

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. W-1297, Sub 14

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	)	
MRT-1, LLC,	)	
	)	
Complainant,	)	MODIFIED
	)	PUBLIC STAFF
v.	)	RECOMMENDATIONS
	)	
HARKERS ISLAND SEWER	)	
COMPANY, LLC	)	
	)	
Respondent.	)	

NOW COMES THE PUBLIC STAFF by and through Christopher J. Ayers, Executive Director, and pursuant to the Commission's Order dated October 13, 2021, in this Docket No. W-1297, Sub 14, files these Modified Public Staff Recommendations.

On December 6, 2021, the Public Staff attorney William E. Grantmyre observed for the first time a Stipulation of Agreement (Stipulation) filed on July 22, 2013 in the HISC original franchise proceeding for Westbay and James Creek in Docket No. W-1297 Sub 0. This Stipulation was executed by the Public Staff and HISC and is attached as Exhibit 1.

Paragraph 2 of the Stipulation states "Fifty percent of the plant costs (\$115,928) will be contributed by the developer, 30% of the plant costs (\$69,557) will be recovered through connection fees and the remaining 20% (\$46,371) will

be recovered through rates. This methodology to recover current plant costs shall also apply to future expansion of the capacity of the sewer treatment plant.”

A key provision of this Stipulation was that this methodology to recover current plant costs shall apply to future expansion of the capacity of the sewer treatment plant.

Finding of Fact 7 in the Order Granting Franchise, Approving Rates and Requiring Customer Notice for Westbay and James Creek dated July 30, 2013, in Docket No. W-1297, Sub 0 (Exhibit No. 1 to Public Staff Recommendations) includes the statement “The agreed upon rates and the Stipulation of Agreement that supports the rates are reasonable.”

Exhibit E attached to HISC witness Michael Laws’ direct pre-filed testimony in this proceeding is the Memorandum of Agreement dated April 25, 2016 for Harkers Island RV Resort and the Memorandum of Agreement dated May 4, 2016 for Cape Pointe Village. Neither of these Memorandums of Agreement for new wastewater service areas executed by Michael Laws contains a provision for the developer to pay for any WWTP capacity.

Based upon the Stipulation, the Public Staff requests that the Public Staff’s Recommendations, paragraphs 1 through 4 on pages 9 and 10 only, filed on November 29, 2021, be deleted and replaced with the the modified recommendations 1 through 9 below. All the remaining portions of the Public Staff Recommendations filed on November 29, 2021, including Exhibits, continue to remain fully effective.

1. Based upon the Stipulation found reasonable by the Commission, for MRT-1 to be served by the HISC wastewater system, MRT-1 should pay 50% of the wastewater treatment plant (WWTP) expansion cost necessary to serve James Creek, and the tap fees should be 30% of that expansion cost.
2. HISC must invest the remaining 20% of the WWTP expansion cost.
3. Due to the animosity and lack of trust between MRT-1 and HISC, MRT-1 before the WWTP expansion construction begins, would pay into escrow the entire 50%. The escrow would be held by attorney Andrew Irby and disbursed to the contractors in installations based upon the Professional Engineer's certification of WWTP phase construction completion.
4. The MRT-1 50% would be based on the gallons per day (gpd) necessary for the 80 or more lots at James Creek at the Department of Health and Human Services (DHHS) allocation rate of 120 gpd per bedroom. Should DHHS have a rule change thereby permitting flow reductions, the gpd would be reduced.

