

**COMPLAINT PROCEEDING
WLI INVESTMENTS, LLC v PLURIS HAMPSTEAD, LLC and OLD NORTH
STATE WATER COMPANY, LLC
DOCKET NO. W-1305, SUB 35
DOCKET NO. W-1300, SUB 77**

**DIRECT TESTIMONY OF JERRY H. TWEED
ON BEHALF OF PLURIS HAMPSTEAD, LLC**

November 4, 2022

1 Q. PLEASE STATE FOR THE RECORD YOUR NAME, ADDRESS, AND
2 PRESENT POSITION.

3 A. My name is Jerry H. Tweed. My address is 103 Redgate Drive, Cary, North
4 Carolina. I am a Utilities Engineer Consultant.

5

6 Q. BRIEFLY STATE YOUR QUALIFICATIONS AND EXPERIENCE RELATING
7 TO WATER AND SEWER OPERATIONS.

8 A. I am a graduate of The University of North Carolina at Charlotte with a
9 bachelor's degree in Civil Engineering. For over 40 years, until 2018 (when I
10 gave up my certificate) I was certified as a Grade IV Wastewater Treatment
11 Plant Operator. I was previously employed as a Utilities Engineer with the
12 Public Staff's Water and Sewer Division for over 16 years, nine of which were
13 as Division Director. I have also worked for three years with the Town of
14 Mooresville, North Carolina as superintendent of its wastewater treatment
15 facilities; for 1.5 years as Executive Vice President of Mid South Water
16 Systems, Inc.; and over 15 years as Vice President of Heater Utilities, Inc.
17 (Heater), with the last two companies being investor-owned for profit water

1 and sewer companies regulated by the North Carolina Utilities Commission
2 (Commission).
3

4 Q. DID PLURIS HAMPSTEAD, LLC (PLURIS) RETAIN YOU TO ASSIST IN ITS
5 DEFENSE OF THE COMPLAINT FILED IN THESE DOCKETS BY WLI
6 INVESTMENTS, LLC (WLI)?

7 A. Yes. I was asked specifically to review the service agreement between WLI
8 and Old North State Water Company, LLC and to address Pluris' preference
9 for a gravity sewer collection system over a grinder pump/low pressure
10 collection system.
11

12 Q. DID YOU READ THE CONTRACT BETWEEN ONSWC AND WLI
13 REGARDING THE PROVISION OF SEWER SERVICE TO 30 LOTS IN THE
14 EXTENDED SERVICE AREA IN SECTION 5 OF THAT CONTRACT?

15 A. Yes. Paragraph 5.3 provides as follows:

16 **ESA Wastewater Service Line.** *Developer, or Developer's*
17 *designee shall provide a ESA Wastewater Service Line to each*
18 *house within the ESA. This ESA Wastewater line shall consist*
19 *of a 4" wastewater service tap, a service pipe of adequate size*
20 *to serve the residence, a clean out at the easement or right of*
21 *way line, and an elder valve. Developer, or Developer's*
22 *designee, shall use its best efforts to ensure that its*
23 *employees, contractors and subcontractors under its control do*
24 *not break, damage or bury these cleanouts.*
25

26 Q. WHEN YOU WERE VICE PRESIDENT OF HEATER DID HEATER USE
27 LANGUAGE IN ITS SERVICE AGREEMENTS WITH DEVELOPERS THAT

1 WAS SUBSTANTIALLY IDENTICAL TO THE LANGUAGE IN SECTION 5.3
2 OF THE ONSWC CONTRACT QUOTED ABOVE?

3 A. Yes, with a few exceptions it appears to me that ONSWC or its contractor
4 EnviroLink basically copied/adopted this language from Heater's form
5 developer agreement.

6
7 Q. HOW IS IT THAT YOU ARE FAMILIAR WITH THE CONTRACT LANGUAGE
8 HEATER USED?

9 A. I was responsible for Heater's wastewater operations for 15 years and
10 drafted or reviewed many contracts for sewer service and sewer service
11 extensions. Heater's standard language for a gravity sewer connection in
12 those contracts was as follows:

13 Wastewater Service to Each Lot
14 *Developer shall provide a wastewater service to each*
15 *residence. This service shall consist of a wastewater service*
16 *tap, a service pipe of adequate size to serve the residents and*
17 *clean out at the easement or right of way line. Developer shall*
18 *use its best efforts to ensure that its employees, contractors*
19 *and subcontractors under its control do not break, damage or*
20 *bury these cleanouts.*

21 With minor changes, the language in Section 5.3 of the ONSWC contract,
22 including the references to a "*Developer's Designee*", the "ESA", insertion of
23 "4'" as the service tap size (4" is the standard residential service lateral size
24 and Heater used 4" diameter pipe), and reference to an "*elder valve*," which
25 can be installed by a utility in its portion of a gravity line to be able to
26 disconnect service for nonpayment, is identical to the standard language
27 used by Heater for years prior to the creation of ONSWC. It is apparent to

1 me that ONSWC or EnviroLink used Heater's standard contract language to
2 establish its standard contract language.

