

For the Using and Consuming Public:

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BY THE COMMISSION: On May 20, 2021, Currituck Water and Sewer, LLC (Currituck), and Sandler Utilities at Mill Run, LLC, (Sandler) filed a joint application for authority to transfer the assets of the Sandler wastewater system and public utility franchise in Currituck County, North Carolina, to Currituck, and for approval of proposed rates (Application).

On November 18, 2021, the Commission issued an Order Scheduling Hearings, Establishing Discovery Guidelines, and Requiring Customer Notice (Scheduling Order). That order scheduled a customer hearing to be held remotely via Webex on February 2, 2022, and an expert witness hearing in Raleigh, North Carolina on April 5, 2022.

On November 30, 2021, Sandler filed a Certificate of Service stating that the customer notice had been provided in accordance with the Commission's Scheduling Order.

On January 24, 2022, on behalf of the Eagle Creek residents, Rhonda Klussmann, a resident of Eagle Creek, filed two petitions: one supporting replacing the vacuum sewer collection system with a new gravity sewer collection system and another supporting upgrading the existing vacuum collection system.

On February 2, 2022, the Commission held a customer hearing in two sessions via Webex. The Commission received testimony and exhibits from Sandler's customers: Rhonda Klussmann, Trudy Edler, Gary Lickfeld, Tammy Green, Greg Ewan, Susan Powers, David Shephard, and James Hutson.

On February 4, 2022, Currituck filed the direct testimony of Michael J. Myers, Vice-President, Secretary, and Treasurer of Currituck.¹ Sandler filed the direct testimony of Brittney Willis, Senior Project Manager for L.M. Sandler & Sons, an affiliate of Sandler. The Public Staff filed exhibits of the customers who testified at the customer hearing.

On February 8, 2022, the Commission ordered Currituck and Sandler to each file, separately, a verified report addressing all customer service and service quality complaints expressed during the customer hearing; copies of the Consent Judgment between the State of North Carolina, ex rel. North Carolina Department of Environmental Quality (State) and Sandler; and the Public Staff to file a verified response on Currituck and Sandler's reports.

¹ Witness Myers is also the President of Envirolink, Inc., the current contract operator for Sandler.

On February 18, 2022, Sandler filed copies of the Consent Judgment and Amended Consent Judgment between the State and Sandler.

On March 2, 2022, the Public Staff filed the direct testimony of Phat H. Tran, Financial Analyst, Economic Research Division; Iris Morgan, Financial Analyst, Water Section, Public Staff Accounting Division; and D. Michael Franklin, Engineer, Water, Sewer, and Telephone Division; and joint direct testimony of David May and Robert Tankard, Regional Supervisor and Assistant Regional Supervisor of the Water Quality Regional Operations Section in the Washington Regional Office of the North Carolina Department of Environmental Quality (DEQ), Division of Water Resources (DWR), respectively.

On March 4, 2022, Sandler and Currituck each filed their respective verified Reports on Customer Comments from the customer hearing. The Public Staff filed Verified Responses to these reports on March 11, 2022.

On March 22, 2022, Sandler filed rebuttal testimony of Brittney Willis and a verified Supplement to its Report on Customer Comments.

On March 24, 2022, the Public Staff filed a motion requesting to delay the expert witness hearing due to various discovery extension requests by the parties that had been granted by the Commission. On March 30, 2022, the Commission issued an order continuing the expert witness hearing to May 9, 2022.

On March 31, 2022, Currituck filed rebuttal testimony of Michael J. Myers; Tracy Miller, Area Manager for Envirolink, Inc. (Envirolink); Mark Bissell, President and Licensed Engineer for Bissell Professional Group; William Freed, Owner, Enviro-Tech Unlimited Construction Services LLC, and Enviro-Tech of North Carolina, Inc.²; Zach Basnight, Project Manager for Basnight Construction; Paul Beaumont, Vice Chairman, Currituck County Board of Commissioners; Robert Hanig, N.C. State Representative, Northeastern District and Former Chairman, Currituck County Commissioners; and Gary Lickfeld, Resident of Eagle Creek.

On May 4, 2022, Sandler filed corrected rebuttal testimony of Brittney Willis.

On May 5, 2022, Currituck filed a motion to continue the expert witness hearing, stating that the parties were engaged in settlement negotiations. On May 6, 2022, the Commission issued an order continuing the expert witness hearing to June 8, 2022.

On June 6, 2022, Currituck, Sandler, and the Public Staff filed a Settlement Agreement and Stipulation (Stipulation) agreeing to certain terms and conditions of the proposed transfer. The Public Staff filed the supplemental testimony and exhibit of

² Witness Freed's business is variously referred to as Envirotech and Enviro-Tech in testimony.

witness Morgan and supplemental testimony of witness Franklin in support of the Stipulation.

