

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

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

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,	)	PUBLIC STAFF'S POINTS OF
LLC, 448 Viking Drive, Suite 220,	)	DISAGREEMENT WITH
Virginia Beach, Virginia 23452, for	)	CURRITUCK'S WITNESS
Authority to Transfer the Sandler	)	LIST FILING DATED MAY 2,
Utilities at Mill Run Wastewater System	)	2022
and Public Utility Franchise in Currituck	)	
County, North Carolina, and for	)	
Approval of Rates	)	

NOW COMES THE PUBLIC STAFF – North Carolina Utilities Commission (Public Staff), by and through its Executive Director, Christopher J. Ayers, and respectfully provides the following points of disagreement with respect to Currituck Water and Sewer, LLC's (Currituck) May 2, 2022, filing which contained its proposed witness list, order of witnesses and estimated cross-examination times (Hearing Witness Information), and moves the Commission to approve the Public Staff's request to call witnesses, Public Staff Engineer D. Michael Franklin and North Carolina Division of Water Resources (DWR) Engineers David May and Robert Tankard, as a panel during the evidentiary hearing in the herein docket, which is scheduled to commence on Monday, May 9, 2022. The Public Staff respectfully shows the Commission the following:

1. On May 19, 2021, Currituck and Sandler Utilities at Mill Run, LLC (Sandler) filed with the Commission an Application for Transfer of Public Utility Franchise and for Approval of Rates, seeking authority to transfer the wastewater utility system and public utility franchise serving Eagle Creek Subdivision, Eagle Creek Golf Club and Grill, and Moyock Middle School in Currituck County, North Carolina, from Sandler to Currituck and approval of rates.

2. On March 2, 2022, the Public Staff filed the testimony and exhibits of D. Michael Franklin, Iris Morgan, Phat H. Tran, and the joint testimony of David May and Robert Tankard. Witnesses Franklin, Morgan, and Tran are employees of the Public Staff. Witnesses May and Tankard are employees of the North Carolina Department of Environmental Quality (DEQ), working in the Water Quality Regional Operations Section at DEQ's Regional Office in Washington, North Carolina.

3. On March 30, 2022, the Commission issued an order continuing the expert witness hearing which had been scheduled to commence on April 11, 2022, to May 9, 2022, and also issued an order extending the deadline for Currituck to file a list of witnesses to be called at the expert witness hearing, the order of witnesses, and each party's estimated time for cross-examination to Monday, May 2, 2022. The Commission's Order further stated that if the parties cannot agree, the remaining parties shall, no later than Wednesday, May 4, 2022, make a filing indicating their point of disagreement with Currituck's filing.

4. On Friday, April 29, 2022, counsel for Sandler and the Public Staff

provided Currituck's attorney with their respective lists of witnesses, order of witnesses, and estimated times for cross-examination. Counsel for the Public Staff informed counsel for Currituck that the Public Staff intended to call witnesses D. Michael Franklin, David May, and Robert Tankard as a panel.

5. On May 2, 2022, counsel for Currituck filed its list of witnesses scheduled to appear at the May 9, 2022, hearing, the order in which they would be presented, and the estimated times of cross-examination (collectively, Hearing Witness Information) as prescribed by the Commission's March 30<sup>th</sup> Order.

6. In its Hearing Witness Information filing, Currituck stated it objected to the Public Staff's proposal to include witness Franklin as part of a panel because "Witness Franklin's testimony was not filed as part of a panel." Counsel for Currituck had not informed the Public Staff that it objected to the Public Staff's proposal, and the Public Staff was first made aware of Currituck's objection after Currituck's attorney made its filing with the Commission on May 2, 2022.

7. The Public Staff finds the stated basis for Currituck's objection groundless and unsubstantiated. Currituck failed to provide any rationale for why the fact that the witnesses did not file testimony "as a panel" is of import. Additionally, there is no established prerequisite that witnesses on a panel should have filed joint testimony or filed "as a panel".

8. Public Staff witness Franklin and DEQ witnesses May and Tankard, who are all engineers, prefiled testimonies addressing many of the same issues

pertaining to the catastrophic failures, beginning in September 2020, of the Eagle Creek wastewater system – which Currituck seeks to acquire – and customer complaints of Eagle Creek customers who directly contacted both the Public Staff and the DWR witnesses, who jointly can provide the current status of the Eagle Creek wastewater system. Although there may be information of which only one of the witnesses has knowledge, all three witnesses share complementary perspectives that will inform the Commission.

9. Presenting the three witnesses as a panel also will yield time efficiency, especially in the event questions specifically directed to witness Franklin could be better addressed or supplemented by the DWR witnesses and vice versa.

10. In past proceedings, the Commission has generously granted parties' proposals to call their witnesses as a panel, regardless of whether members of the panel filed joint testimony. The following recent proceedings before the Commission involved witnesses who were allowed to testify as a panel but did not file joint testimony with another witness: Docket No. E-2, Sub 1219, Application of Duke Energy Progress, LLC for Adjustment of Rates and Charges Applicable to Electric Service in North Carolina; Docket No. E-7, Sub 1214, Application of Duke Energy Carolina, LLC to Adjust Retail Rates, Request for an Accounting Order and to Consolidate Dockets; Docket No. W-215, Sub 497, Application of Aqua North Carolina, Inc. for Authority to Adjust and Increase Rates for Water and Sewer Utility Service in All Service Areas in North Carolina; and Docket No. G-9, Sub 781, Application of Piedmont Natural Gas Company, Inc. for

an Adjustment of Rates, Charges, and Tariffs Applicable to Service in North Carolina.

11. Counsel for the Public Staff has contacted counsel for Sandler, and he stated that Sandler takes no position on the herein filing.

WHEREFORE, for the foregoing reasons, the Public Staff respectfully requests the Commission to allow the Public Staff to call its witnesses Franklin, May, and Tankard as a panel.

Respectfully submitted this 4th day of May, 2022.

PUBLIC STAFF  
Christopher J. Ayers  
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Electronically submitted  
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**CERTIFICATE OF SERVICE**

I do hereby certify that I have served a copy of the foregoing Points of Disagreement upon each of the parties of record in this proceeding or their attorneys of record by emailing them an electronic copy or by causing a paper copy of the same to be hand-delivered or deposited in the United States Mail, postage prepaid, properly addressed to each.

This the 4th day of May, 2022.

Electronically submitted  
/s/ Gina C. Holt