

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 110200-WU

APPLICATION FOR INCREASE IN WATER
RATES IN FRANKLIN COUNTY BY WATER
MANAGEMENT SERVICES, INC.

RECEIVED-FPSC
13 MAY -3 PM 1:13
COMMISSION
CLERK

PROCEEDINGS: COMMISSION CONFERENCE
ITEM NO. 9

COMMISSIONERS
PARTICIPATING: COMMISSIONER LISA POLAK EDGAR
COMMISSIONER EDUARDO E. BALBIS
COMMISSIONER JULIE I. BROWN

DATE: Thursday, April 25, 2013

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

REPORTED BY: JANE FAUROT, RPR
Official FPSC Reporter
(850) 413-6732

P R O C E E D I N G S

1
2 **CHAIRMAN BRISÉ:** Okay. At this time we are
3 going to move on to Item Number 9, and that is a panel.
4 And so I'm going to turn the gavel over to Commissioner
5 Edgar, and she's going to run the meeting from here on
6 out.

7 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.
8 We'll give a minute to let our staff switch
9 out and get settled. We're going to take just a moment
10 in place while everybody gets settled.

11 (Off the record.)

12 **COMMISSIONER EDGAR:** Okay. We are back on the
13 record. I'll note that we are on Item 9, a panel,
14 Edgar, Balbis, and Brown. This is post-hearing, so
15 discussion is limited to Commissioners and to our staff.
16 And, if you would, please go ahead and introduce the
17 item for us.

18 **MR. BROWN:** Good morning, Commissioners. I'm
19 Todd Brown with Commission staff.

20 Item 9 is staff's post-hearing recommendation
21 addressing the protested issues and resulting fallout
22 issues related to Water Management Services' PAA rate
23 case. Staff is prepared to answer any questions that
24 you may have.

25 **COMMISSIONER EDGAR:** Thank you.

1 Commissioners, I think I would suggest that we
2 can take these items kind of in the small groupings as
3 they are laid out before us. Are there any general
4 questions or comments for the good of the order or for
5 our staff before we do that?

6 Okay. Then the first grouping of issues is 1
7 and 2, which is rate base, and if our staff would go
8 ahead and introduce 1 and 2 for us briefly.

9 **MR. BROWN:** Issue 1 addresses the appropriate
10 working capital allowance. Staff is recommending an
11 adjustment of \$39,885, which would bring the working
12 capital allowance to zero for this utility. Staff's
13 calculations ended up with a negative number, and it's
14 typically the Commission's practice to, instead of
15 including the negative number, to just bring that to
16 zero.

17 **COMMISSIONER EDGAR:** And I understand that
18 Issue 2 is basically a fallout from that.

19 **MR. BROWN:** Correct, Commissioner.

20 **COMMISSIONER EDGAR:** Commissioner Brown.

21 **COMMISSIONER BROWN:** I'm prepared to make a
22 motion on Issues 1 and 2. I move staff's recommendation
23 on Issues 1 and 2.

24 **COMMISSIONER EDGAR:** Thank you. A motion and
25 a second. All in favor say aye.

1 (Vote taken.)

2 **COMMISSIONER EDGAR:** Thank you.

3 The next issue would be cost of capital,
4 Issue 3.

5 **MR. MAUREY:** Andrew Maurey, Commission Staff.
6 The cost of long-term debt was a protested issue in the
7 PAA case. Therefore, the weighted average cost of
8 capital had to be litigated in the hearing. We have the
9 cost of capital of 5.61 that's recommended in this case.

10 **COMMISSIONER EDGAR:** Commissioners, any
11 questions or discussion?

12 Commissioner Brown.

13 **COMMISSIONER BROWN:** I have two questions
14 regarding the cost of life insurance being included in
15 the O&M rather than in the cost of capital here. Is
16 there evidence -- we talked a little bit about this in
17 the briefing, but for purposes of just providing the
18 other Commissioners here some information, is there
19 evidence in the record that shows that the policy was a
20 requirement by the bank for making the loan?

21 **MR. MAUREY:** There was testimony that the life
22 insurance, the beneficiary of the life insurance had to
23 be assigned to the bank as a condition of the loan. The
24 documents that were filed were not fully executed for
25 that assignment, but it's a requirement of the loan

1 that -- historically, when life insurance is required in
2 loans, it is either factored into the cost of debt by
3 the bank itself, or in rarer occasions it's a separate
4 cost. In this case, an O&M expense.

5 **COMMISSIONER BROWN:** But it would be
6 delineated, though, in the actual promissory note,
7 per se?

