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Chapter 7. Appendix

CHAPTER 7.

WATER COMPANIES.

Rule R7-1. APPLICATION OF RULES.

These rules apply to public water utilities as defined in G.S. 62-3.

(NCUC Docket No. M-100, Sub 75, 10/27/77.)

Rule R7-2. DEFINITIONS.

(a) Utility. — The term "utility" when used in these rules and regulations includes persons and corporations, or their lessees, trustees, and receivers, now or hereafter, distributing or furnishing water to the public for compensation as defined in G.S. 62-3.

(b) Customers. — The word "customers" as used in these rules shall be construed to mean any person, group of persons, firm, corporation, institution, or other service body furnished water service by a water utility.

(c) Municipality. — The term "municipality" when used in these rules includes a city, a county, a village, a town, and any other public body existing, created, or organized as a government under the Constitution or laws of the State.

(d) Accidents. — Accidents as used herein are defined as other than motor vehicle accidents which do not create a service interruption that result in one or more of the following circumstances:

- (1) Death of a person.
- (2) Serious disabling to persons including employees of a company.
- (3) Damage to the property of the company materially affecting its service to the public.
- (4) Damage to the property of others amounting to more than \$1,000.

(e) Interruptions of Service. — "Interruptions of service" as used herein means any interruption to the water supply whereby at least ten (10) customers have no water service for more than two (2) hours, whether scheduled or unscheduled.

(NCUC Docket No. W-100, Sub 2, 8/21/69; NCUC Docket No. M-100, Sub 75, 10/27/77.)

Rule R7-3. RECORDS AND REPORTS.

(a) Location and Preservation of Records. — All records shall be kept at the office or offices of the utility in North Carolina and shall be available during regular business hours for examination by the Commission, Public Staff or their duly authorized representatives.

(b) Reports to Commission. — Each utility shall prepare and file an annual report to the Commission with copies to the Public Staff in prescribed form, giving required information respecting its general operations. Special reports shall also be made concerning any particular matter upon request by the Commission or Public Staff.

(c) Accident Reports and Interruption of Service Reports. — Each utility shall file a report with the Commission with a copy to the Public Staff describing any accident or interruption of service in connection with the utility's operation. The report shall be filed within the intervals specified by the Commission from time to time, and shall contain the information required on the reporting forms furnished by the Commission for that purpose.

(NCUC Docket No. W-100, Sub 2, 8/21/69; NCUC Docket No. M-100, Sub 75, 10/27/77.)

Rule R7-4. APPROVAL OF RATE SCHEDULES, RULES AND REGULATIONS.

- (a) Approval Required. — Rates, schedules, rules, regulations, special contracts, and other charges for the purchase, sale, or distribution of water shall not become effective until filed with and approved by the Commission.
- (b) Manner of Filing. — Tariffs containing all the rates, rules, and regulations of each utility shall be filed in the manner prescribed by the Commission.
- (c) Utility's Special Rules.
 - (1) A utility desiring to establish any rule or requirement affecting its customers shall first make application to the Commission for approval of the same, clearly stating in its application the reason for such establishment.
 - (2) On or after ninety days from the effective date of these rules and regulations any utility's special rules and regulations now on file with the Commission which conflict with these rules will become null and void unless they have been refiled and approved by the Commission.
- (d) Charge for Returned Checks. — Each water utility shall file tariffs with the Commission to impose charges in an amount to be approved by the Commission for checks tendered on a customer's account and returned for insufficient funds. This charge shall apply regardless of when the check is tendered.

(NCUC Docket No. W-100, Sub 6, 4/18/88.)

Rule R7-5. MAPS AND RECORDS.

Each utility shall keep on file in its office suitable maps, plans, and records showing the entire layout of every pumping station, filter plant, reservoir, transmission and distribution system, with the location, size and capacity of each plant, size of each transmission and distribution line, fire hydrant, valve and customer's service reservoirs, tanks, and other facilities used in the production and delivery of water.

Rule R7-6. ACCESS TO PROPERTY.

A utility shall at all reasonable times have access to meters, service connections, and other property owned by it on customer's premises for purposes of maintenance and operation, including cutting off customer's supply of water for any of the causes provided for in these rules and regulations or the rules and regulations of the utility.

Rule R7-7. ADEQUACY OF FACILITIES.

All water production, treatment, storage, and distribution facilities shall comply with the rules of the North Carolina Department of Environment, Health and Natural Resources and the rules of other state and local governmental agencies governing public water systems.

(NCUC Docket No. W-100, Sub 2, 8/21/69; NCUC Docket No. W-100, Sub 24, 2/22/94.)

Rule R7-8. SERVICE INTERRUPTIONS.

(a) Record. — Each utility shall keep a record of all interruptions of service of more than two (2) hours' duration, whether scheduled or unscheduled, affecting ten (10) or more customers and shall be maintained for three (3) years. A report of such interruptions shall be filed each month in the Office of the Chief Clerk with a copy to the Public Staff by the 15th day of the month following the month for which the report is required to be filed.

(b) Notice Required. — Insofar as practical every customer affected shall be notified in advance of any contemplated work which will result in interruption of service of any long duration, but such notice shall not be required in case of interruption due to accident, the elements, public enemies, strikes, which are beyond the control of the utility.

(NCUC Docket No. W-100, Sub 2, 8/21/69; NCUC Docket No. M-100, Sub 75, 10/27/77.)

Rule R7-9. DEAD ENDS.

Dead ends in the distribution mains should be avoided so far as possible. If such dead ends exist the utility should provide facilities for flushing if conditions so require.

Rule R7-10. CROSS CONNECTIONS.

No physical connections between the distribution system of a public potable water supply and that of any other water supply shall be permitted unless such other water supply is of safe, sanitary quality and has been approved by the North Carolina Department of Environment, Health and Natural Resources and other state or local governmental agencies with rules pertaining to cross connection.

(NCUC Docket No. W-100, Sub 24, 2/22/94.)

Rule R7-11. RECORDS OF ACCIDENTS.

Each utility shall keep a record of each accident happening in connection with the operation of its plant, station, property, and equipment, whereby any person shall have been killed or seriously injured, or any substantial amount of property damaged or destroyed, which report shall be made available to the Commission upon request.

Rule R7-12. QUALITY OF WATER.

(a) Every water utility shall comply with the rules of the North Carolina Department of Environment and Natural Resources and the rules of other state and local governmental agencies governing purity of water, testing of water, operation of filter plant, and such other lawful rules as those agencies prescribe.

(b) All water being supplied by water utilities subject to the jurisdiction of the North Carolina Utilities Commission is required, as a minimum, to meet the standards of water quality as set forth in the United States Safe Drinking Water Act enacted in 1974 and as amended in 1986; provided, that upon application in writing to the Commission and approval of the Commission in writing, a water utility may have a specified deviation or tolerance from the mineral content requirements of said United States Safe Drinking Water Act enacted in 1974 and as amended in 1986, based upon regional water characteristics or conditions and upon the economic feasibility of providing treatment to the water or of locating alternate sources of water.

(NCUC Docket No. W-100, Sub 2, 8/21/69; NCUC Docket No. W-100, Sub 24, 2/22/94; NCUC Docket No. M-100, Sub 140, 12/03/13.)

Rule R7-13. PRESSURE REQUIREMENTS.

Each water utility shall maintain an adequate pressure for its distribution system as required by the North Carolina Department of Environment and Natural Resources and any other state or local governmental agencies with rules pertaining to pressure requirements.

(NCUC Docket No. W-100, Sub 24, 2/22/94; NCUC Docket No. M-100, Sub 140, 12/03/13.)

Rule R7-14. PRESSURE GAUGES.

(a) A utility shall provide itself with one or more portable pressure gauges or have available one or more graphic recording pressure gauges, these instruments to be of a type and capacity suited to the pressure of the system.

(b) A utility shall make a sufficient number of pressure surveys each year to indicate the service furnished and to satisfy the Commission of its compliance with the pressure requirements.

(c) All utilities having graphic recording gauges shall keep at least one of these gauges in continuous service at the plant office or elsewhere on the premises. All pressure records are to be kept in compliance with the regulations of the Utilities Commission.

Rule R7-15. SERVICE CONNECTIONS.

- (a) Each water utility shall adopt a standard method for installing a service connection or meter installation, which is included in the "connection charge." Such method shall be set out with a written description and drawings, together with a schedule of connection charges, to the extent necessary for a clear understanding of the requirements and shall be submitted to the Commission for its approval.
- (b) The term "service connection" shall mean, viz., the pipe between its main and the nearest property line, a curb cock and curb box or other standard equipment and connections. The curb cock may be installed at a convenient place between the property line and the curb.
- (c) Temporary service shall be installed by mutual agreement.
- (d) The customer shall furnish and lay the necessary pipe to make the connection from the property line nearest the utility's water main, and shall keep the service line from the property line to the place of consumption in good repair. The customer shall not make any change in or rebuild such service line without giving written notice to the utility. All of the foregoing shall be designated as "customer's service line."
- (e) In the installation of a service line, the customer must not install any tees or branch connection ahead of the meter location and must leave the trench open and pipe uncovered until it is examined by an inspector of the utility and shown to be free from any irregularity or defect.
- (f) In any case where a reasonable doubt exists as to the proper location and size for "customer's service line," the utility shall be consulted and its approval of the location and size of line be secured in writing.

Rule R7-16. EXTENSION OF MAINS.

(a) General Provisions.

- (1) A bona fide customer as referred to in subsections (b) and (c) hereinafter shall be a customer of permanent and established character, exclusive of the real estate developer or builder, who receives water service at a premises improved with structures of a permanent nature.
- (2) Any facilities installed hereunder shall be the sole property of the utility.
- (3) The size, type, quality of materials, and their location will be specified by the utility, and the actual construction will be done by the utility or by a constructing agency acceptable to it.
- (4) Adjustment of any difference between the estimated cost and the reasonable actual cost of any main extension made hereunder will be made within 60 days after the actual cost of the installation has been ascertained by the utility.
- (5) In case of disagreement or dispute regarding the application of any provision of this rule, or in circumstances where the application of this rule appears impracticable or unjust to either party, the utility, applicant or applicants may refer the matter to the Public Utilities Commission for settlement.
- (6) Extensions for fire hydrant service, private fire protection service, and temporary service will not be made under this rule.
- (7) The utility will not be required to make extensions where grades have not been brought to those established by public authority.
- (8) Where the property of the applicant or applicants is located adjacent to a street or highway exceeding 70 feet in width, or a freeway, waterway, or railroad right of way, the utility may elect to install a main extension on the same side thereof as the property of the applicant or applicants, and the estimated cost in such case will be based on such an extension.
- (9) Where an extension must comply with an ordinance, regulation, or specification of a public authority, the estimated cost of said extension shall be based upon the facilities required to comply therewith.

