



**NORTH CAROLINA
PUBLIC STAFF
UTILITIES COMMISSION**

July 6, 2023

Ms. A. Shonta Dunston, Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4300

Re: Docket Nos. W-354, Sub 411 and W-1148, Sub 22 – Application for Authority to Transfer the Mountain Air Water and Wastewater Utility Systems and Public Utility Franchise in Yancey County, North Carolina, and to Approval of Rates

Dear Ms. Dunston:

Attached for filing on behalf of the Public Staff in the above-referenced docket is the testimony and exhibit of D. Michael Franklin, Public Utilities Engineer, Water Sewer, and Telephone Division.

By copy of this letter, I am forwarding a copy to all parties of record by electronic delivery.

Sincerely,

Electronically submitted
/s/ Elizabeth D. Culpepper
Staff Attorney
elizabeth.culpepper@psncuc.nc.gov

/s/ James Bernier, Jr.
Staff Attorney
james.bernier@psncuc.nc.gov

Attachments

Executive Director
(919) 733-2435

Accounting
(919) 733-4279

Consumer Services
(919) 733-9277

Economic Research
(919) 733-2267

Energy
(919) 733-2267

Legal
(919) 733-6110

Transportation
(919) 733-7766

Water/Telephone
(919) 733-5610

CERTIFICATE OF SERVICE

I certify that a copy of this Testimony has been served on all parties of record or their attorneys, or both, in accordance with Commission Rule R1-39, by United States mail, first class or better; by hand delivery; or by means of facsimile or electronic delivery upon agreement of the receiving party.

This the 6th day of July, 2023.

Electronically submitted
/s/Elizabeth D. Culpepper
Staff Attorney

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. W-354, SUB 411

DOCKET NO. W-1148, SUB 22

In the Matter of
Application by Carolina Water Service,)
Inc. of North Carolina, 5821 Fairview)
Road, Suite 401, Charlotte, North)
Carolina 28209 and Mountain Air)
Utilities Corporation, Post Office Box)
1090, Burnsville, North Carolina)
28714, for Authority to Transfer the)
Mountain Air Water and Wastewater)
Utility Systems and Public Utility)
Franchise in Yancey County, North)
Carolina, and for Approval of Rates)

**TESTIMONY OF
D. MICHAEL FRANKLIN
PUBLIC STAFF – NORTH
CAROLINA UTILITIES
COMMISSION**

JULY 6, 2023

1 **Q. Please state your name, business address, and present**
2 **position.**

3 A. My name is D. Michael Franklin. My business address is 430 North
4 Salisbury Street, Dobbs Building, Raleigh, North Carolina. I am a
5 Public Utilities Engineer with the Water, Sewer, and Telephone
6 Division of the Public Staff – North Carolina Utilities Commission
7 (Public Staff).

8 **Q. Briefly state your qualifications and duties.**

9 A. My qualifications and duties are included in Appendix A.

10 **Q. What is the purpose of your testimony?**

11 A. The purpose of my testimony is to provide the North Carolina Utilities
12 Commission (Commission) with the results of my investigation of
13 specific areas of the application filed on September 26, 2022, by
14 Carolina Water Service, Inc. of North Carolina (CWSNC) in Docket
15 No. W-354, Sub 411 and Mountain Air Utilities Corporation
16 (Mountain Air or MAUC) in Docket No. W-1148, Sub 22, seeking
17 authority to transfer the water and wastewater utility systems and
18 public utility franchise serving the Mountain Air Development in
19 Yancy County, North Carolina, from Mountain Air to CWSNC and
20 approval of rates (the Joint Application). I also discuss my
21 recommendation as to whether the transfer is in the best interest of
22 the using and consuming public.

1 My investigation included review of customer complaints, Notices of
2 Violation and Notices of Deficiency issued by the North Carolina
3 Department of Environmental Quality (NCDEQ), and expenses and
4 plant in service with the assistance of the Public Staff Accounting
5 Division.

6 **Q. Please describe the service area and water and wastewater utility**
7 **systems.**

8 A. On May 4, 2021, in Docket No. W-1148, Sub 20, the Commission
9 issued an Order Appointing Emergency Operator and Requiring
10 Customer Notice (Emergency Order) appointing CWSNC as
11 Emergency Operator of the Mountain Air water and wastewater utility
12 systems effective May 10, 2021. As Emergency Operator of Mountain
13 Air water and wastewater utility systems, CWSNC currently serves 483
14 monthly metered rate water utility customers, 438 monthly flat rate
15 wastewater utility customers, and 21 monthly metered wastewater
16 utility customers in the MAUC service area located in Yancey County.
17 The water system consists of five deep wells with separate water
18 treatment plants serving wells 1, 2, 3, 7, and 8. The water system also
19 includes one 200,000-gallon and one 150,000-gallon ground storage
20 tanks and a distribution system in a service area with major elevation
21 gradients. The wastewater system is comprised of a collection system
22 including 29 lift stations, with the majority being duplex pump stations,

1 and the wastewater transported to an interconnection with the Town of
2 Burnsville for bulk treatment by the Town.

