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December 2, 2022

BY E-PORTAL

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

Re: **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.**

Dear Mr. Teitzman:

Attached for filing in the referenced docket, please find the Post Hearing Statement and Brief of Florida Public Utilities Company on behalf of the consolidated entities.

As always, please don't hesitate to let me know if you have any questions whatsoever.

Sincerely,

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MEK
cc: Ryan Sandy
Jennifer Crawford
Parties of Record

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: December 2, 2022

FLORIDA PUBLIC UTILITIES COMPANY'S
POST HEARING STATEMENT AND BRIEF

Consistent with Order No. PSC-2022-0355-PHO-GU, issued October 19, 2022, as subsequently modified[1], and Rule 28-106.215, Florida Administrative Code, Florida Public Utilities Company, the Florida Division of Chesapeake Utilities Corporation, Florida Public Utilities Company-Fort Meade, and Florida Public Utilities Company – Indiantown Division (herein, jointly "FPUC" or "Company") hereby submits this Post Hearing Statement and Brief.

I. Introduction

It has been over a decade since any of the natural gas local distribution companies in this case has pursued rate relief. For Florida Public Utilities Company – Fort Meade ("Fort Meade"), this is the first instance in which the company's rates and structure have been reviewed. Over that time, Florida Public Utilities Company was acquired by Chesapeake Utilities Corporation, which is also the owner of the Florida Division of Chesapeake Utilities Corporation ("CFG"). Florida Public Utilities Company then acquired Indiantown Gas Company ("Indiantown") and the municipal natural gas system of Fort Meade. These entities, which are referred to herein jointly as Florida Public Utilities Company ("FPUC" or "Company"), have since experienced significant customer growth and expanded service into areas that were previously unserved. It has also evolved from a small, local operation to a much larger, more sophisticated company that utilizes a strategic growth plan to expand the availability of gas to customers across the state in a safe and reliable manner.

[1]Due date modified at hearing.

FPUC initially filed this case on May 24, 2022, requesting that the Florida Public Service Commission ("Commission") approve a $24 million revenue increase. The Company also requested that the approximately $19.8 million associated with GRIP be moved from the current surcharge mechanism to recovery through base rates, a revenue neutral component of FPUC's request. In light of the stipulations already approved by the Commission and certain adjustments and corrections made just prior to hearing, the Company's adjusted request for an increase in base rates is $22,338,617, excluding the amount associated with GRIP.

Commission approval of FPUC's request will enable the company to continue to provide safe and efficient service to its customers, top tier customer care, and expand service to Floridians that currently do not have access to natural gas service, while also allowing FPUC the opportunity to earn a fair and reasonable return on its investments, consistent with Florida Statutes. The Company fully acknowledges that the burden of proof is "always on a utility seeking a rate change." Florida Power Corp. v. Cresse, 413 So. 2d 1187, 1191 (Fla. 1982). As demonstrated over the course of the hearing, and as further set forth herein, FPUC has met its burden of proof and demonstrated that its request results in rates that are fair, just, and reasonable.

The issues that were stipulated, in whole or in part, are Issues 8, 10, 15, 19, 20, 32, 35, 36, 43, 62, and 67. The stipulations are set forth on Attachment A for reference purposes, but are otherwise not specifically addressed herein, except to the extent a stipulation modifies the amount proposed for an issue that remains contested.

II. FPUC's Position on the Disputed Issues

FPUC's positions and arguments on the issues that remain in dispute following the hearing held on October 25 and 26, 2022 are as follows:

TEST PERIOD AND FORECASTING

Issue 1: Is FPUC's projected test period of the twelve months ending December 31, 2023, appropriate?

FPUC: * Yes. The 12-month period ending December 31, 2023, as reflected in FPUC's MFRs, is the most appropriate test period, because it is representative of FPUC's future operations. FPUC is not aware of any dispute identified by any intervenor regarding the Company's proposed projected test year. *

Argument: As set forth in the testimony of FPUC witness Cassel, the projected 12-month period ending December 31, 2023, is the appropriate test period. (Cassel, Vol. 1, TR 43). Witness Cassel explained that the projected year 2023 provides an accurate reflection of the economic conditions that the Company's consolidated gas operations can be expected to operate under during the first 12 months that new rates are in effect. (TR 48).

There is no readily apparent difference of opinion between FPUC and the Office of Public Counsel ("OPC") or the Florida Industrial Power Users Group ("FIPUG")(OPC and FIPUG jointly referred to as "Intervenors") as it relates to the identified test period itself. As reflected in Order No.PSC-2022-0355-PHO-GU (herein, "Prehearing Order"), OPC's position on this issue indicates that the period is appropriate, with adjustments. FIPUG adopted OPC's position in this regard. While OPC's witnesses did suggest adjustments to various amounts and items included by the Company in the projected test year and reflected in the Company's MFR schedules, OPC did not propose any adjustment to the period itself.

FPUC maintains, therefore, that the record supports that the projected 12-month period ending December 31, 2023, is the appropriate test period for purposes of addressing FPUC's requests in this proceeding.

Issue 2: Are FPUC's forecasts of customer and therms by rate class for the projected test year ending December 31, 2023, appropriate? If not, what adjustments should be made?

FPUC: * Yes. FPUC's forecasts of customer and therm sales by rate class are based upon reliable methods utilized by the Company, and accepted by the Commission, in prior rate cases for FPUC. *

Argument: FPUC's Witness Taylor addressed this issue in depth. As he explained, determination of the forecasts of customers and therm sales is a five-step process. (TR Vol. 3, 541). The five steps are: 1). Extraction and Transformation of Annual Data; 2) Alignment and Categorization of Customers; 3) Geo-Location and Incorporation of Weather Data; 4) Initial Statistical Review; and 5) Forecast of Customer Count and Use Per Customer. (TR 541-542). Ten years' worth of data over the period 2012 to 2021, covering nine million data points, was utilized in the process with extracted data then allocated across three categories: (1) business units, (2) rate classes, and (3) customer classes. Customers were then geo-located using their service address and appropriately assigned HDD values to customer rate classes and business units to their nearest weather station. Time-Series Decomposition of each forecast group was calculated to identify trends and seasonal patterns within the data, then data was analyzed to ascertain which forecast groups contained trending customer counts. As Witness Taylor further explained, the last step was to forecast Customer Count & Use per Customer using multiple linear regression, as well as Autoregressive Integrated Moving Average (ARIMA) models, which are commonly used to gain insight and develop forecasts from time series data. After comparison, the model that was most accurate was utilized. Customer growth for each division and rate class was then forecasted individually and aggregated to get total company level forecasts. After the projections were completed, they were also reviewed by FPUC personnel familiar with customer growth and usage trends across the four gas business units for further confirmation. (TR 541-543, 564; Exhibit 18; Exhibit 75).

As reflected in the Prehearing Order, OPC's position on this issue indicates that the period is appropriate, with adjustments. FIPUG adopted OPC's position in this regard. While OPC's witnesses did suggest adjustments to various amounts and items included by the

Company in the projected test year and reflected in the Company's MFR schedules, OPC did not propose any adjustment to Company's forecast of customer and therm sales.

In referencing the Company's analysis, counsel for PSC Staff did inquire about Witness Taylor's use of a historic average based upon three years, rather than five years. Witness Taylor explained that he prefers using a three-year average, as opposed to five, because when using a five-year average, the first two years, to the extent they are different than the next three years, can skew the results. (TR 570-571). PSC Staff counsel further inquired as to the use of an average, rather than using year-over-year data, particularly as it related to the NGV rate class. (Hearing Exh. 124) Here, Witness Taylor noted that, as it pertains to that particular class, using the average, as opposed to the year-over-year progression in the data did result in an average forecast lower than the percentage increase. Likewise, he later noted that, when considering a percentage change in data, it is best to have the actual numbers so you can see the magnitude and what is occurring with the data rather than just relying on percentages. (TR 573-575). He also explained that, in instances in which he chose to use either a base period or an average historic period, it was either because there was not a robust regression analysis resulting from analyzing those particular rate classes, or the rate class was small enough in which a statistical analysis would not be appropriate. In the case of the NGV rate class, there was a very small number of customers. (Taylor, TR 570-571).

FPUC maintains, therefore, that the record of this case fully supports its projected customers and therm sales as reflected in the testimony of Witness Taylor, Hearing Exhibits 17 and 18, and 123 in the Schedule E MFRs, which, again, have been calculated based upon reliable, robust, and accepted methods.

<u>Issue 3:</u> Are FPUC's estimated revenues from sales of gas by rate class at present rates for the projected test year appropriate? If not, what adjustments should be made?

<u>FPUC:</u> *Yes. FPUC applied the Company's present rates to the forecasted billing determinants, which produced the estimated gas sales revenues for the 2023 projected test year.*

Argument: As FPUC Witness John Taylor explained, the analysis of projected revenues by rate class begins with an assessment of the number of bills, revenues, and therm sales for the historic base period 2021. (Taylor, TR 540). Projected bills and normalized therm sales were then analyzed to reflect projected values under the present rate structure to demonstrate the difference between the base year and projections. Witness Taylor then explained that the forecasted Test Year revenue is an estimate of the revenue based on forecasted billing determinants and is developed by multiplying forecasted billing determinants for each rate class, comprised of total annual therms and bill counts (customer counts x 12) to the current rates. The witness applied a rigorous data analysis through the application of linear regression models. Trends in cost of gas were not applied, because the statistical analysis indicated usage was not dependent on gas prices. Lastly, economic trends and changes in housing markets impact demand for natural gas services and usage levels, but these variables are difficult to predict and can lead to careless extrapolations. Once developed, the projections were then reviewed by FPUC employees for reasonableness. (TR 540-544).

As reflected in the Prehearing Order, OPC's position on this issue indicates that the estimated revenues are appropriate, with adjustments. FIPUG adopted OPC's position in this regard. While OPC's witnesses did suggest adjustments to various amounts and items included by the Company in the projected test year and reflected in the Company's MFR schedules, OPC did not propose any adjustment to Company's estimated revenues from sales of gas by customer class.

FPUC maintains, therefore, that the record of this case fully supports its projected revenues from the sale of gas by rate class, as reflected in the testimony of Witness Taylor, Hearing Exhibits 17 and 18, and 123 in the Schedule E MFRs, which, again, have been calculated based upon reliable, robust, and accepted methods.

QUALITY OF SERVICE

Issue 4: Is the quality of service provided by FPUC adequate?

FPUC: *Yes. FPUC provides a high quality of service as indicated by its reduced complaint levels, which reflect an average 31% annual reduction in customer complaint levels from 2013 to 2021. *

Argument: As set forth in the testimony of FPUC's Witness Kelley Parmer, the quality of service provided by FPUC to its customers is very good, and FPUC strives to improve upon that solid foundation every day. (Parmer, Vol. 3, TR 365-368, 371-374, 383). Since 2013, the Company has demonstrated a trend of reduced complaints, as well as improved responsiveness and outreach to customers, improved complaint tracking and call flows, and protection of customer personal account information. (TR 365-368, 372- 374, 376-379, 383.)

Notably, as reflected in the transcripts of the service hearings held on August 30 and 31, and on September 20 and 21, no concerns were raised regarding the Company's quality of service. Moreover, as set forth by Commission Staff witness Calhoun, there were, in total, only 126 customer complaints filed against the four FPUC entities over the 5-year period from July 1, 2017 to June 30, 2022. Of that amount, only 24 were construed by PSC staff as possible rule violations, although no formal finding was made by the Commission. Ultimately, whether forwarded to the Company through the Transfer-Connect system, or handled by PSC Staff, all of the complaints were resolved without formal action as reflected by Witness Calhoun's exhibits. (Calhoun, Vol. 5, TR 933-936, 938; and Hearing Exhibits 67, 68, and 69).

Other witnesses in the case discussed the myriad advancements that have moved the Company forward in terms of customer service. Witness Galtman, for example, testified regarding the corporate communications team and how it has provided increased awareness of the FPUC brand through emphasizing core values and translating them into superior customer service. He also noted that the corporate communications team has assisted FPUC in its effort to redesign the Company's website to enhance its look, content, and functionality. (Galtman, Vol.

1, TR 146). As Witness Parmer further emphasized, the acquisition of FPUC by Chesapeake has provided the means and initiative to drive process improvements, which have elevated the Company's communications and dealings with its customers from, as Ms. Parmer called it, the "mom and pop" shop level to a more sophisticated, proactive approach that utilizes industry best practices. (Parmer, Vol. 3, TR 365-367). Witness Parmer further described improvements made across the entire customer service platform, ranging from improvements to its communications system, to call flows, to customer contact tracking, and data retention. (TR 366-369). Witness Parmer also addressed other improvements that have resulted in direct benefits to customers in terms of customer service, such as the elimination of the fee for making a check payment when customers set up an account online, reductions in the one-time payment costs for using a check by 31%, and the new customer information line Call Back feature that gives customers the option to receive a call back rather than having to remain on the line to wait for assistance. (TR 373).

As Witness Parmer explained in her conclusion, the Company is committed to continuing to meet its customers' expectations through prudent investments in technology, providing options for completing transactions, as well as additional channels of communication to conduct business. To date, the prudent investments made thus far in modernizing the Company's phone system and supporting technologies have transformed the way the Company does business and established a good foundation for the Company to continue to meet, and exceed, customer expectations while controlling costs. (TR 383).

PSC Staff Witness Calhoun presented testimony regarding the number of overall complaints logged at the Commission by customers of the FPUC entities. While her analyzed time frame was slightly different than that used by FPUC Witness Parmer, the number of complaints reflected over the period was nonetheless a low number, and the number of potential violations even lower. (Calhoun, Vol. 5, TR 933-936). On cross, counsel for OPC did inquire regarding letters filed in the docket, but Witness Calhoun confirmed her testimony did not address that. (TR 939). It should be noted that the letters in the docket are not sworn testimony, nor has any confirmation been made that the letters are from FPUC customers.

Considering the size and diversity of the Company's customer base and service areas, the low number of complaints overall, as well as the very low number of potential violations as indicated by PSC staff's witness Calhoun, the record reflects that FPUC has a good record of service to its customers. Moreover, the testimonies of Witness Parmer and others reflect that the Company is customer-focused and continued improvement of its service to customers is always a priority. Notably, even counsel for FIPUG stated that a number of FIPUG members are served by FPUC and that service quality is not an issue for them. (TR 17). The Company therefore maintains that the record of this proceeding fully supports a finding by the Commission that the Company's quality of service is reasonably sufficient, adequate, and efficient, consistent with its obligations under Section 366.03, F.S.

DEPRECIATION STUDY

For purposes of clarity, FPUC has combined its argument as it pertains to the following Issues 5-7.

Issue 5: Based on FPUC's 2023 Revised Depreciation Study, what are the appropriate depreciation parameters (e.g. service life, remaining life, net salvage percentage, and reserve percentage) and resulting depreciation rate for each distribution and general plant account?

FPUC: *The appropriate depreciation parameters and rate components are set forth in the depreciation study submitted as Revised Exhibit PSL-2 to the direct testimony of Patricia Lee on behalf of the Company. *

Issue 6: Based on the application of the depreciation parameters that the Commission has deemed appropriate, and a comparison of the theoretical reserves to the book reserves, what, are the resulting imbalances, if any?

FPUC: *The comparison of book to theoretical reserves results in a total difference of $19.7 million, which is comprised of a positive $20.7 million for the Distribution function and a negative $1 million for the General function. *

Issue 7: What, if any, corrective depreciation reserve measures should be taken with respect to any imbalances identified in Issue 6?

FPUC: *For the amortizable general plant accounts subject to vintage group accounting, the calculated $1.4 million reserve imbalance set forth in the depreciation study should be amortized over 5 years at an annual amount of $288,819. *

Combined Argument:

As set forth in her testimony, Witness Patricia Lee conducted FPUC's depreciation study, which is identified as Hearing Exhibit 14, in accordance with the Commission's Rule 25-7.045, FAC. The Depreciation Study ("Study") includes all the necessary information required by the referenced rule. In the study, Witness Lee recommended several revisions to certain account life and salvage parameters, as well as a 5-year amortization of the reserve imbalance associated with amortizable general plant accounts subject to vintage group accounting. (Lee, Vol. 3, TR 504, 507). The result of her recommendations is a reduction in depreciation expense of approximately $1.5 million, based on January 1, 2023, estimated investments and reserves.

Witness Lee conducted the Study utilizing data provided to her by the Company, which included information regarding aged retirements since the last depreciation study, plant and reserve summaries, net salvage, plant and reserve balances, vehicle information, and average age calculations. (TR 507). Some data was also estimated to coincide with the requested effective date of January 1, 2023, for revised depreciation rates and amortization. Witness Lee's approach to FPUC's depreciation study was consistent with the approach utilized for the Company's prior approved depreciation studies. Statistical analysis was not used to generate survivor curves for the accounts in the study, as discussed further herein. Rather, Witness Lee reviewed the account curves underlying the current prescribed average remaining lives and determined that they are still reasonable. She made this determination largely because there has been minimal, actual retirement experience since the last depreciation study and there are no near-term planned retirements. She also considered the average age of the surviving investment. (TR 510-511).

The average life, Iowa Curve, and average age of the January 1, 2023, investments for each account were utilized to develop the remaining lives.

Witness Lee also calculated the theoretical reserve for each account correctly and included the required comparison to the January 1, 2023, estimated book reserve as a schedule in the depreciation study. The comparison is reflected in Schedule D of Hearing Exhibit 14. (TR 513). As also reflected in Schedule D, there are calculated account reserve imbalances based on Witness Lee's recommended life and salvage values. (Hearing Exhibit 14; TR 514). Witness Lee explained that these imbalances were largely attributable to changes in life and salvage projections, account activity not matching that provided in the depreciation rate design, and accounting changes. For accounts that are not amortizable, Witness Lee recommends that the reserve imbalances (deficit or surplus) be corrected over the remaining life of each account. Witness Lee noted that she considered whether reserve allocations between accounts was preferable in this case, but she concluded that, given the impact, addressing the imbalances over the remaining life is the better approach. (TR 516). For those amortizable general plant accounts subject to vintage group accounting, Witness Lee explained that after the 2019 depreciation study, it was discovered that certain business units were not utilizing the same Uniform System of Accounts ("USOA"), which resulted in a mismatch among certain accounts. The business units now all follow Chesapeake's USOA, and corrections have been made in this depreciation study to make the appropriate account investment and reserve adjustments. The reserve imbalances totaling $1.4 million resulting from the period when the business units were not all utilizing Chesapeake's USOA are shown on Schedule E of Hearing Exhibit 14 and remain to be addressed. (TR 515-516). Witness Lee recommends amortizing the calculated reserve deficiency over a period of 5 years in an annual amount of $288,819, which is consistent with the Commission's prior decision in Order No. PSC-2019-0433-PAA-GU to allow FPUC to amortize a reserve deficiency associated with General Plant accounts. (TR 514-515; citing Order No. PSC-2019-0433-PAA-GU, issued October 22, 2019, in Docket No. 20190056-GU).

Witness Lee also reviewed and calculated net salvage for the accounts and found that the net salvage was historically negative for most distribution accounts. As appropriate, Witness Lee's recommended net salvage values were made by reviewing the prior approved depreciation study and the net salvage booked every year since that time. Likewise, she considered Florida industry trends and net salvage values approved for other Florida companies, as well as other factors that are unique to Florida companies. To this information, Witness Lee applied her significant experience, along with the principles of moderation and gradualism to develop her recommended net salvage factors. (TR 517-519). OPC's witnesses did not dispute her net salvage factors.

