

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. W-100, SUB 58

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Rulemaking Proceeding to Revise) ORDER ADOPTING REVISIONS
Procedural Deadlines in Water and Sewer) TO RULES R1-17 AND R1-24
General Rate Cases)

BY THE COMMISSION: On December 3, 2018, the Commission issued an Order Initiating Rulemaking Proceeding and Requesting Comments in the above-captioned docket. In its Order, the Commission noted that the procedural deadlines in water and sewer utility general rate cases are different from those in electric and natural gas rate cases. It further expressed an opinion that there were benefits to parties and the Commission if the procedural schedules were consistent among the named industries and proposed changes to Rule R1-17(b) and R1-24(g) to require Class A and B water and sewer utilities to file initial supporting expert witness testimony together with the application as required of Class A and B electric, telephone, and natural gas utilities.

The December 3 Order was served on all regulated water and sewer utilities, the Public Staff, and the Attorney General. Interested persons were invited to file petitions to intervene, and deadlines were established for the filing of initial and reply comments. No petitions to intervene were filed with the Commission; however, comments were filed by the Public Staff, Aqua North Carolina, Inc. (Aqua), and Carolina Water Service, Inc., of North Carolina (CWSNC).

The Public Staff filed initial comments in this docket on January 7, 2019. In its comments, the Public Staff supported the Commission's proposal to require Class A and B water and sewer utilities to file testimony with the application, suggesting minor changes to the Commission's proposal. The Public Staff further recommended requiring Class C water and sewer utilities to file testimony, exhibits, and other information in support of a general rate increase at least 45 days prior to hearing.

Aqua and CWSNC filed their initial comments via affidavits on January 9, 2019. They agreed to the Commission's proposed changes, but also recommended additional time between the hearing and the filing of intervenor direct and applicant rebuttal testimony.

Aqua, CWSNC, and the Public Staff filed joint reply comments on March 7, 2019. The parties stated that they are in agreement with the Commission's proposal to require Class A and B water and sewer utilities to file initial direct expert witness testimony with the application, consistent with their initial comments. Additionally, the parties identified a number of procedural recommendations applicable to Class A and B water and sewer

utility general rate cases that would help address many of the issues raised in Aqua and CWSNC's initial comments, including:

1. Require the filing of Public Staff and other intervenor testimony 30 days prior to the evidentiary hearing and the filing of utility rebuttal testimony 15 days prior to the evidentiary hearing.
2. Include discovery rules and guidelines in scheduling and suspension orders to ensure reasonable and timely discovery requests and responses.
3. Conduct public hearings as soon as reasonably practical following issuance of customer notice so that the utility has adequate opportunity to investigate and respond in writing to customer concerns.
4. Include the utility and the Public Staff in scheduling conversations prior to issuance of a scheduling order.
5. Assign a designee to convene periodic meetings among all the parties, as necessary, to oversee the progress of the cases.

After careful consideration, the Commission finds good cause to adopt the parties' joint recommendations regarding the timing for filing of parties' direct and rebuttal testimony in general rate cases for Class A and B water and sewer utilities.¹ As noted in the comments, this will alleviate the compressed time schedule between the filing of Public Staff testimony and the hearing when additional applicant discovery may be necessary and the parties are typically engaged in settlement negotiations.

Regarding discovery guidelines, the Commission has adopted such guidelines in a number of other cases, and agrees that it might be helpful to include such guidelines in future procedural orders in general rate cases for Class A and B water and sewer utilities.

The Commission notes that in recent Class A and B water and sewer utility general rate cases it has required the applicant to file a report with the Commission responding to service concerns expressed by customers at the public witness hearings. The Commission will take into consideration in establishing the hearing schedule in future general rate cases the joint recommendation that public witness hearings be scheduled sooner after filing of the application to allow more time for the applicant to file such reports, if necessary. The Commission notes, however, that procedural schedules in general rate cases have historically been placed on the Commission's regular staff conference by the Public Staff with a recommendation for approval by the Commission, and that there is already considerable coordination between the applicant, the Public Staff, and the Commission to find hearing dates that may be accommodated by the Commission's

¹ While the deadlines adopted herein for Class A and B water and sewer utilities for filing of the intervenors' direct and the applicant's rebuttal testimony may be consistent with the deadlines established in recent Class A and B electric and natural gas utility rate cases, it varies from the requirement stated in the Commission's rules, and the Commission will initiate a further generic proceeding to allow the participation of those utilities in considering whether to further amend Rule R1-24(g)(2) to make the dates in the Rule consistent for all Class A and B electric, telephone, natural gas, water, and sewer utilities.

already crowded calendar and the mandate of N.C. Gen. Stat. § 62-81 that such cases be given priority over all other cases or proceedings pending before the Commission.

Regarding the recommendation that the Commission assign a designee to convene periodic meetings among all the parties, as necessary, to oversee the progress of the cases, the Commission notes that a Presiding Commissioner, Hearing Commissioner, or Hearing Examiner is assigned to every general rate case and is available to address any procedural issues that may arise during the pendency of the case. The Commission, therefore, declines to designate any other individual to convene periodic meetings among the parties or to otherwise oversee the proceeding.

