

Hopkins, Debbie

From: John Hoefer <jhoefer@willoughbyhoefer.com>
Sent: Monday, March 12, 2012 9:45 AM
To: Hopkins, Debbie
Cc: Belser, Florence; Duke McCall
Subject: United Utility Company, Inc. v. SC Office of Regulatory Staff and North Greenville University
Attachments: Order on Remand (2012-158).pdf

Dear Ms. Hopkins: Per your request, attached find the Order of the PSC on remand. A hearing in this matter has been set for June 14th. Let me know if you require any additional information.

John M.S. Hoefer, Esquire
Willoughby & Hoefer, P.A.
930 Richland Street
Post Office Box 8416
Columbia, South Carolina 29202-8416
Telephone #: (803) 252-3300
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**PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA
COMMISSION DIRECTIVE**

ADMINISTRATIVE MATTER

☐

DATE

February 22, 2012

MOTOR CARRIER MATTER

☐

DOCKET NO.

2009-479-WS

UTILITIES MATTER

☒

ORDER NO.

2012-158

THIS DIRECTIVE SHALL SERVE AS THE COMMISSION'S ORDER ON THIS ISSUE.

SUBJECT:

DOCKET NO. 2009-479-WS - Application of United Utility Companies, Incorporated for Adjustment of Rates and Charges and Modification to Certain Terms and Conditions for the Provision of Water and Sewer Service - Discuss this Matter with the Commission.

COMMISSION ACTION:

The South Carolina Supreme Court has remanded this matter to the Public Service Commission for consideration of the proposed settlement agreement by the parties. Thus, I move that Staff schedule this matter for hearing. At the hearing the parties shall provide financial information adjusted for the settlement including, "as adjusted" and "after increase" amounts for operating revenue, operating expenses, net income for return, rate base, interest expense, return on equity calculation, return on rate base calculation, and operating margin calculation. Also, this information shall be furnished prior to the hearing in pre-filed testimony and exhibits.

PRESIDING: HowardSESSION: RegularTIME: 2:00 p.m.

	MOTION	YES	NO	OTHER
FLEMING	☐	☒	☐	
HALL	☐	☒	☐	
HAMILTON	☐	☒	☐	
HOWARD	☐	☒	☐	
MITCHELL	☐	☒	☐	
WHITFIELD	☒	☒	☐	
WRIGHT	☐	☒	☐	

(SEAL)

RECORDED BY: J. Schmieding

The Supreme Court of South Carolina

United Utility Companies, Inc., Appellant,

v.

The South Carolina Office of
Regulatory Staff and North Respondents.
Greenville University,

ORDER

Based on the consent motion of the parties, this matter is remanded to the South Carolina Public Service Commission to consider the proposed settlement agreement. Pending action by the Commission, this appeal shall be held in abeyance.

In the event the settlement agreement is approved by the Commission, the parties shall promptly notify this Court so that this appeal can be dismissed. In the event the settlement is not approved by the Commission, the parties shall promptly notify this Court so that this appeal

may continue.

IT IS SO ORDERED.



A.C.J.

FOR THE COURT

Toal, C.J., not participating.

Columbia, South Carolina
January 31, 2012

cc: Mitchell Willoughby, Esquire
John M. S. Hoefer, Esquire
Benjamin P. Mustian, Esquire
Duke K. McCall, Jr., Esquire
Florence P. Belser, Esquire
Nanette S. Edwards, Esquire

WILLOUGHBY & HOEFER, P.A.

ATTORNEYS & COUNSELORS AT LAW

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ELIZABETHANN LOADHOLT FELDER
ANDREW J. MACLEOD
CHAD N. JOHNSTON
JOHN W. ROBERTS

AREA CODE 803
TELEPHONE 252-3300
TELECOPIER 256-8062

*ALSO ADMITTED IN TX

January 27, 2012

RECEIVED

JAN 27 2012

S.C. Supreme Court

VIA HAND DELIVERY

The Honorable Daniel E. Shearouse
Clerk, Supreme Court of South Carolina
1231 Gervais Street
Columbia, South Carolina 29201

RE: *United Utility Companies, Inc. v. South Carolina Office of
Regulatory Staff and North Greenville University*; South Carolina
Public Service Commission Docket No. 2009-479-WS

Dear Mr. Shearouse:

Enclosed for filing please find seven (7) copies of the January 12, 2012, Settlement Agreement that is referenced in the parties' Consent Motion to Remand that was previously filed with your office in the above-referenced appeal pursuant to Rule 261, SCACR.

I would appreciate it if you would please acknowledge your receipt of the enclosed document by file stamping the extra copy of same attached and returning it via our courier. By copy of this letter, I am serving a copy of this document on counsel for the respondents and enclose a certificate of service to that effect.

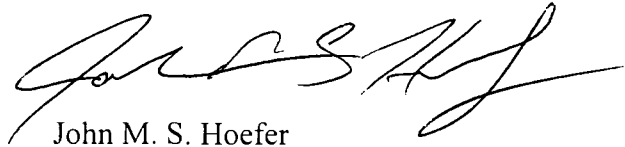
On behalf of all parties, I thank the Court and you for your assistance regarding this matter.

The Honorable Daniel E. Shearouse
January 27, 2012
Page 2

If you have any questions, or need additional information, please do not hesitate to contact me. With best regards, I am

Sincerely,

WILLOUGHBY & HOEFER, P.A.

A handwritten signature in black ink, appearing to read "John M. S. Hoefer", with a stylized, flowing script.

John M. S. Hoefer

JMSH/cm
enclosures

cc: Florence P. Belser, Esquire
Duke K. McCall, Jr., Esquire
Nanette S. Edwards, Esquire

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2009-479-W/S
January 12, 2012

RECEIVED

JAN 27 2012

S.C. Supreme Court

IN RE:

Application of United Utility Companies,
Inc., for adjustment of rates and charges
and modifications to certain terms and
conditions for the provision of water and
sewer service

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is submitted for Commission approval by United Utility Companies, Inc. ("UUC or the Company"), North Greenville University, ("NGU") and the Office of Regulatory Staff ("ORS") (together referred to as the "Parties" or sometimes individually as "Party").

WHEREAS, the above-captioned proceeding was initiated by the filing of an Application of the Company for an increase in its rates and charges for water and sewer service; and

WHEREAS, in its Order Nos. 2010-375 and 2011-75 the Public Service Commission of South Carolina (the "Commission") denied the Company's request for a rate increase and UUC appealed the Commission's orders to the Supreme Court; and

WHEREAS, the Parties, who are the only parties of record in the above-captioned docket have varying legal positions regarding the issues in this case; and

WHEREAS, UUC, NGU and ORS have reached an agreement to settle the matter on appeal and as such seek Commission review and approval of this Agreement.

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JWA*

NOW, THEREFORE, the Parties hereby jointly propose the following terms of settlement which, if adopted by Commission Order, will address all issues arising from the above-captioned docket currently on appeal:

1. **Moratorium.** UUC agrees that it will not file an application for rate relief with the Commission for a rate increase in its water or sewer rates until after January 1, 2013 and acknowledges that any such application may only be made to the Commission.

2. **Revenue requirement.** UUC, NGU, and ORS agree that the combined revenue increase for water and sewer is \$150,263. The revenue increase for water is \$30,043 and \$120,220 for sewer. The rates permitting UUC to earn an additional \$150,263 annually are set forth in Exhibit 1 (Schedule of Rates and Charges) to this Agreement.

3. **Provisions affecting NGU.** (i) UUC shall bill NGU based on 299 SFEs, equivalent to the sum of \$15,997.00 per month effective December 1, 2011 with the understanding that this monthly amount will not be increased further until after June 30, 2013, and NGU accepts the amount of 299 SFEs and to pay the sewer charge on that basis with the understanding that the 299 SFEs will not be increased until after December 31, 2012; (ii) all past claims, issues, disputes, or matters which could be claimed or disputed by or among UUC and NGU regarding this matter are null and void and dismissed with prejudice; (iii) neither NGU nor UUC, their successors, assigns or subsidiaries will seek any retroactive charges, actions, or claims against each other arising out of their relationship with each other which now exist or may occur between the date of this settlement and January 1, 2013; and (iv) UUC and NGU expressly waive all claims which exist or may exist or be incurred prior to January 1, 2013, against the

other party to this agreement, its successors, subsidiaries or assigns, and this restriction shall apply to any and all claims, charges, actions which could be asserted through January 1, 2013.

4. **Rate case expenses.** No additional rate case expenses shall apply to rate base. The Company may amortize over five years the rate case expenses of \$123,033 recommended by ORS at hearing. Any additional rate case expenses may be carried on UUC's books and amortized over a five year period, but in no event shall such additional rate case expenses be included in rate base as a part of this proceeding or any future proceeding.

5. **Tariff Modifications.** The tariff modifications as set forth in ORS's proposed order, other than the monthly service rates, shall apply and are set forth in Exhibit 1 (Schedule of Rates and Charges) to this Agreement.

6. **Reporting.** A report regarding the iron sediment in Trollingwood shall be provided to the Commission and ORS; if appropriate, the company shall conduct additional flushing.

7. **Vacancy surveys.** Vacancy surveys that are not entirely reliant on Customer Care & Billing ("CC&B") shall be conducted at least annually by UUC, beginning on the first anniversary of a Commission order approving this Agreement, and the results reported to ORS and the Commission.

8. Regarding Paragraph 3 above wherein UUC and NGU have agreed that NGU will be billed based on 299 SFE's, ORS is not prohibited in any future rate case, to impute or make recommendations that would effectively impute additional SFE's, based upon the results of ORS's audit and examination.

9. ORS is charged by law with the duty to represent the public interest of South Carolina pursuant to S.C. Code § 58-4-10 (B). S.C. Code § 58-4-10(B)(1) through (3) read in part as follows:

... 'public interest' means a balancing of the following:

- (1) concerns of the using and consuming public with respect to public utility services, regardless of the class of customer;
- (2) economic development and job attraction and retention in South Carolina; and
- (3) preservation of the financial integrity of the State's public utilities and continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.

The Settlement Agreement reached among the Parties serves the public interest as defined above.

10. The Parties agree to advocate that the Commission accept and approve this Settlement Agreement in its entirety as a fair, reasonable and full resolution of all issues in the above-captioned proceeding and that the Commission take no action inconsistent with its adoption. The Parties further agree to cooperate in good faith with one another in recommending to the Commission that this Settlement Agreement be accepted and approved by the Commission. The Parties agree to use reasonable efforts to defend and support any Commission order issued approving this Settlement Agreement and the terms and conditions contained herein;

11. If this Settlement Agreement is approved by the Commission, UUC agrees to dismiss with prejudice its appeal. If the Commission should decline to approve the Agreement in its entirety, then any Party desiring to do so may withdraw from the Agreement without penalty or obligation.

12. Except as otherwise expressly provided herein, the Parties agree that signing this Settlement Agreement will not constrain, inhibit, impair or prejudice their arguments or positions

Handwritten signature
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held in other collateral proceedings, nor will it constitute a precedent or evidence of acceptable practice in future proceedings.

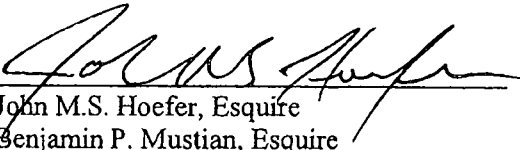
13. The Agreement shall be interpreted according to South Carolina law.

14. The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Settlement Agreement by affixing its signature or by authorizing counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the agreement. Facsimile signatures and email signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts, with the original signature pages combined with the body of the document constituting an original and provable copy of this Settlement Agreement. The Parties agree that in the event any Party should fail to indicate its consent to this Settlement Agreement and the terms contained herein, then this Settlement Agreement shall be null and void and will not be binding on any Party.

[SIGNATURE PAGES FOLLOW]


WZS

Representing United Utility Companies, Inc.



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Benjamin P. Mustian, Esquire

Willoughby & Hoefer, P.A.

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bmustian@willoughbyhoefer.com

Representing North Greenville University



Duke K. McCall, Jr.

Smith Moore Leatherwood, LLP

Post Office Box 87

Greenville, SC 29602

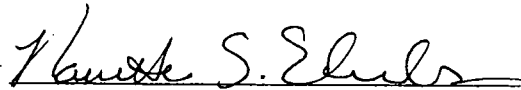
Phone: 864-242-6440

Fax: 864-240-2474

Email: duke.mccall@smithmoorelaw.com



Representing the South Carolina Office of Regulatory Staff



Nanette S. Edwards, Esquire

South Carolina Office of Regulatory Staff

Post Office Box 11263

1401 Main Street

Columbia, SC 29211

Phone: (803) 737-0575

Fax: (803) 737-0895

E-mail: nsedwar@regstaff.sc.gov



WATER

1. Monthly Charges

Residential –

Monthly charge per single-family house, condominium, mobile home or apartment unit:

Basic Facilities Charge	\$15.18 per unit
Commodity Charge	\$7.79 per 1,000 gallons or 134 cft.

Commercial

Basic Facilities Charge	\$15.18 per SFE
Commodity Charge	\$7.79 per 1,000 gallons or 134 cft.

Commercial customers are those not included in the residential category above and include, but are not limited to, hotels, stores, restaurants, offices, industry, etc.

When, because of the method of water line installation utilized by the developer or owner, it is impractical to meter each unit separately, service will be provided through a single meter, and consumption of all units will be averaged; a bill will be calculated based on that average and the result multiplied by the number of units served by a single meter.

The Utility will, for the convenience of the owner, bill a tenant in a multi-unit building, consisting of four or more residential units, which is served by a master water meter or a single water connection. However, in such cases all arrearages must be satisfied before service will be provided to a new tenant or before interrupted service will be restored. Failure of an owner to pay for services rendered to a tenant in these circumstances may result in service interruptions.

2. Non-Recurring Charges

A) Water service connection charge per single-family equivalent*	\$100.00
B) Plant Impact fee per single-family equivalent*	\$400.00

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The nonrecurring charges listed above are minimum charges and apply even if the equivalency rating of a non-residential customer is less than one (1). If the equivalency rating of a non residential customer is greater than one (1), then the proper charge may be obtained by multiplying the equivalency rating by the appropriate fee. These charges apply and are due at the time new service is applied for, or at the time connection to the water system is requested.

3. Account Set-Up and Reconnection Charges

- a. Customer Account Charge - for new customers only. \$25.00
- b. Reconnection Charges: In addition to any other charges that may be due, a reconnection fee of thirty five dollars (\$35.00) shall be due prior to the Utility reconnecting service which has been disconnected for any reason set forth in Commission Rule R.103-732.5. Customers who ask to be reconnected within nine months of disconnection will be charged the monthly base facility charge for the service period they were disconnected.

4. Billing Cycle

Recurring charges will be billed monthly in arrears. Nonrecurring charges will be billed and collected in advance of service being provided.

5. Late Payment Charges

Any balance unpaid within twenty-five (25) days of the billing date shall be assessed a late payment charge of one and one-half percent (1 1/2 %) for each month, or any part of a month, that said payment is late.

6. Cross Connection Inspection

Any customer installing, permitting to be installed, or maintaining any cross connection between the Utility's water system and any other non-public water system, sewer or a line from any container of liquids or other substances, must install an approved back-flow prevention device in accordance with 24A S.C. Code Ann. Regs. R.61-58.7.F (Supp. 2008), as may be amended from time to time. Such a customer shall annually have such cross connection inspected by a licensed certified tester and provide to Utility a copy of a written inspection report and testing results submitted by the certified tester in accordance with 24A S.C. Code Ann. Regs. R.61-58.7.F (Supp. 2008), as may be amended from time to time. Said report and results must be provided by the customer to the Utility no later than June 30th of each year. If a customer fails to comply with the requirement to perform annual inspections, the utility may, after 30 days' written notice, disconnect water service. The Utility shall provide affected customers with an advanced annual notification of such certification requirement.

