

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. W-100, SUB 46
DOCKET NO. WR-100, SUB 6

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of)	
Year 2007 Drought)	ORDER MODIFYING RESTRICTIONS
Response - Water)	CONCERNING NONESSENTIAL WATER USAGE
Conservation Measures)	AND REQUIRING NOTICE

BY THE COMMISSION: On October 24, 2007, the Commission issued an Order Requiring Curtailment of Nonessential Water Usage in the above-captioned dockets. Following issuance of said Order, the drought continued to worsen until the end of December. Since that time, the State has been receiving beneficial precipitation. While the drought is certainly not over, conditions have improved to the point that it seems to be appropriate to relax the Commission-mandated restrictions in certain areas in certain respects.

In October 2007, the statewide nature of this exceptional drought warranted the drastic action taken by the Commission which required the curtailment of all nonessential water usage. As the drought eased somewhat and as some anomalies in the effects of the nonessential water use restrictions previously adopted by the Commission have been detected, the Commission identified several areas within the State in which it considered releasing or relaxing some of the presently imposed restrictions on water usage that have been in place since October 24, 2007. Therefore, on May 1, 2008, the Commission issued an Order Requesting Comments regarding its proposals to modify the October 24, 2007, Order. Such comments were required to be filed by the Public Staff and any other interested parties by May 14, 2008. The Commission received comments from the Public Staff, Aqua North Carolina, Inc., Carolina Water Service, Inc. of North Carolina, and several interested customers. The Commission has carefully considered these comments in determining that the water usage restrictions imposed in the October 24, 2007, Order should be modified in the following respects.

The Commission's proposals relating to Purchased-Water Systems and Cumberland County Type Circumstance were not controversial. Instead, all parties recommended the adoption of those proposals. As a result, the Commission concludes that they should be adopted as follows.

1. Purchased-Water Systems

While a majority of the water systems throughout North Carolina regulated by the Utilities Commission acquire their water from utility-owned wells, many systems purchase their water from other sources and resell the water to their customers.

All of the companies classified as water resellers (identified by docket numbers that begin with "WR") purchase their water from municipal sources that are not regulated by the Commission. The Commission is of the opinion that it is inconsistent for customers of water resellers to be subject to different nonessential water usage restrictions than the municipal customers who receive water from the same source. Therefore, the Commission will allow "WR" customers to be subject to the same water restrictions regarding nonessential water usage that have been imposed by the local municipality from which the water that they consume is being purchased.

Furthermore, a number of traditional water utilities (those with docket numbers beginning with "W") operate certain systems that, for various reasons, purchase water from a municipality for resale to their customers. It is, likewise, inconsistent for customers served by these purchased-water systems to be subject to restrictions regarding nonessential water usage that are different from those to which municipal customers utilizing the same source of water are subject. Therefore, the Commission will require the water utility companies to identify all of their specific systems utilizing purchased water and to notify the customers on those systems that they will be subject to the same water restrictions that are imposed by their local municipality that supplies their utility provider with water. The water utility is hereby required to provide the Commission with a listing (including subdivision name, county name, name of supplier, and number of customers) of all service areas so identified within twenty days of this Order.

2. Cumberland County-Type Circumstance

The Commission is aware of a large service area franchised to Aqua North Carolina in the Cumberland County area that uses well water to serve a portion of the service area and that also uses water purchased from the Fayetteville Public Works Commission (PWC) to provide service in another portion of the service area.

As discussed above, the Commission believes it is incongruous for customers whose source of water is water purchased from an entity like the PWC to be subject to restrictions regarding nonessential water usage that are different from those applicable to customers served by entities like the PWC. The Commission is of the opinion that these customers should be subject to the restrictions for nonessential water usage adopted by the PWC or a similar entity. However, it would be very confusing for customers within the same service area to be subject to two different sets of water usage restrictions. Therefore, the Commission believes that it would be appropriate to require the utility in such a situation to identify the systems utilizing both purchased water and well water and notify the customers served by these systems that they will be subject to the same water restrictions imposed by their local municipality from which a portion of their water supply is purchased. The utility is required to provide the Commission with a listing (including subdivision name, county name, name of supplier, and number of customers with well water and the number of customers with municipal-supplied water) of all service areas so classified within twenty days of this Order. This approach is not applicable solely to the Cumberland County situation described above, but may be implemented anywhere a similar situation exists which has been properly identified for the benefit of the Commission.