3 **Q. Have you inspected the Mountain Air water and wastewater**
4 **systems and, if so, what were your observations?**

5 A. Yes, I have inspected the systems twice. The first inspection occurred
6 in June 2021, shortly after CWSNC was appointed Emergency
7 Operator. The second inspection occurred on June 14, 2023, when I
8 was accompanied by Evan Houser of the Public Staff's Water, Sewer,
9 and Telephone Division, Molly Watson of the NCDEQ Public Water
10 Supply Section, and Daniel Boss of the NCDEQ Division of Water
11 Resources. Also present were various CWSNC personnel and the
12 president of the Mountain Air Property Owner's Association.

13 CWSNC has made noticeable improvements to both the water and
14 wastewater systems since my inspection in June 2021. Water system
15 improvements include the rebuilding or replacement of various pump
16 stacks, valves, and well and booster pump motors. Additionally,
17 CWSNC has completed installation of advanced metering
18 infrastructure (AMI) water meters; and inspected both ground storage
19 tanks. On the wastewater system, CWSNC completed installation of a
20 supervisory control and data acquisition (SCADA) system on all
21 wastewater system lift stations. All of the ten lift stations inspected by
22 the Public Staff appeared to have been cleaned, and the required

1 pumps had been installed and are operable. Neither Ms. Watson of the
2 NCDEQ Public Water Supply Section nor Mr. Boss of the NCDEQ
3 Division of Water Resources identified any concerns during the
4 inspection in June 2023.

5 **Q. Briefly describe the results of your investigation into the Notices**
6 **of Violation and Civil Penalties issued by the North Carolina**
7 **Department of Environmental Quality.**

8 A. Since January 1, 2020, the Mountain Air water system (System No.
9 NC0100105) has not received any Notices of Violation (NOV) or civil
10 penalties. The last inspection by NCDEQ of the Mountain Air water
11 system was performed on March 23, 2022, and no deficiencies were
12 identified.

13 The Mountain Air wastewater collection system (Collection Permit
14 No. WQCSD0349) has received three NOVs since January 1, 2020.
15 Two were issued on November 3, 2020, NOV-2020-DV-0478 and
16 NOV-2020-DV-0479, as a result of self-reported sanitary sewer
17 overflows (SSO) that occurred on September 8, 2020, and October
18 25, 2020, respectively. In response to the violations, MAUC stated
19 the September 8, 2020 SSO was a result of equipment failures at lift
20 stations 8 and 14. Both stations were subsequently repaired. MAUC
21 further stated that the SSO that occurred on October 25, 2020,

1 resulted from human error when a maintenance contractor failed to
2 switch on lift station 13 after maintenance was completed.

3 The third NOV was issued on January 10, 2023, NOV-2023-DV-
4 0022, for a self-reported SSO that occurred on October 28, 2022. On
5 June 22, 2023, CWSNC sent a letter to NCDEQ responding to the
6 NOV. In their response, CWSNC stated that a manhole overflowed
7 as a result of someone placing a 3-foot section of electrical line in the
8 manhole. CWSNC had the wastewater line cleared using high
9 pressure water that restored flow to the wastewater collection system
10 and stopped the SSO.

11 No penalties were assessed for these NOVs. The last Compliance
12 Evaluation Inspection by NCDEQ of the Mountain Air wastewater
13 collection system was performed on May 10, 2019. No violations or
14 significant issues were noted during the inspection.

15 **Q. Did CWSNC provide notice to customers of the Joint**
16 **Application?**

17 A. Yes. On June 5, 2023, the Commission issued the Order Scheduling
18 Hearing, Establishing Discovery Guidelines, and Requiring
19 Customer Notice (Order). The Order directed CWSNC to provide the
20 Notice to Customers no later than 10 days after the date of the Order
21 and submit a signed and notarized certificate of service not later than
22 20 days after the date of the Order. On June 21, 2023, CWSNC filed

1 a Certificate of Service stating the Notice to Customers was mailed
2 or hand delivered as specified in the Order.