Witness Lee used a process consistent with that utilized by FPUC in past depreciation studies to develop her recommended service life and average remaining lives per account. She determined the average service lives per account by first reviewing the Company's Annual Status Reports since the last depreciation study, as well as the General Ledger, Fixed Asset system, and 5-year plan to gather information on the retirement rates over the period, which suggested the need for life revisions. Witness Lee explained that retirement rates averaged less than one percent since the last depreciation study for many accounts, which provided insufficient data to perform any meaningful statistical analyses for life characteristics. Witness Lee therefore determined it was necessary to rely on life characteristics for similar plant of other Florida gas companies to make a complete analysis, which is a common and accepted industry practice. (TR 521) The result of her analysis was recommended increased average lives for many accounts. (Hearing Exhibit 14; TR 522). Witness Lee's recommended remaining lives per account were determined by utilizing the recommended average service life and average age with the appropriate Iowa curve and applying the GTE life tables contained in Hearing Exhibits 15 and 72. (TR 519-520). The resulting depreciation rates, which are based on Witness Lee's recommended lives, salvage, and reserve levels, reflect a decrease in annual depreciation expenses of about $ 1.5 million, as noted previously, which is comprised of a decrease of $1.6

million in Distribution Plant and a slight increase of $44 thousand in General Plant based on January 1, 2023, estimated investments and reserves. (TR 522-523; Hearing Exhibit 14).

OPC's Witness Garrett took issue with certain aspects of Witness Lee's analysis, and his recommendations therefore flowed through to OPC Witness Smith's analysis of the test year impact of accumulated depreciation on rate base and of depreciation expense on net operating income, which will be addressed under subsequent issues in this brief.

Witness Garrett's criticisms largely focused on the lack of an actuarial analysis, which is not a requirement in Florida, and Witness Lee's use of a comparative analysis limited to other Florida utilities. (Garrett, Vol. 5, TR 758-759). Witness Garrett argued that reliance on Florida-only peer group data may result in a "feedback loop" that could result in the use of less than accurate historical data. (TR 771). Notably, he did not provide any evidence or examples to indicate that there was a problem associated with using Florida-focused data. To the contrary, while Witness Garrett discussed, at length, his preferred methodology, he ultimately relied upon much the same process utilized by FPUC's Witness Lee to assess average service lives. In fact, he relied upon a peer group quite similar to that used by Witness Lee, except that he also included Northern Indiana Public Service Company ("NIPSCO"), Liberty Utilities (Georgia), and Piedmont Natural Gas (South Carolina). (TR 853-855; Hearing Exhibit 54).

Initially, Witness Garrett focused his arguments regarding adjustments to service lives on Accounts 378, 379, 3801, and 381. However, he also adjusted Accounts 376.1, 380.2, 381.1, 384, 385, 392, 392.4, and 396 with no clear explanation. (Garrett, TR 855; Hearing Exhibit 55; Lee, TR 957).). He later indicated he agreed with the service life Witness Lee proposed for Account 381. (TR 876). As for Account 396, while Witness Garrett seemed to agree with Witness Lee's proposed service life, curve shape, average age, and net salvage, he arrived at a different average remaining life and depreciation rate for this account than were recommended by Witness Lee without explanation.

Although he criticized Witness Lee for her use of Florida-based utilities in her analysis, he also conceded on cross that Witness Lee's proposed lives for FPUC's accounts were generally

longer than the average lives for the same accounts under the current approved depreciation studies for the two Florida utilities he did include in his analysis, Florida City Gas and Peoples Gas System. (TR 881-882). He further stated that it was "not unreasonable" to rely on data of comparable Florida utilities, and acknowledged that:

> So if you don't have that data, I suppose the next best thing is some kind of a comparable comparative type analysis, which is what both Ms. Lee is doing, and then any intervening witness is going to have to do something like that too, because they don't have the requisite data. (TR 885).

With regard to whether a particular state's environment has a unique impact on service lives, as indicated by Witness Lee, Witness Garrett also conceded that he has not conducted any in-depth analysis regarding the impact of environmental conditions on service lives. (TR 885). Thus, he has no basis for suggesting that state-specific assessment with considerations for the environment is flawed. Witness Lee emphasized on rebuttal that comparison with an Indiana utility's service lives, in particular, does not result in an "apples to apples" comparison, because the observed life tables for Indiana do not indicate any consideration of environmental effects, such as hurricanes, saltwater intrusion, and the resulting corrosion, that do impact Florida utilities. (Lee, Vol. 6, TR 954-955). Moreover, the accounts represented may include different plant, such as the NIPSCO Account 380 analyzed by Witness Garrett, which includes both steel and plastic services, while FPUC maintains separate accounts for plastic services and for steel services. (Garrett, TR 856; Lee, TR 962).

For certain accounts of his peer group utilities, Witness Garrett actually reflected the wrong approved service lives. (Lee, TR 967). Witness Lee also demonstrated in her Exhibit PSL-6 (Hearing Exhibit 71) that, even when Witness Garrett's peer group utilities are added to the Florida utilities group, the average service lives of the combined group are still shorter than those proposed by Witness Garrett on behalf of OPC.

With regard to Witness Lee's recommendation to amortize the reserve imbalance associated with general plant accounts subject to vintage group accounting, Witness Garrett also acknowledged that it is not uncommon to have a separate amortization of imbalances associated

with those accounts and that in this case, it is largely immaterial, although he still recommends allocation over the remaining life of the plant in those accounts. Notably, the witness did not appear to dispute Witness Lee's recommended amortization of the reserves of these accounts. (Garrett, TR 886; Hearing Exhibits 56 and 63).

Conclusion

Through Witness Lee's testimony, FPUC has fully demonstrated that the utility's proposed depreciation rates and service lives are reasonable, and certainly not excessive by any estimation. (Reference, Garrett, TR 771-772, and 849). The Commission should not accept OPC Witness Garrett's recommended longer service lives. Witness Garrett was unable to demonstrate any flaw in Witness Lee's approach. Moreover, he included non-Florida utilities in his peer group primarily for the purpose of increasing the average service lives generated by his peer group. (Garrett, TR 855; Lee, TR 966). Witness Lee, in rebuttal, emphasized that this approach leads to overestimated service lives, which will decrease the depreciation expense burden on current rate payers, but ultimately harm future ratepayers. Using overestimated service lives will result in an under-recovery on retired assets, which will be reflected as a negative reserve that is then added to rate base. The result is that the utility will eventually be in the posture of earning a return on plant that no longer exists on its system – a posture entirely inconsistent with sound regulatory policy. (Lee, Vol. 6, TR 953-954). Witness Lee's recommended depreciation parameters and resulting rates are based on available data, well-reasoned analysis, and Witness Lee's extensive experience in depreciation analysis, as are her recommendations regarding reserve imbalances and corrective measures. The recommendations she developed on behalf of FPUC are consistent with regulatory policies as applied to FPUC in prior depreciation studies. FPUC therefore maintains it has met its burden of proof in this regard. Therefore, FPUC asks that the depreciation parameters and rate components set forth in the depreciation study submitted as Revised Exhibit PSL-2 be approved, that correction of the reserve imbalances for the distribution and non-amortizable general plant accounts as described

by Witness Lee be accepted, and that the reserve deficiency associated with the amortizable general plant accounts be amortized over a 5-year period.

RATE BASE

Issue 9: Has FPUC made the appropriate adjustments to reflect GRIP investments as of December 31, 2022, in rate base?

FPUC: *The appropriate amount to include for GRIP at December 31, 2022, net of accumulated depreciation, is $174,713,469 which will be offset by resetting the GRIP surcharge to recover only the remaining true-up amount. *

Argument: As FPUC Witnesses Cassel and Bennett testified, the Company seeks approval to move the Company's current GRIP investments into rate base. (Cassel, Vol. 1, TR 43 and 54; Bennett, Vol. 4, TR 609-611). The amount, net of accumulated depreciation, is $174,713,469, which is based on the amounts reflected in the G-1 Schedules, at pages 9a and 11a for Accounts 376G (GRIP Mains) and 380G (GRIP Services), sponsored by FPUC's Witnesses Bennett and Napier (Hearing Exhibit 123, pages 1556 and 1560), and adjusted for FPUC Witness Lee's revised exhibit PSL-2, which adjust GRIP accounts to non-GRIP accounts, (Hearing Exhibit 14), and as further outlined in response to discovery (Hearing Exhibit 74). The revenue requirement associated with these investments is $19,755,931, which is also reflected on MFR Schedule G-5. (Hearing Exhibit 123). The calculation of this amount is further reflected in MFR Schedules G-2, pages 7a-7e for FPUC, page 7a-g for CFG, and page 7a and b for Ft. Meade. (Hearing Exhibit 123, pages 1621 – 1635). Witness Cassel noted at hearing, that while the GRIP replacements were scheduled to be completed by the end of 2022, there is a half-mile of main facilities in the West Palm Beach area that remain to be completed but are expected to be completed in early 2023. (TR 28). Otherwise, the amounts associated with the program itself that remain to be collected in 2023 are the over and under recoveries for 2022 for each of the separate

FPUC/Chesapeake entities, as reflected in the Commission's recent decision in Docket No. 20220155-GU.

OPC and FIPUG did not provide any argument or testimony contesting the amounts reflected for GRIP. Thus, the evidence in the record, fully supports FPUC's stated amount of GRIP in rate base net of accumulated depreciation as adjusted consistent with the revisions to the depreciation study. As such, the Company asks that the Commission approve the amount requested by FPUC.

Issue 11: What is the appropriate amount of existing environmental costs, if any, that should be removed from rate base and recovered through the Company's proposed environmental cost recovery surcharge mechanism?

FPUC: *In order to effectuate the Company's requested environmental surcharge mechanism, $3,545,624 should be removed from working capital related to the existing environmental assets and liabilities, along with $456,348 of amortization currently being expensed. If the mechanism is not approved, the Company's expense needs to be increased by $627,995 and the revenue requirement increased by $632,644. *

Argument: Given the proposed consolidation of the Company, as proposed in this proceeding, the Company has also proposed to consolidate the mechanism for recovering environmental remediation costs. As described by Witness Cassel, the Company continues to incur environmental remediation costs that are primarily associated with old, manufactured gas plant sites. FPUC has been recovering these costs through its base rates, whereas the Florida Division of Chesapeake Utilities Corporation ("CFG") recovered costs for sites on its system through a surcharge mechanism. (Cassel, Vol. 1, TR 56-57, 59).

When CFG's surcharge terminated in 2016, the Commission allowed it to retain the over-recovered amount of $313,430 in Account No. 254 as a regulatory liability for purposes of addressing the future expected remediation costs. (TR 57; citing Order No. PSC-2016-0652-

PAA-GU). The ongoing remediation costs have, however, exceeded the amount in the regulatory liability, as it relates to CFG. (TR 57; Hearing Exhibit 4).

As noted, FPUC has been recovering remediation costs through its base rates. However, with the consolidation, FPUC has revisited recovery through this mechanism and determined that recovery of these types of costs through a surcharge is preferable and more efficient. This is because collection of these types of costs through a surcharge provides a level of clarity and certainty for both the Company and its customers regarding: 1) what is being recovered; and 2) how long recovery is expected to take. Moreover, once remediation and the associated recovery of costs is complete, the surcharge can simply be terminated without necessitating an adjustment to base rates. (TR 57-58).

Witness Cassel further explained that there are three existing manufactured gas plant remediation sites on its system. The next phases of remediation are expected to be costly, ranging from $7.5 to $13.9 million, over the next five to 15 years. (TR 59-60). Thus, given the amounts expected to be incurred over the next few years, the Company believes that removing the $3.6 million currently in FPUC's rate base for environmental costs and recalculating the remediation costs as an environmental surcharge is the most appropriate mechanism for addressing environmental remediation costs on a going-forward basis. Based on information obtained from the Company's environmental consultant regarding anticipated costs, both FPUC and CFG have outstanding amounts and projected amounts to be recovered that are associated with these remediation projects. The total projected remediation liability associated with sites on both FPUC and CFG's systems is $6,279,952, and the Company is asking to recover an annual amount of $627,995 through the proposed surcharge mechanism. The amount was calculated based upon a 10-year recovery period. The break-down of the amount to be recovered is reflected in Hearing Exhibit 4 at page 4 of 4. (See also Hearing Exhibits 79 and 82).

While neither the OPC nor FIPUG offered testimony regarding FPUC's request to recover its environmental remediation costs through a surcharge or the amount to be recovered, both have indicated their belief that the recovery of these costs should remain in base rates.

Counsel for OPC did cross-examine Witness Cassel at hearing on this issue. In response to questions from OPC, Witness Cassel clarified that the Company is proposing its surcharge as a fixed surcharge, such that there would not be a fluctuation from year-to-year, consistent with the Company's argument that utilization of a surcharge will provide customers with greater clarity and certainty regarding the amount to be recovered. (TR 119-121). Notably, Witness Smith did appear to agree with FPUC's calculation of the amortization amount associated with the proposed environmental surcharge. (Hearing Exhibit 64).

Recovery of these types of costs through a surcharge is not a novel concept. As explained by Witness Cassel, CFG has recovered environmental costs through an approved surcharge in prior years. In approving CFG's requested surcharge in the 2009 rate case, the Commission agreed that a surcharge mechanism was appropriate, because it enables the company to recover the amounts incurred in a timely manner and, as stated by the Commission: "In addition to timely collection, the surcharge has the advantage over collection through base rates because once the costs have been recovered, Chesapeake can remove the charge from customer bills without having to file a rate proceeding for modification to its base rates." Order No. PSC-2010-0029-PAA-GU, issued January 14, 2010, in Docket No. 20090125-GU. Applying that same rationale, FPUC asks that the Commission allow the consolidated FPUC to do the same thing and collect all of its environmental remediation costs through a surcharge. In order to do so, the amount identified by the Company should first be removed from base rates.

Issue 12: Is FPUC's proposed Safety Town project reasonable? If so, what is the appropriate amount for plant-in-service for the project?

FPUC: *Yes, this project is prudent because it will improve the training and overall safety of our system. The appropriate amount for plant-in-service is $3 million. *

Argument: Reflective of a pro-active approach to safety for both its employees and its customers, the evidence in the record demonstrates that Safety Town is a prudent project whose

time has come. As described by FPUC Witness Jason Bennett, Chesapeake Utilities Corporation has a similar facility located in Dover, Delaware. (Bennett, Vol. 4, TR 617; Hearing Exhibit 24). The facility provides the benefit of more realistic, "real world" training for company employees in safety and compliance activities on its natural gas systems and provides a venue for "first responders" to train on the same facilities and apparatus in the event of an emergency. Id.

Safety Town enable those being trained to experience real scenarios, such as a blowing gas simulation, while also learning real procedures for making meter and regulation station repairs, addressing corrosion, safe excavation of facilities, venting and cathodic protection issues, in realistic scenarios such as confined spaces. The facility provides an avenue for certification testing for welders on its system, as well as emergency situation coordination between "first responders" and company personnel. (TR 617-618).

FPUC would like to bring the benefits of a Safety Town to Florida to provide local and regional employees and first responders the same benefits experienced in Delaware. (TR 618). The proposed Florida Safety Town would be constructed on existing company property located in Debary and will provide an opportunity for employees to reach competency and hone their skills faster, which will result in a more effective and skilled workforce, and of course, quality of service. This will lead to a reduction in workplace errors, and reduced risks of injury to our employees, our customers, and safer, more reliable, distribution system. (TR 619). In discovery, Commission staff inquired as to whether the Company had considered using the existing gas safety facilities of Tampa Electric Company ("TECO"). As noted in the Company's response, FPUC did reach out to TECO in this regard, but was advised that TECO's facilities are not open to non-company contractors or other utilities due to lack of classroom space, outdoor facility size, and legal ramifications. In the same discovery response, Witness Bennett further explained that there are no other locally available training facilities, so FPUC would otherwise have to send employees out of state for weeks at a time or have them enroll in an apprenticeship program at a state college. Even then, Witness Bennett noted that there would not be an opportunity to train with local first responders. (Hearing Exhibit 78, p. 7).

OPC and FIPUG did not present any testimony in opposition to FPUC's proposed Safety Town. However, OPC has stated its position that it does not believe the Company has demonstrated that Safety Town is prudent. FIPUG has adopted that same position. Nonetheless, the record reflects that Safety Town is a prudent investment to ensure the safe and efficient training of Company employees, which will also facilitate coordinated training with local first responders. Moreover, while the proposal may seem novel, it is not unlike the existing facility owned by TECO, as noted in Hearing Exhibit 78. As such, FPUC has met its burden of proof that the proposed Safety Town is a prudent investment that will enhance safety for the Company's employees as well as its customers. As such, the Company asks that proposed amount of $3 million associated with the facility be approved for inclusion in plant-in-service. (TR 623).

Issue 13: Do FPUC's adjustments to Florida Common and Corporate Common plant and accumulated depreciation allocated appropriately reflect allocations among FPUC's gas division, FPUC's electric division, and non-regulated operations? If not, what additional adjustments, if any, should be made?

FPUC: *Yes, the adjustments made by FPUC to allocate Florida and Corporate Common plant and accumulated depreciation across the electric, gas, and non-regulated operations are appropriate. No further adjustments should be made *

Argument: First, for clarity, FPUC Witness Napier explained that Florida Common plant refers to plant assets that have been categorized as "Florida Common" due to their shared utilizations across multiple regulated and/or non-regulated utilities. In other words, Florida Common is simply another way of referring to Florida-based common plant. (Napier, Vol. 2, TR 197). These assets are reflected in the B-5 schedules of the Company's MFRs, including the allocation percentages. (Hearing Exhibit 123). On the other hand, "Corporate Common" refers to plant assets of FPUC's parent company, Chesapeake, that are used across all of Chesapeake's business units and therefore, should be allocated to the natural gas business units based on their shared

utilization across the multiple regulated and/or non-regulated business units. (TR 197) A further explanation of these common plant accounts can also be found in Hearing Exhibit 79. These assets are also reflected in the B-5 schedules of the Company's MFRs, including the allocation percentages. (Hearing Exhibit 123).

For the projected test year, the allocations of Florida Common and Corporate Common are reflected in the G-1 MFRs, pages 18 and 18a of 28, included in Hearing Exhibit 123. As shown in the G-1 schedules, a total of $11,639,284 of Florida common plant was allocated with 71.3% allocated to non-utility operations, 19.88% allocated to FPUC, 8.54% allocated to CFG, .18% allocated to the Indiantown Division, and .10% allocated to the Fort Meade division. Pages 18b and c, of the same document reflect $19,747,365 of Corporate common plant was allocated with 72.92% allocated to non-utility operations, 19% allocated to FPUC, 7.96% allocated to CFG, .10% allocated to the Indiantown Division, and .02% allocated to Fort Meade. (Hearing Exhibit 123, G-1 Schedules; Hearing Exhibit 79; Hearing Exhibit 90). For the projected test year, 72.92% of accumulated depreciation for Corporate Common was allocated to non-utility operations, while 71.3% of accumulated depreciation associated with Florida Common was allocated to non-utility operations.

In simplified terms, allocations are made from either of the "common" business units to the utility business units based upon the percentage of total depreciation expense recorded to the operating company from the parent company. (TR 197). For Florida Common working capital, Witness Napier explained that the allocation methods vary by account. She further noted that there was no Chesapeake corporate allocation for working capital. As for allocation of Florida Common, the Company uses allocation factors based on plant in service, base revenues, and payroll. (TR 198). As further noted in MFR Schedule G-6, Florida Common and Corporate Common plant and accumulated depreciation were allocated using the 2021 allocation factors which were based on estimated usage of the assets. The allocation of the Florida corporate office was reduced in 2023 based on changes in the use of the employees working in the building. (Hearing Exhibit 123).

As reflected in OPC Witness Smith's Exhibit RCS-2, Schedule B, OPC's witness did not propose any adjustment to FPUC's allocated common plant amounts, or the associated accumulated depreciation amount, nor did Commission Staff Witness Brown, who conducted the staff audit. (Hearing Exhibit 60, and Hearing Exhibit 66).

The evidence in the record supports the Company's allocation of both Florida and Corporate Common plant across the Florida operations, including the natural gas distribution company divisions. As such, FPUC asks that the Commission find that no further adjustments are required.

