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PAUL RENNER
*Speaker of the House of
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November 15, 2023

VIA: ELECTRONIC FILING

Adam Teitzman
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Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 20230083-WS – Application for Increase in Water and Wastewater Rates in Orange County by Pluris Wedgefield, LLC; Public Counsel’s Corrected letter recommending a reduction in the statutorily required interim rates.

On September 22, 2023, Pluris Wedgefield, LLC (Pluris or Utility) filed the minimum filing requirements (MFRs) for the above-referenced docket. Section 367.082(2)(a), F.S., states that, in a proceeding for an interim increase in rates, the Commission shall authorize, within 60 days of the filing for such relief, the collection of rates sufficient to earn the minimum of the range of rate of return calculated in accordance with subparagraph (5)(b)2. The difference between the interim rates and the previously authorized rates shall be collected under bond, escrow, letter of credit, or corporate undertaking subject to refund with interest at a rate ordered by the Commission.

Section 367.082(2)(b), F.S., states that, in a proceeding for an interim decrease in rates, the Commission shall authorize, within 60 days of the filing for such relief, the continued collection of the previously authorized rates; however, revenues collected under those rates sufficient to reduce the achieved rate of return to the maximum of the rate of return calculated in accordance with subsection (5) shall be placed under bond, escrow, letter of credit, or corporate undertaking subject to refund with interest at a rate ordered by the Commission.

Section 350.0611(1), F.S., states that the Public Counsel shall have the powers to recommend to the Commission in any proceeding and urge therein any position deemed to be in the public interest. Section 350.0611(4), F.S., states that the Public Counsel shall have the powers to prepare

and issue recommendations to the Commission on any matter or subject within the jurisdiction of the Commission. Section 367.082 (5)(b)1., Florida Statutes (F.S.), states:

‘Achieved rate of return’ means the rate of return earned by the company for the most recent 12-month period. The achieved rate of return shall be calculated by applying appropriate adjustments consistent with those which were used in the most recent individual rate proceeding of the utility or regulated company and annualizing any rate changes occurring during such period.

(Underline emphasis added)

The following are interim adjustments in accordance with Section 367.082(5)(b)1., F.S., that OPC respectfully submits for the Commission’s consideration. *The original November 13, 2023 letter has been corrected to clarify that the OPC is only recommending a limitation in the interim rates required by law.*

Non-Used and Useful Adjustments

Pluris only reflected wastewater non-U&U adjustments of (\$8,648) to rate base (\$845) to depreciation expenses related to its wastewater treatment plant. However, the Utility failed to make interim non-U&U adjustments for its water distribution and wastewater collection systems. Pursuant to MFR Schedule F-5 and consistent with the Utility’s last rate case, the Used and Useful (U&U) percentage for Pluris’ water distribution and wastewater collection systems should be 92.20% $[(1,669+63)/1,911]$ which results in a 7.80% non-U&U percentage for interim purposes. In the last rate case for the distribution and collection systems, the Commission applied the non-U&U percentage to water accounts distribution reservoirs (330.4) and transmission & distribution mains (331.4) and wastewater accounts power generation equipment (355.2), collection sewers – force (360.2), collection sewers – gravity (361.2), services to customers (363.2), and flow measuring devices (364.2). Unlike the last rate case, the Utility now has a \$60,055 water balance for structures & improvements (304.4) for which the non-U&U percentage should be applied. Also, unlike the last rate case, the Utility now has a \$15,016 wastewater balance for structures & improvements (354.2) for which the non-U&U percentage should be applied. Based on the above, there should water non-U&U adjustments of (\$37,252) to rate base, (\$2,504) to depreciation expenses, and (\$499) to property taxes related to its distribution system, and wastewater non-U&U adjustments of (\$54,022) to rate base, (\$3,610) to depreciation expenses, and (\$2,210) to property taxes related to its collection system.

Working Capital Allowance

Rule 25-30.433(3), F.A.C., requires Class A utilities shall be calculated it working capital using the balance sheet approach. Rule 25-30.433(5), F.A.C., states, in pertinent part, that the averaging method used by the Commission to calculate rate base and cost of capital shall be a 13-month average for Class A utilities. On MFR Schedules A-18 and A-19, Pluris reported current assets of \$1,074,130 and current & accrued liabilities of \$7,130,109 which yields a negative working capital allowance of \$6,055,979. However, on MFR Schedule A-17 for both final and interim, the utility

reduced its current & accrued liabilities by \$3,046,154 for accrued legal settlement and \$3,786,184 for accounts payable – associated companies. For interim purposes, these adjustments are inappropriate because they're normalization adjustments to the historical test year that are pro forma in nature which can be addressed in Pluris' final rate request.¹ In addition, these adjustments would subvert the historical 13-month average balance requirement for interim purposes. As stated above, the historical 13-month average balance using the balance sheet approach results in a negative working capital allowance for which the Commission has consistent set to zero based on its practice.²