3 **Q. Has the Public Staff received any customer complaints?**

4 A. From June 1, 2020, through May 31, 2023, the Public Staff's
5 Consumer Services Division has received two customer complaints
6 regarding the Mountain Air water and wastewater utility systems.
7 Both complaints were received prior to CWSNC becoming
8 Emergency Operator. In the first complaint, which was received on
9 October 6, 2020, the customer identified concerns related to water
10 quality, water system outages, wastewater overflows, wastewater
11 odors, and inadequate communications from MAUC. In the second
12 complaint, which was received on April 7, 2021, the customer
13 expressed concerns about three water outages since Fall 2020 with
14 one lasting more than 24 hours. The complaint also identified cloudy
15 water and low water pressure once water service was restored.

16 As of July 6, 2023, no Mountain Air customers filed consumer
17 statements in these dockets.

18 **Q. Has the Public Witness Hearing been held yet?**

19 A. No. The Public Witness Hearing is scheduled for July 17, 2023. It is
20 subject to cancellation if no complaints are received by July 7, 2023.
21 The Public Staff may file supplemental testimony based on testimony
22 and observations from the Public Witness Hearing.

1 **Q. Is CWSNC providing safe and reliable service?**

2 A. Yes. Based on review of NOVs issued by NCDEQ and the lack of
3 significant customer complaints on water quality and customer service
4 issues since CWSNC became the Emergency Operator, CWSNC is
5 providing safe and reliable service to the customers of the Mountain
6 Air water and wastewater systems.

7 **Q. What are the existing and proposed water and wastewater utility**
8 **service rates?**

9 A. The present rates for the MAUC service area were approved in
10 Docket No. W-1148, Sub 23, and have been in effect since
11 December 20, 2022. In a revision to the Joint Application filed on May
12 11, 2023, CWSNC proposed to charge MAUC customers the
13 CWSNC Uniform Rates for metered and flat rate residential and
14 nonresidential service for both water and wastewater utility service
15 approved by the Commission in Docket No. W-354, Sub 400 (Sub
16 400 Rate Case) on May 12, 2023. The present and proposed rates
17 are as follows:

		<u>Present</u>	<u>Proposed</u>
1			
2	<u>Monthly Metered Water Rates:</u>		
3	Base Charge	\$ 26.50 ¹	\$ 25.91 ²
4	Usage Charge, per 1,000 gallons	\$ 4.08 ³	\$ 12.28
5	<u>Monthly Flat Rate for Residential</u>		
6	<u>Wastewater Service:</u>	\$ 73.86	\$ 87.27 ⁴
7	<u>Monthly Metered Commercial</u>		
8	<u>Wastewater Rate:</u>		
9	Base Charge:	\$ 71.95 ¹	\$ NA ⁶
10	Usage Charge, per 1,000 gallons	\$ 4.76 ⁵	\$ NA ⁶
11	<u>Monthly Flat Rate for Commercial</u>		
12	<u>Wastewater Service:</u>	\$ NA	\$ 87.27 ⁴
13			
14	<u>Reconnection Charge</u>		
15	If water service cut off by		
16	utility for good cause	\$14.40	\$42.00 ⁷
17	If water service is discontinued		
18	at customer's request	\$14.40	\$42.00 ⁷
19	If sewer service cut off by		
20	utility for good cause	\$14.29	Actual Cost ⁸
21	<u>Tap-on Fees</u>		
22	Water	\$ 500	\$ 100 ⁹
23	Water – Plant Modification Fee	NA	\$ 400 ⁹
24	Wastewater	\$4,310 ¹⁰	\$ 100 ⁹
25	Wastewater – Plant Modification		
26	Fee	NA	\$1,000 ⁹
27	<u>Notes:</u>		
28	^{1/} Base charge includes first 2,000 gallons of usage.		
29	^{2/} Base charge for meter size less than 1 inch and zero usage.		
30	^{3/} Usage charge from 2,000 to 6,000 gallons. Increases to \$13.63 for		
31	usage above 6,000 gallons.		
32	^{4/} Per single family equivalent (SFE) or residential equivalent unit		
33	(REU).		
34	^{5/} Usage charge from 2,000 to 6,000 gallons. Increases to \$5.24 for		
35	usage above 6,000 gallons.		
36	^{6/} CWSNC intends to bill all wastewater customers at a flat rate.		
37	^{7/} Customers who request to be reconnected within nine months of		
38	disconnection at the same address shall be charged the base		
39	facility charge for the service period they were disconnected.		

- 1 ^{8/} The utility shall itemize the estimated cost of disconnecting and
2 reconnecting service and shall furnish this estimate to customer
3 with cut-off notice. This charge will be waived if customer also
4 receives water service from CWSNC within the same service area.
5 Customers who request to be reconnected within nine months of
6 disconnection at the same address shall be charged the base
7 facility charge for the service period they were disconnected.
8 ^{9/} Per single-family equivalent.
9 ^{10/} Varies by meter size. The amount shown is for a 3/4-inch meter.

