Water and Sewer Bipartisan Committee

Report to Town Council

March 12, 2026

The dispute between the Town of Watertown and the City of Waterbury centered on increased rates for water and sewer services provided by Waterbury to Watertown. Originating from a 2018 rate hike that eliminated discounts for out-of-city customers, the conflict led to a multi-year legal battle, culminating in Watertown owing over 36 million in unpaid bills and interest. The matter was resolved in late 2025 with Watertown making a full payment of $36.1 million to Waterbury, funded in part by a voter-approved bond. Watertown's Town Council created a 5 member bipartisan committee to make recommendations:

Charge of Water and Sewer Bipartisan Committee:

1. To recommend safeguards that will help prevent situations from arising in the future.
2. To recommend policies and/or procedures to ensure the public remains informed
3. To examine the business relationship between the Town Council and the Water and Sewer Authority and recommend any appropriate changes.

Background:

Waterbury has supplied water services to Watertown since 1939 and sewer services since 1951, under longstanding agreements. Historically, Watertown benefited from discounted rates as an out-of-city customer. In 2018, Waterbury discontinued these discounts, resulting in a doubling of water prices and a more than 300% increase in sewer rates for Watertown. Watertown contested the hikes, arguing they were unjustified, and continued paying at the previous rates while challenging the increases

legally. Watertown ultimately lost the lawsuit to Waterbury, owing approximately 36m in charges and interest broken out as follows:

	A	B	C	D	E	F
1		**Town Council Table**				
2	Year	Unpaid Water Charges Fern	Unpaid Water Charges Straits	Unpaid Sewer Charges	Interest Accrued	Total
3	2018	$1,967.67	$8,420.92	$14,790.98	0.00	
4	2019	$130,727.20	$511,879.61	$1,940,139.24	113,315.20	
5	2020	$142,341.35	$570,495.02	$1,500,785.32	571,510.19	
6	2021	$167,281.16	$548,175.52	$1,472,907.35	1,445,692.81	
7	2022	$195,048.13	$482,189.52	$1,845,079.06	2,683,743.00	
8	2023	$253,432.66	$529,340.16	$2,792,270.50	4,538,752.10	
9	2024	$174,680.90	$538,960.21	$3,735,186.31	4,686,586.25	Moved to Judgement
10	2024-A				408,862.38	Continued short pay monthly bills
11	2025	$188,810.49	$487,509.35	$2,380,005.85	1,382,738.50	Monthly bills only
12	Total	$1,254,289.56	$3,676,970.31	$15,681,164.61	15,831,200.43	**$36,443,624.91**

Process:

Meetings were held weekly beginning November 24, 2025 and continuing through March, 2026.

People interviewed were:

Franklin Pilicy (attorney), Paul Jessell (attorney), Joe Masi (WSA), John Gavallas (former Town Manager, former police chief), Jonathan Ramsey (Town Council), Jerry Lukowski (Department Head Public Works, WSA), Dave McMahon (WSA asst), Mark Raimo (Town Manager), Maria Guerrera (Finance Director 10/25- current), Bill Hedburg (WSA Commission 2014-2020) via email, Mary Ann Rosa (Town Council)

The following were asked to interview, but either were unable to attend or did not want to be interviewed: Vincent Catarino (WSA superintendent 2008-January 2023), Jim Sugden (WSA Commission 2015-current), Deb Desena (finance), Ray Primini (WSA Commission 12/23-current), Rachael Ryan and Bob Scanell (TM- 2004-2020).

WATER AND SEWER BIPARTISAN COMMITTEE
RECOMMENDATIONS

Recommendations:

1. To recommend safeguards that will help prevent situations from arising in the future.
    - ❖ Development of a Risk Management Policy (attachment 1,2,3)
    - ❖ Development of a WSA Risk Management policy (to follow)
    - ❖ Budget multi-year forecasting (attachment 4)

2. To recommend policies and/or procedures to ensure the public remains informed
    - ❖ Adopting executive session best practices for all town boards and commissions (attachment 5)
    - ❖ TC and TM establish strong multi modal communication plan, especially for critical issues – email, website, podcasts, printed material to accompany tax/water-sewer bills
    - ❖ Move WSA meetings to TC chambers, allowing for more attendees and easier presentation/recording

3. To examine the business relationship between the Town Council and the Water and Sewer Authority and recommend any appropriate changes.

    This relationship was established by Town Charter and CT State Statute to prevent politics from interfering with rate setting

    - ❖ Add ex officio member from TC to WSA board
    - ❖ WSA representative presents to TC monthly at TC meetings. Presentation should follow guidelines established in WSA Risk Management policy.
    - ❖ Clarify the role of the Water and Sewer Authority, Town Council, and Town Manager based on the Charter

Attachments:

1. Litigation Policy Briefing
2. Litigation Policy Executive Version
3. Litigation Risk Oversight Policy – Council Resolution
4. Five Year Financial Forecast Policy
5. Recommendation Standardizing Executive Session Procedures
6. Pilicy Report
7. AWWA Manual M1
8. W Hedberg Reply to Committee Questions
9. W Hedberg reply to Committee Questions, - Vol 2
10. Water and Sewer Risk Management Policy Draft
11. Business Relationship Clarification

Attachment 1: - Litigation Policy Briefing

Litigation Risk Management Policy

Problem

Municipal litigation can create large and unpredictable financial liabilities through judgments, settlements, legal fees, statutory interest, and borrowing costs.

Recent litigation has demonstrated that without structured oversight, legal disputes can escalate into significant taxpayer obligations before the Town Council has full visibility of financial exposure.

Goal

The goal of a Litigation Risk Oversight Policy is to ensure that major legal decisions are made with clear financial analysis, independent legal evaluation, and appropriate governance oversight.

Key Safeguards

1. Exposure Forecasting – Every major case includes a full financial risk estimate.
2. Independent Legal Review – Outside counsel review begins at defined cost thresholds.
3. Supermajority Oversight – Major litigation decisions require broad Council approval.
4. Reserve Planning – Litigation liabilities are treated like financial obligations and planned for in advance.
5. Settlement Review – High-risk cases must evaluate settlement options before continuing litigation.
6. Appeal Safeguards – Appeals require independent review of the probability of success.
7. Litigation Dashboard – Quarterly reporting keeps the Council informed of all active cases.
8. Early Warning System – Potential claims are reported before they escalate into costly lawsuits.

Benefits to the Town

1. Protects taxpayers from unexpected financial exposure
2. Ensures transparent decision-making
3. Improves fiscal planning and budgeting
4. Provides early warning of major legal risks
5. Aligns litigation decisions with responsible governance practices

Bottom Line

This policy does not restrict the Town's ability to defend itself in court.

Instead, it ensures that litigation decisions are made with full understanding of the financial risks and with appropriate oversight by elected officials responsible for protecting taxpayer resources.

Attachment 2: Litigation Policy Executive Version

Municipal Litigation Risk Oversight Policy

Executive Governance Version

Purpose

This policy establishes governance controls for municipal litigation to protect taxpayers, ensure responsible fiscal planning, and provide the Town Council with structured oversight of legal risk.

Municipal litigation can create significant financial exposure through judgments, interest, legal fees, and settlements. This policy ensures that litigation risks are evaluated with the same discipline applied to other major financial obligations.

1. Litigation Exposure Forecasting

For any litigation matter involving the Town, the Town Attorney shall provide a Total Exposure Forecast that identifies the full potential financial risk to the municipality.

The forecast must include:

- Estimated damages or claim amount
- Estimated statutory penalties
- Projected post-judgment interest
- Estimated legal defense costs
- Estimated settlement range

The forecast must also include a written legal recommendation identifying whether settlement, trial, or appeal is the recommended course of action.

2. Litigation Oversight Thresholds

Oversight of litigation shall be triggered based on the amount of taxpayer funds committed.

Tier 1 – $25,000

Initial case assessment.

Requires:

- Summary of legal merits

- Initial exposure forecast

Tier 2 – $75,000

Milestone review.

Requires:

- Updated exposure forecast
- Evaluation of settlement vs trial
- Independent Legal Review

Tier 3 – $150,000

Escalation threshold.

Requires:

- Formal Council briefing in Executive Session
- Updated fiscal impact analysis

Supermajority Requirement

Any action advancing litigation beyond Tier 3 thresholds requires approval by a two-thirds supermajority vote of the Town Council.

This includes:

- Authorization to proceed to trial
- Authorization to file or continue an appeal
- Authorization of litigation spending beyond Tier 3 thresholds

3. Independent Legal Review

Beginning at Tier 2 ($75,000), the Town must obtain an independent legal review from outside counsel not previously involved in the matter.

The review must provide:

- Independent assessment of legal strategy
- Evaluation of financial exposure
- Probability of success at trial

- Settlement evaluation
- Appeal viability assessment (if applicable)

The independent review must be provided to the Town Council before further litigation expenditures are authorized.

4. Litigation Financial Reserve Planning

All litigation matters must include a Litigation Reserve Estimate identifying:

- Estimated maximum exposure
- Recommended reserve funding level
- Potential budget impact

If estimated exposure increases by 20% or more, an updated reserve estimate must be presented to the Council.

This requirement ensures litigation liabilities are recognized early and do not create unexpected taxpayer burdens.

5. Mandatory Settlement Review

A formal settlement review shall occur when any of the following conditions occur:

- Total projected exposure exceeds $250,000
- Probability of adverse outcome exceeds 40%
- Independent legal review recommends settlement consideration
- Estimated litigation costs exceed 50% of expected settlement value

The Town Council must review settlement options before authorizing continued litigation.

Continuation requires a supermajority vote of the Council.

6. Appeal Authorization Safeguard

Before filing any appeal, the Town must obtain an Independent Appeal Viability Review.

This review must analyze:

- Grounds for reversal
- Applicable standard of review
- Supporting legal precedent
- Estimated probability of success
- Estimated appellate costs
- Updated exposure analysis

Appeals should generally not be pursued unless the independent review indicates a reasonable likelihood of success, typically 40% or greater.

Authorization to file an appeal requires a supermajority vote of the Town Council.

7. Litigation Transparency Dashboard

The Town Attorney shall present a Quarterly Litigation Dashboard summarizing all active litigation matters.

The dashboard must include:

- Case name and type
- Litigation phase
- Defense costs to date
- Estimated exposure range
- Probability of loss
- Settlement status
- Litigation reserve status

Cases experiencing significant exposure increases or entering Tier 3 thresholds must be flagged for immediate Council notification.

8. Litigation Early Warning System

The Town Attorney must notify the Town Council when the Town becomes aware of potential claims that could expose the Town to $50,000 or more in liability.

Within 30 days, the Town Attorney shall provide a Pre-Litigation Risk Assessment including:

- Description of the dispute
- Preliminary exposure estimate
- Legal merits analysis
- Recommended resolution strategy

This early warning system allows the Town to evaluate settlement or mitigation options before litigation costs escalate.

Policy Objective

This policy establishes a structured framework to ensure:

- litigation risk is evaluated transparently
- financial exposure is forecast and reserved
- major litigation decisions receive appropriate governing oversight

The policy promotes responsible stewardship of taxpayer resources while ensuring the Town can effectively defend its legal interests.

Attachment 3: Litigation Risk Oversight Policy - Council Resolution

TOWN OF WATERTOWN

RESOLUTION ESTABLISHING A MUNICIPAL LITIGATION RISK OVERSIGHT POLICY

WHEREAS, municipal litigation can create significant financial exposure through legal fees, judgments, settlements, statutory penalties, and post-judgment interest; and

WHEREAS, responsible governance requires that the Town Council maintain oversight of litigation risks that may materially affect taxpayers and municipal finances; and

WHEREAS, the Town Council seeks to establish a structured framework to ensure that litigation exposure is evaluated, disclosed, and managed with appropriate fiscal discipline;

NOW, THEREFORE, BE IT RESOLVED that the Town Council hereby adopts the following Municipal Litigation Risk Oversight Policy.

Section 1 – Litigation Exposure Forecast

For all litigation matters involving the Town, the Town Attorney shall provide a Total Exposure Forecast identifying the full potential financial risk to the municipality.

The forecast shall include:

- Estimated damages or claim amount
- Estimated statutory penalties
- Estimated post-judgment interest
- Estimated legal defense costs
- Estimated settlement range

The Town Attorney shall also provide a written recommendation identifying whether settlement, continued litigation, or appeal is the recommended course of action.

Section 2 – Litigation Oversight Thresholds

Litigation oversight shall be triggered based on the amount of taxpayer funds committed.

Tier 1 – $25,000

Initial case assessment requiring a written summary of legal merits and initial exposure estimate.

Tier 2 – $75,000

Milestone review requiring:

- Updated exposure forecast
- Evaluation of settlement versus trial
- Independent Legal Review

Tier 3 – $150,000

Escalation threshold requiring:

- Formal briefing to the Town Council in Executive Session
- Updated financial exposure analysis

Section 3 – Supermajority Authorization

Any action advancing litigation beyond Tier 3 thresholds shall require approval by a two-thirds supermajority vote of the Town Council.

Actions requiring supermajority approval include:

- Authorization to proceed to trial
- Authorization to file or continue an appeal
- Authorization of litigation expenditures exceeding Tier 3 thresholds

Section 4 – Independent Legal Review

Beginning at Tier 2 ($75,000), the Town shall obtain an independent legal review from outside counsel not previously involved in the matter.

The review shall provide:

- Independent assessment of legal strategy
- Evaluation of estimated financial exposure
- Assessment of probability of success at trial
- Settlement evaluation
- Appeal viability assessment when applicable

The independent review shall be provided to the Town Council prior to authorization of further litigation activity.