Based on the Utility's adjustments to reduce its current & accrued liabilities by \$3,046,154 for accrued legal settlement and \$3,786,184 for accounts payable – associated companies, it resulted in positive working capital allowance of \$389,416 for water and \$386,943 for wastewater, as reflected on MFR Schedules A-1(a), A-2(a), and A-17. Accordingly, as discussed above for interim purposes, the working capital allowances for water and wastewater should be set to zero.

Overall Cost of Capital

On MFR Schedule D-2(a), Pluris made a \$6,281,931 specific adjustment to increase its 13-month average historical negative common equity balance of \$1,003,979. The \$6,281,931 amount was associated with a water lawsuit for which \$2,981,931 was legal expenses incurred from 2020-2022 and a \$3,300,000 settlement payment in 2022. This proposed adjustment by the Utility is yet another normalization adjustment to the 13-month average historical negative common equity balance that is not permitted for interim purposes. The removal of this specific adjustment results in a negative common equity balance for which the Commission has consistent set to zero based on its practice.³

Operating Revenues

On MFR Schedule B-3(a), Pluris did not reflect annualized operating revenue adjustments. As stated above, pursuant to Section 367.082(5)(b)1., F.S., the achieved rate of return for interim purposes must be calculated annualizing any rate changes. Using test year rates, the annualized service rate revenues are \$1,602,459 for water and \$1,087,300 for wastewater. On MFR Schedule B-4, the Utility reflected service rate operating revenues of \$1,598,744 for water and \$1,051,949 for wastewater. Thus, in accordance with Section 367.082(5)(b)1., F.S., there should be annualized operating revenue adjustments of \$3,715 for water and \$35,351 for wastewater.

Contractual Services – Management Fees

First, on MFR Schedule B-3(a), the Utility requested proforma adjustments to increase contractual services – management fees by \$237,010 water and \$237,010 for wastewater. For interim purposes, the Commission has consistently excludes adjustments pro forma in nature.

¹ For interim purposes, the Commission has consistently excluded normalization adjustments as they're pro forma in nature. Please see page 9 of Order No. PSC-08-0534-FOF-WS and page 14 of Order No. PSC-09-0022-PCO-WU.

² Please see page 3 of Order No. PSC-09-0751-PCO-SU.

³ Please see page 4 of Order No. PSC-09-0022-PCO-WU.

Second, in its last rate case, the test year was December 31, 2011. On its 2011 Annual Report Schedule E-10(a), the Utility reflected \$198,315 for “Management, Accounting, Tax, Construction, Financial Services, and all Administrative Services” provided by Pluris Holdings, LLC, as well as \$99,158 on Schedule W-10(a) and \$99,157 on S-10(a).

On Column 14, Line 12 on MFR Schedule B-5 from its last rate case, the Utility reflected an annual amount of Contractual Services – management fees of \$98,046 for water which represented an unreconciled difference of \$1,112 from the 2011 Annual Report Schedule w-10(a). On Column 14, Line 13 on MFR Schedule B-6 from its last rate case, Pluris reflected an annual amount of Contractual Services – management fees of \$98,045 for wastewater which represented an unreconciled difference of \$1,112 from the 2011 Annual Report Schedule S-10(a).

On Column 16, Line 12 on the MFR Schedule B-5 from its last rate case, the Utility reflected an adjusted annual amount of Contractual Services – management fees of \$96,969 for water. On Column 16, Line 13 on the MFR Schedule B-6 from its last rate case, Pluris reflected an adjusted annual amount of Contractual Services – management fees of \$96,969 for wastewater. The total amount on these schedules for water and wastewater amounted to \$193,938 which matched the total Utility allocation of \$193,938 reflected on MFR Schedules G-1 and G-2 from the last rate case. In the last rate case, the Commission granted a total of \$159,091 (\$79,545 for water and \$79,544 for wastewater) of contractual services – management fees which represents 82.03% of the \$193,938 amount.

Like the 2011 Annual Report, the 2012 through 2021 Annual Reports reflected the organizational chart on Schedule E-5 with only Pluris Holdings, LLC as the parent company to the Utility. On Schedule E-5 of the 2022 Annual Report, Pluris reflects two additional affiliates. Pluris Capital Group, LLC is reflected as the grand parent company to the Utility, and Pluris Management Group, LLC is a sister company of Pluris which reports directly to Pluris Capital Group, LLC. Further, on Schedule E-10(a), Pluris Management Group, LLC replaced Pluris Holding, LLC but the description of service remained the same as “Management, Accounting, Tax, Construction, Financial Services, and all Administrative Services”.

