

**SANFORD LAW OFFICE, PLLC**  
**Jo Anne Sanford, Attorney at Law**

August 11, 2022

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

**Via Electronic Delivery**

Re: Application by Carolina Water Service, Inc. of North Carolina to  
Determine Fair Value and Establish Rate Base for Acquisition of the  
Carteret County Water System  
NCUC Docket No. W-354, Sub 398  
---Response to Public Staff's Evaluation of Application

Dear Ms. Dunston:

On July 26, 2022, Carolina Water Service, Inc. of North Carolina (CWSNC or Company) filed its application for determination of "fair value" and to establish rate base for its acquisition of the Carteret County Water System in Docket No. W-354, Sub 398. It is a case of first impression for the North Carolina Utilities Commission (NCUC or Commission) under N.C. Gen. Stat. § 62-133.1A and Commission Rule R7-41.

On August 5, 2022, the Public Staff filed its conclusion that additional information is required to complete CWSNC's application. The Public Staff set forth, in Items 1 – 5 of its August 5<sup>th</sup> filing, information in support of its position that additional information is required to meet the provisions of Commission Rule R7-41 and N.C. Gen. Stat. § 62-133.1A. CWSNC's response tracks the Public Staff's numbered Items.

Note that two NCUC forms are involved in the Application, in the Public Staff's discussion, and in CWSNC's response herein. For clarity, they are identified and distinguished as follows:

1. NCUC Form FV1, Application For Determination Of Fair Value Of Utility Assets Pursuant To N.C.G.S. § 62-133.1a, and
2. NCUC Form FV1(a), Fair Value Engineering Assessment Form.

**ITEM 1.**

The Public Staff observed that Exhibit 7 of the NCUC Form FV1 requires filing of contracts between the Seller (Carteret County) and any other party regarding the proposed utility service. Examples included interconnection/bulk service agreements with the Craven County and the Town of Beaufort.

**RESPONSE:**

Please see attached Revised Form Application Exhibits 7 a, b, c, and d, respectively, the Seller's agreements with the Town of Beaufort, Craven County, and two agreements with Southern Corrosion, Inc.

**ITEM 2**

Form FV 1 requires that the Application include as Exhibit 8 the estimated valuation fees and transaction and closing costs incurred by the acquiring public utility. The Public Staff submits that additional estimates should be included.

**RESPONSE:**

CWSNC includes herein an expanded list of transaction and closing costs, indicating those actually incurred and received through August 9, 2022, and provides additional estimates for those yet to be incurred/received. See *Revised Form Application Exhibit 8*.

In that this is a case of first impression, the process is a work in progress. Inasmuch as the Public Staff's position—and thus the Company's response--cannot be anticipated until the case is fully engaged, estimates about time and costs are particularly unreliable. For example, the utility cannot foresee what additional use of its valuation witness will be required, nor does it foresee or control the additional use of the Public Staff's expert. Therefore, CWSNC is supplying a list of estimates, but with the continuing request for a true-up of recoverable costs at the end of the proceeding.

**ITEM 3**

The Public Staff recites that Exhibit 12 of the Form FV1 and N.C.G.S. § 62-133.1A.(c)(8) requires CWSNC to provide:

..[a] tariff, including rates equal to the rates of the selling utility. The selling utility's rates shall be the rates charged to the customers of the acquiring public utility until the acquiring public utility's next general rate case, unless otherwise ordered by the Commission for good cause shown.

## RESPONSE

Revised Form Application Exhibit 12 represents in tariff form---comparable to the tariffs filed by CWSNC with the Commission---- the rates to be charged to Carteret County customers until CWSNC's next general rate case. These rates are the rates currently charged by the Seller, Carteret County Water System.

Note that Carteret County and CWSNC do not have comparable fees in all respects. The County does not have a meter testing fee, so CWSNC proposes to use its current fee. Additionally, the County's current Late Fee significantly exceeds CWSNC's, so the Company proposes to charge the CWSNC lower Late Fee.

Finally, the Public Staff requests a docket number or final order to support the proposed rates. However, the proposed rates are those currently charged by Carteret County, thus there is no relevant docket number or final order.

## ITEM 4

As noted above, NCUC Form FV1a is the Fair Value Engineering Assessment Form. Exhibit 5 of the NCUC Form FV---the Application Form---- requires inclusion of the following in the Application:

The assessment of tangible assets performed by a licensed professional engineer, as provided in N.C.G.S. § 62-133.1A(b)(2). Utilize Commission Form FV1(a) as a template for the engineer's assessment, indicating if any of the requested information is not applicable or not readily available. Additional information that is relevant to the application that is not listed on

the Form FV1(a) should be included as an attachment or addendum to the engineer's assessment.

