



**April 8, 2020**

**Viability Utility Reserve Committee Meeting**  
*Department of Environmental Quality*  
*Division of Water Infrastructure*





## **Agenda Item B**

### **Committee Purpose**



## *Item B – Committee Purpose*

- Legislation specifies the process is a joint effort of Division, SWIA and LGC
- Legislation does not specify how to implement
- Division and LGC are creating possible steps to implement
- Authority guidance and input is needed
- Criteria and process can help with existing funding program (Viable Utility Priority and outreach)





## **Agenda Item C**

### **Viable Utility Reserve Legislation Review**



## *Item C – Viable Utility Legislation*

- Governor proposed in FY 2020 budget
- House/Senate proposed in Conference Budget
- Same language – without appropriation – is in other House and Senate bills
- Legislation outlines two processes
  - Assessment of units
  - Grant funding



## *Item C – Viable Utility Legislation*

- Defines “distressed unit”

“Distressed unit. – A public water system or wastewater system operated by a local government unit exhibiting signs of failure to identify or address those financial or operating needs necessary to enable that system to become or to remain a local government unit generating sufficient revenues to adequately fund management and operations, personnel, appropriate levels of maintenance, and reinvestment that facilitate the provision of reliable water or wastewater services.”

## *Item C – Viable Utility Legislation*

### Requirements if “distressed”

- Asset assessment
- Rate study
- On-going education for governing boards, finance officers, and operations staff
- Short-term action plan
- Long-term action plan
- Long-term financial management plan



## *Item C – Viable Utility Legislation*

- Could lead to funding with “Viable Utility Reserve” grant but not assured
- Grants may contain on-going performance measures
- Proposed funding limits in legislation
  - \$15 million for a single local government unit
  - \$30 million for two or more local government units
- Proposed funding in conference budget – \$9 million in recurring







## **Agenda Item D Implementing the Legislation**



## *Item D – Implementing the Legislation*

- Distressed criteria
- Process framework
- Education component



## Distressed Criteria



## *Minimum Legislative Requirements*

### Criteria to determine if a unit is “distressed”

- Serving < 10,000 customers
- Is repair & maintenance program adequately funded
- Fund transfer in last 2 of 5 years:
  - Were funds moved out of utility without adequately funding O&M, capital projects & debt service
  - Were funds moved into utility to fund O&M, capital projects & debt service
- Is annual debt service disproportionate to revenue
- *Additional criteria* to be developed by State Water Infrastructure Authority & Local Government Commission

## *Distressed Criteria*

- Distressed criteria serve as financial, organizational and infrastructure assessment measures to be used by the Authority and the LGC
- Performance measures are financial, organizational, and infrastructure measures
  - Ensure long-term viability
  - Part of the Action Plans
- Many measures are both Distressed Criteria (D) and Performance Measures (P)



## *Distressed Criteria*

- Considerations for selecting the recommended additional criteria
  - Basic enough to be readily attainable
  - Complete enough to make a reasonable determination
- Financial Criteria
  - Determined and evaluated by the LGC
  - Some criteria listed as organizational contains both a financial and organizational component
  - Staff will present some financial criteria for context (i.e., may or may not be the final LGC financial criteria)

## *Organizational Criteria – Options*

- Unit Assistance List (D)
- High Rates compared to state medians (D & P)
- Utility Manager (D & P)
- Affordability Parameters (D)
- Organizational Development
- Billing Collection Practices (D & P)
- Water/Wastewater System Compliance (D)
- Percent Depreciation



## *Infrastructure Criteria – Options*

- Known system deficiencies that have not yet resulted in violations (P)
- Non-revenue water (P)
- Operation & Maintenance Practices (P)
- Risk & Resiliency – for example, Emergency Response Plan (P)
- Funded CIP based on Asset Management Principles (P)





## *Criteria – Focus Areas*

- Information that is easy to obtain
  - Determine if otherwise distressed
  - Obtain additional data only for those
  - Don't need all data to determine criteria (only units that are distressed)
- Compliance
- Basic financials for context
- Unit Assistance List
- Customer density
- Rates
- Population change



## *Criteria – Compliance Focus Area*

- Inability to stay in compliance with permit requirements may help identify a distressed local government unit
  - Rating agencies
  - Benchmark used by utilities
- Continuous violations may indicate
  - Delayed capital improvement project
  - Lack of communication between utility staff and local leaders
  - Lack of support of utility (funds, staffing resources)
  - Inability of staff to operate and maintain utility

