

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH
Docket No: W-1297, Sub 14**

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

MRT-1, LLC,)	
)	
Complainant,)	
)	
v.)	RESPONSE TO FILINGS OF COMPLAINANT
)	
HARKERS ISLAND SEWER COMPANY,)	
)	
Respondent.)	

NOW COMES Respondent Harkers Island Sewer Company (“HISCO”), by and through counsel, and responds to the “Response to Motion to Continue” filed by Complainant MRT-1, LLC on the afternoon of April 13, 2021, as follows:

1. Complainant’s filed response violates the spirit, if not the express provisions of the North Carolina Rules of Evidence encouraging confidential settlement discussions. Now that Complainant and its counsel have injected such into public filings, counsel for Respondent believes that it must publicly set the record straight.

2. In prior communications and telephone conversations over the past five days, the undersigned counsel for Respondent made it clear to counsel for Complainant that he (counsel for Respondent) had made a mistake in neglecting to inform counsel for Complainant of a prior telephone call to counsel for Respondent from counsel for the Public Staff. Suffice it to say that counsel for Respondent personally apologized to counsel for Complainant for failing to recall his earlier conversation with counsel for the Public Staff during recent confidential settlement discussions. When counsel for Respondent issued his personal and professional apology to counsel for Complainant, he (the undersigned counsel for Respondent) made it clear that his communication error was not attributable to his client relative to settlement discussions in that he had **not** informed his client (Respondent HISCO) of the telephone call received from counsel for the Public Staff at the time his client had made a settlement proposal to Complainant.

3. The undersigned counsel for Respondent does not think it appropriate to disclose further details regarding these confidential settlement conversations, but does very much want the Commission to know that the allegations contained in Complainant's recently filed "Response to Motion to Continue" are inaccurate and inappropriate as to the knowledge, motives and/or intentions of Respondent HISCO itself. The undersigned counsel for Respondent respectfully requests that the Commission not punish Respondent HISCO for the unfortunate and unintentional communication error made by its counsel during confidential settlement discussions with counsel for Complainant – an error that is now being, in the opinion of the undersigned, brandished as an inappropriate weapon against the undersigned's client, to the detriment of not only the undersigned's client, but the confidential settlement process itself.

4. It is rather ironic that all the back and forth by counsel for Complainant disclosing confidences tied to settlement discussions is taking place in the absence of any formal filing to-date in this matter by the Public Staff – which anticipated filing was/is itself one of the bases for Respondent's earlier filed motion to continue hearing which Respondent reiterates its support for the granting of here.

5. Finally, in light of the apparent absence of constructive communications from counsel for Complainant, as evidenced by both the filing made earlier this afternoon, as well as said counsel's earlier filed motion seeking sanctions based on the undersigned's honoring of the sacred Easter Good Friday Holiday, both personally and relative to his law office staff, the undersigned counsel for Respondent respectfully requests that the Commission consider holding a Prehearing Conference in accordance with the provisions of G.S. 62-69 and Rule R1-20. Perhaps in that setting the focus can return to the substantive matters at issue in this proceeding, as opposed to efforts to sanction Respondent for honoring Good Friday, or for the honest communication error made – and apologized for – by the undersigned counsel for Respondent.

6. With regard to the substance of the issues raised and joined in this matter, it remains the opinion of the undersigned that this matter could – and should - settle if ordered to formal mediation, or to an informal prehearing conference – and especially so if all involved were required to meet face to face in a COVID19 compliant manner.

Respondent HISCO therefore renews its request that the Commission issue an order continuing the

scheduled April 27, 2021 hearing, and issue further orders designed to require the parties to address and seek in good faith to resolve the substantive matters at issue in this case.

This the 14th day of April, 2021.

Electronically submitted

/s/ I. Clark Wright, Jr., NCSB #11163

N.C. Bar No. 11163

For the Firm of

DAVIS HARTMAN WRIGHT PLLC

209 Pollock Street

New Bern, NC 28560

Telephone: (252) 514-2828

Facsimile: (252) 514-9878

Email: icw@dhwlegal.com

Attorneys for Respondent HISCO

CERTIFICATE OF SERVICE

I certify that I have this day served a copy of the foregoing MOTION TO CONTINUE HEARING on the parties of record by electronic mail addressed as follows:

Andrew D. Irby, Esq.
Roberson Haworth & Reese, PLLC
airby@rhrlaw.com

This the 14th day of April, 2021.

Electronically submitted

/s/ I. Clark Wright, Jr., NCSB #11163

N.C. Bar No. 11163

For the Firm of

DAVIS HARTMAN WRIGHT PLLC

209 Pollock Street

New Bern, NC 28560

Telephone: (252) 514-2828

Facsimile: (252) 514-9878

Email: icw@dhwlegal.com

Attorneys for Respondent HISCO