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April 15, 2021

F. KENT BURNS – RETIRED

Filed Electronically

Ms. Kimberley A. Campbell
Chief Clerk
North Carolina Utilities Commission
430 N. Salisbury Street
Raleigh, N.C.

Re: Transfer of Majestic Oaks, Majestic Oaks West, Southside Commons (f/k/a Grey Bull), and Salter's Haven at Lea Marina Service Areas to Pluris Hampstead, LLC
Docket Nos.: W-1305, Sub 29 and W-1300, Sub 69

Dear Ms. Campbell:

I write as counsel for Pluris Hampstead, LLC ("Pluris") to briefly address the letter from counsel for WLI Investments, LLC, d/b/a Logan Developers ("WLI") filed with the Commission on April 7, 2021, requesting a hearing in these dockets. These dockets concern the request for Commission approval of the transfer of the franchise and certain utility assets of Old North State Water Company, LLC ("ONSWC") to Pluris.

Pluris has reviewed the Agreement between ONSWC and WLI filed in Docket W-1300, Sub 56 in connection with ONSWC's Notice of Contiguous Extension. That Agreement concerns ONSWC's provision of sewer service to WLI's Salters Haven at Lea Marina subdivision ("Subdivision"). That Agreement reflects that WLI has "has committed 30 of the 338 REUs to an area outside of the Subdivision and has committed to construction of the Wastewater Collection necessary to serve these 30 REUs." This area "outside of the Subdivision" is referred to in the Agreement as the Extended Service Area or "ESA" (Section 1.12), and is known to all of these parties as the Lea Tract. WLI's Petition to Intervene in these dockets also refers to an "additional 30 residential units requiring wastewater service, which are included in the Agreement but are not part of the Subdivision." As is typical, under this Agreement WLI, as the developer, is obligated to install the wastewater collection system infrastructure to serve the development.

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WLI wants to install a low pressure system to provide sewer service in the Lea Tract and it contends that the Agreement with ONSWC allows it to do so. This is referred to in the April 7 letter as an “obligation of the contract.” WLI stated in its Petition to Intervene that discussions and emails between WLI and ONSWC prior to the execution of the contract would allow for the possibility of using a low pressure system to serve the 30 ESA lots. While Pluris was not party to whatever discussions may have preceded the execution of the Agreement between ONSWC and WLI in December 2018 (and filed in Docket W-1300, Sub 56), Pluris does not read that Agreement as providing for use of a low pressure system in the ESA. To the contrary, the definition of “Off-site Wastewater Collection System” in Section 1.26 and the language of Section 5.2 of the Agreement provide for installation of a pump station and force main in the ESA and do not mention the use of pressure lines to serve the ESA area.

With regard to WLI’s allegations regarding alleged discussions prior to execution of the Agreement, Pluris notes that Section 17.2 of the Agreement is a merger clause providing that the Agreement “embodies the entire agreement and understanding between the Parties hereto and there are no other agreements or understandings, oral or written, with reference to the subject matter hereof that are not merged herein and superseded hereby.” This contractual language makes clear that the Agreement reflects the complete agreement between WLI and ONSWC, and any prior understandings or communications are superseded by their written contract. Any attempt to enlarge or vary the terms of the Agreement is barred by the merger clause set forth in Section 17.2.

Finally, as the proposed transferee of the ONSWC franchise and assets which are the subject of the Transfer Application filed in these dockets, Pluris has advised WLI’s counsel that Pluris will not agree to the installation of a low pressure system to serve the ESA. Pluris appreciates that WLI would prefer to avoid the cost of installing the lift station provided for in Section 5.2, but based on its experience in dealing with such systems elsewhere, and the inevitable issues with the grinder pumps necessitated by such systems, Pluris does not favor use of low pressure systems and will not willingly agree to installation of low pressure systems.

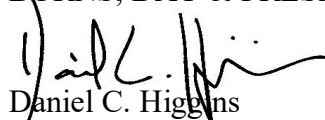
In conclusion, given the plain language of the Agreement filed with the Commission in Docket W-1300, Sub 56, Pluris submits that no purpose, other than delay, would be served by holding a hearing on the issues WLI now raises.

As always, please contact me if you or the Commission have any questions regarding this filing.

With best regards, we remain

Sincerely yours,

BURNS, DAY & PRESNELL, P.A.



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