7. Electronic Billing and Electronic Payment

If requested by the customer in writing and within the capability of the Utility, the Utility may, in lieu of mailing a paper copy, provide an electronic bill to the customer on the Utility's website. The electronic bill shall contain the same content and be presented in the same or a similar format as a bill delivered to the customer pursuant to Commission Rule R. 103-732.2 (Supp. 2008) as may be amended from time to time. Late payment charges will not be triggered until twenty-five (25) days after the Utility issues the electronic bill and it leaves the control of the Utility or its billing agent. The Utility must provide notice to the customer that the bill form is available for review within twenty-four of its issuance and the web address of its location.

8. Construction Standards

The Utility requires all construction to be performed in accordance with generally accepted engineering standards, at a minimum. The Utility from time to time may require that more stringent construction standards be followed.

9. Extension of Utility Service Lines and Mains

The Utility shall have no obligation at its expense to extend its utility service lines or mains in order to permit any customer to connect to its water system. However, anyone or entity which is willing to pay all costs associated with extending an appropriately sized and constructed main or utility service line from his/her/its premises to any appropriate connection point, pay the appropriate fees and charges as set forth in this rate schedule, and comply with the guidelines and standards hereof, shall not be denied service unless water supply is unavailable or unless the South Carolina Department of Health and Environmental Control or other government entity has for any reason restricted the Utility from adding additional customers to the serving water system. In no event will the Utility be required to construct additional water supply capacity to serve any customer or entity without an agreement acceptable to the Utility first having been reached for the payment of all costs associated with adding water supply capacity to the affected water system.

* A Single Family Equivalent (SFE) shall be determined by using the South Carolina Department of Health and Environmental Control Guidelines for Unit Contributory Loadings for Domestic Wastewater Treatment Facilities - 25 S.C. Code Ann. Regs. 61-67 Appendix A (Supp. 2008), as may be amended from time to time. Where applicable, such guidelines shall be used for determination of the appropriate monthly service and tap fee.

SEWER

1. Monthly Charges

Residential –

Monthly charge per single-family
house, condominium, villa,
or apartment unit:

\$53.50 per unit

Mobile Homes - monthly charge

\$39.46 per unit

Commercial - monthly charge
per single-family equivalent*

\$53.50

Charge for Sewage Collection Service Only

When sewage is collected by the Utility and transferred to a government body or agency, or other entity for treatment, the Utility's rates are as follows:

Residential - monthly charge per
single-family house, condominium,
mobile home, or apartment unit

\$27.35 per unit

Commercial - monthly charge per
single-family equivalent*

\$27.35

The Utility will also charge for treatment services provided by the government body or agency or other entity. The rates imposed or charged by the government body or agency or other entity providing treatment will be charged to the Utility's affected customers on a pro rata basis, without markup. Where the Utility is required under the terms of the 201/208 Plan to interconnect to the sewage treatment system of a government body or agency or other entity and tap/connection/impact fees are imposed by that entity, such tap/connection/impact fees will be charged to the Utility's affected customers on a pro rate basis, without markup.

Commercial customers are those not included in the residential category above and include, but are not limited to, hotels, stores, restaurants, offices, industry, etc.

The Utility will, for the convenience of the owner, bill a tenant in a multi-unit building, consisting of four or more residential units, which is served by a master sewer meter or a single sewer connection. However, in such cases all arrearages must be satisfied before service will be provided to a new tenant or before interrupted

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service will be restored. Failure of an owner to pay for services rendered to a tenant in these circumstances may result in service interruptions.

2. Non-recurring Charges

- | | |
|--|----------|
| A) Sewer service connection charge per single-family equivalent* | \$100.00 |
| B) Plant Impact fee per single-family equivalent* | \$400.00 |

The nonrecurring charges listed above are minimum charges and apply even if the equivalency rating of a non-residential customer is less than one (1). If the equivalency rating of a non-residential customer is greater than one (1), then the proper charge may be obtained by multiplying the equivalency rating by the appropriate fee. These charges apply and are due at the time new service is applied for, or at the time connection to the sewer system is requested.

3. Notification, Account Set-Up and Reconnection Charges

a. Notification Fee

A fee of six dollars (\$6.00) shall be charged each customer per notice to whom the Utility mails the notice as required by Commission Rule R. 103-535.1 prior to service being discontinued. This fee assesses a portion of the clerical and mailing costs of such notices to the customers creating the cost.

- b. Customer Account Charge: A fee of twenty-five dollars (\$25.00) shall be charged as a one-time fee to defray the costs of initiating service. This charge will be waived if the customer also takes water service.

- c. Reconnection Charges: In addition to any other charges that may be due, a reconnection fee of two hundred fifty dollars (\$250.00) shall be due prior to the Utility reconnection service which has been disconnected for any reason set forth in Commission Rule R.103-532.4. The amount of the reconnection fee shall be in accordance with R.103-532.4 and shall be changed to conform with said rule as the rule is amended from time to time. Customers who ask to be reconnected within nine months of disconnection will be charged the monthly base facility charge for the service period they were disconnected.

4. Billing Cycle

Recurring charges will be billed monthly in arrears. Non-recurring charges will be billed and collected in advance of service being provided.

5. Late Payment Charges

Docket No. 2009-479-WS, Order No. 2012-____
Date: January____, 2012

Exhibit 1
UNITED UTILITY COMPANIES, INC.

Any balance unpaid within twenty-five (25) days of the billing date shall be assessed a late payment charge of one and one-half percent (1 1/2 %) for each month, or any part of a month, that said payment is late.

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6. Electronic Billing and Electronic Payment

If requested by the customer in writing and within the capability of the Utility, the Utility may, in lieu of mailing a paper copy, provide an electronic bill to the customer on the Utility's website. The electronic bill shall contain the same content and be presented in the same or a similar format as a bill delivered to the customer pursuant to Commission Rule R. 103-532.1 (Supp. 2008) as may be amended from time to time. Late payment charges will not be triggered until twenty-five (25) days after the Utility issues the electronic bill and it leaves the control of the Utility or its billing agent. The Utility must provide notice to the customer that the bill form is available for review within twenty-four of its issuance and the web address of its location.

7. Toxic and Pretreatment Effluent Guidelines

The Utility will not accept or treat any substance or material that has not been defined by the United States Environmental Protection Agency ("EPA") or the South Carolina Department of Environmental Control ("DHEC") as a toxic pollutant, hazardous waste, or hazardous substance, including pollutants falling within the provisions of 40 CFR 129.4 and 401.15. Additionally, pollutants or pollutant properties subject to 40 CFR 403.5 and 403.6 are to be processed according to pretreatment standards applicable to such pollutants or pollutant properties, and such standards constitute the Utility's minimum pretreatment standards. Any person or entity introducing any such prohibited or untreated materials into the Company's sewer system may have service interrupted without notice until such discharges cease, and shall be liable to the utility for all damages and costs, including reasonable attorney's fees, incurred by the utility as a result thereof.

8. Construction Standards

The Utility requires all construction to be performed in accordance with generally accepted engineering standards, at a minimum. The Utility from time to time may require that more stringent construction standards be followed.

9. Extension of Utility Service Lines and Mains

The Utility shall have no obligation at its expense to extend its utility service lines or mains in order to permit any customer to connect to its sewer system. However, anyone or entity which is willing to pay all costs associated with extending an appropriately sized and constructed main or utility service line from his/her/its premises to any appropriate connection point, pay the appropriate fees and charges as set forth in this rate schedule, and comply with the guidelines and standards hereof, shall not be denied service unless sewer capacity is unavailable or unless the South Carolina Department of Health and Environmental Control or other government entity has restricted the Utility from adding for any reason additional customers to the

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serving sewer system. In no event will the Utility be required to construct additional wastewater treatment capacity to serve any customer or entity without an agreement acceptable to the Utility first having been reached for the payment of all costs associated with adding wastewater treatment capacity to the affected sewer system.

* A Single Family Equivalent (SFE) shall be determined by using the South Carolina Department of Health and Environmental Control Guidelines for Unit Contributory Loadings for Domestic Wastewater Treatment Facilities - 25 S.C. Code Ann. Regs. 61-67 Appendix A (Supp. 2008), as may be amended from time to time. Where applicable, such guidelines shall be used for determination of the appropriate monthly service and tap fee.

[Handwritten signature]
nr

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

Docket No. 2009-479-W/S

RECEIVED

JAN 27 2012

S.C. Supreme Court

United Utility Companies, Inc., ... Appellant,

v.

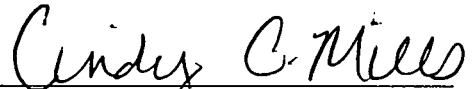
The South Carolina Office of Regulatory Staff and
North Greenville University, ... Respondents.

CERTIFICATE OF SERVICE

This is to certify that I have caused to be served this day one (1) copy of the **Settlement Agreement** by placing same in the care and custody of the United States Postal Service with first class postage affixed thereto and addressed as follows:

Nanette S. Edwards, Esquire
Florence P. Belser, Esquire
Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, South Carolina 29201

Duke K. McCall, Jr., Esq.
William H. Jordan, Esq.
Smith Moore Leatherwood, LLP
Post Office Box 87
Greenville, South Carolina 29602-0087


Cindy C. Mills

Columbia, South Carolina
This 27th day of January, 2012.

WILLOUGHBY & HOEFER, P.A.

ATTORNEYS & COUNSELORS AT LAW

930 RICHLAND STREET

P.O. BOX 8416

COLUMBIA, SOUTH CAROLINA 29202-8416

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TRACEY C. GREEN
BENJAMIN P. MUSTIAN
ELIZABETH ZECK*
ELIZABETHANN LOADHOLT FELDER
ANDREW J. MACLEOD
CHAD N. JOHNSTON
JOHN W. ROBERTS

AREA CODE 803
TELEPHONE 252-3300
TELECOPIER 256-8062

*ALSO ADMITTED IN TX

January 12, 2012

The Honorable Daniel E. Shearouse
Clerk, Supreme Court of South Carolina
Post Office Box 11330
Columbia, South Carolina 29211

RE: *United Utility Companies, Inc. v. South Carolina Office of
Regulatory Staff and North Greenville University*; South Carolina
Public Service Commission Docket No. 2009-479-WS

Dear Mr. Shearouse:

On behalf of Appellant United Utility Companies, Inc. ("UUC"), and with the consent of the Respondents South Carolina Office of Regulatory Staff ("ORS") and North Greenville University ("NGU"), enclosed for filing pursuant to Rule 261, SCACR, please find the original¹ and six (6) copies of a Consent Motion to hold the above-referenced appeal in abeyance and to remand this matter to the Public Service Commission. You will also find enclosed our check in the amount of \$25.00 for the filing fee.

Please acknowledge your receipt of the enclosed documents by file stamping the extra copy of same and returning it to me via my courier.

It is my understanding that the filing of this motion serves to temporarily hold this matter in abeyance and that no request for an extension of any deadline is needed. If my understanding in that regard is incorrect, please so advise me at your earliest possible convenience.

RECEIVED

JAN 18 2012

S.C. SUPREME COURT

(continued...)

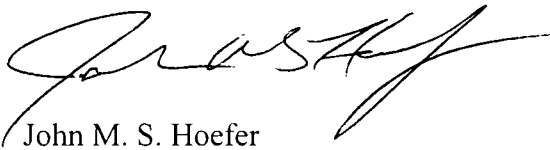
¹Please note that a facsimile of the signature for counsel for NGU is enclosed. I will substitute the original of his signature via hand delivery upon its receipt from counsel for NGU.

The Honorable Daniel E. Shearouse
January 12, 2012
Page 2

If you have any questions, or need additional information, please do not hesitate to contact me.

Sincerely,

WILLOUGHBY & HOEFER, P.A.



John M. S. Hoefer

JMSH/ccm
Enclosures

cc: Florence P. Belser, Esquire
Duke K. McCall, Jr., Esquire
Nanette S. Edwards, Esquire

RECEIVED

JAN 13 2012

THE STATE OF SOUTH CAROLINA
In The Supreme Court

S.C. Supreme Court

APPEAL FROM THE PUBLIC SERVICE COMMISSION

Docket No. 2009-479-WS

United Utility Companies, Inc., ...Appellant,

v.

South Carolina Office of Regulatory Staff and
North Greenville University, ... Respondents.

Consent Motion to Remand

Pursuant to Rules 261, SCACR, the parties in the above-captioned appeal, by and through their undersigned counsel, submit the within Consent Motion to Remand for the Court's consideration and approval. In support thereof, the parties would respectfully show unto the Court as follows:

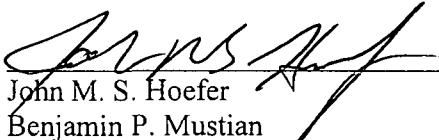
1. United Utility Companies, Inc. ("UUC"), the South Carolina Office of Regulatory Staff ("ORS"), and North Greenville University ("NGU") are the only parties to this appeal and were the only parties of record below.
2. The parties respectfully request that this case be remanded (without prejudice) to the Public Service Commission so that the Commission may conduct a hearing on the parties' January 12, 2012, settlement agreement ("Settlement Agreement"), which is to be submitted to the Commission if the within motion is granted.

1/13
July 2 #1

3. Should the Commission not approve the Settlement Agreement after hearing, this appeal may be reinstated before the Court. Such reinstatement will occur upon the filing of a notice of appeal by Appellant within thirty (30) days of its receipt of a Commission order rejecting the Settlement Agreement.
4. No party shall be taxed costs in this appeal

Respectfully submitted,

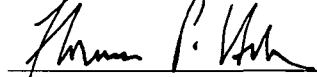
We so move:


John M. S. Hoefer
Benjamin P. Mustian
WILLOUGHBY & HOEFER, P.A.
Post Office Box 8416
Columbia, SC 29202-8416
Telephone: (803) 252-3300
Fax: (803) 256-8062

Attorneys for Appellant

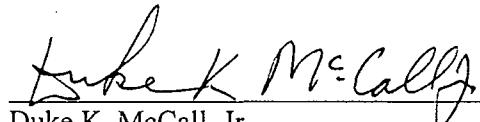
Columbia, South Carolina
January 12th, 2012

We consent:


Florence P. Belser
Nanette S. Edwards
South Carolina Office of Regulatory Staff
Post Office Box 11263
Columbia, South Carolina 29221
Telephone: (803) 737-0800
Fax: (803) 737-0895

Attorneys for Respondent South Carolina
Office of Regulatory Staff

Columbia, South Carolina
January 12, 2012


Duke K. McCall, Jr.
SMITH MOORE LEATHERWOOD, LLP
300 East McBee Street, Suite 500
Greenville, South Carolina 29601
Telephone: (864) 242-6440
Fax: (864) 240-2474
Attorney for Respondent North
Greenville University

Greenville, South Carolina
January 12, 2012

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

Docket No. 2009-479-W/S

United Utility Companies, Inc., ... Appellant,

v.

The South Carolina Office of Regulatory Staff and
North Greenville University, ... Respondents.

CERTIFICATE OF SERVICE

This is to certify that I have caused to be served this day one (1) copy of the **Consent Motion to Remand** by placing same in the care and custody of the United States Postal Service with first class postage affixed thereto and addressed as follows:

Nanette S. Edwards, Esquire
Florence P. Belser, Esquire
Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, South Carolina 29201

RECEIVED

JAN 18 2012

S.C. SUPREME COURT

Duke K. McCall, Jr., Esq.
William H. Jordan, Esq.
Smith Moore Leatherwood, LLP
Post Office Box 87
Greenville, South Carolina 29602-0087

Cindy C. Mills
Cindy C. Mills

Columbia, South Carolina
This 12th day of January, 2012.

