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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the matter of:

DOCKET NO. 20220067-GU

Petition for rate increase by Florida Public Utilities Company, Florida Division of Chesapeake Utilities Corporation, Florida Public Utilities Company - Fort Meade, and Florida Public Utilities Company - Indiantown Division.
____/

VOLUME 6
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PROCEEDINGS: HEARING

COMMISSIONERS PARTICIPATING: CHAIRMAN ANDREW GILES FAY
COMMISSIONER GARY F. CLARK
COMMISSIONER GABRIELLA PASSIDOMO

DATE: Wednesday, October 26, 2022

TIME: Commenced: 9:30 a.m.
Concluded: 4:15 p.m.

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

REPORTED BY: DEBRA R. KRICK
Court Reporter

APPEARANCES: (As heretofore noted.)

PREMIER REPORTING
112 W. 5TH AVENUE
TALLAHASSEE, FLORIDA
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I N D E X

EXHIBITS

NUMBER:		ID	ADMITTED
126	Stipulations	948	
70-72	As identified on the CEL		981
127	Petition and Cross-Petition	1040	
128	Atmos Energy Corporation 10K form	1073	1081

P R O C E E D I N G S

(Transcript follows in sequence from Volume 5.)

CHAIRMAN FAY: All right. Just waiting on you, Ms. Christensen, whenever you guys are ready.

Okay. All right. Move on into rebuttal. FPUC, when you are ready. We lost power? Okay. Ms. Christensen, you are out too?

MS. CHRISTENSEN: I don't have one either okay.

CHAIRMAN FAY: Okay. We'll give Michael a minute to make sure we get set up here.

(Discussion off the record.)

CHAIRMAN FAY: We're good? Okay.

MR. MUNSON: Mr. Chair, I will say one thing, and I don't know if staff had a chance to notify you. We realized, and I apologize for this, that one of our witnesses who testified this morning was not here yesterday, so my apologies, but it looks like we have a witness who is not sworn in. He is prepared to be sworn in if the Commission would like to do that at this time.

CHAIRMAN FAY: Sure. No problem. And I believe, we will just make sure with the parties, that's to the only witness that we -- to your point, we swore everybody in initially, but there were some folks who came in shortly after or just had missed that part of it. So Witness Hancock is here and available. Mr. Hancock, you don't have to come up there or anything, I just want to make sure you swear and affirm the testimony you provided earlier is the truth?

MR. HANCOCK: I do.

CHAIRMAN FAY: Okay. Thank you.

And thank you for catching that on our end. I want to make sure we have everybody. Anybody else that we missed on either side that came in after? Okay.

All right. With that -- and then we can also, if the parties are okay with it, take up a stipulation on Issue 35, I believe, is that correct?

MS. KEATING: Yes, Mr. Chair.

CHAIRMAN FAY: Ms. Christensen, are you okay with that also?

MS. CHRISTENSEN: Yes, with the clarification that the incentive comp plan and the stock comp are salaries and those will be discussed in the issue, we are -- we are good.

CHAIRMAN FAY: Okay. And, Mr. Sandy, do we feel pretty comfortable with these language, then, for the -- respective of both parties? I want to make sure there is no interpretation issues as to the wording before we take that up.

MR. SANDY: None that I am aware. They've reviewed it and they've signed off on it, and that's good enough for staff.

CHAIRMAN FAY: Okay. Great.

With that, then, I will move for approval of stipulation of Issue 35. Commissioners, without any objection approval? Okay. Show that approved. That takes care of the stipulations.

(Whereupon, Exhibit No. 126 was marked for identification and received into evidence.)

CHAIRMAN FAY: And let's see. With that, we can move back to, FPUC, to call your witness for rebuttal.

MR. MUNSON: Thank you, Mr. Chairman.

We call back to the witness stand, Ms. Pat Lee, please.

Whereupon,

PATRICIA LEE

was recalled as a witness, having been previously duly sworn to speak the truth, the whole truth, and nothing but the truth, was examined and testified as follows:

EXAMINATION

BY MR. MUNSON:

Q And good afternoon, Ms. Lee. How are you?

A Good afternoon. I am very well. Thank you.

Q Good. Thank you. Welcome back.

Did you have filed 21 pages of rebuttal testimony in this case?

A I did.

Q And did you sponsor exhibits, rebuttal Exhibits PSL-5 through PSL-7?

A Yes.

Q Did you also have filed an errata sheet on October 19th?

A I did.

Q Aside from that, do you have any of changes to your testimony or exhibits?

A Actually, I did find one, and that's on page 21. It is line seven. The reference to PSL-1, should be PSL-2.

Q Very good.

And aside from that, are there any other changes?

A No, sir.

MR. MUNSON: Okay. At this time, Mr. Chairman, we move Ms. Lee's rebuttal testimony into the record as though read, and note that her exhibits have been numbered in the Comprehensive Exhibit List has Nos. 70 through 72.

CHAIRMAN FAY: Okay. Great.

We will enter the testimony as though read with the one correction stated by Ms. Lee, and recognize that CEL 70, 71 and 72 are correlating exhibits.

MR. MUNSON: Thank you, Mr. Chair.

(Whereupon, prefiled rebuttal testimony of Patricia Lee was inserted.)

Before the Florida Public Service Commission

Docket No. 20220067-GU: Florida Public Utilities Company, Florida Division of Chesapeake Utilities Corporation d/b/a Central Florida Gas (CFG), Fort Meade, and Indiantown (collectively FPUC) Rate Case and Depreciation Study

Prepared Rebuttal Testimony of Patricia Lee

Date of Filing: September 20, 2022

I. POSITION, QUALIFICATIONS, AND PURPOSE

Q. Please state your name and business address.

A. My name is Patricia Lee. My address is 116 SE Villas Court, Unit C, Tallahassee, Florida 32303.

Q. Have you previously filed testimony in this proceeding?

A. Yes. I filed Direct Testimony on May 24, 2022, and Revised Direct Testimony on September 9, 2022.

Q. What is the purpose of your Rebuttal Testimony?

A. The purpose of my Rebuttal Testimony is to respond to certain erroneous positions and statements of OPC's Witnesses Garrett and Smith relating to depreciation and FPUC's Depreciation Study. Specifically, I will address the following:

- Witness Garrett's proposal to apply longer average service lives based on his selected peer group than those I proposed in FPUC's Depreciation

Study, which was attached to my Direct Testimony as Exhibit PSL-2 and subsequently revised on September 9. I should emphasize that my recommendations regarding service lives in my Revised Exhibit PSL-2 did not change markedly from those reflected in the original filing;

- Witness Garrett's peer group;
- The proposed depreciation rates computed by Witness Garrett; and
- Witness Smith's calculation of the test year depreciation expense using Mr. Garrett's proposed depreciation rates.

Q. Are you sponsoring any rebuttal exhibits?

A. Yes, I am sponsoring Rebuttal Exhibits PSL-5 PSL-6 and PSL-7. Specifically, Rebuttal Exhibit PSL-5, which was prepared under my supervision, is a compilation of schedules reflecting comparisons between FPUC's service lives, remaining lives, depreciation rates, and depreciation expenses under currently prescribed rates, and those proposed by FPUC and OPC as a result of the 2023 Depreciation Study.

Rebuttal Exhibit PSL-6 contains a comparison of the currently approved lives for the accounts in dispute between FPUC and OPC and all Florida gas companies. Rebuttal Exhibit PSL-7 shows the remaining life determinations for several accounts where this is no dispute with average service life, curve, or age but the average remaining lives differ between OPC and FPUC.

Q. What recommendations are you making in your rebuttal testimony?

A. I recommend that the Florida Public Service Commission ("Commission") approve the FPUC proposed annual depreciation rates as presented in Rebuttal Exhibit PSL-5, Schedule B and Revised Exhibit PSL-2, Schedule B, attached to my Revised Direct Testimony filed on September 9, 2022. The depreciation rate calculations follow the remaining life depreciation rate formula set forth in Rule 25-7.045(4)(e), Florida Administrative Code.

II. SERVICE LIVES

Q. Witness Garrett suggests at pages 88 and 89 that overestimating useful lives does not harm a regulated utility. Do you agree?

A. No. In a perfect world, the average service life of a given group of assets would be "accurate;" i.e., the actual service life of the asset, and match the period of service the related plant provides service. However, given that service lives are based on estimates, using the best information available at the time, there is little chance to be completely accurate until the end of life of an asset when there are firm retirement plans.

The historic tendency for regulators and companies has been to generally overstate life potential. While underestimating the service life places more burden on current ratepayers through higher depreciation expenses as Mr. Garrett states, in the long run, the reduction in rate base is beneficial to the average of all ratepayers. On the other hand, an overestimated life decreases the burden on current ratepayers through lower depreciation expenses as it increases the burden on future ratepayers. In this situation, the assets associated with the subject investments will have retired before recovery is achieved, resulting in a negative reserve. This under recovery will become rate base, allowing the company to earn on non-existent plant. Witness Garrett agrees that this situation will exist[1] and surprisingly still asserts that an overestimated average service life is better.

Q. Is his suggestion that use of a regulatory asset can address any concerns that may arise from overestimating useful lives valid?

A. No. Witness Garrett claims that it is better to overstate average service lives because a regulatory asset can be used to recover any resultant unrecovered net investments. This, he suggests, shields the company from any financial harm.[2] From the standpoint of the shareholders, however, their investment is no longer supported by physical assets. From the standpoint of ratepayers, they continue paying for plant that is no longer providing service.

Q. Does his use of OLT and Iowa curves from a case in Indiana for comparison to the Iowa curves used for FPUC's Depreciation Study result in a valid "apples to apples" comparison?

A. No. Witness Garrett offers no explanation or discussion why or how the observed life tables and curves from a case in Indiana compare to the FPUC plant under study, or how the Indiana company compares or shares similar characteristics with FPUC. More importantly, there is no indication that the observed life tables for an Indiana company consider such things as hurricane incidence, saltwater intrusion, and corrosion, or how the

[1] Direct Testimony of David J. Garrett, page 89.
[2] Ibid.

regulatory environment in Indiana is similar to Florida. All these things impact additions and retirements of a company from which actuarial data is derived. The only conclusion that can be made from the Indiana company is that based on its data, its lives are generally longer than FPUC's.

Q. On page 88 of Witness Garrett's testimony, he asserts that shorter average lives encourage economic inefficiency by incentivizing the utility to "unnecessarily replace the asset in order to increase its rate base." Do you agree?

A. No. Witness Garrett's assertion does not hold merit. In every rate case proceeding, a company's rate base is scrutinized for prudency. If it is determined that certain costs are imprudent, the recovery of those investments would be disallowed for rate making purposes. In my opinion, replacement of assets simply to increase rate base would be considered imprudent.

In contrast, unreasonably long service lives burden future customers by making them pay more in the long run. It is no different than comparing the merits of a long-term loan with a short-term loan. With a long-term loan, you may pay less on a monthly basis, but you will ultimately pay more because you will also be paying interest over a longer period of time. The overall impact to customers could be dramatic over the entire life cycle of an asset.

Q. Mr. Garrett also suggests that FPUC did not provide sufficient aged data to produce an accurate service life analysis. Can you address his issue with the aged data and whether you agree with his assessment?

A. Witness Garrett is correct that FPUC did not provide the type of aged data necessary for actuarial analysis. FPUC provided the average age of its surviving investments in each account. For the accounts in dispute, retirement rates have averaged less than 1% over the 2013-2023 period. Statistical analysis on such limited data is not fully predictive of the expected life of the given account. This is nothing new. Reasonable life estimates can be made, as they have in the past, based on average service lives for other Florida gas companies. I do not know what Witness Garrett means by "accurate service life analysis." The analysis only tells you how the plant has lived in the past and we already know that there have been very few retirements. Any statistical analysis would likely yield extremely long lives due to the minimal retirement data. I will also address this issue in greater detail later in my rebuttal.

Q. Are Witness Garrett's recommendations as to the appropriate service lives clear?

A. Not entirely. He seems to suggest that longer service lives should be applied across the board, but specifically addresses only Accounts 378, 379, 380.1 and 381. In addition, it appears, as reflected in my Exhibit PSL-5, that there are seven additional accounts where his resultant average remaining lives differs from those I have proposed, although it is not clear where his disagreement lies as it relates to these accounts.

Q. Please explain.

A. Witness Garrett does not indicate any specific disagreement with FPUC's proposed average service life for Account 376.2, Mains – Steel; Account 380.2, Services – Other; Account 381.1, Meters – AMR Equipment; Account 384, House Regulator Installations; Account 385, Indus. Meas. & Reg. Station Equipment; Account 387, Other Equipment; and Account 396, Power Operated Equipment. However, his Exhibit DJG-21 indicates his proposed average remaining lives for these accounts differ from those recommended by FPUC. Likewise, with the exception of Account 396, his proposed remaining life depreciation rates differ from those proposed by FPUC. Witness Garrett offers no explanation or reasons for his recommended remaining lives or why FPUC's proposed remaining lives are not reasonable.

Q. How did you calculate the average remaining lives and resulting remaining life depreciation rates?

A. As discussed in my testimony, I developed the average remaining lives for each account using the average age for the given account, the proposed average service life, and the selected Iowa Curve life table. The Life Tables I used in the remaining life expectancy determinations were obtained from GTE-INC.[3] These are standard Iowa Curve life tables that can also be

[3] The life tables obtained from GTE-INC are comprised of two volumes, each consisting of 646 pages.

replicated from other sources.[4] Rebuttal Exhibit PSL-7 shows the remaining life determinations for the accounts where the average service life and average age are not in dispute but the remaining lives between OPC and FPUC differ. FPUC's calculated depreciation rates follow the formula for the remaining life technique in Rule 25-7.045, Florida Administrative Code, as indicated in Revised Exhibit PSL-2, Schedule B.

<u>III. Peer Group</u>

Q. Do you agree with Witness Garrett's proposed changes to your proposed account life parameters?

A. No, I do not, nor do I agree with the peer group justification he used for his proposals.

Q. What accounts are being challenged by Witness Garrett?

A. Witness Garrett specifically disputes FPUC's recommended average service life for four accounts.[5] Table PSL-1 Rebuttal shown below is a summary of the plant accounts upon which we disagree: Current Approved, FPUC Proposed, and OPC Proposed average service life parameters.

[4] Frank K. Wolf and W. Chester Fitch, *Depreciation Systems*, Iowa State University Press, 1992, p. 40 and Appendix 1, pp. 305-308; Robley Winfrey, *Bulletin 125: Statistical Analyses of Industrial Property Retirements*, 1935 as revised 1967, Iowa State University Engineering Publications and Communications Services, pp. 102-106; Robley Winfrey, *Bulletin 155: Depreciation of Group Properties*, 1942, Iowa State University Engineering Publications and Communications Services, pp. 124-127.

[5] Direct Testimony of David J. Garrett, pdf pages 92. I have considered Plastic and GRIP services as one account as proposed by FPUC.

Table PSL-1 Rebuttal
Summary of Proposed Life Parameters by Account

Plant Account		Current Approved ASL	FPUC Proposed ASL	OPC Proposed ASL
		(yrs.)	(yrs.)	(yrs.)
378	M&R Equip. - General	31	40	46
379	M&R Equip. – City Gate	32	40	49
380.1	Plastic Services	55	55	57
380G	GRIP Services	55	55	57
381	Meters	28	28	30

ASL=Average Service Life

Witness Garrett does not appear to disagree with any FPUC proposed survivor curve[6] parameters or net salvage values. I have also prepared Rebuttal Exhibit PSL-6 that provides the same information along with the currently prescribed average service lives for all Florida gas companies I reference for comparison in the following sections.

I also note that there are accounts for which Witness Garrett does not dispute the FPUC proposed average service life or age, but his proposed average remaining life differs from that proposed by FPUC in Revised Exhibit PSL-1, Schedule A.

Q. What are Witness Garrett's issues with FPUC's life proposals for the four challenged accounts?

A. First, Witness Garrett criticizes FPUC for not providing company-specific data for statistical analyses in determining average service lives. Second,

[6] A graphical representation plotting the percent of property surviving at each age.

while Witness Garrett agrees that a peer group comparison can be used “to establish a relatively objective basis for service life estimates”[7] when there is inadequate actuarial data, his peer group includes three companies in other jurisdictions and only two Florida companies.

Q. Do you agree with Witness Garrett’s criticisms of FPUC not providing company-specific data for statistical analyses in determining its life proposals?

A. No. FPUC’s depreciation study represents an update of its last filed study in 2019. The study provides average age determinations of its surviving investments at January 1, 2023, for each depreciable plant account based on company-specific data. The Company also included the determination of the average age of retirements for each account occurring each year since the last study. To the extent additional historical data is needed for a party’s analysis, FPUC has routinely filed annual reports and depreciation related annual status reports that contain annual plant and reserve activity. These reports are in the public domain and easily accessible. In fact, the annual status reports of depreciation related data are always included in company depreciation studies for each year since the last depreciation review of a given company, as they were for FPUC’s study.

Additionally, as discussed in my direct testimony, many of the FPUC accounts under study have experienced few retirements historically making statistical analysis of no real value. In normal circumstances, conducting

[7] Direct Testimony of David J. Garrett, page 9.

the same statistical analysis year after year is not productive for determining useful life indications. In contrast, reviewing average retirement rates, as I did, will show if - and when - there is any change in the retirement pattern that warrants further investigation as to cause, and possibly the need to conduct a new life analysis. Statistical analysis will, at best, only reveal how the subject plant investment has lived in the past. As such, reliance solely upon statistical analysis for the determination of an average service life has limited benefits and is only valuable if the future is expected to mirror the past.

It is even more problematic that the specific four accounts that Witness Garrett challenges have historically experienced scant retirements (less than 1%). This level of retirement activity is insufficient to enable any meaningful statistical analysis, which is why reliance on the range of lives prescribed for other Florida gas utilities is important and necessary. The range of lives for the companies in Florida has historically been used as a zone for reasonableness for company proposals, as well the Commission's analysis of those proposals.[8]

Q. Does the Commission Rule 25-7.045, Florida Administrative Code, require that a depreciation study include statistical analyses?

A. No, statistical analysis is not required. However, if a company does use statistical analysis to develop its service life proposals, then that data should

[8] As an example, see Docket No. 20170179-GU, Rebuttal Testimony of Dane Watson, and Docket No. 20170265-GU, Staff Report.

be provided in the depreciation study. It has been common practice for FPUC to file a basically "staff-assisted" depreciation study where it provided aged retirement data and the average age distributions of the surviving investments for each account. Working with the Commission Staff, life and salvage factors were developed from FPUC's submitted plant and salvage data. Additionally, FPUC is required to file comprehensive depreciation studies at least once every five years. In each case filing, the Company and the Commission Staff work together to determine proposed life and salvage parameters without the use of actuarial analysis. Reasonable life estimates can be made as they have in the past based on other information.

Q. On pages 92 and 93 of Witness Garrett's testimony, he provides an example of the actuarial analyses upon which the lives of his peer group companies were based. Do you take any issue with the example he used?

A. Yes. Although just an example, it highlights why Mr. Garrett's analysis fails in the "apples to apples" comparison category. He uses an example of actuarial analysis for a company outside Florida, NIPSCO ("Northern Indiana Public Service Company"), and for an account that appears to include both plastic and steel services.[9] FPUC maintains two separate accounts for services and studies plastic and steel services separately as indicative of the different proposed lives.[10] Since the pertinent account, Account 380.01, with which Witness Garrett takes issue is just for plastic services, there is really no way to determine what that Observed Life Table

[9] Direct Testimony of David J. Garrett, Exhibit DJG-19.
[10] See Rebuttal Exhibit PSL-5, Schedule 2.

("OLT") would show if the data were limited to plastic services only for NIPSCO as well. A more valid example of actuarial analysis would have, in my opinion, been one used for either Florida City Gas ("FCG")[11] or Peoples Gas System ("Peoples"),[12] which Witness Garrett indicated were based on "voluminous amounts of historical data."[13] Additionally, an example of one company's OLT should not be considered sufficient to presume a comparison to FPUC especially since Witness Garrett does not establish a parallel that would make a comparison relevant. I suspect that NIPSCO was selected given that its approved lives for the accounts in dispute are all longer than those FPUC has proposed and are also longer than the currently approved lives for the two Florida companies included in Witness Garrett's peer group.

Q. As mentioned previously, Witness Garrett has relied on the approved lives of the companies he selected for his peer group to justify his life proposals. Do you agree with the Witness's peer group?

A. No. While I do agree with Witness Garrett that a peer group comparison can be used "to establish a relatively objective basis for service life estimates"[14] when there is inadequate actuarial data, I find it problematic that the peer group he has considered consists of three companies outside Florida and only two Florida companies. The reasons he gives for including

[11] Order No. PSC-2018-0190-FOF-GU, issued April 20, 2018, in Docket No. 20170179-GU, In Re: Petition for Rate Case by Florida City Gas, pages 20 and 37.
[12] Order No. PSC-2020-0485-FOF-GU, issued December 10, 2020, in Docket No. 20200051-GU, In Re: Petition for rate case by Peoples Gas System; Docket No. 20200166-GU, In Re: Petition for approval of 2020 depreciation study by Peoples Gas System; Docket No. 20200178-GU, Petition for approval to track, record as a regulatory asset, and defer incremental costs resulting from COVID-19 pandemic, by Peoples Gas System, pages 14-16 and 215.
[13] Direct Testimony of David J. Garrett, page 8. See Docket Nos. 20170179-GU and 20200166-GU.
[14] Direct Testimony of David J. Garrett, page 9.

these companies in his peer group are 1) he was involved in each of the cases, 2) “the depreciation studies included voluminous historical retirement data that was adequate for actuarial analysis,”[15] and 3) the approved lives are generally longer than those approved in Florida. However, none of these reasons provides a valid basis for comparison to FPUC. In selecting companies for a peer group, there must be some similar characteristics or nexus with the company being analyzed. Witness Garrett does not indicate whether, or how, he determined that the companies he selected were suitably comparable or shared similar characteristics for inclusion in his peer group analysis of FPUC. He does claim that the coastal utility group of companies, which one must assume refers to Piedmont Gas, Florida City Gas, and Peoples Gas, and FPUC are in similar environmental conditions but provides little further explanation. As for Liberty and NIPSCO, the only other indication as to why they were selected is Witness Garrett’s assertion that it is important for the Commission to see the approved service lives of utilities in other regions. Notably, he does not explain why that is important, nor how information from utilities in other regions is valid and comparable for the development of service lives for a utility in Florida.

Q. In your opinion, are the three companies in Witness Garrett’s Peer Group that are outside Florida similar to Florida utilities for determining life expectations?

[15] Direct Testimony of David J. Garrett, page 92.

A. No. Again, it does not appear that Witness Garrett has undertaken an analysis of any underlying basis for making an “apples-to-apples” comparison between the companies in his peer group, such as meteorological conditions (e.g., hurricane incidence), subsurface conditions (e.g., karst geology, saltwater intrusion and corrosion). Additionally, being in a peninsular environment, Florida companies are subject to harsher operating and environmental conditions of heat, humidity, hurricane incidence, saltwater intrusion than companies in other states. Similar regulatory environments relating to, for example, storm protections, may vary from state to state that could also impact maintenance and retirements. Expensing/capitalization practices could also differ from state to state making it more appropriate to compare companies with similar procedures. These conditions make companies within Florida more appropriate to use for reasonableness purposes including companies in other states. Additionally, these differences warrant shorter lives as evident by the prescribed lives of the two Florida companies that are based on voluminous company-specific data and statistical analysis. In sum, Witness Garrett has not established the similarity between the three companies outside Florida and FPUC or any Florida company.

