

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

June 16, 2023

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

Via Electronic Delivery

Re: Carolina Water Service, Inc. of North Carolina and Mountain Air Utilities Corporation  
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 for Approval of Rates  
Direct Testimony of Donald H. Denton III

Dear Ms. Dunston:

On September 26, 2022, Carolina Water Service, Inc. of North Carolina (“CWSNC”) and Mountain Air Utilities Corporation (“MAUC”) filed an Application for Transfer of Public Utility Franchise and for Approval of Rates (“Transfer Application”) seeking authority to transfer the water and wastewater utility systems and public utility franchise serving MAUC’s service area in Yancey County, North Carolina, from MAUC to CWSNC and for approval of rates.

In support of the Transfer Application, CWSNC hereby files the Direct Testimony of Donald H. Denton III, the Company’s President.

I hereby certify that I have today served a copy of this filing on the parties to these dockets.

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

- c: Lucy Edmondson, Chief Counsel, Public Staff  
Gina Holt, Manager, Legal Division, Natural Gas, Water, Sewer,  
Telephone, & Transportation Sections, Public Staff  
Charles Junis, Director, Water, Sewer & Telephone Division, Public Staff  
Lynn Feasel, Financial Manager, Water, Sewer and Telecommunications  
Section, Public Staff Accounting Division  
Daniel C. Higgins, Attorney for Mountain Air Utilities Corporation  
Edward S. Finley, Jr., Attorney for Mountain Air Property Owners  
Association, Inc.

STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH

DOCKET NO. W-354, SUB 411  
DOCKET NO. W-1148, SUB 22

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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 ) DIRECT TESTIMONY OF  
Utilities Corporation, Post Office Box ) DONALD H. DENTON III ON  
1090, Burnsville, North Carolina 28714, ) BEHALF OF CAROLINA WATER  
for Authority to Transfer the Mountain ) SERVICE, INC. OF NORTH  
Air Water and Wastewater Utility ) CAROLINA  
Systems and Public Utility Franchise in )  
Yancey County, North Carolina, and for )  
Approval of Rates )

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June 16, 2023

Direct Testimony of Donald H. Denton III

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is Donald H. Denton III, and my business address is  
3 5821 Fairview Rd., Suite 401, Charlotte, North Carolina 28209.

4 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

5 A. I am Senior Vice President, East Operations for Corix Regulated Utilities  
6 (“CRU”). I oversee the operations of Carolina Water Service, Inc. of North  
7 Carolina (“CWSNC” or “Company”), Blue Granite Water Company  
8 (“BGWC”) in South Carolina, and Sunshine Water Services in Florida, all  
9 of which are subsidiaries of CRU. In addition, I serve as President of  
10 CWSNC and BGWC.

11 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL AND PROFESSIONAL**  
12 **BACKGROUND.**

13 A. I hold a Bachelor of Aerospace Engineering from The Georgia Institute of  
14 Technology as well as an Executive Masters in Business Administration  
15 from Queens University in Charlotte, North Carolina. I have worked in the  
16 utility sector for 25 years in multiple capacities ranging from engineering  
17 to strategic planning and major project execution.

18 **Q. WHAT ARE YOUR DUTIES AS PRESIDENT OF CAROLINA WATER**  
19 **SERVICE, INC. OF NORTH CAROLINA?**

20 A. I am responsible for the Company’s regulated water and sewer operations  
21 in North Carolina, including facility operations, finance, business

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development, safety, compliance, regulatory affairs, and customer service.

**Q. PLEASE DESCRIBE THE WATER AND WASTEWATER OPERATIONS OF CWSNC IN NORTH CAROLINA.**

A. CWSNC is an investor-owned public utility pursuant to G.S. 62-3, does business as a regulated water and wastewater utility in North Carolina, and is subject to the regulatory oversight of this Commission. The Company presently serves approximately 35,452 water customers and 22,019 wastewater customers in North Carolina and operates approximately 120 water systems and 55 wastewater systems in the State. The Company's service territory spans 38 counties in North Carolina, from Corolla in Currituck County to Bear Paw in Cherokee County.

G.S. 62-131(b) requires that every public utility in North Carolina shall provide service to its customers which is "...adequate, efficient, and reasonable..." CWSNC is proud of the quality of service which it consistently provides to its water and wastewater customers in this state. In CWSNC's most recently decided rate case in Docket No. W-354, Sub 400, the Commission, consistent with G.S. 62-131(b), described the overall quality of service provided by the Company as "...adequate, reliable, and economical." The Commission further found that the overall

1 quality of water service provided by CWSNC is adequate on a company-  
2 wide and system-wide basis; that the Company meets the North Carolina  
3 Department of Environmental Quality (“DEQ”) and the United States  
4 Environmental Protection Agency’s (“EPA”) health-based primary quality  
5 standards; that the overall company-wide and system-wide quality of  
6 wastewater service provided by CWSNC is adequate; and that the  
7 Company operates its wastewater treatment plants in a reasonable and  
8 prudent manner. (See the April 26, 2023 Sub 400 Rate Case Order at  
9 page 6 – Findings of Fact 15 - 17).

10 Another significant indicium of the quality of water and wastewater service  
11 provided by CWSNC in North Carolina is the fact that, upon  
12 recommendation by the Public Staff, the Company has been appointed to  
13 serve on multiple occasions as the emergency operator of water and/or  
14 wastewater systems in this state. In fact, CWSNC is presently serving as  
15 the emergency operator of four troubled or defunct public utilities in  
16 North Carolina: Harrco Utility Corporation (Docket No. W-796, Sub 12);  
17 Cross-State Development Company (Docket No. W-408, Sub 9); Outer  
18 Banks/Kinnakeet Associates, LLC (Docket Nos. W-1125, Subs 9 and 10);  
19 and, most significantly, Mountain Air Utilities Corporation (“Mountain Air”  
20 or “MAUC”) (Docket No. W-1148, Sub 20).

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Furthermore, after serving as the Commission-appointed emergency operator of an additional troubled utility system in North Carolina (the Riverbend Estates water system in Macon County [Docket Nos. W-390, Subs 13 and 14 and W-354, Sub 358]), CWSNC acquired the system in a system transfer case by Order entered on May 16, 2019.

Thus, CWSNC has a strong history of willingness to assist and acquire troubled water and wastewater utility systems in North Carolina.

**Q. PLEASE DESCRIBE HOW CWSNC BECAME THE EMERGENCY OPERATOR OF THE MAUC WATER AND WASTEWATER SYSTEMS.**

A. On May 4, 2021, the Commission entered an *Order Appointing Emergency Operator and Requiring Customer Notice* (“Emergency Order”) in Docket No. W-1148, Sub 20 (a copy of which is attached hereto as Exhibit 1). CWSNC was appointed as the emergency operator of the MAUC water and wastewater systems by that Order.

There were a myriad of operational problems and circumstances which led to CWSNC’s appointment as emergency operator. The Emergency Order includes descriptions of permit violations; system ownership issues; the need for immediate extensive system renovations and replacements in order to materially improve the operation, reliability, and compliance record of the MAUC water and wastewater utility systems; and service difficulties – all of which, collectively, caused the Commission

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to declare that a real emergency existed with regard to the MAUC systems which was defined as “the imminent danger of losing adequate water or sewer utility service or the actual loss thereof.”

Significantly, both MAUC and the Intervenor Mountain Air Property Owners Association, Inc. (“POA”) petitioned the Commission to appoint an emergency operator for the water and wastewater utility systems in question. The Public Staff also petitioned for and recommended that CWSNC be appointed as emergency operator.

**Q. PLEASE DESCRIBE THE APPLICATION FILED IN THIS DOCKET AND THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING.**

A. On September 26, 2022, CWSNC and MAUC filed an Application for Transfer of Public Utility Franchise and for Approval of Rates (“Transfer Application”) seeking (a) authority to transfer the water and wastewater utility systems and public utility franchise serving the Mountain Air Development in Yancey County, North Carolina, from MAUC to CWSNC and (b) approval of rates. CWSNC filed revisions to the Application on May 11, 2023, and has, to date, received nine Data Requests from the Public Staff, many of which include multiple parts and questions.

My testimony explains the object and purposes of the Transfer Application and addresses how the public interest is served by the acquisition by CWSNC of the Mountain Air water and wastewater utility systems.



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**Q. PLEASE DESCRIBE THE WATER AND WASTEWATER UTILITY SYSTEMS WHICH CWSNC SEEKS TO ACQUIRE FROM MAUC.**

A. CWSNC, as emergency operator for MAUC, currently serves 487 monthly metered rate water utility customers, 438 monthly flat rate wastewater utility customers, and 21 monthly metered wastewater utility customers in the Mountain Air Development service area. The water service is provided through a system of deep wells, ground storage and hydropneumatic tanks, and a distribution system in a service area with major elevation gradients. The wastewater service is provided through a collection system including pump stations, and the wastewater is then transported to an interconnection with the Town of Burnsville for bulk treatment by the Town.

