



**KATHLEEN PASSIDOMO**  
*President of the Senate*

**STATE OF FLORIDA**  
**OFFICE OF PUBLIC COUNSEL**

c/o THE FLORIDA LEGISLATURE  
111 WEST MADISON ST.  
SUITE 812  
TALLAHASSEE, FLORIDA 32399-1400  
850-488-9330

EMAIL: [OPC\\_WEBSITE@LEG.STATE.FL.US](mailto:OPC_WEBSITE@LEG.STATE.FL.US)  
[WWW.FLORIDAOPC.GOV](http://WWW.FLORIDAOPC.GOV)



**PAUL RENNER**  
*Speaker of the House of Representatives*

September 13, 2024

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

**Re: Docket No. 20240106- WU - Application for a revenue-neutral uniform water rate restructuring limited proceeding in Alachua, Duval, Leon, Okaloosa, and Washington Counties, by North Florida Community Water Systems, Inc.**

Dear Mr. Teitzman:

The intent of this letter is to alert the Commission staff and North Florida Community Water Systems, Inc. (NFCWS or Utility) of the Office of Public Counsel's (OPC) concerns regarding the Utility's petition for a partial variance or waiver of a requirement of Rule 25-30.445, Florida Administrative Code (F.A.C.), and the problems arising from the NFCWS' request to consolidate rates through a limited proceeding instead of a rate case proceeding. The OPC will focus its concerns on certain provisions in the Utility's petition for a partial variance or waiver.

Regarding Provision 8 and Order No. PSC-2010-0219-PAA-WS, the OPC would note an important distinction between the holding in that case concerning Sun Communities Finance d/b/a Water Oak Utility (Water Oak) and the current request. Water Oak did not seek consolidated rates because it only had one water system and one wastewater system in one county. Here NFCWS is requesting to consolidate rates for six water systems across five counties.

Regarding Provision 9 and the anti-staleness requirement that the last rate proceeding must have occurred within seven years, Water Oak provides no support for the relief requested. The fact that Water Oak only had one set of water rates and one set of wastewater system rates may have been overlooked as it fails to meet the requirements of Rule 25-30.445, F.A.C. The facts in Water Oak are materially different from the instant case where there are currently six separate and distinct sets of water rates. The current docket does not appear to support a waiver or limited proceeding.

Within the last seven years, the Commission has only established rate base and the cost of service in rate proceedings for the water system formerly operated under Gator Waterworks, Inc. and for

the water system formerly operated under Sunny Hills Utility Company. Only these two systems meet this prong of eligibility to be considered for a limited proceeding.

More than 12 years ago, the Commission established rate base and the cost of service for the water system formerly operated under the name Regency Utilities, Inc. In another otherwise timely, but non-qualifying variation in 2021, the Commission merely established net book value (NBV) for the Lake Talquin Water System. Another otherwise timely, but non-qualifying action was taken in 2020, where the Commission established NBV for the system formerly operating as Okaloosa Water System. In 2018, the system formerly operating as Seminole Water System received the same treatment. The Commission has not established either a rate base or the cost of service for these systems; therefore these three systems remain ineligible for a limited proceeding.

Regarding Provisions 11 and 12, the OPC notes a concern about the intersection of the subsection (6)(b) limited proceeding rule eligibility cap whereby the requested rate increase may not exceed 30 percent and the NFCWS proffer that it “is not requesting an increase in revenues. (Emphasis added). In rate consolidation requests, the Commission is required to not only consider the cost of service among different systems at the varying revenue requirement values but must also consider if consolidation will result in a unfair, subsidy rate increase for customers of certain systems.<sup>1</sup> Contrary to NFCWS’ assertion that the utility’s overall financial information vetting is not necessary, OPC respectfully submits that the facts may indicate otherwise. The Commission has never established the cost of service for three of these systems and it has been over 12 years since a rate proceeding was held for a fourth system. Therefore, a review of the financial information, e.g. the revenue requirements of all six water systems, should be required.