Issue 14: Has FPUC made the appropriate adjustments to remove all non-utility activities from Plant in Service, Accumulated Depreciation, and Working Capital?

FPUC: *Yes. *

Argument: As set forth in Witness Napier's testimony, for the historic test year, rate base was adjusted by $1,443,957 to remove both plant and the associated reserve for assets used for non-utility operations. (TR 198). The Company also removed depreciation expense of $173,088 for a portion of the assets used for non-utility operations from the historic year. (Napier, TR 208). Likewise, depreciation was adjusted for the portion of non-utility usage for non-regulated operations including allocated depreciation for FPUC Common assets as well as the Corporate assets of Chesapeake and the portion of expense that will be capitalized. (TR 215). There were no non-utility activities in working capital, although to the extent it could be defined as "non-utility," the Company did remove receivables from associated companies of $122,658,697 from the historic test year. (TR 199). Witness Napier further testified that the Company made the same adjustments to the projected test year as were made to the historic test year but included additional items due to changes in methodology. (TR 204).

Neither OPC nor FIPUG produced any evidence or identified any concern on cross examination that would indicate any additional adjustments need to be made, other than to

remove Director's and Officer's liability expense, which is addressed in Issue 22 below. As such, the Company maintains that, consistent with the record of this proceeding, it has made all appropriate adjustments to remove non-utility activities from Plant in Service, Accumulated Depreciation, and Working Capital.

Issue 16: What is the appropriate level of plant in service for the projected test year? (Fallout Issue)

FPUC: *The appropriate level is $561,942,691, which is a combination of direct plant of $553,254,413 and common plant allocations of $8,688,278. *

Argument: Witness Napier testified that the historic test year provides an accurate representation of the plant in service for the projected test year. She explained that the Company has included all adjustments to remove items that were eliminated by the Commission in previous rate proceedings from the historic year ending December 31, 2021. As such, MFR Schedule B-2 for the period ending December 31, 2021, reflects the appropriate historic year rate base, which also reflect other appropriate adjustments to the historic test year to remove items that do not belong to the natural gas divisions or were otherwise required in past rate proceedings for the Company. (Napier, Vol. 2, TR 198). The appropriate adjustments are those set forth in the analysis of Issues 9 through 15. As such, FPUC asks that the Commission conclude that FPUC has made all appropriate adjustments and that, therefore, the appropriate level of plant in service for the projected test year is $561,942,691.

Issue 17: What is the appropriate level of accumulated depreciation for the projected test year? (Fallout issue)

FPUC: *The total revised accumulated depreciation is $137,280,847. This amount is a combination of direct accumulated depreciation of $134,992,960 and the allocated portion of common plant of $2,966,035 reduced based on the current depreciation study of $849,685. The

amount was increased for the self-reported corrections identified over the course of discovery $85,839[2], as well as the stipulated AEP adjustment reflected in Issue 10 of $85,698.*

Argument: Consistent with the prior rate case, the Company has made the appropriate adjustments to accumulated depreciation, including removal of accumulated depreciation associated with Flexible Gas Service contracts. The Company also removed Special Contracts. (Napier, Vol. 2, TR 198, 204). Accumulated depreciation associated with non-utility plant has also been removed, as reflected in the B-3 and G-1 MFR schedules contained in Hearing Exhibit 123, as well as expense associated with franchise costs. The amounts have been further adjusted consistent with the results of the Company's proposed (revised) Depreciation Study, sponsored by Witness Lee, and contained in Hearing Exhibits 14 and 16. An additional adjustment was made consistent with the stipulation of Issue 10 and for certain errors.[3] OPC Witness Smith argued that an additional adjustment should be made based on the revisions to the Company's Depreciation Study recommended by OPC Witness Garrett and OPC Witness Smith's calculation of OPC's proposed adjusted depreciation rates. (Smith, Vol. 7, TR 1141-1142). However, as set forth in greater detail in the combined argument set forth herein for Issues 5-7, there is no basis for the adjustments proposed by Witness Garrett and Witness Smith's calculation of the rates based on Witness Garrett's adjustments is just wrong. As such, FPUC maintains that total revised accumulated depreciation in the amount of $137,280,847 is the correct amount and should therefore be approved.

Issue 18: Should any adjustments be made to the amounts included in the projected test year for acquisition adjustment and accumulated amortization of acquisition adjustment?

FPUC: *No. The acquisition and the benefits derived therefrom continue to be in the public interest; therefore, no adjustments should be made. *

[2] See Errata included with Hearing Exhibit 123, as modified by Stipulation of Issue 15.
[3] Id. Errata to Hearing Exhibit 123.

Argument: The acquisition adjustments at issue in this proceeding pertain to the regulatory assets for the purchase premium associated with the acquisition of FPUC by Chesapeake and the acquisition of Indiantown Gas Company by FPUC, which were approved by the Commission in Order No. PSC-12-0010-PAA-GU, issued in Docket No. 20110133-GU, and Order No. PSC-14-0015-PAA-GU, respectively. (Cassel, Vol. 1, TR 64). Review of each of those prior orders reflects that, in approving the acquisition adjustments, the Commission considered whether the Company demonstrated the potential or actual qualitative and quantitative benefits to the customers that it has historically considered when considering whether recognition of such an adjustment is appropriate. The five factors addressed by the Commission in determining whether an acquisition adjustment is appropriate are increased quality of service; lower operating costs; increased ability to attract capital for improvements; lower overall cost of capital; and more professional and experienced managerial, financial, technical and operational resources. These five factors comprise the "five-factor test" the Commission has applied since 1990.[4]

In Order No. PSC-12-0010-PAA-GU, the Commission allowed the Company to record the acquisition adjustment to be amortized over 30 years. In its decision, the Commission specifically stated that: "The level of the cost savings supporting Chesapeake's request shall be subject to review in FPUC's next rate proceeding. In FPUC's next rate proceeding, if it is determined that the cost savings no longer exist, the acquisition adjustment may be partially or totally removed as deemed appropriate by us." Order at pg. 9. [Emphasis added]. The Order addressing FPUC's acquisition of Indiantown Gas System contained a similar analysis applying the Commission's "five factor test." Therein, the Commission concluded that the Company would be allowed to record an acquisition adjustment subject to a 15-year amortization period. It further determined that the level of savings would be reviewable in the next rate case, and, if "no savings exist," the acquisition adjustment could be partially or fully removed. Order No. PSC-2014-0015-PAA-GU at pg. 11.

[4] See Order No. 23376, issued August 21, 1990, in Docket No. 891309-WS, In re: Investigation of Acquisition Adjustment Policy; Order No. 23858, issued December II, 1990, in Docket No. 891353-GU, In re: Application of Peoples Gas Systems, Inc. for a rate increase; and Order No. PSC-04-111 O-PAA-GU, issued November 8, 2004, in Docket 0402 I 6-GU, In re: Application for rate increase by Florida Public Utilities Company.

As clearly reflected in both Orders of the Commission, the subsequent review of the approved acquisition adjustments was contemplated to focus on the level of savings, and that no action was contemplated unless savings no longer existed at all. As Witness Napier testified, however, and as reflected in Hearing Exhibit 8, savings do continue to exist and at levels in the approximate range of the savings in the first 5 years of the acquisitions, even though it has been over 10 years since the acquisition adjustments were approved. (Hearing Exhibit 8, corrected by Errata at TR 223-225).

Even though the Commission did not suggest, in either Order, that its subsequent review would involve application of the full, five-factor test, the Company nonetheless provided extensive testimony regarding the various ongoing benefits to customers in terms of quality of service, operating costs, ability to attract capital at cost savings, and enhanced managerial, technical and financial resources. (Cassel, TR 65-70; Galtman, TR 134-135; Napier, TR 219 – 221; Hearing Exhibit 8; Russell, TR 299-300, 301-302, 309-311, 343-345; Parmer, TR 365-371; Gadgil, TR 583-588; Hancock, TR 721-722, 728-729, 737). For instance, Witness Russell noted that, prior to the announcement and consummation of the FPUC acquisition in 2009, FPUC's weighted average cost of long-term debt was 7.40%. (Russell, TR 310). At the time of the acquisition, FPUC's debt was secured debt in the form of mortgage bonds, while Chesapeake's was primarily unsecured senior notes. Id. He also pointed out that the combined weighted average cost of long-term debt was 6.69% at December 31, 2009. However, since the acquisition, Chesapeake has issued $606 million of unsecured senior notes at a weighted average cost of 3.52%., at which point Chesapeake repaid FPUC's secured first mortgage bonds early and refinanced at more favorable interest rates. (TR 311). This not only resulted in a reduction in the Corporation's cost of capital, but cumulative interest savings of approximately $9.0 million since the 2009 acquisition. (TR 312). While a portion of that decline in cost can be attributed to market changes, a full 35%, which equate to 1.27% of the decline in the weighted average long-term debt cost, can be attributed to FPUC's parent's ability to execute on and access more competitively priced capital. (TR 312).

For OPC, Witness Smith argued that FPUC had not demonstrated that cost savings developed as predicted nor that cost savings still exist. As such, he maintained that "Without a demonstration that continued, ongoing costs savings above the annualized acquisition amount are being realized, the potential harm to customers from unnecessarily higher rates due to evaporated merger savings is too great." (Smith, Vol. 7, TR 1148). However, as emphasized by FPUC's Witness Cassel, OPC's witness apparently disregards Witness Napier's exhibits, which clearly demonstrate ongoing savings more than the annualized amount. (Cassel, Vol. 6, TR 1089). Witness Cassel also fully rebutted Witness Smith's more amorphous arguments regarding system improvements and quality of service improvements that Witness Smith suggested would have been done sooner or later. (TR 1085-1088).

Witness Deason also responded to Witness Smith's arguments, including Witness Smith's suggestion that the requested rate increase is an indication that there are no longer savings associated with the acquisition adjustment. (TR 1107). In addition to highlighting that Witness Smith has provided no basis for his suggestion that the acquisition adjustment should be removed, Witness Deason testified that the Commission has never taken the position that a request for a rate increase, especially this long after the original acquisition, is an indication that the acquisition is no longer in the public interest. (TR 1107-1108). Witness Deason maintained that the essential question is whether the acquisition was in the public interest. FPUC has supported its case by providing information on improvements and ongoing savings. In contrast, Witness Smith provided no basis for his conclusion that the acquisition was not in the public interest. As such, his analysis should be rejected. (TR 1108-1109).

On cross examination, OPC endeavored to make the case that the recent volatility in the natural gas market should be viewed as a reduction to the fuel cost savings reflected by Witness Napier. (TR 259). This would, however, ignore the fact that, regardless of the market, the acquisition has resulted in both capacity savings and commodity savings based upon the larger company platform and changes implemented since the merger regarding capacity management. (Hancock, Vol. 4, TR 721-729). OPC made similar suggestions as it pertains to the savings

associated with pension expense, O&M costs, cost of capital savings, and rate case expense. (TR 260-267). However, while some costs have gone up over time, Witness Napier was clear that her analysis of the cost savings reflected an apples-to-apples comparison of costs. (Napier, TR 260, Hearing Exhibit 8). In contrast, OPC's cross-examination suggested that it would actually apply the impact over time associated with inflation and system growth to reduce the calculated savings. Even so, it is critical to note that OPC was unable to refute Witness Napier's testimony that cost savings remain, much less demonstrate that "cost savings no longer exist."

Counsel for OPC also relied upon the Order Approving Stipulation and Settlement in FPUC's 2008 Rate Case, Order No. PSC-09-0848-S-GU, issued in Docket No. 080366-GU, to suggest Witness Napier's baseline for assessing ongoing savings is incorrect due to the "black box" settlement ultimately approved in that case, which result in a reduction to the revenue requirement approved by the Commission's previous PAA order. (TR 259-264). Counsel appeared to suggest that the reduced amount was applicable primarily to O&M costs, which, if accepted, would reduce Witness Napier's calculation of savings. It would not, however, eliminate the savings. Moreover, as counsel for OPC noted, the referenced Stipulation and Settlement, which is attached to the Commission's Order, specifies only the amount of the revenue reduction; it does not specify how that reduction was to be applied, nor does the Commission's Order reflect any assumptions in that regard. As counsel for OPC stated in this proceeding, parties to settlements ". . .receive consideration in exchange for various provisions in the negotiated agreement." (OPC Rehwinkel, TR 112).

OPC's implied analysis should be rejected, because its application would unfairly assign factors outside the Company's control and that have occurred over an extended period to reduce or eliminate the cost savings analysis. As Witness Deason explained, unanticipated changes can occur over an extended time period that could materially impact the benefits initially achieved by an acquisition. He emphasized that, "[s]uch unanticipated changes, especially if they are beyond the control of management, should not be used to reject a previously approved acquisition adjustment absent other extreme extenuating circumstances. In addition to unanticipated

changes, there can be difficulties differentiating acquisition impacts from more routine changes that occur as more time elapses." (Deason, Vol. 2, TR 288). Likewise, OPC's suggestion that the baseline for the cost savings analysis is wrong should be rejected. There is simply no basis in Order No. PSC-09-0848-S-GU for the analysis OPC suggests.

As Witness Deason noted, it is critical that the Commission also apply the following additional policy considerations: 1.) regulatory certainty and finality; 2.) appropriate incentives for beneficial outcomes; and 3.) the avoidance of retrospective ratemaking in addressing the subsequent review of acquisition adjustments, a policy particularly relevant here, where the original approval was received 10 years ago. (Deason, Vol. 2, TR 286). The witness noted that, "[a]t some point, a lack of finality for an acquisition adjustment could promote regulatory uncertainty and thus act as a deterrent to such beneficial acquisitions being undertaken and eventually presented to the Commission for consideration." (TR 287). In rebuttal, Witness Deason also testified that the more appropriate analysis is whether customer 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, adding that the record will reflect that OPC Witness Smith has provided no evidence that the FPUC acquisition has resulted in higher rates for customers. (Deason, TR 1109)

The record in this case clearly reflects that the acquisitions of both FPUC by Chesapeake and Indiantown by FPUC were, and continue to be, in the public interest. The record contains evidence of the improvements that the Company has made to the benefit of customers and the cost savings that are an ongoing result of the acquisitions. Neither OPC nor FIPUG presented any evidence or argument sufficient to prompt a different conclusion or to justify such extreme action. As such, FPUC asks that the Commission conclude that no adjustments are necessary to the amount of the acquisition adjustment and associated accumulated amortization reflected in the projected test year. Likewise, given the length of time since the original approval, and consistent with Witness Deason's analysis, the Company asks that the Commission determine

that further review of the acquisition adjustments in subsequent rate proceeding for the Company is not required.

Issue 21: Should an adjustment be made to remove unamortized rate case expense from working capital?

FPUC: *No. The Commission has previously allowed recovery of one-half of the unamortized rate case expense in working capital in our rate cases in both electric and natural gas. *

Argument: As explained by Witness Napier, the Company made an adjustment to reduce the Deferred Rate Case account by half of the unamortized rate case expense from working capital, which is consistent with Commission direction in prior rate proceedings. (TR 205). OPC's Witness Smith, however, recommends an adjustment to remove unamortized rate case expense. (TR 905). He argues that the Commission has a "long-standing policy" of disallowing unamortized rate case expense in working capital. (TR 1143). In support of his recommendation, Witness Smith referenced six Commission orders, including one from 2009 pertaining to FPUC.

On rebuttal for FPUC, Witness Baugh responded that while the Commission has excluded unamortized rate case expense from working capital for other companies, it has only done so on one occasion for FPUC. Witness Baugh further explained that it is much more common that the Commission will allow FPUC to retain one-half of unamortized rate case expense in working capital. In support of her argument, Witness Baugh cited five Commission orders in which FPUC had been allowed to include ½ of unamortized rate case expense in working capital. (Baugh, Vol. 6, TR 1025-1026).

As Witness Baugh further explained, the Company included ½ of the unamortized rate case expense in working capital consistent with the orders pertaining to FPUC. She emphasized that this is the appropriate approach for FPUC because it recognizes that, at the end of the

amortization period, the deferred expense account will be zero. (TR 1027). Witness Baugh testified that this approach makes sense for FPUC, because:

> "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." (TR 1027).

In this regard, FPUC has demonstrated that the Commission's policy in terms of allowing ½ of unamortized rate case expense in working capital differs as it relates to FPUC from that applied to the other, larger IOUs.

Historically, the Commission has allowed the amount in working capital for FPUC and has only disallowed this approach on one occasion for FPUC. There is a valid rationale as to why the approach applied to FPUC differs, and that is because FPUC, unlike the larger companies, does not retain sufficient personnel on staff to enable it to process a rate case without utilizing external resources. The Commission has accepted this rationale in the past and given that FPUC continues to take this approach to staffing, the Company asks that the Commission again accept this rationale.

Working capital as adjusted also appropriately includes one-half of the balance of unamortized rate case expense and should not be adjusted for Witness Smith's additional reduction of $1,871,956. OPC Witness Smith's testimony discusses the Commission having a long-standing policy of not allowing inclusion in rate base. (Smith, Vol. 7, TR 1142-1145). FPUC Witness Baugh successfully refuted this contention and provided examples of the Commission's allowance of one-half of the unamortized balance of rate case expenses in working capital. Baugh, Vol. 6, TR 1025-1026). As cited by Witness Baugh, Commission Order No. PSC-1994-0170-FOF-EI recognized 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. (TR 1025).

The same order 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."

The record of this proceeding reflects that the Commission has, historically, allowed FPUC to retain ½ of unamortized rate case expense in working capital. It is a fair policy and recognizes, as the Commission has in the past, that rate case expense is a cost of doing business. As such, the Company should be allowed to retain ½ of unamortized rate expense in working capital.

Issue 22: Should an adjustment be made to remove a portion of prepaid Directors and Officers ("D&O") Liability Insurance from working capital?

FPUC: *No. Purchasing a D&O insurance policy is necessary to attract and retain qualified employees and directors. Reducing these amounts negatively impacts fiduciary oversight, governance and overall risk management. *

Argument: Working capital appropriately includes $18,049 for D&O Liability Insurance. FPUC Witness Russell's testified that "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." Additionally, he stated that "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." (See Rebuttal, TR 985)

OPC's Witness Smith argued for an adjustment to remove D&O expense from working capital, as well as expense from the project test year. (Smith, Vol. 7, TR 1141). He argued that his reduction reflects an allocation of a portion of the expense associated with liability insurance

expense included in working capital to shareholders, because D&O liability insurance protects shareholders and thus, is primarily for the benefit of shareholders. (TR 1141).

Witness Russell did not dispute that D&O insurance provides benefits to shareholders. (Russell, Vol. 6, TR 985). He emphasized, however, that it also does more than that, because it also provides coverage for lawsuits brought by other parties, including employees, customers, creditors, vendors, competitors, and regulators. Witness Russell testified that, without D&O insurance, the Company's assets are at risk, but that 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. (TR 985). Witness Russell added that candidates for officer or director positions would likely not accept positions in those roles unless a company either owns a D&O policy or commits to purchase one. Witness Russell therefore urged that the Commission reject Witness Smith's adjustment reducing ½ of the amount in working capital and ½ of the expense in the test year because the existence of D&O policy is a benefit to ratepayers to the extent that hiring qualified officers and directors would otherwise be much more challenging and a D&O policy is an effective risk mitigation tool. (TR 985-986).

> As the Commission has recognized in the past, corporate D&O insurance:
> . . . has become a necessary part of conducting business for any company or organization and it would be difficult for companies to attract and retain competent directors and officers without it. Moreover, ratepayers receive benefits from being part of a large public company, including, among other things, access to capital.