On June 7, 2022, Currituck filed supplemental and settlement testimony of witness Myers. The Public Staff filed its Settlement Exhibit II which was inadvertently omitted from its previous filing.

On June 7, 2022, the Commission issued an order excusing all witnesses, except Currituck witness Myers and Public Staff witnesses Franklin and Morgan, from appearing at the expert witness hearing and receiving the excused witnesses' prefiled testimony and exhibits into the record.

On June 8, 2022, the expert witness hearing was held in Commission Hearing Room 2115 in Raleigh, North Carolina.

On June 13 and June 17, 2022, Sandler filed three late-filed exhibits pursuant to the Commission's request at the expert witness hearing.

On July 18, 2022, Sandler filed a Joint Proposed Order for the approval of the transfer proceeding. On July 19, 2022, Sandler filed a Corrected Joint Proposed Order to correct information related to appearances of counsel representing Sandler. Further, Sandler stated that all parties agreed with the Corrected Joint Proposed Order.

On July 27, 2022, Currituck filed late-filed exhibits containing the agreements between Envirolink and Enviro-Tech.

On August 2, 2022, Sandler filed with the Commission the Second Amended Consent Judgment between the State and Sandler showing that Currituck had been joined as a defendant in this action.

Based upon the foregoing, including the verified Application, the testimony and exhibits of the customers appearing at the customer hearing, the testimony and exhibits of the expert witnesses received into evidence, the Stipulation, and the entire record in this proceeding, the Commission makes the following

FINDINGS OF FACT

1. Sandler holds a Certificate of Public Convenience and Necessity (CPCN) pursuant to Commission order issued on September 14, 1999, in Docket No. W-1130, Sub 0, to provide wastewater utility service to approximately 420 residential customers in

the Eagle Creek subdivision as well as to the neighboring Eagle Creek Golf Club and Grill³ (Golf Club) and Moyock Middle School in Currituck County, North Carolina.

2. Sandler's Eagle Creek wastewater system (Eagle Creek Wastewater System or System) is comprised of (1) a vacuum sewer collection system, (2) a reuse spray irrigation system for the Golf Club's golf course, (3) an infiltration storage pond, (4) an irrigation pond, and (5) a 350,000 gallons per day (gpd) wastewater treatment plant that is currently limited to 175,000 gpd of flow.

3. Sandler is authorized to operate the wastewater treatment system at Eagle Creek by the North Carolina Department of Environmental Quality (DEQ), Division of Water Resources (DWR) pursuant to a permit issued on October 8, 2015 and renewed on August 4, 2021 (Permit No. WQ0014306).

4. Sandler also holds a DWR permit (Permit No. WQCS00290), issued on May 2, 2013, for operation of the vacuum sewer collection system. The current permit has expired, but Sandler has filed to renew it and is awaiting issuance of a new permit. The current permit is administratively continued until such time as a new permit is issued.

5. Although Sandler owns the Eagle Creek Wastewater System, it has always contracted with third parties to operate the System. Until 2020, the System was operated by William Freed d/b/a Enviro-Tech except for the reuse spray irrigation system, including effluent disposal operations, which is operated by the Golf Club pursuant to a contract with Sandler.

6. Enviro-Tech's operations were acquired by Envirolink pursuant to an Asset Purchase Agreement dated February 6, 2020, although Envirolink used former Enviro-Tech personnel to operate the Eagle Creek Wastewater System until on or about September 6, 2020, and did not formally enter into a Utility Management Service Agreement with Sandler until January 6, 2021.

7. The vacuum sewer collection system has a history of problems, including significant sewer service outages and Sanitary Sewer Overflows (SSOs) beginning in September 2020. In response, from 2020 through March of 2022, Sandler has made investments of more than \$686,000 to improve the System.

8. In response to problems with the vacuum collection system, DWR issued notices of violation (NOVs) and notices of intent to enforce and assessed civil penalties.

9. On March 10, 2021, DEQ filed a complaint against Sandler in Currituck County Superior Court regarding the sewer service outages and SSOs. The court entered a Consent Judgment on July 1, 2021, which required Sandler to take certain actions to

³ Several filings in this proceeding refer to the Golf Club as Mill Run Golf and Country Club. The Asset Purchase Agreement between Currituck and Sandler refers to the Golf Club as the Eagle Creek Golf Club and Grill.

bring the vacuum sewer collection system into compliance with the permit and state water quality regulations. After additional problems arose resulting in more SSOs, DEQ asked the court to impose contempt sanctions on Sandler for failing to abide by the terms of the Consent Judgment. The court did not find Sandler in contempt and instead ordered the parties to attempt to fashion a better framework for improved performance. As a result, the Consent Judgment was amended on December 28, 2021, to add certain requirements, including that Sandler obtain a new, independent engineering evaluation. The independent engineer, Century Engineering, filed its report dated February 28, 2022.