In terms of customer size alone, the three companies outside Florida are a poor proxy for FPUC. Liberty has approximately 60,000 customers, NIPSCO has approximately 821,000 customers[16] and Piedmont Natural

[16] https://www.nipsco.com/our-company/about-us

Gas has 157,000 customers[17] in South Carolina. FPUC has approximately 108,000 customers. The operational characteristics and demand on assets between these different sized companies can create different accounting and operation process dynamics for each company.

Q. Did Witness Garrett explain why he did not agree with the peer group used by FPUC in its depreciation study?

A. No. The only explanation Witness Garrett provides is that the currently prescribed average service lives for his peer group companies are "generally longer than those approved in Florida." [18]

Q. How does Witness Garrett's peer group compare to the peer group used in FPUC's depreciation study?

A. FPUC's peer group consists of all gas companies in Florida rather than just two; thus, there is overlap in terms of the two Florida companies he did include, Florida City Gas ("FCG")[19] and Peoples Gas System ("Peoples")[20]. I reviewed the most recent depreciation studies for both FCG and Peoples and found that these were each based on company-specific data and the lives were the result of actuarial analysis. I note that the service lives approved for the accounts at issue were, for both companies, are shorter

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[17] https://www.prnewswire.com/news-releases/piedmont-natural-gas-files-rate-adjustment-in-south-carolina-for-investments-to-better-serve-customers-301516052.html

[18] Ibid.

[19] Order No. PSC-2018-0190-FOF-GU, issues April 20, 2018, in Docket No 20170179-GU, In Re: Petition for Rate Case by Florida City Gas, pages 20 and 37.

[20] Order No. 2020-0485-FOF-GU, issued December 10, 2020, in Docket No. 20200051-GU In Re: Petition for rate case by Peoples Gas System; Docket No. 20200166-GU, In Re: Petition for approval of 2020 depreciation study by Peoples Gas System; and Docket No. 20200178-GU, Petition for approval to track, record as a regulatory asset, and defer incremental costs resulting from COVID-19 pandemic, by Peoples Gas System, pages 14-16 and 215.

than those for Witness Garrett's selected companies outside the State, which suggests that the witness included these out-of-region companies in his peer group primarily to boost the average service lives for his group.

Q. Are FPUC's proposed lives reasonably consistent with the approved lives for the two Florida utilities included in Witness Garrett's peer group?

A. Yes. FCG's current approved depreciation rates are the result of its 2017 study addressed in Docket No. 20170179. OPC was an intervenor in that proceeding. While the case was ultimately resolved through a Stipulation and Settlement, I noted that the only account where the service life proposed by OPC's witness was included in the settlement was for Account 380.2, Plastic Services. That stipulated life was 54 years, which is shorter than the service life proposed by FPUC for the same account in this docket.

Q. Are there other issues you have found with Witness Garrett's use of the peer group information?

A. Yes. First, on Witness Garrett's Exhibit DJG-19, the lives for Account 380.1, Plastic Services, and Account 381, Meters, are not correctly depicted for Liberty. While Witness Garrett's exhibit shows the lives for these accounts of 50 years and 45 years, respectively, the lives approved are really 52 years and 35 years, respectively.[21] Additionally, it appears that, like NIPSCO, Account 380.1, Plastic Services, for Liberty is really a combination

[21] Final Order, Docket No. 41969, In re: Liberty Utilities (Peach State Natural Gas) Corp.'s Petition for Approval of Adjustment of its Rates and Revised Tariff and Application for an Alternative Form of Regulation, Rate Case Stipulation, Exhibit B, page 1.

of steel and plastic service investments. Thus, using this account as a comparison with the life of FPUC's account that contains plastic services only is not appropriate. Second, the life listed for NIPSCO, Account 379, M&R Equipment – City Gate, is not valid in that NIPSCO shows no investment in city gate equipment.[22] I note that 1) the NIPSCO Final Order is dated July 27, 2022, rather than April 1, 2022, as indicated in Witness Garrett's testimony, and 2) OPC's response to FPUC POD X does not include the Joint Exhibit B that contains the ordered depreciation parameters.

Q. What recommendations are you making in your rebuttal testimony?

A. I recommend that the FPSC approve FPUC's proposed life, salvage, reserve, and resulting depreciation rates presented in Rebuttal Exhibit PSL-5, Schedule 2 and 3, along with the proposed amortization of the reserve deficit associated with the General Plant amortizable accounts. The exhibit schedules correspond to the Revised Exhibit PSL-2, Schedules A-E, submitted on September 9, 2022, in this proceeding.

IV. <u>DEPRECIATION EXPENSE AND ACCUMULATED DEPRECIATION ADJUSTMENTS</u>

[22] Cause No. 45621, Petition of Northern Indiana Public Service Company, Public's Exhibit No. 6 - Testimony of David J. Garrett, Attachment DJG-4 and DJG-6. The exhibits show that NIPSCO has no City Gate M&R investment.

Q. Please summarize Mr. Smith's recommended adjustments on depreciation expense and accumulated depreciation using Mr. Garrett's proposed depreciation rates.

A. Mr. Smith recommends an adjustment of $928,851 increase in the 2023 average rate base as shown on line 23, page 8, of his testimony. In addition, his proposed annual depreciation expense is $12,356,395, a $2,204,818 decrease in the depreciation expense as shown on line 20, page 22.

Q. On page 22 of Mr. Smith's testimony, he states that Schedule C-1 is reflective of FPUC's proposed depreciation rates. Do you agree with this assertion?

A. No. The depreciation rates used in developing Schedule C-1 are FPUC's currently prescribed depreciation rates not those the Company has proposed. This is noted at the bottom of Schedule C-17.[23]

Q. Do you agree that Mr. Smith's adjustments to depreciation expense and accumulated depreciation reflect Mr. Garrett's proposed depreciation rates?

A. No. Mr. Smith recalculated 2023 depreciation expense using the recommended depreciation rates that were supplied to him by Mr. Garrett in his Exhibit RCS-2, Schedule C-1, page 4 in column A. However, Mr. Smith did not correctly incorporate Mr. Garrett's proposed depreciation rates in his testimony. The depreciation rates for accounts 392, 3921, 3922, 3924 and 396 in Mr. Smith's Exhibit RCS-2, Schedule C-1, page 4 in column

[23] See also Direct Testimony of Michelle Napier, pages 21-22.

A, do not match the depreciation rates recommended by Mr. Garrett in Exhibit DJG-20, pages 1 and 2. Using the depreciation rates recommended by Mr. Garrett for these five (5) accounts results in the 2023 depreciation expense of $12,125,413 rather than $12,356,395, therefore, the depreciation expense adjustment should be $2,435,800 as opposed to $2,204,818 as shown in Rebuttal Exhibit PSL-10.

Because the 2023 depreciation expense is incorrect in Mr. Smith's testimony, the corresponding accumulated depreciation is also incorrect. In addition, the calculation of the 13-month average accumulated depreciation in Exhibit RCS-2, Schedule B-3, page 1 is incorrect as the January 2023 balance is missing. Using the corrected depreciation expense and inclusion of the January 2023 balance, the 13-month average accumulated depreciation is $1,206,999 rather than $928,851.

V. CONCLUSION

Q. What are the depreciation expenses associated with OPC's proposed depreciation rates?

A. Rebuttal Exhibit PSL-5, Schedule 3, shows the expense impact of OPC's proposed depreciation rates[24] compared to FPUC's Revised Exhibit PSL-2, Schedule B. I have corrected the OPC position for the revised account reserves. Also, for accounts where Witness Garrett indicates no dispute with FPUC proposed average service lives, I have used my calculated average remaining life. Finally, the calculated depreciation rates follow the

[24] Exhibit DJG-21, column 10.

Corrections on this page were inserted by Court Reporter Debbie Krick

formula of the remaining life technique in Rule 25-7.045(1)(e). The resulting OPC change in expenses is $1.9 million or an additional decrease of $0.4 million from FPUC's revised proposal.

Q. Do you have any concluding remarks?

A. Yes, the lives, salvage, reserve components, and resulting depreciation rates provided in my Revised Exhibit ~~PSL-1~~ PSL-2, Schedule B and Schedule C, should be applied to FPUC's plant in service and used in calculating the depreciation expense and rate base adjustments to the 2023 test year. These rates and reserve corrections provide fair and reasonable recovery to both FPUC and its customers and should be adopted by the Commission.

GUNSTER

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October 19, 2022

BY E-FILING

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

Re: **Docket No. 20220067-GU: Petition for rate increase by Florida Public Utilities Company, Florida Division of Chesapeake Utilities Corporation, Florida Public Utilities Company - Fort Meade, and Florida Public Utilities Company - Indiantown Division.**

Dear Mr. Teitzman:

Attached, for electronic filing, please find the Errata to the Rebuttal Testimony of Patricia Lee, submitted on behalf of Florida Public Utilities Company and the Florida Division of Chesapeake Utilities Corporation.

Sincerely,

/s/Beth Keating
Beth Keating
Gunster, Yoakley & Stewart, P.A.
215 South Monroe St., Suite 601
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(850) 521-1706

cc.(Certificate of Service)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Florida Public Utilities Company, Florida Division of Chesapeake Utilities Corporation, Florida Public Utilities Company - Fort Meade, and Florida Public Utilities Company - Indiantown Division.	DOCKET NO. 20220067-GU FILED: October 19, 2022

FLORIDA PUBLIC UTILITIES COMPANY'S
ERRATA SHEET TO THE REBUTTAL TESTIMONY OF PATRICIA LEE

Florida Public Utilities Company, jointly with the Florida Division of Chesapeake Utilities Corporation, Florida Public Utilities Company - Fort Meade, and Florida Public Utilities Company - Indiantown Division, (jointly, "FPUC") hereby submits this Errata Sheet to correct the Rebuttal Testimony of its witness, Patricia Lee, originally filed on September 20, 2022:

Direct Testimony

Witness Name	Page and Line Number	Correction
Patricia Lee	Page 18, Line 7	Change POD "X" to "3"

Respectfully submitted this 19th day of October, 2022,

By: ________________

Beth Keating
Greg Munson
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Attorneys for Florida Public Utilities Company

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing filing has been served by Email this 19th day of October, 2022, upon the following:

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Attorneys for Florida Public Utilities Company

BY MR. MUNSON:

Q And, Ms. Lee, did you prepare a summary of your rebuttal testimony?

A Yes, I did.

Q Can you please provide that to us?

A Yes. Good afternoon, Mr. Chairman and Commissioners.

The purpose of my rebuttal testimony is to respond to OPC Witness Garrett's positions and statements relating to FPUC's 2023 consolidated gas depreciation study, and OPC Smith's statements relating to projected test year depreciation expenses.

According to his supplemental testimony, Witness Garrett only challenges the FPUC proposed average service lives for three out of the company's 35 accounts. He does not challenge any account average age, curve shape, proposed net salvage value or the proposed five-year amortization of the reserve deficit associated with the amortizable general plant accounts.

Witness Garrett's proposed lives are based solely on the average of the selected peer group consisting of five companies, three outside of Florida and two in Florida. The only reason offered for preferring this peer group is that the lives of the three companies outside of Florida are longer than those proposed by FPUC. This suggests that their inclusion is primarily to increase the average. There is no indication of how, or in what specific ways these companies are comparable to FPUC, or why approved service lives of utilities in other regions is valid and comparable to a Florida utility, especially in the rise hurricanes incidents, saltwater intrusion and corrosion.

With respect to Witness Smith's testimony, he states that his adjustments are reflective of FPUC's proposed depreciation rates. This is incorrect. His adjustments are to FPUC's currently prescribed depreciation rates, and do not include the amortization of the reserve deficit associated with amortizable general plant accounts.

In sum, I recommend that the Commission approve the FPUC proposed depreciation rates reflected on revised Exhibit PSL-2, Schedules B and C. These rates and amortizations should be used in calculating the depreciation expense and rate base for the projected test year 2023.

This concludes the summary of my rebuttal testimony. And I would like to thank the Commissioners their time.

MR. MUNSON: At this time, we tender the witness for cross-examination.

CHAIRMAN FAY: Great.

Ms. Christensen, you are recognized.

MS. CHRISTENSEN: Thank you.

EXAMINATION

BY MS. CHRISTENSEN:

Q Good afternoon, Ms. Lee.

A Good afternoon.

Q On page four of your rebuttal testimony, starting at line eight, you state that Witness Garrett claims it is better to overstate average service lives, is that correct?

A That is correct.

Q And in there, you are referencing his testimony at page 89, correct?

A I do not have his testimony in front of me.

Q That's what you cite as your footnote, correct?

A Oh, I am sorry. Yes, it is.

Q Okay. Do you recall that on page 89 of Mr. Garrett's testimony, his statement that the process of depreciation strives for a per match between the actual and the estimated useful life?

A Repeat that, please.

Q Do you recall on page 89 of Mr. Garrett's testimony, his statement that the process of

depreciation strives for a perfect match between the actual and the estimated useful life?

A In a perfect world, yes.

Q Okay. On page six of your testimony --

A Rebuttal, correct?

Q You talk about the type of data used for service lives analysis, is that correct?

A Correct.

Q On line five of page six, you start your discussion, and you state that Witness Garrett is correct that FPUC did not provide the type of age data necessary for actuarial analysis, is that correct?

A That is correct for actuarial analysis. They did provide -- they did provide aged data.

Q Okay. Would you agree that in a perfect scenario, let's say that a utility, any utility, not just FPUC, would have adequate amounts of aged data available upon which an actuarial and Iowa curve analyses could be conducted?

A I think you have to weigh the cost of having -- of maintaining that type of data with the results of that data. This commission historically has not required the smaller companies to maintain actuarial data. But if they did, they were to provide it. But it was decided many years ago that the companies should not be burdened with that cost.

Q And would you agree, though, that CUC, once they acquired FPUC, is not the same small company that FPUC as stand-alone company was at one time, correct?

A That is correct. They are still a small company, though.

Q Okay. And on lines 15 and 16, you state: Any statistical analysis would likely yield extremely long service lives due to a minimal retirement data, is that correct?

A Yes, that is exactly what I said earlier this morning. When you have retirement rates of less than one percent, the results of statistical analysis will yield very long lives unrealistically long.

Q Even if the prediction is likely to yield extremely long service lives is correct, would you agree that it would be beneficial for the Commission and other parties to have access to the data and the analysis so they could draw their own conclusions?

A I will go back to what I previously said. The Commission decided years, many years ago, that companies did not need to go to the expense of maintaining that type of data, but if they did, they would provide it in the depreciation study. In the depreciation study rule, there is no requirement for that data.

Q If there -- there is no -- is there any prohibition against them maintaining that data?

A No, certainly, there is no prohibition, but the depreciation study rule has requirements of information that are supposed to be provided within the depreciation study. Actuarial type data is not required.

Q How many years do you think it would take FPUC if they were to develop sufficient amount of data -- well, how many years do you think it would take FPUC to develop a sufficient amount of aged retirement data to conduct a reliable actuarial analysis?

A I do not know.

MS. CHRISTENSEN: Okay. I have no further questions. Thank you.

CHAIRMAN FAY: Okay. Staff?

MS. CRAWFORD: Staff has no questions.

CHAIRMAN FAY: Okay. Commissioners?

All right. Redirect, Mr. Munson?

MR. MUNSON: Just briefly.

CHAIRMAN FAY: Okay.

FURTHER EXAMINATION

BY MR. MUNSON:

Q Ms. Lee, Ms. Christensen asked you about your response on page six of your rebuttal testimony, and she

focused in on the first sentence, and I think it was the next to the last sentence. Can you kind of just summarize your overall answer there for us, please?

A Yes, I said it was correct, that FPUC did not provide the type of aged data for actuarial analysis, but it did provide aged data in the depreciation study. It provided aged retirement data since the last depreciation study.

Because depreciation studies are five years apart, each study is usually considered an update of the last one. So we look at the last five years what the retirement rates have been, they were still less than one percent, meaning statistical analysis was going to be invalid for a determination of life, and that's why we look to the averages of other companies.

MR. MUNSON: Thank you. Nothing further.

CHAIRMAN FAY: Okay. All right. Let's see, we have CEL 70, 71 and 72 for Witness Lee's rebuttal. Seeing no objection, we will enter those three into the record.

(Whereupon, Exhibit Nos. 70-72 were received into evidence.)

CHAIRMAN FAY: And with that, I believe you are -- we'll let you ask for your witness to be excused.

MR. MUNSON: Mr. Chairman, can we please excuse our witness, Ms. Lee?

CHAIRMAN FAY: Ms. Lee, you are excused.

THE WITNESS: Thank you so much.

CHAIRMAN FAY: Welcome back to the Commission.

THE WITNESS: Thank you.

CHAIRMAN FAY: After many years of service.

THE WITNESS: It feels like coming home.

CHAIRMAN FAY: Hopefully the chairs are nicer than when you were here.

THE WITNESS: Not those out there.

CHAIRMAN FAY: I walked right into that, I guess.

THE WITNESS: That may be for a reason.

CHAIRMAN FAY: Travel safe.

(Witness excused.)

CHAIRMAN FAY: All right. FPUC, we have your next witness for rebuttal.

MR. MUNSON: Yes, Mr. Chair. We would like to call back to the witness stand Mr. Noah Russell, please.

Whereupon,

NOAH RUSSELL

was recalled as a witness, having been previously duly sworn to speak the truth, the whole truth, and nothing but the truth, was examined and testified as follows:

EXAMINATION

BY MR. MUNSON:

Q Good afternoon, Mr. Russell. Welcome back.

A Thank you.

Q Mr. Russell, did you have filed three pages of rebuttal testimony in this case?

A I did.

Q And do you have any changes to that testimony?

A I do not.

MR. MUNSON: At this time, Mr. Chair, we would move Mr. Russell's rebuttal testimony into the evidence -- into the record as though read.

CHAIRMAN FAY: Show that entered into the record as though read.

(Whereupon, prefiled rebuttal testimony of Noah Russell was inserted.)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

REBUTTAL TESTIMONY OF NOAH T. RUSSELL

ON BEHALF OF FLORIDA PUBLIC UTILITIES COMPANY AND THE FLORIDA DIVISION OF CHESAPEAKE UTILITIES CORPORATION

DOCKET NO. 20220067-GU

September 20, 2022

SECTION I. INTRODUCTION

Q. Please state your name and business address.

A. My name is Noah T. Russell. My business address is 100 Commerce Drive, Newark DE, 19713.

Q. Have you previously filed direct testimony in this docket?

A. Yes, I filed direct testimony on behalf of Florida Public Utilities Company (all divisions) and the Florida Division of Chesapeake Utilities Corporation, which I refer to herein jointly as either “the Companies” or “FPUC.”

Q. Are you providing any exhibits with your rebuttal testimony?

A. No.

II. PURPOSE AND SUMMARY OF TESTIMONY

Q. What is the purpose of your rebuttal testimony?

A. The purpose of my testimony is to rebut the proposed adjustment to reduce Directors and Officers Liability (‘D&O) insurance expense and working capital contained in the direct testimony of OPC’s witness Ralph Smith.

Q. Do you agree with witness Smith's testimony that states there is no question that D&O liability insurance, which FPUC has elected to purchase, is primarily for the benefit of shareholders?

A. No, I do not agree with this statement. While D&O insurance does provide benefits to shareholders it also provides coverage for lawsuits brought by other parties, including employees, customers, creditors, vendors, competitors and regulators. Without D&O insurance, the Company's assets are at risk. A D&O policy mitigates this risk by covering the legal fees and other costs the Company may incur as a result of such a suit.

Additionally, many officers and non-employee directors would refuse to accept a position with a company that doesn't have a D&O policy and refuses to purchase one. Establishing an appropriate D&O insurance policy for officers and non-employee directors, serves to attract and retain qualified candidates with the necessary experience and skillsets to provide oversight and governance around the changing environment that all of the Company's business units are impacted by.

Q. Do you agree with witness Smith's rationale for removing 50% of the D&O insurance expense and 50% of D&O insurance from working capital?

A. No, I do not agree with his rationale. First, as noted above purchasing a D&O insurance policy is necessary to attract and retain qualified employees and directors to provide oversight and governance around the changing environment that all of the Company's business units are impacted by. Secondly, as mentioned in my previous testimony, the Company continuously assess the Corporation's current risks, insurance needs and costs in in determining the appropriate level of insurance coverage. Purchasing D&O insurance is an effective tool for mitigating risk. Without this coverage, the Company could be exposed to a claim which could result in material legal fees and other costs that would ultimately impact ratepayers and shareholders more negatively.

Q. Does this conclude your testimony?

A. Yes it does.

BY MR. MUNSON:

Q Mr. Russell, are you prepared to present a summary of your rebuttal testimony?

A I am.

Q Please proceed.

A I would like to again thank the Commission for the opportunity to address you today.

The purpose of my rebuttal testimony is to dispute the proposed adjustment to insurance expense and working capital contained within the direct testimony of OPC's witness Ralph Smith related to directors and officers liability insurance.

Witness Smith's testimony suggests that D&O liability insurance is primarily for the benefit of shareholders. D&O insurance does provide benefits to shareholders, however, it also provides coverage for lawsuits brought by other parties, including employees, customers, creditors, vendors, competitors and regulators. Without D&O insurance the company's assets are at risk, which ultimately impacts the financial well-being of the company and its ability to provide safe and reliable service to its customers. If such a suit were to occur a D&O policy can mitigate the risk by covering the legal fees and other costs the company may incur.

Additionally, establishing an appropriate D&O insurance policy for officers and nonemployee directors serves to attract and retain qualified candidates with the necessary experience and skill set to provide the necessary fiduciary oversight, governance and risk management around the changing environment in which all our companies' businesses operate.

This also ensures a financially sound, well-run company, which ultimately ensures we are able to provide our customers with safe, reliable service they deserve.

Witness Smith also suggests that because D&O you have insurance primarily benefits shareholders, the adjustment of 50 percent needs to be made to both FPUC's D&O insurance expense and D&O insurance in working capital. Reducing these amounts negatively diminishes the importance of fiduciary oversight, governance and overall risk management, and further impacts FPUC's ability to incur costs to retain and attract talent.

Given that management of risk and the caliber of our employees are two key components of who we are, a well-run company and financially sound, the importance of this coverage in our tool -- as a tool in our toolbox provides benefits to our customers and shouldn't be overlooked. As I just stated, purchasing a D&O

insurance policy is necessary to attract and retain qualified employees and directors in light of the changing environment which all of our companies operate.

Secondly, without the coverage, the company could be exposed to a claiming which could result in material legal fees and other costs that would ultimately negatively impact customers and shareholders. This intended consequence would likely be more detriment to the cost of the company versus carrying the coverage.

This concludes the summary of my testimony, and I would like to again thank the Commission for their time.

CHAIRMAN FAY: Great. Thank you.

MR. MUNSON: Thank you.

At this time, we tender the witness for cross-examination.

CHAIRMAN FAY: Okay. Mr. Rehwinkel?

MR. REHWINKEL: We have no questions for Mr. Russell. Thank you.

CHAIRMAN FAY: Okay. Mr. Sandy?

MR. SANDY: I am sorry, Mr. Chairman, no cross.

CHAIRMAN FAY: Okay. Commissioners?

Okay. I imagine no redirect.

MR. MUNSON: No, sir. And we would request that Mr. Russell be excused.

CHAIRMAN FAY: All right. Mr. Russell, thank you for your testimony.

THE WITNESS: Thank you.