10 **Q. What revenue requirements has the Public Staff calculated?**

11 A. For water utility service, the calculated service revenue requirement
12 is \$266,462. For wastewater utility service, the calculated service
13 revenue requirement is \$446,595. The service revenue requirements
14 were calculated by Public Staff witness Lynn Feasel and are shown
15 in **Public Staff Feasel Exhibit I, Schedules 3(a) and 3(b).**

16 **Q. What is your recommendation regarding the requested**
17 **approval of rates?**

18 A. The Public Staff recommends that in this transfer and rate
19 proceeding, the MAUC service area should not be charged
20 CWSNC's Uniform Rates and instead be subject to a standalone rate
21 schedule. The proposed inclusion of the MAUC service area into
22 CWSNC's Uniform Rates can be better considered in a future rate
23 case. Evaluating inclusion in Uniform Rates at this time and the
24 impact to current Uniform Rate customers is complicated by the
25 recent Commission approval of base case and multi-year rates in
26 Sub 400. The MAUC service area should instead be subject to a

1 standalone rate schedule without an acquisition adjustment. The
2 expected revenues under CWSNC's proposed rates would
3 appreciably exceed the Public Staff's recommended revenue
4 requirements. Furthermore, the revenue requirements on a
5 standalone basis with the proposed acquisition adjustment exceed
6 the expected revenues under CWSNC's proposed rates. In
7 summary, the differences in the expected revenues at present rates,
8 CWSNC's proposed Uniform Rates, and standalone revenue
9 requirements with and without an acquisition adjustment are shown
10 in the following table.

11 Franklin Table 1 – Rate Impacts on Revenues

	Water	Wastewater
Annual Revenue at Current Rates ¹	\$ 174,600	\$ 394,881
Annual Revenue at Proposed Rates ¹	\$ 318,311	\$ 480,683
Annual Revenue at Standalone Rates ²	\$ 266,522	\$ 446,644
Annual Revenue at Standalone Rates with an Acquisition Adjustment ¹	\$ 331,299	\$ 500,554

¹ See Public Staff Feasel Exhibit I, Schedules 3(a) and 3(b).

² See Public Staff Franklin Exhibit I.

1 **Q. What is your recommendation regarding rates for the service**
2 **area?**

3 A. The rates are based on Public Staff witness Feasel's recommended
4 service revenue requirements and are intended to equitably bridge
5 the gap between the present and proposed rates.

6 In determining the appropriate monthly metered water utility service
7 rates, the Public Staff split the revenues with 40% provided by the
8 base charge and 60% provided by the usage rate. This is consistent
9 with CWSNC's most recent approved rates in Docket No. W-354,
10 Sub 400.

11 In response to Public Staff Data Request No. 5, Question 2, CWSNC
12 stated that wastewater utility customers will be billed at a flat rate.
13 The monthly wastewater flat rate to meet the service revenue shown
14 in **Public Staff Feasel Exhibit I, Schedule 3(b)** was determined
15 based on 459 wastewater customers. My Mountain Air wastewater
16 system rate determination calculation is shown in **Public Staff**
17 **Franklin Exhibit I.**

18 The Public Staff's recommended water and wastewater service rates
19 are as follows:

1	Monthly Metered Water Utility Service	<u>Recommended</u>
2	Base Charge, zero usage	
3	Meter Size: <1 inch	\$ 16.77
4	Meter Size: 1 inch	\$ 42.00
5	Meter Size: 2 inch	\$134.55
6	Usage Charge, per 1,000 gallons	\$ 10.95
7	Monthly Flat Rate Wastewater Utility Service	\$ 81.09
8	Reconnection Charges	
9	If water service cut off by utility for good cause	\$ 42.00
10	If water service is discontinued at customer's	
11	request	\$ 42.00
12	If sewer service cut off by utility for good cause	Actual Cost
13	My Mountain Air water system rate design calculations are shown in	
14	Public Staff Franklin Exhibit I.	
15	Q. Please describe the ownership of the property required to	
16	operate and maintain the Mountain Air water and wastewater	
17	systems.	
18	A. The Utility Asset Purchase Agreement (APA), Article IV, Section	
19	4.01(G) refers to Exhibit D that identifies eight parcels containing	
20	water system equipment, well sites, ground storage tanks, and pump	
21	houses. However, the eight parcels identified are not currently	
22	owned or controlled by MAUC. Rather, seven parcels are owned by	
23	Mountain Air Development Corporation and one parcel is owned by	
24	Banks Holding Company, L.P. Based on a search of the Yancey	

1 County website, MAUC does not own any real property in Yancey
2 County, North Carolina.

3 In response to Public Staff Data Request No. 3, Question 6, CWSNC
4 states that, per MAUC, utility easements are, or will be, subject to the
5 Mountain Air Land Use Covenants, Conditions and Restrictions for
6 the Mountain Air Country Club Community, dated May 30, 1990, and
7 that while the parcels are fee simple, Mountain Air Development
8 Corporation will be conveying to CWSNC its blanket easements for
9 utilities located pursuant to provisions in the land use covenants.
10 According to the data request response, the easements are blanket
11 and not defined but exist under the covenants.

