



**NORTH CAROLINA
PUBLIC STAFF
UTILITIES COMMISSION**

June 6, 2022

Ms. A. Shonta Dunston, Chief Clerk
North Carolina Utilities Commission
Mail Service Center 4325
Raleigh, North Carolina 27699-4300

Re: Docket No. W-1333, Sub 0 and W-1130, Sub 11 - Application of Currituck Water and Sewer, LLC for Authority to Transfer the Sandler Utilities at Mill Run, LLC Wastewater System and Public Utility Franchise in Currituck County, North Carolina and for Approval of Rates

Dear Ms. Dunston:

In connection with the above-captioned docket, I transmit herewith for filing on behalf of the Public Staff Supplemental and Settlement Testimony of D. Michael Franklin.

By copy of this letter, we are forwarding copies to all parties of record.

Sincerely,

/s/ Gina C. Holt
Staff Attorney
gina.holt@psncuc.nc.gov

Attachments

cc: Parties of Record

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Communications
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BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. W-1333, SUB 0

DOCKET NO. W-1130, SUB 11

In the Matter of
Application by Currituck Water and)
Sewer, LLC, 4700 Homewood Court,)
Suite 108, Raleigh, North Carolina)
27609, and Sandler Utilities at Mill Run,)
LLC, 448 Viking Drive, Suite 220,)
Virginia Beach, Virginia 23452, for)
Authority to Transfer the Sandler)
Utilities at Mill Run Wastewater System)
and Public Utility Franchise in Currituck)
County, North Carolina, and for)
Approval of Rates)

SUPPLEMENTAL AND
SETTLEMENT
TESTIMONY OF
D. MICHAEL FRANKLIN
PUBLIC STAFF – NORTH
CAROLINA UTILITIES
COMMISSION

**BEFORE THE NORTH CAROLINA UTILITIES COMMISSION
CURRITUCK WATER AND SEWER, LLC
DOCKET NO. W-1333, SUB 0**

**SANDLER UTILITIES AT MILL RUN, LLC
DOCKET NO. W-1130, SUB 11**

**SUPPLEMENTAL AND SETTLEMENT TESTIMONY
OF D. MICHAEL FRANKLIN
ON BEHALF OF THE PUBLIC STAFF
NORTH CAROLINA UTILITIES COMMISSION**

MARCH 2, 2022

- 1 **Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS, AND**
- 2 **PRESENT POSITION.**
- 3 **A. My name is D. Michael Franklin. My business address is 430 North**
- 4 **Salisbury Street, Dobbs Building, Raleigh, North Carolina. I am a**
- 5 **Public Utilities Engineer with the Water, Sewer, and Telephone**
- 6 **Division of the Public Staff – North Carolina Utilities Commission**
- 7 **(Public Staff).**
- 8 **Q. ARE YOU THE SAME D. MICHAEL FRANKLIN WHOSE DIRECT**
- 9 **TESTIMONY AND EXHIBITS WERE FILED IN THIS DOCKET ON**
- 10 **MARCH 2, 2022?**
- 11 **A. Yes.**

1 **Q. WHAT IS THE PURPOSE OF YOUR SUPPLEMENTAL AND**
2 **SETTLEMENT TESTIMONY?**

3 A. The purpose of my Supplemental and Settlement Testimony is to
4 support the Settlement Agreement and Stipulation (Stipulation) filed
5 on June 6, 2022, between Currituck Water and Sewer, LLC
6 (Currituck), Sandler Utilities at Mill Run, LLC (Sandler), and the
7 Public Staff (Collectively, the Stipulating Parties) and provide
8 supplemental testimony regarding Sandler's filed updates to plant in
9 service and address certain issues related to Currituck's and
10 Sandler's application for transfer of public utility franchise and for
11 approval of rates (the Joint Application), which was filed on May 20,
12 2021.

13 **Q HAVE YOUR RECOMMENDATIONS REGARDING THE JOINT**
14 **APPLICATION CHANGED SINCE FILING YOUR PREFILED**
15 **DIRECT TESTIMONY?**

16 A. Yes. My recommendations regarding conditions for approval of the
17 Joint Application, and my recommended bond and net plant in
18 service amounts have changed.

19 In my prefiled direct testimony filed on March 2, 2022, I
20 recommended that the Commission hold the Joint Application in
21 abeyance until Sandler satisfies the terms of an Amended Consent
22 Judgment, entered in the Currituck County Superior Court on
23 December 28, 2021, and any related North Carolina Department of

1 Environmental Quality (DEQ) legal proceedings. Alternatively, the
2 Public Staff recommended that the Commission hold the Joint
3 Application in abeyance until and unless Sandler, in accordance with
4 ordering paragraph 4 of the Amended Consent Judgment, which
5 prohibits Sandler from transferring any assets of the utility, including
6 the Permit or Collection System, moves to join the transferee
7 (Currituck) as a defendant in the case such that the Consent
8 Judgment is binding on the transferee, Currituck, and the Superior
9 Court has issued an order granting such motion.

