

§ 62-133.1A. Fair value determination of government-owned water and wastewater systems.

(a) Election. – A water or wastewater public utility, as defined by G.S. 62-3(23)a.2., may elect to establish rate base by using the fair value of the utility property instead of original cost when acquiring an existing water or wastewater system owned by a municipality or county or an authority or district established under Chapter 162A of the General Statutes.

(b) Determination of Fair Value. –

(1) The fair value of a system to be acquired shall be based on three separate appraisals conducted by accredited, impartial valuation experts chosen from a list to be established by the Commission. The following shall apply to the valuation:

- a. One appraiser shall represent the public utility acquiring the system, another appraiser shall represent the utility selling the system, and another appraiser shall represent the Public Staff of the Commission.
- b. Each appraiser shall determine fair value in compliance with the uniform standards of professional appraisal practice, employing cost, market, and income approaches to assessment of value.
- c. Fair value, for ratemaking purposes under G.S. 62-133, shall be the average of the three appraisals provided for by this subsection.
- d. The original source of funding for all or any portions of the water and sewer assets being acquired is not relevant to an evaluation of fair value.

(2) The acquiring public utility and selling utility shall jointly retain a licensed engineer to conduct an assessment of the tangible assets of the system to be acquired, and the assessment shall be used by the three appraisers in determining fair value.

(3) Reasonable fees, as determined by the Commission, paid to utility valuation experts, may be included in the cost of the acquired system, in addition to reasonable transaction and closing costs incurred by the acquiring public utility.

(4) The rate base value of the acquired system, which shall be reflected in the acquiring public utility's next general rate case for ratemaking purposes, shall be the lesser of the purchase price negotiated between the parties to the sale or the fair value plus the fees and costs authorized in subdivision (3) of this subsection.

(5) The normal rules of depreciation shall begin to apply against the rate base value upon purchase of the system by the acquiring public utility.

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

- (1) Copies of the valuations performed by the appraisers, as provided in subdivision (1) of subsection (b) of this section.
- (2) Any deficiencies identified by the engineering assessment conducted pursuant to subdivision (2) of subsection (b) of this section and a five-year plan for prudent and necessary infrastructure improvements by the acquiring entity.
- (3) Projected rate impact for the selling entity's customers for the next five years.
- (4) The averaging of the appraisers' valuations, which shall constitute fair value for purposes of this section.
- (5) The assessment of tangible assets performed by a licensed professional engineer, as provided in subdivision (2) of subsection (b) of this section.
- (6) The contract of sale.

- (7) The estimated valuation fees and transaction and closing costs incurred by the acquiring public utility.
- (8) A tariff, including rates equal to the rates of the selling utility. The selling utility's rates shall be the rates charged to the customers of the acquiring public utility until the acquiring public utility's next general rate case, unless otherwise ordered by the Commission for good cause shown.

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

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

(f) The Commission shall adopt rules to implement this section. (2018-51, s. 2; 2021-23, s. 25.)