

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. W-218, SUB 526A

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application by Aqua North Carolina, Inc.,)
202 MacKenan Court, Cary, North Carolina)
27511, for Authority to Adjust and Increase)
Rates for Water and Sewer Utility Service)
in All Its Service Areas in North Carolina)

REPLY COMMENTS
OF THE PUBLIC STAFF

NOW COMES THE PUBLIC STAFF – North Carolina Utilities Commission (Public Staff), by and through its Executive Director, Christopher J. Ayers, and respectfully submits for the Commission’s consideration the following Reply Comments addressing the Verified Response to Initial Comments of the Public Staff (Verified Response) filed on May 7, 2021, by Aqua North Carolina, Inc. (Aqua NC or the Company).

Grinder Pumps

1. On pages 18 through 24 of its Verified Response, Aqua NC discusses grinder pumps, including its position that, “replacements of sewer system grinder pumps on pressurized sewer collection systems benefit not only the individual customers they serve, but are necessary, integral, and beneficial to maintaining the hydraulics and proper overall operation of the particular pressure system as well.” Verified Response at 19. Aqua NC requests that, “the Commission deny the position taken by the Public Staff and, instead, adopt the Company’s position and rule that pressure sewer system grinder pumps are eligible for SSIC

cost recovery and are properly included in the Ongoing WSIC/SSIC Three-Year Plan, filed on March 1, 2021.”¹ *Id.* at 24.

2. In support of its position, Aqua NC describes the permitting requirements, common problems with grinder pumps, and an atypical scenario in which power was restored to a subdivision after an outage due to Hurricane Florence, causing most of the individual grinder pumps to start simultaneously. *Id.* at 20-21.

3. The Public Staff maintains its position that replacement of individual grinder pumps are ineligible for SSIC recovery based on the following:

a. On December 17, 2020, in Docket No. W-354, Sub 364A, the Commission issued its Order Approving Water and Sewer System Improvement Charges on a Provisional Basis and Requiring Customer Notice (CWSNC WSIC/SSIC Order). The CWSNC WSIC/SSIC Order provides:

In accordance with the discussion to follow, the Commission determines that whether a water or sewer system improvement is routine or unplanned is not alone determinative of WSIC/SSIC eligibility, while an improvement benefitting only a single customer, as opposed to benefitting the utility’s system, is not eligible for recovery using the WSIC/SSIC surcharge.

¹ Aqua NC initially made its SSIC grinder pump request in its Application for Approval of Water and Sewer System Improvement Charge Rate Adjustments Pursuant to G.S. 62-133.12 filed October 29, 2020. It subsequently withdrew that request by letter filed on December 29, 2020, but reserved the right to, “present them for consideration in a future SSIC surcharge case, with additional support and under a procedure that is more consistent with that prescribed by the Commission in the CWSNC Sub 364A case.” The Public Staff set out its position regarding the SSIC eligibility of grinder pumps in its Notice of Public Staff’s Plan to Present Comments and Recommendations at the Commission’s January 4, 2021, Regular Staff Conference, filed on December 18, 2020, in Docket No. W-218, Sub 526A. Thereafter, Aqua NC filed its Ongoing Three-Year WSIC/SSIC Plan filed on March 1, 2021, and its Application for Approval of Water and Sewer System Improvement Charge Rate Adjustments Pursuant to G.S. 62-133.12 on April 28, 2021. Neither of these filings provided additional support for Aqua NC’s position that grinder pumps are eligible for SSIC recovery.

CWSNC WSIC/SSIC Order at 6.

Certain improvements that benefit only a single customer may provide no benefit the system. To the extent an improvement benefits a sole customer or relatively few customers, it is not an eligible improvement unless the utility can demonstrate that the improvement provides some benefit to the system. Thus, not all spending, even on improvements that might be enumerated in N.C.G.S. § 62-133.12(c) and (d), necessarily meets the stated criteria.

