

NORTH CAROLINA UTILITIES COMMISSION
MINUTES OF REGULAR COMMISSION STAFF CONFERENCE

April 5, 2021

The Regular Commission Staff Conference of the North Carolina Utilities Commission was held on Monday, April 5, 2021, at 10:00 a.m., with Chair Mitchell, presiding. The remote meeting was conducted by use of simultaneous communication (via Webex) pursuant to N.C. Gen. Stat. § 166A-19.24, streamed live online, and available to the public.

The following were present during the entirety of the remote meeting:

COMMISSIONERS

Commissioner Brown-Bland
Commissioner Gray
Commissioner Clodfelter
Commissioner Duffley
Commissioner Hughes
Commissioner McKissick

COMMISSION STAFF: Ms. Lazo, Mr. Watson, Ms. Jarvis, Mr. Mertz, Ms. Fennell, Ms. Harrod, Ms. Swenson, Ms. Hilburn, Ms. Paschal, Ms. Jayasheela, Mr. Hardy, Mr. McCoy

PUBLIC STAFF: Ms. Downey, Ms. Edmondson, Ms. Coxton, Mr. Henry, Mr. Lucas, Mr. Lawrence, Mr. Furr, Ms. Casselberry, Ms. Darden, Ms. Junis, Ms. Proffitt, Mr. Franklin

ATTORNEY GENERAL:

COURT REPORTER: Ms. Mitchell

COMMISSION STAFF**P1. DOCKET NO. E-7, SUB 1017 – INVESTIGATION REGARDING THE APPROVAL AND CLOSING OF THE BUSINESS COMBINATION OF DUKE ENERGY CORPORATION AND PROGRESS ENERGY, INC.**

On December 12, 2012, the Commission approved a Settlement Agreement among Duke Energy Corporation (Duke), the Public Staff, and the Commission Staff arising out of the Commission's investigation into the merger of Duke and Progress Energy, Inc. Section II.B of that Settlement Agreement required Duke to create and maintain a committee of the Board of Directors, the Regulatory Policy and Operations Committee, to meet with and discuss activities and actions with the Commission and to then advise the Duke Board of the content of the discussions it had with the Commission.

After further discussions between Duke, the Public Staff, and the Commission Staff, the settling parties have agreed to an amendment to the Settlement Agreement that reflects a change in the committee organization of the Duke Energy Board of Directors while retaining the previously agreed upon open line of communication between the Commission and Duke's Board. The Corporate Governance Committee of the Board, which is currently and traditionally chaired by the lead independent director, will assume the responsibility of periodically or upon request meeting with the Commission and then advising the full Board of the content of the discussions. The remaining provisions of the Settlement Agreement will continue unchanged.

The Commission Staff considers the amendment to the Settlement Agreement to be in the public interest and to maintain, if not improve, the Commission's access to the Board and the level of attention of the Board to the Commission and to the regulatory obligations of Duke's utility subsidiaries in North Carolina.

The recommended amendment was filed in this docket on March 26, 2021.

The Commission Staff recommended that the Commission issue an order approving the amendment to the Settlement Agreement.

It was moved and passed that the Commission Staff's recommendation be adopted.

PUBLIC STAFF**ELECTRIC****P1. APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY TO CONSTRUCT SOLAR FACILITIES**

The following applications seek certificates of public convenience and necessity for construction of a solar photovoltaic (PV) electric generating facilities, pursuant to N.C. Gen. Stat. § 62-110.1 and Commission Rule R8-64.

Duke Energy Progress:

- Docket No. SP-8753, Sub 0 – Application of Marley Solar, LLC, for an amended certificate of public convenience and necessity to construct a 75-MW solar PV facility in Lenoir County, North Carolina. (registration statement issued previously)
- Docket No. SP-19387, Sub 0 – Application of Olin Creek Farm Solar, LLC for a certificate of public convenience and necessity to construct a 35-MW solar PV facility in Iredell County, North Carolina

The Public Staff has reviewed the applications and determined that they comply with the requirements of N.C.G.S. § 62-110.1 and Commission Rule R8-64.

The Public Staff recommended that the Commission issue orders approving the applications and issuing the requested certificates for the facilities. Proposed orders have been provided to the Commission Staff.

It was moved and passed that the Public Staff's recommendation be adopted.

E. WATER**P1. DOCKET NO. W-218, SUB 537 – AQUA NORTH CAROLINA, INC. – APPLICATION FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY**

On August 11, 2020, Aqua North Carolina, Inc. (Aqua), filed an Application for a Certificate of Public Convenience and Necessity and for Approval of Rates (Application) to provide water and sewer utility service in The Enclave at City Parks subdivision in Mecklenburg County, North Carolina. Aqua filed amendments to the Application on February 19, February 23, and February 25, 2021. Aqua proposes to charge the rates currently approved for its other franchised service areas where bulk water and sewer

utility service is purchased from the City of Charlotte. The service area is shown on plans filed with the application.