(b) Extensions to Serve Individuals.

- (1) The utility will extend its water distribution mains to serve new bona fide customers at its own expense, other than to serve subdivisions, tracts, housing projects, industrial developments or organized service districts, when the required total length of main extension from the nearest existing distribution main is not in excess of 100 feet per service connection. If the total length of main extension is in excess of 100 feet per service connection applied for, the applicant or applicants for such service shall be required to advance to the utility before construction is commenced that portion of the reasonable estimated cost of such extension over and above the estimated reasonable cost of 100 feet of the main extension per service connection exclusive of the cost of service connections and meters and exclusive of any costs of increasing the size or capacity of the utility's existing mains or any other facilities used or necessary for

supplying the proposed extension. Such estimated reasonable cost shall not be based upon the cost of a main in excess of 4 inches in diameter except where required by the special needs of the applicant or applicants. The money so advanced will be refunded by the utility without interest in payments equal to the reasonable actual cost of 100 feet of the main extension, for which advance was made for each additional service connection, exclusive of that of any customer formerly served at the same location. Refunds will be made within 180 days after the date of first service to a bona fide customer. No refunds will be made after a period of 5 years from the date of completion of the main extension and the total refund shall not exceed the amount advanced.

- (2) Where a group of five or more individual applicants request service from the same extension, or in unusual cases after obtaining Commission approval, the utility at its option may require that the individual or individuals advance the entire cost of the main extension as herein provided and the utility will refund this advance as provided in subsection (c)(2) of this rule.
- (3) In addition to refunds made on the basis of service connections attached directly to the extension for which the cost was advanced as provided in subdivision (1) of this subsection, refunds also will be made to the party or parties making the advances in those cases where additional bona fide customers are served by a subsequent main extension, either continuous or lateral, supplied from the original extension upon which an advance is still refundable, whenever the length of such further extension is less than 100 feet per service connection. Such additional refunds will equal the difference between the 100 foot allowance per service connection and the length of each required subsequent extension multiplied by the average cost per foot of the extension used as the basis for determining the amount advanced. In those cases where subsequent customers are served through a series of such main extensions, refunds will be made to the party or parties making the advances in chronological order beginning with the first of the extensions in the series from the original point of supply, until the amount advanced by any party is fully repaid within the period of 5 years as specified above. In those cases where two or more customers have made a joint advance on the same extension, refunds will be made in the same proportion that each advance bears to the total of said joint advance. Where the utility installs a main larger than that for which the cost was advanced to serve an individual or individuals, and a subsequent extension is supplied from such main, the original individual or individuals will not be entitled to refunds which might otherwise accrue from subsequent extensions.

(c) Extensions to Serve Subdivisions, Tracts, Housing Projects, Industrial Developments or Organized Service Districts.

- (1) An applicant for a main extension to serve a new subdivision, tract, housing project, industrial development or organized service district shall be required to advance to the utility before construction is commenced the estimated reasonable cost of installation of the mains, from the nearest existing main at least equal in size to the main required to serve such development, including necessary service stubs or service pipelines, fittings, gates and housings therefor, and including fire hydrants when requested by the applicant or required by public authority, exclusive of meters. If additional facilities are required specifically to provide pressure or storage exclusively for the service requested, the cost of such facilities may be included in the advance upon approval by the Commission.
- (2) The money so advanced will be subject to refund by the utility without interest to the party or parties entitled thereto. The total amount so refunded shall not exceed the amount advanced. Refunds will be made under the following method:

Proportionate Cost Method. — For each service connection directly connected to the extension, exclusive of that of any customer formerly served at the same location, the utility will refund within 180 days after the date of first service to a bona fide customer that portion of the total amount of the advance which is determined from the ratio of 100 feet of main to the total footage of main in the extension for which the cost was advanced. No refunds will be made after a period of 5 years from the date of completion of the main extension.

Rule R7-17. REFUSAL TO SERVE APPLICANTS.

(a) Noncompliance with Rules and Regulations. — Any utility may decline to serve an applicant until he has complied with State regulations governing water service and the approved rules and regulations of the utility.

(b) Utility's Facilities Inadequate. — Until adequate facilities can be provided, a utility may decline to serve an applicant if, in the best judgment of the utility, it does not have adequate facilities to render service applied for or if the intended use is of a character that is likely to affect unfavorably service to other customers.

(c) Applicant's Facilities Inadequate. — The utility may refuse to serve an applicant if, in its judgment, the applicant's installation of water piping is regarded as hazardous or of such character that satisfactory service cannot be given.

**Rule R7-18. REPEALED BY NCUC DOCKET NO. M-100, SUB 28, 5/6/70,
EFFECTIVE JULY 1, 1970.**

Rule R7-19. CUSTOMER'S DISCONTINUANCE OF SERVICE.

Any customer desiring service discontinued shall give a written notice to the utility unless otherwise incorporated in the rules and regulations of the utility. Until the utility shall have such notice the customer may be held responsible for all service rendered.

Rule R7-20. UTILITY'S DISCONTINUANCE OF SERVICE.

(a) Violation of Rules. — Neglect or refusal on the part of a customer to comply with these rules or the utility's rules properly filed with the Commission shall be deemed to be sufficient cause for discontinuance of service on the part of the utility.

(b) Access to Property. — The utility shall at all reasonable times have access to meters, service connections, and other property owned by it on customer's premises for purposes of maintenance and operation. Neglect or refusal on the part of the customer to provide reasonable access to their premises for the above purposes shall be deemed to be sufficient cause for discontinuance of service on the part of the utility.

(c) Notice of Discontinuance. — No utility shall discontinue service to any customer for violation of its rules or regulations without first having diligently tried to induce the customer to comply with its rules and regulations. After such effort on the part of the utility, service may be discontinued only after written notice of such intention, and that five (5) days, excluding Sundays and holidays, shall have been given the customer by the utility; provided, however, that where an emergency exists, or where fraudulent use of water is detected, or where a dangerous condition is found to exist on the customer's premises, the water may be shut off without such notice.

(d) Disputed Bills. — In the event of a dispute between the customer and the utility respecting any bill, the utility shall make forthwith such investigation as shall be required by the particular case, and report the result thereof to the customer. In the event that the matter in dispute cannot be compromised or settled by the parties, either party may submit the fact to the Commission for its opinion, and pending such opinion, service shall not be discontinued.

(e) Nonpayment. — Repealed by NCUC Docket No. M-100, Sub 28, 5/6/70, effective July 1, 1970.

(f) Reconnection Charge. — Whenever the supply of water is turned off for the violation of rules and regulations, nonpayment of bill, or fraudulent use of water, the utility may make a reconnection charge, approved by the Commission, payable in advance, for restoring the service. The fee shall be no more than fifteen dollars (\$15.00); except, if the utility proves that its actual and reasonable cost for restoring the service is greater than fifteen dollars (\$15.00), the fee may be set at no more than the proven cost.

(g) When Water Turned Off at Customer's Request. — When for any valid reason the supply of water has been turned off at the customer's request, the utility shall charge for restoring service the fee approved by the Commission. The fee shall be no more than fifteen dollars (\$15.00); except, if the utility proves that its actual and reasonable cost for restoring the service is greater than fifteen dollars (\$15.00), the fee may be set at no more than the proven cost.

(h) Turning Water On or Off, Disconnecting Meter, etc., Without Authority. — No plumber, owner, or other unauthorized person shall turn the water on or off except in case of emergency at any corporation stop or curb stop, or disconnect or remove the meter without the consent of the utility.

(NCUC Docket No. W-100, Sub 2, 8/21/69; NCUC Docket No. M-100, Sub 28, 5/6/70; NCUC Docket No. W-100, Sub 6, 4/18/88.)

Rule R7-21. INFORMATION TO CUSTOMERS.

(a) Information as to Kinds of Service. — A utility shall, when accepting application for water service, give full information to the applicant concerning type of service to be rendered and rates which will be applicable, advantageous, and suitable to his requirements.

(b) Meter Reading Method. — Each utility shall adopt some means of informing its consumers as to the method of reading meters.

(c) Posting of Rates, Rules and Regulations. — Every utility shall provide in its business office, near the cashier's window, where it may be available to the public, the following:

- (1) A copy of the rates, rules and regulations of the utility applicable to the territory served from that office.
- (2) A copy of these rules and regulations.

Rule R7-22. METHOD OF MEASURING SERVICE.

- (a) Metered. — All water sold within the State of North Carolina, except as hereinafter stated, shall be by metered measurements. All customers served under a given rate schedule shall have their water consumption measured with meters having suitable characteristics.
- (b) Unmetered. — Where it is impractical or uneconomical to install meters to measure temporary service or to measure use of a fixed character, then such service may be supplied unmetered, provided, that the price charged for the service shall be estimated as nearly as practicable to what would be charged if meters were in use.
- (c) Waste or Fraud. — The utility shall have the right to set meters or other devices for the detection and prevention of fraud or waste, without notice to the customer.
- (d) Payment for Water Used Where Meter Tampered With. — In any case where a service meter or service facility has been tampered with so as to interfere with accuracy of registration or indication, the utility whose meter or service facilities have been tampered with shall be entitled to payment for water used but not registered during a period not exceeding one year prior to the date of discovery of the tampering, unless the time of tampering can be shown, in which case the water not registered subsequent to such time shall be paid for.
- (e) Abuse of Flat Rate Service. — Wherever flat rate service is furnished for a special use and a demonstrated abuse of such service occurs, the utility shall have the right, upon written notice to the customer, to meter such service and bill for same under an applicable schedule.