Order No. PSC-09-0411-FOF-GU, issued June 9, 2009, in Docket No. 080318-GU pg. 37 ("PGS Order"). In that same PGS Order, the Commission also recognized it would have been difficult for PGS to obtain adequate D&O liability insurance at reasonable rates on its own, so the allocation of D&O insurance expense from its parent, TECO, was appropriate. PGS Order at 38-39. That analysis is equally on point now as it was in 2009. As FPUC's witness Russell explained, D&O liability insurance is a necessary part of doing business and benefits ratepayers, because the Company would otherwise have difficulty hiring qualified candidates. As the Commission further recognized, "Without DOL Insurance, it is unrealistic that the Company

could operate effectively."[5] The Company has supported its case for the inclusion of the requested amount for D&O insurance and retention of that amount is consistent with prior Commission decisions applicable to other Florida natural gas utilities. As such, no adjustment should be made to remove a portion from working capital.

Issue 23: What is the appropriate level of working capital for the projected test year?

FPUC: *The total revised working capital is $5,227,362. *

Argument: The appropriate amount in working capital is $5,227,362, as shown in MFR G-1 p.1 of 28 lines 16 and 17 (Exhibit 123). This amount reflects the appropriate removal of the amount of $127,849,224 in the projected year for amounts reflected as receivables from affiliated companies, along with other adjustments consistent with the Commission's decisions in prior rate cases for the Company as shown in MFR G-1 p.4a of 28. (Napier, Vol. 2, TR 196, 199, 234-235; Exhibit 123). As previously noted herein, there is no corporate allocation for working capital. (TR 198). Other specific adjustments to working capital for the historic test year included removal of Customer Account receivables and adjustments for under-recoveries in the PGA and Gas Conservation. (TR 199). Adjustments were also made, as explained by Witness Napier, to allocate a portion of the health insurance reserve and accumulated interest to the Company and to remove the amount associated with the Competitive Rate Adjustment mechanism. (TR 199-200). The historic amount was then increased for deferred environmental charges and liabilities. (TR 200). To arrive at the projected amount, working capital balances were projected using either trend factors applied to the thirteen-month average balances for the historic test year of December 31, 2021, or year end balances, as appropriate. Direct projections were utilized for certain balance sheet accounts that do not lend themselves to projections based on trend factors. (TR 200). As Witness Napier further explained, the trend factors used were: (a) inflation, (b) customer growth, (c) payroll growth, (d) inflation and customer growth and (e)

[5] Id.

payroll and customer growth and based on whether the costs were payroll or non-payroll. Then, the Company reviewed each balance sheet item, and where appropriate, utilized a trend factor, usually based on history, applied to the thirteen-month average balance when it was necessary to reflect fluctuations that occur due to payment timing and seasonality. Id.

The trend factors used to calculate the non-payroll expenses for each applicable account are "inflation" and "inflation times customer growth" and are consistent with the factors used in the Company's last rate case. The factors were reviewed in this case based on the type of data in the accounts and we believe that the factors used were conservative and appropriate for the expected level of expenses for these accounts to continue to meet the natural gas needs of existing and new customers and provide safe and reliable service to our customers. Expenses that were expected to increase over inflation and growth are shown as separate adjustments on Schedule G-2 pages 19g -19m. (Hearing Exhibit 123; Hearing Exhibit 75).

For some accounts, the balance that existed at the historic year end was used, when there were no fluctuations. And for other accounts, such as pension and benefits reserve, balances received from external experts were employed. (TR 201-202). Certain accounts were projected directly. For instance, deferred rate case expense was based on detailed estimates of projected expenses for this case through the issuance of a final order. One half of the unamortized amount was then removed consistent with adjustments made in prior rate cases. (TR 202, 205). The storm reserve was projected based on the increase amount of storm activity since the last rate case and the Company's expanded service territory, which increases the Company's exposure to risks associated with storms. (TR 202). Liability insurance and pension expense were projected based on activity since the last rate case and information from actuaries used by Chesapeake, as further outlined by Witness Russell and likewise addressed herein. (TR 203). Interest was based upon FPUC's parent's bond issuances, an appropriate portion of which is then allocated to FPUC. As for taxes, Witness Napier explained that these amounts typically do not fluctuate dramatically and, as such, the amount associated with taxes was projected based on the historic test year and projected monthly accruals. (TR 203). Working capital associated with the

Company's Area Extension Program ("AEP") was also removed, consistent with prior decisions of the Commission, as was interest on cash in working capital. (TR 207, 208).

On cross, counsel for OPC asked an extended series of questions pertaining to adjustments made that were identified as receivables from associated companies. (Galtman, TR 164-179; Napier, TR 235-248). In response to counsel for OPC's suggestion that these intercompany receivables equate to a loan, FPUC's Witness Galtman was clear that they are not intercompany loans but instead reflect the intercompany payable or receivable associated with transactions to support FPUC's business, including operating expenses or capital needs, that are paid for by Chesapeake's centralized cash management program. (TR 169-170).

After FPUC's witnesses on direct had left the stand, and OPC's Witness Smith had taken the stand that the basis for OPC's line of inquiry became somewhat clearer. In response to questions from Staff counsel, Witness Smith asserted that the intercompany receivables are used to inflate rate base and are otherwise used as another source of capital for the Company. (TR 913). Thereafter, Witness Smith discussed for some four transcript pages his theory of regarding use of intercompany receivables as a means to inject cost-free capital into the FPUC Companies, which is then used to increase rate base and thereafter reconciled with the capital structure. (TR 914-921). The problem with Witness Smith's diatribe on this point is not just that it is wrong, but that this is an issue not previously identified or addressed in either of OPC's witnesses' testimonies. As such, FPUC had no opportunity to respond in prefiled rebuttal testimony to correct Witness Smith's mistaken assumptions. As noted by the objection at hearing by FPUC's undersigned counsel, Witness Smith supplemented his testimony on the stand significantly, addressing his theory in response to questions from Staff counsel that were not even related to his theory, presenting the same theory several additional times after counsel's objection. (TR 917, 920). In and of itself, this arises to the level of a procedural concern, if not a potential due process concern, which was very nearly compounded by what followed.

Upon Witness Galtman's return to the stand, Staff counsel inquired as to whether Witness Galtman had heard Witness Smith's discussion of the Company's use of intercompany accounts

payable and receivable, whereupon counsel for OPC objected, stating that the question was outside the scope of the witness's testimony and that he'd passed on crossing Witness Galtman, because he only covered a couple of issues. He then argued that the procedural order required pre-filed rebuttal testimony and that live testimony was beyond the scope of that Order. (TR 1006). This bears noting for two key reasons: 1. When Witness Galtman was on the stand for direct – prior to OPC Witness Smith taking the stand - counsel for OPC had asked him a series of general questions about those same accounts, and thus was aware that the witness was familiar with how those accounts work; and 2. OPC's own witness had presented extensive testimony on the stand that was entirely outside the scope of his pre-filed testimony. (TR 1003; TR 164-175).

Appropriately, Witness Galtman was allowed to respond to Staff counsel's question, whereupon he testified that Chesapeake, FPUC's parent, has a centralized cash management program. Cash is 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 Chesapeake records operating expenses or capital investment for any of the subsidiaries, those amounts are booked onto the financial statements of the respective business. Because FPUC does not produce enough cash flow for its growth and relies upon Chesapeake's debt structure to fund capital investments. The intercompany balance on FPUC's books is therefore reflected as a liability. The balance was appropriately eliminated at the time of the rate case filing, because the large liability does not represent working capital, but instead reflects funding needs provided by Chesapeake. (Galtman, 1008).

More specifically, the 2023 Projected Intercompany Accounts Receivable/Payable of $(127,849,224) was appropriately excluded from working capital in MFR G-1 Page 4a of 28, because it is not working capital. (Hearing Exhibit 123). It is a mechanism used to fund Chesapeake Utilities subsidiaries since the subsidiaries do not maintain their own long and short-term debt or equity. To the extent that FPUC did maintain its own debt and equity, these balances would be reflected separately and not included within working capital. As a result, the amount was excluded from working capital. Intercompany accounts are shown in the working

capital schedule but are eliminated to calculate rate base, because they are the funding source, along with the direct earnings from the division, for the utility's investments and operating costs. As a result, the Chesapeake equity and debt ratios are used in calculating the division's capital structure. (Hearing Exhibit 113). Through Chesapeake's centralized cash management program, operating expenses and capital needs are recorded through the Accounts Receivable/Payable to Associated Companies. The Intercompany Receivable/Payable amounts are eliminated in consolidation. As a result, the Accounts Receivable/Payable to Associated Companies is replaced with the Chesapeake Utilities capital structure, which is the true source of the funding, when calculating cost of capital for the Companies after recognizing the direct assignment for customer deposits, deferred taxes, and regulatory tax liabilities. (Hearing Exhibit 113).

This is further evidenced in MFR G-3 page 2 of 11 where pro-rata adjustments of $126,504,060 and a specific adjustment of $(2,469,682) for a net increase to cost of capital of $124,034,378. The adjustment on MFR G-1 Page 4a discussed above carries forward to G-1 page 4 of 28 as part of the total adjustments to rate base of $124,034,378. The $126,504,060 pro rata adjustment on MFR G-3 page 2 of 11 includes the intercompany payable. MFR G-3 page 2 of 11 shows these adjustments prorated between equity, long-term and short-term debt by appropriately using the parent's capital structure. (Hearing Exhibit 123) This methodology is consistent with the approved methodology in Commission Order 23858 in Docket 19891353-GU.

OPC Witness Smith's testimony further incorporated two adjustments to working capital. The first was to eliminate a portion of the directors' and officers' liability insurance and the second was to remove the balance of unamortized rate case expense, the Company included in the filing, from working capital. These adjustments are addressed more specifically in Issues 21 and 22.

In spite of the introduction of a new theory of the case by OPC at hearing, the Company has carried its burden to demonstrate that the appropriate amount in working capital is the amount identified by the Company, $5,227,362.

Issue 24: What is the appropriate level of rate base for the projected test year?

FPUC: *The appropriate level of total rate base for the projected test year is $455,408,353. This amount is based on the filed amount of $454,887,154, increased for the current depreciation study by $849,685. This amount was then reduced by self-reported adjustments in the amount of $242,788[6], as well as the $85,698 of accumulated depreciation associated with the stipulated resolution of Issue 10.

Argument: The Company has fully supported the amount to be included in rate base through the testimony of its witnesses, as well as the information in its MFRs and supporting discovery responses. The Company relies on its arguments under specific issues regarding OPC's proposed adjustments to rate base.

In addition, the Company notes that, at hearing, Commissioners asked Witness Bennett about the status of the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration's review of satellite leak surveys. Witness Bennett acknowledged that satellite surveys have not yet been approved in lieu of ground surveys, but emphasized that they provide much more complete, regular analysis and thus have value as a safety tool. (TR 628-629). Moreover, when satellite surveys are approved in lieu of ground surveys, FPUC will be able to more quickly reduce costs to customers in the event it already has a satellite survey system in place.

In sum, FPUC has carried its burden in this regard and asks that the amount identified by the Company be approved. No further adjustments are necessary or appropriate.

COST OF CAPITAL

Issue 25: What is the appropriate amount and cost rate for short-term debt to include in the projected test year capital structure?

[6] Reflects adjustment for stipulation of Issue 15.

FPUC: *The appropriate amount of short-term debt for inclusion in capital structure is $20,789,980 at a cost rate of 3.28%. *

Argument: FPUC has access to Chesapeake's short-term debt, which is obtained through a syndicated facility involving seven banks. Through Chesapeake, FPUC has access to short term debt at rates that are comparable to FPUC's pre-acquisition cost of capital on a standalone basis. (Russell, Vol. 2, TR 299-300). Witness Russell noted that it is subject to very competitive pricing in the market and comparable to pricing available to many of the publicly traded gas utilities that also have investment grade debt. (TR 300). The rate achieved is reflected in MFR Schedule G-3, included in Hearing Exhibit 123.

The cost rate of 3.28% was not disputed by the OPC or its witnesses. (Hearing Exhibit 60). The amount, however, was contested based upon OPC Witness Garrett's recommended capital structure.

FPUC has fully supported its cost of short-term debt, well as the amount to be included in its capital structure, as more fully set forth under Issue 29. Therefore, the Company asks that its requested cost and amount be approved.

Issue 26: What is the appropriate amount and cost rate for long-term debt to include in the projected test year capital structure?

FPUC: *The appropriate amount and cost rate for long-term debt to include in the capital structure is $148,546,502 at a cost rate of 3.48%. *

Argument: Witness Russell also addressed Chesapeake's long-term debt profile, which carries the NAIC-2B rating from the National Association of Insurance Commissioners ("NAIC"). The NAIC, through its Securities Valuation Office, has its own credit rating scale that runs from NAIC-1 (lowest risk) to NAIC-6 (highest risk, near or at default). All securities in insurers' portfolios use these designations and their related factors to assess solvency capital requirements,

and, according to Witness Russell, NAIC-2B is assigned to high quality obligations with low credit risk. The NAIC-2B rating is equivalent to a BBB/Baa2 investment grade bond rating or above from S&P and Moody's. (TR 299). Witness Russell further explained that Chesapeake has a higher long-term debt rating with access to long-term financing on an unsecured basis with investment grade interest rates (150 to 200) basis points above comparable maturity U.S. treasury rates, which FPUC did not have access to prior to its acquisition by Chesapeake. (TR 301-302). He added that FPUC has saved approximately $7.6 million in long-term interest expense based on Chesapeake's better access to long-term debt. (TR 302). The rate achieved is reflected in MFR Schedule G-3, included in Hearing Exhibit 123.

The cost rate of 3.48% was not disputed by the OPC or its witnesses. (Hearing Exhibit 60). The amount, however, was contested based upon OPC Witness Garrett's recommended capital structure.

FPUC has fully supported its cost of long-term debt, well as the amount to be included in its capital structure, as more fully set forth under Issue 29. Therefore, the Company asks that its requested cost and amount be approved.

Issue 27: What is the appropriate amount and cost rate for customer deposits to include in the projected test year capital structure?

FPUC: *The appropriate amount and cost rate for customer deposits to include in the capital structure is $10,782,475 at a cost rate of 2.37%. *

Argument: As set forth in Exhibit 123, in the MFR Schedules D-1 and D-6, the appropriate amount of customer deposits for inclusion in the capital structure is $10,782,475 at a cost rate of 2.37%. (Napier, TR 218). The cost rate of 2.37% was not disputed by the OPC or its witnesses. (Hearing Exhibit 60). The amount, however, was contested based upon OPC Witness Garrett's recommended capital structure.

FPUC has fully supported its cost for customer deposits, well as the amount to be included in its capital structure, as more fully set forth under Issue 29. Therefore, the Company asks that its requested cost and amount be approved.

<u>Issue 28:</u> What is the appropriate amount of accumulated deferred taxes to include in the projected test year capital structure?

<u>FPUC:</u> *The appropriate amount of accumulated deferred taxes to include in the capital structure is $42,232,204 which is a combination of direct of $42,152,613 and allocated common of $79,591. *

<u>Argument</u>: As set forth in Exhibit 123, in MFR Schedule G-3, the appropriate amount of accumulated deferred taxes to include in the capital structure is $42,232,204 which is a combination of direct of $42,152,613 and allocated common of $79,591. Staff Witness Brown found no discrepancies as reflected in the Staff Audit Report. (Hearing Exhibit 66).

OPC did not contest the ratio percentage or cost rate (0.00%) but made adjustments to the actual amount based on Witness Smith's pro rata adjustments to the Company's capital structure. (Hearing Exhibit 60).

FPUC has fully supported the amount of accumulated deferred taxes to be included in its capital structure, as more fully set forth under Issue 29. Therefore, the Company asks that its requested cost and amount be approved.

<u>Issue 29:</u> What is the appropriate equity ratio to use in the capital structure for ratemaking purposes?

<u>FPUC:</u> *The appropriate equity ratio is 55.10%. The equity ratio taking into consideration customer deposits, deferred taxes and the regulatory tax liability is 45.143%. *

Argument: FPUC's capital structure is based upon its parent, Chesapeake's, capital structure, which is allocated as reflected in MFR Schedule G-3, included in Hearing Exhibit 123. (See also, Napier, TR 218-219). More specifically, FPUC does not have any third-party debt of its own. Although MFR Schedule G-3 Consolidated lists amounts for debt under "Per Books," Witness Reno explained in discovery that the "Per Books" presentation is calculated based on the projected test year rate base details included in the "Projected Test Year Unadjusted Average Year" column on MFR Schedule G-1 Consolidated, Page 1 of 28.

The Company specifically identified customer deposits, deferred taxes, regulatory tax liability and ITC, which is zero, for the consolidated gas divisions in developing its capital structure. (Napier, TR 218). As appropriate, the Company subtracted the projected direct customer deposits, deferred taxes and regulatory tax liability from its projected rate base and used the remaining investment in rate base to multiply by the percentage of parent Company's equity, long term debt, and short-term debt as shown in the box on the bottom of the schedule to get the allocated debt of the parent Company. (Napier, TR 218). Again, it should be noted that the "Per Books" reference is based on the use of the projected "per books" rate base before regulatory adjustments and not the actual debt instruments. As such, to determine FPUC's capital structure, the Company takes the total projected parent company equity, long-term debt and short-term debt to arrive a ratio for each of these components. These ratios are then applied to the total rate base supported by these components. The total rate base is adjusted to account for the amount of rate base attributable to customer deposits, deferred taxes, and regulatory tax liabilities before the ratios are applied. (Hearing Exhibit 84).

As explained by Witness Russell, the Company's current capital structure reflects investor sources and uses of capital as follows: common equity; excluding accumulated other comprehensive income, of 49.76 percent, long-term debt (including current maturities) of 35.97 percent and short-term debt of 14.27 percent. The forecasted capital structure at the end of the test year is as follows: common equity; excluding accumulated other comprehensive income, of 56.24 percent, long-term debt (including current maturities) of 37.88 percent and short-term debt

of 5.88 percent. (Russell, Vol. 2, TR 299-301). FPUC's parent, Chesapeake, strives to maintain a structure of 50-60 percent equity and 40-50 percent debt, which allows Chesapeake to retain significant access to competitively priced capital to fund future growth projects and continue to enhance safety of existing facilities. Witness Russell further explained that approximately 55 percent of earnings are retained and reinvested in the business. Any growth capital spending above and beyond these amounts are initially funded with Chesapeake's $400 million syndicated revolving credit facility. When projects go into service, Chesapeake then aligns the permanent financing (long-term debt and equity) with the in-service date for these projects. In this manner, according to Witness Russell, Chesapeake is better able to align earnings from projects and long-term financing cost, which has also helped Chesapeake's continued access to cost effective, competitive pricing across the short-term borrowing facility, long-term debt placements and equity capital markets and to maintain its credit quality. It also ensures Chesapeake remains in compliance under the covenants contained in the revolving credit facility and all private placement senior notes. (TR 301). On cross, he also noted that, given the current state of the financial markets, Chesapeake's most recent debt issuance was at a rate of 5.43%, which is much higher than the cost reflected in the Company's MFRs for this proceeding. (Russell, TR 341).

OPC's Witness Garrett argued that FPUC's proposed capital structure was too "capital rich" and was not reflective of FPUC's proxy group. (Garrett, TR 756, 766). He argued that an equity ratio of 48% was more appropriate. However, in his rebuttal testimony, Witness Moul addressed OPC Witness Garrett's criticisms. He explained that, with regard to FPUC, the use of the actual capital structure ratios for the parent, Chesapeake, comports with Commission practice. He noted that Chesapeake's actual capital structure ratios (including the 55.1% common equity ratio) fall within the range of the proxy group, which complies with the reasonableness standard in terms of use of the actual Chesapeake capital structure appropriate. (Moul, Vol. 6, TR 1054). He supported this structure by comparing it to the companies in his proxy group and forecast common equity ratios reflected in Value Line. (TR 1055). Witness Moul testified that Witness Garrett's approach creates a mismatch, because his proposed debt ratio includes more

debt than is actually held by the Company and reflected in the MFRs. (TR 1055, Hearing Exhibit 123). Mr. Garrett's proposal could also move the Company's credit quality toward the "junk" bond status. (Moul, TR 1053). On cross examination by the OPC, FPUC Witness Moul was also asked about the capital structure, particularly as it related to a member of his proxy group, Atmos Energy. Counsel for OPC asked about the equity ratio reflected for Atmos in its 2021 Form 10K report, which is Hearing Exhibit 128. Counsel for OPC suggested that Atmos' 10K reflected a 51.9% equity ratio, but Witness Moul noted that if you actually look at that company's balance sheet included with the 10K, the actual equity ratio is 61.6%. (TR 1075-1078). That ratio significantly exceeds the common equity ratio proposed by the Company, thus indicating that the Company's proposal is reasonable.

