

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. W-1305, SUB 29

DOCKET NO. W-1300, SUB 69

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of

Joint Application by Pluris Hampstead, LLC, for)
 Authority to Acquire the Sewer Utility Systems)
 Serving Majestic Oaks and Hampstead Shopping)
 Center, Southside Commons (formerly Grey)
 Bull), Majestic Oaks West, and Salter's Haven at)
 Lea Marina in Pender County, North Carolina)
 from Old North State Water Company, LLC, and)
 Approval of Rates)

**CASE STATUS REPORT AND
MOTION TO STAY
PROCEEDINGS**

NOW COMES Intervenor WLI Investments, LLC, (“WLI Investments”), by and through the undersigned counsel and provides to the Commission this **CASE STATUS REPORT**. Based on the matters contained in that Report, WLI Investments respectfully submits its **MOTION TO STAY PROCEEDINGS**, requesting that the Commission issue an Order staying this proceeding pending the resolution of the factual disputes and legal issues raised in the Case Status Report and to be raised in a forthcoming complaint against the utilities involved in this proceeding. The following constitutes WLI Investments’

CASE STATUS REPORT

Background

Nature of Proceeding.

This matter is before the Commission on the joint application of Old North State Water Company, LLC (“ONSWC”) and Pluris Hampstead, LLC (“Pluris”) for approval of the transfer of

the Certificate of Public Convenience and Necessity (“CPCN” or “Franchise”) presently held by ONSWC and authorizing the provision of wastewater service to the following service area-subdivisions: Majestic Oaks, Majestic Oaks West, Southside Commons (f/k/a Grey Bull), and Salters Haven at Lea Marina (“Service Area”). ONSWC and Pluris filed the joint application in the above-captioned proceeding on October 9, 2020, and subsequently amended and supplemented the application by various filings in these dockets (“the Application”). As detailed below, the dispute between the parties relates to the scope, terms, and conditions of service to be provided to customers in the Salters Haven at Lea Marina service area.

The Parties.

As relevant to this proceeding, ONSWC is a wastewater public utility and the current holder of the Franchise sought to be transferred in this proceeding. Per the Application, ONSWC is the Seller of the wastewater systems that are the subject of this proceeding.

As relevant to this proceeding, Pluris is a wastewater public utility and the prospective holder of the Franchise sought to be transferred in this proceeding. Per the Application, Pluris is the Purchaser of the wastewater systems that are the subject of this proceeding.

As relevant to this proceeding, WLI Investments is a real estate development company and is presently developing a residential subdivision comprised of approximately 338 single-family residences to be known as Salters Haven at Lea Marina, located off Factory Road in Pender County, North Carolina (“the Subdivision”). On March 11, 2021, the Commission issued an Order allowing WLI Investments to intervene and to participate as a party to this proceeding.

Nature of the Dispute Between the Parties.

On December 13, 2018, WLI Investments entered a contract with ONSWC, which sets forth the rights and obligations of WLI Investments and ONSWC related to the installation in the Subdivision of a wastewater collection system that would allow for wastewater utility service to all those persons now or hereafter owning or maintaining lots in the Subdivision (“Development Agreement”)¹. As reflected in the Development Agreement, ONSWC previously planned to expand the capacity of the Majestic Oaks WWTP to accommodate the additional customers to be added to ONSWC’s service area, including those 338 lots (or Residential Equivalent Units, “REUs”) that are or will be located in the Subdivision. As also reflected in the Development Agreement, ONSWC committed to provide wastewater service to those 338 lots, which includes 30 lots that are outside the current boundaries of the Subdivision, but adjacent thereto. The land where these 30 lots are to be located is known as the “Lea Tract” and referred to in the Development Agreement as the extended service area, or “ESA.”

The terms and conditions of the provision of wastewater service to the Lea Tract is the focus of the dispute between WLI Investments and Pluris and ONSWC. While it was true at the time that the Development Agreement was executed that the Lea Tract was outside the Subdivision, and that remains true today, it is also true that WLI Investments and ONSWC contemplated that the Lea Tract would be incorporated into the Subdivision in the future, shortly before the Lea Tract was ready to be developed. Both of these realities are reflected in the plain language of the Development Agreement and the facts and circumstances surrounding the execution of the Development Agreement.