**Q. PLEASE DESCRIBE THE UTILITY ASSET PURCHASE AGREEMENT ENTERED INTO BY CWSNC AND MAUC.**

A. On July 12, 2022, MAUC and CWSNC entered into a Utility Asset Purchase Agreement (“APA”) whereby CWSNC agreed to purchase MAUC’s water and wastewater utility system assets for a purchase price of \$950,000. Section 5.01 of the APA provides, in pertinent part, as follows:

...In the event NCUC fails to issue a final order that:  
(a) approves the Public Staff recommendations in Findings of Fact paragraphs 17, 31.d, 35 and 36 of the Emergency Order;  
or (b) establishes rate base less than the sum of the Purchase

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Price and Buyer's capital invested in the Purchased Assets; or (c) approves use of the Buyer's statewide uniform rates, as part of the transfer approval of Seller's certificate of public convenience and necessity; the Buyer shall have the option, in its sole discretion, to terminate the Agreement without further liability or obligation to the Seller under this Agreement....

No water or wastewater utility system assets of MAUC have been excluded from the utility asset purchase agreement.

The utility APA also acknowledges the likelihood of title objections relating to outstanding judgment liens encumbering certain parcels of real property where Mountain Air utility assets are located. Mountain Air intends to secure releases of the judgment liens as to those parcels at closing, and pay fees and closing costs, by use of the purchase price. In the event Mountain Air is unsuccessful in obtaining releases of the judgment liens at closing, neither Mountain Air nor CWSNC will be required to close on the sale and the utility asset purchase agreement will be considered terminated.

Furthermore, as stated in the Emergency Order, at Finding of Fact No. 9, not all the parcels where Mountain Air utility assets are located were conveyed to Mountain Air, thus the ownership of important water and wastewater utility system components remains with Mountain Air's parent or affiliated entities. As a result, and in order to allow an effective transfer, the utility Asset Purchase Agreement requires the seller affiliated entities

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to convey their respective interests in those parcels to CWSNC at closing, subject to release of the judgment liens encumbering those parcels.

**Q. PLEASE DISCUSS THE CAPITAL INVESTMENTS, OPERATIONAL REVENUE DEFICITS, AND DUE DILIGENCE COSTS WHICH CWSNC IS INCURRING IN CONJUNCTION WITH THE TRANSFER APPLICATION.**

A. CWSNC is currently making capital investments in the MAUC water and wastewater systems while serving as emergency operator and is also incurring operational revenue deficits which I will describe later in this testimony. In addition, the Company is incurring due diligence costs in conjunction with this Application. The Company requests that these spent dollars (i.e., capital investments, operation deficits, and due diligence costs)<sup>1</sup> be authorized for inclusion in rate base in this proceeding in addition to the purchase price of \$950,000.

**Q. PLEASE DESCRIBE THE MAUC RATES CURRENTLY BEING CHARGED BY CWSNC AS EMERGENCY OPERATOR FOR WATER AND SEWER UTILITY SERVICE TO CUSTOMERS IN YANCY COUNTY AND THE RATES WHICH CWSNC PROPOSES TO CHARGE IF THIS TRANSFER APPLICATION IS APPROVED BY THE COMMISSION.**

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<sup>1</sup> CWSNC requests that these costs be approved by the Commission subject to a true-up to actual final costs in a future NCUC proceeding.

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A. The rates currently in effect for the Mountain Air wastewater system were approved by a pass-through order issued by the Commission on September 28, 2020, in Docket No. W-1148, Sub 18. MAUC has never received a water rate increase from the rates approved in the certificate of public convenience and necessity proceeding in 2001. As emergency operator, CWSNC agreed to operate the water and wastewater systems with MAUC’s existing rates, subject to true up.

Upon acquisition of the system, CWSNC proposes to charge the CWSNC Base Case Rates for metered and flat rate residential and non-residential service for both water and wastewater utility service<sup>2</sup> approved by the Commission in Docket No. W-354, Sub 400 on May 12, 2023. The present and proposed rates are as follows:

	<u>Present</u>	<u>Proposed</u>
<u>Monthly Metered Water Rates:</u>		
Base Charge	\$ 26.50 <sup>1</sup>	\$ 25.91 <sup>2</sup>
Usage Charge, per 1,000 gallons	\$ 4.08 <sup>3</sup>	\$ 12.28
<u>Monthly Flat Rate for Residential Wastewater Service:</u>		
	\$ 73.86	\$ 87.27 <sup>4</sup>
<u>Monthly Metered Commercial Wastewater Rate:</u>		
Base Charge:	\$ 71.95 <sup>1</sup>	\$ NA <sup>6</sup>
Usage Charge, per 1,000 gallons	\$ 4.76 <sup>5</sup>	\$ NA <sup>6</sup>
<u>Monthly Flat Rate for Commercial Wastewater Service:</u>		
	\$ NA	\$ 87.27 <sup>4</sup>

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<sup>2</sup> The Sub 400 wastewater rates will also be subject to Commission-approved pass-through rate changes.

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Notes:

- <sup>1/</sup> Base charge includes first 2,000 gallons of usage.
- <sup>2/</sup> Base charge for meter size less than 1 inch and zero usage.
- <sup>3/</sup> Usage charge from 2,000 to 6,000 gallons. Increases to \$13.63 for usage above 6,000 gallons.
- <sup>4/</sup> Per single family equivalent (SFE) or residential equivalent unit (REU).
- <sup>5/</sup> Usage charge from 2,000 to 6,000 gallons. Increases to \$5.24 for usage above 6,000 gallons.
- <sup>6/</sup> CWSNC intends to bill all wastewater customers at a flat rate.

Assuming the size of each installed meter will be less than one inch and the average monthly usage is 2,520 gallons, the proposed monthly metered water bill will be \$56.86 including a base facility charge of \$25.91 and a usage charge of \$12.28 per 1,000 gallons of treated water. The proposed monthly flat rate wastewater bill will be \$87.27.

**Q. HOW WILL THE PUBLIC INTEREST AND PUBLIC CONVENIENCE AND NECESSITY BE SERVED BY APPROVAL OF THE CWSNC/MAUC TRANSFER APPLICATION?**

The purpose of this Transfer Application is to facilitate the transfer of the water and sewer systems owned by MAUC to CWSNC at a price which is fair and reasonable to both the seller and the buyer and on terms which are beneficial and certainly not detrimental to the current customers of CWSNC or those of MAUC. In this instance, the water and sewer systems currently owned by MAUC were operationally and financially troubled to the extent that there was a need for the Commission to appoint CWSNC as emergency operator.

1 William R. (Randy) Banks serves as MAUC's President and Chief  
2 Executive Officer. Mr. Banks has been a stockholder and officer of MAUC  
3 since it was incorporated in 2001 and is the principal in the development  
4 organization that developed the Mountain Air Community.  
5 Representatives of the Mountain Air Property Owners Association, Inc.  
6 (POA) have been in constant communication with Mr. Banks of MAUC  
7 with respect to system deficiencies. The POA is an intervenor and formal  
8 party to this proceeding. Mr. Banks has communicated with the POA and  
9 Public Staff and stated that MAUC has insufficient funds to address the  
10 water and wastewater system service deficiencies and is without means  
11 to raise additional capital.

12 The recorded liens against the Mountain Air water and wastewater utility  
13 system assets far exceed the MAUC original cost net investment in the  
14 water and wastewater utility system assets.

15 The Mountain Air water and wastewater utility systems will unquestionably  
16 benefit from the significant financial and local operational resources and  
17 expertise which CWSNC is currently providing as emergency operator  
18 and will continue to permanently provide upon approval of the Transfer  
19 Application. Based upon the Company's current operational, financial,  
20 and technical oversight and expertise, the MAUC customers have already  
21 benefitted from CWSNC's involvement in their service.