CHAIRMAN FAY: Travel safe.

THE WITNESS: Thank you.

(Witness excused.)

CHAIRMAN FAY: All right. FPUC, whenever you are ready, call your next witness for rebuttal.

MS. KEATING: Thank you. Mr. Chairman, FPUC calls Mike Galtman back to the stand.

Whereupon,

MIKE GALTMAN

was recalled as a witness, having been previously duly sworn to speak the truth, the whole truth, and nothing but the truth, was examined and testified as follows:

EXAMINATION

BY MS. KEATING:

Q Good afternoon, Mr. Galtman. Welcome back.

A Thank you.

Q Would you please state your name for the record, please?

A Mike Galtman.

Q And you are the same Mike Galtman that testified earlier in this proceeding, correct?

A I hope so.

Q And you are sworn, correct?

A I am.

Q Okay. Did you cause to be prepared and filed in this proceeding rebuttal testimony?

A Yes, I did.

Q Do you have any changes or corrections to that testimony?

A I do not.

MS. KEATING: Okay. Mr. Chair, we would ask that Mr. Galtman's rebuttal testimony be inserted into the record as though read.

CHAIRMAN FAY: Okay. Show it inserted.

(Whereupon, prefiled rebuttal testimony of Mike Galtman was inserted.)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

REBUTTAL TESTIMONY OF MICHAEL D. GALTMAN

ON BEHALF OF FLORIDA PUBLIC UTILITIES COMPANY AND THE FLORIDA DIVISION OF CHESAPEAKE UTILITIES CORPORATION

DOCKET NO. 20220067-GU

September 20, 2022

SECTION I. INTRODUCTION

Q. Please state your name and business address.

A. My name is Michael Galtman. My business address is 100 Commerce Drive, Newark DE, 19713.

Q. Have you previously filed direct testimony in this docket?

A. Yes, I filed direct testimony on behalf of Florida Public Utilities Company (all divisions) and the Florida Division of Chesapeake Utilities Corporation, which I refer to herein jointly as either "the Companies" or "FPUC."

Q. Has your employment status and job responsibilities remained the same since discussed in your previous testimony?

A. Yes.

Q. Are you providing any exhibits with your rebuttal testimony?

A. No.

II. PURPOSE AND SUMMARY OF TESTIMONY

Q. What is the purpose of your rebuttal testimony?

A. The purpose of my testimony is to rebut various incorrect conclusions contained in the direct testimony of OPC's Witness Ralph Smith, as well as his misinterpretations of our request and expenses.

Q. Do you agree with Witness Smith's recommendation to reduce the level of incentive compensation included in FPUC's projected 2023 test year cost of service? If not, why not?

A. No, I do not agree with this recommendation. First, as noted in the direct testimony of Company Witness Rudloff, our compensation philosophy recognizes that our employees perform the most critical role in ensuring that our business units are providing safe, reliable, and efficient service to our customers, including FPUC. It should not come as a surprise to Witness Smith that the safety, of our employees and customers, is our number one priority. Consistent with this philosophy, the plan has been designed to reward employees by providing pay and benefits that are competitive in comparison to the utility industry, as well as the general non-utility employers. Even in being competitive, the Company takes a conservative approach relative to its peers and other companies with whom we compete for talent. The compensation package, as a whole, including incentive compensation, represents a cost that is prudent and reasonable to attract, retain and motivate employees who are qualified to perform the functions necessary for the benefit of our customers. As part of the governance processes regarding compensation, the Company utilizes independent, third-party compensation specialists, such as Willis, Towers & Watson and F.W. Cook, to review compensation across various levels of the Company. These specialists evaluate our compensatory components and overall design relative to benchmarking data when assessing the appropriateness of our total compensation relative to the market and industry trends. As stated earlier, not only are we within the appropriate utility benchmarks, but we are also actually more conservative in our approach. As a result, the incentive compensation levels established by the Company should be considered a prudent and necessary component of our employees' total compensation and therefore, associated costs should be recovered.

Q. Do you agree with Witness Smith's rationale for removing 50% of incentive compensation expense?

A. No, I do not agree with his rationale. First, as noted above, incentive compensation is an important part of the total compensation package offered by the Company to attract, retain, and motivate qualified employees. This is a highly competitive workforce market. We also want the best from our employees in terms of providing excellent service to our natural gas customers and being able to continuously adapt to changing regulatory requirements and market conditions. The Company therefore seeks to achieve an appropriate balance of "at risk" pay that is only recognized if the Company goals of safety, prudent cost management, and the provision of safe and reliable natural gas service, are met. If we did not offer incentive compensation - or if the Commission disallows associated costs - we would need to consider increasing base salaries to remain competitive with other companies also trying to attract and retain qualified employees. This would serve to increase overall costs to the customers regardless of the performance of the Company.

Second, Witness Smith's rationale for removing fifty percent of incentive compensation is based on the assumption that there is a distinction between how incentive compensation benefits customers and shareholders. He is mistaken. The strong financial performance of the Company is ultimately good for both and is in the best interests of our customers. A strong, financially sound utility is better able to ensure safe and reliable service to its customers and meet the ever-changing customer service expectations of its customer base. Such a utility is also better able to grow and expand service to meet the needs of a growing population, which means not only the expansion to serve customers that previously did not have natural gas service, but also the addition of more customers, which allows the Company to allocate costs over a wider customer base resulting in lower, per-customer rates. In addition, a financially sound utility has greater access to capital at lower cost which also improves rates. Thus, the notion that improving shareholder value is separate from the benefit received by ratepayers, as Witness Smith seems to indicate, is just wrong and short-sighted.

Chesapeake's performance components are designed to provide value to all stakeholders, including shareholders and customers. In fact, the majority of businesses that are operated by Chesapeake are regulated utilities. As such, Chesapeake fully understands the importance of managing both investments and returns. We recognize that when we make profitable investments that generate desired returns, our utility ratepayers benefit from better service, as well as expanded service, and our utilities are able to avoid - or at least defer - the need to increase rates. Such is the case for the Company, as it has not filed a rate case for approximately 10 to 13 years, depending on the specific company.

Q. Are there problems with Witness Smith's recommendation to reduce incentive compensation by fifty percent?

A. Yes. Witness Smith states that his decision to reduce incentive compensation by fifty percent is based on removing the factors that he deems to be attributable to shareholders. Specifically, he points to earnings per share (EPS) and return on equity (ROE), which are two performance metrics utilized by the plan to calculate incentive compensation. I believe this to be a misguided approach for a couple of reasons.

First, Corporate EPS is an accumulation of earnings of each of Chesapeake's businesses, including the FPUC natural gas operations. We believe our approach of having a unified enterprise-wide goal, allows employees from all business units to strive for more efficiencies, which in turn serves to manage costs more effectively when managing the various requirements of our operations. This in turn serves to collectively benefit both our customers and our shareholders.

Secondly, Witness Smith's recommendation is based on the weighting of Corporate EPS and Consolidated ROE for employees that have a bonus target of fifteen percent. This bonus target relates to Director level employees only. What Witness Smith's argument fails to recognize is that only 6.4% of the employees who participate in the Company's incentive compensation plan have Corporate EPS and Consolidated ROE targets which collectively meet or exceed 50% of the overall payout. The incentive plan is designed so that the majority of employees have their at-risk pay tied to their individual performance goals and non-financial metrics such as safety. For example, employees with a target bonus opportunity of 6.0% percent have 70% of their bonus calculation based on individual performance and non-financial performance. If the Commission were to adopt Witness Smith's proposal to reduce the incentive compensation amount, it would not be appropriate to reduce cost by 50%, as the majority of the participants in the plan have target bonus opportunities which consider a lower weighting of Corporate EPS and Consolidated ROE.

Target Bonus Opportunity %	**Individual Performance**	**Corporate EPS**	**Consolidated ROE**	**Non-Financials (i.e., Safety)**
20%	25%	30%	25%	20%
15%	30%	**25%**	**25%**	20%
12%	30%	20%	30%	20%
10%	40%	10%	30%	20%
7.50% - 8.50%	50%	10%	20%	20%
6%	50%	10%	20%	20%
Source: 2021 Incentive Performance Plan				

Furthermore, although a portion of the IPP is based on achieving financial targets, this still directly benefits the customers in our natural gas operations, which the Commission has recognized in prior cases. I believe the IPP helps ensure that we remain focused on the Company's strategic and critical objectives, such as safety, customer service, keeping costs low, attracting new customers and being as efficient as possible, all of which benefits our customers.

Q. Do you agree with Witness Smith's recommendation to adjust payroll tax expense in conjunction with a reduction of incentive compensation expense?

A. No. As discussed above, incentive compensation expenses are part of the overall compensation package that the Company offers to ensure it can retain, attract, and motivate employees which in turn allows for safe and efficient operations for the

Company's customers. Incentive compensation recognized by the Company is either directly recorded or allocated based on services performed. For these reasons, I believe this expense should be included within operating expenses in the projected test year.

Q. Do you agree with Witness Smith's recommendation to remove stock-based compensation from FPUC's projected 2023 test year cost of service?

A. No. As noted above in my testimony regarding incentive compensation, stock-based compensation is an important part of the total compensation package offered by the Company to attract, retain, and motivate key employees who are managing operations of all of Chesapeake Utilities' business units including the FPUC natural gas operations. The Company seeks to achieve an appropriate balance of "at risk" pay that is only recognized if the Company goals, as described earlier, are achieved. The shareholder return measurement included in the stock-based compensation plan would not be achieved if the Company was not managing to grow the business effectively. To the extent stock-based compensation was not offered by the Company or if the Commission disallows associated expenses, we will need to consider increasing base compensation to remain competitive when attracting and retaining a qualified leadership team and board of directors. This would increase the overall cost to the customers regardless of the performance of the Company.

Q. Do you agree with Witness Smith's recommendation to adjust payroll tax expense in conjunction with a reduction of stock-based compensation expense?

A. No. As discussed above, stock-based compensation expense is part of the overall compensation package that the Company offers to ensure it can retain, attract, and motivate employees which in turn allows for safe and efficient operations for the Company's customers. For these reasons, I believe this expense should be included within operating expenses in the projected test year. Furthermore, stock-compensation awarded to the Chesapeake Utilities' board of directors does not include payroll taxes. This compensation is reported on a Form 1099 annually, as the directors are not considered employees. As a result, $12,937 of the $188,619 payroll tax adjustment proposed by Witness Smith on stock-based compensation for the board of directors would not be appropriate.

Q. Do you agree with Witness Smith's recommendation to remove the Supplemental Employee Retirement Plan ("SERP") expense?

A. No. I do not agree with his recommendation. The Company's compensation and benefits offering, is designed to attract, retain, and motivate employees servicing FPUC's natural gas customers. The employees with the appropriate combination of technical and leadership skillsets are critical in ensuring safe and reliable service. The Company's current and future commitment to honor these benefits should be considered as part of the overall compensation offering and therefore would represent a prudent business expense. For this reason, I do not agree with Witness Smith's recommendation to remove these costs from projected operating expenses.

Q. Does this conclude your rebuttal testimony?

A. Yes.

BY MS. KEATING:

Q And you did not have any rebuttal exhibits, is that correct?

A I did not.

Q And did you prepare a summary of your rebuttal testimony?

A Yes, I did.

Q Would you please go ahead and present that?

A Hello again, Commissioners. I appreciate the opportunity again to address you.

The purpose of my rebuttal testimony is to dispute various conclusions contained within direct testimony of OPC witness Ralph Smith pertaining to the company's incentive compensation plan, stock compensation plan and supplemental employee retirement plan expense.

Witness Smith suggests within his testimony that portions of these plans should be partially or fully removed from the company's projected operating expenses. These conclusions are based on, one, misinterpretations of how the incentive plans are calculated, and two, the overall premise that incentive compensation plan benefits shareholders separate and distinct from the benefits that are received from the company's natural gas customers. I believe this conclusion to be wrong for three reasons.

First, Chesapeake Utilities' various incentive plans include metrics which are designed to provide value to both shareholders and customers. Given these financial goals results in a strong financially sound utility, which is better equipped to continue servicing the growing demand of our customer basis.

Second, our compensation plan is made up of both salaries and incentive pay, which play a role in retaining and attracting the necessary employees to meet the growing demands of our customers and provide safe and reliable operations. The current labor market is extremely challenging with employees having significantly more options for employment than ever about. To eliminate the ability to recover a portion of our compensation offering could result in decisions to shift more compensation into base salary to remain competitive. This would be counter to the current plan, which is tended to drive and incentivize our employees to continuing to operate safely and achieving strong financial results.

Finally, the governance over our compensation program is continuously reviewed by the Chesapeake Utilities Compensation Committee and supported by the use of third-party independent consultants to ensure that benchmarking data is performed on both the utility industry as well as the broader market to ensure that our compensation offering is prudent and remains competitive. This type governance is critical in ensuring we get the right answer.

For all these reasons, I believe Witness Smith's exclusions are not appropriate, and these costs should be necessary as part of the projected operating costs.

Again, thank you for your time today.

Q Thank you, Mr. Galtman.

MS. KEATING: Mr. Chair, the witness is tendered for cross.

CHAIRMAN FAY: Great. Thank you.

OPC?

MR. REHWINKEL: Mr. Chairman, we have no questions for Mr. Galtman. Thank you.

CHAIRMAN FAY: Okay. Thank you.

Staff?

MR. SANDY: Yes, Mr. Chairman.

EXAMINATION

BY MR. SANDY:

Q Mr. Galtman, were you present earlier in these proceedings when issues of accounts payable and receivable were discussed, I believe with witnesses

Napier and Smith and others?

A I was. And I also touched on it, I believe, as part of my direct testimony as it related to the affiliated account payable balance.

MR. REHWINKEL: Mr. Chairman, just for the record. I need to object that these line questions is outside the scope of the rebuttal testimony that was filed. I tailored -- I passed on the opportunity to cross-examine Mr. Galtman because the scope of his rebuttal testimony was strictly isolated to two issues.

CHAIRMAN FAY: So, Mr. Sandy, just looking at Mr. Galtman's rebuttal, is there a portion of this that you think directly ties to your question of the previous witness?

MS. CRAWFORD: If I may, Mr. Chairman. I do appreciate that the very limited cross that Mr. Sandy would like to ask with this witness is not, strictly speaking, in his rebuttal. However, when we heard from Witness Napier yesterday, she indicated that she was not the appropriate witness to ask this question, and our opportunity to cross Mr. Galtman on his direct had already passed, I believe, for that opportunity. So we would appreciate the indulgence to ask again a very limited question or two in this regard.

CHAIRMAN FAY: I appreciate the context for it. I mean, I think, as long as it's narrowly tailored and you don't have a lot of questions towards it, I mean, it's a rate case, there is a lot of broad issues, and so as to what's incorporated into this rebuttal, I think, is debatable how expansive it could be. But with that, I just remind you, Mr. Sandy, to be limited and narrow in your target.

MR. SANDY: Yes, sir. I have got one question.

MR. REHWINKEL: Mr. Chairman, may I ask --

CHAIRMAN CLARK: Yeah, Mr. Rehwinkel.

MR. REHWINKEL: -- if -- and I don't have a problem with that, but if testimony is going to be elicited, it would be as if direct testimony was being elicited here now, and I understand the staff's reason for doing that. I would just ask that if I have narrow cross-examination after hearing what the staff asked, that I be given leeway to ask very limited cross. I am not saying -- I don't know what he is going to ask, but I would like that opportunity, or at least be able to raise it at the right time.

MS. KEATING: And, Mr. Chairman.

CHAIRMAN FAY: Yes, Ms. Keating, go ahead.

MS. KEATING: I hesitate to weigh in here, but you may recall that when Mr. Smith was on the stand, I raised an objection with regard to an extensive line of testimony that Mr. Smith had on the stand that was nowhere to be found in his testimony. As such, I would ask that my witness be given some leeway, because we have not had an opportunity to respond to any of that.

CHAIRMAN FAY: Okay. Yep. I think -- and I am just reading through the rebuttal here. I think to the specifics of this, I do -- it is fairly narrow as far as what the rebuttal covers.

Mr. Rehwinkel, I appreciate the position you are in. I don't think procedurally at this point -- you are entitled to your objection on the record. I don't think procedurally we would begin going backwards to allow folks to not choose to cross to now cross ones somebody else has spoken to something. I see your dilemma, but I do think depending on how narrowly tailored this is, we could allow it.

I will say for the purposes of Mr. Galtman, I am not sure what expertise you will have to answer this question that, you know, seems to be relevant to some of the background on direct, but if it's not something that you find within your rebuttal testimony that you can provide any more information to, then you are fully capable of saying that it's not related to that testimony and you don't have a response for it, but I just suggestion you to be sort of narrow as to what you have provided in rebuttal.

MR. REHWINKEL: Mr. Chairman, I need also to object then, that the OEP in this case required rebuttal testimony to be prefiled. And to the extent live rebuttal is going to be allowed, that will be a violation of the order that we have all relied on.

MS. KEATING: Likewise --

CHAIRMAN FAY: Yeah, Mr. Rehwinkel, I have heard your objection, and I understand that there is debate about the scope as to what's included as it relates to the rebuttal. I haven't even heard the question yet, and so I would like to at least see sort of where we are postured as it relates to what they are asking, and then we can revisit the objection. But to sort of preemptively say that this is out of balance seems a bit presumptive to me.

So Mr. Sandy, now that you know you have a room full of people that don't feel great about your question --

MR. SANDY: No pressure.

CHAIRMAN FAY: -- yeah, no pressure. Exactly. But I do want to reiterated to you, Mr. Sandy, I know you are well aware with your experience as to the scope of these things, and by getting out of balance of those, and the timing of this becomes very difficult, because I know both FPUC and counsel for OPC have been in the room for many of these hearings, and the dilemma as to a witness saying, well, I can't answer that, ask it later. And then when it comes up later, saying, well, I am not the expert to sort of get to that. Sometimes we don't get to the response that the Commission would want to hear. So I think the information is valuable for us to hear.

I presume, based on Mr. Sandy's question, it's not going to be prejudicial, and, you know, to the case that it is, we will take up the objection at that time.

MR. SANDY: Thank you, sir.

BY MR. SANDY:

Q Mr. Galtman, I guess in light of the conversations we have just heard, I would just predicate my question on the idea that if you can answer it, that is great, and if you can't, if you don't feel comfortable, then that is okay as well.

Can you explain how accounts payable and receivable work within the context of this rate case?

A I can.

So as I was mentioning yesterday in my direct testimony, the -- we participate through to the Chesapeake Utilities Corporation. We have a centralized cash management program. And so cash ends up being swept up to the parent each night and goes towards the short-term revolver to pay that off, or if we need more cash, we have borrowings.

When we are recording operating expenses or capital investment for any of the subsidiaries, those amounts are booked onto the financial statements of the respective business. So in this case, you know, with the capital investment into plant that's being made at the FPU companies would increase as a result of those payments. The cash flow that's being generated by FPU is not sufficient to meet all the growth needs and all the investment that takes place. And so the offset to that on the financial statements is a liability.

To the extent that FPU, as its own little stand-alone company, as it invested in that plant and made payments to put plant in the ground, the offset would be some funding source, either an equity issuance to a third parties or a debt holder to a third party.

But as we have talked about throughout the case, FPU does not have its own debt structure, and does not have its own equity structure. It's relying on that of the parens. And so as a result, what you see on the balance sheet is an intercompany balance that's in a liability position that, to answer the question how it relates to the rate case. When we start with our rate base, we have, you can see in the schedules, that there is approximately -- in 2021, there is approximately $425 million of net plant if they are considering depreciation. That then -- that plant was funded partially by the intercompany balance. And so what we are trying to do is, in our working capital balance, which shows as a large liability, the offset to that was the plant. And so we are eliminating that liability to get to the true rate base that should be considered for rate purposes.

CHAIRMAN FAY: All right. Thank you.

Any follow-up?

MR. SANDY: I have no further questions.

CHAIRMAN FAY: Okay. Commissioners?

All right. FPUC, redirect?

MS. KEATING: No redirect.

CHAIRMAN FAY: Okay. No exhibits.

Would you like to excuse your --

MS. KEATING: I would.

CHAIRMAN FAY: Okay. Mr. Galtman, you are excused.

THE WITNESS: Thank you.

CHAIRMAN FAY: Thank you for your testimony.

THE WITNESS: Thank you.

(Witness excused.)

CHAIRMAN FAY: All right. Ready to call your next witness on rebuttal?

MR. MUNSON: Thank you, Mr. Chair. We like to call Mr. Mike Reno, please.

Whereupon,

MIKE RENO

was recalled as a witness, having been previously duly sworn to speak the truth, the whole truth, and nothing but the truth, was examined and testified as follows:

EXAMINATION

BY MR. MUNSON:

Q Welcome back, Mr. Reno.

Mr. Reno, did you have four pages of rebuttal

testimony filed in this matter?

A I did.

Q Do you have any changes to that testimony?

A I do not.

MR. MUNSON: At this time, Mr. Chairman, we would move Mr. Reno's rebuttal testimony into the record as though read.

CHAIRMAN FAY: Show it entered as though read.

(Whereupon, prefiled rebuttal testimony of Mike Reno was inserted.)

<u>BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION</u>

REBUTTAL TESTIMONY OF

MICHAEL J. RENO, ERNST & YOUNG, LLP

ON BEHALF OF FLORIDA PUBLIC UTILITIES COMPANY AND THE FLORIDA DIVISION OF CHESAPEAKE UTILITIES CORPORATION

DOCKET NO. 20220067-GU

September 20, 2022

SECTION I. INTRODUCTION

Q. Please state your name and business address.

A. My name is Michael Reno. I am a managing director in Ernst & Young LLP's National Energy Practice. My business address is 11011 New York Avenue, NW, Washington, District of Columbia, 20005-4213.

Q. Have you previously filed direct testimony in this docket?

A. Yes, I filed direct testimony on behalf of Florida Public Utilities Company (all divisions) and the Florida Division of Chesapeake Utilities Corporation, which I refer to herein jointly as either "the Companies" or "FPUC."

Q. Has your employment status and job responsibilities remained the same since discussed in your previous testimony?

A. Yes.

Q. Are you providing any exhibits with your rebuttal testimony?

A. No.

II. PURPOSE AND SUMMARY OF TESTIMONY

Q. What is the purpose of your rebuttal testimony?

A. The purpose of my testimony is to rebut various conclusions contained in the direct testimony of OPC's Witness Ralph Smith pertaining to his adjustment to include a "Parent Debt Adjustment" and change the interest synchronization adjustment.

Q. Do Florida regulations have an adjustment for tax benefits associated with parent company debt?

A. Yes, Rule 25-14.004, F.A.C., addresses parent company debt. This rule is intended to capture the income tax benefit associated with "double leverage". It states, "the income tax expense of a regulated company shall be adjusted to reflect the income tax expense of the parent debt that may be invested in the equity of the subsidiary. . .."

Q. Does FPUC have third-party debt?

A. No, FPUC is not a borrower under any third-party debt arrangement. Instead, Chesapeake Utilities Corporation ("CUC"), the parent company of FPUC, maintains all the third-party debt. When filing a consolidated tax return of CUC and its subsidiaries (including FPUC), the tax deduction for interest expense is determined by the interest associated with the third-party debt held by the parent. As FPUC has no third-party debt, there is no tax deduction for interest expense recorded on the subsidiary's Federal income tax return.

Q. Does FPUC consider the impact of parent company debt in its cost of capital calculation?

A. Yes, while FPUC has no debt on its books and records, an allocated portion of the parent's capital structure is applied to the rate base of FPUC as illustrated in MFR G-3 page 2.

