

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. W-1274, Sub 7

In the Matter of)	
Application of Lake Junaluska Assembly, Inc.)	Proposed Orders of Intervenor
for a Certificate of Public Convenience)	Timothy F. Phelan and John L. Davis
And Necessity, and for Approval of Rates)	

HEARD: Wednesday, January 29, 2020, at 10:00 a.m., Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina.

BEFORE: Commissioner ToNola D. Brown-Bland, Presiding; Chair Charlotte A. Mitchell; Commissioner Lyons Gray; Commissioner Daniel G. Clodfelter; Commissioner Kimberly W. Duffley; Commissioner Jeffrey A. Hughes; Commissioner Floyd B. McKissick, Jr.

APPEARANCES:

For Lake Junaluska Assembly, Inc.:

Daniel C. Higgins, Esq. Burns, Day & Presnell, P. A.
Post Office Box 10867 Raleigh, North Carolina 27605

For Timothy Phelan, Intervenor:

Timothy Phelan, Pro se, Post Office Box 598 Lake Junaluska,
North Carolina 28745

For John Davis, Intervenor:

No one present.

For the Using and Consuming Public:

William E. Grantmyre, Esq. Public Staff – North Carolina Utilities
Commission, 4326 Mail Service Center, Raleigh, North Carolina 27699

BY THE COMMISSION: In Docket No. W-1274, Sub 0, by Order dated December 19, 2007, the Commission granted a certificate of public convenience and necessity (CPCN) to Southeastern Jurisdictional Administrative Council, Inc. d/b/a Lake Junaluska Assembly, Inc.

On June 23, 2009, in Docket No. W-1274, Sub 4, LJA filed a petition with the Commission requesting exemption from regulation pursuant to N.C. Gen. Stat. § 62-110.5. On August 18, 2011, the Commission granted LJA, Inc.'s petition and LJA, Inc. was exempt from Commission

regulation, unless and until such time that circumstances change so that the regulation of LJA, Inc. is required.

On October 11, 2017, in Docket No. W-1274, Sub 5, Timothy F. Phelan filed a formal complaint with the Commission against LJA, Inc. alleging that the organization is no longer eligible for exemption from Commission regulation and must file for a CPCN.

On October 18, 2017, in Docket No. W-1274, Sub 6, Walt Logan, filed a complaint with the Commission against LJA, Inc. alleging that the organization refuses to make available financial information regarding its operation of utility services and should no longer be exempt from Commission regulation. LJA, Inc. filed a response in Docket No. W-1274, Subs 5 and 6 on November 1, 2017, denying the allegations of both Mr. Phelan and Mr. Logan, but consented to be regulated by the Commission. Docket No. W-1274, Subs 5 and 6 were consolidated by Order dated November 2, 2017.

On April 23, 2018, in Docket No. W-1274, Subs 5 and 6, the Commission issued an Order revoking the exemption granted to LJA, Inc. in Docket No. W-1274, Sub 4, and requiring LJA, Inc. to file an application for a CPCN within 120 days of the date of the Order.

On August 20, 2018, in Docket No. W-1274, Subs 5 and 6, LJA, Inc. filed a motion for extension of time. On August 21, 2018, the Commission granted LJA, Inc. an extension until September 29, 2018, to file its application.

On September 28, 2018, in the above-captioned docket, LJA, Inc. filed an application for a CPCN to provide water and sewer utility service to the residential and commercial customers in the Lake Junaluska Assembly service area, and for approval of rates.

On August 12, 2019, LJA, Inc. requested authority to pass on the increased cost of purchased bulk sewer treatment from Waynesville, in the interim pending approval of the CPCN application.

By Order dated September 23, 2019, the Commission approved a metered wastewater pass through of \$0.31 per ccf for the bulk wastewater rate increase by the Town of Waynesville.

By Order dated October 14, 2019, the Commission ordered that a public hearing for the sole purpose of receiving testimony from the Lake Junaluska Assembly service area customers be scheduled as follows: Waynesville, North Carolina – Beginning at 9:00 a.m., on Thursday, December 12, 2019, at the Haywood County Courthouse, Courtroom 3B, 285 North Main Street. The public hearing was held that date.

By Order dated October 14, 2019, the Commission directed that an evidentiary hearing for the sole purpose of receiving expert testimony from LJA, Inc. the Public Staff, and intervenors, if any, be scheduled as follows: Raleigh, North Carolina – Beginning at 10:00 a.m.,

on Wednesday, January 29, 2020, Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street. An evidentiary hearing was held that date.

