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March 11, 2024

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

RE: Docket Nos. W-1139, Sub 7; W-1343, Sub 0; W-1343, Sub 1

Dear Ms. Dunston:

Please accept for filing the following document in the above captioned dockets: Direct
Testimony of Robert Howsare on behalf of GWWTP, LLC.

Thank you for your attention to this matter.

Sincerely,
Edward S. Finley, Jr.
Counsel for GWWTP, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing direct testimony of Robert Howsare on behalf of GWWTP, LLC was duly served upon parties of record either by depositing same in a depository of the United States Postal Service, first class postage prepaid, or by electronic delivery.

This the 11th day of March, 2024.

Edward S. Finley, Jr.,

/s/ Edward S. Finley, Jr.

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COUNSEL FOR APPLICANT

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

Docket No. W-1139, Sub 7
Docket No. W-1343, Sub 0
Docket No. W-1343, Sub 1

In the Matter of)	
Joint Application of Ginguite Woods)	
Water Reclamation Association, Inc.)	Direct Testimony of
and GWWTP, LLC for Approval of)	Robert Howsare
Transfer of Certificate of Public)	for GWWTP, LLC
Convenience and Necessity for the)	
Wastewater System Serving the)	
Ginguite Woods Subdivision in Dare)	
County, North Carolina, and for)	
Approval of Rates)	

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

**DOCKET NO. W-1139, SUB 7
DOCKET NO. W-1343, SUB 0
DOCKET NO. W01343, SUB 1**

Direct Testimony of Robert Howsare

On Behalf of GWWTP, Inc.

March 11, 2024

1 Q. Please state your name and business address.

2

3 A. Robert Howsare, 127 Sea Hawk Drive West, Duck, NC 27949

4

5 Q. With whom are you employed and in what capacity?

6

7 A. I am the Owner of RPAM Services, LLC – Consulting Contractor for Saga Construction
8 and Development.

9

10 Q. In the context of your work, what role do you play in overseeing the sewer utility
11 service for the Ginguite Woods subdivision?

12

13 A. I manage the wastewater utility serving the Ginguite Woods subdivision.

14

15 Q. Please explain the interest Saga Construction and Development has in ensuring that
16 appropriate service is provided to the Ginguite Woods subdivision?

17

18 A. As the developer within the subdivision and as a responsible citizen in Dare County it
19 is important to Saga that adequate service be provided in the subdivision and in other
20 areas where Saga is involved in development.

21

22 Q. Is it correct that presently through affiliate entities Saga owns the wastewater
23 facilities serving in Ginguite Woods and that the system is operated through a
24 contract operator.

25 A. Yes

26

1 Q. Is it correct that the current ownership and operation of the Ginguite Woods
2 wastewater system exists through transactions that heretofore were not authorized
3 by the Commission?

4
5 A. Yes. GWWTP owns the Ginguite Woods wastewater system in Dare County and has
6 hired Atlantic OBX as the licensed contract operator.

7
8 Q., Please explain the events that transpired that have led to GWWTP's owning the
9 wastewater system and the hiring of Atlantic OBX as the contract operator.

10
11 A. At the time of filing this application the certificate of public convenience and
12 necessity was held by Ginguite Woods Water Reclamation Association Inc.
13 ("GWWRA"), originally owned by Neil Blinken. Ginguite Woods Water Reclamation
14 Association Inc. was granted the franchise to serve the subdivision by order dated
15 August 13, 2003 in Docket No. W-1139, Sub 0. By order issued August 18, 2009 in
16 Docket No. W-1139, Sub 3 the Commission approved interim rates for GWWRA.

17 Q. When did GWWRA cease to be involved and why?

18 A. Although it still held the franchise, for many years, over a decade, the original holder
19 in the franchise has had no active role in Ginguite Woods. Based on a management
20 contract dated October 16, 1998 the system was originally operated by Enviro-Tech
21 as the contract operator. The original owner of Ginguite Woods Water Reclamation
22 Association Inc., Neil Blenkin, encountered financial and operating difficulties and
23 was unable to continue ownership and operation of the wastewater utility serving
24 Ginguite Woods.