1 In its due diligence site inspections, CWSNC identified the need for  
2 immediate extensive system renovations and replacements in order to  
3 materially improve the operation, reliability, and compliance record of the  
4 Mountain Air water and wastewater utility systems. These extensive  
5 improvements include, but are not limited to, replacement of inoperable  
6 lift station equipment, replacement of malfunctioning or missing lift station  
7 pumps, installation of telemetry at major lift stations, the installation of AMI  
8 meters and other significant water system improvements. These  
9 improvements have begun and are nearing completion. CWSNC has  
10 agreed to immediately invest its own funds in order to expedite the system  
11 improvements and bring the systems closer to permit compliance. To  
12 date, CWSNC has invested approximately \$2,156,000 of Company-  
13 supplied capital in the MAUC water and wastewater utility systems.  
14 To the best of CWSNC's knowledge, there have been no major  
15 operational issues affecting the MAUC water and wastewater systems  
16 since the Company assumed emergency operational responsibility in  
17 May 2021.  
18 These water and wastewater system capital investments and  
19 improvements by CWSNC provide clear and direct benefits to the current  
20 MAUC customers in terms of system reliability, safety, and environmental  
21 impact.

1       **Q.     PLEASE DESCRIBE THE IMPACTS THAT THE WATER AND SEWER**  
2       **RATES CURRENTLY BEING CHARGED BY CWSNC IN ITS**  
3       **CAPACITY AS EMERGENCY OPERATOR AND THE COMPANY’S**  
4       **SUB 400 BASE CASE PROPOSED RATES WILL HAVE ON**  
5       **CUSTOMERS AS THEY PERTAIN TO THE PUBLIC INTEREST ISSUE.**

6       A.     The emergency water and wastewater rates currently being charged by  
7       CWSNC to MAUC customers are very low and do not generate sufficient  
8       revenue to ensure adequate and timely capital investments in the systems  
9       or to support essential operational and maintenance activities.

10       To date, CWSNC has filed eight Emergency Operator Quarterly Financial  
11       Reports with the Commission in Docket No. W-1148, Sub 20. The most  
12       recent Quarterly Financial Report,<sup>3</sup> filed on April 27, 2023, for the calendar  
13       quarter ended March 31, 2023, shows a cumulative operating loss for the  
14       MAUC water and wastewater systems, under current rates, totaling  
15       \$124,054.74<sup>4</sup> for the twenty-three-month period extending from May 10,  
16       2021 through March 31, 2023.

17       The April 27, 2023 Emergency Operator Quarterly Financial Report also  
18       shows that, as of March 31, 2023, the Company had invested total capital  
19       in the amount of approximately \$721,400 in water and wastewater plant

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<sup>3</sup> This Report is attached hereto and is designated as Exhibit 2.

<sup>4</sup> The water system cumulative operating loss totaled \$27,814.02 and the wastewater system cumulative operating loss totaled \$96,240.72.



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additions to serve MAUC customers, primarily for an AMI water meter replacement project (approximately (\$518,900) and a sewer system SCADA project (approximately \$202,500).

Further, the Report shows that as of March 31, 2023, the Company had undertaken additional water and wastewater improvement projects classified as construction work in progress (CWIP Projects) with a then-current spend of capital in the amount of approximately \$1.32 million.

Thus, as of March 31, 2023, CWSNC, in its capacity as emergency operator, invested more than \$2 million of capital in water and wastewater improvement projects to serve the MAUC water and wastewater customers.

Although the water and sewer customers currently being served at the MAUC rates currently being charged by CWSNC as emergency operator will incur rate increases under CWSNC's proposed Sub 400 Base Case Rates, it is fair and imperative to consider the fact that the existing rates being charged have historically been and continue to be very low, and that the resulting low utility revenues are logically to be considered as reasons for the declining operational structure and financial instability that obviously has beset MAUC, and the impact on and the need for the incumbent owner to exit the business.

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If the requested transfer is approved, the MAUC customers will clearly receive substantial benefit in two essential ways: first, from the operational expertise and service improvements which are currently and will continue to be timely and prudently provided by CWSNC; and, second, from the financial integrity offered by CWSNC as a well-run and well-capitalized public utility able to provide consistently safe, reliable, and compliant service.

**Q. WHY DO YOU THINK THE MOVE TO THE SUB 400 BASE CASE RATES IS REASONABLE AND FAIR?**

A. We recognize that this transfer at the Sub 400 Base Case Rates, if approved, will initially result in rate increases to the MAUC customers. That said, I submit that the reality of this situation---including CWSNC's large, necessary capital investments in the MAUC water and wastewater systems and the resulting improvements in the quality of operation and service being provided to customers---supports immediate inclusion of these customers at our Sub 400 Base Case Rates and the Company believes that the facts clearly support that outcome. First, the fact that the current MAUC rates are low does not mean the associated costs are low. One could logically conclude that there is a relationship between these low rates, the growing operational and financial concerns for these systems, the existence of a real emergency,

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and the current owner’s financial distress with respect to this enterprise.<sup>5</sup>

Rates that are inadequate, over time, have inevitable consequences in terms of system decline and/or unwarranted subsidization by utility owners or other customers.

Second, significant warning signals have been emanating from this system, as demonstrated by the evident operational and financial problems being experienced by MAUC and its increasingly urgent efforts to place the water and wastewater systems into the hands of a professional, experienced utilities provider. The MAUC operational and financial issues have not been a secret and, unsurprisingly, CWSNC continues to discover and evaluate additional system needs as it has conducted its due diligence and as it has served as emergency operator. Third, it is worth noting that CWSNC’s Sub 400 Base Case Rates are constructed from consolidating individual system costs of service that are both under and over the average.

**Q. ARE THERE ADDITIONAL COMMENTS THAT YOU WISH TO OFFER REGARDING PUBLIC INTEREST AND RATEMAKING CONSIDERATIONS?**

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<sup>5</sup> Due to increasing complexities combined with aging systems beset by operational and financial difficulties, the management of the MAUC water and wastewater systems is increasingly shown to be best accomplished by a highly qualified regulated public utility, such as CWSNC, which specializes in and demonstrates the ability to consistently provide adequate, efficient, and reasonable water and wastewater utility service.

1 A. Yes. Clearly, the public interest will be served by approval of this pending  
2 Transfer Application. Furthermore, even recognizing the necessary  
3 realignment of the unsupportable MAUC current rates, no detriment to  
4 CWSNC's existing customers is evident or reasonably expected to result  
5 from approval of the transfer. MAUC customers will be charged rates that  
6 more closely reflect the cost to provide water and sewer service in their  
7 systems, particularly in consideration of the system improvements  
8 currently being made by CWSNC. CWSNC has the technical, managerial,  
9 operational, and financial capacity to provide adequate, safe, efficient, and  
10 reasonable water and wastewater utility service on an ongoing basis to  
11 existing customers as well as customers in the current Mountain Air  
12 Development service area.

13 Accordingly, consistent with G.S. 62-111(a), CWSNC requests that the  
14 Commission conclude that approval of the pending transfer application is  
15 justified by the public convenience and necessity and is in the  
16 public interest. CWSNC also requests that the Commission approve the  
17 Company's proposed rates and determine the Company's rate base  
18 request consistent with this testimony.

19 **CONCLUSION**

20 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

21 A. Yes.

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. W-1148, Sub 20

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of  
Mountain Air Utilities Corporation - ) ORDER APPOINTING EMERGENCY  
Petition for Appointment of ) OPERATOR AND REQUIRING  
Emergency Operator ) CUSTOMER NOTICE

BY THE COMMISSION: On April 29, 2021, the Public Staff filed a petition pursuant to N.C. Gen. Stat. § 62-116(b), requesting the Commission to issue an order: (1) declaring an emergency, and (2) appointing Carolina Water Service, Inc. of North Carolina, (CWSNC) as emergency operator (EO) of the Mountain Air water and wastewater utility systems in Yancey County, North Carolina.

The Public Staff presented this matter at the Commission’s Staff Conference on May 3, 2021.

Based upon the Public Staff’s Petition and the Commission’s records, the Commission makes the following

**FINDINGS OF FACT**

1. By order issued May 18, 2001, in Docket No. W-1148, Sub 0, the Commission granted a certificate of public convenience and necessity to Mountain Air Utilities Corporation (MAUC) to provide water and wastewater utility service in the Mountain Air Community in Yancey County. The water service is provided through a system of deep wells, ground storage and hydropneumatic tanks, and an extensive distribution system in a service area with major elevation gradients. The wastewater service is provided through a collection system including extensive pump stations owned and operated by MAUC, and transported to an interconnection with the Town of Burnsville for bulk wastewater treatment by the Town.

2. The president of MAUC is William R. (Randy) Banks. Mr. Banks has been a stockholder and officer of MAUC since it was incorporated in 2001 and is the principal in the development organization that developed the Mountain Air Community.

**System Permits**

3. The Division of Water Resources (DWR) of the North Carolina Department of Environmental Quality (DEQ) is that state agency that now regulates the permitting, operations, and monitoring of wastewater utility systems in North Carolina. DWR was

previously a division of the North Carolina Department of Environment and Natural Resources. The Public Water Supply Section (PWSS) of DEQ regulates the permitting, operations and monitoring of water utility systems in North Carolina.