10. Sandler has made significant efforts and investment to comply with the Consent Judgment and the Amended Consent Judgment.

11. The System performance and operations have improved since December of 2021, resulting in more reliable sewer service.

12. Currituck and Sandler entered into an Asset Purchase Agreement (APA) as amended on April 14, 2021, for Currituck to purchase from Sandler the Eagle Creek Wastewater System for the purchase price of \$250,000, plus capital costs paid by Sandler between the APA execution date and the closing, provided that such costs are approved by Currituck and the Commission, plus up to \$88,900 for connection fees from new customers to be added from the Fost and future Flora communities.

13. In the Stipulation filed with the Commission on June 7, 2022, the Public Staff, Currituck, and Sandler agreed to a purchase price of \$613,623 for purposes of this proceeding. This amount does not include any additional purchase price of up to \$88,900 that Currituck has agreed to pay to Sandler for future connections at the Fost and Flora subdivisions.

14. The Stipulation also provides that the rate base for the System should be \$424,779, which is the lesser of the purchase price and original cost net investment. This amount of rate base may be increased by any reasonable and prudent costs that may be incurred by Sandler prior to closing for a new control panel for the vacuum system. The \$424,779 of rate base does not include inventory purchased by Sandler that would be deemed Materials and Supplies in Working Capital. Any post-transfer rate case brought by Currituck for approval by the Commission may include in rate base the reasonable and prudent amounts of Materials and Supplies, as part of Working Capital, and any reasonable used and useful investment by Currituck in the control panel.

15. The Second Amended Consent Judgment was entered in Currituck County Superior Court on July 18, 2022, whereby Currituck was joined as a defendant to the civil suit and wherein Currituck will have responsibility for environmental compliance once it acquires the System and the associated DWR permits. Currituck will also have responsibility for making interim and long-term System improvements, reporting to regulatory authorities, and responding promptly to customer complaints.

16. The Stipulation specifies that Currituck agrees to post a bond or letter of credit in the amount of \$650,000, subject to Commission acceptance and approval prior to closing.

17. The present rates charged by Sandler were approved in Docket Nos. W-1130, Sub 9 and M-100, Sub 138, and have been in effect since December 9, 2016. Currituck has not requested a rate increase for its wastewater services in this proceeding, and the current Commission-approved connection charges and monthly sewer rates will remain in effect:

Flat Rate Residential Wastewater Service: \$ 52.60

Eagle Creek Golf Club and Grill: \$ 364.67

Moyock Middle School: \$ 884.20

Tap-on fees:

Residential: \$3,000 per residence

Commercial: \$3,000 per residential equivalent unit (REU) (360 gpd)

18. Currituck will not request a rate increase until the New System Upgrade Plan⁴ has been implemented.

19. Currituck has proposed the following new reconnection charges that are reasonable:

Next-Day Restore: \$ 35.00

Same-Day Restore: \$ 55.00

After-Hours Restore: \$100.00

20. Pursuant to the Stipulation, Currituck will file with the Commission and DEQ a New System Upgrade Plan and shall provide status reports no later than March 31, June 30, September 30, and December 31 of each calendar year. Such reports will contain documentation sufficient to verify that all elements of the Interim Service and

⁴ Pursuant to the Second Amended Consent Judgment, the New System Upgrade Plan is a plan that Currituck is required to submit to DWR for review and approval no later than sixty days after the transfer of the DWR permit from Sandler to Currituck. The New System Upgrade Plan must detail the actions to be taken to address the long-term recommendations of the independent engineering evaluation.

Restoration Plan⁵, as required by the Second Amended Consent Judgment, have been completed during the prior quarter and the status related to the execution of the New System Upgrade Plan. Such status reports will document the occurrence of any Sanitary Sewer Overflow (SSO) regardless of volume, actual cost versus budgeted cost, estimated total project cost, and updated estimated completion date for each activity. If a reportable SSO or material system or equipment failure occurs and upon request from DWR, Currituck will submit status reports at the end of each calendar month. These status reports shall be submitted via email to David May or his successor at DWR and shall be filed with the Commission.

21. Pursuant to the Stipulation and N.C. Gen. Stat. § 62-153, on July 27, 2022, Currituck filed with the Commission its Utility Management Service Agreement with Envirolink.

22. The provisions of the Stipulation are just and reasonable to all parties to this proceeding, as well as to Sandler's customers, and serve the public interest. It is appropriate to approve the Stipulation in its entirety.

