

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. W-100, SUB 60

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of  
Petition for Rulemaking to Implement N.C. ) ORDER ADOPTING COMMISSION  
Gen. Stat. § 62-133.1A, North Carolina ) RULE R7-41 AND COMMISSION  
Session Law 2018-51 (House Bill 351) ) RULE R10-28

BY THE COMMISSION: On December 31, 2019, in the above-captioned proceeding, Aqua North Carolina, Inc. (Aqua), and Carolina Water Service, Inc., of North Carolina (CWSNC) (together, Companies) filed a petition requesting that the Commission establish a rulemaking proceeding in this docket for the purpose of considering and adopting rules to implement N.C. Gen. Stat. § 62-133.1A, as enacted by North Carolina Session Law 2018-51 (House Bill 351). The Companies' petition provided a summary of the provisions of their proposed rules to implement the statute, as detailed below, and included as attachments to their petition proposed Commission Rule R7-41 for water utilities and Rule R10-28 for sewer utilities.

On January 13, 2020, the Commission issued an order establishing this proceeding as a rulemaking proceeding for the purpose of considering the adoption of the Commission Rule R7-41 for water utilities and Rule R10-28 for sewer utilities to implement N.C.G.S. § 62-133.1A, and setting dates for the filing of petitions to intervene and of initial and reply comments.

On February 4, 2020, the Commission issued an order allowing Old North State Water Company, LLC (ONSWC), to intervene in this proceeding as requested in its petition to intervene filed in this docket on January 17, 2020.

On April 30, 2020, the Public Staff filed its initial comments, which include recommended revisions to the rules that the Companies' proposed.

On June 1, 2020, the Companies filed reply comments.

Also on June 1, 2020, the North Carolina Attorney General's Office (AGO) filed a notice of intervention and reply comments.<sup>1</sup>

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<sup>1</sup> The Commission's Order establishing this rulemaking proceeding set March 16, 2020, as the deadline for the filing of petitions to intervene. No party has objected to the AGO's late-filed notice of intervention and the Commission determines that no party will be prejudiced by allowing the AGO to participate at this stage in the proceeding.

## THE FAIR VALUE STATUTE

As enacted by Session Law 2018-51, N.C.G.S. § 62-133.1A (Fair Value Statute) provides as follows:

- (a) Election. – A water or wastewater public utility, as defined by G.S. 62-3(23)a.2., may elect to establish rate base by using the fair value of the utility property instead of original cost when acquiring an existing water or wastewater system owned by a municipality or county or an authority or district established under Chapter 162A of the General Statutes.
- (b) Determination of Fair Value. –
- (1) The fair value of a system to be acquired shall be based on three separate appraisals conducted by accredited, impartial valuation experts chosen from a list to be established by the Commission. The following shall apply to the valuation:
- a. One appraiser shall represent the public utility acquiring the system, another appraiser shall represent the utility selling the system, and another appraiser shall represent the Public Staff of the Commission.
- b. Each appraiser shall determine fair value in compliance with the uniform standards of professional appraisal practice, employing cost, market, and income approaches to assessment of value.
- c. Fair value, for rate-making purposes under G.S. 62-133, shall be the average of the three appraisals provided for by this subsection.
- d. The original source of funding for all or any portions of the water and sewer assets being acquired is not relevant to an evaluation of fair value.
- (2) The acquiring public utility and selling utility shall jointly retain a licensed engineer to conduct an assessment of the tangible assets of the system to be acquired, and the assessment shall be used by the three appraisers in determining fair value.
- (3) Reasonable fees, as determined by the Commission, paid to utility valuation experts, may be included in the cost of the acquired system, in addition to reasonable transaction and closing costs incurred by the acquiring public utility.
- (4) The rate base value of the acquired system, which shall be reflected in the acquiring public utility's next general rate case for rate-making purposes, shall be the lesser of the purchase price negotiated between the parties to the sale or the fair value plus the fees and costs authorized in subdivision (3) of this subsection.
- (5) The normal rules of depreciation shall begin to apply against the rate base value upon purchase of the system by the acquiring public utility.

(c) An application to the Commission for a determination of the rate base value of the system to be acquired shall contain all of the following:

(1) Copies of the valuations performed by the appraisers, as provided in subdivision (1) of subsection (b) of this section.

(2) Any deficiencies identified by the engineering assessment conducted pursuant to subdivision (2) of subsection (b) of this section and a five-year plan for prudent and necessary infrastructure improvements by the acquiring entity.

(3) Projected rate impact for the selling entity's customers for the next five years.

(4) The averaging of the appraisers' valuations, which shall constitute fair value for purposes of this section.

(5) The assessment of tangible assets performed by a licensed professional engineer, as provided in subdivision (2) of subsection (b) of this section.

(6) The contract of sale.

(7) The estimated valuation fees and transaction and closing costs incurred by the acquiring public utility.

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

(d) Final Order. – If the application meets all the requirements of subsection (c) of this section, the Commission shall issue its final order approving or denying the application within six months of the date on which the application was filed. An order approving an application shall determine the rate base value of the acquired property for rate-making purposes in a manner consistent with the provisions of this section.

(e) Commission's Authority. – The Commission shall retain its authority under Chapter 62 of the General Statutes to set rates for the acquired system in future rate cases, and shall have the discretion to classify the acquired system as a separate entity for rate-making purposes, consistent with the public interest. If the Commission finds that the average of the appraisals will not result in a reasonable fair value, the Commission may adjust the fair value as it deems appropriate and in the public interest.

(f) The Commission shall adopt rules to implement this section.

## **PARTIES' COMMENTS AND PROPOSED RULES**

### **The Companies' Petition and Proposed Rules**

In their petition, the Companies detail their view of the purpose of the Fair Value Statute and propose the adoption of Commission Rule R7-41 for water utilities and Rule R10-28 for sewer utilities, in the form attached to its petition as Attachments B and C, respectively. In support of their petition, the Companies state that the purpose of the Fair Value Statute is to establish rules for determination of the "fair value," as opposed to the "reasonable original cost," for water or sewer utility property "used and useful" in service to customers that is purchased from one of the governmental providers specified in Chapter 162A of the General Statutes. The Companies further state that the determination of fair value is then used to calculate the rate base value of the acquired property, and that the Companies supported the enactment of this statute based on their understanding of the beneficial role that privately-owned water and wastewater companies can bring to customers and to some local government providers of water and wastewater service. The Companies argue that the "legacy statutory restriction to consideration of 'reasonable original cost' as the determinant of the value of rate base is an impediment to sensible private investment and to the extension of capable utilities management opportunities from the private sector to those units of government whose interests are better served by sale of their utilities properties." The Companies further argue that the Fair Value Statute establishes a mechanism by which willing sellers and willing buyers can overcome some of the barriers to negotiations, subject to independent action by the governmental providers, participation of the Public Staff, and the oversight of the Commission. The Companies emphasize that under the Fair Value Statute the Commission retains the authority to set rates for the acquired system in future rate cases, has the discretion to classify the acquired system as a separate rate entity in future rate cases, and has the authority to adjust the "fair value" as the Commission deems appropriate and in the public interest.

The Companies next comment that the enactment of the Fair Value Statute provides a path through which the interests of all customers can be advanced and safeguarded, the benefits of expanded rate base and economies of scale can be realized, and the expertise contained in these multi-state, professional, experienced providers can be focused on a wider number of North Carolina systems and customers, some of whom need the assistance. The Companies argue that the adoption of the requirements of the Fair Value Statute in the form of Commission rules will clarify uncertainties, modify the restrictions currently contained in the recognition of "reasonable original cost" as the primary valuation tool, and allow the carefully supervised development of this market in North Carolina with safeguards to protect those interests that are served by regulatory oversight.

The Companies then provide a detailed summary of their proposed rules. The Companies state that paragraph (a) of each rule provides the scope and purpose of the rule, paragraph (b) of each rule provides definitions of terms used in the rules, and paragraph (c) of each rule deals with the regulated utility's option to elect "fair value"

calculation of rate base as opposed to using the “original cost.” The Companies further summarize that paragraph (d) in each rule addresses “Utility Valuation Experts” and the Commission’s responsibility to maintain a list of these experts, paragraph (e) of each rule defines the methodology for determination of “fair value,” paragraph (f) of each rule defines the methodology for determination of “rate base,” when using this acquisition mechanism, and paragraph (g) of each rule speaks to the utility’s opportunity to recommend assignment of the purchased assets to a specific existing rate division or to a newly established separate rate division. Further, the Companies state that paragraph (h) of each rule addresses the regulatory process to be employed for determination both of “fair value” and “rate base,” and paragraph (i) of each rule specifies the necessary components of and time for issuance of the Commission’s final order.

In conclusion, the Companies argue that the adoption of rules that allow fair market valuation as a component of the determination of rate base for property purchased by a public utility from a governmental-owned system has the potential to “unleash a number of benefits in North Carolina.” The Companies identify and outline these benefits as follows: (1) options for governmental entities and their customers to access service that is more compliant with health and environmental standards, is more efficiently provided, and is more reliable over the long run; (2) less reliance on government funded monies via the infusion of private capital that can help maintain, repair, and replace water and wastewater infrastructure; (3) additions to the customer base of currently regulated public utility providers that allows overhead to be allocated across more customers; (4) potential economies of scale that hold promise of benefits to all customers; and (5) enhanced efficiencies when the acquired governmental system is located near existing facilities owned and operated by the public utility.

### **The Public Staff’s Comments**

In its initial comments, the Public Staff comments that although there are similar statutes in other states the appraisal process for determining rate base authorized in the Fair Value Statute is new to North Carolina. The Public Staff notes that there is no such North Carolina statute for natural gas or electric utility systems, and further states that the Public Staff has not found rules for the fair value acquisitions of water or wastewater systems adopted in other states.

The Public Staff next comments that it recommends “necessary additions” to the Companies’ proposed rules. In support of its comments, the Public Staff relies on a recent presentation by Dr. Janice A. Beecher, PhD, Director of the Institute of Public Utilities at Michigan State University, which is attached to the Public Staff’s comments as Exhibit 3. The Public Staff highlights several statements from Dr. Beecher’s presentation and notes that Dr. Beecher lists potential “mitigation measures” by regulators. The Public Staff emphasized several of these mitigation measures that they consider particularly meaningful for North Carolina.

The Public Staff next comments that replacements of water and wastewater utility plant can be extremely costly and lists five recent major projects where Aqua replaced

water mains and services in aged water systems. Based on this list, the Public Staff calculates an increase in rate base that could average at least \$7,561 per single-family equivalent (SFE), if a purchasing utility needs to replace water mains within the first five or 10 years after acquisition. The Public Staff states that the Fair Value Statute provides that the customer rates at closing shall be the selling government entity's rates, which shall remain until the acquiring public utility's next general rate case. The Public Staff further states that although this temporarily freezes the customer's rates, this provision makes the customers unaware of future significant rate increases and rate shock. To illustrate, the Public Staff uses what it describes as a plausible example of future rate shock that would result in a \$647 increase in revenue requirement per SFE, equating to a \$53.91 rate increase per month per SFE, not including debt costs.