4. DWR issued to MAUC collection system permits for the Mountain Air wastewater collection system, which is comprised of gravity sewer, force mains, and 33 pump stations that discharge to a delivery point for the Town of Burnsville bulk wastewater treatment.

5. The PWSS issued to MAUC water permits. The Mountain Air water utility system has distribution lines to serve approximately 445 residential water customers, 44 metered customers including the Mountain Air Country Club and Golf Course, and other commercial customers. There are currently 441 residential flat rate sewer customers and 21 metered wastewater customers.

### **Permit Violations**

6. Due to material non-compliance with N.C.G.S. § 143-215.1 and the wastewater collection permits, MAUC has incurred DWR issued Notices of Violation (NOVs) for operations and reporting violations.

7. The most recent complete DWR inspection of the Mountain Air wastewater collection system was conducted on or before November 3, 2020. The following are excerpts from the inspection report:

The self-reported sanitary sewer overflow (SSO) 5-Day Reports submitted by Mountain Air Country Club (sic) indicate violations of permit conditions stipulated in the subject permit and North Carolina G.S. 143-215.1. Violations include failing to effectively manage, maintain, and operate the subject collection system so that there is no SSO to the land or surface waters and making an outlet to waters of the State for purposes of G.S. 143-215.1 (a)(1), for which a permit is required.

8. On September 8, 2020, the wastewater system experienced pump station equipment failure. There was a resulting unlawful discharge of 1000 gallons and a discharge to surface water of 500 gallons. On October 25, 2020, the wastewater system experienced an unlawful discharge of 400 gallons and a discharge to surface waters of 200 gallons.

### **System Ownership Issues**

9. Although Mr. Banks was a principal in the entities that developed the Mountain Air community served by the Mountain Air water and wastewater utility systems, not all the utility system real property was conveyed to the utility MAUC. The ownership of important water and wastewater utility system components is unclear.

10. The recorded liens against the Mountain Air water and wastewater utility system assets far exceed the MAUC original cost net investment in the water and wastewater utility system assets. The Public Staff has determined that the MAUC rate base is close to zero.

11. With liens reportedly totaling approximately \$15 million against MAUC properties plus accruing interest, there can be no question that a real emergency exists. Due to the ownership issues and the liens against the MAUC property and facilities, the conveyance of the MAUC water and wastewater utility to a new owner will be a very complex and lengthy process.

**CWSNC Qualifications**

12. CWSNC has more than 40 years of experience owning and operating water and wastewater utility systems throughout the North Carolina mountains, including many in high elevations such as Mountain Air. CWSNC is experienced and extremely well qualified and is the appropriate utility to be the emergency operator of the water and wastewater systems at Mountain Air.

13. CWSNC has extensive franchised water and wastewater utility systems in the North Carolina mountains. The following are the CWSNC franchised areas:

- Ashe County
  - Blue Ridge Manor/Ashe Lake/Beaver Creek (EO)
  - Blue Ridge Manor/Ashe Lake/Holiday Lane (EO)
  - Blue Ridge Manor/Ashe Lake/Nikanor (EO)
- Avery County
  - Elk River
  - Linville Ridge
  - Ski Country
  - Sugar Mountain
- Buncombe County
  - Bent Creek
- Caldwell County
  - Misty Mountain
- Cherokee County
  - Bear Paw
- Clay County
  - The Ridges
- Henderson County
  - High Vista
  - Woodhaven
- Jackson County
  - Fairfield Sapphire
  - Forest Hills

Macon County	Riverbend Estates
	Watauga Vista
Madison County	Wolf Laurel
McDowell County	Waterglyn
Rutherford County	Fairfield Mountain
	FFM Apple Valley
Watauga County	Chapel Hills
	Crestview Estates
	Hounds Ears
	Powder Horn
	Ski Mountain
Transylvania County	Sherwood Forest
Yancey County	Mt. Mitchell

14. CWSNC was appointed by Order dated October 1, 2014, in Docket No. W-408, Sub 9, and is currently serving as EO, at the three Cross State Development Company water utility systems in Ashe County. CWSNC is also currently serving as the EO, appointed on January 31, 1997, in Docket No. W-796, Sub 12, for the Hardscrabble Plantation wastewater utility system in Durham County. CWSNC was also appointed EO for the Riverbend Estate water utility system in Macon County on May 16, 2017, and served as EO until the Commission’s Order dated May 16, 2019, in Docket No. W-354, Sub 358, approving the transfer of the Riverbend Estates water system to CWSNC. In each of these three EO services, CWSNC has provided excellent customer service.

15. The Public Staff stated it believes that CWSNC is extremely well qualified to perform the service of emergency operator. CWSNC will operate the Mountain Air water and wastewater utility systems with its existing CWSNC operating staff which operate mountain systems in proximity to Mountain Air. CWSNC will manage the systems with the management staff in North Carolina.

**Investment in System Renovations**

16. In its due diligence site inspections, CWSNC identified the need for immediate extensive system renovations and replacements in order to materially improve the operation, reliability, and compliance record of the Mountain Air water and wastewater utility systems. These extensive improvements will include but not limited to replacement of inoperable lift station equipment, replacement of malfunctioning or missing lift station pumps, installation of telemetry at major lift stations, and significant water system improvements. These improvements will take a period of time to complete.



17. CWSNC has agreed to immediately invest its own funds in order to expedite the system improvements and bring the systems closer to permit compliance. MAUC posted a \$30,000 bond in Docket No. W-1148, Sub 8, secured by an irrevocable letter of credit from First Citizens Bank. Therefore, CWSNC's advancing the plant improvement capital funds greatly accelerates the necessary renovations and replacements. CWSNC shall be fully reimbursed for the expeditious capital renovations, as compared to renovations made only when the Commission receives the bond proceeds.

18. The amount of money necessary to alleviate the emergency will materially exceed MAUC's existing \$30,000 bond.

19. The rates currently in effect for the Mountain Air wastewater system were approved by a pass through order issued September 28, 2020, in Docket No. W-1148, Sub 18. MAUC has never received a water rate increase from the rates approved in the certificate of public convenience and necessity proceeding in 2001. CWSNC has agreed to operate the water and wastewater systems with MAUC's existing rates, subject to true up.

20. The Public Staff has discussed with CWSNC the willingness of CWSNC to become the emergency operator of the Mountain Air utility systems. CWSNC has performed extensive due diligence in the past and again in April, 2021. CWSNC is familiar with the Mountain Air systems, and has informed the Public Staff CWSNC is willing to become emergency operator of the utility systems effective Monday, May 10, 2021.

### **Service Difficulties**

21. Among other deficiencies presently existing with respect to the water system is the condition of the water distribution mains causing water outages and resulting in loss of water service on frequent occasions for extended periods of time. It is necessary for there to be an examination of the well production facilities and the water mains, and reports as to the conditions of the mains and a list of the necessary repairs and replacements.

22. The wastewater collection system consists of 33 pump stations. A working telemetry system must be installed at the six largest lift stations. A number of lift stations have malfunctioned and have overflowed causing releases of raw sewage, permit violations and offensive odors.

23. In recent days, both the water and wastewater systems have been offline resulting in disruptions of several hours in length. The disruptions have become more frequent. These disruptions are occurring when many of the residents are not present, suggesting magnified difficulties when residents return in upcoming spring and summer days. The Mountain Air Country Club has experienced extensive outages.

24. Representatives of the Mountain Air Property Owners Association, Inc. (POA) have been in constant communication with Mr. Banks of MAUC with respect to system deficiencies. Mr. Banks has communicated with the POA and Public Staff, and stated that MAUC has insufficient funds to address service deficiencies and is without means to raise additional capital.

25. The Mountain Air Community consists of permanent as well as many seasonal residents. Within coming weeks many of the seasonal residents will be returning to the Mountain Air community, substantially increasing stress on the systems, and unless delayed improvements and repairs are made on an expeditious basis, past and existing service disruptions will magnify.

### **Real Emergency**

26. N.C.G.S. § 62-116 (b) provides that the Commission, after notice to the owner and operator of a water or wastewater utility franchise, may grant emergency operating authority to any person to furnish water or wastewater utility service to the extent necessary to relieve an emergency upon a finding that a real emergency exists, that the relief authorized is immediate, pressing, in the public interest, and that the person so authorized is able and willing to perform the service. An emergency is defined as “the imminent danger of losing adequate water or sewer utility service of the actual loss thereof.”