WILLOUGHBY & HOEFER, P.A.

ATTORNEYS & COUNSELORS AT LAW

930 RICHLAND STREET

P.O. BOX 8416

COLUMBIA, SOUTH CAROLINA 29202-8416

MITCHELL M. WILLOUGHBY
JOHN M.S. HOEFER
RANDOLPH R. LOWELL
TRACEY C. GREEN
BENJAMIN P. MUSTIAN
ELIZABETH ZECK*
ELIZABETHANN LOADHOLT FELDER
ANDREW J. MACLEOD
CHAD N. JOHNSTON
JOHN W. ROBERTS

AREA CODE 803
TELEPHONE 252-3300
TELECOPIER 256-8062

*ALSO ADMITTED IN TX

January 13, 2012

The Honorable Daniel E. Shearouse
Clerk, Supreme Court of South Carolina
Post Office Box 11330
Columbia, South Carolina 29211

RE: *United Utility Companies, Inc. v. South Carolina Office of
Regulatory Staff and North Greenville University*; South Carolina
Public Service Commission Docket No. 2009-479-WS

Dear Mr. Shearouse:

Following up on my letter to you of yesterday's date regarding the above-referenced appeal, enclosed for filing please find the original signature of counsel for NGU of the Consent Motion to Remand.

I would appreciate your acknowledging receipt of the enclosed document by file stamping the extra copy of same and returning it in the postage paid envelope provided.

If you have any questions, or need additional information, please do not hesitate to contact me.

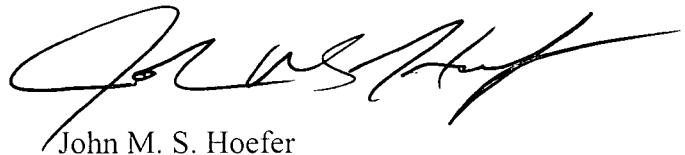
RECEIVED

JAN 18 2012

S.C. SUPREME COURT

Sincerely,

WILLOUGHBY & HOEFER, P.A.



John M. S. Hoefer

JMSH/srw
enclosures

cc: Florence P. Belser, Esquire
Duke K. McCall, Jr., Esquire
Nanette S. Edwards, Esquire

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM THE PUBLIC SERVICE COMMISSION

Docket No. 2009-479-WS

United Utility Companies, Inc., .. Appellant,

v.

South Carolina Office of Regulatory Staff and
North Greenville University, ... Respondents.

Consent Motion to Remand

Pursuant to Rules 261, SCACR, the parties in the above-captioned appeal, by and through their undersigned counsel, submit the within Consent Motion to Remand for the Court's consideration and approval. In support thereof, the parties would respectfully show unto the Court as follows:

1. United Utility Companies, Inc. ("UUC"), the South Carolina Office of Regulatory Staff ("ORS"), and North Greenville University ("NGU") are the only parties to this appeal and were the only parties of record below.
2. The parties respectfully request that this case be remanded (without prejudice) to the Public Service Commission so that the Commission may conduct a hearing on the parties' January 12, 2012, settlement agreement ("Settlement Agreement"), which is to be submitted to the Commission if the within motion is granted.

3. Should the Commission not approve the Settlement Agreement after hearing, this appeal may be reinstated before the Court. Such reinstatement will occur upon the filing of a notice of appeal by Appellant within thirty (30) days of its receipt of a Commission order rejecting the Settlement Agreement.
4. No party shall be taxed costs in this appeal

Respectfully submitted,

We so move:

John M. S. Hoefer
Benjamin P. Mustian
WILLOUGHBY & HOEFER, P.A.
Post Office Box 8416
Columbia, SC 29202-8416
Telephone: (803) 252-3300
Fax: (803) 256-8062

Attorneys for Appellant

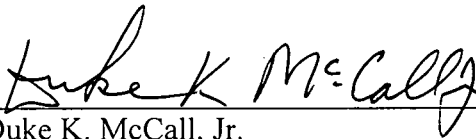
Columbia, South Carolina
January __, 2012

We consent:

Florence P. Belser
Nanette S. Edwards
South Carolina Office of Regulatory Staff
Post Office Box 11263
Columbia, South Carolina 292211
Telephone: (803) 737-0800
Fax: (803) 737-0895

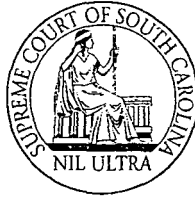
Attorneys for Respondent South Carolina
Office of Regulatory Staff

Columbia, South Carolina
January __, 2012



Duke K. McCall, Jr.
SMITH MOORE LEATHERWOOD, LLP
300 East McBee Street, Suite 500
Greenville, South Carolina 29601
Telephone: (864) 242-6440
Fax: (864) 240-2474
Attorney for Respondent North
Greenville University

Greenville, South Carolina
January 12, 2012



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

December 13, 2011

Mitchell Willoughby, Esquire
John M. S. Hoefer, Esquire
Benjamin P. Mustian, Esquire
Willoughby & Hoefer, PA
P O Box 8416
Columbia, SC 29202

Re: United Utility v. SC Regulatory Staff

Dear Counsel:

The following Order has been endorsed on your Request to Continue to Hold this Matter in Abeyance until January 12, 2012 in the above entitled case on appeal.

“Granted.

s/ Costa M. Pleicones A.C.J.
For the Court

Toal, C.J., not participating

December 13, 2011.”

By copy of this letter we are advising opposing counsel of the action of the court in this matter.

United Utility v. SC Regulatory Staff

Page Two

December 13, 2011

Very truly yours,

A handwritten signature in black ink, appearing to be "DES", with a long horizontal line extending to the right.

CLERK

DES/dmh

cc: Duke K. McCall, Jr., Esquire
Florence P. Belser, Esquire
Nanette S. Edwards, Esquire

WILLOUGHBY & HOEFER, P.A.

ATTORNEYS & COUNSELORS AT LAW

930 RICHLAND STREET

P.O. BOX 8416

COLUMBIA, SOUTH CAROLINA 29202-8416

MITCHELL M. WILLOUGHBY
JOHN M.S. HOEFER
RANDOLPH R. LOWELL
TRACEY C. GREEN
BENJAMIN P. MUSTIAN
ELIZABETH ZECK*
ELIZABETHANN LOADHOLT FELDER
ANDREW J. MACLEOD
CHAD N. JOHNSTON
JOHN W. ROBERTS

AREA CODE 803
TELEPHONE 252-3300
TELECOPIER 256-8062

*ALSO ADMITTED IN TX

December 12, 2011

VIA HAND DELIVERY

The Honorable Daniel E. Shearouse
Clerk
The Supreme Court of South Carolina
1231 Gervais Street
Columbia, South Carolina 29211

RECEIVED
DEC 12 2011
S.C. SUPREME COURT

RE: *United Utility Companies, Inc. v. The South Carolina Office of
Regulatory Staff and North Greenville University;*
S.C. Public Service Commission Docket No. 2009-479-WS

Dear Mr. Shearouse:

As you are aware, the Court has by its Order of October 14, 2011, held the above-referenced appeal in abeyance until today's date to permit the parties additional time to complete settlement discussions.

I am pleased to report to the Court that the parties have today reached an agreement in principle to settle this matter which will involve a remand to the Public Service Commission for approval of rates and charges and certain other terms and conditions of service that have been agreed to by the parties.

In light of the foregoing, I would request that the Court continue to hold this matter in abeyance until January 12, 2012, to permit the parties additional time within which to finalize the terms of their settlement and move the Court for the matter to be remanded to the Public Service Commission for consideration of their settlement. I have been authorized by counsel for the respondents, South Carolina Office of Regulatory Staff and North Greenville University, to state that they concur with this request.

Please find enclosed our check in the amount of \$25.00 as payment of the filing fee associated with this request. I would appreciate it if you would acknowledge your receipt of this

(Continued . . .)

The Honorable Daniel E. Shearouse
December 12, 2011
Page 2

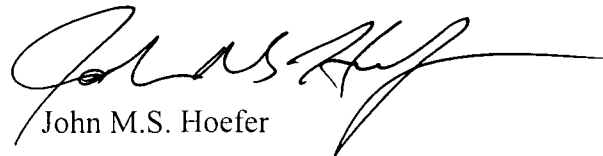
request by file-stamping the extra copy of this letter enclosed and returning it to me via our courier.

By copy of this letter, I am making counsel for both respondents aware of the submission of this request.

If you have any questions, or require additional information, please do not hesitate to contact me. With best regards, I am,

Respectfully,

WILLOUGHBY & HOEFER, P.A.


John M.S. Hoefer

JMSH/ct
Enclosure

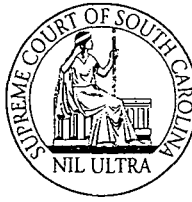
cc: Florence P. Belser, Esquire
Duke K. McCall, Esquire
(via electronic mail and U.S. Mail)

GRANTED.


FOR THE COURT A.C.J.

TOTAL, C.J., NOT PARTICIPATING.

December 13, 2011



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

October 14, 2011

Mitchell Willoughby, Esquire
John M. S. Hoefer, Esquire
Benjamin P. Mustian, Esquire
Willoughby & Hoefer, PA
P O Box 8416
Columbia, SC 29202

Re: United Utility v. SC Regulatory Staff

Dear Counsel:

The following Order has been endorsed on your request to hold this matter in abeyance until December 12, 2011 to permit the parties additional time to complete settlement discussions in the above entitled case on appeal.

“Granted.

s/ Costa M. Pleicones A.C.J.
For the Court

Chief Justice Jean H. Toal,
not participating

October 14, 2011.”

Please be advised if no settlement is reached by this date, the initial brief of appellant and designation of matter will be due December 19, 2011.

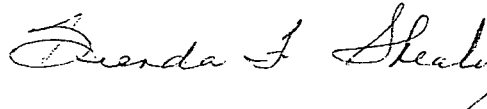


United Utility v. SC Regulatory Staff

Page Two

October 14, 2011

Very truly yours,


CHIEF DEPUTY CLERK

BFS/dmh

cc: Duke K. McCall, Jr., Esquire
Florence P. Belser, Esquire
Nanette S. Edwards, Esquire

WILLOUGHBY & HOEFER, P.A.

ATTORNEYS & COUNSELORS AT LAW

930 RICHLAND STREET

P.O. BOX 8416

COLUMBIA, SOUTH CAROLINA 29202-8416

MITCHELL M. WILLOUGHBY
JOHN M.S. HOEFER
RANDOLPH R. LOWELL
TRACEY C. GREEN
BENJAMIN P. MUSTIAN
ELIZABETH ZECK*
ELIZABETHANN LOADHOLT FELDER
ANDREW J. MACLEOD
CHAD N. JOHNSTON
JOHN W. ROBERTS

AREA CODE 803
TELEPHONE 252-3300
TELECOPIER 256-8062

*ALSO ADMITTED IN TX

October 11, 2011

The Honorable Daniel E. Shearouse
Clerk
The Supreme Court of South Carolina
Post Office Box 11330
Columbia, South Carolina 29211

RECEIVED

OCT 18 2011

S.C. SUPREME COURT

RE: *United Utility Companies, Inc. v. The South Carolina Office of
Regulatory Staff and North Greenville University;*
S.C. Public Service Commission Docket No. 2009-479-WS

Dear Mr. Shearouse:

On behalf of appellant United Utility Companies, Inc. ("UUC"), and pursuant to the instructions set out in the Court's order of August 11, 2011, holding the above-referenced appeal in abeyance for sixty (60) days, I am writing to you to apprise the Court of the status of the matter.

As of this writing, UUC and respondent North Greenville University ("NGU") have not been able to finalize the terms of a settlement as between these parties in the appeal. Significant progress has been made in this regard, however, and it is my belief that the matter may be capable of settlement as between these two parties if additional time can be allotted for that purpose. If UUC and NGU are able to reach a settlement, they will jointly submit it to the respondent Office of Regulatory Staff ("ORS") for its consideration. Given that UUC and NGU have not yet reached a settlement, however, nothing has been submitted to ORS for its consideration at this time.

In light of the foregoing, I would request that the Court continue to hold this matter in abeyance until December 12, 2011, to permit the parties additional time within which to complete settlement discussions. If no settlement has been reached by that time I would ask that UUC be given until December 19, 2011, within which to file its initial brief and designation of matter.

(Continued . . .)

I have been authorized by counsel for the respondents, South Carolina Office of Regulatory Staff and North Greenville University, to state that they concur with this request.

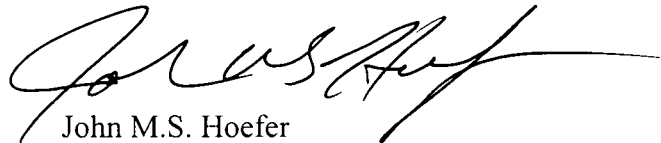
Please find enclosed our check in the amount of \$25.00 as payment of the filing fee associated with this request. I would appreciate it if you would acknowledge your receipt of this request by file-stamping the extra copy of this letter enclosed and returning it to me in the envelope provided.

By copy of this letter, I am making counsel for both respondents aware of the submission of this request.

If you have any questions, or require additional information, please do not hesitate to contact me. With best regards, I am,

Respectfully,

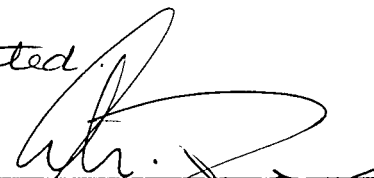
WILLOUGHBY & HOEFER, P.A.



John M.S. Hoefer

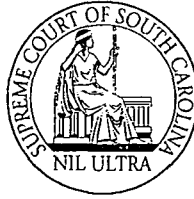
JMSH/ccm
Enclosure

cc: Florence P. Belser, Esquire
Duke K. McCall, Esquire
(via electronic mail and U.S. Mail)

Granted

For the Court *A.C.J.*

Chief Justice Jean H. Toal, not participating

October 14, 2011



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

August 11, 2011

Mitchell Willoughby, Esquire
John M. S. Hoefer, Esquire
Benjamin P. Mustian, Esquire
Willoughby & Hoefer, PA
P. O. Box 8416
Columbia, SC 29202

Re: United Utility v. SC Regulatory Staff

Dear Counsel:

The following Order has been endorsed on your Request to Hold the Appeal in this matter in abeyance for a period of sixty (60) days to permit the parties to continue having settlement discussions.

“Granted.

s/ Costa M. Pleicones A.C.J.
For the Court

Toal, C.J., not participating

August 11, 2011.”

Please be advised you should notify this Court of the status of this matter within sixty (60) days of the date of this letter.

United Utility v. SC Regulatory Staff
Page Two
August 11, 2011

Very truly yours,

Daniel E. Shearouse
SS

CLERK

DES/dmh

cc: Duke K. McCall, Jr., Esquire
William H. Jordan, Esquire
Florence P. Belser, Esquire
Nanette S. Edwards, Esquire

WILLOUGHBY & HOEFER, P.A.