CWSNC WSIC/SSIC Order at 10. While the extent and nature of the system benefit requirement is not clearly defined, the primary purpose of an individual grinder pump station is to serve the connected premise. This includes chopping the waste and transporting it into and, to some extent, through the collection system. If a grinder pump fails to perform these functions, any resulting obstruction typically occurs in the pump station itself or the service line, as opposed to in the pressure sewer system. Further, the control panel specifically operates the individual grinder pump station and automatically shuts off when the storage tank is emptied.

Charles Junis, Utilities Engineer with the Public Staff's Water, Sewer, and Telephone Division, has first-hand experience performing quality assurance and quality control services on a low pressure sewer system construction project, including approximately 800 individual Environment One Corporation grinder pump stations installed at homes with failing septic systems or illegal connections to old mines in Reading Township, Illinois. During the start-up phase, pumps failed for a number of reasons, including electrical and mechanical problems and misuse. While these pump and/or

control malfunctions directly impacted individual households, the station's 70-gallon storage tank typically provided sufficient temporary storage until the issue was reported by the customer and resolved and did not impact neighboring households. Further, it has been Mr. Junis' experience that one individual grinder pump, or even multiple grinder pumps, being offline does not materially impacted functionality of the collection system as a whole. In general, the replacement of an individual grinder pump is an improvement for the individual household served by that grinder pump, not the system as a whole. For these reasons, the replacement of an individual grinder pump and/or control panel should not be determined to be a system improvement.

b. The Evidence and Conclusions for Findings of Fact Nos. 39-49 of the Commission's Order Granting Partial Rate Increase, Approving Rate Adjustment Mechanism, and Requiring Customer Notice issued on May 2, 2014, in Docket No. W-218, Sub 363 (Sub 363 Order) provide:

The Commission believes that the primary purpose of G.S. 62-133.12 was to encourage and accelerate investment in needed water and sewer infrastructure by means of a mechanism which will alleviate the effects of regulatory lag by allowing for earlier recovery of some portion, not to exceed 5% of approved service revenues, of the incremental depreciation and capital costs associated with eligible investments made between general rate case proceedings.

Sub 363 Order at 76. The replacement of an individual grinder pump and/or control panel is not done systematically, preventatively, or in a planned fashion, which is logical and appropriate given that grinder pump failure commonly occurs unexpectedly. Given the nature and magnitude of grinder pump costs, replacements of individual household grinder pumps are

performed on an as-needed basis and are not the type of project that would be accelerated by the SSIC incentive.

c. The CWSNC WSIC/SSIC Order further provides:

The WSIC/SSIC mechanism was not intended to be a general replacement for recovery of all rate case eligible improvements. If all improvements were eligible for recovery using the WSIC/SSIC mechanism, it would be unlikely that the mechanism would encourage investment in improvements that are often delayed due to regulatory lag or due to the absence of sufficient funds to address discretionary issues such as secondary water quality. For example, if all rate case eligible improvements, without regard to the costs at issue, could be recovered using the WSIC/SSIC, the 5% service revenue cap quickly could be reached, leaving the mechanism unavailable as a tool to accelerate investment in the major improvements and also resulting in more frequent general rate cases.

CWSNC WSIC/SSIC Order at 10.

As evidenced by the Aqua NC's current three-year plan totaling \$50.3 million and its pending surcharge application seeking recovery for incremental investments totaling \$10.6 million, the Company's capital spending has increased in terms of magnitude and number of projects. The inclusion of expenditures for routine, individual replacements such as grinder pumps would reduce the availability of incentive within the 5% revenue requirement cap to "accelerate investment in the major improvements" that are "often delayed due to regulatory lag or due to the absence of sufficient funds." *Id.* Furthermore, with the exception of the initial implementation of the WSIC/SSIC mechanism after the Sub 363 rate case, the frequency with which Aqua NC files general rate cases has increased since the approval of the WSIC/SSIC mechanism, and it is reasonable to

expect that it would continue to increase with the expansion of eligible WSIC/SSIC expenditures.

Meter Exchange Project

4. On pages 12 through 18 of its Verified Response, Aqua NC discusses its Meter Exchange Project. Aqua NC acknowledges that, “the Company included, for the first time, a line item in its current Ongoing WSIC/SSIC Three-Year Plan for its WSIC Meter Exchange Project,” but contends that the Public Staff was put on notice of this addition through a number of the filings in various dockets related to the Company. Verified Response at 13.