27. A real emergency exists regarding the Mountain Air water and wastewater utility systems, as MAUC does not have and has no prospect of obtaining the funds for necessary operations, system replacements and upgrades, is in material non-compliance with N.C.G.S. § 143-215.1, and its water permits and wastewater collection permits, and its customers are in imminent danger of losing adequate water and wastewater utility service.

28. By email to the Commission dated April 5, 2021, Randy Banks, the President of MAUC requested that the Commission appoint an EO for the Mountain Air water and wastewater utility systems. Mr. Banks stated there are many items that need immediate attention and MAUC neither has adequate funds, nor access to adequate funds, to successfully operate, maintain, or make repairs and upgrades to the Mountain Air water and wastewater utility systems.

29. The POA filed with the Commission on April 26, 2021, a letter describing the deferred maintenance, and the significant service deficiencies, including water outages and wastewater leaks. The POA requested the Commission immediately appoint a professional operator as emergency operator for the Mountain Air water and wastewater utility systems.

## Appointment of CWSNC as Emergency Operator

30. MAUC, through its President Randy Banks, has advised the Public Staff that it consents to the appointment of CWSNC as the emergency operator of the Mountain Air water and wastewater utility system. CWSNC has agreed to be appointed emergency operator.

31. CWSNC has requested that the Commission's Order appointing CWSNC emergency operator clearly state:

- a. That CWSNC as emergency operator shall not be responsible for, or liable for, any acts, omissions, system operations and maintenance, or system installations, occurring prior to the date of the appointment as emergency operator.
- b. That CWSNC shall have no responsibility for MAUC's handling of customer deposits, if any, or any other obligations or liabilities of MAUC arising from its operation of the water and wastewater utility systems.
- c. That CWSNC shall not be responsible for, or liable for, any acts, omissions, obligations or liabilities of MAUC, Mr. Banks, the owners of any property on which the utility assets are located, or any of them.
- d. That CWSNC as EO be made whole being reimbursed for all capital investment for replacements and upgrades, earn the Commission approved return on CWSNC's capital investments, earn the Commission approved operating margin on CWSNC's reasonable operating expenses, recovering all of CWSNC's reasonable operating expenses as EO.
- e. That there be a true up at the time CWSNC is relieved of its duties.
- f. That CWSNC as emergency operator may petition the Commission at any time to be discharged as the emergency operator, which discharge the Commission shall approve.

The Public Staff stated it fully supports all of these provisions.

32. The recorded liens against the Mountain Air water and wastewater utility system assets far exceed the MAUC original cost net investment in the water and wastewater utility system assets. The Public Staff has determined that the MAUC rate base is close to zero.

33. With liens reportedly totaling approximately \$15 million against MAUC properties plus accruing interest, there can be no question that a real emergency exists. Due to the ownership issues and the liens against the MAUC property and facilities, the conveyance of the MAUC water and wastewater utility to a new owner will be a very complex and lengthy process.

34. It has become increasingly difficult to obtain qualified entities to operate water and wastewater utilities in emergency situations. Traditional ratemaking approaches have proven inadequate to compensate emergency operators for the substantial financial and management resources required to operate and maintain a water or wastewater utility system owned by another entity. For this reason, the Public Staff recommended a hybrid approach combining elements of both N.C.G.S. § 62-133 and N.C.G.S. § 62-133.1, as set forth below.

35. The Public Staff recommends that CWSNC be authorized to earn a return on its investment in plant and the annual depreciation expense related to the investment. The Public Staff stated it believes that an appropriate return would be the overall rate of return of 7.39% approved for the CWSNC Service Areas by Order issued March 31, 2020, in Docket No. W-354, Sub 364. The 7.39% rate or return is based upon a capital structure of 50.90% long-term debt with a cost of 5.36%, and 49.10% common equity with a return on equity of 9.50%.

36. The Public Staff also recommends that CWSNC be allowed to earn a margin on its reasonable and prudent operating expenses. As CWSNC would receive the annual depreciation funds as its plant investment declines, the operating margin would not apply to the depreciation expense as is normal rate making practice under the operating ratio Montclair method previously approved by the Commission. The Public Staff recommends that a 7.25% operating margin will be fair compensation for CWSNC given the magnitude and difficulty of its responsibilities as emergency operator of the Mountain Air systems.

37. The Public Staff recommends, based upon the ratemaking approach described above, that the Commission approve the appointment of CWSNC as emergency operator of the Mountain Air water and wastewater systems at the existing MAUC rates, subject to true up, which CWSNC has agreed to.

38. The appointment of the emergency operator operates to forfeit MAUC's \$30,000 bond and surety from First Citizens Bank posted by MAUC in Docket No. W-1148, Sub 8.

## CONCLUSIONS

Based upon the foregoing and the recommendations of the Public Staff, the Commission concludes an emergency exists for the Mountain Air water and wastewater utility systems, which are in imminent danger of losing adequate water

and wastewater utility service. The Commission further concludes that CWSNC, should be appointed emergency operator.

IT IS, THEREFORE, ORDERED as follows:

1. That CWSNC is hereby appointed as emergency operator of the Mountain Air water and wastewater utility system effective May 10, 2021 (the Effective Date). All expenses associated with the operation of the Mountain Air water and wastewater utility systems accruing or relating to the period up to the Effective Date shall be MAUC's sole responsibility. All such expenses accruing or relating to the period commencing on and after the Effective Date shall be the emergency operator's sole responsibility;

2. That the appointment of the emergency operator, pursuant to N.C.G.S. § 62-110.3(d), operates to forfeit MAUC's \$30,000 bond, and the Commission will proceed to redeem the \$30,000 letter of credit held by First Citizens Bank;

3. That the Schedule of Rates, attached as Appendix A, being the current rates of MAUC, is approved for CWSNC as emergency operator, on a provisional basis for water and wastewater utility service provided by CWSNC as emergency operator, subject to true up if CWSNC as emergency operator has not recovered its costs and approved returns, or has over-recovered;

4. That a copy of the Notice to Customers, attached as Appendix B, shall be mailed by MAUC with sufficient postage or by electronic delivery to all the water and wastewater utility systems customers, no later than three days after the date of this Order, and that MAUC submit to the Commission the attached Certificate of Service property signed and notarized not later than 10 days after the date of this Order;

5. That the of the rate of return on capital investments described in Finding of Fact No. 35, and the operating margin described in Finding of Fact No. 36 are approved;

6. That the following provisions are adopted by this Order:

a. That the emergency operator shall maintain full records of receipts and expenses and shall file with the Commission and Public Staff, by the end of the subsequent month, a summary financial report on a quarterly basis.

b. That the emergency operator shall have charge of the daily operation of the MAUC water and wastewater utility systems, and the emergency operator's duties and responsibilities shall include, among others, the following:

(i) Regular inspections and testing of the Mountain Air water and wastewater utility systems;

(ii) Billing of all customers and collection of bills;

- (iii) Routine and emergency maintenance and repair;
  - (iv) System renovations and additions necessary to maintain adequate water and wastewater utility service;
  - (v) Quarterly accounting to the Utilities Commission and the Public Staff of all rates collected, expenses incurred, checks written, and all monies spent;
  - (vi) Providing a telephone number to customers for routine and emergency calls and a mailing address; and
  - (vii) Filing all required reports with PWSS and DWR.
- c. That the emergency operator may contract with any person to carry out any of the duties necessary for operation and repair of the wastewater utility system, but the emergency operator shall have the ultimate, sole responsibility to see that such duties are carried out.
- d. That the emergency operator in the performance of its duties, shall be free to seek assistance from the customers of the water and wastewater utility systems, contractors, engineers, attorneys, and such other persons as may be necessary for the performance of its duties and responsibilities.
- e. That the emergency operator shall, when it becomes necessary in the performance of its duties, seek the assistance of the PWSS and DWR of DEQ, the North Carolina Utilities Commission, the Public Staff of the Utilities Commission, and the Yancey County Health Department.
- f. That the emergency operator shall collect from the customers of the water and wastewater utility systems such rates, assessments, and surcharges as may be approved by the North Carolina Utilities Commission and shall be fully authorized to bill and collect those rates, assessments, and surcharges and to disburse those funds as may be necessary to provide safe, reliable, and adequate water and wastewater utility service to the customers. Any customer who fails to pay the bill(s) authorized by this paragraph shall be disconnected by the emergency operator as provided by the orders, rules, and regulations of the North Carolina Utilities Commission.
- g. Subject to any true up for under collection or over collection required by the Commission, all revenues received by the emergency operator from the date of this Order in connection with its operation of the MAUC water and wastewater utility systems, not used in payment of operating expenses, shall be the sole property of the emergency operator.

