

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
ORDER NO. PSC-2022-0355-PHO-GU
ISSUED: October 19, 2022

PREHEARING ORDER

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code (F.A.C.), a Prehearing Conference was held on October 13, 2022, in Tallahassee, Florida, before Commissioner Gabriella Passidomo, as Prehearing Officer.

APPEARANCES:

BETH KEATING, ESQUIRE, and GREGORY M. MUNSON, ESQUIRE, Gunster Law Firm, 215 South Monroe Street, Suite 601, Tallahassee, Florida 32301
On behalf of Florida Public Utilities Company (FPUC).

RICHARD GENTRY, ESQUIRE, Public Counsel, and PATRICIA A. CHRISTENSEN, ESQUIRE, Associate Public Counsel, Office of Public Counsel, c/o The Florida Legislature, 111 W. Madison Street, Suite 812, Tallahassee, Florida 32399-1400
On behalf of Office of Public Counsel (OPC).

JON C. MOYLE, ESQUIRE, and KAREN A. PUTNAL, ESQUIRE, Moyle Law Firm, 118 North Gadsden Street, Tallahassee, Florida 32301
On behalf of Florida Industrial Power Users Group (FIPUG).

RYAN SANDY, ESQUIRE, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Florida Public Service Commission (Staff).

JENNIFER CRAWFORD, ESQUIRE, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Florida Public Service Commission (Staff).

MARY ANNE HELTON, ESQUIRE, Deputy General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
Advisor to the Florida Public Service Commission.

KEITH C. HETRICK, ESQUIRE, General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
Florida Public Service Commission General Counsel.

I. CASE BACKGROUND

On March 24, 2020, pursuant to Rule 25-7.140, F.A.C., Florida Public Utilities Company, Florida Division of Chesapeake Utilities Corporation, Florida Public Utilities Company - Fort Meade, and Florida Public Utilities Company - Indiantown Division (FPUC or Utility) filed a Test Year Notification in Docket No. 20220067-GU. Collectively, FPUC provides service to approximately 91,000 residential, commercial, and industrial customers across the state. FPUC filed its Petition for Rate Increase (Rate Case Petition), minimum filing requirements (MFRs), and testimony on May 24, 2022. FPUC filed its MFRs based on a projected test year from January 1, 2023 through December 31, 2023. The Office of Public Counsel's (OPC) intervention was acknowledged in this docket on May 27, 2022. The Florida Industrial Power Users Group (FIPUG) was granted intervention in this docket on September 8, 2022. In compliance with Section 366.06(2), Florida Statutes (F.S.), an administrative hearing has been scheduled for these matters on October 25-28, 2022.

II. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, F.A.C., this Prehearing Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

III. JURISDICTION

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapters 120 and 366, F.S. This hearing will be governed by said Chapter and Chapters 25-7, 25-22, and 28-106, F.A.C., as well as any other applicable provisions of law.

IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

Information for which proprietary confidential business information status is requested pursuant to Section 366.093, F.S., and Rule 25-22.006, F.A.C., shall be treated by the Commission as confidential. The information shall be exempt from Section 119.07(1), F.S., pending a formal ruling on such request by the Commission or pending return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in this proceeding, it shall be returned to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of this proceeding, it shall be returned to the person providing the information within the time period set forth in Section 366.093, F.S. The Commission may determine that continued possession of the information is necessary for the Commission to conduct its business.

It is the policy of this Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, F.S., to protect proprietary confidential business information from disclosure outside the proceeding. Therefore, any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, F.S., at the hearing shall adhere to the following:

- (1) When confidential information is used in the hearing that has not been filed as prefiled testimony or prefiled exhibits, parties must have copies for the Commissioners, necessary staff, and the court reporter, in red envelopes clearly marked with the nature of the contents and with the confidential information highlighted. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- (2) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise confidentiality. Therefore, confidential information should be presented by written exhibit when reasonably possible.

At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the court reporter shall be retained in the Office of Commission Clerk's confidential files. If such material is admitted into the evidentiary record at hearing and is not otherwise subject to a request for confidential classification filed with the Commission, the source of the information must file a request for confidential classification of the information within 21 days of the conclusion of the hearing, as set forth in Rule 25-22.006(8)(b), F.A.C., if continued confidentiality of the information is to be maintained.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties and staff has been prefiled and will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to timely and appropriate objections. Upon insertion of a witness's testimony, exhibits appended thereto may be marked for identification. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Summaries of testimony shall be limited to five minutes.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer. After all parties and Staff have had the opportunity to cross-examine the witness, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

The parties shall avoid duplicative or repetitious cross-examination. Further, friendly cross-examination will not be allowed. Cross-examination shall be limited to witnesses whose testimony is adverse to the party desiring to cross-examine. Any party conducting what appears to be a friendly cross-examination of a witness should be prepared to indicate why that witness's direct testimony is adverse to its interests.

VI. ORDER OF WITNESSES

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
Mike Cassel	FPUC	1, 4, 11, 18, 39, 55, 56, 62, 63, 65, 66, 69
Mike Galtman	FPUC	13, 18, 28, 34, 36, 49, 50, 51, 52, 53
Michelle Napier	FPUC	2, 3, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 23, 24, 32, 33, 34, 35, 38, 39, 41, 42, 43, 44, 45, 46, 47, 49, 50, 51, 52, 53, 54, 55, 63, 66, 69
Terry Deason	FPUC	18, 49
Noah Russell	FPUC	18, 22, 25, 26, 27, 29, 31, 32, 36, 37, 38
Paul Moul	FPUC	30
Mike Reno	FPUC	28, 40, 48, 50, 51
Pat Lee ¹	FPUC	5, 6, 7, 8, 17, 46, 47
John Taylor	FPUC	2, 3, 56, 57, 58, 59, 60

¹ Errata for this witness's testimony was filed June 16, 2022. The witness's testimony was subsequently revised in full on September 9, 2022, including Exhs PSL-1 and PSL-3, and revised Exhs PSL-2 and Exh PSL-4, incorporating the previous errata corrections. On October 6, 2022, a letter was filed in the docket with attached page 26 of revised Exh PSL-2, which was inadvertently omitted from previously filing on September 9, 2022.