The Public Staff recommends that the following additional sections be added to the Companies' proposed rules: engineering assessment requirements, discovery, customer notice, intervention, burden of proof, public interest, rate division assignment, and payment of Public Staff utility valuation expert. The Public Staff then details its view on each of these additional sections that it proposes to be added to the Companies' proposed rules.

Based on its comments the Public Staff requests that the Commission approve its recommended rules with the additional sections noted above and the deletion of section (g) entitled "Rate Division Assignment" from the Companies' proposed rules. In addition, the Public Staff requests that the Commission approve the Water and Wastewater Engineering Assessment Form Water Fair Value – 1, which is attached to its comments as Exhibit 2.

### **The Companies' Reply Comments**

In their reply comments, the Companies state that they have reviewed the Public Staff's comments and additional rule provisions and that their position differs from that expressed by the Public Staff in its comments with respect to various issues of logic and policy. Notwithstanding these differences the Companies further state that they largely find the Public Staff's proposed rule additions to be acceptable and worthy of adoption by the Commission with some refinements. Thus, the Companies propose revisions to their initial proposed rules to incorporate the Public Staff's recommendations with certain revisions and clarifying language. Proposed rules reflecting these revisions are attached to the Companies' reply comments as attachments A and B.

The Companies then summarize their proposed revisions to the rules that they initially proposed. The Companies state that subsection (g) has been revised to focus on the acquiring utility's plans for integration of the acquired system's rates into an existing rate division and that this provision does not require the Commission to make a determination on future rate division assignment at the time the Commission makes decisions on the fair value application. However, the Companies further state that an identification of intent or path to rate consolidation can be valuable information from which to build a record upon which the Commission can determine the appropriate Rate Division

alignment in the future. The Companies next state that subsection (j) was added to accommodate the Public Staff's request for a discovery process in the application proceeding, with modifications to accommodate a business-day schedule for responses to discovery, as well as allowing site visits in a format that avoids inter-jurisdictional conflicts. The Companies further state that utilization of utility valuation experts allows for an extended analysis beyond the Public Staff's internal resource reach.

The Companies next comment that subsections (k), (l), (o), and (p) were added to its proposed rules consistent with the Public Staff's recommended rule additions. Further, the Companies state that their revised subsection (m), addressing intervention procedure, is included as proposed by the Public Staff and modified to allow intervention by any person directly impacted by the proposed acquisition. Next, the Companies state that subsection (n) requires the Commission to support its conclusion with sufficient and appropriate findings and conclusions if it concludes that approval of an application is not in the public interest. The Companies argue that this information will be instructive to utilities and owners of public water and wastewater systems and stakeholders of such systems in supporting potential future applications. Lastly, the Companies state that subsection (q) adds language to the Public Staff's proposed rules to allow an exception from certain provisions of the "engineering assessment rule," which the Companies argue might require the applicant utility to file information that may not be applicable or available with reference to certain applications. The Companies further argue that this will minimize unnecessary efforts to identify or clarify information that cannot be identified or is not relevant to the proposed application.

In conclusion, the Companies request that the Commission adopt the Companies' revised proposed rules attached to its reply comments and the Water and Wastewater Fair Value Engineering Assessment Form, Water Fair Value -1 as the template for the Licensed Engineer's Assessment, with the condition that information that is not applicable or readily available will be excluded. The Companies reiterate their position that adoption of rules that allow fair value as a component of the determination of rate base, when a regulated water or wastewater provider purchases a governmental-owned system, has the potential to unleash a number of benefits in North Carolina. The Companies restate the benefits that they believe will result from doing so as they did in their initial comments.

### **The AGO's Reply Comments**

In its reply comments the AGO emphasizes the importance of incorporating adequate safeguards into the rules implementing the Fair Value Statute. The AGO states that it supports the Public Staff's recommendations. The AGO further states that safeguards are needed to avoid the burdensome rate increases documented in other states when fair market value legislation was adopted, that the Commission's successful oversight of applications for use of fair market valuation is important to mitigate the upward pressure on rates that is likely to occur, and that the rule modifications that have been recommended by the Public Staff will assist the Commission by improving the review process.

The AGO then provides background on the “fair market value approach” citing the presentation by Dr. Beecher that was included with the Public Staff’s comments and an article from the Washington Post titled *Towns sell their public water systems – and come to regret it*. The AGO then notes several requirements of the Fair Value Statute and states that despite safeguards that should result from these statutory provisions, the use of fair market value poses practical concerns. The AGO further states that two of the three appraisals will be performed for the buyer and seller, and unlike many sales both have an interest in obtaining a high appraisal.

The AGO next comments that the Commission has been provided three significant tools in the Fair Value Statute to protect North Carolina consumers from unreasonable rate increases: (1) the Commission is authorized to adjust the fair value determined by the three appraisers if it finds that the average will not result in a reasonable fair value that is appropriate and in the public interest; (2) the Commission may classify the acquired system as a separate entity for ratemaking purposes; and (3) the Commission may deny the application. The AGO argues that the review process that is established by the rules adopted in this proceeding will have an important and lasting impact as it will establish the rate base value of the acquired property for rate-making purposes.

The AGO then outlines the Public Staff’s comments and recommendations as offering the Commission valuable assistance in several ways. In closing, the AGO expresses support for the Public Staff’s recommendations and argues that implementing safeguards and supervising the application process carefully will be critical to protecting customers from excessive rate increases as applications are filed for the use of fair market valuation.

## **DISCUSSION AND CONCLUSIONS**

The Commission has carefully reviewed and considered the comments and proposed rules filed in this proceeding. Based upon that review, the Commission determines that the parties have reached agreement on rule provisions that are a reasonable means of implementing the Fair Value Statute. The Commission, therefore, concludes that much of the substantive provisions the parties proposed should be incorporated into the rules implementing N.C.G.S. § 62-133.1A. As discussed further below, however, the Commission further determines that the rules proposed by the parties are unnecessarily repetitive of provisions included in the Fair Value Statute and lack conformity with the format and level of detail included in the most recently adopted rules in Chapter 7 and Chapter 10 of the Commission’s Rules and Regulations. Therefore, the rules that the Commission will adopt, while incorporating much of the substantive provisions proposed by the parties, are streamlined and reorganized. In addition, the Commission determines that the Public Staff has proposed an appropriate form for use in the engineering assessment of water and wastewater systems sought to be acquired and will adopt this form as a template for the engineer’s assessment. Consistent with the Companies’ comments and as is implied by the term “template,” information that is not relevant to the assessment of a specific system need not be included and additional information that is relevant should be included as an attachment or addendum to the



assessment form. Although not proposed by the parties, the Commission further determines that a form application would be helpful in administering proceedings pursuant to N.C.G.S. § 62-133.1A. Therefore, the Commission will adopt a form application and a modified version of the Public Staff's proposed Fair Value Engineering Assessment Form and incorporate these forms into the appendix to Chapters R7 and R10 of the Commission's Rules and Regulations. The Commission notes that the two rules adopted in this Order are substantively similar, although applicable in the contexts of the acquisition of water systems and wastewater systems, respectively, and that the Commission will discuss together the provisions of the two rules and the conclusions reached in adopting these rules below.

Paragraph (a) of the rules adopted in this Order sets out the scope of the rules. The Commission concludes that these rules should focus on the procedural and filing requirements for implementing N.C.G.S. § 62-133.1A and will therefore adopt a streamlined version of the paragraph (a) proposed by the parties. Reflecting this conclusion, the Commission declines to adopt the more substantive provisions proposed by the parties related to the method of calculation of rate base. The method of calculating rate base is sufficiently detailed in N.C.G.S. § 62-133.1A, and may be further refined in the course of considering an application filed pursuant to the statute and these rules. The Commission concludes that it is unnecessary to recite these statutory provisions in the rules adopted in this Order.

Paragraph (b) of the rules adopted in this Order sets out the defined terms used in the rules. Consistent with the Commission's determination to adopt more streamlined rules than those proposed by the parties, the Commission will decline to adopt definitions of terms that are adequately defined in Chapter 62 or elsewhere in the General Statutes. The Commission further concludes that the parties' proposed term "Chapter 162 Utility" is less precise than appropriate because municipally-owned water systems are operated pursuant to Chapter 160A of the General Statutes and county-owned water systems are operated pursuant to Chapter 153A. Instead, the Commission will adopt and make use of the defined term "Local Government Utility" to mean an existing water or wastewater system owned by a municipality, county, or an authority or district established under Chapter 162A of the General Statutes. This defined term adopts a similar approach to the definition of "unit of local government" as provided at N.C.G.S. § 160A-30(h), although that term is broader than the defined term "Local Government Utility" that the Commission will adopt in these rules. Finally, the Commission will adopt a modified version of the term "Professional Engineer" that requires the engineer conducting the utility assessment to be licensed by the North Carolina State Board of Examiners for Engineers and Surveyors, including those who may be licensed by comity or endorsement pursuant to N.C.G.S. § 89C-13(a2). The Commission concludes that this modification tends to harmonize the general term "licensed engineer," used in N.C.G.S. § 62-133.1A with the general prohibition on the practice of engineering by a person who has not been duly licensed. See N.C.G.S. § 89C-2.

The Commission declines to adopt the parties' proposed paragraph (c) as unnecessary and unduly repetitive of requirements provided elsewhere in the rules and

implied by the filing of the application itself. However, portions of the parties' proposed paragraph (c) are incorporated in paragraph (d) that the Commission adopts, as discussed further below.

The paragraph (c) that the Commission will incorporate into the rules adopted in this Order generally reflect the parties' proposed paragraph (d) to implement the requirement of N.C.G.S. § 62-133.1A(b)(1) that the Commission maintain a list of accredited, impartial valuation experts. The Commission, in its discretion, will incorporate certain refinements to the provisions related to implementing this requirement. Under the rules adopted in this Order, the Commission will maintain the list of valuation experts in an open generic docket, Docket No. W-100, Sub 60A, where the Commission will receive applications from such persons and undertake appropriate administrative actions to ensure that these persons are initially qualified and continue to qualify to conduct utility valuations for the purpose of N.C.G.S. § 62-133.1A. The procedures used to maintain the list of valuation experts will be further detailed in a forthcoming order issued in Docket No. W-100, Sub 60A.

The paragraph (d) that the Commission will incorporate into the rules adopted in this Order reflects that the utility's election to establish rate base using fair value is made by the filing of an application pursuant to N.C.G.S. § 62-133.1A and the rules adopted in this Order. Implicit in this election is that the calculation of rate base attributable to the system to be acquired will not be based on the original cost, as authorized pursuant to N.C.G.S. § 62-133.1A. The Commission concludes that it is unnecessary to recite this statutory provision in the rules adopted in this Order. Further, and as noted above, the Commission determines that a form application will promote efficiency in these proceedings. The Commission will, therefore, adopt a form application as part of the appendix to Chapter R7 and R10 of the Commission's Rules and Regulations and require the use of this form in making an application pursuant to N.C.G.S. § 62-133.1A and the rules adopted in this Order. In addition, and as reflected in the form application, the Commission will require as part of the application a narrative explanation of the object and purposes desired and of the public interest served by the acquisition, and the Commission will preserve the option of requiring any other information as a specific case may require to facilitate the Commission's consideration of all relevant issues related to the acquisition and election to determine rate base based upon the fair value of the property acquired. Finally, the Commission will require that the application be accompanied by the testimony of the utility's president or another person employed by the utility who is personally familiar with the contents thereof and who verifies that the contents of the application are true and accurate. These requirements generally reflect rule provisions proposed by the parties in a more streamlined format focusing on procedural and filing requirements.

