

Viability Utility Committee of the State Water Infrastructure Authority
North Carolina Department of Environmental Quality

November 10, 2021

Note: This meeting was held via WebEx

Meeting Minutes

Viability Utility Reserve Committee Members Attending Meeting via WebEx

- Ed Goscicki
- Leila Goodwin, Water Resources Engineer
- Maria Hunnicutt, Manager, Broad River Water Authority
- Shadi Eskaf, Director, Division of Water Infrastructure

Division of Water Infrastructure Staff Attending Meeting via WebEx

- Cathy Akroyd, Public Information Officer
- Linda Culpepper, Viability Utility Utilities Unit
- Victor D'Amato, Supervisor, Viability Utilities Unit
- Jennifer Haynie, Program Development Coordinator, Viability Utilities Unit
- Susan Kubacki, Program Development Coordinator, Viability Utilities Unit
- Jon Risgaard, Section Chief, State Revolving Fund Section

Item A. Call to Order

Chair Eskaf called the meeting to order and reminded the members of the Viability Utility (VU) Committee of the State Water Infrastructure Authority (Authority) of General Statute 138A which states that any member who is aware of a known conflict of interest or potential conflict of interest with respect to any matters before the VU Committee today is required to identify the conflict or potential conflict at the time the conflict becomes apparent.

Item B. Approval of Meeting Minutes

Chair Eskaf presented the draft meeting minutes from the August 13, 2021 VU Committee meeting for approval.

Action Item B:

- Ms. Goodwin made a motion to approve the meeting minutes with modifications. Mr. Goscicki seconded the motion, and the motion passed unanimously.

Item C. Summary of Comments for Priority Rating System for the Viability Utility Reserve Capital Projects

Mr. Risgaard gave the presentation.

Summary

The Priority Rating System relates to capital projects that will be funded via the Viable Utility Reserve (VUR). The proposed Priority Rating System is the same system that is in use for the State Revolving Fund (SRF) and State Reserve Program (SRP) capital project programs. At its July 8, 2021 meeting, the Authority approved the Division to take the VUR Priority Rating System out for public review. The public review period opened on October 4, 2021 and closed on November 1, 2021. The Division received nine comments for consideration and anticipated having the responses to these comments ready for the Authority's December 8, 2021 meeting.

Mr. Risgaard reminded VU Committee members of what constituted eligible projects for the VUR. Eligibilities include physical interconnection, rehabilitation of existing infrastructure, decentralization, study funding, other options deemed feasible, and emergency operations. He noted that study funding and emergency operations were not part of the VUR Priority Rating System for capital projects.

Mr. Risgaard then summarized the highlights from the comments. Commenters requested the following:

- Adding priority to line items that support the provision of reliable water and wastewater services;
- Adding priority to projects that come from capital improvement plans developed and implemented as part of asset management plans;
- Collecting data from applicants related to race, color, and national origin of service populations;
- Adjusting priority to better match tiered enforcement levels used by the Department of Environmental Quality (Department);
- Considering additional priority to address flood risk vulnerability;
- Requesting prioritization for projects that provide protection to certain coastal water classifications;
- Considering alternative unemployment indicators; and
- Considering additional priority for regional solutions that utilize public-private partnerships and/or selling systems to private utilities.

Discussion

Chair Eskaf asked for discussion.

Ms. Goodwin appreciated the provided summary since most of the comments were very long. She asked if Division staff planned to talk through each comment in a little more depth. Mr. Risgaard replied that since the comment period closed so close to the VU committee meeting, Division staff was unable to prepare detailed responses. Staff were looking for

guidance, if any, that would help in the preparation of the responses and recommendations to the Authority.

Ms. Goodwin stated that she did not have any specific ideas. She did notice the comment regarding projects from asset management plans and thought that those were already given priority. Additionally, she noted that while specifying between Notices of Violation and Notices of Deficiency might seem like a good idea, practicably, it might not make a difference. She suggested using county unemployment data rather than service area unemployment data. The comments related to priority for public-private partnerships and/or selling systems to private utilities might warrant the most attention.

Mr. Goscicki stated that he had two main areas of interest. First, a number of the comments received dealt with environmental concerns and whether adequate priority was being given to them, which is a valid concern, even though for some classifications, priority is given. He wanted to ensure that adequate and equitable prioritization is being given.