Lastly, the Commission notes that the procedural deadlines set forth in Rule R1-17(b)(13) are duplicative of the dates established in Rule R1-24(g)(2) for the filing of expert witness testimony. To avoid the potential for confusion and the possibility of inconsistencies in the rules, the Commission finds good cause to repeal the redundant provisions in Rule R1-17(b)(13). A further revision has been made to Rule R1-24(g)(2) to correct the reference to rebuttal testimony to be that of the applicant.

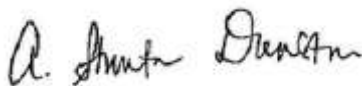
Therefore, based upon the foregoing, the Commission finds good cause to adopt the revisions to Rules R1-17(b)(13) and R1-24(g)(2) attached hereto as Appendix A (redlined) and Appendix B (clean) consistent with the above discussion and conclusions.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 26th day of March, 2019.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in dark ink, appearing to read "A. Shonta Dunston".

A. Shonta Dunston, Deputy Clerk

Rule R1-17. Filing of Increased Rates; Application for Authority to Adjust Rates.

(b) Contents of Filing or Application. —

- (13) ~~Class A & B electric, telephone and natural gas utilities shall file with and at the time of any general rate application all testimony, exhibits and other information which any such utility will rely on at the hearing on such increase. Class A and B water and sewer utilities shall file 45 days prior to the hearing on the general rate case application all testimony which such utility will rely on. Class A and B water and sewer utilities shall file with the application all exhibits supporting the general rate increase. The application, testimony and exhibits and other information shall be filed in sets which are separately numbered and separately bound, boxed, or rubber banded. The originals shall be in Set No. 1. The Commission Staff, the Public Staff, the Attorney General and all other Intervenor or Protestants shall file all testimony, exhibits and other information to be relied upon at the hearing 20 days in advance of the scheduled hearing.~~

Rule R1-24. Evidence.

(g) Exhibits by Expert Witnesses.

- (2) Time of Filing. — Except as provided below, the ~~The~~ testimony for the applicant of such expert witnesses shall be filed with the Commission at least ~~sixty (60)~~ days prior to the date set for the hearing in general rate cases, and at least ~~thirty (30)~~ days prior to the date set for the hearing in all other cases. Testimony for Protestants of such expert witness in rebuttal shall be prepared in the same manner and form, and shall be filed with the Commission at least ~~ten (10)~~ days prior to the date fixed for the hearing. The Commission Staff, Public Staff, Attorney General and all other Intervenor or Protestants shall file all testimony, exhibits and other information which is to be relied upon at the hearing 20 days in advance of the scheduled hearing. When filed, all such exhibits shall be made available immediately to adverse parties of record, and to others having an interest in the proceeding.

Class A & B electric, telephone and, natural gas, water, and sewer utilities shall file with and at the time of any general rate case application all testimony, exhibits and other information upon which any such utility will rely on at the hearing on such increase. All Class C water and sewer utilities shall file 45 days prior to the hearing on the general rate case application all testimony upon which such utility will rely on. Class A and B water and sewer utilities shall file with the application all exhibits supporting the general rate increase. In general rate cases of Class A & B water and sewer utilities, the ~~The~~ Commission Staff, Public Staff, Attorney General and all

other Intervenors or Protestants shall file all testimony, exhibits and other information which is to be relied upon at the hearing ~~20~~30 days in advance of the scheduled hearing, and any testimony for the utility in rebuttal shall be filed 15 days prior to the hearing.

Rule R1-17. Filing of Increased Rates; Application for Authority to Adjust Rates.

(b) Contents of Filing or Application. —

(13) Repealed.

Rule R1-24. Evidence.

(g) Exhibits by Expert Witnesses.

- (2) Time of Filing. — Except as provided below, the testimony for the applicant of such expert witnesses shall be filed with the Commission at least 60 days prior to the date set for the hearing in general rate cases, and at least 30 days prior to the date set for the hearing in all other cases. Testimony of such expert witness in rebuttal shall be prepared in the same manner and form, and shall be filed with the Commission at least 10 days prior to the date fixed for the hearing. The Commission Staff, Public Staff, Attorney General and all other Intervenors or Protestants shall file all testimony, exhibits and other information which is to be relied upon at the hearing 20 days in advance of the scheduled hearing. When filed, all such exhibits shall be made available immediately to adverse parties of record, and to others having an interest in the proceeding.

Class A & B electric, telephone, natural gas, water, and sewer utilities shall file with and at the time of any general rate case application all testimony, exhibits and other information upon which any such utility will rely at the hearing. Class C water and sewer utilities shall file 45 days prior to the hearing on the general rate case application all testimony upon which such utility will rely. In general rate cases of Class A & B water and sewer utilities, the Commission Staff, Public Staff, Attorney General and all other Intervenors or Protestants shall file all testimony, exhibits and other information which is to be relied upon at the hearing 30 days in advance of the scheduled hearing, and any testimony for the utility in rebuttal shall be filed 15 days prior to the hearing.