- h. That the emergency operator shall be entitled to all available records relating to the water and wastewater utility systems and those records shall include, but not be limited to, a list of customer names, addresses, and billing records.
- i. That the emergency operator shall keep records of all monies collected through the rates, assessments (if any), and surcharges (if any), and all monies expended in the operation of the water and wastewater utility systems. In order to protect the customers' interests in the water and wastewater utility systems, the emergency operator is required to keep a separate record of all monies and assessments collected from customers and expended on improving and upgrading the wastewater utility system, and the cost of the labor associated with those improvements, whether performed by the emergency operator or contractor hired by the emergency operator.
- j. The emergency operator shall account for any funds advanced by it for the renovations, upgrades, replacements, and operation of the water and wastewater utility systems.
- k. That the emergency operator shall be responsible for and pay only those liabilities incurred by the emergency operator on and after the Effective Date of the appointment of the emergency operator. Those liabilities shall be defined as the liabilities arising from the emergency operator's operation of the Mountain Air water and wastewater utility systems pursuant to Commission Order. The emergency operator shall not be responsible for, or liable for, any acts, omissions, system operations and maintenance, or system installations, occurring prior to May 10, 2021, the effective date of the appointment of CWSNC as emergency operator. The disbursements by the emergency operator shall be made from the separate emergency operator accounts including bank accounts set up by the emergency operator; the emergency operator shall account for any funds advanced by it for the operations.
- l. That the emergency operator shall have no responsibility for MAUC's handling of customer deposits, if any, or any other obligations or liabilities of MAUC arising from its operation of the water and wastewater treatment systems. The emergency operator shall not be responsible for, or liable for, any acts, omissions, obligations, commitments or liabilities of Randy Banks or MAUC.
- m. That the emergency operator may petition the Commission at any time to be discharged as the emergency operator of the Mountain Air water and wastewater utility systems, which discharge the Commission shall approve. Prior to its discharge, the emergency

operator shall provide an acceptable accounting of the Utilities Commission of all monies collected and disbursed during its tenure as emergency operator, as well as the amounts due and owing the emergency operator at the time of its discharge for its services performed as emergency operator. The emergency operator filing a petition for discharge shall also mail a copy of the petition to the DWR and PWSS of DEQ.

- n. That this docket shall remain open for further motions, reports, etc., of the emergency operator, DWR, PWSS, the Public Staff, and for further orders of the Commission.
  - o. Revenues received from customers for wastewater utility service rendered prior to May 10, 2021, the effective date of the appointment of the emergency operator shall be the property of MAUC. Any customer bills which relate to wastewater utility service provided both before and on or after the Effective Date of May 10, 2021, shall be allocated between MAUC and the emergency operator. If the emergency operator receives payment in the form of a check made out to MAUC, for water and wastewater utility services provided after the Effective Date, MAUC shall endorse that check over to the emergency operator to enable it to make the necessary allocations described above;
7. MAUC shall within 20 days of the Effective Date, refund all customer deposits, if any, plus accrued interest;
8. That the following items of information shall be made available to CWSNC:
- a. Customer information for each residence connected to the system, containing at a minimum, customer name, service address, billing address, contact phone numbers (home and work), and billing records.
  - b. Copy of latest electrical power bill for each electric service location needed for transfer of service.
  - c. Copy of each system plans and specifications.
  - d. Copies of all monitoring reports and evaluations completed by MAUC or its certified operator for the past 36 months.
  - e. The names, addresses, and telephone number of all vendors providing materials and supplies for the wastewater system operations.
  - f. Copies of all 2020 (if available) property tax bills.



- g. Copies of all correspondence with DWR or PWSS including NOVs for the past five years; and

9. That the Public Staff shall file a report with the Commission within one year from the issuance date of this Order. This report shall include: (1) a summary description of the improvements made by CWSNC to the water and wastewater utility systems and the associated costs; (2) a review of correspondence from customers, if any; and (3) a summary of the financial reports filed by CWSNC to date.

ISSUED BY ORDER OF THE COMMISSION.

This the 4th day of May, 2021.

NORTH CAROLINA UTILITIES COMMISSION



Kimberley A. Campbell, Chief Clerk

SCHEDULE OF PROVISIONAL RATES

for

MOUNTAIN AIR UTILITIES CORPORATION

(Carolina Water Service, Inc. of North Carolina, Emergency Operator)

for providing water and sewer utility service in

MOUNTAIN AIR DEVELOPMENT

Yancey County, North Carolina

Monthly Metered Water Rates:

Base Charge, includes 2,000 gallons	\$ 26.50
Usage Charge, per 1,000 gallons:	
From 2,000 to 6,000 gallons	\$ 4.08
Above 6,000 gallons	\$ 13.63

Monthly Metered Commercial Sewer Rates:

Base Charge, includes 2,000 gallons	\$ 69.25
Usage Charge, per 1,000 gallons:	
From 2,000 to 6,000 gallons	\$ 4.76
Above 6,000 gallons	\$ 5.24

Monthly Flat Rate for Residential Sewer Service: \$ 71.16

Water Tap on Fee: \$500.00

Sewer Tap on Fees (based on meter size):

<u>Meter Size</u>	<u>Fee</u>
3/4 inch	\$ 4,310
1 inch	\$ 5,650
2 inch	\$11,480
4 inch	\$29,500

<u>Meter Size</u>	<u>Fee</u>
6 inch	\$66,600
8 inch	\$76,600
10 inch	\$89,600
12 inch	\$96,600

Grinder Pump Replacement Charge:

The Company will bear responsibility for repair and replacement of grinder pumps. Costs incurred for this service will be recovered from the owner of the grinder pump on a time and materials basis plus 5%.

Reconnection Charges:

If water service cut off by utility for good cause	\$ 14.40
If water service discontinued at customer's request	\$ 14.40
If sewer service cut off by utility for good cause	\$ 14.29

NOTE: Customers who ask to be reconnected within nine months of disconnection will be charged the base charge and flat rate charge (if any) for the service periods that they were disconnected.

- Bills Due: On billing date
- Bills Past Due: 15 days after billing date
- Billing Frequency: Shall be monthly for service in arrears
- Finance Charge for Late Payment: 1% per month will be applied to the unpaid balance of all bills still past due 25 days after billing date.

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Issued in Accordance with Authority Granted by the North Carolina Utilities Commission in Docket No. W-1148, Sub 20, on this the 4th day of May, 2021, effective May 10, 2021.

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

**NOTICE TO CUSTOMERS  
DOCKET NO. W-1148, SUB 20  
BEFORE THE NORTH CAROLINA UTILITIES COMMISSION**

Notice is hereby given that the North Carolina Utilities Commission (Commission) has appointed Carolina Water Service, Inc. of North Carolina (CWSNC) as emergency operator for the Mountain Air water and wastewater utility systems in the Mountain Air Development in Yancey County, North Carolina. Randy Banks, the President of Mountain Air Utilities Corporation (MAUC) requested the Commission appoint an emergency operator as MAUC did not have adequate funds to operate, maintain, repair and renovate the water and wastewater utility systems, and did not have access to the necessary funds.

The Mountain Air Property Owners Associations, Inc. (POA) filed with the Commission on April 26, 2021, a letter describing the deferred maintenance, and the significant service deficiencies, including water outages and wastewater leaks. The POA requested the Commission immediately appoint a professional operator as emergency operator for the Mountain Air water and wastewater utility systems.

CWSNC has more than forty years of experience owning and operating water and wastewater utility systems in the North Carolina Mountains. CWSNC currently provides water and or wastewater utility service to 28 service areas in 15 counties in the North Carolina Mountains. The Public Staff recommended that CWSNC be appointed emergency operator.

In its due diligence site inspections, CWSNC identified the need for immediate extensive system renovations and replacements in order to materially improve the operation, reliability and compliance record of the Mountain Air water and wastewater utility systems. These immediate extensive improvements will include but are not be limited to replacement of inoperable lift station equipment, replacement of malfunctioning or missing lift station pumps, installation of telemetry at major lift stations, and significant water system improvements. These improvements will take a period of time to complete.

CWSNC will operate the Mountain Air water and wastewater utility systems with the Commission approved existing MAUC rates, subject to true up. CWSNC will begin as emergency operator on Monday, May 10, 2021. The telephone number to call CWSNC for service issues and billing questions is 800-525-7990.

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

**NOTICE TO CUSTOMERS  
DOCKET NO. W-1148, SUB 20  
BEFORE THE NORTH CAROLINA UTILITIES COMMISSION**

Customers may review the complete Commission Order dated May 4, 2021, appointing CWSNC emergency operator on the Commission's website ([www.ncuc.net](http://www.ncuc.net)), by clicking on Docket Search under Dockets portal; then for Docket Number, entering W-1148 Sub 20, and clicking on Documents to locate the Order dated May 4, 2021.