Consistent with the Commission's intent to adopt more streamlined rules that focus on procedural and filing requirements, the Commission declines to adopt substantive provisions proposed by the parties related to the methodology for determination of fair value (the parties' proposed paragraph (e)), and the methodology for determination of rate base (the parties' proposed paragraph (f)). These matters, the Commission

concludes, are sufficiently addressed in the provisions of N.C.G.S. § 62-133.1A and need not be recited in the rules adopted in this Order. Further, these matters will develop in greater granularity as the Commission reviews applications made pursuant to the Fair Value Statute and the rules adopted in this Order on a case-by-case basis.

The Commission will incorporate paragraph (e) in the rules adopted in this Order to detail the procedure upon receipt of the application. The paragraph (e) that the Commission will incorporate into the rules adopted in this Order is a more streamlined version of the parties' proposed paragraph (h). Much of the required information proposed by the parties to be enumerated in their proposed paragraph (h), will be furnished in the required form application that the Commission adopts in this Order. This obviates the need to include rule provisions detailing these requirements and supports the Commission's broader intent to adopt a more streamlined version of the rules implementing the Fair Value Statute. In furtherance of the goal of deciding these matters within the statutory time period of six months from the filing of the application, see N.C.G.S. § 62-133.1A(d), the Commission will require the Public Staff to file and serve on the applicant a recommendation regarding whether the application is complete within ten days of the filing thereof. Given that the Public Staff will be involved in selecting an appraiser of the value of the system to be acquired and that appraiser will make use of the engineer's assessment of the system, the Commission expects that the Public Staff will be aware of the contents of the application by the purchasing utility prior to its filing. The Commission also expects that the utility will cooperate with the Public Staff to facilitate an efficient review of the application. Thus, the requirement for the Public Staff to provide a recommendation to the Commission will be minimally burdensome and should be achievable in most cases within the ten days required by the rules that the Commission adopts in this Order. When the Commission receives the Public Staff's recommendation and determines that the application is complete, then the Commission will promptly issue an order establishing procedural deadlines and discovery guidelines and requiring the utility to provide notice of the pending application to the customers of the Local Government Utility. Addressing these matters by Commission order obviates the need to incorporate the Public Staff's proposed paragraphs (j) (related to discovery), (k) (related to scheduling an evidentiary hearing), (l) (related to requiring customer notice), and (m) (related to allowing interested persons to intervene). Therefore, the Commission declines to adopt these proposed rule provisions.

Regarding the question of future rate division assignment of the customers served by the acquired system, the Commission will adopt a modified version of the parties' proposed paragraph (g). The Commission agrees with the parties that it is appropriate to reflect in the rules adopted in this order that N.C.G.S. § 62-133.1A(c)(8) requires that these customers be charged rates equivalent to those charged by the acquired governmental utility until the acquiring public utility's next general rate case proceeding, unless otherwise ordered by the Commission for good cause shown. The Commission will require the submittal of a tariff reflecting these rates as a part of the public utility's application pursuant to N.C.G.S. § 62-133.1A and the rules adopted in this Order. The Commission agrees with the parties that the application should include a statement about the public utility's future plans for integrating the acquired system into an existing rate

division. Consistent with the Commission's effort to streamline the rules adopted in this Order, the rules make clear that the decision about whether and how to integrate the acquired water or wastewater system into an existing rate division is preserved for the Commission's consideration in the course of the public utility's next general rate case.

The Commission will also incorporate a modified version of the parties' proposed paragraph (i) detailing the matters that are to be specifically decided in the Commission's final order on the application. These matters include determination of the rate base value of the acquired system (which may be calculated as provided in N.C.G.S. § 62-133.1A(b) or pursuant to the Commission's authority to adjust that value pursuant to N.C.G.S. § 62-133.1A(e)), providing for the inclusion of certain costs eligible to be included in the rate base value of the acquired system, requiring the application of the normal rules of depreciation against the rate base value from the date of the purchase of the system (as required by N.C.G.S. § 62-133.1A(b)(5)), and the establishment of a new tariff for the provision of service to the customers in the acquired service territory.

The Commission agrees with the parties that the burden of proof is appropriately on the acquiring utility in all respects in the proceeding on the utility's application and for demonstrating that the acquisition of the Local Government Utility is in the public interest. Therefore, the Commission will incorporate the parties' proposed paragraph (o), although in the rules that the Commission adopts in this Order, this provision has been reorganized as paragraph (h).

The Commission also agrees that the Public Staff's proposed paragraphs related to payment for the Public Staff's utility valuation expert should be incorporated into the rules adopted in this Order. Therefore, the Commission will adopt paragraphs (i) as proposed by the Public Staff.

Finally, the Commission further agrees with the Public Staff that the use of an engineering assessment form would be helpful in administering these rules. Therefore, the Commission will adopt a Fair Value Engineering Assessment Form as part of the appendices to Chapters R7 and R10 of the Commission's Rules and Regulations.

Based upon the foregoing and the entire record herein, the Commission concludes that Commission Rule R7-41 and Commission Rule R10-28 as reflected in the appendices A and B, respectively, to this Order should be adopted pursuant to N.C.G.S. § 62-133.1A(f). A redline comparison of the rules adopted and the rules proposed by the parties is included for convenience at appendices C and D. Further, the Commission concludes that Form FV1, Application for Determination of Fair Value of Utility Assets Pursuant to N.C.G.S. § 62-133.1A, and Form FV1(a), Fair Value Engineering Assessment Form, should be adopted and required for use in any proceeding instituted

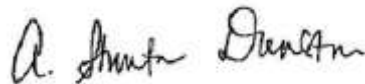
before the Commission by the filing of an application pursuant to N.C.G.S. § 62-133.1A and the rules adopted in this Order.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 30th day of December, 2020.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in black ink, appearing to read "A. Shonta Dunston". The signature is written in a cursive, flowing style.

A. Shonta Dunston, Deputy Clerk

**Rule R7-41. PROCEDURE FOR DETERMINING FAIR VALUE AND ESTABLISHING RATE BASE FOR ACQUISITIONS OF GOVERNMENT-OWNED WATER SYSTEMS**

(a) Scope of Rule.—This Rule provides the procedural and filing requirements for the determination of the value of utility property for ratemaking purposes applicable when a utility acquires an existing water system owned by a municipality or county, or an authority or district established under Chapter 162A of the General Statutes, and the utility makes an election pursuant to G.S. 62-133.1A(a) to establish its rate base associated with the acquisition by using the fair value of the acquired property instead of original cost.

(b) Definitions.

- (1) “Local Government Utility” means an existing water system owned by a municipality, county, or an authority or district established under Chapter 162A of the General Statutes.
- (2) “Rate Division” means a separate rate schedule of a water utility for one or more established customer service areas.
- (3) “Utility Valuation Expert” means a person qualified as an expert in the appraisal of utility plant whose proficiency is demonstrated and established pursuant to subsection (c) of this Rule.
- (4) “Professional Engineer” means a person who has been duly licensed by the North Carolina State Board of Examiners for Engineers and Surveyors established by Chapter 89C of the General Statutes, including those persons who may be licensed by comity or endorsement.
- (5) “Asset Purchase Agreement” means a contract for the sale of an existing water system between a water utility, as buyer, and a Local Government Utility, as seller, which is to be valued for purposes of rate base. The Asset Purchase Agreement shall reflect the price negotiated between the Public Utility purchaser and the Local Government Utility.

(c) Establishment of List of Utility Valuation Experts.—The Commission shall establish a generic proceeding in Docket No. W-100, Sub 60A for the purpose of creating and maintaining a list of accredited, impartial Utility Valuation Experts as required pursuant to G.S. 62-133.1A(b). A person seeking to become a Utility Valuation Expert shall apply to the Commission by furnishing the following:

- (1) a demonstration of the person’s education and experience specific to providing valuations and appraisals of utility plant, as differentiated from other types of appraisals, such as for real estate;
- (2) a written attestation that a Utility Valuation Expert owes a fiduciary duty to provide a thorough, objective, and fair valuation;
- (3) a demonstration of financial and technical fitness, such as through production of professional licenses, technical certifications, and names of

current or past clients with a description of dates and types of services provided;

- (4) a demonstration of adequate utility valuation and appraisal experience to support the Commission's decision to consider these persons or entities as experts in this field;
- (5) a statement that the Utility Valuation Expert will make use of the assessment of the tangible assets of the system to be acquired, which assessment shall be from a Professional Engineer jointly retained by the utility and the Local Government Utility and make use of the Water and Wastewater Fair Value Engineering Assessment Form included in the Appendix to this Chapter as a template for the engineer's assessment;
- (6) a statement that the Utility Valuation Expert will comply with the requirements of G.S. 62-133.1A in conducting their appraisal, including that the Utility Valuation Expert shall appraise the subject property in compliance with the uniform standards of professional appraisal practice, employing cost, market, and income approaches to assessment of value; and
- (7) any other information as required by the Commission.

(d) Application for Election to Establish Rate Base Using Fair Value.—A water utility may elect to establish rate base using the fair value of the utility property acquired from a Local Government Utility by filing with the Commission an application pursuant to G.S. 62-133.1A and this Rule. The form of the application shall be as provided in the Appendix to this Chapter. In addition to providing the information required pursuant to G.S. 62-133.1A in the completed application form, the application shall contain a narrative explanation of the object and purposes desired by the application and how the public interest is served by the acquisition, along with any other information required by the Commission. The application shall be accompanied by the testimony of the acquiring utility's president or another person employed by the utility who is personally familiar with the contents thereof and who verifies that the contents of the application are true and accurate.

(e) Procedure upon receipt of Application.—Contemporaneous with the filing of an application with the Commission pursuant to G.S. 62-133.1A and this Rule, the utility shall serve a copy of the application on the Public Staff. The Public Staff shall review the application and no later than ten days after the application is filed, the Public Staff shall file with the Commission and serve upon the applicant a recommendation regarding whether the application is complete or identify any deficiencies noted. If the Commission determines that the application is incomplete as submitted, the utility will be required to file the omitted information.

Once the Commission determines that the application is complete, the Commission will promptly issue an order establishing procedural deadlines and discovery guidelines and requiring the utility to provide notice of the pending application to the customers of the Local Government Utility. If the Commission receives significant written complaints against the application, then the Commission will issue a further order setting

the application for hearing. The Commission will endeavor to schedule the hearings to be held within three months of the filing of the application to facilitate issuance of a final order within six months of the filing of a completed application as directed pursuant to G.S. 62-133.1A(d).