Rule R7-23. INFORMATION ON BILLS.

(a) Meter Readings. — Bills rendered periodically shall show the reading of the water meter at the beginning and end of the time for which bill is rendered, the dates on which the readings were taken, and the amount of water supplied.

(b) Mechanical Billing. — Utilities desiring to adopt mechanical billing of such nature as to render compliance with all the terms of subsection (a) impracticable, may make application to the Commission for relief from part of these terms. After consideration of the reasons given when asking for relief, the Commission may allow the omission of part of these requirements.

(c) Billing. — Meters will be read as nearly as possible at regular intervals. This interval may be monthly, or quarterly, however no change shall be made in the billing interval except on approval of the Commission.

Rule R7-24. SALE OF WATER.

No utility shall charge or demand or collect or receive any greater or less or different compensation for sale of water, or for any service connected therewith, than those rates and charges approved by the Commission and in effect at that time.

Rule R7-25. ADJUSTMENT OF BILLS FOR METER ERROR.

(a) Meter Fast.

- (1) Whenever a meter in service is found, upon periodic, request or complaint test, to be more than two percent fast, additional tests shall be made at once, to determine the average error of the meter.
- (2) Whenever a meter is found, upon periodic, request or complaint test, to have an average error of registration of more than two percent (2%) fast, the utility shall recalculate the monthly bills for a period equal to one half of the time elapsed since the last test, but in no case shall this period exceed six (6) months. (See exception noted in subsection (d).) The method of recalculating the monthly bills shall be as shown in the following example:

Example: A meter upon test was found to register five percent (5%) fast. The consumption registered for a billing period previous to test was 105,000 gallons. The error in registration is determined by dividing 105,000 by 100% plus 5% or 105% which result is 1,000, this multiplied by 100 is 100,000 gallons, which is the proper amount to be billed. After making such recalculations the utility shall refund to the customer an amount equal to the difference between the amount previously billed and the amount calculated as being the proper charge.

(b) Meter Slow.

- (1) When a meter, upon periodic, request or complaint test is found to have an average error of more than two percent (2%) slow, the utility may recalculate the monthly bills for a period equal to one half of the time elapsed since the last test, but in no case to exceed six (6) months. The method of recalculating the monthly bills shall be as shown in the following example:

Example: A meter upon test was found to register five percent (5%) slow. The consumption registered for a billing period previous to test was 105,000 gallons. The error in registration is determined by dividing 105,000 by 100% minus 5% or 95% which result is 1105.26, this multiplied by 100 is 110,526 gallons, which is the proper amount to be billed.

- (2) After making such recalculations the utility may collect from the customer an amount equal to the difference between the amount previously billed and the amount calculated as being the proper charge.

(c) Percent Error. — It shall be understood that when a meter is found to have an error in excess of two percent fast or slow, the figure for calculating the amount of refund or the amount to be collected by the utility shall be that percentage of error as determined by the test, i.e., it is held that it is the duty of the utility to maintain the accuracy of its measuring devices as nearly 100% as is commercially practicable. Therefore, percent error shall be that difference as between 100% and that amount of error as is indicated by a proper test.

(d) Refunds. — The burden of maintaining measuring equipment, so that it will register accurately, is upon the utility; therefore, if meters are found upon test to register fast, and if time for periodic test has overrun to the extent that one half (1/2) of the time elapsed since the last previous test exceeds six months, the refund shall be for the six months as specified in subsection (b), and in addition thereto a like refund upon those months exceeding the periodic test period, provided, however, that the Commission may relieve the utility from this requirement in any particular case in which it is shown that the failure to make the periodic test was due to causes beyond the utility's control. No bill shall be recalculated on account of slow meter if the meter has not been tested within the periodic test period.

(e) Notification. — When a meter is tested and it is found necessary to make a refund or back bill a customer, the customer shall be notified in writing and a copy of said notice filed by the utility.

(f) Nonregistering. — If a meter is found not to register for any period, the utility shall estimate the consumption, based on a like period of similar use.

Rule R7-26. INTERPRETATIONS.

(a) Residential Service.

- (1) "Residential service" is defined as service to a householder or tenant living in a separate house or a separate apartment in an apartment building.
- (2) Should the owner of a multiple apartment building undertake to furnish water to his tenants as a part of their monthly rent, then such service shall be classed as "Commercial."
- (3) A close member of a householder's family, living with that householder and using the same water facilities, shall not be classified as an additional service or as "Commercial."
- (4) In cases where a householder or tenant devotes some portion of the occupied building to commercial use and uses the remainder as a residence, then the predominant use of water shall constitute the basis for classification as either residential or commercial.

(b) Commercial Service.

- (1) "Commercial service" is defined to include service to each separate business enterprise, occupation, or institution occupying for its exclusive use any unit or units of space as an entire building, entire floor, suite of rooms or a single room, and using water for such incidental use as the schedule of rates applicable to the particular installation may permit. "Commercial service" shall apply to all stores, offices, hotels, wholesale houses, garages, display windows, signs, theaters, barber and beauty shops, churches, opera houses, auditoriums, lodge halls, schoolhouses, banks, bakeries, and any other space occupied for commercial purposes. Any rooming house, lodginghouse, resort, inn or tavern renting more than four rooms to strangers or transients, without any previous agreement for accommodation or as to the duration of stay, shall be classed as a hotel and as such it comes under the "Commercial" classification.
- (2) Where a single business enterprise or institution occupies more than one unit of space in the conduct of the same business, each separate unit will be metered separately and considered a separate service unless the customer makes the necessary provisions whereby the different units may be connected to permit the metering of all water used through one meter. The above rule shall not be construed to allow any customer to secure combined meter readings and billings by reason of ownership in the same person, partnership, association, or corporation of different buildings or units of space which are not used and operated by the customer and held out to the public as one single business unit.

(c) Industrial Service. — "Industrial service" is defined as a customer manufacturing or producing a commodity for the use and sale to the general public.

(d) Fire Protection Service. — "Fire protection service" is defined as each customer taking service under a distinct fire protection rate schedule.

Rule R7-27. FIRE PROTECTION SERVICE.

(a) The rate fixed in the schedule to be paid for fire hydrants contemplates the use of a sufficient amount of water through said hydrants for the bona fide purpose of extinguishing fires, by or under the supervision of fire department employees or officials, and does not authorize the use of said hydrants and the water that flows therefrom by any unauthorized person.

(b) The company may require all new consumers who desire both regular commercial service and fire protection service to install separate service lines, one to be used only for fire protection. The company may require all old consumers who now have only one service connection for combined commercial service and for fire protection to install separate lines, all expenses incurred in making such change to be paid for by the company. In cases where separate lines are installed, the consumer is not permitted to take water from the fire protection line except for the extinguishing of fires or for fire drills. Neither will the company permit an interconnection to be made between the regular service line and the fire protection line.

Rule R7-28. METER TESTING FACILITIES AND EQUIPMENT.

(a) Meter Test. — Each utility shall, unless specifically excused by the Commission, provide for and have available such meter testing instruments and other equipment and facilities as may be necessary to make the tests required by these rules or other orders of the Commission. Such equipment and facilities shall be satisfactory to and approved by the Commission and shall be available at all reasonable times for the inspection and use of any authorized representative of the Commission.

(b) Certification of Instruments and Equipment. — All testing instruments and other equipment shall at all times be accompanied by a certificate signed by a proper authority giving the date when it was last certified and adjusted, and certificates, when superseded, shall be kept on file in the office of the utility.

Rule R7-29. WATER METER ACCURACY.

(a) Installation Test. — Every water service meter, whether new or repaired, shall be in good order and shall be correct to within 2% fast or slow before being installed for the use of any customer.

(b) Meter Test Flows. — The following test rates are recommended for conducting test:

It is recommended that no less than three rates of flow be used.

Meter Size	Allowable Range Test Flow Gallons per Minute		Recommended Test Rate Flow Min.	Gallons per Minute	
	Min.	Max.		Med.	Max.
1 ½	5	100	5	25	100
2	8	160	8	40	160
3	16	300	15*	100	300
4	28	500	15*	250	500
6	48	1000	20*	500	1000

*Note — A meter failing to register 5% of the water passed at those rates marked * should not be installed without correction.

(c) Method of Testing. — All tests to determine the accuracy of registration of any water service meter shall be made with suitable testing instruments.

Rule R7-30. LOCATION OF METERS.

(a) Accessibility. — In the interest of safety and convenience to the customer, and as a measure of economical operation to the utility, it is required that all meters should be located at the curb; provided however, that when such location is impractical, meters shall be placed outside of the customer's building as near as possible to the point where the utility's "service connection" joins the "customer's service line"; provided, further, if neither of the foregoing requirements can be complied with on account of physical, economic, or climatic conditions, the meter may be placed within the building, preferably in the cellar, and when so placed within the building, the meter shall be so located that it will be easily accessible for reading and protected from freezing and mechanical damage.

(b) Meter Grouping. — When a number of meters are grouped, every meter shall be tagged as to indicate the particular customer or premise served by it.

Rule R7-31. SEALING METERS.

Each utility, at its own option, may employ seals to prevent tampering.

Rule R7-32. PERIODIC TEST.

Meters of a compound, fireline, or turbine type containing a current meter unit in a system supplying clear spring or well water shall be periodically tested as follows. Under average conditions the following intervals between tests shall not be exceeded.

Meter Sizes	Years Between Tests
1-1/2	4
2	4
3	3
4	2
6	1

Rule R7-33. REQUEST TEST.

(a) Procedure. — Each utility furnishing water service shall, without charge, make a test of the accuracy of any water meter upon request of the customer, provided the customer does not request such test more frequently than once in twenty four months. If a customer requests a meter be tested more frequently than once in twenty four months and if such meter shall be found to register not more than two percent fast, the customer shall pay to the utility the fee as fixed by the Commission in subsection (b) of this rule. A report giving the result of each request test shall be made to the customer and to the Utilities Commission with a copy of the Public Staff, and the complete original record shall be kept on file in the office of the utility for at least five years. The customer or his representative may be present when this test is run.

