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**DANIEL PEREZ**  
*Speaker of the House of Representatives*

February 27, 2026

**VIA: ELECTRONIC FILING**

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

**Docket No. 20260000-OT – Follow-Up on Possible Wastewater Overearnings for Kirby D. Morgan.**

Dear Mr. Teitzman:

The intent of this letter is to follow-up with the Commission Staff to the Office of Public Counsel's (OPC) letter dated November 21, 2025 (Attachment A). The OPC continues to have a concern about possible overearnings for Kirby D. Morgan, Inc. (Kirby or Utility). On December 12, 2025, the OPC and Commission Staff had a conference call meeting to discuss possible overearnings for several utilities – including Kirby. Attachment B contains emails with attachments regarding Kirby.

Schedule W-3 of the Utility's 2024 Annual Report reflects total O&M expenses of \$85,377, which represents \$389.85 in annual O&M expenses per customer. Kirby previously did not report any salary for the owner in the past. The Utility first reported salary in the amount of \$20,000 for two new employees for half a year in its 2024 Annual Report, which represents 23.43% of the total O&M expenses. All other things being equal to reflect a full year salary of \$40,000 for the two new employees, this amount represents 46.85% of the 2024 total annual O&M expenses and \$481.17 in annual O&M expenses per customer.

The Profit and Loss Comparison provided by the Utility reflects O&M expenses of \$103,813 (Total Expenses of \$106,465 less Payroll Taxes of \$2,502 less Taxes and Licenses of \$150) including \$26,666.72 for salaries from January 2025 through August 2025, which equates to \$474.03 O&M expenses per customer for this 8-month period. It also reflects a line-item expenses of \$18,174.95 for "EQUIPMENT" and \$2,057.69 for "Dues and Subscriptions" that did not occur in the January 2024 through August 2024 period. The Profit and Loss Comparison provided by the Utility reflects O&M expenses of \$45,501.73 (Total Expenses of \$49,689.73 less

Payroll Taxes of \$365, less Taxes and Licenses of \$800, less County Regulatory Fees of \$3,023 including \$3,333.34 for salaries from January 2024 through August 2024, which equates to \$207.77 in O&M expenses per customer for this 8-month period.

The Profit and Loss Comparison provided by the Utility between January 2024 through August 2024 and January 2025 through August 2025 reflects a total O&M expense increase of \$58,311.27 or 128.15%. Total non-salary O&M expenses increased by \$34,977.89 or 82.95%. The OPC would note that the increased non-salary O&M expenses do not relate to a DEP permit renewal as the Utility's current permit was issued September 18, 2017, with an effective date of January 4, 2018, and an expiration date of January 3, 2028. An email dated January 29, 2026, from Commission Staff to the OPC, contained a statement by the Utility's consultant to the effect that new 2025 expenses included: 1) approximately \$5,000 each year for the preparation of the Utility's Annual Report to be filed with the Commission; Sewer Operator at \$9,000; and Sewer Utility Groundkeeper at \$2,400.

Regarding the new \$5,000 for Annual Report Preparation by Millian, Swain & Associates, Inc., the OPC would note that the Utility's 2023 Annual Report filed with Columbia County was never obtained by the OPC or Commission Staff. However, the Utility's 2021 and 2022 Annual Reports were obtained from Columbia County by the OPC.<sup>1</sup> Based on the respective Schedule F-7 on those annual reports and the 2024 Annual Report, Odom, Moses & Company LLP was responsible for the preparation of the annual reports and were paid \$2,238 in 2021, \$2,297 in 2022, and \$6,600 in 2024. The 2024 amount of \$6,600 represents an increase of \$4,303 or 187.33% from the 2022 amount of \$2,297. The \$5,000 amount for Millian, Swain & Associates, Inc. represents non-salary O&M expense decrease of \$1,600 or 24.24% over the \$6,600 amount paid to Odom, Moses & Company LLP in 2024 but an increase of \$2,703 or 117.68% from the 2022 amount of \$2,297.

With regard to the \$9,000 for the Sewer Operator, the OPC would note that Kirby paid the same person as the Sewer Operator \$9,065 in 2022, which represents a decrease of \$65. Regarding the Sewer Utility Groundkeeper at \$2,400, the OPC would note that the same amount was paid to the same person, as reflected on Schedule F-7 in the Utility's 2021 and 2022 Annual Reports. In 2024 Annual Report, it reflects "total payments for services rendered by other than employees" of \$15,560 (\$6,600+\$2,800+\$6,160) on Schedule F-7 and reflects a total of \$28,300 (\$6,800+\$21,500) for Account No. 730 Contractual Services Professional and Other. The difference between these amounts is \$12,740. Given this difference, the Sewer Operator and Sewer Utility Groundkeeper services expenses should also be included in the total amount of \$21,500 for Account 730 - Contractual Services Other on Schedule S-3.

Based on the above, the 2025 expenses for Millian, Swain & Associates, Inc., the Sewer Operator, and Sewer Utility Groundkeeper services do not explain the total non-salary O&M

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<sup>1</sup> By email dated April 15, 2024, the OPC provided the Commission Staff with the Utility's 2022 Annual Report filed with Columbia County.

expenses increased of \$34,977.89 or 82.95% between January 2024 through August 2024 and January 2025 through August 2025. Further, the OPC has concerns regarding potential non-recurring expenses associated with the non-salary expense increase for the 8-month period in 2025. Rule 25-30.433(9), Florida Administrative Code, states “[n]on-recurring expenses shall be amortized over a 5-year period unless a shorter or longer period of time can be justified.”