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
Vik Gadgil	FPUC	4
Kira Lake	FPUC	10, 62, 64, 67
Jason Bennett	FPUC	9, 12
Kelley Parmer ²	FPUC	4
Devon Rudloff	FPUC	34, 35, 36
Wraye Grimard	FPUC	61, 62, 64, 67
Matt Everngam	FPUC	68
Bill Hancock	FPUC	2
David J. Garrett ³	OPC	All issues - specifically 5-8, 16-17, 23, 25-31, 33, 44, 50-55
Ralph C. Smith ⁴	OPC	All issues- specifically 1-4, 10, 15-18, 21-31, 33-35, 37, 40-44, 50-55
Todd M. Brown	Staff	
Angela L. Calhoun	Staff	4
<u>Rebuttal</u>		
Patricia Lee	FPUC	5, 6, 7, 8, 17, 47
Noah Russell	FPUC	22
Mike Galtman	FPUC	34, 35, 51

² Errata filed September 14, 2022.

³ Errata filed on August 30, 2022. On September 27, 2022, OPC filed the Supplemental testimony of David J. Garrett and Exhs DJG-S-18, DJG-S-20 and DJG-S-21.

⁴ On September 27, 2022, OPC filed the Supplemental Testimony of Ralph C. Smith and Exhs RCS-2R and RCS-3, which substituted for previous Exh RCS-2R. On October 6, 2022, OPC filed substituted Exh RCS-2R to supplemental testimony of Ralph C. Smith which addresses an incorrect docket number on the exhibit and replaces the Exh RCS-2R filed on September 27, 2022.

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
Mike Reno	FPUC	8, 40
Joanah Baugh	FPUC	21, 43
Paul Moul	FPUC	22, 25, 30, 31
Mike Cassel	FPUC	18
Terry Deason	FPUC	18, 35

VII. BASIC POSITIONS

FPUC: It has been over a decade since any of the natural gas local distribution companies in this case has pursued rate relief. For one entity, Florida Public Utilities Company – Fort Meade, this is the first instance in which the company’s rates and structure have been reviewed. Over that period of time, Florida Public Utilities Company has been acquired by Chesapeake Utilities Corporation, which is also the owner of the Florida Division of Chesapeake Utilities Corporation. Florida Public Utilities Company then acquired Indiantown Gas Company and the municipal natural gas system of Fort Meade. These entities, which are referred to herein jointly as Florida Public Utilities Company (“FPUC”), have since experienced significant customer growth and expanded service into areas that were previously unserved. Because of the acquisition, FPUC has been able to invest over \$320 million in capital spending, thus allowing FPUC such an unusual length of time between rate requests.

FPUC has focused on communication and service for its customers, which has driven improvements in customer service and customer communications. While FPUC has kept its focus on its service, the very heart of everything FPUC does is safety – both for its customers and its employees. This underlying theme has driven improvements in FPUC’s distribution facilities, its training programs, and its safety protocols, including making appropriate investments in our computer technology, training, and software to address safety as it relates to cybersecurity. FPUC has evolved from a small, local operation to a much larger, more sophisticated company that has, and continues, to implement a strategic growth plan designed to expand the availability of gas to customers across the state in a safe and reliable manner.

Costs to serve have, however, increased over this period, as has the company's capital investments to serve new customers and new service areas. As a result, FPUC's earnings have declined to the point that it will no longer have the opportunity to earn a fair return and could begin to impair the company's ability to continue to make investments to the benefit of its customers. Moreover, FPUC has determined that now is the appropriate time to consolidate the rates and rate structures for these separate entities, which will ultimately increase efficiencies across the FPUC service platform. FPUC is therefore requesting that the Florida Public Service Commission ("Commission") approve an \$24 million revenue increase. When this base revenue increase request is added to the approximately \$19.8 million associated with GRIP, which should be moved from the current surcharge mechanism to recovery through base rates, the total revenue increase request is approximately \$43.8 million. However, to be clear, moving the GRIP recovery from the surcharge to base recovery is a revenue neutral component of FPUC's request.

FPUC also asks that the Commission approve an overall rate of return of 6.43 percent, including an approved mid-point ROE of 11.25. FPUC has also submitted a Depreciation Study for approval, which reflects appropriate adjustments to service lives and rates and will result in reduced depreciation expense to the benefit of FPUC's customers. FPUC is also seeking certain changes to its tariffed programs, such as its Area Extension Program, as well as the ability to remove collection of certain costs from base rates to surcharges.

Commission approval of FPUC's request will enable to the company to continue to provide safe and efficient service to its customers, to provide top tier customer care, and to continue to 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.

OPC: Florida Public Utilities Company ("FPUC") is not entitled to have its rates established on a midpoint return on equity ("ROE") greater than 9.5%. FPUC demonstrated an entitlement to an annual base rate increase of no more than \$7.88 million, which is significantly less than FPUC's requested increase in base rates of \$24.06 million dollars, based on an excessive ROE of 11.25%.

FPUC seeks to increase its customers' base rates during these challenging economic times marked by high inflation and the real threat of an economic recession. FPUC's request for a midpoint ROE of 11.25% is excessive and should be reduced, as should be FPUC's requested increase in base rates of nearly \$24.06 million dollars.

OPC has evaluated FPUC's Petition, testimony, the Minimum Filing Requirements ("MFRs"), discovery responses and testimonies filed in this proceeding. OPC has engaged multiple expert witnesses to conduct an extensive

and thorough review: David Garrett - Depreciation and Depreciation Rates, and Cost of Capital issues; and Ralph Smith, C.P.A., Accounting Adjustments and Revenue Requirement. OPC has identified four principal areas for adjustment: Depreciation and Depreciation Rates; Revenues; Capital Structure; and Return on Equity.

Depreciation and Dismantlement

FPUC's Witness Lee proposed depreciation parameters that includes several accounts with underestimated service lives. Assuming that the Commission adopts OPC witness Garrett's service lives for the depreciation study, the sum of the adjustments results in a reduction to FPUC's 2023 revenue request by \$2.205 million for new lower depreciation rates.