23. Currituck has the technical, managerial, and financial capacity to own and operate the Eagle Creek Wastewater System.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1 – 6

The evidence for these findings of fact is contained in the Application, the Commission's records, and the testimony of Currituck witness Myers and Sandler witness Willis. This information provides an historical context for the subsequent operational and regulatory events that have occurred from September of 2020 to the close of hearing.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 7 – 11

The evidence for these findings of fact is contained in the Application, the Commission's records, the Amended Consent Judgment, and the testimony and exhibits of Currituck witness Myers, Sandler witness Willis, Public Staff witness Franklin, Public Staff DWR witnesses May and Tankard, the additional Currituck rebuttal witnesses, and the witnesses testifying at the February 2, 2022 hearings.

In the direct testimony of witness Myers, Willis, Franklin, May, and Tankard, the witnesses testify that in September of 2020, the wastewater collection system at Eagle Creek experienced a catastrophic failure, followed by additional failures, operational problems, and permit noncompliance throughout that fall and calendar year 2021. During

⁵ The Interim Service and Restoration Plan, attached as Exhibit B to the Second Amended Consent Judgment, is intended to prevent future sewer overflows, restore and sanitize areas impacted by prior sewer overflows, and expeditiously restore and maintain service to homeowners in the event of any system failures.

the customer hearing, residents of the Eagle Creek subdivision testified that these problems have caused serious hardship for customers as well as environmental hazards.

In her direct testimony, witness Willis testifies that Sandler responded by ordering repair and upgrade parts for the System, some of which were not immediately available. Sandler also arranged for onsite technical assistance from vacuum system suppliers Airvac, Inc., and Flovac, Inc.

In DWR's direct testimony, witnesses May and Tankard testify that DWR responded to customer complaints in this timeframe by inspecting the System. As described in the Amended Consent Judgment, DWR issued Sandler an NOV on October 7, 2020, for SSOs and System failures occurring from September 27, 2020 and ongoing as of the date the NOV was issued. DWR assessed a \$62,517.96 civil penalty in connection with that NOV. DWR issued three more NOVs from November of 2020 through January of 2021 in response to further problems with the System.

In their direct testimony, witnesses May and Tankard testify that on March 4, 2021, DWR filed an injunctive action against Sandler in Currituck County Superior Court, Docket No. 21 CVS 78. That action was initially resolved with a Consent Judgment entered by the court on July 1, 2021. Sandler has made considerable efforts to comply with the Consent Judgment and improve the operation of the System. The efforts included providing on-site training for the system operator's employees, investment in physically relocating controllers outside of valve pits to improve performance, replacement of unreliable equipment, stocking of replacement parts, and detailed maintenance schedules.

Notwithstanding those efforts, witnesses May and Tankard further testify that additional SSOs occurred in October and November of 2021. This led DWR to file a show cause motion with the court, raising the possibility of civil or criminal contempt sanctions against Sandler. The court directed the parties to submit a modified consent judgment, and on December 28, 2021, an Amended Consent Judgment was entered by the court. The Amended Consent Judgment adds new requirements, including better communications with residents, a compliance log, an independent engineering evaluation, development of a New System Upgrade Plan, and appointment of a DWR-approved independent specialist to provide on-site consultation and a report on operation of the vacuum sewer collection system. Sandler witness Willis states that the utility is complying with the Amended Consent Judgment and that the System is achieving improved operational reliability.

In corrected rebuttal testimony filed on May 4, 2022, witness Willis states that since 2020, Sandler has invested \$686,564 in the System – a substantially larger amount than the Public Staff recognizes as the rate base amount. During the expert witness hearing, Currituck witness Myers testified as to the effectiveness of 24-hour per day staffing and a new monitoring system. Public Staff witness Franklin testified that there has been significant operational improvement since December of 2021, that the System was stable,

and that some residents served by the System reported that it had been performing well since December of 2021.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 12 – 14

The evidence for these findings of fact is contained in the Application, the Commission's records, the APA dated April 14, 2021, the Stipulation, including its Exhibit I, and the testimony and exhibits of Currituck witness Myers, Sandler witness Willis, and Public Staff witnesses Morgan and Franklin.

The APA provides in Article IV that Currituck shall pay to Sandler a purchase price for the Eagle Creek Wastewater System consisting of \$250,000; plus capital costs paid by Sandler for renewal, replacement, repairs, and upgrades of the System from the APA execution date to the closing date, provided that such costs are approved by Currituck and the Commission; plus up to \$88,900 to be paid after closing for future connection fees to be received from new customers added in the Fost and Flora communities.