(b) Charge. — All tests shall be made as soon as practicable. The charges fixed by the Commission for making such tests are as follows:

Outlet 1 inch or less	\$2.50
Outlet 2 inches and over 1 inch	3.00
Outlet 3 inches and over 2 inches	3.75
Outlet 4 inches and over 3 inches	4.50

(NCUC Docket No. M-100, Sub 75, 10/27/77.)

Rule R7-34. METER TEST RECORDS.

(a) Reporting. — A complete record of all tests and adjustments with sufficient data to allow checking of test calculations shall be recorded by the meterman and shall be reported to the Commission as required on such form or forms as may be prescribed by the Commission.

The test records shall be so kept that they may be readily inspected and checked by the Commission or Public Staff.

(b) Meter Records. — All meters shall have a number plainly stenciled or stamped on the meter case or lid, or stamped upon a metal strip, suitably attached to meter or case.

It is recommended that a separate card be prepared for each meter; that this card be so arranged that the date and data of each test may be entered thereon; that the card be of such character that a marker system can be used that will record the date of the last test and indicate the proper date for the next periodic test required by these rules.

(c) Preservation of Records.

<u>Type of Records</u>	<u>Length of Time to Be Retained</u>
Interruption of Service Records	2 years from date of interruption
Accident Records	Permanently
Meter Test Records	5 years
Pressure Records	2 years

(NCUC Docket No. M-100, Sub 75, 10/27/77.)

Rule R7-35. UNIFORM SYSTEM OF ACCOUNTS.

The Uniform System of Accounts for Water Utilities as revised in 1984 by the National Association of Regulatory Utility Commissioners, and all subsequent revisions thereto unless otherwise ordered by the Commission, are hereby adopted by this Commission as the accounting rules of this Commission for water companies and are prescribed for the use of all water utilities under the jurisdiction of the North Carolina Utilities Commission having annual gross operating revenues of \$10,000 or more derived from the sales of water, viz:

Uniform System of Accounts for Class A Water Utilities — 1984.

Uniform System of Accounts for Class B Water Utilities — 1984.

Uniform System of Accounts for Class C Water Utilities — 1984.

(NCUC Docket No. W-100, Sub 3, 5/24/74; NCUC Docket No. W-100, Sub 18, 6/1/92.)

Rule R7-36. AVAILABILITY RATES.

(a) Definitions.

- (1) "Availability rate" — means a fee or charge paid to a water utility by a subscriber thereof for the availability of water service being provided by the utility in a specific subdivision or real estate development.
- (2) "Customer" or "subscriber" — for purposes of this rule, means a person who is a nonuser of the water service provided by a water utility and who has subscribed to the availability of water service.
 - (a) If a person subscribes to availability of service to more than one lot, that person shall be considered a separate customer for each separate lot served: except that two lots occupied by a single dwelling may be considered as a single lot when the dwelling occupies a portion of both lots in such a manner that no additional separate dwellings can reasonably be anticipated on the lots.
- (3) "Availability of water service" — means that water of adequate quantity, quality and pressure is available at all times in a water main located within 75 feet of the boundary of the subscriber's property served, or such other distance as the Commission deems reasonable, whether or not water is actually taken from the system by the subscriber, and whether or not a service outlet is located inside the boundary of the property served.

(b) Disclosure to Customer Required. — Each utility shall first ensure that its customers have been given adequate disclosure of any availability rate, in accordance with the provisions of this rule, prior to accepting a customer's subscription to availability service or accepting the initial assignment of a contract for availability service.

- (1) Form of disclosure — The disclosure form shall be a written instrument signed by the customer, and if reasonably practical it shall be separate from other documents pertaining to the sale of property. The written instrument may be part of a uniform contract entered into between the developer of a subdivision and a lot purchaser in the subdivision, or it may be part of a written agreement between the customer and the utility. Acceptable sample disclosure forms are set out as an Appendix to Chapter 7 of these rules.
- (2) Information in disclosure — The disclosure form shall contain the following information:
 - (a) Definitions of "availability rate" and of "availability of water service" as contained in this rule.
 - (b) A statement specifying whether or not the availability rate shall continue to be applicable to the subscriber even if at some time in the future the subscriber's property should no longer be in use and the water service should no longer be required by the subscriber.
 - (c) The amount of the availability rate approved by the Utilities Commission, or if no amount has been approved, the amount that is to be submitted for approval.

- (d) A statement relating to the nature and amount of any charges or fees that the customer may be obligated to pay if he should wish to become a water user; i.e., tap on fees.
- (e) Written certification by the customer that the customer understands the meaning of such availability rate and that he subscribes to the imposition of such rate for the availability of water service.

(c) Approval of Disclosure Form Required. — The sample disclosure forms contained in the Appendix to Chapter 7 of these rules shall constitute adequate disclosure forms. Any disclosure form varying from the sample disclosure forms shall be submitted to and approved by the Utilities Commission prior to accepting the customer's subscription to availability service or accepting the assignment of a contract for availability service. The Commission shall either approve or disapprove the submitted form as promptly as possible.

(d) Improper Disclosure. — Is Grounds for Denial of Franchise and Rates. — In the event the Utilities Commission finds that disclosure of the availability rate has not been made in accordance with the provisions of this rule, the Commission may conclude that the availability rate in whole or in part should not be allowed.

(e) Record of Subscription. — Each utility shall maintain in its files a permanent record of each written certification, subscription or contract relating to an availability rate imposed by that utility.

(f) Collection of Availability Rate. — No utility shall collect an availability rate unless and until a tariff providing for such availability rate has first been filed with and approved by the Utilities Commission.

(g) Not Applicable When User Rates Are in Effect. — No availability rate approved by the Utilities Commission shall be applicable to any property when the regular user rates are in force for that property.

(h) Applicable Only When Franchise in Force. — All availability rates approved by the Utilities Commission shall be applicable only during the period of time that the utility franchise remains in force for the property served, unless such Commission approval specifies otherwise.

(i) Amount of Availability Rate. — No availability rate shall exceed the minimum rate established by the Commission for water users. Both the availability rate and the minimum user rate are subject to change from time to time upon approval by the Utilities Commission.

(j) Denial of User Service. — No utility may deny water service to its customers for nonpayment of availability rates imposed under contracts entered into prior to the effective date of this rule, except where such availability rates had been authorized under a Commission order.

(k) This rule shall become effective on and after April 2, 1975.

(NCUC Docket No. W-100, Sub 4, 4/2/75.)

Rule R7-37. BONDS.

(a) Except as provided in paragraph (f), before temporary operating authority, or a certificate of convenience and necessity is granted to a water or sewer utility company, or before a water or sewer utility company extends service into territory contiguous to that already occupied, without regard to the date of the issuance of the existing franchise, the company must furnish a bond to the Commission as required by G.S. 62 110.3. The company shall ensure that the bond is renewed as necessary to maintain it in continuous force in conformity to the rules herein.

(b) The form of the bond shall be as in the Appendix to this Chapter.

(c) The amount of the bond shall be set by the Commission on the basis of evidence presented during the application proceeding. In the case of a no-protest application proceeding, the amount of the bond shall be based on information in the application. In the event that the parties cannot agree on the appropriate amount, the issue shall be referred to the Commission for final decision. In setting the amount of a bond, the Commission shall consider and make appropriate findings as to the following:

- (1) Whether the applicant holds other water or sewer franchises in this State, and if so its record of operation,
- (2) The number of customers the applicant now serves and proposes to serve,
- (3) The likelihood of future expansion needs of the service,
- (4) If the applicant is acquiring an existing company, the age, condition and type of the equipment,
- (5) Any other relevant factors, including the design of the system, and
- (6) In the case of a contiguous extension, both the original service area and the proposed extension.

The bond shall be in an amount, not less than ten thousand dollars (\$10,000), sufficient to provide financial responsibility in a manner acceptable to the Commission.

(d) The bond may be secured by the joinder of a commercial bonding company or other surety acceptable to the Commission. An acceptable surety is an individual or corporation with a net worth, not including the value of the utility, of at least twenty (20) times the amount of the bond or five hundred thousand dollars (\$500,000), whichever is less. The net worth of a proposed surety must be demonstrated by the annual filing with the Commission of an audited financial statement. Where a utility proposes to secure its bond by means of a commercial surety bond of nonperpetual duration issued by a corporate surety, the bond and commercial surety bond must specify that (a) if, for any reason, the surety bond is not to be renewed upon its expiration, the financial institution shall, at least 60 days prior to the expiration date of the surety bond, provide written notification by means of certified mail, return receipt requested, to the Chief Clerk of the North Carolina Utilities Commission, 4325 Mail Service Center, Raleigh, North Carolina 27699-4325, that the surety bond will not be renewed beyond the then current maturity date for an additional period, (b) failure to renew the surety bond shall, without the necessity of the Commission being required to hold a hearing or appoint an emergency operator, allow the Commission to convert the surety bond to cash and deposit said

cash proceeds with the administrator of the Commission's bonding program, and (c) the cash proceeds from the converted surety bond shall be used to post a cash bond on behalf of the utility pursuant to section (e)(3) of this rule.

(e) The bond may also be secured by posting with the Commission cash or securities acceptable to the Commission at least equal in value to the amount of bond. If the aggregate value of the securities posted declines below the amount required to guarantee the full bond, the utility shall make any additional deposits necessary to guarantee the bond. If the aggregate value of the securities posted increases above the amount required to guarantee the bond, the utility may withdraw securities as long as the aggregate value remains at least equal to the amount required.

