

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. W-1130, SUB 11  
DOCKET NO. W-1333, SUB 0

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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 )	VERIFIED RESPONSE OF THE PUBLIC STAFF TO REPORT ON CUSTOMER COMMENTS FROM PUBLIC HEARINGS BY CURRITUCK WATER AND SEWER, LLC
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NOW COMES THE PUBLIC STAFF by and through Christopher J. Ayers, Executive Director, and files this response to Currituck Water and Sewer, LLC's (Currituck) Report on Customer Comments from Public Hearings Held on February 2, 2022 (Report on Customer Comments) filed with the North Carolina Utilities Commission on March 4, 2022.

Background

On November 18, 2021, the Commission filed an Order Scheduling Hearings, Establishing Discovery Guidelines, and Requiring Customer Notice. Ordering paragraph 4 states that Currituck and Sandler Utilities at Mill Run, LLC (Sandler) are required to file separately, verified reports addressing all customer service and service quality complaints expressed during the public witness hearing held on February 2, 2022, within 15 days of the conclusion of the public witness hearing. The Public Staff shall and other intervenors may file a verified response and any comments to Currituck and Sandler's reports on or

before February 24, 2022.

On February 17, 2022, the Commission filed an Order Granting Extension of Time to File Report, extending the deadline for Currituck and Sandler to file their reports to and including March 4, 2022. The order also provided that the Public Staff shall, and other intervenors may file a verified response and any comments to Currituck's and Sandler's reports on or before March 11, 2022.

On March 4, 2022, Currituck and Sandler filed separate Reports on Customer Comments from the February 2, 2022 Public Hearing.

#### Purpose

The purpose of this response is to provide the results of the Public Staff's review of Currituck's report addressing customer testimony heard at two public hearings held on February 2, 2022, and the Public Staff's opinion of whether Currituck's response adequately addressed the customer service and service quality complaints.

#### Overview of Public Hearings

The Eagle Creek wastewater utility system currently serves 420 residential and two non-residential customers. Eight customers, all residents of Eagle Creek subdivision, testified at the two virtual public hearings as follows:

1. Ms. Rhonda Klusmann, 151 Eagleton Circle
2. Ms. Gertrude Elder, 139 Green View Road
3. Mr. Gary Lickfeld, 220 Green View Road
4. Ms. Tammy Green, 186 Green View Road
5. Mr. Gregory Ewan, 198 Green View Road

6. Ms. Susan Powers, 251 Green View Road
7. Mr. David Shephard, 173 Saint Andrews Road
8. Mr. James Hutson, 254 Green View Road

#### Overview Comments of the Public Staff

The Report on Customer Comments (Report) filed by Currituck inadequately focuses on and addresses “all customer service and service quality complaints expressed during the public witness hearing held on February 2, 2022.” Instead, Currituck has filed a response that is closer to rebuttal testimony on behalf of Envirolink, Inc. (Envirolink), an unregulated full-service water, wastewater, and public works management services company that is not a party to this proceeding. Additionally, Currituck’s Report (1) questions the experiences and intentions of customers, (2) casts aspersions against the Public Staff, DEQ, and the Commission, and (3) asserts the need to replace the Eagle Creek wastewater collection system instead of repairing the current vacuum collection system. The separation, or lack thereof, between Currituck and Envirolink is blurred by these “responses.” In its Report, Currituck asserts reasons Envirolink should not bear any responsibility for the Eagle Creek wastewater utility operational issues that have occurred since September 2020. The reasons Currituck provided regarding why Envirolink is not responsible include:

1. “[T]here is documented evidence dating back to 2010, from third party wastewater professionals, that the Eagle Creek vacuum and wastewater system was not being properly operated, maintained or managed.”