ISSUED BY ORDER OF THE COMMISSION.

This the 4th day of May, 2021.

NORTH CAROLINA UTILITIES COMMISSION



Kimberley A. Campbell, Chief Clerk

CERTIFICATE OF SERVICE

I, \_\_\_\_\_, mailed with sufficient postage or electronically delivered to all affected customers a copy of the Notice to Customers issued by the North Carolina Utilities Commission in this Docket No. W-1148, Sub 20, and such Notice to Customers was mailed or electronically delivered by the date specified in the Order dated May \_\_\_\_, 2021.

This the \_\_\_\_ day of May, 2021.

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Name of Utility Company

The above named Applicant, \_\_\_\_\_, personally appeared before me this day and, being first duly sworn, says that the required copy of the Commission Notice to Customers was mailed or electronically delivered to all affected customers, as required by the Commission Order dated in Docket No. W-1148, Sub 20.

Witness my hand and notarial seal, this the \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Typed or Printed Name

(SEAL) My Commission Expires: \_\_\_\_\_  
Date

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

April 27, 2023

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

**Via Electronic Filing**

Re: Carolina Water Service, Inc. of North Carolina (Emergency Operator of Mountain Air Utilities Corporation Water and Sewer Systems)  
Docket No. W-1148, Sub 20  
Filing of Quarterly Financial Reports (January - March 2023 Calendar Quarter)

Dear Ms. Dunston:

Pursuant to decretal paragraph number 6.a. of the Order Appointing Emergency Operator and Requiring Customer Notice issued by the Commission in Docket No. W-1148, Sub 20 on May 4, 2021, Carolina Water Service, Inc. of North Carolina (“CWSNC” or “Company”) is required to file certain quarterly financial reports. The Company is required to file these reports in its capacity as Emergency Operator (“EO”) of the water and sewer utility systems which were formerly operated by Mountain Air Utilities Corporation. CWSNC hereby files the required financial reports for the January - March 2023 calendar quarter.

As always, thank you and your staff for your assistance; please feel free to contact me if there are any questions or suggestions.

Sincerely,

**Electronically Submitted**

**/s/Jo Anne Sanford**

Attorney for Carolina Water Service,  
Inc. of North Carolina (Emergency  
Operator)

c: Parties of Record

## CERTIFICATE OF SERVICE

On behalf of **Carolina Water Service, Inc. of North Carolina** (Emergency Operator of the Mountain Air Utilities Corporation Water and Sewer Systems), I hereby certify that I have served a copy of the foregoing **Quarterly Financial Reports (January - March 2023 Calendar Quarter)** in Docket No. W-1148, Sub 20 on all parties of record in this proceeding, in accordance with North Carolina Utilities Commission Rule R1-39, either by United States mail, first class postage pre-paid; by hand delivery; or by means of electronic delivery upon agreement of the receiving party.

This the 27th day of April 2023.

**Electronically Submitted**

**/s/Jo Anne Sanford**

State Bar No. 6831

SANFORD LAW OFFICE, PLLC

[sanford@sanfordlawoffice.com](mailto:sanford@sanfordlawoffice.com)

Tel: 919.210.4900

**Attorney for Carolina Water Service,  
Inc. of North Carolina (Emergency  
Operator)**



**Mountain Air Utilities Corporation**  
Carolina Water Service, Inc. of NC as EO  
Docket No. W-1148, Sub 20  
Plant in Service, Revenues, Expenses, and Reserve Balances  
For Q1 2023

Line No.	Item	Mountain Air Water (a)	Mountain Air Sewer (b)	Total [8] (c)
1	Plant In Service	518,884.87 [1]	202,517.54 [1]	721,402.41
2	Accumulated Depreciation	5,178.74 [2]	16,876.44 [2]	22,055.18
3	Net Plant in Service (L1 - L2)	513,706.13	185,641.10	699,347.23
4	Revenues	46,497.57 [3]	102,993.62 [3]	149,491.19
5	Expenses for a return	37,751.31 [4]	108,769.72 [4]	146,521.03
6	Depreciation & Amort (No Return)	6,201.99	7,530.87	13,732.86
7	Regulatory fee (L4 x 0.14%)	65.10	144.19	209.29
8	Gross receipts tax (L4 x 0%)	0.00	0.00	0.00
9	Pre-tax return on expenses	3,553.35 [5]	10,237.97 [5]	13,791.32
10	Pre-tax return on Net Plant in Service	12,321.61 [6]	4,452.74 [6]	16,774.35
11	Total expenses and return (Sum of L5 thru L10)	59,893.36	131,135.49	191,028.85
12	Net activity for the quarter (L4 - L11)	(\$13,395.79)	(\$28,141.87)	(\$41,537.66)
13	Reserve balance prior quarter	(11,462.60) [7]	(55,056.31) [7]	(\$66,518.91)
14	Net activity for the quarter (L12)	(13,395.79)	(28,141.87)	(\$41,537.66)
15	Prior Depreciation not included	(2,955.63) [9]	(13,042.54) [9]	(\$15,998.17)
16	Current Reserve balance (L12 + L13)	(\$27,814.02)	(\$96,240.72)	(\$124,054.74)

- [1] Total plant in service from Schedule 3.  
[2] Total accumulated depreciation from Schedule 3.  
[3] Total revenues from Schedule 2.  
[4] Total expenses for return from Schedule 2.  
[5] Schedule 1(a), Line 5.  
[6] Schedule 1(a), Line 10.  
[7] Ending balance from prior period report.  
[8] Column (a) plus Column (b).  
[9] Depreciation expense from prior reports not included in reserve balance

**Mountain Air Utilities Corporation**  
Carolina Water Service, Inc. of NC as EO  
Docket No. W-1148, Sub 20  
Calculation of Pre-Tax Return  
For Q1 2023

Line No.	Item	Mountain Air Water (a)	Mountain Air Sewer (b)	Total (c)
<u>Calculation of Pre-Tax Return - Expenses</u>				
1	Expenses for return	\$37,751.31 [1]	\$108,769.72 [1]	\$146,521.03 [1]
2	Overall rate of return	7.25% [2]	7.25% [2]	7.25% [2]
3	Return on expenses (L1 x L2)	2,736.97	7,885.80	10,622.77
4	Retention factor for income taxes (L16)	0.770250	0.770250	0.770250
5	Pre-tax return on expenses (L3 / L4)	<u>\$3,553.35</u>	<u>\$10,237.97</u>	<u>\$13,791.33</u>
<u>Calculation of Pre-Tax Return - Plant in Service</u>				
6	Net Plant in Service	\$513,706.13 [3]	\$185,641.10 [3]	\$699,347.23 [3]
7	Overall rate of return	7.39% [2]	7.39% [2]	7.39% [2]
8	Quarterly Return	1.85% [4]	1.85% [4]	1.85% [4]
9	Return on Plant in Service (L6 x L7)	9,490.72	3,429.72	12,920.44
10	Retention factor for income taxes (L16)	0.770250	0.770250	0.770250
11	Pre-tax return on Plant in Service (L9 / L10)	<u>\$12,321.61</u>	<u>\$4,452.74</u>	<u>\$16,774.35</u>
<u>Calculation of Retention Factor</u>				
12	Revenues	1.000000		
13	Less: State income tax at 2.5%	0.025000		
14	Federal taxable income	0.975000		
15	Less: Federal income tax at 21%	0.204750		
16	Retention factor for income taxes	<u>0.770250</u>		

- [1] Schedule 1, Line 5.  
[2] Overall return authorized by Commission for CWSNC on May 4, 2021 in Docket No. W-1148, Sub 20.  
[3] Schedule 1, Line 3.  
[4] Overall Rate of Return /12 \*3

**Mountain Air Utilities Corporation**  
Carolina Water Service, Inc. of NC as EO  
Docket No. W-1148, Sub 20  
Revenues and Expenses  
For Q1 2023