The OPC researched similar wastewater-only utilities as Kirby with a wastewater treatment plant, no purchased wastewater treatment expense, no reuse provision, and no other affiliate-regulated water/wastewater entities. Based on the respective 2024 Annual Reports filed with the Commission, the following table represents their respective O&M expenses, customers, and annual per customer O&M expenses.

Line No.	Company Name	O&M Expense	Customers	O&M Per Customer
1	Fairmount Utilities, the 2nd, Inc.	\$116,876	441	\$265.02
2	Kirby D. Morgan, Inc.	\$85,377	219	\$389.85
3	LIFE-Zachary Taylor, LLC d/b/a Zachary Taylor Waterfront RV Resort	\$69,040	189	\$365.29
4	Vantage Oaks Utility, LLC	\$51,826	175	\$296.15
5				
6	Totals	\$323,119	1,024	\$315.55

As the above table indicates, the utility similar to Kirby is LIFE-Zachary Taylor, LLC d/b/a Zachary Taylor Waterfront RV Resort (LIFE) on an O&M expense per customer annually basis. However, based on a comparison of Schedule F-2 of the two utilities’ 2024 Annual Reports, the OPC would note that LIFE was organized in 1978, while Kirby was organized in 1995. Based on a search on the Florida DEP Oculus database, the previous owner for Facility Site ID FLA001402 (Kirby’s facility) received a certification of completion of the wastewater treatment plant’s (WWTP) construction on November 18, 1985. LIFE would be expected to have more maintenance related expenses for its WWTP, given that it was organized 7 years prior to the completion of Kirby’s WWTP construction. The table below reflects the remaining undepreciated plant investment as 2024 year-end for LIFE and Kirby.

Line No.	Account No.	Account Name	LIFE	Kirby
1	354	Structures and Improvements	\$0	\$16,759
2	355	Power Generation Equipment	0	26,042
3	360	Collection Sewers - Force	0	20,000
4	361	Collection Sewers - Gravity	41,822	49,671
5	363	Services to Customers	0	1,516
6	364	Flow Measuring Devices	0	0
7	370	Receiving Wells	5,635	0
8	371	Pumping Equipment	905	23,434
9	380	Treatment and Disposal Equipment	0	50,131
10	393	Tools, Shop and Garage Equipment	1,175	500
11	101	Total Plant	<u>\$49,537</u>	<u>\$188,053</u>
12				
13	108	Accumulated Depreciation	<u>(\$48,768)</u>	<u>(\$153,178)</u>
14				
15		Total Net Plant	<u>\$769</u>	<u>\$34,875</u>
16				
17		% of Undepreciated Plant	<u>1.55%</u>	<u>18.55%</u>

Further, based Schedule S-4 of their respective 2024 Annual Reports, LIFE has two lift stations each with one-horsepower (HP) pumps and seven manholes, and Kirby has three lift stations with two 3HP-pumps and one 2HP-pump and 34 manholes. However, based on a comparison of Schedule S-5 of the two utilities' respective 2024 Annual Reports, the OPC would note that LIFE's WWTP permitted capacity is 40,000 gallons per day (GPD) and treated 10,876,000 million gallons in 2024, and Kirby's WWTP capacity is 25,000 GPD and treated 5,110,000 million gallons in 2024. Given that LIFE treated wastewater gallons is 576,000 gallons or 112.84% more than Kirby, LIFE should conceivably have more variable costs for chemicals than Kirby.

In addition, the OPC has a concern regarding the collective salary amount of \$40,000 for the two new employees in 2025. The following table is the OPC's assessment of the hours and shared duties for the two new employees.

Line No.	Duties	Estimated Annual Hours	Reason
1	Maintaining the sewer database. Coordinating estoppels with bookkeeper	0-10	No other revenues reported in 2021, 2022, and 2024 for initial connections, late payments, reconections on Schedule F-3 in 2021, 2022, and 2024 Annual Reports. No other revenues reported on P&L Comparison Jan-Aug '24 & '25 that the Utility provided to Commission Staff.
2	for customers moving in and out, tracking home sales, implementing liens		
3	when needed for non-payment.		
4			
5	Coordinate with vendors, regarding competitive bids for equipment	208	No plant additions reported on Schedule S-1 in 2021, 2022, and 2024 Annual Reports. 4 hours average a week because it only involves coordination with Sewer Operator and vendors. Sewer Operator is the authorized Agent of the Utility that submits DMRs and Daily Sample Results based on a review of the Florida DEP Oculus database.
6	replacements/repairs. Coordinating with Sewer Operator, Cameron Young		
7			
8			
9			
10	Maintain sewer lift stations, main plant and grounds through working with	208	4 hours average a week because it only involves coordination with vendors who actual perform the pressure clean, paint, general property maintenance (lawn maintenance, tree cutting/trimming, pressure cleaning etc.)
11	vendors to pressure clean, paint, general property maintenance (lawn		
12	maintenance, tree cutting/trimming, pressure cleaning etc.)		
13			
14	Weekly pay vendor received invoices - accounts payable	240	Assumption of 120 AP Vendor Invoices a month at 10 minutes per vendor payment processing.
15			
16	Collection of past due accounts, including mailings and door to door visits	0-10	No other revenues reported in 2021, 2022, and 2024 for late payments on Schedule F-3 and no bad debt expense on Schedule S-3 in 2021, 2022, and 2024 Annual Reports. No other revenues reported on P&L Comparison Jan-Aug '24 & '25 that the Utility provided to Commission Staff.
17	and telephone calls.		
18			
19			
20	Handle incoming calls from both customers or vendors	171	Assumption of 6% of 219 customer base calls a week at 15 minutes a call average.
21			
22	Coordinate with accountants for proper submitting of required forms,	208	4 hours average a week for RAF Forms and Annual Reports. Income tax returns would be for non-utility purposes because the Utility is a sub-corporation per Sch. F-2 of 2024 Annual Report.
23	Annual Reports, income tax returns, etc.		
24			
25	<b>OPC Total Collective Hours for Above Shared Duties</b>	<b><u>1,055</u></b>	
26			
27	<b>Utility Total Collective Hours for Above Shared Duties</b>	<b><u>2,080</u></b>	
28			
29	<b>Collective Adjustment</b>	<b><u>(1,025)</u></b>	
30			