¹ A copy of the Development Agreement is attached to ONSWC’s Response to WLI Investmet, LLC’s Petition to Intervene, as Exhibit A, which was filed in the above-captioned dockets on March 23, 2021.

Sometime after the Development Agreement was executed, the exact date being unknown to WLI Investments, ONSWC and Pluris began negotiations on the purchase of ONSWC's wastewater system and the transfer of the CPCN that is the subject of this proceeding. Instead of expanding the Majestic Oaks WWTP, as ONSWC had previously planned, Pluris intends to construct a lift station and other facilities necessary to convey wastewater from the Service Area to Pluris's Hampstead WWTP. Upon completion of this work, the Majestic Oaks WWTP would not be expanded and, indeed it will no longer be needed for service to customers in the Service Area. In short, ONSWC has represented to the Commission that it will not perform on its obligations to expand the Majestic Oaks WWTP as it agreed to do in the Development Agreement.²

The proposed transfer and the changed plan for providing wastewater service to the Service Area has impaired WLI Investment's confidence that ONSWC and Pluris will perform on their obligations under the Development Agreement in several significant ways: (1) it is unclear to WLI Investments that ONSWC will meet its various obligations, including making certain payments to WLI Investments as required by the Development Agreement; (2) it is unclear that Pluris will assume the rights and obligations of ONSWC under the Development Agreement as an assignee to that contract; (3) Pluris and ONSWC have offered a new and different interpretation of the provisions of the Development Agreement that conflicts with the law of this state related to the interpretation of contracts and which is contrary to expressed intentions of WLI Investments and ONSWC at the time the contract was made; (4) Pluris and ONSWC have indicated that the Lea Tract is not to be included in the Service Area solely because WLI Investments needs to construct a wastewater collection system that uses grinder pumps and low pressure piping facilities to

² On September 28, 2021, the Public Staff filed its Recommendations for Infiltration Pond Decommissioning and Bond, recommending that the Commission approve and include in its Order approving the transfer of the Franchise to Pluris certain conditions related to the decommissioning of the Majestic Oaks WWTP.

process and convey wastewater within the Lea Tract to provide access to utility service for the future owners of the homes located within the Lea Tract; and (5) Pluris and ONSWC have unreasonably withheld their cooperation in submitting and obtaining permits from the North Carolina Department of Environmental Quality (NC DEQ) for the lots in the Lea Tract, in violation of WLI Investments' rights under the Development Agreement.

In its Petition to Intervene, filed in this proceeding on March 8, 2021, WLI Investments requested that the Commission schedule a hearing in this matter to allow WLI Investments an opportunity to present evidence and arguments to the Commission related to this dispute.

In its Letter filed in this proceeding on April 7, 2021, WLI Investments reiterated its position that factual and legal issues with bearing on the public convenience and necessity should be resolved prior to the Commission acting on the joint application.

Recently, WLI Investments has sought an opportunity to resolve this matter with ONSWC and Pluris but found the utilities unwilling to engage in dialogue.

Standard of Review.

Pursuant to N.C. Gen. Stat. § 62-110(a), "...no public utility shall hereafter begin the construction or operation of any utility plant or system or acquire ownership or control thereof, either directly or indirectly, without first obtaining from the Commission a certificate that public convenience and necessity requires, or will require, such construction, acquisition, or operation..."

Pursuant to N.C. Gen. Stat. § 62-111(a), "No franchise now existing or hereafter issued under the provisions of this Chapter...shall be sold, assigned, pledged or transferred, nor shall control thereof be changed through stock transfer or otherwise..., except after application to and written approval by the Commission, which approval shall be given if justified by the public

convenience and necessity.” Under this statute, the Commission must inquire into all aspects of anticipated service and rates occasioned and engendered by the proposed transfer of ownership of a public utility. *In re Utilities, Inc.*, 147 N.C.App. 182, 555 SE.2d 333 (2001). Further, while there may be an agreement to transfer prior to Commission approval, actual transfer of assets or operational control may never precede the Commission’s written approval. *State ex. Rel Utilis Com’n v. Village of Pinehurst*, 99 N.C.App. 224, 393 S.E.2d 111 (1990), *affirmed* 331 N.C. 278, 415 S.E.2d 1999.

