

Quarterly Report of the Independent Consumer Advocate (“ICA” or “Consumer Advocate”)

for the Metropolitan District of Hartford County (MDC)

(January 1, 2023 – March 31, 2023)

Introduction

This is the ICA’s fifth quarterly report for the 2022-23 term, and it is also his first such report for the 2023 calendar year. During this quarter, the ICA largely focused on attending District Board, Board of Finance, BPW, Water Bureau, and other Committee meetings held by MDC Commissioners. In addition to attending the Office of State Ethics presentation to the District Board, the Consumer Advocate also attended several of the Strategic Planning Committee Meetings in order to learn more about the various MDC departments.

The ICA also monitored some legal proceedings involving the District, including the MDC’s declaratory ruling petition filed with the Connecticut Department of Public Health (DPH) concerning MDC’s obligations in connection with its termination of the 1965 agreement with the United States Army Corps. of Engineers (USACE) with respect to the Colebrook River Reservoir.

The ICA also increased his focus on ways in which he might be able to address the needs of customers in Hartford’s North End neighborhoods, especially given the increase in complaints about recent flooding and other water damage incidents in the area. The ICA also plans to continue focusing his work on customers in this section of MDC’s service area because LTCP, Consent Order, and other capital projects will be affecting customers there in the near future. Indeed, as discussed below, the March 2023 correspondence between DEEP and MDC regarding the Consent Order highlights how these issues are intertwined.

The ICA continued to monitor the independent audit investigation concerning the Sandler & Mara bills matter and he attended the Internal Audit Committee meetings for this purpose. Finally, the ICA continued to address individual customer complaints.

CT DPH Declaratory Ruling Proceeding re: Colebrook River Reservoir

The ICA spent time this quarter monitoring the DPH administrative proceeding in which the MDC sought a Declaratory Ruling regarding the scope of the District’s obligations in connection with decommissioning the Colebrook River Lake Hydroelectric Facility and terminating its 1965 agreement with USACE concerning the Colebrook River Dam. Although the ICA had gained some familiarity with the DPH proceeding since the petition was filed earlier in 2022, the DPH’s and MDC’s filings and exhibits were made available at or about the time of the DPH administrative hearing, which was held on January 5, 2023 at the Public Health Hearing Office.

Upon receipt of these documents from both DPH and MDC, the ICA familiarized himself with the parties’ claims and exhibits. I also reviewed MDC’s Water Supply Plans and its filings submitted in connection with its Surrender Application for the Colebrook Facility, which is pending in FERC. I was able to attend part of the DPH evidentiary hearing, but I did not file a formal appearance in the matter.

After the hearing, I soon learned that the parties had agreed to resolve the matter in that the MDC agreed to withdraw its petition and to file an abandonment application with DPH per C.G.S. § 25-33k. I also learned that another condition of the settlement was that the DPH agreed to process the MDC's application within 90 days or less, among other conditions. To the extent I am still able to comment on the abandonment application, I plan to do so.

This matter is important for MDC's customers for multiple reasons. The abandonment application could impact the nature and extent of MDC's obligations to continue making O&M payments to the USACE for the Colebrook River Dam. If the MDC does not intend to avail itself of the access benefits provided under the USACE/Colebrook agreement, then it should be able to terminate the agreement and save passing any related costs onto its customers. Of course, the ICA suggests that the MDC must comply with any and all regulatory, statutory, and even remaining contractual obligations in terminating its agreement with USACE, such that any and all penalties (or ultimately, ratepayer costs) are avoided, or at least minimized. It appears that both MDC and the DPH considered this in negotiating a resolution of the declaratory ruling proceeding, but if the ICA learns that this is not the case, or that the customers somehow stand to be harmed—financially or otherwise—through the abandonment application, he intends to intervene and seek redress.

Street Flooding and Private Property Water Damage Incidents in North End of Hartford

As the Upper Albany/Magnolia Street matter discussed in my previous reports demonstrates, it has become increasingly obvious that the MDC must—as well as other regulators, municipal officials, and other stakeholders—work together to address the issue of street flooding and water damage incidents plaguing the North End of Hartford. The ICA certainly acknowledges that the situation is dire, and he feels that the problems are only going to become more pronounced and frequent if someone fails to make immediate repairs and implement preventive measures. The classification of the problems being *solely* stormwater-related or *solely* wastewater-related should not hinder the MDC from doing everything in its power to remedy the situation. There is no other way to put it than to say that the current status quo is unacceptable. The greater difficulty, of course, is trying to come up with a solution to address the problem in a manner that both provides immediate and effective relief to the residents who have been or will be damaged, while also maintaining affordability for the benefit these ratepayers and the ratepayers at large.

The ICA spent time this quarter reviewing communications between the MDC and the media, legislators, and other officials about how MDC plans to address the problem. Based on a review of these communications and other documents, the ICA began working on a preliminary list of recommendations to the MDC's leadership about how it might address the problem, but he later learned that MDC created one in response to DEEP demands, as detailed below. Nevertheless, in the process of preparing this preliminary list of recommendations, the ICA first had to better his understanding of how MDC's staff and operations work in order to get a deeper understanding about how the MDC uses its resources to address problems like those highlighted in the North End. Therefore, I spent some time going to the Strategic Planning Committee meetings and looking at relevant manuals and other MDC documents.