Q. How is the allocation of parent company debt calculated?

A. The Company takes the total projected parent company equity, long-term debt and short-term debt to arrive at a ratio for each of these components. These ratios are then applied to the total rate base supported by these components after the total rate base is adjusted to account for the amount of rate base attributable to customer deposits, deferred taxes, and regulatory tax liabilities.

Q. Has the Company adjusted FPUC's income tax expense for the impact of the parent company debt?

A. Yes, as stated before, FPUC has no third-party debt, but an allocated portion of the parent company debt is included in the utility's capital structure. The related tax benefit of interest expense associated with the allocable parent company debt is calculated on MFR G-3 page 2 and deducted from income in calculating income tax expense on MFR G-2 page 30.

Q. Do you agree with Witness Smith's recommendation to adjust income taxes for parent debt?

A. No, while Rule 25-14.004, F.A.C. contemplates an adjustment for parent company debt, FPUC was acquired with one hundred percent equity and carries no associated debt. At the time of the acquisition, the parent company absorbed FPUC's long-term debt until it was either paid off or refinanced as parent company senior debt. FPUC's short-term debt was paid off at the time of the acquisition with the parent company's short-term debt facilities. Since there is no remaining debt at the FPUC level, the interest synchronization calculation explained above (using an allocable portion of the parent company debt to capture the tax benefits associated with the debt portion of the capital structure used for rate making purposes) is appropriate. The methodology used serves to achieve the intent of the rule since any income tax benefits resulting from the parent company debt are factored into FPUC's calculated costs.

Q. If Witness Smith's adjustments to rate base and Witness Garrett's adjustment to the debt/equity ratio are not accepted by the Commission, would Witness Smith's calculation on his Exhibit RCS-2, Schedule C-10 result in an adjustment to income tax for interest synchronization?

A. No, the adjustment that Witness Smith is proposing is resulting from OPC's proposed rate base and debt/equity ratios. Without these adjustments, there would not be a corresponding interest synchronization adjustment to consider in FPUC's cost of service amounts.

Q. Does this concluded your testimony?

A. Yes.

BY MR. MUNSON:

Q Mr. Reno, are you prepared to provide a summary of your rebuttal testimony?

A I am.

Q Please proceed.

A Good afternoon, Mr. Chairman and Commissioners.

The purpose of my rebuttal testimony is to rebut various conclusions contained in the direct testimony of OPC witness Ralph Smith pertaining to his adjustment to include a parent debt adjustment and changes to the interest synchronization adjustment.

I explain how the parent company debt adjustment is not appropriate in the instant case where double leverage does not exist. I also explain that the interest synchronization adjustment is designed to match the tax benefit of interest with the appropriate level of debt within the utility's capital structure and is consistent with FPUC's calculations.

This concludes the summary of my testimony, and I would like to again thank the Commissioners for their time today.

Q Thank you.

MR. MUNSON: Mr. Chair, at this time, we tender the witness for cross-examination.

CHAIRMAN FAY: Great. Mr. Rehwinkel?

MR. REHWINKEL: Yeah, Mr. Chairman, I think, in light of the time, we will waive our cross on Mr. Reno today. Thank you.

CHAIRMAN FAY: Okay. Staff?

MR. SANDY: If I could have a moment, Mr. Chair?

CHAIRMAN FAY: Okay.

EXAMINATION

BY MR. SANDY:

Q Mr. Reno, in -- you are obviously aware of Witness Smith's proposal for parent debt adjustment of a little less than $700,000?

A Yes.

Q Were you here earlier when I discussed rule 251-4004?

A Yes.

Q Okay. And you heard me read an excerpt out of that rule. In other words, I don't have to read that again for the sake of everybody?

A That is correct.

Q Okay. Do the companies in this docket issue their own debts or equities?

A They do not.

Q Okay. And do the companies in question

receive all of their capital from CUC, or the Chesapeake Utilities Company?

A That is my understanding.

Q Okay. And the companies in question, in essence, are requesting that the capital structure of CUC is used in setting rates for them, is that correct?

A That's my understanding.

Q Now, does CUC issue debts to invest in its own equity?

A I guess CUC does issue debt and it issues equity to the markets.

Q Does it issue debt for the purpose of investing in its own equity?

A I am not sure I understand.

Q Okay. Here, let me -- let me clarify a little bit.

Do they issue debt for the sake of investing in a subsidiary's equity, for example, FPUC's equity --

A Yes.

Q -- FPU, I believe?

A I would agree with that.

Q Okay. How can income tax expense of CUC be invested in the equity of the companies in question here before us when CUC's capital structure is being used as the capital structure for the companies in question

before us?

A I don't believe it can be. I believe there is just one level of debt. And, you know, when you think through our options on the interest benefit associated with debt, you have got either the actual debt of the utility that we've described as there is no actual third-party debt down at the utility. It could be the allocable portion of debt of the group to the utility, which is what FPUC has done in their computations; or it could be the utility debt that is inherent in the approved capital structure. And those are kind of your three options that I see.

In the case that we've put forth here, the capital structure and the allocable amount is the same. So, you know, two of those three options, you know, FPUC has incorporated that tax benefit of interest, and the third option of actual debt of the utility, you know, doesn't exist.

Q Okay. All other things equal, if a parent company debt adjustment is made, will the companies in question, will they be able to recover the actual costs of providing utility services?

A That's probably beyond the scope of my testimony.

Q That's okay. That's okay.

MR. SANDY: I have no further questions, Mr. Chairman.

CHAIRMAN FAY: Okay. Commissioners?

Redirect?

MR. MUNSON: May I have a moment, please?

CHAIRMAN FAY: Sure.

MR. MUNSON: No further questions. No questions. No redirect, thank you.

CHAIRMAN FAY: Okay. No exhibits.

Would you like your witness excused?

MR. MUNSON: Yes, please. Thank you, Mr. Chairman.

CHAIRMAN FAY: Mr. Reno, thank you for your testimony.

THE WITNESS: Thank you.

(Witness excused.)

CHAIRMAN FAY: All right. Ms. Keating, your next witness.

MS. KEATING: Thank you, Mr. Chair. FPUC calls Joanah Baugh.

CHAIRMAN FAY: Ms. Keating, I'm sure you are going to verify this, but she was sworn in. She did not have direct, so I just want to make sure.

MS. KEATING: I believe she was, but we can confirm.

Ms. Baugh, were you sworn?
THE WITNESS: Yes.
CHAIRMAN FAY: Great. Thank you, Ms. Keating.
Whereupon,
JOANAH BAUGH
was called as a witness, having been previously duly sworn to speak the truth, the whole truth, and nothing but the truth, was examined and testified as follows:
EXAMINATION
BY MS. KEATING:
Q Good afternoon, Ms. Baugh.
A Good afternoon.
Q Will you please state your name and business address for the record?
A Joanah Baugh, 1635 Meathe Drive, West Palm Beach, Florida, 33411.
Q And by whom are you employed and in what capacity?
A By Chesapeake Utilities Corporation as Senior Manager of Regulatory Affairs.
Q Okay. And did you cause to be prepared and filed in this proceeding eight pages of rebuttal testimony?
A Yes.
Q And do you have any changes or corrections to

that testimony?

A No, I do not.

MS. KEATING: Mr. Chair, we would ask that Ms. Baugh's rebuttal testimony be inserted into the record as though read.

CHAIRMAN FAY: Show it inserted.

(Whereupon, prefiled rebuttal testimony of Joanah Baugh was inserted.)

Before the Florida Public Service Commission

Docket No. 20220067-GU

In re: Petition for rate increase by Florida Public Utilities Company, Florida Division of Chesapeake Utilities Corporation, Florida Public Utilities Company – Fort Meade, and Florida Public Utilities Company – Indiantown Division

Prepared Rebuttal Testimony of Joanah M. Baugh

Date of Filing: 09/20/2022

Q. Please state your name, business address, occupation and employer.

A. My name is Joanah M. Baugh. My business address is 1635 Meathe Drive, West Palm Beach, FL 33411. I am employed by Chesapeake Utilities Corporation ("CUC") as Senior Regulatory Manager.

Q. Please describe your educational background and professional experience.

A. I received a Bachelor of Science in Accounting from the College of the Holy Spirit and I am a licensed Certified Public Accountant in the state of Virginia. I have been employed with CUC since 2010. I worked in the Internal Audit Department as Senior Manager of Internal Audit before transitioning to the Regulatory Department in 2021. As Senior Manager of Internal Audit, I was responsible for the design and implementation of the Internal Audit Program for CUC and its subsidiaries. In addition, I led various operational and compliance audits across the Company. Prior to joining CUC, I held various positions with public accounting firms such Ernst & Young LLP and BDO USA, LLP for over 8 years, from Staff Auditor to Manager.

Q. In your current role, what are your responsibilities?

A. My responsibilities include regulatory analysis and preparation of both routine and non-recurring special filings including rate case proceedings.

Q. Have you previously filed direct testimony in this case?

A. No. I have not.

Q. What is the purpose of your testimony?

A. My rebuttal testimony addresses certain positions in the testimony of Office of Public Counsel ("OPC") witness Ralph Smith concerning unamortized rate case expense, rent expense and company sponsored events.

Q. Are you sponsoring any rebuttal exhibits?

A. No.

<u>**Unamortized Rate Case Expense**</u>

Q. Do you agree with Witness Smith's statement on page 12, starting at line 16, that the "Commission should follow its long-standing policy of not allowing inclusion of the unamortized rate case expense in rate base"?

A. No, I do not. My review of Commission decisions addressing this issue indicates that, while the Commission does take that approach in a number of cases for other utilities, it does not have a "long-standing" policy of excluding unamortized rate case expense from working capital as it relates to FPUC.

Q. Has the Commission recognized rate case expense as a necessary cost of doing business for FPUC in the past?

A. Yes. It has. In the Company's 1993 rate case for its electric division, the Commission addressed this same issue. In that case, the Commission acknowledged that it had, in several prior cases for other utilities, removed rate case expense from working capital. The Commission nonetheless recognized that:

> We believe that the company should be given the opportunity to recover prudently incurred costs. Not including the unamortized portion of rate case expense in working capital is a partial disallowance. It is analogous to allowing depreciation expense, but not allowing a return on rate base. Rate case expense is a cost of doing business not unlike other administrative costs. Further, PSC rules, such as the MFR rule, influence the level of rate case expense.

The Commission therefore concluded:

> . . . if it is determined that rate case expense is prudent and reasonable, the company should be allowed to earn a return on the unamortized balance. Rate case expense is a necessary expense of doing business in the regulated arena.

Order No. PSC-1994-0170-FOF-EI at pg. 10.

Q. Are there more recent cases in which the Commission has allowed FPUC to recover unamortized rate case costs in rate base?

A. Yes. For instance, the Commission's final order in the 2007 FPUC Electric rate case, Order No. PSC-2008-0327-FOF-EI, page 33, issued in combined Dockets Nos. 20070300-EI and 20070304-EI, states:

> Our practice in prior rate cases, including FPUC's is to allow one-half of the rate case expense in Working Capital. Based on the above, we find that the appropriate balance of deferred debit rate case expense to be included in Working Capital is $303,400.

That decision is also consistent with Commission Order No. PSC-2004-0369-AS-EI, issued in the 2003 FPUC Electric rate case, Docket No. 20030438-EI.

Q. Has the Commission allowed FPUC to recover unamortized rate case costs for its Natural Gas Division?

A. Yes. The Commission allowed the same recovery in Order No. PSC-2004-1110-PAA-GU, issued in the 2004 FPUC Natural Gas Rate Case, Docket No. 20040216-GU, as well as Order No. PSC-1995-0518-FOF-GU, issued in the 1994 FPUC Natural Gas case, Docket No. 19940620-GU. In each, the Commission allowed recovery of one-half of the unamortized rate case expense in working capital.

Q. Since 1993, has the Commission ever decided to disallow recovery of unamortized rate case expense for FPUC?

A. I have only been in Regulatory with the Company for a year, as I mentioned, and I have not done an exhaustive search of Commission orders applicable to FPUC, but I can say that the only time I could find, in recent history, that the Commission disallowed recovery of unamortized rate case expense for FPUC was in the 2008 PAA Rate Case Order, Order PSC-09-0375-PAA-GU, issued May 27, 2009, in Docket No. 080366-GU. That Order was, however, protested, and later resolved through a Settlement approved by the Commission in Order PSC-09-0848-S-GU. I note that, prior to settlement, the filings in that docket reflect that Company witness Mesite filed

Supplemental Direct Testimony addressing the fact that, at least since 1994, the Commission had consistently allowed the Company to recover at least one-half of unamortized rate case expense through working capital.

Q. Is allowing one-half of the deferred rate case expense in working capital appropriate?

A. Yes, the Company included one-half in working capital, consistent with the prior orders I discussed. Allowing one-half of the deferred expense, or ½ of the 5-year monthly average of the unamortized balance takes into account the fact that, at the end of the amortization period, the deferred expense account will be zero.

Q. Do you agree with Witness Smith's further assessment on page 12 that "it would be unfair for customers to pay a return on the costs incurred by the Company in this case when these are being used to increase customer rates"?

A. No, I do not. In this case, as in prior cases, FPUC has incurred prudent and reasonable rate case expense, and we believe the related, unrecovered deferred portion of such costs should be allowed in working capital.

Filing a rate case and providing the required MFRS is the only mechanism available to regulated utilities for seeking recovery of increases in operating expenses, which ensures the opportunity to earn a fair return. While other utilities may typically maintain staffing levels that would allow a rate case to be handled in-house, FPUC has traditionally taken a different approach, and instead utilizes consultants on an "as needed" basis. As such, the costs we incur over the course of a rate case are prudent, necessary expenditures to help us pursue the rate relief we need to ensure we can continue provide high quality and safe service to our customers.

Q. Is this something that the Commission should consider when determining whether or not to allow the Company to include the unamortized portion in base?

A. Yes. The Company is focused on providing safe and efficient natural gas service for its customers, and we have been able to do so over the years without the need to seek rate relief very frequently. As such, we are staffed at the level necessary and appropriate to make sure we do what we do best – provide natural gas service to customers.

If the Company were, instead, regularly staffed at the level necessary to handle rate cases entirely in-house, the associated staffing costs would be significant, and they would typically be allowed for recovery in the Company's Operating and Maintenance expenses. Those additional costs would therefore be passed through to our customers in our base rates.

The Company has found that incurring periodic costs for rate case expense is the better approach and results in overall lower costs than would otherwise be incurred if the Company staffed at a level that allowed preparation of a full rate proceeding using only internal resources. We think this approach is ultimately an overall benefit for our ratepayers. As such, the expenses FPUC incurs for rate case proceedings are justified as an ordinary, prudent and necessary cost of doing business in the regulated utility environment and should not be disallowed.

<u>Rent Expense</u>

Q. Please summarize Witness Smith's recommended adjustments on rent expense?

A. Witness Smith removed rent expense of $78,249 from the projected 2023 test year as the space is no longer leased.

Q. Do you agree with Witness Smith's adjustments on rent expense?

A. I generally agree with Witness Smith's recommendation to remove rent expense of 78,249 from the projected test year as we reported it in our response to OPC Interrogatory 113 because the space is no longer leased. However, Witness Smith failed to consider the other items that we also discovered in the course of responding to OPC Interrogatory 113. In that response, we reported that the common area maintenance and rent tax of other leased space were not included in our projection that produces additional expense of $39,678. The common area maintenance relates to the cost and expenses we reimburse the Landlord for the expenses for maintaining and operating the common areas such as sanitary control, trash, garbage, parking area line painting and lighting. The rent tax is the sales tax imposed on the lease and the Company is responsible in accordance with the lease agreement. The common area maintenance and rent tax expenses are in the 2021 historic year.

So, although the expense was overstated by due to a lease being terminated, the adjustment should be offset by the costs that were, inadvertently, not included. Therefore, the rent expense amount that should be removed from the projected 2023 test year is $38,571 instead of $78,249 ($78,249 - $39,678) with an equivalent revenue requirement decrease of $38,856 ($38,571 x 74.655% net of tax x 1.3494 expansion factor).

Company Sponsored Events

Q. Do you agree with Witness Smith's adjustment on Exhibit RCS-2, Schedule C-12 to remove Company Sponsored Events?

A. No, I do not. Company sponsored events are not social events. They are productive events that include presentations by the officers and senior managers of the Company and are used to show appreciation to the employees, increase focus and consideration of safety by employees, inform them of the status of the Company as a whole, and acknowledge them for their achievements and impact to the Company. In addition, motivational presentations are made to encourage employees to continue to provide great customer service, both at an internal and external level and to identify and implement further customer experience enhancements. Employees are recognized for meeting goals at events. In addition, these meetings give the employees an opportunity to network with their peers and strengthen relationships which improve teamwork and customer service. Employees are encouraged to ask management questions regarding the Company and their work, and to provide input and suggestions to management. All of these are prudent and essential in terms of providing the best service to our customers and our community and are consistent with our corporate philosophy as described by Witness Rudloff in her direct testimony.

Q. Does this conclude your rebuttal testimony?

A. Yes.

BY MS. KEATING:

Q And, Ms. Baugh, you did not have any exhibits included with your rebuttal, did you?

A That is correct.

Q Okay. And did you prepare a summary of your rebuttal testimony?

A Yes.

Q Would you please go ahead and present that?

A Good afternoon, Mr. Chairman and Commissioners. Thank you for the opportunity to address you today.

My rebuttal testimony disputes OPC witness Ralph Smith's positions concerning unamortized rate case expense, rent expense and company sponsored events.

First, Witness Smith's testimony proposes that unamortized rate case expense should be excluded from rate base because it is longstanding commission policy. While the Commission does take this approach a number of other utilities cases, it does not have a longstanding policy of excluding unamortized rate case expense from working capital as it relates to FPUC. The Commission has previously allowed recovery of one-half of the unamortized rate case expense in working capital as part of our last rate cases.

Witness Smith's testimony also proposes to remove company sponsored events in the projected test year. The company sponsored events are not social events. They are productive events that include presentations by the officers and senior management of the company, and are used to show appreciation to the employees, increase focus and consideration of safety by employees. These costs are prudent and essential in terms of providing the best service to our customers and our community.

This concludes the summary of my testimony, and I would like again to thank the Commissioners for their time.

Q Thank you, Ms. Baugh.

MS. KEATING: Mr. Chair, the witness is tendered for cross.

CHAIRMAN FAY: Great. Thank you. OPC?

EXAMINATION

BY MS. CHRISTENSEN:

Q Good afternoon, Ms. Baugh.

A Good afternoon.

Q You did not file direct testimony in this case, correct?

A That is correct.

Q And your testimony on page one, line 18, you indicate that you were moved into the regulatory

department in 2021?
A That is correct.
Q If rate case expense is included in rate base, would you agree that that means higher profits for the parent company shareholders, all other things being equal, if you know?
A I do not know.
Q Okay. On page four of your rebuttal testimony, you cite the most recent -- you cite the most recent rate case that FPUC had. Do you see that?
A Yes.
Q Okay. And that was Order No. PSC-09-0375-PAA-GU, issued May 27th, 2009, correct?
A Correct.
Q Okay. And I think I provided some handouts. One of those handouts is a composite of the rate case.
A Yes.
Q Okay. So I will get to that in a minute.
You testified that in that PAA decision, the Commission disallowed recovery of the unamortized rate case expense, is that correct?
A That is correct.
Q Okay. And you also note that the order was protested and resolved by settlement, which the Commission approved in order PSC-09-0848-F-GU, correct?

A That is correct.

Q Okay. And now what I would like to draw your attention back to the composite exhibit. And in that composite exhibit is the petition protesting portions of the PAA order and then also the cross protest, is that correct?

A Yes.

Q Okay. And were you aware in the settlement order that it stated that the parties acknowledge all issues not subject to OPC's protest, and FPUC's cross protest have been resolved in accordance with the PAA?

A This is the first time I have -- I have read this document.

Q Okay. But were you aware that anything that wasn't protested or cross-protested in the last rate case were otherwise resolved as presented in the PAA order?

A I was not aware.

Q Okay. Were you aware of whether or not the unamortized rate case expense issue was protested in the last rate case?

A As sponsored in my testimony, yes, it was protested, but it was later resolved in -- through a settlement approved by the Commission in that particular order. But I also mention in my testimony that prior to that settlement, one of the witness filed a supplemental direct testimony attesting the fact that since 1993, the Commission has been allowing --

Q Yeah, let me ask you this specifically: You said you -- you said you believed that it had been protested, right?

A Yes.

Q Can you look at page three of the petition protesting the PAA action that was filed June 17th?

A Yes.

Q You see A, the heading A? Do you see an amortized rate case expense listed under the protest issues in rate base?

A I am sorry, page three of the --

Q Yeah.

A Letter A?

Q Yeah. Do you see -- do you see the unamortized portion of rate base expense, do you see that protested under the rate base?

CHAIRMAN FAY: So you are on the second to the last page?

MS. CHRISTENSEN: No, I am looking at page, essentially one -- page three of the composite exhibit, which is also listed page three at the bottom.

CHAIRMAN FAY: Number three at the bottom?

MS. KEATING: Can I just ask the Bates number? That might be more helpful.

MS. CHRISTENSEN: I don't have -- I don't believe we had these Bates stamp numbered. Oh, is at the -- did they put it at the top? Okay. Then it is pages three of Bates stamp number.

CHAIRMAN FAY: Do you have a copy of that -- I apologize. So it's actually at the bottom page three, but it's also Bates-stamped at the top page three. Make sure the witness finds that. So the heading of the page starts with rate base, and then there is some bullets, do you see that?

THE WITNESS: I am on page three, and the top part says, A, rate base.

CHAIRMAN FAY: Yes. Correct.

BY MS. CHRISTENSEN:

Q Yeah. Do you see unamortized rate case expense listed there?

A Under the rate base?

Q Correct.

A No, I do not.

Q Okay. Let me direct your attention to the cross-protest, which is specifically Bates-stamped page 13, which is, again, in the upper right-hand portion of

the page. Do you see under paragraph number nine, under there, there is three issues listed?

A Yeah, A, B, C -- A, B, C right.

Q Correct. Do you see any rate case amortization in rate base being protested in any of those issues?

A No.

Q Okay. Let me ask you, you testify regarding company sponsored events, correct?

A That is correct.

Q Okay. And on page eight of your rebuttal testimony, line four, you talk about social events. What do you mean by social events?

A Meaning it's not events that go, like an event wherein we just hang out and like we just -- we just got together and a productive event.

Q Okay. Let me ask you a few questions about these company sponsored events. Are food and beverages served at these events?

A That is correct.

Q And have you been to a company sponsored event recently?

A Not recently.

Q Okay. Are all of the company sponsored events held at the company's offices in Florida?

A Based on -- some of -- most of them, yes.

Q Okay. And where else would the company sponsored events be held if they are not held at the offices in Florida?

A Some of the offices are not capable -- are not enough to offer our employees to be -- to be -- to be there at one location, so we would do a banquet hall for everybody to be -- to be included.

Q Okay. Well, let me ask you this: Are some of those company sponsored events located at, like, parks or restaurants, festivals, athletic events, or like clubs, those type of venues?

A No.

Q Okay. What type of venues would they be held at if they can't be held at the offices, or have they been held at?

A Like a -- like a hotel auditorium.

Q Okay. And are these company sponsored events, are they held during work hours or after work hours?

A It can be both.

MS. CHRISTENSEN: Okay. I have no further questions.