12 **Q. Please describe the liens and encumbrances associated with**
13 **the fee parcels provided for in the APA, Exhibit D.**

14 A. The APA, Schedule 4.01(G), Conveyance of Fee Parcels, states the
15 fee parcels are each subject to and encumbered by liens or judgment
16 liens and identifies the following lienholders. Titan Yancey Holdings,
17 LLC, is the successor-in-interest to a judgment that as of May 6,
18 2022, totaled \$8,013,571. Titan Yancey Holdings, LLC, is also the
19 successor-in-interest to judgments totaling \$4,018,312 as of April 28,
20 2022. Furthermore, Four Jacks, LLC, is the successor-in-interest to
21 a judgment that as of April 28, 2022, totaled \$11,570,205. These

1 judgments against Mountain Air Development Corporation and
2 affiliated companies' properties total \$23,602,088.

3 **Q. How does MAUC intend to release the liens and encumbrances**
4 **associated with the fee parcels provided for in the APA, Exhibit**
5 **D?**

6 A. The Public Staff's understanding is that Mountain Air Development
7 Corporation has reached agreements with the lienholders to release
8 the liens and encumbrances on the fee parcels provided for in the
9 APA, Exhibit D. In response to Public Staff Data Request No. 9,
10 Question 1.d, MAUC stated that, "[t]he judgment lien holders are
11 aware of the amount of the agreed-upon purchase price and it is
12 understood that the amount of the purchase price will be sufficient to
13 secure the release of the judgment liens as to the Fee Parcels. One
14 hundred percent of the agreed-upon purchase price will be used to
15 secure release of the judgment liens and pay legal, accounting and
16 surveyor fees associated with this transaction. The allocation of the
17 sale proceeds between and among the judgment lienholders is
18 unknown to MAUC." MAUC provided to the Public Staff copies of
19 letters from the lienholders confirming the agreement of each to
20 release their respective judgment liens as to the real property upon
21 which MAUC water and/or wastewater utility system facilities are
22 located upon receiving payment at the closing of the sale of MAUC's
23 assets to CWSNC.

- 1 **Q. What is your recommendation concerning the purchase price?**
- 2 A. Randy Banks, President of Mountain Air Development Corporation
- 3 and MAUC, states in his prefiled direct testimony (Page 4, Lines 3-
- 4 9), that initially MAUC reached an earlier agreement to sell the
- 5 MAUC utility assets to CWSNC after discussions in the summer of
- 6 2017 with transaction stakeholders, including the Public Staff. Mr.
- 7 Banks further states that during those discussions, the transaction
- 8 stakeholders, including the Public Staff, agreed to support approval
- 9 of an acquisition adjustment in the amount of the purchase price to
- 10 be paid by CWSNC. While the date of those discussions predates
- 11 my employment with the Public Staff, my understanding from Public
- 12 Staff individuals involved in those 2017 discussions, is that the Public
- 13 Staff agreed to the identified purchase price and acquisition
- 14 adjustment only if the purchase price amount and its impact to
- 15 customer rates was presented to, voted on, and approved by the
- 16 Mountain Air Property Owner's Association (POA) members. It is my
- 17 understanding that the Public Staff consistently maintained this
- 18 position during the 2017 discussions with CWSNC to purchase the
- 19 MAUC utility assets. No transfer application was filed with the
- 20 Commission related to the 2017 discussions.
- 21 On September 4, 2020, Red Bird Utility Operating Company, LLC,
- 22 and MAUC filed a transfer application in Docket Nos. W-1328 Sub 1,
- 23 and W-1148, Sub 19, which was subsequently withdrawn. The vote

1 by the POA members never occurred related to the proposed
2 transfer.

3 On July 12, 2022, MAUC and CWSNC entered into the APA for the
4 Mountain Air water and wastewater systems. Section 2.04. of the
5 APA provides that the purchase price for purchased assets is
6 \$950,000 subject to prorations and adjustments set forth in the APA.
7 The Joint Application shows the purchase price as \$646,093 for the
8 water system and \$303,907 for the wastewater system. For
9 purchase price purposes, the original cost net investment of the
10 Mountain Air water and wastewater systems is based on the original
11 cost and net investment made by MAUC and does not include capital
12 investments made by CWSNC as Emergency Operator. As shown in
13 **Public Staff Feasel Exhibit I, Schedules 2(a) and 2(b)**, the original
14 cost net investment is \$85,850 in the Mountain Air water system and
15 \$160,379 in the Mountain Air wastewater system. While the POA
16 Board issued a resolution filed in these dockets on October 11, 2022,
17 supporting the sale of the Mountain Air water and sewer systems to
18 CWSNC, this resolution did not address the acquisition adjustment
19 and falls short of a vote by POA members required by the Public Staff
20 to recommend approval of the acquisition adjustment.