ATTORNEYS & COUNSELORS AT LAW

930 RICHLAND STREET

P.O. BOX 8416

COLUMBIA, SOUTH CAROLINA 29202-8416

MITCHELL M. WILLOUGHBY
JOHN M.S. HOEFER
RANDOLPH R. LOWELL
TRACEY C. GREEN
BENJAMIN P. MUSTIAN
ELIZABETH ZECK*
MICHAEL R. BURCHSTEAD
ANDREW J. MACLEOD
CHAD N. JOHNSTON

AREA CODE 803
TELEPHONE 252-3300
TELECOPIER 256-8062

*ALSO ADMITTED IN TX

August 8, 2011

RECEIVED

AUG - 8 2011

S.C. Supreme Court

VIA HAND DELIVERY

The Honorable Daniel E. Shearouse
Clerk of Court

The South Carolina Supreme Court
1231 Gervais Street
Columbia, South Carolina 29201

RE: *United Utility Companies, Inc. v. The South Carolina Office of
Regulatory Staff and North Greenville University;*
S.C. Public Service Commission Docket No. 2009-479-WS

Dear Mr. Shearouse:

On behalf of appellant United Utility Companies, Inc. ("UUC") and pursuant to Rule 263(b), SCACR, I hereby request that the above-referenced appeal be held in abeyance for a period of sixty (60) days to permit the parties to continue having settlement discussions.

This request would cover the period beginning with the current due date for UUC's initial brief and designation of matter, which is August 19, 2011. According to my calculations, if the Court grants this request, UUC's initial brief and designation would therefore be due on October 18, 2011 unless the matter can be settled.

I have been authorized by counsel for the respondents, South Carolina Office of Regulatory Staff and North Greenville University, to state that they concur with this request.

Please find enclosed our check in the amount of \$25.00 as payment of the filing fee associated with this request. I would appreciate it if you would acknowledge your receipt of this request by file-stamping the extra copy of this letter enclosed and returning it to me via our courier.

(Continued . . .)

The Honorable Daniel E. Shearouse

August 8, 2011

Page 2

By copy of this letter, I am making Counsel for both respondents aware of the submission of this request.

If you have any questions, or require additional information, please do not hesitate to contact me. With best regards, I am,

Respectfully,

WILLOUGHBY & HOEFER, P.A.



John M.S. Hoefer

JMSH/ct
Enclosure

cc: Florence P. Belser, Esquire
Duke K. McCall, Esquire
(via electronic mail and U.S. Mail)

GRANTED



A.C.J.
FOR THE COURT

TOTAL, C.J., NOT PARTICIPATING.

August 11, 2011

The Supreme Court of South Carolina

United Utility Companies, Inc., Appellant,

v.

The South Carolina Office of
Regulatory Staff and North
Greenville University, Respondents.

Appeal from South Carolina Public Service Commission
Docket Number 2009-479-WS

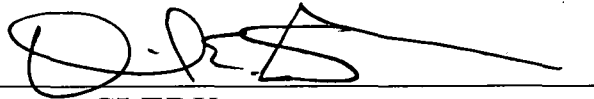
ORDER

The request for an extension of time to serve and file the Initial Brief of Appellant and Designation of Matter is extended until August 19, 2011.

IT IS SO ORDERED.

COSTA M. PLEICONES,
ACTING CHIEF JUSTICE

BY



CLERK

Columbia, South Carolina

July 7, 2011

cc: Mitchell Willoughby, Esquire
John M. S. Hoefer, Esquire
Benjamin P. Mustian, Esquire
Duke K. McCall, Jr., Esquire
William H. Jordan, Esquire
Florence P. Belser, Esquire
Nanette S. Edwards, Esquire

WILLOUGHBY & HOEFER, P.A.

ATTORNEYS & COUNSELORS AT LAW

930 RICHLAND STREET

P.O. BOX 8416

COLUMBIA, SOUTH CAROLINA 29202-8416

MITCHELL M. WILLOUGHBY
JOHN M.S. HOEFER
RANDOLPH R. LOWELL
TRACEY C. GREEN
BENJAMIN P. MUSTIAN
ELIZABETH ZECK*
MICHAEL R. BURCHSTEAD
ANDREW J. MACLEOD
CHAD N. JOHNSTON

AREA CODE 803
TELEPHONE 252-3300
TELECOPIER 256-8062

*ALSO ADMITTED IN TX

July 6, 2011

RECEIVED

JUL - 6 2011

VIA HAND DELIVERY

The Honorable Daniel E. Shearouse

Clerk of Court

The South Carolina Supreme Court

1231 Gervais Street

Columbia, South Carolina 29201

S.C. Supreme Court

RE: *United Utility Companies, Inc. v. The South Carolina Office of
Regulatory Staff and North Greenville University;*
S.C. Public Service Commission Docket No. 2009-479-WS

Dear Mr. Shearouse:

On behalf of appellant United Utility Companies, Inc. ("UUC") and pursuant to Rule 263(b), SCACR, I hereby request an extension of time for an additional thirty (30) days within which UUC may file its initial brief of appellant and designation of matter. According to my calculations, if the Court grants this request, UUC will have until August 19, 2011, to file its initial brief and designation.

Please find enclosed our check in the amount of \$25.00 as payment of the filing fee associated with this request. I would appreciate it if you would acknowledge your receipt of this request by file-stamping the extra copy of this letter enclosed and returning it to me via our courier.

Counsel presents this request because of continuing work schedule conflicts coinciding with the current due date. By copy of this letter, I am making Counsel for both respondents aware of the submission of this request.

(Continued . . .)

The Honorable Daniel E. Shearouse
July 6, 2011
Page 2

If you have any questions, or require additional information, please do not hesitate to contact me. With best regards, I am,

Respectfully,

WILLOUGHBY & HOEFER, P.A.



John M.S. Hoefer

JMSH/ct
Enclosure

cc: Florence P. Belser, Esquire
Duke K. McCall, Esquire



The Supreme Court of South Carolina

United Utility Companies, Inc., Appellant,

v.

The South Carolina Office of
Regulatory Staff and North
Greenville University, Respondents.

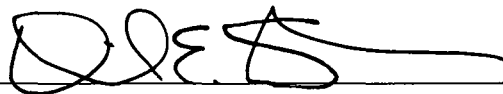
ORDER

For good cause having been shown, the time for serving and filing the Initial Brief of Appellant and Designation of Matter in the above entitled matter is hereby extended until July 20, 2011.

IT IS SO ORDERED.

COSTA M. PLEICONES,
ACTING CHIEF JUSTICE

BY



CLERK

Columbia, South Carolina

June 10, 2011

cc: Mitchell Willoughby, Esquire
John M. S. Hoefer, Esquire
Benjamin P. Mustian, Esquire
Duke K. McCall, Jr., Esquire
William H. Jordan, Esquire
Florence P. Belser, Esquire
Nanette S. Edwards, Esquire

WILLOUGHBY & HOEFER, P.A.

ATTORNEYS & COUNSELORS AT LAW

930 RICHLAND STREET

P.O. BOX 8416

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RANDOLPH R. LOWELL
ELIZABETH ZECK*
BENJAMIN P. MUSTIAN
MICHAEL R. BURCHSTEAD
ANDREW J. MACLEOD
CHAD N. JOHNSTON

June 9, 2011

AREA CODE 803
TELEPHONE 252-3300
TELECOPIER 256-8062

TRACEY C. GREEN
SPECIAL COUNSEL

*ALSO ADMITTED IN TX

VIA HAND DELIVERY

The Honorable Daniel E. Shearouse
Clerk, Supreme Court of South Carolina
1231 Gervais Street
Columbia, South Carolina 29201

RECEIVED

JUN - 9 2011

S.C. Supreme Court

RE: *United Utility Companies, Inc. v. South Carolina Office of
Regulatory Staff and North Greenville University; S.C. Public
Service Commission Docket No. 2009-479-WS*

Dear Mr. Shearouse:

On behalf of appellant United Utility Companies, Inc. ("UUC") and pursuant to Rule 263(b), SCACR, I hereby request an extension of time for an additional thirty (30) days within which UUC may file its initial brief of appellant and designation of matter. According to my calculations, if the Court grants this request, UUC will have until July 20, 2011, to file its initial brief and designation.

Please find enclosed our check in the amount of \$25.00 as payment of the filing fee associated with this request. I would appreciate it if you would acknowledge your receipt of this request by file-stamping the extra copy of this letter enclosed and returning it to me via our courier.

Counsel presents this request because of continuing work schedule conflicts coinciding with the current due date. Counsel for the respondents South Carolina Office of Regulatory Staff and North Greenville University have advised that they do not oppose this requested extension and by copy of this letter, I am making them aware of the submission of same.

(Continued...)

The Honorable Daniel E. Shearouse

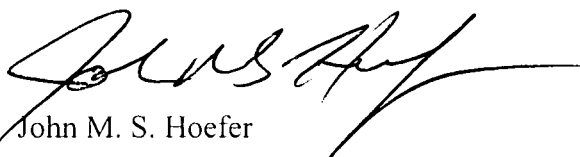
June 9, 2011

Page 2

If you have any questions, or need additional information, please do not hesitate to contact me. With best regards, I am

Sincerely,

WILLOUGHBY & HOEFER, P.A.



John M. S. Hoefer

JMSH/cm

Enclosure

cc: Florence P. Belser, Esquire
Duke K. McCall, Jr., Esquire

WILLOUGHBY & HOEFER, P.A.

ATTORNEYS & COUNSELORS AT LAW

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*ALSO ADMITTED IN TX

May 23, 2011

VIA FIRST CLASS MAIL

The Honorable Daniel E. Shearouse
Clerk of Court

The South Carolina Supreme Court

Post Office Box 11330
Columbia, South Carolina 29211

RE: United Utility Companies, Inc. Appellant; v. The South Carolina Office of
Regulatory Staff and North Greenville University, Respondents;
S.C. Public Service Commission Docket No. 2009-479-WS

Dear Mr. Shearouse:

This letter is to notify you that on May 20, 2011, this office received the transcript ordered in connection with the above referenced case. Pursuant to court rules, we understand that initial briefs and the Designation of Matter shall be due on June 20, 2011.

I would appreciate your acknowledging receipt of this notice by file stamping the enclosed extra copy and returning it to me in the enclosed self-addressed envelope. If you have any questions, or require additional information, please do not hesitate to contact me. With best regards, I am,

Respectfully,

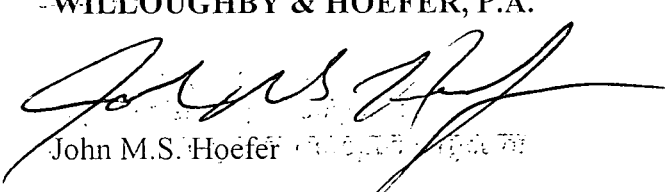
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MAY 24 2011

S.C. SUPREME COURT

JMSH/ct
Enclosure

-WILLOUGHBY & HOEFER, P.A.


John M.S. Hoefer

The Honorable Daniel E. Shearouse

May 23, 2011

Page 2

cc: Honorable Jocelyn G. Boyd
Florence P. Belser, Esquire
Nanette S. Edwards, Esquire
Duke K. McCall, Esquire
(all via first-class mail with enclosures)

WILLOUGHBY & HOEFER, P.A.

ATTORNEYS & COUNSELORS AT LAW

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*ALSO ADMITTED IN TX

April 18, 2011

RECEIVED

APR 20 2011

S.C. Supreme Court

VIA FIRST CLASS MAIL

The Honorable Daniel E. Shearouse
Clerk of Court
The South Carolina Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211

RE: United Utility Companies, Inc. Appellant. v. The South Carolina Office of
Regulatory Staff and North Greenville University. Respondents:
S.C. Public Service Commission Docket No. 2009-479-WS

Dear Mr. Shearouse:

Enclosed, please find a copy of my letter on behalf of United Utility Companies, Inc. filed with the Public Service Commission of South Carolina requesting transcripts of proceedings held in the above referenced matter as required by Rule 207(b), SCACR. I have also provided a copy of the letter to counsel of record for the South Carolina Office of Regulatory Staff and North Greenville University and enclose a certificate of service to that effect.

I would appreciate your acknowledging receipt of these enclosures by file stamping the extra copy and returning it to me in the enclosed self-addressed envelope.

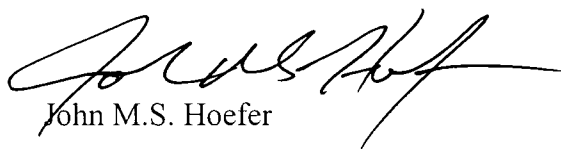
(Continued . . .)

The Honorable Daniel E. Shearouse
April 18, 2010
Page 2

If you have any questions, or require additional information, please do not hesitate to contact me. With best regards, I am,

Respectfully,

WILLOUGHBY & HOEFER, P.A.



John M.S. Hoefer

JMSH/ct
Enclosure

cc: Honorable Jocelyn G. Boyd
Florence P. Belser, Esquire
Nanette S. Edwards, Esquire
Duke K. McCall, Esquire
(all via first-class mail with enclosures)

WILLOUGHBY & HOEFER, P.A.

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*ALSO ADMITTED IN TX

April 18, 2011

RECEIVED

APR 20 2011

S.C. Supreme Court

VIA FIRST CLASS MAIL

The Honorable Jocelyn G. Boyd
Chief Clerk/Administrator

Public Service Commission of South Carolina

P. O. Box 11649

Columbia, South Carolina 29211

RE: United Utility Companies, Inc. Appellant. v. The South Carolina Office of
Regulatory Staff and North Greenville University. Respondents;
S.C. Public Service Commission Docket No. 2009-479-WS

Dear Ms. Boyd:

I am writing to you in reference to United Utility Companies, Inc.'s ("UUC") Notice of Appeal filed with the South Carolina Supreme Court for review of certain orders issued by the Public Service Commission of South Carolina ("Commission") in the above-referenced docket. In order to ensure compliance with Rule 207(b), SCACR, UUC herein submits its request for official copies of the transcripts for the following hearings held in Docket No. 2009-479-W/S:

February 23, 2010 – Public Hearing held in Simpsonville, South Carolina

February 25, 2010 – Public Hearing held in Piedmont, South Carolina

March 8, 2010 – Public Hearing held in Anderson, South Carolina

March 15, 2010 – Public Hearing held in Gaffney, South Carolina

UUC has previously requested and received official, electronic copies of the transcripts for the March 23 and 24, 2011, hearings and, therefore, does not include these documents in its request.

UUC will be happy to remit payment for the cost of producing these documents. By copy of this letter, I am notifying the South Carolina Office of Regulatory Staff, North Greenville University, the clerk of the Supreme Court, and the Commission's court reporter retained in these hearings of this request.

(Continued . . .)

The Honorable Jocelyn G. Loyd

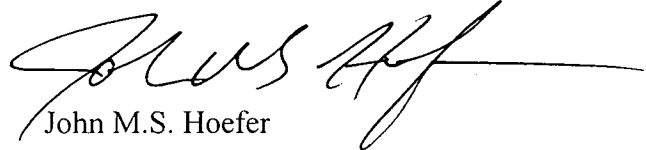
April 18, 2011

Page 2

If you have any questions, or require additional information, please do not hesitate to contact me. With best regards, I am,

Respectfully,

WILLOUGHBY & HOEFER, P.A.



John M.S. Hoefer

JMSH/ct

cc: The Honorable Daniel E. Shearouse
Jo Elizabeth M. Wheat
Florence P. Belser, Esquire
Nanette S. Edwards, Esquire
Duke K. McCall, Jr., Esquire
(all via first-class mail)

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

Docket No. 2009-479-W/S

United Utility Companies, Inc., ...Appellant,

v.

The South Carolina Office of Regulatory Staff and
North Greenville University, ... Respondents.

CERTIFICATE OF SERVICE

This is to certify that I have caused to be served this day one (1) copy of the **Appellant's Notice for Request of Transcripts** by placing same in the care and custody of the United States Postal Service with first class postage affixed thereto and addressed as follows:

Nanette S. Edwards, Esquire
Florence P. Belser, Esquire
Office of Regulatory Staff
1401 Main Street, Suite 900
Post Office Box 11263
Columbia, South Carolina 29211

RECEIVED

APR 20 2011

S.C. Supreme Court

Duke K. McCall, Jr., Esq.
William H. Jordan, Esq.
Smith Moore Leatherwood, LLP
Post Office Box 87
Greenville, South Carolina 29602-0087


Clark Teaster

Columbia, South Carolina
This 18th day of April, 2011.