3. Remainder of the Proposals

The remainder of the proposals (Coastal Counties, Metrolina Counties, and Remainder of the State) set out in the Commission's May 1, 2008, Order were the subject of many comments, remarks, and observations. As noted earlier, the beneficial rains of late winter have caused the effects of the drought to lessen. As soon as reservoirs filled up, many municipalities relaxed their water restriction guidelines relating to nonessential water usage. This rush to relax existing water usage restrictions was followed by a press release from Governor Easley in which he noted that he had written a letter to local officials asking them to continue their aggressive water conservation efforts because the drought is not over. The Commission has not joined in the premature rush to relaxation of restrictions.

The North Carolina Drought Management Advisory Council (DMAC) maintains a website on which the North Carolina portion of the United States Drought Monitor's drought severity map is displayed. This map showing the location and the severity of the drought is updated weekly. The DMAC urges implementation of drought response actions for all users located in or dependent on water resources derived from areas experiencing exceptional, extreme, severe, or moderate drought or abnormally dry conditions.

Based upon the DMAC's reclassification of the severity of the drought across the State, the recommended drought response actions, and the comments submitted by the parties, the Commission finds and concludes that it is appropriate to relax some of its existing restrictions depending upon the drought severity classification applicable to specific areas (the Commission-regulated water systems located within a particular area composed of specific counties will be subject to the water restrictions as defined by the Commission below). The Commission will maintain a webpage entitled *Non-Essential Water Usage Restrictions*, on its website, www.ncuc.net, whereupon the varying restrictions will be listed by drought severity classifications. The webpage will contain a hyperlink to the DMAC drought severity map. The level of restrictions applicable to a particular county will vary as the DMAC drought severity map classifications change from week to week every Thursday. For this purpose, the official drought severity classification for each county will be designated in accordance with DMAC's placement of each county in its listing for "Counties Under Current Advisory." The entire county is designated under a single classification which is based upon the highest level of drought severity applicable to any portion of the county in question.

Normal Conditions

(No drought classification – counties that are completely white on DMAC’s map)

Voluntary odd-even spray irrigation three days per week:

Odd addresses:	Tuesday 10 p.m. to Wednesday 4 a.m. Thursday 10 p.m. to Friday 4 a.m. Saturday 10 p.m. to Sunday 4 a.m.
Even addresses:	Wednesday 10 p.m. to Thursday 4 a.m. Friday 10 p.m. to Saturday 4 a.m. Sunday 10 p.m. to Monday 4 a.m.

Handheld use of a container or hose to water flowers, shrubs, trees, and vegetable gardens is allowable at anytime.

Car washing is allowable at anytime.

Filling of swimming pools or topping-off pools is allowable at anytime.

D0 Abnormally Dry
(Yellow on DMAC map)

Mandatory odd-even spray irrigation three days per week:

Odd addresses:	Tuesday 10 p.m. to Wednesday 4 a.m. Thursday 10 p.m. to Friday 4 a.m. Saturday 10 p.m. to Sunday 4 a.m.
Even addresses:	Wednesday 10 p.m. to Thursday 4 a.m. Friday 10 p.m. to Saturday 4 a.m. Sunday 10 p.m. to Monday 4 a.m.

Handheld use of a container or hose to water flowers, shrubs, trees, and vegetable gardens is allowable at anytime.

Car washing is allowable at anytime.

Filling of swimming pools or topping-off pools is allowable at anytime.

D1 Moderate Drought
(Beige on DMAC map)

Mandatory odd-even spray irrigation two days per week:

Odd addresses:	Tuesday 10 p.m. to Wednesday 4 a.m. Thursday 10 p.m. to Friday 4 a.m.
Even addresses:	Wednesday 10 p.m. to Thursday 4 a.m. Friday 10 p.m. to Saturday 4 a.m.

Handheld use of a container or hose to water flowers, shrubs, trees, and vegetable gardens is allowable at anytime.

Car washing is allowable at anytime.

Filling of swimming pools or topping-off pools is allowable at anytime.