Note: Assuming 80 residences with three bedrooms each, the required DHHS WWTP capacity would be 28,800 gpd ( $80 \times 3 \times 120 = 28,800$ )

Should there be 90 residences with three bedrooms each, the required DHHS WWTP capacity would be 32,400 gpd ( $90 \times 3 \times 120 = 32,400$ )

5. As DHHS states a 40,000 gpd expansion is necessary for James Creek to be served, there would need to be a negotiated modification for a 28,888 or 32,400 gpd DHHS approved expansion, or HISC must obtain funding for additional capacity to reach the 40,000 gpd WWTP expansion.
6. MRT-1 would prepay the 30% connection fees into the escrow to be disbursed as stated in 3 above. This would provide the necessary cash flow during construction.
7. If HISC cannot within 12 months of the Commission's order provide proof that HISC has the funds for the HISC 20% portion of the WWTP expansion and additional funds to expand to 40,000 gpd if required by DHHS, then MRT-1 at its sole option, may request that James Creek be removed from the HISC franchised service area, which the Commission would approve.
8. That the appointment of an emergency operator is not a feasible solution as the emergency operator would not want to invest the necessary \$560,000 (\$15 per gallon) to \$800,000 (\$20 per gallon) for the 40,000 gpd WWTP expansion, as HISC would still be the owner of the wastewater system. In addition, HISC's operation of the wastewater system has been adequate. The HISC \$130,000 bond posted with the Commission would not be adequate to construct the required 40,000 gpd WWTP expansion.

9. Due to the need for significant capital funding for the 40,000 gpd WWTP expansion and the future replacement of the existing Harkers Point 40,000 gpd WWTP, the Public Staff believes that it would be in the best interest of the present and future wastewater customers served by this wastewater utility system for HISC to sell the wastewater utility system at a reasonable price to a well capitalized wastewater utility.

Respectfully submitted this the 9th day of December, 2021.

PUBLIC STAFF  
Christopher J. Ayers  
Executive Director

Dianna W. Downey  
Chief Counsel

Electronically submitted  
/s/ William E. Grantmyre  
Staff Attorney

4326 Mail Service Center  
430 North Salisbury Street  
Raleigh, North Carolina 27699-4300  
Telephone: (919) 733-0977  
Email: [william.grantmyre@psncuc.nc.gov](mailto:william.grantmyre@psncuc.nc.gov)

CERTIFICATE OF SERVICE

I certify that I have this day served a copy of the foregoing Modified Public Staff Recommendations on Clark Wright, Jr., the Attorney for HISC and Andrew D. Irby, the Attorney for MRT-1, by electronic delivery upon agreement of the receiving party.

This, the 9th day of December, 2021.

Electronically submitted  
/s/ William E. Grantmyre





**FILED**  
**JUL 22 2013**  
Clerk's Office  
N.C. Utilities Commission

**NORTH CAROLINA  
PUBLIC STAFF  
UTILITIES COMMISSION**

July 22, 2013

Ms. Gail L. Mount, Chief Clerk  
North Carolina Utilities Commission  
4325 Mail Service Center  
Raleigh, North Carolina 27699-4325

Re: Docket No. W-1297, Sub 0

Dear Ms. Mount:

Enclosed for filing are 12 copies of the Stipulation of Agreement of the Public Staff and Harkers Island Sewer Company, LLC.

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

Sincerely yours,

A handwritten signature in black ink, appearing to read "David T. Drooz".

David T. Drooz  
Staff Attorney  
[david.drooz@psncuc.nc.gov](mailto:david.drooz@psncuc.nc.gov)

DTD/bl

Enclosures

c: Parties of Record

Executive Director 733-2435	Communications 733-2810	Economic Research 733-2902	Legal 733-6110	Transportation 733-7766
Accounting 733-4279	Consumer Services 733-9277	Electric 733-2267	Natural Gas 733-4326	Water 733-5610

4326 Mail Service Center • Raleigh, North Carolina 27699-4326 • Fax (919) 733-9565  
An Equal Opportunity / Affirmation Action Employer

OFFICIAL COPY

Dec 09 2021

Handwritten notes in the left margin: "JL", "AG", "file", "BROWN", and "2-26-13".