8 **MR. MAUREY:** Yes.

9 **COMMISSIONER BROWN:** But we don't have -- do
10 we have that documentation in the record requiring that
11 Mr. Brown obtain the life insurance as part of -- as
12 collateral, other than the assignment? I know we have
13 the assignment with just his signature, but not the
14 lender's.

15 **MR. MAUREY:** Yes. And in this instance the
16 loan is a perspective loan, and it's going to be a
17 requirement of the loan when it occurs. But the project
18 hasn't taken place, and it's our understanding the loan
19 hasn't occurred yet, either. Because the rate increase
20 that was granted in the PAA was for a pro form project
21 that has not taken place yet.

22 **COMMISSIONER BROWN:** And I guess I just want
23 some assurances from staff, really, that they are
24 comfortable with having -- with the information that we
25 have in the record, the fact that we don't have the

1 lender's signature on the assignment, it's not a fully
2 executed assignment, but I want assurances from staff
3 that they are comfortable having this -- that the
4 utility has proven this as a justifiable and reasonable
5 and prudent cost.

6 I know it's a small number here, but I
7 always -- I would prefer to have both the lender and Mr.
8 Brown have that assignment in the record, and we don't
9 have that. So I would like some assurances from our
10 legal staff that they are comfortable with that.

11 **MR. LAWSON:** The requirement for insurance in
12 a loan, especially in this situation, is largely a
13 business decision of the bank. Now, the fact that we do
14 have a document signed by Mr. Brown that charges him
15 with assigning it meets the minimum legal requirement.
16 As far as the bank is concerned, traditionally when this
17 occurs it is usually handled by the bank. The bank
18 requires insurance, and sometimes they do in these
19 situations, particularly given Mr. Brown's age, they
20 would usually handle the insurance requirements
21 themselves and make that part of the loan payment. This
22 is also similar to situations where people have a
23 mortgage on their house and there is a requirement for
24 insurance to be provided to cover the cost of the
25 mortgage.

1 In this instance, however, we have two -- the
2 unique situation is the loan has not been yet
3 consummated. When that occurs, there is nothing to
4 prohibit us from requesting to see proof and
5 documentation that says, yes, the loan has been had,
6 here are the loan documents; the note, the addendums,
7 the insurance requirements, and whatnot, and verifying
8 that that has taken place.

9 Secondarily, the information we have, which is
10 the testimony from Mr. Brown, and, of course, the
11 document, which preferably we would prefer to see
12 completely signed by all parties. But in this case,
13 with Mr. Brown's signature it meets the minimum legal
14 requirement that a charging document has been signed by
15 the party who will be liable.

16 I believe the layman's terms is we are not
17 letting perfect be the enemy of good. But based on the
18 situation we have at the time, it does meet sort of a
19 minimum standard. And, yes, you are absolutely right,
20 this is something we, as staff, both legal and technical
21 staff would want to follow as the loan consummates and
22 becomes a real loan and not a perspective loan.

23 **COMMISSIONER BROWN:** Okay. The reason why
24 this also raised some concerns to me is because in the
25 PAA there wasn't an assignment to the lender at the

1 time. So it just -- there was red flags all over it on
2 this for me.

3 **MR. LAWSON:** And you are absolutely correct in
4 that this is something that has come since the PAA, so
5 it is obviously something that as it develops we have to
6 monitor.

7 **COMMISSIONER BROWN:** Okay.

8 **COMMISSIONER EDGAR:** Commissioner Brown, do
9 you have any suggested language or further direction
10 that you would like to give to your staff before we vote
11 on this item -- our staff?

12 **COMMISSIONER BROWN:** Thank you, Madam Chair.
13 I would definitely like to see evidence included after
14 the loan has been consummated. Since the ratepayers
15 will be bearing the cost of this life insurance policy
16 as part of the collateral, further evidence, I don't
17 know if that's -- is that a condition of approval? Can
18 we obtain additional evidence after the record has been
19 closed indicating --

20 **MR. MAUREY:** Commissioners -- oh, I'm sorry.
21 There is a true-up process in place for this project,
22 and at that time we can verify all the costs that went
23 into the project, including the cost incurred for the
24 loan, or we will do those things.

25 **COMMISSIONER BROWN:** Does the true-up -- the

1 true-up doesn't present new evidence, though, like --

2 **MR. MAUREY:** That's correct. It will not --
3 there will be no need to reopen the record, we will not
4 enter new evidence. We will look at the -- the
5 pro forma, the increase for the pro forma project was
6 based on a set of assumptions. We will look at the
7 actual costs incurred to make the pro forma project come
8 to fruition, we'll compare the two, and bring a
9 recommendation to the Commission about what to do with
10 the difference.