When equally splitting the total 1,055 hours referenced in the table above among the two new employees, the OPC calculated total annual hours for each new employee of 527.5 hours, which equates to 10.14 hours average per week. Using the average 10.14 hours per week, the OPC calculated annual salary for each new employee of \$10,143.83 or \$20,287.65 collectively, for 2025. The 2025 collective amount of \$20,287.65 represents a difference of \$19,712.35 from the 2025 Utility’s \$40,000 salary for the two new employees.

By letter from the Utility to Commission Staff dated September 30, 2025, Kirby followed up on a telephone call and email with the Commission Staff on September 26, 2025, and consented to the Commission’s jurisdiction to the extent its earned return on equity (ROE) exceeded the maximum of the allowed ROE. In its letter dated November 21, 2025, the OPC identified the following possible overearnings.

Description	Wastewater NOI	Wastewater Rate Base	Wastewater Achieved ORR	ORR Using Max ROE	Possible OE	OE % of Revenues
2024 Annual Report	\$15,928	\$59,237	26.89%	9.51%	(\$10,295)	9.05%
2023 AR Not Received						
2022AR -Columbia County	51,394	22,152	232.01%	8.84%	(49,436)	44.86%
2021AR -Columbia County	43,209	23,096	187.09%	8.85%	(41,165)	37.72%
Total	<u>\$110,531</u>	<u>\$104,485</u>	<u>105.79%</u>	<u>9.07%</u>	<u>(\$100,895)</u>	<u>30.30%</u>

Using the average 10.14 hours per week, the OPC calculated annual salary for each new employee of \$5,071.92 or \$10,143.83 collectively, for 2024. The 2024 collective amount of \$10,143.83 represents a difference of \$9,856.17 from the 2024 Utility’s \$20,000 salary for the two new employees for half of the year. Thus, the OPC calculated 2024 revised possible overearnings for this salary adjustment alone is depicted in the table below.

Description	Wastewater NOI	Wastewater Rate Base	Wastewater Achieved ORR	ORR Using Max ROE	Possible OE	OE % of Revenues
2024 Annual Report	\$25,784	\$59,237	43.539%	9.51%	(\$20,151)	17.72%

In addition, given the age of the Utility’s force and gravity mains, the OPC would suggest that there is a potential for excessive infiltration and inflow (I&I) for this system. The table below reflects the OPC’s attempt to assess and calculate the existence of excessive I&I for Kirby.

Line No.	Main Diameter (1)	Main Length Feet (1)	Miles	Allowance @ 500 gpd /incb-dia/mile gpd	GPY
1	2" - Rosewood	2,000	0.3787879	379	
2	3" - Willow	800	0.1515152	152	
3	3" - Sable	1,000	0.1893939	189	
4	8" -Rosewood	3,700	0.7007576	701	
5	8" - Willow	1,200	0.2272727	227	
6	8" - Sable	<u>6,400</u>	<u>1.2121212</u>	<u>1,212</u>	
7	Total	<u>15,100</u>	<u>2.8598485</u>	<u>2,860</u>	1,043,845
8	Estimated Inflow @10% of gallons sold (2)				638,750
9	Allowable I&I				405,095
10					
11	Actual I&I Wastewater Treated (3)				5,110,000
12					Estimated Returned
13	SFR Resensial WW customers		5,110,000	80%	4,088,000
14					
15	Estimated I&I (treated less returned)				1,022,000
16	Actual I&I less allowable				616,905
17	Excess I&I				616,905
18	Excess as % of Wastewater Treated				12.07%
19					
20					Chemicals (4) \$0
21					Purchased Power \$6,246
22					Excessive I&I Adjustment (\$754)
23	<b>Notes:</b>				
24	(1) The source of the main diameter sizes and main lengths is from Schedule S-4 of the				
25	2024 Annual Report.				
26	(2) The OPC estimated that the gallons of water sold by Lake City was 20% more than the				
27	total wastewater gallons treated - by dividing the 5,110,000 gallons by 80%.				
28	(3) The source of the total gallons of wastewater treated is from Schedule S-5 of the				
29	2024 Annual Report.				
30	(4) The Utility does not record any amount in Account 718 Chemicals in its 2021, 2022,				
31	and 2024 Annual Reports. Because Chemicals are needed under the Utility's DEP Permit				
32	in order to treat the raw sewage, the Chemicals expense must be recorded in another				
33	expense account, perhaps it is captured in Miscellaneous Expenses for 2024 of \$14,368.				

Adam Teitzman  
February 27, 2026  
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Finally, on Kirby's 2024 Annual Report, the OPC would note that the Utility reported residential gross revenues of \$113,691 on Schedule F-3 and start and end of customers of 217 and 219 on Schedule S-3. Using 2,604 (217\*12) bills at the authorized flat rate of \$44.09, this conservatively yields annualized residential gross revenues of \$114,810, which is \$1,119 greater than the 2024 reported amount of \$113,691.