FINDINGS OF FACT

General Matters

1. Lake Junaluska Assembly Inc. (LJA, Inc.) is a 501(c)(3) non-profit, non-stock corporation that manages, owns, develops, and sells real property in Lake Junaluska Assembly, an unincorporated area in Haywood County, North Carolina consisting of approximately 800 privately owned residential dwellings, several businesses, and a Conference and Retreat Center. LJA, Inc. is governed by a Board of Trustees, the Trustees being appointed either by virtue of positions in other organizations, or nominated and elected from within the LJA, Inc. Board of Trustees. LJA, Inc. has no members. LJA, Inc. owns and operates water and sewer systems in an area that is referred to herein as Lake Junaluska Assembly service area.
2. LJA, Inc. has for many years provided various services for its Conference and Retreat Center and for other properties, including water distribution and wastewater collection system service. At the behest of the Department of Environment and Natural Resources, in June 2007, in Docket No. W-1274, Sub 0, LJA, Inc. (then known as Southeastern Jurisdictional Administrative Council, Inc.) applied to the Commission for a certificate of public convenience and necessity (CPCN) as a public utility providing water and wastewater utility service in the Lake Junaluska Assembly service area. LJA, Inc. resells water purchased from the Town of Waynesville to the commercial and residential properties of Lake Junaluska Assembly service area. LJA, Inc. operates a wastewater collection system, with the Town of Waynesville providing bulk wastewater treatment.
3. LJA, Inc. has the technical, managerial and financial capacity to provide water and sewer utility service for Lake Junaluska Assembly service area.
4. LJA, Inc. has filed all exhibits required with the Application.

Rate Structure

5. Per G.S. 62-133.1, in fixing the rates for any water or sewer utility, the Commission may fix such rates on the ratio of the operating expenses to the operating revenues, such ratio to be determined by the Commission, unless the utility requests that such rates be fixed under G.S. 62-133(b). LJA, Inc. requested rates be based on operating ratio.
6. LJA, Inc. has no water/sewer debt and there is no depreciation of assets. LJA, Inc. does not seek to earn a profit. LJA, Inc. seeks to recover both its operating costs and its capital costs through its monthly rates.

7. The “Current” monthly rates being charged by LJA, Inc., the LJA, Inc. “Applied For” rates, and the “Public Staff Recommended” rates follow.

The LJA, Inc. “Current Rates” structure, which is the 2013 rates plus past pass-through purchase increases from Town of Waynesville and two 1% increases in base rates, has been funding both operations and a multi-year capital outlay program since year 2014.

The “Public Staff Recommended Rates” are based on investigations and resulting adjustments to revenues and expenses by Public Staff witnesses.

Both the “Applied For” and “Public Staff Recommended” rates are based on operations, only.

<u>Water</u>	<u>Current Rates</u>	<u>Applied For</u>	<u>Public Staff Rec.</u>
¾” Meter			
Residential and Commercial;			
Monthly Base Charge (zero consumption);	\$22.24	\$19.75	\$19.01
Usage Rate per			
100 cubic feet	\$3.27	\$3.27	\$2.54
¾” Water Only Residential			
Monthly Base Charge;	\$22.24	\$19.75	\$19.01
Usage Rate per			
100 cubic feet	\$7.06	\$7.67	\$5.95
1” Irrigation Water Only Commercial;			
Monthly Base Charge;	\$56.22	\$49.38	\$47.53
Usage Rate per			
100 cubic feet	\$7.06	\$7.67	\$5.95
1” Commercial			
Monthly Base Charge;	\$56.22	\$49.38	\$47.53
Usage Rate per			
100 cubic feet	\$3.27	\$3.27	\$2.54
2” Commercial			
Monthly Base Charge;	\$177.28	\$158.00	\$152.08
Usage Rate per			
100 cubic feet	\$3.27	\$3.27	\$2.54
3” Commercial			
Monthly Base Charge;	\$321.98	\$296.25	\$285.15

Usage Rate per 100 cubic feet	\$3.27	\$3.27	\$2.54
4" Commercial Monthly Base Charge;	\$561.99	\$493.75	\$475.25
Usage Rate per 100 cubic feet	\$3.27	\$3.27	\$2.54
4" Commercial (gallons); Monthly Base Charge	\$561.99	\$493.75	\$475.25
Usage Rate per 1,000 gallons	\$4.37	\$4.37	\$3.40