2. “[T]here is additional evidence that both the Commission, the Public Staff and the North Carolina Department of Environmental Quality knew or should have known of the condition of the Eagle Creek wastewater system.”
3. “[T]he frequency of service interruptions (prior to Envirolink taking over Operations) were more frequent than that described by some of the memory of some of the witnesses.”
4. “[P]rior to the catastrophic failure of September 2020, Envirolink staff had assumed operation for less than 25 days, Envirolink does not agree that it is responsible for a lack of maintenance or the deteriorated condition of the wastewater treatment plant, vacuum station or service pits in the community.”
5. “Specifically, regarding the disruptions experienced from the installation of the force main serving the Fost development were the results of mismarked utility lines and the locator for which Dominion Energy has taken responsibility. Dominion freely admitted this error. In addition, to the disruption of electrical service, the irrigation system was damaged during construction. This was a result of mismarked lines by the Golf Course owner.”
6. “The reality is that the condition of the system documented in these reports (Airvac and Flovac site surveys) is the result of years of poor operation, maintenance, management and oversight by Envirotech, Sandler, NC DEQ and NC Public Staff.”

7. “Envirolink has experienced difficulties beyond its own control in communicating with consumers in the Eagle Creek community.”

Currituck claims Envirolink employees did not start operating the system until 25 days prior to the catastrophic failure in September 2020, despite the undisputed fact that Envirolink purchased Enviro-Tech in the spring of 2020. Furthermore, Currituck has not provided evidence that Envirolink made any recommendations to Sandler to purchase or replace the wastewater treatment or vacuum collection system equipment, despite claiming historically improper maintenance and the existing equipment being in a degraded state. Therefore, Envirolink owned Enviro-Tech and was operating the system for over six months prior to the catastrophic failure.

The Report fails to acknowledge Envirolink’s, and by association Currituck’s, responsibility for the operational and communication issues of the Eagle Creek wastewater utility system, which significantly worsened coincidentally when Envirolink acquired Enviro-Tech and took over operations, as identified during the customer hearing, notwithstanding the following:

- (1) As stated in the Report, Envirolink acquired Enviro-Tech in the spring of 2020. Envirolink took or obtained photographs of the Eagle Creek wastewater utility system in August 2020 showing the “wastewater system in a state of serious deterioration”. The Report on Customer Comments does not provide actions taken by Envirolink or communications Envirolink had with Sandler to address the wastewater system deteriorated conditions.
- (2) As stated in the Report, Envirolink acquired Enviro-Tech in the spring of 2020 with Envirolink staff taking over operation of the Eagle Creek

wastewater utility system on September 7, 2020. The Report on Customer Comments further states that in the September 30, 2020 Airvac Site Survey, Airvac stated the “current operators have no experience with vacuum technology systems.” The Report on Customer Comments does not address what actions Envirolink took to train personnel on vacuum technology from the time Enviro-Tech was purchased to when Envirolink took over operation of the wastewater system. Especially since Envirolink knew of the deteriorated state of the wastewater system and the unique design of a wastewater vacuum collection system.

- (3) The Report states the Envirolink staff began operating the Eagle Creek wastewater utility system on September 7, 2020. The Report emphasizes the number of days that Envirolink was the Operator of the Eagle Creek wastewater utility system when site surveys performed by Airvac and Flovac were issued identifying areas of concern with the Eagle Creek wastewater utility system. Site surveys include the September 30, 2020 Airvac Site Survey, the October 7, 2020 Flovac Survey, the October 30, 2020 Airvac Site Survey, and the November 20, 2020 Flovac Site Survey. The Report on Customer Comments fails to identify any proactive actions taken by Envirolink since purchasing Enviro-Tech in the spring of 2020, to address any of the areas of concern prior to being identified by Airvac and/or Flovac site surveys.