5. First, Aqua NC asserts that the Public Staff should have expected the Company’s addition of its WSIC Meter Exchange Project because implementation of and cost recovery for AMR technology was allowed by the Commission’s Order Approving Partial Settlement Agreement and Stipulation, Granting Partial Rate Increase, and Requiring Customer Notice issued on December 18, 2018, in the contested Docket No. W-218, Sub 497 general rate case (Sub 497 Rate Case Order). *Id.* However, after the Sub 497 Rate Case Order was issued on December 18, 2018, Aqua NC did not include a WSIC Meter Exchange Project in its subsequent Ongoing Three-Year WSIC/SSIC Plan filed on March 1, 2019, for the period 2019-2021. The Company also did not include a WSIC Meter Exchange Project in its Ongoing Three-Year WSIC/SSIC Plan for the period 2020-2022 filed on March 2, 2020. Although the plan included a budget marker of \$50,000 in each year for Master Meter Replacement, this pertains to meters at water supply wells, not meters on customers’ service lines.

6. It was not until April 30, 2020, when the Company filed its Application for Approval of Water and Sewer System Rate Adjustments Pursuant to G.S. 62-133.12 in Docket No. W-218, Sub 497A that the Company provided notice of its intent to seek implementation of and WSIC cost recovery for its meter replacement program. Specifically, Aqua NC included in its April 30, 2020 filing, “investment in AMR meters installed pursuant to the Company’s aged meter replacement program totaled approximately \$305,000 in the Uniform Rate Division and approximately \$1.28 million in the Brookwood/LaGrange Rate Division.” *Id.* at 14. Aqua NC contends “[t]his Application squarely put the Public Staff on notice that the Company was continuing to implement its aged meter replacement program through the installation of AMR water meters.” *Id.* The Public Staff acknowledges that Aqua NC’s April 30, 2020 filing put the Public Staff on notice that the Company “was continuing to implement its aged meter replacement program.” However, as the Commission noted in the CSWNC Order, “the current WSIC/SSIC rules require advance notice of the types of improvements, corresponding dollar amounts, and the timing of the improvements prior to the inclusion of such improvements in the WSIC/SSIC surcharge application.” CWSNC WSIC/SSIC Order at 7-8. As such, the Public Staff contends that, had Aqua NC followed the WSIC/SSIC rules, it would have provided the Public Staff with notice of its plan to implement its meter replacement program prior to its inclusion of the improvements in its April 30, 2020 WSIC/SSIC surcharge application. The Company could have done this in its Ongoing Three-Year WSIC/SSIC Plans filed on April 2, 2018, and March 1, 2019, and should have done so in its WSIC/SSIC Plan filed March 2, 2020.

7. Aqua NC also asserts that the Public Staff was provided with ample notice of the Company's intent to seek approval for implementation of and WSIC cost recovery for its meter replacement program through its inclusion in its current Ongoing WSIC/SSIC Three-Year Plan, filed on March 1, 2021, of "a line item for the Company's Meter Exchange Project indicating that the Company plans to install replacement meters in its Uniform Water Rate Division during 2021, at a capital investment totaling \$4,157,400." Verified Response at 14-15. Aqua NC further asserts that, "information related to installation of these meters was included in" the Quarterly Construction Status Report filed in the Sub 526A docket on February 12, 2021, and that this, "placed the Public Staff on notice of the existence of this aged meter replacement project more than two weeks prior to the March 1, 2021 date of filing of the Company's current Three-Year Plan." *Id.* at 15. The Public Staff notes that two weeks and three days is not an adequate amount of time in which to review a Quarterly Construction Status Report, draft and serve discovery regarding the contents of the report, and obtain responses to the discovery prior to the filing of the Three-Year Plan.