<u>Wastewater</u>	<u>Current Rates</u>	<u>Applied For</u>	<u>Public Staff Rec.</u>
¾" Water Meter Residential and Commercial; Monthly Base Charge (zero consumption)	\$15.94	\$17.00	\$17.00
Usage Rate per 100 cubic feet	\$4.30	\$4.71	\$4.71
Wastewater Monthly Flat Rate (wastewater only) Residential and Commercial	\$25.91	\$29.00	\$29.00
Wastewater Monthly Flat Rate (wastewater only) Restaurant	\$161.38	\$232.00	\$232.00
Wastewater Monthly Flat Rate (wastewater only) RV campground	\$351.34	\$435.00	\$435.00
1" Water Meter Commercial Monthly Base Charge;	\$34.92	\$42.50	\$42.50
Usage Rate per 100 cubic feet	\$4.30	\$4.71	\$4.71
2" Water Meter Commercial Monthly Base Charge;	\$111.68	\$136.00	\$136.00
Usage Rate per 100 cubic feet	\$4.30	\$4.71	\$4.71
3" Water Meter Commercial Monthly Base Charge;	\$230.36	\$255.00	\$255.00
Usage Rate per 100 cubic feet	\$4.30	\$4.71	\$4.71

4" Water Meter Commercial			
Monthly Base Charge;	\$349.04	\$425.00	\$425.00
Usage Rate per			
100 cubic feet	\$4.30	\$4.71	\$4.71

4" Water Meter Commercial gallons			
Monthly Base Charge;	\$349.04	\$425.00	\$425.00
Usage Rate per			
1,000 gallons	\$5.74	\$6.29	\$6.29

Average Monthly Residential Bills; (excludes "Applied For" capital assessment)	<u>Current</u>	<u>Applied for</u>	<u>Public Staff Rec.</u>
2.78 ccf			
Water	\$31.33	\$28.84 (-8%)	\$26.07 (-17%)
Wastewater	<u>\$27.89</u>	<u>\$30.09 (+8%)</u>	<u>\$30.09 (+8%)</u>
Total	\$59.22	\$58.93 (-1%)	\$56.16 (-5%)

8. The operations budget increased significantly while the LJA, Inc. water/sewer systems were not regulated by the Commission. In 2011 LJA, Inc. was granted an exemption from Commission regulation. In 2012, LJA, Inc. reported to its customers that its water/sewer operations budget was approximately \$150,000 (not considering purchased water/sewer treatment to Town of Waynesville). By 2016, operations costs had increased to \$226,361 (51% increase). The 2018 operations budget submitted in the Application is \$362,437 (a 60% increase from 2016 and 141% increase from 2012).
9. The LJA, Inc. "Applied For" rates would result in the residential customers paying approximately 74% of the revenue while consuming 59% of the metered volume. Conversely, the commercial customers would pay approximately 26% of the revenue while consuming 41% of the metered volume.

Capital Assessment and Plan

10. In addition to the "Applied For" rates enumerated in item 7 above, LJA, Inc. has requested a separate assessment to fund capital expenditures. This assessment is proposed to be a monthly fixed charge that would generate approximately \$200,000 per year. Public Staff concurs with the "Applied For" fixed assessment schedule, which is

based on a fixed charge for a ¾" water meter, scaled up for larger sized water meters based on meter size factors:

<u>Water</u>	<u>Current Assessment</u>	<u>Applied For & Public Staff Rec.</u>
¾" Water Meter Residential and Commercial; Monthly Fixed Charge	\$0	\$8.14
1" Commercial Monthly Fixed Charge	\$0	\$20.35
2" Commercial Monthly Fixed Charge	\$0	\$65.12
3" Commercial Monthly Fixed Charge	\$0	\$122.10
4" Commercial Monthly Fixed Charge	\$0	\$203.50

<u>Wastewater</u>	<u>Current Assessment</u>	<u>Applied For & Public Staff Rec.</u>
¾" Water Meter Residential And Commercial Metered; Residential Monthly Flat Rate Wastewater Only; Monthly Fixed Charge	\$0	\$8.14
Wastewater Only Monthly Flat Rate Restaurant	\$0	\$65.12
Wastewater Only Monthly Flat Rate RV campground	\$0	\$122.10
Wastewater Only Monthly Flat Rate Commercial	\$0	\$8.14
1" Commercial Monthly Fixed Charge	\$0	\$20.35
2" Commercial Monthly Fixed Charge	\$0	\$65.12

3" Commercial Monthly Fixed Charge	\$0	\$122.10
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4" Commercial Monthly Fixed Charge	\$0	\$203.50
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Average Monthly Residential Bills (including "Applied For" capital assessment, concurred to by Public Staff)	<u>Current</u>	<u>Applied for</u>	<u>Public Staff Rec.</u>
2.78 ccf			
Water	\$31.33	\$36.98 (+18%)	\$34.21 (+9%)
Wastewater	<u>\$27.89</u>	<u>\$38.23 (+38%)</u>	<u>\$38.23 (+37%)</u>
Total	\$58.88	\$75.21 (+27%)	\$72.44 (+22%)

