

**RESOLUTION TO ADOPT ARBITRATION FOR  
ALL NON-RESIDENTIAL CUSTOMERS DISPUTES**

**WHEREAS**, Fayetteville Public Works Commission (PWC), as a public authority under North Carolina law, is authorized to participate in arbitration proceedings;

**WHEREAS**, PWC believes that arbitration offers a fair, efficient, and cost-effective means of achieving binding dispute resolution for PWC and its non-residential customers by an arbitrator who is familiar with utility practices and utility law; and

**WHEREAS**, PWC deems the adoption of binding arbitration for the resolution of all non-residential customer disputes to be prudent for all parties.

**THEREFORE, LET IT BE RESOLVED BY THE COMMISSIONERS OF  
FAYETTEVILLE PUBLIC WORKS COMMISSION THAT:**

1. Fayetteville Public Works Commission hereby amends and supplements its Service and Rate Regulations, Section II. Conditions of Service, by inserting the following:

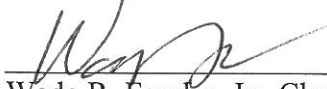
K. As a condition of initiating and/or continuing to receive Non-Residential Utility Services from FPWC, including but not limited to electric, water, and/or sanitary sewer services, the Customer consents to binding arbitration before a single arbitrator in accordance with the then existing Commercial Arbitration Rules of the American Arbitration Association ("AAA"), including the Optional Rules for Emergency Measures of Protection, as modified herein, of all disputes, controversies, and claims arising on or after February 28, 2018 with or against FPWC (including FPWC's Commissioners and employees, in their personal and/or official capacities), including but not limited to disputes regarding service quality, metering, billing, the validity of FWPC's Service Rate and Regulations, Schedule of Deposits, Fees and Charges, and any rate schedule, or the existence or validity or termination of any service agreement. "Non-Residential Utility Services" means all services acquired by the Customer from FPWC other than service on or billing under the Residential Service rate schedule, Electric System Extension – Rider #1, Residential Service Additional Meter rate schedule, Residential Water Service - Inside City rate schedule, Residential Water Service - Outside City rate schedule, Residential Water Irrigation Service - Inside City rate schedule, Residential Water Irrigation Service - Outside City rate schedule, or Temporary Water Service for Residential Construction rate schedule. No demand for arbitration may be made after the date when the institution of legal or equitable proceedings based on such claim or dispute would be barred by the applicable statute of limitations. The arbitration will be administered by the AAA. The arbitration shall be held in Fayetteville, North Carolina or any other place agreed upon at the time by the parties. The arbitrator shall be a practicing attorney or retired judge with at least five years of experience litigating utility rate, tariff, and billing matters. The arbitrator shall issue an award that includes findings of fact and conclusions of law. The arbitrator is not authorized to award punitive or other damages not measured by the prevailing party's actual damages. An award of damages shall include pre-award interest at the legal rate of interest specified by statute for North Carolina from the time of the act or acts giving rise to the award. If the arbitrator determines that a party has generally prevailed in the arbitration proceeding, then the arbitrator shall award to that party its reasonable out-of-pocket expenses related to the arbitration, including filing fees, reasonable witness costs, and arbitrator compensation. The arbitrator may award attorney's fees to a prevailing party only

to the extent permitted by North Carolina law if the dispute had been resolved in a North Carolina state court; provided, however, that this provision does not constitute a reciprocal attorney's fee provision in a business contract pursuant to G.S. 6-21.6. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The North Carolina Revised Uniform Arbitration Act, as amended, shall apply to and governs all arbitration between the Customer and FPWC. Either party may apply to the arbitrator seeking injunctive relief until an arbitration award is rendered or the dispute is otherwise resolved. Notwithstanding the foregoing, either party also may, without waiving any other remedy, seek from any court having jurisdiction any interim or provisional injunctive relief that is necessary to protect the rights or property of that party pending the arbitrator's appointment or decision on the merits of the dispute.

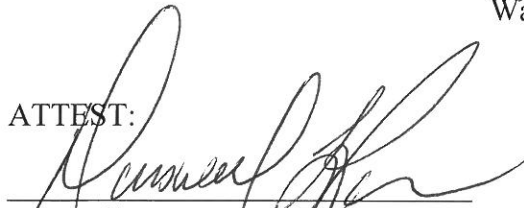
2. Fayetteville Public Works Commission, acting by and through its General Manager, hereby directs and authorizes the CEO/General Manager to develop procedures for the conduct of all such arbitrations, including but not limited to pleading, discovery, and hearing procedures, and to supplement the Service and Rate Regulations therewith.

**ADOPTED** this 28th day of February, 2018.

FAYETTEVILLE PUBLIC WORKS COMMISSION

  
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Wade R. Fowler, Jr., Chairman

ATTEST:

  
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Darsweil L. Rogers, Secretary