Issues in Controversy.

Should the Commission grant WLI Investment’s request to hold a hearing in this proceeding to resolve the factual and legal issues raised herein, WLI Investments will present evidence and arguments that have bearing on the following issues, as relevant to whether the approval of the requested transfer is required or justified by the public convenience and necessity:

1. Is it consistent with the public convenience and necessity to approve the requested transfer when the status of Pluris as an assignee to the Development Agreement is unresolved?
2. Is it consistent with the public convenience and necessity to approve the requested transfer without also providing a declaration of the parties’ status, rights, and obligations under the Development Agreement that is consistent with the contract law of this state?
3. Is it consistent with the public convenience and necessity to approve the requested transfer without also clarifying that the Service Area includes the Lea Tract that requires the use of grinder pumps and low-pressure facilities to facilitate adequate wastewater service to the future owners of these lots?

4. Does the installation and operation of grinder pumps and low-pressure facilities necessary to facilitate adequate wastewater service to the Lea Tract have any measurable detriment to the public convenience and necessity?
5. Is it consistent with the public convenience and necessity to allow ONSWC and Pluris to unreasonably withhold cooperation in applying for and obtaining permits from the North Carolina Department of Environmental Quality (NC DEQ) for Lea Tract, in violation of WLI Investments' rights under the Development Agreement?

The Commission should answer each of these questions in the negative and proceed to enter upon a hearing to receive evidence related to these issues. At the hearing and during this proceeding WLI Investments will demonstrate that state law, the evidence to be presented at the hearing, the public convenience and necessity standard, and the public interest require the Commission resolve these matters in WLI Investments' favor. WLI Investments further submits that the provisions of the Public Utilities Act require that WLI Investments be afforded an opportunity to be heard, present evidence, and to receive the Commission's decision on these issues prior to the Commission acting on the requested transfer of the Franchise.³

In addition, WLI Investments will contest the representations made by Pluris and ONSWC in their filings in this proceeding. Three examples follow:

First, Pluris and ONSWC assert that WLI Investments' only motivation in seeking to install grinder pumps and low-pressure facilities to serve the Lea Tract is to save money and earn greater profits. To the contrary, the evidence that WLI Investments is prepared to submit to the

³ The Commission is not permitted to resolve the factual issues in controversy in this proceeding "without the benefit of either party being able to submit additional evidence besides the pleadings." *Cube Yadkin Generation, LLC v. Duke Energy Progress, LLC*, No. COA18-1203, p. 18 (2019). *See also* N.C. Gen. Stat. § 62-42 ("...after notice and hearing...").

Commission will demonstrate that WLI Investments' motivation in seeking to install grinder pumps and low-pressure facilities is to (1) avoid economic waste by installing a wastewater collection system that is less expensive to install, operate, and maintain, while delivering to the utility same quality and type of wastewater sludge or slurry for processing at the utility's WWTP, (2) overcome the realities of the topographical challenges of moving wastewater from the Lea Tract, which is generally low-lying and adjacent to waterways, to the utility's WWTP, which is situated at a higher elevation, and (3) to configure a wastewater collection system that adequately serves the lots in the Lea Tract (and the remainder of Salters Haven at Lea Marina) and allocates the responsibility for maintenance and operation of the grinder pumps to the homeowners association that will be controlled by lot owners in the Subdivision.

Second, Pluris and ONSWC assert that the Development Agreement is plain and unambiguous in prohibiting the installation of grinder pumps and low-pressure facilities to provide service to the Lea Tract. The provisions of the Development Agreement are not clear on this point as evidenced at least in part by the dispute in this proceeding. Moreover, WLI Investments intends to submit evidence that gives meaning to the ambiguous terms of the Development Agreement, consistent with the long-recognized exception to the Parole Evidence Rule and not prohibited by the "merger clause" in the Development Agreement. WLI Investments will argue that Pluris and ONSWC's attempt to exclude this evidence lacks support in law and fact.