21 Therefore, it is the Public Staff's recommendation for the
22 Commission to approve only the purchase price amount that equals

1 the original cost net investment amount, and to deny approval of an
2 acquisition adjustment. Specifically, the Public Staff recommends
3 that \$85,850 of the Mountain Air water system purchase price
4 amount be included in rate base and none of the Mountain Air
5 wastewater system purchase price amount can be included in rate
6 base.

7 **Q. Why does the Public Staff consider it important that the**
8 **Purchase Price and Acquisition Adjustment be approved by the**
9 **Mountain Air POA members?**

10 A. In his prefiled direct testimony, Mr. Banks states that the purchase
11 price for the MAUC utility assets provided for in the APA is the same
12 purchase price CWSNC agreed to pay in 2017 (Page 5, Lines 9-13).
13 As I have previously stated, the original cost net investment of the
14 Mountain Air water and wastewater systems is considerably below
15 the \$950,000 purchase price. The purchase price is being used by
16 MAUC, at least in part, to release the liens and encumbrances on the
17 fee parcels, which MAUC does not own but on which water utility
18 assets are located. The liens resulted from debts incurred by
19 Mountain Air Development Corporation and its affiliates, not MAUC.
20 The Public Staff wants confirmation that the residents of the
21 Mountain Air Development, who are customers of MAUC,
22 understand and agree to the purchase price and acquisition
23 adjustment being included in their rates; and that they further

1 understand that the acquisition adjustment is to pay for the release
2 of liens that are not directly related to MAUC assets and operations.

3 **Q. Please explain why the Public Staff opposes an Acquisition**
4 **Adjustment in this proceeding.**

5 A. The Public Staff does not support CWSNC receiving an acquisition
6 adjustment in this proceeding. As a general proposition, when a
7 public utility buys assets that have previously been dedicated to
8 public service as utility property, the acquiring utility is entitled to
9 include in rate base the lesser of the purchase price or the net
10 original cost of the acquired facilities owned by the seller at the time
11 of the transfer. See *Order Approving Transfer and Denying*
12 *Acquisition Adjustment, Petition of Utilities, Inc. for Transfer of the*
13 *Certificate of Public Convenience and Necessity for Providing Sewer*
14 *Utility Service on North Topsail Island and Adjacent Mainland Areas*
15 *in Onslow County from North Topsail Water and Sewer, Inc. and for*
16 *Temporary Operating Authority*, Docket No. W-1000, Sub 5
17 (N.C.U.C. January 6, 2000) (W-1000, Sub 5 Order).

18 The Commission has indicated "a strong general policy against the
19 inclusion of acquisition adjustments in rate base subject to
20 exceptions in appropriate instances." *Id.* at 24. In the W-1000, Sub 5
21 Order, the Commission discussed the circumstances when the rate

1 base treatment of acquisition adjustments is proper. The
2 Commission stated the following:

3 As should be apparent from an analysis of the
4 Commission's previous Orders concerning this subject,
5 a wide range of factors have been considered relevant
6 in attempting to resolve this question, including the
7 prudence of the purchase price paid by the acquiring
8 utility; the extent to which the size of the acquisition
9 adjustment resulted from an arm's length transaction;
10 the extent to which the selling utility is financially or
11 operationally "troubled;" the extent to which the
12 purchase will facilitate system improvements; the size
13 of the acquisition adjustment; the impact of including
14 the acquisition adjustment in rate base on the rates
15 paid by customers of the acquired and acquiring
16 utilities; the desirability of transferring small systems to
17 professional operators; and a wide range of other
18 factors, none of which have been deemed universally
19 dispositive. Although the number of relevant
20 considerations seems virtually unlimited, all of them
21 apparently relate to the question of whether the
22 acquiring utility paid too much for the acquired utility
23 and whether the customers of both the acquired and
24 acquiring utilities are better off after the transfer than
25 they were before that time. This method of analysis is
26 consistent with sound regulatory policy since it focuses
27 on the two truly relevant questions which ought to be
28 considered in any analysis of acquisition adjustment
29 issues. It is also consistent with the construction of G.S.
30 62-111 (a) adopted in State ex rel. Utilities Commission
31 v. Village of Pinehurst. 99 N.C App. 224,393 S.E.2d
32 111 (1990), affd 331 N.C. 278,415 S.E.2d 199 (1992),
33 which seems to indicate that all relevant factors must
34 be considered in analyzing the appropriateness of
35 utility transfer applications. As a result, . . . the
36 Commission should refrain from allowing rate base
37 treatment of an acquisition adjustment unless the
38 purchasing utility establishes, by the greater weight of
39 the evidence, that the price the purchaser agreed to
40 pay for the acquired utility was prudent and that both
41 the existing customers of the acquiring utility and the
42 customers of the acquired utility would be better off [or
43 at least no worse off] with the proposed transfer,

1 including rate base treatment of any acquisition
2 adjustment, than would otherwise be the case. *Id.* at
3 27.