(f) Rate Division Assignment.—Pursuant to G.S. 62-133.1A(c)(8), service to customers in the service area of the Local Government Utility shall be under a tariff that includes rates equal to the rates of the selling utility until the utility's next general rate case, unless otherwise ordered by the Commission for good cause shown. An application filed pursuant to G.S. 62-133.1A and this Rule shall include a proposed tariff that reflects such rates and a statement as to whether the utility intends to propose in its next general rate case that the service area of the Local Government Utility be integrated into an existing Rate Division of the acquiring utility or be established as a new Rate Division. A determination as to whether the service area of the Local Government Utility should be integrated into an existing Rate Division or established as a new Rate Division shall be preserved for the Commission's consideration in the utility's next general rate case.

(g) Final Order on Application.—Consistent with the direction provided in G.S. 62-133.1A(d), the Commission will endeavor to issue a final order on the application filed pursuant to G.S. 62-133.1A and this Rule within six months of the filing of a completed application. The Commission's final order will resolve all substantive issues and, if the Commission determines that the Application should be approved, the Commission will specifically determine the rate base value of the acquired property for rate-making purposes in a manner consistent with G.S. 62-133.1A and the provisions of this Rule, as follows:

- (1) Determination of Rate Base.—The rate base value of the acquired system shall be the lesser of the purchase price reflected in the Asset Purchase Agreement or the average of the three appraisals as required pursuant to G.S. 62-133.1A (b)(1), unless the Commission specifically finds that the average of the appraisals will not result in a reasonable fair value, in which case the Commission may adjust the fair value pursuant to G.S. 62-133.1A(e) as it deems appropriate and in the public interest;
- (2) Certain Costs Eligible to be Included in Rate Base Value.—Consistent with G.S. 62-133.1A(b), the Commission will allow the inclusion of the costs of the engineering assessment, transaction and closing costs incurred by the utility, and fees paid to Utility Valuation Experts, including fees paid by the acquiring utility to a Utility Valuation Expert that represents the Public Staff, in the rate base value of the acquired system upon a finding that those costs were reasonably and prudently incurred;
- (3) Depreciation.—The Commission will require the utility to apply the normal rules of depreciation against the rate base value from the date of the purchase of the system; and
- (4) Tariffs.—The Commission will approve the establishment of a new tariff for the provision of water service to customers in the acquired service territory,



which shall also determine whether the acquired service territory will be treated as a separate Rate Division.

(h) Burden of Proof.—The utility shall have the burden of proof regarding all aspects of the proceeding on an application filed pursuant to G.S. 62-133.1A and this Rule, and for demonstrating that the acquisition of the Local Government Utility is in the public interest.

(i) Payment of Fees for Public Staff Utility Valuation Expert.—The acquiring utility shall pay the fees of the Utility Valuation Expert that represents the Public Staff whether the Commission approves the application, denies the application, or if the acquiring utility withdraws the application.

**Rule R 10-28. PROCEDURE FOR DETERMINING FAIR VALUE AND ESTABLISHING RATE BASE FOR ACQUISITION OF GOVERNMENT-OWNED WASTEWATER SYSTEMS**

(a) Scope of Rule.—This Rule provides the procedural and filing requirements for the determination of the value of utility property for ratemaking purposes applicable when a utility acquires an existing wastewater system owned by a municipality or county, or an authority or district established under Chapter 162A of the General Statutes, and the utility makes an election pursuant to G.S. 62-133.1A(a) to establish its rate base associated with the acquisition by using the fair value of the acquired property instead of original cost.

(b) Definitions.

- (1) “Local Government Utility” means an existing wastewater system owned by a municipality, county, or an authority or district established under Chapter 162A of the General Statutes.
- (2) “Rate Division” means a separate rate schedule of a wastewater utility for one or more established customer service areas.
- (3) “Utility Valuation Expert” means a person qualified as an expert in the appraisal of utility plant whose proficiency is demonstrated and established pursuant to subsection (c) of this Rule.
- (4) “Professional Engineer” means a person who has been duly licensed by the North Carolina State Board of Examiners for Engineers and Surveyors established by Chapter 89C of the General Statutes, including those persons who may be licensed by comity or endorsement.
- (5) “Asset Purchase Agreement” means a contract for the sale of an existing wastewater system between a wastewater utility, as buyer, and a Local Government Utility, as seller, which is to be valued for purposes of rate base. The Asset Purchase Agreement shall reflect the price negotiated between the Public Utility purchaser and the Local Government Utility.

(c) Establishment of List of Utility Valuation Experts.—The Commission shall establish a generic proceeding in Docket No. W-100, Sub 60A for the purpose of creating and maintaining a list of accredited, impartial Utility Valuation Experts as required pursuant to G.S. 62-133.1A(b). A person seeking to become a Utility Valuation Expert shall apply to the Commission by furnishing the following:

- (1) a demonstration of the person’s education and experience specific to providing valuations and appraisals of utility plant, as differentiated from other types of appraisals, such as for real estate;
- (2) a written attestation that a Utility Valuation Expert owes a fiduciary duty to provide a thorough, objective, and fair valuation;
- (3) a demonstration of financial and technical fitness, such as through production of professional licenses, technical certifications, and names of

current or past clients with a description of dates and types of services provided;

- (4) a demonstration of adequate utility valuation and appraisal experience to support the Commission's decision to consider these persons or entities as experts in this field;
- (5) a statement that the Utility Valuation Expert will make use of the assessment of the tangible assets of the system to be acquired, which assessment shall be from a Professional Engineer jointly retained by the utility and the Local Government Utility and make use of the Water and Wastewater Fair Value Engineering Assessment Form included in the Appendix to this Chapter as a template for the engineer's assessment;
- (6) a statement that the Utility Valuation Expert will comply with the requirements of G.S. 62-133.1A in conducting their appraisal, including that the Utility Valuation Expert shall appraise the subject property in compliance with the uniform standards of professional appraisal practice, employing cost, market, and income approaches to assessment of value; and
- (7) any other information as required by the Commission.

(d) Application for Election to Establish Rate Base Using Fair Value.—A wastewater utility may elect to establish rate base using the fair value of the utility property acquired from a Local Government Utility by filing with the Commission an application pursuant to G.S. 62-133.1A and this Rule. The form of the application shall be as provided in the Appendix to this Chapter. In addition to providing the information required pursuant to G.S. 62-133.1A in the completed application form, the application shall contain a narrative explanation of the object and purposes desired by the application and how the public interest served by the acquisition, along with any other information required by the Commission. The application shall be accompanied by the testimony of the acquiring utility's president or another person employed by the utility who is personally familiar with the contents thereof and who verifies that the contents of the application are true and accurate.

(e) Procedure upon receipt of Application.—Contemporaneous with the filing of an application with the Commission pursuant to G.S. 62-133.1A and this Rule, the utility shall serve a copy of the application on the Public Staff. The Public Staff shall review the application and no later than ten days after the application is filed, the Public Staff shall file with the Commission and serve upon the applicant a recommendation regarding whether the application is complete or identify any deficiencies noted. If the Commission determines that the application is incomplete as submitted, the utility will be required to file the omitted information.

Once the Commission determines that the application is complete, the Commission will promptly issue an order establishing procedural deadlines and discovery guidelines and requiring the utility to provide notice of the pending application to the customers of the Local Government Utility. If the Commission receives significant written complaints against the application, then the Commission will issue a further order setting

the application for hearing. The Commission will endeavor to schedule the hearings to be held within three months of the filing of the application to facilitate issuance of a final order within six months of the filing of a completed application as directed pursuant to G.S. 62-133.1A(d).

(f) Rate Division Assignment.—Pursuant to G.S. 62-133.1A(c)(8), service to customers in the service area of the Local Government Utility shall be under a tariff that includes rates equal to the rates of the selling utility until the utility's next general rate case, unless otherwise ordered by the Commission for good cause shown. An application filed pursuant to G.S. 62-133.1A and this Rule shall include a proposed tariff that reflects such rates and a statement as to whether the utility intends to propose in its next general rate case that the service area of the Local Government Utility be integrated into an existing Rate Division of the acquiring utility or be established as a new Rate Division. A determination as to whether the service area of the Local Government Utility should be integrated into an existing Rate Division or established as a new Rate Division shall be preserved for the Commission's consideration in the utility's next general rate case.

(g) Final Order on Application.—Consistent with the direction provided in G.S. 62-133.1A(d), the Commission will endeavor to issue a final order on the application filed pursuant to G.S. 62-133.1A and this Rule within six months of the filing of a completed application. The Commission's final order will resolve all substantive issues and, if the Commission determines that the Application should be approved, the Commission will specifically determine the rate base value of the acquired property for rate-making purposes in a manner consistent with G.S. 62-133.1A and the provisions of this Rule, as follows:

- (1) Determination of Rate Base.—The rate base value of the acquired system shall be the lesser of the purchase price reflected in the Asset Purchase Agreement or the average of the three appraisals as required pursuant to G.S. 62-133.1A (b)(1), unless the Commission specifically finds that the average of the appraisals will not result in a reasonable fair value, in which case the Commission may adjust the fair value pursuant to G.S. 62-133.1A(e) as it deems appropriate and in the public interest;
- (2) Certain Costs Eligible to be Included in Rate Base Value.—Consistent with G.S. 62-133.1A(b), the Commission will allow the inclusion of the costs of the engineering assessment, transaction and closing costs incurred by the utility, and fees paid to Utility Valuation Experts, including fees paid by the acquiring utility to a Utility Valuation Expert that represents the Public Staff, in the rate base value of the acquired system upon a finding that those costs were reasonably and prudently incurred;
- (3) Depreciation.—The Commission will require the utility to apply the normal rules of depreciation against the rate base value from the date of the purchase of the system; and
- (4) Tariffs.—The Commission will approve the establishment of a new tariff for the provision of wastewater service to customers in the acquired service

territory, which shall also determine whether the acquired service territory will be treated as a separate Rate Division.

(h) Burden of Proof.—The utility shall have the burden of proof regarding all aspects of the proceeding on an application filed pursuant to G.S. 62-133.1A and this Rule, and for demonstrating that the acquisition of the Local Government Utility is in the public interest.

(i) Payment of Fees for Public Staff Utility Valuation Expert. —The acquiring utility shall pay the fees of the Utility Valuation Expert that represents the Public Staff whether the Commission approves the application, denies the application, or if the acquiring utility withdraws the application.

**~~R7-41 1 Determination of Fair Value and Establishment of Rate Base for Acquisitions of Governmental-Owned Water Systems~~**

**Rule R7-41. PROCEDURE FOR DETERMINING FAIR VALUE AND ESTABLISHING RATE BASE FOR ACQUISITIONS OF GOVERNMENT-OWNED WATER SYSTEMS**

(a) ~~Scope of Rule.—~~ This Rule provides the process for procedural and filing requirements for the determination of the “fair value” of used and useful utility property purchased by a regulated Public Utility from a qualifying unit of government, for purposes of inclusion in a regulated water utility’s rate base. It also sets forth the method of calculation of rate base, for ratemaking purposes, applicable when a utility acquires an existing water system owned by a municipality or county, or an authority or district established under Chapter 162A of the General Statutes, and the utility makes an election pursuant to G.S. 62-133.1A(a) to establish its rate base associated with the acquisition by using the “fair value” methodology. Determination and use of fair value for rate base calculation is an alternative to the use or reasonable of the acquired property instead of original cost.

