



**NORTH CAROLINA
PUBLIC STAFF
UTILITIES COMMISSION**

March 18, 2024

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

Re: Docket No. W-1333, Sub 5 – Application for Certificate of Public Convenience and Necessity and for Approval of Rates to Provide Water & Sewer Utility Services in Currituck County

Dear Ms. Dunston:

By this letter, the Public Staff is providing an update on the status of the discovery dispute between Currituck Water and Sewer, LLC (CWS), and the Public Staff, specifically CWS's compliance with the Commission's *Order Granting Motion to Compel* (Discovery Order) issued on March 5, 2024. As shown in the attached update to the Completeness Assessment the Public Staff provided to Commission Staff via email on February 29, 2029, CWS's responses to all three data requests covered by the Discovery Order are incomplete.

As the Public Staff has noted in multiple filings, the window of time for conducting its investigation is narrowing. The Public Staff's deadline to send discovery on CWS's application ends on May 15, 2024. CWS's failure or unwillingness to fully respond to the Public Staff's initial data requests are handicapping the Public Staff. Only after receiving full responses to the pending data requests will the Public Staff be able to determine whether follow-up data requests are necessary. Based upon the foregoing, the Public Staff respectfully requests that the Commission expeditiously issue an order (1) requiring CWS to provide all of the information that remains outstanding based on the attached updated Completeness Assessment within one calendar day; (2) assessing a penalty of not less than \$5,000 pursuant to North Carolina Gen. Stat. § 62-310(a) for failing to adhere to a Commission order; and (3) requiring CWS to fully respond to all future data

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requests from the Public Staff within the time frame set forth in the Commission's *Order Scheduling Hearings, Establishing Discovery Guidelines, and Requiring Customer Notice* issued on February 14, 2024 or face additional sanctions.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Electronically submitted

/s/ Reita Coxtton

Staff Attorney

reita.coxton@psncuc.nc.gov

Attachment

Data Request 5			Status as of March 17, 2024
Question Number	Topic	Public Staff Notes	
1	Excel File -COS Tab	Response is incomplete. The native file (Excel) version of responses including calculations was not provided. Information responsive to the following subparts of 1.a. was not provided: ii and iii.	1) Question 1.a.i: Employee number was not provided. 2) Question 1.a.ii: Requested information was not provided. 3) Question 1.a.iii: Requested information was not provided. The request asked for salary and wage information for each employee for the 12 month period beginning on July 1, 2022 and ending on June 30, 2023. It appears that the Excel file (labeled Ex 1 – DR 5) only includes information for a single pay period (Period 08). Additionally, the date range for Period 08 was not provided. 4) Question 1.b.: An Excel file with working formulas was not provided. ASSESSMENT: Incomplete
2	Excel File -OH Allocation Tab	Response is incomplete. The breakdown requested in 2.g. was not provided.	The request asked for a detailed breakdown of legal services by subject matter that includes the dollar amount for each subject matter. The information provided is organized by firm. The legal services related to Carolina Village cannot be determined with the information provided. ASSESSMENT: Incomplete

Data Request 6			Status as of March 17, 2024
Question Number	Topic	Public Staff Notes	
1	Maintenance & Repair Invoices	Response is incomplete. Invoices are missing.	Copies of vendor invoices supporting amounts related to maintenance and repair expenditures listed in the January 2023 PEX Account Statement were not provided. ASSESSMENT: Incomplete
2	Island Septic Invoices	Response is incomplete. Two invoices included in CWS's response could not be opened.	Requested information provided. ASSESSMENT: Complete
3	Dominion Energy Invoices	Response is incomplete. Invoices were not provided. CWS's response references "Exhibit 3" but no such exhibit was provided.	August 2022 invoice for RR1 Sewage Disposal was not provided. ASSESSMENT: Incomplete
5	Envirolink Monthly Billing Sheets	Response is incomplete. Invoices were not provided. CWS's response included a blank spreadsheet for 2023.	Requested information provided. ASSESSMENT: Complete
6	Albemarle Environmental Contract	Nothing provided. CWS's response references "Exhibit 5" but no such exhibit was provided.	Requested information provided. ASSESSMENT: Complete
7	Albemarle Environmental Invoices	Response is incomplete. Invoices were not provided.	Requested information provided. ASSESSMENT: Complete
8	Lab Testing Contract and Invoices	Response is incomplete. Invoices are missing.	Requested information provided. ASSESSMENT: Complete
9	Chemicals Invoices	Response is incomplete. Invoices are missing.	Copies of invoices for the entire 12-month period were not provided. CWS only provided invoices for October 2022, March 2023, and June 2023. Additionally, the invoices provided only support \$3,308.75 of the \$4,283.75 of chemicals listed in CWS's application. ASSESSMENT: Incomplete
10	Supplies Invoices	Response is incomplete. Invoices were not provided. CWS's response references "Exhibit 9" but no such exhibit was provided.	1) The invoices provided only support \$2,960.55 of the \$3,345.64 of supplies listed in CWS's application. 2) Vendor invoices to support parts/supplies included in the following Envirolink invoices were not provided: 0030233-IN, 0030236-IN, and 0033207-IN. ASSESSMENT: Incomplete

Data Request 7			Status as of March 17, 2024
Question Number	Topic	Public Staff Notes	
1	Envirolink Organization Charts	Nothing provided.	Requested information provided. ASSESSMENT: Complete
2	Envirolink Operated Systems	Response is incomplete. The following information is either not clearly identifiable or missing: system name, system owner, system location (city and county), date on which Envirolink, Inc. began operating the system, NCDEQ data (permit number or water system number), and name and employer of the ORC for each system. It is unclear whether the data in the third column is the system name or system owner. The response appears to provide the year in which Envirolink began operating each system, but does not provide the more granular data the Public Staff requested. CWS acknowledged the missing NCDEQ data, but did not provide any information on when it would supplement its response to provide that information. The seventh column appears to be a partial response to the Public Staff's request for the name and employer of the ORC for each system; full names and the employer were not provided.	1) System name and system owner not provided. CWS agreed to provide this during a meeting between CWS and the Public Staff on March 8, 2024. 2) A list of systems without permits was not provided. CWS agreed to provide this during a meeting between CWS and the Public Staff on March 8, 2024. 3) A list of systems where Envirolink serves as a consultant (as opposed to the contract operator) was not provided. CWS agreed to provide this during a meeting between CWS and the Public Staff on March 8, 2024. 4) Permits were not provided for 54 systems. CWS agreed to provide this information during a meeting between CWS and the Public Staff on March 8, 2024 and during a Public Staff site visit on March 12, 2024. ASSESSMENT: Incomplete
5	2016 Contract between Envirolink, Inc. and CV-WWT, LLC	Nothing provided.	Requested information provided. ASSESSMENT: Complete
8	Documents referenced in the 2022 Amended and Restated Asset Purchase and Utility Construction and Maintenance Agreement	Response is incomplete. Information responsive to the following subparts was either not provided or appropriately identified: c, e, h, i, j, l, and n. CWS acknowledged a missing Bill of Sale, but did not specify which one.	Bills of sale requested in subparts c and n remain outstanding. CWS stated that it could not locate a Bill of Sale in an email to the Public Staff sent on February 28, 2024, but CWS has not yet specified which bill of sale could not be located. CWS has also not provided any information regarding the status of locating any of the bills of sale the Public Staff requested. These are attachments to the 2022 Amended and Restated Asset Purchase and Utility Construction and Maintenance Agreement (APA) and the APA, which is a required exhibit per the CPCN Application Form, is materially incomplete without those bills of sale. ASSESSMENT: Incomplete