**Conclusion**

In conclusion, the OPC respectfully requests the Commission Staff consider our above-mentioned observations in the evaluation of overearnings for the Utility.

Respectfully submitted,

/s/ *Bart Fletcher*

Bart Fletcher  
Legislative Analyst

Attachments

# **ATTACHMENT A**

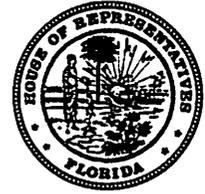


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**DANIEL PEREZ**  
*Speaker of the House of Representatives*

November 21, 2025

**VIA: ELECTRONIC FILING**

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

**Docket No. 20250000-OT- Summary of the OPC's Review of 2024 Annual Reports for Possible Water and Wastewater Overearnings.**

Dear Mr. Teitzman:

The intent of this letter is to advise the Commission staff of the Office of Public Counsel's (OPC) summary of its review of possible water and wastewater overearnings for the reporting year 2024.

Based on a review of 2024 Annual Reports for water and wastewater utilities on the FPSC's website, 15 utilities reported possible overearnings but the level of possible overearnings for 11 utilities were immaterial. However, there are material possible overearnings reported for Kirby D. Morgan, Inc., Lake Yale Utilities, LLC for wastewater, and Leighton Estates Utilities, LLC, and Ni Florida, Inc. for water.

*Kirby D. Morgan, Inc. (Kirby)*

Kirby was organized on May 1, 1995, and provides wastewater service to approximately 219 residential customers, in single family homes, located in Eastside Village. Water service is provided by the city of Lake City. The following table reflects the possible overearnings since 2021.

Description	Wastewater NOI	Wastewater Rate Base	Wastewater Achieved ORR	ORR Using Max ROE	Possible OE	OE % of Revenues
SU973-24-AR	\$15,928	\$59,237	26.89%	9.51%	(\$10,295)	9.05%
2023 AR Not Received						
2022AR -Columbia County	51,394	22,152	232.01%	8.84%	(49,436)	44.86%
2021AR -Columbia County	43,209	23,096	187.09%	8.85%	(41,165)	37.72%
Total	<u>\$110,531</u>	<u>\$104,485</u>	<u>105.79%</u>	<u>9.07%</u>	<u>(\$100,895)</u>	<u>30.30%</u>

The OPC's overall required rate returns of 9.51% for 2024, 8.84% for 2022, and 8.85% for 2021 were derived using the Commission's respective leverage formulas for those years. The following is a timeline of events associated with Kirby's possible overearnings.

Timeline of Events	
Date	Description
5/16/2024	Columbia County voted to transfer the regulation of all private utilities in the County to the FPSC by and through Resolution No. 2024R-13.
6/5/2024	Email from Fletcher with the OPC to Vogel with the FPSC: 1) forwarding Kirby's 2021 and 2022 Annual Reports filed with Columbia County; 2) informing the Utility's achieved overall returns were 232% for 2022 and 187% for 2021; 3) inquiring if the Commission Staff would Kirby to provide its 2023 Annual Report.
6/18/2024	Email from Fletcher to Vogel following up whether the Commission Staff would be requesting Kirby to provide its 2023 Annual Report, and, if so, requesting that the PDF file of the annual report be emailed to the OPC once it is received.
6/18/2024	Email from Vogel to Fletcher stating that the Commission Staff will be asking for the 2023 annual report and will forward the response the OPC.
6/25/2024	Email from Fletcher to Vogel stating following: "When the 2023 Annual Report was requested, was there a deadline given for Kirby D. Morgan, Inc. to provide said report? If so, what is the deadline? If not, has Kirby D. Morgan, Inc. given you an anticipated date on when their 2023 Annual Report will be provided to the Commission? Given the 2021 and 2022 reported achieved returns, I am interested in what the reported 2023 achieved return is for possible overearnings purposes."
6/28/2024	Email from Fletcher to Vogel stating following: "I'm just following up on my email on Tuesday below."
7/1/2024	By Order No. PSC-2024-022-FOF-WS, the FPSC acknowledged Columbia County's Resolution No. 2024R-13 to transfer the regulation of all private utilities in the County to the FPSC.

4/8/2025	By Order No. 2025-0121-FOF-SU, the FPSC granted Kirby's grandfather certificate.
4/18/2025	Kirby filed its 2024 Annual Report with the FPSC.

According to a comparison of the 2022 year-end plant and accumulated depreciation balances from the 2022 Annual Report and the 2023 prior year's plant and accumulated depreciation balances from the 2024 Annual Report, Kirby kept its plant balance constant at \$201,743 but reduced its accumulated depreciation by \$37,451 from 2022 to 2023. Kirby reclassified several amounts to other plant accounts. The following tables reflect the differences in plant and accumulated depreciation balances between 2022 and 2024, which reflects a delta in accumulated depreciation of \$32,938.