Return on Equity (ROE)

David Garrett has evaluated FPUC's requested ROE in light of current market conditions. FPUC's requested 11.25% ROE with its requested 55% equity ratio, is excessive under current market conditions. Mr. Garrett applied the Discount Cash Flow (DCF) method checked by the Capital Asset Pricing Model (CAPM) method with a proposed capital structure of 48% equity and using FPUC's proxy group, determined that the appropriate ROE for FPUC is 9.25%.

Other Issues

FPUC has the burden of proof in this matter in all respects. Based on OPC's witness Smith's review of FPUC MFRs and the extensive discovery, he recommends additional adjustments to FPUC's request. Specifically, he recommends eliminating the acquisition adjustment from the FPUC merger. Witness Smith also recommends reductions for Director & Officers Liability Insurance expense, rate case expense, tax-related costs, Incentive Compensation and other benefits, a Parent Company Debt Adjustment and disallowance of others costs.

Conclusion

FPUC has not demonstrated that it is entitled to any more than a \$7.88 million revenue increase, exclusive of the GRIP revenue requirement transfer into base rates. This means that FPUC has asked for \$16.8 million in excessive revenue requirements.

FIPUG: Florida Public Utility Company ("FPUC") seeks to increase its customers' base rates during these challenging economic times marked by high inflation and the real threat of an economic recession. FPUC's request for a midpoint return on equity ("ROE") of 11.25% is excessive and should be reduced, as should be FPUC's requested increase in base rates of nearly \$25 million dollars. FPUC must meet its burden of proof in this matter in all respects. FIPUG further adopts the positions of the Office of Public Counsel in this matter as if fully set forth herein.

STAFF: Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions.

VIII. ISSUES AND POSITIONS

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. (Cassel)

OPC: Yes, with appropriate adjustments. (Smith)

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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. (Napier, Hancock)

OPC: Yes, with appropriate adjustments. (Smith)

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

ISSUE 3: 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?

FPUC: Yes. FPUC applied the Company's present rates to the forecast billing determinants, which produced the estimated gas sales revenues for the 2023 projected test year. (Napier)

OPC: Yes, with appropriate adjustments. (Smith)

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

QUALITY OF SERVICE

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

FPUC: Yes. FPUC is committed to continuing to meet and exceed customer expectations through making prudent investments in technology, providing options for completing transactions, opening additional channels of communication to conduct business, and continuing to expand its Voice of the Customer program. The prudent investments made thus far in modernizing the Company's phone system and supporting technologies have transformed the way it does business. 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. Even with increased customer expectations, the Company has been successful at lowering the number of complaints. Over the past nine years, the Company has not received any formal complaint for FPUC – Indiantown Division, and our FPUC - Fort Meade Division has only experienced one formal complaint over the past nine years. (Parmer, Gadgil)

OPC: The multiple customer comments filed in the docket urge the Commission not to seek a rate increase at this time due to the extremely challenging times. No comments raised specific concerns regarding their service aside from affordability.

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

DEPRECIATION STUDY

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. The depreciation study was performed by Witness Lee in coordination with the FPUC employees. The depreciation study will produce a significant reduction in depreciation expense, which will inure to the benefit of FPUC's ratepayers. (Lee)

OPC: The depreciation parameters and resulting depreciation rates are as shown in OPC witness Garrett's direct and supplemental testimonies and exhibits. (Garrett)

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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 reserve results in a total difference of \$20 million, which is comprised of a positive \$21 million for the Distribution function and a negative \$1 million for the General function. (Lee)

OPC: The depreciation parameters and resulting depreciation rates are as shown in OPC witness Garrett's direct and supplemental testimonies and exhibits. (Garrett)

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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

FPUC: The remaining life technique will correct the reserve imbalances existing in the distribution and non-amortizable general plant accounts over the associated remaining life of each account. However, for the amortizable general plant accounts subject to vintage group accounting, the calculated \$1.4 million reserve

imbalance set forth in the depreciation study submitted as Revised Exhibit PSL-2 to the direct testimony of Patricia Lee on behalf of the Company should be amortized over 5 years at an annual amount of \$288,819. The amortization reflects a true-up of that approved in the 2019 depreciation study to correct a mismatch of the different account systems that were being used for the different companies. All FPUC consolidated companies have since adopted the Chesapeake Uniform System of Accounts. (Lee)

OPC: Any imbalances identified by adoption of the depreciation parameters and resulting depreciation rates shown in OPC Witness Garrett's direct and supplemental testimonies and exhibits should be allocated over the service life of the assets using the parameters included in OPC witness Garrett's direct and supplemental testimonies and exhibits. (Garrett)

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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

FPUC: The effective date should be January 1, 2023. (Lee)

OPC: The depreciation parameters and resulting depreciation rates are as shown in OPC witness Garrett's direct and supplemental testimonies and exhibits and should be implemented upon approval of the Commission. (Garrett)

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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 \$175,406,734 which will be offset by resetting the GRIP surcharge to recover only the remaining true-up amount. (Bennett, Napier)

OPC: FPUC will have outstanding GRIP costs as of December 31, 2022, subject to true-up in 2023 factors.

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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?**

FPUC: Yes, the existing adjustment is appropriate. No other adjustments are needed. (Napier, Lake)

OPC: The Accumulated Depreciation related to the AEP was understated and should have included a projected adjustment in the credit amount of \$85,698. FPUC's Accumulated Depreciation should be increased by \$85,698 to reflect this correction. (Smith)

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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: The appropriate amount of environmental costs that should be removed from the filing because of a change to the surcharge mechanism is \$456,348 of amortization currently being expensed and \$3,545,624 from working capital related to the existing environmental assets and liabilities. 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. (Cassel, Napier)

OPC: The existing environmental costs should be recovered in base rates, not through an environmental cost recovery surcharge mechanism. Moreover, FPUC has the burden of demonstrating that its environmental costs are properly recorded on its books and records and reflected in the MFRs. OPC is not proposing an adjustment prior to hearing, but may propose an adjustment based on evidence adduced at hearing.

FIPUG: Environmental costs should be remain in base rates and not be recovered through a clause mechanism.

STAFF: Staff has no position at this time.