Third, it appears that ONSWC believes that WLI Investments intends to contest whether the Majestic Oaks WWTP needs to be expanded or replaced.⁴ This representation contradicts

⁴ See Response to WLI Investments, LLC's Petition to Intervene, p. 4, *filed* Mar. 23, 2021. To be clear on this point, it is WLI Investments position that ONSWC has been dilatory in pursuing the expansion of the Majestic Oaks WWTP putting the public, the environment, and WLI Investments and its customer-homeowners at great risk of the failure of the plant. The failure of the plant would be catastrophic by any measure, and the lack of available

statements included in WLI Investments' petition to intervene, which recognize that "currently, the Majestic Oaks [WWTP] facility is near capacity, and, unless further action is taken, will be unable to absorb any increased load" and that if "Majestic Oaks [WWTP] reaches capacity, Petitioner [WLI Investments] and the residents of the development will be harmed." The Development Agreement plainly obligates ONSWC to expand the Majestic Oaks WWTP, a reality that ONSWC has not directly contested. ONSWC has now changed its plans, and in doing so, impaired WLI Investments' rights under the Development Agreement. WLI Investments seeks to obtain what was bargained for in the Development Agreement: access to WWTP capacity sufficient to serve the future owners of homes in the Lea Tract and the remainder of the Subdivision. The Commission can and should protect WLI Investments' expectation interest under the Development Agreement, namely, reasonable assurances that the customers to be served within the Lea Tract will have access to adequate wastewater service, either through the expansion of the Majestic Oaks WWTP (as contemplated by the Development Agreement) or through the approval of the Application with appropriate conditions that resolve the issues raised by WLI Investments (as WLI Investments has been forced to now seek from the Commission). ONSWC seems to acknowledge as much in stating that "[t]here will be sufficient capacity in the Hampstead Plant for Pluris Hampstead to serve the Salter's Haven Subdivision, along with the other properties in the service area."⁵ However, the availability of capacity at the Hampstead Plant by itself does not resolve the central issues raised in this Case Status Report: the status of the parties' rights and obligations under the Development Agreement are unclear because of ONSWC's decision to transfer its system rather than expand the Majestic Oaks WWTP as agreed upon in the

wastewater processing capacity in the area could have a chilling effect on any future development activity. As noted *infra*, at fn. 6, WLI Investments has supported ONSWC's efforts to expand the Majestic Oaks WWTP.

⁵ *Id.*

Development Agreement, WLI Investments cannot obtain environmental permits for the wastewater collection system in the Lea Tract without the cooperation of the utilities, and the utilities refuse to cooperate based solely on Pluris' unreasonable and unlawful policy of refusing to accept new systems with grinder pumps and low-pressure facilities. Again, the provisions of the Public Utilities Act afford WLI Investments the right to be heard on these issues before the Commission reaches a conclusion on the factual and legal issues raised in this proceeding.

In addition, upon information and belief, Pluris is exercising operational control over ONSWC prior to written approval by the Commission, in violation of N.C. Gen. Stat. §§ 62-110(a) and 62-111(a). The essence of this claim will be demonstrated by evidence showing that ONSWC was amenable to receiving a wastewater collection system that included grinder pumps and low-pressure facilities for the processing and conveying of wastewater to the WWTP, while Pluris is not. Further, the first time that ONSWC indicated to WLI Investments that grinder pumps and low-pressure facilities would not be accepted was after ONSWC and Pluris agreed to the sale of the system. In sum, Pluris apparently has a policy or practice of not accepting new systems that make use of grinder pumps and low-pressure facilities – a policy that WLI Investments believes is unreasonable in violation of the Public Utilities Act – while ONSWC has apparently never had such a policy. Pluris is exerting the power gained through its position as the purchaser of ONSWC's system to unlawfully control ONSWC prior to obtaining the Commission's written approval of the transfer requested herein, in violation of N.C. Gen. Stat. §§ 62-110(a) and 62-111(a).