(b)- ~~Definitions.—As used in this rule:~~

(1)-~~Public~~ “Local Government Utility” means an existing water utility as defined in G.S. 62-3(23)a.2 and regulated by the North Carolina Utilities Commission (Commission).

(2)-~~Chapter 162A Utility~~ means an existing water or wastewater system owned by a governmental entity—a municipality, county, or an authority or district, established under Chapter 162A of the General Statutes.

(3)-~~(2)~~ “Rate Division” means a separate tariff rate schedule of a Public Utility water utility for one or more established customer service areas.

(4)-~~(3)~~ “Utility Valuation Expert” is means a person qualified as an expert in the appraisal of utility plant, whose proficiency is demonstrated and established according pursuant to the provisions of subsection (d), below, and who, as an individual or a firm, qualifies to be maintained on a list established by the Commission, pursuant to G.S. 62-133.1A.(b)(1).—(c) of this Rule.

(5)-~~Licensed (4)~~ “Professional Engineer” is a Professional Engineer, means a person who has been duly licensed by the North Carolina State Board of Examiners for Engineers and Surveyors or an equivalent state licensing agency, established by Chapter 89C of the General Statutes, including those persons who may be licensed by comity or endorsement.

(6)-~~(5)~~ “Asset Purchase Agreement” is the means a contract for the sale of the utility property—an existing water system between a water utility, as buyer, and a Local Government Utility, as seller, which is to be valued for purposes of rate base. The Asset Purchase Agreement reflects shall reflect the price negotiated between the Public Utility purchaser and the Chapter 162A Local Government Utility.

~~by filing an Application for Determination of Fair Value and Rate Base and Approval of Transfer with the Commission.~~

~~(d) Establishment of list of~~ (c) Establishment of List of Utility Valuation Experts.——The Commission shall establish and maintain a generic proceeding in Docket No. W-100, Sub 60A for the purpose of creating and maintaining a list of accredited, impartial Utility Valuation Experts, from which the purchasing Public Utility, the selling Chapter 162A Utility, and the Public Staff shall each select for purposes of development of appraisals to use in determining fair value. To qualify for the list, a person or firm presenting themselves to the Commission for recognition as ~~as~~ as required pursuant to G.S. 62-133.1A(b). A person seeking to become a Utility Valuation Expert must ~~shall~~ apply to the Commission by furnishing the following:

- ~~(1) demonstrate~~ (1) demonstrate a demonstration of the person's education and experience necessary for specific to providing utility valuations and appraisals of utility plant, as differentiated from other types of appraisals, such as for real estate;
- ~~(2) attest in writing to~~ (2) a written attestation that a Utility Valuation Expert owes a fiduciary duty to provide a thorough, objective, and fair valuation;
- ~~(3) demonstrate~~ (3) demonstrate a demonstration of financial and technical fitness, such as through production of professional licenses, technical certifications, and ~~of~~ names of current or past clients with a description of dates and types of services provided; and
- ~~(4) demonstrate~~ (4) demonstrate a demonstration of adequate utility valuation and appraisal experience to support the Commission's ~~Commission's~~ decision to consider these persons or entities as experts in this field;

~~(e) Methodology for Determination of Fair Value.~~—

~~(1) The acquiring Public Utility and seller/Chapter 162A Utility shall negotiate an Asset Purchase Agreement.~~

~~(2) The acquiring Public Utility and~~ (5) a statement that the seller, a Chapter 162A Utility, shall jointly retain a Licensed Professional Engineer to conduct an Utility Valuation Expert will make use of the assessment of the tangible assets of the system to be acquired. The, which assessment shall be used from a Professional Engineer jointly retained by the three Utility Valuation Experts [who are selected as prescribed in subsection (3), below], in determining fair value, and shall ultimately be filed with the Application.

~~(3) The Chapter 162A Utility, utility and the Public~~ Local Government Utility, and make use of the Public Staff shall each secure a written appraisal, or valuation, from persons or entities on Water and Wastewater Fair Value Engineering Assessment Form included in the Commission's list of Utility Valuation Experts. Appendix to this Chapter as a template for the engineer's assessment;

~~(4) Each~~(6) a statement that the Utility Valuation Expert will comply with the requirements of G.S. 62-133.1A in conducting their appraisal, including that the Utility Valuation Expert shall appraise the subject property in compliance with the uniform standards of professional appraisal practice, employing cost, market, and income approaches to assessment of value-; and

~~(5)-(7) any other information as required by the Commission.~~

(d) Application for Election to Establish Rate Base Using Fair Value.—A water utility may elect to establish rate base using the fair value, for rate-making purposes under G.S. 62-133, shall be the average of the three appraisals utility property acquired from a Local Government Utility by filing with the Commission an application pursuant to G.S. 62-133.1A and this Rule. The form of the application shall be as provided in the Appendix to this Chapter. In addition to providing the information required pursuant to G.S. 62-133.1A in the completed application form, the application shall contain a narrative explanation of the object and purposes desired by the application and how the public interest is served by the acquisition, along with any other information required by the Commission. The application shall be accompanied by the testimony of the acquiring utility's president or another person employed by the utility who is personally familiar with the contents thereof and who verifies that the contents of the application are true and accurate.

(e) Procedure upon receipt of Application.—Contemporaneous with the filing of an application with the Commission pursuant to G.S. 62-133.1A and this Rule, the utility shall serve a copy of the application on the Public Staff. The Public Staff shall review the application and no later than ten days after the application is filed, the Public Staff shall file with the Commission and serve upon the applicant a recommendation regarding whether the application is complete or identify any deficiencies noted. If the Commission determines that the application is incomplete as submitted, the utility will be required to file the omitted information.

Once the Commission determines that the application is complete, the Commission will promptly issue an order establishing procedural deadlines and discovery guidelines and requiring the utility to provide notice of the pending application to the customers of the Local Government Utility. If the Commission receives significant written complaints against the application, then the Commission will issue a further order setting the application for hearing. The Commission will endeavor to schedule the hearings to be held within three months of the filing of the application to facilitate issuance of a final order within six months of the filing of a completed application as directed pursuant to G.S. 62-133.1A(d).

(f) Methodology for Rate Division Assignment.—Pursuant to G.S. 62-133.1A(c)(8), service to customers in the service area of the Local Government Utility shall be under a tariff that includes rates equal to the rates of the selling utility until the utility's next general rate case, unless otherwise ordered by the Commission for good cause shown. An application filed pursuant to G.S. 62-133.1A and this Rule shall include a proposed tariff that reflects such rates and a statement as to whether the utility intends to propose in its next general rate case that the service area of the Local Government Utility be integrated into an existing Rate Division of the acquiring utility or be established as a new Rate



Division. A determination as to whether the service area of the Local Government Utility should be integrated into an existing Rate Division or established as a new Rate Division shall be preserved for the Commission's consideration in the utility's next general rate case.

(g) Final Order on Application.—Consistent with the direction provided in G.S. 62-133.1A(d), the Commission will endeavor to issue a final order on the application filed pursuant to G.S. 62-133.1A and this Rule within six months of the filing of a completed application. The Commission's final order will resolve all substantive issues and, if the Commission determines that the Application should be approved, the Commission will specifically determine the rate base value of the acquired property for rate-making purposes in a manner consistent with G.S. 62-133.1A and the provisions of this Rule, as follows:

(1) Determination of Rate Base.—

~~(1) —~~The rate base value of the acquired system, which shall be reflected in the acquiring Public Utility's next general rate case for rate-making purposes, shall be the lesser of the purchase price negotiated between the parties to the sale, reflected in the Asset Purchase Agreement, or the average of the three appraisals as required pursuant to G.S. 62-133.1A (b)(1), unless the Commission specifically finds that the average of the appraisals will not result in a reasonable fair value" plus the fees, in which case the Commission may adjust the fair value pursuant to G.S. 62-133.1A(e) as it deems appropriate and in the public interest;

(2) Certain Costs Eligible to be Included in Rate Base Value.—Consistent with G.S. 62-133.1A(b), the Commission will allow the inclusion of the costs authorized in subsection (2) of this section, below.

~~(2) As determined by the Commission, reasonable of the engineering assessment, transaction and closing costs incurred by the utility, and fees paid to Utility Valuation Experts—, including for the engineering assessment—and reasonable transaction and closing costs incurred fees paid by the acquiring Public utility to a Utility may be included Valuation Expert that represents the Public Staff, in the rate base value of the acquired system- upon a finding that those costs were reasonably and prudently incurred;~~

~~(3) The Depreciation.—The Commission will require the utility to apply the normal rules of depreciation shall begin to apply against the rate base value upon from the date of the purchase of the system by the acquiring Public Utility.; and~~

~~(g) Rate Division Assignment.—~~

~~(1) In any Application filed under G.S. 62-133.1A, the acquiring Public Utility shall state whether it plans in the future to propose that the service area of the customers of the Chapter 162A Utility being acquired should be integrated into an existing Rate Division.~~

~~(2) The acquiring Public Utility, in its next general rate case, shall propose whether the service area of the customers acquired from the Chapter 162A Utility should be integrated into an existing Rate Division of the Public Utility or should be established as a new Rate Division. If the recommendation is for integration into an existing Rate Division, the acquiring Public Utility shall recommend how the area is to be integrated, including any necessary tariff revisions, and shall have the burden of proof to demonstrate that such integration is in the public interest. If the recommendation is for establishment of a new Rate Division, the acquiring Public Utility shall include proposed tariffs or tariff revisions as part of its Application.~~

~~(h) Regulatory Application Process for Determination of Fair Value and of Rate Base — A Public Utility Application for Determination of Fair Value and Rate Base and Approval of Transfer, filed under these Rules, shall be signed and verified by the president or designated officer of the acquiring Public Utility and shall contain all of the following:~~

~~(1) explanation of the object and purposes desired and of the public interest served by the acquisition;~~

~~(2) copies of the appraisals or valuations performed by the three Utility Valuation Experts, of the engineering assessment, and of the Asset Purchase Agreement;~~

~~(3) a statement of any deficiencies identified by the engineering assessment, and a five-year plan for prudent and necessary infrastructure improvements;~~

~~(4) the projected rate impact for the customers of the selling Chapter 162A Utility for the next five years;~~

~~(5) a proposed tariff;~~

~~(6) any recommendations for Rate Division assignment of the customers of the Chapter 162A utility being acquired;~~

~~(7) a map of the service area for the system(s) being acquired;~~

~~(8) the total cost of obtaining the valuations, including the estimated valuation fees, engineering fees, and transaction and closing costs incurred by the acquiring Public Utility; and~~

~~(9) any other information required or relevant under G.S. 62-133.1A.(c).~~

~~(i) Final Order. — If the Application meets the requirements of G.S. 62-133.1A.(c), the Commission's order approving or denying the Application must be issued within six months of the date of filing of the Application, in accordance with G.S. 62-133.1A.(d). In an order approving an Application, the Commission shall include the following:~~

~~(1) A determination of the fair value and the rate base value, inclusive of costs delineated in subsection (h)(8) of this rule, of the acquired utility property for rate-making purposes;~~

