

**State Water Infrastructure Authority**  
**July 14, 2021 Meeting**  
**Agenda Item K – Approval of Priority Rating System for Viable Utility Reserve Study Grants**

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**Division of Water Infrastructure Staff Report**

**Background**

Session Law 2020-79, entitled in part “An Act to Improve the Viability of the Water and Wastewater Systems of Certain Units of Local Government...”, created the Viable Utility Reserve (VUR). Pursuant to § 159G-39 the Division must rank each application for review by the State Water Infrastructure Authority (Authority). The Authority must consider the Division's determination of priority when it reviews an application's priority. The Authority's determination of priority is conclusive. In addition, for the VUR, the Department shall not award a grant from the VUR Fund unless the Local Government Commission (LGC) approves the award of the grant.

**Criteria for Study Grants from the VUR**

The Authority discussed draft prioritization concepts for providing VUR funding to eligible Local Government Units (LGUs) at its March 10, 2021 and April 14, 2021 meetings. Division staff have continued to develop these concepts.

**VUR Study Grant Prioritization**

Grant prioritization for the study grants is divided into two categories: Category 1 is the highest priority, and Category 2 would be considered when there are remaining funds in the VUR after meeting all needs in Category 1.

**Category 1 – approved by SWIA April 14, 2021**

Local Government Units which are identified as distressed due to their fiscal affairs being under the control of the LGC (designated under Identification Criteria 1) and distressed LGUs working with these highest priority LGUs comprise Category 1. Local government units in Category 1 and their distressed regional partners have been invited to apply for grants to assist in developing long-term solutions.

**Category 2**

All other LGUs which are identified as distressed comprise Category 2. The proposed prioritization concepts for Category 2 funding issued for public review indicated LGUs would apply under a competitive process for study grant funding. Local government units must be willing to commit to the viable utility (VU) process: attend initial board education/training; develop short- and long-term action plans for infrastructure repair, maintenance and management; and develop a long-term financial plan that facilitates the provision of reliable water and/or wastewater services.

Distressed LGU assessment scores would be placed into groups of point ranges shown in Table 1. The funding would be prioritized first for the subgroup with assessment scores of 13 or more points, and then to the subgroup with 11-12 points, followed by the subgroup with 8-10 points until funding is exhausted or all applicant needs are funded within the subgroup. If funding is limited and not all LGUs in the subgroup can be funded, priority would be further distinguished by prioritizing:

1. Revenue Outlook: 15 points
2. Moratorium: 15 points
3. Service Population <1,000: 10 points
4. Ability to address multiple distressed units: 5 points

<b>Assessment Evaluation Score Point Ranges</b>	<b># Units</b>	<b># Rev Outlook</b>	<b>#Moratorium</b>	<b>#&lt;1,000 population</b>
>13	18	12	6	7
11-12	38	10	6	20
8 (single provider) – 10	51	9	3	19

A LGU’s priority could be adjusted by the Authority when considering other factors that reflect the LGU’s situation that are not completely reflected in the assessment score. For example, a LGU may have several parameters that just meet the thresholds established in the assessment criteria, or they may be missing data / audits. This may be particularly important in working with distressed LGUs that meet Identification Criteria 2 (2 years of missing audits) and Identification Criteria 4.

At the Authority’s April 14, 2021 meeting the Authority approved Category 2 of the VUR Priority Rating System for public review. The public review period opened on May 7, 2021. The Division did not hold a public meeting due to social distancing requirements stemming from the Covid-19 pandemic. The public comment period closed on June 4. The following summarizes the comments received, provides staff response to each comment and staff recommendations for action on the Affordability Criteria. Comments were received from the following entities: Aqua North Carolina and Withers-Ravenel.

**Comments, Responses, and Staff Recommendations**

The following comment was received from Aqua North Carolina.

Comment: Local governments should be required to evaluate the option of working with regulated utilities when receiving a MRF grant.

The evaluation process in providing management and infrastructure solutions under the MRF and VUR grants should include regulated utilities. Therefore, we would request for the priority rating system include regulated utilities as an evaluated option for each of the priority rating systems.

Response: Division staff note that in the MRF program, “partnering” systems may include regulated systems. No priority points are earned for the type or number of “partnering” systems – regulated or otherwise. *No change to the VUR Priority Rating System is recommended.*

The following comments were received from Withers-Ravenel.

Comment: Does the prioritization weight sewer projects higher because of the moratorium priority over other environmental/public health issues? Some moratoriums have nothing to do with system viability. Is there a prioritization weight for the applicant to provide a positive and/or necessary environmental and/or public health benefit?

Response: The VUR Priority Rating System for Category 2 is limited to study grants. The Division recognizes that the VUR Priority Rating System provides higher priority to LGUs under moratorium and that that moratoria are more common for (although not limited to) wastewater systems. The Division supports higher prioritization of LGUs under moratorium because of the stress a moratorium places on a LGU’s ability to generate additional revenue and address many of the distressed unit financial indicators. *Division staff recommend no changes to the VUR Priority Rating System as proposed.*

Comment: Category 2 prioritization states “Units must be willing to commit to the viable utility process: attend board education/training; develop short- and long-term action plans for infrastructure repair, maintenance and management; and develop a long-term financial plan that facilitates the provision of reliable water and/or wastewater services.” Is the Division’s interpretation that the items listed in the statute are optional (see comment number 2 above from the Asset Inventory and Assessment section)? If this process is not optional, and all entities designated as distressed are required to complete the items listed in the statute the commitment component seems unnecessary.

Response: Local government units designated as distressed must demonstrate a willingness to complete the requirements of 159G-45(b). The prioritization item requires that the governing board of the LGU make this commitment explicitly via a resolution to ensure that all elected officials are aware of the commitment. *Division staff recommend no changes to the VUR Priority Rating System as proposed.*

Comment: G.S. 159G-35(d) lists eligible activities to be completed with Viable Utility Reserve. Are the study grants for those specific eligible activities or is the scoring system prioritizing a specific eligible activity/activities?

Response: G.S. 159G-32(d)(4) discusses what study grants may be utilized for. The scoring system will be used to prioritize applications for funding one or a combination of AIA, MRF and rate studies. Final funding decisions will be based on available funding, the total amount of funding requested, the prioritization score criteria, and the applicant's justification of need for the proposed studies. *Division staff recommend no changes to the VUR Priority Rating System as proposed.*

Comment: The purpose for asset inventory and assessment and rate study grants under the Viable Utility Reserve, referenced in G.S. 159G-34.5, is specifically to "prevent the local government from becoming a distressed unit." Limiting priority to only existing distressed units is inconsistent and contrary to the enabling legislation for these grants.

Response: Prioritization is being established to better assure that the limited VUR funds are provided to those LGUs most in need. Expanding prioritization for non-distressed LGUs seeking AIA and rate study funding is being considered by the Authority. *Division staff recommend that the Authority consider expanding prioritization to non-distressed LGUs as additional funds become available in the VUR.*

Comment: What is the referenced Viable Utility Process?

Response: Fundamental elements of the VU process are defined in the statute [159G-45(b)]. The process description was further described during the joint Authority and Commission meeting October 14, 2020. Elements of the VU process continue to be developed. Division staff recommend no changes to the VUR Priority Rating System as proposed.

### **Staff Recommendation**

Staff recommend that the Authority approve the proposed VUR Priority Rating System for Category 2 study grants as proposed in this staff report.