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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20240023-WS

Application for increase in water and
Application for certificates to provide
water and wastewater service and approval
of initial rates and charges in Lake
County, by North Lake County Water &
Sewer Company LLC.

_____ /

PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NO. 4

COMMISSIONERS
PARTICIPATING: CHAIRMAN MIKE LA ROSA
COMMISSIONER ART GRAHAM
COMMISSIONER GARY F. CLARK
COMMISSIONER ANDREW GILES FAY
COMMISSIONER GABRIELLA PASSIDOMO

DATE: Thursday, August 8, 2024

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

REPORTED BY: DEBRA R. KRICK
Court Reporter and
Notary Public in and for
the State of Florida at Large

PREMIER REPORTING
TALLAHASSEE, FLORIDA
(850) 894-0828

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

2 CHAIRMAN LA ROSA: So we are going to move on
3 to Item No. 4, but before we do that, we are going
4 to just take kind of a quick five-minute break and
5 call timeout just for a few seconds before we hear
6 Item No. 4. So we will jump back in here at 11:20.

7 Thank you.

8 (Brief recess.)

9 CHAIRMAN LA ROSA: All right. So let's call
10 the meeting back to order.

11 Where we left off was Item No. 4. Obviously,
12 there is some discussions going on. I believe
13 there is some paperwork that's been dropped off at
14 our desks as the Commissioners up here.

15 So let me go to -- I just -- let me start with
16 a summary of you Item No. 4, Ms. Ramirez-Abundez,
17 one you are recognized.

18 MS. RAMIREZ-ABUNDEZ: Good morning,
19 Commissioners.

20 Item No. 4 is staff's recommendation on North
21 Lake County Water & Sewer Company, LLC, application
22 for original certificate to provide water and
23 wastewater services in Lake County. North Lake
24 will provide water and wastewater services to
25 approximately 535 residential and three commercial

1 customers.

2 Staff recommends the application for water and
3 wastewater certificates to be approved.

4 Additionally, staff's recommended water and
5 wastewater rates are shown in Schedule No. 1 of the
6 recommendation. Jenna Price from Office of Public
7 Counsel is present to address the Commission, and
8 Marty Friedman is present on behalf of the utility
9 to answer your questions.

10 CHAIRMAN LA ROSA: Awesome. Thank you very
11 much.

12 So let's start with OPC. You are recognized.

13 MS. WESSLING: Thank you, and good morning,
14 Commissioners.

15 I do have some prepared, you know, arguments
16 and whatnot to make, but I also -- I believe there
17 is agreement between the parties on a resolution of
18 this matter, but I don't know staff's position --

19 CHAIRMAN LA ROSA: Sure.

20 MS. WESSLING: -- so I just --

21 CHAIRMAN LA ROSA: So why don't you highlight
22 us on the resolution. We will hear from the
23 applicant afterwards, and after -- preceding you
24 guys, and then we will -- I will look to staff to
25 get their comments and thoughts, and then we can

1 kind of bounce it from there if it's necessary.

2 MS. WESSLING: Sure.

3 And, again, Alli Wessling on behalf of Office
4 of Public Counsel, and also Charles Rehwinkel, and
5 entering an appearance for Walt Trierweiler.

6 Essentially, the agreement between the parties
7 is that we would add -- I can do the line item. If
8 you look on the application, we were going to add,
9 for water, 16,000 in estimated expense, and for
10 regulatory commission expense, 1,000, which would
11 be a 3.5 percent increase for the water rate. And
12 then on the wastewater side, we were proposing to
13 add \$40,000 for the purchase power estimated
14 expense, and \$4,000 for the insurance expense. And
15 together, that would land at a 10.7 percent
16 increase in the wastewater rates.

17 And I am happy to explain our rationale behind
18 that, but that's essentially what we've proposed,
19 and what Mr. Friedman has, correct me if I am
20 wrong, Mr. Friedman, but I believe we are on the
21 same page, and he is amenable to that, but just
22 need to hear from staff.