**FILED**

**JUL 22 2013**

Clerk's Office  
N.C. Utilities Commission

STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH

DOCKET NO. W-1297, SUB 0

**BEFORE THE NORTH CAROLINA UTILITIES COMMISSION**

In the Matter of	)	
Application by Harkers Island Sewer	)	
Company LLC, P.O. Box 370, Harkers	)	
Island, North Carolina 28531, for a Certificate	)	
of Public Convenience and Necessity to	)	STIPULATION OF AGREEMENT
Provide Wastewater Utility Service in	)	
Westbay Subdivision and James Creek	)	
Subdivision on Harkers Island, Carteret	)	
County, North Carolina and for Approval of	)	
Rates	)	

NOW COME Harkers Island Sewer Company LLC (HISC) and the Public Staff – North Carolina Utilities Commission (Public Staff) pursuant to North Carolina Utilities Commission Rule R1-24(c) and recommend that the Commission accept the following stipulations as an amendment to the application in this matter. HISC and the Public Staff agree that:

1. The total plant in service for this proceeding is \$231,856, consisting of \$45,000 of land and \$186,856 of sewer treatment plant cost.
2. Fifty percent of the plant costs (\$115,928) will be contributed by the developer, 30% of the plant costs (\$69,557) will be recovered through connection fees and the remaining 20% (\$46,371) will be recovered through rates. This methodology to recover current plant costs shall also apply to future expansion of the capacity of the sewer treatment plant.
3. The sewer treatment plant should be depreciated over a 25-year life.
4. The sewer collection system will be fully contributed by the developers and/or property owners to HISC.
5. A sewer tap on fee of \$2,500 per connection is reasonable and will be collected from future customers that tap onto the sewer system.
6. HISC may request a revised connection charge if additional plant is put into service. Any increase in the connection fee will be based on the ratios detailed in Item 2, above.

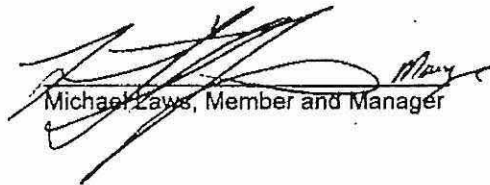
OFFICIAL COPY

Dec 09 2021

7. The service area consists of West Bay and James Creek Subdivisions. Any additional service areas will require a contiguous extension or a new franchise application. Additional service areas could be for an entire subdivision (such as By the Bay) or individual residences.
8. HISC and any successor will not request a rate increase for at least 3 years after issuance of the certificate of public convenience and necessity.
9. The attached Stipulation Exhibit I and Stipulation Exhibit II are proper to use for updating the information in the Application. The information in these exhibits is a preliminary projection and does not represent audited data. Likewise, the rates in these exhibits are for projection purposes only and do not constitute agreement or authority to charge any rate or fee different from what the Commission approves in the future.

The foregoing is stipulated and agreed to this the 22 day of July, 2013.