For regulatory purposes, the Commission must determine both the purchase price and the net plant in service at the time of transfer. In the Stipulation, Currituck has agreed that it will not seek a plant acquisition adjustment for the Eagle Creek Wastewater System in this proceeding or any future proceeding associated with the transferred assets. Normally the rate base for the acquiring utility will be derived from the lower of the purchase price or net plant in service at the time of transfer, and the Commission finds this approach is reasonable in the present case.

Public Staff witness Morgan filed direct testimony that calculates Sandler's net plant in service through January 31, 2022, as \$398,499. She further indicates that this amount is subject to change for reasonable plant additions made through the date of closing on the transfer. Witness Morgan opposes including the \$88,900 component related to customers added in the Fost and Flora communities in the purchase price because those new connections have not yet been made, and they would not directly benefit Eagle Creek customers.

In her corrected rebuttal testimony, Sandler witness Willis testifies that \$96,000 of the disallowances recommended by the Public Staff were improper because the capital investments by Sandler were reasonable and prudent. She notes that Sandler was also planning an additional investment of \$70,000 for a control panel. She also maintains that the \$88,900 for future Fost and Flora connections was appropriate to include in the purchase price because (1) it was a contractual obligation in the APA, (2) it would benefit Eagle Creek customers due to the economies of scale that Currituck would obtain from jointly operating multiple systems, as explained by Currituck witness Myers, and (3) the Commission has recognized future connection fees as part of the purchase price in other utility transfer proceedings.

The Public Staff, Currituck, and Sandler reached agreement for settlement purposes on a purchase price of \$613,623 for purposes of this proceeding. The

Commission finds that the following purchase price, as provided in the Stipulation, is reasonable:

Purchase Price	<u>\$250,000</u>
Post April 2021 Plant Additions	\$413,590
Post April 2021 Plant Additions Accumulated Depreciation	<u>(\$49,967)</u>
Post April 2021 Net Plant in Service	<u>\$363,623</u>
Total Purchase Price	<u>\$613,623</u>

The resolution of the purchase price is relevant even where the dollar value of net plant in service is lower because the APA terms require Commission approval of capital costs incurred by Sandler between the APA date and the closing date. The Commission accepts as reasonable the negotiated settlement purchase price of \$613,623 because it reflects known and needed capital investment made by Sandler between the APA date and the Stipulation date, net of accumulated depreciation.

The \$613,623 purchase price does not include any additional purchase price of up to \$88,900 that Currituck has agreed to pay to Sandler for future connections at the Fost and Flora subdivisions. Under the terms of the APA, that amount does not require Commission approval to be part of the contractual purchase price. As the parties have agreed in the Stipulation, Currituck remains obligated to make those Fost and Flora connection fee payments of up to \$88,900 to Sandler under the terms of the APA.

The Stipulation also provides that the rate base for the System should be \$424,779, which is the lesser of the purchase price and original cost net investment. The \$424,779 may be increased by any reasonable and prudent costs that are incurred by Sandler prior to closing, such as a new control panel for the vacuum sewer collection system. The \$424,779 of rate base does not include inventory purchased by Sandler that would be deemed Materials and Supplies in Working Capital. Any post-transfer rate case application brought by Currituck for Commission approval may include in rate base the reasonable and prudent amounts of Materials and Supplies, as part of Working Capital, and any reasonable used and useful investment by Currituck in the control panel or other assets. The Commission finds these settlement terms for rate base to be reasonable.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 15

The evidence for this finding of fact is contained in the Commission's records, the Stipulation, including its Exhibit II, the testimony and exhibits of Currituck witness Myers, Sandler witness Willis, and Public Staff witness Franklin, and the Second Amended Consent Judgment.

In the Stipulation, the parties agreed to a second amendment to the Consent Judgment wherein Currituck will have responsibility for environmental compliance once it

acquires the System and the associated DWR permits. The Second Amended Consent Judgment imposes rigorous requirements on Currituck, including prevention of SSOs, reporting of material system failures, prompt responses to resident complaints, an operator training plan, an Interim Service and Restoration Plan, a New System Upgrade Plan along with a report on its completion, and other provisions. The Second Amended Consent Judgment is enforceable by judicial contempt sanctions. During the expert witness hearing, Public Staff witness Franklin testified that the terms of the Second Amended Consent Judgment would provide adequate customer protections and support his opinion that the transfer to Currituck is in the public interest.

The Commission notes that on July 18, 2022, the Second Amended Consent Judgment was entered in Currituck County Superior Court Docket Number 21 CVS 78, whereby Currituck was joined as defendant and became subject to the terms of the Second Amended Consent Judgment. In addition, Currituck and Sandler will apply to DWR for the treatment plant permit (Permit No. WQ0014306) and the collection system permit (Permit No. WQCS00290) to be issued to Currituck.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 16

The evidence for this finding of fact is contained in Public Staff witness Franklin's direct testimony, Currituck witness Myers' rebuttal testimony, and the Stipulation.