FPUC has demonstrated in this proceeding that the appropriate equity ratio for its capital structure is 55.10%. The equity ratio taking into consideration customer deposits, deferred taxes and the regulatory tax liability is 45.143%. OPC's witness's failed to demonstrate any basis for deviating from the appropriate use of FPUC's parent company, Chesapeake's capital structure. Moreover, OPC Witness Garrett's proposal to use a purely hypothetical structure would create a mismatch that results in lower actual returns when applied to the Company's actual capital structure. (Hearing Exhibit 84). As such, the Company asks that the Commission approve its proposed capital structure as filed.

Issue 30: What is the appropriate authorized return on equity (ROE) to use in establishing FPUC's projected test year revenue requirement?

FPUC: *The appropriate ROE midpoint is 11.25%. *

Argument: As Witness Moul testified, FPUC requests that its midpoint ROE be set at 11.25%. Witness Moul emphasized that the Commission should approach this request with the perspective that the Company is growing and supportive regulation is necessary particularly during a period of increased infrastructure investments. (Moul, Vol. 3, TR 397). As Witness

Moul explained, infrastructure replacement is an issue at the forefront throughout the natural gas industry, and the Company must compete for capital with other natural gas companies in other states, as well as other utilities and non-regulated companies. To successfully compete, Witness Moul emphasized that FPUC must have a fair rate of return on invested capital. (TR 407).

As Witness Moul elaborated on his approach, he explained that he considered the size and growth of the Company, total gas throughput, as well as the high percentage of industrial customers served by the Company. (TR 398, 405). He also assessed the cost of common equity, as appropriate, and applied the traditional analytical models, those being the Discounted Cash Flow ("DCF") model, the Risk Premium ("RP") analysis, the Capital Asset Pricing Model ("CAPM"), the Comparable Earnings ("CE") approach. (TR 399). He also used financial and market data from the eight companies in his proxy group to measure the cost of common equity for the Company. (TR 401). Witness Moul also considered the impact of the Covid-19 on the Company and the market reactions to the Federal Open Market Committee ("FOMC") increases in the Federal Funds rates. (TR 399-400). Here, he noted that, while energy prices have risen of late, long term interest rates have increased, and it is expected that short-term interest rates will increase after the FOMC ends its bond buying program. Id. Witness Moul also appropriately considered the business and operational risks associated with a natural gas utility. (TR 404-405).

Witness Moul testified that his recommended ROE range is consistent with the regulatory compact that a regulated company's rate of return must be set to cover the Company's interest and dividend payments, provide a reasonable level of earnings retention, produce an adequate level of internally generated funds to meet capital requirements, be commensurate with the risk to which the Company's capital is exposed, assure confidence in the financial integrity of the Company, support reasonable credit quality, and allow the Company to raise capital on reasonable terms. (TR 401). In other words, Witness Moul's proposal considers the reality of the current economy and a reasonable assessment of near-future considerations, the Company's financial posture, and its regulatory obligations, and, based on his expertise, he has developed a proposal for the Company's ROE range that will provide the Company with a reasonable

opportunity to actually earn a fair return. Witness Moul emphasized that his proposal is consistent with the Bluefield[7] and Hope[8] cases and likewise commensurate with returns available on investments having corresponding risks.

While OPC's Witness Garrett utilized some of the same analytical tools, as well as Witness Moul's proxy group of gas companies, he reached a drastically different conclusion, which appears to be because Witness Garrett started with a preferred range for his recommended ROE and then backed into it through selective use of some data and the complete disregard of other data. Even utilizing this approach, Witness Garrett apparently recognized that the 7.8% ROE he came up with was utterly unreasonable, so he applied an unexplained adjustment to raise it to 9.25%. (Garrett, Vol. 5, TR 769). Notably, for the bulk of Witness Garrett's analysis, he focused on a general analysis of regulated utilities, rather than a specific analysis of FPUC or its parent, Chesapeake. (TR 774-807; 814-823).

Witness Garrett argued that ROEs should be set based on market-based cost of capital, but that over time, regulators have established ROE ranges in an "echo chamber" that relies primarily on information from other jurisdictions. (TR 777, 834). Somewhat incongruously, Witness Garrett later suggested that ROEs set "below market costs" are even better and more closely align with the Hope and Bluefield cases. (TR 779) As for market risks, Witness Garrett suggested that "all companies face business risks" and it has no effect on cost of equity. (TR 832). He also argued against Witness Moul's comparable earnings analysis and his leverage adjustment. (TR 809-810; 834).

In rebuttal, Witness Moul also explained that Witness Garrett's "sustainable growth" version of the DCF model is inappropriately constrained to limit long-term growth by GDP growth alone, which Witness Moul noted is far below the projections of market analysts in terms of earnings growth rates. (TR 1057-1058). Witness Moul contended that Mr. Garrett's approach to DCF does not reflect reasonable investor expectations of growth that are specific to the natural

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[7] *Bluefield Water Works & Improvement Co. v. Public Service Commission of West Virginia*, 262 U.S. 679, 692–93 (1923).
[8] *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944).

gas companies and likewise does not consider earnings per share growth that is used by investors when pricing the stocks of the proxy group companies. (TR 1045). Rather, a reasonable application of the DCF model proposed by Witness Garrett would produce a 10.7% return. (TR 1060).

Witness Moul also explained that Witness Garrett's analysis fails to consider the current and near-term projected state of the market in that he does not address the fact that current FOMC policy will produce even higher interest rates prospectively, which Witness Moul argues should be incorporated into the cost of equity now. Witness Moul emphasized that higher inflation expectations are a contributing factor that points to higher interest rates, as indicated by a 5.9% increase in social security payments announced on October 13, 2021, the largest one-year increase in nearly four decades. (TR 1049). Similarly, the recent "trigger" proceedings for Duke Energy and Tampa Electric to increase their ROE midpoints reflect the recent increases on yields for US Treasury Bonds. (TR 1047-1048).

In sum, a fair rate of return is key to a financial profile that will provide the Company with the ability to raise the capital necessary to meet its capital needs on an ongoing basis. (Moul, TR 406). An equity return along the lines recommended by OPC's Witness Garrett would, however, be viewed by investors as unsupportive of the Company's financial condition. As Witness Moul noted, the consequence of OPC's flawed analysis is actually not in the best interest of the customers, because an artificially low return on common equity, in the long run, only creates higher rates for customers. (TR 1046). As Witness Moul explained:

> 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.

(TR 1048). FPUC has provided a well-reasoned analysis backed up by real world data, as well as information specific to the financial and operational risks of the proxy group and the

Company. It has fully supported its requested ROE midpoint, which will not only maintain the financial health of the Company but enable it to continue to fulfill its regulatory obligation to provide safe and reliable service to current and future customers at fair and reasonable rates. As such, FPUC asks that the Commission approve its requested ROE midpoint of 11.25%.

Issue 31: What is the appropriate weighted average cost of capital to use in establishing FPUC's projected test year revenue requirement?

FPUC: * The appropriate weighted average cost of capital to use is 6.43%. *

Argument: The Company applied the same methodology it used to determine its cost of capital in the historic test year in order to determine the appropriate cost of capital to include in the projected test year. (TR 219). Witness Russell also explained that the Company's reduction in the Company's cost of capital since the last rate case is driven primarily by the long-term debt cost rate. (Russell, TR 310). The cost of capital calculations are reflected in the MFR G-3 Schedules of Hearing Exhibit 123. Witness Moul also provided a summary of the cost of capital calculation based upon the Company's proposed capital structure in his Exhibit PRM-1. (Hearing Exhibit 12).

OPC Witness Garrett argued that the Company's low debt ratio in its capital structure causes the overall cost of capital to be too high. (Garrett, TR 848). OPC's position on the appropriate cost of capital based on its recommended capital structure is reflected in Hearing Exhibit 64, which reflects an extremely low cost of capital of 5.2%.

The Company's proposed capital structure and associated cost of capital is based upon sound financial analysis and accepted regulatory policies. The Company's capital structure and resulting overall cost of capital, will establish a compensatory level of return for the use of capital and, if achieved, will provide the Company with the ability to attract capital on reasonable terms. (Moul, TR 398). In contrast, while OPC's witnesses' proposals produce an end result that is not just and reasonable. As such, FPUC asks that the Commission approve the

Company's capital structure and cost of capital as set forth in its filing and the testimony of its witnesses.

NET OPERATING INCOME

Issue 33: Has FPUC made the appropriate adjustments to remove all non-utility activities from operation expenses, including depreciation and amortization expense?

FPUC: *Yes. *

Argument: As described with Witness Galtman, FPUC's parent company, Chesapeake Utilities Corporation, accounting policy is to allocate costs to the business units that either incurred the cost directly or benefit from the cost being incurred. (Galtman, Vol. 1, TR 137). Appropriate adjustments were then made to remove depreciation and amortization for non-utility plant in the individual divisions, as reflect on MFR Schedule G-2, page 2. (Hearing Exhibit 123). As he further described, the Corporation's Cost Accounting Manual (CAM) documents the current allocation practices and methodologies utilized to account for all Operations and Maintenance expenses and further describes the application of these practices and methodologies through the Chesapeake's accounting processes, as well as recording and reporting through Chesapeake's financial information systems. (TR 138). Chesapeake utilizes various methodologies in the allocation of costs, depending on the type of expense. These methodologies are designed to reflect the relative size and benefit of each business unit receiving the shared functions and services and the methodologies may include metrics like direct payroll, profitability, adjusted gross plant, adjusted capital expenditures and/or the specific level of effort or focus, among others, in determining the allocation basis. Chesapeake reviews and updates the allocation basis at the beginning of each fiscal year and, at times, adjusts the methodology during the year if a change in circumstances is warranted. (TR 138-139). To the extent the expenses are being incurred to support multiple business units of Chesapeake, it utilizes an allocation process to segregate costs between the applicable business units benefiting from the services provided. As part of the process to determine the appropriateness of the allocation, departments are first

reviewed to consider whether the costs apply to all of Chesapeake's business units or should be specifically allocated to selected business units.

For example, expenses to support Chesapeake's natural gas transmission, distribution and electric distribution operations should only be allocated to Chesapeake's regulated business units as these expenses reflect the expenses incurred to comply with regulated operations of the respective public service commissions or the FERC. To the extent costs are being incurred to support Chesapeake's unregulated business units, for example the Unregulated Accounting department, these expenses would not be considered for allocations to regulated business units including FPUC's operations. Generally, Chesapeake's corporate departments use one of the following three allocation methods: modified Distrigas, task-based, and capital expenditure-based. The first method is the modified Distrigas formula, which is based off of a FERC-approved formula attempting to weight various aspects of each of the business units to calculate the appropriate allocation. This formula incorporates three equally weighted factors: gross plant, operating income before interest and income taxes (as opposed to net revenues under Distrigas) and labor cost. Costs related to accounting and finance, IT network, data and desktop maintenance and support, human resources, internal audit, business development (this is shared services), security, safety, facilities, and communications are allocated using the modified Distrigas formula.

The second method is the task-based allocation, which considers the department's functions and assigns for each function the level of effort or focus to each business unit receiving its service. Chesapeake utilizes the task-based method to allocate the costs associated with, for example, the audit committee, project specific IT departments, management/leadership, treasury, regulatory affairs and specific IT systems. Based on the specific nature of these services, the task-based allocation method provides the most reasonable reflection of the benefit received by each business unit. The third method is the capital expenditure-based allocation, which is based on capital expenditures in each business unit to allocate costs. Costs associated with corporate governance, the Corporation's Board of Directors, (accounts payable here or task-based) and

investor relations, all of which are closely related to our growth, which is largely driven by capital expenditures, are allocated using the capital expenditure-based method. (TR 139-140).

OPC did not specifically identify a concern with the Company's removal of all non-utility activities, but nonetheless recommended adjustments to depreciation expense based on Witness Garrett's proposed revisions to the Company's proposed depreciation account lives and associated depreciation rates. OPC also recommended removal of amortization expense associated with the acquisition adjustment for Chesapeake's acquisition of FPUC, consistent with its recommendation to remove the acquisition adjustment from the Company's books. (Smith, 1155-1156). However, for the same reasons set forth in FPUC's positions on issues 5-7 and 18, these adjustments should be rejected. The Company has made all appropriate adjustments to remove non-utility activities.

Issue 34: Should an adjustment be made to the number of employees in the projected test year?

FPUC: *No. *

Argument: OPC Witness Smith argued that the number of employees in the projected test year has not been fully supported, largely based upon his apparent belief that the Company is anticipating a merger in the projected test year.

However, at hearing, Witness Galtman indicated that he was not aware of any proposed merger. (TR 184). Given the speculative nature of the suggestion by Witness Smith, there is simply no basis to rely upon any potential merger as a basis to reduce the number of employees included by the Company.

Issue 35: What is the appropriate amount of salaries ~~and benefits~~ to include in the projected test year?

FPUC: *The appropriate amount of payroll is $17,900,960. No adjustment should be made to remove a portion of incentive compensation expense from projected test year cost of service, nor to remove the associated payroll tax expense. The overall compensation paid by FPUC is reasonable. Likewise, no adjustments should be made to remove stock-based compensation expense from projected test year cost of service. OPC's recommended disallowances are inconsistent with sound regulatory policy and basic principles of ratemaking. *

Argument: As Witness Rudloff testified, FPUC's overall compensation package is designed to recognize that its employees perform the most critical role for the Company by ensuring that it provides safe, reliable, and efficient service to its customers. (Rudloff, Vol. 4, TR 637). Consistent with Chesapeake's core values, the Company's compensation package is designed to enable it to recruit, retain, and reward qualified employees on a level competitive with other utilities in the industry. Id. The total compensation package entails: Competitive salaries; annual incentive performance plans; Sign-On Bonuses; Driver incentives; Relocation assistance; Tuition Reimbursement; Company provided Life Insurance; Company provided Long Term Disability insurance; Four Medical plan options, including a Health Saving Account; Prescription plan; Vision Plan Flexible Spending Accounts and generous 401k Retirement Plan and a Roth 401(k) Savings Plan. (TR 639). FPUC provides the opportunity for employees to receive both their base pay and short-term incentive pay through the Company's Incentive Performance Plan ("IPP") which is based upon four key categories. In addition, employees within certain leadership roles are eligible for long-term incentive pay. As Witness Rudloff explained, this rewards structure is comparable to what is available in the market in both the utility and non-utility industry. (TR 640). The four key categories for assessment under the IPP are: 1. The Individual's Performance Rating (PR) annual score; 2. Chesapeake Corporate Earnings Per Share (EPS); 3. Consolidated Return on Equity (ROE); 4. Identified Non-financial goals (Safety for 2021). All employees are eligible for the IPP excluding those that are on commission-based plans, seasonal employees, summer help, and interns. (TR 641)

For employees on commission, an opportunity to earn more is available through "at risk" pay. Specifically, once a commissioned sales employee at FPUC is hired, that employee receives an initial salary "bridge" for the first few months of employment. After that, the salary bridge is removed, whereupon the employee earns their base pay, but is also eligible for unlimited commissions based on sales. (Rudloff, TR 642). For employees on commission, the Company utilizes this structure to encourage employees to build relationships with FPUC's customers and invest in educating them on the benefits of natural gas. (TR 643).

Witness Rudloff further testified that the Company has utilized a third-party vendor, Willis, Towers & Watson, to assist the Company in evaluating its salaries and benefits. This analysis resulted in a limited number of salary adjustments, but otherwise reflected that the Company's compensation package is comparable to the market. (TR 645).

Another third-party vendor, F.W. Cook, was hired to review executive compensation in the market and make recommendations to the Board of Directors on potential adjustments with the Company. The results of that analysis indicated that Chesapeake's CEO's total pay is within a reasonable range when compared to peer companies, as it is slightly below the total median pay given to CEOs at the other peer companies over the past three years. The overall conclusion of the analysis was that executive pay is within the lower end of the range offered to CEOs at peer utilities and reasonably aligned with performance. As such, the appropriate allocation should be recovered from customers in this rate proceeding. (Rudloff, TR 647). The witness concluded that the Company's compensation philosophy recognizes that its executive officers perform a critical role in ensuring that all our business units are providing safe, reliable, and efficient service to customers. The Company therefore included a combination of salary and benefits designed to attract and retain skilled leaders within the industry to ensure Chesapeake has the right people in place to maintain safe and reliable service to its customers. Consequently, the executive compensation allocated to FPUC is reasonable based upon the Company's performance and the market rate for executive compensation at peer companies. (Rudloff, TR

648). Compensation in the form of stock is also paid out as a supplemental employer contribution in the event certain corporate goals are met. (TR 649).

On cross, counsel for OPC questioned Witness Rudloff regarding the components of the IPP tied to earnings per share and the ROE. Here, Witness Rudloff clarified that the IPP and stock-based compensation are two separate compensation mechanisms. (TR 658, 660). Counsel for OPC also mentioned terms of settlement agreements with other Florida utilities that provided that certain parts of executive incentive compensation would not be charged to ratepayers. Witness Rudloff was unaware of these settlement terms. (TR 660). Moreover, such agreements within the context of settlements should have no bearing on this case, given that every negotiation involves a series of compromises by both parties to achieve a mutually satisfactory resolution. Counsel for FIPUG also inquired regarding differences in compensation for union employees. Witness Rudloff explained that, while these employees are subject to a collective bargaining agreement, the Company otherwise views them the same as non-union employees, meaning that they are eligible for the same benefits and merit increases associated with their performance. (TR 663). As for the stock-based compensation program, Witness Rudloff noted that such a program is common in the industry. (TR 659).

Witness Smith for OPC argued that 50% of the Company's IPP should be disallowed in order to provide an equal sharing of costs for the plan between shareholders and customers. (TR 1158-1159). Specifically, he suggested the disallowance should be reflected as 25% related to CUC's EPS performance category and (2) 25% related to the Consolidated ROE category. (TR 1158). He also recommended the associated payroll tax expense be removed. (TR 1159; Hearing Exhibit 60). He also recommended that the stock-based compensation program be removed in its entirety, primarily because he views this mechanism as only being in the interest of the Company's shareholders. As such, he argues, ratepayers should not be required to pay executive or management compensation that is based on the performance of the Company's (or its parent company's) stock price. (TR 1161).

On rebuttal, FPUC Witness Galtman testified that the Company benchmarks its compensation approach to its peers and other companies with whom it competes for talent. He elaborated that 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 specialized functions necessary for the benefit of Chesapeake and FPUC's customers. He emphasized that this is a highly competitive workforce market and that the Company also wants the best from our employees in terms of providing service and adaptability, while the Company must compete for employees in the face of changing market conditions. (TR 994). As such, he explained that the Company endeavors to strike an appropriate balance of "at risk" pay that is only recognized if the Company goals are met, while also providing appropriate base salaries. Without the ability to offer incentive compensation - or if the Commission disallows associated costs – the witness testified that base salaries would need to be increased for the Company to remain competitive with other companies also trying to attract and retain qualified employees. (TR 994)

He also rejected Witness Smith's assertion that incentive pay only benefits shareholders, noting that the notion that improving shareholder value is separate from the benefit received by ratepayers is just wrong and short-sighted. Instead, Chesapeake's performance components are designed to provide value to all stakeholders, including shareholders and customers. (TR 995). With regard to Witness Smith's breakdown of the proposed 50% disallowance, he also pointed out that Witness Smith failed to recognize 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. (TR 996). As for stock-based compensation, Witness Galtman argued that it is also an important component of the Company's overall compensation and necessary to attract and retain qualified individuals. He also noted that stock-compensation that is awarded to the Chesapeake Utilities' board of directors does not include payroll taxes and

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. (TR 999).