4 Approval of the proposed acquisition adjustment in this proceeding
5 is not in the public interest since the primary beneficiary of payment
6 of the purchase price is Mountain Air Development Corporation,
7 which will pay its lienholders for debts not incurred by MAUC and
8 for fee parcels that should have been owned and controlled by
9 MAUC for it to be granted a certificate of public convenience and
10 necessity.

11 It cannot be established what benefits, if any, the customers of
12 MAUC received from the debts incurred by Mountain Air
13 Development Corporation that resulted in liens or judgment liens
14 on the fee parcels. In addition, there is a financial harm to both the
15 acquired and existing CWSNC customers from the proposed
16 acquisition adjustment to include the entire purchase price, which
17 exceeds original cost net investment, in rate base. Therefore, the
18 purchase price amount above the original cost net investment
19 should not be added to rate base and included in rates, thus
20 negating the need for an acquisition adjustment.

21 **Q. Briefly describe CWSNC's plans for capital improvements.**

22 A. On April 27, 2023, in Docket No. W-1148, Sub 20, CWSNC filed with
23 the Commission, as Emergency Operator of Mountain Air water and

1 wastewater systems, the quarterly financial reports for the period
2 January 2023 through March 2023. Schedule 3 of the reports
3 provides a Construction Status Report that shows at the end of the
4 third quarter of 2023, CWSNC has completed installation of AMI
5 water meters on the Mountain Air water system and a SCADA
6 system on the Mountain Air wastewater system. Additional capital
7 projects that CWSNC had started but were not complete as of March
8 31, 2023, included installing a SCADA system on the Mountain Air
9 water system and other water and wastewater systems
10 improvements.

11 In response to Public Staff Data Request No. 11, Question 1,
12 CWSNC provided an update to the capital projects being
13 implemented at Mountain Air that were included in CWSNC's April
14 27, 2023 filing. In its response, CWSNC states that all projects are
15 complete and in service except for installation of a single 2-inch AMI
16 meter that is currently on order. Additionally, CWSNC states that as
17 of June 26, 2023, CWSNC's total project costs for the identified
18 improvements are \$2,162,385 with \$90,095 estimated costs
19 remaining. Due to the inherent time constraint between receiving this
20 information and filing its testimony, not all the project costs as of June
21 26,2023 have been verified by the Public Staff.

1 **Q. What is your recommendation concerning the bond for the**
2 **water and wastewater utility systems?**

3 A. I recommend a bond of \$50,000 for the Mountain Air water and
4 wastewater service area consistent with the considerations identified
5 in N.C. Gen. Stat. § 62-110.3. These considerations include the
6 number of water and wastewater franchises CWSNC holds in North
7 Carolina, CWSNC's record of operation, the number of customers
8 CWSNC serves in North Carolina, and the condition of the Mountain
9 Air water and wastewater utility systems. Currently, CWSNC has
10 \$140,000 in unassigned bond filed with the Commission.

11 **Q. What is your recommendation regarding the requested transfer**
12 **of this public utility franchise?**

13 A. The Public Staff recommends the Commission approve the transfer
14 of the MAUC public utility franchise to CWSNC at the rates
15 recommended by the Public Staff rather than at the Uniform Rates
16 proposed by CWSNC. The Public Staff also recommends that a
17 portion of the purchase price in the amount of the original cost net
18 investment be added to rate base and included in rates and no
19 acquisition adjustment be allowed unless there is a vote of the POA
20 agreeing to the acquisition adjustment and standalone rates.

21 **Q. Are MAUC and Mountain Air Development Corporation in good**
22 **standing with the North Carolina Secretary of State?**

1 A. The North Carolina Secretary of State's (NC SOS) website shows
2 Mountain Air Development Corporation as a status of "Current –
3 Active" and MAUC as a status of "administratively dissolved". NC
4 SOS has authority to administratively dissolve a business entity for
5 one or more of the following reasons: Failure to file an annual report,
6 failure to notify the Secretary of State that its registered agent or
7 registered office has been changed, the registered agent has
8 resigned, or the registered office has been discontinued. The Public
9 Staff contacted MAUC's legal counsel and was told that the
10 reinstatement documents and fees were hand delivered to the NC
11 SOS's office on June 5, 2023 and that the NC SOS voicemail
12 recording states that due to staffing shortages, the NC SOS is
13 running behind in processing filings that are not submitted
14 electronically.