Plant	2022	2024	Delta
Account No. 353	\$10,000	\$10,000	\$0
Account No. 354	36,759	16,759	(20,000)
Account No. 355	31,702	26,042	(5,660)
Account No. 360	0	20,000	20,000
Account No. 361	1,516	49,671	48,155
Account No. 363	0	1,516	1,516
Account No. 364	3,690	3,690	0
Account No. 371	0	23,434	23,434
Account No. 380	117,576	50,131	(67,445)
Account No. 395	500	500	0
Total	<u>\$201,743</u>	<u>\$201,743</u>	<u>\$0</u>

Accumulated Depreciation	2022	2024	Delta
Account No. 354	\$31,298	\$15,771	(\$15,527)
Account No. 355	31,702	24,946	(6,756)
Account No. 360		20,000	20,000
Account No. 361	1,517	34,149	32,632
Account No. 363		975	975
Account No. 364	3,690	3,690	0
Account No. 371		15,005	15,005
Account No. 380	117,409	38,142	(79,267)
Account No. 395	500	500	0
	<u>186,116</u>	<u>153,178</u>	<u>(32,938)</u>

*Lake Yale Utilities, LLC for Wastewater*

Lake Yale Utilities, LLC (Lake Yale) is a Class C utility providing water and wastewater services to approximately 298 residential customers and one general service customer in Lake County. The Utility also provides irrigation service to 88 of its residential customers. Lake Yale was granted a price index increase of \$2,516 for water and \$2,421 for wastewater effective June 1, 2024.

According to its 2024 Annual Report, Lake Yale reported an achieved overall return of 6.20% for water and 100.63% for wastewater. On a total company basis, the reported achieved overall return is 31.25% equating to \$29,265 of possible overearnings which represent 12.93% of operating revenues. The OPC’s 2024 overall required rate return of 6.17% was derived by: 1) a calculated weighted average cost of long-term debt of 6.39%; 2) zeroing out the negative common equity amount of \$116,629 consistent with Commission practice, and 3) a 2% cost rate for customer deposits pursuant to Rule 25-30.311, Florida Administrative Code (F.A.C).

*Leighton Estates Utilities, LLC*

Leighton Estates Utilities, LLC. (Leighton) is a Class C utility which is currently providing water-only service to approximately 80 customers in Marion County. Wastewater service is provided by individually-owned septic tanks. The following table reflects the possible overearnings since 2023.

Description	Water NOI	Water Rate Base	Water Achieved ORR	ORR Using Max ROE	Possible OE	OE % of Revenues
<u>WU991-24-AR</u>	\$24,584	\$235,507	10.44%	6.91%	(\$8,320)	10.66%
<u>WU991-23-AR</u>	<u>24,374</u>	<u>250,030</u>	<u>9.75%</u>	<u>6.73%</u>	<u>(7,553)</u>	<u>10.03%</u>
Total	<u>\$48,958</u>	<u>\$485,537</u>	<u>10.08%</u>	<u>6.82%</u>	<u>(\$15,873)</u>	<u>10.35%</u>

The OPC’s 2024 overall required rate return of 6.91% was derived by: 1) a calculated weighted average cost of long-term debt of 5.51%; 2) the Commission’s leverage formula, and 3) a 2% cost rate for customer deposits pursuant to Rule 25-30.311, F.A.C.

*Ni Florida, Inc. for Water*

Ni Florida, LLC (Ni Florida) is a Class A utility serving approximately 744 water connections in Lee County and 2,583 wastewater connections in Pasco County. The following table reflects the possible overearnings in 2024 (SU915-24-AR).

Water NOI	Water Rate Base	Water Achieved ORR	ORR Using Max ROE	Water Possible OE	OE % of Revenues
\$63,388	\$236,960	6.17%	9.76%	(\$40,261)	14.45%

The OPC set the utility’s **negative** working capital allowance of \$303,463 to zero consistent with the Commission’s practice to derive the \$236,960 water rate base above. The OPC’s 2024 overall required rate return of 9.76% was derived by: 1) 10.22% which is the maximum authorized ROE; 2) a 2% cost rate for customer deposits pursuant to Rule 25-30.311, F.A.C., and 3) a zero-cost rate for deferred income taxes.

**Provision 13.02 of the Commission’s Administrative Procedure Manual (APM)**

Subsection A. of Provision 13.02 of the Commission’s APM states, in pertinent part, the following:

If an overearnings situation is identified and the utility does not agree to initiate rate reduction proceedings, there are two methods, each having different limitations, by which the Commission may redress excessive utility earnings. As described in this procedure, the first method is to set interim revenues subject to refund, followed by an investigation, a possible rate reduction and/or a refund. A second method is appropriate if the utility may have overearned and has recently implemented a rate increase pursuant to an index or pass-through.

Subsection C. of Provision 13.02 of the Commission’s APM states, in pertinent part, the following:

**C. MONITORING THE EARNINGS OF PUBLIC UTILITIES**

**1. Conduct a Review of the Utilities Annual Report**

Surveillance monitoring of earnings is accomplished primarily through review of annual reports which are due on March 31 of each year. If additional financial data is needed, a utility may be required to file additional data pursuant to §367.121(1)(c), F.S. and Rule 25-30.110, F.A.C.

**2. Detecting Potential Overearnings**

A potential for overearnings exists when the reported return on equity exceeds the last authorized range for the return on equity. Secondly, in cases involving rate

adjustments, potential overearnings occur when the last authorized range for the overall return is exceeded. If potential overearnings are occurring, the following steps should be taken:

- a. Determine if the financial information filed is complete. For example, if smaller utilities fail to include a provision for management salaries or office rent, staff should adjust the reported rate of return accordingly before testing for overearnings.
- b. Test for errors in the calculation of reported income. Frequently, utilities will fail to recognize amortization of CIAC when calculating depreciation expense or will calculate income taxes incorrectly. Also, be wary of failure to disclose significant amounts of nonused and useful plant.
- c. Determine if a rate adjustment was implemented in the annual report year or in the preceding year.
- d. Notify your supervisor of the overearnings situation once the report has been reviewed and the rate adjustment history of the utility is known. The supervisor will be responsible for assigning further work on the overearnings case.