8. In addition to requiring adequate time to investigate the Company's applications for authorization of and cost recovery for WSIC/SSIC projects, the Public Staff requires sufficient information regarding the Company's applications to conduct a meaningful review before the Company incurs capital expenditures. The Commission recognized this in its Evidence and Conclusions for Findings of Fact Nos. 39-49 in the Commission's Sub 363 Order, which state:

The Public Staff's scrutiny and review of the ongoing three-year plan between general rate case filings and its routine discussions with

Aqua concerning the same, would provide the Public Staff with detailed information concerning eligible system improvement projects for which Aqua may eventually seek WSIC or SSIC recovery and should also keep the Public Staff more informed regarding matters concerning the quality of service provided by Aqua to its customers.

Sub 363 Order at 80. Aqua NC's omission of the Company's Meter Exchange Project in previous three-year plans makes the Public Staff's ability to carry out its duty to review, scrutinize, and make recommendations regarding the plans prior to Company's expenditure of capital challenging. It is for these reasons that the Public Staff recommended in its Initial Comments that, "at a minimum, Aqua should provide the number of meters expected to be replaced by year, the names of the affected systems, and a description of the metering technology the Company intends to install." Further, the Public Staff would be in a better position to address any questions and concerns regarding future planned meter replacement projects with the Company informally, prior to making a filing, if it received this information as part of the Company's three-year plans, which cover a longer time period than the pending WSIC/SSIC surcharge application. For the foregoing reasons, the Public Staff renews its recommendation above.

Other Matters

9. In addition to the foregoing specific matters, Aqua NC addresses a number of general concerns regarding the Public Staff's Initial Comments in its Verified Response. The Company summarizes the procedural history of the WSIC/SSIC mechanism to "point out to the Commission that . . . the Company had never previously received indication from the Staff that it was dissatisfied with the details, content, and format of the **seven** WSIC/SSIC Three-Year Plans previously

filed with the Commission over a period of **eight** years.” Verified Response at 5. Aqua NC’s summary does not mention that the Public Staff identified a number of deficiencies in Aqua NC’s proposed three-year plan and the Company’s response to discovery the Public Staff served on the Company to address those deficiencies. The Company’s response also does not mention Public Staff witness David Furr’s testimony during the evidentiary hearing in the Sub 363 case in which he stated that the Public Staff would request that Aqua NC provide more detailed descriptions of all projects the Company believed to be WSIC/SSIC eligible. Sub 363 Order at 73.

Even if the Public Staff had not expressed dissatisfaction with a three-year plan prior to the filing of its Initial Comments on April 19, 2021, the Public Staff was justified in filing Initial Comments based on the direction of the Commission and changes in the content of Aqua NC’s three-year plan. For example, the Company’s most recent Three-Year WSIC/SSIC Plan states that the Company expects to invest an estimated \$50.3 million in WSIC/SSIC eligible infrastructure during the 2021-2023 period, which is approximately double each of Aqua NC’s previous three-year plans since the inception of WSIC/SSIC. Further, the Public Staff contends it was appropriate and necessary to alert the Commission in its Initial Comments that projects such as the Company’s meter replacement project, which require considerable planning, design, permitting, bidding, and time for construction, have been listed by Aqua NC in the current year of its plan, but not included in previously-filed three-year plans.

WHEREFORE, the Public Staff respectfully requests that the Commission consider these Reply Comments in making its determinations in this docket.

This the 7th day of June, 2021.

PUBLIC STAFF
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Electronically submitted
s/ Megan Jost
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CERTIFICATE OF SERVICE

I certify that a copy of these Reply Comments have been served on all parties of record or their attorneys, or both, 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 7th day of June, 2021.

Electronically submitted
/s/ Megan Jost

VERIFICATION

STATE OF NORTH CAROLINA)
)
COUNTY OF WAKE)

CHARLES JUNIS, first being duly sworn, deposes and says that he is a Utilities Engineer with the Water, Sewer, and Telephone Division, Public Staff – North Carolina Utilities Commission, that as such, he has read the foregoing Reply Comments of the Public Staff and knows the contents thereof; that the same are true of his own knowledge except as to those matters stated therein on information and belief, and as to those he believes them to be true.


Charles Junis

Sworn to and subscribed before me,
this 7th day of June, 2021.




Notary Public
JOANNE M. BERUBE

My Commission Expires: 12/17/2022