RECEIVED

APR - 8 2011

THE STATE OF SOUTH CAROLINA
In The Supreme Court

S.C. Supreme Court

APPEAL FROM THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

Docket No. 2009-479-W/S

United Utility Companies, Inc., ...Appellant,

v.

The South Carolina Office of Regulatory Staff and
North Greenville University, ... Respondents.

NOTICE OF APPEAL

Appellant, United Utility Companies, Inc. ("UUC"), appeals the following orders of the Public Service Commission of South Carolina ("Commission") in its Docket No. 2009-479-W/S: Order No. 2010-375 dated May 17, 2010, and Order No. 2011-75 dated March 4, 2011. Copies of the Orders are attached hereto as Exhibits "A" and "B", respectively. UUC received written notice of entry of the order attached as Exhibit "B" on March 9, 2011.

[SIGNATURE PAGE FOLLOWS]



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Benjamin P. Mustian, Esq.
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Attorneys for Appellant
United Utility Companies, Inc.

Columbia, South Carolina
April 8, 2011

Other Counsel of Record:

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Attorneys for Respondent
South Carolina Office of Regulatory Staff

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Post Office Box 87
Greenville, South Carolina 29602-0087
864-242-6440

Attorneys for Respondent
North Greenville University

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2009-479-WS - ORDER NO. 2010-375

MAY 17, 2010

IN RE: Application of United Utility Companies,	)	ORDER RULING ON
Incorporated for Adjustment of Rates and	)	PROPOSED WATER AND
Charges and Modification to Certain Terms	)	WASTEWATER RATES
and Conditions for the Provision of Water	)	AND CHARGES
and Sewer Service	)	
	)	

I. INTRODUCTION

This matter comes before the Public Service Commission of South Carolina (the “Commission”) on the Application of United Utility Companies, Inc. (“UUCI” or “the Company”) for an increase in rates and charges for the provision of water and sewer services and modifications to certain terms and conditions for the provision of water and sewer service, which was filed November 17, 2009. UUCI is a National Association of Regulatory Utility Commissioners (“NARUC”) Class C water and a Class B wastewater utility. UUCI’s service area includes portions of Anderson, Cherokee, Greenville, Greenwood, Spartanburg, and Union counties. UUCI provides water supply and distribution services to 97 single-family equivalent units. Per the Company’s application, wastewater collection and treatment services are provided to 1,657 residential and commercial customers.

The Application was filed pursuant to S.C. Code Ann. § 58-5-240 (Supp. 2009) and 26 S.C. Code Ann. Regs. 103-512.4.A and 103-712.4.A (1976, as amended). By

letter dated November 24, 2009, the Commission's Clerk's Office instructed UUCI to publish a prepared Notice of Filing, one time, in newspapers of general circulation in the area affected by UUCI's Application. The Notice of Filing described the nature of the Application and advised all interested persons desiring to participate in the scheduled proceedings of the manner and time in which to file appropriate pleadings for inclusion in the proceedings as a party of record. In the same letter, the Commission also instructed UUCI to notify directly, by U.S. Mail, each customer affected by the Application by mailing each customer a copy of the Notice of Filing. UUCI filed an Affidavit of Publication demonstrating that the Notice of Filing had been duly published and provided a letter certifying that it complied with the instructions of the Commission's Clerk's Office to mail a copy of the Notice of Filing to all customers.

North Greenville University ("NGU" or "Intervenor") timely filed a Petition to Intervene in this matter. Ms. Janet P. Marks of 358 Fairwood Blvd., Union, SC 29379, intervened *pro se*, but later at the hearing held on March 23, 2010, decided to withdraw her intervention. (Tr. 5 at 300). Pursuant to S.C. Code Ann. § 58-4-10(B)(Supp. 2009), the South Carolina Office of Regulatory Staff ("ORS") is a party of record in this proceeding.

The Commission appointed B. Randall Dong, Esquire, as Hearing Officer in Order No. 2010-123 to dispose of procedural and evidentiary matters. The Company filed a Motion to Strike portions of NGU's Petition to Intervene on January 25, 2010. In his ruling dated March 4, 2010, Hearing Officer Dong granted the motion to strike paragraphs 5, 7, and 8, as the contract-based allegations are barred by *res judicata*, and

DOCKET NO. 2009-479-WS – ORDER NO. 2010-375
MAY 17, 2010
PAGE 3

NGU has expressly abandoned any effort to seek relief on the basis of any arguments it may have with regard to the terms of its contract with the Company. The Company filed a Motion to Strike portions of Dr. James Epting's testimony on March 3, 2010, on the basis that they also constitute an effort by NGU to re-litigate previously rejected contract-based claims. Hearing Officer Dong ruled that in light of NGU's express disclaimer of any re-litigation of the prior contract-based claims, it was unnecessary to strike any portion of Dr. Epting's pre-filed testimony at the time.

The Commission held four local public hearings in this matter at the request of the customers of UUCI. The Commission issued Order Nos. 2010-32, 2010-80, 2010-118 and 2010-180 granting requests for local public hearings and ordered the Commission Staff to set public hearings in Greenville¹, Piedmont, Gaffney, and Anderson, South Carolina. Under these Orders, public hearings were set and noticed by the Commission, and the Company provided affidavits certifying that it had provided notice to its customers via U.S. Mail of the date, time, and location of the local public hearings. The Commission received public comment from customers of the Company at these four public hearings.

At each local public hearing, the Company requested a continuing objection to the admission of any customer testimony consisting of unsubstantiated complaints regarding customer service, quality of service, or customer relations issues. Counsel for UUCI argued against receipt and reliance upon testimony that is not substantiated by data or scientific criteria. The Company cited Patton v. Public Service Commission, 280 S.C.

¹ The hearing for Greenville, South Carolina was held in Simpsonville, South Carolina at Hillcrest High School.

288, 312 S.E.2d 257 (1984), the order of the Court of Common Pleas in Tega Cay Water Service, Inc. v. S.C.P.S.C., C/A No. 97-CP-40-0923, September 25, 1998, and the Commission's Order No. 1999-191, Docket No. 96-137-WS, dated March 16, 1999, in support of its objection. ORS and NGU opposed the Company's objection on the basis that the purpose of the local public hearings is to obtain information from the customers as to the quality of service being rendered and to identify any issues of concern that are related to the instant Application. ORS requested that the Commission require the Company to identify the speaker and the portion of the customer testimony in the hearing transcript that is subject to the Company's continuing objection as well as the basis for the Company's objection. The Commission did not issue a ruling on the continuing objection during the local public hearings but, as requested by the Company, withheld its ruling. On April 8, 2010, the Company filed a letter objecting to the admission of certain portions of the testimony of witnesses Conover, Wyatt, Stamoulis, Bailey, Kassab, Odom, Kindig, and Marion and to the admission of Exhibits 2(A)-2(I), 4(A), 4(B), 5, and 11.

Between the filing of the Company's Application and the date of the hearing, ORS made on-site investigations of UUCI's facilities, examined UUCI's books and records, and gathered detailed information concerning UUCI's operations.

On March 23, 2010, and March 24, 2010, a hearing concerning the matters asserted in UUCI's Application was held in the Commission's hearing room located at Synergy Business Park, 101 Executive Center Drive, Saluda Building, Columbia, SC. The Commission, with Chairman Fleming presiding, heard the matter of UUCI's

Application. John M. S. Hoefer, Esquire, and Benjamin P. Mustian, Esquire, represented UUCI. Nanette S. Edwards, Esquire, represented the Office of Regulatory Staff. Duke K. McCall Jr., Esquire, and William H. Jordan, Esquire, represented NGU. David Butler, Esquire, served as legal counsel to the Commission.

At the outset of the hearing, the Commission heard testimony from public witnesses. A total of five public witnesses testified at the hearing. UUCI presented the testimony of Pauline M. Ahern (Principal of AUS Consultants), Bruce T. Haas (Regional Director of Operations for United Utility Companies, Inc.), Lena Georgiev (Manager of Regulatory Affairs at Utilities, Inc.²), John D. Williams (Director of Governmental Affairs of Utilities, Inc.), and Steven M. Lubertozzi (Director of Regulatory Accounting at Utilities, Inc.). Additionally, the Company presented Ms. Karen Sasic (Manager of Customer Service) as a rebuttal witness to the testimony the Commission received from customers of UUCI.

NGU presented the direct and surrebuttal testimony of Dr. James Epting (President, North Greenville University).

ORS presented the testimony of Dr. Douglas H. Carlisle regarding his opinion concerning a fair rate of return on equity (“ROE”) of UUCI and the direct and surrebuttal testimony of Christina A. Stutz and Willie J. Morgan. Ms. Stutz testified concerning ORS’s examinations of the Application and UUCI’s books and records, as well as the subsequent accounting and pro forma adjustments recommended by ORS. Mr. Morgan’s direct and surrebuttal testimony focused on UUCI’s compliance with Commission rules

² UUCI is a subsidiary of Utilities, Inc.

and regulations, ORS's business audit of UUCI's water and wastewater systems, test-year and proposed revenue, and performance bond requirements.

II. UUCI OBJECTION TO CUSTOMER TESTIMONY

The Commission heard from the public at four local public hearings. At the first public hearing on February 23, 2010, UUCI raised an objection to the Commission receiving and relying upon customer testimony, documents, and related exhibits "consisting of unsubstantiated complaints regarding customer service, quality of service, or customer relation issues." The Company renewed this objection at the hearings on February 25, 2010, March 2, 2010, and March 8, 2010. (Tr. 1 at 8-9; Tr. 2 at 112-113; Tr. 3 at 215-216; and Tr. 4 at 238-239). As the basis for its objection, UUCI claims such testimony is not substantiated by data or scientific criteria as required by law and cannot be admitted and relied upon. In support of these arguments, UUCI cites Patton v. Public Service Commission, 280 S.C. 288, 312 S.E.2d 257 (1984), the Order in the Court of Common Pleas in Tega Cay Water Service v. S.C.P.S.C., C/A No. 97-CP-40-0923 (September 25, 1998), and the Commission's Order No. 1999-191 in Application of Tega Cay Water Service, Inc., Docket No. 96-137-WS.

However, these cases do not support UUCI's general argument that the Commission has denied the Company due process, nor do the cases stand for the proposition that the Commission's complaint process was unlawfully circumvented when the Commission heard public testimony regarding customer service complaints. The Company's objection is overruled. The Company had the opportunity to file responses to its customers' testimony, and it did so. UUCI Letter (April 8, 2010); see also Haas Direct

Testimony. (Tr. 5 at 467; Tr. 6 at 822; Tr. 6 at 758). In addition, the Company had the opportunity to cross-examine witnesses and took advantage of that opportunity. (Tr. 1 at 21, 42, 52, 77, 85, 95, 51, 65, 76; Tr. 2 at 128, 136, 158; Tr. 3 at 220, 225, 227; Tr. 4 at 248, 251, 280).

The Commission ordered evening public hearings held in this case to provide a forum at a time and place convenient for customers to address matters related to the Company's Application for a rate increase. Nothing in the Commission's statutory authority or regulations indicates that the customer complaint-filing process is the exclusive vehicle for raising issues regarding a company's quality of service. See 26 S.C. Code Ann. Regs. 103-824 (Supp. 2009).

ORS asserted that the challenged customer testimony is admissible for the purposes of the local public hearings. (Tr. 1 at 9-10; Tr. 2 at 112-113; Tr. 3 at 216-217; Tr. 4 at 240). ORS also argues that the cases cited by UUCI fail to support its grounds for objection. Id. In addition, ORS requested that UUCI submit letters to the Commission specifying objectionable opinions of public testimony and the specific reasons for its opposition.

The Commission holds that public testimony and exhibits may be admitted into the record of these proceedings. The cases cited by UUCI merely stand for the principle that, while customer service is a factor to be considered in determining a reasonable rate of return in a rate proceeding, a reduction in rates based on poor quality of service must be supported by substantial evidence in the record, must not be confiscatory, and must remain within a fair and reasonable range. Patton, 280 S.C. at 293, 312 S.E.2d at 260

("the Commission must be allowed the discretion of imposing reasonable requirements on its jurisdictional utilities to insure that adequate and proper service will be rendered to the customers of the utility companies.")

III. JURISDICTION

By statute, the Commission is vested with jurisdiction to supervise and regulate the rates and service of every public utility in this State, together with the duty, after hearing, to ascertain and fix such just and reasonable standards, classifications, regulations, practices, and measurements of service to be furnished, imposed, observed and followed by every public utility in this State. S.C. Code Ann. § 58-5-210 (1976). S.C. Code Ann. §58-5-290 (1976) vests the Commission with the authority to change the rates of a "public utility" whenever the Commission finds, after hearing, that such rates are "unjust, unreasonable, noncompensatory, inadequate, discriminatory, or preferential or in any wise in violation of any provision of law." A public utility is defined by S.C. Code Ann. §58-5-10(4) (Supp. 2009) as including "every corporation and person furnishing or supplying in any manner heat (other than by means of electricity), water, sewerage collection, sewerage disposal and street railway service, or any of them, to the public, or any portion thereof, for compensation." Section 58-5-290 also provides that when the Commission determines that a utility's rates are unlawful, the Commission shall determine and fix by order the "just and reasonable" rates to be thereafter charged by the public utility. The Commission finds and concludes in this proceeding that the Company is a public utility under the provisions of S.C. Code Ann. §58-5-10(4) (Supp. 2009).

IV. RATEMAKING METHODOLOGY

Under the guidelines established in the decisions of Bluefield Water Works and Improving Co. v. Public Service Commission of West Virginia, 262 U.S. 679 (1923), and Federal Power Commission v. Hope Natural Gas Co., 320 U.S. 591 (1944), this Commission does not ensure through regulation that a utility will produce net revenues. As the United States Supreme Court noted in Hope Natural Gas, the utility "has no constitutional rights to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures." However, employing fair and enlightened judgment and giving consideration to all relevant facts, the Commission should establish rates which will produce revenues "sufficient to assure confidence in the financial soundness of the utility and . . . that are adequate under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties." Bluefield, 262 U.S. at 692-693.

Neither §58-5-290 nor any other statute prescribes a particular method to be utilized by the Commission to determine the lawfulness of the rates of a public utility. For ratemaking purposes, this Commission examines the relationships between expenses, revenues, and investment in a historic test period because such examination provides a constant and reliable factor upon which calculations can be made to formulate the basis for determining just and reasonable rates. This method was recognized and approved by the Supreme Court for ratemaking purposes involving telephone companies in So. Bell Tel. & Tel. Co. v. Pub. Serv. Comm'n of S.C., 270 S.C. 590, 244 S.E.2d 278 (1978).

The historic test period generally utilized is the most recent twelve-month period for which reasonably complete financial data is available and is referred to as the "test year" period. In this proceeding, the Commission concludes that the appropriate test year period is the twelve month period ending December 31, 2008. The test year is contained in the Application of UUCI as well as the testimony and exhibits of the parties' witnesses in this case.

The establishment of a test year is a fundamental principle of the ratemaking process. Heater of Seabrook v. Pub. Serv. Comm'n of S.C., 324 S.C. 56, 478 S.E. 2d 826 (1996). The establishment of a test year is used to calculate what a utility's expenses and revenues are for the purposes of determining the reasonableness of a rate. The test year is established to provide a basis for making the most accurate forecast of the utility's rate base, revenues, and expenses in the near future when the prescribed rates are in effect. Porter v. Pub. Serv. Comm'n of S.C., 328 S.C. 222, 493 S.E.2d 92 (1997). It also provides the Commission with a basis for estimating future revenue requirements.

