

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

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AT RICHMOND, OCTOBER 28, 2024

JOINT PETITION OF

AQUA VIRGINIA, INC.

and

AQUA NORTH CAROLINA, INC.

CASE NO. PUR-2024-00124

For Approval of a Transfer of Utility Assets

ORDER FOR NOTICE AND COMMENT

On September 26, 2024, Aqua Virginia, Inc. ("Aqua VA" or "Company") and Aqua North Carolina, Inc. ("Aqua NC") (collectively, "Joint Petitioners") completed the filing of a Joint Petition with the State Corporation Commission ("Commission") for approval of a transfer of utility assets ("Petition"), pursuant to Chapters 4, 5, and 10.1 of Title 56 of the Code of Virginia ("Code").<sup>1</sup> Specifically, the Joint Petitioners seek authority for Aqua NC to dispose of, and for Aqua VA to acquire, all of the utility assets of the Brandywine Estates water system ("Brandywine System") and the Pinebrook water system ("Pinebrook System") (collectively, the "Systems"), which provide utility water service to the Brandywine Estates and Pinebrook Subdivisions, respectively (collectively, "Subdivisions"), and for Aqua VA to add the Subdivisions to the Company's certificated service territory.<sup>2</sup> Additionally, Aqua VA seeks authority to implement rate increases for the Brandywine and Pinebrook Systems, which the Company states it proposed in its

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<sup>1</sup> Petition at 1-2. The Joint Petitioners also filed a Supplement to Petition on October 15, 2024. As used herein, "Petition" refers collectively to both the Joint Petition and the Supplement to Petition.

<sup>2</sup> *Id.*

recent base rate proceeding ("2023 Rate Case"), Case No. PUR-2023-00073, as well as any other authority necessary to serve the Subdivisions.<sup>3</sup>

In support of the Petition, the Joint Petitioners state that the Brandywine System and Pinebrook System are two small water systems comprised of twenty-two total connections in Carroll County, Virginia, close to the North Carolina border.<sup>4</sup> In 2001, the Subdivisions conveyed the Systems to Heater Utilities, Inc. ("Heater Utilities"), a North Carolina public utility.<sup>5</sup> In 2004, Aqua America, Inc. ("Aqua America") acquired Heater Utilities.<sup>6</sup> In 2008, Aqua America received authority from the North Carolina Utility Commission ("NCUC") to merge Heater Utilities into Aqua NC, with Aqua NC being the surviving entity.<sup>7</sup> Beginning with Aqua America's acquisition of Heater Utilities in 2004, through 2021, Aqua NC operated, maintained, and administered customer billing for the Systems.<sup>8</sup>

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<sup>3</sup> *Id.* at 2; *see Application of Aqua Virginia, Inc., For an Increase in Rates*, Case No. PUR-2023-00073, Doc. Con. Cen. No. 230760021, Application (July 27, 2023). Significantly, however, the Commission approved a Stipulation in the 2023 Rate Case which, among other things, stated: "The final rates approved by the Commission in this case will not be billed to Brandywine and Pine Brook customers. The Company will file applications for these systems for approval under Chapters 4, 5, and 10.1 [of Title 56 of the Code], with the Commission, by July 1, 2024." *See Application of Aqua Virginia, Inc., For an Increase in Rates*, Case No. PUR-2023-00073, Doc. Con. Cen. No. 240920107, Final Order at 5 (Sept. 12, 2024). We further note that while the Company requests authority to implement rate increases for the Systems as part of this proceeding, the Petition was not filed pursuant to Chapter 10 of Title 56 of the Code, nor were the specific proposed rates for those customers included with the Petition.

<sup>4</sup> Petition at 2.

<sup>5</sup> *Id.*

<sup>6</sup> Supplement to Petition at 2.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 3.

Beginning in January 2022, and continuing to the present, Aqua VA has administered customer billing for the Systems.<sup>9</sup> In so doing, Aqua VA collects payments from customers, but remits those payments to Aqua NC.<sup>10</sup> Given its geographic proximity to the Subdivisions, Aqua NC remains responsible for on-site operation and maintenance of the Systems.<sup>11</sup>

The Joint Petitioners state that during Aqua NC's most recent base rate proceeding, in 2023, the NCUC determined that Aqua NC could not include the Brandywine and Pinebrook Systems' assets in Aqua NC's rate base, because those assets are located in Virginia.<sup>12</sup> Accordingly, it was determined that the Brandywine and Pinebrook Systems' assets should be moved to Aqua VA's books.<sup>13</sup>

In accordance with this determination, the Joint Petitioners have filed the present Petition. According to the Joint Petitioners, Aqua VA has notified customers of the proposed transfer of, and proposed increase in rates for, the Systems.<sup>14</sup> Aqua VA asserts that it will not charge any rates authorized in the 2023 Rate Case to the Systems until the Commission rules on the instant Petition.<sup>15</sup> During the pendency of this matter, Aqua VA states that it will continue to remit payments from the Systems' customers to Aqua NC.<sup>16</sup>

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<sup>9</sup> *Id.* The Joint Petitioners state that the water companies' exchange of billing services, and operations and maintenance assistance, are conducted in accordance with Aqua VA's Affiliate Services Agreement, which the Commission most recently authorized via Order issued September 12, 2023, in Case No. PUR-2023-00124. *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> Petition at 4.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* at 2.