23 CHAIRMAN LA ROSA: Okay. Can -- do you mind
24 just maybe highlighting your ration -- you don't
25 have to go into too much of the details, but just

1 kind of describing the purpose for the increase?

2 MS. WESSLING: Sure. So our purpose of being
3 here today was because we believed had the
4 estimated expenses for these original water and
5 wastewater rates for this -- for these future
6 customers is underestimated significantly,
7 materially. We are concerned that without -- I
8 don't -- I passed out an exhibit, so I hope all of
9 you have that.

10 But the first page is the North Lake County
11 Water. It's a front and back page, so it's got the
12 estimated water and wastewater expenses on there.
13 And you can see there is only estimated expenses
14 for four line items for contract services there,
15 and we are concerned that without having the other
16 estimated information, such as salaries and wages,
17 purchased power, chemicals, materials, supplies,
18 without having at least estimates for those --
19 obviously, we are just asking for estimates. We
20 are not asking anyone to be perfect here -- but
21 just having estimates there would help get these
22 rates to as close as realistic for future customers
23 as possible.

24 So we are concerned that that information was
25 not there, and that approving this certificate

1 without having those estimates could result in rate
2 shock ultimately for those future customers who,
3 perhaps, would buy with an expected rate thinking
4 they knew what their rate was going to be, and then
5 once the utilities are turned on, and other
6 expenses that could have been estimated start
7 getting incorporated and a rate hike is necessary
8 to cover those expenses, that that would be
9 somewhat of an ambush to those customers.

10 So that's our concern, and that's why, you
11 know, we are proposing -- I know it's unusual for
12 OPC to ask for, you know, higher rates. Probably
13 the first time, at least certainly that I have done
14 it. But I -- we do believe that that's the best
15 way to prepare future customers for what their
16 realistic original rates are going to be.

17 And, plus, this being the original certificate
18 case, this is the chance. This is the opportunity
19 for the Commission to set rates for the very first
20 time for these customers. So we just hope that we
21 can get them as close to possible -- to what they
22 are ultimately going to be as possible so that we
23 can avoid both potentially a, you know, a challenge
24 here if this is approved as is, but also avoid the
25 Commission having to have another rate increase

1 immediately after these utilities are turned on and
2 these customers have to start paying for these
3 expenses that could have been addressed here.

4 CHAIRMAN LA ROSA: Excellent. Thank you for
5 the depth on that.

6 So let's go to Mr. Friedman, representing
7 North Lake.

8 MR. FRIEDMAN: Thank you, Mr. Chairman,
9 Commissioners. Marty Friedman man on behalf of
10 North Lake.

11 This is an original certificate application.
12 A utility that hasn't been operating, so it's got
13 no -- no actual operating expenses, and so Ms.
14 Swain put together the financial report to estimate
15 whatever the expenses were, recognizing that when
16 the plant begins operation, some expenses will go
17 down, some will go up, some will be new, some will
18 go away. I mean, that's just the nature of having
19 to set rates based upon estimates, you know, a good
20 year or so before they start incurring those
21 expenses.

22 That was filed on January 23rd of this year,
23 this financial report from the utility, and Public
24 Counsel didn't say anything for six months. And
25 then less than a week before the Agenda was

1 originally scheduled, I get a threatening email
2 from OPC that says, you know, defer this matter or
3 we are going to have to protest it. And the timing
4 is a problem.

5 As you know, the statute doesn't give the DEP
6 the authority to issue any permits until the
7 utility has a certificate. So getting the
8 certificate is of utmost important from a timing
9 standpoint. Obviously, if Public Counsel would
10 have raised these issues earlier and timing weren't
11 a problem, shoot, why wouldn't we accept a higher
12 rate? But the only reason we don't is because we
13 can't afford to defer it, and we agree. I mean, if
14 you want do it today it, we agree with the numbers
15 that Public Counsel has set forth, those two
16 percentages. If we just increase the rates by
17 those percentages, we are okay with that, as long
18 as a decision is made today.