~~(2) The Rate Division under which the acquired service area shall be served; and~~

~~(3) Approval of the necessary tariffs or tariff revisions.~~

~~(j) Discovery.—~~

~~(1) All parties to the proceeding shall be permitted to serve (by hand delivery, facsimile or electronic delivery) data requests upon the selling Chapter 162A Utility, the purchasing Public Utility, the Public Staff, any Intervenor, the Licensed Professional Engineer, and/or one or more of the Utility Valuation Expert(s);~~

~~(2) The return date on each data request shall be ten business days. The party served with discovery shall have up to ten business days to file objections to the discovery request on an item-by-item basis; and~~

~~(3) Subject to the agreement of the selling Chapter 162A Utility, the Public Staff shall have authority to make site visits to the utility system.~~

~~(k) Evidentiary Hearing.— If deemed appropriate, the Commission may schedule the Application for evidentiary hearing and require the profiling of testimony.~~

~~(l) Customer Notice.— The Commission shall require the selling Chapter 162A Utility to provide to each of its customers, by bill insert or first-class mail, a Commission-approved Customer Notice pursuant to a Commission-prescribed schedule.~~

~~(m) Intervention.— Any customer of the selling Chapter 162A Utility, or a person having a demonstrated real and direct interest in the sale of the water and/or wastewater system to the purchasing Public Utility, may become a party to the Fair Value Purchase proceeding by filing a petition pursuant to Commission Rule R1-19. The Commission, in each Fair Value Purchase proceeding, shall set the deadline for filing a petition to intervene.~~

~~(n) Public Interest.— If the Commission finds that the average of the appraisals will not result in a reasonable fair value, the Commission may adjust the fair value as it deems appropriate and in the public interest. The decision should be supported with appropriate and sufficient findings and conclusions.~~

~~(o) Burden of Proof.— The acquiring Public Utility shall have the burden of proof in the Application proceeding. (p) (4) Tariffs.—The Commission will approve the establishment of a new tariff for the provision of water service to customer in the acquired service territory, which shall also determine whether the acquired service territory will be treated as a separate Rate Division.~~

~~(h) Burden of Proof.—The utility shall have the burden of proof regarding all aspects of the proceeding on an application filed pursuant to G.S. 62-133.1A and this Rule, and for demonstrating that the acquisition of the Local Government Utility is in the public interest.~~

~~(i) Payment of Fees for Public Staff Utility Valuation Expert.—.—The acquiring Public Utility shall pay the fees of the Public Staff Utility Valuation Expert should that represents the Public Staff whether the Commission deny the Application, or should approves the application, denies the application, or if the acquiring Public Utility withdraw the Application.~~

~~(g) Engineering Assessment. – The Water and Wastewater Fair Value Engineering Assessment Form, Water Fair Value – 1, will be provided to the Licensed Professional Engineer prior to engineering review, and shall serve as the template for the engineer’s assessment. Information requested on this guide shall only be included if it is applicable and readily available.~~

application.

**~~R10-281 Determination of Fair Value and Establishment of Rate Base for Acquisitions of Governmental-Owned Sewer Systems~~**

a) **Rule R 10-28. PROCEDURE FOR DETERMINING FAIR VALUE AND ESTABLISHING RATE BASE FOR ACQUISITION OF GOVERNMENT-OWNED WASTEWATER SYSTEMS**

(a) ~~Scope of Rule.—This rule~~ Rule provides the process for procedural and filing requirements for the determination of the fair value of used and useful utility property purchased by a regulated Public Utility from a qualifying unit of government, for purposes of inclusion in a regulated sewer utility's rate base. It also sets forth the method of calculation of rate base, for ratemaking purposes, applicable when a utility acquires an existing wastewater system owned by a municipality or county, or an authority or district established under Chapter 162A of the General Statutes, and the utility makes an election pursuant to G.S. 62-133.1A(a) to establish its rate base associated with the acquisition by using the fair value methodology. Determination and use of "fair value" for rate base calculation is an alternative to the use of acquired property instead of "reasonable original cost."

(b)- ~~Definitions.—As used in this rule:~~

(1) ~~Public~~ "Local Government Utility" means a sewer utility as defined in G.S. 62-3(23)a.2 and regulated by the North Carolina Utilities Commission ("Commission").

(2) ~~"Chapter 162A Utility" means an existing water or wastewater system owned by a governmental entity—a municipality, county, or an authority or district, established under Chapter 162A of the General Statutes.~~

(3) ~~2~~ "Rate Division" means a separate tariff rate schedule of a Public Utility wastewater utility for one or more established customer service areas.

(4) ~~3~~ "Utility Valuation Expert" is means a person qualified as an expert in the appraisal of utility plant, whose proficiency is demonstrated and established according pursuant to the provisions of subsection (d), below, and who, as an individual or a firm, qualifies to be maintained on a list established by the Commission, pursuant to G.S. 62-133.1A.(b)(1).c) of this Rule.

(5) ~~Licensed~~ (4) "Professional Engineer" is a Professional Engineer, means a person who has been duly licensed by the North Carolina State Board of Examiners for Engineers and Surveyors or an equivalent state licensing agency established by Chapter 89C of the General Statutes, including those persons who may be licensed by comity or endorsement.

(6) ~~5~~ "Asset Purchase Agreement" is the means a contract for the sale of the utility property an existing wastewater system between a wastewater utility, as buyer, and a Local Government Utility, as seller, which is to be valued for purposes of rate base. The Asset Purchase Agreement reflectsshall reflect the price negotiated between the Public Utility purchaser and the Chapter 162A Local Government Utility.

~~(7) "Application for Determination of Fair Value and Rate Base and Approval of Transfer" ("Application") is the application to be filed with the Commission pursuant to G.S. 62-133.1(A).(c)~~

~~(c) Election by Acquiring Regulated Public Utility.— A regulated Public Utility may elect to establish rate base, when purchasing qualifying utility property from a Chapter 162A Utility, by use of "fair value" instead of "reasonable original cost" by filing an Application for Determination of Fair Value and Rate Base and Approval of Transfer with the Commission.~~

~~(d) Establishment of list of "(c) Establishment of List of Utility Valuation Experts."— The Commission shall establish and maintain a generic proceeding in Docket No. W-100, Sub 60A for the purpose of creating and maintaining a list of accredited, impartial Utility Valuation Experts, from which the purchasing Public Utility, the selling Chapter 162A Utility, and the Public Staff shall each select for purposes of development of appraisals to use in determining "fair value." To qualify for the list, a person or firm presenting themselves to the Commission for recognition as as required pursuant to G.S. 62-133.1A(b). A person seeking to become a Utility Valuation Expert ~~must~~ shall apply to the Commission by furnishing the following:~~

- ~~(1) demonstrate~~ a demonstration of the person's education and experience necessary for specific to providing utility valuations and appraisals of utility plant, as differentiated from other types of appraisals, such as for real estate;
- ~~(2) attest in writing to~~ (2) a written attestation that a Utility Valuation Expert owes a fiduciary duty to provide a thorough, objective, and fair valuation;
- ~~(3) demonstrate~~ a demonstration of financial and technical fitness, such as through production of professional licenses, technical certifications, and/or names of current or past clients with a description of dates and types of services provided; and
- ~~(4) demonstrate~~ a demonstration of adequate utility valuation and appraisal experience to support the Commission's Commission's decision to consider these persons or entities as experts in this field;

~~(e) Methodology for Determination of Fair Value.—~~

~~(1) The acquiring Public Utility and seller/Chapter 162A Utility shall negotiate an Asset Purchase Agreement.~~

~~(2) The acquiring Public Utility and~~ (5) a statement that the seller, a Chapter 162A Utility, shall jointly retain a Licensed Professional Engineer to conduct an Utility Valuation Expert will make use of the assessment of the tangible assets of the system to be acquired. The, which assessment shall be used from a Professional Engineer jointly retained by the three Utility Valuation Experts [who are selected as prescribed in subsection (3), below], in determining fair value, and shall ultimately be filed with the Application.

- ~~(3) The Chapter 162A Utility, utility and the Public Local Government Utility, and make use of the Public Staff shall each secure a written appraisal, or valuation, from persons or entities on Water and Wastewater Fair Value Engineering Assessment Form included in the Commission's list of Utility Valuation Experts. Appendix to this Chapter as a template for the engineer's assessment;~~
- ~~(4) Each~~(6) a statement that the Utility Valuation Expert will comply with the requirements of G.S. 62-133.1A in conducting their appraisal, including that the Utility Valuation Expert shall appraise the subject property in compliance with the uniform standards of professional appraisal practice, employing cost, market, and income approaches to assessment of value.; and
- ~~(5)~~(7) any other information as required by the Commission.

(d) Application for Election to Establish Rate Base Using Fair Value.—A wastewater utility may elect to establish rate base using the fair value,” for rate making purposes under G.S. 62-133, shall be the average of the three appraisals utility property acquired from a Local Government Utility by filing with the Commission an application pursuant to G.S. 62-133.1A and this Rule. The form of the application shall be as provided in the Appendix to this Chapter. In addition to providing the information required pursuant to G.S. 62-133.1A in the completed application form, the application shall contain a narrative explanation of the object and purposes desired by the application and how the public interest served by the acquisition, along with any other information required by the Commission. The application shall be accompanied by the testimony of the acquiring utility's president or another person employed by the utility who is personally familiar with the contents thereof and who verifies that the contents of the application are true and accurate.

(e) Procedure upon receipt of Application.—Contemporaneous with the filing of an application with the Commission pursuant to G.S. 62-133.1A and this Rule, the utility shall serve a copy of the application on the Public Staff. The Public Staff shall review the application and no later than ten days after the application is filed, the Public Staff shall file with the Commission and serve upon the applicant a recommendation regarding whether the application is complete or identify any deficiencies noted. If the Commission determines that the application is incomplete as submitted, the utility will be required to file the omitted information.

Once the Commission determines that the application is complete, the Commission will promptly issue an order establishing procedural deadlines and discovery guidelines and requiring the utility to provide notice of the pending application to the customers of the Local Government Utility. If the Commission receives significant written complaints against the application, then the Commission will issue a further order setting the application for ~~by this section~~ hearing. The Commission will endeavor to schedule the hearings to be held within three months of the filing of the application to facilitate issuance of a final order within six months of the filing of a completed application as directed pursuant to G.S. 62-133.1A(d).

~~(f) Methodology for~~ (f) Rate Division Assignment.—Pursuant to G.S. 62-133.1A(c)(8), service to customers in the service area of the Local Government Utility shall be under a tariff that includes rates equal to the rates of the selling utility until the utility's next general rate case, unless otherwise ordered by the Commission for good cause shown. An application filed pursuant to G.S. 62-133.1A and this Rule shall include a proposed tariff that reflects such rates and a statement as to whether the utility intends to propose in its next general rate case that the service area of the Local Government Utility be integrated into an existing Rate Division of the acquiring utility or be established as a new Rate Division. A determination as to whether the service area of the Local Government Utility should be integrated into an existing Rate Division or established as a new Rate Division shall be preserved for the Commission's consideration in the utility's next general rate case.