WLI Investments acknowledges that this claim may be more appropriately resolved by complaint against the utility. WLI Investments is preparing its complaint for filing with the Commission but submits to the Commission that the resolution of the forthcoming complaint must

be accomplished prior to the Commission acting upon the requested transfer application because the facts and issues to be resolved in the complaint proceeding are relevant to the instant proceeding. Approval of the requested transfer prior to the resolution of these issues has the potential to cause greater uncertainty regarding the rights and obligations of the parties, to leave the future owners of lots in the Lea Tract without reasonable assurances that they will have access to adequate wastewater service on reasonable terms and conditions, to result in needlessly duplicative proceedings before the Commission, and to void WLI Investments' rights under the Development Agreement. Moreover, a utility's history of compliance or non-compliance with the provisions of the Public Utilities Act is relevant to its fitness to receive a franchise by transfer.

Finally, pursuant to N.C. Gen. Stat. § 62-42, the Commission is empowered to compel ONSWC and Pluris to do what is "necessary to secure reasonably adequate service or facilities and reasonably and adequately to serve the public convenience and necessity" by directing the utilities to provide additional services or make such changes within a reasonable time. WLI Investments will request that the Commission do so, in the form of an order or directive to Pluris to accept grinder pumps and low-pressure facilities as part of the wastewater collection system to be installed in the Lea Tract. Here again, the Commission may only do so after taking evidence and making one or more of the required findings set out in N.C. Gen. Stat. § 62-42, which are a predicate to the direction to a utility to take corrective action. WLI Investments is prepared to submit evidence sufficient to support such a finding or findings to justify the Commission's directive to make the necessary change in policy so that customers to be served in the Lea Tract may "secure reasonably adequate service." This claim is relevant to both the instant proceeding and the forthcoming complaint against Pluris.

Recent Developments in the Structure of Salters Haven HOA, Inc.

WLI Investments continues to believe that Pluris' policy or practice of refusing to accept a wastewater collection system that includes grinder pumps and low-pressure facilities is unreasonable in that it lacks support in fact and law. Despite continuing in this view, WLI Investments seeks to be cooperative in its dealings with public utilities⁶ and to provide its customer-homebuyers with a safe, comfortable, and healthy home. WLI Investments understands that Pluris' primary concern with the use of grinder pumps and low-pressure facilities is two-fold: first, that customers will call upon Pluris to repair or replace grinder pumps and, second, that customers would seek emergency assistance from Pluris if electric power supply to the grinder pumps is interrupted. Considering these concerns, WLI Investments has undertaken efforts to reduce or eliminate any potential impact to the utilities resulting from the necessary use of grinder pumps and low-pressure facilities to serve the Subdivision.

To facilitate the goal of minimizing or eliminating any potential impact to the utility, WLI Investments has developed and is prepared to record an amendment to the Master Declaration of Protective Covenants for Salters Haven at Lea Marina ("Declarations") that would set out the responsibilities of the lot owners and Salters Haven, HOA, Inc., with respect to the installation, operation, and maintenance of grinder pumps. This amendment, at Section 5.4 of the Declarations, would read as follows:

5.4 Responsibilities for Grinder Pump Stations and Service Lines. This Section shall apply, without limitation, to the following lots: Lots 18, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 66, 67, 68, 69, and 70, Phase 1 of Salters

⁶ By way of example, Mr. Logan, President of WLI Investments personally attend the public hearing held by the Pender County and supported ONSWC's application for a special use permit that would have authorized the expansion of the Majestic Oaks WWTP. Upon information and belief, ONSWC failed to timely act on the expansion after obtaining the special use permit and that permit has now expired.