Like the 2011 Annual Report, the amount reflected on Schedule E-10(a) of annual reports from 2012 through 2020 tied to the sum of the amounts reflected on Schedules W-10(a) and S-10(a). However, inexplicably in the Utility’s 2021 and 2022 Annual Reports, the sum of the amounts reflected on Schedules W-10(a) and S-10(a) is \$225,020 and \$207,876, respectively, greater than the amounts of \$327,766 and \$311,712, respectively, reflected on Schedule E-5(a).⁴ Specifically, for the 2022 Annual Report, Pluris reflected \$259,794 for water on Schedule W-10(a) and \$259,794 for wastewater on Schedule S-10(a).

By letter dated October 26, 2023,⁵ OPC pointed out that Pluris failed to comply in its petition for instant case with Rule 25-30.436(5)(g), F.A.C., which requires detailed affiliate cost allocation information that the Utility previously provided in its last rate case. Instead of in response to a

⁴ These differences will need to be investigated further for final purposes.

⁵ See Document No. 05829-2023.

Commission staff's deficiency letter, the Utility did provide detailed affiliate cost allocation information in response to Commission Staff's First Data Request.⁶

Based on the above and to make adjustments consistent with the last rate case in accordance with Section 367.082(5)(b)1., F.S., the Utility should be limited to \$213,109 of 82.03% of the \$259,794 amount recorded for both water and wastewater. Accordingly, this would represent a reduction of \$46,680 [$\$259,794 * (1-0.820319)$] for water and \$46,680 for wastewater.

Contractual Services – Legal

On MFR Schedule B-5 (Column 14, Line 11), the Utility reflected \$655,854 in total annual contractual services – legal expenses for water. On MFR Schedule B-3(a), Pluris removed \$655,854 for which it stated were extraordinary legal fees. The Utility's election to not seek recovery of these costs for interim purposes does not justify nor support altering the historical negative test year balances for working capital and common equity for interim purposes.

Provision for Income Taxes

On MFR Schedule C-1 - entitled "Reconciliation of Total Income Tax Provision," Pluris stated the following: "The Utility is not currently a C-Corp so this schedule is not applicable." On MFR Schedule B-1(a) and B-2(a), Pluris reflected a Provision for Income Taxes of \$108,578 and \$29,478 for water and wastewater, respectively. Further, on these MFR schedules, the Utility erroneously reflected that the supporting schedule was B-3(a).

Pursuant to Rule 25-30.437(1), F.A.C., Class A utilities are required to provide Commission Form PSC 1028 (12/20), entitled "Class A Water and/or Wastewater Utilities Financial, Rate and Engineering Minimum Filing Requirements." Pursuant to Rule 25-30.437(2)(d), F.A.C., requires that, if a petition for interim rates is filed, a utility must demonstrate that it is earning outside the range of reasonableness on rate of return calculated in accordance with Section 367.082(5), F.S. To demonstrate this, the utility must submit schedules of rate base, cost of capital and net operating income on an historical basis, with schedules of all adjustments thereto, consistent with Commission Form PSC 1028 (12/20) for a Class A utility, PSC 1029 (12/20). Under Form PSC 1028 (12/20), MFR Schedule C-1 is the supporting schedule for the "Provision for Income Taxes" amounts reflected on MFR Schedules B-1 and B-2. Therefore, consistent with Pluris' MFR Schedule C-1, there should be \$0 for the "Provision for Income Taxes" on MFR Schedules B-1(a) and B-2(a) for interim purposes. Accordingly, Pluris' requested provision for income taxes of \$108,578 for water and \$29,478 for wastewater should be disallowed for interim purposes.

Conclusion

The Utility requested a revenue increase of \$743,196 or 45.66% for water and \$541,637 or 51.49% for wastewater.⁷ Based on the adjustments discussed above in accordance with Section

⁶ See Document No. 05940-2023.

⁷ This conclusion portion of the letter has been revised as shown in *italics*. There is no substantive change in the OPC recommendation.

Adam Teitzman
Corrected Letter
November 15, 2023

368.082(5)(b)1., F.S., Rules 25-30.433, 25-30.436, and 25-30.437, F.A.C., and Commission practice, the Commission *should not approve a water interim increase in an amount greater than \$152,190 or 9.19% nor should it approve a wastewater interim increase in an amount greater than \$83,936 or 7.52%.*

Respectfully submitted,

Bart Fletcher

Bart Fletcher
Legislative Analyst