CHAIRMAN FAY: Great.

Staff?

MR. SANDY: No questions, Mr. Chairman.

CHAIRMAN FAY: Commissioners?

Okay. Redirect, Ms. Keating?

MS. KEATING: I think just maybe one or two.

CHAIRMAN FAY: Okay.

FURTHER EXAMINATION

BY MS. KEATING:

Q So, Ms. Baugh, your testimony responded to Witness Smith's assertions regarding the Commission's longstanding policy of not including unamortized rate case expense, is that correct?

A Yes.

Q And Ms. Christensen focused on one particular order, is that correct?

A That is correct.

Q Are there other orders in your testimony that reflect the Commission's policy of allowing the company to include one-half of unamortized rate case expense and working capital?

A Yes, I have mentioned multiple commission orders that the Commission allowed one-half of the unamortized rate case expense to be included in our working capital.

Q Okay. So would you say that the Commission's longstanding policy is to allow FPUC to retain one-half of unamortized rate case expense in working capital?

A That is correct.

MS. KEATING: No further questions.

MS. CHRISTENSEN: Can I ask -- oversight, I forgot to ask to have the exhibit marked for identification as -- I think we are on 128.

CHAIRMAN FAY: Are we 128? Let me confirm with staff. I thought it was 126, but I will just confirm with staff.

MS. CIBULA: I think we might be on 127. There was a stipulation for 126, the stipulation.

CHAIRMAN FAY: So, oh, so 35, the stipulation language was 126?

MS. CIBULA: Yeah, I thought that we would just amend that one and have --

CHAIRMAN FAY: Gotcha. Okay. So then this would be 127. And to your point, that's not the order. These are the petition and cross-petition?

MS. CHRISTENSEN: Correct.

CHAIRMAN FAY: Any objection?

MS. KEATING: No objection.

CHAIRMAN FAY: Okay. Show that identified. And we will go ahead and enter that into the record showing no objection.

(Whereupon, Exhibit No. 127 was marked for identification and received into evidence.)

CHAIRMAN FAY: All right.

MS. KEATING: May, Ms. Baugh --

CHAIRMAN FAY: Ms. Keating, yes. You are excused.

THE WITNESS: Thank you.

(Witness excused.)

CHAIRMAN FAY: All right. Ms. Keating.

MS. KEATING: Thank you, Mr. Chairman. FPUC recalls Paul Moul to the stand.

Whereupon,

PAUL MOUL

was recalled as a witness, having been previously duly sworn to speak the truth, the whole truth, and nothing but the truth, was examined and testified as follows:

EXAMINATION

BY MS. KEATING:

Q Good afternoon, Mr. Moul. Welcome back.

A Good afternoon.

CHAIRMAN FAY: Make sure your mic is on. I can only think of you as Mr. Owl now.

THE WITNESS: Yeah.

CHAIRMAN FAY: We got you turned on. Go ahead.

BY MS. KEATING:

Q Would you please state your name again for the

record?

A I am sorry?

Q Would you please state your name again for the record?

A Yes. My name is Paul Moul.

Q And are you the same Paul Moul who provided direct testimony in this proceeding?

A I am.

Q Did you also cause to be prepared and filed in this proceeding 23 pages of rebuttal testimony?

A I did.

Q Do you have any changes or corrections to that testimony?

A There are no changes that I am aware of at this time.

Q Okay. Thank you.

MS. KEATING: Mr. Chair, we would ask that Mr. Moul's rebuttal testimony be inserted into the record as though read.

CHAIRMAN FAY: Show that inserted as though read.

(Whereupon, prefiled rebuttal testimony of Paul Moul was inserted.)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

FLORIDA PUBLIC UTILITIES COMPANY, ET. AL.

Docket No. 20220067-GU

REBUTTAL TESTIMONY

OF

PAUL R. MOUL

Date of Filing: 09/20/2022

INTRODUCTION AND SUMMARY

Q. PLEASE STATE YOUR NAME, OCCUPATION AND BUSINESS ADDRESS.

A. My name is Paul Ronald Moul. My business address is 251 Hopkins Road, Haddonfield, New Jersey 08033-3062. I am Managing Consultant at the firm P. Moul & Associates, an independent financial and regulatory consulting firm.

Q. DID YOU PREVIOUSLY SUBMIT TESTIMONY IN THIS PROCEEDING ON BEHALF OF FLORIDA PUBLIC UTILITIES COMPANY AND ITS AFFILIATES ("FPUC" OR THE "COMPANY")?

A. Yes. I submitted my direct testimony, FPUC Statement No. 11, on May 24, 2022.

Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

A. My rebuttal testimony responds to the direct testimony submitted by David J. Garrett, a witness appearing on behalf of the Office of Public Counsel ("OPC"). If I fail to address each and every issue in the OPC testimony, it does not imply agreement with those issues.

Q. WHAT ARE THE KEY ASPECTS OF THE RATE OF RETURN ISSUE THAT THE FLORIDA PUBLIC SERVICE COMMISSION ("COMMISSION") SHOULD CONSIDER WHEN DECIDING THIS ISSUE IN THIS CASE?

A. The issues involve the Company's cost of equity and the capital structure. Mr. Garrett has opposed the actual capital structure and instead proposed a hypothetical capital structure. He has accepted the embedded cost of long-term debt and short-term debt for FPUC. Foremost, the equity return proposed by Mr. Garrett is entirely too low to reflect the risks of FPUC and the prospective cost of equity. Aside from technical issues that I will discuss later in my rebuttal testimony, the Commission should take into consideration a rate of return that will reflect and be supportive of the Company's financial and risk profile. As I explain below, the OPC recommendation fails to adequately consider this point and thereby understate the required cost of common equity in this proceeding.

Q. PLEASE SUMMARIZE THE KEY POINTS OF YOUR REBUTTAL TESTIMONY.

A. My key points are:

- Capital Structure Ratios – Mr. Garrett's use of a hypothetical capital structure, rather than the Company's projected actual capital structure for the test year, is improper and contrary to past practice in Florida. There are no circumstances in this case that warrant such a deviation from prior Commission practice.
- Comparable Companies – Mr. Garrett accepts my proxy group.
- Discounted Cash Flow ("DCF") – Mr. Garrett fails to adequately reflect investor expectations of growth that are specific to the natural gas companies included in his proxy group. He errs when using analysts' growth rate forecasts by failing to consider earnings per share growth that is used by investors when pricing the stocks of the proxy group companies.
- DCF Leverage Adjustment – Mr. Garrett claims that my leverage adjustment is "incorrect" (see page 51 of OPC Statement No. 1). But he has not shown that the capital structure ratios and calculations of the leverage adjustment that I used are in any way incorrect.

- CAPM – A reasonable application of the CAPM mandates using forecast 30-year Treasury bond yields, leverage adjusted betas, and size adjustment and indicates an equity cost rate that is well above 12% in this case.
- Additional methods should also be considered when establishing the cost of equity for FPUC. This is especially important because Federal Open Market Committee ("FOMC") policy and inflation in the last few months indicates a higher cost of equity and that he has neglected to even mention in his testimony.

Q. HOW SHOULD THE RATE OF RETURN SET BY THE COMMISSION SUPPORT THE COMPANY'S FINANCIAL PROFILE?

A. The Commission should set the Company's return on equity at a level that will attract investment in the Company to ensure the Company's financial ability to render safe and reliable service. Applying this principle, the Commission should reject the proposal by Mr. Garrett to cut the Company's return on common equity to 9.25%. An equity return in this magnitude would be viewed by investors as unsupportive of the Company's financial condition. The consequence of this flawed analysis by OPC is actually not in the best interest of the customers. An artificially low return on common equity, in the long run, only creates higher rates for customers.

Q. WOULD YOU PLEASE ELABORATE HOW IS MR. GARRETT'S PROPOSAL INCORRECT?

A. Mr. Garrett's proposed return is completely unreasonable and incorrect from a regulatory perspective because it is much too low to allow FPUC to achieve the level of returns that meet investors' expectations. This is required to comply with accepted rate setting standards. FPUC has an obligation to serve and it should have an opportunity to earn a rate of return that will allow it to provide service sufficiently, safely, and at reasonable rates. Mr. Garrett's proposed rate of return jeopardizes the Company's ability to obtain capital at reasonable rates, thus resulting in a financial profile that encourages higher rates in the future. Indeed, Mr. Garrett actually claims that the FPUC cost of equity is just 7.8%, but he "graciously" increases it to 9.25%. I have failed to identify the link that he made between these two returns. Rather, there have been dramatic increases in inflation and interest rates, prompting the FOMC to increase the federal funds rate to combat inflation. This fact has not even been mentioned in the testimony of Mr. Garrett. However, the Commission cannot ignore this. Further, acceptance of Mr. Garrett's approach would ultimately lead to even lower ROEs in the future since the 9.25% is simply a process to reduce ROEs based on his gradualism approach to ratchet downward the ROE. Rather, based on the factors listed below, and for technical reasons set forth later in my rebuttal testimony, the Commission should adopt a substantially higher ROE.

Q. HOW DOES MR. GARRETT'S 7.8% COST OF EQUITY PROPOSAL COMPARE TO OTHER RECOGNIZED RETURNS?

A. Mr. Garrett determined that the DCF cost of equity is 6.7% with sustainable growth (see page 45 of OPC Statement No. 1) and the CAPM cost of equity is 7.9% (see page 62 of OPC Statement No. 1). These returns compare to the returns recently requested in a filing by Duke Energy Florida LLC to increase its return to a midpoint of 10.10% and by Tampa Electric Company to increase its return to a midpoint 10.20% based upon "triggers" approved in 2021. These filings were made in August 2022 in response to higher yields on 30-year Treasury bonds.

Q. ARE THERE ADDITIONAL ISSUES THAT THE COMMISSION SHOULD CONSIDER WHEN SETTING THE COMPANY'S RETURN?

A. Yes. The investment community would be very concerned if the Commission were to adopt the position of the OPC in this case. If it were to do so, investors would see Florida regulation as less supportive of the Company at a time of high levels of capital investment and increasing capital cost rates. If the Commission were to follow the proposal of reducing the authorized return as proposed by the OPC, Florida's regulatory support would certainly be viewed by investors as being reduced, particularly in the context of rising capital costs due to inflation. Investment and access to capital at reasonable rates follows constructive regulatory treatment. I would reiterate there are no circumstances in this case that warrant the Commission's deviation from past practice. The return on equity used by the Commission to set rates embodies in a single numerical value a clear signal of regulatory support for the financial strength of the utilities that it regulates. Although cost allocations, rate design issues, and regulatory policies relative to the cost of service are important considerations, the opportunity to achieve a reasonable return on equity represents a direct signal to the investment community of regulatory support (or lack thereof) for the utility's financial strength. In a single figure, the return on equity utilized to set rates provides a common and widely understood benchmark that can be compared from one company to another and is the basis by which returns on all financial assets (stocks – both utility and non-regulated, bonds, money market instruments, and so forth) can be measured. So, while varying degrees of sophistication are required to interpret the meaning of specific Commission policies on technical matters, the return on equity figure is universally understood and communicates to investors the types of returns that they can reasonably expect from an investment in utilities operating in Florida.

The rate of return on common equity of 9.25% proposed by Mr. Garrett is seriously deficient and will not provide FPUC with the opportunity to earn its investor required cost of capital for the test year ending December 31, 2023. As explained below, this is not the time for the Commission to be reducing the Company's authorized return when there is a compelling need for capital investment and no evidence to the contrary.

Q. SHOULD THE COMMISSION CONSIDER THE FUTURE TREND IN CAPITAL COSTS WHEN DECIDING THE RETURN ON EQUITY IN THIS CASE?

A. Yes. Unlike Mr. Garrett, who takes a backward view of interest rates, accommodative policy by the FOMC has ended and higher interest rates have occurred and will continue in the future. Current FOMC policy will produce even higher interest rates prospectively that should be incorporated into the cost of equity now. Indeed, higher inflation expectations are a contributing factor that points to higher interest rates. Higher inflation today is revealed by a 5.9% increase in social security payments announced on October 13, 2021, the largest one-year increase in nearly four decades. Even higher social security payments are expected in 2022. The annual inflation rate in July 2022 moved up to 8.5%. After the FOMC ended its bond buying program (i.e., quantitative easing) in March 2022, it now plans to run off its $9 trillion asset portfolio, which will further boost interest rates. Moreover, the first of several Fed Funds increases occurred on

March 16, 2022 with an increase of 0.25% and an additional 0.50% increase occurred on May 4, 2022. A 50 basis point increase in the Fed Funds rate has not occurred since 2000. Additional increases are expected in 2022 and 2023. Indeed, the Fed Funds rate was increased again on June 15, 2022, when a 0.75% increase occurred. Another 75 basis points increase in the Fed Funds rate occurred on July 27, 2022. These increases were the largest since 1994. Higher interest rates clearly point to higher capital costs prospectively. A forward-looking assessment of the capital markets is especially relevant here because the Company's rates will be based on a test year ended December 31, 2023. The yield on 10-year Treasury bonds moved above the 3% level on May 2, 2022, the first time since late 2018. By August 2022, the yield on 30-year Treasury bonds moved to 3.13%, or an increase of 1.46% (or 87%) since December 2020. Likewise, the yield on A-rated public utility bonds has increased to 4.76% in August 2022 from 2.77% in December 2020 – a 199 basis point (or 72%) increase. Higher interest rates clearly point to higher capital costs prospectively. I will describe the forecasts of interest rates and the trend below.

Q. IS THERE ADDITIONAL EVIDENCE THAT SUGGESTS THAT THE COST OF CAPITAL HAS BEEN INCREASING?

A. Yes. As a preliminary matter, the Company's cost of short-term debt has increased over the rate used in its original filing with the Commission. The Company originally proposed a 3.30% cost of short-term debt. Today, that cost would be 4.57%. To gain a consensus view of future interest rates, I tabulated the forecasts of yields on 10-year Treasury notes published by a variety of well recognized and investor-influencing sources. I chose the 10-year Treasury note because it is available on a consistent basis across all sources. The comparisons are:

	2023	2024	2025	2026	2027
Blue Chip	3.50%	3.50%	3.40%	3.50%	3.50%
EIA	2.06%	2.32%	2.62%	2.83%	2.97%
CBO	2.90%	3.10%	3.20%	3.50%	3.70%

The general consensus is that interest rates will maintain elevated levels or increase in the future. The rising level of interest rates represents one key factor that adds to the risk of common equity. It is apparent that the trough in interest rates has passed and the forecasts show interest rates will continue to rise in the future. The Commission should take the forecast trend toward higher interest rates into account when it sets the cost of equity for FPUC. Mr. Garrett's testimony considers only a 30-day historical average of 30-year Treasury bond yields ended July 18, 2022. It is therefore indicated that a higher authorized return is warranted

Q. HAS THE STOCK MARKET REACTED TO THE CHANGES IN INTEREST RATES?

A. Yes. The stock market entered "correction" territory in 2022 and recently approached "bear" market territory. Overall market sentiment is revealed by investor expected volatility, which provides an overall assessment of the risk that prevails in the equity market. The risk associated with common stock investments is revealed by the volatility of the stock market measured by the Chicago Board Options Exchange ("CBOE") VIX. The CBOE VIX is based on real-time prices of options on the S&P 500 Index and is designed to reflect investors' consensus view of future (30-day) expected stock market volatility. It is well-established that greater volatility indicates higher risk, which, all else equal, translates into a higher cost of equity. It is widely accepted that high readings for the CBOE VIX are often accompanied by bearish sentiment and a low CBOE VIX is associated with bullish sentiment. The trading pattern of the CBOE VIX is typically inverse to the level of stock prices. That is to say, the CBOE VIX increases when stock prices are falling, and the CBOE VIX declines when stock prices rise. This situation is sometimes associated with increases in the cost of equity when the CBOE VIX increases and vis-a-versa. For 2022 to date, the CBOE VIX was 27.51. This compares with the CBOE VIX of 16.33 in 2019 prior to the beginning of the financial consequences of the Pandemic. We can see that the CBOE VIX spiked upward with the beginning of the Pandemic. The CBOE VIX has been:

Year	Average VIX
2019	16.33
2020	32.21
2021	22.42
2022 YTD	27.51

While volatility in the stock market has subsided since the beginning of the Pandemic in 2020, it continues to significantly exceed pre-Pandemic levels. The current level of risk associated with common stocks, as revealed by the higher CBOE VIX in 2022, warrants a higher equity return at this time because the higher stock market volatility signifies higher risk that requires higher returns in compensation for the higher risk. Hence, the risk for common equity, which translates into the cost of equity, does not support a low equity return as suggested by Mr. Garrett.

Q. HOW IS THE REMAINDER OF YOUR TESTIMONY ORGANIZED?

A. I will cover the issues of (i) capital structure, (ii) the weight to be given to the DCF method, (iii) the DCF growth rate, (iv) the leverage adjustment to the DCF and CAPM methods, (v) the Risk Premium analysis, and (vi) Comparable Earnings.

CAPITAL STRUCTURE RATIOS

Q. IS THERE A DIFFERENCE IN THE PROPOSED CAPITAL STRUCTURE RATIOS UTILIZED BY MR. GARRETT IN THIS CASE?

A. Yes. Mr. Garrett is advocating a hypothetical capital structure for FPUC. Mr. Garrett's position is clearly contrary to Commission policy concerning capital structure ratios that typically reflect the use of the utility's own capital structure. To propose a hypothetical capital structure ratio that includes more financial leverage, i.e., the 48.2% hypothetical common equity ratio vs. the Company's actual 55.05% common equity, would threaten the credit quality rating of CUC, who is the source of all investor provided capital for FPUC. I say this because the actual 55.05% common equity ratio of CUC is the one that supports the Company's "2b" designation in the NAIC credit quality ranking system. As noted in my direct testimony, the "2b" designation is equivalent to the Baa/BBB ratings by Moody's and S&P. By proposing the more highly leverage capital structure, Mr. Garrett's proposal could move the Company's credit quality toward the "junk" bond status.

Q. IS THERE ANY BASIS TO DEVIATE FROM THE COMPANY'S ACTUAL CAPITAL STRUCTURE TO SET THE RATE OF RETURN IN THIS CASE?

A. No. Mr. Garrett proposes a hypothetical capital structure for FPUC without ever demonstrating that the Company's proposed capital structure is unreasonable. Rather, his proposed capital structure merely lowers the Company's revenue requirements.

In reaching his conclusion on capital structure ratios, Mr. Garrett examined (i) the debt ratios of the companies in his proxy group, and (ii) the debt ratios of thousands of other companies, which is a position that is inconsistent with his rejection of the Comparable Earnings approach to measuring the cost of equity.

Under the facts of this case, the use of the actual capital structure ratios comports with Commission practice. I have established that the CUC's actual capital structure ratios (including the 55.1% common equity ratio) fall within the range of the proxy group. This is sufficient to meet the reasonableness standard that makes the actual CUC capital structure appropriate in this case. Mr. Garrett never established that his analysis is applicable for FPUC in the test year. I have verified the reasonableness of the Company's common equity ratio by considering the historical capital structure ratios for the Gas Group and analysts' forecasts, which influence investor expectations. Historically, the Gas Group has had a 50.5% average common equity ratio (see page 5 of FPUC Exhibit PRM-1). The range of common equity ratios for the proxy group was 33.2% to 57.6% in 2021 and was 35.5% to 60.1% as the five-year average. I have also compared the Company's proposed common equity ratio to that of the Gas Group based upon forecast data widely available to investors from Value Line. Those ratios are:

Company	2025-2027
Atmos Energy Corp.	60.0%
Chesapeake Utilities Corp.	60.0%
New Jersey Resources Corp.	45.0%
NiSource Inc.	39.5%
Northwest Natural Holding Company	52.0%
ONE Gas, Inc.	51.0%
Southwest Gas Holdings, Inc.	47.5%
Spire, Inc.	45.0%
Range:	
High	60.0%
Low	39.5%

Source: The Value Line Investment Survey, August 26, 2022

The Value Line data shows that CUC has a common equity ratio for the test year that is within the range for the barometer group and that its actual capital structure has adequate support. Moreover, when proposing a hypothetical debt ratio, Mr. Garrett creates a mismatch between the cost of long-term debt and his hypothetic debt ratio that he advocates. This mismatch arises because the hypothetical long-term debt ratio contains more debt than the amount of long-term debt that is actually outstanding for FPUC.

COST OF COMMON EQUITY - DISCOUNTED CASH FLOW (DCF)

Q. THE DCF MODEL HAS BEEN USED BY MR. GARRETT AND YOU AS ONE METHOD TO MEASURE THE COST OF EQUITY. WHAT IS YOUR POSITION CONCERNING THE USEFULNESS OF THE DCF METHOD?

A. While the results of a DCF analysis should certainly be given weight, the use of more than one method provides a superior foundation for the cost of equity determination. Since all cost of equity methods contain certain unrealistic and overly restrictive assumptions, the use of more than one method will capture the multiplicity of factors that motivate investors to commit capital to an enterprise (i.e., current income, capital appreciation, preservation of capital, level of risk bearing). The simplified DCF model assumes that there is a single constant growth rate, there is a constant dividend payout ratio, that price–earnings multiples do not change, and that the price of stock, earnings per share, dividends per share, and book value per share all have the same growth rate. We know from experience that those assumptions are not realistic because the stock market reveals performance that is very different from the assumptions of the DCF. The use of multiple methods provides a more comprehensive and reliable basis to establish a reasonable equity return for FPUC.

DCF GROWTH RATE

Q. AS TO THE DCF GROWTH COMPONENT, WHAT FINANCIAL VARIABLES SHOULD BE GIVEN GREATEST WEIGHT WHEN ASSESSING INVESTOR EXPECTATIONS?

A. The theory of the DCF holds that (i) the value of a firm's equity (i.e., share price) will grow at the same rate as earnings per share with a constant P-E ratio, and (ii) dividend growth will equal earnings growth with a constant payout ratio. Therefore, to properly reflect investor expectations within the limitations of the DCF model, earnings per share growth, which is the basis for the capital gains yield and the source of dividend payments, must be given greatest weight. The reason that earnings per share growth is the primary determinant of investor expectations rests with the fact that the capital gains yield (i.e., price appreciation) will track earnings growth with a constant price earnings multiple (a key assumption of the DCF model). It is also important to recognize that analysts' earnings growth rate forecasts significantly influence investor growth expectations. It is for this reason that GDP growth rates submitted by Mr. Garrett are an inappropriate representation of investor growth rate expectations. Moreover, it is instructive to note that Professor Myron Gordon, the foremost proponent of the DCF model in public utility rate cases, has established that the best measure of growth for use in the DCF model are forecasts of earnings per share growth.

Q. IN HIS TESTIMONY, MR. GARRETT PROPOSES TO USE A "SUSTAINABLE" GROWTH RATE THAT IS NOT SPECIFIC TO HIS PROXY GROUP OF GAS COMPANIES. DOES THIS FOLLOW THE TRADITIONAL APPROACH FOR APPLYING THE DCF MODEL?

A. No. His testimony does not follow the normal, or typical, processes of applying the DCF model for determining the return on equity. I say this because, as I previously explained, Myron Gordon established that analysts' forecast of earnings growth are the correct input for the DCF for each member of the proxy group. And, of course, Mr. Garrett's chart on page 16 of OPC Statement No. 1 provides an invalid comparison because it rests on Mr. Garrett's view of the cost of equity that is deficient for the reasons I explain in my rebuttal.