11 **COMMISSIONER BROWN:** Okay. I think we could
12 go ahead and vote on this item, since it's not included
13 in this issue. It just references it, and --

14 **COMMISSIONER EDGAR:** If I may, hang on for a
15 second, I believe Commissioner Balbis has a question or
16 a comment.

17 **COMMISSIONER BALBIS:** Yes, thank you. And I'm
18 glad that Mr. Maurey brought up the true-up provision,
19 because I have, with some other issues, some concerns
20 that perhaps we could utilize the true-up mechanism, if
21 you will, to provide additional document. So that might
22 be a workable solution. Because, I, too, had some real
23 concerns as Commissioner Brown did on this issue.

24 **COMMISSIONER EDGAR:** Okay. What I think I'm
25 hearing is perhaps that we would be ready for a motion

1 to approve the staff recommendation on Issue 3 with the
2 understanding that there may, before we have concluded
3 this item, be some further discussion, perhaps some
4 additional direction to staff, and perhaps some
5 additional language in a final order, but that we are
6 not quite there yet. Does that -- so, Commissioner
7 Brown, a motion?

8 **COMMISSIONER BROWN:** Okay. I'm going to move
9 to approve Issue 3.

10 **COMMISSIONER EDGAR:** Thank you. A second?

11 **COMMISSIONER BALBIS:** Second.

12 **CHAIRMAN BRISÉ:** A motion and a second. All
13 in favor say aye.

14 (Vote taken.)

15 **COMMISSIONER EDGAR:** Thank you.

16 The next grouping of issues involves net
17 operating income, Issues 4 through 10A. I expect there
18 may be some questions or discussion. So if the staff
19 would go ahead and introduce Issue 4.

20 **MR. BROWN:** Issue 4 basically asks whether any
21 adjustments needed to made to contractual services
22 accounting expenses. Staff believed that accounting
23 expenses should be reduced by \$5,883, which brings us to
24 the 3,667. That's the same amount that was approved in
25 the last rate case a couple of years back, and I think

1 that's it on that.

2 **COMMISSIONER EDGAR:** Okay. And if you would
3 go ahead with Issue 5, as well. We can take those two
4 up together.

5 **MR. BROWN:** Issue 5, whether any adjustment
6 should be made to transportation expenses. And at the
7 end the PAA, or as part of the PAA process, staff
8 recommended no recovery for transportation expenses.
9 The utility provided additional documentation during the
10 PAA phase, which essentially was 2011 mileage logs, and
11 staff believes that they should be allowed to recover
12 transportation expense and made a small adjustment, what
13 you see here in Issue 5.

14 **COMMISSIONER EDGAR:** Commissioners, any
15 questions or comments on Issues 4 and 5?

16 Commissioner Balbis.

17 **COMMISSIONER BALBIS:** I have a quick question
18 on Issue 5. And can you explain in detail the mileage
19 logs that were provided? Because I know it wasn't
20 provided during the PAA process. And was it -- was it
21 included? I have some concerns in that it may not have
22 been included in the test year, and it was 2011, and are
23 we setting a precedent here, or not.

24 **MR. BROWN:** They were actually 2011 mileage
25 logs. We have a 2010 test year here, but they did

1 provide the 2011 mileage logs. There was no requirement
2 for them to keep mileage logs for basically the
3 executive officers of the water company in 2010. So
4 they provided the 2011 mileage logs, made a slight
5 adjustment, the utility did, when factoring for 2010,
6 and then staff made an additional adjustment off that.
7 I don't know if that answers your question or not,
8 Commissioner.

9 **COMMISSIONER BALBIS:** It does. I just want to
10 make sure that the utility met its burden of proof for
11 these expenses and that they are appropriate to recover
12 through rates.

13 **MR. BROWN:** Staff believes they are.

14 **COMMISSIONER BALBIS:** Okay. With that, I move
15 approval on Issues 4 and 5, or staff's recommendation on
16 Issues 4 and 6.

17 **COMMISSIONER EDGAR:** A motion and a second to
18 approve staff rec on Issues 4 and 5.

19 All in favor say aye.

20 (Vote taken.)

21 **COMMISSIONER EDGAR:** Thank you.