25 Q. What action was taken before the Commission to address a situation involving
26 GWWRA?

1 A. By order issued November 20, 2009 in Docket No. W-1139, Sub 4, the Commission
2 appointed William G. Freed of Enviro-Tech of North Carolina Inc. (Enviro-Tech) as
3 emergency operator of the wastewater system. The Commission determined that
4 there was an imminent danger of losing sewer service due to the lack of a competent
5 utility company and the lack of money to pay current and outstanding bills, and to pay
6 for upgrades to the system, justifying the appointment of an emergency operator in
7 accordance with N.C. Gen. Stat. § 62-116(b). Consequently, on November 20, 2009
8 Mr. Freed and Enviro-Tech continued the role of operating the system but thereafter
9 as the emergency operator as opposed to the contract operator on behalf of the
10 owner, Ginguite Woods Water Reclamation Association, Inc.

11 November 20, 2009 marked the termination of any active or ownership role played by
12 GWWRA for the Ginguite Woods wastewater system.

13 Q. Did the Commission approve interim rates for the emergency operator?

14 A. Yes. In its November 20, 2009, order the Commission approved an interim
15 monthly rate of \$90 per SFE (360 gallons per day). This interim rate remained in effect
16 until the Commission appointed GWWTP as emergency operator and approved
17 provisional rates in 2023.

18 Q. Please explain how GWWTP became involved in ownership and operation of the
19 Ginguite Words wastewater system.
20

21 A. GWWTP acquired the interest originally held by Neil Blinken in Ginguite Woods Water
22 Reclamation Association Inc. The wastewater system in Ginguite Woods consisted of
23 several discrete assets. GWWTP acquired them between November 13, 2015 and
24 March 24, 1017. On March 3, 2010 Paragon Utilities Inc., owned by local investors,
25 had acquired one asset, 0.114 acres, composing the system in foreclosure through a
26 sheriff's sale. As far as we can determine, Paragon Utilities Inc. did not inform the
27 Commission or obtain the Commission's permission to acquire a portion of the
28 assets formerly held by GWWRA. GWWTP acquired one tract from GWWRA on

1 November 13, 2015. GWWTP acquired the Paragon Utilities Inc. tract on March 24,
2 2017.

3 Q. When GWWTP took over ownership of the system did it seek permission from the
4 Commission?

5
6 A. No. GWWTP took over ownership and control of all the Ginguite Woods wastewater
7 assets. Likewise, GWWTP's acquisition and control of the wastewater system was
8 undertaken without seeking the Commission's approval. The original owner had, in
9 effect, relinquished any role in owning and operating the system, and GWWTP
10 determined it necessary to step in and obtain the system on an emergency basis to
11 avoid service disruption, degradation to the environment and the threat to
12 development activities.

13 Q. Please explain why GWWTP failed to seek Commission approval to acquire the
14 Ginguite Woods wastewater treatment system assets.

15
16 A. Due to the need to act expeditiously to avoid loss of service to customers,
17 degradation to the environment and interference with development activities, and
18 through inadvertence and unfamiliarity by GWWRA and GWWTP with public utility
19 regulatory requirements, the transaction whereby ownership and control of the
20 wastewater system was obtained by GWWTP was not approved by the Commission
21 as required by statute. Also, at the time, GWWTP was unaware that Commission
22 approval was required.

23 Q. What role did Enviro-Tech and William Freed play and the operation of the Ginguite
24 Woods system after the acquisition by GWWTP?

25
26 A. After acquisition, William Freed and Enviro-Tech continued to serve as nominal
27 emergency operator of the system. However, upon GWWTP's acquisition of
28 ownership and control from GWWRA the need for continuation of operation by an

1 emergency operator ended. GWWTP was not constrained by the financial and
2 operational limitations handicapping GWWRA.

3 Q. Were Enviro-Tech and Mr. Freed compensated for the services they provided as
4 emergency operator?

5
6 A. Yes. Through the collection of monthly flat sewage rates and a \$100,000 payment
7 from GWWTP Enviro-Tech was fully compensated for the services it provided as
8 emergency operator when in 2021 it ceased to serve as operator in Ginguite Woods.