Q. WHAT DCF GROWTH RATE DID MR. GARRETT ACTUALLY USE IN HIS DCF?

A. On Exhibit DJG-6, Mr. Garrett provides two very different expressions of DCF. One DCF calculation uses Mr. Garrett's unique view of sustainable growth and the second DCF results reflects analysts' growth rates. The most obvious problem with Mr. Garrett's testimony concerns his development of the sustainable growth rate form of the DCF model for determining the ROE. In this regard, he advances the proposition that the growth rate for a utility can never exceed the long-term gross domestic product ("GDP") of the country. As I have explained in my direct testimony, companies, including utilities, can cycle through the growth phases. While Mr. Garrett lists other lower criteria for determining the long-term growth rate, he states in his testimony that he is being "charitable" by selecting the maximum long-term estimate of GDP growth of 3.8%, OPC Statement No. 1, page 45. This growth rate is well below analysts' projections of earnings growth used by me, and it produces a nonsensical DCF cost rate of 6.7%.

Mr. Garrett attempts to downplay the growth phase argument by arguing that growth in rate base due to replacement of aging infrastructure is not growth (OPC Statement No. 1, pages 40-41). The fallacy of his argument rests with the fact that replacement of utility plant at the end of its life occurs at much higher costs than those same facilities installed 20, 30 or 40 years ago. This can only be accomplished today by raising extensive amounts of new capital including equity capital. Attraction of new capital can only be accomplished with supportive regulation, including a reasonable ROE. His argument that analysts' earnings forecasts are not long term are belied by the long-term life of utility plant.

It seems obvious that imposing a noncompetitive return on replacement of utility facilities by understating the growth rate in the DCF violates the regulatory compact. Utilities accept an obligation to provide reliable and safe service under all situations in exchange for the opportunity to earn a fair return on capital employed. Reducing the ROE during the replacement of aging infrastructure would be counter-productive and place FPUC at a disadvantage to other utilities in raising the capital it needs to undertake the replacements.

Q. DO THE DCF GROWTH RATES PROPOSED BY MR. GARRETT PROVIDE A REASONABLE INPUT IN THE COST OF EQUITY ANALYSIS USING THE DCF MODEL?

A. No. Witness Garrett states that "…awarded ROEs are often based primarily on a comparison with other awarded ROEs around the country," but he offers no support for or citation for this conclusion. (OPC Statement No. 1, p. 18). Further, Mr. Garrett admits that many utility analysts, as well as public utility commissions, use financial analysts' projected growth rates in estimating the ROE. Yet, he offers no evidence that any commission has accepted his calculation of the growth rate. (OPC Statement No. 1 page 45).

Mr. Garrett indicates that his method for analyzing sustainable growth rate rests on: (i) nominal GDP, (ii) real GDP, and (iii) the risk-free rate. There are many problems with his approach. First, the combination of the real GDP growth and inflation equals nominal GDP, i.e. (1.018) * (1.020) = (1.0380 -1) = 3.8%. Hence, both nominal and real GDP growth cannot be viewed separately. Second, the risk-free rate provides no guide to the growth that a company can realize in its earnings. Earnings growth occurs through revenue growth, net of: O&M, depreciation, taxes, and interest. None of these factors are addressed with the risk-free rate of return. Third, Mr. Garrett is essentially developing a generic growth rate that would apply to any, or all, companies, whether they are regulated or non-regulated companies. However, each company has a unique company-specific growth rate. His approach is simply incompatible with the basic concept of the DCF, where future cash flows for each company are systematically related to one another by a constant growth rate that represents a basic tenant of the single-stage DCF. It is also incompatible with the use of the growth rates of a comparable barometer group of companies to meet the requirement that a utility is to be permitted to earn a return equal to comparable companies. The DCF equation is P = D / (k-g). Mr. Garrett's growth rate does not fit within this equation.

Q. DOES MR. GARRETT'S ALTERNATIVE DCF CALCULATION PROVIDE AN IMPROVEMENT ON HIS PREFERRED SUSTAINABLE DCF CALCULATION?

A. It is a step in the right direction, but it too is deficient. While using analysts' forecasts, which have been demonstrated to be a superior growth rate measure in the DCF , it too falls short. This is because Mr. Garrett erroneously used the Value Line forecast growth rate of dividends per share rather than earnings per share. Correcting for this error, he would have produced a DCF return of 10.7% with the quarterly form of the DCF proposed by him. This shows that his DCF return is completely inadequate for the reasons explained above.

LEVERAGE ADJUSTMENT

Q. MR. GARRETT CRITICIZED THE LEVERAGE ADJUSTMENT THAT YOU PROPOSE TO ACCOUNT FOR THE DIVERGENCE OF MARKET CAPITALIZATION AND BOOK VALUE CAPITALIZATION. PLEASE COMMENT.

A. At pages 48-52 of OPC Statement No. 1, Mr. Garrett never really refutes my leverage adjustment. Indeed, he says that I misapplied the Hamada formula leverage adjustment approach. First, in the DCF approach, I did not use the Hamada formula, but rather I used the Modigliani & Miller approach. Second, at page 51 of OPC Statement No. 1, Mr. Garrett claims that the Hamada formula generates an unlevered beta of 0.49. But what I have shown is that the correct unlevered beta is 0.55 (see Schedule 10 of FPUC Exhibit PRM-1). The reason for the difference is that I correctly use the market capitalization for my calculation, including the market value of debt, and Mr. Garrett did not because he used the book value capital structure ratios of FPUC (see Exhibit DJG-16). Indeed, there, Mr. Garrett used the actual capital structure ratios of FPUC, rather than the hypothetical ratios he proposes, which is an inconsistent analysis.

COST OF COMMON EQUITY - CAPITAL ASSET PRICING MODEL

Q. DO YOU HAVE CONCERNS REGARDING MR. GARRETT'S APPLICATIONS OF THE CAPM?

A. Yes. Mr. Garrett uses an inappropriate 30-day average yield on 30-year Treasury bonds, a beta that is not leverage adjusted, an unrealistic market risk premium, and ignores the size adjustment. He therefore proposes a totally unrealistic 7.9% CAPM result. This compares with my CAPM of 14.41%.

Q. MR. GARRETT HAS ALSO PERFORMED A CAPM CALCULATION IN ADDITION TO HIS DCF ANALYSIS. ARE THE RESULTS OF HIS CAPM USEFUL IN SETTING THE COMPANY'S EQUITY RETURN IN THIS CASE?

A. No. There are a variety of problems with Mr. Garrett's CAPM approach that makes it not useful in this case. He makes CAPM calculations that produce results of 7.9%, which on its face is simply not credible. First, Mr. Garrett uses a backward looking 3.2% yield on 30-year Treasury bonds. A 30-day historical average period is not compatible with the forecast Treasury yields. Second, the 5.6% equity risk premium ("ERP") selected by Mr. Garrett is completely off the mark. The principal departure from the normal input is in his calculation of the ERP. He rejects the use of both historic ERPs and projected ERPs calculated based on projected market returns. Instead, he reviews “Expert Surveys” and his own calculations. He then uses the 2022 survey conducted by IESE Business School, indicating that it provides the highest ERP of 5.6%. There is no evidence that investors use this source of the ERP in their CAPM calculations. Furthermore, the implied total market return using Mr. Garrett's final inputs is just 8.82% (3.22% + 5.6%), which is clearly incompatible with actual stock market returns of 18.40% in 2020, 28.71% in 2021, and 12.33% on average for the past 96 years (1926-2021).

Q. AT PAGES 65-67 OF OPC STATEMENT 2, MR. GARRETT ALSO CHALLENGES THE ADJUSTMENT THAT YOU MADE TO THE RESULTS OF THE CAPM FOR THE SIZE OF THE GAS GROUP. PLEASE RESPOND.

A. A size adjustment is necessary because the financial impact of changes in specific dollar amounts of revenues and costs have a magnified influence on a small company because there are fewer dollars over which those revenues or costs can be spread.

Q. HOW DOES SIZE AFFECT THE FINANCIAL PERFORMANCE OF A SMALL COMPANY?

A. Examples of the financial consequences of external factors that can influence the financial performance of a small company include loss of a large customer and the effect of unexpected changes in expense.

COST OF COMMON EQUITY - RISK PREMIUM ANALYSIS

Q. DO YOU BELIEVE THE RISK PREMIUM METHOD PROVIDES SIGNIFICANT EVIDENCE OF THE COST OF EQUITY?

A. Yes. In my opinion, the Risk Premium results should be given serious consideration. The Risk Premium method is straight-forward, understandable and has intuitive appeal because it is based on a company's own borrowing rate. The utility's borrowing rate provides the foundation for its cost of equity, which must be higher than the cost of debt in recognition of the higher risk of equity (see FPUC Statement No. 11 pages 46-47). So, while Mr. Garrett declines to use the Risk Premium approach to measure the Company's cost of equity, it is an approach that provides a direct and complete reflection of a utility's risk and return because it considers additional factors not reflected in the beta measure of systematic risk. It is particularly useful when investors expect changes in the cost of debt prospectively, which is currently the expectation of investors, as I have explained above and in FPUC Statement No. 11, pages 42-43. Indeed, the Risk Premium approach provides for direct reflection of prospective interest rates in the model and therefore should be given weight in determining the equity cost rate in this case.

Q. PLEASE RESPOND TO MR. GARRETT'S CRITICISMS OF YOUR RISK PREMIUM APPROACH.

A. While Mr. Garrett declines to use the Risk Premium approach to measure the Company's cost of equity, it is an approach that provides a direct and complete reflection of a utility's risk and return because it considers additional factors not reflected in the beta measure of systematic risk. In fact, it is precisely because investors consider the results of other methods that they too should be used in addition to the DCF in the development of the cost of equity in this proceeding. As I explained in my direct testimony, we are facing the prospect of increasing interest rates for the future and the market has increased yields on debt instruments. I incorporated the trend toward higher interest rates when I developed my Risk Premium cost of equity of 10.75% (4.00% interest rate on A-rated public utility bonds + 6.75% equity risk premium). The recent increase in interest rates would support a higher rate today.

COST OF COMMON EQUITY - COMPARABLE EARNINGS APPROACH

Q. PLEASE RESPOND TO THE CRITICISM OF THE COMPARABLE EARNINGS APPROACH.

A. The underlying premise of the Comparable Earnings method is that regulation should emulate results obtained by firms operating in competitive markets and that a utility must be given an opportunity cost of capital equal to that which could be earned if one invested in firms of comparable risk. For non-regulated firms, the cost of capital concept is used to determine whether the expected marginal returns on new projects will be greater than the cost of capital, i.e., the cost of capital provides the hurdle rate at which new projects can be justified, and therefore undertaken. Further, given the 10-year time frame (i.e., five years historical and five years projected) considered by my study, it is unlikely that the earned returns of non-regulated firms would diverge significantly from their cost of capital.

The Comparable Earnings approach satisfies the comparability standard established in the landmark decision by the United States Supreme Court, FPC v. Hope Nat. Gas Co., 320 U.S. 591 (1944). In addition, the financial community has expressed the view that the regulatory process must consider the returns that are being achieved in the non-regulated sector to ensure that regulated companies can compete effectively in the capital markets. Moreover, in a 1994 study that addressed the ROE issue, John Olson (then with Merrill Lynch) established that equity returns from non-regulated companies provide better assessment of investor requirements than those available for regulated utilities.

FIRM-SPECIFIC BUSINESS RISK

Q. IS MR. GARRETT'S POSITION (SEE OPC STATEMENT NO. 1, PAGES 67-69) CORRECT THAT INVESTORS SHOULD NOT BE COMPENSATED FOR BUSINESS RISK BECAUSE USE OF A DIVERSIFIED PORTFOLIO ELIMINATES BUSINESS RISK?

A. No. He is incorrect to argue that…"[n]either [DCF or CAPM] model includes an input for business risks due to the well-known truth that investors do not expect a return for such risks." (OPC Statement No. 1, page 69). It is well accepted that higher returns are expected from more-risky businesses. Stated another way, companies with higher returns are associated with the more-risky members of the barometer group and lower returns go with the less risky ones. Through diversification, the barometer group has an average risk profile. This is important because a business risk adjustment is necessary for the higher risks of FPUC as compared to the barometer group companies as a whole. With higher business risk, a company, including utilities, would offset higher business risk with a lower debt ratio.

SUMMARY

Q. PLEASE SUMMARIZE YOUR REBUTTAL TESTIMONY.

A. It is my opinion that the equity allowances proposed by Mr. Garrett seriously understate the cost of common equity for FPUC. In an environment of prospectively higher interest rates and Company-specific risk factors, an opportunity to earn a midpoint cost of equity of 11.25% is reasonable for FPUC.

Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY AT THIS TIME?

A. Yes, it does

BY MS. KEATING:

Q And you didn't have any exhibits with your rebuttal, is that correct?

A No, there were no exhibits with the rebuttal.

Q Did you prepare a summary of your rebuttal testimony?

A I have.

Q Would you please go ahead and present that?

A Certainly.

Chairman and Commissioners, good afternoon.

The purpose of my rebuttal testimony is to refute Mr. Garrett's rate of return proposal. He errors by not adequately acknowledging that the accommodative policies of the FMOC -- that's the Federal Open Market Commission -- or Committee -- has ended and higher interest rates and have already occurred and will continue to occur in the future. Indeed, higher inflation expectations are a contributing factor that points to higher interest rates.

After the FMOC ended its bond buying program, which is sometimes referred to as quantitative easing, and that ended in March of 2022, it now has a plan to run off its nine trillion dollar asset portfolio which will further boost interest rates.

Moreover, five increases in the fed funds rate has already occurred in year. This included progressively larger increases concluding with three 75 basis point increases in the fed funds rate. These increases were the largest since 1994. Long-term interest rates for both treasury in and public utility debt have, likewise, occurred.

The key plan my rebuttal highlighted a variety of DCF results proposed by Mr. Garrett that are clearly too low to provide a reliable measure of the cost of equity. Most of the DCF growth rates considered by Mr. Garrett are not specific to any of the companies included in his proxy group, thus, those growth rates are not reflective of the type of growth expected by investors for these companies. Correcting Mr. Garrett's DCF provides a return of 10.7 percent.

In short, the Commission should reject Mr. Garrett's proposal to cut the company's return on equity to 9.25 percent. His proposed return defies good regulatory policy based on data and economic factors, and it is much too low to allow FPUC to achieve the level of return that meet investor expectations.

If the Commission were to adopt the position of the OPC, the investment community would be very concerned because it would be seen as less supportive of the utilities operating in Florida, as the return on equity used by the Commission to September rates embodies in a single numerical value, a clear signal to the regulatory -- of regulatory support for the financial strength of the utilities that it operates.

Thank you.

Q Thank you, Mr. Moul.

MS. KEATING: Mr. Chair, the witness is tendered for cross.

CHAIRMAN FAY: Okay. OPC?

EXAMINATION

BY MS. CHRISTENSEN:

Q Thank you. Good afternoon again, Mr. Moul. How are you doing?

A Good afternoon.

Q You would agree that an ROE lower than your recommended midpoint of 11.25 percent could still allow the company to attract capital and provide safe and reliable service, wouldn't you?

A I agree with that.

Q Have you done any analysis to show how a 9.25 ROE would not allow the company to attract capital or provide safe and reliable service?

A It's just out of -- out of the range of the types of returns that investors would expect. As I indicate in my summary and in my rebuttal testimony, a correct application of the DCF --

Q Well --

A -- using Mr. Garrett's information, and modified as I described, produced the return of 10.7.

Q Well, can I ask you -- again, the question was: Have you done any analysis to show how a 9.25 ROE would not allow the company to attract capital or to provide safe and reliable service?

A I have no specific numerical analysis in that regard.

Q Okay. Would you agree that we are in a bear market, where stock prices are 20 percent lower than at peak?

A I agree with that.

Q And would you agree that in a bear market, investors seek less risky investment or safe haven instruments?

A Yes, in bear market -- in bear market, investors typically gravitate towards safe haven investments. I agree with that.

Q And utility stocks are considered safe haven instruments because they are less risky than the other stocks in the market, correct?

A I would agree with that you to a point. Up through about June or July, utility investments were viewed just that way. Recently, there has been a selloff in the utility sector such that they don't have the safe haven characteristics they did up until June or July.

Q But you would agree that beta for utility sector in general is, what, .8, which is significantly two points lower than a beta of one, which is your average stock market, which indicates that it's less risky?

A We talked about that this morning. The Value Line beta is 0.86, and the market as a whole is 1.00. So the Value Line beta, unadjusted for leverage differences, is lower. I agree with that.

Q Okay. Would you agree that you have testified in many cases regarding cost of capital issues?

A I am sorry, I don't understand that question.

Q Simply, you have testified before many commissions regarding costing of capital, is that correct?

A Oh, sure. Yes.

Q Okay. And would you agree that in many of those cases, a lower ROE was adopted by the Commission, a lower ROE than the one you recommended?

A Oh, sure. Because the Commission balances the competing interests of the parties in rate cases. It typically comes up with a midpoint return that is usually less than what the company requests, and also higher than what the consumer advocate might propose as well. Sure.

Q Okay. And for all those cases that went to the regulator adopted at an ROE lower than the one you recommended, are you aware of any of cases in which the utility was not able to attract capital, or provide safe and reliable service?

A I haven't studied that issue.

Q Okay. Are you aware of any current utilities operating in the U.S. that are unable to a contract cattle or provide safe and reliable service?

A I am not aware of any at this moment. No.

Q Okay. Let me direct your attention to page 12 of your rebuttal testimony.

A I have that.

Q Okay. And on page 12 of your rebuttal testimony, you show Atmos Energy Corporation in your proxy group at a 60-percent equity, at the top of the range of your equity ratios, correct?

A Yes. And that's a projection for the time period 2025 to 2027.

Q Okay. And you believe that the high end of the range supports the use of a projected 55 percent

equity ratio that Chesapeake wants to use, correct?

A Yes. It establishes bounds of the types of equity ratios regulators should consider as reasonable, and that would be the top of the bound, yes.

MS. CHRISTENSEN: Okay. I have handed out an exhibit and I would ask to have that marked for identification. It's the Atmos Energy Corporation 10K form.

CHAIRMAN FAY: Okay. 128.

(Whereupon, Exhibit No. 128 was marked for identification.)

BY MS. CHRISTENSEN:

Q Okay. And you should have a copy in front of you. I want to make sure you have a copy in front of you.

CHAIRMAN FAY: It will be a large --

MS. CHRISTENSEN: A large packet --

CHAIRMAN FAY: -- exhibit.

MS. CHRISTENSEN: -- it says Atmos on the front of it. There we go.

CHAIRMAN FAY: It would have your name on it under witness. If not, we will get you a copy.

THE WITNESS: There is a bunch of stuff with my name on it. Oh, here we go.

BY MS. CHRISTENSEN:

Q Okay. Now, Mr. Moul, you are aware of these types of SEC filings in your line of work, is that correct?

A Oh, sure. I look at them all the time.

Q And were you aware this in 2021, the Atmos equity ratio was 51.9 percent?

A What was the number again?

Q 51.9.

A 51.9. And how do that calculated?

Q It's calculated as shown in the SEC filing. Let me see if we can direct you to --

CHAIRMAN FAY: If you give us a page number, Ms. Christensen.

MS. CHRISTENSEN: Yeah, I am looking for the -- I think it's on page 30 of this exhibit.

CHAIRMAN FAY: Yeah.

MS. CHRISTENSEN: Okay. Well, let me ask you this --

CHAIRMAN FAY: You got it. It's on the bottom table there on 30 --

MS. CHRISTENSEN: Correct. That's what I was looking for. Thank you.

BY MS. CHRISTENSEN:

Q Okay. So if you look at that, can you please read the footnote out loud, that's footnote two on page

30? If you see it, there is a table on page 30 at the bottom, the bottom table, and it has on there shareholder equity, and there is a note off to the side that says, two, could you read out loud what footnote two says?

CHAIRMAN FAY: Mr. Moul?

THE WITNESS: I am -- I am -- I am just looking at what that is saying. Footnote what? What footnote again?

BY MS. CHRISTENSEN:

Q Okay. If you look at the table on page 30, if you look at the bottom table, it has shareholder equity, correct, and then it has an amount next to that.

A I see that.

Q 7.9 billion approximately.

A $7.9 billion, correct.

Q Correct. And then if you look to the line next to that, it identifies that as 51.9 percent equity, correct?

A Well, that's what's reported there, but you need to look at all the foot notes.

Q Right. And that's what I am going to get to next.

So there is a note, footnote two, correct, on the shareholder equity?

A Correct.

Q Can you read footnote two out loud for us?

A It says: Excluding 2.2 billion incremental financing issued to pay for the purchased gas cost incurred during Winter Storm Uri, U-R-I -- I guess I am pronouncing that right -- our equity capitalization ratio would have been 60.6 percent.

Q Okay. Has FPUC had to finance its commodity purchases using long-term debt, if you know?

A Could you repeat that question for me again?

Q Sure. If you know, has FPUC ever had to finance its commodity purchases using long-term debt?

A I don't believe they have. No.

Q Okay. Would you agree that Atmos faces a much different risk and regulatory environment from the one FPUC faces in Florida, given that 70 percent of its operations are in Texas?

A Oh, there is always differences depending upon where you operate. I wouldn't say that the risks are higher or lower in Texas versus here. I mean, in Texas, you are in a gas producing region. This is not a gas producing region.

Q Are you aware of whether or not Texas has sur type -- surcharge type mechanisms for those types of environmental events?

A I am not aware of any. I mean, they might, but I just don't know about them.

Q Okay. Do you really -- so would you agree that Texas has a different risk profile for operating as a utility than Florida does?

A Oh, sure. I would agree with that. Like I said, they operate in a gas producing region.

Q Okay. In the numbers in your proxy group that purport to show CUC at 60 percent, has that number ever been achieved by CUC?

A Has it ever been used what?

Q Has CUC ever achieved an actual equity ratio of 60 percent that you are aware of?

A I am still having trouble understanding the question. Are you asking about Atmos or --

Q No. I am switching to Chesapeake Utilities.

A Oh, to Chesapeake.

Q And in your knowledge, has Chesapeake Utilities ever achieved -- ever achieved an equity ratio of 60 percent?

A They have quite high equity ratios depending upon how the calculation is made. If you exclude short-term debt, there are times when CUC had equity ratios up in that level.

Q Do you know -- well, has it ever achieved 60

percent was the question?

A I believe it has, if you look at the calculation without short-term debt.

Q And when was that?

A Bear with me a second. 2018.

Q Okay. And taking it back to the table that you have at the top of page 12, is the 60 percent that you are talking about, achieving 2025 through 2027, is that excluding short-term debt?

A It is.

Q Okay. And you would agree that the 60 percent is not CUC's actual equity ratio at this current time, correct?

A Oh, I agree with that.

Q Okay. And for that matter, the Atmos 60 percent is not the actual number that they had as a equity ratio in 2021, is that correct?

A Oh, I disagree with that. I mean, if you look at their balance sheet and calculate the equity ratio, on page 38, the equity ratio is 61.6 percent.

Q Is that excluding the liability from the debt issuances related to hurricane -- or Winter Storm Uri?

A No. What it does is excludes the capitalized leases, because if you read footnote one on the page you had me on, it said, inclusive of our finance leases.

But when you look at the balance sheet, they exclude capitalized leases, and then the equity ratio is 61.6 percent.

MS. CHRISTENSEN: Okay. One second, please.

CHAIRMAN FAY: Okay.

MS. CHRISTENSEN: No further questions.

CHAIRMAN FAY: Okay. Staff?