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. (Bennett)

OPC: No, this project has not been demonstrated to be prudent. FPUC has the burden of demonstrating that its proposed Safety Town project costs are reasonable, properly recorded on its books and records, and reflected in the MFRs. OPC is not proposing an adjustment prior to hearing, but may propose an adjustment based on evidence adduced at hearing.

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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 Common are allocated to electric and non-regulated operations and are appropriate. No further adjustments are necessary. (Napier, Galtman)

OPC: The allocations should remain at current levels. FPUC has the burden of demonstrating that its Florida Common and Corporate Common plant and accumulated depreciation costs are allocated appropriately, properly recorded on its books and records, and reflected in the MFRs. OPC is not proposing an adjustment prior to hearing, but may propose an adjustment based on evidence adduced at hearing.

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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. (Napier)

OPC: No, FPUC has not demonstrated that it removed all non-utility activities from Plant in Service, Accumulated Depreciation, and Working Capital. FPUC has the burden of demonstrating that all non-utility activities from Plant in Service, Accumulated Depreciation, and Working Capital have been appropriately removed, properly recorded on its books and records, and reflected in the MFRs. OPC is not proposing an adjustment prior to hearing, but may propose an adjustment based on evidence adduced at hearing.

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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

FPUC: As of December 31, 2019, 2020 and 2021, the Company had Miscellaneous Intangible Plant in account 303 of \$213,641 and accumulated amortization of \$127,642. As reported in Citizen's Production of Documents number 56, the Company made a true-up entry in 2022 to correct an amortization error which resulted in a 13-month average increase in accumulated amortization of \$85,772. As a result, the Miscellaneous Intangible Plant will be fully amortized by March 2023. The appropriate level of Miscellaneous Intangible Plant for the projected test year is a net 13-month average of \$228. (Napier)

OPC: FPUC need to continue amortizing balances related to rights granted for Wayside and Deland South natural gas stations until fully amortize. To correct this error, a true-up amortization entry lower its projected average rate base by \$85,839. (Smith)

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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. (Napier)

OPC: The appropriate level of plant in service for the projected test year should reflect all OPC adjustments. (Smith, Garrett)

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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

FPUC: The total revised accumulated depreciation is \$137,195,082. 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 and increased for the self-reported corrections in the response to Citizen's Production of Documents number 56 of \$85,772. (Lee, Napier)

OPC: The appropriate level of accumulated depreciation for the projected test year should reflect all OPC adjustments. (Smith, Garrett)

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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 of FPUC by Chesapeake Utilities Corporation continues to produce savings and benefits for FPUC's customers. The acquisition and the benefits derived therefrom continue to be in the public interest; therefore, no adjustments should be made. (Cassel, Russell, Napier, Galtman, Deason)

OPC: Yes, there should be an adjustment. The FPUC acquisition adjustment should not be included in rate base, and the related amortization expense should not be allowed to be included in 2023 test year operating expenses. (Smith)

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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

FPUC: The appropriate amount related to CWIP that should be included in rate base is \$7,130,484. (Napier)

OPC: The appropriate amount of CWIP should be current levels. FPUC has the burden of demonstrating that its CWIP is appropriate, properly recorded on its books and records, and reflected in the MFRs. OPC is not proposing an adjustment prior to hearing, but may propose an adjustment based on evidence adduced at hearing.

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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?

FPUC: 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. (Napier)

OPC: No. FPUC has the burden of demonstrating that it's under recoveries and over recoveries related to the Purchased Gas Adjustment and Energy Conservation Cost Recovery have been appropriately reflected in the Working Capital Allowance, properly recorded on its books and records, and reflected in the MFRs. OPC is not proposing an adjustment prior to hearing, but may propose an adjustment based on evidence adduced at hearing.

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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. (Baugh)

OPC: Yes, an adjustment should be made. The unamortized rate case expense should be adjusted to remove \$159,169 to correct for error, and \$1,713,787 to remove FPUC's updated remaining amount for the unamortized balance of rate case expense from the working capital, thereby reducing rate base by \$1,871,956. (Smith)

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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 in light of the changing environment in which all of the Company’s business units operate. Reducing these amounts negatively diminishes the importance of fiduciary oversight, governance and overall risk management and further impacts FPUC’s ability to incur costs to retain and attract talent. Also, without this coverage, the Company could be exposed to a claim, which could result in material legal fees and other costs that would ultimately negatively impact ratepayers and shareholders. (Russell)

OPC: Yes, an adjustment should be made. Due the nature of D&O Liability Insurance protecting shareholders from harmful Board of Director decisions, one half of D&O Liability Insurance should be removed from working capital (sharing costs between shareholders and ratepayers) which reduces projected 2023 test year rate base by \$18,049. (Smith)

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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. This amount is based on the filed amount of \$5,384,311 and reduced by the self-reported corrections in the response to Citizen’s Production of Documents number 56 of \$156,949. (Napier)

OPC: The appropriate level of working capital for the projected test year should reflect all OPC adjustments. (Smith, Garrett)

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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 \$455,494,118. This amount is based on the filed amount of \$454,887,154, increased for the current depreciation study by \$849,685 and decreased for the self-reported

adjustments in response to Citizen's Production of Documents number 56 by \$242,721. (Napier)

OPC: The appropriate level of rate base for the projected test year should reflect all OPC adjustments. (Smith, Garrett)

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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?

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

OPC: The appropriate cost rate for short-term debt is 3.28%. The amount and cost rate are shown on Exhibit RCS-2R, Schedule D. (Smith, Garrett)

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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%. (Russell)

OPC: The appropriate cost rate for long-term debt is 3.48%. The amount and cost rate are shown on Exhibit RCS-2R, Schedule D. (Smith, Garrett)

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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%. (Russell)

OPC: The appropriate customer deposits amount is \$10,312,975 and the appropriate cost rate is 2.37%. The amount and cost rate are shown on Exhibit RCS-2R, Schedule D. (Smith, Garrett)

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

ISSUE 28: What is the appropriate amount of accumulated deferred taxes to include in the projected test year capital structure?