22 And we can look at 6 and 7. So we'll start
23 with 6.

24 **MR. BROWN:** Issue 6, whether any adjustment
25 should be made to rate case expense previously

1 authorized by the Commission, which is currently being
2 amortized and customer rates, and if so, in what amount.
3 Staff believes that no adjustment to the previously
4 authorized rate case expense is necessary.

5 **COMMISSIONER EDGAR:** And then if you would go
6 ahead and present 7, and we will look at those together.

7 **MR. BROWN:** Issue 7 is the appropriate amount
8 of additional rate case expense associated with the
9 protest of the Commission's PAA order. Staff believes
10 the appropriate amount of rate case expense associated
11 with the protest is \$108,271.

12 **COMMISSIONER EDGAR:** Commissioners, any
13 questions?

14 Commissioner Brown.

15 **COMMISSIONER BROWN:** Thank you, Madam Chair.

16 I just wanted to make a comment. I appreciate
17 the Office of Public Counsel's concerns raised in
18 Issue 6. I was not persuaded by them, though. I
19 believe the record evidence indicated Mr. Brown's
20 commitment to pay off those, the prior rate case, and if
21 fails to do so, there is another court of competent
22 jurisdiction that could handle that matter. But I just
23 wanted to make that comment. And with that, I would
24 move item -- go ahead.

25 **COMMISSIONER EDGAR:** Commissioner Balbis.

1 **COMMISSIONER BALBIS:** Thank you.

2 I want to discuss probably an overarching
3 theme, if you will, for both of these issues. And there
4 was a lot of evidence and discussion during the hearing
5 about the lack of payment from Mr. Brown to their
6 previous consultant. I think it was somewhere upwards
7 of \$300,000. And I agree with staff on Issue 6 on
8 previous rate case expense, but I do have some concern
9 with Issue 7, and it really deals with assurances that
10 the company will be paying its vendors.

11 And I know that there is another avenue for
12 vendors to receive payment. However, customers are
13 paying rates that include the payment to these vendors.
14 And we have a company that has a history of lack of
15 payment. And I think that ultimately customers will
16 suffer for that; whether it is the lack of quality
17 consultants that the utility can hire due to this lack
18 of payment issue, or increased costs associated with it,
19 I don't know. But I do recognize that in other issues,
20 staff recommends quarterly reporting on that, and it
21 goes to that true-up discussion we had before.

22 And I wanted to ask staff if you have any
23 recommendations with that quarterly reporting or annual
24 reporting, some sort of documentation that the vendors
25 have been paid, especially associated with rate case

1 expense, because he has not made those payments in the
2 past.

3 **MR. MOURING:** Yes, Commissioner. In Issue
4 10 later in this discussion, staff does recommend a
5 quarterly report for an unrelated matter to rate case
6 expense. But it would be administratively easy to add
7 that requirement to that quarterly reporting, that the
8 company be required to document payments to its
9 consultants accompanied with affidavits from these
10 vendors when they are paid in full.

11 **COMMISSIONER BALBIS:** Thank you.

12 And coming from the local government side, and
13 I know it's a different contractual relationship, but
14 all of the vendors required with their invoices
15 affidavits of release of liens from subcontractors to
16 avoid this issue. I know it's different. It's a
17 different contractual relationship, but I think that
18 that would be a way for staff to monitor if these
19 vendors have been paid and not have an additional
20 administrative burden on the company.

21 So if it's appropriate, I would move staff's
22 recommendation on Issues 6 and 7 with the final order
23 including direction for the utility to include in their
24 quarterly reports documentation that the vendors have
25 been paid.

1 **COMMISSIONER EDGAR:** Commissioner Brown.

2 **COMMISSIONER BROWN:** I will second it, but I
3 do have a question for staff as a follow-up.

4 **COMMISSIONER EDGAR:** Sure.

5 **COMMISSIONER BROWN:** With those quarterly
6 reports, what can we do with that information, even if
7 we have it, that Commissioner Balbis is suggesting?

8 **MR. MAUREY:** Well, the quarterly reports that
9 I first mentioned from Issue 10 were related to actions
10 that the company may take in the future. Sometimes
11 those reports won't -- there won't be any action to
12 report. They will send us a report saying nothing has
13 taken place. But with this requirement, they will
14 continue to file a quarterly report noting the progress
15 in paying rate case expense.

16 Your question is well taken. The Commission's
17 ability to force payment in the future is limited, but
18 it would be information the Commission could have to
19 address with the company about what's going on and have
20 a conversation with the company about that. But I'll
21 defer to Legal about what we can specifically do
22 regarding lack of payment.