11. In 2012, LJA, Inc. published a *Water and Sewer System Assessment and Appraisal*, along with its accompanying *Water and Sewer Capital Improvements Plan, 10-Year Outlay*. The *Water and Sewer Capital Improvements Plan, 10-Year Outlay* document is commonly referred to as the "Cavanaugh Plan" (authored by Cavanaugh & Associates, P.A., Asheville, NC, professionally sealed by Will J. Jernigan, PE.). Estimated 10-year cost of improvements: \$1,200,000 for water; \$600,000 for sewer. Both estimates included an escalation factor of 5%. Average anticipated expenditures per year \$180,000.
12. The results of the *Water and Sewer System Assessment and Appraisal* and *Water and Sewer Capital Improvements Plan, 10-Year Outlay* were subsequently presented to the Lake Junaluska Assembly service area at multiple public meetings.
13. In October 2013 the LJA, Inc. Board of Trustees adopted a water/sewer budget and rate structure based on implementation of the 10-Year Plan (Cavanaugh Plan). The new rate structure to support implementation of the 10-Year Plan (Cavanaugh Plan) became effective on November 1, 2013. Implementation of the 10-Year Plan (Cavanaugh Plan) began in year 2014.
14. As of December 2019, ten of the fourteen projects identified in the 10-year Plan (Cavanaugh Plan) have been completed. There are four projects remaining to complete the work called for in the 10-year Plan (Cavanaugh Plan) at an estimated cost of \$361,000.
15. The LJA, Inc. reported average of \$200,000 in expenditures per year from 2014-2018 "to repair, replace, improve and modernize its water and sewer infrastructure" includes, in

addition to expenditures for projects identified in the 10-Year Plan (Cavanaugh Plan), capital expenditures for purposes not included the 10-Year Plan (Cavanaugh Plan) (e.g., expenditures for a meter replacement program that was considered and rejected in 2012*). A total of \$855,357 of capital expenditures were made from 2014-2018, of which \$662,023 (77%) were to complete ten of the fourteen projects identified in the 10-Year Plan (Cavanaugh).

* 2012 Water and Sewer System Assessment and Appraisal: "To upgrade our system to include digital meters including the related software and hardware would add about \$196,000 to our capital budget. This improvement is not included in the CIP."

Evidence and Conclusions

Evidence (Item #5)

In pre-filed direct testimony, Public Staff's witness Craig recommended a margin of 7.5% on expenses for both water and sewer service, which relates to an operating ratio of 93.03% (including taxes) or 93.02% (excluding taxes).

LJA, Inc. witness Tweed testified in the hearing,

"The 7.5 percent operating margin that he is recommending is acceptable to the Company or to Lake Junaluska as being a reasonable margin for operating. They're not looking to make any profit. They're a nonprofit group. So, a 7.5 percent margin on operating expenses is very acceptable to the Company."

Conclusion Item #5

The Commission concludes that a 7.5% operating margin is reasonable.

Evidence (Item #6)

In pre-filed direct testimony, LJA, Inc.'s witness Tweed stated,

"LJA does not seek to earn a profit and it does not claim depreciation expense. It only seeks to recover both its operating costs and its capital costs through its monthly rates. LJA, as a system not regulated by the Commission, has been recovering its capital costs primarily through monthly rates. It has therefore not built a rate base upon which to earn a return as does the typical Commission regulated utility company"

No evidence to refute or objections were received from Public Staff or the intervenors. Public Staff witness Chiu's pre-filed direct testimony show zero dollars for Bond Service and zero dollars for Depreciation Expense.

Conclusion (Item #6)

LJA, Inc. has no water/sewer debt and there is no depreciation of assets. LJA, Inc. does not seek to earn a profit. LJA, Inc. seeks to recover both its operating costs and its capital costs through its monthly rates.

Evidence and Conclusion (Item #7-8)

Evidence (Item #7-8)

In their pre-filed direct testimony, intervenors Davis and Phelan both questioned the increase in LJA, Inc.'s water/sewer operations budget/expenditures from 2012 through 2018

(not including water/sewer purchase costs to Town of Waynesville). In his rebuttal testimony, LJA, Inc. witness Carlisle said,

“The 2012 ballpark budget number of \$150,000 only covered wages and benefits for two field personnel and the miscellaneous other operating costs listed in the quoted paragraph on page 4 of Phelan Exhibit 1A. That number does not reflect any allocation of the cost of the other field personnel, administrative and management personnel that support LJA’s water and sewer operations, and the \$150,000 budget number from 2012 does not begin to accurately reflect the cost of LJA’s water and sewer operations.”

Attachment 2A of the Application explains, in part, the budget/expenditures increase for 2017 and 2018. According to Application Attachment 2B and the testimony of LJA, Inc. witness Carlisle, in prior years a different means of finance was used to fund LJA, Inc. employees who had been devoting time to water/sewer purposes but, were funded by a non-sewer/water source of funds. No evidence was provided explaining the 51% increase in operations budget from 2012 to 2016, that timeframe being prior to switching funding sources for the aforementioned employees (for perspective, CPI increased 5% over those years).