<sup>15</sup> *Id.* at 4-5.

<sup>16</sup> *Id.* at 5.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that this matter should be docketed; the Joint Petitioners should provide public notice of their Petition; interested persons should have an opportunity to file comments on the Petition, file a notice of participation as a respondent, and request that a hearing be convened; the Staff of the Commission ("Staff") should be directed to investigate the Petition and present its findings and recommendations in a report ("Staff Report"); and a Hearing Examiner should be assigned to conduct further proceedings in this matter related to discovery and any motions *pro hac vice* on behalf of the Commission.

The Commission further finds that due to the complexity of the issues presented, it is appropriate to extend the statutory deadline for this proceeding by an additional thirty (30) days in accordance with Code § 56-77.

Finally, to promote administrative efficiency and timely service of filings upon participants, the Commission will, among other things, direct the electronic filing of all documents unless they contain confidential information, and require electronic service on parties to this proceeding.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is docketed and assigned Case No. PUR-2024-00124.
- (2) All pleadings, briefs or other documents required to be served in this matter shall be submitted electronically to the extent authorized by 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice and Procedure ("Rules of Practice"). Confidential and Extraordinarily Sensitive Information shall not be submitted electronically and should comply with 5 VAC 5-20-170, *Confidential information*, of the Rules of Practice. Any person seeking to

hand deliver and physically file or submit any pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.

(3) Pursuant to 5 VAC 5-20-140, *Filing and service*, of the Rules of Practice, the Commission directs that service on parties and Staff in this matter shall be accomplished by electronic means. Concerning Confidential or Extraordinarily Sensitive Information, all parties and Staff are instructed to work together to agree upon the manner in which documents containing such information shall be served upon one another, to the extent practicable, in an electronically protected manner, even if such information is unable to be filed in the Office of the Clerk, so that no party or Staff is impeded from preparing its case.

(4) As provided by Code § 12.1-31 and 5 VAC 5-20-120, *Procedure before hearing examiners*, of the Rules of Practice, a Hearing Examiner is appointed to rule on any discovery matters and motions *pro hac vice* that arise during the course of this proceeding. A copy of each filing made with the Commission's Clerk's Office in this matter shall also be sent electronically to the Office of the Hearing Examiners.<sup>17</sup>

(5) An electronic copy of the Petition may be obtained by submitting a written request to counsel for the Joint Petitioners: John K. Byrum, Jr., Woods Rogers Vandeventer Black PLC, Riverfront Plaza, West Tower, 901 East Byrd Street, Suite 1550, Richmond, Virginia 23219, [John.Byrum@wrvblaw.com](mailto:John.Byrum@wrvblaw.com). Interested persons also may download unofficial copies from the Commission's website: [scc.virginia.gov/pages/Case-Information](http://scc.virginia.gov/pages/Case-Information).

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<sup>17</sup> Such electronic copies shall be sent to: [OHEParalegals@scc.virginia.gov](mailto:OHEParalegals@scc.virginia.gov).

(6) On or before November 8, 2024, the Joint Petitioners shall serve on all customers of the Brandywine and Pinebrook Systems a copy of this Order for Notice and Comment. Service shall be made on each customer by first class mail, postage prepaid (bill inserts are acceptable).<sup>18</sup>

(7) On or before November 8, 2024, the Joint Petitioners shall serve a copy of this Order for Notice and Comment on the following local officials in Carroll County, Virginia, to the extent the position exists: the chairman of the board of supervisors of the county; the mayor or manager (or equivalent official) of every city and town; and the county, city, or town attorney. Service shall be made electronically where possible; if electronic service is not possible, service shall be made by either personal delivery or first-class mail to the customary place of business or residence of the person served.

(8) On or before November 18, 2024, the Joint Petitioners shall file proof of the service required by Ordering Paragraphs (6) and (7), including the name, title, and address of each official served, with the Clerk of the Commission by filing electronically at [scc.virginia.gov/clk/efiling](https://scc.virginia.gov/clk/efiling). The Company shall also file with the Clerk of the Commission a certificate of the mailing of notice to the customers served but shall not include the names and addresses of the customers, and instead, shall maintain a record of such information.