Acceptable securities are:

- (1) Obligations of the United States of America
 - (2) Obligations of the State of North Carolina
 - (3) Certificates of deposit drawn on and accepted by commercial banks and savings and loan associations incorporated in the State of North Carolina
 - (4) Irrevocable letters of credit issued by financial institutions acceptable to the Commission. If the irrevocable letter of credit is nonperpetual in duration, the bond and letter of credit must specify that (a) if, for any reason, the irrevocable letter of credit is not to be renewed upon its expiration, the financial institution shall, at least 60 days prior to the expiration date of the irrevocable letter of credit, provide written notification by means of certified mail, return receipt requested, to the Chief Clerk of the North Carolina Utilities Commission, 4325 Mail Service Center, Raleigh, NC 27699-4325, that the irrevocable letter of credit will not be renewed beyond the then current maturity date for an additional period, (b) failure to renew the irrevocable letter of credit shall, without the necessity of the Commission being required to hold a hearing or appoint an emergency operator, allow the Commission to convert the irrevocable letter of credit to cash and deposit said cash proceeds with the administrator of the Commission's bonding program, and (c) the cash proceeds from the converted irrevocable letter of credit shall be used to post a cash bond on behalf of the utility pursuant to section (e)(3) of this rule.
 - (5) Such other evidence of financial responsibility deemed acceptable to the Commission. If the utility proposes to post evidence of financial responsibility other than that permitted in (1), (2), (3), and (4) above, a hearing will be held to determine if the form of the proposed security serves the public interest and if the amount of the bond proposed by the utility should be higher due to its lack of liquidity. At this hearing, the burden of proof will be on the utility to show that the proposed security under subparagraph (5) and the proposed amount of the bond will be in the public interest.
- (f) If a utility subject to the Commission's jurisdiction is operating without a franchise and either
- (1) it applies for a franchise, or

(2) the Commission asserts jurisdiction over it, the utility shall satisfy the bonding requirement. If the Commission finds that such a utility cannot meet that requirement, it may grant the utility temporary operating authority for a reasonable period of time until it can transfer the system or post the bond. If after the expiration of the time period the company has neither posted the bond nor transferred the system, the Commission may seek fines and penalties under G.S. 62-310.

(g) The company shall attach a separate notarized statement to its annual report which is due on or before April 30th of each year stating the amount of the bond, whether the bond is still in effect, and the date of next renewal.

(NCUC Docket No. W-100, Sub 5, 9/2/87; 3/18/88; 7/19/94; 8/31/94; 9/8/94; 5/3/95; 5/4/95; 5/23/95; 11/7/97; NCUC Docket No. M-100, Sub 128, 4/14/00; NCUC Docket No. W-100, Sub 42, 01/21/04.)

(SAMPLE FORM OF WATER OR SEWER BOND ACCOMPANIED BY DEPOSIT OF CASH OR SECURITIES)

BOND

(Name of Utility) of (City), (State), as Principal, is bound to the State of North Carolina in the sum of _____ Dollars (\$____) and for which payment to be made, the Principal by this bond binds (himself) (itself) and (his) (its) successors and assigns.

THE CONDITION OF THIS BOND IS:

WHEREAS, the Principal is or intends to become a public utility subject to the laws of the State of North Carolina and the rules and regulations of the North Carolina Utilities Commission, relating to the operation of a water or sewer utility (describe utility)

_____ and,

WHEREAS, North Carolina General Statutes § 62-110.3 requires the holder of a franchise for water or sewer service to furnish a bond with sufficient surety, as approved by the Commission, conditioned as prescribed in § 62-110.3, and Commission Rules R7-37 and/or R10-24, and,

WHEREAS, the Principal has delivered to the Commission (description of security). _____ with an endorsement as required by the Commission, and,

WHEREAS, the appointment of an emergency operator, either by the superior court in accordance with North Carolina General Statutes § 62-118(b) or by the Commission with the consent of the owner, shall operate to forfeit this bond, and

WHEREAS, this bond shall become effective on the date executed by the Principal, and shall continue from year to year unless the obligations of the Principal under this bond are expressly released by the Commission in writing.

NOW THEREFORE, the Principal consents to the conditions of this Bond and agrees to be bound by them.

This the ___ day of _____ 20__.

(Name)

(SAMPLE FORM OF WATER OR SEWER BOND WITH INDIVIDUAL SURETY)

BOND

(Name of Utility) of (City), (State), as Principal, and (Name of Surety) as Surety, (hereinafter called "Surety") are bound to the State of North Carolina in the sum of _____ Dollars (\$___) and for which payment to be made, the Principal and Surety by this bond bind themselves their successors and assigns.

THE CONDITION OF THIS BOND IS:

WHEREAS, the Principal is or intends to become a public utility subject to the laws of the State of North Carolina and the rules and regulations of the North Carolina Utilities Commission, relating to the operation of a water or sewer utility (describe utility) _____ and,

WHEREAS, North Carolina General Statutes § 62-110.3 requires the holder of a franchise for water or sewer service to furnish a bond with sufficient surety, as approved by the Commission, conditioned as prescribed in § 62-110.3, and Commission Rules R7-37 and/or R10-24, and

WHEREAS, the Principal and Surety have delivered to the Commission a Surety Bond with an endorsement as required by the Commission, and

WHEREAS, the appointment of an emergency operator, either by the superior court in accordance with North Carolina General Statutes § 62-118(b) or by the Commission with the consent of the owner, shall operate to forfeit this bond, and

WHEREAS, if for any reason, the Surety Bond is not to be renewed upon its expiration, the Surety shall, at least 60 days prior to the expiration date of the Surety Bond, provide written notification by means of certified mail, return receipt requested, to the Chief Clerk of the North Carolina Utilities Commission, 4325 Mail Service Center, Raleigh, North Carolina 27699-4325, that the Surety Bond will not be renewed beyond the then current maturity date for an additional period, and

WHEREAS, failure to renew the Surety Bond shall, without the necessity of the Commission being required to hold a hearing or appoint an emergency operator, allow the Commission to convert the Surety Bond to cash and deposit said cash proceeds with the administrator of the Commission's bonding program, and

WHEREAS, said cash proceeds from the converted Surety Bond shall be used to post a cash bond on behalf of the Principal pursuant to North Carolina Utilities Commission Rules R7-37(a) and/or R10-24(e), and

WHEREAS, this bond shall become effective on the date executed by the Principal, and shall continue from year to year unless the obligations of the Principal under this bond are expressly released by the Commission in writing.

NOW THEREFORE, the Principal and Surety consents to the conditions of this Bond and agrees to be bound by them.

This the ___ day of _____ 20__.

(Principal)

(Surety)

(SAMPLE FORM OF WATER OR SEWER BOND WITH CORPORATE SURETY)

BOND

(Name of Utility) of (City), (State), as Principal, and (Name of Surety), a corporation created and existing under the laws of (State), as Surety, (hereinafter called "Surety") are bound to the State of North Carolina in the sum of _____ Dollars (\$____) and for which payment to be made, the Principal and Surety by this bond binds themselves their successors and assigns.

THE CONDITION OF THIS BOND IS:

WHEREAS, the Principal is or intends to become a public utility subject to the laws of the State of North Carolina and the rules and regulations of the North Carolina Utilities Commission, relating to the operation of a water or sewer utility (describe utility) _____ and,

WHEREAS, North Carolina General Statutes § 62-110.3 requires the holder of a franchise for water or sewer service to furnish a bond with sufficient surety, as approved by the Commission, conditioned as prescribed in § 62-110.3, and, Commission Rules R7-37 and/or R10-24, and

WHEREAS, the Principal and Surety have delivered to the Commission a Surety Bond with an endorsement as required by the Commission, and

WHEREAS, the appointment of an emergency operator, either by the superior court in accordance with North Carolina General Statutes § 62-118(b) or by the Commission with the consent of the owner, shall operate to forfeit this bond, and

WHEREAS, if for any reason, the Surety Bond is not to be renewed upon its expiration, the Surety shall, at least 60 days prior to the expiration date of the Surety Bond, provide written notification by means of certified mail, return receipt requested, to the Chief Clerk of the North Carolina Utilities Commission, 4325 Mail Service Center, Raleigh, North Carolina 27699-4325, that the Surety Bond will not be renewed beyond the then current maturity date for an additional period, and

WHEREAS, failure to renew the Surety Bond shall, without the necessity of the Commission being required to hold a hearing or appoint an emergency operator, allow the Commission to convert the Surety Bond to cash and deposit said cash proceeds with the administrator of the Commission's bonding program, and

WHEREAS, said cash proceeds from the converted Surety Bond shall be used to post a cash bond on behalf of the Principal pursuant to North Carolina Utilities Commission Rules R7-37(a) and/or R10-24(e), and

WHEREAS, this bond shall become effective on the date executed by the Principal, and shall continue from year to year unless the obligations of the Principal under this bond are expressly released by the Commission in writing.

NOW THEREFORE, the Principal and Surety consents to the conditions of this bond and agree to be bound by them.

This the ___ day of ___ 20__.

(Principal)

(Surety)

By:_____

(SAMPLE FORM OF WATER OR SEWER BOND SECURED BY IRREVOCABLE LETTER OF CREDIT OF NONPERPETUAL DURATION)

BOND

(Name of Utility) of (City), (State), as Principal, is bound to the State of North Carolina in the sum of _____ Dollars (\$ ____) and for which payment to be made, the Principal by this bond binds (himself) (itself) and (his) (its) successors and assigns.

THE CONDITION OF THIS BOND IS:

WHEREAS, the Principal is or intends to become a public utility subject to the laws of the State of North Carolina and the rules and regulations of the North Carolina Utilities Commission, relating to the operation of a water and/or sewer utility (describe utility)
_____ and,

WHEREAS, North Carolina General Statutes § 62-110.3 requires the holder of a franchise for water and/or sewer service to furnish a bond with sufficient surety, as approved by the Commission, conditioned as prescribed in G.S. § 62-110.3, and Commission Rules R7-37 and/or R10-24, and

WHEREAS, the Principal has delivered to the Commission an Irrevocable Letter of Credit from (Name of Bank) _____ with an endorsement as required by the Commission, and,

WHEREAS, the appointment of an emergency operator, either by the Superior Court in accordance with G.S. 62-118(b) or by the Commission with the consent of the owner, shall operate to forfeit this bond, and

WHEREAS, if for any reason, the Irrevocable Letter of Credit is not to be renewed upon its expiration, the Bank shall, at least 60 days prior to the expiration date of the Irrevocable Letter of Credit, provide written notification by means of certified mail, return receipt requested, to the Chief Clerk of the North Carolina Utilities Commission, 4325 Mail Service Center, Raleigh, NC 27699-4325, that the Irrevocable Letter of Credit will not be renewed beyond the then current maturity date for an additional period, and

WHEREAS, failure to renew the Irrevocable Letter of Credit shall, without the necessity of the Commission being required to hold a hearing or appoint an emergency operator, allow the Commission to convert the Irrevocable Letter of Credit to cash and deposit said cash proceeds with the administrator of the Commission's bonding program, and

WHEREAS, said cash proceeds from the converted Irrevocable Letter of Credit shall be used to post a cash bond on behalf of the Principal pursuant to North Carolina Utilities Commission Rules R7-37(e) and/or R10-24(e), and

WHEREAS, this bond shall become effective on the date executed by the Principal, and shall continue from year to year unless the obligations of the Principal under this bond are expressly released by the Commission in writing.