This Commission allows certain accounting and pro forma adjustments to be made to the actual test year figures. Adjustments are made for: (1) items occurring in the test year that are not subject to recur in the future; (2) items of an extraordinary nature whose effects must be annualized or normalized to reflect properly their impact; and (3) other items which should be included or excluded for ratemaking purposes. Adjustments are also made for "known and measurable changes" in expenses, revenues and investments occurring after the test year. So. Bell Tel. & Tel. Co., 270 S.C. at 602, 244 S.E.2d at 284.

In order to establish just and reasonable rates the Commission must be able to properly determine the revenue requirements of the Company. The three fundamental criteria of a sound rate structure have been characterized as follows:

...(a) the revenue-requirement or financial need objective, which takes the form of a fair return standard with respect to private utility companies; (b) the fair-cost apportionment objective which invokes the principle that the burden of meeting total revenue requirements must be distributed fairly among the beneficiaries of the service; and (c) the optimum-use or consumer rationing objective, under which the rates are designed to discourage the wasteful use of public utility services while promoting all use that is economically justified in view of the relationships between costs incurred and benefits received.

Bonbright, Principles of Public Utility Rates (1961), p. 292.

In considering UUCI's Application, the Commission must consider competing interests - the interests of the customers of the system to receive quality service and a quality product at a fair rate as well as the interest of the Company to have the opportunity to earn a fair rate of return. The Commission must give due consideration to UUCI's total revenue requirements, if determinable, comprised of both the opportunity to earn a fair return on equity as well as recover allowable operating costs. To accomplish this, the Commission must review evidence admitted into the record regarding the operating revenues and operating expenses of UUCI, in order to establish adequate and reasonable levels of revenues and expenses for the Company.

V. DISCUSSION OF THE EVIDENCE RECEIVED

A. Unbilled Sewer and Water Revenue

During the local public hearing in Piedmont, South Carolina and at the hearing held at the Commission's hearing room in Columbia, South Carolina, testimony was

received that the Company has unbilled sewer revenue. (Tr. 2 at 167-169). One customer stated that she had neighbors who did not receive a sewer bill for two years. Id. Mr. Metts testified at the hearing before the Commission on March 23, 2010, that he and two others approached the residents of Stonecreek subdivision to sign a petition for Spartanburg Water to provide service. (Tr. 5 at 314-315; 326-327; 330-331). He found neighbors who had not been billed for sewer service for three years. (Tr. 5 at 326). Initially he testified that this occurred in December 2007, but then recalled that he surveyed his neighbors in December 2008. (Tr. 5 at 354). Mr. Davis testified that he joined Mr. Metts in the canvassing of the neighborhoods, and that there were other individuals receiving service who were not billed. (Tr. 5 at 341-342).

Company witness Steven Lubertozi testified that the Company had completed a survey in response to the testimony of Mr. Metts and Mr. Davis. (Tr. 6 at 758). Mr. Lubertozi explained the results of the vacancy survey of the subdivisions Stonecreek, River Forest, and Canterbury, all within its service territory. For Stonecreek, out of 231 premises, 44 residents were receiving service but were not billed. For River Forest, out of 82 premises, 4 were receiving service but were not billed. For Canterbury, out of 151 premises, 3 were receiving service but were not billed. As a result of that survey of three subdivisions, the Company found 51 customers out of a total 464 billable customers who were receiving sewer service without being billed, which is roughly 11%. (Tr. 6 at 760-762). He testified that surveys of the entire UUCI system were being planned or begun,

but that they had not yet been completed.³ (Tr. 6 at 774). Company witness Sasic later testified that the Company last conducted a survey approximately nine (9) months before to identify customers who are not being billed. (Tr. 6 at 854). She also testified that, going forward, the Company would conduct a vacancy survey every month. (Tr. 6 at 854).

The testimony of the public and Company witnesses calls into question the frequency and accuracy of the Company's vacancy surveys. However, we do agree with Ms. Sasic that such surveys should be conducted every month in each subdivision.

In its Application, the Company sought an increase in sewer revenues of \$399,938. (Exhibit B, Page 4). However, based on the information from the recent vacancy survey conducted by the Company on the three subdivisions, if roughly 11% of the Company's 1,707 service units for sewer are not being billed, it would equate to roughly \$86,952 in annual sewer revenue. ORS witness Stutz testified that using ORS adjustments⁴ and Dr. Carlisle's recommended ROE of 10.06% resulted in a combined

³ "Q: Following on the line of testimony regarding the surveys on the unbilled revenue, have you performed any surveys of other subdivisions?

A: No, I have not. I believe that some of those are in the works, currently. They may have started, you know, a couple of weeks ago, and some of the other ones have started, but they're not complete to the fact where the three where we had testimony at the night hearings about this problem came up, those were the three that were focused on.

Q And then, of course, Stone Creek from, I guess, yesterday?

A Correct.

Q: Is it your plan to ultimately do a survey of all your --I guess, all your systems?

A: Yes. I mean, we would obviously, starting with UUC, we would survey all of the homes out there for vacant premises where customers potentially would be taking service." (Tr. 6 at 773-774).

⁴ With the exception of two adjustments involving uncollectibles and rate case expenses, UUCI witness Georgiev agreed with ORS's adjustments.

revenue increase of \$235,299. (Tr. 6 at 958-959). Unbilled revenue of approximately \$86,952 out of a combined revenue increase of \$235,299 is material to this case.

Additionally, Mr. Morgan testified that ORS made adjustments to reflect 299 current service connections associated with the NGU campus. (Exhibit WJM-4, Hearing Exhibit 37). Mr. Haas testified that NGU does not inform UUCI when additional facilities at its campus are connected to the collection lines at NGU. (Haas Rebuttal, Page 3; Tr. 5 at 453). Currently UUCI is billing NGU 249 Single Family Equivalents (“SFEs”).⁵ Nonetheless when asked as to whether an on-site survey had been completed after Mr. Morgan’s direct prefiled testimony was filed on March 8, 2010, Mr. Haas responded “no.” (Tr. 5 at 521). He acknowledged that ORS’s approach is technically correct and that the Company sought to include a modification to its tariff to reference DHEC Regulation 61-67, Appendix A. Specifically, the proposed tariff language is as follows:

A Single Family Equivalent (SFE) shall be determined by using the South Carolina Department of [Health and] Environmental Control Guidelines for Unit Contributory Loadings for Domestic Wastewater Facilities 25 S.C. Code Ann. Regs. 61-67 Appendix A (Supp. 2005), as may be amended from time to time. Where applicable, such guidelines shall be used for determination of the appropriate monthly service and tap fee.

App. Ex. A, Page 7.

Mr. Morgan explained that using the DHEC wastewater loading guidelines is appropriate to arrive at a capacity demand from these facilities and a determination of the appropriate number of SFEs. If the number of SFEs is too low, the result is that other

⁵ SFEs are a method of determining capacity demand for billing purposes.

ratepayers subsidize the system. Mr. Haas argued that a finite number of NGU students can occupy and use one facility at a time.⁶ (Haas Rebuttal, Pages 4-5; Tr.5 at 454-455). However, where a campus is open and not closed, as is the case here, facilities may be in use by persons other than students which is why it is appropriate and nondiscriminatory to establish the proper number of SFEs based upon capacity demand. (Tr. 6 at 999).

Dr. Epting, President of NGU, testified that NGU made a commitment to UUCI to let the Company know if another facility was added to the campus. (Dr. Epting Surrebuttal, Page 1; Tr. 6 at 886). He also testified that the proposed increase to NGU would be detrimental to the operations of the university. (Tr. 6 at 878).

Given the testimony of the Company, Mr. Morgan on behalf of ORS, and the public witnesses, in particular, Mr. Metts, we find that the Company has failed to identify and bill customers who are using sewer and collection services. We note that the issue of unbilled sewer revenues was first raised at the Piedmont night hearing held on February 25, 2010. Mr. Metts testified at the hearing held at our offices on March 23, 2010, raising the same issue. On March 24, 2010, the Company, through the testimony of Mr. Lubertozzi, provided the results of the survey of three subdivisions. (Tr. 6 at 760-762). The Company provides sewer and collection services to a total of 12 subdivisions. (Application Exhibit C, Page 2 of 2).

The Commission has no means of determining the appropriate revenue requirement for sewer services because it is unknown whether the billing determinants include those customers who are receiving service but are not being billed. We asked

⁶ We also note that the Company's proposed tariff states that a SFE shall be determined using the DHEC guidelines.

Mr. Lubertozi whether the revenue figures provided by the Company included the billing determinants for those unbilled customers. (Tr. 6 at 788). Mr. Lubertozi replied that a bill *could* have been sent to the address for the former occupant. (Tr. 6 at 788). *If* a bill had been sent, then UUCI would have booked and accrued the revenue even though it was not collected. (Tr. 6 at 817). Commissioner Wright inquired of Company witness Haas as to whether the unbilled sewer revenue would have an impact on the Company's decision to come in for a rate case:

If you're coming in for a rate increase because revenues are being squeezed for some reason, and you're not collecting what's out there, don't you think there's a real potential issue there, why there's concern about how much -- you know, how many people are out there, how much money's on the table out here that's not being collected?

(Tr. 5 at 563).

Haas responded that he understood why this would be an issue, but contended that the Company suffers for its failure to bill sewer revenue and not its customers. We disagree where, as is the case here, the Company has not been able to demonstrate that the billing determinants include those vacant homes that in actuality are occupied by customers using the system. Commissioner Wright went on to question Witness Haas as to whether the amount actually collected would have an impact on determining the future revenue requirement and therefore affect the level of rates necessary to generate that future revenue requirement.

...you're approved for a certain revenue requirement, a total number of dollars to make...so you are basing your coming in for a rate case on that number, not on what you're actually collecting.

(Tr. 5 at 565-566). The witness could not answer the question. (Tr. 5 at 566.)

Further, under questioning by Chairman Fleming, Company witness Lubertozzi admitted that not every home marked as vacant, but with occupancy, necessarily constituted a billing determinant included in the test year. The exchange was as follows:

Q: So, every one of those homes that are marked as vacant but have occupancy are receiving a bill of some kind?

A: I couldn't say every one. That was just an example of where the billing determinants could have been included in the test year.

(Vol. 6 at 788).

Because we do not know whether the revenue requirement sought by the Company includes the billing determinants for those premises where a customer is receiving service but not billed, we cannot determine the future revenue requirement and in turn, cannot set a just and reasonable rate for sewer service.

We also note that the Company was willing to accept ORS's revenue imputation of 299 SFEs for NGU, if ordered by this Commission, but was not willing to conduct a survey of NGU to determine the appropriate number of SFEs that should be billed, even while acknowledging that NGU had in the past failed to apprise the Company of added facilities. (Tr. 5 at 453-455). It is the responsibility of the Company to determine the proper number of SFEs.

This Commission cannot properly determine the future revenue requirements for sewer operations, and, therefore must deny the requested rate increase as to sewer operations.

Unfortunately, the appropriate revenue requirement for water services is also in doubt. Witnesses living in the Trollingwood subdivision in Pelzer testified to billing irregularities. One customer who utilizes both water and wastewater services provided

by the Company, Ruth Wyatt, testified and documented that she was billed thirteen (13) times in 2008 (which is the test year in this case), and that the water gallonage billed was inconsistent with actual usage.⁷ She was told by the Company that her meter had not been read between May and August of that year. (Tr. 1 at 29-35). Another customer, Elaine Odom, had normal water meter readings for two months, and then an excessive reading for a third month, again all in 2008. (Tr. 1 at 80-81). The evidence suggests that the Company is not reading water meters regularly, and, therefore, is not conducting the proper assessment of its water system to determine whether all water customers are being billed or billed correctly. Clearly, water billing by the Company is also irregular, and leads us to conclude that, in addition to being unable to determine future revenue requirements for sewer operations, we are also unable to determine future revenue requirements for water operations. Accordingly, we cannot determine the revenue requirement for the entire Company, and must therefore deny the requested rate increase.

Clearly, there are continuing problems with the Company's billing system. We hold and order that the Company shall investigate its customer billing procedures in both the water and wastewater areas, and shall take whatever steps are necessary to bill its customers on time and for proper usage. We trust that the Company will make every effort to put its billing procedures in order prior to submitting future rate applications.

B. Prorated Billing

It became clear during the hearing that the Company had issued prorated bills where the monthly billing was not within a window of 27 to 33 days. (Tr. 6 at 833-834).

⁷ Wyatt's bill was entered into evidence as Hearing Exhibit No. 1.

The Company's tariffs provide a monthly rate for water and sewer service. If the monthly bill is more than 33 days, however, the Company's billing system prorated the bill resulting in an overcharge to the customer. Company witness Sasic testified that on the next month's billing, the prorated charges should be reversed. (Tr. 6 at 834-835). However, Hearing Exhibit 33 shows twelve months' billing for Mr. Davis and that the Company did not reverse the prorated charges. (Tr. 6 at 836).

We find that the Company is not authorized to keep the prorated charges that exceed the monthly Commission approved rate for service and require the Company to refund those prorated amounts billed in 2008, 2009, and 2010 to the extent such charges were billed.⁸

C. Notification Fee

Commission Regulation 103-535.1 provides that the utility must give thirty days written notice to the customer, by certified mail with copies forwarded to DHEC and ORS, before any sewerage service may be discontinued. The Company's current rate schedule provides that the Company may impose a fee of \$4.00 to defray the clerical and mailing costs of such notices to the customers creating the cost. The Company argues that it has been authorized to impose this fee since at least 1983, and has not increased the current fee of \$4.00 since 1987. The Company seeks to increase the notification fee to \$24.00 because of the increase in postal rates. Mr. Williams testified that the cost of certified mail has increased from \$1.67 (\$0.22 postage + \$0.75 certified mail fee + \$0.70 return receipt fee) to \$5.54 (\$0.44 postage + \$2.80 certified mail fee + \$2.30 return

⁸ The Company submitted late-filed Hearing Exhibit No. 34, Part 2 and indicated that credits either were issued or will be issued to customers who were overcharged.

receipt fee) since 1987. Additionally, he states that the Company's administrative costs to process and provide this required notice is \$18. (Williams Direct Testimony, Page 7; Tr. 6 at 678).

ORS objected to the proposed \$24.00 rate and instead proposed \$6.00. ORS notes that the fee imposed by the U.S. Postal Service for Certified/Return Receipt mailings increased from \$3.74 in 2001 to \$5.54 in 2009. Any increased cost associated with administrative/clerical time incurred by UUCI to provide the required notices is already included in the cost of administrative/clerical time in its expenses under general expenses for salary and wages. Therefore, ORS recommended that the notification fee be \$6.00 for each of the required certified mailings and not \$24.00. (Morgan Direct Testimony, Page 11; Tr. 6 at 695). UUCI argued that to do so would in effect require other customers to subsidize the costs associated with sending out the notification and noted that another utility, Palmetto Utilities, Inc., has an approved rate of \$25.00. (Tr. 6 at 696; 706-707).

ORS witness Morgan testified that ORS is concerned UUCI is attempting to recover the same administrative and clerical costs twice with the increase in the customer notification fee. He noted that Mr. Williams did not demonstrate in his rebuttal testimony that the administrative and clerical costs associated with sending customer notices are above and beyond the administrative and clerical costs included in its rate increase request or that additional employees are needed or will be hired by UUCI to perform this function. (Morgan Surrebuttal Testimony, Page 6; Tr. 6 at 986).

We approve the rate of \$6.00 as a notification fee per notification letter that the Company is required to make in compliance with Commission Regulation 103-535.1. The \$18.00 administrative cost is unsubstantiated and appears inordinately high.