(g) Final Order on Application.—Consistent with the direction provided in G.S. 62-133.1A(d), the Commission will endeavor to issue a final order on the application filed pursuant to G.S. 62-133.1A and this Rule within six months of the filing of a completed application. The Commission's final order will resolve all substantive issues and, if the Commission determines that the Application should be approved, the Commission will specifically determine the rate base value of the acquired property for rate-making purposes in a manner consistent with G.S. 62-133.1A and the provisions of this Rule, as follows:

(1) Determination of Rate Base.—

~~(4) .—~~The rate base value of the acquired system, ~~which shall be reflected in the acquiring Public Utility's next general rate case for rate-making purposes,~~ shall be the lesser of the purchase price ~~negotiated between the parties to the sale,~~ reflected in the Asset Purchase Agreement, or the “average of the three appraisals required pursuant to G.S. 62-133.1A (b)(1), unless the Commission specifically finds that the average of the appraisals will not result in a reasonable fair value” plus the fees, in which case the Commission may adjust the fair value pursuant to G.S. 62-133.1A(e) as it deems appropriate and in the public interest;

(2) Certain Costs Eligible to be Included in Rate Base Value.—Consistent with G.S. 62-133.1A(b), the Commission will allow the inclusion of the costs ~~authorized in subsection (2) of this section, below.~~

~~(2) As determined by the Commission, reasonable of the engineering assessment, transaction and closing costs incurred by the utility, and fees paid to Utility Valuation Experts, including for the engineering assessment—and reasonable transaction and closing costs incurred fees paid by the acquiring Public utility to a Utility may be included~~ Valuation Expert that represents the Public Staff, in the rate base value of the acquired system, upon a finding that those costs were reasonably and prudently incurred;

~~(3) The~~ Depreciation.—The Commission will require the utility to apply the normal rules of depreciation ~~shall begin to apply against the rate base value~~



~~upon from the date of the purchase of the system by the acquiring Public Utility; and~~

~~(g) Rate Division Assignment.—~~

~~(1) In any Application filed under G.S. 62-133.1A, the acquiring Public Utility shall state whether it plans in the future to propose that the service area of the customers of the Chapter 162A Utility being acquired should be integrated into an existing Rate Division.~~

~~(2) The acquiring Public Utility, in its next general rate case, shall propose whether the service area of the customers acquired from the Chapter 162A Utility should be integrated into an existing Rate Division of the Public Utility or should be established as a new Rate Division. If the recommendation is for integration into an existing Rate Division, the acquiring Public Utility shall recommend how the area is to be integrated, including any necessary tariff revisions, and shall have the burden of proof to demonstrate that such integration is in the public interest. If the recommendation is for establishment of a new Rate Division, the acquiring Public Utility shall include proposed tariffs or tariff revisions as part of its Application.~~

~~(h) Regulatory Application Process for Determination of Fair Value and of Rate Base — A Public Utility Application for Determination of Fair Value and Rate Base and Approval of Transfer, filed under these Rules, shall be signed and verified by the president or designated officer of the acquiring Public Utility and shall contain all of the following:~~

~~(1) explanation of the object and purposes desired and of the public interest served by the acquisition;~~

~~(2) copies of the appraisals or valuations performed by the three Utility Valuation Experts, of the engineering assessment, and of the Asset Purchase Agreement;~~

~~(3) a statement of any deficiencies identified by the engineering assessment, and a five-year plan for prudent and necessary infrastructure improvements;~~

~~(4) the projected rate impact for the customers of the selling Chapter 162A Utility for the next five years;~~

~~(5) a proposed tariff;~~

~~(6) any recommendations for Rate Division assignment of the customers of the Chapter 162A utility being acquired;~~

~~(7) a map of the service area for the system(s) being acquired;~~

~~(8) the total cost of obtaining the valuations, including the estimated valuation fees, engineering fees, and transaction and closing costs incurred by the acquiring Public Utility; and~~

~~(9) any other information required or relevant under G.S. 62-133.1A.(c).~~

~~(i) Final Order.— If the Application meets the requirements of G.S. 62-133.1A.(c), the Commission's order approving or denying the Application must be issued within six~~

~~months of the date of filing of the Application, in accordance with G.S. 62-133.1A.(d). In an order approving an Application, the Commission shall include the following:~~

- ~~(1) A determination of the fair value and the rate base value, inclusive of costs delineated in subsection (h)(8) of this rule, of the acquired utility property for rate-making purposes;~~
- ~~(2) The Rate Division under which the acquired service area shall be served; and~~
- ~~(3) Approval of the necessary tariffs or tariff revisions.~~

~~(j) Discovery.—~~

- ~~(1) All parties to the proceeding shall be permitted to serve (by hand delivery, facsimile or electronic delivery) data requests upon the selling Chapter 162A Utility, the purchasing Public Utility, the Public Staff, any Intervenor, the Licensed Professional Engineer, and/or one or more of the Utility Valuation Expert(s);~~
- ~~(2) The return date on each data request shall be ten business days. The party served with discovery shall have up to ten business days to file objections to the discovery request on an item-by-item basis; and~~
- ~~(3) Subject to the agreement of the selling Chapter 162A Utility, the Public Staff shall have authority to make site visits to the utility system.~~

~~(k) Evidentiary Hearing.— If deemed appropriate, the Commission may schedule the Application for evidentiary hearing and require the profiling of testimony.~~

~~(l) Customer Notice.— The Commission shall require the selling Chapter 162A Utility to provide to each of its customers, by bill insert or first-class mail, a Commission-approved Customer Notice pursuant to a Commission-prescribed schedule.~~

~~(m) Intervention.— Any customer of the selling Chapter 162A Utility, or a person having a demonstrated real and direct interest in the sale of the water and/or wastewater system to the purchasing Public Utility, may become a party to the Fair Value Purchase proceeding by filing a petition pursuant to Commission Rule R1-19. The Commission, in each Fair Value Purchase proceeding, shall set the deadline for filing a petition to intervene.~~

~~(n) Public Interest.— If the Commission finds that the average of the appraisals will not result in a reasonable fair value, the Commission may adjust the fair value as it deems appropriate and in the public interest. The decision should be supported with appropriate and sufficient findings and conclusions.~~

- ~~(o) Burden of Proof.— The acquiring Public Utility shall have the burden of proof in the Application proceeding.~~ (p) (4) Tariffs.—The Commission will approve the establishment of a new tariff for the provision of wastewater service to customer in the acquired service territory, which shall also determine whether the acquired service territory will be treated as a separate Rate Division.

(h) Burden of Proof.—The utility shall have the burden of proof regarding all aspects of the proceeding on an application filed pursuant to G.S. 62-133.1A and this Rule, and for demonstrating that the acquisition of the Local Government Utility is in the public interest.

(i) Payment of Fees for Public Staff Utility Valuation Expert. —The acquiring Public Utility utility shall pay the fees of the Public Staff Utility Valuation Expert should that represents the Public Staff whether the Commission deny the Application approves the application, denies the application, or should if the acquiring Public Utility withdraw the Application application.

(q) Engineering Assessment Rule. — The Water and Wastewater Fair Value Engineering Assessment Form, Sewer Fair Value — 1, will be provided to the Licensed Professional Engineer prior to engineering review, and shall serve as the template for the engineer's assessment. Information requested on this guide shall only be included if it is applicable and readily available.

DOCKET NO. W-\_\_\_\_\_

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

APPLICATION FOR DETERMINATION OF FAIR VALUE OF UTILITY ASSETS  
PURSUANT TO N.C.G.S. § 62-133.1A

INSTRUCTIONS

If additional space is needed, supplementary sheets may be attached. If any section does not apply, write "not applicable".

PURCHASER – APPLICANT PUBLIC UTILITY

1. Trade name used for utility business: \_\_\_\_\_

2. Name of owner (if different from trade name): \_\_\_\_\_

3. Business mailing address: \_\_\_\_\_

City and state: \_\_\_\_\_ Zip Code: \_\_\_\_\_

4. Business street address (if different from mailing address): \_\_\_\_\_  
\_\_\_\_\_

5. Business telephone number: \_\_\_\_\_

6. Business email address: \_\_\_\_\_

7. If corporation, list the following:

President: \_\_\_\_\_ Vice President: \_\_\_\_\_

Secretary: \_\_\_\_\_ Treasurer: \_\_\_\_\_

Three (3) largest stockholders and percent of voting shares held by each: \_\_\_\_\_  
\_\_\_\_\_

8. If partnership, list the owners and percent of ownership held by each: \_\_\_\_\_  
\_\_\_\_\_

SELLER – LOCAL GOVERNMENT UTILITY

1. Trade name used for utility business: \_\_\_\_\_
2. Name of owner (if different from trade name): \_\_\_\_\_
3. Mailing address: \_\_\_\_\_
4. Business telephone number: \_\_\_\_\_
5. Business email address: \_\_\_\_\_
6. Form of Organization (municipality/county/authority or district established under Chapter 162A):  
\_\_\_\_\_

REQUIRED EXHIBITS

The following information is required to be included in this Application, and should be attached hereto as exhibits numbered to correspond to this list:

1. Copies of the valuations performed by the three separate appraisers, as provided in N.C.G.S. § 62-133.1A(b)(1).
2. Any deficiencies identified by the engineering assessment conducted pursuant to N.C.G.S. § 62-133.1A(b)(2) and a five-year plan for prudent and necessary infrastructure improvements by the acquiring entity.
3. The projected rate impact for the selling entity's customers for the next five years.
4. The averaging of the appraisers' valuations, which shall constitute fair value for purposes of N.C.G.S. § 62-133.1A.
5. The assessment of tangible assets performed by a licensed professional engineer, as provided in N.C.G.S. § 62-133.1A(b)(2). Utilize Commission Form FV1(a) as a template for the engineer's assessment, indicating if any of the requested information is not applicable or not readily available. Additional information that is relevant to the application that is not listed on the Form FV1(a) should be included as an attachment or addendum to the engineer's assessment.
6. The contract of sale or Asset Purchase Agreement, including exhibits showing that the Seller has ownership of all property necessary to operate the system being acquired. Any changes to the contract of sale or Asset Purchase Agreement should be filed immediately with the Commission.
7. Enclose a copy of contracts or agreements, including all attachments, exhibits, and appendices, between the seller and any other party (municipalities, towns, districts, customers, etc.) regarding the proposed utility services, including contracts regarding easements and rights of way, etc. (If none, write "none"\_\_\_\_\_.)
8. The estimated valuation fees and transaction and closing costs incurred by the acquiring public utility.
9. A map of the service area for the system(s) being acquired.
10. Current number of water and sewer customers by type of customer (residential, commercial, etc.).
11. A copy of the seller's schedule of rates that are currently being charged to customers for the provision of water and sewer service.
12. A tariff, including rates equal to the rates of the selling utility. The selling utility's rates shall be the rates charged to the customers of the acquiring public utility until

the acquiring public utility's next general rate case, unless otherwise ordered by the Commission for good cause shown.