9 Q. Please relate the history of the technical operation of the Ginguite Woods system
10 after acquired by GWWTP.

11
12 A. Subsequent to GWWTP's acquisition of the Ginguite Woods sewer system, several
13 companies have operated the system on GWWTP's behalf. While Enviro-Tech
14 remained the nominal emergency operator, from the perspective of GWWTP, the
15 subsequent operators have actually served in roles more appropriately classified as
16 contract operators.

17 On or about August 2021 Enviro-Tech, due to a sale of a portion of its business,
18 ceased to provide services within Ginguite Woods.

19 Q. Was the Commission's permission sought when Enviro-Tech ceased to serve as the
20 emergency operator and operation was undertaken by others?

21
22 A. Again, the parties, through inadvertence, failed to notify the Commission of this
23 relinquishment of service by the nominal emergency operator. In addition, this
24 ambiguity in ownership and operating responsibility has resulted in omissions and
25 oversight in maintaining some records and filing of some reports.

26 Q. Please identify the company that currently provides operation services at Ginguite
27 Woods.

- 1
- 2 A. Presently, Atlantic OBX serves as contract operator on behalf of GWWTP.
- 3 Should the Commission approve the application of transfer of ownership, GWWTP,
- 4 LLC, as owner and franchise holder, intends to continue to rely upon a qualified
- 5 system operator as the contract operator or perhaps its own employees. Should the
- 6 Commission approve this petition, GWWTP, LLC., with access to ample financial
- 7 resources, will not need to operate the system through an emergency operator.
- 8 Q. Have William Freed and the Enviro-Tech notified the Commission of its wish to be
- 9 relieved of the responsibility as emergency operator?
- 10
- 11 A. Yes. Enviro-Tech and William Freed have requested that they be relieved as the
- 12 nominal emergency operator, thereby obtaining authority to relinquish formal
- 13 authority actually relinquished in 2001.
- 14 Q. Does GWWTP currently operate the Ginguite Woods wastewater system as
- 15 emergency operator?
- 16
- 17 A. Yes. By order issued November 1, 2023, in Docket No W-1139, Sub 5 the Commission
- 18 appointed GWWTP as emergency operator. In that docket the Commission approved
- 19 provisional rates of \$180 per month. GWWTP requests that the Commission
- 20 terminate the status of GWWTP as emergency operator and approve GWWTP as the
- 21 holder of the certificate of public convenience and necessity in its order in this
- 22 docket.
- 23 Q., Please describe the improvements GWWTP has made and the nature of capital
- 24 upgrades.
- 25
- 26 A. To date GWTP has made approximately \$440,000 in capital upgrades and, upon
- 27 approval of the CPCN, plans to make an additional \$600,000 in capital
- 28 improvements, including \$500,000 for back-end replacement of the sewer plant and

1 \$100,000 in additions and upgrades to be undertaken after back-end replacement is
2 complete due to the age of the sewer plant. These improvements, as well as others,
3 are necessary to ensure proper operation of the Ginguite Woods wastewater system
4 and to provide safe and reliable service to customers.

5
6 Q. Will such improvements in the Ginguite Woods system eventually result in increased
7 rates?

8
9 A. Yes. Such investments in the Ginguite Woods system will eventually result in a rate
10 increase, which will be subject to the Commission review and approval in a future
11 rate case.

12
13 Q. Has GWWTP met with the Public Staff on the issues involved in this docket and
14 attempted to respond to Public Staff data requests in order to assist the Public Staff
15 in auditing the Company's books and preparing the Public Staff testimony and
16 position in this docket?

17
18 A. Yes. The Company has had many meetings with the Public Staff and has responded
19 to many data requests.

20
21 Q., Please explain the Company's intention of extending service beyond the existing
22 Ginguite Woods service connections.

23
24 A. Saga's planned commercial development is within the current service district. There
25 are currently no plans to service outside of the district.

26 Q. Is GWWTP seeking to recover the full extent of its capital expenditures and O&M
27 expenses in the rates it is requesting in this docket?

1 A. No. Although the Company is seeking recovery of the front-end upgrades to the
2 wastewater system, the positive acquisition adjustment, and the O&M expenses
3 adjusted to a reasonable, normalized level, the Company has not yet completed the
4 significant back-end upgrade of the wastewater treatment plant, which will be
5 completed toward the end of 2024 and will not be reflected in rates. In addition, the
6 Company has proposed rates that are based on the numbers of future customer
7 connections, and not the existing customers, therefore reducing the rates for all
8 customers and not allowing the Company to realize full recovery of its total allowed
9 revenue requirement until the system is built out.