NOW THEREFORE, the Principal consents to the conditions of this Bond and agrees to be bound by them.

This the ___ day of _____ 20__.

(Principal)

By: _____

(SAMPLE FORM OF WATER OR SEWER BOND SECURED BY COMMERCIAL SURETY BOND OF NONPERPETUAL DURATION ISSUED BY CORPORATE SURETY)

BOND

(Name of Utility) of (City), (State), as Principal, and (Name of Surety), a corporation created and existing under the laws of (State), as Surety, (hereinafter called "Surety"), are bound to the State of North Carolina in the sum of _____ Dollars (\$ ___) and for which payment to be made, the Principal and Surety by this bond bind themselves and their successors and assigns.

THE CONDITION OF THIS BOND IS:

WHEREAS, the Principal is or intends to become a public utility subject to the laws of the State of North Carolina and the rules and regulations of the North Carolina Utilities Commission, relating to the operation of a water and/or sewer utility (describe utility)
_____ and,

WHEREAS, North Carolina General Statutes § 62-110.3 requires the holder of a franchise for water and/or sewer service to furnish a bond with sufficient surety, as approved by the Commission, conditioned as prescribed in § 62-110.3, and Commission Rules R7-37 and/or R10-24, and

WHEREAS, the Principal and Surety have delivered to the Commission a Surety Bond with an endorsement as required by the Commission, and

WHEREAS, the appointment of an emergency operator, either by the Superior Court in accordance with G.S. § 62-118(b) or by the Commission with the consent of the owner, shall operate to forfeit this bond, and

WHEREAS, if for any reason, the Surety Bond is not to be renewed upon its expiration, the Surety shall, at least 60 days prior to the expiration date of the Surety Bond, provide written notification by means of certified mail, return receipt requested, to the Chief Clerk of the North Carolina Utilities Commission, 4325 Mail Service Center, Raleigh, North Carolina 27699-4325, that the Surety Bond will not be renewed beyond the then current maturity date for an additional period, and

WHEREAS, failure to renew the Surety Bond shall, without the necessity of the Commission being required to hold a hearing or appoint an emergency operator, allow the Commission to convert the Surety Bond to cash and deposit said cash proceeds with the administrator of the Commission's bonding program, and

WHEREAS, said cash proceeds from the converted Surety Bond shall be used to post a cash bond on behalf of the Principal pursuant to North Carolina Utilities Commission Rules R7-37(a) and/or R10-24(e), and

WHEREAS, this bond shall become effective on the date executed by the Principal, for an initial (No. of Years) year term, and shall be automatically renewed for additional (No. of Years) year terms, unless the obligations of the principal under this bond are expressly released by the Commission in writing.

NOW, THEREFORE, the Principal and Surety consents to the conditions of this Bond and agrees to be bound by them.

This the ___ day of _____ 20__.

(Principal)

BY: _____

(Corporate Surety)

BY: _____

Rule R7-38. NOTIFICATION OF CONTIGUOUS EXTENSION.

(a) At least 30 days prior to constructing, acquiring, or beginning the operation of any public utility plant or equipment capable of providing water utility service to customers in territory contiguous to that already occupied, for which, by virtue of its contiguity, no certificate of public convenience and necessity is required, a public utility shall provide written notice to the Commission of its intention to construct, acquire, or begin operation of such plant. The notice shall be in a form approved by the Commission and shall identify the area to be served by the extension.

(b) For purposes of this Rule, the phrase "territory contiguous to that already occupied" shall mean territory that is immediately adjacent. In order to be immediately adjacent, the territory must share a significant common boundary line with that already occupied. There may be a geographic feature such as a roadway or stream along this boundary line, but there must not be any intervening land or any substantial body of water. The territory must be immediately adjacent to territory that is already occupied by the water utility. A water utility occupies a territory by the presence of its plant in the territory. A contiguous extension may not be made across unoccupied territory that will not be served by the extension, whether franchised to the utility or not.

(NCUC Docket No. W-100, Sub 17, 2/28/95.)

R7-39. WATER SYSTEM IMPROVEMENT CHARGE MECHANISM.

(a) Scope of Rule. – This rule provides the procedure for the approval and administration of a rate adjustment mechanism pursuant to G.S. 62-133.12 to allow a utility to recover the incremental depreciation expense and capital costs related to the utility’s reasonable and prudently incurred investment in eligible water system improvements.

(b) Definitions. – As used in this rule:

- (1) “Capital costs” means the pretax return on costs permitted to be capitalized pursuant to the National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts, net of accumulated depreciation and accumulated deferred income taxes, using the current federal and state income tax rates and the utility’s capital structure, cost of long-term debt, and return on equity approved in the utility’s most recent general rate case.
- (2) “Depreciation expense” means the annual depreciation accrual rates employed in the utility’s most recent general rate case for the plant accounts in which the cost of each eligible water system improvement is recorded applied to the cost of eligible water system improvements.
- (3) “Eligible water system improvements” means the improvements set forth in G.S. 62-133.12(c) and shall include only those improvements found necessary by the Commission to provide safe, reliable, and efficient service in accordance with applicable water quality standards.
- (4) “Incremental depreciation expense and capital costs” means depreciation expense and capital costs that have been incurred since the utility’s most recent rate case and have not been included in the utility’s cost of service for ratemaking purposes.
- (5) “Water System Improvement Charge or WSIC” means an adjustment to customer bills that allows a utility to recover the WSIC Revenue Requirement.
- (6) “WSIC Revenue Requirement” means the annual revenue required to allow a utility to recover the annual incremental depreciation expense and capital costs of eligible water system improvements.
- (7) “WSIC Period” means the 12-month period ended December 31 for Aqua North Carolina, Inc. and the 12-month period ended March 31 for Utilities, Inc., and its North Carolina affiliates. The WSIC Period for other water utilities shall be a 12-month period established by the Commission in conjunction with the approval of a WSIC mechanism for that utility.
- (8) “WSIC mechanism” means a rate adjustment mechanism approved by the Commission in a general rate case pursuant to G.S. 62-133.12.

(c) Request for Water System Improvement Charge Mechanism. – A utility seeking approval of a WSIC mechanism shall include in its application for a general rate increase under G.S. 62-133 and Commission Rule R1-17 the following:

- (1) A three-year plan that includes the following:

- a. A detailed description of all proposed eligible water system improvements expected to be completed in the initial WSIC Period and an estimate of the cost of the improvements and dates when the improvements will be placed into service; and
 - b. A brief description of the proposed eligible water system improvements, estimated costs, and completion dates for improvements that the utility plans to complete during the two years following the initial WSIC Period.
- (2) The proposed effective dates of the WSIC and semiannual adjustments to the charge.
 - (3) Testimony, affidavits, exhibits, or other evidence demonstrating that a WSIC is in the public interest and will enable the utility to provide safe, reliable, and efficient service in accordance with applicable water quality standards.
 - (4) Any other information required by the Commission.
- (d) Customer Notice. – The notice to customers of the utility’s general rate increase application shall include the proposed WSIC mechanism and the estimated impact of the charges under the mechanism on the utility’s monthly service rates. The Notice shall include the following statement:

Water System Improvement Charge Mechanism

Pursuant to G.S. 62-133.12 and Commission Rule R7-39, the Company is requesting that the Commission approve a Water System Improvement Charge Mechanism. This mechanism will allow the Company to recover the annual incremental depreciation expense and capital costs of eligible water system improvements completed and placed in service between rate cases. In support of this request, the Company has filed a three-year plan with its application which list various projects which may be eligible for recovery pursuant to this mechanism, the cost and/or estimated costs of those projects, and the estimated completion date of those projects. By law, the cumulative maximum charges between rate cases that the Company can recover through the use of this mechanism cannot exceed five percent of the total service revenues that the Commission will approve in this rate case. Customers may subscribe to the Commission’s electronic notification system through the Commission’s website at www.ncuc.net to receive notification of any Company requests to utilize the Water System Improvement Charge Mechanism, if approved.

In this Application, the Company has requested that the Commission allow it to recover total service revenues of \$_____. Five percent of these revenues is \$_____. If the Commission permits the Company to recover the revenue requirements requested in the Application, the Company projects that the average monthly water bill for a typical residential customer (based upon monthly water usage of x,xxx gallons) would be \$_____. Based upon these figures, the Company estimates that the maximum that the average residential customer’s monthly water bill

could be increased by this adjustment mechanism between rate cases is \$_____.

The Commission may eliminate or modify any rate adjustment mechanism approved in this case upon a finding that it is no longer in the public interest.

(e) General Rate Case Review. – Following notice and hearing, the Commission shall approve a WSIC mechanism only upon a finding that it is in the public interest.

(f) Initiation of Charge. – Once a WSIC mechanism is approved and eligible water system improvements are in service, the utility may file a request with the Commission for authority to impose the water system improvement charge pursuant to the mechanism, to be effective no less than 60 days after filing the request. The Company shall also provide a copy of the request to the Public Staff.¹ Prior to the effective date, the Public Staff shall schedule the request for Commission consideration at the regularly scheduled staff conference and recommend that the Commission issue an order approving, modifying and approving, or rejecting the proposed water system improvement charge. The Public Staff shall formally notify the Commission at least 15 days in advance of the date that the request shall be scheduled for Commission consideration at the regularly scheduled staff conference.