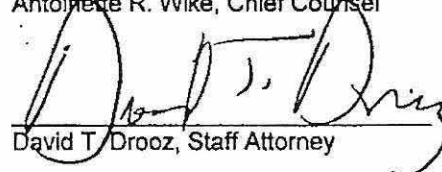
HARKERS ISLAND SEWER COMPANY LLC



Michael Laws, Member and Manager

PUBLIC STAFF

Christopher J. Ayers, Executive Director  
Antoinette R. Wike, Chief Counsel



David T. Drooz, Staff Attorney

**HARKERS ISLAND SEWER COMPANY, LLC**

Docket No. W-1297, Sub 0

**Projected Income Statement Assumptions**Stipulation  
Exhibit I

OFFICIAL COPY

Dec 09 2021

Line No.	Item	Year 1	Year 2	Year 3	Year 4	Year 5
<b><u>Rates:</u></b>						
1.	Flat rate service	\$65	\$65	\$65	\$70	\$70
<b><u>Customers</u></b>						
2.	Flat rate service customers	18	42	66	90	114
<b><u>Tax Rates:</u></b>						
3.	Franchise tax	6.00%	6.00%	6.00%	6.00%	6.00%
4.	Regulatory fee	0.12%	0.12%	0.12%	0.12%	0.12%
5.	State income tax	6.90%	6.90%	6.90%	6.90%	6.90%
6.	Federal income tax	15.00%	15.00%	15.00%	15.00%	15.00%
<b><u>Depreciation</u></b>						
7.	Plant in service	231,856	231,856	231,856	231,856	231,856
8.	Less: CIAC - Developer contribution	(115,928)	(115,928)	(115,928)	(115,928)	(115,928)
9.	Less: CIAC - Tap on fees	(69,557)	(69,557)	(69,557)	(69,557)	(69,557)
10.	Less: Land	(9,000)	(9,000)	(9,000)	(9,000)	(9,000)
11.	Depreciable plant	37,371	37,371	37,371	37,371	37,371
12.	Depreciation rate	4.00%	4.00%	4.00%	4.00%	4.00%
13.	Depreciation expense	1,495	1,495	1,495	1,495	1,495

**HARKERS ISLAND SEWER COMPANY, LLC**

Docket No. W-1297, Sub D

**Projected Income Statement**

Stipulation  
Exhibit II

Line No.	Item	Year 1	Year 2	Year 3	Year 4	Year 5
<b>Operating revenue</b>						
1.	Metered service revenue	\$0	\$0	\$0	\$0	\$0
2.	Flat rate service revenue	14,040	32,760	51,480	75,600	95,760
3.	EPA testing surcharge	0	0	0	0	0
4.	Re-connect fees	180	256	392	428	464
5.	Return check charge	180	186	252	318	384
6.	Late payment charges	450	490	580	570	660
7.	Other operating revenue	9,900	9,900	9,900	9,900	9,900
8.	Total operating revenue (Sum of L1 thru L7)	24,750	43,592	62,604	86,816	107,168
<b>Operating expenses</b>						
9.	Total salaries and wages (employees only)	6,000	8,000	12,000	12,000	14,000
10.	Outside labor expense (non-employees)	2,400	7,200	7,200	7,200	7,200
11.	Administrative and office expense	0	0	6,000	8,000	12,000
12.	Maintenance and repair expense	600	1,200	1,200	1,200	1,600
13.	Purchased water	360	360	360	360	360
14.	Purchased sewage treatment	0	0	0	0	0
15.	Electric power expense (exclude office)	2,416	12,600	15,200	17,400	19,300
16.	Chemicals expense	240	420	420	520	520
17.	Testing fees	0	0	0	0	0
18.	Transportation expense	0	0	0	0	0
19.	Other operating expenses	4,220	2,620	2,620	2,620	2,620
20.	Total operation and maintenance expenses	16,236	32,400	45,000	49,300	57,600
21.	Annual depreciation expense	1,495	1,495	1,495	1,495	1,495
22.	Property taxes paid on utility property	396	396	396	420	420
23.	Payroll taxes	510	680	1,530	1,700	2,210
24.	Franchise (gross receipts) tax	1,485	2,616	3,756	5,209	6,430
25.	Annual NCUC regulatory fee	30	52	75	104	129
26.	Total operating expenses (Sum of L20 thru L25)	20,152	37,639	52,252	58,228	68,284
<b>Income taxes</b>						
27.	State income taxes	317	411	714	1,973	2,683
28.	Federal income taxes	642	831	1,446	3,992	5,430
29.	Total income taxes (L27 + L28)	959	1,242	2,160	5,965	8,113
30.	Net operating income (loss) (L8 - L26 - L29)	3,639	4,711	8,192	22,623	30,771
31.	Interest expense	0	0	0	0	0
32.	Net income (loss) (L30 - L31)	\$3,639	\$4,711	\$8,192	\$22,623	\$30,771

Dec 09 2021

OFFICIAL COPY