Section 5 – Litigation Financial Reserve Planning

All litigation matters shall include a Litigation Reserve Estimate identifying:

- Estimated maximum financial exposure
- Recommended reserve level
- Potential impact on municipal budgets

If projected exposure increases by more than 20 percent, the Town Attorney shall provide an updated reserve estimate to the Town Council.

Section 6 – Mandatory Settlement Review

A formal settlement review shall occur when any of the following conditions occur:

- Projected total exposure exceeds $250,000
- Probability of adverse outcome exceeds 40 percent
- Independent legal review recommends settlement consideration
- Estimated litigation costs exceed 50 percent of the expected settlement value

Continuation of litigation beyond this review shall require supermajority approval of the Town Council.

Section 7 – Appeal Authorization Safeguard

Prior to filing any appeal, the Town shall obtain an Independent Appeal Viability Review.

The review shall analyze:

- Grounds for reversal
- Applicable standard of review
- Relevant legal precedent
- Estimated probability of success

- Estimated appellate costs
- Updated financial exposure

Authorization to file or continue an appeal shall require a two-thirds supermajority vote of the Town Council.

Section 8 – Litigation Transparency Dashboard

The Town Attorney shall provide the Town Council with a Quarterly Litigation Dashboard summarizing all active litigation matters.

The report shall include:

- Case name and type
- Current litigation phase
- Defense costs to date
- Estimated exposure range
- Probability of adverse outcome
- Settlement status
- Litigation reserve status

Cases experiencing significant exposure increases or entering Tier 3 thresholds shall be flagged for immediate Council notification.

Section 9 – Litigation Early Warning Requirement

The Town Attorney shall notify the Town Council when the Town becomes aware of potential claims that may expose the Town to $50,000 or more in liability.

Within 30 days, the Town Attorney shall provide a Pre-Litigation Risk Assessment describing:

- Nature of the dispute
- Preliminary exposure estimate
- Legal merits assessment

- Recommended resolution strategy

Section 10 – Implementation

All outside legal counsel retained by the Town shall comply with the requirements of this policy.

This policy shall apply to all litigation matters initiated after the adoption of this resolution.

Adopted by the Watertown Town Council this ___ day of _____, 2026.

Attachment 4: Five Year Financial Forecast Policy

Five-Year Financial Forecast Policy

Purpose

The purpose of this policy is to promote the long-term financial stability and responsible management of the Watertown water and sewer utilities. Preparing a multi-year financial forecast allows the Water and Sewer Authority to anticipate capital needs, evaluate financing options, and maintain appropriate user rates while protecting the system's infrastructure and financial health.

Policy

As part of each annual budget cycle, the Watertown Water & Sewer Authority shall prepare and review a Five-Year Financial Forecast for the water and sewer utilities. The forecast shall encompass the entire revenue requirement, demonstrating the revenue that must be raised by the Authority to meets its obligations.

At a minimum, the Five-Year Financial Forecast shall include:

1. Operating Revenue Projections

   Estimated revenues for each class of customers based on their projected usage of the system.

2. Expense Projections
   Estimated operating expenses, including projected payments for water and sewer wholesale providers, for the current fiscal year and the following five fiscal years.

3. Capital Improvement Plan
   A five-year schedule of anticipated capital projects, including estimated costs and expected timing of expenditures.

4. Financing Assumptions
   Identification of how major capital projects may be financed, which may include:

   - Pay-as-you-go funding from operating revenues
   - Use of reserves
   - Bond or loan financing
   - State or federal funding programs
   - Other available financing mechanisms

5. Debt and Reserve Projections
   Estimated impacts on system debt levels, debt service requirements, and reserve balances.

6. Rate Implications
   Identification of potential impacts on water and sewer user rates necessary to maintain system financial stability and meet capital needs.

The Five-Year Financial Forecast is intended as a planning tool. It should updated annually to reflect changes in system needs, project costs, regulatory requirements, or financial conditions.

Rationale

Water and sewer utilities require significant long-term investment to maintain pipes, treatment facilities, pumps, storage, and other critical infrastructure. Many of these assets have long lifespans but require periodic replacement or major rehabilitation.

Developing a five-year financial forecast during each budget process helps the Committee:

- Identify upcoming infrastructure needs before they become urgent
- Plan for large capital expenditures in an orderly and transparent manner
- Evaluate and debate financing strategies
- Minimize the likelihood of sudden rate increases
- Maintain adequate reserves and responsible debt levels
- Provide better financial information to elected officials and the public
- Support sustainable and reliable utility service for the community

Regular multi-year financial planning is considered a best practice for municipal utilities and supports sound fiscal management of the Town's water and sewer systems.

Attachment 5: Recommendation Standardizing Executive Session

Recommendation: Standardizing Executive Session Procedures

Best Practices and Policy Recommendations for Executive Sessions

Executive Summary

This document provides a formal framework for how Watertown boards and commissions convene and conduct executive sessions in compliance with Connecticut law. The Watertown Home Rule Charter requires that Town Council sessions remain open to the public and the press, except where closure is permitted by FOIA or other applicable law.
These recommendations are designed to ensure the Town Council and boards such as the Water and Sewer Authority (WSA) follow the required procedures for entering executive session, protect legitimately sensitive town business, and uphold public trust.

1. The Statutory Framework for Closure

Under Connecticut General Statutes § 1-200(6), public agencies in Watertown may only enter executive sessions for five specific reasons :

- **Personnel Matters:** Discussion of appointment, employment, performance, or evaluation of a public officer or employee (unless the individual requests a public hearing).
- **Litigation Strategy:** Strategy and negotiations regarding pending claims or litigation to which the agency is a party.
- **Public Security:** Matters concerning security strategy or the deployment of security personnel/devices.
- **Real Estate Transactions:** Selection of a site or the lease, sale, or purchase of real estate when publicity would likely increase the price.
- **Exempt Records:** Discussion of any matter which would result in the disclosure of public records exempt from FOIA under § 1-210(b).

2. Procedural Standards for Convening Sessions

To avoid legal challenges or the nullification of board actions, the following procedural steps must be followed :

- **The Two-Thirds Vote:** An executive session may only be initiated by an affirmative vote of two-thirds of the members present and voting at a public meeting.
- **Specificity of Motion:** The motion must identify the reason for the session with "sufficient particularity". Vague descriptions such as "personnel" or "legal matters" are legally inadequate.
    - *Correct Example:* "I move to enter executive session to discuss the performance evaluation of the Town Manager per CGS § 1-200(6)(A)."
- **Prohibition on Voting:** No votes or formal actions may be taken during an executive session. All final decisions must occur in the public portion of the meeting.
- **Attendance Limits:** Attendance is limited to board members and invited persons necessary to provide testimony or opinion. Invited guests must leave as soon as their testimony is concluded.

4. Best Practices for Modern Governance

The shift toward hybrid and digital meetings requires enhanced security and transparency protocols:

- **Public Comment Standards:** To maintain order, a standardized three-minute limit for public comments is recommended, as seen in other municipal frameworks.
- **Electronic Participation:** For hybrid meetings, roll call votes must be taken unless the vote is unanimous to ensure clear records for the minutes.
- **Digital Security:** Boards must ensure "waiting room" technology is used for executive sessions to prevent unauthorized public access to private deliberations.
- **Email Communication:** Board members must avoid "Reply All" chains or substantive debates via email, as these can constitute "illegal meetings" and are subject to public record disclosure.

5. Conclusion

Adopting these recommendations will provide the Town of Watertown with a robust defense against Freedom of Information Commission (FOIC) complaints, which can result in civil fines or the voiding of town contracts. By standardizing the "particularity"

of motions and securing the lifecycle of confidential documents, the Town Council and ancillary boards will ensure that Watertown remains a model of municipal transparency and efficiency.

Appendix A - Executive Session Best Practices Exemplars

1) Town of Canton: FOI Guidelines for Boards/Commissions/Committees (BCC) is a 2 page hand out that guides all town compliance around FOI and executive sessions.
Key provisions to lift (verbatim concepts, not necessarily word-for-word):
Agenda must anticipate executive session: Canton explicitly lists “executive sessions (if needed)” as a standard agenda component. Executive session entry + voting threshold: Enter executive session by a two-thirds vote of members present. No action in executive session: Canton states no action (votes) should be taken in executive session.

Tight minutes discipline for executive session: Minutes for the executive session should only reflect:

- the vote to enter executive session
- the time it began
- the people present
- the time it concludes and the public meeting reconvenes

Scope of allowable topics (plain-language list): employees; strategy/negotiations on pending claims/litigation; security; certain real estate; exempt public record discussions. Minutes posting expectations (town operational standard): draft regular-meeting minutes posted within 7 calendar days (and special meetings within 7 business days) as a local practice standard.

*Written for boards and commissions (like WSA), not just a council, this can have wide application in Watertown.

2) Town of Enfield: Town Council Policy & Procedures (PDF) Guide.
Key provisions to lift:
FOIA-aligned definition of executive session purposes: Enfield lists the five classic FOIA categories (personnel re an individual; pending claims/litigation; security; certain real estate; exempt records). Explicit vote threshold schedule (“vote math”): Enfield includes a table mapping members present > votes required (e.g., 11 present requires 8 votes, 10 present requires 7, etc.).

Attendance limitation plus minutes disclosure: Attendance is limited to council members and invited persons only for the time needed, and the minutes must disclose who attended and the matters considered. Procedural placement: Enfield’s special meeting order of business explicitly includes Executive Session as a discrete agenda element.

3) Town of South Windsor: Town Council Rules & Procedures (PDF)
Key provisions to lift:
Open meetings rule plus required executive-session vote mechanics: Executive session only by two-thirds vote of members present and voting, taken at a public meeting, and the motion must state the reason; executive sessions must conform to FOI laws/CGS.

Confidentiality rule anchored to Code of Ethics: ***South Windsor states that discussions/communications in executive session are confidential pursuant to its Charter Code of Ethics, and that confidentiality continues after someone leaves office.*** No official action outside open meeting: "No official action…unless during an open public meeting with a quorum present." **Written legal opinions process: "All requests for legal opinions** shall be submitted in writing…" (to Town Manager and/or Clerk).

Why it's strong as an exhibit: The TCR & P explicitly connects executive session to (a) ethics/confidentiality and (b) written legal opinions - exactly the larger safeguards we are trying to initiate.

4) Town of Wethersfield: Town Council Rules of Procedure
Key provisions to lift:
Executive session purposes (FOIA list) written into local rules: Wethersfield codifies the standard FOIA categories for executive session (personnel; pending claims/litigation strategy; security; certain real estate; exempt records).

Agenda discipline: Their order of business includes "Executive Session (if required). (Provide reason and attendees)." Open-meeting constraint on official action: Wethersfield includes a charter-based rule that ordinances/resolutions/appointments/removals occur only in meetings open to the public.

Why it's strong as an exhibit: That parenthetical—"Provide reason and attendees"-is a simple, powerful compliance hook.

5) Town of Farmington: Rules of Procedure
Key provisions to lift:
Order of business includes executive session: Farmington lists "Executive session (by 2/3 vote)" right in the agenda sequence.

Confidentiality / nondisclosure obligation: Farmington states it's a council member's obligation not to divulge any aspect of matters considered/discussed in executive session.

Why it's strong as an exhibit: Very "board-ready" -simple language and enforceable expectations.

6) Town of Windsor; Rules of Order for Town Council (PDF)
Key provisions to lift:

Executive session requires an affirmative vote (Windsor specifies six members), the motion must state the reasons consistent with CGS 1-225(f), and no subject not specified in those reasons may be discussed. Attendance limitation and minutes disclose attendees: Attendance limited to members plus invited persons only as needed; minutes must disclose all persons in attendance. Written legal opinions distribution practice: Any council member requesting an opinion of the Town Attorney should advise others; all written opinions distributed to all council members.
48-hour vote record discipline: Votes reduced to writing and made available within 48 hours (excluding weekends/holidays), and minutes availability timing is also specified as a practice standard.

Why it's strong as an exhibit: It's a textbook model for scope control (stay within the stated reason) plus written legal advice distribution.

WATERBURY / WATERTOWN

WATER USE CHARGES AND SEWER TREATMENT CHARGES

Report on the History of the Waterbury Water System and Watertown Purchase of Water from Waterbury;

Report on the History of the Waterbury Sewer Treatment Plant and Watertown Treatment of Watertown Sewers;

Report Prepared by Franklin G. Pilicy.

There has been a great deal of discussion concerning the referenced matter. In addition, there has been criticism of the Watertown Town Council in connection with this matter. The history of this matter and the position of the Town of Watertown in this matter has not been adequately presented to the Watertown citizens and has not been adequately taken into account. The purpose of this Report is to provide a detailed history of the City of Waterbury's water system and Watertown's purchase of water from Waterbury. This Report will also include a detailed history of Watertown's relationship with Waterbury with respect to treatment of sanitary sewage.