MR. SANDY: Yes, sir, Mr. Chairman.

EXAMINATION

BY MR. SANDY:

Q Mr. Moul, on page 18, around line three of your rebuttal testimony, you, in essence, reference that one of the reasons you disagree with Mr. Garrett's critique of your leverage adjustment is that you are providing a market capitalization for your calculations, is that fair to say?

A Yes, sir.

Q Okay. And I just want to set the stage a little bit here. When we spoke last time, I believe you agreed with me that if the Commission approved the leverage adjustment recommendation you are making that ultimately it could result in a windfall of gains or losses from shareholders from market fluctuations, do you would recall that -- or I guess, even now, would you agree with that premise?

A I don't think I -- I disagree with the term windfall.

Q Aside from the word windfall, allow me to rephrase that as quantitative gains or losses, would you agree with that?

A I would agree with that.

Q Okay. Isn't it true that your recommended adjustment -- that with your recommended adjustment, the allowed return on common equity could vary substantially, not from changes in risks of FPUC, but ultimately from those fluctuations in the market we just referenced?

A Well, clearly I agree with you that fluctuations in the market have something do with it. But the adjustments I made, whether it be Modigliani and Miller, or Hamada, those are done with hard numbers. I mean, it's whatever -- it's a mathematical calculation based upon the available evidence that we have. There is no judgment involved in the application of those formulas.

Q Let me clarify the crux of my question, though.

Ultimately, it is whether, when applying a market capitalization, it would allow for a wide variance, or a substantial variance in the return on

common equity, would you agree with me there?

A I would agree with that, yes.

Q Okay. And isn't it also true that, under your recommended leverage adjustment, that the revenue requirement associated with the allowed return on equity could very substantially, again, not because of level of investment from the shareholders, but ultimately from those fluctuations in the market that we have been talking about?

A I agree with that.

MR. SANDY: Okay. No further questions.

CHAIRMAN FAY: Okay. Commissioners?

Redirect?

MS. KEATING: No redirect.

CHAIRMAN FAY: Okay. Let's see here. We -- have we entered 128?

MS. CHRISTENSEN: Yes. I would ask to have that moved into the record.

CHAIRMAN FAY: Okay. Showing no objection.

MS. KEATING: No objection.

CHAIRMAN FAY: Okay. Show 128 entered into the record.

(Whereupon, Exhibit No. 128 was received into evidence.)

CHAIRMAN FAY: Ms. Keating, would you like to excuse your witness?

MS. KEATING: Yes, I would, Mr. Chairman.

CHAIRMAN FAY: All right. Mr. Moul, you are excused. Thank you for your testimony. Travel safe.

(Witness excused.)

CHAIRMAN FAY: All right. Ms. Keating, your next witness.

MS. KEATING: Thank you, Mr. Chair. FPUC calls Mike Cassel back to the stand.

Whereupon,

MIKE CASSEL

was recalled as a witness, having been previously duly sworn to speak the truth, the whole truth, and nothing but the truth, was examined and testified as follows:

EXAMINATION

BY MS. KEATING:

Q Good afternoon, Mr. Cassel.

A Good afternoon.

Q Would you please state your name for the record?

A Mike Cassel.

Q And are you the same Mike Cassel who has provided direct testimony in this proceeding?

A I am, yes.

Q And did you cause to be prepared and filed in this proceeding eight pages of rebuttal testimony?
A Yes, I did.
Q Do you have any changes or corrections to your rebuttal?
A No, I do not.
MS. KEATING: I would note, Mr. Chair, that I believe we filed an errata that accompanied on October 19th.
BY MS. KEATING:
Q And, Mr. Cassel, beyond the errata that was filed on the 19th, do you have any additional changes or corrections?
A No, I do not.
CHAIRMAN FAY: Okay. Yes. Thank you, Ms. Keating.
MS. KEATING: Mr. Chair, we would ask that Mr. Cassel's rebuttal testimony, subject to the errata, be inserted into the record as though read.
CHAIRMAN FAY: Okay. Show that inserted.
(Whereupon, prefiled rebuttal testimony of Mike Cassel was inserted.)

Before the Florida Public Service Commission

Docket No. 20220067-GU

In re: Petition for rate increase by Florida Public Utilities Company, Florida Division of Chesapeake Utilities Corporation, Florida Public Utilities Company – Fort Meade, and Florida Public Utilities Company – Indiantown Division

Prepared Rebuttal Testimony of Michael Cassel

Date of Filing: 09/20/2022

Q. Please state your name and business address.

A. My name is Michael Cassel. My business address is 208 Wildlight Ave., Yulee, FL 32097.

Q. Have you previously filed direct testimony in this case?

A. Yes, I have.

Q. What is the purpose of your rebuttal testimony?

A. While I disagree with many of Mr. Smith's recommendations, I will focus my rebuttal on his recommendation that the Commission remove the positive acquisition adjustment associated with the acquisition by Chesapeake Utilities Corporation ("CUC") of Florida Public Utilities Company ("FPUC").

Q. Do you see any overarching problems with how Mr. Smith developed his recommendation?

A. Yes. In his review of the acquisition adjustment being sought by the Company, Witness Smith expresses a number of broad opinions as to why the Commission should disallow the acquisition adjustment without providing any analytical support for his recommendation. Instead, he simply asks the Commission to reject the evidence provided by the Company that demonstrates FPUC's burden has been met. Contrary to his assertions, the evidence presented by multiple Company witnesses, as summarized below, clearly demonstrates that FPUC should be allowed to retain the acquisition adjustment on its books. The evidence presented by the Company clearly shows that the acquisition of FPUC by CUC was in the public interest.

Q. Would you please explain why you disagree with Witness Smith's recommendation on the acquisition adjustment?

A. Yes. Witness Smith argues that the Company has failed to meet its burden of proof under the five-factor test, but he only indicates he has an issue with two of the factors – 1. Quality of Service; and 2. Lower operating costs. He is wrong on both points.

The acquisition brought two key components to the table to the benefit of FPUC and its customers. First, acquisition by CUC introduced a significantly improved level of professional and experienced leadership to FPUC. Second, acquisition by CUC provided FPUC with significantly improved access to capital at far more competitive rates. The acquisition of FPUC by CUC provided the ability to attract enough capital and obtain enough low-cost debt that enabled the consolidated gas divisions to make the $323,974,978 in capital spending since the last rate case, as discussed in my direct testimony. A comparison of the cost of capital for the unconsolidated FPUC division in prior rate cases is shown in the MFR Schedule A-5 FPUC. This MFR demonstrates the decrease in long-term debt costs from 7.9% to 3.48% and the overall reduction of weighted cost from 8.17% to 6.46%. This reduction in the cost of capital has allowed the Company to complete significant capital investments without requesting a base rate increase for over 13 years. Although Witness Smith did not expressly mention these factors, these two factors are critical, because they provide the foundation for the Company's improvement in the other three areas of the "five factor" test. Furthermore, as it relates to Witness Smith's contention that all the improvements made by the Company were simply a result of business as usual, as he asserts, then FPUC would have implemented them, or at least planned for their implementation, before the CUC acquisition. However, as I learned when working with FPUC immediately after the acquisition, these activities could not have happened without the expanded capabilities that resulted from the acquisition. The simple fact is that, as a result of the acquisition by CUC, FPUC has access to far better funding, leadership, experience, talent, and diversification, which has, and continues to be, a benefit to FPUC's ratepayers.

Q. Do you agree with Witness Smith's assertion at page 17 that FPUC has failed to demonstrate that the improvements made to the system to increase quality of service are attributable to the acquisition?

A. No, for two reasons. First, neither the Commission's prior decision approving the acquisition adjustment, nor the Commission's five-part test, requires that the utility tie every improvement, savings, or benefit back to the original acquisition in perpetuity. That is a ridiculous suggestion and would be an impossible task, as I am sure Witness Smith is aware. Once approved, subsequent review by the Commission is to determine whether the benefits that the Commission found when it first approved that acquisition adjustment have continued. In other words, does the utility continue to make progress and move forward in the key areas addressed by the test? The Commission has indicated it will only disallow some, or all, of the acquisition adjustment if cost savings no longer exist.[1]

Second, as reflected in the testimony of our witnesses, there are a number of improvements that have been made to our system that would not have been made, or would have been significantly delayed, had CUC not acquired FPUC. For example, key technology improvements discussed by Witness Gadgil, such as upgrades to our core server infrastructure, investment in a Tier 3 data center, and even modernized telephony, would not have happened under prior management. All of these investments have improved our service but could not have happened without the expanded funding capabilities of CUC, as well as diverse leadership with a broader, more modern perspectives that is cognizant of the changes that need to be made to keep pace with modern communications, data exchange, and security issues. The same can be said for the enhanced leak detection efforts using of satellite scans of the gas pipeline system that we are proposing, as discussed in Witness Bennett's testimony, or the modern approach to customer service, including the VOC program, addressed by Witness Parmer in which we now analyze a customer's interaction with us across all areas so that can better capture unstructured feedback and continuously improve how we serve our customers. Witness Parmer perhaps said it best when she described FPUC before the acquisition by CUC as a "mom and pop" operation. It is not a criticism; it is simply a fair depiction of the limitations on the resources, at any and all levels, available to FPUC prior to its acquisition. FPUC, and by extension our

[1] Order No. PSC-2012-0010-PAA-GU, at pg. 9.

customers, is better off as a result of the acquisition by CUC, and that benefit remains to this day.

Q. On page 17 of his testimony, Witness Smith includes the Company's GRIP program as one of the "expected, normal improvements" made to the system, characterizing it as a "required GRIP program". Do you agree with this characterization?

A. No, I do not. While Witness Smith accurately states that the Company's GRIP program was developed in response to federal safety initiatives, the Company was not "required" to develop and implement our Gas Reliability Infrastructure Program or "GRIP". The Company developed the program to enable it expedite replacement of aging distribution mains and services constructed of materials now known to be less reliable, particularly replacement of suspect facilities in and around large population centers. The Company's goal was a program that would allow it to expedite the work and investment without having to file a rate case on a regular basis, which would have further delayed the implementation of the replacements. The Company recognized the safety issue involved, the concerns of its customers, and the importance of finding a creative way to get the job done. We did, and as Witness Bennett has stated, our GRIP program will be completed by the end of this year, ensuring that our customers, our employees, and our communities remain safe. While FPUC, without the acquisition by CUC, may have eventually made the facility replacements necessary, it certainly would not have done so on the expedited basis that we have been able to accomplish. And, with that delay, there would have been an extended, growing risk to the safety of the Company's customers and the public as whole. So, again, no, I do not agree with Witness Smith.

Q. Do you agree with Witness Smith's assessment of the Company's ongoing operational cost savings as detailed in his testimony on page 19?

A. No. Aside from his erroneous suggestion that this request for rate increase is evidence that savings no longer exist, which Witness Deason addresses, Witness Smith ignores, entirely, the continued cost savings presented in Exhibits MN-2 and MN-3 of Company Witness Napier's testimony. In the entire 93 pages comprising his testimony and exhibits, Witness Smith mentions Witness Napier, in passing, three times, referring only to limited portions of her testimony. **<u>Not once</u>** does he indicate that he reviewed the exhibits sponsored by Witness Napier, namely MN-2 and MN-3, which, taking into account growth and inflation, show year-over-year savings in numerous categories. As a matter of fact, these savings were detailed on Exhibit MN-2 of Witness Napier's direct testimony. Witness Napier's Exhibit laid out an annual savings of $4,462,872 to FPUC's customers. This amount is made up of an annual charge of $2,647,134 for the premium of the acquisition offset by an annual savings $7,110,006. He also disregards the cumulative interest savings of approximately $9.0 million described by Witness Russell. Instead, he blithely suggests that there does not appear to be an "overall financial and service benefit" for FPUC's customers associated its acquisition by CUC. In light of the case we have put forward, I can only assume he is either asking that an unachievable bar be set, or he has also not reviewed the testimonies of our witnesses Parmer, Gadgil, Russell, and Bennett, along with Witness Napier's Exhibits MN-2 and MN-3.

In sum, Witness Smith has offered no basis for his assessment of FPUC's cost savings, and that is because he has none.

Q. Are there any other issues with Witness Smith's recommendation regarding the acquisition adjustment you would like to address?

A. Yes. On page 18, Witness Smith asserts ". . .the Company has not carried its burden to demonstrate that its requested rate increase will not cost customers more, particularly if the acquisition adjustment is allowed to be included in utility rate base in this rate case." Although awkwardly stated, I've assumed that he is not suggesting that the Company has a burden to show that a rate increase is not a rate increase. Therefore, assuming he means that the Company has a burden to show that the ongoing inclusion of the acquisition adjustment will not cost customers more than if it were removed, no such burden exists, and the Commission should reject outright Witness Smith's attempt to create an entirely new requirement. Moreover, the Company has provided substantial, verifiable evidence in this proceeding that, but for the acquisition by CUC, FPUC's customers would be paying higher costs for a lesser level of service.

Q. What are your final conclusions regarding Witness Smith's recommendations?

A. The acquisition started the Company down a path of progress and improvement, which is now an integral part of the corporate culture. Service excellence standards govern our every action. We have made significant investments to improve system operation and reliability. Our customer service activities are more customer-focused, and our relationships with our communities are greatly enhanced. The combined Company has a robust, strategic planning process that starts with our most senior executives.

Accepting Witness Smith's arguments regarding removal of the acquisition adjustment, would ignore the existing and projected significant benefits, value, and savings that the acquisition by CUC has produced for FPUC and its customers, as demonstrated by our witnesses. It would also send the wrong message to utilities and the capital markets regarding the value of innovation, growth, efficiency, and safety as it relates to regulated gas utilities in Florida, as well as the wrong signal regarding the reliability of defined Florida regulatory requirements applicable to a utility from one rate case to the next. The Commission found in 2012 that the acquisition of FPUC by CUC was in the public interest. That has not changed and is even more evident today. As such, the Commission should reject Witness Smith's arguments and allow continued recognition of the positive acquisition adjustment.

Q. Does this conclude your rebuttal testimony?

A. Yes.

GUNSTER

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October 19, 2022

BY E-FILING

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

Re: **Docket No. 20220067-GU: Petition for rate increase by Florida Public Utilities Company, Florida Division of Chesapeake Utilities Corporation, Florida Public Utilities Company - Fort Meade, and Florida Public Utilities Company - Indiantown Division.**

Dear Mr. Teitzman:

Attached, for electronic filing, please find the Errata to the Direct and Rebuttal Testimony of Michael Cassel, submitted on behalf of Florida Public Utilities Company and the Florida Division of Chesapeake Utilities Corporation.

Sincerely,

/s/Beth Keating
Beth Keating
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cc.(Certificate of Service)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Florida Public Utilities Company, Florida Division of Chesapeake Utilities Corporation, Florida Public Utilities Company - Fort Meade, and Florida Public Utilities Company - Indiantown Division.	DOCKET NO. 20220067-GU FILED: October 19, 2022

FLORIDA PUBLIC UTILITIES COMPANY'S ERRATA SHEET TO THE DIRECT AND REBUTTAL TESTIMONY OF MICHAEL CASSEL

Florida Public Utilities Company, jointly with the Florida Division of Chesapeake Utilities Corporation, Florida Public Utilities Company - Fort Meade, and Florida Public Utilities Company - Indiantown Division, (jointly, "FPUC") hereby submits this Errata Sheet to correct the Direct Testimony of its witness, Michael Cassel, originally filed on May 24, 2022, as well as the witness's Rebuttal Testimony, filed on September 20, 2022:

Direct Testimony

Witness Name	Page and Line Number	Correction
Michael Cassel	Page 11, Line 2	Change increase in its base rates of "$43,817,913" to "$43,726,000"
Michael Cassel	Page 11, Line 5	Change "$24,061,982" to "$23,970,069"
Michael Cassel	Page 15, Line 13	Change Projected 2023 ROR of: FPUC from 2.94% to 2.95% CFG from 1.48% to 1.50% Ft Meade from (8.49%) to (8.46%) Indiantown from (3.46%) to (3.44%)

Rebuttal Testimony

Witness Name	Page and Line Number	Correction
Michael Cassel	Page 6, Line 15	Change annual savings of "$4,462,872" to "$4,042,974"
Michael Cassel	Page 6, Line 17	Change annual savings of "$7,110,006" to "$6,690,108"

Respectfully submitted this 19th day of October, 2022,

By:____________________

Beth Keating
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Attorneys for Florida Public Utilities Company

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing filing has been served by Email this 19th day of October, 2022, upon the following:

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Attorneys for Florida Public Utilities Company

BY MS. KEATING:

Q And, Mr. Cassel, you did not have any rebuttal exhibits, is that correct?

A That's correct.

Q Did you prepare a summary of your rebuttal?

A Yes, I have.

Q Please go ahead and present that.

A Thank you.

I would like to thank you again, Commissioners, for hearing from me so, so late in the day on day two. I appreciate it.

My rebuttal testimony disputes OPC witness Smith's recommendation to remove the positive acquisition adjustment associated with the Chesapeake acquisition of FPUC. It's already been established that this acquisition adjustment criteria have been met. We have now presented significant evidence that the benefits that were initially found have continued, and there is no doubt that our customers continue to benefit in numerous ways from that acquisition.

In his review of the acquisition adjustment, Witness Smith expresses many broad opinions as to why the Commission should disallow the adjustment without providing any analytical support for that recommendation. He also argues that the company failed to meet its burden of proof under the five factor test. But right after making that argument, he indicates that he only has issues with two of those five factors, the quality of service and the lower operating costs, and couldn't be more wrong about this fact.

The fact is that the acquisition introduces significantly improved professional and experienced leadership that started FPUC down the path of progress improvement, which is now an integral part of our culture.

All of the improvements discussed by the FPUC witnesses have been made possible because of the expanded capabilities and the leadership that resulted from that acquisition by Chesapeake. Our customers continue to benefit from the broader and more modern perspective that focuses on changes that need to be made in keeping pace with modern communications, data exchange and cyber security issues.

Additionally, Witness Smith asserts that the company has not carried its burden to demonstrate that the requested rate increase won't cost customers more, and that's particular with the acquisition adjustments allowed to remain in our right base.

Our burden of proof is to put forward evidence that is a rate increase is warranted, and we've done that. Our burden is not reargue the acquisition adjustment in its entirety.

We have the responsibility the demonstrate to the Commission that the acquisition adjustment should remain because the efficiencies, the cost savings and the overall benefits to our customers remain, and without hesitation, I attest that those benefits are still there and we continue getting better and better.

Finally, Witness Smith erroneously suggests that the request for this rate increase is evidence that savings no longer exist, which is completely absurd. Unfortunately, Witness Smith conveniently passes over the references to cost savings presented by company Witness Napier. The annual savings of over $4 million that our customers continue to recognize some 13 years after the acquisition are a direct result of the stronger, more operationally and financially capable company that emerged from this acquisition.

In conclusion, the company has provided substantial, verifiable evidence that in this proceeding, that but for the acquisition by Chesapeake, FPUC's customers would be paying higher costs for a lesser value of service.

Thank you.

Q Thank you, Mr. Cassel.

MS. KEATING: Mr. Chair, the witness is tendered for cross.

CHAIRMAN FAY: Okay. Thank you.

OPC?

MR. REHWINKEL: Mr. Chairman, we have no questions. Thank you.

CHAIRMAN FAY: Okay. Staff?

MR. SANDY: None.

CHAIRMAN FAY: All right. Commissioners?

Mr. Cassel, I have just one question for you. Maybe just to clarify. What do you see this commission, this panel, what do you see our role being as it relates to the acquisition adjustment?

THE WITNESS: Well, so as I understand it, the overall indication of the acquisition being in favor of continuing was that it's in the public interest. And I think we've clearly demonstrated that. And of course, the Commission has broad discretion as to how to handle that. But the proof -- the burden is on us to prove that the benefits is there and that ultimately there is -- there is benefit to our customers and that it's in the public interest. And I believe that within the bounds of what you have would be to allow us to accept -- or allow us to continue with that acquisition in our rate base.

CHAIRMAN FAY: Okay. Great. Thank you.

Redirect?

MS. KEATING: No redirect.

CHAIRMAN FAY: Okay. We have no exhibits.

Ms. Keating, would you like to excuse your witness?

MS. KEATING: Yes, I would, Mr. Chair.

CHAIRMAN FAY: All right. Mr. Cassel, you are excused. Thank you for your testimony.

THE WITNESS: Thank you very much.

(Witness excused.)

CHAIRMAN FAY: All right. I don't want to jinx us, but this is our last rebuttal witness here. So I have a lovely newborn at home, and right near the end, before going to bed, there just seems -- really things just go really poorly, and so I am hoping this last part of this hearing we can hold it together, bring it home.

So with that, Ms. Keating, you are welcome to call your next witness.

MS. KEATING: From your mouth to God's ears, Mr. Chair.

FPUC would call Terry Deason to the stand.

Whereupon,

TERRY DEASON

was recalled as a witness, having been previously duly sworn to speak the truth, the whole truth, and nothing but the truth, was examined and testified as follows:

EXAMINATION

BY MS. KEATING:

Q Good afternoon, Mr. Deason.

A Good afternoon.

Q Would you please state your name for the record?

A Terry Deason.

Q And are you the same Terry Deason who filed direct testimony in this proceeding?

A Yes.

Q Did you also cause to be prepared in this proceeding rebuttal testimony?

A Yes.

Q Do you have any changes or corrections to that rebuttal?

A No.

MS. KEATING: Mr. Chair we would ask that Mr. Deason's rebuttal testimony be inserted into the record as though read.

CHAIRMAN FAY: Okay. Show it inserted.

(Whereupon, prefiled rebuttal testimony of

Terry Deason was inserted.)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Docket No. 20220067-GU: Petition for rate increase by Florida Public Utilities Company, Florida Division of Chesapeake Utilities Corporation, Florida Public Utilities Company – Fort Meade, Florida Public Utilities Company – Indiantown Division.

Prepared Rebuttal Testimony of Terry Deason

Date of Filing: September 20, 2022

TABLE OF CONTENTS

I. INTRODUCTION

Q. Please state your name and business address.

A. My name is Terry Deason. My business address is 4377 NW Torreya Park Road, Bristol, Florida 32321.

Q. By whom are you employed and in what capacity?

A. I am self-employed as a Special Consultant specializing in the fields of energy, telecommunications, water and wastewater, and public utilities generally.

Q. Did you previously submit direct testimony?

A. Yes, I submitted written testimony in this proceeding on May 24, 2022, addressing the regulatory policy considerations for acquisition adjustments in general and how those policy considerations should be applied to FPUC's request for increased rates in this proceeding, which includes continued recognition of the positive acquisition adjustments associated with the acquisition of FPUC by Chesapeake and the acquisition of Indiantown Gas Company ("Indiantown") by FPUC.

Q. What is the purpose of your rebuttal testimony?

A. The purpose of my rebuttal testimony is to address the testimony of OPC Witness Ralph Smith as it pertains to the acquisition adjustment resulting from the acquisition of Florida Public Utilities Company ("FPUC") by the Florida Division of Chesapeake Utilities Corporation ("Chesapeake"). I will also address the reasons why Witness Smith's recommendation to disallow a large portion of FPUC's total incentive compensation is inconsistent with sound regulatory policy.

Q. Are you sponsoring an exhibit with your rebuttal testimony?

A. No.

Q. For whom are you appearing as a witness?

A. I am again appearing as a witness for Florida Public Utilities Company ("FPUC") and the Florida Division of Chesapeake Utilities Corporation ("Chesapeake").