The North Carolina Department of Environmental Quality, Division of Water Resources, Public Water Supply Section, issued a plan approval letter for The Enclave at City Park, part of Water System No. NC2060100. The plans are approved under serial number 20-00590, dated September 8, 2020.

The North Carolina Department of Environmental Quality, Division of Water Resources, issued permit number WQ0041155, dated January 6, 2020, for the construction and operation of The Enclave at City Park, wastewater collection system extension.

Aqua entered into an agreement dated July 27, 2020, with Price Lane Charlotte, LLC (Developer), under which Developer is installing the water and wastewater utility systems (Agreement). Aqua is acquiring the wastewater system from Developer at no cost. Aquas requesting a one-time meter installation fee of \$70 for water service, to be paid by the builder or person first requesting service to a particular lot. Aqua is purchasing the watersystem from Developer for \$1,600 per single-family residential equivalent,¹ payable quarterly based upon the number of water service meters installed during the previous quarter.

The Agreement states that prior to closing, Developer shall pay to Aqua the grossed-up tax payment applicable to contributions in aid of construction. Aqua will not close and will not provide services until it receives the grossed-up tax payment.

Aqua presently holds water franchises serving approximately 82,000 customers and wastewater franchises serving approximately 20,000 customers in North Carolina. Aqua's record of service is satisfactory.

Aqua has filed all exhibits required with the Application.

Based on the foregoing, the Public Staff is of the opinion that Aqua has the technical, managerial, and financial capacity to provide water and sewer utility service in this franchise location and recommends that the certificate of public convenience and necessity be issued. The Public Staff further recommends that the Commission require posting of a \$20,000 bond for the franchise in The Enclave at City Park. Aqua currently has \$13,000,000 of bonds posted with the Commission, which includes enough unassigned funds to provide the bond recommended in this docket.

¹ Pursuant to the Agreement, the Developer pays at closing the gross up on the entire certified cost of the water and sewer systems constructed by the Developer and contributed to Aqua. Due to this upfront payment by the Developer, pursuant to the Agreement, when purchase price payments are subsequently made by Aqua to the Developer as customer connections are made, Aqua reimburses the Developer for the gross up previously paid on contributions in aid of construction.

The Public Staff recommended that the Commission issue the proposed order granting the franchise and approving rates.

It was moved and passed that the Public Staff's recommendation be adopted.

P2. DOCET NO. W-1305, SUB 28 – PLURIS HAMPSTEAD, LLC - NOTIFICATION OF INTENTION TO BEGIN OPERATIONS IN CONTIGUOUS SERVICE AREA

On February 5, 2021, Pluris Hampstead, LLC (Pluris Hampstead or Company), filed a Notification of Intention to Begin Operations (Notification) to provide sewer utility service at Coastal Plantation, Phase IV, which is contiguous to the Company's existing service area in Coastal Plantation (Community) in Pender County, North Carolina. The Company proposes to eventually service 138 residential customers, a pool complex, and a fitness center.

On February 24, 2021, Pluris Hampstead amended its application to request that customers in the new service area be subject to the rates approved in Docket No. W-1305, Sub 12. Those rates went into effect on November 13, 2020.

The North Carolina Department of Environmental Quality, Division of Water Resources, issued Permit No. WQ0040752 to Pluris Hampstead. The permit was dated May 8, 2019, and authorized the construction and operation of approximately 8,528 linear feet of 8-inch gravity sewer, a 68-gallon per minute pump station, and approximately 1,440 linear feet of 3-inch force main to serve 138 two-bedroom residences, a pool complex, and a fitness center with a total potential discharge of 20,810 gallons per day of collected domestic wastewater into Pluris Hampstead's existing sewerage system.

Pluris Hampstead entered into an Agreement for Sanitary Sewer Service (Agreement), dated September 9, 2016, with Jensen's Inc. (Developer) that requires (1) the Developer to construct and install the complete wastewater collection system throughout the Community at no cost to Pluris Hampstead, and (2) Pluris Hampstead to construct or reconstruct the Community's existing lift stations and an interconnect pipeline from the lift stations to Pluris Hampstead's existing force main, which connects to its wastewater treatment plant. Developer is also paying a one-time reuse water return fee of \$700 per connection payable to Blake Farm Pond, LLC, at the time of connection.

Pluris Hampstead is requesting a one-time connection fee of \$1,067 per two-bedroom residence upon application for service and prior to service being provided. The builder or person first requesting service at a particular lot is responsible for the connection fee.

On August 26, 2019, in Docket No. W-100, Sub 57, the Commission issued its Order Addressing Federal Income Taxes on Contributions in Aid of Construction. Ordering paragraph 2 of that Order provides that “all certificated water and wastewater companies shall collect from contributors the income tax on [Contributions in Aid of Construction] for new contributions contracted for on or after October 5, 2018, using the full gross up method.”

The Agreement between Pluris Hampstead and the Developer was executed on September 9, 2016, and, as such, is not subject to the full gross-up requirements in the Commission’s August 26, 2019 Order.