RE: WATER

Position of Waterbury

Waterbury, for the first time in more than 80 years, considers Watertown the same as a regular retail water use customer and rate payer. (Waterbury's Amended Complaint dated January 27, 2020, Entry No. 113.00)

Position of Watertown

Watertown is not now and has never been a regular retail water use customer. Watertown, for more than 80 years, has been more in the nature of a "Special Partner" with respect to sharing water from the Waterbury watershed. Watertown has purchased and used water from the Waterbury waterworks system since at least 1939 pursuant to a series of water supply contracts. Watertown has always paid a bulk rate or wholesale rate for water, taking into account Watertown's special partner status ("bulk rate") and the circumstance that Watertown does not use all the functional components of Waterbury's water system, and that Watertown does not receive the same services as Waterbury's retail customers. The bulk rate has always been based upon a reasonable approximation of the cost to Waterbury to provide water to Watertown. Watertown has approximately 5,000 municipal water customers. Watertown has its own public water agency and its own water distribution system (i.e., pipelines. Watertown operates, maintains and repairs its own water distribution system. Watertown bills its water users directly. Watertown does not have a separate public water supply. Waterbury is the sole source of water for Watertown. In other words, Waterbury provides a bulk water supply to Watertown and

Watertown through its own water agency distributes that water and services all of its water customers including operating and maintaining its own waterworks distribution system.

History of Waterbury and Watertown Water Supply Relationship

1. Waterbury Water System, The Early Years

In 1867 the citizens of Waterbury voted to construct Waterbury's first public water supply an distributing reservoir. This East Mountain reservoir was constructed in 1869. This reservoir quickly proved insufficient. Two additional reservoirs, the Cook Reservoir and the Prospect Reservoir were constructed between 1879 and 1881. Again, the supply was quickly outpaced due to rapid domestic and industrial growth. In 1883 Waterbury supplemented its water supply by pumping water from the Mad River.

During 1893 Waterbury took its first bold step into Litchfield County seeking water supplies by securing diversion rights to 18 square miles of watershed on the West Branch of the Naugatuck River ("West Branch"). This required State Legislative approvals and an agreement with the Town of Washington. (Exhibit 1, Water Supply, City of Waterbury, Description, Data and Recommendations as prepared by Bureau of Engineering, Waterbury, Connecticut.)

2. State Legislature Authority for Expansion of the Waterbury Water Supply

Waterbury and Town of Washington Agreement

Special Act 252, passed April 25, 1893, by the General Assembly of the State of Connecticut, provided, inter alia, that Waterbury is authorized to take and convey from any and all brooks, rivers, springs, ponds, lakes and reservoirs within the limits of the County of Litchfield such supply of water as the necessities or convenience of the inhabitants of Waterbury may require and further to construct any and all needed infrastructure for conveying said water from the County of Litchfield into and through Waterbury. (Exhibit 2, Special Act 252)

Special Act 252 was later modified by Special Acts 344 (1909) and 346 (1919), which excepted from the scope of Special Act 252 the waters of Bantam Lake in Litchfield County and the waters of its tributaries and the waters of the Naugatuck River northerly of the southerly borough line of the Borough of Torrington. (Exhibit 3, Special Acts 344 and 346)

Washington Agreement. On or about May 3, 1921, Waterbury and the Town of Washington entered into an agreement ("Washington Agreement"), which provides, inter alia, that Waterbury is authorized to divert water from the West Branch of the Shepaug River, a river located in Litchfield County and flowing through the Town of Washington, with such diversion to occur in accordance with Special Act 252 and in accordance with other terms and conditions set forth in the Washington Agreement.

The Washington Agreement is significant in that it expressly provides that water diverted from the Shepaug watershed to the West Branch Waterbury reservoirs may be used to serve a number

of towns including Waterbury, Washington, Litchfield, Thomaston, Watertown and the village of Platt Hills. (Exhibit 4, Shepaug River Agreement, May 1921)

Special Act 391, passed June 14, 1921, provided, inter alia, that Waterbury was authorized to supply water to continuous municipalities, boroughs and fire districts. Said Special Act provides in pertinent part as follows "the city of Waterbury is authorized and empowered, by its mayor and a majority of its aldermen, to contract to supply water for domestic purposes and fire protection to any municipality, borough or fire district, through which, or contiguous to which the water supply mains of said city are or shall be laid, or in which its reservoir or reservoirs are located (Watertown), or may contract to supply water for domestic purposes and fire protection to any private company, chartered for the purpose of supplying water to such municipality, borough or fire district on such terms and rates as shall be just and equitable to the contracting parties."

In accordance with the legislative Acts and the Washington Agreement, it is clear that the West Branch water supply and the Shepaug water supply were expressly authorized to include Watertown. The legislature approved that such water shall be provided to Watertown on such terms and rates as shall be just and equitable.

In accordance with the Legislative Acts and the Washington Agreement, Waterbury expanded its water supply as described herein into Litchfield County. Watertown is part of Litchfield County and part of the watershed accessed by Waterbury. (Exhibit 5, Special Act 391)

3. West Branch

Waterbury first constructed the Wigwam Dam and a 36 inch supply main, ten miles long, to Waterbury. The Wigwam Dam and reservoir are located in Watertown. Water from the Wigwam Dam first entered Waterbury in 1895. In 1902, the Wigwam Dam was raised to a height of 91 feet. During 1908, Waterbury authorized the construction of a second dam at a higher elevation, the Morris Dam. The Morris Dam was completed in 1913. Notwithstanding this West Branch watershed and two new reservoirs, the water supply proved dangerously low during drought conditions. (See, Exhibit 1)

4. Shepaug Development

By 1908 Waterbury was in urgent need of further water resources. Bantam Lake and its tributaries and the Naugatuck River watershed were precluded by legislative Acts. Waterbury began investigation of the Shepaug watershed west of Bantam Lake. Following the Special Act of 1921 and the Washington Agreement, Waterbury initially acquired a 37 square mile watershed in the Woodville section of Washington ("Initial Shepaug watershed"). Waterbury immediately constructed a water transport tunnel ("Shepaug tunnel") from the Initial Shepaug watershed to a location above the Morris Dam. The Shepaug tunnel was completed by 1923. The Shepaug tunnel runs 7 miles from what is now the Shepaug Dam to a discharge point above the Morris Dam. This location is now part of the Pitch Reservoir. The Pitch Reservoir is one of the three

West Branch reservoirs and was completed in 1942. The Pitch Reservoir is the highest elevation in the West Branch and delivers water to the Morris Reservoir at a mid elevation and in turn to the Wigwam Reservoir at the lowest elevation. The Pitch Reservoir is also critical to the water pressure needed to transmit water to Waterbury.

The Shepaug Dam was completed in 1933. By 1964, Waterbury added approximately 10 square miles of additional watershed to the Shepaug watershed, constructed a new reservoir, the Cairns, and constructed a second dam at this location.

The expanded Shepaug watershed now included 48 square miles of watershed area, two dams, two reservoirs and the seven mile transport tunnel ("Shepaug Development"). The Shepaug Development has been a critical component of the Waterbury water supply continuously from 1923 to the present. This is a period of almost 100 years. Again, Watertown was authorized and intended by all parties to be a participant or special partner in this water supply and has been a municipal bulk customer of this water supply since at least 1939. (See, Exhibit 1)

5. Transmission

Beginning 1895 and for more than two decades thereafter the sole water transmission main was a 36 inch main from the Wigwam Reservoir to Waterbury. During the 1920s Waterbury began work on a second transmission main. The first part of this transmission main was an aqueduct known as Steele's Brook Tunnel which ran from the Wigwam Reservoir to approximately Northfield Road and Fernhill Road in Watertown, a distance of 7,400 feet. Steele's Brook Tunnel was completed in 1929 and transported water until approximately 1948. From the end of Steele's Brook Tunnel, the water transmission was then carried in a high service water main running along Northfield Road in Watertown, westerly to Main Street in Watertown, and along Main Street in a southerly direction to Waterbury. In 1948 the Steele's Brook Tunnel began to cave in. After a number of temporary repairs, the Steele's Brook Tunnel was abandoned in favor of a 36 inch high service main for its entire 10 mile length to Waterbury. It is significant that the Wigwam Dam is located in Watertown and the main transmission line from the Wigwam Dam to Waterbury is located in Watertown. The primary Waterbury transmission main still exists at the same location in Watertown. (See, Exhibit 1)

6. Oakville Fire District (Watertown)

The Oakville Fire District ("Oakville District") was established pursuant to a Special Act of the Connecticut legislature, approved on October 13, 1910. The Oakville District charter was amended by a series of Special Acts between 1923, with the latest amendment approved July 15, 1953. Oakville District included substantial territory within the Town of Watertown known as the Oakville section. The Oakville District charter authorized the establishment of a waterworks system. The system then assumed and expanded a then relatively small system constructed by the Watertown Water Company. It is known that Waterbury supplied water to both the

Watertown Water Company and the Oakville District prior to 1939, but no written agreements exist. (Exhibit 6, Oakville Fire District Charter)

1939 Agreement

On November 20, 1939 the Oakville District entered into a written contract to purchase all of its water supply from Waterbury. Said agreement provided, inter alia, "[s]aid Fire District SHALL buy, and said City SHALL sell such quantity or quantities of water as may be required by said Fire District, subject to the conditions of this agreement." This contract provision is significant because it required the Oakville District to contract for all of its water from Waterbury. This was at a time when Watertown could have obtained similar legislative approval to obtain its own water supply in Litchfield County. Watertown, in reliance upon this contract provision, did not pursue development of its own water supply at that time.

This is a significant point. For example, beginning in 1913, the Watertown Fire District obtained legislative approvals similar to Waterbury. The Watertown Fire District obtained a Special Act Charter from the legislature, first approved on May 22, 1913. This Special Act was amended through a series of Special Acts approved on March 20, 1917, June 24, 1921, May 16, 1923, June 22, 1927 and April 5, 1933. Said Special Acts authorized the Watertown Fire District to divert water from Litchfield County the same as the Waterbury legislation. The Watertown Fire District territory includes approximately 2,000 acres within the center portion of Watertown. The Watertown Fire District has approximately 2,300 domestic and commercial water customers. In accordance with the legislative authority, the Watertown Fire District acquired a substantial watershed in Bethlehem and Woodbury within Litchfield County. The Watertown Fire District constructed a large Well field in Woodbury in 1924. The Watertown Fire District Well field was supplemented with substantial watershed in Bethlehem. The Watertown Fire District constructed a reservoir and dam in Bethlehem. The dam was completed in 1957. The Watertown Fire District during the same time period that Waterbury was developing its two watersheds in Litchfield County developed its own watershed in Litchfield County based on similar legislation. The point is that Watertown did not take advantage of the same opportunity to develop its own water supply the same as Waterbury and the same as the Watertown Fire District due to this mandatory and mutually beneficial 1939 Agreement.

Said 1939 Agreement provides that Watertown would access the Waterbury water supply through one or more bulk meters. Said agreement provides that the Oakville District would pay for said water at a bulk rate equal to the same rate as is charged to users of similar quantities of water within Waterbury plus 10 percentum. On September 30, 1942 the Oakville District entered into a subsequent water supply agreement with Waterbury. This agreement essentially expanded the locations of water delivery to the Oakville District system but did not change the bulk billing rate. Waterbury and Watertown continued this arrangement substantially unchanged until 1989, a period of fifty years. Pursuant to a Special Act of the Connecticut legislature in 1969, Watertown consolidated the Oakville District into a department of Watertown. The Oakville

District transferred all of its water distribution facilities and other assets to the Watertown. The Oakville District ceased to exist. Watertown assumed all liabilities and assets of the Oakville District including the two referenced water supply agreements with Waterbury. Again the water supply relationship remained unchanged until 1989 with respect to the bulk rate Watertown paid for its water supply. (Exhibit 7, 1939 Agreement)

7. Waterbury Filtration Plant

In 1979 Waterbury began the design to construct a water filtration plant in accordance with a directive from the federal government to improve water quality. Waterbury requested that Watertown provide an estimate of its water usage for a period of 35 years into the future as part of the design capacity of the filtration plant. Waterbury designed the filtration plant at approximately thirty-eight million gallons per day "MGD" and Watertown reserved three million GPD of this amount. The total cost of the filtration plant was approximately 33 million dollars. Watertown was obligated to pay Waterbury 7.85% or $2,590,500.00 for its reserved capacity interest, thus eliminating any capital risk for Waterbury. The filtration plant was completed in 1987. The filtration plant is located in Watertown. Significantly, the Wigwam Reservoir, the Waterbury filtration plant, 705 acres of the West Branch watershed and the main water transmission line to Waterbury are all located in Watertown.

On February 10, 1989 Waterbury and Watertown entered into a water supply agreement ("1989 Agreement"). The 1989 Agreement was for a term of 25 years with two automatic 10 year extensions unless terminated 2 years before a 10 year extension began. The 1989 Agreement continued to recognize that Watertown was a bulk water user and rate payer. Water payments were based upon an agreed formula that took into account the portions of the Waterbury filtration and distribution system that Watertown used. The concept being that Watertown would pay a reasonable and proportionate share of the Waterbury filtration and distribution system only to the extent that Watertown actually used said portions of the filtration or distribution system. The distribution component of costs in the 1989 Agreement was called operation and maintenance or "O&M". The O&M costs for Waterbury's distribution system are not segregated from the O&M costs of other functions of Waterbury's water system (i.e., supply, treatment, storage and transmission), so could only be estimated by Waterbury's staff.

The 1989 Agreement at Appendix 2 contained a chart of accounts identifying all of the accounting line items used or to be used by Waterbury to track its costs of its entire waterworks system. Appendix 2 identified the line item accounts that Watertown used and the line item accounts that Watertown did not use.