19 I mean, that's why you have such a short
20 turnaround time on original certificates, is
21 because of DEP's prohibition. And so the
22 Legislature decided they didn't want to slow down
23 the environmental DEP permitting process by a
24 lengthy PSC proceeding to get a certificate. So
25 you had 90 days to do it, and everybody did the

1 best they could to put this together.

2 Like I say, if Public Counsel would have
3 commented earlier, I am sure we would have been
4 able to address it. I am sure the staff would have
5 loved for Public Counsel to have raised these
6 issues earlier too so we could have done it. But
7 doing it after the staff recommendation is just not
8 timely.

9 That said, as Public Counsel pointed out, we
10 would certainly agree to a 3.5 percent increase in
11 water rates and 10.7 in wastewater rates if you
12 approved it today.

13 The utility didn't start out to artificially
14 keep their rates low. In fact, when I got the
15 OPC's protest, or OPC's threatening letter, I
16 looked at y'all's -- y'all keep a comparative
17 analysis of rates every year. And as of the end of
18 last year, if you look at those, North Lake would
19 have the highest rates in Lake County anyway. So
20 it's not like we are trying to keep the rates low
21 for marketing purposes.

22 Like I say, that said, if you will accept what
23 OPC proposes, we are agreeable.

24 Thank you.

25 CHAIRMAN LA ROSA: Thank you. A question to

1 -- just to make sure I clari -- or I understand.
2 The expectations for this development in which the
3 application is for, your expectations are that
4 first quarter of 2025 is your deliveries?

5 MR. FRIEDMAN: I think that's -- I think
6 that's -- yeah, it's next year. Yeah.

7 CHAIRMAN LA ROSA: Okay. Thank you.

8 OPC.

9 MS. WESSLING: Without going into -- or down
10 that read road, just we categorically deny that
11 there was anything threatening about an email to
12 opposing counsel. There was nothing threatening
13 about it.

14 But more importantly, there is also nothing
15 late about what OPC has done here. As everyone in
16 this room knows, and has also experienced, this has
17 been an extremely busy summer for both OPC and the
18 Commission, and I am sure everyone here, and our
19 resources have been stretched extremely thin. And
20 we saw the recommendation. We reviewed it. We
21 contacted both staff and Mr. Friedman last week to
22 try to have a discussion. And I even gave everyone
23 everything early this morning. So there is nothing
24 late or anything about what we've done in this
25 case.

1 We simply want these customers to have
2 realistic expectation of what their rates are going
3 to be. That's why we are here, and that's what we
4 are happy to answer any other questions about.

5 CHAIRMAN LA ROSA: Understood.

6 Let's go to staff to get their thoughts, their
7 insight of what I am going to call the compromise,
8 but I am not really sure that's what we are talking
9 about, but what's being proposed maybe.

10 MR. SANDY: Good afternoon, Commissioners.
11 Ryan Sandy on behalf of the Office of General
12 Counsel.

13 If we may -- if we may have another five
14 minutes, I think that would allow staff to review a
15 few more items so that they can make an informed
16 recommendation as to what you have heard this
17 morning, and I think that would assist them a great
18 deal.

19 CHAIRMAN LA ROSA: Yeah. I agree. That's --
20 let's do that.

21 So I will grant an additional five minutes
22 with the intent to kind of reconvene here at 11:40.

23 Thank you.

24 (Brief recess.)

25 CHAIRMAN LA ROSA: All right. I am going to

1 -- I will go and look to staff.

2 Are we -- are we good? Do you -- do you have
3 what you need maybe to kind of give us an idea or a
4 thought on what's being proposed?

5 MR. SANDY: Yes, Mr. Chair.

6 Ultimately, Commission staff has not had an
7 opportunity for scrutinizing the added expenses
8 that OPC has proposed this morning. And obviously,
9 their agreement with Mr. Friedman will result in
10 higher rates, arguably.

11 However, at the same time, since they've
12 reached an agreement, the Commission staff is
13 willing to defer to their agreement, understanding
14 that they have not -- that your Commission staff
15 has not reviewed these increased expenses for
16 whether they are either adequate or necessary.

