

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of: DOCKET NO. 20150010-WS

APPLICATION FOR
STAFF-ASSISTED RATE CASE IN
BREVARD COUNTY BY AQUARINA
UTILITIES, INC.

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PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NO. 9

COMMISSIONERS
PARTICIPATING: CHAIRMAN ART GRAHAM
COMMISSIONER DONALD J. POLMANN
COMMISSIONER ANDREW GILES FAY

DATE: Tuesday, April 2, 2019

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: ANDREA KOMARIDIS
Court Reporter and
Notary Public in and for
the State of Florida at Large

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1 P R O C E E D I N G S

2 CHAIRMAN GRAHAM: Okay. We have one item left
3 on the agenda, Item No. 9.

4 MR. LEWIS: Good morning, Commissioners. I'm
5 Clayton Lewis, speaking on behalf of staff. Item
6 No. 9 was staff's recommendation addressing Phase 2
7 rates for Aquarina Utilities. By Order
8 No. PSC-16-0583-PAA-WS, issued December 29th, 2016,
9 the Commission approved Phase 2 rates conditioned
10 upon Aquarina completing certain -- certain pro
11 forma items. On February 1st, 2019, Aquarina
12 provided documentation for the Phase 2 pro forma
13 items.

14 Staff's recommended Phase 2 rates are shown in
15 Schedule 3B of the recommendation. Recommend- --
16 representatives from the utility and the Office of
17 Public Counsel are -- are here and wish to speak.

18 Staff is available to answer your questions at
19 this time.

20 CHAIRMAN GRAHAM: Thank you, staff.

21 Marty, OPC, which one of you guys want to go
22 first?

23 MR. FRIEDMAN: Marty Friedman on behalf of
24 Aquarina Utilities.

25 Public Counsel is going to raise an argument.

1 And -- and so, maybe we ought to let them go first,
2 except I think there's a procedural issue
3 beforehand that needs to be discussed.

4 In connection with this case, the -- the
5 Commission ordered a management audit of Aquarina
6 and did, in fact, conduct a management audit. The
7 utility has responded to those issues. It's my
8 understanding that what Public Counsel is going to
9 do today is argue the management-audit issue as
10 part of Phase 2.

11 Now, if you look at the PAA order that was
12 entered in this case, the management audit has got
13 nothing to do with whether or not and; how much of
14 Phase 2 rates to approve. It goes solely to the
15 specific projects that were mentioned and whether
16 or not there is supporting documentation for those
17 projects.

18 And so, what Public Counsel wants to do is to
19 interject an issue into Phase 2 that is not
20 provided for in the original PAA order for
21 considering Phase 2 rates.

22 CHAIRMAN GRAHAM: Well, let's -- let's hear
23 what they have to say first.

24 MR. FRIEDMAN: Okay.

25 CHAIRMAN GRAHAM: Then you can speak to --

1 because she may not be going down that path.

2 MR. FRIEDMAN: I -- you never know what
3 they're going to do.

4 MS. MORSE: Thank -- thank you. Good morning,
5 Commissioners. Stephanie Morse with OPC. And --
6 and thank you for letting me outline my own
7 position. Counsel hadn't spoken with me ahead of
8 time, so he didn't know what I was going to say.

9 And frankly, my -- my point was merely to --
10 to bring the audit to your attention so that it
11 didn't drop off your radar. And in fact, my
12 remarks do include our acknowledgment that we
13 understand that the Phase 2 rates are not
14 contingent on the -- on the utility's completion of
15 the staff's audit recommendations or -- or what
16 have you.

17 It's just that, at the last agenda hearing,
18 this issue came up and we had asked for an update
19 or a status or -- just any indication of whether
20 and to what degree the utility intended to take up
21 any of staff's recommendations.

22 So, again -- you know, I'll just -- reminding
23 the Commission that, you know, in Order
24 No. PSC-2016-0583, the Commission found Aquarina
25 Utilities' quality of was marginal and ordered

1 the -- the Commission staff to conduct a management
2 audit on the utility. And that report was released
3 August 2017. And Commission staff made numerous
4 recommendations, labeled Observations 1 through 14.