According to Public Staff witness Casselberry’s pre-filed direct testimony,

“The Public Staff recommends service revenues of \$356,979 for water and \$418,434 for sewer. The Public Staff recommends a rate reduction for water service and LJA’s proposed rates for sewer service. The Public Staff also recommends an alternate rate design for water service. The Public Staff recommends setting the usage charge for water service the same as the usage charge for the Town of Waynesville (Town). Should the Town of Waynesville increase the purchased water rates, LJA has the opportunity to apply for a pass through, and the new usage charge can be passed onto customers.”

No evidence to refute or objections to these figures were received from LJA, Inc. or the intervenors.

In pre-filed direct testimony, Public Staff witness Casselberry recommended that LJA, Inc. be required to post a \$50,000 bond to comply with N.C. Gen. Stat. § 62-110.3. Under examination by Commissioner Brown-Bland, LJA, Inc. witness Carlisle agreed to that requirement.

EXAMINATION BY COMMISSIONER BROWN-BLAND:

Q. Public Staff witness Gina Casselberry recommended that the Company post a \$50,000 bond for water and sewer operations of Lake Junaluska. Does the Company agree with the amount of the bond recommended? And what is the expected timing with respect to posting?

A. (Mr. Carlisle) Yes, we agree to the proposal and we're doing the paperwork now to secure the bond.

Conclusion (Items #7-8)

The Commission concludes that the “Public Staff Recommended” rates are based on a reasonable test year operations budget, which reflects acceptable Public Staff adjustments in revenues, expenses, operating margin, and other adjustments.

Evidence and Conclusion (Item #9)

Evidence (Item #9)

In his pre-filed direct testimony, intervenor Davis asserted:

“According to *AWWA M1*, a goal of a rate structure should be ‘that each customer class pays the costs allocated to the class and thus cross-class subsidies are avoided.’ From data provided by LJA in response to my data request, it appears that the LJA proposed rate structure is not equitable between residential and commercial customers. I conclude this because the percentage of revenue paid in by the residential customers for the volume of water consumed is significantly higher than that of the commercial (see Table 1). Under the LJA proposed rate structure, it appears the residential customers pay in approximately 74% of the revenue while consuming only 59% of the water.”

and;

“The LJA proposed rate structure is mostly a uniform rate (single block) with varying base charges. According to *AWWA M1*, uniform rate structures might be appropriate when ‘Customer groups or service classes exhibit similarities in usage (demand) characteristics.’ I don’t think this is the case for LJA. For this reason, I’m not sure an equitable rate structure can be accomplished with a single block structure. See Table 2 for an example of an increasing block structure that would get closer to accomplishing the equity goal while providing essentially the same revenue.”

There was no evidence presented refuting the numbers asserted by intervenor Davis. In pre-filed rebuttal testimony, LJA, Inc. witness Carlisle stated,

“We disagree with that (Davis) assertion, as LJA’s proposed water rate structure, which is supported by the Public Staff, is equitable, in that every user pays the same rate per 1,000 gallons or per 100 cubic feet (“CCF”) of water. I understand that this approach is typically used by the Commission in setting water rates, and we believe this is a fair and equitable approach. Any alternative rate structure of the type described by Mr. Davis, which would punish commercial users and year-round residents for their normal usage patterns, is not shown to generate any specific level of revenue, much less LJA’s revenue requirement.”

No corroborating evidence was presented substantiating LJA, Inc. witness Carlisle’s claim that “any alternative rate structure of the type described by Mr. Davis would punish commercial users and year-round residents for their normal usage patterns.” There was no evidence presented that any alternative rate structure to that used in the “Applied For” and “Public Staff Recommended” structures was numerically evaluated by LJA, Inc. or Public Staff.

At the hearing, LJA, Inc. witness Tweed testified under examination by Commissioner Clodfelter:

“COMMISSIONER CLODFELTER: Would any of the three of you care to comment on Mr. Davis' position which as I understand it is that the proposed rate structure would result in residential customers subsidizing usage by commercial customers. Would y'all like to comment on that position?

A. (Tweed) I personally disagree with his assessment. I think the residential customers under our proposed rate structure are paying their way, the commercial customers are paying their way. I don't think there's any subsidizing there. He alleges because the -- that the commercial customers use more water than the residential customers on average that more of the revenue requirement should go over there but they're paying

more for that water. They're paying a rate per 100 cubic feet, the same as the residential are, so I don't agree with his point."