17 So with that in mind, the Commission staff
18 would defer to what they've agreed to. And, I
19 guess -- and with that, I believe this matter is
20 ready for your vote.

21 CHAIRMAN LA ROSA: Okay. All right.

22 Excellent. So let's -- so I will bring it back to
23 us, as Commissioners.

24 Commissioners, are there thoughts, discussion
25 on what we hear before us today?

1 Commissioner Graham, you are recognized.

2 COMMISSIONER GRAHAM: This is just a quick
3 question, I guess to staff. If -- we can deal with
4 this today, and we can vote it through. And if
5 staff has a problem with it, this just being a PAA,
6 you can protest it, couldn't you?

7 MS. HELTON: The staff cannot protest it, Mr.
8 Chair -- Mr. Commissioner.

9 COMMISSIONER GRAHAM: If only it were that
10 easy, huh? I mean -- but there is always some
11 mechanism -- I guess, we couldn't protest it
12 because we agreed to it.

13 I guess what I am trying to say is, just like
14 any other DO, we can agree to a DO, but if staff
15 sees a red flag, you know, two weeks from now, at
16 least Marty and his client can still move forward
17 doing what they got to do, and we can make the
18 changes to the numbers as we see fit.

19 MS. HELTON: Well, I think there is a couple
20 of things going on here.

21 In the past, we have, at the request of the
22 petitioner who is seeking a new certificate, if
23 they filed a rule waiver, we have bifurcated the
24 certificate -- certificate from setting rates.

25 That might be something we want to contemplate and

1 send a signal about going forward in the future so
2 we aren't put in this position, is one
3 recommendation.

4 The other thing is, the Commission always has
5 jurisdiction over the rates that it sets. So that
6 if down the road, we determine for some reason that
7 the rates aren't fair, just and reasonable, then
8 it's -- the Commission has that ability to go back
9 and look at the rates, and change the rates if the
10 record is there to do so.

11 COMMISSIONER GRAHAM: Well, I am not looking
12 to push the utility back through any sort of a rate
13 case, but we can -- we can stop the horse from
14 getting out of the barn?

15 MS. HELTON: I am -- I am not sure how to do
16 that. Once you vote and issue your PAA order,
17 unless there is a protest by a valid person, a
18 request for hearing by a valid person, I am not
19 sure how to do that.

20 COMMISSIONER GRAHAM: Mr. Baez.

21 MR. BAEZ: I think what you are worried about
22 is an event that's going to happen. It's a
23 legitimate concern, obviously, but they are not
24 even in operation yet. So the moment is going to
25 come down the road where there is going to be a

1 reckoning of whether the numbers that were
2 estimated for these purposes were correct or not,
3 to the good and to the bad, because you would get
4 -- you would get the company coming in for a rate
5 case to adjust their expenses based on actual or
6 real -- or truer numbers, right? The actual
7 numbers.

8 So I think your concern is going to get --
9 would be addressed in due course once all of these
10 numbers actually become real, once bills start
11 going out and plants are in operation and so forth.
12 So for your purposes, I think you are covered.

13 COMMISSIONER GRAHAM: So there is really no
14 need to panic about anything because it's just like
15 anything else, it's an estimate that we are making
16 judgment calls off of.

17 MR. BAEZ: Right. I try never to panic, so on
18 those terms, that -- yeah, I would tell you now is
19 -- we are -- now is not the time to panic,
20 certainly.

21 COMMISSIONER GRAHAM: Thank you.

22 CHAIRMAN LA ROSA: I am going to go to
23 Commissioner Clark because it's specific to what's
24 being asked.

25 COMMISSIONER CLARK: I think I am kind of on

1 the same page with Commissioner Graham, trying to
2 make sure I understand something, but maybe staff
3 can help me with this mental clarification.

4 We are looking at an increase in the expenses.
5 The company still will not be allowed to operate
6 outside of its normal -- its approved rate of
7 return. So this adjustment, giving them a
8 10-percent increase, would still have the
9 protection parameter of the return on equity in
10 this case.