I also assisted one Hartford resident and activist with her Freedom of Information Act request submitted to the MDC concerning its Clean Water Project (CWP) and Consent Order operations in the North End. Although I ultimately did not get copies of all of the documents

that this resident requested, I soon learned that on March 10, 2023, DEEP sent MDC a notice of non-compliance concerning two Consent Order project completion dates. In this notice, DEEP, among other things, demanded that MDC submit to it a plan of action concerning how MDC plans to use its resources to protect North End residents from flooding and other water damage incidents in the short term.

I later received a copy of MDC's March 23, 2023 Response Letter prepared by CEO Jellison in which the MDC appeared to commit to a plan of recommended actions to address the problem in the short term and longer term. In reviewing this plan of action, the ICA agreed with some of the steps that MDC will be taking to address the problems in the short term.¹ Recognizing that many of the recommendations that I could have made in my preliminary list already have been suggested in this response letter, I only plan to make additional recommendations in the future if they have not been considered yet or if I feel that there are fundamental problems with existing or proposed plans. On a somewhat related note, the ICA may make recommendations regarding how to improve MDC's Form 37-A, which is the form titled "Steps To Be Taken By Owners When Sewage Back-Up Occurs On Your Sewer House Connection". Similarly, the idea of proposing some type of insurance program that can be made available to MDC customers in the event of line breaks was researched. During this quarter I learned that some insurers have in fact approached the MDC and made proposals to offer some form of coverage similar to that offered to Connecticut Water Company customers through its Linebacker Protection Plans. Nevertheless, I learned that because a condition imposed by some of these insurers was that Hartford residents would be excluded, the MDC decided not to consider the coverage at that time. I plan to look into this issue further in the next quarter.

As a more general matter, going forward the ICA plans to prioritize advocating on behalf of customers in the North End and elsewhere who are affected by SSOs, CSOs, and more generally by flooding which occurs within MDC's service district.

Internal Audit Committee, Strategic Planning Committee, and Other Meetings

The ICA continued to attend District Board, Board of Finance, and other public meetings conducted by MDC's Committees during this quarter. Notably, the ICA attended (and appreciated) several of the Strategic Planning Committee meetings in order to better his understanding of how the District functions on a day-to-day basis. The ICA recommends that these meetings—like all District Board meetings—should be videotaped and published on MDC's website or YouTube channel. It is not only important for MDC's leadership to understand what the District's various departments and personnel do on a daily basis, but it's more important that its consumers know.

¹ Most notably, I agree with MDC's plans to perform basement assessments and to accelerate and enhance its installment of backwater valves in the area. I also support the MDC's proposal to use its On-Call Sewer Program to perform separation and private property work in the area, in addition to its proposal to use DEEP funding to install private property sewer laterals at or about the same time that main sewer pipes are installed. The ICA certainly prefers that the MDC use state or federal funding first to carry out the response letter's recommendations, but he also submits that the work should not stop if funding is unavailable. Even if the Customer Service Charge or other rate components need to be increased in order to address the North End flooding and sewer problems more swiftly, the long-term benefit could even be realized by all of MDC's non-Hartford customers, seeing as timely and effective repairs made now could potentially avoid catastrophic problems from occurring in the long run.

I also attended the January 2023 Meeting of the District Board where the Office of State Ethics gave a presentation on conflicts of interest to the District Board. This was an informative presentation and I suggest that similar presentations are made on a more regular basis. This is not only because new commissioners take office on a relatively frequent basis, but also because the existence of potential conflicts of interest is heightened in multifaceted representative governance bodies like the MDC's District Board.²

Finally, I continued attending the Internal Audit Committee meetings convened to address the matter of the Sandler & Mara legal bills investigation matter, but because many of them were held in executive session and I was awaiting the Independent Counsel's Report, my participation in these meetings during this quarter was limited. Now that the ICA has received and began reviewing the Report, further comments on it are forthcoming.

Customer Issues

As has been the case in previous quarters during the 2022-23 term, the ICA's work during this quarter involved addressing individual customer complaints and responding to customer inquiries. The majority of these related to private property damage claims in connection with sewer-related construction projects. Several other customers complained of billing inaccuracies and another customer inquired about the customer service charge. One Wethersfield residential customer has complained about the RF meter installation program in her neighborhood. This matter is still being investigated.

Admittedly, the ICA struggled to address all of the customer inquiries and complaints in a timely manner during this quarter because there were so many. Moreover, unfortunately due to an emergency, the ICA also had to devote significant amounts of his time towards addressing other non-MDC-related matters in connection with his private legal practice. On this note, the ICA wishes to extend apologies to any customers who may have contacted him and who are still waiting for a response from him. The ICA plans to do everything in his power to respond to every customer inquiry and complaint as swiftly and thoroughly as he can.

Respectfully submitted,



Joseph Szerejko
Independent Consumer Advocate

² For instance, unlike a single municipality's planning and zoning commission—which already has a heightened potential for conflicts of interest on its own, given its composition of numerous members, each of whom may have a personal, familial, or business relationship with a particular applicant or intervenor that may come before the commission—the MDC's governance essentially is composed of a conglomerate of such bodies, presenting additional layers of potential conflicts. When this reality is coupled with the other realities that: (1) the MDC's leadership, commissioners, and staff are entrusted with protecting and managing one of the most vital resources in an urban metropolitan area; and (2) that the MDC frequently receives extensive media coverage as a result (some of which has been negative recently), it is unquestionable that ethical training for MDC's leadership is of utmost importance. It bears emphasis that even the appearance of impropriety can have very real consequences on any number of actions that the MDC takes.