FPUC Witness Deason also addressed this issue, noting that acceptance of Witness Smith's recommendations in this regard would equate to a 120-basis-point reduction for the Company. (TR 1109). He noted two regulatory maxims in this regard: 1. Sound regulatory policy is to provide recovery of all reasonable and necessary costs expected to be incurred to provide service to customers; and 2. regulated utilities should be encouraged to be efficient and provide high quality service to their customers. He emphasized that sacrificing efficiency and quality of service in the long run simply to achieve temporary rate reductions is not in the customers' interest. (TR 1110). Witness Deason further argued that Witness Smith abandoned the "reasonableness" standard in his analysis and merely objects to the IPP because it encourages meeting corporate financial goals, which he notably does not argue are harmful to ratepayers. To the contrary, Witness Deason explained that FPUC's use of Chesapeake financial performance measures in its incentive compensation plan simply mirrors financial reality, properly focuses FPUC's employees on the financial performance of Chesapeake, and does, in fact, benefit FPUC's customers because FPUC obtains one hundred percent of its investor-supplied capital necessary to serve customers from Chesapeake. (TR 1112). Accepting Witness Smith's recommendations in this regard would eliminate a managerial tool for the Company, reduce its opportunity to earn a fair and reasonable return, and is otherwise consistent with prior Commission decisions. (TR 1114-1115)[9] Moreover, sharing the cost between shareholders and ratepayers does not align with the fact that incentive compensation is a cost of providing service to customers, and as such, it is properly paid for by customers in their rates just like any other cost of providing service. (Deason, TR 1118).

As demonstrated by the record of the Company's IPP plan and stock-based compensation should both be allowed in full as they are appropriate, reasonable mechanisms of compensation

[9] *Citing* Order No. PSC-92-1197-FOF-EI, and Order No. PSC-02-0787-FOF-EI.

that help the Company attract and retain qualified personnel, while also encouraging employees to do their very best for the Company. Ultimately, a healthy Company provides safe, reliable service to its customers and can attract capital at better rates. This ultimately is a benefit for the Company's customers. As such, FPUC asks that the amount reflected in the projected test year for its employee compensation package be approved.

Issue 37: Should an adjustment be made to remove a portion of Directors and Officers Liability ("D&O") insurance expense from projected test year cost of service?

FPUC: *No. Purchasing a D&O Liability insurance policy is necessary to attract and retain qualified employees and directors. Reducing these amounts negatively impacts fiduciary oversight, governance and overall risk management. It also increases the risk of exposure to material legal fees. *

Argument: As noted in Witness Napier's testimony, the liability insurance account was projected based upon a detailed analysis of historical activity, as well as known claims. (Napier, TR 202). Witness Russell elaborated that Chesapeake's standard liability insurance payable to its directors and officers as indemnification (reimbursement) for losses or advancement of defense costs in the event an insured suffers such a loss as a result of a legal action brought for alleged wrongful acts in their capacity as directors and officers. (Russell, TR 304).
OPC's Witness Smith argued for removal of ½ of the expense from the projected test year.

For all of the same reasons set forth under Issue 22 with regarding to OPC's identical arguments as they pertain to removal of ½ of the expense in working capital, FPUC maintains that OPC Witness Smith's arguments should be rejected. Not only is Witness Smith's rationale for removing ½ of the expense wrong-headed, but his analysis is inconsistent with prior decisions on D&O insurance and natural gas utilities. [10] FPUC has provided a well-reasoned

[10] See, Order No. 09-0411-FOF-GU.

analysis for inclusion of the allocated amount of D&O liability expense in the projected test year; therefore, no adjustment should be made to remove any portion of the amount reflected.

Issue 38: Should the projected test year O&M expenses be adjusted to reflect changes to the non-labor trend factors for inflation and customer growth?

FPUC: *No additional adjustments are necessary. The trend factors used by the Company were based on the best estimates at the time and any changes would still be estimates. Current inflation estimates are higher than filed estimates, but the Company is not seeking an additional adjustment. *

Argument: As Witness Napier testified, the Company separated FERC accounts into payroll and non-payroll. Adjustments were made to remove out of period items. The historic amounts were then normalized for either one-time, out of period items, reclassifications between FERC accounts, or to increase expenses to post-COVID levels, for a more accurate projection. Trend factors were then applied that were reflective of each account and consistent with prior Commission decisions regarding FPUC. Certain accounts were not trended but were projected based on direct cost estimates provided by internal management, among those being: property insurance, injuries and damages, rate case expense and rent. (Napier, TR 209-210). The specific trend factors used were: (a) inflation, (b) customer growth, (c) payroll growth, (d) inflation and customer growth and (e) payroll and customer growth and based on whether the costs were payroll or non-payroll. (TR 212; Hearing Exhibit 123 – MFR G-2). The factors for customer growth, unit (therms) growth and revenues are based on a detailed analysis and the results from revenue-related projections used within this rate proceeding. Payroll expense was trended using the payroll factor, while the non-payroll accounts were trended based on the type of expense involved and the most appropriate trend factor for the account. (Napier, TR 213). There were accounts appropriately projected on a direct basis using either expert analysis associated with a particular account or specific information already available as to that account.

Income taxes were projected using the projected taxable operating income less calculated interest expense and other deductions multiplied by the current state and federal tax rates. (TR 215). Of note, there is no Investment Tax Credit ("ITC") amortization remaining for the projected test year. Id. The storm reserve, as addressed later herein, was projected for the expanded service territory coverage and projected increasing storm activity. (TR 216).

Likewise, Witness Galtman testified that Administrative and General ("A&G") expense, of which a portion is allocated to the Florida business units, was trended forward based upon inflation. In addition, to the trended increases of historical expenses, a direct projection was also included for expenses necessary to address certain market conditions, ensure compliance with regulatory changes and continue to maintain safe and reliable operations for FPUC's operations. (Galtman, TR 144-145).

Neither OPC nor FIPUG presented testimony or evidence in opposition to FPUC's position on this issue. The positions of the other parties would seem to suggest that there is some level of agreement in this regard. As the record reflects, the Company has fully supported its position in this regard and thus, no additional adjustments for inflation and/or customer growth should be made.

Issue 39: What is the appropriate annual storm damage accrual and cap?

FPUC: *The appropriate annual accrual to the reserve is $10,000 with retention of the current cap on the reserve of $1,000,000. *

Argument: As noted previously herein, the Company requests that the annual accrual to the storm reserve be increased from $6,000 to $10,000. The Company is not seeking an increase to the cap that is currently set forth the reserve. The increase is due to the fact that the existing reserve and accrual were established based solely on the FPUC Natural Gas Division and was not contemplated to cover the entire consolidated entity. The requested increase in the accrual was therefore based upon the expanded footprint of the consolidated Company, as well as projected increased storm activity with the precise amount of the increased accrual determined

by applying the inflation and growth compound multiplier of 1.7307. (Napier, Vol. 2, TR 202, 214, 216; Hearing Exhibit 123, Hearing Exhibit 79).

At hearing, counsel for OPC asked a series of questions suggesting that an increase in the accrual is not necessary because the reserve has not been depleted since it was established, and the balance has not fallen below $600,000. (TR 269-270). However, as reflected in Hearing Exhibit 79, the balance has trended downward since 2016, over which period it has, again, only been debited by the FPUC Natural Gas Division.

Neither OPC nor FIPUG presented testimony or other evidence regarding FPUC's requested increase to the storm accrual. Both, however, took the position that the accrual should remain at current levels.

FPUC has, nonetheless, demonstrated a need to increase the accrual to ensure that the reserve is able to meet the needs of the consolidated Company and the increased risk of storm damage across a broader service area, as well as projected increases in storm activity. FPUC's request is reasonable and fair. Moreover, it is in the best interests of the Company's rate payers that FPUC have a well-funded reserve in the event that it does incur storm damage. As such, FPUC asks that its requested increase in the accrual to the storm reserve be approved.

Issue 40: Is a Parent Debt Adjustment pursuant to Rule 25-14.004, Florida Administrative Code, appropriate, and if so, what is the appropriate amount?

FPUC: *No. FPUC is not a borrower under any third-party debt arrangement. As FPUC has no third-party debt, there is no tax deduction for interest expense recorded on the subsidiary's Federal income tax return. *

Argument: As Witness Galtman testified, none of the FPUC/Chesapeake subsidiaries in this case carry any debt of their own, nor are they borrowers under Chesapeake's debt instruments. (TR 170-171).

OPC Witness Smith argued, nonetheless, that the Parent Debt Adjustment prescribed by Rule 25-14.004, Florida Administrative Code, should be applied to reflect the income tax benefit

of parent debt that may have been invested in the equity of the subsidiary, which is a rebuttable presumption under the Rule. (Smith, Vol. 7, TR 1169). Witness Smith computed his adjustment based on OPC's recommended rate base for the Company and Witness Garrett's recommendation of the appropriate debt ratio, which he then multiplied by the Company's cost of debt and by the federal income tax rate. Id.

In response, FPUC's Witness Reno testified that application of the parent debt adjustment in this case would be inappropriate because there is no "double leverage" tax benefit that needs to be captured. (Reno, Vol. 6, TR 1013). Witness Reno further explained that FPUC is not a borrower under any third-party debt arrangement, and instead relies upon the debt of its parent, Chesapeake. Since FPUC has no debt, there is no deduction for income tax expense recorded on its federal income tax return; and thus, no duplicated tax benefit between Chesapeake and FPUC. Id. While it has no debt of its own, an allocated portion of Chesapeake's capital structure is taken into account in FPUC's rate base. As such, an allocated portion of the parent's tax benefit of interest expense is also allocated to FPUC and deducted from income tax expense. (TR 1014; Hearing Exhibit 123- MFR Schedule G-3). This interest synchronization fully addresses the duplicative tax benefit contemplated by the Parent Debt Adjustment, since FPUC has no debt of its own. (TR 1015).

FPUC has presented sufficient evidence in this proceeding to successfully rebut the presumption set forth in Rule 25-14.004, F.A.C., that a parent debt adjustment is necessary. In this case, such an adjustment would be duplicative of the interest synchronization already included by the Company. As such, the Parent Debt adjustment is not appropriate or necessary in this case.

<u>Issue 41:</u> Should an adjustment be made to Regulatory Commission Expense for Rate Case Expense for the projected test year, and what is the appropriate amortization period?

FPUC: *The amount should be adjusted to reflect the Company's most recent estimate. Otherwise, no further adjustment is necessary, and the appropriate amortization period is five years. *

Argument: As Witness Cassel testified, the Company is requesting a total rate case expense of $3,427,574 to be amortized over a period of five years at $685,515 annually. (Cassel, Vol. 1, TR 71). The projected costs are expenses based on specific forecasts for consultants hired to help prepare and support the rate case, as well as the cost for legal representation. The amount included is necessary due to the fact that the Company does not retain a sufficient number of employees with all of the specific types of expertise necessary to adequately support a full rate proceeding. While in-house staff are used to support the case, expertise in the areas of rate design, depreciation, and cost of capital are brought on to help when a rate case is necessary. Additional legal assistance for the administrative litigation is also necessary, as typical. (Cassel, TR 71-72). If the Company were to actually maintain staffing at the levels necessary to support a rate proceeding, its overall payroll expense would be much higher, which would be inappropriate given that FPUC does not regularly file rate requests. In this way, the Company is able to keep its payroll expense lower but retains the appropriate resources when necessary. (TR 71). As for the amortization period, Witness Cassel testified that 5 years is the appropriate period based upon the usual time frame between rate cases for the Company. (TR 71).

FPUC notes that in discovery, it provided the updated rate case expense amount of $3,672,702, reflecting more recent projections based on workload associated with this proceeding. (Hearing Exhibit 85).

Neither OPC nor FIPUG presented testimony or other evidence disputing FPUC's rate case expense amount; rather, OPC's position suggests that it agrees with the amount and the amortization period but would object to any increase. FIPUG adopted OPC's position.

FPUC has provided sufficient evidence and testimony to fully support the amount of rate case expense, as well as the proposed 5-year amortization period. There does not appear to be a

dispute in this regard. As such, the amount, adjusted for the most recent estimate, and period proposed by the Company should be approved.

<u>Issue 42:</u> Should an adjustment be made to Uncollectible Accounts and for Bad Debt in the Revenue Expansion Factor?

<u>FPUC:</u> * No adjustment is necessary for Uncollectible Accounts, but the expansion factor should include bad debt since the projected test year uncollectible expense is based on the current level of revenue. In addition, the Company's proposal to remove bad debt expense from base rates for recovery in the clauses should be approved or an additional $125,369 of bad debt expense needs to be added back in to the base rate calculation.*

<u>Argument</u>: As reflected in Hearing Exhibit 123 and Hearing Exhibit 60, there seems to be no debate between the parties as it pertains to the revenue expansion factor and net income multiplier. There seems to be agreement that the appropriate revenue expansion factor is 74.1067% and the net income multiplier is appropriately set at 1.3494. The methodology for calculating these factors is set forth in MFR G-4 Consolidated. (Hearing Exhibit 123). As further explained by Witness Napier, the bad debt factor used in the revenue expansion factor was calculated on a consolidated basis based upon the Commission decision in Order No. PSC-2021-0058-PAA-GU to allow the Company to file the MFRs in this case on consolidated basis. (Hearing Exhibit 85).

Here, the Company notes that it proposed a specific issue to address the Company's request to move bad debt expense from base rates into the respective clauses. That proposed issue was rejected by Commission staff; however, FPUC's proposal, and its calculations in the MFRs for bad debt expense, reflect FPUC's proposal. Specifically, as outlined by Witness Cassel, the Company calculated the total projected bad debt expense in the test year based upon the projected write-off factor, similar to the method used in prior cases. However, instead of including the total projected bad debt expense in the revenue requirement for base rates, the Company proposed that a portion of bad debt be assigned to each rate component based on the

percentage of projected revenues recovered through each particular rate component. Witness Cassel offered the example that, if 70% of the Company's projected revenues were recovered through base rates, 70% of the projected bad debt expense would be allocated to base rates. The remaining portion of bad debt would be allocated proportionally for recovery through the other clauses. (Cassel, Vol. 1, TR 62). He further explained that the Company will apply the write-off factor for each customer class to the corresponding rate components for that customer class and adjust the clause rate accordingly to include the write-off factor within the total rate calculation. Thereafter, each time the corresponding surcharge rate changes, the rate will be grossed up to include the write-off factor, similar to how the Company's PGA rate is grossed up to include taxes. (TR 63).

Witness Cassel then explained that the Company's rationale for this proposed adjustment to the collection of bad debt expense is because the various surcharge rates change more often than base rates. Because bad debt is a function of the Company's total revenue and not just base rates, it is more appropriate to recover the costs associated with bad debt from each rate component instead of collecting the total cost through base rates. This approach ensures that the Company's bad debt revenue recovery is adjusted as the clause rates change to more accurately recover the actual bad debt expense incurred instead of the current method, in which bad debt revenue recovery is fixed in between rate cases. (TR 63). Witness Cassel further emphasized that, as proposed by the Company, the bad debt expense associated with the various clauses is not included in the Company's requested revenue increase. Therefore, if the Commission denies the Company's request to move a portion of bad debt expense into the clauses, then the bad debt expense included for purposes of calculating the necessary revenue increase will need to be increased by $125,369. (Hearing Exhibit 123, MFR Schedule G-2 Consolidated).

Neither OPC nor FIPUG addressed the Company's request as it pertains to moving bad debt expense.

The Company nonetheless acknowledges that the Commission has denied similar requests in prior cases before the Commission.[11] However, in the prior FPL case, FPL requested the adjustment to add bad debt to the clauses, largely because "including the clause bad debt as a clause recoverable cost ensures that the estimate is consistent with and related to the clause revenues that are not collected." Order No. 2010-0153 at pg. 142. In that case, OPC contested the move and the Commission concluded that there was no compelling reason to make the adjustment and that it would increase the need for regulatory oversight. Id. Similarly, the Commission reached the conclusion in the Peoples Gas decision that Peoples Gas has not provided a sufficient basis in the record to justify changing the Commission's practice. Order No. 09-0411 at pg. 29. Notably, in both decisions the Commission did not find that either proposal resulted in a misallocation of expense or other similar error in calculation and recovery of bad debt expense; rather, the Commission simply concluded that the respective companies had not provided a sufficient basis to change from the existing Commission practice.

In this case, the Company has provided a detailed explanation of how the adjustment to move the clause-related bad debt into the respective clauses. Moreover, the Company has identified a problem with the current method of recovering bad debt expense in that bad debt is a function of overall revenue, not just base rates. As such, as explained by Witness Cassel, it is more appropriate to capture bad debt associated with the clauses through the clause surcharges, because as the bad debt expense collected will change as the clause surcharges change, ensuring that a more accurate representation of bad debt associated with each clause is collected. (TR 63) As such, the Company respectfully asks that its request to move bad debt expense out of base rates for recovery through the appropriate clause surcharges be approved. Likewise, no adjustment should be made to Uncollectible Accounts or the Company revenue expansion factor. If, however, the Commission rejects the Company's request to move the bad debt expense associated with the cost recovery clauses into the respective clauses for recovery, the Company

[11] Order No. PSC-09-0411-FOF-GU, issued June 9, 2009, in Docket No. 20080318-GU; and Order No. PSC-2010-0153-FOF-EI, issued March 17, 2010, in Dockets Nos. 080677-EI and 090130-EI.

asks that bad debt expense included in the calculation of the Company's revenue requirement be increased by $125,369. (Hearing Exhibit 123, MFR Schedule G-2 Consolidated).

Issue 44: What is the appropriate amount of projected test year O&M expenses? (Fallout Issue)

FPUC: *The total revised O & M expense is $43,913,407. *

Argument: As Witness Napier testified, O&M expenses were projected using the historic year as the starting point, making all necessary adjustments as reflected in this rate proceeding for the historic year and either trending those forward with an appropriate trend factor, or directly projecting the expense using the expertise of internal managers or known items impacting certain expenses as a basis for the projection, which were then reviewed by internal managers and analysts and were determined to be a good estimate for expected recurring prudent costs during the projected test year.. (Napier, Vol. 2, TR 209). Normalization adjustments were made, as appropriate, while others were trended and still other items were direct projected. (TR 209-210). As reflected by Hearing Exhibit 66, the Staff Audit sponsored by Staff Witness Brown, the O&M expense balances were adequately supported by source documentation, utility in nature, did not include non-utility items, and were recorded consistent with the USOA.

OPC Witness Smith proposed adjustments as addressed under specific issues herein. Nonetheless, consistent with the arguments previously set forth under the issues addressing those adjustments, FPUC has provided sufficient evidence and testimony in this proceeding to support O&M expense in the amount of $43,913,407.

Issue 45: Do FPUC's adjustments to Florida Common and Corporate Common depreciation and amortization expense allocated appropriately reflect allocations among FPUC's gas division, FPUC's electric division, and non-regulated operations? If not, what additional adjustments, if any, should be made?