FPUC: The appropriate amount of for 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. (Galtman)

OPC: The appropriate accumulated deferred taxes amount is \$40,317,168. The amount and cost rate are shown on Exhibit RCS-2R, Schedule D. (Smith, Garrett)

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

ISSUE 29: What is the appropriate equity ratio to use in the capital structure for ratemaking purposes?

FPUC: The equity to debt ratio is 55.10%. The equity ratio taking into consideration customer deposits, deferred taxes and the regulatory tax liability is 45.143%. (Russell)

OPC: The equity ratio is 48% equity. (Smith, Garrett)

FIPUG: The appropriate equity ratio FPUC should use in the capital structure for ratemaking purposes should be comprised of significantly less equity than 55.10% as proposed by FPUC.

STAFF: Staff has no position at this time.

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%. (Moul)

OPC: The appropriate ROE is 9.25%. FPUC's requested 11.25% ROE and a 55.1% equity ratio is extravagant and excessive under current market conditions. Awarded ROEs have remained lower than 10% since before 2015 and the market already accounts for flotation costs which is not an out-of-pocket costs. After applying the Discount Cash Flow (DCF) method checked by the Capital Asset Pricing Model (CAPM) with a proposed capital structure of 48% equity and also applying the electric proxy groups, the appropriate ROE for FPUC is 9.25% to gradually bring the ROE in-line with FPUC's market based cost of equity. (Garrett). The appropriate reconciliation of rate base and capital structure is shown on Exhibit RCS-2R, Schedule D. (Smith, Garrett)

FIPUG: The appropriate Commission-authorized midpoint ROE to use in establishing FPUC's projected test year revenue requirement should be significantly less than 11.25% as proposed by FPUC.

STAFF: Staff has no position at this time.

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 method is to reduce rate base for the directly charged items of customer deposits, deferred taxes, and regulatory liabilities and allocate the remaining balance using the parent company equity, long-term and short-term debt ratios provided in MFR G-3 page 2. The appropriate weighted average cost of capital to use is 6.43%. (Russell)

OPC: The weighted average cost of capital of 5.20% as shown on Exhibit RCS-2R, Schedule D. Pursuant to the standards set forth in Bluefield Water Works and Improvement Co. v. Public Service Commission of West Virginia, 262 U.S. 679 (1923) ("Bluefield") and Federal Power Commission v. Hope Natural Gas Co., 320 U.S. 591 (1944) ("Hope") that financial integrity should be sufficient to attract capital on reasonable terms under a variety of market and economic conditions. Under OPC's gradual approach of moving toward market expected ROEs should allow for FPUC to maintain financial integrity. OPC's recommends capital structure of 9.25% equity return with a 48% common equity structure with a 5.20% overall rate of return. (Smith, Garrett)

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

NET OPERATING INCOME

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?**

FPUC: Yes. (Napier)

OPC: No. FPUC has the burden of demonstrating that it appropriately 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.

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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

FPUC: Yes. (Napier)

OPC: No. Based on OPC's recommend depreciation rates, depreciation expense should be reduced by \$2.205 million. Further, the amortization expense for the Acquisition adjustment for FPUC should be removed since FPUC has not demonstrated that costs saving have been maintained. Thus, \$1,139,750 should be removed related to amortization expense in the 2023 test year. (Smith, Garrett)

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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

FPUC: No. (Galtman, Napier)

OPC: Yes. FPUC has the burden of demonstrating the need for any additional employees in the 2023 project test year, particularly if there is any potential for a merger in near future years. (Smith)

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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

FPUC: \$17,900,960 of payroll and benefits of \$2,916,722. (Napier)

OPC: The appropriate amount of salaries and benefits in the 2023 projected test year should be adjusted consistent with OPC's recommended adjustments of \$1.090 million for incentive compensation, \$1.376 million for executive/management stock-based compensation, and \$1,762 for Supplemental Executive Retirement. Ratepayers should not have to pay for compensation that mainly benefits shareholders, is tied to the parent company's stock performance or not allowed by the IRS. (Smith)

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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

FPUC: The Company engaged an actuary to assist with evaluating pension expense. Prudential generated numerous scenarios of the projected pension expense over the next ten years. Assuming an inclining discount rate and a return on plan assets of 4%, the actuary estimated that FPUC's pension plan expense will range from a credit of \$42,900 to an expense of \$47,450. The Company conservatively projected a \$42,900 credit in the 2023 test year. 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. (Russell, Galtman)

OPC: The amount should remain at current levels. FPUC has the burden of demonstrating that the amount of pensions and post-retirement benefits expense to include in the projected test year are appropriate.

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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 insurance policy is necessary to attract and retain qualified employees and directors in light of the changing environment in which all of the Company’s business units operate. Reducing these amounts negatively diminishes the importance of fiduciary oversight, governance and overall risk management and further impacts FPUC’s ability to incur costs to retain and attract talent. Also, without this coverage, the Company could be exposed to certain claims that could result in material legal fees and other costs that would ultimately negatively impact ratepayers and shareholders. (Russell)

OPC: Yes, an adjustment to remove \$85,528 for Directors and Officers Liability (“D&O”) insurance expense from projected test year cost of service. Due the nature of D&O Liability Insurance protecting shareholders from harmful Board of Director decisions, one half of D&O Liability Insurance should be removed from working capital (sharing costs between shareholders and ratepayers). (Smith)

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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, the factors were based on the best estimates at the time and any changes would still be estimates. However, current inflation estimates are higher than filed estimates. (Russell, Napier)

OPC: No. However, FPUC has the burden of demonstrating that the changes to the non-labor trend factors for inflation and customer growth included in the projected test year O&M expenses are appropriate.

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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

FPUC: \$10,000 annually with a maximum reserve of \$1,000,000. (Napier)

OPC: The amount should remain at current levels. FPUC has the burden of demonstrating that the annual storm damage accrual and cap included in the projected test year O&M expenses are appropriate.