Pluris Hampstead serves approximately 436 residential and 69 commercial sewer customers in North Carolina. Its record of service is satisfactory.

Pluris Hampstead has filed all exhibits required with the Notification.

Based on the foregoing, the Public Staff is of the opinion that Pluris Hampstead has the technical, managerial, and financial capacity to provide sewer utility service in Coastal Plantation, Phase IV and recommends that the contiguous extension be recognized. The Public Staff recommends that the Commission require posting of bond in the amount of \$10,000 for the contiguous extension. Pluris Hampstead currently has \$500,000 of bonds posted with the Commission. Of this amount, \$120,000 of bond surety is assigned to specific subdivisions, and \$380,000 of bond surety is unassigned.

The Public Staff recommended that its proposed order be issued accepting and approving bond; recognizing the contiguous extension; and approving rates.

It was moved and passed that the Public Staff’s recommendation be adopted.

P3. DOCKET NO. W-1305, SUB 29 – PLURIS HAMPSTEAD, LLC, AND DOCKET NO. W-1300, SUB 69 – OLD NORTH STATE WATER COMPANY, LLC – MOTION TO ALLOW BULK WASTEWATER TREATMENT SERVICE BY PLURIS HAMPSTEAD

On October 9, 2020, Pluris Hampstead, LLC, (Pluris Hampstead) filed a joint application with Old North State Water Company, LLC (ONSWC), seeking authority to acquire the sewer systems serving Majestic Oaks and Hampstead Shopping Center, Southside Commons (formerly Grey Bull), Majestic Oaks West, and Salter’s Haven at Lea Marina (collectively, the “Service Area”) in Pender County, North Carolina. The application stated that there are 171 customers. Pending before the Commission under Docket No. W-1300, Sub 20, and Docket No. W-1300, Subs 30 and 56, respectively, are an Application for a Certificate of Public Convenience and Necessity and a Notification of Contiguous Extensions involving Southside Commons, Majestic Oaks West, and Salter’s Haven at Lea Marina.

On January 8, 2021, Pluris Hampstead amended its application to reflect the correct current and proposed residential sewer flat rate of \$56.40, previously approved by the Commission in Docket No. W-1300, Sub 11, and provide documentation in support of its joint application. On January 27, 2021, Pluris Hampstead filed the Asset Purchase Agreement (APA).

On February 9, 2021, the Commission issued an Order requiring Customer Notice, stated that the matter may be determined without scheduling a public hearing, if no significant protests are received from consumers on or before March 26, 2021.

The APA provides that Pluris Hampstead will purchase from ONSWC the wastewater utility assets that serve or will serve the properties in the Service Area. The APA further provides that ONSWC will retain ownership of the wastewater treatment plant (WWTP) located in the Majestic Oaks development, and will provide transitional wastewater treatment services to Pluris Hampstead for at least 150 days after the closing of the APA; during which time Pluris Hampstead will construct a lift station and facilities necessary to interconnect the collection systems in the Service Area to Pluris Hampstead's force main. Wastewater collected from the properties in the Service Area will be treated at Pluris Hampstead's membrane bio-reactor WWTP plant in Hampstead, North Carolina.

Due to significant regulatory compliance issues with the used ONSWC WWTP, on March 4, 2021, ONSWC and Pluris Hampstead entered into a First Amendment to APA (First Amendment), providing that after receiving Division of Water Quality approval, Pluris Hampstead will construct the lift station and other facilities necessary to establish the interconnection to the Pluris Hampstead WWTP prior to the closing of the APA so that Pluris Hampstead can provide bulk wastewater treatment service to ONSWC. The First Amendment provides ONSWC shall maintain the collection systems serving the properties in the Service Area in compliance with all applicable regulatory and regulations and requirements.

On March 17, 2021, ONSWC filed a Motion requesting approval for bulk wastewater treatment by Pluris Hampstead for the Service Area, and on March 31, 2021, ONSWC filed a Second Amendment to the APA, clarifying the bulk rate for sewer treatment.

The proposed bulk rate for sewer treatment is ONSWC's current monthly rates approved in Docket No. W-1300, Sub 11, and Docket No. M-100, Sub 138, effective February 15, 2015, calculated based on the total number of ONSWC customers served by ONSWC per month, during the period Pluris Hampstead provides bulk sewer services to ONSWC. Therefore, the bulk rate will not impact the monthly rates paid by the customers.

The Public Staff has reviewed the APA and the Amendments, is of the opinion that allowing Pluris Hampstead to provide bulk sewer treatment for the Service Area during the interim is in the best interest of customers, and therefore recommends that the Motion be granted and that the bulk rate for sewer treatment should be approved.

The Public Staff recommended that its proposed order be issued granting the Motion and approving the bulk rate for sewer treatment.

It was moved and passed that the Public Staff's recommendation be adopted.

Minutes of the Regular Commission Staff Conference for March 29, 2021, were approved.

Minutes prepared by Portia Barnes.