### 3. Reporting the Results of the Annual Report Review

a. By July of each year following the review of the annual reports, the Division of Accounting and Finance will prepare a "possible overearnings" report which is sent to the Executive Director listing:

- (1) All utilities which have not filed an annual report;
- (2) All undocketed overearnings cases and a comment describing the progress of each case.

b. Monthly updates will be provided to the EXE and DET until all cases are docketed or resolved. The EXE and DET will forward the water and wastewater "possible overearnings" report to the Commissioners.

### 4. Initiating a Financial Audit

Whenever a utility's annual report indicates excessive earnings, the Division of Accounting and Finance must decide whether the case should be handled as an overearnings investigative docket, an overearnings due to indexing or both.

- a. If the case involves overearnings caused by a rate adjustment (pass through or index) implemented in the annual report year or previous year, a Commission finding must be made within 15 months from the filing date of the annual report to order refunds and rate reductions in accordance with §367.081(4)(d), Florida Statutes. Any division plan for rate adjustment refunds must address this deadline.
- b. Where excess earnings are expected to continue into the future, a formal proceeding is initiated as described by this procedure.
- c. When the Division of Accounting and Finance initiates an overearnings case, an audit of the utility will be conducted, whenever practicable, and accompanying legal, engineering and rate support will be planned to argument the investigation.

### **Conclusion**

Based on a search of Docket No. 20250000-OT and a docket search for each of these four utilities, the OPC did not find where the Commission Staff requested and/or received any attachment of revenues for 2024 possible overearnings. Based on the above, the OPC respectfully requests whether the Commission Staff has informally secured any attachment of revenues from these utilities, as well as the status of any disposition of any informal earnings review of possible overearnings for them, pursuant to all applicable sections in provision 13.02 of the Commission's APM.

Respectfully submitted,

/s/ *Bart Fletcher*

Bart Fletcher  
Legislative Analyst

# **ATTACHMENT B**

## Fletcher, Bart

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**From:** Cassie Gatlin <CGatlin@psc.state.fl.us>  
**Sent:** Friday, December 12, 2025 3:55 PM  
**To:** Fletcher, Bart  
**Cc:** Amber Norris; Matthew Vogel  
**Subject:** Possible Water/Wastewater Overearnings - Follow-up  
**Attachments:** Kirby D Morgan Correspondence.pdf; Kirby Morgan Income Statement.pdf; FCWS - FPSC letter - Overearnings Jurisdiction.pdf

Good afternoon,

Thank you for taking time to meet with us and go over the concerns and next steps with the water/wastewater utilities that are possibly overearning.

Please see the attached Income Statement and letter concerning jurisdiction of potential overearnings for Kirby D Morgan and the letter concerning jurisdiction of potential overearnings from Florida Community Water Systems.

Ni Florida did have an index/pass-thru effective 6/27/2025. Index increase, for water \$2,407 and wastewater \$17,244. Pass-Thru, for water \$3,810 and wastewater \$26,708. Dante from Ni Florida stated he would have the letter concerning jurisdiction of potential overearnings to the Commission by Tuesday, December 16. Once they send me their letter concerning jurisdiction of potential overearnings, I will forward it to you, along with their timeline for the revised 2024 annual report.

Thank you,

**Cassie Gatlin**  
Public Utilities Supervisor  
Florida Public Service Commission  
[cgatlin@psc.state.fl.us](mailto:cgatlin@psc.state.fl.us)  
(850) 413-6420

September 30<sup>th</sup>, 2025

Mark Cicchetti, Director  
Division of Accounting and Finance  
Florida Public Service commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

RE: Jurisdiction of Potential Overearnings

Dear Mr. Cicchetti:

This will follow up on the telephone call and email the FPSC Staff had with Deborah Swain on September 26<sup>th</sup>, 2025, concerning potential overearnings of Kirby D. Morgan, Inc to review and discuss current and projected earnings. As requested by Staff, this letter will serve as acknowledgement of and consent to the Commission's jurisdiction over the extent to which the following company's earned return on common equity (ROE) for the portion of the year ending December 31, 2024 while under FPSC jurisdiction exceeds the maximum of the allowed ROE. It is the understanding that any decision regarding the disposition of any portion of such earned return above the maximum allowed ROE will be subject for disposition after the nature and extent of any such amount above the ranges are known. Disposition will only apply prospectively from the time of a final determination and only after consideration of the under-earnings (operating loss) in the subsequent year.

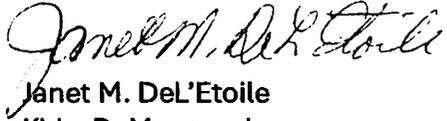
This consent of jurisdiction applies to Kirby D. Morgan, Inc.:

Provided below is additional information concerning this utility for further consideration:

1. This utility was previously under the jurisdiction of Columbia County. The county transferred jurisdiction to the FPSC in May 2024. The 2024 Annual Report includes portions of the year not under FPSC jurisdiction. No determination of over/under earning should be based upon a year with partial jurisdiction.
2. The financial conditions of the utility in 2025 have changed, and the expected earnings is less than 2024.
  - In 2024 and previous years the salaries of employees with direct responsibility for the utility were not charged to the utility. Those two employees' salaries are now paid by the utility beginning in 2025. An allocation of those salaries if applied retroactively for 2024 would reduce net income by \$40,000 plus payroll taxes, resulting in an operating loss.
  - Certain outside professional service costs directly due to FPSC jurisdiction commenced in 2025, and were not incurred prior to 2025. These include accounting using the NARUC chart of accounts, and the preparation of Annual Reports to the FPSC.
  - A review of the utilities income statement for YTD August 2025 indicates that the utility will experience and operating loss for the year 2025.