23 **COMMISSIONER BROWN:** Thank you.

24 **MS. BARRERA:** Commissioners, we believe that
25 consistent with case law that states that the Commission

1 has no power over contractual disputes, and this would
2 be a contractual dispute between the vendor and the
3 utility, that our Commission's power is limited in this
4 circumstance. We have the authority, the Commission has
5 the authority, however, to order reports, and -- but
6 it's very limited as far as the power is concerned.

7 **COMMISSIONER EDGAR:** Commissioner Balbis.

8 **COMMISSIONER BALBIS:** Thank you.

9 And I'm not sure who to direct this to, but
10 this Commission often, in fact, almost always,
11 specifically towards pro forma projects, require
12 documentation and true-ups to document that those costs
13 have been incurred. So we have done that in the past,
14 although you can argue that those are contractual
15 relationships, as well.

16 In this case I'm not proposing that we modify
17 the rates as the vendor is being paid. We approve the
18 revenue requirements associated with the rate case
19 expense. And then there is a true-up process, whether
20 it is quarterly or the end of the year, to make sure
21 those costs have been incurred similar to what we have
22 done with pro forma plant projects. And so although we
23 may have limited jurisdiction, we commonly deal with
24 those sorts of projects in that manner to make sure that
25 the revenues associated with that and the costs are

1 incurred.

2 So I don't see where this is much different.
3 I think we'll cross that bridge when we get there, if we
4 see an issue for lack of payment. But we have a company
5 that has, in the past, not paid its vendors. We did
6 receive some assurances during the hearing that vendors
7 will be paid, but I believe it was a question asked to
8 one of the vendors if their bills have been paid, and
9 they answered yes. So I don't think we're going to have
10 an issue. I would like greater assurances that we are
11 monitoring this, and I think we have precedence as to
12 how we deal with pro forma projects, so I don't think
13 it's that much of a stretch.

14 **COMMISSIONER EDGAR:** And just to follow up on
15 that, I think kind of what I'm hearing is an interest --
16 and I would concur -- an interest in, you know, ongoing
17 monitoring and the information to come forward as
18 appropriate to facilitate that monitoring. And should
19 there be a need for an investigation, that the staff
20 would, of course, bring that to the Commission's
21 attention.

22 But, Ms. Barrera, if you have additional --

23 **MS. BARRERA:** Yes, I would just note that the
24 fees that are collected are amortized over four years.
25 So the Commission may want to include as payment, you

1 know, as reporting to extend that over a four-year
2 period to ensure that the payments are being made.
3 Whether or not that's required, I mean, it's not, but --

4 **COMMISSIONER EDGAR:** Let me ask, because I'm
5 not remembering and I don't want to lose my place here
6 right now. We are not there yet, but for Issue 10 that
7 was raised in the quarterly report that is in there,
8 what is the time period that those quarterly reports
9 would be required?

10 **MR. MAUREY:** In the staff's recommendation
11 that's open-ended.

12 **COMMISSIONER EDGAR:** Okay. Commissioners, any
13 additional questions or discussion on this discussion?
14 No.

15 Anything additional from our staff?

16 **MS. BARRERA:** I just didn't want to commit to
17 a specific time whereby the legal fees -- I mean, the
18 rate case expense would be finalized, and give the
19 discretion to staff to bring it back for the
20 investigation, should that -- no payments are being made
21 with the quarterly reporting.

22 **COMMISSIONER EDGAR:** Okay. I think that's
23 included in the motion that was made. And we can also
24 discuss, if we choose to, and I probably will ask that
25 we do, when we come to the last issue of close the

1 docket. We can talk about what other things are kind of
2 hanging out there from the discussion that we have had.

3 So with that, we have had a motion and a
4 second on Issues 6 and 7 for the staff recommendation,
5 including, then, the additional information in the
6 quarterly reports.

7 All in favor say aye.

8 (Vote taken.)

9 **COMMISSIONER EDGAR:** Show that adopted. Thank
10 you.

11 Okay. Let's look at Issues 8 and 9.

12 **MR. BROWN:** Issues 8 is whether any
13 adjustments should be made to miscellaneous expense.
14 Staff believes that miscellaneous expense should be
15 decreased by \$2,585, and plant increased by \$2,585.
16 There is also a corresponding adjustment that needs to
17 be made to depreciation expense, and that's all on that.

18 Did you have any questions on Issue 8?

19 **COMMISSIONER EDGAR:** I'm sorry?