D2 Severe Drought
(Light Orange on DMAC map)

Mandatory odd-even spray irrigation two days per week:

Odd addresses:	Tuesday 10 p.m. to Wednesday 1 a.m. Thursday 10 p.m. to Friday 1 a.m.
Even addresses:	Wednesday 10 p.m. to Thursday 1 a.m. Friday 10 p.m. to Saturday 1 a.m.

Handheld use of a container or hose to water flowers, shrubs, trees, and vegetable gardens is allowable on any day (8 p.m. to 8 a.m.).

Car washing – odd addresses on Saturday/even addresses on Sunday.

No filling of swimming pools - Topping-off pools only 12 inches per week.

D3 Extreme Drought
(Red on DMAC map)

Mandatory odd-even spray irrigation one day per week:

Odd addresses:	Tuesday 10 p.m. to Wednesday 1 a.m.
Even addresses:	Wednesday 10 p.m. to Thursday 1 a.m.

Handheld use of a container or hose to water flowers, shrubs, trees, and vegetable gardens is allowable on any day (8 p.m. to 8 a.m.).

Car washing – odd addresses on Saturday/even addresses on Sunday.

No filling of swimming pools – No topping-off pools.

D4 Exceptional Drought
(Burgundy on DMAC map)

No spray irrigation.

Handheld use of a container or hose to water flowers, shrubs, trees, and vegetable gardens is allowable on any day (8 p.m. to 8 a.m.).

No car washing.

No filling of swimming pools – No topping-off pools.

4. Other Considerations

A concern expressed by certain customers was that some neighboring customers are violating the current water restrictions without consequence. The companies have commented on the cumbersome nature of the existing procedures that require catching a violator in the act, documenting the violation, warning the violator, asking the Commission for authority to disconnect the violator upon the next violation, receiving permission from the Commission to disconnect the customer, serving the Order granting permission to disconnect on the customer, and witnessing a subsequent violation before a violator may be disconnected. Based upon the foregoing, the Commission is of the opinion that the existing enforcement procedures should be streamlined and that a regulated water company should be allowed to disconnect a water customer if he or she violates the restrictions set out in this Order. However, a customer must be provided a 24-hour notice prior to disconnection (for this purpose a door hanger type notice will be sufficient). The customer will have a full business day¹ after the date of notification to show cause why his or her service should not be disconnected. A customer seeking to show cause why his or her service should not be disconnected should contact the Operations Division of the Commission by telephone at (919) 733-3979. If the customer does not successfully show cause, the utility may disconnect service at the end of the next business day. The utility shall immediately notify the Commission when it disconnects a customer's service for violation of these nonessential water usage restrictions. Except as modified in this Order, the other enforcement procedures specified in the Commission's October 24, 2007, Order remain in full force and effect.

The Commission is also of the opinion that the water companies should be required to provide periodic nonessential water usage restriction updates to their customers by bill inserts and inform customers that they may call their local water utility provider to check on the current water usage restrictions for their county.

Several other suggestions (such as monetary penalties for violations, penalties based on excessive usage as determined by meter readings instead of witnessing a violation, and inclining block rates (tiered rates), etc.) were advanced by various commenters. While not adopting these

¹ A "business" day does not include weekends or holidays. As a result, a Commission-regulated water utility may not disconnect a customer for violating these restrictions on nonessential water usage until after one business day has elapsed after the notice of disconnection has been provided to the affected (e.g., if the notice is provided on Tuesday, service may be discontinued on Thursday, or if notice is provided on Saturday, service may be discontinued on Tuesday).

ideas at this time, the Commission will take these and other suggestions under advisement and reserves the right to implement additional restrictions or enforcement measures in the event that the Commission has the authority to implement such measures and believes that their implementation would be appropriate. The Commission does, however, note that it has significant concerns about the extent of its authority to authorize utilities to impose monetary penalties on customers violating water usage restrictions.

Based upon the foregoing, the Commission is of the opinion that it should modify the restrictions which were put in place by the Order issued on October 24, 2007, as noted above, and it should require that a copy of this Order be mailed with sufficient postage or be hand delivered by all Commission-regulated water and water resale companies to all customers no later than 10 days after the date of this Order.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 23rd day of May, 2008.

NORTH CAROLINA UTILITIES COMMISSION

Gail L. Mount

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Gail L. Mount, Deputy Clerk

Commissioners Robert V. Owens, Jr., and James Y. Kerr, II, did not participate.