NCUC Form FV1(a), under the section captioned Assessment of Tangible Assets of System to be Acquired, includes subsections captioned "Water Utility System Information" and "Distribution System Information." A series of questions, stated in subsections a – h, deal with Water Mains. Subsection e addresses Department of Environmental Quality (DEQ) approval of water mains, by requiring the following:

- e. Copy of Department of Environmental Quality (DEQ) approval for each section, if available.

The Public Staff seeks copies of the actual plan and specification approval letters from DEQ, which it indicates contain descriptions of the project, location, and associated infrastructure.

## **RESPONSE**

CWSNC asserts that its original filing is sufficient with respect to this requirement of the Form, for the following reasons:

- Copies of plan and specification approvals from DEQ for each section of line are not readily available and would require days of research through DEQ files to obtain. The Company contends that, as a practical matter, these documents are not available. The language of subsection e. contemplates this possibility.
- More importantly, copies of these approvals are not necessary, as the DEQ project summaries provided in original Exhibit 5a verify DEQ approval of the matters of compliance necessary for issuance of final approval—including underlying plans and specifications. Additionally, Revised Form Application Exhibit 5d contains the DEQ permit renewals, which reflect the Department's currently relevant approval of the system under Public Water Supply and NPDES permitting guidelines.

**ITEM 5.**

The Public Staff seeks additional exhibits associated with the Asset Purchase Agreement (APA). The Staff states that Exhibit 6 of the Form FV1 and N.C.G.S. § 62-133.1A.(c)(6) require CWSNC to provide:

..[t]he contract of sale or Asset Purchase Agreement, including exhibits showing that the Seller has ownership of all property necessary to operate the system being acquired. Any changes to the contract of sale or Asset Purchase Agreement should be filed immediately with the Commission.

CWSNC has provided Exhibit 6A – *Asset Purchase Agreement* and Exhibit 6B – *Exhibits to Asset Purchase Agreement*. However, the Staff asserts that certain exhibits and schedules associated with Exhibit 6A are missing or may not yet be drafted. They are as follows:

- a. Exhibit H – General Warranty Deed
- b. Exhibit I – Assignment of Easements
- c. Schedule 3.04(B) – Environmental Permits & Governmental Authorizations
- d. Schedule 3.04(C) – Environmental Compliance
- e. Schedule 3.04(D) – Violations
- f. Schedule 3.04(E) – Hazardous Materials
- g. Schedule 4.01(B) – Pending or Threatened Legal Actions
- h. Schedule 4.01(C) – Default of Government Authorizations
- i. Schedule 4.01(E) – Agreements Not in Good Standing and Defaults
- j. Schedule 4.01(H) – Conveyance of Fee Parcels
- k. Schedule 4.01(I)-Conveyance of Purchased Assets
- l. Schedule 4.01(M)-Liabilities or Obligations of Seller Relating to the Purchased Assets
- m. Schedule 4.01(N)-Notice of Violations from a Governmental Body

**RESPONSE:**

CWSNC responds by noting that Exhibit 6a to Form FV1 is the actual signed APA, filed in this docket exactly as it was signed. The APA initiates the due diligence process during which CWSNC is able to gather additional information

relative to a number of the outlined blank exhibits in Exhibit 6a, as necessary to the contract. Original Exhibit 6b includes additional applicable schedules, as follows:

Exhibit I – Assignment of Easements;

Schedule 4.01(H) – Conveyance of Fee Parcels; and

Schedule 4.01(I) – Conveyance of Purchased Assets.

The General Warranty Deed will be provided at closing; the remaining schedules were not applicable.

CWSNC respectfully submits that, with these additions, the filing requirements which are necessary to support its original Application are met. Clearly additional information can be developed, as necessary and relevant, in discovery and otherwise during the course of the proceeding.

I hereby certify that a copy of this filing has been served on the Public Staff and on the County Attorney for Carteret County.

As always, we thank you and your staff for your assistance; please feel free to contact me if there are questions or if additional information is required.

**Electronically Submitted**

**/s/Jo Anne Sanford**

North Carolina State Bar No. 6831

Attorney for Carolina Water Service, Inc. of  
North Carolina, Inc.

**VERIFICATION**

**Matthew Schellinger II**, being duly sworn, deposes and says: that he is the Regional Director, Financial Planning and Analysis, East Region for Carolina Water Service, Inc. of North Carolina ("CWSNC"); that he is familiar with the facts set out in the **Application for Determination of Fair Value** filed by CWSNC in Docket No. W-354 Sub 398; that he has read the foregoing Response 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.

Matthew Schellinger II  
Matthew Schellinger II

Sworn to and subscribed before me this  
the 11 day of August, 2022.

James M. Hollister  
Notary Public

My Commission Expires: July 15 2030



James Hollister  
Notary Public for South Carolina  
Commission Expires: 07/15/2030