

State of North Carolina

North Carolina Utilities Commission
Raleigh

Docket No. W-1333, Sub 0
Docket No. W-1130, Sub 11

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 & Sewer, LLC,)
4700 Homewood Court, Suite 108, Raleigh, North)
Carolina 27609, and Sandler Utility, LLC ,)
Virginia Beach, Virginia, for Authority)
To Transfer the Eagle Creek Wastewater System)
And Franchise in Currituck County, North)
Carolina, and Approval of Rates)

SUPPLIMENTAL TESTIMONY
OF
MICHAEL J. MYERS
CURRITUCK WATER & SEWER, LLC
June 6, 2022

1 Q. PLEASE STATE YOUR NAME, POSITION WITH CURRITUCK WATER & SEWER, LLC, AND
2 BUSINESS ADDRESS.

3 A. My name is Michael J. Myers, and I am the Vice-President, Secretary and Treasurer of
4 Currituck Water & Sewer, LLC ("CWS"). My business address is 4700 Homewood Court,
5 Suite 108, Raleigh, North Carolina 27609.

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7

8 Q. What is the purpose of your supplemental testimony?

9

10 A. The purpose of my supplemental testimony is to support the Settlement Agreement and
11 Stipulation entered to on June 6, 2022 among Currituck Water and Sewer LLC, Sandler Utilities
12 at Mill Run LLC and the Public Staff North Carolina Utilities Commission. Through this
13 settlement agreement and stipulation, the parties have attempted to resolve outstanding
14 differences among them that have arisen during the course of this proceeding and that are
15 documented in the testimony and exhibits of the witnesses that had been filed in this docket.

16

17 Q. Can you summarize the settlement agreement and stipulation?

18

19 A. Yes . Through the Settlement Agreement and Stipulation, the parties agree and support
20 the transfer of the certificate of public convenience and necessity from Sandler to CWS. The
21 Settlement Agreement and Stipulation includes a number of conditions and constraints under

1 which this transfer will take place. Most significantly, the Settlement Agreement and Stipulation
2 attaches and incorporates as an exhibit the Second Amended Consent Judgment executed by
3 the North Carolina Department of Environmental Quality, CWS and Sandler. The most
4 significant issue was the subrogation of liability between the Sandler Utility and CWS. This
5 Second Amended Consent Judgment to be filed for approval by the Superior Court addresses
6 the conditions and constraints under which a permit from DEQ will be issued to CWS to provide
7 the wastewater collection and treatment services for the Eagle Creek subdivision in Currituck
8 County in place of Sandler. The original Consent Judgment and the First Amended Consent
9 Judgment imposed requirements upon Sandler arising from service issues with respect to the
10 vacuum collection system and wastewater treatment plant that on or about September 2020
11 experienced a number of catastrophic failures. In the meantime, in compliance with the
12 consent judgments the wastewater system at Eagle Creek, though it remains in a vulnerable
13 condition, has reached a level of stability so that by and large a reasonable level of treatment
14 and service has been restored.

15

16 Q. In your opinion, what factors precipitated a willingness of the parties to reach
17 agreement on the contested issues?

18

19 A. After conducting extensive discovery, the Public Staff in its prefiled testimony
20 maintained that the application of CWS should be held in abeyance pending release of Sandler

1 from the Superior Court imposed consent judgment or a willingness on behalf of CWS to be
2 substituted with respect to Sandler's obligations under the Consent Judgment. As indicated
3 above, many of the conditions and constraints by the time the parties entered into the
4 Settlement Agreement and Stipulation had been at least partially fulfilled through the
5 expenditure of substantial capital and personnel resources. Significantly, a major requirement
6 of the Consent Judgment was that an independent engineering expert undertake a
7 comprehensive evaluation of the Eagle Creek system and report its findings and that these
8 findings be taken into account in providing a long term solution. Century Engineering undertook
9 such an evaluation and in its report, they substantiated the earlier reports and CWS's position
10 that it was in the best interest for those being served by the Eagle Creek system that the
11 vacuum collection system be substantially modified or replaced. CWS has from the beginning
12 advocated the need to substantially modify or replace the vacuum system rather than continue
13 to expend substantial funds in making the modifications and improvements initially
14 contemplated in the consent judgment.

15

16 Based on the Century Engineering report and the steps undertaken to rectify service issues as
17 required under the Consent Judgment, DEQ and CWS were able to negotiate the Second
18 Amended Consent Judgment to recognize the condition of the system as of the date of the
19 Second Amended Consent judgment, eliminate or modify some requirements in light of existing
20 conditions and address long term solutions in light of the recommendations of Century

1 Engineering. Many of the system improvement requirements remain as well as many of the
2 reporting requirements that will allow DEQ, the Public Staff and the Commission to oversee
3 improvements and level of service within Eagle Creek.

4

5 Q. Is it your opinion that the Consent Judgment and Stipulation and Settlement Agreement
6 are appropriate and that it is in the public interest for the Commission to approve the transfer
7 of the certificate of public convenience and necessity from Sandler to CWS?

8

9 A. Yes. The agreement provides provisions to permit oversight by both the Commission
10 and DEQ to insure service levels are maintained during the interim period while CWS upgrades
11 the collection system and CWS's system upgrade plan.

12

13 Q. Does the Stipulation and Settlement Agreement address issues other than those
14 addressed in the Second Amended Consent Judgment?

15

16 A. Yes. While CWS is concerned about the bond amount, CWS agrees that a substantial
17 bond is prudent, especially during construction period to upgrade the facility. The parties have
18 reached agreement on the level of bond to be imposed as a condition upon CWS' obtaining the
19 CPCN. The parties have reached agreement upon the net original cost of the system at the time
20 of the transfer and the purchase price under the Asset Purchase Agreement between Sandler

1 and CWS. After its extensive evaluation, the Public Staff concludes that CWS is substantially
2 capitalized and has the financial resources to undertake service within Eagle Creek. CWS has
3 not requested to adjust rates in this proceeding. CWS has agreed not to seek plant acquisition
4 adjustment with respect to the Eagle Creek system.