

Chapter 10.

Sewer Companies.

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Rule R10-1. APPLICATION OF RULES.

These rules apply to sewer utilities operating in North Carolina under the jurisdiction of the North Carolina Utilities Commission as defined in G.S. 62-3.

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

Rule R10-2. 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, furnishing sewer service 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 sewer service by a sewer 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.

(NCUC Docket No. S-100, Sub 1, 8/23/67; NCUC Docket No. M-100, Sub 75, 10/27/77.)

Rule R10-3. 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, the Public Staff or their duly authorized representatives.

(b) Reports to Commission. — Each utility shall prepare and file an annual report to the Commission 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.

(NCUC Docket No. S-100, Sub 1, 8/23/67; NCUC Docket No. M-100, Sub 75, 10/27/77.)

Rule R10-4. APPROVAL AND FILING OF RATE SCHEDULES, RULES AND REGULATIONS; SPECIAL RULES.

(a) Approval Required. — Rates, schedules, rules, regulations, special contracts, and other charges for sewer service 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 and form 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.

(NCUC Docket No. S-100, Sub 1, 8/23/67.)

Rule R10-5. MAPS AND RECORDS.

Each utility shall keep on file in its office suitable maps, plans, and records showing the entire layout of its collecting lines and sewer treatment facilities with the location, size and capacity of each unit of plant, size of each collecting line, and other facilities used in the furnishing of sewerage service.

(NCUC Docket No. S-100, Sub 1, 8/23/67.)

Rule R10-6. ACCESS TO PROPERTY.

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

(NCUC Docket No. S-100, Sub 1, 8/23/67.)

Rule R10-7. ADEQUACY OF FACILITIES.

All public sewer utilities 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 in the design, construction, operation, and maintenance of its sewer facilities and in the collection, treatment and discharge of the sewage being treated.

(NCUC Docket No. S-100, Sub 1, 8/23/67; NCUC Docket No. W-100, Sub 24, 2/22/94; NCUC Docket No. M-100, Sub 140, 12/03/13.)

Rule R10-8. SERVICE INTERRUPTION.

(a) Record. — Each utility shall keep a record of all interruptions of service upon its entire system or major divisions thereof, including a statement of time, duration, and cause of such interruptions.

(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, or strikes, which are beyond the control of the utility.

(NCUC Docket No. S-100, Sub 1, 8/23/67.)

Rule R10-9. RECORDS OF ACCIDENTS.

Each utility shall make and 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 filed with the Commission within sixty (60) days of said accident.

(NCUC Docket No. S-100, Sub 1, 8/23/67.)

Rule R10-10. Rescinded by NCUC Docket No. W-100, Sub 24, 2/22/94.

Rule R10-11. SERVICE CONNECTIONS.

(a) Each sewer utility shall adopt a standard method for installing a sewer service connection, which may be 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) Temporary service shall be installed by mutual agreement.

(c) The customer shall furnish and lay the necessary pipe to make the connection from the property line nearest the utility's sewer line to the point of use and shall keep the service line 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."

(d) 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.

(NCUC Docket No. S-100, Sub 1, 8/23/67.)

Rule R10-12. 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 sewer 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 collection system 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, application or applicants may refer the matter to the Utilities Commission for settlement.
- (6) Extensions for temporary service will not be made under this rule.

(b) Extensions to Service Individuals.

- (1) The utility will extend its sewer collection system to serve new bona fide customers at its own expense, other than to serve subdivisions, tracts, housing projects, industrial or residential developments, or organized service districts, when the required total length of the sewer collection system extension from the nearest existing sewer collection system is not in excess of 100 feet per service connection. If the total length of the sewer collection system 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 sewer collection system extension per service connection, exclusive of the cost of service connections and exclusive of any costs of increasing the size or capacity of the utility's existing facilities used or necessary for supplying the proposed extension. 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 sewer collection system 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 sewer collection system 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 for the sewer collection system 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 serviced by a subsequent sewer collection system extension, 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 sewer collection system 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 parties 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 sewer collection system larger than that for which the cost was advanced to serve an individual or individuals, and a subsequent extension is supplied from such sewer collections systems, 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 or Residential Developments or Organized Service Districts.

- (1) An applicant for a sewer collection system extension to serve a new subdivision, tract, housing project, industrial, or residential development, or organized service district shall be required to advance to the utility before construction is commenced the estimated reasonable cost of installation of such facilities, including the estimated reasonable cost associated with the installation of any reasonable and prudent amount of excess capacity, if any, upon approval by the Commission. If additional facilities are required specifically to provide service exclusively for the service requested, the cost of such facilities may be included in the advance upon approval by the Commission.
- (2) The funds 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 the allocated capacity of the sewer facilities acquired to the total allocated capacity of the sewer facilities 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.