In his direct testimony, Public Staff witness Franklin initially recommended that a bond of \$1 million be obtained by Currituck for the System, whereas Currituck maintains that a \$1 million is excessive considering its commitment to upgrading and replacing the System.

Pursuant to the Stipulation, Currituck agrees to post a bond and letter of credit surety in the amount of \$650,000 prior to closing. The Commission approves as reasonable a bond and letter of credit surety (or other acceptable surety pursuant to N.C.G.S. § 62-110.3 and Commission Rule R10-24) of \$650,000 for Currituck to acquire the System.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 17 – 19

The evidence for these findings of fact is contained in the Application, the Commission's records, the Stipulation, and the testimony and exhibits of Currituck witness Myers and Public Staff witness Franklin.

Paragraph G of the Stipulation provides that Currituck will not request a rate increase until the Eagle Creek collection system has been replaced. During the expert witness hearing, Currituck witness Myers clarified that this could include a modification, upgrade, or replacement of the system, and the correct meaning is that Currituck would not request a rate increase until the New System Upgrade Plan has been implemented.

Public Staff witness Franklin testifies in his direct testimony that new rates were not being requested in the transfer proceeding, apart from a change in reconnection fees. He lists the existing and proposed rates as follows:

<u>Monthly Flat Rate Wastewater Service:</u>		
	<u>Present</u>	<u>Proposed</u>
Residential Service	\$ 52.60	\$ 52.60
Eagle Creek Golf Club and Grill	\$ 364.67	\$ 364.67
Moyock Middle School	\$ 884.20	\$ 884.20
<u>Connection Charge:</u>		
Residential, per residence	\$ 3,000	\$ 3,000
Commercial, per REU (360 gpd)	\$ 3,000	\$ 3,000
<u>Reconnection Charge:</u>		
If wastewater service cut off by utility for good cause:	Actual ³	NA
Next-Day Restore	NA	\$ 35.00
Same-Day Restore ⁴	NA	\$ 55.00
After-Hours Restore	NA	\$ 100.00

³ Neglect or failure to pay amounts due or otherwise comply with the provisions of this tariff shall be deemed to be sufficient cause for discontinuance of service. If such discontinuance of service becomes necessary, Sandler Utilities at Mill Run, LLC, will install a valve or other device to cut off and block the sewer line. The customer will be charged the actual cost of installing the valve or device including parts and labor.

⁴ Same-day restores will be billed at next-day rate if request before 10:00 a.m. (M-F), excluding holidays. Holidays billed at after-hours rate.

Witness Franklin testifies that the proposed rates and fees are just and reasonable. The Commission concludes that the proposed rates and fees agreed to in the Stipulation and provided herein are just and reasonable.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 20 – 21

The evidence for these findings of fact is contained in the Application, the Commission's records, the Stipulation, including Exhibit II, and the testimony of Currituck witness Myers and Public Staff witness Franklin.

The Second Amended Consent Judgment as agreed upon by DEQ, Sandler, and Currituck is attached to the Stipulation as Exhibit II. The purpose of the Second Amended Consent Judgment is to ensure that the Eagle Creek Wastewater System operates satisfactorily, complies with environmental requirements, and receives improvements that will enable it to function more reliably in the long term. The Second Amended Consent

Judgment anticipates a transfer of ownership from Sandler to Currituck and imposes substantial requirements on Currituck.

As part of those requirements, Currituck will file with the Commission and DEQ a New System Upgrade Plan and shall provide status reports no later than March 31, June 30, September 30, and December 31 of each calendar year. Such reports will contain documentation sufficient to verify that all elements of the Interim Service and Restoration Plan, as required by the Second Amended Consent Judgment, have been completed during the prior quarter and status related to the execution of the New System Upgrade Plan. Such status reports will document the occurrence of any SSO regardless of volume, actual cost versus budgeted cost, estimated total project cost, and updated estimated completion date for each activity. If a reportable SSO or material system or equipment failure occurs and upon request from DWR, Currituck will submit status reports at the end of each calendar month. These status reports shall be submitted via email to David May or his successor at DWR and be filed with the Commission.

Pursuant to the Stipulation and N.C.G.S. § 62-153, Currituck shall also file with the Commission its agreement with Envirolink. On July 27, 2022, Currituck filed a Utility Management Service Agreement between Currituck and Envirolink executed December 20, 2021.