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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. Instead, CUC, the parent company of FPUC, maintains all the third-party debt. When filing a consolidated tax return of CUC and its subsidiaries (including FPUC), the tax deduction for interest expense is determined by the interest associated with the third-party debt held by the parent. As FPUC has no third-party debt, there is no tax deduction for interest expense recorded on the subsidiary's Federal income tax return. While FPUC has no debt on its books and records, an allocated portion of the parent's capital structure is applied to the rate base of FPUC as illustrated in MFR G-3 page 2. (Reno)

OPC: Yes, a Parent Debt Adjustment is appropriate. The adjustment reduces federal income tax expense by \$679,973. (Smith)

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

ISSUE 41: 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: No adjustment is needed, and the appropriate amortization period is five years. (Napier)

OPC: The rate case expense should be no more than estimated provided in FPUC witness Cassel testimony of \$3,427,574 million, amortized over five-years. The

projected test year should include no more than \$685,515 in the projected 2023 test year for rate case expense. (Smith)

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

ISSUE 42: Should an adjustment be made to Uncollectible Accounts and for Bad Debt in the Revenue Expansion Factor?

FPUC: As shown in the MFR's the expansion factor should include bad debt since the projected test year uncollectible expense is based on the current level of revenue. Bad debt on the revenue increase related to the rate case needs to be taken into account through the expansion factor. (Napier)

OPC: The amount should remain at current levels. FPUC has the burden of demonstrating that the amount of Uncollectible Accounts and Bad Debt in the Revenue Expansion Factor included in the projected test year are appropriate.

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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

FPUC: Yes. The rent expense that should be removed from the projected 2023 test year is \$38,571. (Baugh)

OPC: Yes, the rental expense should be reduced by \$78,249 in the projected 2023 test year to reflect a reduction for rental space that is no longer leased. (Smith)

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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

FPUC: The total revised O & M expense is \$43,954,847 based on the filed amount of \$44,026,719 adjusted for the self-reported corrections in the response to Citizen's

Production of Documents number 56 and Interrogatory number 138 of reduction of expense of \$71,872 (Napier)

OPC: The amount of projected test year O&M expense should reflect all OPC's recommended adjustments. (Smith, Garrett)

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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. (Napier)

OPC: The allocation should remain at current levels. FPUC has the burden of demonstrating that the amount of 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 included in the projected test year are appropriate. These amount should reflect all applicable OPC adjustments.

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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 \$3,575,128 which is based on the filed amount of \$4,162,610 and reduced for current depreciation study by \$587,482. (Napier, Lee)

OPC: The amount should remain at current levels. FPUC has the burden of demonstrating that the amount of depreciation expense included in the projected test year for FPUC's GRIP program are appropriate.

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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 which is based on the filed amount of \$16,316,662 adjusted for the current depreciation study by (\$1,643,826), as well as Company's self-reported adjustments made in response to Citizen's Production of Documents number 56 by \$1,540. (Napier, Lee)

OPC: The amounts should reflect all OPC adjustments by witness Garrett and Smith. FPUC has the burden of demonstrating that the amount of Depreciation and Amortization Expense included in the projected test year are appropriate.

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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 by using the interest calculated on G-2 page 2, based on the projected capital structure when projecting the interest used to calculate income tax expense. (Reno)

OPC: The federal income tax expense should be reduced by \$134,104 for an interest synchronization adjustment. (Smith)

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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. The acquisitions continue to be in the public interest and the amortization amounts should continue on the same basis upon which the acquisition adjustments were initially approved by the Commission. (Deason, Napier)

OPC: Yes, the acquisition adjustment amortization expense of \$1,139,750 should not be allowed to be included in 2023 test year operating expenses related to the FPUC merger acquisition adjustment. FPUC has failed to demonstrate the synergy from the merger are still occurring. (Smith)

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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 (Napier, Galtman)

OPC: The amount should remain at current levels. FPUC has the burden of demonstrating that the amount of projected test year Taxes Other than Income is appropriate. These amounts should reflect all applicable OPC adjustments. (Smith, Garrett)

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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 \$2,412,353, based on the filed amount of \$1,977,900 and increased for taxes on the current depreciation study, as well as the self-reported adjustments made in response to Citizen's Production of Documents number 56 of \$434,453. (Napier, Galtman)

OPC: FPUC has the burden of demonstrating that the amount of projected test year Income Tax Expense is appropriate. These amounts should reflect all applicable OPC adjustments. (Smith, Garet)

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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 \$68,607,911 based on the filed amount of \$69,887,615 and reduced for the current depreciation study by \$1,227,198, as well as the self-reported adjustments made in response to Citizen's Production of Documents number 56 of \$52,506. (Napier, Galtman)

OPC: FPUC has the burden of demonstrating that the amount of Total Operation Expenses for the projected test year is appropriate. These amounts should reflect all applicable OPC adjustments. (Smith, Garrett)

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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 \$12,697,406 which is based on the filed amount of \$11,417,702 and increased for the current depreciation study by \$1,227,198, as well as adjusted for the Company's self-reported adjustments provided in response to Citizen's Production of Documents number 56 of \$52,506. (Napier, Galtman)

OPC: FPUC has the burden of demonstrating that the amount of Net Operating Income for the projected test year is appropriate. These amount should reflect all applicable OPC adjustments. (Smith, Garrett)

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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. (Napier)

OPC: These amounts should reflect all applicable OPC adjustments. FPUC has the burden of demonstrating that the amount of the revenue expansion factor and the appropriate net operating income multiplier, including the appropriate elements and rates for FPUC is appropriate. (Smith, Garrett)

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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 \$42,143,737 includes the roll in of our GRIP revenues of \$19,755,931 and based on the filed amount of \$24,061,982 and reduced for the current depreciation study by \$1,582,263, as well as self-reported corrections provided by the Company response to Citizen's Production of Documents number 56 and Interrogatory 138 of \$91,913. (Napier)

OPC: These amounts should reflect all applicable OPC adjustments. FPUC has the burden of demonstrating that the amount of annual operating revenue increase for the projected test year is appropriate. (Smith, Garrett)

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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. (Taylor)

OPC: Yes, assuming the proposed consolidation of its cost of service is non-discriminatory and consistent with OPC's recommendation on the other issues in this docket.

FIPUG: No.

STAFF: Staff has no position at this time.

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. (Taylor)

OPC: Yes, assuming the proposed cost of service study is non-discriminatory and consistent with OPC's recommendation on the other issues in this docket.

FIPUG: No.

STAFF: Staff has no position at this time.