D. Modifications to Certain Terms and Conditions of Water and Sewer Service Tariffs

The Company proposed several modifications to the terms and conditions of its water and sewer service tariffs. The first modification is to the rate schedule provisions pertaining to service provided to rental units and is set out at page one (1) of the water schedule and page four (4) of the sewer schedule. The Legislature has enacted statutory provisions restricting the ability of any utility – whether governmental or investor owned – to require a landlord in a building with three or fewer rental units and served by a single meter or connection to be financially responsible for utility service provided to a tenant that is the utility's customer. The proposed modification is intended to bring the Company's rate schedule in line with the current law and to reflect that, where rental premises with single connections or meters have three or fewer tenants, the Company will not enter into customer relationships with tenants. No party objected to the proposed modification. We approve the proposed language modification.

The second proposed modification is to the water rate schedule and consists of a new section six (6) beginning on page two (2). Regulations promulgated by DHEC under the State Safe Drinking Water Act require the elimination of cross-connections to public water systems which have the potential for contaminating safe drinking water. Typically, a cross-connection consists of a separate water irrigation line, which may or may not be

metered. The DHEC regulations prohibit any person from installing, permitting to be installed, or maintaining a cross-connection, unless there is an approved backflow prevention device installed between the public water system and the potential source of contamination. DHEC regulations further require that certain backflow prevention devices be inspected annually by a DHEC certified tester. The modification to the Company's rate schedule provides notice to customers that any cross-connections must have an approved backflow prevention device, that customers are responsible for the annual inspection, and that customers must provide to the Company the report and results of inspection no later than June 30th annually. In the event that a customer does not comply with the requirement to perform annual inspections, after 30 days' written notice, the Company may disconnect water service.

ORS does not oppose the proposed language modification requiring water customers to conduct cross-connection testing pursuant to 24A S.C. Code Ann. Regs. 61-58.7.F (8). However, ORS witness Willie Morgan testified that this non-opposition is predicated upon the condition that the Company be required to provide customers a 30-day advance written notice of the recurring annual date by which the customers must have their backflow prevention device tested by a licensed, certified tester. Furthermore, the Company should be required to include a reference to the DHEC website and the Company's phone number on the notice to respond to customer inquiries. The Company objected to ORS's position that advance written notice to customers be provided. However, we approve the language modification subject to the conditions proposed by ORS. We find that the Company should provide customers a 30-day advance written

notice of the recurring annual date by which the customer must have their backflow prevention device tested by a licensed, certified tester, along with the Company's contact information.

The third modification is to specify that, for the purposes of determining tap fees and the appropriate monthly service fee, the Company will follow the pertinent DHEC regulations relating to SFEs. By following these guidelines, the Company is able to provide uniformity in the calculation of its charges. Additionally, the Company proposes to include language pertaining to the terms and conditions for extensions of its facilities for service. This language clarifies that potential customers who are willing to pay all costs associated with interconnecting with the Company and agree to receive service in accordance with the applicable guidelines and standards shall not be denied service unless sufficient capacity is not available on the Company's system or unless such service is restricted by DHEC or other governmental entity. Additionally, this language clarifies that the Company is not obligated to construct additional capacity which would be required to serve a customer in the absence of an agreement for the payment of costs. No party objected to the proposed language modification. We approve the proposed language modification to specify that the Company will follow pertinent DHEC regulations relating to SFEs for determining the appropriate monthly service and tap fee.

The Company submitted proposed language regarding electronic billing. Mr. Williams testified that electronic billing will provide customers with additional billing options which will allow for electronic billing and payment. Electronic billing would not be required of all customers, but would only be provided as a service if a customer

chooses and when it is within the capability of the Company. Mr. Williams testified that the customers would appreciate the opportunity to receive and pay their bills online and that they would benefit from the ease and convenience of maintaining their utility account online. ORS witness Willie Morgan testified that ORS is not opposed to the proposed addition of language offering an electronic bill to the customer. ORS's non-opposition is predicated upon the condition that the Company be required to provide customers a monthly electronic notice via email of the bill statement availability and the web address of its location. We approve the proposed language modification to allow the Company to offer its customers electronic billing, but require the Company to provide its customers a monthly electronic notice via email of the bill statement availability and the web address of its location. We note the Company did not object to this requirement.

E. Water Quality Concerns

At the local public hearing held in Simpsonville, South Carolina on February 23, 2010, several customers in the Trollingwood subdivision complained about water quality. Ms. Conover, Ms. Wyatt, and Ms. Odom, among others, testified that the water is not clear and in some cases has left a residue and ruined fixtures. (Tr. 1 at 14, 26-28, 29-33, 80-81). One customer, Mr. Stamoulis, testified that he had installed a reverse osmosis system (a reverse osmosis system is a filtering system attached to the home) and as a result did not experience the same problems described by his neighbors in the public hearing. (Tr. 1 at 60-62).

ORS Witness Willie Morgan testified that UUCI provides adequate water supply services and that safe drinking water standards are being met according to recent DHEC

sanitary survey reports. (Morgan Direct Testimony, Page 6; Tr. 6 at 969). Mr. Morgan recommended that UUCI increase system flushing to at least once per month. (Morgan Direct Testimony, Page 7; Tr. 6 at 970). Mr. Haas testified that the Company will increase flushing to once per month as recommended by ORS; however, he stated that because the groundwater which UUCI pumps from its wells serving the Trollingwood subdivision has a very high iron content, removal of all iron is not possible (Haas Rebuttal Testimony, Page 17; Tr. 5 at 467). He went on to state that while flushing may improve color, it will not eliminate the problem. Id. The Company also asserts that it has invested in several improvements to the Trollingwood water system, including upgrades to its filter system. (Haas Rebuttal Testimony, Page 17; Tr. 5 at 467).

Even though it is apparent that flushing alone may improve but not eliminate the problem of the iron content in the water in Trollingwood, it appears that the Company is at least recognizing that aesthetics of water are important to customers. In addition to upgrading the filter system, UUCI is volunteering to increase flushing of the lines in that subdivision to once per month. This response is a reasonable proposal, and shows that the Company is attempting to address the problem. We adopt the proposal and look forward to reviewing the Company's progress in the area of water aesthetics in future cases, recognizing that the aesthetic quality of the water impacts customer service.

VI. FINDINGS OF FACT AND CONCLUSIONS OF LAW

After thorough consideration of the entire record in the UUCI hearing, including the testimony and all exhibits, and the applicable law, the Commission makes the following findings of fact and conclusions of law:

1. UUCI is a corporation organized and existing under the laws of the State of South Carolina and authorized to do business in the State of South Carolina.

2. UUCI is a public utility as defined by S.C. Code Ann. §58-5-10(4) (Supp. 2009), providing water and sewer service to the public for compensation in certain areas of South Carolina and is subject to the jurisdiction of the Commission.

3. By statute, the Commission is vested with jurisdiction to supervise and regulate the rates and service of every public utility in this State, together with the duty, after hearing, to ascertain and fix such just and reasonable standards, classifications, regulations, practices and measurements of service to be furnished, imposed, observed and followed by every public utility in this State. S.C. Code Ann. § 58-5-210 (1976).

4. UUCI's current rates and charges for both water and sewer were approved by the Commission in Docket No. 2000-210-W/S in Order No. 2004-254, dated May 19, 2004.

5. The appropriate test year period for purposes of this proceeding is the twelve-month period ending December 31, 2008. No party contested the use of this test year as proposed by UUCI in its application.

6. In accordance with the Application filed in this case, the Commission will use the rate of return on rate base methodology in determining the reasonableness of UUCI's proposed rates. The Public Service Commission has wide latitude in determining an appropriate rate-setting methodology. Heater of Seabrook, 324 S.C. at 64, 478 S.E.2d at 830. No party has raised any objection to the use of the return on rate base methodology in this proceeding.

7. By its application, UUCI requested an increase in rates and charges for its combined operations to produce net operating income of \$431,016 (Exhibit B to Application), of which, \$37,109 is for water operations and \$393,907 is for sewer operations. By the use of accounting and pro forma adjustments, ORS computed Net Income for Return of the requested increase to be \$389,941 (total operating revenues of \$1,327,930 less operating expenses of \$940,796 and adding customer growth of \$2,807). Both UUCI and ORS calculations of the amount of the proposed increase were based on the Proposed Schedule of Rates and Charges contained in Exhibit A to the Company's Application.

8. Based on the testimony of Company witnesses Lubertozi, Haas and Sasic, ORS witness Mr. Morgan, and the public witnesses, the Commission is unable to determine a revenue requirement for sewer or for water operations. Without a revenue requirement, the Commission cannot establish just and reasonable rates for the Company's operations; therefore, the Commission grants no increase.

9. There are continuing problems with the Company's billing system. The Company shall investigate its customer billing procedures in both the water and wastewater areas and take whatever steps are necessary to bill its customers on time and for proper usage.

10. The appropriate rate of return on equity, rate of return on rate base, and operating margin for UUCI are 10%, 9.31%, and 8.34%, respectively, as decreed in Order No. 2004-254, dated May 19, 2004.

11. We direct the Company to refund those prorated charges billed to customers in 2008, 2009, and 2010, where the Company collected more than the Commission approved monthly service rates. The Company shall file a report within sixty (60) days of the date of this Order with the Commission and a copy to ORS detailing the credits or refunds that were issued to customers.

12. This Commission required UUCI to keep its books and records in accordance with the NARUC Uniform System of Accounts in Order No. 2002-214. The Company recently converted its books and records to a new accounting system. Ms. Stutz testified that the Company is not maintaining its books and records in accordance with the NARUC Uniform System of Accounts. (Stutz Direct and Surrebuttal, Pages 12 and 2; Tr. 6 at 947 and 952). The Company is directed to make any necessary adjustments to its accounting system to conform to the NARUC Uniform System of Accounts. If ORS and the Company disagree on whether the Company is conforming its accounting system to the NARUC Uniform System of Accounts, the two parties shall attempt to resolve their differences. ORS is requested to investigate the Company's compliance regarding the NARUC Uniform System of Accounts and report to this Commission with the results of the investigation within 120 days of the date of the issuance of this Order.

13. Section 58-5-720 (Supp. 2009) requires that UUCI maintain bonds for water and wastewater operations. ORS Witness Morgan testified that the face amount of UUCI's bond should be \$100,000 for water operations and \$350,000 for wastewater

operations. We find that UUCI's bond should be in the amount of \$100,000 for water operations and in the amount of \$350,000 for wastewater operations.

14. We adopt certain modifications to the terms and conditions of water and wastewater service. We accept the Company's proposed language regarding service provided to rental units; we accept the Company's proposed language that it will follow pertinent DHEC regulations relating to SFEs; and we accept the Company's proposed language as modified by ORS regarding cross-connections, however, with 30 days advance notice prior to the date for testing of the backflow prevention devices, as proposed by ORS; and we accept the Company's proposed language regarding electronic billing with ORS's condition that the Company provide customers a monthly electronic notice via email of the bill statement availability and the web address of its location.

15. We find that a notification fee of \$6.00 is reasonable due to the increased cost of postage.

IT IS THEREFORE ORDERED THAT:

1. UUCI is not entitled to rate relief for its sewer or water operations. As such, the Company shall continue to have an opportunity to earn a rate of return on equity, rate of return on rate base, and operating margin of 10%, 9.31%, and 8.34%, respectively, as decreed in Order No. 2004-254, dated May 19, 2004, and shall be entitled to continue to charge such rates as approved therein.

2. The Company shall investigate its customer billing procedures in both the water and wastewater areas and take whatever steps are necessary to bill its customers on time and for proper usage.

3. There is no increase to rates; however, the notification fee may be increased to \$6.00 per notice.

4. The Company shall continue to maintain current performance bonds in the amounts of \$100,000 for water operations and \$350,000 for wastewater operations pursuant to S.C. Code Ann. § 58-5-720 (Supp. 2009).

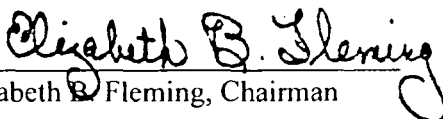
5. The Company's books and records shall be maintained according to the NARUC Uniform System of Accounts. The Company is directed to make any necessary adjustments to its accounting system to conform to the NARUC Uniform System of Accounts. If ORS and the Company disagree on whether the Company is conforming its accounting system to the NARUC Uniform System of Accounts, the two parties shall attempt to resolve their differences. ORS is requested to investigate the Company's compliance in this area and report its findings to this Commission within one hundred twenty (120) days of the date of this Order.

6. The Company shall refund those prorated charges billed to customers in 2008 2009, and 2010, where the Company collected more than the Commission approved monthly service rates. The Company shall file a report with the Commission and a copy to ORS detailing the credits or refunds issued to customers within sixty (60) days of the date of this Order.

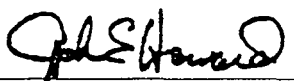
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7. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Elizabeth B. Fleming, Chairman

ATTEST:


John E. Howard, Vice Chairman

(SEAL)

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2009-479-WS - ORDER NO. 2011-75
MARCH 4, 2011

IN RE: Application of United Utility Companies,	)	ORDER DENYING
Incorporated for Adjustment of Rates and	)	REHEARING,
Charges and Modification to Certain Terms	)	RECONSIDERATION,
and Conditions for the Provision of Water	)	AND BOND
and Sewer Service	)	

This matter comes before the Public Service Commission of South Carolina ("Commission") on the Petition for Rehearing or Reconsideration and, Alternatively, Request for Approval of Bond ("Petition"), filed by United Utility Companies, Incorporated ("United" or "the Company"), pursuant to our issuance of Order No. 2010-375 ("Order") in this Docket. Responses to the Petition were filed by the Office of Regulatory Staff ("ORS"), and North Greenville University ("NGU"). Because of the reasoning as outlined below, we deny rehearing, reconsideration, and the request for approval of a bond.

At hearings prior to the issuance of Order No. 2010-375, the Commission was presented with credible evidence of unbilled water and sewer revenue which could have a material impact upon the future revenue requirement for the Company. Because the Commission determined that a significant and un-calculable amount of unbilled revenue rendered it unable to ascertain the Company's true revenue requirement, it denied the Company's rate request.

The Company now complains that the Commission violated its due process rights, alleging that the Commission did not put the Company on notice that the number of occupied but unbilled premises in its systems statewide would be at issue or that it would be required to provide this information on a statewide basis in order for the Commission to rule affirmatively on the Application.¹ (Petition at 3.) While United allows that it did have the opportunity to respond to the public witness testimony regarding three named subdivisions where a significant percentage of residents were receiving sewer service without being billed, it alleges that it was not afforded a similar opportunity to address any issues related to unbilled and served premises in all of the other subdivisions that it serves. (*Id.* at 3-4.) United asserts that it did not have an opportunity to conduct its own investigation to determine the number of its billable premises which were being occupied and receiving sewer service without United's knowledge, and to present that information to the Commission. (*Id.* at 4.)

The Company claims that the Order assumed that 11% of the Company's billable premises are occupied but not billed and that United would have therefore realized \$86,952 in additional test year revenue if those premises were billed.² (*Id.* at 2-3.) The

¹ As an initial matter, it is not the Commission's responsibility to tell a petitioner how to present its case. The Company is aware that a fundamental part of presenting a successful case to the Commission requires that it be able to determine the appropriate revenue requirement for the Company's services. Further, as discussed below and as the Order reflects, the Company was made specifically aware of the issue approximately one month prior to the merits hearing in Columbia, when a customer at the Piedmont night hearing (Ms. Nesbitt) testified that she was aware of residents of the Canterbury subdivision who were receiving service without being billed. (Order No. 2010-375 at 11-12; Tr. 2 at 167-169.) Also, two customers who testified at the beginning of the Columbia merits hearing in this case – Mr. Metts and Mr. Davis – called into question the number of unbilled and served premises in two subdivisions (River Forest and Stone Creek) in addition to Canterbury. (Order No. 2010-375 at 12; Tr. 5 at 326, 341-342.)