5 Staff stated it believed that, if implemented,
6 the recommended actions would positively impact the
7 customer service and compliance issues identified
8 therein.

9 And as I stated, when this docket was before
10 the Commission at the April 20th, 2018, agenda, OPC
11 requested some information or a status update on
12 whether the utility had implemented any of those
13 recommendations.

14 And I believe Counsel objected at that time
15 that, because you -- they were here for a -- an
16 extension of time for the pro forma matters, that
17 it just wasn't, you know, an appropriate forum, but
18 that Counsel indicated that a more appropriate time
19 would be when the Phase 2 rates came up.

20 So, accordingly, you know, as the Commission
21 considers the Phase 2 of the rate increase, we --
22 we're just, again, requesting an update from the
23 utility on whether it implemented any of the
24 Commission staff's recommendations.

25 And again, as I stated before, I'm not -- I --

1 I'm not raising an issue of contention, as
2 represented by Counsel; it's just that it seemed
3 that the last -- at the last hearing, it was the
4 utility's position that now would be the better
5 time to address those issues instead of at that
6 hearing.

7 Thank you.

8 CHAIRMAN GRAHAM: Thank you.

9 Mr. Friedman?

10 MR. FRIEDMAN: I -- I think she made just the
11 argument that I thought she was going to be make,
12 which is dealing with the management audit, which
13 has got nothing to do with the Phase 2 rate
14 increase.

15 And in fact, the company has -- has complied
16 with -- with most, if not all, of the those
17 requirements, and it provided that documentation to
18 the staff. And staff doesn't have any concerns
19 about the fact that the company -- whether or not
20 the company has complied with the management audit.

21 It's got nothing to do with why we're here
22 today. And I would suggest to you that that's
23 something that can be dealt with informally by
24 Public Counsel if they want to consult with the
25 utility or with the Commission staff about what

1 documentation has or has not been provided.

2 CHAIRMAN GRAHAM: Okay.

3 MR. FRIEDMAN: So, as I pointed out earlier,
4 that issue has got nothing to do with why we're
5 here today and it shouldn't be addressed today.

6 CHAIRMAN GRAHAM: Commissioners.

7 Commissioner Fay.

8 COMMISSIONER FAY: Thank you, Mr. Chairman.

9 Just really quick, from OPC, I -- I -- from
10 your comments, I didn't hear you say any specific
11 alterations to the staff's recommendation that's in
12 front of us today, correct?

13 MS. MORSE: No, I didn't propose any
14 alterations. In fact, as I stated, I wasn't
15 raising a -- an issue in terms that opposing
16 counsel suggested. What I stated was, I'm aware
17 that the -- the rates aren't contingent upon the
18 utility providing the information we requested.

19 COMMISSIONER FAY: Great. That's what I
20 heard. Thank you.

21 CHAIRMAN GRAHAM: Commissioner Polmann.

22 COMMISSIONER POLMANN: Thank you,
23 Mr. Chairman.

24 Can staff please clarify -- and I appreciate
25 comments from Public Counsel and -- and to

1 Mr. Friedman's point, I recognize the distinction
2 between formal and informal with regard to dealing
3 with the audit and so forth.

4 And I'm not suggesting or asking or wanting to
5 change the staff recommendation, but I would like
6 to know, with regard to the issue raised by Public
7 Counsel, on -- on the quality of service being
8 judged marginal, is there any recommendation, any
9 suggestion from staff on -- on revisiting the
10 marginal ranking and -- and -- where do we stand
11 with that? Is that -- is that contemplated as
12 something worth looking at?

13 MR. MURPHY: That's not contemplated in the
14 order that was issued that we're -- we're under
15 for -- that started this and put up the framework
16 for Phase 2. So, it's not contemplated by that.

17 COMMISSIONER POLMANN: Could you remind us
18 whether -- having identified -- and -- and I simply
19 don't recall, but Public Counsel had indicated a
20 report of August 2017 with 14 recommendations.