Haven at Lea Marina, as shown on that certain plat recorded in Map Book 65 at Pages 97-101, in the office of the Register of Deeds for Pender County. Certain Lots will require installation of an in-line wastewater grinder pump, tank, and controls (hereinafter collectively referred to as "Grinder Pump Station") to facilitate transportation of sanitary sewage from the house and to the tap at the collection or service line located at the edge of the Lot. Notwithstanding anything to the contrary in these Protective Covenants, the Lot Owner shall own and be responsible for the cost of installing, maintaining, repairing, and replacing the components of its Grinder Pump Station. To promote proper and consistent maintenance of the Grinder Pump Stations, the Association shall exclusively facilitate the maintenance and repair of the same. The applicable public utility provider shall own, operate, maintain, repair, and replace the collection and service lines. The electric service for the Grinder Pump Stations shall be provided by each applicable Lot Owner as part of their household electric service. NEITHER THE APPLICABLE PUBLIC UTILITY PROVIDER, THE ASSOCIATION, NOR DECLARANT SHALL HAVE ANY RESPONSIBILITY OR LIABILITY WHATSOEVER SHOULD A PORTABLE GENERATOR DURING A POWER OUTAGE NOT BE CONNECTED TO THE GRINDER PUMP STATION TO KEEP IT FROM OVERFLOWING OR BACKING UP.

The Association shall exclusively manage the maintenance, repair, and replacement of the Grinder Pump Stations and shall assess the costs of any such maintenance, repair, and replacement as Individual Assessments against each Lot or Lots containing Grinder Pump Stations, as applicable. Said costs may include recurring annual fees related to a service and availability contract, not attributable to any one Lot in particular, in which case said fees will be borne by all Lots with Grinder Pump Stations. Costs attributable to repair, replacement, or maintenance of a specific Grinder Pump Station shall be borne by the Lot on which the affected Grinder Pump Station sits. The Association shall have the right to contract with licensed and available third parties to provide for such maintenance, repair, and replacement. The right of the Association and its agents to enter onto a Lot to manage the maintenance, repair, and replacement of Grinder Pump Stations shall be consistent with the Association's easement for entry as provided for in Section 12.7.

In summary, the above-provisions of the amendment to the Declarations would make clear to current and prospective lot owners that certain lots will require the installation of grinder pumps and associated facilities ("Grinder Pump Stations"), that those lot owners shall own the Grinder

Pump Stations, be responsible for costs to install the Grinder Pump Stations, and be responsible for providing electric service to the Grinder Pump Stations. Further, the amendment to the Declarations would provide that Salters Haven, HOA, Inc., will have the exclusive right and responsibility to maintain, repair, and replace Grinder Pump Stations, the authority to assess lot owners for those costs, and the authority to contract with licensed and available third parties to accomplish such maintenance, repair, and replacement, with the attendant right to enter upon the lots where Grinder Pump Stations are situated. In addition, it is WLI Investments' intent to have a service contract in place with a qualified third party for the maintenance, repair, and replacement of Grinder Pump Stations before control of Salters Haven HOA, Inc., is transferred to the lot owner-members of the homeowners' association.

Again, it is WLI Investments' belief that structing the responsibility for Grinder Pump Stations in this manner eliminates any potential impact to the utility by providing clarity for the homeowners' association and the individual members that the HOA, and not the utility, is to be called upon for assistance with Grinder Pump Stations. WLI Investments presents this amendment as a model for accomplishing a resolution of the dispute related to the Lea Tract and would propose to replicate this arrangement with respect to those 30 lots.

CONCLUSION

In conclusion, WLI Investments will show the Commission that there is no operational, technical, or financial impact to Pluris by the presence and operation of Grinder Pump Stations within the Lea Tract wastewater collection system under the arrangement proposed. WLI Investments maintains that its rights as a party to this proceeding require the Commission to enter upon a hearing to resolve the factual and legal issues raised herein. However, prior to holding a hearing in this proceeding, WLI Investments further urges the Commission to hold proceedings on

WLI Investment's forthcoming complaint against Pluris because the facts and issues to be resolved in that case have a direct bearing on whether the transfer requested in the instant proceeding should be granted. WLI Investments is preparing its complaint for filing with the Commission in the near future. In the interim, WLI Investments requests that the Commission issue a temporary stay in these proceedings pending the resolution of the forthcoming complaint.