Appendix 2 broke the Watertown payments into 2 categories. Category 1 is Watertown s proportionate share of the capital costs of the Waterbury filtration plant. This cost is 3/38.2 or 7.85%. This 7.85% of the capital costs is based on Watertown's designed reserve capacity of 3

MGD. The second component, O&M, of the water charge is directly related to the chart of accounts, taking into account the line items representing portions of the O&M of the water system used by Watertown. Said Appendix 2 provides that Watertown will pay the O&M costs based on Watertown's actual usage which at that time was approximately 0.9 MGD. The actual usage in 2019 was 0.8 MGD. The O&M costs of Watertown water for the one year prior to the 1989 Agreement was agreed at $1.25 CCF (1 CCF = 748 gallons). For all periods beginning July 1, 1989 Watertown water would be billed based upon the contract bulk rate. Again, the 1989 Agreement recognizes a bulk rate required by the 1921 legislation and adhered to for 50 years based upon the initial 1939 water agreement. (Exhibit 8, Waterbury-Watertown Water Agreement, Feb 10, 1989)

Waterbury-Watertown Billing Dispute

Waterbury and Watertown were locked into a multi-year dispute over water billing pursuant to the 1989 Agreement for the following reasons. Watertown disputed the amount of its water bills for the following reasons:

1. Waterbury failed to maintain the costs of its waterworks system in accordance with Appendix 2 of the 1989 Agreement.

2. Waterbury bonded for the construction costs of the filtration plant several years before the filtration plant was started and funds were not yet needed for construction. Waterbury invested the funds. Waterbury paid the bond premiums out of the water accounts but put the investment income into the general fund to offset general taxes. This inflated the actual capital costs of the filtration plant. The investment income should have been put into the filtration plant construction account.

3. The Waterbury water accounts paid $3,000,000.00 each year into the Waterbury general fund to reduce general fund taxes.

4. Waterbury sued the filtration plant construction contractor and recovered 8.1 million dollars from the litigation. Waterbury funded the litigation costs in the amount of approximately $3,037,471.00 out of its water accounts. Waterbury put the 8.1-million-dollar recovery into its general fund to offset general taxes. Waterbury sh ould have put the 8.1 million dollars towards reducing the bonded debt for the filtration plant that Watertown was then still paying at the rate of 7.85% of the capital costs principal plus interest.

5. Waterbury failed to provide an annual audit of its water works system as required by the 1989 Agreement.

Waterbury sent water bills to Watertown without taking into account any of the above financial issues and without any explanation as to how the amount of the water bill was determined.

Watertown estimated the correct amount of the Watertown water bills at 75% of the amount billed. For several years Watertown paid 75% of each water bill. Watertown did not pay any of the interest being accrued on the unpaid portion of the bills. This billing dispute continued for more than ten years.

Following a series of meetings between Watertown representatives and Waterbury representatives, an agreement was reached on all water billing disputes. On November 15, 2006, Watertown and Waterbury agreed that all unpaid principal and interest on water bills claimed by Waterbury would be forgiven. Watertown agreed to forgive any claim that the water bill payments (at 75%) were more than the amount that should have been properly billed ("Settlement Agreement"). Significantly, Waterbury provided a Schedule A to this Settlement Agreement. Schedule A replaced the Appendix 2 of the 1989 Agreement. This Schedule A water billing formula was intended to conform to the actual chart of accounts that Waterbury used to track its O&M costs of its water system. Water billing proceed without incident throughout the remainder of the 1989 Agreement term. In other words, Waterbury again confirmed and continued the special partner status of Watertown paying a bulk rate for water. The bulk rate was reasonably related to the Waterbury cost to deliver the water to the bulk meters.

The point is that from 1939 through 2018 there is a documented past practice that Waterbury correctly was paid for water at a bulk rate that is reasonable and just and equitable, taking into account the legislative history, the Washington Agreement and the statutory rule that water and sewer costs must be reasonably related to the actual costs of providing same. (Exhibit 9, Settlement Agreement, Mutual Release and Covenant Not to Sue, Nov. 15, 2006)

8. 2013 Agreement

On June 27, 2013 Waterbury and Watertown entered into a water agreement for a period of five years ("2013 Agreement"). The 2013 Agreement provides the cost of water for operation and maintenance to be $1.12 per CCF with an annual increase of 2% per year. In addition, there is the possibility of an increase equal to any percentage increase imposed on Waterbury customers. The 2013 Agreement again recognizes a bulk rate but eliminates any reference to Waterbury's actual costs of providing the water to Watertown as part of the water bill computation. At the end of the five year term of the 2013 Agreement, Waterbury requested that Watertown pay a substantial increase of almost double the water rate in the 2013 Agreement. Watertown continued to pay at the prior bulk rate based on the 2013 Agreement and past practice. Waterbury refused to negotiate in good faith, taking into account the history of the Waterbury/Watertown special partner relationship as described herein and failing to take into account other provisions of Connecticut law. By Return Date January 22, 2019, Waterbury commenced the present action against Watertown, seeking to impose its arbitrary, improper and illegal water rates on Watertown. (Exhibit 10, 2013 Water Agreement Between Town of Watertown and City of Waterbury, June 27, 2013)

9. Statutory Provision and Court Precedent

The pertinent statute with respect to a municipal water company selling water is Chapter 102 of the General Statutes which deals with the water works.

"Under chapter 102 of the General Statues, which deals with waterworks, any town, city or borough or district…may acquire, construct and operate a municipal water supply system, General Statutes 7-234, and establish rates which shall be "just and equitable," and shall be sufficient in each year for the payment of the expense of operation, repair, replacements and maintenance of such system and for the payment of the sums herein required to be paid in the sinking fund. General Statutes 7-239." (internal quotations omitted) Pepin v. Danbury, 171 Conn. 74, 85 (1976).

It is significant that the statutory language of General Statutes Chapter 102 which mandates that "established rates shall be just and equitable" is identical to the Special Act legislative mandate that a municipality that is provided water by contract shall pay rates that shall be "just and equitable".

In Pepin, Danbury added 7.5% or 15% to each water or water and sewer bill, respectively, to be diverted to the general tax fund. The trial court and the CT Supreme Court concluded that the general tax component of the water and sewer bills is in violation of the statute and in excess of the cost needed to operate the water and sewer systems respectively. The court found the water and sewer rates were not just and equitable. In this case, Waterbury is for the first time in 80 years arbitrarily seeking to increase water and sewer rates to amounts that have no relation to this just and equitable standard.

The term "just and equitable" means that one cannot charge a user of a service for discrete components of a service that 1. Are not available to the user, or 2. That the user does not benefit from.

The basic legal requirement of any rate is that it must be based on the cost providing the service for which it is charge. Waterbury is attempting to charge Watertown a water rate that includes the costs of function (i.e., the Waterbury distribution system) which Watertown does not receive nor use nor benefit from. This cost, based on date and estimates provided by Waterbury's own staff, is a significant portion of the total costs of Waterbury's water system.

Summary

The West Branch watershed and the Shepaug Development ("Litchfield County watershed") constitute the sole source of Waterbury water.

The Litchfield County watershed was authorized by Legislative Special Acts and the Washington Agreement. Watertown has always been included as a special partner with rights to share this water by express provisions. Watertown has protected rights to share this water.

Significant parts of the West Branch water facilities are located in Watertown.

Watertown receives its bulk water supply at several metered locations along Waterbury transmission mains. All metered water access locations are located in Watertown. Watertown adds zero burden or costs to Waterbury with respect to the other parts of the Waterbury waterworks system. Said other parts include but are not limited to: maintenance, repair and replacement of its distribution system; employee costs; administrative and overhead costs; pumping operations within the city; and customer billing. Waterbury and Watertown have always recognized that there is no justification for Watertown to participate in such Waterbury's solely O&M costs.

Watertown has always paid and remains committed to pay, its 7.85% portion to future upgrades to the filtration plant and/or increased storage capacity of the five dams.

The express language of the Legislature, in both the Special Acts and the waterworks statutes command that Watertown water rates be "just and equitable". Waterbury and Watertown have jointly agreed that the just and equitable rate is a bulk rate. This interpretation has been in effect for the entire recorded history of the relationship from 1939 to 2018, a period of 80 years.

Waterbury and Watertown merged in 1939 with a mandatory sale and buy water supply agreement. Watertown, in reliance thereon, did not seek similar legislation and establish its own watershed diversion rights in Litchfield County.

Conclusion

Watertown is certainly not a retail water customer. Watertown does not receive retail water service. Watertown has always been a special partner with a protected right to share in the Litchfield County watershed water. Watertown has a protected right to pay a just and equitable water rate that has historically been interpreted by the parties to be a bulk rate. The bulk rate has always been determined taking into account the reasonable cost to Waterbury of providing water to Watertown, i.e. the factors described herein. Waterbury benefits financially from its relationship with Watertown in at least two ways: (1) Waterbury is reimbursed by Watertown for the proportional share of capital and operating costs of Waterbury's water system; and (2) Waterbury enjoys lower unit costs for water used by its retail customers by virtue of the economies of scale afforded by the inclusion of Watertown's usage in the construction and operation of Waterbury's water system.

RE: SEWER

Position of Waterbury

Waterbury for the first time in 70 years considers Watertown the same as a regular retail sewer use customer and rate payer.

Position of Watertown

Watertown is not now and has never been a retail sanitary sewer use customer. Watertown for 70 years has been a wholesale or Bulk customer with respect to sanitary sewer transport and treatment.

Watertown has transported sanitary sewage to Waterbury for treatment since at least 1951 pursuant to a series of Sanitary Sewage contracts. Watertown has always paid a wholesale rate on "Bulk Rate" for sanitary sewage treatment taking into account Watertown Bulk Rate status and the circumstances that Watertown does not use all of the functional components of Waterbury's Sanitary Sewer System, specifically the most expensive functional component of Waterbury's sewer system, the sewage collection system (i.e., pipeline network), which is challenged by extensive and expensive deferred maintenance that increases operating costs above what would otherwise be the norm. Watertown does not receive the same services as Waterbury's retail customers. The Bulk Rate has always been based upon a reasonable approximation of the cost to Waterbury to provide the Sanitary Sewage treatment to Watertown. Watertown has approximately 4,150 municipal sanitary sewer customers. Watertown has its own public sanitary sewage agency and its own central collection system (i.e. pipelines). Watertown operates, maintains, repairs and replaces its own sanitary sewage collection system. Watertown bills its users directly. Watertown does not have a separate sanitary sewer treatment facility. Waterbury is the sole source of sanitary sewer treatment for Watertown. In other words, Waterbury provides Bulk Rate sanitary sewage treatment to Watertown and Watertown through its own sanitary sewer agency collects sanitary sewage from all of its customers, including operating and maintaining its own collection system, system administration and customer billing.

History of Waterbury and Watertown Sanitary Sewer Treatment Relationship

1. OAKVILLE FIRE DISTRICT (WATERTOWN)

The Oakville Fire District ("Oakville District") was established pursuant to a Special Act of the Connecticut Legislature on October 13, 1910. The Oakville District Charter was amended by a series of Special Acts between 1923 with the latest Amendment approved July 15, 1953. The Oakville District included substantial territory within the Town of Watertown known as the Oakville section. The Oakville District Charter authorized the establishment of a sanitary sewage collection system including sanitary sewage treatment. The Oakville District did not build a sanitary sewage treatment facility because of its 70-year relationship transporting its sanitary sewage to Waterbury for treatment.

1951 AGREEMENT

On August 21, 1951 the Oakville District entered into a written Agreement to transport and treat Watertown's sanitary sewage upon completion of Waterbury's first sanitary sewage treatment facility.

At the time of the 1951 Agreement, Waterbury owned and maintained a sanitary sewer trunk line somewhat southerly of the Oakville District. The 1951 Agreement provided that the Oakville District would pay 50% of the cost to construct an interceptor or trunk line extension to the Oakville District sewage meter chamber to be located near the Junction of Turkey Brook and Steeles' Brook ("Steeles' Brook Interceptor").

Waterbury and the Oakville District equally and jointly funded the sanitary sewer meter chamber described above.

The 1951 Agreement also provided that a substantial territory of Waterbury, including industrial and residential properties would use Steeles' Brook interceptor due to topography.

The Oakville District began using Steeles' Brook Interceptor as a discharge point for all its sewage as soon as same was completed. All Oakville District sanitary sewage was metered at the above described meter chamber, now called Matoon Road Meter Station. All Oakville District sanitary sewage was thereby transported to and treated at the then newly constructed Waterbury Treatment Facility.

The 1951 Agreement provided that the Oakville District would pay a "Bulk Rate" for sanitary sewage transport and treatment based upon a fixed rate for each million gallons.

Specifically said "Bulk Rate" was established as follows:

"7. It is also agreed that the Oakville Fire District shall pay the City for all sewage it discharges into the sewerage system of the City, as follows:

1. Until the City disposes of its sewage by treatment, payment shall be at the rate of Thirteen Dollars and Thirty-three Cents ($13.33) per million gallons.
2. When the City disposes of its sewage by treatment, payment shall be at the rate of Forty-five ($45.00) Dollars per million gallons.
3. At five-year intervals starting with 1955 the City shall revise the above rates to conform with actual costs of operating and maintaining its sewage treatment plant.
4. The City's costs per million gallons shall include the following:
   (a.) Interest on and amortization of the cost of existing trunk and intercepting sewers used for conveying the sewage of Oakville Fire District.
   (b.) Interest on and amortization of the cost of the Sewage Treatment Plant.
   (c.) Annual cost of maintenance and operation of said Sewage Treatment Plant."

Waterbury and Watertown continued this 1951 Agreement substantially unchanged until 1988 a period of 38 years. The 1951 Agreement excluded from Watertown's bulk rate the operating and capital costs of Waterbury's sewage collection system.

Pursuant to a Special Act of the Connecticut Legislature in 1969 (House Bill 5255) Watertown consolidated the Oakville District into a Department of Watertown. The Oakville District ceased to exist. Watertown assumed all liabilities and assets of the Oakville District including the 1951 Agreement. Again, the sanitary sewage relationship remained unchanged until 1988 with respect to the Bulk Rate Watertown paid for its sanitary sewage transport and treatment.