## *Criteria – Compliance Focus Area*

### Types of facilities with compliance data

- Public water systems
- WWTF
  - Non Discharge
  - Discharge (NPDES)
- Collection System



## *Criteria – Compliance Focus Area*

- Wastewater treatment facility violations
  - Monitoring and reporting violations
  - Non-compliant inspections
- Moratorium – action that restricts additional flow
  - 90% Rule - average annual flow > 90% permitted flow
  - 80% Rule - average annual flow > 80% permitted flow
  - Statutory – cannot adequately treat additional wastes



## *Criteria – Compliance Focus Area*

- Collection system compliance
  - Number of Sanitary Sewer Overflows (SSO)
  - SSOs/mile of collections system
  - No SSO's and inspections
- Public water supply systems
  - Water systems with MCL violations
  - Water systems with open treatment technique violations
  - Monitoring violations



## *Criteria – Focus Areas – Questions / Discussion*

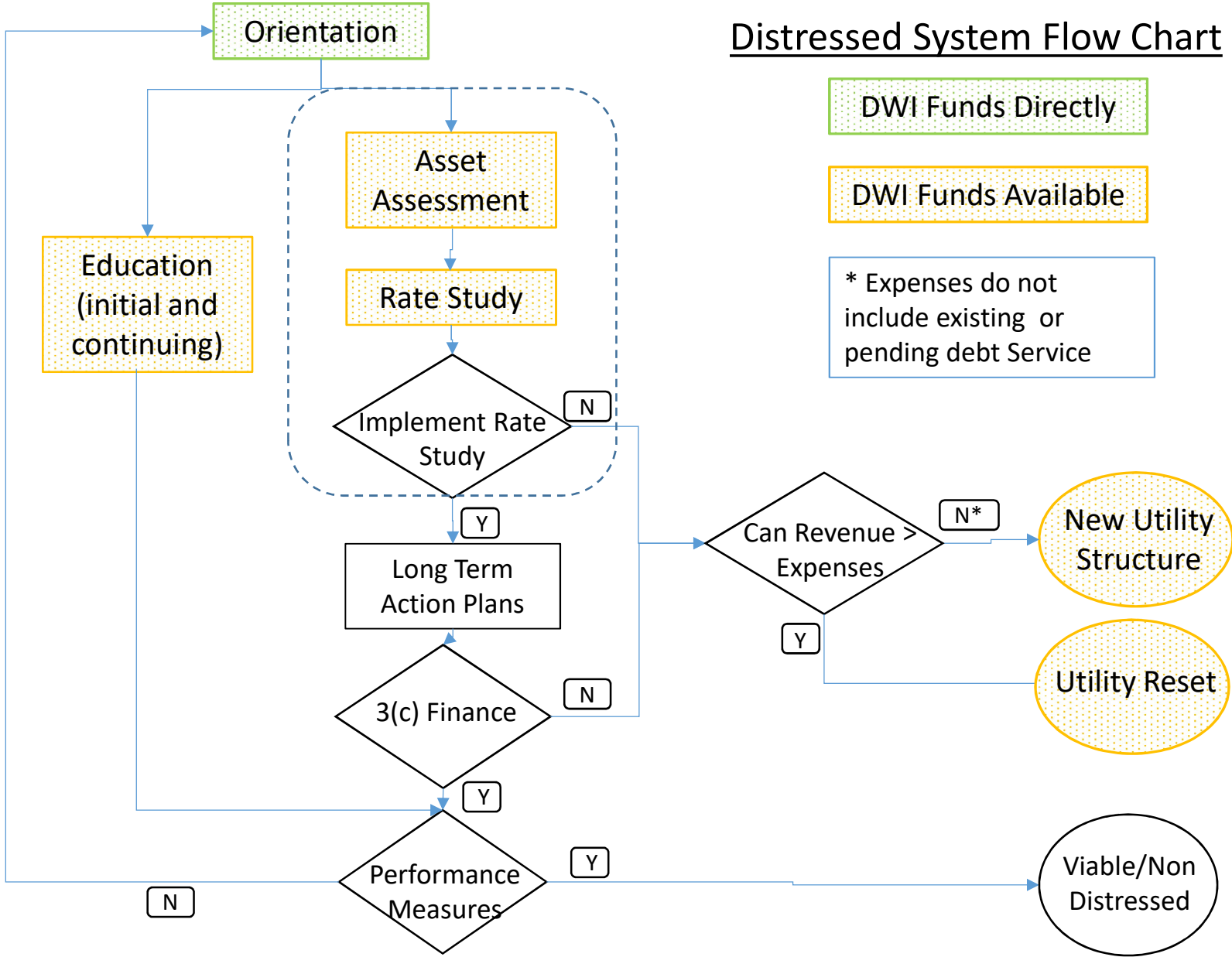
- Compliance
- Basic financials for context
- Unit Assistance List
- Customer density
- Rates
- Population change
- Staff will continue compiling data
  - Enough obtained to propose criteria
  - Next step – bring specific criteria to committee