(9) On or before November 22, 2024, any interested person may file comments on the Petition by following the instructions found on the Commission's website: [scc.virginia.gov/casecomments/Submit-Public-Comments](https://scc.virginia.gov/casecomments/Submit-Public-Comments). Those unable, as a practical matter,

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<sup>18</sup> The Company states that it has already notified customers of the transfer of and prospective increases in rates for the Brandywine and Pinebrook Systems in the 2023 Rate Case, via: (1) publication in the Carroll County local newspaper; (2) mailed notice to the Carroll County local public officials; and (3) direct notice via bill insert in Pinebrook and Brandywine customers' bills. Petition at 2. Nevertheless, the Joint Petitioners state that the Company can provide whatever further or other notice of system transfers and/or proposed rate increases that the Commission deems necessary or appropriate. *Id.*

to submit comments electronically may file such comments by U.S. mail to the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. All comments shall refer to Case No. PUR-2024-00124.

(10) On or before November 22, 2024, any person or entity wishing to participate as a respondent in this proceeding may do so by filing a notice of participation at [scc.virginia.gov/clk/efiling](http://scc.virginia.gov/clk/efiling). Those unable, as a practical matter, to file a notice of participation electronically may file such notice by U.S. mail to the Clerk of the Commission at the address listed in Ordering Paragraph (9). Such notice of participation shall include the email addresses of such parties or their counsel. The respondent shall serve a copy of the notice of participation on counsel to the Joint Petitioners. Pursuant to 5 VAC 5-20-80 B, *Participation as a respondent*, of the Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent must be represented by counsel as required by 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUR-2024-00124.

(11) Within five (5) business days of receipt of a notice of participation as a respondent, the Joint Petitioners shall serve upon the respondent a copy of the Petition and supporting materials, unless these materials already have been provided to the respondent.

(12) On or before November 22, 2024, any interested person or entity may file with the Clerk of the Commission at [scc.virginia.gov/clk/efiling](http://scc.virginia.gov/clk/efiling) a request that the Commission convene a hearing on the Petition. Those unable, as a practical matter, to file a request for hearing electronically may file such request for hearing by U.S. mail to the Clerk of the Commission at

the address in Ordering Paragraph (9). Such request for hearing shall include the email address of the filer or its counsel, if available. Requests for hearing must include: (i) a precise statement of the filing party's interest in the proceeding; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the legal basis for such action; and (iv) a precise statement why a hearing should be conducted in this matter. A copy of such hearing request shall simultaneously be served on counsel for the Joint Petitioners at the address set forth in Ordering Paragraph (5). All requests for a hearing shall refer to Case No. PUR-2024-00124.

(13) On or before November 25, 2024, Staff shall investigate the Petition and file with the Clerk of the Commission a Staff Report containing its findings and recommendations. A copy thereof shall be served on counsel to the Joint Petitioners and all respondents.

(14) On or before December 6, 2024, the Joint Petitioners shall file with the Clerk of the Commission, and serve on Staff and any respondents, its response to any request for hearing filed in this matter and its response to the Staff Report and any comments filed by interested persons or entities in this proceeding. The Joint Petitioners shall serve a copy of their response on Staff and all respondents.

(15) Any documents filed in paper form with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, except as modified herein, all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Rules of Practice.

(16) Rule 5 VAC 5-20-260, *Interrogatories or requests for production of documents and things*, of the Rules of Practice shall be modified for this proceeding as follows: responses and objections to written interrogatories and requests for production of documents shall be served within five (5) calendar days after receipt of the same. In addition to the service requirements of



5 VAC 5-20-260 of the Rules of Practice, on the day that copies are filed with the Clerk of the Commission, a copy of the interrogatory or request for production shall be served electronically on the party to whom the interrogatory or request for production is directed or the assigned Staff attorney, if the interrogatory or request for production is directed to Staff.<sup>19</sup> Except as modified herein, discovery shall be in accordance with Part IV of the Rules of Practice,

5 VAC 5-20-240 *et seq.*

(17) The statutory deadline for this proceeding shall be extended by an additional thirty (30) days in accordance with Code § 56-77.

(18) This matter is continued.

A COPY hereof shall be sent electronically by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the Commission.

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<sup>19</sup> The assigned Staff attorney is identified on the Commission's website, [scc.virginia.gov/pages/Case-Information](http://scc.virginia.gov/pages/Case-Information), by clicking "Docket Search," then clicking "Search by Case Information," and entering the case number, PUR-2024-00124, in the appropriate box.