Regarding Provision 17, NCFWS stated that the Commission retains the right to conduct an audit, despite its knowledge that an audit was not conducted by the Commission’s audit staff in Docket No. 20220201-WS for its affiliated Florida Community Water Systems and that there are typically

---

<sup>1</sup> See, Order No. PSC-09-0385-FOF-WS, p. 123. (“Witness Stallcup testified that subsidies are created when low average cost systems are combined with high average cost systems. The result is that the customers of the low cost systems will be paying a subsidy, resulting solely from the imposition of rate consolidation. It is important that we consider subsidies because Section 367.081(2)(a)1, F.S., states that in setting rates for water or wastewater systems, ‘the commission shall, either upon request or upon its own motion, fix rates which are just, reasonable, compensatory, and not unfairly discriminatory.’ On cross examination, witness Stallcup testified that we have approved uniform rates for all or almost all of the electric and gas utilities in the state, and that the ratemaking statutes for electric and gas utilities has a prohibition similar to the prohibition contained in the water and wastewater statute. The electric and gas statutory prohibition regarding rates being unduly discriminatory has not stopped this Commission from adopting uniform rates for electric and gas utilities. He further testified that, because of the extreme values of the stand-alone rates involved in this case, there is particular merit to rate consolidation. In order to ensure that rates resulting from consolidation are not unfairly discriminatory across customer groups, witness Stallcup testified that we must evaluate the subsidies resulting from rate consolidation to determine whether the rates satisfy the requirements of the statute.”) (Underline Emphasis Added)

numerous Commission staff recommendation adjustments that go beyond what is captured in an audit report issued by Commission audit staff. There are unintended consequences of prematurely approving rate consolidation based on excessive or unvetted cost of service levels. By granting the partial variance or waiver here, the Commission may well tie its own hands when it seeks to address the impacts of rate consolidation through a future proceeding. Under these circumstances, the very real possibility exists that inaccurate subsidy levels and unsupported rate increases will result.

Regarding Provisions 20 through 22, OPC suggests that NFCWS' assertion of substantial hardship and additional cost are unsupported and may be without merit. For example, through the contractual services provided by U.S. Water Services Corporation, these subject systems and the other regulated affiliate utilities already pay for the embedded cost of this service company's staff to prepare Minimum Filing Requirements (MFRs), regardless of whether there is one consolidated set and/or six separate sets of MFRs filed simultaneously. In fact, the rate case expense for a limited proceeding versus a rate case are virtually the same and includes costs for customer notices, travel for customer meeting and agenda, and filing fee, excluding any legal fees.<sup>2</sup> It appears that the referenced "additional costs" have already been accounted for through affiliate contractual services.

### *Conclusion*

OPC always supports the full vetting of cost of service revenue requirements unless there are material grounds for waive or variance. These six water systems would benefit from the Commission's attention and review in order to render an informed decision regarding NFCWS' request for rate consolidation. As there are no apparent unfairness, hardships or additional costs, OPC respectfully recommends the Commission deny NCFWS' requested petition for partial variance or waiver of Rule 25-30.445, F.A.C., and NCFWS' application for a limited proceeding in Docket No. 20240106-WU pursuant to Provision (6)(c) of Rule 25-30.445, F.A.C., as lacking material evidence in support thereof.

---

<sup>2</sup> See, Sunny Hills Utility Company's MFR Schedule B-10 in Docket No. 20220066-WS or Order No. PSC-2022-0335-PAA-WS, p.11; and Royal Waterworks, Inc.'s MFR Schedule B-10 in Docket No. 20230081-WS or Order No. PSC-2024-0046-PAA-WS, p. 12.

Adam J. Teitzman  
September 13, 2024  
Page 4

As the Commission has done in the past, it would be appropriate to consider refunding NCFWS' filing fee or to apply it to a future rate case application for these systems.<sup>3</sup>

Respectfully submitted,

/s/ Walt Trierweiler  
Walt Trierweiler  
Public Counsel

CC: Parties of Record

---

<sup>3</sup> See <https://www.floridapsc.com/pscfiles/library/filings/2019/04552-2019/04552-2019.pdf> - ("Docket No. 20190118-WU has been assigned to the forthcoming case. Your request to credit the application fee previously paid in Docket No. 20180179-WU toward the Utility's filing fee in the instant docket has been approved.") See also Order No. PSC-2020-0167-PAA-WU, p. 2. ("To avoid any further delay and expense, Lighthouse withdrew its application for a limited proceeding and, on July 12, 2019, filed a full rate case in the instant docket. The Utility requested that its application be processed using our Proposed Agency Action (PAA) procedure.")