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PAUL RENNER
*Speaker of the House of
Representatives*

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VIA: ELECTRONIC FILING

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

Docket No. 20230083-WS – Application for Increase in Water and Wastewater Rates in Orange County by Pluris Wedgefield, LLC. (Utility)

Dear Mr. Teitzman:

The intent of this letter is to alert the Commission staff and Pluris Wedgefield, LLC (Pluris or Utility) of the Office of Public Counsel's (OPC) concerns with the PAA recommendation filed March 21, 2024. First and foremost, the OPC would like acknowledge all the hard work put into this PAA recommendation; the result is an outstanding working product by the Commission staff.

Property Taxes Associated with Pro Forma Plant in Issue 5

As reflected on page 15 of the recommendation paragraph, the Commission staff recommended a corresponding adjustment of \$30,932 for property taxes. Based on staff revenue requirement workpapers, this amount was derived by multiplying the pro forma net plant amount of \$2,001,058 by a millage rate of 0.0154578. It is longstanding Commission practice to recognize the maximum discount available to property taxes, whether the Utility receives the discount or not.¹ The maximum discount available for property taxes is four percent. Consistent with Commission practice, the recommended \$30,932 should be reduced by \$1,237 [$\$30,932 * (1 - .04)$] resulting in pro forma property taxes of \$29,695.

Restricted Cash Accounts in Issue 6

¹ See Order No. PSC-16-0525-PAA-WS, p. 12, issued November 21, 2016, in Docket No. 160030-WS, In re: Application for increase in water rates in Lee County and wastewater rates in Pasco County by Ni Florida, LLC.

As reflected on page 17 of staff's recommendation, it states "OPC contends that the restricted cash accounts should be removed as they are interest bearing accounts." As OPC stated on Page 8 in its letter of concerns dated February 16, 2024, it is the Commission's practice to either exclude interest bearing accounts from working capital or to include them provided that the interest income is included in the above-the-line revenues. In the Utility's filings,² Pluris did not identify the amount of interest income associated these money market accounts. On page 18 of its recommendation, the Commission staff pointed out that "[w]hile WCA has increased significantly since the last rate case, Pluris was a Class B utility in the last rate case and is now a Class A utility." Because of the Utility's failure to meet its burden of proof, the OPC contended that these money market accounts should be excluded from working capital allowance prior to the issues.

Also, as reflected on page 17 of staff's recommendation, it states the following:

Based on the use of these restricted cash accounts as a financial tool to support utility operations as needed, staff believes the cash accounts are required for ongoing utility operations and should remain in working capital allowance. Using Pluris' 2022 general ledger, staff identified \$1,629 in interest income and has made an adjustment to include the balance in the above-the-line revenues, as reflected in Issue 10.

(Underline Emphasis Added)

The Commission staff's identification of the interest income associated with these money market accounts and recommendation to include them in working capital has a revenue requirement impact of over \$13,000 for water and over \$13,000 for wastewater.

The OPC respectfully disagrees with the Utility's and the Commission staff's on the inclusion of the entire amounts of these money market accounts in working capital. Pluris is contractually restricted in what it can transfer from these accounts for the day-to-day operations. Under the Utility's master loan agreement with CoBank, Pluris is required to establish and maintain a debt service reserve account in the amount of \$231,000. As such, if the Commission does not exclude these accounts in their entirety, the OPC recommends that the collective amount of \$308,403 should be reduced by \$231,000 resulting in \$77,403 to be included in working capital, as well as only \$409 [$\$1,629 * (\$77,403 / \$308,403)$] of interest income included in above the line revenues.

Magnetic Ion Exchange (MIEX) Resin Expense Prepayment in Issue 6

² Pluris also did not identify the amount of interest income associated these money market accounts in its February 20, 2024 response letter to OPC's February 16, 2024 letter of concerns.