20 **MR. BROWN:** Did you have any questions on
21 Issue 8, or do you want me to proceed to 9?

22 **COMMISSIONER EDGAR:** I don't see any, so let's
23 go ahead and do 9. Thank you.

24 **MR. BROWN:** Issue 9, basically, how should the
25 net gain on sale of land and other assets be treated.

1 The gain on sale of land and other assets should be
2 amortized over five years. The annual amortization as
3 calculated by staff is \$1,159.

4 **COMMISSIONER EDGAR:** Thank you. Any
5 questions?

6 Commissioner Balbis.

7 **COMMISSIONER BALBIS:** Thank you.

8 I just want to make a comment on Issue 9,
9 because I spent a lot of time on this issue and
10 reviewing the evidence in the record and meeting with
11 staff. And what really convinced me to agree with staff
12 on this issue was the fact that these lots were not in
13 rate base, is that correct?

14 **MR. BROWN:** That's correct.

15 **COMMISSIONER BALBIS:** Okay. So with that, I
16 can agree with staff on Issues 8 and 9.

17 **COMMISSIONER EDGAR:** I think that is a motion.

18 **COMMISSIONER BROWN:** Second.

19 **COMMISSIONER EDGAR:** And there is a second.
20 So all in favor say aye.

21 (Vote taken.)

22 **COMMISSIONER EDGAR:** Thank you.

23 And that brings us to 10 and 10A.

24 **MR. MAUREY:** Commissioners, Issue 10 deals
25 with the question have utility's advances to WMSI's

1 president and associated companies had an inverse impact
2 on the utility or its ratepayers; and, if so, what
3 action should be taken.

4 During the course of the review of this issue,
5 it was determined that money moved in both directions
6 from the utility to the utility's president and
7 associated companies and back, but at the end of the
8 day, a net \$1.2 million left the utility. Over the
9 period that this occurred, certain payments were missed,
10 other payments weren't made. It's the view that the
11 cost structure of the utility was increased as a result
12 of these transactions.

13 Therefore, staff recommends the quarterly
14 reporting requirement that I spoke of earlier,
15 delineating all advances, loans, investments, notes
16 receivable, and accounts receivable between WMSI and the
17 president and associated companies be documented and
18 reported to the Commission on a quarterly basis. And in
19 Issue 10A, staff recommends that an adjustment to the
20 president's salary equivalent to 15 percent be made,
21 which will with the accompanying adjustments reduce O&M
22 expense by \$19,046.

23 **COMMISSIONER EDGAR:** Commissioner Balbis.

24 **COMMISSIONER BALBIS:** Thank you. I want to
25 focus a little bit on Issue 10, and this is something

1 that was given a lot of attention during the hearing,
2 and a lot of questions that I asked the company about
3 the amendments to the DEP loan. And those -- and I
4 think that is a tangible result of the transferring of
5 dollars in and out, and that loan payments were missed
6 and that the principal was added to the loan itself, and
7 that may have resulted in additional costs to the
8 customers.

9 So I had staff put together information as to
10 how much additional costs were incurred because of that.
11 And, Mr. Maurey, could you please summarize what that
12 was?

13 **MR. MAUREY:** Yes, sir.

14 Over the course of this loan, missed interest
15 payments were capitalized to principal. So over the
16 20 years remaining on this life, the interest associated
17 on missed interest payments, interest on interest comes
18 to approximately \$352,000 over the life of the loan.
19 This is not associated with the \$1.1 million of interest
20 that comes from extending the maturity, but rather
21 simply interest on interest payments that were
22 capitalized to principal. And if you look at that
23 \$352,000 divided by the 20 years remaining over the life
24 of the loan, that's approximately \$17,626 a year
25 additional impact for the cost of this loan.

1 **COMMISSIONER BALBIS:** Thank you. And it kind
2 of leads into 10A. I do have concerns with staff's
3 recommendation of a 15 percent reduction. I think it
4 may appear arbitrary to do so, and I have a lot of
5 concern with any discussion, although it was just in the
6 staff analysis of a finding of managerial imprudence or
7 managerial negligence which I do not want to do. But I
8 do believe that if customers have additional costs that
9 were incurred because of the actions of the company,
10 that that should not be reflected in rates.

11 And I believe that making an adjustment that
12 reflects the additional interest costs of the \$17,626
13 would be more appropriate than a somewhat arbitrary 15
14 percent reduction in the president's salary. So I would
15 like to hear from my colleagues on that.

16 **COMMISSIONER EDGAR:** Commissioner Brown.