The Stipulation provides that the Commission's approval of the transfer be conditioned upon entry of the Second Amended Consent Judgment, with such modifications as may be required by the Currituck County Superior Court and upon all other regulatory approvals. During the expert witness hearing, the other regulatory approvals were identified as being issuance of collection system and wastewater treatment permits from DWR to Currituck.

The Commission finds that the aforementioned requirements in the Second Amended Consent Judgment and the Stipulation are reasonable and appropriate. The requirements of the Second Amended Consent Judgment provide for an independent engineering evaluation of System needs, independent engineering consulting and oversight, and the rigorous DWR oversight needed to promote further improvements in the System and in the owner's operational performance. The Commission notes that these reporting requirements will enable regulators to better monitor the progress expected of the System owner. For these reasons, the Commission finds that the provisions of the Second Amended Consent Judgment and the Stipulation provide sufficient customer protections.

As previously noted by the Commission, the Currituck County Superior Court entered a Second Amended Consent Judgment on July 18, 2022, whereby Currituck was joined as a defendant and became subject to the terms of the Second Amended Consent Judgment.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 22 – 23

The evidence for these findings of fact is contained in the Application, the Commission's records, the Stipulation, and the testimony of Currituck witness Myers, Sandler witness Willis, and Public Staff witnesses Franklin and Tran.

The Commission has reviewed the terms of the Stipulation, finds them to be reasonable, and approves the Stipulation in its entirety. The Commission notes that the Stipulation reflects agreement among all parties to the transfer proceeding. In addition, Exhibit II to the Stipulation reflects agreement from DEQ regarding the terms and conditions affecting the environmental regulation of the System as it is transferred from Sandler to Currituck.

In his supplemental testimony, Currituck witness Myers testifies that under the terms of the Stipulation and the Second Amended Consent Judgment, the transfer is in the public interest. In his direct testimony, Public Staff witness Tran testifies to the financial viability of Currituck to acquire, operate, and make improvements to the Eagle Creek Wastewater System. During the expert witness hearing, Public Staff witness Franklin stated "the Public Staff believes that the customers of the Eagle Creek subdivision will be adequately protected, and the transfer is in the best interest of the customers" under the terms of the Stipulation. Tr. vol. 3, 268. He testified that the transfer from Sandler to Currituck, as envisioned by the Stipulation, was the best solution to the problems at the Eagle Creek Wastewater System.

Based on the foregoing, the Commission finds that Currituck has the technical, managerial, and financial capacity to own and operate the Eagle Creek Wastewater System.

The Commission further concludes that because the Second Amended Consent Judgment was accepted by the court on July 18, 2022, thereby joining Currituck as a defendant and subjecting it to the terms of the Second Amended Consent Judgment, the proposed transfer will serve the public convenience and necessity, and is in the public interest, as required by N.C.G.S. § 62-111.

IT IS THEREFORE ORDERED as follows:

1. That Currituck's late-filed exhibit containing the Utility Management Service Agreement between Currituck and Envirolink filed with the Commission on July 27, 2022, and the Second Amended Consent Judgment entered in Currituck County Superior Court on July 18, 2022, and filed with the Commission by Sandler on August 2, 2022, are hereby entered into evidence;

2. That Sandler is hereby authorized to transfer its wastewater utility system serving the Eagle Creek Subdivision, Eagle Creek Golf Club and Grill, and Moyock Middle School in Currituck County, North Carolina, to Currituck;

3. That Currituck is granted a Certificate of Public Convenience and Necessity to provide sewer utility service in Eagle Creek Subdivision, Eagle Creek Golf Club and Grill, and Moyock Middle School in Currituck County, North Carolina, effective upon the closing of the transfer of the sewer utility system assets to Currituck, subject to the terms of the Second Amended Consent Judgment by Currituck County Superior Court;

4. That Currituck shall post a \$650,000 bond, in a form acceptable to and approved by the Commission, prior to closing;

5. That Sandler's surety bond held by the Commission shall be released to Sandler upon receipt of written notification to the Commission that closing of the transfer of wastewater system assets has been completed;

6. That Appendix A, attached hereto, shall constitute the Certificate of Public Convenience and Necessity for Eagle Creek Subdivision, Eagle Creek Golf Club and Grill, and Moyock Middle School;

7. That the Schedule of Rates, attached as Appendix B, is authorized to become effective for service rendered on and after the date of the closing of the transfer of wastewater system assets to Currituck;

8. That Currituck shall provide written notice of the change in ownership to all customers within ten days of the transfer of the sewer system assets and closing;

9. That Currituck shall file a written notification with the Commission within five business days after the closing of the transfer of sewer system assets;