3

4 Q. DOES THE HEATER CONTRACT LANGUAGE REFER TO A GRAVITY TAP
5 OR COULD IT ALSO COVER A TAP FOR SERVICE FROM A GRINDER
6 PUMP/PRESSURE COLLECTION SYSTEM?

7 A. No, this language refers to a tap connecting to a gravity collection system. In
8 all of the Heater development agreements using this language over the
9 years, all of the subject systems were gravity collection systems. The
10 developer would install a gravity collection main in the street and extend a 4
11 inch service lateral and gravity service tap at the property/lot line and install a
12 clean out at that point. The homebuilder would install a 4 inch customer
13 service line from the house and connect that line to the service tap installed
14 by the developer. Because of issues with grinder pumps, Heater had a policy
15 similar to that of Pluris of not accepting grinder pumps where gravity systems
16 could be used. Heater did not accept any grinder pump systems during my
17 15 years with Heater.

18

19 Q. TO BE CLEAR, WHY DO YOU CONSIDER THE LANGUAGE IN SECTION
20 5.3 OF THE ONSWC-WLI AGREEMENT TO NOT BE CONSISTENT WITH
21 USE OF A GRINDER PUMP/LOW PRESSURE SYSTEM?

22 A. That language describing what comprises an "ESA Wastewater Service
23 Line," like the Heater contract language cited above, calls for features in the

1 line connecting a residence to the serving utility's main that are consistent
2 with gravity collection systems and I believe inconsistent with pressure
3 collection systems.

4

5 Q. WHAT ARE THE FEATURES OF THE ESA WASTEWATER SERVICE LINE,
6 AS THAT TERM IS DEFINED IN THE ONSWC-WLI AGREEMENT, THAT
7 ARE CONSISTENT WITH A GRAVITY COLLECTION SYSTEM?

8 A. First, a "4" wastewater service tap" refers to the point at which the service
9 line or lateral from the residence physically connects to the serving utility's
10 main located in or near the street. I believe that the pipe running from a
11 grinder pump to the utility's main would be a 1½ or 2 inch diameter line, not 4
12 inches, as is used in a gravity system. Second, a "clean out at the easement
13 or right of way line" is also a feature that I do not believe would be present in
14 a pressurized grinder pump collection system. Inclusion of a clean out in the
15 line is consistent with a gravity collection system.

16

17 Q. WHILE EMPLOYED BY THE PUBLIC STAFF WHAT WAS YOUR
18 OBSERVATION OF PUBLIC STAFF EMPLOYEES' GENERAL VIEW
19 TOWARD GRINDER PUMP LOW PRESSURE COLLECTION SYSTEMS AS
20 OPPOSED TO GRAVITY COLLECTION SEWER SYSTEMS?

21 A. Public Staff personnel much preferred gravity systems, especially in
22 instances where the grinder pump maintenance was to be the responsibility
23 of the customer. This was also a concern of the State Division of

1 Environmental Health (DEH). A grinder pump system adds a burden to the
2 customer and it is not assured that the customer will be fully aware of the
3 added responsibility at the time of purchasing the home. The customer being
4 responsible for the grinder pump caused concern for both the DEH and
5 Public Staff regarding increased possibility of an overflow in the event of
6 pump failure or adverse weather and power outages. There is the further
7 problem of the equity of a grinder pump customer having to pay the same
8 sewer bill to the Utility as a gravity customer while incurring an additional
9 expense associated with the grinder pump.

10

11 DOES THIS CONCLUDE YOUR TESTIMONY?

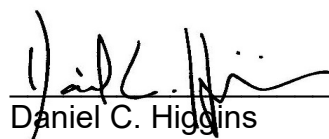
12 A. Yes.

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing document has been served on counsel of record for all parties in these dockets, and the Public Staff, by either depositing same in a depository of the United States Postal Service, first-class postage prepaid and mailed by the means specified below, or by electronic delivery.

This the 4th day of November, 2022.

BURNS, DAY & PRESNELL, P.A.

A handwritten signature in black ink, appearing to read "Daniel C. Higgins", is written over a horizontal line.

Daniel C. Higgins
Julia Kirkpatrick
Post Office Box 10867
Raleigh, NC 27605
Tel: (919) 782-1441
Email: dhiggins@bdppa.com
Attorneys for Pluris Hampstead, LLC