1988 AGREEMENT

On June 29, 1988 Waterbury and Watertown signed a new Agreement for transport and treatment of Watertown's sewage ("1988 Agreement"). The 1988 Agreement was for a term of 25 years. The 1988 Agreement provided that all Watertown's Sewage estimated at a maximum of 2.7 Million Gallons per day ("MPG") would be transported to Waterbury and treated at the Waterbury Sewage Facility.

The 1988 Agreement significantly provided that Watertown would pay sewage transport and treatment "Bulk Rates" based upon a proportionate share of Capital Costs (6%) and operating costs at a per million gallons rate proportionate to the total of Waterbury's Operating Costs of its sewage Treatment Facility.

The Operating Costs are defined in the 1988 Agreement as follows:

"Operating Costs: The Operating Costs shall be the actual cost of proper operation and maintenance of the wastewater treatment facility and agreed to collection system components including the main sewer carrier from the Matoon Road metering chamber to the City treatment facility as determined by a cost of service study performed in accordance with accounting standards of the Connecticut Public Utilities Control Authority applicable to Publicly Owned Treatment Works. The accounting firm performing the study shall be acceptable to both the City and the Authority. The cost of each Cost of Service Study shall be divided equally between the parties."

The 1988 Agreement contains the specific Bulk Rate billing formula for 6% of capital costs and proportionate sewage usage costs as follows:

"1. CAPITAL COSTS:

a.) 6% of all bond principal and interest expenses paid in the preceding fiscal year less Federal and State Grants for the main sewer carrier from the Turkey Brook and Steele Brook (Matoon Road) metering chamber to the City Wastewater Treatment Facility.

b.) 6% of all bond principal and interest expenses paid in the preceding fiscal year less Federal and State Grants for the City Wastewater Treatment Facility in existence on the date this agreement is signed.

c.) 6% of all bond principal and interest expenses paid in the preceding fiscal year less Federal and State Grants, for City and Authority mutually agreed upon capital expansions, replacements or improvements to the treatment works unless a different per centage is required by agreement at that time based upon the ratio of benefit of the expansion.

The existing capital costs and duration of payments are as follows and shall form the basis of payment for past due bills due up to the time of the signing of this agreement unless mutual agreement to the contrary is reached, reduced to writing and appended hereto:

Main Carrier

6% of book cost of $1,500,000		$90,000.00
(Bond retires 1/1/1990)		

Treatment Plant

6% of plant cost		
Original Plant	$1,120,000	
15% New Plant	1,749,000 (City's Share)	
	$2,869,000	
6% x 2,869,000		$172,140.00
(Bond retires 8/15/1997)		

2. Operating Costs Det. Annually

The total of the operating costs as previously defined divided by the total annual flow shall be the Cost/Million Gallons.

The total annual flow from the Authority during the same period shall be divided by the total annual flow received at the treatment facility to determine the pro rata share of costs to be borne by the Authority for the operating expense portion of its bill.

"Operating costs shall be based on the previous fiscal years operating costs plus amortization of any additional minor capital expenditures related to the treatment works with the exception of the currently outstanding charges which might cover a period exceeding one year. The existing operating costs applicable to all currently outstanding bills due and owing under this agreement shall include the operating budgets and the fringe benefits paid to the employees identified in those budgets. These bills cover the unpaid or uncredited balance of the 1984 bill plus all monies due and owing for the years 1985, 1986 and 1987 inclusive. It is recognized that the flow year (January 1 through December 31) does not correlate to the fiscal year (July 1 through June 30) as the terms are used herein.""

Significantly the Watertown Sewage Bulk Rate is based upon Watertown's actual usage of the sewage transport main and the Waterbury Sewage Treatment Facility. This is the only part of the Waterbury Sewage System used by Watertown. Watertown does not use or benefit from any other part of the Waterbury Sewer System. Waterbury from 1951 to 2013 established Bulk Sewage rates as documented in the 1951 Agreement and the 1988 Agreement.

2001 AGREEMENT
CAPITAL COSTS OF WATERBURY SEWER TREATMENT PLANT UPGRADES

During 2000 Waterbury began a major upgrade to its Sewer Treatment Plant ("STP") pursuant to federal and state mandates. The total STP capital costs approached $80 Million Dollars.

Waterbury and Watertown entered into the 2001 Agreement to provide that Watertown would pay its share of the Capital Costs of the STP upgrades. Watertown signed a separate Agreement to pay its proportionate share directly to a designated Short-Term Investment Fund Account ("STIF"). The 2001 Agreement is for the 20-year term of the Construction Bonds for the STP upgrades, and the final payment is scheduled for June 2020.

The 2001 Agreement recognizes the 1988 Agreement to remain for all matters covered therein. The 2001 Agreement was a supplemental agreement and covered only the capital costs of the SPT upgrades.

The total design capacity of the STP is 27.05 MGD. Watertown's Proportionate Share is 2.75 MGD or 10.166% of the total capital costs of the STP upgrades, subject to downward adjustments for portions of the capital costs not allocable to Watertown. Certain Exhibit to said Agreement describe portions of the capital costs not allocable to Watertown.

WATERTOWN'S PROPORTONATE SHARE

"19. Watertown's Proportionate Share: Shall mean a fraction, the numerator of which is Watertown's reserved Average Daily Flow capacity and the denominator of which is the design aggregate Average Daily Flow to the Waterbury STP. Watertown's reserved Average Daily Flow capacity to the STP is 2.75 MGD and the design aggregate Average Daily Flow capacity to the Waterbury STP is 27.05 MGD so that Watertown's Proportionate Share is 2.75/27.05 or 10.166%, subject to the following adjustment. As depicted on Exhibit IV, some Project CWF-201 costs are not allocable to Watertown. Watertown's Proportionate Share shall reflect an adjustment for such non-allocable Project CWF-201 costs."

It is significant that Waterbury and Watertown contracted that Watertown would pay its proportionate share of the STP upgrade capital costs based upon actual design reserve capacity.

WATERTOWN FIRE DISTRCIT

The Watertown Fire District obtained a Special Act Charter from the Connecticut Legislature on May 22, 1913. This Special Act was amended through a series of Special Acts approved on March 20, 1917, June 24, 1921, May 16, 1923, June 22, 1927, and April 05, 1933. Said Special Acts authorized the Watertown Fire District to establish a sewage collection system and sewage treatment facility. The Watertown Fire District territory includes approximately 2000 acres within the center portion of Watertown. The Watertown Fire District has approximately 2,300 sanitary sewer customers.

During 1926 the Watertown Fire District constructed a sewer treatment plant adjacent to Steele Brook and began laying sewers to convey sewage to this facility.

As part of the Connecticut Department of Environmental Protection ("DEP") promoting the Waterbury STP upgrades DEP set a design capacity for Watertown to include the Fire District sewage. DEP forced the Fire District to close its Sewer Treatment Facility and discharge into the Watertown System and in turn to the Waterbury Treatment Plant. During October of 2000 the Fire District decommissioned its Sewer Treatment Facility and since that date discharged into the Watertown sewage system.

There are a number of agreements between Watertown and the Watertown Fire District concerning the present arrangement for Fire District sewage to be combined with Watertown sewage for transport to Waterbury and treatment at the Waterbury STP.

1976 AGREEMENT

On November 10, 1976 Watertown, the Watertown Fire District, and DEP held a joint meeting to discuss a DEP grant to upgrade the Watertown sewer trunk line to Waterbury. The meeting discussed the possibility of Fire District expansion of its sewer system beyond its territory and more importantly the possibility that at some future date the Watertown Fire District would

close its Sewer Treatment Facility and discharge its sewage to the Watertown system. Again, the DEP had a long-term goal to close smaller sewer plants and develop larger regional sewer treatment plants such as the Waterbury STP.

On November 18, 1976 Watertown and the Watertown Fire District entered into an Agreement (1976 Agreement). This 1976 Agreement provided that Watertown would accept the Fire District sewage and transport same to Waterbury for treatment. The cost to the Fire District would be the same "Bulk Rate" Waterbury charged Watertown per million gallons. No date was agreed to implement this contract. However, a physical connection was constructed from the Fire District Sewer Treatment Plant and the Watertown sewer transport line for possible future use.

During 1999 the DEP notified the Watertown Fire District that DEP would not permit the Watertown Fire District to continue to use its Sewer Treatment Plant. Specifically, DEP enhanced the sewage treatment standards and water discharge standards into Steele Brook, to a design standard that could not possibly be met. Essentially, the Watertown Fire District was ordered to close its Sewer Treatment Plant. During October 2000 the Watertown Fire District connection to Watertown as described and contemplated hereinabove, was used. The Fire District sewer treatment plant ceased operations. Accordingly, from October 2000 to the present the Watertown Fire District sewage is combined with Watertown for transport and treatment at the Waterbury STP.

2002 AGREEMENT

On July 09, 2002 Watertown and the Watertown Fire District signed a contract to formalize that Watertown Fire District Sewage would be combined with Watertown Sewage and thereby use part of the 2.75 MGD reserved for Watertown in the 2001 Agreement. Watertown negotiated said Agreement knowing that the Fire District capacity would be included.

This 2002 Agreement provided that the Watertown capacity in the Waterbury Sewer Treatment Facility would be divided based on actual usage between Watertown 67.28% and the Watertown Fire District 32.72%. This Agreement covered Watertown's share of the Capital Costs of the STP upgrades described in the 2001 Agreement.

Watertown continues to include the Watertown Fire District sewage for transport and treatment by Waterbury. The Fire District pays Watertown for its proportionate share of all Waterbury sewage charges. There is no formal agreement between Watertown and the Watertown Fire District with respect to the operation and maintenance charges. Notwithstanding, the Watertown Fire District has a substantial interest in the present rate dispute court case.

The Watertown Fire District paid 32.79% of Watertown's Capital Costs for the Waterbury STP. The Watertown Fire District continues to pay its proportionate share of the total sewer use charges by Waterbury for Watertown's transport and treatment of sewage at the Waterbury STP.

It is significant that in every agreement and past practice between Watertown and the Watertown Fire District the cost of rates are established based upon the reasonable cost of providing the service and the cost is a "Bulk Rate" per million of gallons.

2013 AGREEMENT

On June 27, 2013 Watertown and Waterbury entered into a five (5) year agreement for sewer transport and treatment. This 2013 Agreement provided for payments of future capital costs related to its STP upgrades based on Watertown's reserved capacity. This is combined from the 1988 Agreements and the 2001 Agreement.

The 2013 Agreement again recognizes and continues a "Bulk Rate" for Operation and Maintenance ("O&M") costs but eliminates any reference to Waterbury's actual costs of providing sewer transport and treatment as part of the sewer bill computation.

At the end of the five (5) year term of the 2013 Agreement Waterbury requested that Watertown and the Watertown Fire District pay a outrageous increase of more than 300% above the sewer rate in the 2013 Agreement. The bulk rate imposed by Waterbury on Watertown was not based on or calculated using any methodology generally adopted or approved by any industry or professional association (such as the Water Environment Federation or the American Water Works Association) nor those ratemaking practices used by the Connecticut Public Utilities Regulatory Authority. Watertown continued to pay at the prior Bulk Rate based upon the 2013 Agreement and past practice. Waterbury refused to negotiate in good faith, taking into account the 70-year history of Watertown paying sewer Bulk Rates taking into account the approximate cost to Waterbury to transport and treat Watertown sewage and other provisions of Connecticut Law.

CONNECTICUT GENERAL STATUTES

C.G.S Section 7-272 provides that any two or more municipalities may enter into contracts to jointly use a sewage transport and treatment system.

"Sec. 7-272. Joint operation of sewerage system. Any two or more municipalities may enter into and revise from time to time, and may fulfill, contracts jointly to acquire, construct or operate all or any part of a sewerage system. Any such agreement shall particularize (a) the portion or portions of the sewerage system to be jointly acquired, constructed or operated, (b) the acts relating to acquiring, constructing or operating such portion or portions of the sewerage system to be performed jointly by the municipalities and (c) the method of apportioning the cost thereof. Whenever any two or more municipalities have entered into such an agreement, the sewer authorities of such municipalities jointly shall have, for the portion or portions of the sewerage system and for the acts relating to acquisition, construction or operation of the sewerage system covered by the agreement, all of the authority conferred by this chapter on a municipality and each such municipality shall continue to have all other authority conferred by this chapter."

The statute also provides that each municipality shall have its own Water Pollution Control Authority to govern and manage its own separate portions of a sewer system. In this case, Watertown has its own Water and Sewer Authority ("Authority"). The Authority operates and manages the approximately 4,150 sewer customers within the Town of Watertown. This includes maintenance, repair, replacement, and extensions of all sewer mains pumping stations, and collections systems within Watertown. This also includes administration and billing of Watertown's sewer users. The Authority exercises all of the powers contained in the General Statutes with respect to operation of a municipal sewer systems. **C.G.S Chapter 103 Municipal Sewer Systems.**

The Watertown Fire District also is a separate municipality within the scope of the Statute. The Watertown Fire District also operates its own sewer system. This includes maintenance, repair, replacement, and extensions of all sewer mains, pumping stations, and collection systems withing the Watertown Fire District. This also includes administration and billing of Watertown Fire District sewer users. The Watertown Fire District exercises all of the powers contained in General Statutes with respect to operation of a municipal sewer system. **C.G.S Chapter 103 Municipal Sewer Systems.**

C.G.S Section 7-273 provides that a municipality may contract with an adjoining Town for connection with and use of a sewer system.