## Process Framework

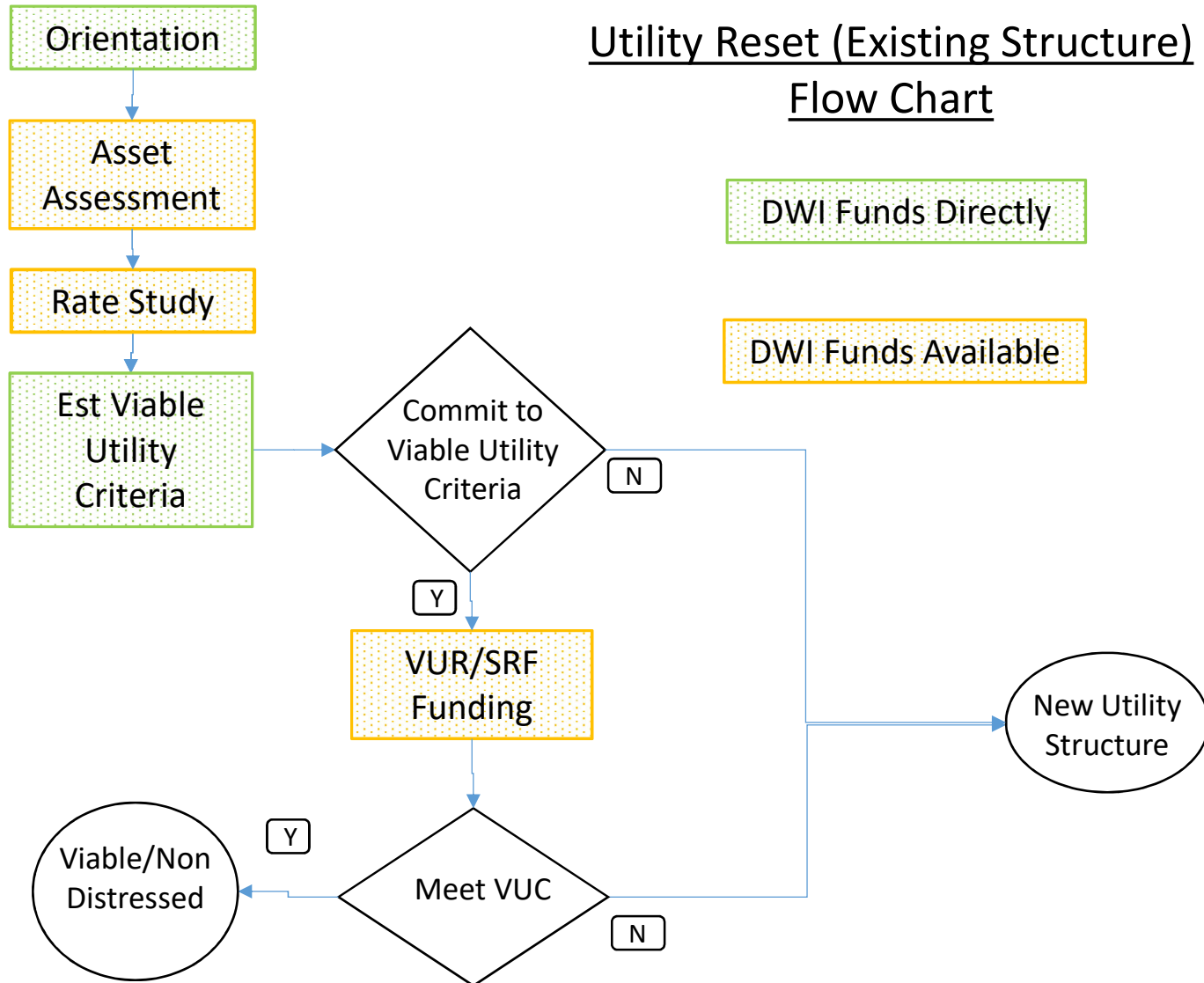


# Distressed System Flow Chart

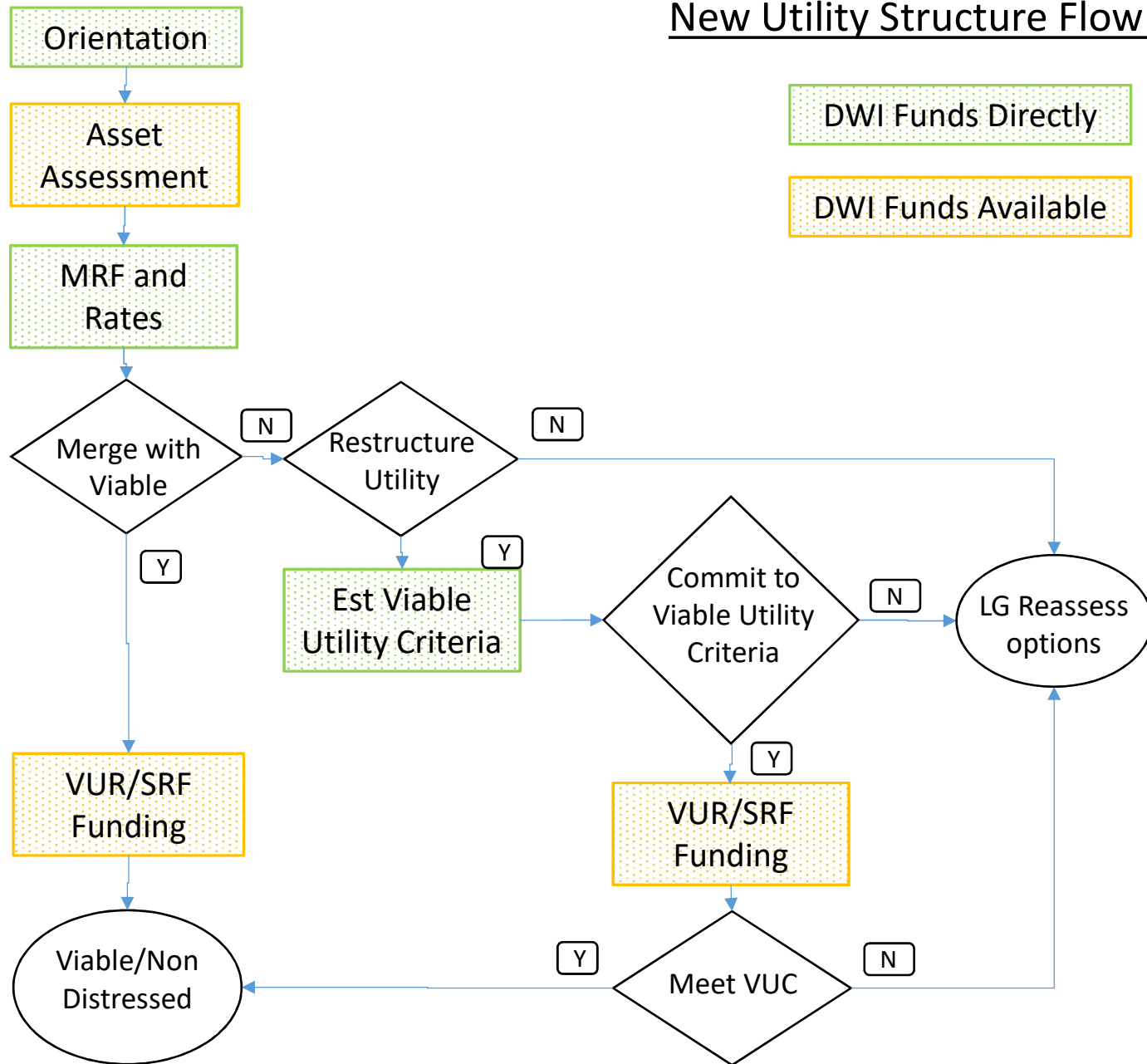


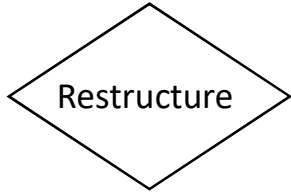


## Utility Reset (Existing Structure) Flow Chart

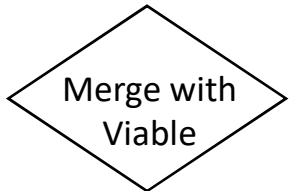


# New Utility Structure Flow Chart

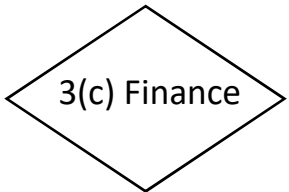




- Merge with other distressed
- Decentralize
- Contract with Private Utility
- Share Public Utility Professionals
- Connect to viable system for bulk service
- Buyout connections



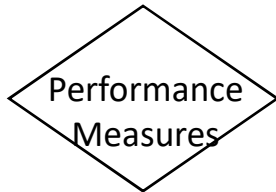
- Viable System owns infrastructure



- Long-term financial management to ensure the system will generate revenue to fund reliable services



Identify systems with high debt or pending debt and have organizational and financial ability to operate and maintain their system.



- Used to show no longer “distressed” are these the same as distressed criteria?

Est Viable  
Utility Criteria

**Strong Legal Agreement to assure success of utility**

- Commitment to meet performance measures
- Commitment to Implement Capital Improvement Plan
  - Reserves
  - Depreciation
- Commitment to implement Rate Study
  - No fund transfers
- Updated Ordinance/MOAs/Inter Local Agreements
- Specified organizational structure
- Non-performance clause – (when/how to enforce?)
- Must be finalized prior to funding commitment

LG reassess  
options