Q. If they are paying the same then what accounts for the difference in the percentage of revenue relative to the percentage of usage? Is that the meter charge? Is that the --

A. My belief is basically it's a -- the residential rates, consumption is very low. It's an average of 2000 gallons per month per customer essentially. And they're paying a base rate of \$22.00. If someone is an absentee resident for six months of the year and they're paying \$22.00 per month for zero usage, that's going to result in the skewing of the numbers as shown in Mr. Davis' exhibit.

Q. Well I thought that might be the answer. It's the base charge that accounts for that disparity.

Have you done any calculation to verify that and confirm that that is, in fact, the case?

A. I have not but I believe that to be the case.

Q. Thank you.

A. Because of the very low average consumption of 2000 gallons per month per customer average across the state. For the residential customer would be more like 6,000 gallons a month."

Conclusion (Item #9)

According to GS 62-2, the Commission is responsible to both the public and utilities and must provide just and reasonable rates and charges for public utility services. Since equity is one of several rate objectives common to many utilities and their customers, such can be considered in determining the reasonableness of a rate structure.

Equity can be a matter of perspective. Despite some shortcomings, rates based on cost-of-service principles are widely considered being *de facto* equitable. For this Docket there is insufficient cost data provided to perform the analytical steps necessary to construct a rate structure based on cost-of-service model such as the Base-Extra Capacity Method in AWWA M1.

LJA, Inc. witnesses Carlisle and Tweed assert that by having a uniform volumetric rate, the "Applied For" structure is equitable. However, what customers actually pay is a combination of a volumetric charge and a fixed charge, not just a uniform volumetric rate.

Per intervenor Davis's direct pre-filed testimony, "According to AWWA M1, uniform rate structures might be appropriate when 'Customer groups or service classes exhibit similarities in usage (demand) characteristics.' I don't think this is the case for LJA." In the hearing, LJA, Inc. witness Tweed testified that residential consumption "is very low" for the Lake Junaluska Assembly service area.

Concerning fixed base charge component, the "Applied For" and "Public Staff Recommended" rate structures distribute costs (not including metered volumetric costs) through fixed base charges based on meter size factors. In this Docket there is a lack of definitive costs at the functional level, so distributing costs simply based on generic meter size factors may or may not result in equity (if cost-of-service is the equity metric).

The equity metric proposed by intervenor Davis, i.e., each customer class pays in proportion to water consumed, has some appeal for the particulars of this Docket. It is simple, measurable, defensible, and an easy way to judge equity for this Docket's atypical circumstances. The sample rate structure presented in Davis's pre-filed direct testimony is an

increasing block structure, commonly used in North Carolina and across the country, and according to his testimony results in similar revenue to the “Applied For” rate structure. Using this metric of equity, the “Applied For” and “Public Staff Recommended” rates between residential and commercial customer classes may be less than optimal.

The Commission concludes that the “Applied For” and “Public Staff Recommended” rate structures, while perhaps not optimal for an atypical situation like this Docket, do provide acceptable equity.

Evidence and Conclusion (Items #10-15)

Evidence (Items #10-15)

The 10-Year Plan (Cavanaugh Plan) is Phelan’s pre-filed testimony Exhibit 1A. This Docket’s Application for CPCN and Approval of Rates, Attachment 1D, LJA, Inc. stated:

“In August of 2011 the Commission exempted LJA from regulation. Given the extent of the water loss and leakage in its infrastructure, the other infrastructure issues recognized in the Public Staff’s Motion to Amend Order, and the obvious economic incentive to minimize the loss of purchased water (water losses also increase Waynesville’s billings for wastewater treatment), LJA thereafter commissioned an engineering analysis of its water distribution and wastewater collection systems. **The resulting report from a consulting engineering firm issued in May of 2012 included a 10-year Water and Sewer Capital Improvements Plan (“the 10-Year Plan”).**” (emphasis added)

and,

“At this point, LJA still experiences purchased water losses in the low to mid-20% range, so further work is required to reduce and eliminate water leaks and address issues with aging sewer infrastructure. **LJA therefore requests that the Commission approve a customer assessment or other funding mechanism at this time to generate sufficient funding for it to complete the work called for in the 10-Year Plan.**” (emphasis added)

In his pre-filed direct testimony, LJA, Inc. witness Carlisle stated:

“Given the age of its water and sewer infrastructure, LJA anticipates that it will commission another engineering study in 2020 or 2021 to identify and update any additional necessary improvements to the water and sewer infrastructure serving the LJA community.”

and,

“Based on its particular circumstances, LJA respectfully requests that the Commission recognize its unique situation and approve its proposed rates for water and sewer service at a level calculated to generate sufficient capital to fund the work called for in the 10-Year Plan. With a new engineering study of LJA’s water and sewer infrastructure system planned for the next two to three years, the level of any assessment to fund future capital improvements can be evaluated in future proceedings before the Commission.”