(NCUC Docket No. S-100, Sub 1, 8/23/67; NCUC Docket No. W-100, Sub 6, 4/18/88.)

Rule R10-13. 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 sewer 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 unfavorable service to other customers.

(c) Applicant's Recourse. — In the event that the utility shall refuse to serve an applicant under the provisions of this rule, or on other rules incorporated herein, the utility shall inform the applicant of the basis of its refusal, and the applicant may apply to the Commission for a ruling thereon.

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

(NCUC Docket No. S-100, Sub 1, 8/23/67.)

Rule R10-14. Rescinded by NCUC Docket Nos. M-100, Sub 86; M-100, Sub 28; M-100, Sub 61, 10/1/80.

Rule R10-15. 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.

(NCUC Docket No. S-100, Sub 1, 8/23/67.)

Rule R10-16. 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. Whenever sewer service is discontinued for any reason the utility shall send a report of termination of service to the local county board of health for compliance with G.S. 130A-335.

(b) Access to Property. — The utility shall at all reasonable times have access to 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 his 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 at least five days' written notice excluding Sundays and holidays shall have been given the customer by the utility, provided, however, where an emergency exists or where fraudulent use is detected, or where a dangerous condition is found to exist on the customer's premises, the sewer service may be cut 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 customer. In the event that the matter in dispute cannot be compromised or settled by the parties, either party may submit the facts to the Commission for its decision, and pending such decision, service shall not be discontinued.

(e) Reconnection Charge. — Whenever the sewer service is cut off for the violation of rules and regulations, or nonpayment of bill, 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) for restoring said service; 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.

(f) Report of Discontinuance of Service to Be Filed with Health Department. — Whenever sewer service is discontinued for any reason the utility shall send a report of termination of service to the local county board of health for compliance with G.S. 130A-335.

(NCUC Docket No. S-100, Sub 1, 8/23/67; NCUC Docket No. M-100, Sub 28, 5/6/70, effective 7/1/70; NCUC Docket No. W-100, Sub 48, 12/31/09; NCUC Docket No. M-100, Sub 140, 12/03/13.)

Rule R10-17. INFORMATION TO CUSTOMERS.

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

(b) 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.

(NCUC Docket No. S-100, Sub 1, 8/23/67.)

Rule R10-18. Rescinded by NCUC Docket No. S-100, Sub 1, 8/23/67; NCUC Docket No. W-100, Sub 48, 12/31/09.

Rule R10-19. INFORMATION ON BILLS.

All bills for sewerage service shall state whether the charge is based on a percentage of the water bill, flat rate, or other charge.

- (1) Those bills based upon a water meter billing shall show the readings 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, the amount supplied and the price per unit.
- (2) Utilities desiring to adopt mechanical billing of such nature as to render compliance with all the terms of subdivision (1) impractical may make application to this Commission for relief therefrom. After considering such application, the Commission may, in its discretion, allow a departure from subdivision (1).
- (3) Meters will be read or flat rate billings rendered 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.

(NCUC Docket No. S-100, Sub 1, 8/23/67.)

Rule R10-20. SALE OF SEWER SERVICE.

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

(NCUC Docket No. S-100, Sub 1, 8/23/67.)

Rule R10-21. ACCOUNTING.

(a) Uniform System of Accounts. — The Uniform System of Accounts for Sewer 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 sewer companies and are prescribed for the use of all sewer 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 sewer service, viz:

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

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

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

(b) Multicompany Filings. — Each sewer utility operating in more than one subdivision shall maintain its accounts in such a manner that the operating revenue, the investment, the related depreciation reserve and contributions for each subdivision can be obtained from its records.

(NCUC Docket No. S-100, Sub 1, 8/23/67; NCUC Docket No. W-100, Sub 18, 6/1/92.)

Rule R10-22. SAFETY PROGRAM.

Each utility shall adopt and execute a safety program, fitted to the size and type of its operations. As a minimum, the safety program shall:

- (1) Require employees to use suitable tools and equipment in order that they may perform their work in a safe manner.
- (2) Instruct employees in safe methods of performing their work.
- (3) Instruct employees who, in the course of their work, are subject to the hazard of electrical shock, asphyxiation or drowning, in accepted methods of artificial respiration.

(NCUC Docket No. S-100, Sub 1, 8/23/67.)

Rule R10-23. AVAILABILITY RATES.