17 **COMMISSIONER BROWN:** You took the words,
18 again, right out of my mouth. But the salary reduction
19 should be tied, I think, to the percentage of additional
20 costs that the customers have had to bear because of
21 Mr. Brown's actions. So making that 17,600 per year,
22 what would that percentage be in terms of salary
23 reduction?

24 **MR. MAUREY:** That equates to 18.3 percent of
25 his current salary.

1 **COMMISSIONER BROWN:** And, Commissioners, that
2 would be my recommendation so that there is a clear
3 nexus between those costs that they unfortunately had to
4 bear.

5 **COMMISSIONER EDGAR:** And to our staff, are you
6 comfortable that that 17,626 annual is a hard number?

7 **MR. MAUREY:** Yes. This analysis was based on
8 the evidence of the record, yes.

9 **COMMISSIONER EDGAR:** Commissioner Balbis.

10 **COMMISSIONER BALBIS:** Thank you. Then with
11 that, I move we modify staff's recommendations on
12 Issues 10 and 10A to include an adjustment to the
13 president's salary of a reduction of \$17,626 to reflect
14 the additional interest costs to the ratepayers.

15 **COMMISSIONER BROWN:** If I may make a friendly
16 suggestion?

17 **COMMISSIONER EDGAR:** Commissioner Brown.

18 **COMMISSIONER BROWN:** Instead of doing that
19 17,000, could you do the percentage as Mr. Maurey just
20 -- would that be clearer?

21 And I don't know if that is a question for
22 Mr. Maurey or Commissioner Balbis. Which would be
23 cleaner?

24 **MR. MAUREY:** Well, the 17,626 is a fixed
25 number. The 18.3 percent could change as his salary

1 changes over time. We'd also suggest -- the total
2 adjustment we were recommending of 19,000 was because of
3 other payroll taxes, benefits, and pension expense. We
4 would not get into that. We would just take 17,626 out
5 of O&M expenses and that would be the adjustment.

6 **COMMISSIONER BALBIS:** And I think that would
7 be cleaner, unless, Commissioner Brown, you see a reason
8 to go the other way.

9 **COMMISSIONER BROWN:** No. Second.

10 **COMMISSIONER EDGAR:** Okay. Good question.
11 Thank you.

12 All right. We have a motion to approve the
13 staff recommendation on Items 10 and 10A with the
14 adjustment to the amount to be changed for salary to be
15 the 17,626 per year interest number.

16 All in favor say aye.

17 (Vote taken.)

18 **COMMISSIONER EDGAR:** Opposed? Show it
19 adopted.

20 Commissioner Balbis.

21 **COMMISSIONER BALBIS:** Thank you. And before
22 we get to the next issue, I think it is appropriate at
23 this point to bring up the issue of the water storage
24 tank that was discussed at the hearing, was discussed
25 during the PAA process that everyone agrees is a

1 critical project and needs to move forward. And I'm
2 just wondering if staff has an update as to where the
3 utility is with that project?

4 **MR. MAUREY:** We have become notified that a
5 permit has been requested of DEP to begin that project,
6 but that's the beginning steps. It's not an issue in
7 this proceeding that you are voting on today, but it
8 is -- you're not voting on this matter. It's strictly
9 informational, but they are moving forward on the
10 project.

11 **COMMISSIONER BALBIS:** I just thought it was
12 appropriate to get an update as to where they are with
13 the storage tank, so thank you.

14 **COMMISSIONER EDGAR:** Okay. That brings us to
15 Issue 11, revenue requirement. To our staff.

16 **MR. BROWN:** Commissioner, I believe Issues 11
17 through 13, and then 16 through 18 may all be fallout.
18 Mr. Maurey and Mr. Fletcher, correct me if I'm wrong,
19 but I believe those are all basically fallout issues.

20 **COMMISSIONER EDGAR:** All right. Noting that
21 15 was withdrawn. So 11, 12, 13, 16, and 17, is that
22 what you said?

23 **MR. BROWN:** 16, 17, and I thought 18 might be
24 included, as well.

25 **COMMISSIONER EDGAR:** Okay. I would recognize

1 that, as our staff has suggested, that those are fallout
2 issues addressing the revenue requirement, the rates,
3 and some miscellaneous related matters. I would expect
4 that staff, for the decision that we made on 10A, will
5 there need to be an adjustment?

6 **MR. BROWN:** Staff's understanding.

7 **COMMISSIONER EDGAR:** Yes.

8 Commissioners, any questions or discussion on
9 Issues 11 through 18?

10 **COMMISSIONER BROWN:** Madam Chair, I'm prepared
11 to make a motion.