In his pre-filed direct testimony, LJA, Inc. witness Tweed stated,

“Jack Carlisle advised me that LJA needs an additional approximately \$200,000/year for capital expenditures relating to water and sewer infrastructure. To fund a capital budget at that level I proposed an \$8.14/month assessment for each residential equivalent water customer and \$8.14/month assessment for each residential equivalent sewer customer. This would support a total of approximately \$200,000/year in funding for water and sewer system capital expenditures.

In the hearing, LJA, Inc. witness Carlisle testified that:

“The request is for \$200,000 a year of capital money to complete the work of the Cavanaugh Plan and additional needed work, along with worn out equipment.”

Under cross examination by intervenor Phelan, LJA, Inc. witness Carlisle stated that it is the increase in operations that is prompting the request for a rate increase to support capital outlays.

CROSS EXAMINATION BY INTERVENOR PHELAN:

Q. And then continuing down, what are the impact of these changes? Your statement put in more water/sewer expenses into that budget will impact the dollars we'll have available for renewal and refurbishment of our water and sewer system; is that correct?

A. (Carlisle) That is correct. Because of the way that we operate, by adding those expenses into our operating expense that provided fewer dollars available for capital work.

Q. So the operations budget was increased?

A. That would be the result of that; yes, sir.

During cross examination at the hearing LJA, Inc. witness Carlisle confirmed that LJA, Inc. has averaged spending approximately \$200,000 per year on capital improvements that first began in 2014. Additionally, he confirmed that ten of the fourteen initial projects identified in the 10-Year Plan (Cavanaugh) have been completed.

During cross examination at the hearing, when asked to identify the four remaining projects to complete the work called for in the 10-Year Plan (Cavanaugh), neither of LJA, Inc. witnesses Carlisle and Tweed were able to confirm what remains uncompleted or the dollar value of what remains uncompleted. Even so, according to Attachment 3A of the Application, the estimated cost to complete the four remaining projects from the 10-Year Plan (Cavanaugh) is \$361,000.

According to Attachment 3B of the Application, about 80% of the capital expenditures from 2014 to 2018 were for projects identified in the 10-Year Plan (Cavanaugh).

According to Application Attachment 3A (Five Year System Improvement Plan), about 36% of the anticipated costs are to complete the 10-Year Plan (Cavanaugh). About 25% are for currently unknown projects, and 18% for a new vacuum truck for which intervenor Davis stated:

“Further, according to the LJA answer to my data request, a buy/lease, new/used financial analysis for the \$180,000 vacuum truck in the plan submitted to NCUC has not been performed, ‘An economic analysis for the life cost of a replacement vacuum water truck will be done in the fiscal year when the truck is to be acquired, based on funding available at that time.’”

In his rebuttal testimony, LJA, Inc. witness Carlisle stated:

"LJA received a cost estimate from a vendor of \$180,000 for a new jetter truck with basic options. LJA has not yet performed a full financial analysis comparing lease versus purchase options for a replacement jetter truck, but will do so before moving forward with a purchase"

Commissioner McKissick asked LJA, Inc. witness Carlisle during examination if he thought that updating the Cavanaugh study is likely to project or show a greater need for repairs or whether the repairs that are being done are adequately addressing the problem as well as the anticipated cost moving forward. Mr. Carlisle stated that is was his belief "that we have been adequately addressing the highest priorities and that he doesn't expect any significant surprises."

When Public Staff witness Castleberry was asked by Commissioner McKissick if the Public Staff gave any consideration as to how long a period of time the surcharge might be required to adequately fund the 10-year plan as well as any modifications of that plan that might be implemented as a result of a new study that would be conducted, she said the "Public Staff did not look into that." Additionally, Public Staff witness Castleberry stated,

"We just agreed to what they had requested in the surcharge and we also -- they had said that they were going to do a new study and with us auditing that we can always require that we can bring them in to look at that if we need to so, as far as the surcharge goes. And we will be auditing that as we go along so we will have an idea of where they are and what kind of projects are completed and what needs to be done going forward."

LJA, Inc. witness Tweed confirmed during examination by Commissioner Gray, that LJA, Inc. agreed that the revenues collected for the capital improvements be accounted for separately and the amount spent on each capital project with regular reporting to the Commission and the Public Staff.

Under examination by Commissioner McKissick, Public Staff witness Casselberry confirmed that LJA, Inc. will be reporting on a quarterly basis and that the Commission has the authority to eliminate the capital assessment:

EXAMINATION BY COMMISSIONER MCKISSICK:

Q. And it's my understanding those updates will occur quarterly; is that correct?

A. (Casselberry) Yes, I believe that's what we recommended, that they be on a quarterly basis.

Q. And if there comes such a time that based upon their ability to complete the projects in a timely way as well as any other projects that might be contemplated as a result of the new study, would there be a recommendation at such point in time that the surcharge would be eliminated or reduced?