Based on staff’s analysis and recommendation on pages 17 and 18, the OPC agrees the Commission staff’s recommended inclusion of the Utility’s prepayment for the MIEX Doc Resin in working capital allowance.

Common Equity in Issue 9 and Schedule No. 2

Subsequent to the OPC’s February 16, 2024 letter of concern, Pluris provided additional information on their reclassifications to common equity which after considerable review of all this additional information, prior responses to our discovery and responses to staff data requests, it alleviated our prior concerns for final purposes. On pages 21 and 22 of the recommendation, it is unclear to the OPC why our asserted previous position in the February 16, 2024 letter of concerns was still reflected in place of our updated position. The OPC notified a member of OPR staff verbally a week prior to the recommendation filing that the OPC no longer objected for final purposes to the Utility’s requested adjustments to reclassify Accounts Payable – Associated Companies and Miscellaneous Current and Accrued Liabilities to common equity.

On page 22 of the recommendation, the Commission staff recommends reclassifying \$250,000 from Advances from Associated Companies to Common Equity. Based on a review of staff’s revenue requirement workpapers, the Commission staff increased common equity by \$250,000 but did not reduce long-term debt by the same amount. The effect of this correction is a two-basis point increase in the overall cost of capital and a total revenue requirement increase of approximately \$2,000.

To account for the correction noted above and for consistency with the Rate Base and NOI schedules of reflecting “Adjusted Test Year Per Utility” amounts before any and all Staff Adjustments, the OPC respectfully suggests the following “Per Staff” edits to Schedule No. 2.

| | Adjusted Test Year Per Utility | Specific Adjustments | Subtotal Adjusted Capital | Prorata Adjust- ments | Capital Reconciled to Total Rate Base | Ratio | Cost Rate | Weighted Cost |
|----------------------|--------------------------------------|-------------------------|---------------------------------|-----------------------------|---|----------------|--------------|------------------|
| Per Staff | | | | | | | | |
| 4 Long-term Debt | \$1,911,528 | (\$250,000) | \$1,661,528 | (\$264,534) | \$1,396,994 | 16.06% | 5.70% | 0.92% |
| 5 Common Equity | 5,277,952 | 3,381,649 | 8,659,601 | (1,378,704) | 7,280,897 | 83.68% | 8.75% | 7.32% |
| 6 Customer Deposits | 23,168 | 0 | 23,168 | 0 | 23,168 | 0.27% | 2.00% | 0.01% |
| Total Capital | \$7,212,648 | \$3,131,649 | \$10,344,297 | (\$1,643,237) | \$8,701,060 | 100.00% | | 8.24% |
| | | | | | | LOW | HIGH | |
| | | | | RETURN ON EQUITY | | 7.75% | 9.75% | |
| | | | | OVERALL RATE OF RETURN | | 7.41% | 9.08% | |

Contractual Services – Management Fees in Issue 12

In order for a utility to be allowed management fees paid to a parent as an operating expense, a utility must show the benefit to the customers.³ Thusly, the OPC appreciates the

³ See Order No. 7692, issued March 22, 1977, in Docket No. 750780-WS, In re: Application of GENERAL WATERWORKS CORPORATION d/b/a GENERAL WATERWORKS, CENTRAL FLORIDA DISTRICT, for an interim and permanent rate increase in Orange County, Florida.

Commission staff for its excellent analysis of the requested Contractual Services – Management Fees. With one minor exception, the OPC’s agrees with the Commission staff on all other aspects of this issue.

On page 28 of its recommendation, the Commission staff stated the following:

The Utility provided documentation related to membership in the National Association of Water Companies totaling \$6,697. In OPC’s letter dated February 16, it suggested 20 percent of this amount should be removed to recognize lobbying efforts. OPC cites to a previous Commission Order in which this adjustment was made.(FN omitted) However, the percentage identified in that case is specific to the invoices identifying lobbying efforts. Staff reviewed the invoice provided for Pluris and it does not specifically identify lobbying costs.