ISSUE 58: Are FPUC's proposed consolidated residential and commercial rate classes appropriate?

FPUC: Yes. The proposed rate case structure provides simplicity and transparency as the current rate structures are overly stratified and unnecessary. (Taylor)

OPC: Yes, assuming the proposed consolidated residential and commercial rate classes are non-discriminatory and consistent with OPC's recommendation on the other issues in this docket.

FIPUG: No.

STAFF: Staff has no position at this time.

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. For some customers, the customer charges were set below the customer unit costs within the COSS. 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, rather than demand rates which are not in place for any of the 54 existing rate classes. (Taylor)

OPC: Yes, assuming the proposed customer charges for Florida Public Utilities Company, CFG, Fort Meade, and Indiantown are non-discriminatory and consistent with OPC's recommendation on the other issues in this docket.

FIPUG: No.

STAFF: Staff has no position at this time.

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

FPUC: Yes. A version of MFR Schedule H-1 Schedule A reflects the appropriate method 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. (Taylor)

OPC: Yes, assuming the proposed per therm distribution charges for Florida Public Utilities Company, CFG, Fort Meade, and Indiantown are non-discriminatory and consistent with OPC's recommendation on the other issues in this docket.

FIPUG: No.

STAFF: Staff has no position at this time.

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. (Grimard)

OPC: Yes, assuming the consolidated miscellaneous service charges are non-discriminatory and consistent with OPC's recommendation on the other issues in this docket.

FIPUG: No.

STAFF: Staff has no position at this time.

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

FPUC: Yes. The proposal to modify its existing AEP is appropriate as it will result in less confusion to the customer concerning the AEP surcharge rate and reduce inquiries from customers for such, as well as allow for more straightforward administration of the AEP surcharge by the Company. (Lake, Grimard)

OPC: Yes, assuming the modification is non-discriminatory and consistent with OPC's recommendation on the other issues in this docket.

FIPUG: No.

STAFF: Staff has no position at this time.

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. FPUC's proposed Environmental Cost Recovery Surcharge provides the Company with a timely mechanism to recover necessary environmental remediation costs, which has the benefit of being able to be terminated when all clean-up costs are incurred and recorded. This surcharge is preferential to recovery in base rates as it ensures Customers will accurately pay only that amount which is equal to costs spent, while avoiding the need for an expensive future rate filing to eliminate recovery in base rate revenues. 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. (Napier, Cassel)

OPC: No. The Commission should provide for recovery of any environmental costs through base rates.

FIPUG: No.

STAFF: Staff has no position at this time.

ISSUE 64: Are FPUC's non-rate related tariff changes appropriate?

FPUC: Yes. (Grimard)

OPC: Yes, assuming the tariffs are non-discriminatory and consistent with OPC's recommendations on the other issues in this docket.

FIPUG: No.

STAFF: Staff has no position at this time.

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 is January 1, 2023. (Cassel)

OPC: The effective date of FPUC's revised rates and charges should allow for time for implementation promptly after the Commission's final order in this matter.

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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 for both the Customers and the Company, 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. (Cassel, Napier)

OPC: No. The Commission should require the Company to file a limited proceeding for any future tax changes.

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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?

FPUC: Yes. 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 should be approved. The optional requirement will enhance the financial reliability of extensions provided under the Company's existing extension policy, facilitating expansion of service to new customers while protecting existing ratepayers on the Company's system. (Lake, Grimard)

OPC: Yes, assuming it is non-discriminatory.

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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. (Everngam)

OPC: Yes, if the Commission approves final rates that are less than the amount allowed to be collected as interim rates.

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

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. (Cassel, Napier)

OPC: Yes, the Commission should require FPUC 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.

FIPUG: Adopt position of OPC.

STAFF: Staff has no position at this time.

ISSUE 70: **Should this docket be closed?**

FPUC: Yes.

OPC: Yes, after the time for appeal has past.

FIPUG: Yes.

STAFF: Staff has no position at this time.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
<u>Direct</u>			
Mike Cassel	FPUC	MDC-1	List of Sponsored MFRs
Mike Cassel	FPUC	MDC-2	List of Sponsored MFRs
Mike Cassel	FPUC	MDC-3	Report on anticipated environmental remediation efforts
Mike Cassel	FPUC	MDC-4	Natural Gas Storybook
Mike Galtman	FPUC	MG-1	List of Sponsored MFRs
Michelle Napier	FPUC	MN-1	List of Sponsored MFRs
Michelle Napier	FPUC	MN-2	Evaluation of Acquisition Adjustment
Michelle Napier	FPUC	MN-3	Evaluation of Indiantown Acquisition Adjustment
Noah Russell	FPUC	NTR-1	Composite Schedules: NAIC Ratings; Weighted Average Cost of LTD; FPU Stock Price; Chesapeake Stock Price
Noah Russell	FPUC	NTR-2	List of Sponsored MFRs
Paul Moul	FPUC	PRM-1	Composite Financial Schedules on Capitalization, Financial Statistics, Capital Structure Scenarios, Growth Rates, Financial Risk, Capital Market Pricing Model
Patricia Lee	FPUC	PSL-1 ⁵	Curriculum Vitae

⁵ Revised in full on September 9, 2022, including original Exhs PSL-1 and PSL-3, and revised Exhs PSL-2 and Exh PSL-4, subsuming previous errata corrections. On October 6, 2022, a letter was filed in the docket with attached page 26 of revised Exh PSL-2, which was inadvertently omitted from previously filing on September 9, 2022.