11 So while it may happen in the -- the odds of
12 them even getting close to that in the first two
13 years of operation are probably very slim to begin
14 with. When you look at the final and audited
15 numbers after they've -- after everything has
16 settled out after the first two years, odds are we
17 are going to be well within the rate of return to
18 begin with.

19 I think we sparked Mark's attention.

20 MR. FUTRELL: Yeah, that's correct,
21 Commissioner Clark. The utility will be filing
22 annual reports that the staff will be monitoring,
23 reviewing and comparing the actual revenues and
24 actual expenses, and be able to determine whether
25 there is, Mr. Baez said, and you said it, whether

1 the rates are not resulting in fair, just and
2 reasonable.

3 COMMISSIONER CLARK: I think we are just all
4 confused because OPC asked for a rate increase and
5 the utility didn't want it. I think we are all
6 just puzzled here on what to do today.

7 CHAIRMAN LA ROSA: Commissioner Fay, you are
8 recognized.

9 COMMISSIONER FAY: Thank you, Mr. Chairman.
10 And I just want to make sure I get the whole
11 context kind of what we are reviewing here.

12 So the adjustments as proposed, the percentage
13 of adjustment as proposed, if accepted, we would
14 make that adjustment -- we would vote on that, and
15 technically, you guys would make that adjustment
16 within the numbers that are filed.

17 The other alternatives for the utility -- and
18 I know we are talking about rate cases, but as they
19 move forward, there would be -- I guess they would
20 have the ability for potentially for some index
21 adjustments, or potentially limited rate case
22 proceedings. Like, what would be the other
23 alternatives maybe for them if, 12 months from now,
24 we don't see, you know, some accuracy in what those
25 estimates look like?

1 MR. FUTRELL: Well, Commissioner Fay, you are
2 right. They can -- once they begin operations, an
3 index pass-through is available, limited -- there
4 are various limited proceedings that are available
5 to water and wastewater utilities that qualify. So
6 there is a number of tools and mechanisms available
7 to try to at least defer or mitigate a full base
8 rate case, but some of that requires them to come
9 in and have an initial base rate case.

10 So there are some tools available, but, again,
11 staff will be monitoring actual expenses, and where
12 they are as far as their earned return.

13 COMMISSIONER FAY: Okay. Yeah, and I like Ms.
14 Helton's comment. I mean, we've got this timeframe
15 on these certificates and operation, and everybody
16 recognizes the sensitivity of that, but then you
17 have got the rate case process, which obviously,
18 just based on today, there is -- these estimates,
19 there is going to be significant debate as to what
20 these numbers look like, and then they will be
21 trued up.

22 So I think everyone's intent is aligned here
23 trying to do the best thing for the customers going
24 forward, and what makes sense to not have this kind
25 of shock or impact.

1 You know, based on the -- I have a little bit
2 of heartburn with kind of a -- an estimate that is
3 a percentage that's applied to all these numbers.
4 I know the Courts have sort of recognized our
5 ability to make some of these broader decisions.
6 But I think with the rate setting, we do have to be
7 really thoughtful the numbers that are in front of
8 us and what's presented, and so I think just being
9 mindful of that. Like, I am comfortable as to
10 what's put forward and proposed today.

11 I do have a little bit of heartburn with the
12 stipulations, recognizing that the parties are okay
13 with maybe adjusting those numbers going forward.
14 But with what our purview is, and the fact that our
15 staff was very open today about not having sort of
16 the full picture as to what those adjustments look
17 like gives me a little -- a little heartburn about
18 moving forward with those changes. But I certainly
19 don't want to do anything that would hold up this
20 process for the certificate and operation to take
21 place.

22 And then maybe going forward, our staff and
23 everybody could communicate with the utility, and
24 Mr. Friedman has pretty good expertise with his
25 clients, to find a future option to make

1 adjustments for them that would align them a little
2 bit better, that would be sound, in the record
3 evidence to come up with those numbers, an
4 estimate.

5 So that would be my position today on this,
6 Mr. Chairman. But I respect that the parties have
7 brought forward some solution to something that
8 maybe otherwise wouldn't have been resolved for the
9 parties.