10. That the Certificate of Public Convenience and Necessity granted to Sandler in Docket No. W-1130, Sub 0, is canceled effective on the date Currituck files with the Commission written notification that closing of the transfer of the sewer system assets has been completed;

11. That Currituck shall receive rate base treatment of the \$424,779, original cost net investment shown on Settlement Exhibit I and supporting schedules. This amount of rate base may be increased by any reasonable and prudent capital costs that may be incurred by Sandler prior to closing and does not include any amount for Materials and Supplies that may be included by Currituck in rate base as part of Working Capital for approval by the Commission in the next rate case;

12. That Currituck shall comply with all terms of the Stipulation filed in this docket;

13. That Currituck shall file with the Commission and DEQ a New System Upgrade Plan and shall provide status reports no later than March 31, June 30, September 30, and December 31 of each calendar year. Such reports shall contain documentation sufficient to verify that all elements of the Interim Service and Restoration

Plan, as required by the Second Amended Consent Judgment, have been completed during the prior quarter and status related to the execution of the New System Upgrade Plan. Such status reports shall document the occurrence of any SSO regardless of volume, actual cost versus budgeted cost, estimated total project cost, and updated estimated completion date for each activity. If a reportable SSO or material system or equipment failure occurs and upon request from DWR, Currituck shall submit status reports at the end of each calendar month. These status reports shall be submitted via email to David May or his successor at DWR and shall be filed with the Commission in Docket No. W-1333, Sub 0A; and

14. That a copy of this Order shall be mailed or hand-delivered by Currituck to the customers within ten days of the effective date of this Order and that Currituck shall submit to the Commission the attached Certificate of Service, properly signed and notarized, no later than 30 days after the issuance of the Order.

ISSUED BY ORDER OF THE COMMISSION.

This the 13th day of September, 2022.

NORTH CAROLINA UTILITIES COMMISSION



Erica N. Green, Deputy Clerk

Commissioner Karen M. Kemerait did not participate in this decision.

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. W-1333, SUB 0

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

CURRITUCK WATER AND SEWER, LLC

is granted this

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

to provide sewer utility service to

EAGLE CREEK SUBDIVISION, EAGLE CREEK GOLF CLUB AND GRILL,
AND MOYOCK MIDDLE SCHOOL

Currituck County, North Carolina

subject to any orders, rules, regulations,
and conditions now or hereafter lawfully made
by the North Carolina Utilities Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the 13th day of September, 2022.

NORTH CAROLINA UTILITIES COMMISSION



Erica N. Green, Deputy Clerk

SCHEDULE OF RATES
for
CURRITUCK WATER AND SEWER, LLC

for providing sewer utility service to

EAGLE CREEK SUBDIVISION, EAGLE CREEK GOLF CLUB AND GRILL,
AND MOYOCK MIDDLE SCHOOL

Currituck County, North Carolina

Monthly Rates for Sewer Utility Service:

Residential Service	\$ 52.60
Eagle Creek Golf Club and Grill	\$ 364.67
Moyock Middle School	\$ 884.20

Connection Charge:

Residential, per residence	\$ 3,000
Commercial, per REU (360 gpd)	\$ 3,000

Reconnection Charge:

If wastewater service cut off by utility for good cause:	NA
Next-Day Restore	\$ 35.00
Same-Day Restore ¹	\$ 55.00
After-Hours Restore	\$ 100.00

<u>Bills Due:</u>	On billing date
<u>Bills Past Due:</u>	15 days after billing date
<u>Billing Frequency:</u>	Monthly for service in advance
<u>Finance Charges for Late Payment:</u>	1% per month will be applied to the unpaid balance of all bills still past due 25 days after billing date.

Issued in Accordance with Authority Granted by the North Carolina Utilities Commission in Docket No. W-1333, Sub 0, on this the 13th day of September, 2022.

¹ Same-day restores will be billed at next-day rate if request before 10:00 am (M-F), excluding holidays. Holidays billed at after-hours rate.

CERTIFICATE OF SERVICE

I, _____, mailed with sufficient postage or hand delivered to all affected customers the Order issued by the North Carolina Utilities Commission in Docket Nos. W-1333, Sub 0, and W-1130, Sub 11, and the Order was mailed or hand delivered by the date specified in the Order.

This the ____ day of _____, 2022.

By: _____
Signature

Name of Utility Company

The above named Applicant, _____, personally appeared before me this day and, being first duly sworn, says that the required Order was mailed or hand delivered to all affected customers, as required by the Commission Order dated _____, 2022, in Docket Nos. W-1333, Sub 0, and W-1130, Sub 11.

Witness my hand and notarial seal, this the ____ day of _____, 2022.

(SEAL)

Notary Public

Printed Name
My Commission Expires: _____
Date