ADDITIONAL REQUIREMENTS FOR FILING OF APPLICATION

In addition to the other information required to be included in this application, the Purchaser-Applicant Public Utility must include the testimony of the public utility's president or another person employed by the public utility who is personally familiar with the contents of this application which provides a narrative explanation of the object and purposes desired by the application and how the public interest is served by the proposed acquisition. The person providing testimony in support of this application shall complete and sign the attached verification form before a Notary Public, verifying that the contents of this application are true and accurate.

VERIFICATION

STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_

\_\_\_\_\_, personally appeared before me this day and, being first duly sworn, says that the facts stated in the foregoing application and any exhibits, documents, and statements thereto attached are true as he or she believes.

WITNESS my hand and notarial seal, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

My Commission Expires:

\_\_\_\_\_

Signature of Notary Public

\_\_\_\_\_

Name of Notary Public – Typed or Printed

The name of the person who completes and signs this verification must be typed or printed by the notary in the space provided in the verification. The notary's name must be typed or printed below the notary's seal. This original verification must be affixed to the original application that is submitted to the Commission.

FILING INSTRUCTIONS

Electronic filing is available at [www.ncuc.net](http://www.ncuc.net) for application submittal or mail one (1) original application with required exhibits and original notarized verification form, plus three (3) additional collated copies to:

USPS Address:

OR

Overnight Delivery at Street Address:

Chief Clerk's Office  
North Carolina Utilities Commission  
4325 Mail Service Center  
Raleigh, North Carolina 27699-4300

Chief Clerk's Office  
North Carolina Utilities Commission  
430 North Salisbury Street  
Raleigh, North Carolina 27603-5918

Provide a self-addressed stamped envelope, plus an additional copy of the application, if a file-stamped copy is requested by the Applicant.

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION  
FAIR VALUE ENGINEERING ASSESSMENT FORM

INSTRUCTIONS

If additional space is needed, supplementary sheets may be attached. If any section does not apply, write "not applicable". Additional information that is relevant to the application that is not listed on this form should be included as an attachment or addendum

Note: This form is only to be used in conjunction with Form FV1, Application for Determination of Fair Value of Utility Assets Pursuant to G.S. 62-133.1A.

SELLER-LOCAL GOVERNMENT UTILITY

1. Trade name used for utility business: \_\_\_\_\_
2. Name of owner (if different from trade name): \_\_\_\_\_
3. Description of the water system \_\_\_\_\_
4. County where located \_\_\_\_\_
5. Description of the sewer system \_\_\_\_\_
6. County where located \_\_\_\_\_
7. Number of current customers: water \_\_\_\_\_ sewer: \_\_\_\_\_

ENGINEER INFORMATION

1. Name of Engineer Providing Utility Assessment : \_\_\_\_\_
2. Engineer Background Information:  
License No. and Issuing Authority: \_\_\_\_\_  
Education: \_\_\_\_\_  
Has Engineer been subject to Discipline by any State Licensing Authority (if yes, provide date and cause of discipline): \_\_\_\_\_  
  
\_\_\_\_\_
3. Engineer's experience with engineering design, planning, construction, renovations, replacements and operations of water and wastewater utility systems: \_\_\_\_\_



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ASSESSMENT OF TANGIBLE ASSETS OF SYSTEM TO BE ACQUIRED

**Water Utility System Information**

**Distribution System Information**

1. Water Mains (Provide the following information for each section of water mains):

a. Year installed: \_\_\_\_\_

b. Pipe diameter: \_\_\_\_\_

c. Length of main: \_\_\_\_\_

d. Type of pipe material (i.e., asbestos cement, galvanized, PVC Class 160, PVC SDR 21, C-900, ductile iron, other):

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

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f. Describe the condition of the water distribution system valves:

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g. Describe condition of service lines, including materials:

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h. Describe the condition of the fire hydrants in each section:

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2. Water Meters

a. Type of meters (i.e., manual read, AMR, AMI, other):

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b. Average age of residential water meters: \_\_\_\_\_

3. Customer growth – number of customers added or lost during last 3 years in each of the following categories:

a. Residential: \_\_\_\_\_

b. Commercial: \_\_\_\_\_

c. Industrial: \_\_\_\_\_

d. Governmental, including schools: \_\_\_\_\_

4. Water Storage:

a. Describe each water storage facility by type and capacity (i.e. hydropneumatic, ground storage, elevated storage, other):

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b. Provide the year each storage facility placed in service:

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c. Provide the most recent year each storage facility was recoated on interior and exterior:

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5. Water Production – Water Wells

a. Provide number of water supply wells in service:

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b. For each water supply well in service provide the year first placed in service:

\_\_\_\_\_

c. Provide for each water supply well the original 24 hour well drawdown test, if available.

d. Provide the original DEQ approval for each supply well.

\_\_\_\_\_  
\_\_\_\_\_

e. Provide the three most recent inorganic analyses for each well.

\_\_\_\_\_  
\_\_\_\_\_

f. Provide the average gallons per minute pumped from each well for the most recent 24 months:

\_\_\_\_\_  
\_\_\_\_\_

g. Environmental Compliance:

(i) Does any well exceed the EPA or State of North Carolina maximum contaminant level for a primary drinking water contaminant?

\_\_\_\_\_  
\_\_\_\_\_

(ii) If yes, please provide the three most recent analyses for that primary contaminant from that well.

\_\_\_\_\_  
\_\_\_\_\_

h. Provide a description of the installed treatment for each primary contamination MCL:

\_\_\_\_\_

i. Does the water system exceed the EPA action levels for lead and/or copper?

\_\_\_\_\_

j. Provide a summary of the condition of each well house, including controls and valve banks and needed renovations. \_\_\_\_\_

k. Describe the water treatment of each well, including filters and the need for replacements or renovations as necessary. \_\_\_\_\_

6. Surface Water Treatment Plant

a. Year of original construction \_\_\_\_\_

b. Capacity of "original plant" \_\_\_\_\_

c. Describe all treatment stages, including advanced treatment based on ultrafiltration technology, if applicable. \_\_\_\_\_

d. Type of structure (i. e., steel, concrete, other) \_\_\_\_\_

e. History of Expansion

(i) Year of each expansion, if any \_\_\_\_\_

(ii) Additional capacity of each expansion \_\_\_\_\_

(iii) Treatment stages of each expansion \_\_\_\_\_

(iv) Type of structure of each expansion (i.e., steel, concrete, other) \_\_\_\_\_

f. Provide copies of DEQ construction permits for the original construction and all expansions, if any. \_\_\_\_\_

g. Provide copy of the most recent DEQ permit.

h. Provide copies of the two most recent DEQ inspection reports.

i. Provide copies of all DEQ issued Notices of Violation (NOV) for the last five years, if any. \_\_\_\_\_

j. Provide copies of all the selling government entity's responses to each DEQ issued NOV the last five years, if any. \_\_\_\_\_

k. Provide the monthly average gallons per day produced by the surface treatment plant for each of the last 36 months \_\_\_\_\_

l. Provide the non-revenue water percentage for each of the last three years (water produced at the surface water treatment plant less water billed to customers, divided the water produced) \_\_\_\_\_

m. Describe in detail renovations and remediations, if any, performed by the selling government entity, the most recent ten years\_\_\_\_\_

7. Water and General Upgrading and Renovations – Costs

Provide the estimated cost of each water system upgrades/renovations necessary during the first five years\_\_\_\_\_

8. Violations – Water System

a. Provide all water system NOVs received from DEQ the last five years.

\_\_\_\_\_  
\_\_\_\_\_

b. Provide all the selling government entity's written responses to the NOVs received the last five years.

\_\_\_\_\_  
\_\_\_\_\_

**Wastewater System**

**Collection System**

1. For each section of gravity collection mains provide:

a. Year installed\_\_\_\_\_

b. Pipe diameter\_\_\_\_\_

c. Length of main\_\_\_\_\_

d. Type material – i.e., clay pipe, steel pipe, concrete pipe, HDPE pipe, PVC Class 160, PVC SDR 21, C-900, ductile iron, lined ductile iron, other

\_\_\_\_\_

e. Copy of DEQ construction permit for each section, if available.

f. Number of manholes\_\_\_\_\_

g. Condition of manholes\_\_\_\_\_

h. Service line materials\_\_\_\_\_

i. Last time section camera evaluated\_\_\_\_\_

2. For each section of collection force mains, provide:

- a. Year installed \_\_\_\_\_
- b. Pipe diameter \_\_\_\_\_
- c. Length of main \_\_\_\_\_
- d. Type material – i.e. PVC SDR 21, C-900, ductile iron, lined ductile iron, other  
\_\_\_\_\_
- e. Copy of DEQ construction permit for each section, if available.

3. Wastewater Lift Stations – For each provide:

- a. Year installed \_\_\_\_\_
- b. Capacity of installed pumps \_\_\_\_\_
- c. Permitted capacity of lift station \_\_\_\_\_
- d. Control system \_\_\_\_\_
- e. Alarm System \_\_\_\_\_
- f. Description of recent renovations, if any. \_\_\_\_\_
- g. Material of wet well \_\_\_\_\_
- h. Provide summary of the conditions of each lift station  
\_\_\_\_\_

4. Wastewater Treatment Plant, provide the following:

- a. Year of original construction \_\_\_\_\_
- b. Capacity of “original plant” \_\_\_\_\_
- c. Type Treatment \_\_\_\_\_
- d. Type structure i.e., steel, concrete, other \_\_\_\_\_
- e. (i) Year of each expansion, if any (ii) Additional capacity of each expansion (iii) Type treatment of each expansion (iv) Type of structure each expansion i.e.

steel, concrete,  
other \_\_\_\_\_

f. Provide copies of DEQ construction permits for the original construction and all expansions, if any.

g. Provide copy of most recent NPDES Permit, if applicable.

h. If effluent land application, provide copy of most recent land application permit.

i. If land application, provide the permitted capacity of the installed irrigation system or infiltration system.

j. Does the seller own or have perpetual easements or leases for all of the effluent irrigation/infiltration areas.

\_\_\_\_\_

k. If an easement or lease, provide a copy of the recorded document(s).

l. Provide copies of the monthly DMRs (NPDES Permit) or NDMR (land application) for the most recent 36 months.

m. Provide copy of the most recent wastewater treatment plant permit, including all required monitoring parameters

n. Provide copies of the two most recent DEQ inspection reports for the wastewater treatment plant.

#### 5. Wastewater, general information

a. Provide copies of all DEQ issued NOV's for the last five years, if any.

b. Provide copies of all the selling government entity's responses to each of the DEQ issued NOV the last five years, if any.

c. Provide the average total gallons per day sold to metered water customers by the water utility provider for each of the last three years.

d. Provide the infiltration percentage for each of the last three years (influent wastewater to wastewater treatment plant less metered water sold, divided by the metered water sold) \_\_\_\_\_

e. Describe in detail collection system infiltration remediation if any, performed by the selling government entity the most recent ten years \_\_\_\_\_

f. Provide the monthly number of wastewater customers the most recent 36 months:

(i) Residential \_\_\_\_\_

(ii) Commercial \_\_\_\_\_

(iii) Industrial \_\_\_\_\_

(iv) Governmental, including schools \_\_\_\_\_