15 **Q. Does the transfer of the MAUC public utility franchise to CWSNC**
16 **terminate CWSNC's appointment as Emergency Operator?**

17 A. If the Commission approves the transfer of the MAUC public utility
18 franchise to CWSNC, once closing of the sale occurs and the transfer
19 is complete, CWSNC will be discharged as the Emergency Operator
20 of the Mountain Air water and wastewater systems. At such time and
21 no later than 60 days after closing, the Commission should require
22 CWSNC to prepare and file a final accounting to be audited by the
23 Public Staff. The true up of the provisional rates collected and the

1 costs incurred as Emergency Operator should be filed in Docket No.
2 W-1148, Sub 20, which is the Mountain Air Emergency Operator
3 docket.

4 **Q. As Emergency Operator, has CWSNC's capital investments and**
5 **any operational revenue deficits been included in rate base?**

6 A. CWSNC witness Donald H. Denton III states in his prefiled direct
7 testimony at Page 8, Lines 7-14 that CWSNC is making capital
8 investments in the MAUC water and wastewater systems and is
9 incurring operational revenue deficits while serving as Emergency
10 Operator of the MAUC water and wastewater systems. He further
11 states that CWSNC is incurring due diligence costs and requests that
12 these spent dollars be authorized for inclusion in rate base in this
13 proceeding in addition to the purchase price of \$950,000.

14 The capital investments made by CWSNC and the operational
15 revenue deficits incurred as the Mountain Air Emergency Operator
16 should be included in the final accounting that the Public Staff is
17 recommending be filed with the Commission in the Mountain Air
18 Emergency Operator docket, Docket No. W-1148, Sub 20, 60 days
19 after closing. The final accounting will be audited by the Public Staff
20 and Public Staff will file with the Commission the results of the audit
21 and a recommendation regarding treatment of these costs.
22 Regarding due diligence expenses related to this proceeding,

1 CWSNC did not provide actual or estimated due diligence expense
2 amounts in the Joint Application or in response to any data request.
3 As such, the Public Staff has not included any capital investment
4 amounts, operational revenue deficits, or due diligence expenses in
5 this proceeding.

6 **Q. Does this conclude your testimony?**

7 **A.** Yes, it does.

QUALIFICATIONS AND EXPERIENCE

D. MICHAEL FRANKLIN

I graduated from the University of South Carolina, earning a Bachelor of Science Degree in Engineering. I worked in the electric utility industry for 33 years prior to joining the Public Staff in June 2019. While employed by the Public Staff, I have worked on utility rate case proceedings, new franchise and transfer applications, customer complaints, and other aspects of utility regulation.

RATE DESIGN
Mountain Air Water Utility System

<u>Service Revenue Requirement¹</u>	\$ 266,462.00
End of Period Customers	483
<1" Meter Customers ²	474
1" Meter Customers ²	3
2" Meter Customers ²	6
Annual Total Consumption (gallons)	14,605,920
Average Consumption	2,520

Base Fee Calculation

Percentage of Service Rev. Req.	40
Amount to Recover in Base Fee	\$ 106,584.80
Set Base Fee <1"	\$ 16.77
Set Base Fee 1"	\$ 42.00
Set Base Fee 2	\$ 134.55
Revenue From Base Fee	\$ 106,587.36

Usage Fee Calculation

Amount to Recover in Usage Charge	\$ 159,874.64
Calculated Usage Fee (per 1,000 gallons)	\$ 10.9459
Set Usage Fee (per 1,000 gallons)	\$ 10.95
Revenue From Usage Fee	\$ 159,934.82

Total Revenue

	\$ 266,522.18
Delta - Must Be Positive	\$ 60.18

% Usage	60.01%
% Base	39.99%

Notes:

- 1 Service Revenue Requirement: Feasel Exhibit I, Schedule 3(a)
- 2 CWSNC Response to PS DR No. 5, Spreadsheet titled CMRP0012_Data Only.xlsx

RATE DESIGN

Moutain Air Wastewater Utility System

Service Revenue Requirement¹	\$ 446,595.00
End of Period Customers ²	459
Flat Rate to Meet Revenue Requirement	\$ 81.0812
Recommended Flat Rate	\$ 81.09
Revenue from Flat Rate	\$ 446,643.72

Notes:

- 1 Service Revenue Requirement: Feasel Exhibit I, Schedule 3(b)
- 2 Sub 411 Application, page 3, line 18.