² As discussed in more detail *infra* p. 7, the \$86,952 calculation was merely illustrative, extrapolating out what impact an 11% unbilled percentage would have as indicated by the three subdivisions that had been surveyed.

Company alleges that it was not aware that it should tailor its testimony to that argument and was prejudiced by the lack of notice in this regard, claiming it had no ability to present evidence or cross-examine witnesses in the case. (Id. at 4-5.)

The Company's arguments on the due process issues are unavailing. (See Order No. 2010-375 at 12-17.) The issue of unbilled sewer revenue was first raised at the Piedmont night hearing by Ms. Nesbitt, held on February 25, 2010, almost four weeks prior to the Commission's "merits" hearing in Columbia on March 23, 2010. (Id. at 11-12.) The issue was raised again at the Columbia hearing by Mr. Metts and Mr. Davis. (Id.) United **did not object** to this testimony. Rather, the Company specifically responded to the customers' testimonies that there were unbilled sewer revenues in specific neighborhoods through the testimony of Company witness Lubertozzi. (Id. at 12-13.)

Mr. Lubertozzi explained that the Company had performed a vacancy survey of the neighborhoods referenced in the Piedmont night hearing and the merits hearing, i.e. Canterbury, River Forest, and Stone Creek. As a result of that survey, the Company found that 51 customers out of a total of 464 billable customers were receiving sewer service without being billed, which is approximately 11%. Under cross-examination and questions from the Commissioners, Mr. Lubertozzi stated that the Company was conducting a vacancy survey for its other subdivisions, but that these surveys were incomplete. No request was made by the Company for the Commission to either reserve a late-filed exhibit so that the results of these surveys could be made known to the Commission, nor were additional hearings requested on this issue, prior to issuance of

Order No. 2010-375. When questioned as to how unbilled sewer revenue might impact the rate case, Mr. Lubertozi further explained that the Company has customers in the present down economy that are leaving without notice, but that the Company would continue to send a bill for some period of time. The witness stated that perhaps a new customer would move in to the premises, but that the new customer would not receive a bill in that new customer's name. (Tr. 6 at 773-774, 786-788.)

This exchange in the record was not limited to just the discussion of the three subdivisions surveyed. The Company inserted evidence into the record that not only demonstrated a significant unbilled sewer revenue problem in the three subdivisions surveyed, but also raised an inference of a comprehensive problem of some degree within all twelve subdivisions. Indeed, the Company stated that not only had it carried out the surveys in the three subdivisions in response to the public witness testimony, but also indicated that it was carrying out comprehensive vacancy surveys in the other Company-served subdivisions as well. (Tr. 6 at 773-774.)

In response to the testimony of Mr. Metts and Mr. Davis, the Company offered rebuttal testimony which not only substantiated those witnesses' testimony that there were unbilled occupied premises in the three neighborhoods, but also raised the same issue as to other areas of the Company. Once the Company offered Mr. Lubertozi as a rebuttal witness on the issue of unbilled revenue, the Company opened the door to the issue of the impact to the rest of the system, and placed itself on notice that this was an issue in the case. The burden to follow through in this area was on the Company. This Commission was under no obligation to make an unsolicited offer to the Company for

further opportunities to present evidence before it, in the face of the Company's failure to attempt to preserve its right to do so at the hearing.

Further, the Company failed to preserve its due process objection by its failure to object to the testimony of Ms. Nesbitt, who testified on the issue at the Piedmont hearing, and its failure to object to the testimony of Mr. Metts and Mr. Davis, who testified at the Columbia merits hearing. At the beginning of the Piedmont hearing, the Company made its standard continuing objection "to testimony not substantiated by data or not based upon scientific criteria" (Tr. 2 at 112), and it later filed with the Commission on April 8, 2010, a letter objecting to testimony provided at the Piedmont hearing that was "not substantiated by data or based upon scientific criteria." Tellingly, the Company made no objection to the testimony of Ms. Nesbitt, even though she raised the issue of unbilled sewer revenue. (Tr. 2 at 167-169.) Nor did the Company object to the testimony of Mr. Metts or Mr. Davis at the Columbia hearing regarding unbilled sewer revenue. The failure to make an objection at the time that evidence is offered constitutes a waiver of the right to object. McCreight v. MacDougall, 248 S.C. 222, 149 S.E. 2d 621 (1966), cited in Cogdill v. Watson, 289 S.C. 531, 537; 347 S.E. 2d 126, 129 (Ct. App. 1986).

In addition, United asserts that the Commission departed from prior precedent and violated the due process rights of the Company because the Commission did not establish another hearing to afford the Company the opportunity to conduct an investigation and present information to the Commission, nor did the Commission request a late-filed exhibit from the Company on the issue of unbilled revenue for the entire United sewer system. The Company had an opportunity to request that the record be held open for a

late-filed exhibit and/or that further hearings be held on this issue prior to the Commission decision on the merits of this case; however, the Company failed to avail itself of such opportunities prior to raising the issue for the first time in its Petition for reconsideration. Therefore, no due process violation occurred under these circumstances. Additionally, we hold that this Commission has no obligation to, nor would it be proper to require this Commission to, solicit information to address the weaknesses in the Company's case. The Company has the burden of proving its case. The general rule in administrative proceedings is that an applicant for relief, benefits, or a privilege has the burden of proof. Leventis v. South Carolina Department of Health and Environmental Control, 340 S.C. 118, 530 S.E. 2d 643 (2000).

United also contends that the approach adopted by our Order No. 2010-375 disregards the fundamental principles of utility rate making in that the Company is entitled to an opportunity to earn a fair and reasonable return, and just and reasonable rates may be determined even where a utility has not collected all of the revenue to which it might otherwise be entitled. (Petition at 6.) We disagree. In order to establish just and reasonable rates, the Commission must be able to properly determine the revenue requirements of the Company. (See Order No. 2010-375 at 11.) Based on the evidence in the record of this case, this Commission could not determine the amount of additional sewer service revenue as it was unknown whether the billing determinants included those occupied but unbilled premises. As a result, this Commission could not determine the proper amount of the revenue increase or set a just and reasonable rate for the Company's service. The Company asserts that our Order disregarded or overlooked evidence from

ORS in reaching this determination; however, ORS's proposed order to the Commission in this case denied rate relief to the Company on the same grounds articulated in our Order.

United argues that the Commission could have imputed the amount of unbilled revenue for the entire system. (Petition at 6.) This is incorrect. Since the Commission did not know the depth of the problem of the sewer revenue for the entire system, this Commission would have been forced to speculate as to the amount to impute. The Company's witness testified that the survey of all of its systems was incomplete at the time of hearing. Therefore, while the vacancy survey described by Mr. Lubertozzi demonstrated that a substantial number – 11% – of surveyed customers were receiving sewer service without being billed, this survey only provided data for three of the twelve subdivisions. The Commission had no way to determine what percentage of premises were not being billed in the entire system because the vacancy survey for the entire system was incomplete. The amount of unbilled revenue system-wide could have been more than 11% or less than 11%. Not knowing the percentage of unbilled premises was fatal to United's case because no reliable estimate of unbilled revenue could be determined for all twelve subdivisions served by United.

Further, the Company cites Alpine Utilities rate case Order No. 2008-759 as an example of where this Commission imputed under-collected sewer revenue, and states that this Commission should have acted similarly in the present case. However, the Alpine case was different from the one at bar. In Alpine, the imputed revenue was easily calculated because it only involved two specific customers. Alpine had executed

contracts with two customers that established a rate lower than the Commission-approved tariff rate. In the present case, this Commission had no way of calculating an amount to impute, due to the incompleteness of the vacancy survey.

Clearly, this Commission properly relied on the evidence in the record which was introduced by the Company, and reasonably determined that the increase in revenue could not be determined under the circumstances. Contrary to the Company's statement that this Commission relied upon customer testimony in this regard, Order 2010-375 extensively references testimony of the Company witnesses on the issue of unbilled sewer revenue. (Order No. 2010-375 at 11-17.) The Company did not object to the testimony of Mr. Metts and Mr. Davis, but instead, substantiated their testimony through the rebuttal of Company witness Lubertozzi, who also acknowledged that the Company was conducting a system-wide survey. Given the testimony in the record, we believe that it was reasonable for this Commission to conclude that an increase in the rate for the Company's service could not be calculated. Further, this Commission properly determined that it had held a fair hearing on these matters under the circumstances of this case. It is within the Commission's discretion to decide whether to grant the Company's request for a rehearing, but, under these circumstances, the Company is not entitled to a rehearing (or reconsideration) as a matter of law.

United also complains that the Commission denied rate relief for the Company's water operations. The Company alleged that the Commission's denial was improperly based upon inferences from the testimony of two customers concerning the timing of the issuance of bills, from which the Commission determined that the Company is not

reading water meters regularly, nor conducting the proper assessment of its water system to determine whether all water customers are being billed or billed correctly. (Petition at 8-9.) Initially, we would point out that in Hilton Head Plantation Utilities, Inc. v. The Public Service Commission of South Carolina, 312 S.C. 448, 441 S.E. 2d 321 (1994), the South Carolina Supreme Court affirmed this Commission's decision which was based on the testimony of one public witness, and the inferences made from that witness' testimony. Therefore, the fact that our decision was based on the testimony of two public witnesses alone is not erroneous, nor is the fact that we drew reasonable inferences from their testimony, i.e., that water meters were not being read in a timely manner, nor was regular billing occurring. It was simply not possible from the testimony presented to determine that all customers were being billed correctly for their water usage. The amount of rate increase required cannot be determined without knowing the correct amount of test year water usage. For these reasons, we held that we could not determine the Company's water revenue requirements. We believe that our holding in this regard was proper, and was based on substantial evidence in the record. There was no "surmise, conjecture, or speculation." (Petition at 9.) This allegation of error is unavailing.

Although in this case, the Company's failure to demonstrate a revenue requirement for water **and** sewer left this Commission unable to determine a revenue requirement for the entire Company, it would have been reasonable for the Commission to deny rate relief solely on the Company's failure to demonstrate its revenue requirement for the sewer **or** water portion of the case. This Commission has historically viewed revenue requirements on a whole-Company basis. (See, e.g. Application of Tega

Cay Water Service, Inc. for Adjustment of Rates and Charges and Modifications to Certain Terms and Conditions for the Provision of Water and Sewer Service, Docket No. 2009-473-WS, Order No. 2010-557 at 12.)

This Commission also remains concerned about the iron problems in the customers' water. ORS recommended that the Company increase system flushing to at least once per month. Mr. Haas testified that the Company will increase flushing to once per month as recommended by ORS; however, he stated that because the groundwater serving the Trollingwood subdivision has a very high iron content, removal of all iron is not possible. (Tr. 5 at 485-486.) Even though it is apparent that flushing alone may improve but not eliminate the problem of the iron content in the water in Trollingwood, it appears that the Company is at least recognizing that aesthetics of water are important to customers and impacts customer service. In addition to upgrading the filter system, United is volunteering to increase flushing of the lines in that subdivision to once per month. This response is a reasonable proposal, and shows that the Company is attempting to address the problem. As stated in our original order, we have adopted their proposal and look forward to reviewing the Company's progress in the area of water aesthetics in future cases, recognizing that the aesthetic quality of the water impacts customer service.

United further requested approval of a bond pursuant to S.C. Code Ann. Section 58-5-240 (D) (Supp. 2009), should we deny the Company's Petition. We must deny the Company's request, due to a fatal inconsistency in the body of the proposed bond document. The amount of the bond being requested for approval is unclear. The amount

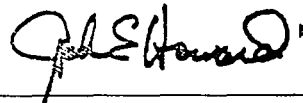
DOCKET NO. 2009-479-WS – ORDER NO. 2011-75
MARCH 4, 2011
PAGE 11

of the bond is “written out” as “two hundred ninety seven thousand four hundred fourteen and No/100s Dollars.” However, the amount requested in figures is “\$311,426.00.” Because of this discrepancy, this Commission is unable to determine what the true requested amount actually is, and must therefore deny approval of the bond.³

Because of the reasoning stated above, we deny rehearing and reconsideration in this case, and we deny approval of the proposed bond.

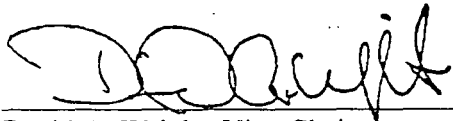
This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:



John E. Howard, Chairman

ATTEST:



David A. Wright, Vice Chairman

(SEAL)

³ By subsequent motion, on July 28, 2010, United corrected this discrepancy, and a bond of \$311,426 was approved by this Commission in Order No. 2010-543.

RECEIVED

APR -8 2011

S.C. Supreme Court

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

Docket No. 2009-479-W/S

United Utility Companies, Inc., ...Appellant,

v.

The South Carolina Office of Regulatory Staff and
North Greenville University, ... Respondents.

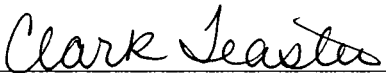
CERTIFICATE OF SERVICE

This is to certify that I have caused to be served this day one (1) copy of the **Appellant's Notice of Appeal** by placing same in the care and custody of the United States Postal Service with first class postage affixed thereto and addressed as follows:

Nanette S. Edwards, Esquire
Office of Regulatory Staff
1401 Main Street, Suite 900
Post Office Box 11263
Columbia, South Carolina 29211

Duke K. McCall, Jr., Esq.
William H. Jordan, Esq.
Smith Moore Leatherwood, LLP
Post Office Box 87
Greenville, South Carolina 29602-0087

The Honorable Jocelyn G. Boyd
Chief Clerk/Administrator
Public Service Commission of South Carolina
Post Office Box 11649
Columbia, South Carolina 29211


Clark Teaster

Columbia, South Carolina
This 8th day of April, 2011.

WILLOUGHBY & HOEFER, P.A.

ATTORNEYS & COUNSELORS AT LAW

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April 8, 2011

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APR - 8 2011

S.C. Supreme Court

VIA HAND DELIVERY

The Honorable Daniel E. Shearouse
Clerk of Court
The South Carolina Supreme Court
1231 Gervais Street
Columbia, South Carolina 29201

RE: Application of United Utility Companies, Inc.; Docket No. 2009- 479-WS

Dear Mr. Shearouse:

Enclosed for filing please find the original and one (1) copy of a Notice of Appeal on behalf of United Utility Company ("UUC") from certain orders of the Public Service Commission of South Carolina ("Commission") in the above-referenced docket.

By copy of this letter, I am serving the South Carolina Office of Regulatory Staff and North Greenville University with a copy of this Notice and enclose a certificate of service to that effect. Also enclosed please find our check in the amount of \$100 for the filing fee. Also by copy of this letter, I am serving and filing a copy of this Notice with the Clerk and Chief Administrator of the Commission.

I would appreciate your acknowledging receipt of these enclosures by file stamping the extra copy of the Notice and returning it to me via our courier.

(Continued . . .)

The Honorable Daniel E. Shearouse
April 8, 2011
Page 2

If you have any questions, or require additional information, please do not hesitate to contact me. With best regards, I am,

Respectfully,

WILLOUGHBY & HOEFER, P.A.

A handwritten signature in black ink, appearing to read "Benjamin P. Mustian", with a long horizontal flourish extending to the right.

Benjamin P. Mustian

BPM/ct
Enclosure

cc: Hon. Jocelyn G. Boyd (via first-class mail with enclosures)
Nanette S. Edwards, Esquire (via first-class mail with enclosures)
Duke K. McCall, Jr., Esq. (via first-class mail with enclosures)
William H. Jordan, Esq. (via first-class mail with enclosures)