#### Comments Regarding Individual Customer Responses of Currituck

The Report either fails to address or denigrates specific customer testimony made

during the public hearing. Specifically, the Report failed to adequately address the lack of timely communications to customers, lack of trust and confidence in Envirolink and Currituck, and the catastrophic nature of recent system-wide failures. Customer hearing testimony identifying these areas are as follows:

1. Ms. Rhonda Klussmann –151 Eagleton Circle, Tr. Vol. 1, pp. 13 - 27

Ms. Klussmann testified during the public hearing that Envirolink has failed to adequately respond to service issues and communicate system status in a timely manner until forced to do so by a court order issued in December 2021. Ms. Klussmann further stated that she has no confidence in Mr. Michael Myers because he has demonstrated repeatedly, based upon the service disruptions she has experienced, and his lack of communication, that he is not necessarily interested in providing customer service.

Currituck's Report addressed Ms. Klussmann's concerns of timely communication by stating, "Envirolink has experienced difficulties beyond its own control in communicating with consumers" in Eagle Creek. Currituck's Report did not address Ms. Klussmann's lack of confidence in Mr. Myers.

2. Ms. Gertrude Elder, 139 Green View Road, Tr. Vol. 1, pp. 27 - 32

Ms. Elder testified that her main concern is that she finds Mr. Myers, Envirolink and Currituck completely untrustworthy and their words meaningless. Ms. Elder also stated that prior to Envirolink taking over operation of the Eagle Creek wastewater utility system she only experienced wastewater service problems occasionally and that it was never catastrophic.

Currituck's Report, however, did not address Ms. Elder's concerns of Currituck's trustworthiness. Regarding the occasional wastewater system issues and lack of catastrophic failures, Currituck regarded this statement as being inaccurate.

3. Ms. Tammy Green, 186 Green View Road, Tr. Vol. 1, pp. 54 - 64

Ms. Tammy Green testified that she has not experienced any major, catastrophic events with the wastewater utility system being out of service for days until September 2020. Ms. Green further stated that the trust between Eagle Creek subdivision and Sandler, Envirolink and Mr. Michael Myers is broken. Ms. Green added that not until the December 20, 2021 hearing in Elizabeth City had communication from Envirolink improved.

Currituck's Report regarded the statement of a lack of a major catastrophic service event as inaccurate. Furthermore, the Report states that Ms. Green's testimony conflicts with other testimony that purports that Envirolink was not communicating. The Report did not address Ms. Green's lack of trust in Envirolink.

4. Mr. Gregory Ewan, 198 Green View Road, Tr. Vol. 2, pp.12 - 21

Mr. Ewan testified that in terms of responsiveness, Envirolink's communication with the neighborhood has been very poor until recently when in December 2021, residents began receiving daily updates. Mr. Ewan further testified that he had personally sent messages to Envirolink's customer service when notices have been issued regarding a service disruption. Mr. Ewan stated he did not remember receiving a reply to any of the messages sent to Envirolink's customer service. Furthermore, Mr. Ewan testified that when he has spoken to Envirolink technicians working in the Eagle Creek subdivision, he



has been told by the technicians that they were newly hired and inexperienced, and were not able to answer whether or not Mr. Ewan needed to conserve water.

Mr. Ewan also testified that he has a lack of confidence in Currituck's ability, knowing of their relationship with Envirolink, to properly manage and maintain a wastewater utility system. Mr. Ewan further testified that the maintenance (Operations) contract should be held by a party that understands the Eagle Creek wastewater utility system and knows how to maintain it as the prior operator, Enviro-Tech, was able to, stating that he was not aware there was ever any issues with the wastewater system prior to September of 2020.

Currituck's Report did not address Mr. Ewan's testimony regarding Envirolink's failure to respond to messages Mr. Ewan sent to Envirolink's customer service. Nor did the Report address Mr. Ewan's lack of confidence in Currituck.

5. Ms. Susan Powers, 251 Green View Road, Tr. Vol. 2, pp. 21 - 37 t

Ms. Powers testified as to the Eagle Creek wastewater utility system being down for four days and Envirolink denied the system was down. This despite "so many people posting on Facebook that they were having (wastewater utility service) issues."