21 MR. MURPHY: There -- there was an audit
22 report. There were some recommendations in it.
23 They weren't mandates.

24 COMMISSIONER POLMANN: Understood.

25 MR. MURPHY: And -- and in fairness, from what

1 Public Counsel is saying, Mr. Friedman did say at
2 the last agenda that this was the appropriate time
3 to talk about it. So, there is some merit to what
4 Public Counsel is saying as far as addressing what
5 has been done.

6 But it's also true, notwithstanding that
7 conversation, the -- the approval of these rates is
8 not linked to that. It was linked to -- to pro
9 forma items that were going forward. And they
10 haven't completed them all. And they're not giving
11 them -- this recommendation does not recommend the
12 full amount that was anticipated because they
13 haven't done all that work.

14 COMMISSIONER POLMANN: Well, just -- this
15 Commissioner is always concerned about requests for
16 extension of time, what -- when we're talking about
17 projects being completed because I -- from my
18 position, projects that are identified and the
19 projects that -- that are approved on a schedule
20 are approved for a reason and -- and for good
21 reason, to the benefit of the customers as to -- to
22 reliability to -- ultimately for quality of service
23 and -- and so forth.

24 And I would expect -- not just presume, but
25 expect that a request -- a request for an extension

1 of time is for good cause. And when those projects
2 are not completed on a schedule, I -- I'm taking it
3 on good faith that -- that there's good reason that
4 staff is -- is approving the extension, for good
5 reason.

6 MR. MURPHY: (Indicating.)

7 COMMISSIONER POLMANN: Yes, sir.

8 MR. MURPHY: They did -- they did bring the
9 extensions to -- to y'all. And they -- they were
10 approved. The last one, they were not completely
11 timely on, but they were close. And staff brought
12 the matter forward.

13 COMMISSIONER POLMANN: Yes.

14 MR. MURPHY: I believe that there has been a
15 limited proceeding filed to address the -- the work
16 that is not included in this. So, there -- there
17 will be another event for that.

18 COMMISSIONER POLMANN: Understood. I --
19 I'm -- I'm just commenting in general that --

20 MR. MURPHY: I'm -- I'm sorry. Okay.

21 COMMISSIONER POLMANN: That that's always a
22 concern and -- and as it relates back to the
23 quality of service being marginal, it would be my
24 hope that that is something that -- that it does
25 improve.

1 And the fact that Public Counsel is bringing
2 forward the item of an audit and the fact that, you
3 know, we -- we did identify recommendations,
4 this -- everything seems to be tied together is all
5 I'm saying.

6 And not to belabor the point, but these
7 things that -- that carry on for years and so
8 forth -- it's just a concern that I have. Not --
9 I -- I'll just leave it there.

10 But -- but go ahead. You had a comment.

11 MR. MURPHY: Well, it's at your pleasure.
12 Staff is certainly not opposed to hearing the
13 report from Mr. Friedman. And actually, we
14 expected that we would, given his comments at the
15 last agenda. So, if you wish to hear it, then you
16 can, but it's not required.

17 COMMISSIONER POLMANN: I understand. I -- I
18 don't want to drive the agenda here at this moment,
19 but I can -- I can meet at another time with staff
20 and -- and get an explanation. And then I'd be
21 happy to provide comment or input and whether it
22 would be appropriate to bring back to the full
23 Commission.

24 Thank you, Mr. Chairman.

25 CHAIRMAN GRAHAM: Okay. I will entertain a

1 motion.

2 COMMISSIONER FAY: Mr. Chairman, I will move
3 all issues on Item 9.

4 COMMISSIONER POLMANN: Second.

5 CHAIRMAN GRAHAM: It's been moved and second,
6 staff recommendation on Item No. 9, all issues.

7 Any further discussion?

8 Seeing none, all in favor, say aye.

9 (Chorus of ayes.)

10 CHAIRMAN GRAHAM: Any opposed?

11 By your action, you have approved that motion.

12 Okay. That concludes our agenda. We are
13 going to have IA over in the IA room, in ten
14 minutes, which is, according to that clock in the
15 back of the room, 22 after.

16 We're adjourned.

17 (Agenda item concluded.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, ANDREA KOMARIDIS, Court Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 11th day of April, 2019.



ANDREA KOMARIDIS
NOTARY PUBLIC
COMMISSION #GG060963
EXPIRES February 9, 2021