FPUC: *Yes, the allocations reflect allocations to both electric and non-regulated divisions. *

Argument: As noted previously under Issue 13, Chesapeake uses allocation factors based on plant in service, base revenues, and payroll. (Napier, TR 198; Galtman, TR 139). As further noted in MFR Schedule G-6, Florida Common and Corporate Common plant and accumulated depreciation were allocated using the 2021 allocation factors which were based on estimated usage of the assets. (Hearing Exhibit 123). The full allocation of depreciation and amortization expense is reflected in MFR Schedule G2-25. (Hearing Exhibit 123). As further set forth in Hearing Exhibit 79, ECIS-related plant was appropriately allocated to FPUC with the associated depreciation expense related to "Florida Common" and "Corporate Common" recorded in account 403 depreciation expense and removed from account 921. The Company also explained therein that costs related to "Florida Common" buildings and the furniture and equipment housed in them, including depreciation expense, were allocated to each regulated and non-regulated division by building and the assigned duties and estimated time spent by the employees housed in the building. The total accumulated depreciation reserve for common plant for the 2023 13-month average decreased by $94,860 when the new depreciation rates sponsored by Witness Lee were applied. Using FPUC's allocation from common plant of 28.70%, the impact on FPUC's accumulated depreciation is an increase of $27,225 which is also the impact on FPUC's 2023 test year rate base.

Staff Witness Brown noted no exceptions in terms of intercompany allocations and further noted all non-utility operations were removed. (Hearing Exhibit 66) He also noted that the allocation of common depreciation expense was reconciled to the general ledger with no exceptions noted. Id.

Neither OPC nor FIPUG presented testimony or other evidence contrary to FPUC's position regarding the allocation of depreciation expense, although OPC has calculated depreciation expense amounts based upon the analysis recommended by OPC's Witness Garrett. Nonetheless, as set forth under Issue 14 and further presented in this Issue, the Company has met

its burden of proof that it has appropriately allocated depreciation expense among FPUC's gas division, FPUC's electric division, and non-regulated operations. As such, no adjustments should be made.

Issue 46: What is the appropriate amount of depreciation expense to include in the projected test year for FPUC's GRIP program?

FPUC: *The appropriate amount of depreciation expense to include in the projected test year for the FPUC's GRIP program is $3,575,342, which is based on the adjusted GRIP-related plant investment amount multiplied by the respective new proposed depreciation rates for mains and services. *

Argument: The total annual depreciation expense for GRIP-related plant investments for the projected test year is $3,575,342 when the new depreciation rates sponsored by Witness Lee are applied. This amount includes $2,350,496 for plastic mains in Account 376G and $1,224,846 for plastic services in Accounts 380G. The GRIP project is projected to be completed in 2022 and has no new plant or reserve activity estimated in 2023. Revised Exhibit PSL-2, Sch. C, (Hearing Exhibit 14) reflects total GRIP-related investments of $195,899,859, the new prosed rates for GRIP, and the new annual calculated depreciation expense of $3,575,342. Schedule G-1 included $195,886,503 for GRIP-related plant investment. This $13,356 difference is due to inadvertently excluding the reclassification of a retirement from Account 376G to Account 3762. (Hearing Exhibits 14 and 74).

Neither OPC nor FIPUG proposed adjustments to GRIP-related depreciation expense, although OPC Witness Smith did propose adjustments to overall depreciation expense based upon OPC Witness Garrett's changes to the Depreciation Study. (Hearing Exhibit 60). To the extent that the outcome of this issue relies in part on the arguments set forth in Issues 5-7 herein, FPUC adopts and incorporates those arguments here. FPUC has carried its burden of proof to demonstrate the correct amount of depreciation expense in this case, include GRIP-related

depreciation expense. As such, the Commission should determine that depreciation expense to include in the projected test year for the FPUC's GRIP program is $3,575,342.

Issue 47: What is the appropriate amount of Depreciation and Amortization Expense for the projected test year? (Fallout Issue)

FPUC: *The appropriate amount is $14,674,376.*

Argument: Based upon the amounts included in the MFR G2 schedules, with appropriate adjustments addressed herein, and adjusted for the Company's proposed Depreciation Study and new depreciation rates, the appropriate amount of depreciation and amortization expense in the projected test year is $14,674,376. (Hearing Exhibit 123, Hearing Exhibit 14, Hearing Exhibit 79, and Hearing Exhibit 93).

Issue 48: What adjustments, if any, are appropriate to account for interest synchronization?

FPUC: *No adjustments are necessary. The Company has appropriately accounted for interest synchronization. *

Argument: OPC Witness Smith argued that further adjustments should be made for interest synchronization since OPC's recommended revisions to FPUC's rate base and capital structure will impact income tax expense related to the amount of the regulated utility's jurisdictional debt supporting the jurisdictional rate base. He maintained that this results in an additional reduction to income tax expense in the amount of $133,877. (Smith, Vol. 7, 1168; Hearing Exhibit 64).

However, as FPUC Witness Reno emphasized, Witness Smith's adjustment is only appropriate if FPUC's rate base and debt/equity ratios are modified as OPC has recommended. Without the capital structure adjustments, there is not a corresponding interest synchronization adjustment to FPUC's cost of service amounts. (Reno, TR 1015)

As set forth under various specific issues herein, OPC's recommended adjustments to FPUC's rate base and recommended capital structure adjustments are not appropriate. Thus, consistent with the Company's positions set forth herein, no additional interest synchronization adjustment should be made.

Issue 49: Should any adjustments be made to the amounts included in the projected test year for amortization expense associated with the acquisition adjustment?

FPUC: *No. The amount of amortization expense should be $1,139,808. *

Argument: For all of the reasons set forth under Issue 18, which FPUC adopts and incorporates for purposes of this Issue 49, the amortization expense in the amount of $1,139,808 should not be adjusted, consistent with retention of the acquisition adjustment on the Company's books.

Issue 50: What is the appropriate amount of projected test year Taxes Other than Income?

FPUC: *The appropriate amount of projected test year Taxes Other Than Income is $7,566,334.*

Argument: As set forth in MFR Schedule G-2, the appropriate level of Taxes Other Than Income is $7,566,334. (Hearing Exhibit 123).

OPC Witness Smith suggested that a reduction in the amount of $188,619 for payroll tax expense based on his recommended changes to the Company's IPP, as previously addressed under Issue 35. (TR 1159; Hearing Exhibit 60).

Consistent with the Company's position set forth under Issue 35, the record demonstrates that the Company's IPP plan should be allowed in full as it is an appropriate, reasonable mechanism of compensation that helps the Company attract and retain qualified personnel, while also encouraging employees to do their very best for the Company. As such, the IPP should be retained, and the associated payroll tax expense should not be disallowed.

Issue 51: What is the appropriate amount of projected test year Income Tax Expense (Fallout Issue)

FPUC: *The appropriate amount of projected test year income tax expense is $2,422,856. *

Argument: Witness Napier testified that Net Operating Income has been adjusted to reflect the tax effect of synchronizing interest expense to rate base. Consistent with Commission practice, the synchronized or calculated interest expense was computed by multiplying the jurisdictional adjusted rate base by the weighted cost of debt included in the cost of capital. This adjustment ensures that the calculated revenue requirement reflects the appropriate tax deduction for the interest component of the revenue requirement calculation. In addition, consistent with FPUC's last rate case, the Company applied an income tax synchronization. (TR 209)

Total income taxes for the test year ended December 31, 2023, were projected using the projected taxable operating income less calculated interest expense and other deductions multiplied by the current state and federal tax rates. Adjustments to the resulting amount along with timing differences were estimated by the corporate office of Chesapeake. These calculations are shown on MFR Schedules G2-27 and G2-28 for 2022 and G2-30 and G2-31 for 2023. (Napier, TR 215; Hearing Exhibit 123). Additional adjustments have been to the amount identified to recognize the stipulations approved for Issues 35 and 43.

FPUC's Witness Reno explained that FPUC uses an effective tax rate of 25.35%, which accounts for both the applicable federal and state tax rates. The Company also adjusted its federal taxable income for the historic base year ending 12/31/2021, the historic base year +1 ending 12/31/2022, and the projected test year ending 12/31/2023 to account for book expense items that are not deductible for tax purposes. (Reno, Vol. 3, TR 492-493). Other appropriate adjustments were made to protected and unprotected Accumulated Deferred Income Tax ("ADIT") consistent with the ARAM method and Order No. PSC-2019-0076-FOF-GU, respectively. (TR 493-494)

OPC Witness Smith recommended a decrease in income tax expense of $133,877, reflecting his further interest synchronization adjustment addressed in Issue 48. (Hearing Exhibit 60). Witness Smith made total adjustments impacting total income tax expense resulting in a $735,797 increase, which included the $133,877. (Hearing Exhibit 64).

Consistent with the Company's position set forth under Issue 48, Witness Smith's additional interest synchronization adjustment should be rejected. Based upon the evidence put forth in this proceeding, the appropriate amount of Income Tax Expense in the projected test year is $2,422,856.

Issue 52: What is the appropriate amount of Total Operation Expenses for the projected test year? (Fallout Issue)

FPUC: *The appropriate amount of total operating expenses for the projected test year is $68,576,974. *

Argument: Based upon the testimony in this proceeding as reflected in the testimony of FPUC's Witnesses Napier, Reno, and Lee in particular, as well as the adjustments discussed in the foregoing issues and to account for the stipulations of Issues 35 and 43, the appropriate amount of total operating expenses for the projected test year is $68,576,974.

Issue 53: What is the appropriate amount of Net Operating Income for the projected test year? (Fallout Issue)

FPUC: *The appropriate amount of Net Operating Income for the projected test year is $12,728,343. *

Argument: Using the historic test year as an appropriate baseline, the Company has made all of the appropriate adjustments to net operating income, as set forth in the testimony of Witness Napier. (Napier, Vol. 2, TR 205-209; Hearing Exhibit 123 – MFR Schedules G2 page 1 of 31-page 3 of 31).

OPC Witness Smith made an additional adjustment of $5,378,053, which is the combined amount of his adjustments to depreciation expense for OPC Witness Garrett's depreciation study adjustments, to amortization expense related to the Acquisition Adjustment, Incentive Compensation expense, Stock-Based Compensation expense, Payroll Tax expense, Supplemental Executive Retirement Program (SERP) expense, D&O Liability Insurance Expense, rent expense, lobbying costs, interest synchronization, Parent Debt Adjustment, and Company Sponsored Events. (Hearing Exhibit 60, Hearing Exhibit 64).

As set forth more specifically under the issues addressed herein, OPC's recommended adjustments are not appropriate and should not be approved, with the exception of Witness Smith's SERP adjustment, which has been incorporated in the stipulation of Issue 35. Otherwise, the Company has met its burden and fully supported the appropriate amount of Net Operating Income for the projected test year of $12,728,343.

REVENUE REQUIREMENTS

Issue 54: What are the appropriate revenue expansion factor and the appropriate net operating income multiplier, including the appropriate elements and rates for FPUC?

FPUC: * The appropriate revenue expansion factor is 74.1067% and the appropriate net operating income multiplier is 1.3494. *

Argument: Consistent with the evidence and arguments addressed under Issue 42 above which the Company adopts for purposes of this issue as well, the appropriate revenue expansion factor is 74.1067% and the net income multiplier is appropriately set at 1.3494.

Issue 55: What is the appropriate annual operating revenue increase for the projected test year? (Fallout Issue)

FPUC: *The appropriate annual operating revenue increase for the projected test year is $42,094,548, which includes the roll in of the GRIP revenues of $19,755,931. *

Argument: Incorporating its arguments and stipulations in the preceding issues, the Company maintains that the appropriate annual operating revenue increase for the projected test is $42,094,548, which includes the roll in of the GRIP revenues of $19,755,931. This amount includes all appropriate adjustments and is well-documented in the testimony and exhibits provided by the Company.

COST OF SERVICE AND RATE DESIGN

Issue 56: Should FPUC's proposal to consolidate its cost of service for Florida Public Utilities Company, CFG, Fort Meade, and Indiantown be approved?

FPUC: * Yes. The proposed consolidated structure balances concepts of cost of service, efficiency in rates, simplicity, and feasibility – ultimately resulting in alignment and modernization. *

Argument: As Witness Cassel testified, Consolidation of the four natural gas business units will ensure that: (1) customers continue to receive safe and reliable natural gas service from an efficient, unified company; and (2) the utility continues to be able to meet the growing demand for natural gas service in all of its service areas. As such, the Company is requesting consolidation of the rates, use of a unified rate structure, and recognition that these entities are now a single operation unified under the name Florida Public Utilities Company. (Cassel, Vol. 1, TR 41).

Witness Taylor addressed the Cost of Service and Rate Design of FPUC, including the proposed consolidated rate structure and Cost of Service. As present, across the four operating divisions, there are 54 different rate classes. The Company is proposing to move to just 16 rate classes. While not proposing to fully consolidate rates across all four divisions, consolidation of the rate structure is consistent with sound principles of rate design and balances concepts of cost of service, efficiency in rates, simplicity, and feasibility – ultimately resulting in alignment and modernization through a consolidated rate structure. (Taylor, Vol. 3, TR 551-554). Using the

Commission-prescribed, Excel-based cost-of-service model, Witness Taylor developed a consolidated cost-of-service study to appropriately assign costs to serve based upon a more modern, simplified, and consolidated rate structure, rather than the current structure, which could be characterized as antiquated, overly complicated and ripe for alignment and modernization. (Taylor, TR 546, 564, 566). In addition, in response to questions from counsel for FIPUG, Witness Taylor testified that he was not aware of any adverse impacts for industrial customers associated with the consolation. He also testified that a block rate structure had been included for one of the larger industrial classes in order to take into account bill impacts and try to moderate the increase that certain customers would have seen through the alignment of rates. (TR 566).

On this issue, OPC and FIPUG differed somewhat, with OPC agreeing that consolidation was appropriate as long as it is not discriminatory, and FIPUG indicating it is not appropriate. Nonetheless, neither OPC nor FIPUG provided any testimony or evidence to contradict the testimony put forth by the Company regarding consolidation. The Company has met its burden of proof to demonstrate that consolidation is in the best interest of its ratepayers, because a unified structure is consistent with sound principles of rate design and will promote a simpler, more modern rate structure. As such, FPUC's proposal to consolidate should be approved.

Issue 57: Is FPUC's proposed cost of service study appropriate?

FPUC: *Yes. The Excel-based cost of service model provided by the PSC as part of the Minimum Filing Requirements was utilized to develop proposed cost of service study in this filing. *

Argument: As set forth in the previous issue, Witness Taylor developed a consolidated cost-of-service study to appropriately assign costs to serve based upon a more modern, simplified, and consolidated rate structure, rather than the current structure, which could be characterized as antiquated, overly complicated and ripe for alignment and modernization using the Commission-

prescribed, Excel-based cost-of-service model. (Taylor, TR 546, 564, 566). He further testified that the fundamental philosophy applicable to all cost studies is the concept of cost causation to allocate costs to customer groups. (TR 545). As reflected in the Company's MFR Schedules H, the results of these allocations are summarized showing the current rate of return for each rate class and the revenue requirement at an equal rate of return. (TR 546; Hearing Exhibit 123). Witness Taylor noted that the Company had used the prescribed Excel model in its three previous rate filings, and that his review indicated that this cost-of-service study aligned with prior studies for the Company. (TR 547). The inputs to the model were obtained from the Company's revenue requirement information. Where more detailed information was necessary, the data were derived from the historical books and records of the Company and information provided by Company personnel. (TR 547). MFR Schedule H-1 reflects the difference between the computed revenue requirement and the revenue that would be derived without making any rate changes, and that difference equals the Company's Net Operating Income deficiency. (Taylor, TR 548; Hearing Exhibit 123). Thereafter, the overall rate design process consists of finding a reasonable balance between the various principles applicable to rate design. Economic, regulatory, historical, and social factors are all considered in the process. (Taylor, TR 550-551).

FIPUG was the only party to object specifically to FPUC's proposed cost of service study, while OPC agreed that it is appropriate, assuming it is non-discriminatory. Neither OPC nor FIPUG offered any testimony or other evidence contrary to FPUC Witness Taylor's testimony and sponsored cost of service study. FPUC's cost of service study is reasonable, consistent with regulatory principles regarding cost causation and rate design, and fully supported by the record. Appropriate consideration has been given to the cost of providing service to the classes, as well as the rate history, value of service, and experience, as well as the consumption and load characteristics of the various classes of customers. The Company has also considered whether proposed rate structure is fair, understandable, and transparent for its

customers.[12] As such, the Commission should find that FPUC's cost of service study is appropriate.

<u>Issue 58:</u> Are FPUC's proposed consolidated residential and commercial rate classes appropriate?

<u>FPUC:</u> *Yes. The proposed rate case structure provides simplicity and transparency as the current rate structures are overly stratified and unnecessary. *

<u>Argument</u>: The current rate structures are overly stratified and the overall number of different rate classes unnecessary. Atrium performed a detailed analysis of the customers' premises and related annual consumption of therms based on the historical year 2021 to recommend which customers to move into which proposed classes. As Witness Taylor emphasized, the main consideration was to move customers from existing classes to the new ones that reflected similar customer type and annual consumption. All customers were grouped into homogeneous groups to understand the Company's customer structure from the consolidated perspective and their consumption behaviors. (Taylor, TR 552-553; Hearing Exhibit 18). Witness Taylor acknowledged that the consolidation process could not match each present rate class to a proposed rate class in every instance due to the differences in the current rate structures across the business units. If they did match up, the witness added that there still would have been dozens of rate classes remaining. (TR 553). Because there is no exact match, new applicability thresholds resulted in some instances where customers on the same existing rate class were moved to different proposed rate classes. Nonetheless, each individual customer was assigned to the proposed consolidated classes according to their customer type and annual consumption. (Taylor, TR 554; Hearing Exhibits 19 and 20). Other factors such as tariff schedule simplicity and transparency, customer transition and impact, current service structure, and gas usage

[12] <u>See</u>, Section 366.06(1), F.S.

applicability levels were also considered in the analysis while developing the proposed consolidated structure. (Hearing Exhibit 82).

To be clear, the Company is proposing to fully consolidate the rate classes and rates of only Florida Public Utilities Company (Natural Gas Division) and Florida Division of Chesapeake Utilities Corporation d/b/a Central Florida Gas. Florida Public Utilities Company-Fort Meade and Florida Public Utilities Company-Indiantown Division will also have the same rate classes, but the rates will differ for customers of those divisions. As such, there will be three sets of proposed rates applicable to three service areas: (1) Florida Public Utilities Company (Natural Gas Division) and Florida Division of Chesapeake Utilities Corporation d/b/a Central Florida Gas, (2) Florida Public Utilities Company-Fort Meade 12 and (3) Florida Public Utilities Company-Indiantown Division. (Taylor, 552).

As it pertains to this issue, FIPUG was again the only party to object specifically to FPUC's proposed consolidated residential and commercial rate classes, while OPC agreed that it is appropriate, assuming it is non-discriminatory. Neither OPC nor FIPUG offered any testimony or other evidence to rebut the evidence put forth by FPUC through Witness Taylor. FPUC's consolidated residential and commercial rate classes are appropriate, provide simplicity and transparency, and are fully supported by the record. As such, the Commission should find that FPUC's consolidated residential and commercial rate classes are appropriate.

Issue 59: Are FPUC's proposed customer charges for Florida Public Utilities Company, CFG, Fort Meade, and Indiantown appropriate?

FPUC: *Yes. Customer charges for the consolidated rate classes were set to minimize bill impacts for customers with different usage ranges and differing existing customer charges. *

Argument: Witness Taylor testified that, as with the appointment of revenues, setting the customer charges for the consolidated rate classes was done to minimize bill impacts for customers with different usage ranges and differing existing customer charges. Thus,

consideration was given to current customer charges across the group of customers on the consolidated rate class. (Taylor, TR 558). The Cost-of-Service Study produced charges for the residential classes (RS-1, RS-2, and RS-3) and small general service customers (GS-1 and GS-2) that would have resulted in a significant increase. Witness Taylor offers, as an example, that strict reliance on the Cost-of-Service model would have resulted in a monthly Customer Charge for Residential-3 of $37.87. The Company is, instead, proposing a $26.50 per month customer charge for the Residential-3 rate class. Existing customer charges were above the unit costs for the larger general service classes, which is a desirable outcome for these size customers. This represents the recovery of fixed demand-related costs through the fixed monthly customer charge. (TR 558). He further testified that the customer charge rates for the Residential and Commercial Standby Generator Service were moved closer to the indicative unit costs in the Cost-of-Service Study to reflect these customers are being provided access to the distribution system but may use gas rarely. In addition, the Company developed a new block rate structure for its largest industrial customers and proposed to close the two smallest residential classes to new customers. (TR 559; Hearing Exhibit 20; Hearing Exhibit 75).