If further information is required or if we can answer any questions please contact me.

Respectfully,

A handwritten signature in black ink, appearing to read "Janet M. DeL'Etoile". The signature is written in a cursive style with a large initial 'J'.

Janet M. DeL'Etoile  
Kirby D. Morgan, Inc.  
(janetdsellshomes@gmail.com)

Cc Katherine Morgan ([fedexkat@icloud.com](mailto:fedexkat@icloud.com))  
Deborah Swain ([Dswain@milianswain.com](mailto:Dswain@milianswain.com))

Janet Del'etoile  
6620 SW 4th St  
Pembroke Pines, FL 33023

MIAMI FL 330

30 SEP 2025 PM 1 L



2025 OCT -3 AM 8:39

2025 OCT -3 AM 8:39

Mark Cicchetti, Director  
Division of Accounting & Finance  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

32399-085099



## Profit and Loss Comparison

KIRBY D. MORGAN, INC.

January 1-August 31, 2025

DISTRIBUTION ACCOUNT	TOTAL	
	JAN 1 - AUG 31 2025	JAN 1 - AUG 31 2024 (PY)
<b>Income</b>		
Sales of Product Income	3,515.83	0.34
SEWER	76,123.64	89,630.36
Unapplied Cash Payment Income	10,236.68	-3,279.55
REFUND		-45.00
<b>Total for Income</b>	<b>\$89,876.15</b>	<b>\$86,306.15</b>
<b>Cost of Goods Sold</b>	<b>0.00</b>	<b>0.00</b>
<b>Gross Profit</b>	<b>\$89,876.15</b>	<b>\$86,306.15</b>
<b>Expenses</b>		
811 CALLS	6.11	
BANK CHARGE	661.26	216.99
CONTRACTUAL SER	11,550.00	11,930.00
Dues & Subscriptions	2,057.69	
EQUIPMENT	18,174.95	
L & P FEES	5,639.50	3,850.00
MISC	438.00	0.02
OFFICE EXPENSE	10,540.50	1,278.34
Payroll Expenses	\$0.00	\$0.00
Taxes	2,502.00	365.00
Wages	26,666.72	3,333.34
<b>Total for Payroll Expenses</b>	<b>\$29,168.72</b>	<b>\$3,698.34</b>
PO BOX RENTAL	210.00	
REPAIRS & MAINT	17,267.08	18,740.00
SUPPLIES	3,285.28	1,682.60
Taxes and Licenses	150.00	800.00
UTILITIES	6,020.91	3,575.44
WATER TESTING	1,295.00	895.00
County Regulatory Fees		3,023.00
<b>Total for Expenses</b>	<b>\$106,465.00</b>	<b>\$49,689.73</b>
<b>Net Operating Income</b>	<b>-\$16,588.85</b>	<b>\$36,616.42</b>
<b>Other Income</b>	<b>0.00</b>	<b>0.00</b>
<b>Other Expenses</b>		
Customer mailing and printing	435.11	
Florida Public Service Commission	2,445.59	
<b>Total for Other Expenses</b>	<b>\$2,880.70</b>	
<b>Net Other Income</b>	<b>-\$2,880.70</b>	<b>\$0.00</b>
<b>Net Income</b>	<b>-\$19,469.55</b>	<b>\$36,616.42</b>

## Fletcher, Bart

---

**From:** Cassie Gatlin <CGatlin@psc.state.fl.us>  
**Sent:** Tuesday, January 13, 2026 1:57 PM  
**To:** Fletcher, Bart  
**Subject:** FW: Kirby Additional Follow-Up

Please see email response below.

Thanks,  
Cassie

**From:** Deborah Swain <dswain@milianswain.com>  
**Sent:** Tuesday, January 13, 2026 1:00 PM  
**To:** Cassie Gatlin <CGatlin@psc.state.fl.us>  
**Cc:** 'Janet DeL'Etoile' <janetdsellshomes@gmail.com>  
**Subject:** RE: Kirby Additional Follow-Up

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Cassie –

When responding to the inquiry by the FPSC regarding the level of earnings reported for the partial year of 2024 (Kirby D. Morgan did not become FPSC jurisdictional until May 2024), and the earnings projected in 2025, it was discovered that the employees working on utility matters had not been charged to the utility, therefore under-reporting the operating expenses of the utility. This has subsequently been corrected, and the appropriate salaries are included on the books and records commencing 2025.

Please let me know if further information is needed,

**From:** Cassie Gatlin <[CGatlin@psc.state.fl.us](mailto:CGatlin@psc.state.fl.us)>  
**Sent:** Tuesday, January 13, 2026 8:22 AM  
**To:** 'dswain@milianswain.com' <[dswain@milianswain.com](mailto:dswain@milianswain.com)>  
**Subject:** Kirby Additional Follow-Up

Good morning,

Recently the Office of Public Counsel (OPC) reached out to the Commission, see attached letter, to site concerns of a few water/wastewater utilities that were potentially overearning, Kirby D. Morgan being one of them. After passing along your previous responses to OPC, I have a question to clarify the utilities expenses. Can you explain why in 2024 and previous years those two employees' salaries were not charged to the Utility?

Thank you for all of your assistance and quick follow-up!

**Cassie Gatlin**  
Public Utilities Supervisor  
Florida Public Service Commission



**Fletcher, Bart**

---

**From:** Cassie Gatlin <CGatlin@psc.state.fl.us>  
**Sent:** Friday, February 6, 2026 5:09 PM  
**To:** Fletcher, Bart  
**Subject:** RE: Potential Overearnings - Kirby D. Morgan

Good afternoon,

Please see the follow-up response from Debbie Swain. She also clarified that it is 20 hours per week per employee.