II. ACQUISTION ADJUSTMENT

Q. What does Witness Smith recommend for the Chesapeake acquisition of FPUC?

A. He recommends a total disallowance of all amounts associated with the positive acquisition adjustment, including the rate base impacts of the unamortized balance no longer being included in rate base and the net operating income impacts of ceasing any further above-the-line amortization of the positive acquisition adjustment.

Q. Does Witness Smith also address the acquisition of Indiantown Gas Company by FPUC?

A. Yes, but he recommends no adjustments to the amounts being requested for this acquisition.

Q. If the Commission were to adopt Witness Smith's recommendation, would FPUC no longer incur these costs on its financial statements?

A. FPUC would continue to incur these costs for financial reporting. They do not go away because of a regulatory disallowance. In essence, FPUC would be unable to achieve its authorized rate of return for financial reporting purposes. And given the size of the recommended disallowances, this could have a material impact on FPUC's financial integrity on a going forward basis.

Q. On what basis does Witness Smith recommend these disallowances?

A. Witness Smith asserts that there is an incentive for a company to pay an acquisition price higher than what would be expected for a similar transaction between unregulated (competitive) companies. He further asserts that FPUC has failed to meet all five of the factors normally used to evaluate an acquisition and concludes that FPUC has not met its burden of proof. He further theorizes that FPUC's request to increase rates is an indication that the acquisition is no longer beneficial.

Q. Do you agree with these positions advanced by Witness Smith?

A. No, I do not. First, Florida's regulatory policies prevent regulated utilities from intentionally paying more for an acquisition than can be economically justified. Regulated utilities in Florida know that an acquisition will be scrutinized by the Commission and will allow recognition only to the extent that it is in the public interest. Thus, regulation acts as a surrogate for competition and places limits on acquisition prices.

Second, the five factors normally used to evaluate acquisitions have been thoroughly addressed by FPUC Witnesses Cassel and Napier. Witness Smith has chosen not to address the specifics of their testimonies, rather he conveniently concludes that FPUC has not met its burden. While I agree that these five factors are appropriate, the ultimate test is whether the acquisition is in the public interest and the Commission has great discretion in making this determination. I address this in greater detail in my direct testimony. Witness Smith has provided no sound and substantial basis to conclude the acquisition is no longer in the public interest. Quite frankly, it is not the role of a witness to opine on whether a burden has been met. This is the Commission's role, after due consideration of all the evidence.

And third, the Commission has never taken the position that a request for a rate increase, especially when an increase is requested some twelve years after the acquisition was first approved, is an indication that the acquisition is no longer in the public interest. There are simply too many extraneous factors occurring that necessitate an increase in rates to conclude that an acquisition is no longer in the public interest.

Q. Do you have any concluding thoughts on the positions taken by Witness Smith?

A. Yes, I have two. First, it needs to be reiterated that the FPUC acquisition has already been thoroughly reviewed by the Commission some twelve years ago. It is an issue now because the Commission wanted to review it again at FPUC's next rate case. To a certain extent, there is some level of a presumption that the acquisition is in the public interest. The issue now is whether there have been any material changes that warrant a different conclusion. Witness Smith has offered no evidence that anything has materially changed to warrant a conclusion that the acquisition is no longer in the public interest.

Second, I want to focus on a passage from Witness Smith's testimony. He states: "Ratepayers should not be required to pay higher rates attributable to an acquisition premium paid to acquire other systems." This ignores the possibility that an acquisition can be in the public interest even if rates increase. This could be because of inadequate regulatory compliance, poor quality of service, or an inadequate access to capital, to name a few. So, Witness Smith's testimony has a too narrow of a definition of what constitutes the public interest. But putting that aside and focusing on the rate impacts of an acquisition, Witness Smith again misses the mark. The real test is whether rates would be lower absent the acquisition or conversely whether the acquisition is the sole reason that rates are higher than they otherwise would be. Witness Smith provides no evidence that the FPUC acquisition is now causing rates to be higher than they would be had the acquisition not taken place.

III. INCENTIVE COMPENSATION

Q. Please address Witness Smith's recommendation to disallow a large portion of FPUC's total incentive compensation.

A. Witness Smith is also recommending that $2.180 million, or 50 percent, of FPUC's total incentive compensation be disallowed for ratemaking purposes. If his recommendation were to be adopted in its entirety, it would mean that FPUC would be making payments to employees consistent with its obligations to those employees and yet not have sufficient revenues to cover a full 50 percent of those obligations. Witness Smith is also recommending that stock-based compensation in the amount of $1.376 million be disallowed for ratemaking purposes. His recommendations in total equate to a 120 basis point reduction in FPUC's allowed return on equity.

Q. On what basis is Witness Smith recommending such a significant disallowance?

A. Witness Smith readily acknowledges that both shareholders and ratepayers stand to benefit from the achievement of performance goals contained in FPUC's incentive compensation plan. However, based on his incorrect personal belief that financial metrics primarily benefit shareholders, he is recommending that half of FPUC's incentive compensation be disallowed and that all of the stock-based compensation be disallowed.

Q. Why should Witness Smith's disallowances be rejected?

A. His recommended disallowances are inconsistent with sound regulatory policy and basic principles of ratemaking and, if accepted, would be detrimental to the long-term best interests of FPUC's customers.

Q. How are Witness Smith's recommended disallowances inconsistent with sound regulatory policy and basic principles of ratemaking?

A. A fundamental tenet of sound regulatory policy is to provide recovery of all reasonable and necessary costs expected to be incurred to provide service to customers. And a basic principle of ratemaking is to include all such costs as test year expenses in calculating a regulated company's net operating income. Only if the Commission finds that the expenses in question are unreasonable, unnecessary, or not expected to be incurred, should they be disallowed in calculating the company's revenue requirement.

Another fundamental tenet of sound regulatory policy is to encourage regulated utilities to be efficient and provide high quality service to their customers. Sacrificing efficiency and quality of service in the long run to achieve temporary rate reductions is not in the customers' interest. All regulatory decisions have consequences, and good regulatory policy results when these consequences are adequately considered. Witness Smith's recommendations violate both tenets of sound regulatory policy.

Q. How so?

A. First, Witness Smith makes no allegation that the amount of overall compensation paid to FPUC's employees is unreasonable, unnecessary, or not expected to be incurred. In effect, he abandons the "reasonableness standard." He has not presented any analysis of the employment market to determine what amount of compensation is reasonable and necessary to attract the workforce needed to efficiently and reliably run a gas utility. His complete lack of analysis stands in stark contrast to the testimony of FPUC Witness Galtman who explains in detail that the overall compensation paid by FPUC is reasonable, that it is necessary to attract and retain a qualified workforce, and that it is at or near the median of employee compensation paid by other regulated utilities.

The primary basis for Witness Smith's recommended disallowance is an unfounded personal belief that incentive compensation tied to financial metrics benefits shareholders and that half of overall incentive compensation should be disallowed. Notably, he does not allege that such financial goals harm FPUC's customers. On the contrary, customers do, in fact, benefit from a financially strong parent company, as I will discuss later in my testimony.

Notably, neither does Witness Smith provide any analysis of the net amount of compensation to employees that would result from his recommendations. And, he fails to ascertain whether that net amount is reasonable. Consequently, Witness Smith's testimony is totally devoid of any consideration of the reasonableness of the net amount of compensation expense to be included for ratemaking purposes.

Again, he is abandoning the reasonableness standard that is universally applied to all other costs incurred to provide service to customers.

Q. Why is a part of FPUC's incentive compensation goals tied to Chesapeake's financial performance and how is this beneficial to FPUC's customers?

A. One hundred percent of FPUC's investor capital is provided by Chesapeake. FPUC does not publicly issue equity in the equity market and does not issue its own bonds. Thus, FPUC is dependent solely on Chesapeake and it is essential that Chesapeake have the financial integrity necessary to be able to raise new equity capital in the equity market. This is how FPUC is able to obtain capital so that it can, in turn, invest in property, plant, and equipment necessary to provide reliable service to its customers. FPUC's use of Chesapeake financial performance measures in its incentive compensation plan simply mirrors financial reality and, to the customers' benefit, properly focuses FPUC's employees on the financial performance of Chesapeake. FPUC's customers benefit because it is Chesapeake that will be responsible for one-hundred percent of the investor-supplied capital necessary to serve them.

Q. What would be the longer-term consequences of accepting Witness Smith's recommendation?

A. His recommendation would have longer-term consequences that could affect efficiency and take away a valuable managerial tool that is effective in increasing efficiency and maintaining or improving the quality of service provided to customers.

Q. What do you mean by "take away a valuable managerial tool"?

A. If the Commission were to accept Witness Smith's recommendation, FPUC would be justified in rethinking its long-standing approach to employee compensation. If a significant amount of otherwise valid and reasonable costs is disallowed, not on the basis of the reasonableness of their amount but rather simply because of the method by which they are paid, FPUC would be justified in implementing a different pay structure that does not call into question the method by which these costs are paid.

While accepting Witness Smith's recommendation would deny FPUC the opportunity to recover necessary costs currently, adopting a different compensation plan with less or no incentive pay and a greater reliance on base pay would presumably eliminate the issue in future rate proceedings. By moving more salary to base pay, employees would no longer have to re-earn that pay each year by meeting goals that balance operational and financial measures both in the short term and long term. In essence, the Commission would be substituting its judgment for that of FPUC's management as to how best to motivate and compensate its employees. Consequently, the incentive for FPUC's employees to be efficient and productive would be diminished.

Q. Do you understand Witness Smith is not recommending that FPUC not pay the incentive compensation, he is just recommending that a portion not be recovered in rates?

A. Yes, I understand his recommendation. However, disallowing a reasonable and necessary expense, or requiring the Company to pay part of the expense out of the return component that is intended to compensate investors for the use of their invested capital, is nothing more than a backdoor approach to reducing the allowed Return on Equity (ROE). Funds that should go to shareholders as a fair return on investment instead would be diverted to cover costs that should otherwise be recovered in rates. The reduction to FPUC's ROE represented by Witness Smith's recommendation is significant—approximately 120 basis points. This would significantly affect FPUC's opportunity to earn what the Commission determines to be a fair rate of return. It could also violate the Hope and Bluefield cases discussed by OPC Witness David J. Garrett on pages 11 and 12 of his testimony.

Q. Witness Smith states that his recommendation is balanced. Do you agree?

A. No, his recommendation is one-sided and actually works to the detriment of customers' best long-term interests. His rationale does not recognize that the Company's incentive compensation program is designed to provide a careful balance that benefits all stakeholders, including its customers, employees and investors.

FPUC's incentive compensation programs include operational and financial goals designed to motivate employees to deliver quality services to customers, to improve operational efficiency, and to provide a fair return to investors, all of which benefit FPUC's customers. This balanced approach helps to ensure that the Company is sustainable and that it provides benefits to each of the stakeholders, especially its customers.

Q. Is it your position that Commission precedent and policy supports the recovery of incentive pay tied to financial measures?

A. Yes. While the Commission reviews each utility's compensation costs on the facts unique to that utility, the Commission has consistently recognized that incentive pay is an accepted and desirable way to simultaneously achieve corporate goals and to control costs for the benefit of customers. The Commission has also determined that incentive compensation is an appropriate component to consider within context of compensation overall for purposes of assessing whether the overall compensation paid to employees is reasonable.

Q. Is there a Commission decision reflective of this policy?

A. Yes. For example, there is a Florida Power Corporation rate case that provided for cost recovery of incentive compensation. There, the Commission found: "Incentive plans that are tied to the achievement of corporate goals are appropriate and provide an incentive to control costs."

(Order No. PSC-92-1197-FOF-EI, issued October 22, 1992, in Docket No. 910890-EI, In re: Petition for a rate increase by Florida Power Corporation)

The Commission has also approved incentive compensation in at least three rate cases for Gulf Power Company. The Commission's finding in the 2001 Gulf rate case, Order No. PSC-02-0787-FOF-EI (Page 45), states:

To only receive a base salary would mean Gulf employees would be compensated at a lower level than employees at other companies. Therefore, an incentive pay plan is necessary for Gulf salaries to be competitive in the market. Another benefit of the plan is that 25% of an individual employee's salary must be re-earned each year. Therefore, each employee must excel to achieve a higher salary. When the employees excel, we believe that the customers benefit from a higher quality of service.

Q. Why has this been the long-standing policy of the Commission?

A. I believe there are a number of reasons for this. First, the Commission's policy is consistent with the basic tenets of sound regulatory policy which I described earlier. Second, the Commission has recognized that having good management at utilities is essential for regulators to achieve their mission of having safe, reliable, and reasonably-priced service delivered to customers. The Commission has further understood that management needs sufficient tools and incentives to achieve these goals and that regulators should not attempt to "micro-manage" their regulated utilities.

Finally, the Commission has appropriately recognized that not all issues in a rate proceeding are a simple situation of "us vs. them," where every issue has a clear winner and a clear loser. By couching the issue in terms of who should pay (customers or shareholders), Witness Smith is attempting to make it an "us vs. them" issue, when really it is not. Incentive compensation is a good example of a "win-win" situation.

Q. What do you mean by a "win-win" situation?

A. Incentive compensation is a situation where all stakeholders win. Shareholders get to invest in a company with employees motivated to achieve appropriate corporate goals. Management gets to apply compensation tools that they think are best to motivate and fairly compensate employees. And most importantly, customers pay no more than a reasonable amount in their rates and get a workforce that is motivated to be efficient, to reduce costs where possible, and to maintain a high level of safe and reliable service.

Q. The underlying rationale for Witness Smith's recommendation is that incentive payments related to financial performance primarily benefit shareholders and therefore should be excluded for ratemaking purposes. Do you agree?

A. No, I do not. Financial goals also significantly benefit customers. Regulated utilities are profit making entities (hopefully) and must make a reasonable profit to be sustainable and to access capital when needed and on reasonable terms. This is the means by which customers receive the service that they expect and deserve. A utility earning a reasonable return is beneficial for both its shareholders and its customers.

A financially healthy utility benefits all of its stakeholders – customers, employees and investors – by delivering quality service and earning a fair return on investment. A utility's ability to earn a fair return assists in attracting the capital required to provide services to the customer. A financially healthy utility provides access to capital on reasonable terms and provides the ability to withstand financial adversity.

Moreover, a financially healthy utility will also provide a lower cost of funds for necessary infrastructure investment, resulting in a lower price for the customer. These benefits are consistent with the goals of the Commission. In Gulf' Power's 2012 test year rate case, the Commission specifically recognized that ratepayers benefit from Gulf and Southern Company maintaining a healthy financial position. (Order No. PSC-12-0179-FOF-EI, Pages 94-95). It should be noted that Southern Company was Gulf Power's parent before being acquired by NextEra Energy.

Q. Do you agree with Witness Smith that the relevant issue is who should bear the cost of incentive compensation – shareholders or rate payers?

A. No. To me the most relevant issue is whether incentive compensation is a cost of providing service to customers. It is, and as such, it is properly paid for by customers in their rates just like any other cost of providing service and should be based on its reasonableness. Witness Smith abandons the reasonableness standard and instead uses a strict standard of disallowing an otherwise reasonable amount because of how it is paid. Following Witness Smith's logic to its illogical conclusion would illustrate the fallacy of his position.

Q. Please explain.

A. Strictly as a hypothetical, if we were to assume that 100 percent of FPUC's compensation was incentive-based and that 100 percent of the incentive compensation was based on financial metrics, Witness Smith's logic would conclude that zero labor costs should be included in FPUC's rates. This would be the untenable result based on his misguided belief that any pay based on financial metrics primarily benefits shareholders and should not be judged on its reasonableness. Granted, this is an extreme hypothetical pay structure that would not be balanced and not be reflective of the labor market. I do not believe such an extreme pay structure would ever be used by FPUC. Nevertheless, it shows the fallacy of abandoning the reasonableness standard that is applied to all other costs to provide service and replacing it with the "who should pay" standard.

Q. What is your recommendation on incentive compensation?

A. I recommend that FPUC's incentive compensation be evaluated for its reasonableness, along with all other compensation. If total compensation is determined to be reasonable and necessary to adequately compensate and retain experienced and effective employees, that amount should be recognized as a cost of providing service and consequently reflected in FPUC's rates.

Q. Does this conclude your rebuttal testimony?

A. Yes, it does.

BY MS. KEATING:

Q And you had no exhibits, is that correct?

A No exhibits.

Q Did you prepare a summary of your rebuttal?

A Yes.

Q Would you please go ahead and present that?

A Yes.

Good afternoon, Commissioners.

My rebuttal testimony addresses positions taken by OPC witness Smith concerning acquisition adjustments and incentive compensation. Mr. Smith provides three arguments to recommend that the acquisition adjustment no longer be approved and recognized. He is incorrect on all three counts.

First, Florida's regulatory policies prevent regulated utilities from intentionally paying more for an acquisition that can be economically justified.

Second, the five factors normally used to evaluate acquisitions have been thoroughly addressed by FPUC witnesses. Mr. Smith has chosen not to address the specifics of their testimonies. Rather, he conveniently concludes that FPUC has not met its burden.

And third, the Commission has never taken the position that a request for a rate increase is an indication that an acquisition is no longer in the public interest. There is simply too many extraneous factors occurring that necessitate an increase to conclude that an acquisition is no longer in the public interest.

Witness Smith is also recommending that 50 percent of FPUC's total incentive compensation be disallowed for ratemaking purposes. If his recommendation were to be adopted in its entirety, it would mean that FPUC would be making payments to its employees consistent with its obligations to its employees, and yet not have sufficient revenues to cover a 450 percent of those obligations. His recommendations in total equate to 120-basis-point reduction in FPUC's allowed return on equity.

Mr. Smith makes no allegation that the amount of overall compensation paid to employees is unreasonable, unnecessary, or not expected to be incurred. And, in fact, he abandons the reasonableness standard that is universally used. Instead, he bases his recommended disallowance on his unfounded personal belief that incentive compensation tied to financial metrics benefits shareholders. Notably, he does not allege that such financial goals harm customers. On the contrary, customers do, in fact, benefit from a financially strong parent company. This is particularly true for FPUC that receives virtually 100 percent of its capital from its parents.

Commissioners, the Commission has consistently recognized that incentive pay is an accepted and desirable way to simultaneously achieve corporate goals and to control costs for the benefit of customers.

In conclusion, I recommend that the Commission not abandon its reasonableness standard. If total compensation is determined to be reasonable and necessary to adequately compensate and retain experienced and effective employees, that amount should be recognized as the cost of providing service.

Thank you.

Q Thank you, Mr. Deason.

MS. KEATING: Mr. Chair, the witness is tendered for cross.

CHAIRMAN FAY: Okay. OPC?

MS. CHRISTENSEN: No questions.

CHAIRMAN FAY: Okay. Staff?

MR. SANDY: No questions.

CHAIRMAN FAY: Okay. I just have one question for you, Mr. Deason.

So I just asked Mr. Cassel a similar question, but in your testimony on page six, lines nine to 17, you are asked about the acquisition adjustment process. And in your rebuttal, you state that the issue now is whether there has been any material changes that warrant a different conclusion.

I know you are considered and industry expert in this acquisition adjustment stuff, but do you see this commission's role being one where we are making the determination that there is just nothing that's changed, or do we still have an analysis of a public interest standard?

THE WITNESS: I think the public interest standard is paramount, and that is what should be applied in this case, and it was applied when it was previously approved. But I think the Commission needs to recognize that the acquisition adjustments were thoroughly vetted and reviewed previously, and that the company has responded well, and that their testimony presents evidence about the benefits of the acquisition.

So I think that there is some degree of a presumption that the acquisition adjustments are beneficial, because they were previously vetted, but they are still, the Commission has the responsibility to continue its review and determine that the acquisition -- acquisitions continue to meet that public interest standard.

CHAIRMAN CLARK: Okay. Great. Thank you.

Rebuttal?

MS. KEATING: No redirect.

CHAIRMAN FAY: Excuse me, redirect.

Let's see, no exhibits.

All right. Would you like to excuse Mr. Deason?

MS. KEATING: Could Mr. Deason please be excused.

CHAIRMAN FAY: All right. Mr. Deason, you are excused.

THE WITNESS: Thank you, sir.

CHAIRMAN FAY: Thank you.

(Witness excused.)

CHAIRMAN FAY: All right. Commissioners, let's work through closing maters here.

So let me first go to Mr. Sandy and make sure we don't have any additional matters before we go to directions for potential post-hearing briefs.

MR. SANDY: Mr. Chairman, I am not aware of any other matters that need to be taken up at this time.

CHAIRMAN FAY: Okay. Great.

Do the parties have an interest to file post-hearing briefs in this?

MS. CHRISTENSEN: Yes. Yes, we do.
CHAIRMAN FAY: Okay.
MS. CHRISTENSEN: But we could ask if we can get an extension of the time in which we file it.
CHAIRMAN FAY: So the original date that I have would have been November 28th.
MS. CHRISTENSEN: Uh-huh.
CHAIRMAN FAY: Okay. And you are asking for an extension based on that date?
MS. CHRISTENSEN: Yeah. We are asking for -- I mean, preferably I would like until the first of November would be wonderful.
CHAIRMAN FAY: You mean December?
MS. CHRISTENSEN: I mean December. Sorry.
CHAIRMAN FAY: Great. No problem.
MS. CHRISTENSEN: I don't want to cut off my time. Nice try --
CHAIRMAN FAY: That would be impressive.
MS. CHRISTENSEN: -- short myself. No, I don't think we would have transcripts by then.
MR. SANDY: May I weigh in on that, Mr. Chairman?
CHAIRMAN FAY: Yeah, just one second, Mr. Sandy.
Do you have any issue with the recommendation

of 50 pages for the brief?

MS. CHRISTENSEN: I don't think so, no.

CHAIRMAN FAY: Okay. All right. Mr. Sandy, go ahead.

MR. SANDY: We have been working with the court reporter, and we are expediting the transcripts of this proceeding. Obviously, it's a bit of a moving target, but my understanding is we may get them as soon as Monday or Tuesday of next week. With that in mind, I guess I would wonder whether that would still provide the parties sufficient room for writing the briefs if we kept this November 28th?

CHAIRMAN FAY: And just so to -- if those are expedited, that would obviously help Ms. Christensen. I am just looking at -- I want to make sure as our folks get that, that they would have time to process going forward.

So that's on the -- on a Monday, would -- Mr. Sandy, if we extended it to the end of that week, which I guess would be essentially December 2nd, would that create a conflict in our timeline?

MR. SANDY: No, sir. As I understand it, I believe that would be okay.

CHAIRMAN FAY: Okay. FPUC, do you have any objections to extending that brief deadline to the 2nd?

MS. KEATING: I do not.

CHAIRMAN FAY: Okay. With --

MS. CHRISTENSEN: No, I have no objection to that either.

CHAIRMAN FAY: Okay. I know you wanted it November 2nd, but we're --

MS. CHRISTENSEN: I know. I know.

CHAIRMAN FAY: -- but we are going to -- we will make it work for you.

Okay. So then we will do December 2nd to allow some additional time to get those briefs with a 50 page limit.

Any other matters from the parties before we go to close?

With that, thank you for all your work on this docket. I know it was a long two days, but I appreciate the candor from both the witnesses and the lawyers in this matter, so thank you.

With that, we are adjourned.

MS. KEATING: Thank you.

(Proceedings concluded.)

CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, DEBRA KRICK, 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 31st day of October, 2022.

Debbie R Krick

DEBRA R. KRICK
NOTARY PUBLIC
COMMISSION #HH31926
EXPIRES AUGUST 13, 2024