As it pertains to this issue, FIPUG, as with the previous two issues, was again the only party to object specifically to FPUC's customer charges for the consolidated rate classes while OPC agreed that it is appropriate, assuming it is non-discriminatory. Neither OPC nor FIPUG offered any testimony or other evidence to rebut the evidence put forth by FPUC through Witness Taylor. FPUC's customer charges for the consolidated rate classes are appropriate and are fully supported by the record. As such, the Commission should find that FPUC's customer charges for the consolidated rate classes are appropriate.

Issue 60: Are FPUC's proposed per-therm distribution charges for Florida Public Utilities Company, CFG, Fort Meade, and Indiantown appropriate?

FPUC: * The appropriate methodology for developing rates by first calculating the portion of revenues recovered through the customer charge and then recovering the remaining targeted revenues through the volumetric charges is that set forth by FPUC Witness Taylor. The rates,

however, should be adjusted to reflect approved depreciation rates, and the adjustments and stipulations otherwise reflected herein. *

Argument: Developing rates begins first with calculating the portion of revenues recovered through the customer charge and then recovering the remaining targeted revenues through the volumetric charges. (Taylor, TR 560). The volumetric block charges for the largest customers (GS-8) will allow for the mitigation of bill impacts by a closer alignment between the current volumetric rates across these existing rate classes and proposed rates. (Taylor, TR 560). The per therm, or volumetric charges, are set forth on MFR Schedule H-1. (Hearing Exhibit 123; Hearing Exhibit 20; Hearing Exhibit 75). To derive monthly forecasted volumes, the total annual forecasted volumes were allocated among the months based on the historical monthly data. The monthly therm use per customer was derived by dividing the monthly forecasted volumes by the forecasted annual total customers. (Hearing Exhibit 75).

As it pertains to this issue, FIPUG was again the only party to object specifically to FPUC's proposed per therm distribution charges, while OPC agreed that it is appropriate, assuming it is non-discriminatory. Neither OPC nor FIPUG offered any testimony or other evidence to rebut the evidence put forth by FPUC through Witness Taylor. FPUC's per therm distribution charges are appropriate and are fully supported by the record. As such, the Commission should find that FPUC's per therm distribution charges are appropriate, subject to adjustment for approved depreciation rates, and the adjustments and stipulations otherwise reflected herein.

Issue 61: Are FPUC's proposed consolidated miscellaneous service charges appropriate?

FPUC: *Yes. The consolidated and standardized miscellaneous service charges are appropriate and reflect the cost to the Company to provide each of the individual charges to customers. *

Argument: Witness Grimard testified that the Company is proposing to increase its miscellaneous service charges, apply them across the consolidated FPUC platform, and apply certain new miscellaneous service charges. (Grimard, Vol. 4, TR 670-671; Hearing Exhibit 33).

All miscellaneous charges were calculated and determined by using consolidated processes and costs for each individual activity. Differences in current and proposed charges are a result of consolidation and standardization of processes, expenses, as well as the impact over time on the Company's costs to perform each service since the last time the miscellaneous service rates were calculated. (Hearing Exhibit 83). The Company is seeking approval to add i) a Bill Collection with Service Disconnect Charge and ii) a Late Payment Charge for the Florida Division of Chesapeake Utilities. For the Indiantown Division, the Company is proposing to add a i) Failed Trip Charge, ii) Temporary Disconnection Charge, iii) a Late Payment Charge, and iv) Bill Collection with Service Disconnect Charge. In the FPUC and Ft. Meade Divisions, the Company is proposing to add a Bill Collection with Service Disconnect Charge. While these charges are indicated as being "added" for certain divisions, they will apply across the FPUC platform, and the reflection that they are "added" simply means that those charges are new for that particular division and customer base. (Grimard, TR 670-671).

Witness Everngam explained that all miscellaneous charges were developed through a cost-of-service analysis, whereby each service charge was independently evaluated in order to determine the appropriate cost and revenue requirement. Company personnel reviewed historical work orders, and Company field technicians, as well as the customer service team, were consulted in the process. Each component of each task for which a charge was being developed was identified, tagged, and assigned a completion time frame. Labor costs, transportation costs and overheads were applied to the tasks based upon the estimated time to perform the job. Additionally, all materials and supplies necessary for completion of the task were identified. Then, based upon the information derived, final service charge amounts were determined. (Everngam, Vol. 4, TR 703).

On cross, counsel for OPC inquired of Witness Grimard regarding the amount of the increase in miscellaneous service charges, whereupon Witness Grimard emphasized that the charges were derived from a cost of service described by Witness Everngam. As such, the

charges reflect the Company's costs to provide these services, which have gone up more than $10 over the years. (TR 684).

Only FIPUG specifically objected to FPUC's proposed consolidated and standardized miscellaneous service charges. While OPC took the position that it agreed that they are appropriate, assuming they are non-discriminatory, counsel for OPC did conduct cross-examination at hearing suggesting that the increases were too much. However, as set forth herein, the charges are based upon a cost-of-service analysis for the tasks involved, and thus, they are based upon a reasonable assessment of the costs to perform the tasks involved for customers. Neither OPC nor FIPUG offered any testimony or other evidence to rebut the evidence put forth by FPUC regarding the miscellaneous service charges or the basis for the costs used to develop them. As such, the Commission should determine that FPUC's consolidated and standardized miscellaneous service charges are appropriate.

Issue 63: Is FPUC's proposed Environmental Cost Recovery Surcharge an appropriate mechanism to recover environmental remediation costs related to FPUC's former manufactured gas plant sites?

FPUC: *Yes. A surcharge will provide the Company with a timely mechanism to recover necessary environmental remediation costs, which can then be terminated when all clean-up costs are incurred and recorded. If the surcharge is not approved, the Company's expenses should be increased by $627,995.21 a year with a revenue requirement of $632,644. *

Argument: As Witness Cassel testified, FPUC has traditionally recovered environmental remediation costs through its base rates. However, the Florida Division of Chesapeake Utilities Corporation ("CFG") has, in the past, collected environmental remediation costs through a surcharge.[13] (Cassel, TR 57-58). Given that there are still several Manufactured Gas Plant remediation sites on the consolidated FPUC system, the Company considered which mechanism

[13] Order No. PSC-10-0029-PAA-GU, issued in Docket No. 20090125-GU (Petition for 2 Rate Increase by Florida Division of Chesapeake Utilities Corporation).

is the more appropriate mechanism for recovery of these types of costs. The Company concluded that the surcharge mechanism is the better approach, because the surcharge can be set and recovered over a more defined period of time. Also, a consolidated surcharge approach provides consistency across the consolidated platform, as well as rate predictability and standardization for the recovery of these environmental costs. (Cassel, TR 58). As Witness Grimard testified, proposed Tariff Sheet Nos. 7.419 through 7.420 reflect the Company's proposed Environmental Cost Recovery Surcharge, which would encompass costs associated with remediation activities for all consolidated FPUC service areas. (Grimard, Vol. 4, TR 674). The proposed mechanism will provide a means for timely recovery of environmental costs, while also allowing for an efficient termination of the surcharge when recovery is complete. (Cassel, TR 60). Witness Cassel committed that the Company would provide an annual report on the status of the clean-up efforts at the various remediation sites, as well as a schedule reflecting both the clean-up costs and the amounts recovered from customers. All costs and recovery amounts would continue, as appropriate, to be subject to a Commission audit. The Company further proposed that a final true-up filing be made after all expenses have been incurred and recorded, with a proposal addressing disposal of any over-or under-recovery. (Cassel, TR 61).

Utilization of a surcharge approach for recovery of these types of costs is not novel, given that the Commission has approved this approach for CFG in the past, and currently uses a similar approach for recovery of these types of costs by electric investor-owned utilities as reflected by the ongoing Environmental Cost Recovery Clause, currently addressed in Docket No. 20220007-EI.

Although both OPC and FIPUG took positions opposing FPUC's request to use a surcharge mechanism, neither party presented testimony or other evidence to controvert that presented by the Company in this regard. Utilizing a surcharge mechanism is an administratively efficient and easily reviewable mechanism for recovery of these types of costs and can be more readily terminated when costs are fully recovered. And, again, it is not a novel suggestion. The Company has met its burden of proof in this regard and a surcharge for this purpose is consistent

with regulatory policy. As such, the Company's request to implement a surcharge mechanism for the purpose of recovering environmental remediation costs should be approved.

<u>Issue 64:</u> Are FPUC's non-rate related tariff changes appropriate?

<u>FPUC:</u> *Yes. *

<u>Argument</u>: Witness Grimard addressed several non-rate related tariff changes proposed by the Company. By and large, the proposed changes are for purposes of clarification and to reflect consolidation of the business units. Among the few items that do rise to a level above administrative are the proposed changes to implement Individual Transportation Service and to apply the telemetry equipment requirement for transportation customers across the consolidated platform. (Grimard, Vol. 4, TR 676-677). The Company further noted in discovery responses that the telemetry requirement is not expected to impact any existing customers, because those that the tariff would require have telemetry equipment installed already have it. (Hearing Exhibit 82). The Company has proposed that its Letter of Authorization ("LOA") be changed to require the non-residential transportation customers and pool managers to execute the LOA prior to the electronic enrollment of the customer into one of the Company's transportation service programs. The Company is also requesting that the security requirement calculation for pool managers be corrected, and that language be added to the tariff pertaining to a pool manager's performance related to non-delivery penalties, operational flow orders, and alert day penalties be clarified. (Grimard, TR 679).

As it pertains to this issue, FIPUG was again the only party to object specifically to FPUC's proposed non-rate related tariff changes, while OPC agreed that they are appropriate, assuming they are non-discriminatory. Neither OPC nor FIPUG offered any testimony or other evidence to rebut the evidence put forth by FPUC's Witness Grimard. FPUC's non-rate related tariff changes are appropriate and are fully supported by the record. As such, the Commission should find that FPUC's non-rate related tariff changes are appropriate.

Issue 65: What is the appropriate effective date of FPUC's revised rates and charges?

FPUC: *The appropriate effective date for FPUC's revised rates and charges should provide an appropriate period for providing notice to customers, but in no instance should it be set beyond the 1st quarter of 2023. *

OTHER ISSUES

Issue 66: Should the Commission approve a rate adjustment mechanism in the event State or Federal income tax rates change in the future?

FPUC: *Yes. The Company's proposed mechanism provides a fair mechanism to ensure an appropriate amount of state and federal taxes are collected should there be adjustments to tax rates due to future tax reform changes. *

Argument: Witness Cassel testified regarding the Company's proposal to implement a mechanism that would address the impacts of future changes to tax rates. He emphasized that the Company has reflected the current tax law in the MFRs that are the basis for this case but added that there is the potential for federal or state tax reform. As such, the Company has proposed that a one-time base rate adjustment be made within 120 days of any change to the federal or state corporate tax rate becoming law. To calculate the adjustment, the Company would use the forecasted surveillance report for the calendar year when tax reform would take place to calculate the impact of tax reform on current rates and develop a uniform percentage change to base rate charges for each customer class to reflect the tax change. This adjustment would remain in effect until the tax rates change again or the Company files another base rate proceeding, whichever comes first. (Cassel, Vol. 1, TR 55-56). Witness Cassel explained that the Company believes implementation of such a mechanism is appropriate and beneficial to both the Company and its customers, because it will allow an administratively efficient means to adjust base rates to reflect changes in the tax rate and would flow the impact of the new tax rate through in a timely manner – whether the rate change is an increase or decrease. (TR 56). At hearing, counsel for OPC suggested on cross examination of Witness Cassel that there was no need for such a

mechanism given that it has been some time between rate cases for any of the consolidated FPUC entities. (TR 107). However, the mere lack of such a mechanism in the past does not demonstrate that implementation of such a mechanism going forward is inappropriate.

Counsel for OPC also referred to Prehearing Order PSC-2017-0099-PHO-EI from Gulf Power's 2017 rate case, wherein the Prehearing Officer in that proceeding determined that an issue proposed by OPC regarding the handling of tax changes was rejected and suggested that for the Commission to consider FPUC's requested mechanism in this case would be arbitrary. (TR 108). However, in the referenced Order, the Prehearing Officer merely rejected the issue because it was premature, and in that case, it is important to note that Gulf Power had not asked for implementation of any mechanism or methodology to address tax changes. In this proceeding, the Company has proactively asked for such a mechanism. Moreover, in light of OPC's suggested issue in that 2017 Gulf Power case, it is somewhat surprising that OPC is not more amenable to such a mechanism.

In his testimony, Witness Cassel acknowledged that the only other utilities in the state that have a similar mechanism in place were able to implement such mechanisms based upon negotiated settlements. (Cassel, TR 56). While the Company acknowledges that settlements may not, generally, be considered precedential or binding upon the Commission, it is worth noting that the proposed mechanism is not a novel proposal. Even further, it is well-established that the Commission enjoys broad authority over rates and ratemaking.[14] The Commission does not need a settlement process to establish a regulatory mechanism. Counsel for OPC also suggested, on cross examination, that the proposed mechanism does not take into consideration potential tax credits, but Witness Cassel noted that the proposed mechanism is intended only to address the impact on rates of tax rate changes. (TR 115).

Counsel for OPC also asked FPUC Witness Galtman about whether the proposed mechanism could apply to the tax changes implemented by the Inflation Reduction Act of 2020

[14] See, e.g., Gulf Power Company v. Bevis, 296 So. 2d 482, 487 (Fla. 1974) ("As pointed out by the Commission, it has considerable discretion and latitude in the rate-fixing process."); and City of Miami v. FPSC, 208 So. 2d 249 (Fla. 1968) (stating that the Public Service Commission has considerable discretion in the ratemaking process).

("IRA") or if it would only apply to new tax rate changes. Witness Galtman testified that much would depend upon what the Commission approves, but he also noted that the IRA did not impact tax rates for FPUC or Chesapeake, because it contains a tax change triggering mechanism based on total income, which is significantly above the income that impacts Chesapeake Utilities currently. (Galtman, TR 180).

The rate adjustment mechanism proposed by the Company to effectuate adjustments to base rates in the event State or Federal income tax rates change is a reasonable and administratively efficient means for addressing changes in tax rates promptly so that the increases – or decreases – are flowed through rates in a timely manner. Implementation of this mechanism will reduce regulatory lag for the benefit of both the Company and its customers. The Company has met its burden to demonstrate that the proposal is a reasonable and fair approach to addressing tax changes; moreover, the proposal is not a novel concept. Neither OPC nor FIPUG has presented testimony or other evidence to counter FPUC's evidence that implementation of such a mechanism makes good sense. Instead, it appears, based upon cross examination at hearing, that the main concern of OPC is that this proposal is now before the Commission in the context of a litigated proceeding, as opposed to a negotiated settlement. As for OPC's references to tax credits, FPUC suggests that such references are merely a red herring meant to overcomplicate the issue before the Commission, when the proposal is, in fact, quite simple. FPUC has met its burden and demonstrated that its proposal is reasonable, efficient, and fair. It should therefore be approved.

Issue 68: Should any portion of the interim increases granted be refunded to the customers?

FPUC: *No. The Company's interim rates, and interim revenue requirement, do not exceed the final rates and revenue requirement that should be approved. *

Argument: As reflected herein, the appropriate final revenue requirement for FPUC exceeds that amount of the interim increase approved by Order No. PSC-2022-0308-PCO-GU. As such, no refund of the interim increase is appropriate.

Issue 69: Should FPUC be required to file, within 90 days after the date of the final order in this docket, a description of all entries or adjustments to its annual report, rate of return reports, and books and records which will be required as a result of the Commission's findings in this rate case?

FPUC: *Yes. *

Issue 70: Should this docket be closed?

FPUC: *Yes. This docket should be closed after the time for filing an appeal has run.*

III. Conclusion

For all the reasons set forth herein, the Company respectfully asks that the Commission determine that the Company's present rates are insufficient to yield a fair rate of return and further authorize the requested revenue increase, consolidation, cost of capital and return, cost of service, depreciation study, and retention of the acquisitions adjustments as requested by the Company. The new rates resulting from the Company's request will allow FPUC the opportunity to earn a fair return, as well as maintain its financial integrity and ability to provide safe and efficient service to its customers.

RESPECTFULLY SUBMITTED this 2nd day of December, 2022.

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Docket No. 20220067-GU
December 2, 2022

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing filing has been served by Email this 2nd day of December, 2022, upon the following:

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Attachment "A"

Stipulated Issues (Including Type 2)

The issues that were stipulated, in whole or in part, are set forth as follows:

Issue 8: What should be the implementation date for revised depreciation rates, and amortization schedules?

Stipulated Position: *The effective date should be January 1, 2023. * (Type 2 Stipulation)

Issue 10: Is FPUC's adjustment to move existing Area Extension Program (AEP) projects into rate base appropriate? If so, what additional adjustments, if any, should be made?

Stipulated Position: *FPUC's Accumulated Depreciation related to the AEP shall be increased by $85,698. * (Type 2 Stipulation)

Issue 15: What is the appropriate level of Miscellaneous Intangible Plant for the projected test year?

Stipulated Position: *FPUC shall continue amortizing balances related to rights granted for Wayside and Deland South natural gas stations until fully amortized and a true-up amortization entry shall lower FPUC's projected average rate base by $85,839. * (Type 2 Stipulation)

Issue 19: What is the appropriate level of Construction Work in Progress (CWIP) to include in the projected test year?

Stipulated Position: *The appropriate amount related to CWIP that should be included in rate base is $7,130,484. * (Type 2 Stipulation)

Issue 20: Have under recoveries and over recoveries related to the Purchased Gas Adjustment and Energy Conservation Cost Recovery been appropriately reflected in the Working Capital Allowance?

Stipulated Position: *The projection assumed over/under recoveries for 2021 would be collected in 2022 and therefore, no under or over recoveries were included in 2023's working capital. * (Type 2 Stipulation)

Issue 32: Has FPUC properly removed Purchased Gas Adjustment and Natural Gas Conservation Cost Recovery Revenues, Area Extension Plan Revenues, Expenses, and Taxes Other than Income from the projected test year?

Stipulated Position: *Yes. * (Type 2 Stipulation)

Issue 35: What is the appropriate amount of salaries and benefits to include in the projected test year?

Partial Stipulated Position (Benefits only): *The appropriate amount of benefits is $2,914,960.* (Type 2 Stipulation)

Issue 36: What is the appropriate amount of pensions and post-retirement benefits expense to include in the projected test year?

Stipulated Position: *The total revised pension expense is a $34,320 credit, which is based on the filed amount of $42,900 credit and increased for the self-reported corrections in response to Citizen's Production of Documents number 56 of $8,580. * (Type 2 Stipulation)

Issue 43: Should an adjustment be made to reduce rental expense from the projected test year?

Stipulated Position: *The rental expense shall be reduced by $78,249 in the projected 2023 test year. * (Type 2 Stipulation)

Issue 62: Is FPUC's proposal to modify its existing AEP appropriate?

Stipulated Position: *Yes. * (Type 2 Stipulation)

Issue 67: Should FPUC's proposal to modify its Extension of Facilities tariff to provide the Company with the option of requiring a Minimum Volume Commitment from non-residential customers be approved?

Stipulated Position: *Yes. * (Type 2 Stipulation)