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Patricia Lee	FPUC	PSL-2 ⁶	FPUC Depreciation Study and Workbook
Patricia Lee	FPUC	PSL-3 ⁷	Life Table Example
Patricia Lee	FPUC	PSL-4 ⁸	Recommended Depreciation Rates with and without Reserve Allocations
John Taylor	FPUC	JDT-1	List of Sponsored MFRs
John Taylor	FPUC	JDT-2	Billing Determinants
John Taylor	FPUC	JDT-3	Class Conversion
John Taylor	FPUC	JDT-4	Average Annual Bill Impact
Vik Gadgil	FPUC	VG-1	List of Sponsored MFRs
Kira Lake	FPUC	KIL-1	FPUC Customer Growth
Kira Lake	FPUC	KIL-2	List of Sponsored MFRs
Jason Bennett	FPUC	JLB-1	Dover Field Training Facility (Safety Town)
Jason Bennett	FPUC	JLB-2	List of Sponsored MFRs
Bill Hancock	FPUC	BH-1	List of Sponsored MFRs
Bill Hancock	FPUC	BH-2	FGT Maps
Kelley Parmer	FPUC	KP-1	Customer Care Communications
Kelley Parmer	FPUC	KP-2	Red Flag Policy
Kelley Parmer	FPUC	KP-3	List of Sponsored MFRs
Devon Rudloff	FPUC	DR-1	Organizational Chart
Devon Rudloff	FPUC	DR-2	List of Sponsored MFRs

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Wraye Grimard	FPUC	WG-1	Tariff/MFR E-9
Matt Everngam	FPUC	ME-1	Interim Rate Tariff sheets
Matt Everngam	FPUC	ME-2	List of Sponsored MFRs
David Garrett	OPC	DJG-1	Curriculum Vitae
David Garrett	OPC	DJG-2	Proxy Group Summary
David Garrett	OPC	DJG-3	DCF Stock Prices
David Garrett	OPC	DJG-4	DCF Dividend Yields
David Garrett	OPC	DJG-5	DCF Terminal
David Garrett	OPC	DJG-6	DCF Final Results
David Garrett	OPC	DJG-7	CAPM Risk-Free Rate
David Garrett	OPC	DJG-8	CAPM Betas
David Garrett	OPC	DJG-9	CAPM Implied Equity Risk Premium Calculation
David Garrett	OPC	DJG-10	CAPM Equity Risk Premium Results
David Garrett	OPC	DJG-11	CAPM Final Results
David Garrett	OPC	DJG-12	Cost of Equity Summary
David Garrett	OPC	DJG-13	Utility Awarded Returns vs. Market Cost of Equity
David Garrett	OPC	DJG-14	Proxy Group Debt Ratios
David Garrett	OPC	DJG-15	Competitive Industry Debt Ratios
David Garrett	OPC	DJG-16	Hamada Model

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
David Garrett	OPC	DJG-17	Final Awarded Rate of Return Development
David Garrett	OPC	DJG-18 ⁹	Summary Accrual Adjustment
David Garrett	OPC	DJG-19	Depreciation Parameter Comparison
David Garrett	OPC	DJG-20 ¹⁰	Detailed Rate Comparison
David Garrett	OPC	DJG-21 ¹¹	Depreciation Rate Development
David Garrett	OPC	DJG-22	Account 380 Curve Fitting Example
David Garrett	OPC	DJG-23	Appendices A-E
David Garrett	OPC	DJG-S-18	Summary Accrual Adjustment
David Garrett	OPC	DJG-S-20	Detailed Rate Comparison
David Garrett	OPC	DJG-S-21	Depreciation Rate Development
Ralph Smith	OPC	RCS-1	Qualifications Appendix
Ralph Smith	OPC	RCS-2	Revenue Requirement and Adjustment Schedules for Projected 2023 Test Year
Ralph Smith	OPC	RCS-2R ¹²	Revised Revenue Requirement and Adjustment Schedules for Projected 2023 Test Year
Ralph Smith	OPC	RCS-3	Changes to Amounts Mentioned in the Direct Testimony of Ralph C. Smith

⁹ Errata filed on August 30, 2022. On September 27, 2022, OPC filed the Supplemental testimony of David J. Garrett and Exhs DJG-S-18, DJG-S-20 and DJG-S-21.

¹⁰ *Id.*

¹¹ *Id.*

¹² On October 6, 2022, OPC filed substituted Exh RCS-2R to supplemental testimony of Ralph C. Smith which addresses an incorrect Docket Number on the exhibit and replaces the Exh RCS-2R filed on September 27, 2022.

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Todd M. Brown	Commission Staff	TMB-1	Auditor's Report-Rate Case
Angela L. Calhoun	Commission Staff	ALC-1	PSC List(s) of Service Complaints
Angela L. Calhoun	Commission Staff	ALC-2	PSC List(s) of Billing Complaints
Angela L. Calhoun	Commission Staff	ALC-3	PSC List(s) of E-Transfer Complaints
<u>Rebuttal</u>			
Patricia Lee	FPUC	PSL-5	Comparison of Service Lives
Patricia Lee	FPUC	PSL-6	Comparison of Current Service Lives
Patricia Lee	FPUC	PSL-7	Remaining Life Determination

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

X. PROPOSED STIPULATIONS

There are no proposed stipulations at this time.

XI. PENDING MOTIONS

There are no pending motions at this time.

XII. PENDING CONFIDENTIALITY MATTERS

There are no pending confidentiality matters at this time.

XIII. POST-HEARING PROCEDURES

If no bench decision is made, each party shall file a post-hearing statement of issues and positions. A summary of each position, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of this Prehearing Order, the post-hearing statement may simply restate the prehearing position. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, F.A.C., a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 50 pages and shall be filed at the same time. Post-hearing statements of issues and positions, in addition to findings of fact and conclusions of law, shall be filed no later than November 28, 2022.

XIV. RULINGS

Before the prehearing, OPC proposed three new, discrete issues which addressed whether incentive compensation expense, stock-based compensation expense, and Supplemental Executive Retirement Program (SERP) expense should be removed from the projected test year cost of service. These proposed issues were labeled 35A, 35B, and 35C for purposes of argument by the parties at the prehearing. OPC's proposed issues are subsumed in any discussion of salaries and benefits; therefore, issues 35A, 35B, and 35C shall not be included in the issues list that will govern the hearing. The parties may make arguments pertaining to compensation in Issue 35, which addresses the appropriate amount of salaries and benefits to include in the projected test year.

Opening statements, if any, shall not exceed five minutes per party.

It is therefore,

ORDERED by Commissioner Gabriella Passidomo, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Gabriella Passidomo, as Prehearing Officer, this 19th day of October, 2022.



Gabriella Passidomo
Commissioner and Prehearing Officer
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

RPS

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.