(g) Computation of the WSIC Revenue Requirement. – The WSIC Revenue Requirement shall be computed for each WSIC Period as follows:

Eligible water system improvements	\$X,XXX,XXX
Less: Accumulated depreciation	X,XXX,XXX
Less: Accumulated deferred income taxes	<u>X,XXX,XXX</u>
Net plant investment	\$X,XXX,XXX
Pre-tax rate of return	<u>X.XX%</u>
Capital costs	\$X,XXX,XXX
Plus: Depreciation expense	<u>XXX,XXX</u>
Subtotal, excluding regulatory fee	\$X,XXX,XXX
Regulatory fee gross-up factor	<u>XXXX</u>
Total	<u><u>\$X,XXX,XXX</u></u>

(h) Computation of Water System Improvement Charge. –

(1) The WSIC shall be expressed as a percentage carried to two decimal places and shall be applied to the total utility bill of each customer under the utility's applicable service rates and charges.

(2) The WSIC shall be computed by dividing the annual WSIC Revenue Requirement by the projected revenues of the utility during the 12-month period following implementation of the charge.

¹ Parties interested in receiving notice of these filings may subscribe to the Commission's electronic notification system through the Commission's website at www.ncuc.net.

- (i) **Semiannual Adjustments.** – A utility may file a request for a WSIC adjustment no more frequently than semiannually.
- (1) The request shall include the computation and supporting data for the adjustment.
 - (2) Cumulative WSIC Revenue Requirements may not exceed five percent of the total annual service revenues approved in the utility’s last general rate proceeding.
 - (3) The procedural requirements set forth in subsection (f) of this Rule shall apply to requests for semiannual adjustments.
- (j) **Experience Modification Factor.** – The WSIC shall be modified through the use of an experience modification factor (EMF) that reflects the difference between the WSIC Revenue Requirement and the revenues that were actually realized under the WSIC during the WSIC Period. The EMF shall remain in effect for a 12-month period. Pursuant to G.S. 62-130(e), any overcollection of reasonable and prudently incurred costs of the utility for eligible water system improvements to be refunded to a utility’s customers through operation of the EMF shall include an amount of interest at such rate as the Commission determines to be just and reasonable, not to exceed the maximum statutory rate.
- (k) **Water System Improvement Charge Reset.** – The WSIC shall be reset at zero as of the effective date of new base rates established in the utility’s general rate case. Thereafter, only the incremental depreciation expense and capital costs of new eligible water system improvements that have not previously been reflected in the utility’s rates shall be recoverable through the WSIC.
- (l) **Audit and Reconciliation.** – The WSIC shall be subject to the following:
- (1) Within 60 days following the end of each WSIC Period, each utility shall file a report, in a format prescribed by the Commission, reconciling its actual eligible water system improvement costs, actual WSIC revenues, and EMF computation.
 - (2) The Public Staff shall audit the utility’s actual eligible water system improvement costs, actual WSIC revenues, and EMF computation, and shall file a report on its audit no later than four months after the end of the WSIC Period of the utility.
- (m) **Ongoing Three-Year Plan.** – Within 60 days following the end of each WSIC Period, the utility shall file an updated three-year plan containing the information prescribed in Section (c)(1) of this Rule and any other information required by the Commission.
- (n) **Quarterly Filings with the Commission.** – Within 45 days after the end of each calendar quarter, the utility shall file the following reports:
- (1) A quarterly earnings report consisting of the following:

- a. A balance sheet and income statement for the calendar quarter and calendar year to date for the utility;
 - b. A statement of the per books net operating income for the calendar quarter and calendar year to date for each rate division of the utility based on North Carolina ratemaking;
 - c. A statement of rate base at the end of the calendar quarter for each rate division of the utility based on North Carolina ratemaking; and
 - d. The number of customers and gallons sold for each month of the calendar quarter for each rate division by rate type (meter size, flat rate, etc.).
- (2) A quarterly report of WSIC collections from customers consisting of amounts collected for the quarter by rate division and rate type.
- (3) A construction status report which includes by rate division the following information for each eligible water system improvement project:
- a. The costs incurred during the quarter;
 - b. The cumulative amount incurred;
 - c. The estimated total cost for each project;
 - d. The estimated completion date; and
 - e. The actual completion date.
- (o) Elimination or Modification of WSIC Mechanism. – After notice to the utility and opportunity to be heard, the Commission may eliminate or modify any previously authorized WSIC mechanism upon a finding that it is not in the public interest.
- (p) Burden of Proof. – The burden of proof as to whether a WSIC mechanism is in the public interest, the correctness and reasonableness of any WSIC, and whether the investment in the water system improvements was reasonable and prudently incurred shall be on the utility.

(NCUC Docket No. W-100, Sub 54, 6/06/2014.)

R7-40. CONSUMPTION ADJUSTMENT MECHANISM FOR WATER UTILITIES.

(a) **Scope of Rule.**—This Rule provides the procedure for the approval and administration of a rate adjustment mechanism pursuant to G.S. 62-133.12A, known as a Consumption Adjustment Mechanism for Water Utilities (CAM-W). This mechanism, if authorized by the Commission in a general rate case proceeding, allows a water utility to track and true-up variations in average per customer water usage from baseline consumption levels established by the Commission in the utility's most recent general rate case proceeding and to subsequently apply to the Commission for authority to establish and adjust charges or credits to recover from or refund to customers the revenue associated with these variations. The rate adjustment mechanism allowed pursuant to this Rule is not applicable to a water utility's customers that are charged based upon a flat rate or purchased bulk water rate or to customers that are served by systems that the utility acquired after the date on which the utility filed its application and were not included in its most recent general rate case proceeding.

(b) **Request for Approval of CAM-W.**—A utility seeking approval of a CAM-W shall include in its application for a general rate increase pursuant to G.S. 62-133 and Commission Rule R1-17 the following:

(1) A proposed structure of the CAM-W and a proposed method for calculating the charge or credit resulting from the CAM-W that are in sufficient detail to facilitate the Commission's review and determination whether the rate adjustment mechanism is appropriate to track and true-up variations in average per customer usage and whether the rate adjustment mechanism is in the public interest;

(2) A description of the customer classifications used within the current and any proposed rate schedules that the proposed CAM-W would apply to and the criteria used to group customers in a fair and reasonable manner;

(3) A three-year billing data analysis that includes a detailed breakdown of the monthly active customer counts and monthly usage data by blocks of 1,000 gallons for each year, customer classification, and rate schedule;

(4) Testimony, affidavits, exhibits, sample calculations, or other evidence demonstrating that the CAM-W is appropriate to track and true-up variations in average per customer usage and that the CAM-W is in the public interest; and

(5) Any other information that the Commission may require by order or otherwise in the general rate case proceeding.

(c) **Customer Notice.**—The notice to customers of the utility's general rate case application shall include notice of the request for approval of the proposed CAM-W.

(d) General Rate Case Review.—Following notice and hearing, in the general rate case proceeding the Commission will review the utility’s proposed use of a CAM-W and determine whether the CAM-W is appropriate to track and true-up variations in average per customer usage by rate schedule from levels adopted in the general rate case proceeding and whether the CAM-W is in the public interest. In conjunction with the Commission’s determination that the CAM-W is appropriate and in the public interest, the Commission will establish an average per customer consumption level on an annual basis and/or on a monthly basis for the applicable 12-month period based on the relevant historical consumption data, subject to reasonable pro forma adjustment and normalization, which shall be used to establish a baseline consumption measure or measures.

(e) Procedure for Establishment of Charge or Credit Resulting from CAM-W; Setting of Adjustment Date.— On or before the date established by Commission order, but in no event less than 12 months after the Commission issues an order in a general rate case proceeding approving the use of the CAM-W, the utility shall file a request for authority to establish the charge or credit resulting from the CAM-W. The utility’s request shall comply with the following:

(1) The proposed effective date for the charge or credit resulting from the CAM-W shall be no sooner than 60 days after the filing of the request;

(2) The request shall include a proposed calculation of the charge or credit resulting from the CAM-W specific to each customer classification and rate schedule;

(3) The proposed calculation shall be consistent with the approved CAM-W structure and make use of the Commission-approved baseline consumption measure or measures; and

(4) The utility shall provide a copy of the request to the Public Staff.

Prior to the proposed effective date, the Public Staff shall schedule the request for Commission consideration at a regularly scheduled staff conference and recommend that the Commission issue an order approving, modifying and approving, or rejecting the proposed charge or credit resulting from the CAM-W. The Public Staff shall notify the Commission by an appropriate filing in the relevant docket at least 15 days in advance of the date that the request is scheduled for Commission consideration at the regularly scheduled staff conference. In its order approving the charge or credit resulting from the CAM-W, the Commission shall establish the effective date for the establishment of the charge or credit resulting from the CAM-W and the effective date for the utility’s subsequent annual adjustments to the credit or charge previously established. Where practical, the Commission will set the effective date for subsequent annual adjustments to the charge or credit resulting from the CAM-W on the same date of each year coinciding with the effective date of the charge or credit resulting from the CAM-W as initially established.

(f) Annual Adjustments.—A utility authorized to establish a charge or credit resulting from the CAM-W shall annually file a request for an adjustment in the charge or credit resulting from the CAM-W. The request and the supporting calculation and data for an annual adjustment shall be filed with the Commission at least 45 days prior to the annual adjustment date established pursuant to section (e) of this Rule. The utility shall also provide a copy of the request to the Public Staff. Prior to the annual adjustment date, the Public Staff shall schedule the request for Commission consideration at a regularly scheduled staff conference and recommend that the Commission issue an order approving, modifying and approving, or rejecting the proposed adjustment to the charge or credit resulting from the CAM-W. In reviewing the proposed adjustment, the Commission will also consider whether it is appropriate and in the public interest to establish an updated baseline consumption measure or measures from the measure or measures adopted in the rate case proceeding. The Public Staff shall notify the Commission by an appropriate filing in the relevant docket at least 15 days in advance of the date that the requested adjustment is scheduled for Commission consideration at the regularly scheduled staff conference.

(g) Reporting and Auditing.—A utility authorized to establish a charge or credit resulting from the CAM-W shall report to the Commission and the Public Staff shall audit these reports, as provided in this section.