Cassie,

As I previously responded, there were no salaries paid by the utility before 2024, which is why there were no salaries reported in those years. It was not until the owner was unable to perform the work herself and the employees, who are related to her, took on all those additional responsibilities that they began to draw salaries. Previously, none of the employees earned a salary.

- They estimate that they work approximately 20 hours per week.
- The wages reported on their W-2s is as follows:

	2021	2022	2023	2024	2025
Janet DeL'Etoile:	\$0	\$0	\$0	\$10,000.02	\$20,000.04
Katherine Morgan	\$0	\$0	\$0	\$10,000.02	\$20,000.04

**From:** Fletcher, Bart <FLETCHER.BART@leg.state.fl.us>  
**Sent:** Friday, February 6, 2026 11:05 AM  
**To:** Matthew Vogel <MVogel@PSC.STATE.FL.US>  
**Cc:** Charles Rehwinkel <rehwinkel.charles@leg.state.fl.us>; Cassie Gatlin <CGatlin@psc.state.fl.us>  
**Subject:** RE: Potential Overearnings - Kirby D. Morgan

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Good morning,

To follow-up on our discussion from this past Tuesday, you reiterated the information provided by Ms. Swain in the email below and stated that Staff would continue monitoring this utility. I realized that the Utility only reported half of the salaries for Ms. DeL'Etoile and Ms. Morgan in the 2024 Annual Report. As I stated on Tuesday, the eventual, total salaries of \$40,000 for these employees seem high given their shared duties mentioned below. This would be even more of a concern for the OPC if Ms. DeL'Etoile and Ms. Morgan work less than 40 hours a week each or work less than 80 hours collectively a week because the effective, collective annual salaries would be greater than \$40,000 based on a standard 2,080 hours a year per person or 4,160 hours a year collectively for two people.

In order evaluate and monitor the Utility's earnings, will the Commission Staff obtain and share with the OPC how many hours Ms. DeL'Etoile works a week and how many hours Ms. Morgan works a week?

Best Regards,

*Bart Fletcher*

*Legislative Analyst*

Office of the Public Counsel

111 West Madison Street, Room 812

Tallahassee, FL 32399-1400

(850) 488-9330

(850) 717-0337 Direct Line

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**From:** Fletcher, Bart

**Sent:** Thursday, January 29, 2026 10:27 AM

**To:** Cassie Gatlin <[cgatlin@psc.state.fl.us](mailto:cgatlin@psc.state.fl.us)>

**Cc:** Rehwinkel, Charles <[REHWINKEL.CHARLES@leg.state.fl.us](mailto:REHWINKEL.CHARLES@leg.state.fl.us)>

**Subject:** Potential Overearnings - Kirby D. Morgan

Thank you – For verification purposes as discussed previously, did the Utility remit to Staff the 2024 and 2025 W-2 (or 1099) forms for Ms. Del'Etoile and Ms. Morgan? Also, how many hours a week do these employees work?

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**From:** Cassie Gatlin <[CGatlin@psc.state.fl.us](mailto:CGatlin@psc.state.fl.us)>

**Sent:** Thursday, January 29, 2026 9:16 AM

**To:** Fletcher, Bart <[FLETCHER.BART@leg.state.fl.us](mailto:FLETCHER.BART@leg.state.fl.us)>

**Subject:** Potential Overearnings - Kirby D. Morgan

Good morning,

Please see the response from Debbie Swain:

In response to the further questions from OPC:

1. *Referring to 2024 Annual Report Schedule F-2. who are the employees now charged to the utility, what do they do, and how much is charged.*

Response:

- The individuals shown on F-2 reflect only ½ year of costs. A full year is double that amount, or a total of \$40,000.
- Janet Morgan DeL'Etoile and Katherine Morgan are Sewer Managers and perform the following shared duties:
  - Maintaining the sewer database. Coordinating estoppels with bookkeeper for customers moving in and out, tracking home sales, implementing liens when needed for non-payment.
  - Coordinate with vendors, regarding competitive bids for equipment replacements/repairs. Coordinating with Sewer Operator, Cameron Young
  - Maintain sewer lift stations, main plant and grounds through working with vendors to pressure clean, paint, general property maintenance (lawn maintenance, tree cutting/trimming, pressure cleaning etc.)
  - Weekly pay vendor received invoices - accounts payable

- Collection of past due accounts, including mailings and door to door visits and telephone calls.
- Handle incoming calls from both customers or vendors
- Coordinate with accountants for proper submitting of required forms, Annual Reports, income tax returns, etc.

2. *Also, confirm these individuals do not replace the people on the 2024 Annual Report Schedule F-7.*

Response: The individuals shown on F-7 will not be replaced by staff on F-2.

- 2024 recipients: Kaci Young (bookkeeper) who replaced Joan Wilson, picks up checks, enters transactions into QuickBooks, and makes bank deposits.
- New in 2025:
  - Milian, Swain & Associates, Inc. will be additional each year for preparation of the Annual Report (approx. \$5000)
  - Cameron Young – sewer operator (\$9000)
  - Verlon Hall – sewer utility groundskeeping (\$2400)

\$0 salaries were recorded in 2021 and 2022. None of the salaries were allocated to the utility. Additionally, at that time the owner, who was also the manager, did not receive a salary at that time.

**Cassie Gatlin**

Public Utilities Supervisor

Florida Public Service Commission

[cgatlin@psc.state.fl.us](mailto:cgatlin@psc.state.fl.us)

(850) 413-6420