10 Q. During the time GWWTP has owned and operated the Ginguite Woods wastewater
11 system has the Company been appropriately compensated for the improvements
12 and repairs that have been made or for the operations of the system that have been
13 undertaken on the Company's behalf?
14

15 A. No. The revenues that have been received have been used to compensate the
16 emergency operator or the contract operator and have not been available to provide
17 compensation to G WWTP. Furthermore, the level of the rates that have been in effect
18 during the time GWWTP has owned this system have been inadequate. In effect,
19 GWWTP has operated this system during its ownership at a substantial loss.
20

21 Q. At the time that GWWTP was required to step in and obtain ownership and control of
22 the Ginguite Woods system and during the time of its ownership has the system been
23 in the state of repair and operation that it should have been?
24

25 A. No. Based on the history as outlined above GWWTP was forced to step in and in effect
26 rescue the Ginguite Woods wastewater system in order to avert an emergency. By any
27 reasonable definition, the Ginguite Woods system was a troubled system in need of
28 improvement and repair and with rates that were inadequate to support the repair,
29 maintenance and operation of the system without an uncompensated infusion of

capital by GWWTP. It was necessary for the Commission to appoint Enviro-Tech as an emergency operator in 2009. The fact that it was necessary for the Commission to place the system in the hands of an emergency operator is evidence that a system posed an emergency and a threat to customers and the environment.

Q. Do these facts from your perspective justify the rate base GWWTP has requested in this case including the requested plant acquisition adjustment?

A. Yes. Based on consultation with legal counsel and our consultants, Peedin and Perry Consulting LLC, it is my understanding that this is consistent with the Commission's April 30, 1997, Order, in Docket No. W-274, Sub 122, regarding the Heater Utilities, Inc. acquisition of the Hardscrabble water system. In that case the Commission ruled that for a positive acquisition adjustment to be approved, the proposed transfer must be:

1. prudent.

2. the result of arm's length bargaining.

3. the benefits accruing to the customers (both on the acquired system and on the acquiring system) outweigh the costs of inclusion in rate base of the excess purchase price.

In this current CPCN proceeding, the GWWTP purchase price for utility assets of \$110,000 is prudent and the result of arm's length bargaining. The benefits accruing to the customers on the Ginguite Woods wastewater system materially outweigh the costs of inclusion in the rate base of the purchase price.

The current CPCN proceeding is the only proceeding in which the Company has requested an acquisition adjustment for Ginguite Woods. The Company met with the Public Staff prior to filing and has had several discussions during the Emergency Operator and the CPCN pre-filing phase in order to brief the Public Staff on the system abandonment issues and the history of the wastewater system upgrades that were completed prior to obtaining the CPCN. On January 12, 2024,

1 in Docket No. W-1139, Sub 4, the Commission issued its Order appointing the
2 Company as the new Emergency Operator, and the rates have been set based on
3 a rolling 12-month of expenses, since the Company agreed not to request rate
4 base recovery for its extensive wastewater system upgrades and the positive
5 acquisition adjustment until the CPCN Application proceeding. In the current
6 CPCN docket, the Company is requesting rate base recovery of its investment
7 along with the positive acquisition adjustment as the purchase meets all of the
8 criteria for approval by this Commission as stated above.

9 Q. Is it the intent of GWWTP to continue to own and operate the Ginguite Woods system
10 presently and into the future?

11 A. Yes.

12 Q. Are you sponsoring the applications submitted in this docket and do you wish the
13 Commission to accept it into the record?

14 A. Yes.

15 Q. What accounting adjustments or items of interest in the application are necessary for
16 you to bring to the Commission's attention?

17
18 A. GWWTP continues to respond to Public Staff data requests. GWWTP at this time is
19 unaware of what if any adjustments the Public Staff may recommend at the
20 conclusion of its audit and investigation. To the extent that the parties have
21 unresolved issues as this case proceeds, GWWTP will attempt to respond in its
22 rebuttal testimony.

23
24 Q. Does this conclude your direct testimony?

25
26 A. Yes