10 Since the filing of my prefiled testimony on March 2, 2022, Currituck
11 has entered into a Second Amended Consent Judgment with the
12 DEQ, which would replace the Amended Consent Judgment and
13 preserve the prerequisites for approval of transfer of the Eagle Creek
14 wastewater system. The Second Amended Consent Judgment holds
15 Currituck accountable to comply with essentially the same service,
16 maintenance, and upgrade requirements to which Sandler was
17 bound and includes an Interim Service and Restoration Plan and
18 New System Upgrade Plan. The Stipulation also includes conditions,
19 which require Currituck to submit on a prescribed basis service
20 status reports, cost estimates, and schedules to be implemented by
21 Currituck as identified in the Interim Service and Restoration Plan
22 and New System Upgrade Plan. Additionally, Currituck has agreed
23 to regularly submit its status reports with the DEQ Division of Water

1 Resources and the Commission. A copy of the Second Amended
2 Consent Judgement is attached to the Stipulation.

3 In my prefiled testimony, I also recommended that Currituck be
4 required to post a \$1 million bond for various reasons including the
5 fact Currituck intends to add at least two more service areas to the
6 Eagle Creek wastewater system. The Stipulation provides that
7 Currituck shall post a \$650,000 bond for only the Eagle Creek
8 subdivision. Pursuant to N.C. Gen. Stat. § 62-110.3 and in
9 consideration of the Second Amended Consent Judgement and
10 Stipulation conditions, the Public Staff believes a \$650,000 bond is
11 appropriate to ensure the provision of adequate and sufficient
12 service within the Eagle Creek service area.

13 **Q. HAVE YOU UPDATED YOUR RECOMMENDED ADJUSTMENT**
14 **TO PLANT ADDITIONS SINCE YOU FILED YOUR PREFILED**
15 **DIRECT TESTIMONY?**

16 A. Yes. Since filing my prefiled direct testimony, Sandler has provided
17 updated costs and capital expenses incurred to upgrade the
18 wastewater system through May 2022. After reviewing the invoices
19 and other information provided by Sandler to justify the plant
20 additions, I included a total of \$515,820 as reasonable and
21 appropriate costs for inclusion in Sandler's plant in service net of my
22 prefiled testimony amount and retirements due to replacement. The

1 Stipulation includes a net plant in service amount of \$424,779. This
2 net plant in service amount is included in Public Staff witness
3 Morgan's Supplemental Exhibit I.

4 **Q. WHAT IS YOUR RECOMMENDATION CONCERNING THE**
5 **PURCHASE PRICE?**

6 A. The purchase price of \$613,623 is reflected in the Stipulation and
7 witness Morgan's Supplemental Exhibit I, Schedule 2. The purchase
8 price of \$613,623 exceeds the original cost net investment of
9 \$424,779 and an acquisition adjustment is not requested, consistent
10 with the terms of the Stipulation; therefore, \$424,779 is appropriate
11 for inclusion in rate base.

12 **Q. DOES THE PUBLIC STAFF RECOMMEND COMMISSION**
13 **APPROVAL OF THE JOINT TRANSFER APPLICATION?**

14 A. Yes. As stated in my prefiled direct testimony, this is Currituck's first
15 application for a certificate of public convenience and necessity in
16 North Carolina and it does not have a history of performance. However,
17 Currituck's intended contract operator, Envirolink, Inc. (Envirolink) is
18 the current contract operator Sandler hired to operate the Eagle
19 Creek wastewater utility system. Envirolink is a full-service utility
20 management company that specializes in the management of water,

1 wastewater, and public works services for clients across North
2 Carolina.

3 Considering the experience of Envirolink, the Public Staff believes
4 Currituck has the technical and managerial capabilities necessary to
5 operate the Eagle Creek wastewater system. However, due to some
6 instances of inconsistent performance, the Public Staff intends to
7 closely monitor any complaint, service and/or compliance issues
8 reported.

9 Considering the conditions of the Second Amended Consent
10 Judgment, the additional conditions in the Stipulation to which
11 Currituck is subject, the bond amount, and the testimony of Public
12 Staff witness Phat Tran establishing the financial viability of
13 Currituck, the Public Staff believes that the customers of the Eagle
14 Creek subdivision will be adequately protected, and the transfer is in
15 the best interest of the customers. The Public Staff, therefore,
16 recommends approval of the Joint Application that will transfer the
17 Eagle Creek wastewater utility system from Sandler to Currituck at the
18 existing approved rates. As provided in the Stipulation, approval of the
19 transfer is still conditioned upon the Second Amended Consent
20 Judgment being entered in the Superior Court of Currituck County
21 and upon all other regulatory approvals for operation of the
22 wastewater system being obtained.

- 1 Q. DOES THIS CONCLUDE YOUR TESTIMONY?
- 2 A. Yes, it does.