



April 21, 2022

Dr. Andrew D. Sawyers
Director, Office of Wastewater Management
U.S. Environmental Protection Agency

Re: Docket ID No. EPA-HQ-OW-2020-0426-0071, comments on proposed Financial Capability Assessment Guidance

Dear Dr. Sawyers:

The Association of Metropolitan Water Agencies, an organization of the nation’s largest publicly owned drinking water utilities, applauds EPA for proposing the 2022 Financial Capability Assessment (FCA) Guidance and welcomes this opportunity to comment on the draft. AMWA commends EPA for working to update the 1997 FCA guidance as promised following recommendations from the National Association of Public Administration (NAPA) in its 2017 report, “Developing a New Framework for Community Affordability of Clean Water Services.”

In 2020 AMWA submitted comments on EPA’s proposed 2020 Financial Capability Assessment Guidance (Docket ID: EPA-HQ-OW-2020-0426) and recommended that any final guidance must recognize that ratepayer-borne costs to maintain a community’s drinking water infrastructure must be factored into those same ratepayers’ ability to pay for Clean Water Act mandates related to wastewater infrastructure. We wish to reiterate that message in these comments on the proposed 2022 FCA Guidance.

Providing safe, clean, and reliable drinking water as well as wastewater and stormwater service is an enormous undertaking and responsibility; it is also an undertaking of considerable expense. AMWA’s policy statement on drinking water affordability encourages federal policymakers to remain cognizant of the financial effects of regulatory mandates on local water utilities and their ratepayers, and it is important to also keep in mind that mandates imposed to ensure compliance with the Clean Water Act (CWA) can directly affect a community’s ability to pay for projects or maintain infrastructure necessary to provide drinking water service. Comprehensive, community-based water management that recognizes drinking water, stormwater management and wastewater as an integrated system (“one water”) is critical for the future of water in the U.S. We therefore appreciate that the proposed 2022 FCA Guidance recognizes that both clean water and drinking water costs are typically covered through charges imposed on a single rate base. However, we believe the guidance could make a stronger recommendation for communities to

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factor known drinking water costs into financial rate models that determine wastewater affordability.

We appreciate that EPA “recognizes that both clean water and drinking water costs are often paid for through charges on a single bill,” and therefore the proposed 2022 FCA Guidance “more explicitly provides guidance on incorporating a community’s drinking water obligations into an FCA evaluation.” However, under both Alternative 1 and Alternative 2, the proposed 2022 FCA Guidance merely states that drinking water information “can” be used to supplement other identified metrics, or to evaluate the impacts of combined wastewater and drinking water costs on household bills. Therefore, the guidance does not clearly encourage or direct a community, under either alternative, to specifically incorporate drinking water costs known to be borne by ratepayers on the ultimate calculation of wastewater affordability. Allowing communities to ignore these known drinking water costs when considering any metric of wastewater affordability could at best undermine the holistic “one water” approach to water management, and at worst could lead a community to avoid implementing necessary drinking water rate increases, if the community’s wastewater rates are already at their limits of affordability based on a wastewater-only analysis of households’ ability to pay.

To ensure that drinking water investment needs are not overlooked under any scenario, AMWA recommends EPA to include as “Recommended Critical Metrics” under both alternatives “all water costs to include all drinking water costs” as well as “planned water infrastructure investments and any deferred costs of system operations and maintenance, in the burden assessment.” This is consistent with the recommendations of the 2017 NAPA report. By building these known drinking water costs into the critical metrics of each alternative, the final guidance will ensure that wastewater affordability is calculated in the context of the complete drinking water and wastewater charges that customers will be asked to bear. Alternatively, suggesting that communities may have the option to exclude drinking water costs from their assessment of financial capability to carry out wastewater improvements would invite communities to prioritize wastewater investment, and potentially reduce their ability to increase drinking water rates in response to an emerging need, without making overall water charges unaffordable for low-income ratepayers.

In terms of the two specific alternatives presented in the proposed 2022 FCA Guidance we believe that Alternative 2 in particular appropriately recognizes how the complexity and uniqueness of each community’s water infrastructure burdens affect their ratepayers’ ability to pay for these services and federal mandates.

AMWA believes Alternative 2 as described in the 2022 FCA Guidance provides a more complete picture of a community’s capability to fund its projects required under the Clean Water Act. AMWA also encourages EPA to have the requisite skillset within the agency to be able to adequately assess all submissions, whether under Alternative 1 or Alternative 2. AMWA supports EPA’s plan to establish an ombudsman position to help ensure consistency in reviewing assessments is achieved across EPA headquarters and regions.

Finally, as environmental justice considerations are of increasing importance to EPA and to urban water utilities, AMWA appreciates the agency's incorporation of these considerations into its draft guidance. We further appreciate the additional explanation under Alternative 2 describing how a community could use EJSCREEN to act on any assessment of environmental justice concerns in considering WQS decisions. As aging water infrastructure, emerging resilience needs, expanded regulatory mandates and equity and environmental justice concerns are expected to put upward pressure on local water rates in the coming years, EPA should continue to consider how these escalating costs will affect low-income ratepayers. This proposed 2022 FCA Guidance complements the guidance on implementing BIL funds as well as other work EPA is undertaking. AMWA encourages EPA to continue to develop guidance and craft new regulations in such a way as to minimize burdens on the public while protecting public health. Should you have any questions about our comments, please contact Erica Brown at brown@amwa.net.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Michael Arceneaux', with a long horizontal flourish extending to the right.

Michael Arceneaux
Acting Chief Executive Officer

cc: Sonia Brubaker, OWM