It could be that the NAWC invoicing is different now than it was approximately 25 years ago in the prior case for United Water Florida, Inc. Regardless, the membership dues paid to the NAWC are for general services provided to all members, including general lobbying efforts on behalf of all members. The NAWC specifically has a Regulatory and Legislative Committee whose purpose is to drive constructive regulatory and legislative outcomes to help NAWC members.

The Committee ensures that NAWC deploys the appropriate resources in support of key regulatory and legislative priorities in the states where members operate. As appropriate, the Committee also provides guidance to NAWC so that it may effectively advocate for issues at the federal level. As part of its advocacy efforts, the Committee works with the National Association of Regulatory Utility Commissioners (NARUC), the National Conference of State Legislators (NCSL) and the Council of State Governments (CSG).

The Committee consists of five subcommittees: 1) Rates and Regulatory; 2) State Legislative; 3) Community Engagement; 4) Federal Affairs; and 5) EPA. The mission of the Rates and Regulatory subcommittee is to facilitate information sharing among members and advance key policy priorities related to regulatory initiatives and constructive rate-setting practices to ensure sustainable pricing, promote needed investment and encourage sector growth to better serve customers. The mission of the State Legislative subcommittee is to identify legislative advocacy priorities for NAWC and achieve constructive legislative outcomes enabling customers to receive safe and adequate service at just and reasonable rates. The mission of the Federal Affairs subcommittee is to advance a federal legislative agenda that promotes the interests of NAWC’s member companies and those of the customers and communities they serve. The mission of the EPA subcommittee is to provide strategic advice to NAWC members on existing and emerging federal environmental issues, provide input to the Environmental Protection Agency (EPA) on the

development of regulations⁴ and other initiatives and share best practices with respect to environmental compliance.

In our February 16, 2024 letter, the OPC stated the following:

Because the NAWC engages in lobbying efforts on behalf their members through the funding from some portion of the association dues paid by its members, the OPC recommends that . . . only the percentage of the dues for non-lobbying activities should be recovered which is consistent with the Commission's practice of disallowing lobbying costs.

Based on the information above, it is undeniable that a portion of the membership dues paid to the NAWC are for lobbying efforts on behalf of all of its members. The burden of proof in ratemaking cases in which a utility seeks an increase in rates rests on the utility.⁵ The OPC notes that the Utility did not address OPC's suggested 20% disallowance in its February 20, 2024 response letter to our prior letter of concerns. Pursuant to Section 120.68(7)(e)3., F.S., when agencies change their established policies, practices, and procedures, they must give an explanation for the deviation. The Commission staff's reliance on the UWFI's prior invoices detailing lobbying percentage and Pluris' NAWC invoice totaling \$6,697 for annual membership dues which did not specifically identify lobbying costs is insufficient to warrant deviation for the Commission's long-standing practice of disallowing lobbying expenses pursuant to Section 120.68(7)(e)3., F.S. Further, the failure to disallow the portion of the annual dues associated with lobbying efforts could arguably be a constitutional violation of the Utility customers' First Amendment rights because NAWC's lobbying efforts on certain matters at the state and federal levels could be different than that of Pluris' customers.

American Water Works Association Dues Pluris Recorded in Account 675 Related to Issue 14

In our February 16, 2024 letter on pages 19 and 20, the OPC stated the following:

Based on the Utility's 2022 General Ledger, it recorded a transaction of \$406 for American Water Waterworks Association (AWWA) membership dues in Account 675.14. Although audit workpaper 43-17 indicates that this cost is recoverable, the OPC respectfully disagrees and believes this cost should not be borne by the customers. By Order No. PSC-99-0513-FOF-WS, page 47, the Commission disallowed 100% of AWWA dues paid by United Water Florida, Inc. Based on the

⁴ At the Commission's February 20, 2024 Internal Affairs meeting, the NAWC's president spoke about the PFAS & PFOA of the EPA Proposed Drinking Water Regulation. See <https://www.floridapsc.com/pscfiles/website-files//PDF/Agendas/InternalAffairs/iapdfs/IA-02-20-2024.pdf>

⁵ See South Fla. Natural Gas Co. v Pub. Serv Comm'n, 534 So. 2d 695, 697 (Fla. 1988)

above, and the OPC recommends that \$406 should disallowed for ratemaking purposes.