> **"Sec. 7-273. Contract for use of sewerage system. Any town, city, borough or fire or sewer district, maintaining a sewerage system, may contract with any adjoining town or property owner therein for connection with and the use of such sewerage system."**

Said statutory provisions do not authorize a host municipality to treat the customers of an adjacent sewer Authority as retail sewer customers of its own for rate purposes.

On this Record, Waterbury is seeking to treat Watertown's 4,150 sewer customers and the Watertown Fire Districts 2,250 sewer customers the same as a Waterbury retail sewer ratepayer in violation of pertinent Connecticut statutes, contrary to seven (7) years of documented contract "Bulk Rates" and past practices.

Watertown and the Watertown Fire District own and operate their own sewer agencies in accordance with the provisions of Special Acts and the General Statutes. The Connecticut Supreme Court decision of *Pepin v. Danbury* is also pertinent. In this case, Danbury added 7.5% of the total cost of each sewer bill to be added to each sewer bill and then diverted same to the general tax fund. The Trial Court and our Supreme Court concluded that the general tax component of the sewer bill is in violation of pertinent statutes because it is in excess of the cost needed to operate the sewer system. In other words, the Court ruled that a municipal sewer agency cannot charge for sewer services greater than the cost of providing the service. A municipality cannot

supplement general tax revenue by arbitrarily inflating cost for sewer treatment to an adjoining municipality.

SUMMARY AND CONCLUSION

Watertown and Waterbury have a 70-year relationship during which Waterbury has always charged Watertown a Bulk Rate taking into account Watertown's reserved capacity at the STP for capital costs and taking into account Waterbury's cost to provide sewer transport and treatment for O&M costs. For the first time in 2018 Waterbury is seeking to treat Watertown as 4,150 individual or separate retail sewer customers for rate purposes. Waterbury is seeking to treat the Watertown Fire District as 2,150 individual or separate retail sewer customers for rate purposes.

Watertown and the Watertown Fire District are separate municipal sewer agencies existing pursuant to Special Acts and the General Statutes. Said statutes do not authorize Waterbury to seek any profit (in this case an outrageous profit) for sharing its STP.

On this Record the Connecticut DEP by way of generous grants and low (2%) interest rate loans, funded the upgrades to Waterbury's STP. In addition, the DEP forced the Watertown Fire District to close its Sewer Treatment Plant and join Watertown in using the Waterbury STP. At the time the Waterbury STP was upgraded to became a regional STP, it was never authorized to arbitrarily inflate costs to adjoining municipalities that were in effect mandated to contract for sewer treatment.

2018 Water and Sewer Rates

Beginning in 2018, Waterbury for the first time decided to bill Watertown (79 years WATER) (67 years SEWER) the same retail rate charged to Waterbury residents. This equated to more than double water rates and more than triple sewer rates. Waterbury refused any good faith negotiations on a different rate. Waterbury repudiated the historical practice of billing water and sewer based on the cost of providing water and sewer service.

POSITION OF THE TOWN OF WATERTOWN

As we all know, Waterbury sued Watertown seeking to enforce the 2018 water and sewer rates. The position of Watertown may be summarized as follows:

Why should Watertown not pay the same as Waterbury?

> Waterbury does not own any water source within its geographic territory. The water is drawn from Litchfield County pursuant to a series of special acts of the Connecticut Legislature; and with respect to the Shepaug Watershed, a contract between Waterbury and the Town of Washington. The Washington contract expressly provides that the water is to be shared with Watertown. The Legislature Acts provide that the water is to be shared with the Towns where the water source is located or through which the

transmission lines are located (Watertown). The statutes mandate that rates shall be "just and equitable". For 78 years, water rates included the wholesale rate of "cost of service rate". NO cost of operating the Waterbury residential water system was included. Both Waterbury and Watertown paid to operate their own respective water distribution systems. Watertown was expected to pay a retail rate which means the same rate as Waterbury customers, i.e. support the Waterbury distribution system and then pay for the Watertown distribution system.
Again, Watertown obtains its water supply from a transmission main (meter pit) before any water gets to Waterbury. Not one gallon of water used by Watertown touches the Waterbury customer distribution system.

Why should Watertown not pay the same sewer rates as Waterbury residents?

The Watertown position on the increase of sewer charges is similar. Watertown paid its full proportionate share of the sewage transmission main to the treatment plant. Watertown paid its full proportionate share of the Sewer Treatment Plant. Watertown has always paid its cost base rate for sewer treatment. Watertown sewage does not touch any portion of the Waterbury sewer collection system. Watertown was expected to pay the same rates as Waterbury customers, i.e. subsidize in part of the Waterbury sewer collection system, and then pay for the Watertown collection system.

Why should Watertown not pay the same rates as the other municipalities – Middlebury, Cheshire, Wolcott?

Watertown is the only municipal use of the water that is located in Litchfield County, the source of the water. The Legislature Special Acts and the Washington Contract expressly provide that Watertown is intended as a user of the water. Watertown takes water directly from a transmission main before water enters the Waterbury distribution system. Waterbury has been the sole source for Watertown's water since 1939 and probably earlier.

The other municipalities, Middlebury, Cheshire and Wolcott purchase only small amounts of water to supplement other water sources: Have only relatively recently begun using this water supply; The water supply uses a significant portion of the Waterbury distribution system. In addition, Watertown paid its proportionate share of 7.85% to build the 83-million-dollar filtration plant which incidentally is located in Watertown.

What does "just and equitable" mean in the context of setting water rates?

For 79 years, Waterbury and Watertown agreed that "just and equitable rates" were equal to the wholesale rate, leased entirely on the cost basis. This means the cost to Waterbury to deliver water to the meter put at Route 63 and Route 73, sometimes called the "carvel meter pit". This cost expressly included all costs of the Waterbury distribution and administration of its rental customer base. In 2018, Waterbury decided that this so-

called just and equitable rate should be more than double for water and more than triple for sewer.

Why did Watertown not negotiate a new contract with Waterbury to avoid a court case?

I believe Watertown proposed negotiations and was told Waterbury would not compromise. I attended two mediation sessions. Waterbury showed little to no interest in good-faith negotiations.

Why did the Water and Sewer Authority contest the proposed increase in water and sewer rates?

I believe the Water and Sewer Authority contested the water and sewer rates to protect the rate payers from the double and triple rates proposed. The rates proposed are equal to some rates paid by Waterbury residents. This means every future increase in rates impacts Watertown ratepayers and moves further from "just and equitable rates".

This is the decision faced by the Water and Sewer Authority and Town Council.

Based upon the information contained in this Report and the extent of all information, it is my opinion the Water and Sewer Authority and the Town Council made the correct decisions for the best interests of the ratepayers.

It is more than unfortunate that the courts have not appreciated or credited Watertown's position. This fact is not in any way the fault of the Town Council.

The most significant fact beyond dispute: It does not cost Waterbury one dollar more to provide water to Watertown and treat sewage from Watertown than it did based on the 2013 contracts. Waterbury also financially benefited from Watertown's water purchase and sewer treatments without any increase after 2013.

Statement

This Report has been prepared by Franklin G. Pilicy acting as a private citizen. I have not been asked to prepare this Report by any Town Official or any other party. I have prepared this Report because there is a lack of information and/or misinformation concerning this important issue. There has been criticism of the Town Council, the Water and Sewer Authority and the Town Manager. In my opinion, this criticism is not justified. The decision to contest the increases in water and sewer rates was a prudent and reasonable decision based upon all of the background information available at the time when Waterbury increased the rates.

Attachment 7: AWWA Manual M1

M1

Water Rates, Fees, and Charges

Seventh Edition

American Water Works Association

Contents

AWWA MANUAL

M1

Chapter I.1

Overview of Cost-Based Water Utility Rate-Making

Establishing cost-based rates, fees, and charges is an important component in a well-managed and operated water utility. Cost-based rates provide sufficient funding to allow communities to build, operate, maintain, and reinvest in the water system that provides the community with safe and reliable drinking water and fire protection. Properly and adequately funded water systems also allow for the economic development and sustainability of the local community. The purpose of this manual is to discuss standard practices in financial planning and rate-making that a utility can use to establish cost-based rates, fees, and charges to recover the full costs associated with its water system.

The methods and analyses used to establish cost-based rates, fees, and charges have a long history within the water utility industry. Operators of some of the earliest water systems recognized the need for sufficient funding and rates to properly operate, maintain, and expand their water systems. AWWA appointed the Committee on Water Rates in 1949. As time passed, the utility industry recognized the need for a manual of standard practice. Through the work of this committee, the first AWWA M1 manual, *Water Rates Manual*, was published in 1954. (For a more complete history, see Woodcock 2013.) Many of the same concepts, methodologies, and analyses used in 1954 remain relevant today. As time has passed, AWWA Manual M1 has been updated and expanded to reflect the changing industry and its current financial and rate issues. The development of this seventh edition continues the efforts of many dedicated rate professionals to provide a manual of standard practice for the development and establishment of cost-based water rates, fees, and charges.

As a manual of standard practice, AWWA advocates the use of the generally accepted cost-based principles and methodologies for establishing rates, charges, and fees contained and discussed within this manual. Establishing cost-based and equitable rates is technically challenging and requires, at some level, knowledge and understanding of finance, accounting, budgeting, engineering, system design and operations, customer service,

public outreach and communication, and the legal environment as it may relate to setting rates, fees, and charges.

OBJECTIVES OF COST-BASED RATE-MAKING

Water rates developed using the methodologies discussed in this manual, when appropriately applied, are generally considered to be fair and equitable because these rate-setting methodologies result in cost-based rates that generate revenue from each class of customer in proportion to the cost to serve each class of customer. Water rates are considered fair and equitable when each customer class pays the costs allocated to the class and, consequently, cross-class subsidies are avoided.

While recovery of the full revenue requirement in a fair and equitable manner is a key objective of a utility using a cost-of-service rate-making process, it is often not the only objective. The following list contains the typical objectives in establishing cost-based rates (Bonbright, Danielsen, and Kamerschen 1988):

- Effectiveness in yielding total revenue requirements (full cost recovery)
- Revenue stability and predictability
- Stability and predictability of the rates themselves from unexpected or adverse changes
- Promotion of efficient resource use (conservation and efficient use)
- Fairness in the apportionment of total costs of service among the different ratepayers
- Avoidance of undue discrimination (subsidies) within the rates
- Dynamic efficiency in responding to changing supply-and-demand patterns
- Freedom from controversies as to proper interpretation of the rates
- Simple and easy to understand
- Simple to administer
- Legal and defendable

GENERALLY ACCEPTED RATE-SETTING METHODOLOGY

This manual outlines the methodologies and analyses that are used to establish cost-based rates. As displayed in Figure I.1-1, the generally accepted rate-setting methodology includes three categories of technical analysis. The first is the revenue requirement analysis. This analysis examines the utility's operating and capital costs to determine the total revenue requirements and the adequacy of the utility's existing rates. Next, a cost-of-service analysis is used to functionalize, allocate, and equitably distribute the revenue requirements to the various customer classes of service (e.g., residential, commercial) served by the utility. The final technical analysis is the rate-design analysis. It uses the results from the revenue-requirement and cost-of-service analyses to establish cost-based water rates that meet the overall rate-design goals and objectives of the utility.

Sections of this manual have been dedicated to providing detailed discussions of the three types of analysis. Section II of this manual discusses the various technical components of establishing a utility's revenue requirements. Section III discusses the various methodologies that may be used to conduct a cost-of-service analysis. Finally, section IV reviews the various issues and technical considerations in designing water rates.

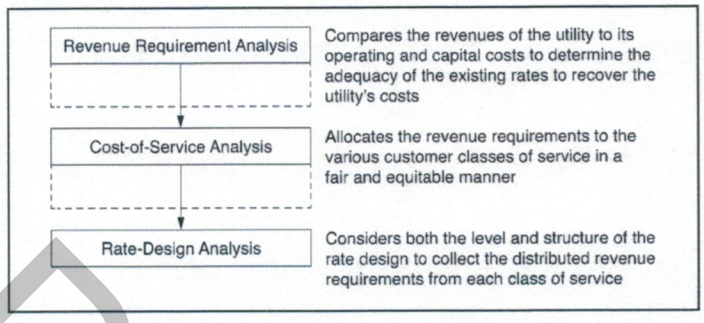

Figure I.1-1 Analytical steps of cost-based rate-making

KEY TECHNICAL ANALYSES OF COST-BASED RATE-MAKING

In establishing cost-based water rates, it is important to understand that a cost-of-service methodology does not prescribe a single approach. Rather, as the first edition of AWWA's Manual M1 noted, "the [M1 manual] is aimed at outlining the basic elements involved in water rates and suggesting alternative rules of procedure for formulating rates, thus permitting the exercise of judgment and preference to meet local conditions and requirements" (AWWA 1954). This manual, like those before it, provides the reader with an understanding of the options that make up the generally accepted methodologies and principles used to establish cost-based rates. From the application of these options within the principles and methodologies, a utility may create cost-based rates that reflect the distinct and unique characteristics of that utility and the values of the community.

Revenue Requirement Analysis

The purpose of the revenue requirement analysis is to determine the adequate and appropriate funding of the utility. Revenue requirements are the summation of the operation, maintenance, and capital costs that a utility must recover during the time period for which the rates will be in place. Two generally accepted approaches for establishing a utility's revenue requirements are discussed in this manual: the cash-needs approach and the utility-basis approach. Section II of the manual provides a detailed discussion and numerical examples about how to establish a utility's revenue requirements using these two approaches, and this section provides a framework for determining how to select between the two approaches.