Based upon the foregoing, the evidence to be presented at the hearing in this matter, the proceedings to be held on the forthcoming complaint, and the resolution of the factual and legal issues raised herein and to be resolved in the forthcoming complaint, WLI Investments will respectfully request that the Commission-ordered outcome of this case be the issuance of an order that includes conditions on the approval of the requested transfer or other rulings and directives of the Commission to the effect that (1) the Lea Tract shall be included in the Service Area to be assigned to Pluris upon the Commission's written approval of the Application; (2) the Commission declares that Pluris' policy of refusing to accept wastewater collection systems that include grinder pumps and low-pressure facilities is unreasonable and unlawful and, therefore, directing Pluris to change that policy; (3) the Commission declare further that WLI Investments is permitted to install Grinder Pump Stations within the Lea Tract pursuant to the Development Agreement, and, therefore, directing Pluris and ONSWC to perform on the contract either as assignee or the primary obligor, respectively; (4) the Commission affirm WLI Investments' rights under the Development Agreement, including certain payments to be made to WLI Investments either by ONSWC as the obligor under the Development Agreement or by Pluris as an assignee obligated to perform on the Development Agreement; and (5) the Commission direct Pluris and ONSWC to cooperate with WLI Investments in seeking permits from NC DEQ for the wastewater collection system within

the Lea Tract, consistent with a standard of reasonable conduct for a public utility and pursuant to the obligations of the Development Agreement.

MOTION TO STAY PROCEEDINGS

In light of the foregoing, WLI Investments maintains that there are significant factual and legal issues pending before the Commission in this proceeding, which justice requires be resolved prior to the Commission taking further action on the joint application for transfer of the Franchise. In addition, there is the critical question of whether Pluris has exerted control over ONSWC prior to obtaining the Commission's approval of the transfer, in violation of N.C. Gen. Stat. §§ 62-110(a) and 62-111(a). A utility's record of compliance or noncompliance with the provisions of the Public Utilities Act has a direct and substantial bearing on the fitness of the utility to obtain a franchise by transfer. As noted above, WLI Investments is preparing its complaint against Pluris for filing with the Commission related to these issues. WLI Investments submits that the proceedings upon and the resolution of the forthcoming complaint is necessarily and appropriately had prior to taking further action on the joint application.

WHEREFORE, WLI Investments respectfully moves that the Commission enter an Order temporarily staying the proceedings on the joint application until WLI Investments' forthcoming complaint and the other issues raised in the foregoing Case Status Report are resolved.

Respectfully submitted this 9th day of December, 2021.

/s/ Patrick Buffkin
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COUNSEL FOR WLI
INVESTMENTS, LLC

VERIFICATION

D.I. Logan, Managing Member of WLI Investments, LLC states that he has read the attached Case Status Report and Motion to Stay Proceedings and that the facts stated therein are true of his personal knowledge, except such matters as are stated on information and belief, and as to those matters he believes them to be true.



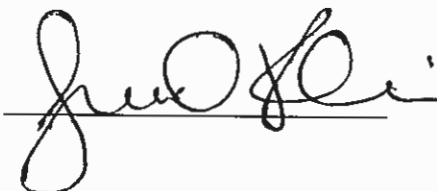
D.I. Logan, Managing Member, WLI Investments, LLC

Brunswick County, State of North Carolina

I certify that D.I. Logan personally appeared before me this day, proved his identity to me by satisfactory evidence, and acknowledged to me that he voluntarily signed the foregoing document for the purpose stated therein.

Date: December 9, 2021

Signature of Notary Public:

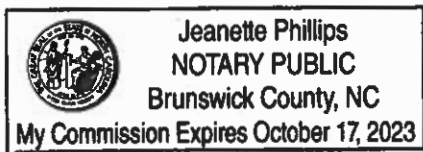


Printed Name of Notary Public:

Jeanette Phillips

(Official Seal)

My Commission Expires: October 17, 2023



CERTIFICATE OF SERVICE

The undersigned, Patrick Buffkin, certifies that a copy of the foregoing Case Status Report and Motion to Stay Proceedings has been served upon the parties of record in this proceeding by electronic mail this the 9th day of December, 2021.

/s/ Patrick Buffkin
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