### **Options**

- Assess why viability was not reached
- Other option defined by Statute
- LGC takes over finances

Action Plan

- Commitment to meet performance measures
- Aimed at addressing distressed criteria triggers
- May include
  - SOC
  - Administrative Order
  - Civil penalty settlement agreement



## Educational Component



# *Educational Component Design and Format*

- Design

- Originally designed for training events sponsored by the NC League of Municipalities
- Original audience focus ⇒ Elected officials
- VUR audience focus ⇒ Elected officials and utility staff of distressed systems

- Format

- 30 people max
- Table groups of 5 for discussion purposes
- Mix of large- and small-group discussions and presentations
- Case studies



# *Overall Outline*

- Why elected officials and utility staff are present
- Introductions and keynote speaker
- Water and wastewater basics
- Value of water
- Utility viability
- Modules for Master Plan best practices
- Final case study and wrap-up





# *Introduction & Keynote Speaker*

- Three questions to get people thinking
  - What is your occupation
  - How long have you been in office? Why did you run?
  - What has been the biggest surprise for you since you started in office?
- Keynote speaker
  - Varies depending on area of the state
  - Someone who has had experience/success with utility management



# *Water/Wastewater Basics & Value of Water*

- Basic processes
  - Water treatment and distribution
  - Wastewater collection and treatment
- The value of water
  - Flashcard exercise on typical household monthly expenses
  - Comparison of costs
  - Food, electricity, cell phone, internet, water, wastewater, etc.



## *Utility Viability – Based on Master Plan*

- Utility management challenges
- Proactive versus reactive management
- Infrastructure
  - Risk, critical facilities and existing problem areas
  - Capital improvement planning
- Organizational
  - Elected official responsibilities and communication
- Financial
  - Expenses, revenues and reserves
  - Strong collections policy
  - Regular budget discussions



# *Final Case Study & Wrap-Up; Our Next Steps*

- Final case study
    - Combines all three practice areas
    - Group discussion
  - Wrap-up
- 
- Division's Next Steps
    - Dry run in early May
    - First training in late June
    - Other trainings in September/October timeframe
    - Will adapt for VUR training



## *Committee Feedback*

- Ideal length of training
- Water/wastewater basics level of detail
- Other levels of detail
- Use of case studies
- Small group discussions
- Large group discussions
- Final case study ⇒ require a basic test





## **Agenda Item E**

### **Schedule Future Committee Meetings**



## *Item E – Proposed Meeting Schedule*

- May
- June
- August
- October
- November





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