A. Yes, that -- we could always eliminate. Yes, the Commission has the authority to eliminate that.

Q And would that recommendation be coming back before us based upon the Public Staff's review at that time?

A. Yes.

Q. Thank you.

Under examination by Commissioner Brown-Bland, Public Staff witness Casselberry agreed to review quarterly reports from LJA, Inc. on the disposition of the capital assessment.

EXAMINATION BY COMMISSIONER BROWN-BLAND:

Q. And regarding the surcharge, this is really a follow up just to be sure from what Commissioner McKissick just asked, but you recommended quarterly reports in an agreed upon format regarding the funds collected through the assessments, the amount of assessed funds on hand, the projects completed, and the amount spent on capital expenditures. Would it be the Public Staff's intent to review this information quarterly and update the Commission on an annual basis outside of a general rate case, whether the surcharges should continue at the same rates that might be approved in this proceeding?

A. (Casselberry) The Public Staff can do that. Usually accounting does but I'm sure accounting will agree with that.

Conclusion (Items #10-15)

The intent of the Application was for an assessment or other funding mechanism "to generate sufficient funding for it to complete the work called for in the 10-Year Plan". The requested \$200,000 per year is based on historical capital expenditures from 2014-2018, the vast majority of which were associated with implementation of the 10-Year Plan (Cavanaugh Plan). The presented five-year plan is mostly associated with purposes other than completion of the 10-Year Plan (Cavanaugh Plan). There was no appreciable linkage demonstrated between an annual \$200,000 associated with implementing the 10-Year Plan (Cavanaugh) plus other ancillary purposes, and what is needed, if anything, going forward. Application Attachment 3A (Five Year System Improvement Plan) is mostly items other than completion of the 10-Year Plan (Cavanaugh Plan). Use of an annual dollar figure going forward, whose basis is a separate plan soon to be completed, seems dubious, especially when the Applicant has said it intends to "commission another engineering study in 2020 or 2021 to identify and update any additional necessary improvements to the water and sewer infrastructure serving the LJA community."

A capital assessment of \$200,000 per year through the end of the 10-Year Plan timeframe, i.e., year 2023, would provide funding to complete the 10-Year Plan (Cavanaugh Plan) plus provide additional funds for other ancillary capital expenditures, at about the same percent for each, as has been experienced over the past five years.

The proposed "Applied For" and "Public Staff Recommended" rate increases, including the capital assessment, are substantive for the average use residential customer. With these rates, residential customers would be subject to more than 200% increases in water and sewer base charges since September 2013. For the many low volume users in the Lake Junaluska Assembly service area the base charges are a major part of their bill. On the surface it may appear that the proposed rate increases are due to the capital outlays; however, they are actually to make up for the increases in operations expenditures over the past five years that reduced the amount of revenue available for capital outlays in the current rate structure. The capital costs experienced to date in implementing the ongoing 10-Year Plan (Cavanaugh Plan) have been well within the revenue amounts programmed in the funding mechanism to implement the 10-Year Plan (Cavanaugh Plan).

IT IS, THEREFORE, ORDERED as follows:

1. That the Schedule of Rates, attached hereto as Appendix A-1 is hereby approved and deemed filed with the Commission pursuant to N.C. Gen. Stat. § 62-138.
2. The Schedule of Capital Assessments attached hereto as Appendix A-2, is hereby approved and deemed filed with the Commission pursuant to N.C. Gen. Stat. § 62-138 subject to the below time limitation.
3. That the attached Schedule of Rates and Schedule of Capital Assessments are hereby authorized to become effective for service rendered on and after the date of issuance of this Order. The Capital Assessment is effective on and after the date of issuance of this order until December 31, 2023, at which time collection of such Assessment shall cease.
4. That in year 2020 LJA, Inc. shall commence a new engineering study of its water and sewer infrastructure system to identify any necessary improvements to the water and sewer infrastructure serving the Lake Junaluska Assembly service area.
5. That LJA, Inc. post a \$50,000 bond in accordance with N.C. Gen. Stat. § 62-110.3.
6. That LJA, Inc. report to the Commission and Public Staff on a quarterly basis the disposition of the capital assessment revenues and expenditures by descriptive category level detail.
7. That a copy of the Notice to Customers shall be mailed with sufficient postage or hand delivered to all affected customers by LJA, Inc. in conjunction with the next regularly scheduled billing process.
8. That LJA, Inc. shall file a Certificate of Service, properly signed and notarized, not later than forty-five days after the issuance of this Order.

ISSUED BY ORDER OF THE COMMISSION. This the ____ day of _____, 2020.