Mr. Risgaard thanked Ms. Goodwin for acknowledging that the current Priority Rating System already acknowledges a lot of the issues brought up by the comments. Chair Eskaf added that some of the comments received were about the process rather than the Priority Rating Systems. One of the duties of staff would be to discern the difference between recommendations related to process and those related to the Priority Rating System, as the Authority's focus needs to be on the Priority Rating System rather than process.

Regarding public-private partnerships, Mr. Goscicki stated that the current Priority Rating Systems do not appear to give any credence to it. He did not recall any discussion where public-private partnerships would be the outcome. He wanted to hear more about it at the next Authority meeting. There are some well-run public and private utilities, also some poorly run ones. While there is certainly a place where public-private partnerships can be a good outcome, it is no panacea. Chair Eskaf responded that there is nothing in the Priority Rating System that would preclude public-private partnership participation. A lot could be done on the programmatic side to ensure that it becomes more viable as an option. Division staff thought that by requiring public-private partnerships to be a part of a Priority Rating System could diminish the ability of applicants to look at other options, as currently, all options are equally weighted. Ms. Goodwin agreed, especially related to Merger/Regionalization Feasibility grants where feasible alternatives need to be included. She suggested that the commenter come and speak to the Authority related to this topic. She also noted that partnering in a public-private partnership is different than a company buying out a system. Mr. Goscicki agreed that the matter is more of an issue of educating, framing, and providing appropriate guidance rather than points in a Priority Rating System.

Chair Eskaf stated that Division staff would take this feedback into consideration during preparation of recommendations to the Authority at its December meeting.

Item D. Timeline of Reassessment Process Steps

Chair Eskaf gave the presentation.

Summary

Generate Statute 159G-45 outlines the basic steps related to how to assess local government units (LGUs) in terms of identifying a distressed LGU and reassessing LGUs. Chair Eskaf wanted input related to a “pending” designation, whether a designation spans the reassessment period, and the removal of a distressed designation.

Discussion

Chair Eskaf asked for discussion.

Related to pending designation, Mr. Goscicki stated that his recollection was that the rationale would be to allow the LGU to provide information that could change their score. Ms. Goodwin agreed that there should be no rush to designate. When assessments are completed and presented in April of each year, the first time LGUs are above the threshold for Criteria Assessment scores, they would have the option of providing information or be designated the following year. Chair Eskaf agreed and had wanted to restate it to formalize the process.

Regarding the second point of discussion, he wanted thoughts from the VU Committee on how long a LGU should remain designated if they do not complete the requirements of the VU program. He also wanted input on what type of grant conditions should be imposed if a LGU fails to meet the programmatic requirements.

Ms. Goodwin asked if a LGU could apply for funding from the VUR without having completed the training. Chair Eskaf replied that there is no requirement to complete any VU programmatic training before applying for projects; instead, the required training could be part of the grant conditions. Ms. Goodwin expressed concern that there should be a process set up for LGUs who do not fulfill the training conditions. Chair Eskaf agreed and stated that the Division would discuss developing this process.

Mr. Goscicki stated that there are four Identification Criteria for the distressed designation. Once a LGU is designated as distressed, they have a set of four process steps to complete. Completion of any or all items would not guarantee a removal of the distressed designation because even if a LGU completed all criteria, they might not meet the Identification Criteria to the point where they can be undesignated. However, he pointed out that LGUs are either distressed or not and that staff should avoid too many unnecessary designations.

Ms. Goodwin stated that assessment is an annual occurrence by Division staff for Identification Criterion 3. This occurs every April when the Authority receives the Assessment Criteria scores for LGUs. The other Identification Criteria actually happen and do not require an assessment. According to statute, distressed LGUs must meet the program requirements and maintain an improved score to be undesignated. She acknowledged that this is the first time staff will be managing this stage of the process. The Authority and Division staff will adjust as needed.

E. Concluding Remarks by Committee Members

Chair Eskaf asked for closing remarks.

Mr. Goscicki had none. Ms. Goodwin had none. Ms. Hunnicutt stated that as the Authority talks about the word “distressed,” everyone needs to keep in mind the inherent risk associated with it. She thanked Division staff for their work, as it would enable everyone to prepare for the meeting in December. Chair Eskaf thanked Division staff as well as Local Government Commission staff.

F. Adjourn

Meeting was adjourned.

DRAFT