Fusion Acct Number	Account Description	Mountain Air Water	Mountain Air Sewer	Total
		(DEPT 320216)	(DEPT 320217)	(c)
		(a)	(b)	(c)
411001	Residential	(46,319.06)	(95,775.72)	(142,094.78)
411040	Revenue Accrued	(15.34)	(4,447.44)	(4,462.78)
411024	Commercial - Measured	-	(2,569.04)	(2,569.04)
411042	Forfeited Discounts	(94.31)	(136.57)	(230.88)
411058	Management Service Revenue	(68.86)	(64.85)	(133.71)
<b>Total Revenues</b>		<b>(46,497.57)</b>	<b>(102,993.62)</b>	<b>(149,491.19)</b>
511001	Purchased Services-Water	0.01	0.01	0.02
511002	Purchased Services-Sewer	-	65,450.94	65,450.94
512001	Shop Supplies and Tools	16.02	15.06	31.08
512002	Repairs and Maintenance	327.07	2,603.78	2,930.85
512003	Main Breaks	57.59	54.28	111.87
512009	Permits	127.30	119.85	247.15
512012	Deferred Maintenance Expense	151.30	142.45	293.75
512016	Uniforms	28.68	26.98	55.66
512017	Weather/Hurricane/Fuel/Snow removal	33.47	31.47	64.94
512018	Safety Supplies/Expense	133.08	31.10	164.18
512021	Landscaping	0.59	0.56	1.15
512900	Other Plant and System Maintenance	(12,968.06)	929.28	(12,038.78)
513008	Electrical Equip	3.56	3.35	6.91
513900	Other Materials and Supplies	51.20	48.22	99.42
514900	Other Chemicals	380.25	-	380.25
515002	Test - Water/Sewer	425.87	0.02	425.89
515003	Test - Equipment/Chemical	4.54	4.29	8.83
517001	Utility-Electric Power	6,668.69	9,254.86	15,923.55
521010	Salaries and Wages	8,318.26	7,215.72	15,533.98
521020	Salaries and Wages - Accrued	318.22	299.13	617.35
521040	Overtime	1,245.17	1,171.16	2,416.33
521070	EIP Bonus	332.70	313.38	646.08
521080	Bonus Other	123.34	116.16	239.50
522001	Capitalized Time	6,116.14	(968.30)	5,147.84
531001	401K Profit Sharing	311.18	292.69	603.87
531002	401K Match	283.05	266.30	549.35
532001	Health Admin and Stop Loss	428.89	403.80	832.69
532002	Dental	103.70	97.67	201.37
532005	Employee Insurance Deductions	(636.99)	(599.65)	(1,236.64)
532006	Health Insurance Claims	2,278.60	2,144.87	4,423.47
532009	Workers Compensation Insurance (WCB)	347.73	327.17	674.90
532012	Term Life Insurance	186.83	175.83	362.66
532013	Term Life Insurance Opt	(23.65)	(22.26)	(45.91)
532900	Other Employee Benefits	105.43	99.26	204.69
540100	Consulting	322.62	303.80	626.42
540400	Legal	527.08	496.42	1,023.50
549000	Other Outside Services	278.38	262.27	540.65
550400	Internet Services	1,424.86	4.13	1,428.99
560100	General Liability Insurance	618.63	582.41	1,201.04
560200	Property Insurance	1,443.84	1,359.33	2,803.17
560300	Vehicle Insurance	359.98	338.82	698.80
560500	Other Insurance	402.93	379.12	782.05
571100	Building Rent	602.65	567.37	1,170.02
581100	Office Supplies	9.57	9.03	18.60
581200	Kitchen Supplies	16.24	15.27	31.51
581300	Cleaning Supplies	0.07	0.06	0.13
582100	Office Equipment	0.49	0.46	0.95
583400	Office Shipping Charges/Postage/Courier	22.01	20.71	42.72
584200	Office Gas/Heat	0.87	0.82	1.69
585900	Other Office Maintenance	3.41	3.20	6.61
586100	Landline/Telephone/Fax	4.81	4.54	9.35
586200	Cellular/Mobile Phones	221.30	208.40	429.70
587500	Answering Service	41.12	38.74	79.86
587900	Other Office Expenses	8.50	7.97	16.47

**Mountain Air Utilities Corporation**  
Carolina Water Service, Inc. of NC as EO  
Docket No. W-1148, Sub 20  
Revenues and Expenses  
For Q1 2023

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April 18 2023

Fusion Acct Number	Account Description	Mountain Air Water	Mountain Air Sewer	Total
		(DEPT 320216)	(DEPT 320217)	
		(a)	(b)	(c)
591000	Accommodation/Hotel/Lodging	35.69	33.59	69.28
592000	Airfare	13.53	12.72	26.25
593000	Transportation excl. Airfare	10.77	10.13	20.90
595000	Travel - Meals and Entertainment - 50% Tax Deductible	37.25	35.04	72.29
599900	Other Travel	13.60	12.80	26.40
601000	Vehicle Leasing	27.07	25.45	52.52
602000	Vehicle Fuel	729.86	687.14	1,417.00
603000	Vehicle Repairs and Maintenance	338.63	318.76	657.39
604000	Vehicle Registration/Licensing Fees	2.67	2.50	5.17
609000	Vehicle - Other Costs	74.58	70.13	144.71
611100	Rate Case Amortization	423.80	399.00	822.80
612900	Other Regulatory Expenses	1,355.10	114.48	1,469.58
624100	License Fees	5.47	5.15	10.62
626100	Education and Training	15.86	14.97	30.83
627300	Uncollectible Accounts Accrual	(70.00)	-	(70.00)
628400	Customer Service Printing	572.45	538.34	1,110.79
629100	Memberships and Dues	206.90	194.16	401.06
629500	Credit Card Expense Clearing	178.47	167.56	346.03
629900	Other Misc Expense	42.12	39.61	81.73
641100	FICA	706.19	664.28	1,370.47
642100	Federal Unemployment Tax	15.21	14.33	29.54
642200	State Unemployment Tax	48.39	45.54	93.93
643300	Personal Property Taxes	38.43	36.16	74.59
643600	Utility/Commission Taxes	65.93	137.88	203.81
643700	Other General Taxes	472.58	369.22	841.80
691000	Corporate Allocation	9,582.05	9,020.32	18,602.37
692000	Regional Allocation	1,219.59	1,148.16	2,367.75
710220	Dep - Struct and Improv Office	8.52	8.03	16.55
710227	Dep - Electric Pump Equip Src Pump	-	7,232.76	7,232.76
710231	Dep - Dist Resv and Standpipes	2.99	2.82	5.81
710232	Dep - Trans and Distr Mains	9.88	9.30	19.18
710235	Dep - Meter Installations	6,062.05	-	6,062.05
710303	Dep - Office Furniture	5.53	5.19	10.72
710309	Dep - Power Operated Equipment	1.02	0.96	1.98
710310	Dep - Communications Equipment	0.05	0.05	0.10
710401	Dep - Vehicles	277.82	261.58	539.40
710501	Dep - Computer Hardware	3.66	3.45	7.11
710504	Dep - Mini Comp Wtr	7.17	6.73	13.90
720036	Amort CIAC - Tap Fee	(97.71)	-	(97.71)
720041	Amort CIAC - Plant Meter Fee	(78.99)	-	(78.99)
<b>Total Exp</b>		<b>43,953.30</b>	<b>116,300.59</b>	<b>160,253.89</b>
<b>Operating Income</b>		<b>(2,544.27)</b>	<b>13,306.97</b>	<b>10,762.70</b>

**Mountain Air Utilities Corporation**  
 Carolina Water Service, Inc. of NC as EO  
 Docket No. W-1148, Sub 20  
 Construction Status Report  
 For Q1 2023

**Completed Plant in Service**

<u>Asset Number</u>	<u>Fusion Acct Number</u>	<u>Account Description</u>	<u>System</u>	<u>Plant In Service</u>	<u>Accumulated Depreciation</u>
<b><u>Water</u></b>					
1013402	141235	METER INSTALLATIONS	320216	381.49	3.18
2005394	271036	CIAC Tap Fee	320216	(14,820.00)	(440.10)
2005396	271041	CIAC Plant Meter Fee	320216	(11,980.00)	(443.21)
5002031	141235	NC - 2021 - Mountain Air - AMI Water Meter Replacement - 511 CP 2021202	320216	545,303.38	6,058.87
			<b><u>Water Subtotal</u></b>	<b><u>518,884.87</u></b>	<b><u>5,178.74</u></b>
<b><u>Sewer</u></b>					
5001975	141227	NC - 2021 - Mountain Air - Sewer System SCADA CP 2021147	320217	202,517.54	16,876.44
			<b><u>Sewer Subtotal</u></b>	<b><u>202,517.54</u></b>	<b><u>16,876.44</u></b>

**Construction Work-in-Progress**

<u>Project Number</u>	<u>Fusion Acct Number</u>	<u>Project Name</u>	<u>System</u>	<u>Spend to Date</u>	<u>Estimated Cost</u>
2021145	141310	NC - 2021 - Mountain Air - Water System SCADA	Mountain Air W	150,418	200,000
2021146	141227	NC - 2021 - Mountain Air - Water System Improvements	Mountain Air W	450,726	514,299
2021148	141249	NC - 2021 - Mountain Air - Sewer System Improvements	Mountain Air S	717,760	750,000