In its February 20, 2024 response letter to our prior letter of concerns, Pluris stated the following:

Pluris disagrees with the removal of the dues paid to AWWA (“American Water Works Association”). The AWWA is a national association of all water and wastewater utilities, both private and governmental and the AWWA provides education through publication, seminars and conferences for all employees and managers of utilities in the US. The lessons learned through all members is a direct benefit to the industry in safeguarding the consumer.

In Issue 14 of the recommendation, the Commission staff did not address AWWA dues. Under the AWWA’s Policy & Advocacy / Legislative Activities webpage, it states the following:

. . . . AWWA supports positive change by amplifying the voices of water supply professionals on Capitol Hill. Our advocacy supports AWWA’s mission by leveraging the knowledge and expertise of our members to inform federal decision making in Congress.

Every year, AWWA members from all 50 states converge on Washington, DC to meet with their members of Congress as part of the Water Matters! Fly-In. The Fly-In is an opportunity for water professionals to speak to decision makers in Congress about issues important to the water sector. The event also gives members of Congress the opportunity to hear directly from their constituents about issues that are top-of-mind in their district or state. . . .

Legislative Priorities in the 118th U.S. Congress

- PFAS: Reduce the introduction of PFAS into water by controlling it at the source, and holding those responsible for contamination accountable while protecting passive receivers of PFAS.
- Source Water Protection: Protect the nation’s water sources through both collaborative voluntary measures in the agriculture and forestry communities, as well as strategic use of the nation’s environmental laws for addressing other potential sources of contamination.
- Cybersecurity: Secure the nation’s water systems through an effective co-regulatory model building off the successes in other sectors of the economy, and keeping known vulnerabilities private so they can be addressed instead of falling into the wrong hands.

- **Affordability:** Help to address water affordability while keeping systems sustainable through by building a permanent low-income water bill assistance program.

Based on the information above, it is undeniable that a portion of the membership dues paid to the AWWA are for lobbying efforts on behalf of all of its members. To date, the Utility has failed to provide a supported percentage for lobbying efforts. The burden of proof in ratemaking cases in which a utility seeks an increase in rates rests on the utility.⁶ Consistent with long-standing Commission practice, the portion of the membership dues paid to the AWWA for lobbying efforts on behalf of all of its members should be disallowed. Further, the failure to disallow the portion of the annual dues associated with lobbying efforts could arguably be a constitutional violation of the Utility customers' First Amendment rights because AWWA's lobbying efforts on certain matters at the federal level could be different than that of Pluris' customers.

Interim Refunds in Issue 24

On page 52 of the recommendation, the Commission staff's revised interim revenue requirements were \$1,973,162 for water and \$1,201,295 for wastewater. Based on a review of staff's "Pluris Final RR INTERIM" Excel file workpapers, the OPC noticed that the Commission staff failed to zero out the \$30,932 pro forma property tax adjustment in Cell D104 of the "Adjs" tab. Further, the OPC also noticed that the Commission staff failed to zero out the \$2,515,214 pro forma common equity adjustment in Cell D28 of the "Cap" tab. With these corrections and other applicable adjustments above, the customers are due a greater refund.

Omitted Adjustment on Schedule No. 1-C

This schedule does not reflect staff's (\$97) net non-used and useful adjustment for the wastewater system.

Respectfully submitted,

Bart Fletcher

Bart Fletcher

Legislative Analyst

CC: Parties of Record

⁶ See South Fla. Natural Gas Co. v Pub. Serv Comm'n, 534 So. 2d 695, 697 (Fla. 1988)