Cost-of-Service Analysis

The purpose of the cost-of-service analysis is to equitably distribute the revenue requirements between the various customer classes of service served by the utility. The cost-of-service analysis determines what cost differences, if any, exist between serving the various customer classes. The two generally accepted methodologies for conducting the cost-of-service analysis are called the base-extra capacity method and the commodity-demand method. The functionalization, allocation, and distribution process of the base-extra capacity and commodity-demand methodologies are generally considered fair and equitable because both approaches result in the revenue requirements being distributed to each class in proportion to each class's contribution to the system cost components. Discussions of both cost-of-service methodologies, along with numerical examples to illustrate their differences, are provided in section III of this manual.

Rate-Design Analysis

The final technical analysis is the rate-design analysis. This analysis determines how to recover the appropriate level of costs from each customer class of service. There are different rate structures that may be used to collect the appropriate level of revenues from each customer class of service. Section IV of this manual covers the selection and development of rate designs in detail.

OTHER WATER RATE ISSUES AND CONSIDERATIONS

In addition to the topics previously discussed, this manual also contains guidance on a variety of other water rate and cost recovery issues, capacity and development charges, and water rate implementation issues. These topics are discussed in sections V through VIII.

Section V provides an overview of many distinct situations and pricing considerations that utilities may need to address. It is not unusual for a utility to face situations where a customer or group of customers has unique characteristics and circumstances. These situations include reuse rates and charges, standby rates, drought and surcharge rates, low-income affordability rates, negotiated contract and economic development rates, indexed rates, price elasticity, marginal cost pricing, and miscellaneous and special charges. Regardless of the distinctive situation and pricing considerations, the cost-based principles and methodologies as discussed within this manual should be adapted for the cost analysis to provide proper support for the rates.

Section VI is devoted to the development of rates for customers outside a municipality that owns the system. It has been expanded to include an overview of setting rates for outside customers, with chapters on wholesale (or bulk) charges and retail sales.

In recent years, the cost of system expansion and customer growth has had a significant financial impact on utilities. The development of cost-based connection fees, system development charges, or dedicated capacity charges are the topics reviewed in section VII.

Finally, while cost-of-service principles for rate-making and related fees and charges rely on significant amounts of financial analysis, engineering analysis, and policy decisions, it is necessary to engage the public. These topics, along with the data needs for developing cost-based rates, are discussed in section VIII of the manual.

REFERENCES

AWWA. 1954. Manual M1. *Water Rates Manual*, 1st ed. Denver, Colo.: AWWA. p. 1.

Bonbright, J.C., A.L. Danielsen, and D.R. Kamerschen. 1988. Principles of Public Utility Rates, 2nd ed. Arlington, Va.: Public Utilities Reports. pp. 383–384.

Woodcock, C.P.N. 2013. A Brief History of Water Rates Manuals and Publications. *Journal* of the New England Water Works Association, December.

Attachment 8: W Hedberg Reply to Committee Questions

1. Walk us through the annual budget process and how budgets are prepared and approved by finance/town manager, WSA and TC.

The proposed budget is prepared by the WSA superintendent and staff and presented to the WSA for review and comment usually in January each year. After any updates/revisions to the initial budget draft, the Superintendent submits it to the Town Manager and the Finance Director. It is not approved by the WSA per se. It is simply a recommended budget. The Town goes through a similar process of reviews for each departmental budget proposal to come up with its recommended budget for the budget referendum. Ultimately it is the voters that approve it or not.

2. Does the WSA have a formal risk management process

When I was on WSA I do not believe there was a separate WSA risk management process. Generally, the WSA would have been required to follow the Town's risk management process. I left the WSA by December 2020 and do not know whether a departmental level (augmentation of a town-wide process) has been established.

3. Looking back, where you were involved in the process, would you have done anything differently?

Differently? Yes, of course. I cannot start to address this question without first providing background and context regarding the town's interactions and negotiations with Waterbury from about 2005 or 2006 when I began serving on the WSA board until I was not reappointed (by request) after 2021. This is a complex history and cannot be easily understood from terse answers to simple questions. I can work on providing some of that background but would beg your patience.

4. Who did Waterbury communicate the change in rates to in Watertown in 2018 and who acknowledged it. How and when did that filter through WSA, through Town Council, Finance Director?

Discussions with Waterbury on the original contract, periodic updates thereto, and restructuring of the original format were ongoing from about 2010. There is a lot more to say about this but the question itself reflects a lack of understanding the history. The short answer is Waterbury communicated its intent to change the rates long before the actual new rates started to be billed in 2018. Waterbury OFFICIALLY informed Watertown of the new rates they would be billing, presumably in writing to the Town Manager, in 2017. As I recall, Waterbury went through a statutory rate setting process around that time and subsequently approved new rates for all Waterbury customers. It was no secret Waterbury was insisting Watertown pay the same quantity charges being imposed on their own customers. Therein is the heart of the entire dispute because of improper rate-setting that failed to result in fair and reasonable rates as required by statute.

Looking through some of my files just now I find a letter dated June 28th 2018 from Linda Wihbey, the Waterbury lawyer, sent to Paul Jessel. In that letter, Ms Wihbey claims written notification was previously sent in Feb 2018 and by confirming letter of June 8, 2018. The June 28 letter states "Your acceptance of water/sewer services from Waterbury on and after July 1st will reflect your acceptance of these rates.

Attorney Jessell responded to the June 28, 2018 letter by his letter dated June 29, 2018. I will attach a copy of that letter to my e-mail forwarding these written answers to the bipartisan committee.

As to the filtering, all involved were aware of developments as they occurred during that time to include the WSA Board, WSA staff, Town Manager, Town Attorney, Finance Director, and the Town Council. No one was surprised.

5. What decision makers authorized continuation of the old rates? What was the reasoning?

There was really one decision making body here making decisions on these matters at that time and it was the Town Council. The WSA, Town Manager, Town Attorney, etc. were participating in discussions to arrive at actions and strategies deemed to be in the Town's and rate-payers best interest but the ultimate final decision was made by the duly elected representatives of the voters.

During all these deliberations, the strategy of paying against the billing what all involved collectively believed would be "fair, equitable, and reasonable rates", surfaced. At the time it seemed an attractive strategy that might get us to fairer rates than the "out of left field" Waterbury demands. All hoped Waterbury might finally come around and temper their viewpoint that would make some version of updated rates more palatable. On the merits, Watertown should have prevailed in the court case due to Waterbury's rate-setting failures resulting in indefensible unfair and inequitable rates.

6. Who received legal advice/warnings about the liability

This is not a very good question. The Town Attorney dispensed "legal advice" to all involved town employees and members of boards and commissions. As to "warnings about the liability", the matter was a dispute which would need to be resolved. It was no secret if the matter went to court Watertown might lose.

7. Who did this advice come from and how and when was it communicated to WSA, TC, the community

As stated above, the Town Attorney was the primary giver of legal advice. These communications were provided to TC and WSA regularly and periodically throughout. Because of the lawsuit, the community at large was not directly given legal advice and/or liability warnings of which I am aware. The community's elected representatives represent the community at large in such matters, imho.

8. Were there any oversight mechanisms and if so, did they fail?

Question is too vague to elicit a reasoned response.

9. What communication was relayed and documented for the people who came into position after this time (2018 and on)?

Continuing WSA board members worked with new members to "bring them up to speed" by making them aware of the situation to include the basic history, status, process being pursued and fully integrating new members in the matters going forward. There would be scant documentation of the communication because it was done during executive sessions because of the lawsuit.

10. In the 2018-2019 budget year, what was the communication and who was involved in the conversation around following the legal advice.

See answer to questions 4 and 5.

11. In 2012, there was a long term contract that expired, and then a 5 year contract was signed. Why did the 5 year contract look so different, who signed it and authorized it?

This might be a long answer so fasten your seat belts.

The so called “long term contract” had been in place for many years. If I remember correctly, that long term contract had to be renewed every 5 years. It didn’t really expire in 2012 but was replaced by a new contract that was negotiated and agreed to in 2012 that specified the new rates under the new contract which began being charged in 2013. The only reason the long term contract was replaced was because Waterbury REFUSED to agree to extending it again.

Why did it look different? First, consider how the original contract operated. The basics of it were that Watertown agreed to help pay for upgrading the water plant on Wigwam reservoir and wanted to reserve up to 3 million gallons of treated water which would be sufficient to account for growth needs. That much water is around 8 to 9 percent of the plant capacity. Watertown bonded to pay for its share of the upgrade for a good number of years. The bond payments for that contribution were around $400,000 annually if I remember correctly but that varied like a variable interest loan with a reducing outstanding balance. For the water Watertown actually received, Watertown would pay its proportion of plant production (Watertowns meter usage/plant production) times total Plant production costs taken from Waterbury’s accounting system and billed quarterly. In addition, Watertown paid for its pro rata share of the operation and maintenance costs of Waterbury’s Water Main from Wigwam reservoir to our Fern Hill pump station and further to the Carvel meter pit on Straits Turnpike. The items described above are the only costs that Waterbury incurs from which Watertown derives any benefit. Said another way, If Watertown was not getting water from Waterbury and hence paying nothing, then Waterbury would be monetarily in the same place as it is when providing water to Watertown under the terms of the old contract. Except the old contract also included an additional 10% cost to the cost reimbursement to Waterbury so that Waterbury was able to enjoy profit to that extent, just because, by selling its water to Watertown.

The contract that was agreed to in 2012 looked so different because it changed the structure to the new format. As a result, Waterbury no longer had to submit information from its financial system for review by Watertown quarterly as part of the invoicing process. Instead of the quantity charge (per 1000 gals, or whatever) what Waterbury was charging its customers, Waterbury agreed to reduce that charge for the first 5 years under the new contract. That agreed rate was a huge increase over the costs Waterbury was experiencing due to serving Watertown. It was a huge increase over what WSA was paying under the old contract. It was still well below what Waterbury’s quantity rate (per 1000 gals, or whatever) was charging its own customers.

The Town Council had to give the Town Manager, Chuck Frigon, the authority to sign the contract. At least that is what should have happened if it did not.

12. What contract negotiations happened at this time in 2018 around this issue?

I have no details of negotiations at that time but I do know there were sit down sessions with Waterbury several times a year starting around 2014 or so until the lawsuit in 2018 in addition to written correspondence and occasional telephonic contact.

13. Who actually sets the rates, WSA? Finance? Town Council? Who has the final say?

The Statutes designate the local utility as responsible for setting rates which are fair and equitable. There are also strict procedural requirements. While I was on WSA, it would have been unthinkable for WSA to make a rate decision against the desires of the Town Council. We would always work hard to come to a consensus among WSA, Town Council, Finance Director, Town Attorney, and Town Manager.

14. What is the current billing practice to the Watertown residents?

Read the meter, prepare the bill consistent with the approved rates and fees, and send the bill by mail. There is nothing particularly unique or interesting.

15. In 2023, the legal strategy to appeal, what went into it? Who decided it? And Who was made aware?

I was not involved but it likely was the same or similar procedure that was followed in arriving at the 2018 decision used to not make full invoiced payments and explained in the reasoning discussed in Answer 5.

16. How was the legal strategy decided that shifted us from an $18M hold to a $34M hold?

I am unaware of these details. I do know the so called accrued interest at 18% on perceived debts of losers in civil cases, particularly for large amounts owed that take a long time to judgment quickly adds up.

17. Financially, why was a reserve not created to offset the liability in 2023 or even before, when it was disclosed as a liability in the audited financials? Why was this not disclosed in the prior financials?

In 2008 Waterbury had already informed Watertown that they would not extend the original contract after 2012 and would be imposing the waterbury quantity rate to Watertown. The WSA hired a consultant to do a rate study in the 2009-2010 time frame in anticipation of having to pay more to Waterbury. the study recommended increasing rates to WSA customers. The WSA approved rate increases totaling 25% at 5% per year over 5 years starting in 2010 give or take a year. You could consider that conceptually the beginning of a reserve. The thought was to avoid the need for a big rate increase in the future would be better and more acceptable to the WSA customers. As it turned out that reserve did delay the need for additional increases because the additional revenue from the 2010-2015 5 year 5% increases retained a decent fund balance for awhile after the new Waterbury rates went into effect as explained toward the end of answer 11.

Due to stagnation in the discussions to have fair and equitable rates in 2018, the WSA again began another round of annual rate increases to WSA customers beginning in 2015 because of the uncertainty where the Waterbury costs might finally land. Those increases certainly helped by providing some millions of dollars the absence of which would have made a bad outcome even worse. I might add the WSA can only create a reserve and fund it by raising rates.

I am not sure what triggers certain disclosures in the financial reports and

whether there is any distinction between a financial liability and a potential financial liability. I cannot believe there was any intent in the preparation of any of those annual reports to omit a required disclosure.

18. What is the relationship with the Fire District, WSA, and the town and what conversations have been had regarding their involvement and the disputes? What is the contract? How do they operate together

There are contractual agreements between WSA and the Fire District. I am not familiar with the details.

19. What are the essentials of a rate-setting process for a public utility to ensure that fair and equitable rates are achieved for all rate payers as required by law? (my question)

The bible regarding rate setting, especially for public water systems but similarly applicable to most other utilities, is a publication titled M1: "Water Rates, Fees, and Charges". This publication has been the standard for the industry for decades. It is published by the American Water Works Association (AWWA).

I am attaching a copy of the table of contents, Introduction, and chapter I.1, “Overview of Cost-Based Water Utility Rate-Making.”

