

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

Docket No.: W-1297, Sub 14

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

MRT-1, LLC,

Complainant,

v.

HARKERS ISLAND SEWER COMPANY,

Respondent.

)
)
)
)
)
)
)
)
)
)
)

**RESPONSE TO MOTION TO
CONTINUE HEARING
FILED BY RESPONDENT**

NOW COMES Complainant MRT-1, LLC, by and through counsel, and hereby responds to the Motion to Continue Hearing filed by Respondent on April 13, 2021 in the above-referenced proceeding (the “Motion”).

Complainant hereby respectfully opposes the Motion. The Parties collectively agreed to a hearing date of April 27-28 via email dated December 11, 2021. Complainant, and Complainant’s attorney, have honored the quick discovery period and appropriately uploaded and responded as ordered by the Commission. The hearing date is not a surprise, and was selected after more than a year of the parties exchanging communications regarding the dispute at issue.

In addition to the foregoing, Complainant respectfully disputes the contents of Paragraph 6 of the Respondent’s Motion. Respondent did, in fact, approach Complainant with a settlement overture. While Complainant initially contemplated the offer presented by Respondent, such has been conclusively rejected as of the date of filing of this Response. Furthermore, Complainant ultimately rejected such offer not because the Public Staff indicated that it would oppose the

settlement framework presented. Rather, at the time Respondent submitted the settlement offer in question to Complainant, counsel for Respondent had knowledge of a material fact that Counsel for Complainant did not – some period of time prior to submitting the offer in question, the Public Staff informed Respondent (but not Complainant) of a pending Intervention by the Public Staff, and an accompanying anticipated Recommendation by the Public Staff, supporting the relief requested by Complainant that Respondent provide wastewater treatment service to the Complainant's James Creek Subdivision. Complainant only learned of the anticipated intervention and recommendation when informed by the Public Staff at a later date. As such, Complainant does not believe the very short-lived settlement discussions caused any delay in the Parties' respective preparations for trial (the short-lived discussions certainly did not affect the Respondent's preparations, as Respondent was in possession of facts not known to Complainant), and do not constitute good cause to allow the Motion.

Finally, the status of Complainant's development plan does not affect when a hearing in the above-captioned matter should take place. Complainant can only invest in a development plan for the James Creek subdivision once the Commission determines the manner in which wastewater services are to be provided to the James Creek Subdivision. Accordingly, such does not constitute good cause to continue the presently scheduled hearing.

This the 13th day of April, 2021.

Electronically submitted

/s/ Andrew D. Irby, NCSB # 35353
Attorney for MRT-1, LLC

OF COUNSEL:

ROBERSON HAWORTH & REESE, PLLC
300 N. Main Street; Suite 300

P.O. Box 1550
High Point, NC 27261
Telephone: 336-889-8733
Facsimile: 336-885-1280
Email: airby@rhrlaw.com

CERTIFICATE OF SERVICE

I certify that I have this day served a copy of the foregoing Response to Motion to Continue on the parties of record by electronic mail to the following:

I. CLARK WRIGHT, JR.
DAVIS HARTMAN WRIGHT, PLLC
209 Pollock Street
New Bern, NC 28560
Email: icw@dhwlegal.com
Attorney for Respondent HISCO

This the 13th day of April, 2021.

Electronically submitted

/s/ Andrew D. Irby, NCSB # 35353
Attorney for MRT-1, LLC