Currituck's Report on Customer Comments did not specifically address the wastewater system status discrepancy identified by Ms. Powers. The Report on Customer Comments states Envirolink does not dispute that initial communication procedures proved ineffective but has since been modified and increased communication efforts. It is unclear if Currituck included the wastewater system status discrepancy in their response.

6. Mr. David Shepheard, 173 Saint Andrews Road, Tr. Vol. 2, pp. 38 – 59

Mr. Shepherd stated in his testimony that when Envirolink took over operation of the Eagle Creek wastewater utility system, for a significant duration, Envirolink did not have trained personnel to properly analyze and logically determine what the wastewater system problem was and how to repair it. Mr. Shepherd also testified that the Eagle Creek wastewater utility system went through a significant period where the slow response time of Envirolink technicians exacerbated problems experienced with the wastewater vacuum collection system.

In response to Mr. Shepherd's testimony, the Report o states the restoration efforts performed during the significant wastewater system outage in September 2020 "were not the result of not having qualified personnel." The Report on Customer Comments provides information contained in site surveys performed by Airvac and Flovac. The Report provides the findings from the September 30, 2020, Airvac site survey, which states, "The current operators have no experience with vacuum technology systems." Additionally, the November 30, 2020, Flovac site survey states, "The assistant operators lacked technical experience with vacuum sewer systems and wastewater collection in general." Thus, while the Envirolink technicians may have been "qualified", in general they lacked the necessary experience and expertise required to be effective in maintaining and restoring the Eagle Creek wastewater vacuum collection system.

#### Closing Comments

The Public Staff considers Currituck's Report on Customer Comments deficient in "addressing all customer service and service quality complaints expressed during the public witness hearing held on February 2, 2022." Instead of providing how the potential transfer to Currituck would be in the public interest and the public convenience and

necessity and the actions planned or being taken to address customer's concerns, Currituck presents its rationale for replacing the Eagle Creek wastewater vacuum collection system by selectively emphasizing customer testimony that Currituck contends supports its plan.

The Public Staff respectively requests that the foregoing verified response be entered into evidence in the present dockets.

This the 11th day of March, 2022.

PUBLIC STAFF  
Christopher J. Ayers  
Executive Director

Dianna W. Downey  
Chief Counsel

Electronically submitted  
/s/ Gina C. Holt  
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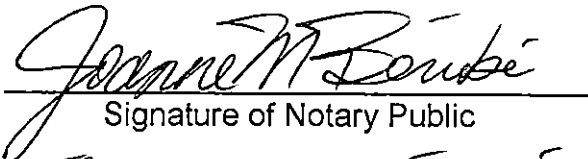
VERIFICATION

STATE OF NORTH CAROLINA )  
 )  
COUNTY OF WAKE )

D. Michael Franklin, first being duly sworn, deposes and says that he is a Public Utilities Engineer with the Water, Sewer, and Telephone Division, Public Staff – North Carolina Utilities Commission, that as such, he has read the foregoing Response of the Public Staff to the Report on Customer Comments from Public Hearings by Currituck Water and Sewer, LLC, and knows the contents thereof; that the same are true of his own knowledge except as to those matters stated therein on information and belief, and as to those he believes them to be true.

  
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D. Michael Franklin

Sworn to and subscribed before me,  
this 11<sup>th</sup> day of March, 2022.

  
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Signature of Notary Public

*Joanne M. Berube*  
NOTARY PUBLIC  
WAKE COUNTY, N.C.  
My Commission Expires 12-17-2022.

JOANNE M. BERUBE  
\_\_\_\_\_  
Name of Notary Public – Typed or Printed

My Commission Expires: 12/17/2022

CERTIFICATE OF SERVICE

I certify that I have this day served a copy of the foregoing Verified Response on all parties of record in accordance with Commission Rule R1-39, by electronic delivery upon agreement of the receiving party.

This, the 11th day of March 2022.

Electronically submitted  
/s/ Gina C. Holt