Point scored for systems serving less than 10,000 people.	This is a statutorily required criterion.	Varied
Debt Service Coverage Ratio (DSCR)	1	Measures unit's ability to cover loan payments after paying for day to day operations. Measured by looking at revenue, expenses, and loan payments (principal and interest). Calculated as (Operating revenues-operating expenses excluding depreciation) / (principal + interest payments)  Point scored if value is less than 1.1.	Over 70% of utilities have a DSCR greater than 1.1.  This is a statutorily required criterion.	Calculated from 2021 Audit data
Transfers Out	1	May indicate that revenue generated by the utilities is not being used for utility expenses.  Point scored when money is transferred out of the system's dedicated utility fund in 2 or more of the last 5 fiscal years if the system also has a negative surplus in the fiscal year of the transfer, or if the system has no debt and there is a negative surplus with debt service for a \$1 million "test" project.	This is a statutorily required criterion.	Calculated from 2021 Audit data
Transfers In	1	Indicates that the system is not generating enough money to cover expenditures.  Point scored when money is transferred into the primary water/sewer fund from other sources in 2 or more of the last 5 years.	This is a statutorily required criterion.	Calculated from 2021 Audit data
Affordability	1	Recognizes a service area's population change rate, poverty rate, median household income (MHI), unemployment rate, and property valuation per capita to established state benchmarks. <b>Note that the benchmark values are updated every year.</b>  <u>Current Benchmarks:</u> Population change: 4.42% Poverty rate: 14.0% MHI: \$52,413 Unemployment rate: 4.0% Property valuation per capita: \$107,620  Point scored if 4 or 5 of these indicators are worse than the state benchmark.		American Community Survey, Employment Security Commission, and Dept. of Revenue
UAL Control Issues	3	The UAL identifies units whose audits indicate that they may have accounting issues contributing to financial risk.  Points scored for systems that have been identified by the LGC as medium risk (2) or high risk (1) of accounting control issues		LGC

Parameter	Total Possible Points	Description	Other Notes	Data Source
DW Compliance	1	Identifies units with DW system compliance issues.  Point scored if system has more than 5 MCL violations in a 5-year period or has ongoing treatment technique violations.		NC DEQ-DWR
WW / CS Compliance	1	Identifies units with wastewater treatment or collection system compliance issues.  <ul style="list-style-type: none"> <li>• WW: Point scored if either in the top 10% for number of violations in a 5-year period, or a combination of in the top 20% for number of violations in a 5-year period and more than 50% of inspections document violations for wastewater treatment operations.</li> <li>• CS: Point scored if either the following occur: <ul style="list-style-type: none"> <li>○ The system is in the top 10% of systems for the number of SSO violations in a 5-year period and the top 20% for the number of SSOs per mile of collection system, or</li> <li>○ The system is in the top 20% of systems for the number of SSO violations in a 5-year period and the top 10% for the number of SSOs per mile of collection system.</li> </ul> </li> </ul>		NC DEQ-DWR
Flow Moratorium	4	Points scored when the system is under a moratorium preventing service expansion due to inability to treat wastewater or because the system has reached 90% of permitted capacity.		NC DEQ-DWR
DW Pop/ Mile	1	Evaluates population density, measured as service population divided by miles of water line. Lower density areas tend to face more service challenges.  Point scored for density lower than 100		
Sewer Pop/ Mile	1	Evaluates population density, measured as service population divided by miles of sewer line. Lower density areas tend to face more service challenges.  Point scored for density lower than 100		
Rates	1	High rates indicate that a system is unlikely to be able to increase rates to improve revenue.  Point scored when inside rates for 5,000 gallons are greater than \$100/month for combined water and sewer service; \$50/month for water service only; and \$60/month for wastewater service only.		EFC
Revenue Outlook	4	Reflects unit's ability to generate income in the future while recognizing affordability issues.  Points scored when the system has high rates (see above) AND declining population.		EFC rates; source of population varies

Parameter	Total Possible Points	Description	Other Notes	Data Source
Surplus (deficit) w/ Debt	2	Identifies systems that are not generating enough revenue to cover expenditures including debt payments.  Points shored when number is less than or equal to \$0, indicating insufficient funds to cover expenses. Calculated as Operating Revenues-((Operating Expenses - Depreciation) + Long-term Debt Service)	Approximately 75% of utilities have revenue exceed expenditures.	Calculated from 2021 Audit data
No Debt DSCR Test	1	Similar to the DSCR calculated above but includes \$1 million "test" project if system has no debt to evaluate the unit's ability to finance a simple project with a loan.  Point scored if less than 1.1.		Calculated from 2021 Audit data
% Depreciated	1	Evaluates the financial impact of wear and tear on water and sewer assets as they age and how much service life is left.  Point scored if greater than 50%.	Approximately 70% of utilities have depreciation less than 50%.	Calculated from 2021 Audit data
Operating Margin	1	Indicates the system's ability to generate enough revenue to cover operating expenses including depreciation.  Point scored if the operating margin is less than 0. Calculated as (Operating Revenue - Operating Expenses) / Operating Revenue	Approximately 50% of utilities have an operating margin greater than 0.	Calculated from 2021 Audit data
Quick Ratio	1	Indicates whether a system is able to meet short-term financial obligations with cash or easily accessible funds by comparing current assets to liabilities.  Point scored if less than 1.1.	Approximately 95% of utilities have a quick ratio greater than 1.1.	Calculated from 2021 Audit data
Receivables Ratio	1	Measures how well the system is collecting money from customers.  Point scored for 3-year average greater than or equal to 2.3 or if there is an increase of greater than or equal to 0.2 in each of the last two years which demonstrates a declining trend in bill payment.	Over 85% of utilities have a receivables ratio less than 2.3 or less than a 0.2 increase in each of the last two years.	Calculated from 2021 Audit data

List of Acronyms		
CS = Collection System	DWR = Division of Water Resources	SSO = Sanitary Sewer Overflow
DEQ = Dept. of Environmental Quality	EFC = Environmental Finance Center	SWIA = State Water Infrastructure Authority
DSCR = Debt Service Coverage Ratio	LGC = Local Government Commission	WW = Wastewater (sewer)
DW = Drinking Water	LWSR = Local Water Supply Plan	UAL = Unit Assistant List generated by LGC to identify communities that may have problems with accounting procedures identified through audits
DWI = Division of Water Infrastructure	MCL = Maximum Contaminant Level	

## Distressed Unit Identification Criteria

The State Water Infrastructure Authority and Local Government Commission adopted the following Identification Criteria to be used to identify distressed units:

1. A unit whose fiscal affairs are under the control of the Commission pursuant to its authority granted by G.S. 159-181 (“under Commission fiscal control”), or
2. A unit that has not submitted its annual audits for the last two (2) fiscal years to the Commission as required by G.S. 159-34, or
3. A unit with a total Assessment Criteria (see Attachment 1) score that:
  - a) Equals or exceeds 9 for units providing both drinking water and wastewater services, or
  - b) Equals or exceeds 8 for units providing only one service, either drinking water or wastewater, or
4. A unit for which other information is available to or known by the Authority or Commission that reflects and is consistent with, but does not expressly appear in, the Assessment Criteria to account for situations in which the Assessment Criteria score does not wholly or accurately reflect a system’s level of risk due to the limitations of available data.