12 **COMMISSIONER EDGAR:** Please do.

13 **COMMISSIONER BROWN:** I move staff
14 recommendation on Items 11, 12, 13, 14, 16, 17, and 18
15 with the caveat that staff may have administrative
16 authority to make any adjustments as appropriate, based
17 on our previous actions.

18 **COMMISSIONER EDGAR:** Thank you.

19 Commissioner Balbis.

20 **COMMISSIONER BALBIS:** Thank you.

21 I second that motion. But for purposes of
22 discussion, especially considering Issue Number 17,
23 which is the PAA refund, noting the modifications that
24 we have made, what is the ballpark revenue requirement
25 from what was recommended in PAA and what the result of

1 this protest is?

2 **MR. BROWN:** I've got numbers. They're not
3 going to reflect the adjustments made this morning to
4 the salary. But prior to this the difference was about
5 a 7 percent increase over the PAA. Is that what you're
6 looking for, Commissioner?

7 **COMMISSIONER BALBIS:** Yes.

8 **MR. BROWN:** Okay. It's about \$92,000 overall.

9 **COMMISSIONER BALBIS:** Okay. That's all I had.

10 **COMMISSIONER EDGAR:** Was there -- there was a
11 second there?

12 **COMMISSIONER BROWN:** Yes.

13 **COMMISSIONER EDGAR:** Okay. So we have had a
14 motion and a second to approve on Items 11 through 18,
15 also granting our staff administrative authority to make
16 whatever adjustments per our earlier decisions.

17 All in favor say aye.

18 (Vote taken.)

19 **COMMISSIONER EDGAR:** All opposed?

20 Show it adopted. Thank you.

21 That brings us to Issue 19, close the docket.

22 Staff, any additional comment on that?

23 **MR. BROWN:** I don't have any, no,

24 Commissioner.

25 **COMMISSIONER EDGAR:** That was included in the

1 motion. Okay. Commissioners, any other comments?

2 Commissioner Brown.

3 **COMMISSIONER BROWN:** Thank you. I would
4 really like to see, in addition to verifying the tariff
5 sheets, that staff obtain and verify the loan documents
6 and make any necessary true-up adjustments included in
7 this issue.

8 **COMMISSIONER EDGAR:** Does the staff have a
9 question about that request?

10 **MS. BARRERA:** Yes.

11 **COMMISSIONER EDGAR:** Ms. Barrera.

12 **MS. BARRERA:** Commissioner, may you clarify,
13 just so I can write it?

14 **COMMISSIONER BROWN:** As Mr. Maurey suggested
15 earlier under, I believe, it was Issue 3 with regard to
16 the requirement of the life insurance policy as part of
17 collateral for the loan, since the loan has not been
18 executed, Mr. Maurey suggested that there is a true-up
19 mechanism to validate or verify that.

20 **MR. MAUREY:** That's correct.

21 **COMMISSIONER BROWN:** So what he suggested.

22 **MS. BARRERA:** Thank you.

23 **COMMISSIONER EDGAR:** Okay. Commissioners --
24 that was a motion?

25 **COMMISSIONER BROWN:** Yes, it was. Thank you.

1 **COMMISSIONER EDGAR:** Okay. Is there a second?

2 **COMMISSIONER BALBIS:** Second.

3 **COMMISSIONER EDGAR:** A motion and a second
4 with the staff recommendation, as any additional
5 information in the motion by Commissioner Brown.

6 All in favor say aye.

7 (Vote taken.)

8 **COMMISSIONER EDGAR:** Show it adopted.

9 Commissioners, that is the last item before
10 us. Any other comments before we close?

11 No. All right. Thank you to our staff, and,
12 of course, to the parties for their participation to get
13 us to this point.

14 Our agenda conference is adjourned.

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF FLORIDA)

: CERTIFICATE OF REPORTER

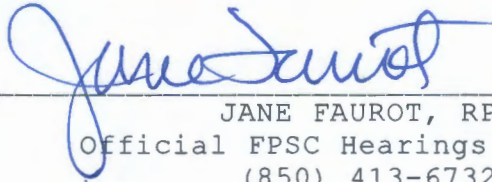
COUNTY OF LEON)

I, JANE FAUROT, RPR, Chief, Hearing Reporter Services Section, FPSC Division of Commission Clerk, 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 3rd day of May, 2013.



JANE FAUROT, RPR
Official FPSC Hearings Reporter
(850) 413-6732