(a) Definitions:

- (1) "Availability rate" — means 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 real estate development.
- (2) "Customer" or "subscriber" — for purposes of this rule, means a person who is a nonuser of the sewer service provided by a sewer utility and who has subscribed to the availability of sewer 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 sewer service" — means that safe, sanitary and unoffensive collection, treatment and 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.

(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 sewer 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 sewer 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 sewer 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 sewer user 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 rule.

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

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

Rule R10-24. 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, NC 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, 04/10/00.)

(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

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 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 consent to the conditions of this Bond and agree 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 consent 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, NC 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 R10-25. 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 sewer 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 purpose 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 sewer utility. A sewer 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.)

R10-26. SEWER 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 sewer 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 sewer system improvement is recorded applied to the cost of eligible sewer system improvements.
- (3) “Eligible sewer system improvements” means the improvements set forth in G.S. 62-133.12(d) and shall include only those improvements found necessary by the Commission to provide safe, reliable, and efficient service in accordance with applicable effluent 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) “Sewer System Improvement Charge or SSIC” means an adjustment to customer bills that allows a utility to recover the SSIC Revenue Requirement.
- (6) “SSIC Revenue Requirement” means the annual revenue required to allow a utility to recover the annual incremental depreciation expense and capital costs of eligible sewer system improvements.
- (7) “SSIC 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 SSIC Period for other sewer utilities shall be a 12-month period established by the Commission in conjunction with the approval of a SSIC mechanism for that utility.
- (8) “SSIC 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 Sewer System Improvement Charge Mechanism. – A utility seeking approval of a SSIC 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 sewer system improvements expected to be completed in the initial SSIC 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 sewer system improvements, estimated costs, and completion dates for improvements that the utility plans to complete during the two years following the initial SSIC Period.
- (2) The proposed effective dates of the SSIC and semiannual adjustments to the charge.
 - (3) Testimony, affidavits, exhibits, or other evidence demonstrating that a SSIC is in the public interest and will enable the utility to provide safe, reliable, and efficient service in accordance with applicable effluent 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 SSIC mechanism and the estimated impact of charges under the mechanism on the utility’s monthly service rates. The Notice shall include the following statement:

Sewer System Improvement Charge Mechanism

Pursuant to G.S. 62-133.12 and Commission Rule R10-26, the Company is requesting that the Commission approve a Sewer System Improvement Charge Mechanism. This mechanism will allow the Company to recover the annual incremental depreciation expense and capital costs of eligible sewer 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 Sewer 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 sewer 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 sewer

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 SSIC mechanism only upon a finding that it is in the public interest.

(f) Initiation of Charge. – Once a SSIC mechanism is approved and eligible sewer system improvements are in service, the utility may file a request with the Commission for authority to impose the sewer 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 sewer 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 SSIC Revenue Requirement. – The SSIC Revenue Requirement shall be computed for each SSIC Period as follows:

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

(h) Computation of Sewer System Improvement Charge. –

(1) The SSIC 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 SSIC shall be computed by dividing the annual SSIC 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 SSIC adjustment no more frequently than semiannually.

- (1) The request shall include the computation and supporting data for the adjustment.
- (2) Cumulative SSIC 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 SSIC shall be modified through the use of an experience modification factor (EMF) that reflects the difference between the SSIC Revenue Requirement and the revenues that were actually realized under the SSIC during the SSIC 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 sewer 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) Sewer System Improvement Charge Reset. – The SSIC 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 sewer system improvements that have not previously been reflected in the utility's rates shall be recoverable through the SSIC.

(l) Audit and Reconciliation. – The SSIC shall be subject to the following:

- (1) Within 60 days following the end of each SSIC Period, each utility shall file a report, in a format prescribed by the Commission, reconciling its actual eligible sewer system improvement costs, actual SSIC revenues, and EMF computation.
- (2) The Public Staff shall audit the utility's actual eligible sewer system improvement costs, actual SSIC revenues, and EMF computation, and shall file a report on its audit no later than four months after the end of the SSIC Period of the utility.

(m) Ongoing Three-Year Plan.–Within 60 days following the end of each SSIC 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 SSIC 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 system improvement project:
- a. The costs incurred during the quarter;
 - b. The cumulative amount incurred;
 - c. The estimated total cost of each project;
 - d. The estimated completion date; and
 - e. The actual completion date.

(o) Elimination or Modification of SSIC Mechanism. – After notice to the utility and opportunity to be heard, the Commission may eliminate or modify any previously authorized SSIC mechanism upon a finding that it is not in the public interest.

(p) Burden of Proof. – The burden of proof as to whether a SSIC mechanism is in the public interest, the correctness and reasonableness of any SSIC, and whether the investment in the sewer system improvements was reasonable and prudently incurred shall be on the utility.

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