(1) Monthly Filings with the Commission.—Within 30 days of the end of each calendar month, the utility shall file the following reports:

(i) A balance sheet and income statement for the calendar month and calendar year to date,

(ii) A statement of per books net operating income for the calendar month and calendar year to date for each rate division of the utility based on North Carolina ratemaking,

(iii) The actual number of customers and gallons sold for each month for each rate division, customer classification, and rate schedule;

(iv) Total actual monthly service revenues for each rate division, customer classification, and rate schedule, excluding revenues from customers to which this Rule does not apply; and

(v) Any other information that the Commission may require by order or otherwise;

(vi) Provided that, if the Commission has authorized the utility to implement a WSIC mechanism and the utility is appropriately submitting the required quarterly filings pursuant to Commission Rule R7-39, the utility may fulfill the reporting requirements of subdivisions a. and b. of this subsection by reference to its quarterly filings required pursuant to Rule R7-39.

(2) Annual Report.—In conjunction with its request to establish the charge or credit resulting from the CAM-W or for an annual adjustment in the charge or credit resulting from the CAM-W, the utility shall annually file a report in a format prescribed by the Commission detailing its actual gallons billed, service revenues, and revenues from the charge or credit resulting from the CAM-W for each rate division, customer classification and rate schedule for the applicable 12-month period. The annual report shall also include the calculation of the actual average per customer usage for each rate division, customer classification, and rate schedule for the applicable 12-month period, an update to the three years of consumption data that was provided in the general rate case proceeding along with its request to approve the CAM-W or in the utility's last annual report, and an updated average per customer usage baseline measure or measures utilizing the updated consumption data.

(3) Audit and Reconciliation.—The Public Staff shall audit the utility's monthly and annual reports and file the results of the audit to the Commission. The Public Staff's audit of the annual report and the final monthly report in a given 12-month period shall be filed with the Commission as a part of the Public Staff's staff conference agenda item for the consideration of the annual adjustment in the charge or credit resulting from the CAM-W.

(h) Burden of Proof.—The burden of proof as to whether the CAM-W is appropriate to track and true-up variations in average per customer usage by rate schedule from levels adopted in the general rate case proceeding, whether the CAM-W is in the public interest, and the correctness and reasonableness of the charge or credit resulting from the CAM-W shall be on the utility.

(i) Elimination or Modification of CAM-W.—After notice to the utility and opportunity to be heard, the Commission may eliminate or modify any previously authorized CAM-W upon a finding that the CAM-W is no longer appropriate to track and true-up variations in average per customer usage or is no longer in the public interest.

(NCUC Docket No. W-100, Sub 61, 5/12/2020.)

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.

(NCUC Docket No. W-100, Sub 60, 12/30/2020.)

CHAPTER 7.

APPENDIX

SUBSCRIPTION FOR AVAILABILITY OF WATER SERVICE

NAME OF DEVELOPMENT OWNER OR UTILITY

NAME AND LOCATION OF SUBDIVISION

NAME AND ADDRESS OF SUBSCRIBER

DOLLAR AMOUNT OF PROPOSED AVAILABILITY RATE

**NOTICE IMPORTANT DISCLOSURE
READ CAREFULLY**

1. Subscriber hereby makes application for water service for the following lot(s) in

(subdivision)

Description of lot(s): (lot numbers) (street numbers)

2. Subscriber hereby agrees to pay an availability rate for availability of water service as defined herein. The initial availability rate to be proposed by Developer or Utility is \$_____ per _____ (month) (quarter) (year).

3. Subscriber hereby agrees to pay the tap fee or other fees described below in order to receive regular water user service instead of availability service as follows:

(fee description and amount)

4. All availability rates, fees, rules and regulations for availability of water service are subject to change from time to time upon approval by the North Carolina Utilities Commission.

5. An "availability rate" shall mean a fee or charge paid to a water utility by a subscriber thereof for the availability of water service being provided by the utility in a specific subdivision or development.

6. "Availability of water service" shall mean that water of adequate quantity, quality, and pressure is available at all times in a water main located within 75 feet of the boundary of the subscriber's property served, or such other distance as the Commission deems reasonable, whether or not water is actually taken from the system by the subscriber, and whether or not a service outlet is located inside the boundary of the property served.

7. The availability rate for water service shall continue to be applicable to the subscriber even if at some time in the future the subscriber's property should no longer be in use and the water service should no longer be required by the subscriber. The subscriber, however, shall not be required to pay the availability rate during such time that the regular water user rates are in force for the subscriber's property.

CERTIFICATION

I have read the above disclosure and understand that I am agreeing to pay an availability rate for the availability of water service to my lot(s), whether or not I use my lot(s).

Signature of Subscriber(s)

Name and Address of Subscriber(s)

Date

Witness

Date Accepted

SUBSCRIPTION FOR AVAILABILITY OF SEWER SERVICE

NAME OF DEVELOPMENT OWNER OR UTILITY

NAME AND LOCATION OF SUBDIVISION

NAME AND ADDRESS OF SUBSCRIBER

DOLLAR AMOUNT OF PROPOSED AVAILABILITY RATE

NOTICE
IMPORTANT DISCLOSURE
READ CAREFULLY

1. Subscriber hereby makes application for sewer service for the following lots(s) in _____ (subdivision)

Description of lots(s): _____ (lot numbers) (street numbers)

2. Subscriber hereby agrees to pay an availability rate for availability of sewer service as defined herein. The initial availability rate to be proposed by Developer or Utility is \$_____ per _____ (month) (quarter) (year).

3. Subscriber hereby agrees to pay the tap fee or other fees described below in order to receive regular sewer user service instead of availability service as follows: _____ (fee description and amount)

4. All availability rates, fees, rules and regulations for availability of sewer service are subject to change from time to time upon approval by the North Carolina Utilities Commission.

5. An "availability rate" shall mean a fee or charge paid to a sewer utility by a subscriber thereof for the availability of sewer service being provided by the utility in a specific subdivision or development.

6. "Availability of sewer service" shall mean that safe, sanitary and unoffensive collection, treatment or disposal of sewage is available at all times by means of a sewer main located within 75 feet of the boundary of the subscriber's property served, or such other distance as the Commission deems reasonable, whether or not sewage is actually delivered to the system by the subscriber, and whether or not a service outlet is located inside the boundary of the property served.

7. The availability rate for sewer service shall continue to be applicable to the subscriber even if at some time in the future the subscriber's property should no longer be in use and the sewer service should no longer be required by the subscriber. The subscriber, however, shall not be required to pay the availability rate during such time that the regular sewer user rates are in force for the subscriber's property.

CERTIFICATION

I have read the above disclosure and understand that I am agreeing to pay an availability rate for the availability of sewer service to my lot(s), whether or not I use my lot(s).

Signature of Subscriber(s)

Name and Address of Subscriber(s)

Date

Witness

Date Accepted

SUBSCRIPTION FOR AVAILABILITY OF WATER AND SEWER SERVICE

NAME OF DEVELOPMENT OWNER OR UTILITY

NAME AND LOCATION OF SUBDIVISION

NAME AND ADDRESS OF SUBSCRIBER

DOLLAR AMOUNT OF PROPOSED AVAILABILITY RATE

NOTICE
IMPORTANT DISCLOSURE
READ CAREFULLY

1. Subscriber hereby makes application for water and sewer service for the following lot(s) in _____ (subdivision)
Description of lot(s): _____ (lot numbers) (street numbers)
2. Subscriber hereby agrees to pay an availability rate for availability of water and sewer service as defined herein. The initial availability rate to be proposed by Developer or Utility is \$_____ per _____ (month) (quarter) (year) for water and \$_____ per _____ (month) (quarter) (year) for sewer.
3. Subscriber hereby agrees to pay the tap fee or other fees described below in order to receive regular water and sewer user service instead of availability service as follows:
_____ (fee description and amount)
4. All availability rates, fees, rules and regulations for availability of water and sewer service are subject to change from time to time upon approval by the North Carolina Utilities Commission.
5. An "availability rate" shall mean a fee or charge paid to a water or sewer utility by a subscriber thereof for the availability of water or sewer service being provided by the utility in a specific subdivision or development.
6. (a) "Availability of water service" shall mean that water of adequate quantity, quality, and pressure is available at all times in a water main located within 75 feet of the boundary of the subscriber's property served, or such other distance as the Commission deems reasonable, whether or not water is actually taken from the system by the subscriber, and whether or not a service outlet is located inside the boundary of the property served.
(b) "Availability of sewer service" shall mean that safe, sanitary and unoffensive collection, treatment or disposal of sewage is available at all times by means of a sewer main located within 75 feet of the boundary of the subscriber's property served, or such other distance as the Commission deems reasonable, whether or not sewage is actually delivered to the system by the subscriber, and whether or not a service outlet is located inside the boundary of the property served.
7. The availability rate for water and sewer service shall continue to be applicable to the subscriber even if at some time in the future the subscriber's property should no longer be in use and the water and sewer service should no longer be required by the subscriber. The subscriber, however, shall not be required to pay the availability rate during such time that the regular water and sewer user rates are in force for the subscriber's property.

CERTIFICATION

I have read the above disclosure and understand that I am agreeing to pay an availability rate for the availability of water and sewer service to my lot(s), whether or not I use my lot(s).

Signature of Subscriber(s)

Name and Address of Subscriber(s)

Date

Witness

Date Accepted

(NCUC Docket No. W 100, Sub 4, 4/2/75.)

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 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 StreetAddress:

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.

(NCUC Docket No. W-100, Sub 41, 12/30/2020.)

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: _____
-

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):

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

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

g. Describe condition of service lines, including materials:

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

2. Water Meters

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

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):

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

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

5. Water Production – Water Wells

a. Provide number of water supply wells in service:

FORM FV1(a)
ESTABLISHED 12/2020

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 NOV's received from DEQ the last five years.

b. Provide all the selling government entity's written responses to the NOV's 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 _____

FORM FV1(a)
ESTABLISHED 12/2020

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

(i) Residential _____

(ii) Commercial _____

(iii) Industrial _____

(iv) Governmental, including schools _____

(NCUC Docket No. W-100, Sub 41, 12/30/2020.)