10 CHAIRMAN LA ROSA: Thank you.

11 Any further questions or discussion?

12 Seeing none, I will open up for a motion, and
13 if we need to be specific, let's do that to make
14 sure we -- we -- the record is clear on what we are
15 voting on, or what the motion is.

16 COMMISSIONER FAY: Mr. Chairman, I am happy
17 to --

18 CHAIRMAN LA ROSA: Yeah --

19 COMMISSIONER FAY: -- I was recognized.

20 CHAIRMAN LA ROSA: -- yeah, recognized for a
21 motion, if that's what you are delivering.

22 COMMISSIONER FAY: Great. All right. Then
23 with that, Mr. Chairman, then I would move that the
24 Commission approve all issues in the staff
25 recommendation for Item 4.

1 MR. HETRICK: As modified by the --

2 CHAIRMAN LA ROSA: Without the modification?

3 MR. HETRICK: With that modification specified
4 between the parties -- agreed upon between the
5 parties?

6 COMMISSIONER FAY: Right. And my position was
7 that is I am not comfortable taking up that
8 modification today based on --

9 MR. HETRICK: Got it.

10 CHAIRMAN LA ROSA: Okay. So there is a
11 motion. Is there a second?

12 All right. So not hearing a second, I will
13 bring it back to us to make a decision to make an
14 alteration to the motion, whether it be a motion
15 that's made or the recommendation that's in front
16 of us.

17 Commissioner Clark, you are recognized.

18 COMMISSIONER CLARK: Mr. Chairman, I would
19 approve -- move to approve the recommendation with
20 the modification agreement that's proposed by OPC
21 and the parties.

22 COMMISSIONER GRAHAM: Second.

23 CHAIRMAN LA ROSA: All right. Hearing a
24 motion and hearing a second.

25 I am going to go to staff. Is that clear on

1 what we have before us?

2 All those in favor signify by saying yay.

3 (Chorus of yays.)

4 CHAIRMAN LA ROSA: Yay.

5 Opposed no.

6 COMMISSIONER FAY: No.

7 CHAIRMAN LA ROSA: Show that the item passes
8 as modified.

9 MR. REHWINKEL: Mr. Chairman.

10 CHAIRMAN LA ROSA: Yes, sir.

11 MR. REHWINKEL: Charles Rehwinkel, the Deputy
12 Public Counsel.

13 I just want to thank the parties, the company
14 and the staff and the Commission. The Public
15 Counsel's office takes this seriously. This is --
16 I know it can be characterized as a rate increase,
17 but these are original rates, and we are just
18 trying to get the rates right to start with.

19 I just wanted to point out that in the case of
20 Skyland and the Little Gasparilla case, Public
21 Counsel went to hearing on issues to get the rates
22 right before you start; because we don't want
23 customers buying houses and then the rates
24 skyrocketing, and then they are trapped. We think
25 it's important that they know going in what the

1 rates are.

2 And we will work in the future to make sure we
3 are involved earlier in this process. We are not
4 trying to ambush anybody. And we will work with
5 your staff and the company going forward if there
6 appears to be a problem with these initial rates.
7 But we thank you for considering this modification.

8 Thank you.

9 CHAIRMAN LA ROSA: Thank you.

10 Okay. So seeing Item No. 4 closed out.

11 Today, we've got a few other things going on that I
12 will just kind of mention. One o'clock is the TECO
13 rate case prehearing with Commissioner Clark.
14 Preceding that will be the conservation goals, and
15 I will kind of set that 15 minutes after that
16 prehearing we will -- we will open up and we will
17 start our conservation goals. So just kind of
18 stand by and be aware of kind of today's schedule
19 as it's moving a little bit.

20 But with no further business before us, this
21 meeting is adjourned. Thank you.

22 (Agenda item concluded.)

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CERTIFICATE OF REPORTER


STATE OF FLORIDA)
COUNTY OF LEON)

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

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

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

DATED this 20th day of August, 2024.


DEBRA R. KRICK
NOTARY PUBLIC
COMMISSION #HH575054
EXPIRES AUGUST 13, 2028