The table of contents shows the detailed content included in the manual M1. The message is that the rate setting process is simple in concept but complex in application.

The Introduction provides the big picture view of the AWWA recommendations. In doing so it clearly and strongly states its support of the cost-based methodology. The rest of chapter I.1 discusses the objectives of cost-based rate-making which provides the essential background needed to understand Waterbury’s failures in its dealings with Watertown and the WSA. I have highlighted which I believe are the most important things to understand.

The key concept is the identification of classes of customers that the utility serves. A customer class is one where each member included in that class has similar characteristics on its scale, scope, and impact and cost to the utility to serve that class.

Going back to the original contract with Waterbury, that contractual arrangement was in essence recognizing Watertown is a separate class of customer than most all of their other customers. It recognized that Watertown was a bulk wholesale customer for which Waterbury did not operate and maintain distribution lines, did not operate pumps and storage tanks, did not flush hydrants and mains, did not bill customers, did not read water meters, etc etc. Under the contracts, Watertown was a class of customer with only a couple other customers in that class. Other towns Waterbury serves in bulk and Watertown should have rates set according to the methods described in the AWWA Manual M1.

Waterbury has rejected applying cost-based rate-making methods since refusing to negotiate a new contract that would include the same underlying principles outlined by the AWWA that were applied in the previous contracts. When the new rates were imposed in 2018, the last vestige of cost-based rates disappeared.

The key reason Waterbury’s water rates do not meet the threshold of being just and reasonable under the statutes is because its rate setting simply applies a single rate structure to all its customers ignoring differences that exist between different classes of customers. The result is Watertown gets severely disadvantaged because a bulk wholesale customer like Watertown pays way too much and all the other Waterbury customers pay, in total, way too little. The differences between Watertown WSA and a Waterbury residence serving a family of 5 are huge. The one size fits all approach couldn’t possible be misapplied more disastrously than here.

I first presented this information regarding cost-based rates including the Manual M1 extract to the WSA, its superintendent, the town manager and town attorney to hopefully be beneficial in the discussions/negotiations with Waterbury around 2014. I had previously participated in the discussions/negotiations in the 2011-2012 time frame leading up to the new 2013 contract that sharply

increased previous rates, but were still significantly lower than had the full Waterbury rate been applied.

20. Further thoughts on Question 5.

As I stated, The Town Manager, Town Council, Town Attorney and WSA were generally agreed to that strategy. Ultimately the green light was given, the first invoiced payment was prepared and sent. My understanding at the time was those partial payments were to be enhanced going forward just as they would have been had the previous contract been continued. The payments would have been increased at least 2% a year above the rates at the end of the previous contract.

21. Differences between water situation and sewer situation.

Most of the discussions were about the water system and rates until 2018 when Waterbury sued. There was a separate contract for sewer fees Watertown paid to Waterbury. Watertown invested heavily in the water plant and in upgrading Waterbury's sewer plant. In both cases Watertown's use of both systems involved very little direct influence on these systems. The major effects were receiving bulk water form the plant and discharging sewerage to the Waterbury plant. Aside from Waterbury's cost of treating and delivering the water and cost of receiving and treating the waste, there were very few additional costs.

Before talking about the reduced payments on invoices, there is an important difference between the water situation and the sewer situation. For the water system, the cost Waterbury experiences operating the treatment plant is a relatively small percentage of the total costs. For sewer, the cost of operating the sewerage treatment plant is somewhat higher percentage of total costs. Watertown's sewer discharges are separately metered at the point of discharge into Waterbury's sewer main. Under the previous sewer contract, Waterbury also prepared reports detailing costs of operating the treatment plant to justify billing the share of those costs attributable to treating Watertown's waste.

Originally, I thought the 2018 suit was about only water rates. I actually do not know how/when the sewer rates were changed and somehow got mixed up in the lawsuit. Hopefully, the committee has been able to sort out the facts. I was never directly involved in any of the discussions and or analysis surrounding sewer rates or the differences between what Watertown is charged compared to appropriate cost-based rates for sewer would be. In spite of the differences between the two systems, if Waterbury would set rates for Watertown so that they recover 100% of their costs to serve Watertown, plus a 10% thank you surcharge like in the original contract, those rates would be just and equitable, imo.

22. Why was the lawsuit lost, the appeal denied and the writ to the supreme court dismissed? (my question)

Boy would I love to have the answer to this one. Let me start by saying throughout this entire process going back to my first appointment to WSA up until the rates were imposed on July 1, 2018, it is my opinion that there were no major missteps, and everything that could have and should have been done were done. The cause for where this ship sailed lies totally with the intransigence of Waterbury to negotiate in good faith.

If you recall, around 2001 to 2006 Waterbury was in receivership with an overseer appointed by the state legislature. Shortly thereafter we were hearing from Waterbury about how they did not like having to identify costs incurred in order to gather the information they were required to provide along

with their invoices. Fast forward to negotiations with Waterbury around 2010 as the contract was nearing its end and Waterbury was insistent on the rates being the same for all customers and rejected cost-based rates. Perhaps the desire to generate revenue from utility operations for other purposes or to avoid a rate increase for Waterbury accounts were influencers in their negotiations and related intransigence.

In order to understand how the courts and judicial reviews came up with a wrong-headed unjust result would require someone to review all the correspondence, obtain transcripts from the trial, read the judges decision and identify errors in factual matters relied upon, and so on. For example, the judge stated there was no justification to conclude that the rates Waterbury imposed were unfair and/or inequitable. This means he believed that Waterbury had met its statutory obligations OR it means our legal team failed to put forth convincing evidence to the contrary. Right there can be the whole ball game. The same review of everything that went into the appeal: our appeal, the transcript of any hearings, and whatever was written in the denial need to be looked at. Finally, the writ application. What did we submit? What was included in the denial? Any explanation? Was there an appearance with a record thereof?

So in order to come close to understanding the defeat, the above needs to be done. If the question is worth answering, perhaps someone could gather up all the "stuff" shall we call it, and package it for review and evaluation by the most seasoned and expert legal practitioner we can find with the mission of finding where did this wrong and how could the defeat been avoided.

Attachment 10. Risk Management Policy Draft

TOWN OF WATERTOWN

WATER & SEWER AUTHORITY

Risk Analysis & Financial Sustainability Policy

(In preparation to proposed for Adoption)

I. Purpose

The purpose of this policy is to establish a structured framework for identifying, evaluating, monitoring, and mitigating risks affecting the Watertown Water & Sewer Authority (WSA).

As an enterprise fund utility, the WSA must operate in a financially sustainable, legally compliant, and operationally resilient manner. This policy promotes:

- Financial stability
- Rate predictability
- Infrastructure reliability
- Regulatory compliance
- Transparent governance

This policy reflects recognized municipal best practices, including principles endorsed by the Government Finance Officers Association (GFOA) and Connecticut municipal utility standards.

II. Scope

This policy applies to:

- Water operations
- Sewer operations
- Capital planning
- Debt issuance and financing
- Rate setting
- Enterprise fund reserves
- Contractual obligations

III. Risk Categories

The Authority recognizes the following primary risk categories:

1. Financial Risk

- Revenue volatility due to usage fluctuations (How often to report to WSA)
- Debt service obligations (Annual Review?)
- Bond Anticipation Note (BAN) (conversion exposure Ongoing)
- Inadequate reserves
- Rate instability

2. Operational Risk (Technical evaluation)

- Infrastructure failure
- Equipment obsolescence
- Deferred maintenance
- Staffing capacity constraints
- Emergency response readiness

3. Regulatory & Legal Risk

- Environmental compliance requirements
- Consent orders or enforcement actions
- Inter-municipal contractual obligations
- Changes in state or federal law

4. Capital & Infrastructure Risk

- Aging system components
- Inflow and infiltration
- Unfunded capital replacement needs
- Grant dependency or reimbursement delays

5. Governance & Public Trust Risk (Being addressed need to update)))

- Insufficient transparency
- Inconsistent communication
- Unclear policy direction
- Rate shock due to delayed planning

IV. Risk Assessment Framework

The WSA shall conduct structured risk review at least annually during the budget development process and additionally when major financial decisions are contemplated.

Each identified risk shall be evaluated using the following criteria:

1. **Likelihood** (Low / Moderate / High)
2. **Financial Impact** (Dollar magnitude or operational consequence)
3. **Time Horizon** (Immediate / Short-term / Long-term)
4. **Mitigation Options Available**
5. **Impact on Rates**

Significant risks shall be documented in a Risk Register maintained by staff and presented during budget deliberations.

V. Financial Risk Management Standards

To promote sustainability, the Authority shall adhere to the following principles:

A. Multi-Year Forecasting

- Maintain at least a three- to five-year financial projection.
- Incorporate debt service, capital planning, and usage sensitivity scenarios.

B. Usage Normalization

- Use multi-year historical averages when projecting revenue and cost baselines.
- Avoid reliance on single-year anomalies.

C. Reserve Targets

The Authority shall maintain appropriate enterprise fund reserves to address:

- Operating contingencies
- Emergency repairs
- Revenue volatility
- Debt service stability

Target reserve levels shall be reviewed annually.

D. Debt Management

- Evaluate total debt burden prior to issuance.
- Assess BAN-to-bond conversion impacts over the full amortization period.
- Model rate impacts before long-term borrowing decisions.

VI. Capital Risk Management

The Authority shall:

- Maintain a rolling multi-year capital improvement plan (CIP).
- Distinguish clearly between capital tracking and spending authorization.
- Identify funding sources for each capital project.
- Evaluate lifecycle costs prior to project approval.

Capital risk evaluation shall include:

- Asset condition assessment
- Regulatory compliance exposure
- Service interruption risk
- Long-term replacement scheduling

VII. Rate Stability & Shock Prevention

To reduce sudden rate increases, the Authority shall:

- Monitor cost trends annually.
- Use gradual adjustments when feasible.
- Model alternative rate scenarios.
- Communicate anticipated changes early and transparently.

Rate decisions shall consider both immediate budget balance and long-term sustainability.
(Should language be added that a rate study be completed years?)

VIII. Monitoring & Reporting (Report to Council for established oversite?)

The Authority shall:

- Review financial performance monthly.
- Compare actual revenue and flow to projections.
- Monitor debt service coverage.

- Report material variances during public meetings.

Significant deviations from projections shall trigger review and corrective planning.

IX. Transparency & Public Communication

Risk evaluation and financial planning discussions shall occur in publicly noticed meetings.

The Authority shall:

- Post financial summaries in plain language.
- Publish supporting technical documents.
- Conduct formal public hearings prior to final rate action. (Reference statute)

Limitations on discussion (e.g., litigation, contract negotiation) shall comply with applicable law.

X. Roles & Responsibilities

Water & Sewer Authority

- Set policy direction
- Approve budgets and rates
- Review risk assessments
- Authorize debt and capital planning

Town Manager / Staff

- Prepare financial analyses
- Maintain risk register
- Monitor performance metrics
- Provide transparent reporting

XI. Policy Review

This policy shall be reviewed at least every two years, or sooner if significant financial or regulatory changes occur.

XII. Conclusion

This Risk Analysis & Financial Sustainability Policy establishes a structured, disciplined approach to managing enterprise fund risk.

The Authority recognizes that:

- Water and sewer utilities require long-term planning.
- Infrastructure obligations span decades.
- Financial stability protects both ratepayers and the Town.
- Transparency strengthens public confidence.

Through consistent application of this policy, the Watertown Water & Sewer Authority will promote responsible governance, rate stability, and long-term system sustainability.

Clarification of the Business Relationship between Town Council, Water and Sewer Authority, and Town Manager

Under the Charter, the Town's water and sewer utility operates within the overall structure of Town government rather than as a separate or independent entity. The Charter vests legislative authority in the Town Council and administrative authority in the Town Manager, who is designated as the "chief administrative officer of the Town" and is responsible for the supervision and direction of all departments, offices, and agencies. Because the water and sewer system is staffed, budgeted, and operated through this structure, it functions in practice as a department of the Town under the Town Manager's oversight.

At the same time, the Charter establishes a Water and Sewer Authority and assigns it specific powers related to the utility. Most notably, the Authority is designated as the body responsible for establishing user rates and charges for water and sewer services. This allocation of authority is consistent with Connecticut law, including Connecticut General Statutes § 7-255 and related provisions, which authorize a water pollution control authority or similar body to set rates sufficient to support the financial needs of the system.

The respective roles of the Authority and the Town Council are complementary rather than overlapping. The Authority is responsible for determining the level of revenue required to operate, maintain, and invest in the utility system, and it sets rates accordingly. The Town Council, by contrast, retains its core legislative role over municipal finances, including the adoption of the Town's annual budget and the appropriation of funds. Even where utility operations are accounted for separately, expenditures are still subject to the Town's budget and appropriation process under the Charter.

In practice, this creates a coordinated financial framework. The Authority develops and supports a proposed operating and capital plan for the utility and sets rates intended to generate sufficient revenue to fund that plan. The Town Council then acts on the budget by approving (or denying) the proposed necessary expenditures. If adjustments are made on either side—whether to planned spending or projected revenues—there is a corresponding need for coordination between the Authority and the Council to ensure the system remains financially balanced.

Taken together, these Charter provisions establish a clear structure: the Water and Sewer Authority serves as the policy and rate-setting body for the utility; the Town Manager, as chief administrative officer, oversees implementation and day-to-day operations; and the Town Council exercises legislative oversight through the budget and appropriation process. This framework confirms that, while the Authority holds important and

independent powers, the water and sewer utility remains fully integrated into Town government and operates as a municipal department.